

THE BBC AND PRODUCTION

This short paper sets out some information relating to the processes by which the BBC operates as a producer and commissioner of productions for television. It has been drafted by DCMS in collaboration with the BBC and PACT - the main body representing the interests of independent producers. It is not within the scope of this paper to summarise all the issues surrounding this topic - however, it is hoped that this will provide a source of information upon which informed discussion during the seminar can be based.

This paper seeks to provide the following information:

- A brief background to the BBC and production
- Production Facts
- The BBC's Position - relevant extracts from recent publications and a note on the BBC's current programme content-supply review
- A summary of points made by Pact – extracts from their submission to our initial consultation as part of BBC Charter Review, and a brief update following the introduction of new terms of trade

A BRIEF BACKGROUND TO THE BBC AND PRODUCTION

- The BBC's television output is sourced from various types of production activities, some of which are subject to statutory obligations.
- The BBC has requirements under the Communications Act 2003 and the BBC Agreement of 25th January 1996 (amended by the agreement dated 4th December 2003) with respect to its position as a commissioner and producer of programmes. The Communications Act 2003 states that 25% of qualifying programmes¹ on BBC television broadcasting services must be **independent productions**. The BBC's Agreement also specifies various targets for **original productions** - European programmes commissioned for its services.
- A proportion of the BBC's output is produced within the BBC – this is referred to as **in-house** production. The BBC is able to retain almost all of the rights in the programmes it makes in-house.
- In addition, the BBC also produces some programmes for other broadcasters. Similarly, the BBC itself broadcasts programmes that have been made and already broadcast on another channel - these programmes are referred to as **acquired material**.
- In the BBC's terms:

'The BBC currently commissions its programmes from a mixed production base: its own in-house programme makers; the independent production sector; and the crucial third part of the UK's production base, its 35,000 freelance writers, actors, directors and technicians. Each element brings a complementary set of strengths to the mix.'²

¹ The terms 'qualifying programmes' and 'independent productions' are set by the Secretary of State by Order.

² Extract from 'Building public value: renewing the BBC for a digital world - Chapter 6: Renewing the BBC'

FACTS & FIGURES³

Production

- The BBC's wholly-owned programme-making activities account for around 30% of the £2bn UK television production market. Programme-making by independent producers accounts for just under half of the UK television production market
- In 2002/03 the BBC invested nearly a billion pounds outside the BBC in independent producers, external facilities, acquired programmes and payments to artists and creators
- In 2003/04 the BBC spent over £240m with qualifying independents. This represented a 26% (£62m) increase over the previous year and an increase of nearly 60% since 2000/01
- The ITC's 2002 Programme Supply Review concluded that the definition of 'qualifying hours' should not be changed although it should be subject to regular review by Ofcom
- In 2003/04 the BBC commissioned over 170 companies in television, most of them with revenues under £6m
- Nearly half of BBC Three's programmes were supplied by 31 independents. BBC Four has commissioned programmes from 74 independents, 37 of which were new suppliers to the BBC
- Independents account for just over 11% of BBC commissions by value.⁴
- In 2002 independents took over 60% of the BAFTA programme awards, and received a further five Baftas in 2003. Additionally, in 2002, independently made programmes received 9 of the 17 Royal Television Society programme awards and in 2003 independents won 8 of the 18 awards.

Table 18: Creative spend outside the BBC⁵	2003/2004	2002/2003
	(£m)	(£m)
Independent programme productions transmitted	323	323
External programme facilities and resources	252	270
Acquired programmes transmitted	90	103
Artists, contributors and copyright	290	284
Performing groups	27	25
	982	1,005

Training

- The BBC is the UK's biggest investor in broadcast training, spending £40m a year on training in skills related to broadcast production. In 2003, the BBC offered 3,814 courses, which were attended by 22,000 people from both inside and outside the BBC. Over £100,000 was invested in providing reduced-price training for freelancers.

³ Compiled from source documents: 'Building public value: renewing the BBC for a digital world' (BBC), June 2004; Review of the BBC's Royal Charter: The BBC's response to the DCMS consultation (BBC), June 2004; BBC Annual Report and Accounts 2003/2004; and Submission to the Review of the BBC Charter (Pact), March 2004

⁴ Source: DGA Metrics, 2004

⁵ Source: BBC Annual Report and Accounts 2003/2004

THE BBC'S POSITION

Note on the BBC's Current Programme Content-Supply Review

In Building Public Value, the BBC committed itself to a comprehensive review of the BBC's commissioning needs and production base in all media. Over the past months, the BBC has conducted a consultation with independent producers, the freelance sector and other external stakeholders as well as with the BBC's own production community. The review will report in the next few months, and will set out a new supply strategy for the BBC.

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The BBC response (below) refers to issues which are not recent, but which centred on Endemol's loss of status two years ago. Endemol re-gained its independent status in July 2003 and the BBC met and exceeded the independent production quota this year, as announced by Ofcom in August 2004.

