

13 March 2009

Arts Council England: Response to the Digital Britain Interim Report

Introduction

Arts Council England welcomes the opportunity to respond to the interim report of the Digital Britain Review. We have been impressed by the scope of the report and fully support the five objectives set out in the interim review. We look forward to contributing further during discussions with the Department for Culture, Media and Sport (DCMS), the Department for Business, Enterprise and Regulatory Reform (BERR) and other industry stakeholders during the coming months to develop detailed policy recommendations for securing these objectives.

As the national development agency for the arts, Arts Council England is well positioned to contribute to the Government's thinking in a range of areas. This letter sets out our response and makes a series of practical recommendations for policy interventions. The key arguments are summarised below and described in more detail subsequently:

- the arts contribute to the social, cultural and economic wellbeing of the country. The UK arts and cultural sector has enjoyed a period of unprecedented success, and the global reputation of British art and our major cultural institutions has never been higher
- the arts and culture sector is a key driver of value in the wider creative economy. There is a strong interdependency between the arts and media sectors, in particular related to developing creative talent across a range of platforms

- both the publicly funded and commercial sectors are coming under increasing financial pressure, with a real decline in original high-quality broadcasting content. This decline will in turn impact on the public's ability to engage with the arts
- people value the role the arts plays in their lives and in society as a whole. There is clear and consistent evidence that demand for the arts remains strong across live, television, radio and, increasingly, online platforms
- it is imperative that the Government take the steps necessary to ensure that the publicly funded arts sector prospers, including (amongst other things) maintaining public funding of the arts, understanding the vital role of the BBC, enshrining the arts in the remit of the new commercial public service institution, and investing in targeted schemes to stimulate innovation in the arts and wider media sectors
- without this support, there is a risk that the potential offered by digital technology will see Britain's cultural exports and economy eclipsed by other more forward-thinking nations

The role of the Arts Council

Arts Council England works to get great art to everyone by championing, developing and investing in artistic experiences that enrich people's lives. As the national development agency for the arts, we support a range of artistic activities from theatre to music, literature to dance, photography to digital art, carnival to crafts.

Arts Council England believes that digital technologies create exciting opportunities for audiences to interact with the arts in new and participatory ways, as collaborators, distributors, editors and creators of content. There is great potential to extend reach and deepen engagement with the arts, especially in areas such as opera and ballet where supply is restricted to certain regions.

Going forward, we see ourselves working with a range of partners and stakeholders to deliver against this vision in both live and digitally mediated work.

In particular we draw the Digital Britain team's attention to our work with partners, such as the Museums, Libraries and Archives Council (MLA), British Film Institute (BFI), BBC and others, to open up arts archives and consolidate publicly owned and created content to help drive the engagement of the consumer-citizen. We are also working to support new kinds of public service content, forging partnerships across the wider creative media and film sectors. We have established a major new strategic partnership with Channel 4 through their 4iP initiative to stimulate innovation in the digital economy.

The market context

The UK arts and culture sector has enjoyed a period of unprecedented success, and the global reputation of British art and our major cultural institutions has never been higher. The UK is the world's largest cultural goods exporter according to the United Nations, and the Organisation for Economic Co-operation and Development (OECD) estimates that the media and cultural industries account for 6 per cent of gross domestic product (GDP). Importantly, publicly funded arts are a key driver of value in the wider creative economy, investing substantially in supporting and nurturing a pool of creative talent, which then benefits the public service broadcasters and the wider creative sector.

Research shows that the public value the arts highly. The arts debate, Arts Council England's first ever public value inquiry, found that:

'The majority of people believe the arts can play an important role in the lives of individuals and society...build[ing] people's capacity for understanding and navigating the world ... enrich[ing] people's experience of life [and]...creating links between different communities'.¹

Taking Part, the DCMS' continuous study of cultural engagement that surveys participation and attendance, reveals that the arts play a major role in our national life with over three quarters of the adult population engaged with the arts in some

¹ *What People Want From The Arts*, Arts Council England (2007)

form over the last 12 months. Two thirds (66 per cent) have been to an arts event and over half (52 per cent) have participated in an arts activity.²

Traditionally, public service broadcasters have had a key role to play in meeting this demand. The BBC's and the commercial public service broadcasters' commitment to reflect and stimulate cultural activity through representation of the arts and through drama, comedy and film have had a major impact on public awareness and engagement in the arts. In part this has been secured through regulation, including the public service broadcaster purposes enshrined within the Communications Act 2003, and in particular Clause 264, which confers upon Ofcom statutory duties with regard to its public service remit:

'that cultural activity in the UK and its diversity are reflected, supported and stimulated by the representation in those services (taken together) of drama, comedy, and music and by the inclusion of feature films... and by the treatment of other visual and performing arts'.³

Whilst television remains a key channel for the arts, the importance of other forms of digital media as a means of engaging audiences continues to grow rapidly. Arts Council England recently commissioned a major study into the online presences of over 850 organisations who receive support from Arts Council England, and some national museums and galleries.⁴ One of the key findings from this study is that a small number of leading organisations in the sector are beginning the process of migrating into genuine multi-platform institutions, with an online offer that stands up as an educational or interactive arts media experience in its own right. Many others (26 per cent of regularly funded organisations) are using rich media to market their live offer in innovative ways, providing their own web channels populated by clips from performances and behind-the-scenes interviews with directors or cast members.⁵ The audit suggests that there is

