



**Response to the third Ofcom review of
Public Service Broadcasting: Public
Service Content in a Connected Society**

February 2015

1. Introduction

- 1.1. Teledwyr Annibynnol Cymru (TAC) is the trade association representing the independent TV production sector in Wales. The sector is comprised of around 40 companies which supply the UK PSB broadcasters including BBC, BBC Wales, ITV, Channel 4 and S4C. Welsh production companies are also involved in an increasing number of international co-productions and also in creating an ever-wider range of content from audio through to multiplatform. In terms of TV production TAC members are active in all genres including children's, drama, animation, comedy, music, sport, current affairs and factual.
- 1.2. Welsh indie TV producers seek to make content that does not merely entertain but which also tells stories which inform people about the world they live in and portrays the attitudes, perspectives and stories which are present in different parts of the UK. They invest in infrastructure, resources and next generation talent.
- 1.3. The issue of how best to represent the different nations and regions of the UK has become increasingly topical and the Ofcom PSB review is therefore welcome at this time, giving as it does the opportunity to explore this and other themes. As we argue in this paper, it is TAC's view that specific measures are needed to prevent the gravitation of the UK-wide PSB broadcasters away from the nations.
- 1.4. Ofcom's third review covers a wide range of themes and TAC will obviously focus on those which we are best placed to answer. We would welcome the opportunity to discuss the views expressed herein with Ofcom at some point during the process.

2. Consultation Questions on Television (Section 3 of the PSB Review)

Question 3: Do you agree with our assessment that the PSB system remains strong overall?

Question 4: Given the resources available, to what extent is the system meeting the needs of as wide a range of audiences as practicable?

Question 5: Given the resources available, does the PSB system deliver the right balance of spend and output on programming specifically for audiences in Wales, Scotland and Northern Ireland and programmes reflecting those nations to a UK-wide audience?

Question 6: Is declining investment affecting the quality of PSB and is it a cause for concern?

- 2.1. In supplying views to Ofcom we will take these questions together to discuss the situation in Wales and how it relates to UK PSB overall.
- 2.2. Since the last Ofcom PSB review the broadcasting landscape has undoubtedly changed. The move to a fully digital transmission has meant every household now has access to more channels, both the PSBs' own portfolios and also other services. And we have seen the spread of video content consumption on portable devices, accompanied by download streaming services enabling people to store entire series and watch them when and how they like.

- 2.3. In these circumstances it could have been predicted that real time viewing might have suffered more greatly than it has, and with it the ability for the PSBs to command large audiences. But a combination of a growth in 'event TV' and the ongoing desire for people to watch and then discuss the latest dramas, reality programmes, sport and so on means live or 'near-live' viewing is still strong.
- 2.4. Some services are faring better than others and so for example channels with smaller programme budgets are finding it difficult to maintain audience share in the face of greater competition from other sources of entertainment and programming as cited above.
- 2.5. Overall however the UK continues to benefit from one of the most, if not *the* most, lively, competitive and creatively strong broadcasting ecologies in the world. PSBs make an enormous contribution, via the investment in creative production companies and in terms of acting on public service commitments, to bring a range of stimulating, educative and informative programming and services to UK content consumers.
- 2.6. The creative competition provided by the PSBs has caused other media organisations, seeking to gain audience share and therefore revenue, to follow suit and invest in original UK content. Hence we see the non-PSB multichannel commercial broadcasters increasing their spend on indigenous first-run production to record levels, as evidenced in last year's Commercial Broadcasters' Association (COBA) census, which showed that its members had invested a record £725m in UK television production in 2013, an increase of nearly 50% from 2009¹.
- 2.7. Equally Ofcom's figures appear to indicate that the commercial multichannel broadcasters have a growing focus on advertiser-friendly genres such as Music (+7% in content spend), Film (+16%), Entertainment (+8%) and Sport (+19%), all of which rose in 2012-13. In contrast, their production spend in other, perhaps less advertiser-friendly, genres such as News (-6%), Kids (-14%), and Factual (-15%) fell significantly².
- 2.8. TAC believes this demonstrates the ongoing importance of publicly-funded services which ensure such genres are well resourced. However it is important that the existence of those services is not in itself seen to address the problem and that they are sufficiently robustly regulated to ensure that they provide genuinely PSB content in a way that the wider market may not.

The BBC

- 2.9. Whilst Ofcom states that the PSB review does not directly relate to BBC Charter Review, inevitably it asks some of the questions which the Charter Review will have to address.

