



## Scottish Screen Comments on the Digital Britain Interim Report

### Background and Key Recommendations

Scottish Screen is the national government-backed agency responsible for developing all aspects of screen industry and culture across Scotland, focusing on the following five priority objectives:

1. **Education** – to ensure that people of all ages and backgrounds are inspired and equipped to analyse, appreciate, explore, create and share screen media;
2. **Enterprise and Skills** - to ensure that there are appropriate levels of skilled individuals and viable companies to sustain all aspects of the screen industries across Scotland;
3. **Inward Investment** - to promote Scotland as a dynamic, competitive and successful screen production hub;
4. **Market Development** - to ensure that the widest range of screen product reaches and is appreciated by a diversity of audiences;
5. **Talent and Creativity** - to identify nurture, develop, support and progress Scotland's screen talent and screen production companies.

Scottish Screen welcomes this opportunity to comment on the Digital Britain Interim Report, which addresses issues that are critical to the success and survival of Scotland's screen industries. Our key recommendations are that:

- The Scottish Broadcasting Commission's (SBC's) main recommendation of a new digital network for Scotland should be implemented as soon as possible, and that funding of its set-up and ongoing costs should be clearly secured;
- The Universal Service Commitment should be introduced as a matter of urgency, but with a minimum broadband speed significantly in excess of the 2Mb/s advocated – one which is capable of providing an adequate High-Definition Video on Demand (HD VOD) service;
- The future framework for PSB should recognise that much more than news coverage is required for PSB in Scotland to fulfil its role;
- The Digital Dividend Review (DDR) needs to ensure that there is sufficient spectrum available to ensure PSB plurality in Scotland and that a clear and consistent timetable and associated milestones are established *before* the Scottish digital network is up and running;
- We should not reverse the beneficial effects arising from the changes to the terms of trade which accompanied the Communications Act 2003; the focus of the proposed review of the terms of trade should rather be on ensuring that the current arrangements are capable of evolving to continue to allow content creators to own and exploit IP as new platforms and services develop in the increasingly digitised future;

- The proposal to place Digital Audio Broadcasting (DAB) at the core of future plans for Radio should be subjected to greater scrutiny, given its lack of success to date; and
- The proposal for Ofcom to assess its current responsibilities in relation to media literacy needs to address the importance of the cultural and literacy aspects of media literacy and should ensure the full support of its most important partners, namely each of the four nation's Education Departments.

## Scottish Context

The issues addressed in the Digital Britain review are critical to the success, indeed the longer term survival of Scotland's screen industries. Scottish Screen therefore welcomes this opportunity to comment on the Digital Britain Interim Report.<sup>1</sup> Given our remit, our focus is on those issues of particular pertinence to Scotland. We also note Lord Carter's reported comments that "...the report had been designed to foster debate and discussion on the digital future of the country, including the future of Channel 4, and to find practical solutions within a year, rather than give long term absolute outcomes or 'searing analysis' which would be ineffectual."<sup>2</sup>

**While well aware that the future of broadcasting is only part of the digital agenda, we were initially surprised by the lack of any explicit reference in the document to the rigorous review and analysis conducted by the SBC. The SBC's recommendations have received all-party support from the Scottish Parliament and have also served as a focal point for discussion of the future of broadcasting in Scotland – a discussion ranging well beyond the much debated 'Scottish Six' issue. The SBC's work has also stimulated broadcasting policy discussion in the other devolved Nations.** Hence our initial surprise. However, we note more recently that Lord Carter is reported to be keen to hear from business leaders within the Scottish broadcasting industry in advance of the Scottish Broadcasting Summit to be held in Glasgow on 19 March which has been jointly convened by the Secretaries of State for Scotland and for Culture, Media and Sport.<sup>3</sup> **We trust that the recommendations of the SBC will be included in the agenda for these initiatives and look forward to hearing more as the Digital Britain review progresses, particularly on the Commission's key recommendation of a new digital network for Scotland.**

Scottish Screen also welcomes Lord Carter's recognition of the importance of public policy objectives in his reported comments that "What we need to work out is how we marry public policy and the market together to give ourselves the best placed competitive advantage and the physical infrastructure we need for next generation capabilities."<sup>4</sup> We would also emphasise the importance of avoiding a 'one size fits all' approach to this marriage of public policy and market delivery. In particular, the scale

<sup>1</sup> Department for Business, Enterprise & Regulatory Reform and Department for Culture, Media & Sport, *Digital Britain – The Interim Report*, January 2009, at [http://www.culture.gov.uk/images/publications/digital\\_britain\\_interimreportjan09.pdf](http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf) .

