

Submission to Ofcom's consultation on
Commissioning for the BBC Public Services

pact.

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Introduction

1. Pact is the UK trade association which represents and promotes the commercial interests of independent feature film, television, digital, children's and animation media companies across the UK.
2. The UK independent television sector is one of the biggest in the world. Despite the uncertain economic and political climate, independent television sector revenues have grown to around £2.7 billion in 2017.¹
3. In 2017, the BBC spent £37 million on commissions from UK external producers. Last year, the BBC commissioned 47% of eligible television content from external producers.²
4. BBC Commissions are important for independent producers as they account for 29% of all UK commissions, making the BBC the biggest buyer of content made by independent producers in the UK.³
5. Pact recognises the important role that the BBC plays in the UK television marketplace and how it nurtures and adds to the finely balanced TV production ecology in the UK. We are pleased by the recently renewed charter whereby the license fee has been secured for another 11 years. Independent production companies and the content commissioned by the BBC helps it be a positive innovator and experimenter in the marketplace.

¹ Pact Census 2018

² BBC Annual Report 2017/18

³ Pact Census 2018

Overview

- Pact agrees overall for no need for additional regulatory requirements under BBC commissioning. As Ofcom have identified long standing procedures built up from the WOCC, existing trading and separation requirements, BBC's Commissioning Process Framework and the legislation itself mean the jeopardy is high for the BBC.
- We fully support Ofcom's proposals to require the BBC to provide additional data on children's, sport and non-news current affairs, we have long argued the need for transparent understanding of how the BBC are planning to meet all their contestability requirements.
- Pact urges Ofcom to reconsider its thinking on how the BBC reports on online contestability requirements. An idea of the value of what has been commissioned through external producers will help producers understand how to plan.
- Pact agrees with the initial high-level factors to help with the transparency about the BBC's commission needs and how the BBC goes about commissioning content both at a network and local level, especially the quantitative data around the number of pitches. Other data requests that could help with this information gathering for example could be, the number of development meetings held between BBC Public Service and BBC Studios/ In House versus external producers. We go on to highlight more examples in our response.

Assessing compliance with the BBC's Fair Reasonable and Non Discriminatory Terms (FRNDT) requirements

- 1.1 Pact agrees with Ofcom's proposals under how it assesses the BBC's compliance with FRNDT requirements, which reiterates that Ofcom will only consider the BBC's approach to commissioning when they receive a complaint and they expect most complaints to be resolved by the BBC first.
- 1.2 We welcome that Ofcom will carry out own initiative investigations where a regular issue is raised with Ofcom informally through stakeholders, and that during such investigations Ofcom will seek information from third parties.
- 1.3 Pact agrees with Ofcom's need for high level indicators for Ofcom to understand how the BBC is commissioning and performing against its obligations:
 - Identification of opportunities and transparency of information
 - Eligibility to pitch and criteria related to the identity of the producer
 - Access to commissioners and idea development
 - Assessment criteria and decision making
 - Contractual terms
 - The BBC's wider regulatory requirements

Commissioning Information published by the BBC

- 2.1 Pact agrees with Ofcom that the BBC has not done enough in relation to reporting on its progress to meeting the contestability quota. We particularly welcome plans to request the BBC to submit information on children's, sport and non-news current affairs – and other obligations as set out in Schedule 3(7) (1) of the BBC Agreement, so that Ofcom can assess progress in their Annual Report. We welcome information in the BBC Annual Report setting out the proportion of network hours between In-House vs Indies (Qualifying and Non-Qualifying Indies). In the interests of transparency, we would also welcome the BBC publishing this information with regard to investment. Pact will be tracking the progress made under this schedule. We have previously been disappointed with the BBC Annual Plan because there were not more explicit plans set out about the BBC's requirement to secure full competition for all the BBC's television and online content spend, including local services such as the new BBC Scotland channel and how it will remove all existing In-House guarantees, except for news and news-related current affairs.

2.2 Therefore, we fully support Ofcom plans to require the BBC to publish annually a full update on its progress towards meeting (or its compliance with) the contestability requirements in Schedule 3(7) (1) of the BBC Agreement.

2.3 With regards to online content commissioning – we would like to see the value in spend going to internal versus external producers. Pact will be tracking the current 31% figure going to external providers to ensure that it rises over the next few years and reaches 100% contestability by 2027 at the end of the Charter period. Pact is pleased that Ofcom is monitoring more closely digital commissioning and should ensure clarity in reporting from the BBC around digital through their Annual Report. It should be clearer what the BBC has spent on digital services e.g. through the Digital Services Framework and Digital Content e.g. through BBC pitch or the radio commissioning route e.g. podcasts. We would like to see a definition or explanation of what BBC considers as digital services and digital content and more transparency around how VR (Virtual Reality) is currently commissioned and any future plans in this area. We call for more clarity around what the BBC will be classifying under 'online material' as part of its requirements. It will then be possible to check progress more clearly towards 100% contestability more effectively.

Commissioning Information provided to Ofcom

3.1 We support Ofcom requiring additional information from the BBC to enable them to fulfil their duties on assessing and reporting on the BBC's performance on the programmes and materials it commissions. We believe, where possible, this information should be quantifiable and published. Information and metrics that would be useful to require include:

- Annual numbers of development meetings between BBC Studios or BBC in-house versus third parties
- % of development money awarded to BBC Studios and BBC in-house versus third parties
- Annual number of programme proposals the BBC receives from BBC Studios (or BBC in house in the case of BBC Children's In-House production and BBC Scotland events/entertainment team? Current affairs too – reporting news related vs non-news related commissioning between in house vs indies) versus third parties
- A comparable time frame between pitch and commission agreement signed or when production begins
- Annual number of multi-series orders made in house versus independent third parties
- Information on access to diversity funding, portrayal funding and support development

- % of final production budget from BBC license fee and the % of budget from BBC Studios versus third parties
- Annual number of meetings between BBC and former BBC Worldwide – which would give insight into if BBC Studios are getting information on what the BBC are looking for
- Annual number of development meetings that took place out of London, where BBC and BBC Studios inhabit the same building
- Reporting on the relationship between BBC commissioning, BBC Studios and its distribution arm

3.2 Having information like this easily accessible by stakeholders, such as ourselves, will make it easier for us to hold the BBC to account by raising issues with the BBC and with Ofcom about the BBC's commissioning activity. Ofcom can help us in this regard by publishing information that will help our arguments as often it is hard to back up anecdotal evidence without actual quantitative data.

3.3 As identified above we consider some detailed information regarding access to commissioners and idea development, particularly around budgets, for this will help Ofcom and stakeholders understand how the BBC is commissioning and performing against its obligations. Linked to this, the proposal to use data such as number of pitches and access to funding and studio facilities to help assessment is welcome.

3.4 Ofcom should also reconsider additional reporting requirements for online services. A similar framework for television as identified in the consultation should also be applied.