

Submission to
Review of BBC Digital Television Services

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1. Introduction - key points

Pact does not question the decision to establish the BBC's digital services, or that they should continue. But it is important that the digital television channels, along with the rest of the BBC, make a greater commitment to:

- o Commissioning a range and diversity of suppliers to ensure the best and most diverse ideas make it to the screen
- o Ensuring fair terms of trade are adhered to according to the principles in the Codes of Practice
- o Scheduling innovative programming in peak time
- o Commissioning UK animation
- o Commissioning at least a third of production from the nations and regions

These points are examined in greater detail in the form of commenting on whether BBC digital TV services have met their licence conditions.

2. Licence Conditions

General

High general standards in all respects (and in particular in respect of content, quality and editorial integrity) will be maintained in relation to the service.

Although Pact details some specific issues below, in the main we would not contest that the BBC's digital channels have increased the amount of innovative quality programming available, and have provided services that are to some degree distinctive and fulfil a public service objective. For example BBC3 within its budget has attempted to provide high standards, and has delivered some quality original television, such as Monkey Dust, 3 Non-Blondes and others, which have transferred successfully onto terrestrial television.

However, just as with the terrestrial channels, the BBC digital channels have in terms of commissioning been guilty of poor standards regarding the terms of trade which they have offered independent producers, 'netting off' by splitting the cost of the programme between the channel and BBC Worldwide, and taking all or most intellectual property rights in perpetuity. Although the new terms of trade should ensure that independents have much better terms and conditions in relation to their working with the BBC, close monitoring will be needed to ensure that the BBC does not seek to exploit independent producers further. This relates particularly to the prices paid for programmes.

In terms of its interactive content, the BBC has again failed to provide value for money, setting up large internal departments which spend significant amounts of time and money working up new applications and developing interactive content, while the independent sector is mostly engaged for uneconomical small projects or to assist where the BBC has failed to develop the appropriate tools or content. This needs to be addressed in term of establishing

greater access and fairer terms of trade for interactive television producers.

To 'maintain a vigorous campaign across the full range of its services to promote the uptake of digital television and radio services and equipment generally, and across all platforms'.

To even the most casual viewer the BBC certainly appears to more than fulfil the requirement of promoting digital TV in terms of promoting its digital services across its terrestrial channels.

There is a bigger question concerning the extent to which the BBC's digital services have succeeded in driving up digital TV viewing. And it is here that there is a less than encouraging picture, with the recent PSB Phase I Report from Ofcom showing that viewers on Freeview tend to watch the terrestrial BBC channels to a far greater extent than they watch the digital-only offerings. Ofcom figures show that on the digital terrestrial platform (ie Freeview), BBC1 accounts for 27.7% of the viewing, BBC2 accounts for 12.9% and all 'other' (ie not including BBC1/2, ITV1, C4 or Five) channels only receive a 15.2% share in total¹.

Interestingly, the Oliver & Ohlbaum report provides figures which show that in Freeview homes BBC1 gets 28.1% share, BBC2 manages 13% share but the combined BBC channels only receive 4.9% share². The report claims that this demonstrates that the existence of the new BBC channels drives digital take-up, but even if it were true, audiences do not seem to be taking to the channels in any significant numbers once they are on Freeview.

Within its defined scope the services shall stimulate, support and reflect the diversity of the UK.

Pact strongly supports a wide range and diversity of content on screen. The best way to deliver this is to ensure that a wide range of suppliers are commissioned, ensuring that there is a wide diversity of programme makers behind the screen. The UK has around 800 independent

¹ Ofcom Phase 1 PSB report 2004 figure 42, p67

² An Assessment of the Market Impact of the BBC's Digital TV Services, O&O 2004 p49

television production companies, over a third of which are based in the nations and regions. A smaller range of companies are led by a variety of ethnic minorities, and a handful are run by people with disabilities.