¹ COBA 2014 census: multichannel investment in TV production. Oliver & Ohlbaum Associates Ltd for COBA. June 2014

² Communications Market Report 2014. Ofcom, 2014 p177, Figure 2.53

- 2.10. The BBC has seen a real-terms decrease in its funding due to the level of the TV Licence Fee having been frozen in 2010. Also the Licence Fee is now used to fund services such as the World Service and, partially, S4C.
- 2.11. The BBC has introduced efficiency measures to alleviate the effects of this decrease in budget, and recently produced a report³ which sought to demonstrate how these efficiency programmes, most recently Delivering Quality First, have resulted in the BBC spending its money far more effectively. In its report the BBC nevertheless argues that these are one-off initiatives, meaning any further cuts will affect its core services in a more fundamental way.
- 2.12. TAC's view is that the BBC remains an important engine of creative competition. In Public Service terms, it provides services and content that others do not. TAC therefore supports a continuation of the TV Licence Fee at current levels, but linked to inflation and with the settlement for the Fee decided by an independent objective body rather than, as has happened in recent years, it becoming part of the political process relating to overall spending and taxation policy. We certainly feel the Licence Fee settlement has no place in general public spending reviews, as it is a levy on TV-owning households rather than a direct taxation levied by Government.
- 2.13. The TV Licence Fee is more accountable than other government spending in that the public knows more or less exactly what they receive in return (although we acknowledge that not everyone may be aware of the situation where TV Licence Fee money has been used to help with broadband roll-out for example).
- 2.14. Meanwhile the BBC is also seeking to ensure there is greater competition for efficiency and ideas in content production. Tony Hall's 'Compete or Compare' speech in July 2014⁴ set out proposals to move BBC production to BBC Worldwide and allow it to compete with independent producers and other production arms, eg ITV, for commissions across the board.
- 2.15. Whilst the rationale is that this will mean that BBC production will have to be efficient to survive, in reality it would mean a large established brand being introduced to the programme-making marketplace, immediately able to leverage large production deals, with the attraction of a link with BBC Worldwide's distribution arm. The question is whether this is healthy in terms of ensuring there is adequate competition for ideas and talent.
- 2.16. There are also questions in terms of achieving greater representation of the UK's nations. Under 'Compete or Compare', BBC production would, as now, be concentrated in a handful of centres and therefore Lord Hall's plan will do nothing to maintain and strengthen competition for commissions coming from every part of the UK. In Wales for example if S4C were able to commission more from the BBC's operation in Cardiff, this would adversely affect the indie TV production centre which is currently based all around the nation. This in turn would mean viewers having less choice in terms of the ideas, talent perspectives and ideas being offered, as Cardiff no more represents the whole of Wales than London does the whole of England.

³ Driving efficiency at the BBC to deliver quality content for the Licence Fee payer. BBC, November 2014

⁴ Tony Hall - speech at the 'Future of the Licence Fee' seminar, City University, London. July 10, 2014

- 2.17. TAC's view is that whilst Tony Hall accurately set out the challenge for the BBC, ie how to make sure it was getting the best ideas, he did not address the key point about how those ideas should be obtained 'regardless of source'. The BBC is without doubt a major contributor to the creative economy but Tony Hall's 'Compete or Compare' strategy needs to go further and acknowledge that there is no longer such a strong case for having large, unwieldy production arms, stuck in a few locations and with significant overheads.
- 2.18. With exceptions such as news and perhaps the Natural History Unit, there is no reason why the BBC cannot adapt better for the future by becoming far more lean and flexible as an organisation, by reducing in-house size, structure, costs and bureaucracy.
- 2.19. In the independent production sector, budgets are clearly laid out and every penny is accounted for in a programme budget. Inevitably with an organisation the size of the BBC it is more difficult to ascertain the exact amount of overhead attributable to a particular production or even channel or service. And the needs of such a large organisation breed their own large administrative structure, all of which is funded by the Licence Fee.
- 2.20. Greater use of the independent production sector will benefit UK audiences with a larger range of ideas, stories, talent and perspectives which genuinely come from all around the UK. But to ensure the BBC can commission producers at an adequate level, and to the high standards that has made it the envy of the world, it must have adequate funding. We would therefore like to see a return to the situation where the Licence Fee is maintained at the same level as it is now in real terms – ie to be kept in line with inflation. This is not an 'increase' in the Licence Fee but maintaining the status quo, otherwise we will see the BBC go into serious decline over time.
- 2.21. The BBC rightly points out in its efficiency report that compared to the size of other media organisations, its budgets are relatively small⁵. TAC agrees that it is valid to compare the BBC with the likes of NBC Universal, Viacom and Sky and in those terms the BBC's budget is significantly, in some cases hugely, smaller.
- 2.22. The BBC has of course moved a significant amount of production to Manchester and indeed to Cardiff but this strategy remains one of concentrating production in few centres, of economic benefit to those areas but of limited cultural value or benefit to the Licence Fee payer in terms of delivering a wider range of ideas, stories, perspectives and talent. It is not enough for the BBC to state that it is spending in Wales. The BBC's role as an economic driver is an important one, but in PSB terms the important part of making programming out of London is to accurately reflect different people's lives and stories, and give audiences access to a wider and more diverse range of talent and perspectives.

