

Response from the Advisory Committee for Scotland (ACS) to Ofcom’s “Assessing the Impact of Proposed Changes to the BBC’s public service activities”; “Assessing the impact of the BBC’s public service activities” and the “BBC’s Commercial Activities” consultations.

‘The Ofcom Advisory Committee for Scotland (ACS) advises Ofcom about the interests and opinions, in relation to communications matters, of persons living in Scotland.’¹

This collective response from ACS to the three BBC Consultations specified above, draws on the knowledge and expertise of ACS members, informed by our individual professional experience and through discussion at our meetings. It does not represent the views of Ofcom or its staff.

Context

Over the last 18 months, the ACS has engaged in many discussions about the Governance & Regulation of the BBC in the lead up to Charter Renewal in December 2016. This is the first time in its 90 year history that regulation of the BBC will be external rather than internal and will be scrutinised by multiple stakeholders.

The 21st century has seen profound changes, all of which impact the BBC and its public service role and remit:

- i) the changing UK & global political landscape
- ii) increased public scrutiny of regulation and governance of all public bodies
- iii) content proliferation and convergence across media

There are no “nation specific” references in the current consultations. This is perhaps not surprising, given their purpose is to establish UK wide principles and practices. However, Ofcom’s own statement of intent, with regard to preparations for taking over BBC regulation published on 8/12/16 ², laid down some important principles, including:

“to hold the BBC to account in relation to its obligations to serve audiences in all four of the UK’s nations”.

The BBC in Scotland

With regard to the Scottish broadcasting landscape and creative economy, there are three overarching issues. These are:

1. Low levels of audience satisfaction with the BBC in Scotland – the lowest of the UK nations.³
2. The disproportionately low level of licence fee *spend* in Scotland of £176.5m as against Scottish licence fee *income* of £320.1m. ⁴

¹ Ofcom - Advisory Committee for Scotland – Functions and Role

<http://www.ofcom.org.uk/about/how-ofcom-is-run/committees/scotland/>

² <https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2016/ofcom-sets-out-preparations-for-regulating-the-bbc>

³ DCMS research into public attitudes to BBC, pub. 12/5/16:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522509/Research_to_explore_public_views_about_the_BBC.pdf

⁴ BBC’s Financial Accounts 2015/16:

<http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/reports/pdf/BBC-FS-2016.pdf>

3. The role of the BBC (as a whole, NOT just BBC Scotland) in Scotland's creative economy, including supporting investment in the independent production sector.

In DCMS research⁵ in 2016 into the BBC covering such areas as: attitudes towards the BBC/BBC expansion/value for money/representation & quality of local programming, scores were *consistently* lower in Scotland than in the other UK nations. In addition, only 37% of Scots believed the licence fee offered good value, compared to 46% in England, 42% in Wales and 44% in Northern Ireland.

In Ofcom's PSB Annual Research Report 2016, which covers all of the PSBs, not just the BBC, its Audience Opinions Annex shows a marked difference between the view of news provision across the Nations & Regions (generally positive) to a question relating to *(then)* Public Purpose 2⁶: "*It portrays my region/Scotland/Northern Ireland/Wales fairly to the rest of the UK*". Asked about the importance of this statement, the % rose from 62% in 2011 to 79% in 2015, compared to delivery of the same, which had risen from 41% in 2011 to only 56% in 2015 – hardly satisfactory.

The disproportionately low spend must bear some correlation to these low levels of Scottish audience satisfaction. Currently only 55% of Scottish licence fee revenue is spent in Scotland. For Wales and N. Ireland the figures are 95.3% and 74% respectively. If Scotland's share of revenue was raised in line with, eg. Wales, an additional £127.6m per annum could be spent by the BBC in Scotland. In terms of the wider Scottish creative economy (one of the Scottish Government's seven key economic sectors), this would equate to £1.4 billion across the 11 year Charter period.

Arguably, dissatisfaction with BBC coverage was felt most strongly during the Independence Referendum but there is also concern at a lack of vision from the BBC about programming addressing Scotland & Scottish issues in relation to the UK as a whole. In Scotland, total investment in original production has actually grown by 9% per year since 2009 but from a very low base⁷. To sustain an optimal Scottish independent sector, PACT's 2015 report suggests the development of scale production companies able to invest in and employ the next generation's workforce.

All of these issues pertain to Ofcom's role in:

- i) "*protecting fair and effective competition (which) is good for viewers and listeners (and which) can increase choice and stimulate investment and innovation*"
- ii) "*assessing the distinctiveness of the BBC's output*"⁸

Recommendations for consideration

The ACS believes Ofcom's new regulatory approach should be both flexible **and** specific enough to address these systemic failures. The ACS recognises the very fine line between governance and regulation of the BBC, however previous experience with other PSBs has

⁵ DCMS research into public attitudes to BBC, pub. 12/5/16:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522509/Research_to_explore_public_views_about_the_BBC.pdf

⁶ Fig.9 https://www.ofcom.org.uk/data/assets/pdf_file/0030/69708/annex-a.pdf

⁷ PACT: A New Model – Building a Sustainable Independent Production Sector in Scotland 2015

⁸ <https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2016/ofcom-sets-out-preparations-for-regulating-the-bbc>

shown that Ofcom is able to influence governance, albeit indirectly, via its regulatory framework.

The ACS considers that Ofcom's new regulatory framework should embrace the following:

- Ofcom's Operating Frameworks for **all** of the BBC's services, including BBC Scotland's, to be detailed, measurable **and** accountable.
- More commissioning powers **and** associated budgets to be devolved to the BBC in Scotland (not just BBC Scotland). This addresses the need to meet both Scottish needs (representation) and to ensure good competitive content is produced for the UK and international market (distinctiveness), as well as addressing the differential in low Scottish Licence Fee spend. This could be by genres, rather than commissions, in order to encourage innovation, sustainability & expertise in the sector.
- The monitoring of BBC Studios' performance (recently approved by the BBC Trust as the BBC's 4th commercial arm) to ensure it keeps its objectives of:
 - i) Embracing production across the UK and help to ensure audiences benefit from the creative talents and voices from all around the country*
 - ii) Delight in range and specialism rather than just those genres with the most commercial appeal*
 - iii) Provide a home and investment for British production talent seeking creative autonomy within an operation of scale, and maximise creative opportunity for talent both in the UK and overseas⁹*
- For BBC Studios to have a representative from each of the four UK nations on its new Board, to represent those respective citizens and creative economies.
- Seek ways to ensure that the IP rights and revenue from international sales from independent producers is returned to those companies, rather than to the BBC.
- Ensure the new Quota systems for Independent Production (25%) and Nations (9% Scotland) are applied more strictly, so that content is commissioned from independent companies which have their head offices located in Scotland. This supports fair competition, ensures diversity of supply and of representation.

Advisory Committee for Scotland
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⁹ http://downloads.bbc.co.uk/aboutthebbc/reports/pdf/bbc_studios_2015.pdf