<sup>2</sup> Broadcastnow, 24 February 2009, *Carter hits back at critics*, at [http://www.broadcastnow.co.uk/news/2009/02/carter\\_hits\\_back\\_at\\_critics.html?](http://www.broadcastnow.co.uk/news/2009/02/carter_hits_back_at_critics.html?)

<sup>3</sup> Broadcastnow, 27 February 2009, *Carter invites views on the future of Scottish TV*, at [http://www.broadcastnow.co.uk/news/2009/02/scottish\\_broadcasting.html](http://www.broadcastnow.co.uk/news/2009/02/scottish_broadcasting.html)

<sup>4</sup> Broadcastnow, 24 February 2009, *Carter hits back at critics*, at [http://www.broadcastnow.co.uk/news/2009/02/carter\\_hits\\_back\\_at\\_critics.html](http://www.broadcastnow.co.uk/news/2009/02/carter_hits_back_at_critics.html) .

and nature of public intervention which is relevant at the total UK level - for example in ensuring Public Service Broadcasting (PSB) competition for the BBC or progressing Local Loop Unbundling (LLU) or delivering superfast broadband – is not necessarily appropriate for Scotland.

## **Universal Connectivity**

Scottish Screen has consistently supported the principle of establishing high speed broadband as a truly Universal Service Obligation<sup>5</sup>.

We believe that the starting point for any policy framework needs to be that access to super-fast broadband will be an essential utility for every UK citizen, just as we ensure access to high quality water supplies to all UK homes or medical treatment which is freely available to all citizens at the point of delivery. Super-fast broadband can and should become an essential tool for all citizens to participate fully in the democratic process and in social and cultural life, as well as engaging in economic activity as informed and empowered consumers. While the private sector should play a leading role, we also believe that public sector has a key part to play in addressing market failure in the provision of super-fast broadband. This will be essential in order to avoid a two tier approach in which the minimum standard of broadband service offered via public intervention falls far short of that provided by commercial enterprise. And as Scotland's national screen agency, we also wish to ensure that the Scotland's screen industries are not competitively disadvantaged in the increasingly competitive UK and international markets in which they operate. Scotland has proven world class creative capability across these industries, including computer games and film and television production. They need access to world class broadband to continue to thrive.

We therefore welcome Digital Britain's support for an updated Universal Service Commitment:

"We will develop detailed proposals for the design and operation of a new, more broadly-based scheme to fund the Universal Service Commitment for the fully digital age – including who should contribute and its governance and accountability structures."<sup>6</sup>

However, we believe that Digital Britain has set the aspirational bar too low for such an important part of the UK's competitive infrastructure, specifically in relation to its proposed standard/minimum speed:

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<sup>5</sup> See *Scottish Screen's Response to Ofcom's Consultation on Delivering super-fast broadband in the UK: Setting the right policy framework*, December 2008, at [http://www.ofcom.org.uk/consult/condocs/nga\\_future\\_broadband/responses/scottishscreen.pdf](http://www.ofcom.org.uk/consult/condocs/nga_future_broadband/responses/scottishscreen.pdf) .

<sup>6</sup> Department for Business, Enterprise & Regulatory Reform and Department for Culture, Media & Sport, *Digital Britain – The Interim Report*, January 2009, p.12, at [http://www.culture.gov.uk/images/publications/digital\\_britain\\_interimreportjan09.pdf](http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf) .

“Our initial assessment, subject to detailed analysis, is that a 2Mb/s universal service commitment could, with careful policy design, strike the right balance between these factors.”<sup>7</sup>

2 Mb/s is insufficient to allow downloading of VOD feature films within a reasonable timeframe, let alone allowing for future, more capacity-intensive audiovisual applications – particularly if HD becomes the standard. Setting such a low target speed will see the UK falling further behind international competitors such as South Korea and Japan<sup>8</sup>, while doing little to prevent the formation of a domestic digital divide: a divide between broadband users in different parts of the UK and also between those consumers who are able and/or willing to pay for higher speeds and those who are not. Ofcom research confirms that a geographical divide already exists, and that Scotland is one of the most disadvantaged parts of the UK in terms of current broadband performance:

“Consumers in London received the fastest average speeds, with those in the north east of England, Wales and Scotland receiving on average the slowest speeds.”<sup>9</sup>

**The UK - and Scotland - needs an infrastructure plan which addresses these geographical inequities, but also sets an appropriate minimum standard rather than a lowest common denominator:**

“The Government needs to look beyond merely providing a basic service: within a few years, high –speed broadband connections, such as the 50Mb per second service recently rolled out by Virgin Media, will be the norm, and 2Mb will be historic.