Pact is currently researching conditions for ethnically-led companies, to ensure that they do not face any additional barriers to those faced generally by SMEs in the sector. Notwithstanding this specific work, the key step to ensuring diversity of supply is to have a genuinely meritocratic programme supply market, with the BBC commissioning purely on the merits of the idea, across all of its services. However the BBC in general is operating a 70% in-house production quota, and as long as such a system exists the conditions for a burgeoning and diverse production sector will always be difficult. Pact wants a reduction in BBC in-house commissioning, and our full arguments are detailed in our response to BBC Charter Review, the main points of which are included as an addendum to this submission.

Consideration will be given to promoting the understanding and enjoyment of the service by viewers with sensory impairments; and the BBC Governors will monitor the levels of subtitling, signing and audio description provided on each new service, and apply to those levels from time to time the same targets which they apply from time to time to existing BBC digital channels.

As a member of Broadcasting and Creative Industries Disability Network, and active pursuers of policies which encourage the greater participation of people with disabilities in production, Pact welcomes any moves which makes content more accessible to those with sensory impairments. In the event of any further requirements on programming as a result of this review, we would point out that in all future cases the broadcaster should accept responsibility for any increased production costs associated with meeting its requirements/targets regarding the accessibility of content.

BBC3

The service must deliver a mixed schedule of programmes embracing drama, entertainment, news, current affairs,

education, music, the arts, science and including coverage of international issues. The specific content commitments should be as set out in the information provided by the BBC, including the BBC's further commitment to other factual programming including 15 hours covering science, religion/ethics and business. The normal evening on BBC3, including peak viewing hours, will reflect a mixed schedule throughout the year.

(A) 25% of the service's output in terms of qualifying hours must be commissioned from the independent sector, with no reduction in the contribution made by other BBC channels to the BBC's overall 25% independent production quota; (B) The Secretary of State also welcomes the BBC's commitment to spend at least one quarter of the BBC3 programme budget on independent productions.

Pact welcomes the continuing achievement of BBC3 in meeting and indeed exceeding a 25% independent production quota by both hours and value. However the ability of the BBC to achieve such a target on BBC3 leads Pact to question why the Corporation isn't able to meet a similar or indeed higher target on its terrestrial channels.

More commissioning of independents is of course welcome and nurturing new talent is important, but Pact has concerns that if the content produced by and featuring that talent is confined to a on a relatively low budget and for a channel with relatively small audiences, it is to some extent being 'ghettoised'.

In terms of the mixed genre of the channel, Pact welcomes the opportunity for independents to be given the opportunity of producing in these genres, but again would stress that this should not be at the expense of not increasing independent commissioning on the terrestrial BBC channels.

90% of programme hours for the service, must be allocated to programmes made in the EU/EEA, for first showing in the UK. The Secretary of State also welcomes the BBC's commitments that such programmes will account for around 90% of BBC3's expenditure on programmes and that, as part of the BBC's commitment to regional production, 33% of BBC3's eligible budget will be produced from outside the

M25 from 2004-5, with reasonable progress made towards that target in the preceding years.

In general the BBC has been failing to commission sufficient programming outside the M25. Although BBC3's record is more impressive than the other BBC channels, it again should not be used to disguise the fact that overall the BBC has a key role in supporting the development of regional production centres, in accordance with the Communications Act 2003.

As stated in our submission to Charter Review, despite the BBC's remit to encourage regional production for network broadcast, it has not been commissioning regional productions in sufficient amounts to allow genuine clusters of regional talent to develop. Many dramas have had their full budgets described as being spent in the region (for example 'McReady & Daughter', '1,000 Acres of Sky', 'Monarch of the Glen') but in reality those productions are merely located regionally, with all editing, pre and post production carried out in London. This causes the 'Hatch' figures, which are used to determine whether or not the BBC has met its 33% commissioning target for production in the nations and regions, to be misleading. Pact estimates that real BBC spending in the nations and regions is around half of what is actually claimed.

The good news is that in future Ofcom will regulate this requirement and set the targets. But the BBC should not wait to be regulated to increase its commitment. With much of the licence fee money coming from the nations and regions, the BBC should be a trailblazer in this area. In reality the Corporation's thinking has lagged behind, with the best initiatives coming from others.