⁵ Driving efficiency at the BBC to deliver quality content for the Licence Fee payer. BBC, November 2014, p11, Figure 3: Relative revenues of BBC and competitors (2013)

- 2.23. This is reflected in the BBC's own figures, which in its 2013-14 Annual Report showed that only 53% of audiences in Wales felt that "the BBC is good at representing their life in news and current affairs content"⁶.
- 2.24. The Annual Report also stated that "the perception that the BBC has plenty of fresh and new ideas increased, from 56% to 61%. However, the BBC's performance still does not match high audience expectations in this area so, while we welcome the improvement, we will continue to look for more progress."⁷
- 2.25. The best way to achieve such progress is for the BBC to commission its content from as wide a range of sources as possible. The next step in the BBC's evolution should be for its spend to be concentrated more in the independent production sector. That way the core BBC organisation can focus on strategic direction of its wide range of services, away from the day-to-day distractions of managing large content production houses.
- 2.26. TAC notes the report produced by Oliver & Ohlbaum for Pact, which calculates that "a switch of BBC-house production to the external production sector through a combination of these four methods could provide a value boost to the UK TV creative sector of approaching £600m including a reduction in the net programming costs to the BBC of current output by £35m per year."⁸ This only emphasises that there are significant creative and economic reasons for a much greater BBC focus on commissioning rather than producing TV content.
- 2.27. Specifically in terms of indies in Wales and opportunities for BBC UK network commissions, whilst any attempts at facilitating such access are to be welcomed, the BBC's track record is patchy. Currently the BBC has a commissioner in place who is supposed to facilitate the dialogue with network commissioners. But it can be questioned whether adding a specific executive to the process in order to achieve a specific commissioning objective is all that effective, or whether in reality it presents an additional level of confusion and or/delay before commissions are either confirmed or rejected.
- 2.28. TAC would argue that the overall commissioning system needs to be far more equal in its approach to commissioning for network – a regular visit to indie hubs around Wales by a commissioner for example would be effective – the picture overall remains one of commissioners wholly or largely based in one or two production centres, rarely venturing out to meet indie suppliers.

ITV

- 2.29. ITV has consistently over the last 10 – 15 years argued for a lessening of its public service requirements, due to its needing to remain competitive in terms of gaining the audience's attention and therefore raising the revenue to continue to supply its programme and services.

⁶ BBC Annual Report 2013-14, p33

⁷ BBC Annual Report 2013-14, p33

⁸ A new age of UK TV content creation and a new role for the BBC. Oliver & Ohlbaum for Pact, August 2014, p2

- 2.30. Since the 2003 Communications Act we have seen the consolidation of the ITV regional networks and the removal of ITV Network Centre to be replaced by a large broadcaster in ITV which commissions and produces its programming according to a single commissioning policy, plus two much smaller Channel 3 broadcasters, UTV and STV.
- 2.31. Whilst we acknowledge that ITV continues to make programming outside London, a large proportion of the hours are made up with *Coronation Street* plus a significant amount of other major drama, for example *Scott and Bailey*, made in Manchester. Since the requirements for ITV to make 50% of its production outside London were relaxed in 2009, ITV's spend outside London has reduced significantly.
- 2.32. A report by O&O for Pact, published in 2013, stated that "historically, ITV1 has struggled to meet its original 50% quota for spend on qualifying original programming outside London, despite anchoring two of its longest running and highest output programmes (Coronation St and Emmerdale) in Greater Manchester and Yorkshire"⁹. The report went on to conclude that, based on a review of PSB performance against out of London quotas over a nine year period; "where quotas are relaxed and commissioning budgets placed under pressure, commercial PSBs have taken spending out of the nations and regions"¹⁰. Specifically relating to ITV the report showed that the proportion of its production spend in Wales went down from 9.2% in 2007 to 0.7% in 2011¹¹.
- 2.33. It is interesting to note the recent report from the Commercial Broadcasters' Association which appears to show that ITV has gained significantly from its prominent EPG position¹². In its accompanying press release COBA stated that: "the benefits to ITV from its PSB licence are worth potentially £295m a year, compared to costs of £74m from public service duties, for a net benefit of at least £221m a year"¹³.
- 2.34. Furthermore ITV plc continues to do well financially. Its financial statement of November 2014 pointed to an 8% growth in external revenues, broadcast and online revenue growth of 7% and similar growth in other areas. Broadcast advertising growth rose by 6% in the first nine months of 2014¹⁴.
- 2.35. This could be argued to show that ITV is gaining from its position as a PSB and should therefore, rather than being allowed to reduce specific PSB commitments, have a more robust requirement to continue to justify its prominent position.
- 2.36. In terms of Wales, ITV Cymru Wales makes some factual and other programming, but is not a sizeable commissioner of content from the independent sector. An English language service, it also supplies some programming to S4C. However it is of very limited benefit to the independent sector.

