

**The Convergence Think Tank –
Seminar One: Why Does Convergence
Matter?**

A submission by the UK Film Council

January 2008

Executive Summary

The UK Film Council welcomes the opportunity to make a submission to the Convergence Think Tank - created by the Department for Culture, Media and Sport (DCMS) and the Department for Business, Enterprise and Regulatory Reform (BERR) - ahead of its first seminar.

The UK Film Council is the Government-backed lead agency for film in the UK. It operates as a Non-Departmental Public Body, accountable to the DCMS. Our goal is 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.

In this submission we address the questions set out in advance of the first seminar convened by the Think Tank as they affect film. We look forward to addressing in more detail issues in respect of content and networks in submissions ahead of the second and third seminars respectively.

We argue that convergence matters because it presents significant opportunities for citizens, consumers and for the UK economy. However, if these opportunities are to be maximised, policymakers will need to respond to a series of political, economic, social and technological challenges (for example around copyright theft and infringement) which arise from the transition to digital media which is a consequence of convergence.

1. What do we mean by convergence?

By convergence we mean the trend for different technologies for the delivery of content to start to resemble one another. For example, television sets will increasingly resemble computers while computers will increasingly resemble televisions; both will be used to download moving images from the internet, and eventually the distinction between the separate technologies are likely to be erased. Such convergence has already led to the development of services, such as video-on-demand, which can be delivered by a variety of different devices. These services can broadly be grouped under the heading digital media. Such convergence has been made possible as a result of the evolution of digital technology.

But technological convergence itself is only a means to an end; what is being changed is both the economics and culture of the moving image, including film. The debate about the impact of convergence has important consequences not just for the film industry and film culture, but for the way in which we all as citizens reflect ourselves to ourselves and to others.

2. Why is it important for (a) consumers (b) citizens, (c) the economy as a whole?

(a) For consumers, convergence helps to ensure greater price transparency as regards watching films in different media and makes accessing those films more convenient.

(b) Convergence presents citizens with the potential to choose from and access a far wider and more diverse range of films in different media.

(c) For the UK economy convergence represents an opportunity to build on its competitive strengths internationally in respect of creative talent and content creation and thereby to enhance growth and productivity and to develop skills.

For the film industry it presents opportunities to reach wider audiences. But it also presents large challenges in respect of rights, windows and financing models, most particularly for independently-produced British films.

3. How does the UK compare internationally?

The UK is very well placed to seize the opportunities presented by convergence provided it addresses the challenges identified in Section 4 below. We also believe that a rapid transition to the next generation of broadband access networks is critical if we are to remain competitive with other economies such as those of Hong Kong, South Korea and Singapore which have invested very significant resources in advanced broadband networks. In Hong Kong speeds of 1GB are already available, while the highest speed on general offer in the UK at the moment is 50Mbps. We will address this issue of networks in more detail in our written submission ahead of the third seminar.

4. What are the key challenges and opportunities convergence presents for the future?

The UK Film Council believes that, going forward, there will be substantial challenges for public policy around convergence with respect to film.

These challenges will require policymakers to balance different, and sometimes competing priorities, around convergence. There have already been tensions between different constituencies around some core issues relating to new media such as Digital Rights Management.

The task in respect of public policy for film will be to determine where forms of intervention are appropriate and where issues are best left to the market to resolve. The task will also be to ensure that forms of intervention promote, rather than stifle, both creative innovation and access and choice for audiences.

There has already been a great deal of debate among various stakeholders and polemicists in trying to describe the likely impact of convergence upon the creative industries.

On one side some existing and powerful incumbents have adopted, at least until recently, a largely defensive approach to the emergence of digital media, apparently in

the belief that the status quo would prevail largely untouched and that existing business models would remain fit for purpose.

On the other, some who claim to be speaking in the name of the citizen have claimed that the impact of digital media will sweep away all our present assumptions about the way in which the creative industries, and film in particular, operate and that in a brave new world of digital abundance “market failure” will eventually cease to exist.