² Taking Part: England's survey of Culture, Leisure and Sport - Annual data 2006/07

³ Communications Act 2003 (2003, Clause 264)

⁴ MTM London, Digital Content Snapshot, March 2009

⁵ For example, the Pilot Theatre operates its own web channel providing a constant stream of original video content as well as a live chat room for all viewers of the channel

significant potential for growth of educational, performance and interactive media to complement and enhance organisations' core building based, live work and to increase the value of public investment in arts content across the live and media landscape. For example:

- the Tate has re-invented itself as a content commissioner and distributor with an arts theme. In 2008, Arts Council England worked with the Tate to support long form documentary, resulting in an acquisition by ITV's *South Bank Show* for the first co-production on Meireles
- the Philharmonic Orchestra, one of our leading regularly funded organisations, has launched the Sound Exchange, where users can mix their own music using an online sequencer
- the Royal Opera House is distributing live opera through the Digital Screen Network and Arts Council England is now investing through our strategic managed funds with Nesta and the National Theatre in developing alternative theatre content in cinemas through NT Live, launching in June 2009

In addition, Arts Council England is investing in pioneering digital arts media organisations such as FACT in Liverpool and Watershed in Bristol, and in organisations working to engage audiences in digital and broadcast media such as The Poetry Archive in the south east and the online and FM radio station Resonance.fm. These organisations are inventing new models for creating and distributing high-quality, low-cost public service content.

Whilst there is clearly enormous potential for arts organisations to innovate in digital media and engage audiences in new ways, they will require support in addressing major challenges, including the need to evolve new sustainable business models for online, develop new digital skills and expertise, and address issues to do with the discoverability of content online.

However, the publicly funded arts sector is coming under increased pressure. The worst recession in modern history is likely to impact heavily on both public and private sources of funding for the arts, threatening our ability to deliver against our vision.

We are already seeing a major decline in the arts, music and film budgets of the commercial public service broadcasters, with Channel 4, ITV and Five all cutting budgets for cultural programmes. There is a real risk that Britain's key role as a cultural exporter (and earner of income) will be compromised through inadequate support and investment, and Britain's cultural economy eclipsed by other more forward-thinking nations, eroding a key source of national competitive advantage.

Given this context, the Digital Britain Review is extremely timely. We have set out our responses to four key actions relating to content, the new public service broadcaster institution, terms of trade and rights.

Response to the actions set out in the interim report

Action 10: In the final report we will examine measures needed to address the challenges for digital content in more detail, including opportunities for providing further support to foster UK creative ambition and alternative funding mechanisms to advertising revenues.

The interim report has been largely concerned with infrastructure rather than the content, services and applications that will flow along this infrastructure and help to drive usage and growth in the creative economy. We recognise that the varying levels of detail and analysis in the different sections of the report reflect to some extent the work already completed by Ofcom and other organisations in previous reviews. Nonetheless, we would urge the Government to rectify this imbalance in the final report by including a detailed evaluation of the practical steps it can take to ensure provision of public service content across key genres, and support the cultural sector as a key content creator and economic driver of the wider creative economy.

There are a number of important steps the Government can take in this area – in particular:

- recognise that arts and the rest of the creative sector are fundamentally interconnected, and engage with ourselves and other key stakeholders in a formal

consultation process designed to formulate a coherent plan for driving growth in digital content, services and applications

- any scheme developed through Digital Britain related to public investment in digital content should recognise the significant potential within the publicly funded arts sector. It should target and be open to arts organisations and producers of arts content so that the public can benefit from an expansion of high quality cultural content within a sustainable infrastructure. Greater investment in arts organisations could allow for a cost effective extension of their existing predominantly 'live' business to increase public value and help develop a new public service content economy. We believe that our partnership with 4iP to promote new public service arts content is a valuable model for the type of cross-sectoral partnerships that can encourage innovation in the cultural and creative economy
- the new commercial public service institution can play a vital role in helping to ensure the continued plurality of provision of high-quality arts and cultural content across television and online distribution platforms, helping to deliver services with reach and impact. However, it is important to ensure that the remit and modus operandi of the new institution is carefully defined. The new institution should be a publisher-broadcaster and should work in partnership with a broad range of partners to deliver this provision
- we recognise that in the economic downturn, the BBC's role is more important than ever as both a commissioner of content, and partner to cultural organisations that seek to leverage its market power in cross-promotion and distribution. It is vital for the BBC to formalise its partnership agreements and ensure that it provides real value to the cultural sector across its range of resources and expertise, not least training and skills, and sharing access to its public service platforms such as iPlayer and the planned Canvas platform. We are currently in the process of developing a new public value partnership with the BBC which aims to align more effectively publicly funded arts with the range of BBC services and to stimulate closer collaboration and working.