⁹ Estimating the economic contribution of independent production outside London, Oliver & Ohlbaum Associates for Pact, May 2013, p8

¹⁰ Ibid, p9

¹¹ Ibid p9, Figure 5: Change in PSB share of spend by nation / region, 2007-2011

¹² The Costs and Benefits of the C3 Licences. Communications Chambers for COBA. December 2014

¹³ PSB licence provides ITV with net benefit of £87-221m per year. COBA Press Release, Dec 2014

¹⁴ Interim Management Statement – 9 months to 30 September 2014. ITV plc, 14 November 2014

Channel 4

- 2.37. Channel 4 has a challenge to replace high-audience programming - the obvious example being Big Brother. Channel 4's relationship with indie TV producers has allowed to it continue to unearth new talent and create new successes, but it will continue to be challenged by those with bigger acquisition and programming budgets.
- 2.38. Commendably, Channel 4 argued to have included in the 2010 Digital Economy Act the establishment of clear public service requirements across all of its services, to reflect partly its approach to those services and also allow it to be less dependent on its main channel to prove its public service performance.
- 2.39. It has also increased its commitments to out of London commissioning. Several producers in Wales have taken advantage of its Alpha Fund. Examples are 'My Tattoo Addiction' and 'Frozen at Christmas', both made by Rondo Media for Channel 4, along with Boomerang's 'Posh Pawn' series.
- 2.40. Channel 4's commitment to out-of-London production continues to rise as per its requirements/commitments set out in its licence renewal, approved by Ofcom in 2014, with its quota for programmes produced outside of England to rise from 3% of volume and spend to 9% from 2020.
- 2.41. Oliver and Ohlbaum noted that "OoL producers responding to the survey indicated that, taken together, 36% of annual UK commissioning income was from the Channel 4 group channels, followed by the BBC (29%)". It is notable that Channel 4 outspent the BBC in terms of out-of-London indie commissions. Whilst this can partly be explained by Channel 4 being a publisher-broadcaster and the BBC partly producing its content in-house, this does not fully account for the difference. Overall the BBC spent £1,291m¹⁵ on network programmes in 2013, compared to £486m for the same period for Channel 4¹⁶. So if overall BBC TV spend is over two and a half times that of Channel 4, and not far short of 50% of BBC TV commissioning is from indie TV producers, it should be expected that they would outspend Channel 4 in the nations and regions.
- 2.42. With the BBC apparently set on continuing to operate a large production base (subject to the outcome of BBC Trust review and BBC Charter Renewal) and ITV's policy tending to oscillate between increasing and decreasing its commissioning of UK independently-produced content, Channel 4 remains a vital engine for developing new talent and using the full breadth of programming-making expertise from across the UK, including in Wales.

S4C

- 2.43. In Wales of course there is an additional PSB broadcaster – Welsh language service S4C. TAC wrote to Ofcom following its publication of its term of

¹⁵ Calculated from Figure 10, PSB network programme spend, by channel: Ofcom PSB Report 2014: Annex 1 – PSB spend and output 2014, p15

¹⁶ Figure 10, PSB network programme spend, by channel: Ofcom PSB Report 2014: Annex 1 – PSB spend and output 2014, p15

reference for the PSB review, on the basis that it felt that the fundamental changes made to S4C in terms of its level and source of funding had not been adequately acknowledged within the general context given laid out in the TORs, which stated that the overall PSB system remained more or less as it was at the time of the last review.

- 2.44. Without S4C there would not be an indie sector of note in Wales. Many companies start with producing for S4C before spreading their wings and working with a much wider range of organisations, public and private.
- 2.45. TAC has been very active in arguing the case for a well-funded and independent S4C, and is therefore pleased to see that Ofcom has acknowledged the recent changes to S4C's funding in its public consultation paper. We would like to address the current and likely future effects of these funding changes.
- 2.46. Whilst the Ofcom PSB review is understandably mainly concerned with the public benefits of the system, it is worth also noting the economic stimulus provided by S4C. Its recent research showed that for every £1 invested in the Welsh creative industries, £1.95 is generated for the Welsh economy¹⁷. This demonstrates its benefit to the creative sector in Wales. Whilst, as noted earlier, TAC's members make a significant amount of wide-ranging content for other commissioning organisations, S4C is a major engine for making sure that sector thrives and that new entrants have a locally based publisher-broadcaster.
- 2.47. The resulting proliferation of production companies across Wales means the production capability is already in place to allow much greater portrayal of Wales and its people – their stories, ideas, talent and perspectives - to audiences across the UK. The Welsh culture and language has a firmly-established place in the UK's overall arts and creative ecology and this was rightly recognised in the initial decision to set up S4C over thirty years ago.
- 2.48. Part of the importance of S4C is its commissioning of popular independently produced strands, including the rural affairs strand Ffermio; the twice weekly soap opera Rownd a Rownd; popular factual and engaging entertainment series such as Fferm Ffactor; as well as sport, children's, religious and factual content. This volume of work and its continuance is critical for the independent sector in Wales.
- 2.49. As with the BBC, S4C has been through efficiency measures and now faces the fact that unless it has a sustainable funding solution, it will be in the situation of managing decline rather than even being able to maintain its current level of services. This would be more than a little ironic given S4C's recent successes with productions like 'Y Gwyll' and '35 Diwrnod' which dispel any notion that its content is not of benefit or interest to audiences outside of the Welsh-speaking population.
- 2.50. Audiences have a positive view of S4C and its overall performance. The latest figures available from S4C¹⁸ show that it scores very well among both Welsh speakers and non-speakers alike in several important aspects:

¹⁷ The Future of Welsh Language Television. S4C, May 2014, p14-15

¹⁸ SPA, Channel Appreciation Tracker, November & December 2014 – provided by S4C

- 84% of Welsh speaking viewers and 86% of Non-Welsh speakers felt that S4C "is a channel that shows what it's like to live in Wales". This score is far higher than any other channel
- 96% of Welsh speaking viewers and 92% of Non-Welsh speakers felt that "S4C is relevant to the identity of Wales and its people"
- 97% of Welsh-speaking viewers and 90% of Non-Welsh speakers agreed that "S4C is the only Welsh language channel available and I think it should continue"

2.51. Equally in the wake of the Scottish referendum vote, the extent to which the UK nations are portrayed and their lives and stories reflected in the UK PSBs' content has risen to the fore. This has exposed some for the first time to the fact that whilst the BBC can claim that significant production occurs in Cardiff, not least Doctor Who and its spin off Torchwood, this programming does not serve to bring to the rest of the UK Welsh ideas, talent stories and perspectives.

2.52. And in terms of distribution S4C is now more widely available than ever before via its online service 'Clic' and the BBC i-player, as well as being available on some cable and satellite platforms. It can therefore reach out not only to the Welsh diaspora across the UK but to UK audiences in general as never before.

2.53. S4C's current funding levels are in TAC's view unsustainable. In its report, S4C stated last year that:

"S4C's overheads remain low - just 4.4% of our budget... The independent (production) companies have made consistent savings and deliver efficient programmes...To date, savings have been delivered off-screen as far as possible - without affecting S4C's programmes on screen. This will not be the case with any future reduction to the budget"¹⁹.

2.54. As TAC stated in its previous note to Ofcom regarding the Terms of Reference, it is hoped that Ofcom will, in its third review of PSB, pay due regard to its last such exercise, which in its final report of January 2009 stated that:

"Existing government funding should continue for other public service broadcasters (S4C and BBC Alba) in the devolved nations, to ensure they can continue to fulfil their public roles."²⁰

"Direct government funding offers potentially high and secure funding and reduces issues with collection and incentives of recipients."²¹

And in its recommendations the report reiterated that:

¹⁹ The Future of Welsh Language Television. S4C, May 2014, p42-43

²⁰ Second Public Service Broadcasting Review: Putting Viewers First. Ofcom, January 2009, p11, para 1.87

²¹ Second Public Service Broadcasting Review: Putting Viewers First. Ofcom, January 2009, p51, para 5.47

“S4C should also continue to play a key role in Wales, delivering programming to Welsh speakers with secure funding from the government.”²²

- 2.55. TAC interprets the term ‘existing government funding’ to mean not only that funding should be directly awarded, but that it was in 2009 at the correct level of spend in real terms to ensure that S4C could fulfil its PSB remit, both then and in the future. Clearly this advice was not followed, and it is therefore of great importance that Ofcom restate the case for a greater investment in S4C, which: has longer-term guarantees; is set at an initially higher rate of at least 10% of S4C’s current funding levels; and is linked with inflation so that it does not once again fall to unsustainable levels in the future.
- 2.56. It should be noted that whilst S4C has attempted to maximise advertising revenue and further investment via co-productions, it is not able to fully take advantage of some of the recent measures introduced to help the UK creative production sector. In Section 4 of this response we therefore make the argument for adjusting the high-end TV drama tax credit to enable indigenous-language PSBs to take advantage of it.

