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Objections to Proposals in Ofcom's Consultation on Revised PSB Commissioning Codes of Practice

Dear Ms Nicolotti Squires,

I am writing to express my deep concern regarding the proposals set out in Ofcom's current consultation on the Revised Guidance for Public Service Broadcasters on Commissioning Codes of Practice. I believe that the proposed removal of prohibitions on 'matching rights' and linking conditional offers to the bundling of primary and secondary rights will pose a significant threat to the financial health and sustainability of the UK's independent production sector, and ultimately, to the diversity and quality of UK public service broadcasting.

The proposals will drastically shift the balance of negotiating power in favour of the PSBs, squeezing independent producers and hindering their ability to retain and exploit their intellectual property.

The result will be a decline in diverse supply and reduced working capital for SMEs, stifling innovation in the UK content market and ultimately restricting the range of content available to PSB commissioners and viewers.

My personal view is that closing financial deals has never ever ever been so difficult as it currently is in 2025. The BECTU union rises which were instigated a couple of years ago, resulted in the cost of drama being produced, to a rise of about 30% pre the special conditions that were signed off on by PACT. This year we were one of twenty one projects that actually had a green light from the BBC, but didn't have a business plan acceptable to them. First and foremost, what has been enforced by both broadcasters, and commissioners, is the mandatory pressure for a production company to incorporate the high end tax they receive from any project that attacks it. Please note this high end tax was created for independent production companies to stimulate growth and to use as investment. They now are forced to use this tax credit to invest in their own product, and the BBC benefits by only having to find, at a maximum 75%.

The further enforced deal is to bring additional funding to the table from a distributor. Well, if you start restricting the rights available to any independent, then a distributor will not maximise guaranteed payment, which is effectively an advance of sales to assist the project, hence the BBC would really need to go back to, ideally, fully funding the projects they commission, and yet, if they insist on securing more secondary rights, etc, then they have effectively cut their nose off to spite their face.

Getting a drama series approved, even after being greenlit, means you need to bring to the table, as an independent company, about 40% of the overall budget. What's clearly evident, is this is becoming a step too far for distributors to assist production companies, and therefore they need every asset they can hold on to to negotiate bringing funds to the table that actually assist the BBC.

I strongly urge Ofcom to maintain the existing safeguards that protect independent producers that also ensure a fair and competitive market. I believe that a strong and vibrant independent production sector is essential for the continued success of public service broadcasting in the UK.

Yours Sincerely,

Professor Colin McKeown MBE

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Colin McKeown | LA Productions