...Laudable as Lord Carter’s plans for universal broadband access are, they run the risk of being obsolete before they are implemented.”<sup>10</sup>

Indeed, the average UK broadband speed of 3.6 Mb/s<sup>11</sup> already exceeds Digital Britain’s proposed 2 Mb/s.

Scottish Screen commends the more ambitious alternative approach advocated by NESTA, to install a UK-wide fibre-optic network to deliver super-fast broadband<sup>12</sup>. NESTA’s proposals would also see Ofcom using its powers to provide radio spectrum access rights to communications companies in return for installing a fibre-optic broadband network, with broadband providers being required to deliver free, basic broadband services to the most deprived households in the UK as part of the deal.

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<sup>7</sup> Department for Business, Enterprise & Regulatory Reform and Department for Culture, Media & Sport, *Digital Britain – The Interim Report*, January 2009, p.57, at [http://www.culture.gov.uk/images/publications/digital\\_britain\\_interimreportjan09.pdf](http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf) .

<sup>8</sup> See NESTA Policy Briefing, *Getting up to speed: making super-fast broadband a reality*, January 2009, at <http://www.nesta.org.uk/getting-up-to-speed/> .

<sup>9</sup> Ofcom, *Average speed*, 8 January 2009, at <http://www.ofcom.org.uk/media/features/brspeeds> .

<sup>10</sup> Beaumont, Claudine, *Lord Carter, the future is faster than you think*, Daily Telegraph, 29 January 2009.

<sup>11</sup> Ofcom, *Average speed*, 8 January 2009, at <http://www.ofcom.org.uk/media/features/brspeeds> .

<sup>12</sup> See NESTA Policy Briefing, *Getting up to speed: making super-fast broadband a reality*, January 2009, at <http://www.nesta.org.uk/getting-up-to-speed/> .

We note that the Foreword to the Digital Britain report lists the success of LLU for affordable higher-speed broadband as one of the UK digital information and communications sector's international strengths.<sup>13</sup> The limitations of LLU should not be ignored, however. The Scottish Government makes the case for further work by the regulator on LLU in rural areas in its response to Ofcom's Draft Annual Plan for 2009/10:

"We acknowledge Ofcom's intention to conduct new areas of work looking at LLU in business markets under the *Promoting Competition and Innovation* banner. We welcome this, but would suggest that Ofcom goes even further and looks at barriers to LLU, with particular focus in rural areas. This is an issue about which the Scottish Government occasionally receives enquiries. Whilst we appreciate that LLU presence is determined by market functions, there is nevertheless the view that there is more that the regulator could be doing to make LLU investment more attractive in rural areas and we would be interested in Ofcom's opinion on this and on any action it feels necessary to take. We would welcome further discussion on this issue."<sup>14</sup>

Scottish Screen welcomes Digital Britain's recognition that poor broadband take-up as well as inadequate infrastructure needs to be tackled. The topographical and geographical features which make it difficult for commercial operators to justify investment are not the only factors likely to limit access to super-fast broadband. A broader approach also needs to address limiting social factors.

These limiting factors are illustrated by the BBC Trust's reservations about broadband as a choice of platform in its recent rejection of the BBC Executive's local video proposals. It notes the deficiencies of the current broadband infrastructure's ability in attempting to reach sectors of the population which the BBC regards as 'underserved':

- "Broadband represents a barrier to use, both in terms of access (for low income groups) and the way in which people consume local news... Socio-economic factors influence take-up, and low income groups are generally less well represented online. Low approval of BBC performance is typically more pronounced among these groups. We are not persuaded therefore, that local video will reach these groups in sufficient numbers to close the purpose gap. Likewise, we have no compelling evidence to suggest that those in Northern Ireland and Scotland are more likely to use local video. Meanwhile, whilst 35-49 year olds are well-represented online, those aged over 34 tend to spend proportionally less time there due to competing work and family commitments."<sup>15</sup>

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<sup>13</sup> Department for Business, Enterprise & Regulatory Reform and Department for Culture, Media & Sport, *Digital Britain – The Interim Report*, January 2009, p.1, at [http://www.culture.gov.uk/images/publications/digital\\_britain\\_interimreportjan09.pdf](http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf) .

<sup>14</sup> Scottish Government: Business, Enterprise and Energy Directorate, 12 February 2008, *Ofcom Draft Annual Plan 2009/10 - Consultation Document - Scottish Government Response*, at <http://www.ofcom.org.uk/consult/condocs/draftap0910/responses/scottish.pdf> .