S4C as an independent broadcaster

- 2.57. Ofcom rightly recognises that a healthy PSB system is made up of an ecology of different broadcasters and production companies which together constitute a lively competitive market which produces a range of content for the benefit of the public.
- 2.58. Since its inception in 1982 S4C has been an editorially and managerially independent broadcaster. The funding arrangement in 2010 altered this, in that its being allocated a proportion of TV Licence Fee meant that it became overseen to some extent by the BBC Trust.
- 2.59. Much has been made of the ‘partnership’ between the BBC and S4C, with some efficiencies being made in terms of back-office operations, share of transmission costs and in addition S4C’s programmes are featured on the BBC i-player alongside BBC services.
- 2.60. TAC regularly meets with the Trust representative in Wales, as well as with S4C and BBC Wales, and feels the relationship, not least because of the personalities involved, is currently a fairly healthy one. Nevertheless we continue to believe there is a danger of the Trust’s priorities not always being aligned with S4C’s best interests. TAC is not comfortable with the amount of power the Trust holds in relation to S4C, specifically for example the right to ‘in extremis’ withdraw S4C’s service – this is a power which should rightly sit with the Secretary of State for Culture Media & Sport, in line with their ultimate oversight of the PSB system.
- 2.61. At the time of the S4C Authority and BBC Trust agreement there was a move to include S4C within cuts taking place to the BBC’s own budget.
- 2.62. TAC is adamant that the amount of funding allocated to S4C should be sufficient for it to be sustainably providing the services within its remit. In

²² Ibid. p114, para 12.13

terms of the BBC itself maintaining sufficient funding, as we argue elsewhere, it is important that the Licence Fee is maintained at its current level and pinned to inflation. Whether or not this takes place, however, TAC maintains that S4C's level of funding should be ring-fenced, and not be related in any way shape or form to the amount of money the BBC Executive believes that their own services need.

- 2.63. S4C's status as an independent broadcaster allows it to compete with BBC Wales for Welsh-based content, as well as vie for co-productions and other media production opportunities outside of those pursued by the BBC. Together BBC Wales and S4C make up complementary services for Wales and any attempt roll S4C into the BBC would take away the plurality of voice and commissioning entities which the current setup provides. On this note TAC very much welcomes the conclusions of the recent Culture, Media & Sport Select Committee Report on the BBC which states that:

“It will be important that S4C remains independent operationally and managerially over its affairs and editorially over its content”²³

- 2.64. Whilst we again acknowledge that Ofcom regards the Charter Review as separate to this PSB review, we would state this is clearly an issue to which they are both related. We therefore urge Ofcom to consider the current relationship with the BBC Trust and ask whether that organisation remains suitable to oversee the portion of the Licence Fee that is allocated to S4C or whether that funding should be regulated separately, either exclusively via the S4C Authority or perhaps by another body.

- 2.65. This is an important consideration bearing in mind that since the funding changes to S4C in 2010, it is common to hear references, including by senior BBC figures and others, to ‘the BBC paying for S4C’. This is not an accurate description of the arrangements and is an unhelpful perception bearing in mind the stated priority of Government that “S4C remains a unique entity and retains its editorial independence”²⁴.

- 2.66. To ensure the relationship between S4C, the Licence Fee and the BBC is clear, a rethink of the Trust is needed. TAC has repeatedly stated the need for distancing the Trust from the BBC. We are therefore pleased that a recent report by the Select Committee for Culture Media & Sport²⁵ came to the same conclusion in recommending that there should be a new ‘Public Service Broadcasting Commission’, to which S4C would be accountable were it to continue to receive some funding from the Licence Fee.

Diversity and Representation – the challenge

- 2.67. For the UK PSB broadcasters the challenge remains that they need to be ensuring that they play their full part in reflecting the wide range of people, stories and perspectives from all around the UK. As we have argued, this is more than about having a range of production centres. It is about getting

²³ Select Committee on Culture Media & Sport. Future of the BBC. HoC315, 26 February 2015, p111

²⁴ Rt Hon Jeremy Hunt, Secretary of State for Culture, Media & Sport, in a letter to John Walter Jones, then Chair of the S4C Authority, 20 October 2010

²⁵ Select Committee on Culture Media & Sport. Future of the BBC. HoC315, 26 February 2015

commissioning out into smaller communities and allowing a wider range of people not just to be in the programmes but also to make the programmes.

- 2.68. Research referred to above indicates that unless compelled to do so, the PSBs gravitate away from many parts of the UK, back to London plus a few other centres, and even in those centres they focus on big-ticket broad-brush productions which are not serving many communities and parts of the UK.
- 2.69. Ofcom's figures show that in the five year period 2008-13, spending by the BBC and ITV on non-network first-run originations fell by 33.2% in Wales, more than in any other UK nation²⁶. Whilst Ofcom points out that spend on S4C means that spend was actually higher in Wales than Scotland, this drop nevertheless demonstrates the receding commitment by the main UK PSBs to nations, and particularly Wales.
- 2.70. As Ofcom points out, "The BBC dominates English-language programmes made specifically for Wales, producing 592 hours in 2013, compared to ITV Wales' 331 hours. Both broadcasters produced significantly less in 2013 than in 2008 – a 17% reduction on the BBC (down from 716 hours) and a 31% reduction on ITV (down from 477 in 2008). While there has been a reduction in both broadcasters' output of news for Wales (with current affairs output remaining constant across the period), the greatest decline has been in non-news/non-current affairs programming, with a decline of 80 hours on the BBC and 124 hours on ITV Wales. Most of the decline on ITV Wales occurred in 2009, following a reduction in the licence quota".²⁷
- 2.71. Representation of the UK nations is high on the agenda and the Smith Commission has recommended a greater role for the Scottish Parliament in the BBC's Charter Review process. It would be healthy for the Welsh Assembly Government to similarly have a role in the Charter Review process and feel that, if in agreement, it would not be appropriate for Ofcom to put this case in its recommendations.
- 2.72. Ofcom's own figures show that in the period 2008-2013 less than half of those in the UK nations were satisfied that the main PSBs portray their area fairly to the rest of the UK. While that figure rose in that period from 34% to 40%, the importance attached to such portrayal also rose from 58% to 68%²⁸.
- 2.73. In Wales specifically the satisfaction level has hardly changed in the period 2008-2013, rising from a higher base of 40% to 43%. At the same time the importance Welsh audiences attached to fair portrayal rose from 68% to 71%²⁹. And in response to a set of specific five PSB characteristics cited in Ofcom's PSB Report 2014, in all five categories Welsh audiences' approval