These positions are mirrored, for example, in elements of the debate around copyright theft and online copyright infringement. Some powerful interests have behaved at times as if the only way to fight piracy is through protection of the existing business model and more extreme forms of enforcement. Some “libertarians”, by contrast, have behaved as if access to any form of intellectual property at any time for free is a human “right”.

The UK Film Council believes that this polarisation of debate around convergence is profoundly unhelpful, destructive even. It has helped to prevent the emergence of a more balanced, rational debate which properly examines the consequences of change for public policy.

In truth, the polarisation of much of the debate thus far around creative industries and the new media fails to reflect the specificity and complexity of different media – which will endure even in a converged world.

In film, for example, it is arguable that the ability to create and distribute content in a much larger variety of ways will accelerate the segmentation of the film sector such that there will be many more different business and cultural models, each based on different sets of aims and objectives. Just as the audience’s ability to choose between different ways of consuming product is greatly enhanced by digital technology (e.g. the emergence of Apple TV), so too is the ability of rights holders to create different kinds of models both for content creation and the dissemination of that content to audiences.

All sectors of film are being changed by the impact of digital media, but different sectors will react in different ways, thus accentuating the distinction between them – it is true that differences are apparent today, such as that between the business model upon which large incoming portable productions are based and that on which the typical indigenous British film is based, but these differences may become more marked over time.

There will also be significant challenges around the development of skills for the new media as they relate to film. The UK Film Council, working in partnership with Skillset, the Sector Skills Council for the audiovisual and publishing industries, is seeking to ensure that the UK skillsbase is equipped to capitalise upon the changes to the business and is able to anticipate changes and calibrate programmes for skills development accordingly.

Public policy for film and related audiovisual sectors will need to be supple and flexible enough to respond to the challenges which arise from the ways in which different parts of the film sector evolve.

The UK Film Council recognises the difficulties associated with regulatory interventions in a globalised and digitised media market in which the limits of national or European regulation are all too apparent – because for example, the targets of regulation may simply choose to move the source of origination and/or dissemination beyond the jurisdiction of the regulator.

But the UK Film Council is clear that the history of technological innovation in the audiovisual sphere demonstrates that the apparent benefits of new forms of technology can just as easily turn into disbenefits from the perspective of public policy and the citizen.

For example, the market power of the major operator of pay-television in the UK – BSkyB – created a situation in which a series of Most Favoured Nations (MFNs) arrangements with the Hollywood studios worked to the disadvantage of other, smaller independent suppliers and was thereby detrimental to consumer choice. Some independent suppliers have reported that they were either unable to sell films directly to BSkyB, despite those films having achieved commercial success, or that they received prices which were not equitable with those achieved by the studios on a like-for-like basis.

The UK Film Council has consistently argued that film theft and online copyright infringement represent a major threat to all elements of the UK film industry and to film culture.

Some 5% of UK adults have downloaded a film and/or a TV show and the quantity of titles illegally downloaded has risen to an average of between 7-15 per year.¹

The very rapid take-up of broadband in the UK could accentuate copyright infringement by means of file-sharing. The UK Film Council was active in the Government's Creative Industries Forum on Intellectual Property. It believes that the recommendations of the Forum, taken together, constitute a very effective strategy for discouraging and stemming piracy while encouraging the creation of legitimate services which take advantage of the new media to make content available in new ways.

5. What are the key policy implications which the Convergence Think Tank needs to address?

We have largely addressed this in answer to Question 4 above.

Clearly, a balance needs to be struck between the need to develop the economic model by which high value content is created and distributed and the need to encourage new forms of content distribution which respond to consumer and citizen demand.

This represents a massive challenge for those who make and deliver public policy around film and related creative industries. It will require public policies which are capable of balancing sometimes differing priorities as between creators and citizens and as between rights holders and platforms. Some of the policy issues that are likely

¹ Source: British Videogram Association

to arise will relate to such matters as competition, creativity, innovation, diversity and transparency.

The challenges of convergence will require public policy makers to understand the limits of intervention and to recognise where markets may, in fact, be able to deal with issues of conflict more effectively than regulators.

The ability to get the balance of these things right will affect not just our capacity to create a successful, flourishing and creative economy, but our capacity to nurture an informed and engaged democratic society in the early 21st century.