In 2003/4 the BBC announced it had exceeded the independent production quota with a figure of 28.8%. In addition, in July 2004 the BBC concluded new terms of trade for independent producers with Pact.

In its **Response to the DCMS BBC Charter consultation**, the BBC alludes to contentious issues (in the past) surrounding its relationship with the independent sector as follows:

'However, recently the BBC has been the subject of some criticism about the nature of its relationship with the independent sector. First, as a result of changes of ownership of some long-term major suppliers, leading to them no longer being classified as independent, the BBC found that it was failing to meet the 25% independent production quota despite record levels of external spending. The Government has now reviewed the definition of "independent" to address some of the problems which the BBC and other broadcasters have faced, but the BBC is also taking steps to ensure that it will never again fail to meet the quota and that it is viewed as a floor, not a ceiling. Another previously contentious issue concerned the retention of secondary rights in programmes. Having now adopted a new Code, approved by Ofcom, governing its trade with independents, the BBC believes it has laid the ground for a stronger, fairer relationship which will deliver benefits to both partners. The BBC fully recognises that it needs to reap the benefits of a sustainable and properly balanced mixed economy of commissioning which upholds the benefits of a strong in-house base while allowing a creative independent sector to thrive – and profit. Proposals for achieving this in future are set out in Building Public Value.'

The following information is taken from Chapter 6 of '**Building Public Value**', the BBC's strategy document, published in July.

Depth and vertical integration of the BBC

The question of the BBC's depth must also be driven only by interests of the licence payer. How do licence payers benefit from a particular activity being carried out inside the BBC as opposed

to being supplied from outside, for example by a commercial partner or an independent producer? In fact, there are many powerful reasons why in-house provision may make sense: security of supply and quality; critical mass; training and the development of a long-term creative tradition; greater efficiency; greater ease of developing flexible cross-media products and services. The BBC has an extraordinary wealth of creative talent in its production departments and an exceptional heritage of excellence. As a result, it is certain that the BBC will wish to retain extensive in-house operations in many areas. But a test of public value should be applied throughout the organisation and, where it makes more sense to source a given requirement from an external partner, a change should be made.

Looking ahead, we believe that the BBC should continue to sustain strong in-house programme-making within this mixed ecology. However, we want to make it a more open, fair and balanced system. In particular, we recognise that the relationship between the BBC and the independent sector must be founded on mutual respect, fair and transparent trading terms and open partnerships. The BBC has not always honoured these principles as well as it should. Our commitment for the future is to ensure that we do. Specifically, we will:

- Establish a fully level playing field between in-house and independent television programme makers in all programme areas. The BBC has listened and responded to the concerns of independent producers over the past two years. Transparent, rigorously enforced commissioning timetables have been introduced. All formal processes for in-house producers are mirrored for independents with an unequivocal commitment to a level playing field. At present, some genre areas work better than others. Our aim is for all independents to feel that they are fairly treated compared with in-house producers, across all qualifying programme areas.
- Ensure that independents receive a fair commercial deal. Again, radical changes are under way. The BBC was the first broadcaster to submit its new Code of Practice to Ofcom, setting out how the BBC proposes to work with the independent sector following the ITC's rigorous Programme Supply Review. Now approved, the BBC's Code, together with new terms of trade, ensures a transfer of value to independent producers and offers them the most radical change in growth prospects of any time since the sector began 20 years ago. It fully acknowledges that independents are businesses as well as programme makers. In addition, clear blue water has been established between the BBC's television commissioning and BBC Worldwide, its commercial subsidiary. The new trading environment has revitalised the interest of investors in backing independents and most independent executives agree that significant and positive changes will take place in their industry over the next decade.
- Make sure the 25% independent television quota is at all times a floor, never a ceiling. The BBC will exceed the quota in 2003/04, and will ensure that the same is true over the coming years. Quota levels differ widely by genre – for example, independents already account for over 50% of commissions in Entertainment. As the changes described above work through the system, we would expect the relative balance of commissions between the two sectors will settle naturally above 25%.

Our longer-term vision is for more flexibility in the relationship between the in-house, independent and freelance sectors. We would like to explore the scope for creating one or more 'production villages', which borrow from the US university campus idea in which commercial and not-for-profit organisations live side by side, using their respective strengths to enhance innovation and dynamism. The idea is that independents, particularly smaller ones, could be free to choose to move onto BBC sites and have access to BBC talent and experience, with tailored development deals. This could not only help to stimulate breakthrough innovation, but also help

to preserve plurality in the independent sector as it consolidates.

In parallel, we want to open up further our in-house production departments to people from as many backgrounds and walks of life as possible. Substantial progress has been made in recent years. For example, the proportion of ethnic minorities in BBC production departments has risen from 8% to 10% since 2000. Our next priority is to make the BBC an easier place in which people with disabilities can flourish. Again, it is our audiences who will benefit from a richer range of programmes.