²⁶ Third Public Service Broadcasting Review: Public Service Content in a Connected Society. Ofcom, December 2014, p63, para 3.148

²⁷ Third Public Service Broadcasting Review: Public Service Content in a Connected Society. Ofcom, December 2014, p63, para 3.147

²⁸ Ofcom PSB Report 2014: Section 3 – Television. . Figure 3.41: Main PSB Channels combined, PSB Purposes, importance vs. satisfaction: 2008-2013

²⁹ Ofcom PSB Report 2014: Annex 3.i Audience Opinions – Main PSB Channels. Figure 129 PSB Purposes: importance vs. satisfaction – Wales 2008-2013. Ofcom, 2014, p159

ratings for the PSBs' content fell between 2008-2013³⁰. Clearly PSB audiences in Wales are not satisfied with the current provision.

3. Consultation Questions on The delivery of the public service objectives by the wider market (Section 4 of the PSB Review)

Question 8: To what extent do you agree with our assessment of the degree to which the non-PSB services play a role in helping to deliver the public service objectives?

In doing so please set out your views on the delivery by the PSB portfolio channels, other non-PSB channels, on-demand and internet services and also radio services separately.

- 3.1. As stated above the existence of a robust and lively PSB system has in turn given rise to a high level of creative competition in the non-PSB areas of the media, and none more so than in Television. Audiences are being offered ever-greater choice in a wide range of genres, not just entertainment but factual, drama, sport and so on.
- 3.2. Some areas have not grown accordingly however and this demonstrates the continuing need for a strong PSB system.
- 3.3. Children's TV for example has reached a widely-recognised point where it has been approaching the point of unsustainability. S4C's Cyw service is one of the UK's few dedicated children's TV services, and thus children's TV has become a particular strength of the Welsh indie sector.
- 3.4. TAC therefore welcomes the recent decision by the Government to introduce a tax credit for live action Kids TV, following in the footsteps of the animation and high-end drama tax credits introduced previously.

4. Consultation Questions on Maintaining and strengthening the system (Section 6 of the PSB Review)

Question 14: Do the current interventions in relation to the independent production sector need to change in light of industry developments?

- 4.1. Whilst we acknowledge that the nature of the independent production sector has changed, Ofcom is right to identify this change as beneficial both in terms of the wider range of programming available to viewers and in terms of the growth in the UK's creative industries. As companies partly or wholly owned by interests based in Wales, TAC's members are keen to see that the increase in consolidation does not represent a growing stranglehold on the indie production sector.
- 4.2. It is important for the PSBs to recognise the issue and seek to have commissioning policies which give opportunities to new up-and-coming and smaller companies. Pact's 2014 member census, which contained data from 2013, showed that the UK broadcasters spent an increased amount with small and medium-sized production companies, and that 'all broadcasters

³⁰ Ofcom PSB Report 2014: Annex 3.i Audience Opinions – Main PSB Channels. Figure 130 PSB Characteristics: importance vs. satisfaction – Wales 2008-2013. Ofcom, 2014, p160

spent less with indies in the £70m+ bracket³¹. This would seem to indicate that broadcasters continue to support a range of production companies

- 4.3. It should ensure that there is not a 'cosy' relationship between any particular group of suppliers and the PSB commissioners, so that there are not some companies which become the 'go-to' places for any new commissions in a particular genre. That is not to say that this occurs at present but it needs to be recognised as a potential danger. Channel 4 has targets set at working with a high number of different suppliers including start-ups and newer production firms, and Ofcom should consider whether there could be methods found to encourage or require other PSBs to do the same.
- 4.4. TAC does not accept that the provisions contained in the 2003 Communications Act relating to the terms of trade between broadcasters and indie producers should in any way be watered down or replaced by a more flexible system.
- 4.5. One of the core imperatives in establishing the measure to protect indie TV producers' intellectual property rights in the 2003 Communications Act was to address what the Independent Television Commission (ITC) described in 2002 as an 'inequality in bargaining power', which "has meant independent producers have found it hard to profit from their intellectual property, with all rights often being taken by the broadcaster as part of the original commission... An independent production sector able to exploit its intellectual property will attract third party investment, be able to manage the risks of a creative business more successfully and be in a stronger position to expand into the global media economy"³².