<sup>15</sup> BBC Trust, *Local Video Public Value Assessment*, 21 November 2008, p. 30, par. 6.4.4, at [http://www.bbc.co.uk/bbctrust/assets/files/pdf/consult/local\\_video/pva.pdf](http://www.bbc.co.uk/bbctrust/assets/files/pdf/consult/local_video/pva.pdf) . The reference to 'those in Northern Ireland and Scotland' reflects the BBC Trust's emphasis on the need for the BBC to ensure it improves its services to the underserved and low approvers – a category which includes Northern Ireland and Scotland.

The BBC Trust also notes the particular difficulties affecting Glasgow, Scotland's largest city:

- “Socio-economic group is more of a factor than age in broadband take-up...but interest in local news is common to high and low income households. In Glasgow, for example, where the percentage of low-income households is higher than the national average, broadband penetration hovers around 32% (this compares with 62% in London and a national average of 58%).
- Meanwhile, the combined cost of broadband connection and PC equipment may put the service beyond the means of low income households (according to Ofcom, take up in Glasgow is probably constrained by lower than average ownership of PCs). As Scotland's largest city, Glasgow [presumably this refers to Greater Glasgow] is home to around 40% of the population. This is particularly important in the context of weaker BBC news provision in the devolved nations...It is also worth noting that a higher proportion of those with disabilities live in poverty.”<sup>16</sup>

Moreover, this is not seen to be a purely transitory phenomenon:

- “Whilst broadband penetration rates among different socio-economic groups may converge over time we have not seen any compelling evidence to suggest that the disparity will recede, especially in the current economic climate. Whilst the Government has signalled its desire to increase broadband penetration, significant barriers in terms of price and IT training are likely to persist for some time. Hence we believe it will take significant intervention to bridge this divide.”<sup>17</sup>
- “More generally, broadband represents a barrier to use, both in terms of access and the way in which people consume local news. A number of stakeholders raised concerns that a broadband only service would give rise to social exclusion issues, whilst AG [MG] Alba drew attention to technical restrictions in the delivery of video content:
  - *Some areas of Scotland, such as rural areas in the Highlands and Islands have no broadband service or a service whose bandwidth is too limited to carry audiovisual content.*
- In its submission, Scottish Screen also drew attention to poor availability of high speed broadband in areas distant from main population centres.”<sup>18</sup>

Scottish Screen also shares the UK Film Council's view of the necessity of ensuring that the benefits of new broadband networks, such as innovation and choice, are not regarded by policy makers as exclusively economic benefits, but are also seen as relating to the wider public good. For example, they have the potential to overcome

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<sup>16</sup> BBC Trust, *Local Video Public Value Assessment*, 21 November 2008, pp. 32-33, par. 6.5.5 – 6.5.6, at [http://www.bbc.co.uk/bbctrust/assets/files/pdf/consult/local\\_video/pva.pdf](http://www.bbc.co.uk/bbctrust/assets/files/pdf/consult/local_video/pva.pdf) .

<sup>17</sup> BBC Trust, *Local Video Public Value Assessment*, 21 November 2008, p. 33, par. 6.5.8, at [http://www.bbc.co.uk/bbctrust/assets/files/pdf/consult/local\\_video/pva.pdf](http://www.bbc.co.uk/bbctrust/assets/files/pdf/consult/local_video/pva.pdf) .

<sup>18</sup> BBC Trust, *Local Video Public Value Assessment*, 21 November 2008, p. 38, par. 6.5.32, at [http://www.bbc.co.uk/bbctrust/assets/files/pdf/consult/local\\_video/pva.pdf](http://www.bbc.co.uk/bbctrust/assets/files/pdf/consult/local_video/pva.pdf) .

traditional distribution obstacles to making archive film and moving image content more widely available.<sup>19</sup>

## Digital Broadcast Networks and Content: Television

The continuing and accelerated decline of the commercial PSBs' advertising revenues stresses the importance of ensuring that a viable business model is in place to ensure continuing PSB competition for the BBC in the post DSO broadcasting era. We agree with Lord Carter's view that broadband has been an extremely important driver of change in broadcasting:

"The effect broadband has had on broadcasting is a lot bigger than the impact broadcasting has had on broadband. All of the changes we're talking about in Digital Britain – switchover, the iPlayer, rights exploitation, decline of advertising, the structural funding issues facing Channel 4 – are a function of the internet. You have to start from that approach because it's what frames the discussion. As much as I love television, it's a subset of communications. And few people who work in it think of it that way."<sup>20</sup>