Action 16: In the final Digital Britain Report, we will establish whether a long-term and sustainable second public service organisation providing competition for quality to the BBC can be defined and designed, drawing in part on Channel 4's assets and a re-cast remit. It would be a body with public service at its heart, but one which is able to develop flexible and innovative partnerships with the wider private and public sector. While it makes sense to begin by looking at public sector bodies- Channel 4 and BBC Worldwide- the Government is currently evaluating a range of options and organisational solutions for achieving such an outcome.

Arts Council England strongly supports the Government's commitment to ensuring continued plurality in the delivery of public service content in the UK. We also strongly agree with the Government that the publicly-owned Channel 4 has been an important strength of the British broadcasting system, providing competition to the BBC and nurturing and supporting talent across the cultural and creative industries. There is a strong case for seeking to establish a new institution with the scale and flexibility to sustain a viable commercially-funded business model. The new institution could play a vital role in helping to ensure the continued provision of high-quality arts and cultural content that delivers reach and impact across television and online.

The commercial public service broadcasters' traditional commitment to reflect, support and stimulate cultural activity through representation of the arts and through drama, comedy and film has had a direct impact on the wider arts in England, and on public awareness and engagement in the arts. There will be a significant shortfall in investment, which will in turn deeply damage the creative sector in the UK, if the new institution does not display an equivalent level of commitment to the arts.

Given this situation, Arts Council England believes that the remit, organisational structure and governance arrangements for the new institution should be developed in close consultation with cultural organisations, and should in any case take account of two important considerations:

1. **the remit of the new commercial institution as well as the scope of its activities in arts and cultural content and elsewhere should be clearly and carefully defined.** The remit of the new institution should be framed with reference to Ofcom's public service broadcaster purposes and characteristics, and also to the original public service broadcaster purposes of the 2003 Communications Act, and in particular Clause 264, which confers upon Ofcom statutory duties with regard to its public service remit:

'that cultural activity in the UK and its diversity are reflected, supported and stimulated by the representation in those services (taken together) of drama, comedy, and music and by the inclusion of feature films... and by the treatment of other visual and performing arts'.⁶

2. the new institution should, like Channel 4, be a **commercial publisher-broadcaster with a clear remit and a requirement to commission or contract arts public service content from a diverse range of suppliers,** thereby driving growth throughout the creative sector

ACTION 11: By the time the final Digital Britain Report is published the Government will have explored with interested parties the potential for a Rights Agency to bring industry together to agree how to provide incentives for legal use of copyright material; work together to prevent unlawful use by consumers which infringes civil copyright law; and enable technical copyright-support solutions that work for both consumers and content creators. The Government also welcomes other suggestions on how these objectives should be achieved.

Arts Council England notes that the Government has just published a consultation paper on the role of the Rights Agency, and will respond in detail to this consultation.⁷

⁶ Communications Act 2003 (2003, Clause 264)

⁷ <http://www.ipso.gov.uk/digitalbritain.pdf>

Action 15: The existing Terms of Trade between the independent producers and broadcasters have worked well. In light of new entrants to the market, new business models and new distribution channels, it makes sense to have a forward look at how the relationship between independent producers and those who commission their ideas could evolve.

The Terms of Trade have played an important role in stimulating the independent television production sector. However, it is worth noting that they were introduced into an environment in which one category of buyer had significant market power (the public service broadcasters) and were designed to apply to one type of commissioned output (TV programmes). In addition, the presence of a proven international market offered a viable source of secondary revenue for UK produced content. As the interim report rightly notes, it makes sense to re-examine these terms in the light of new entrants to the market, new business models and new distribution channels.

Going forward, we believe that arts and cultural institutions will play an increasingly important role in commissioning and distributing arts content across multiple platforms. Strong partnerships between the arts and the audio-visual sector, broadcasters and the independent production sector will be key to the development of a new era of arts media content for the public, as citizens and consumers. We applaud much of what is already being created by organisations such as the Tate, who are leading innovation in this field. However, it is clear that the characteristics of the digital content sector are distinct from the independent television production sector in a number of ways.

In particular, the digital content sector remains relatively immature, nobody has market power, and we're dealing with a far greater array of commissioners, suppliers and projects than the original terms of trade were designed to address, against an often complex intellectual property backdrop. Given this situation, we do not believe that a 'one size fits all' terms of trade arrangement should be applied to what is a more varied and diverse sector. However, we do support the principle of examining the options for developing shared or common frameworks for commissioning digital content and services, so as to provide greater certainty

about rights for buyers and suppliers thereby helping to ensure the smooth operation of the market.

Conclusion

Arts Council England would welcome the opportunity to discuss these issues in more detail with the Government and to work with the Digital Britain Review team to develop a more detailed blueprint for supporting the arts and the wider creative sector.

The Digital Britain Review is an important opportunity to provide a much-needed stimulus to the arts and the wider creative economy, and given the importance of the subject and the complex inter-related nature of the cultural sector and the wider creative economy, we believe that it is vital that this blueprint is developed in close consultation between ourselves and other key partners such as the UK Film Council.

We would be happy to help facilitate meetings between the DCMS, BERR and key stakeholders from across the arts and cultural sectors.

Arts Council England

March 2009