Question 15: Have we identified the right options when considering potential new sources of funding, are there other sources of funding which should be considered, and which are most preferable?

- 4.6. TAC is of the strong opinion that the cable and satellite platforms benefit greatly from offering the full range of PSB portfolio services, and agree that the position has fundamentally shifted since the provisions were made to allow the situation whereby the PSBs paid to be carried by those platforms.
- 4.7. Bearing in mind that combined, PSB core and portfolio channels continue to have over 70% share viewing in multichannel homes³³, TAC feels that there ought to be a 'must carry and pay' provision that enables the PSBs to recoup some of the benefits they in turn bring to the distribution platforms.
- 4.8. We also ask Ofcom to re-consider an equipment levy on items such as PVRs, broadband connections and so on, in order to recognise that all of these manufacturers and service providers benefit financially from the content made by the PSBs, in the BBC's and S4C's case using largely public funds.
- 4.9. As mentioned above the tax credit system has been used to great effect in ensuring the continuing competitiveness of the UK's creative industries. As well as economic benefits, this means that all PSB audiences have been able to continue to benefit from a range of high-quality productions. The UK's

³¹Independent Production Sector, Financial Census and Survey 2014. Oliver & Ohlbaum Associates for Pact, p15

³² ITC Communications Bill Update No 1. Independent Television Commission, November 2002, p2

³³ Communications Market Report 2014. Ofcom, 2014, p190, Figure 2.68

animation, TV, video games and film industries have benefited greatly, and the additional children's tax credit will be of great benefit to many of TAC's members and allow them to continue to make high-quality UK children's content.

- 4.10. In the case of the high-end TV tax credit however, this has not been of benefit to minority language PSBs such as S4C. This is due to the threshold of £1m per hour being set too high to encompass the type of productions that would feasibly be commissioned by a minority language UK broadcaster such as S4C. Therefore producers are not able to develop such ideas with S4C without seeking greater investment elsewhere, but in turn this becomes harder if the tax credit is not available to it.
- 4.11. TAC has therefore been arguing for an addition to the current high-end TV tax measure, in order to incorporate a lower threshold of £500k for broadcasters specific to one of the UK nations. The definition of eligible productions and qualifying 'core expenditure' would be consistent with that applicable for English language high-end television dramas with budgets in excess of £1m, according to the current tax credit.

5. Conclusions

- 5.1. In summary TAC believes that there is a need for Ofcom to consider very seriously a number of strategic alterations to the current PSB network in order to more clearly define its benefits and ensure that it continues to be relevant. Without sufficient justification and balancing of its needs with its responsibilities, there is a danger that the entire *raison d'être* of PSB could be undermined in the medium to longer term as pressure continues to be exerted from certain vested interests to remove the PSB system altogether or at the very least consign it to the margins of broadcasting.
- 5.2. For the latter to happen would represent a very real danger to the future of PSB content itself. There is no guarantee, nor will there ever be, that in return for seeing a marginalising of the publicly-supported broadcasters, the commercial channels would not reduce their own PSB-orientated programming in favour of less diverse, challenging or informative ideas and formats.
- 5.3. TAC therefore calls upon Ofcom to include the following proposals in its third PSB report:
 - Renewed public services requirements for ITV to include a more diverse range of programming in terms of it being made in a way that more accurately represents the balance of population throughout the UK
 - The continuation of the TV Licence Fee at a level which enables the sustainable funding of a BBC which can provide a wide range of high-quality services
 - The BBC to break up, rather than outsource, the majority of its in-house production arm and focus on commissioning the best ideas regardless of source

- The budget for S4C to be brought back up to a more sustainable level, at least 10% above its current amount, and for it to be ring-fenced and pinned to inflation
- For the funding of S4C to be reviewed and an assessment made as to whether it is appropriate to continue to fund it from the TV Licence Fee or revert to a direct Government grant as recommended by Ofcom in 2009
- Similarly an assessment should be made of whether it is appropriate for the BBC Trust to remain the overseer of that part of the Licence Fee that is allocated to S4C. The alternatives would be that it is allocated elsewhere (eg directly to the S4C Authority) or that the Trust is reconstituted to reflect its broader role by being becoming a new Public Service Broadcasting Trust or Commission.
- The provisions in Section 285 of the 2003 Communications Act, on the Code relating to programme commissioning should continue to stand as the cornerstone of enabling fair negotiation between producer and broadcaster
- The high-end TV drama tax credit to have a £500k-per-hour threshold for productions commissioned by indigenous minority language channels.