However, we believe that the view of television as a subset of communications is only part of the picture. **Television also lies at the heart of the UK's successful creative industries, is by far the most pervasive medium in people's lives and plays a huge role in our cultural, civic and democratic lives. PSB, in particular, needs to be celebrated as a successful, abiding and essential component of our democracy, not as an obsolescing mechanism to address market failure in the communications market. The existing and even greater potential economic value of PSB is of major significance<sup>21</sup>; the five PSBs continue to account for overwhelming majority of original UK content and still well over half of audience share, despite the availability of hundreds of competing television channels.**

From a Scottish perspective, we welcome Digital Britain's confirmation that:

"...the Government is clear that a range of different creative sources, commissioners and perspectives is vital for healthy levels of innovation and to ensure that we are developing the talent and voices of all diverse communities. We recognise the need to secure adequate provision of content for Northern Ireland, Scotland and Wales in the

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<sup>19</sup> See *UK Film Council's Response to Ofcom's Second Public Service Broadcasting Review - Phase Two: Preparing for the digital future*, December 2008, at:

<http://www.ofcom.org.uk/consult/condocs/draftap0910/responses/ukfilm.pdf> ,

<sup>20</sup> Broadcastnow, 4 February 2009, *News Q&A: Stephen Carter*, at

[http://www.broadcastnow.co.uk/news/2009/02/news\\_qa\\_stephen\\_carter.html](http://www.broadcastnow.co.uk/news/2009/02/news_qa_stephen_carter.html) .

<sup>21</sup> The BBC itself provides an excellent example: "The overall positive economic impact of the BBC's expenditure on creative activities, including expenditure on overheads and infrastructure, was estimated to be approximately £6.5bn per annum or more than £5bn in the creative sector alone. In addition, PwC have estimated that, when compared to a hypothetical scenario which replaces the BBC with a commercial broadcaster, the current structure delivers an estimated £4.4bn of additional economic impact."; from BBC Trust, July 2008, *The BBC Trust Conclusions: The economic impact of the BBC on the UK creative and broadcasting sector including an independent assessment and report by PriceWaterhouseCoopers (PWC)*, p.3, at [http://www.bbc.co.uk/bbctrust/assets/files/pdf/review\\_report\\_research/economic\\_impact.pdf](http://www.bbc.co.uk/bbctrust/assets/files/pdf/review_report_research/economic_impact.pdf) .

context of any new PSB model. For cultural and social reasons, we need at least one other provider of scale as well as the BBC.”<sup>22</sup>

We trust that this statement implies a specific commitment to ensuring plurality of PSB provision at the Scottish as well as the UK level, i.e. that BBC Scotland will not be left as the sole provider of PSB programming, including drama, entertainment and other genres (not just news) for the Scottish Nation. The ‘New Channel 4’ model (in whatever format emerges<sup>23</sup>, such as a Channel 4/Five merger or a Channel 4/BBC Worldwide merger) will clearly be designed to provide this essential PSB competition for the BBC, but it is unclear how it will achieve the same outcome for Scotland. The remit, structure and culture of Channels 4 and Five is that of UK-wide broadcasters, while the medium and longer term viability of ITV (and stv in Scotland) as PSB broadcasters has been widely questioned. It was against this background that the SBC proposed its main recommendation of a new dedicated digital network for Scotland. Scottish Screen supports the SBC’s recommendations and agrees with the Commission that a new approach is required to secure the future of PSB in Scotland:

“Pre-devolution, the UK was often viewed as a unitary state and we see that approach prevailing in the broadcasting regulatory framework and its application: the starting point is the UK perspective, with its component nations (and regions) being, if anything, a secondary consideration. This will always risk distortion for the smaller nations because one size does not always fit all. Therefore we would encourage an attitudinal shift towards working from the individual nations upwards rather than from London downwards – the starting point should be the component nations, which can then combine to build an integrated UK perspective. Such a change in approach would recognise and respect the diversity and identity of the nations, while maintaining the overall UK context.”<sup>24</sup>

We note the following comments attributed to Lord Carter when asked what would be the primary benefits of a second PSB:

“It would make a large contribution to plural, competitive commissioning and contribute to our successful independent production sector. Its primary responsibility will be to

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<sup>22</sup> Department for Business, Enterprise & Regulatory Reform and Department for Culture, Media & Sport, *Digital Britain – The Interim Report*, January 2009, p. 46, at

[http://www.culture.gov.uk/images/publications/digital\\_britain\\_interimreportjan09.pdf](http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf) .