Training the industry

The BBC's vision is to be the world's most creative organisation. Key to that is being able to recruit, retain and develop the UK's greatest creative talent.

Alongside traditional methods of recruitment, BBC Talent was launched in 2000 to give people from all over the UK the opportunity of their first break in broadcasting. Over the last three years, different schemes have been launched, covering opportunities right across the BBC – including in production, presenting and journalism.

As part of its unrivalled investment in new creative writing, specific talent initiatives have included the writersroom project, which helps around 3,500 writers a year and has resulted in commissions across the radio and television networks, and Northern Exposure, a scheme run in partnership with regional theatres to develop and produce new comedy and drama writing.

The BBC is the UK's biggest investor in broadcast training, spending £40m a year on training in skills related to broadcast production. In 2003, the BBC offered 3,814 courses which were attended by 22,000 people from both inside and outside the BBC. Over £100,000 was invested in providing reduced-price training for freelancers. Most major broadcasters rely on the BBC for their craft training. The BBC is also a major core funder of Skillset, the National Film and Television School and smaller media training organisations.

A SUMMARY OF POINTS MADE BY PACT

In addition to the Executive Summary, the information that follows is taken from Pact's conclusions as part of its submission to DCMS consultation.⁶

Executive Summary

- The BBC can be proud of much of what it has achieved since its inception. The provision of PSB in the future must concentrate on providing original, unique, risk-taking, challenging content to the licence fee payer.
- The growth in the ability of creative SMEs to provide a far greater range and diversity of ideas, means that such companies are best placed to develop this content. It is therefore necessary for the BBC to re-examine its priorities in terms of its structural organisation.
- The BBC is not currently structured in a way that allows it to provide the best possible PSB content, with far too much of a structural emphasis on producing content rather than

⁶ Source: Submission to the Review of the BBC Charter (Pact), March 2004

ensuring the full range and diversity of talent in the independent sector is engaged to bring maximum price and creative competition to bear.

- Only by restructuring to focus on providing, rather than producing, content, can the BBC maximise the use of the licence fee to present the best possible range and diversity of content to the viewer/consumer. There should be a minimum level of external commissioning, calculated as 50% of total BBC commissioning by hours and value, with an inbuilt minimum of commissioning from independents of 25% calculated by the same means. The other 25% would be contestable funding available to all non-BBC producers, including not just independents but other broadcaster-owned companies such as Granada.
- The BBC should ensure the licence fee is used to encourage the growth of the independent sector across the UK nations and regions, by commissioning more regional and regionally-made production, to aid the development of creative clusters.
- The BBC needs to use as much of the licence fee as possible to encourage the development of the UK's creative industries, not only by concentrating far more on the publishing of content but by making online and interactive platform source codes available, along with its detailed audience research. The BBC should also look to commission more children's animation and showcase new UK independent feature film.
- The governors as currently organised are not clearly separated from the executive and are therefore unable to regulate effectively. There should be a reshaped BBC board, with an independent regulator replacing the current regulatory function of the governors.
- The BBC's commercial activities should be clearly separated out and guidelines and fair trade commitments reviewed to ensure they sufficiently robust and in line with the Codes of Practice and, when published, new terms of trade.

Associated Conclusions (from Pact's submission)

- The BBC should share the results of its research and development with the wider production industry
- The BBC must share its audience research with the rest of the industry in order that consumer's demands are met with the appropriate content from all providers, and that licence fee payers can assess the BBC's performance
- The BBC no longer can claim to be solely responsible for training the industry. Increasingly, the independent sector is discovering and training new talent, and as the sector grows and becomes increasingly rich and diverse, so too shall the opportunities for the UK's creative talent
- Therefore a displacement of production staff from the BBC would not result in damage to the industry's ability to find and train new talent

Additional points following Pact's submission

- Since submitting their Charter Review submission Pact has agreed minimum terms of trade with the BBC, in line with the Code of Practice agreed with Ofcom. This was a result of the BBC being required to draw up a Code of Practice by law under the Communications Act. The Codes of Practice were placed into law as a result of the

conclusion of the 2002 ITC Programme Supply Review. The Codes mean producers should now have far more control over their intellectual property rights.

- The terms of trade do not relate to the amount of programming commissioned.
- The ITC's Programme Supply Review demonstrated that the independent production quota has not significantly increased access for independents across all broadcasters, due to the 'qualifying hours' rule, which leaves out of the percentage calculations of certain types of programming. The following programming is all excluded from competition by independents:
 - All repeated programmes
 - All acquisitions
 - All programmes that consist wholly or mainly of news
 - All programmes where the broadcasters have paid less than 25% of the cost of production
 - All programmes where more than 75% of the programme consists of a live feed from a third party
 - Party Political broadcasts
 - Open University courses
- OFT monitoring of BBC compliance with the quota for the year 2002-3 found that, of a possible 16,734 broadcast hours available on BBC 1 and BBC 2, 5,337 were classified as qualifying hours and of those, 1,122 hours were made by independents.