

Tessa Jowell
Secretary of State
Department for Culture Media and Sport
2-4 Cockspur Street
London S.W.1Y 5DH

26th July 2001

Dear Tessa Jowell

RE: BBC Digital plans

As a long established and successful independent production company I am writing to you with our views about some aspects of the future of broadcasting so that they can be taken into account as you consider the plans for the BBC's digital services, which I understand you are going to do over the next month. I apologise for writing at the last minute, but I have only recently discovered that there is a possibility that you are receiving the views of only a small proportion of the membership of PACT, the industry body which represents independent producers.

Last week a group of officials from your department spent the day visiting seven independent production companies. I have no idea whether these were chosen by your officials or by PACT, though I suspect the latter. All of these companies are some of the largest companies in the independent sector; most of them subscribe heavily to the view that independent companies should be allowed to keep the rights to their programmes, and in return for such a concession would support the dropping of the cash flowing of programmes by Channel Four and the BBC and, certainly some of them, would support the dropping of the 25% quota at the BBC. Clearly these views go beyond the narrow question of the BBC digital services but equally they are likely to affect your general thinking about the structure of broadcasting in this country.

For companies such as ours the BBC digital services offer a new and important market. What concerns me is that none of the companies which your officials visited make the less popular programmes which are an important part of the cultural diversity which the British public service broadcasting system produces. So I am writing to you as an independent producer with a different perspective. I believe there is a sustainable economic model for this industry which does not involve production companies owning the rights to the programmes which they make.

Fulcrum has been in business for more than fifteen years. We largely make factual programmes and our biggest customer – accounting for just over half our business – is Channel Four. Our annual turnover is around £2 million, which makes us a small to medium sized independent. I imagine others will have made the case for keeping the BBC and Channel Four as publicly owned businesses and will also have dealt with many of the other issues of importance to the future of broadcasting. I want to deal simply with the question of rights and the independent quota at the BBC. I believe that any weakening of the quota would be bad for cultural diversity and for the independent sector.

As you know, the British independent production sector is characterised by a large number of companies, competing very aggressively. Even some of the largest of these companies are relatively small in comparison to the powerful customers (the broadcasters). It is no picnic running a business in these conditions: margins are thin, long term planning is hard and there is always a new competitor round the corner. For companies which make programmes which have a substantial resale value beyond the first broadcast transmission, or who make formatted programmes, there is a route out of this. These are companies which make programmes like Big Brother, Have I Got News For You, Castaway, the Harry Enfield show and drama: in other words, the companies visited by your officials.

This is what they would like to do: sell the customer just a licence to broadcast the programme and then exploit the rights and formats on other channels, other platforms and in other countries. The broadcaster will obviously pay less and, as with the ITV Network Centre, may pay for the programme on delivery rather than cash flowing their making. In such a model successful independent production companies would be the ones with access to large amounts of capital. This would enable them to finance the development of programmes, which in the first instance they would be selling at below cost. It would enable them to pay for the staff to market programmes and programme formats and it would enable them to finance the making of programmes, for which they would only be paid on delivery. The effect on the industry would be to provoke a major consolidation. Those companies without access to large amounts of capital would not survive. Few new companies would be formed, as there would be such a high barrier to entry.

The effect of such a consolidation would be to reduce dramatically the number of companies supplying the broadcasters. From a public policy point of view it is a matter of judgment whether, in these circumstances, there would be the same degree of diversity in programme ideas as there is at the moment. Certainly in other industries a small number of suppliers and a small number of customers tends to lead to a homogeneity of product. Although many small independent production companies do not survive, the ease with which they can be formed does create a vibrancy in the industry: almost anyone with an idea and a passion has the chance to give it a go. And the very competitive environment in which we operate makes us more attuned to what may be the next imaginative idea which will enable us to develop our business.



In addition to this I think that a dramatic reduction in the number of companies would have other undesirable results. Contrary to popular belief, the independent sector is a source of training for those in the television industry. The Independent Television Production Companies Training Scheme run by FT2 is backed entirely by small and medium sized companies. The pattern of short term contracts which characterises the industry, and is an almost inevitable result of its structure, ensures that people can have a wide range of experience in the sector. A company such as ours has employed literally scores of people over the years, very many of whom have successfully developed their skills and careers in their time at companies such as ours.

It is also important to recognise that the ownership structure of the independent sector has an impact on its attitude to training and creativity. Most of the small and medium sized companies are owned by the people who work in them. In the majority of cases these are proprietor owned companies – though in our case the staff are also shareholders. We run our companies as businesses, but the fact that we are owned by the people who work there enables us to take risks and make decisions which would not necessarily meet the approval of those only interested in the financial bottom line. A consolidation of the sort I have described above is highly likely to put the ownership of the independent production sector in the hands of companies whose financial heart beat would be feeding the financial bottom line. In addition some of the large independents who would benefit are parts of large multinational companies who are hostile to both the 25% quota and the existing ownership structure of the BBC.

One of the forces behind the drive by independent producers to hang on to the rights to their programmes is the wish of those companies to create a business of capital value. This is a perfectly reasonable aspiration, though I am not sure that it is the job of the minister to help them do it, if there are undesirable broader consequences. However, it is not clear either that the only way in which one can successfully build a business is on the ownership of rights, as the success of other creative businesses such as the advertising industry shows.

It seems reasonable that independent production companies should be fairly rewarded for the programmes which they make. For this reason companies such as ours support both PACT's efforts to secure an agreement with the BBC over payment for the reshooting of programmes bought for their digital channels and also supports the existing arrangements under which we receive a share of the net income from programme sales. And there is clearly room for manoeuvre in terms of giving suppliers the freedom to negotiate who is to exploit their programmes or formats. However, in our view, relatively small changes in the existing set up are needed to secure these ends and the market has shown itself adept at devising ways of meeting the needs of a large but fragmented industry.



So my case is this: the existing industry structure is one of the guarantees of diversity; it is one capable of reform where change is needed and it may, through competitive forces, consolidate. What I hope the government will not do is to act on the views of a small number of large companies which could have the effect of major structural change with widespread undesirable consequences.

Yours sincerely

Christopher Hird

Christopher Hird
Joint Managing Director