<sup>23</sup> See Department for Business, Enterprise & Regulatory Reform and Department for Culture, Media & Sport, *Digital Britain – The Interim Report*, January 2009, p. 51, at

[http://www.culture.gov.uk/images/publications/digital\\_britain\\_interimreportjan09.pdf](http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf) :

“Many of the public purposes for which it [Channel 4] was created remain valuable in the digital age – innovation, diversity, original production from a wide range of independent producers. In a digital age, these purposes need to be re-invented and broadened to provide a strong source of plurality and competition to the BBC.

...In the medium term such a role could only be discharged successfully by an institution of sufficient scale and flexibility to sustain a viable commercially funded business model:

- **Scale:** to achieve impact, reach and effectiveness in a globally competitive multi media, multi-platform market place;
- **Flexibility:** to allow it to adapt to a fast changing media environment.”

<sup>24</sup> Scottish Broadcasting Commission, 2008, *Platform for Success*, paragraph 6.7, p. 52: <http://www.scottishbroadcastingcommission.gov.uk/Resource/Doc/4/0000481.pdf>

produce impartial news – nationally and maybe locally – as well as children's TV, and to be a source of innovation and competition, not just in broadcasting but beyond.”<sup>25</sup>

In Scotland, however, while plurality in news provision for the Nations is vital and needs to be assured, **PSB needs much more than news coverage to fulfill its role.** We share the SBC's vision of a vibrant, successful network covering a broad range of genres, including drama.

Our experience as a combined cultural and industrial development agency for Scotland's screen industries provides us with confidence that Scotland has the potential to excel as a world class exemplar of innovation and creativity. Properly channelled public intervention will be essential to facilitate that success:

“The Scottish production sector does also need to help itself to grow and thrive. It is clearly a ‘hits business’ so competition is fierce and entrepreneurialism must abound. The view we were given from those in the industry is that they need a hand-up not handouts from the Government and public sector. This industry is positively brimming with self-motivated individuals driven to succeed and therefore intervention that develops the sector and increases opportunities will result in dividends to the Scottish economy.”<sup>26,27</sup>

Time is of the essence for television broadcasting and production in Scotland, though. The precarious state of the Scottish independent production sector, the need to capitalise fully on the opportunities provided by the BBC's commitment to increase its network production from Scotland and the rapid pace of technological and economic change mean that there is a finite window of opportunity. A decision on the proposed Scottish digital network, including resolution of the important issue of funding<sup>28</sup>, is needed sooner rather than later.

It is clear that the importance of plurality and the need for competition for the BBC will play a major role in defining the future framework of PSB provision. For this reason, **we are concerned about the timing and direction of the DDR and the apparent lack of synchronisation with the PSB proposals – we fear that there may be insufficient**

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<sup>25</sup> Broadcastnow, 4 February 2009, *News Q&A: Stephen Carter*, at [http://www.broadcastnow.co.uk/news/2009/02/news\\_qa\\_stephen\\_carter.html](http://www.broadcastnow.co.uk/news/2009/02/news_qa_stephen_carter.html) .

<sup>26</sup> Scottish Broadcasting Commission, *Platform for Success*, paragraph 5.40, p. 46, on the Commission's website at <http://www.scottishbroadcastingcommission.gov.uk/Resource/Doc/4/0000481.pdf> .

<sup>27</sup> Nesta has also noted (in Nesta, *Driving innovation in Scotland*, November 2007, at [http://www.nesta.org.uk/assets/pdf/driving\\_innovation\\_in\\_scotland\\_policy\\_briefing\\_NESTA.pdf](http://www.nesta.org.uk/assets/pdf/driving_innovation_in_scotland_policy_briefing_NESTA.pdf) ) that Scotland has good ‘innovation fundamentals’, including:

- a great history of inventions;
- strong performance in a number of important industries, including life sciences and financial services;
- universities with a greater level of knowledge transfer than the UK as a whole – although this tends to be with externally-owned and non-Scottish UK firms than with indigenous SMEs; and
- an above-average and improving skills base.

<sup>28</sup> The SBC estimates that a new digital network on the scale envisaged would cost some £75 million per annum to run.

**spectrum available to ensure plurality in Scotland, given the rapid escalation in potential usage, from HDTV to local TV to mobile telephony. We believe it is important for a clear and consistent timetable and associated milestones to be established *before* the Scottish digital network is up and running.**

In the digital era, the issue is increasingly one of how best to deliver Public Service Content (or PSC) rather than traditional PSB. The DDR therefore also needs to ensure there is sufficient space for trial and experiment to ensure success in the future world of PSB/PSC. The 4iP initiative is a good example. Ofcom's earlier Public Service Publisher (PSP) proposition, although no longer on the agenda, could have played a role in delivering such space.

