

Ofcom consultation: Annual Plan 2007/8

UK Film Council response to consultation

20 February 2007

1. Background

- 1.1. The UK Film Council is the strategic agency sponsored by the Department for Culture, Media and Sport to develop, co-ordinate and deliver a coherent and comprehensive public strategy for film in the UK.
- 1.2. The UK Film Council welcomes the opportunity to comment on Ofcom's 2007/08 Annual Plan.
- 1.3. The UK Film Council's overall role is encapsulated in its goal, "to help make the UK a global hub for film in the digital age, with the world's most imaginative, diverse and vibrant film culture, underpinned by a flourishing, competitive film industry."

2. What are your views on Ofcom's proposed three year strategic policy framework?

- 2.1. The UK Film Council agrees with the observation in the foreword by Ofcom's Chair and its Chief Executive that "convergence – the reason Ofcom was created – is becoming a reality." (1.1)
- 2.2. We also agree with Ofcom that this convergence "challenges the traditional ways of achieving public outcomes, by which we mean the provision of those services which are important to all of us as citizens of the UK." (1.7).
- 2.3. However, we would equally emphasise that this does not mean that the traditional ways of achieving public outcomes are rendered obsolete, and Ofcom as a regulator should be very

wary of jettisoning some of the traditional means of delivering outcomes, unless and until there is a solid evidence base which demonstrates that particular instruments are no longer effective.

2.4. We believe that the Ofcom's strategic policy framework correctly identifies many of the key drivers of change in the sectors which Ofcom regulates, including, for example, increasing competition between platforms and challenges to traditional business models. We believe that Ofcom's framework rightly describes "promoting competition and innovation as a means of empowering the UK's creative economy."(5.5)

2.5. But we are concerned that the framework's focus on "delivering public outcomes as platforms and services converge" (ibid.) does not mention the citizen, and that while the consumer is referenced in relation to "Improving Compliance and Empowering Consumers", (ibid.) the citizen is not. Indeed the citizen does not appear at all within the Strategic Policy Framework set out at 5.1. This should be redressed since public outcomes are clearly intended to benefit citizens as well as consumers as is noted earlier in the document at 3.9.–3.11.

2.6. In this regard, it is also an issue of concern to us that media literacy now appears to be a subset of a broader policy goal known as "communications capability." We are puzzled by the use of this phrase since although Ofcom has a specific duty to promote Media Literacy under Section 11 of the Communications Act, there is no such duty in regard to "communications capability" and the term does not appear in the Communications Act. We assume that "media literacy" should encompass "communications capability", not the other way round, especially since, the latter term is not a term which has any meaningful currency within the broader discourse of public policy.

2.7. The UK Film Council, as a member of the Media Literacy Task Force (on which Ofcom sits as an observer) believes that media literacy encompasses creative expression and critical understanding as well as “an understanding of the tools and knowledge that consumers need to benefit from communications services” as described at 5.5.¹ Whilst we concur with the value Ofcom places on media literacy as highlighted in Figure 6.3, we would wish to see this broader conception of media literacy more fully embedded in Ofcom’s planning and practice which, thus far, has remained focused almost solely on technical literacy.

2.8. In particular, it seems to us that Ofcom’s work on media literacy so far has focused on those aspects of media literacy set out at Section 11 (1) d and e of the Communications Act, namely:

- (d) to bring about, or to encourage others to bring about, the development of a better public awareness of the available systems by which persons to whom such material is made available may control what is received and of the uses to which such systems may be put; and
- (e) to encourage the development and use of technologies and systems for regulating access to such material, and for facilitating control over what material is received, that are both effective and easy to use.