Programming must be of a consistently innovative and risk-taking character. 80% of the service's output in terms of hours must consist of programmes specially commissioned for BBC3 and genuinely new to television. These programmes will develop untried talent on or off-screen. Equally, acquired programmes will concentrate on bringing new material and talent to the screen and not on competing for well established programmes. The Secretary of State welcomes the BBC's commitment that the normal evening on BBC3 will, across the schedule, reflect these objectives.

BBC3 can point to several programmes that it has developed in terms of bringing new talent to the screen, but its schedule continues to give the appearance of being repetitive (eg an entire evening of '3 non-blondes') or being bolstered up by repeat showings of Eastenders. The BBC's own submission to the review of its digital services states that: "we are conscious that many viewers still identify BBC3 for programming first shown on BBC1/2. While such output makes up a very small amount (less than 10%) of total output, these known titles can tend to dominate perception".

Pact would contend that 'less than 10%', which we would presume means only slightly less than 10%, is more than a 'very small amount', and cannot be fully explained in terms of attempting to bring audiences over to BBC3, and when programming such as Eastenders-related content is shown in peak slots on the channel this denies the opportunity to air original production at those key times.

Even where BBC3 is repeating its own commissioned programming, this has historically been a problem for independents, with payments not being given for such repeats, but the new terms of trade should at least ensure this is no longer the case.

BBC3 has been tasked with achieving a high level of original production, bringing new talent to the screen and commissioning a relatively high level of independent production. One positive is that BBC3 is committed to commissioning at least 25% independent production in value as well as hours.

BBC3, though commissioning more independent productions than other BBC channels, pays lower prices for the programmes than the terrestrial channels due to its lower audience. Although some have made the move to the terrestrial channels, many innovative ideas do not get beyond the low reach of the digital channel.

BBC4

The Channel must appeal to "anyone interested in culture, arts and ideas", and should "maximise the public value by engaging the widest possible audience"

The service must deliver "culturally enriching and innovative programmes covering a broad mix of programme genres. These genres must include news, in particular, global news and current affairs, philosophy, science, history, art, performance, music and film."

"this service must not be developed at the expense of music and arts programmes on BBC2"

In relation to BBC4, we would reiterate the points made above in relation to BBC3, in terms of commissioning of independents.

Also Pact recognises the BBC's recent commitment to funding for extra arts and music output on BBC2, and would emphasise that the opportunity for independent production to contribute to a genuine range and diversity of this programming should not be missed.

Cbeebies/CBBC

Pact recognises that Cbeebies has created a safe environment for young children and that much of the content currently shown on the channel is UK originated, however we note that the BBC in its submission to the Review states that BBC digital channels have met their production commissioning commitments: "with the exception of animation co-production on Cbeebies and CBBC, where we instead have been involved in smaller investments in animation projects"³.

As Pact stated in its BBC Charter Review submission, animation is a key genre in the UK, and our indigenous animation producers have provided much imaginative and stimulating content for young viewers. The BBC should, as a key part of its PSB role, encourage further the growth of the independent sector in the area of animation. Children's animation is one of the most successful animation formats, but nevertheless it is the only genre where the BBC do not

³ BBC submission to BBC Digital Services Review, Overview, p24

commission programmes - instead all UK-produced animation is pre-bought or acquired.

In addition the co-production arrangement denies animation producers the new terms of trade accorded to other television producers. Because animation is pre-bought rather than commissioned, the BBC provides as little as 6.5% of the budget for home grown production, but take unlimited runs on all broadcast platforms for terms up to ten years. This is at total variance to all other genres, which are covered under the Codes of Practice due to the fact that the programmes are commissioned.

The BBC should therefore look to commission UK animation for both its terrestrial and its digital channels, in order to genuinely provide venture capital to the animation industry. It will also serve to ensure the producer receives the same terms of trade as any other television producer.

Appendix 1

Pact BBC Charter Review Submission - 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 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 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.