As we commented in our recent response to Ofcom's 2<sup>nd</sup> PSB Review<sup>29</sup>, broadcasting is widely recognised as one of – if not the – key driver of the broader Creative Industries. Scottish Screen would like to see the BBC play a much more active role in supporting the Creative Industries in Scotland, and for this to be signalled as a major part of its PSB responsibilities.

More specifically, it should be noted that the BBC and Channel 4 are both vitally important to Scottish – and UK – film production and appreciation. It is key that the level of investment in the development and production of film is maintained by both BBC and Channel 4 and that their investment in acquisition, particularly of British film, is developed further. Nor should the scheduling of film on these channels be confined to niche channels or to the margins of the schedule.

## **Investment in Content: Rights and Distribution**

Scottish Screen has a dual industrial and cultural development remit for audiovisual media in Scotland. We are therefore very aware of the increasing importance of IP and the need to strive to maintain an equitable balance between rights holders and rights consumers. The correct balance should ideally foster creativity through protection of IP rights, while also ensuring and encouraging sufficient access to screen-based content for consumers and citizens and allow for changing business models.

Maintaining such a balance is not a straightforward task, as the increasing pace of broader economic and technological change continually shifts the equilibrium point. The potential for unintended consequences is significant. For example, the changes to the Terms of Trade between broadcasters and independent television producers which accompanied the Communications Act 2003 have been beneficial in encouraging increased exploitation of secondary and tertiary rights. However, these changes have also led to a consolidation of the independent production sector and – given that most of the largest indies are London-based – an increase in the already problematic degree of London-centricity in UK broadcasting. This has been damaging for the health of the Scottish indie sector which, already lacking industrial scale, experienced a significant

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<sup>29</sup> *Scottish Screen's Response to Ofcom's Second Public Service Broadcasting Review - Phase Two: Preparing for the digital future*, December 2008, at: [http://www.ofcom.org.uk/consult/condocs/psb2\\_phase2/responses/scottishscreen.pdf](http://www.ofcom.org.uk/consult/condocs/psb2_phase2/responses/scottishscreen.pdf) .

decline in the value of its commissions from broadcasters<sup>30</sup>. By implication, it has also been damaging for the diversity of UK broadcasting.

We note that the Digital Britain team intend to review the terms of trade, in particular for new distributors and new platforms<sup>31</sup>:

“...The rights question on those newer platforms is less clear.

It's worth looking at now to see if it requires an extension of the existing terms of trade to new distributors looking to come in and, potentially, to new platforms from traditional operators. We're not trying to reinvent the existing terms from first principles.”<sup>32</sup>

**Scottish Screen agrees with the view expressed in the Digital Britain interim report that the changes to the terms of trade between broadcasters and independent producers which accompanied the Communications Act 2003 have boosted domestic and international growth and encouraged innovation.<sup>33</sup> We should not reverse these beneficial changes. The focus of the proposed review of the terms of trade should rather be on ensuring that the current arrangements are capable of evolving to continue to allow content creators to own and exploit IP as new platforms and services develop in the increasingly digitised future,**

Digitisation can facilitate a step change in the ease and scale of copying and distribution of creative content. The potential economic and cultural benefits of this improved access and reach are enormous. However, Digital Britain is correct in its observation that the legal framework to identify rights-holders and acquire legal consent to share will often need radical updating.<sup>34</sup>

We also note from the Digital Britain Interim Report that the UK Government intends to legislate on the issue of peer-to-peer file sharing, requiring ISPs to notify alleged infringers of rights (subject to reasonable levels of proof from rights-holders) that their conduct is unlawful and also to require ISPs to collect anonymised information on serious repeat infringers.<sup>35</sup>

Clearly, content creators and/or owners need to have their IP rights protected, but we do have concerns that the resultant regime may prove too harsh, particularly as the vast majority of piracy of screen product is instigated outside the UK – and outside the EU.

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<sup>30</sup> See, for example, Pact, *The Production Trend Report for Out of London*, Figure 4, p.22, at [http://www.pact.co.uk/uploads/file\\_bank/asset\\_3087.pdf](http://www.pact.co.uk/uploads/file_bank/asset_3087.pdf).

<sup>31</sup> i.e. for non-traditional broadcasting platforms.