¹ The other members of the Media Literacy Task Force include the BBC, the BFI, Channel 4, ITV and Skillset. The Media Literacy Charter is at:
<http://www.ukfilmcouncil.org.uk/usr/ukfcddownloads/51/CHARTERTEXTFEB07.doc>

2.9 In contrast we would commend Ofcom's statutory duties set out at Section 11 (1) a and b of the Communications Act which require it to:

- (a) to bring about, or to encourage others to bring about, a better public understanding of the nature and characteristics of material published by means of the electronic media;
- (b) to bring about, or to encourage others to bring about, a better public awareness and understanding of the processes by which such material is selected, or made available, for publication by such means;

2.10 As a better starting point for the literacy entitlements of citizens in the 21st Century, these clauses seem to us to better articulate the need to develop a critical awareness of media, its uses, products and services, as an essential and integral part of being media literate – and as embedded in Clause 2 of the *Charter for Media Literacy* – so we would therefore like to see a much improved balance between Ofcom's focus on Clauses d and e and Clauses a and b.

3 What are your views on Ofcom's proposed priorities for 2007/8? In particular:

3.1 What are your views on the work which Ofcom should do in 2007/8 to drive a market-based approach to spectrum?

We do not believe it is appropriate for us to offer a view on this.

3.2 What are your views on the work which Ofcom should do in 2007/8 to develop new ways to deliver public outcomes as

platforms and services converge?

- 3.3 We would like to see Ofcom engage far more actively with film, both as a PSB genre as defined by Clause 264 of the Communications Act, and as a key element in helping to drive forward the development of Digital Britain.
- 3.4 On-demand services for film are at the forefront of developments in new digital services. Such services would include Sky Anytime, the BT Vision Download Store and Channel 4's 4oD.
- 3.5 As the development of pay-TV services in the UK demonstrates, film is frequently a very significant driver of new audiovisual services, and we would like to see Ofcom's work take far more account of the impact of film on both the UK's audiovisual economy and on culture in the UK.
- 3.6 The UK Government has a well-developed series of public policy interventions around film, including new tax reliefs for culturally British films administered by Her Majesty's Revenue and Customs (HMRC), and a series of policies delivered through the DCMS and UK Film Council using grant-in-aid and Lottery money. We therefore believe that Ofcom needs to ensure that its work on public outcomes takes greater account of the place of film within the spectrum of support for the audiovisual economy as a whole.
- 3.7 Specifically, we believe that film should feature as a workstream within Ofcom's planned work on public outcomes around convergence. Such a workstream could usefully focus on issues including but not limited to:

- ways in which UK film can help to drive broadband take-up among people from different backgrounds right across the UK and including smaller urban and rural areas;
- issues arising in relation to online copy infringement of films in the UK;
- issues arising around film in relation to the debate around “net neutrality”;
- the role of film culture in helping to drive media literacy.

3.8 The work set out in the Annual Plan relating to Europe (notably around the Audiovisual Media Services Directive and the European Regulators’ Platform) should more fully reflect the domestic agenda. This is especially true in relation to media literacy, high-quality programming and the development of on-line services (since we anticipate that the take-up of on-line services will be accompanied by more trans-frontier services, notably for film given the MEDIA 2007 Programme’s and the Commission’s ambition to stimulate such services).

3.9 We note with interest that Ofcom is planning further work on the idea of a Public Service Publisher (PSP). We will be setting out our position on the PSP in response to the current Ofcom consultation on the PSP.

4 What are your views on the work which Ofcom should do in 2007/8 to improve business compliance and empower consumers?

See comments on citizens and media literacy in answer to Q.1.

5 What are your views on the work which Ofcom should do in 2007/8 to promote competition and innovation in converging markets?

5.1 We believe that a workstream on film, as described in 2 (b) above could address the ways in which film could help to drive

competition and innovation in these markets.

5.2 In particular, we note that Ofcom is developing its approach to “the issue of net neutrality” (6.6). As the delivery of films over broadband networks is absolutely central to this debate, we believe that Ofcom must engage with the film policy issues in this context.

5.3 We would also note that Ofcom needs to consider ways in which broadband take-up, especially in urban and rural areas, can be encouraged and increased to help people have access to a broader range of films than may be available at their local cinemas over the medium-term.

6 Are there additional areas where Ofcom should reduce regulation and minimise administrative burdens? Please provide specific examples.

We do not feel it appropriate to offer a view on this.