<sup>32</sup> Broadcastnow, 4 February 2009, *News Q&A: Stephen Carter*, at [http://www.broadcastnow.co.uk/news/2009/02/news\\_qa\\_stephen\\_carter.html](http://www.broadcastnow.co.uk/news/2009/02/news_qa_stephen_carter.html).

<sup>33</sup> Department for Business, Enterprise & Regulatory Reform and Department for Culture, Media & Sport, *Digital Britain – The Interim Report*, January 2009, p. 50, at [http://www.culture.gov.uk/images/publications/digital\\_britain\\_interimreportjan09.pdf](http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf).

<sup>34</sup> Department for Business, Enterprise & Regulatory Reform and Department for Culture, Media & Sport, *Digital Britain – The Interim Report*, January 2009, p. 39, at [http://www.culture.gov.uk/images/publications/digital\\_britain\\_interimreportjan09.pdf](http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf).

<sup>35</sup> Department for Business, Enterprise & Regulatory Reform and Department for Culture, Media & Sport, *Digital Britain – The Interim Report*, January 2009, p. 11, at [http://www.culture.gov.uk/images/publications/digital\\_britain\\_interimreportjan09.pdf](http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf).

Scottish Screen is a member of the British Screen Advisory Council (BSAC) and commends the work of the BSAC on this complex topic, most recently its (preliminary) proposals for the development of a copyright agenda for the 21<sup>st</sup> Century<sup>36</sup>. **Scottish Screen shares the BSAC's view of the importance of remembering that audiovisual products result from the combined efforts of many different types of player, producers and broadcasters for example, as well as authors and performers.**

## Radio

We note that Digital Britain believes that the success of DAB provides an opportunity for significant competitive advantage for the UK, and that it advocates action to support DAB in seven areas.<sup>37</sup>

Scottish Screen is not alone in remaining unconvinced by this prognosis:

“DAB has been criticised for its sometimes poor quality and price of radio sets. Many have also claimed the technology is old-fashioned and would be taken over by other mediums, such as the internet.”<sup>38</sup>

**Why, then, does the Digital Britain Interim Report place so much emphasis on DAB, despite its lack of success to date?**

## Media Literacy

We agree that it will be essential to ensure that UK citizens/consumers are confident and empowered to access, use and create digital media if we are to prosper in the digital future.<sup>39</sup>

As one of our priority objectives is to ensure that people of all ages and backgrounds are inspired and equipped to analyse, appreciate, explore, create and share screen media, Scottish Screen works with Ofcom, the BBC and other partners to support the development of media literacy in Scotland.

However, while *Digital Britain* rightly emphasises the pace of technological developments and their effects on media use, moving image narratives still dominate content and use of media (consumption and, increasingly, creation). **The language and cultural values of these moving image narratives – the ‘literacy’ bit of ‘media literacy’ - are far more important than the technical skills and child protection**

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<sup>36</sup> As part of the BSAC's response to the UK Intellectual Property Office's (IPO's) recent consultation on copyright exceptions.

<sup>37</sup> Department for Business, Enterprise & Regulatory Reform and Department for Culture, Media & Sport, *Digital Britain – The Interim Report*, January 2009, pp. 32-35, at [http://www.culture.gov.uk/images/publications/digital\\_britain\\_interimreportjan09.pdf](http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf) .

<sup>38</sup> Broadcastnow, 29 January 2009, *DCMS throws weight behind digital radio*, at [http://www.broadcastnow.co.uk/news/2009/01/dcms\\_throws\\_weight\\_behind\\_digital\\_radio.html](http://www.broadcastnow.co.uk/news/2009/01/dcms_throws_weight_behind_digital_radio.html) .

<sup>39</sup> Department for Business, Enterprise & Regulatory Reform and Department for Culture, Media & Sport, *Digital Britain – The Interim Report*, January 2009, p. 66, at [http://www.culture.gov.uk/images/publications/digital\\_britain\\_interimreportjan09.pdf](http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf) .

issues on which this section of the report largely focuses. And these cultural and literacy aspects of media literacy, so essential for citizenship and participation in the 21st Century, have been and continue to be poorly recognised and addressed in schools, adult and non-advanced education, where the most effective interventions can be made. Therefore we would strongly urge that 'Action 22'<sup>40</sup> is undertaken with the full support of its most important partners, namely each of the four nation's Education Departments.

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<sup>40</sup> See Department for Business, Enterprise & Regulatory Reform and Department for Culture, Media & Sport, *Digital Britain – The Interim Report*, January 2009, p. 69, at [http://www.culture.gov.uk/images/publications/digital\\_britain\\_interimreportjan09.pdf](http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf) .