



Teledwyr Annibynnol Cymru  
www.tac.cymru

## **TAC response to the Culture, Welsh Language and Communications Committee on Devolution of Broadcasting**

**October 2020**

1. TAC (Teledwyr Annibynnol Cymru) is the industry body of the independent television production sector in Wales. The sector is a highly important element of the creative industries in Wales and the UK overall, providing economic, social and cultural benefits through supplying creative content. There are around 50 companies in the sector, ranging from sole traders to some of the leading players in the UK production industry. TAC members produce content for the BBC, ITV, Channel 4, Channel 5 and Sky as well as other commercial broadcasters. They produce almost all the original television and online media content for the Welsh-language broadcaster S4C, and a variety of radio productions for UK-wide networks.
2. In recent years, Wales' reputation as a centre of first-class drama production has grown significantly with productions such as *35 Diwrnod*, *15 Days*, *Un Bore Mercher / Keeping Faith*, *Bang*, *Craith / Hidden* and *Y Gwyll / Hinterland*. Our sector also offers a great deal of expertise in genres such as factual documentary, children's programmes, sport and entertainment. Overseas programme and format sales have increased, and our members are also experienced in international co-productions.
3. This paper focuses on the aspects raised by each of the areas of potential devolution the committee raised in its call for evidence.

### **Devolving Broadcasting to Wales – the potential impact on the media production sector**

4. In this multi-platform age, TAC is of the opinion that broadcasting regulation should cover linear television, radio and digital content in all genres, including news and current affairs. In addition, we consider that ensuring the plurality of news provision for Wales should form a vital part of a broadcasting regulator's work.
5. All PSBs (Public Service Broadcasters), including S4C, are available on digital television throughout the UK. S4C is also often available worldwide on S4C Clic, its catch-up and archive service. Devolving broadcasting would not mean that any of these channels would no longer be available to audiences in Wales. TAC would seek clarification on the core purpose of devolving regulation, and how any subsequent regulation would be structured.
6. PSBs presently operate within the regulatory regime of Ofcom, whose powers are defined by the 2003 Communications Act. Ofcom regulates the TV and radio sectors, fixed line telecoms, mobiles, postal services, plus the airwaves over which wireless devices operate. The Committee would need to consider how these regulatory functions would be performed if Wales set up its own communications regulation, and the cost of doing so.

7. The Senedd and Welsh Government already have the ability to scrutinise the work of Ofcom in accordance with a Memorandum of Understanding<sup>1</sup> agreed in 2017 between UK Government, Senedd, Welsh Government and Ofcom. TAC engages with Ofcom both in Wales and London and has found it open to discussing industry matters, including the current 'Small Screen: Big Debate' consultation.
8. The Senedd and Welsh Government also now play a greater role in calling the BBC to account. Although a significant amount of Wales-made content is made in-house, the BBC also works with the TV production sector in Wales, both through BBC Wales and through its central commissioning.
9. The regulatory requirements of PSBs include the statutory obligations around the Terms of Trade between PSBs and the independent production sector. As the Committee knows, this allows the broadcaster to licence the programme, which can be done separately for UK and overseas distribution. Producers can therefore extract the maximum value of their intellectual property by agreeing on how it is distributed in other territories. That has led to the huge increase in the size of the UK production sector, whose worth rose to over £3bn in 2018.<sup>2</sup> It is vitally important that these statutory protections remain in place.
10. The UK has a complex and highly successful public service broadcasting ecology. The UK-wide approach to creating and maintaining PSB has brought many benefits in terms of large high-quality broadcasters being able to commission content at scale. This has created a vibrant TV production market of which the sector in Wales has sought to take full advantage. Programmes made by production companies in Wales for S4C and other UK broadcasters act as a calling card to enable companies to make co-productions with international broadcasters and distributors. These programmes are crucial to the Welsh TV sector being a significant player and part of the overall growth in the creative industries. There would be a concern if any devolution of broadcasting led to a marginalisation of the sector.
11. It is very important for the economic success of the sector that it is seen as part of the wider UK creative industries, both in policy terms and from an international broadcasting point of view.
12. Currently, the UK faces two huge challenges to its economy. First, the impact of the Covid-19 pandemic, which for a time brought a significant amount of TV production to a halt. Even now with production starting up again, there will be a serious effect on revenues available to commission new programmes. For the BBC, Covid-19 has created an estimated £125m cost which will have an impact on its programming budget, in addition to the additional costs it is facing from the need to provide free TV Licences to over-75s on Pension Credit. ITV will be cutting £100m from its programming budget, and Channel 4 will be cutting £150m.<sup>3</sup>
13. Secondly, there is the impact of Britain coming to the end of its transition period with the European Union. With no deal currently in place, there is a possibility that there will be a significant negative effect on the TV market, as well as ongoing implications for production as

---

<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/727614/Wales\\_MoU\\_FINAL.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/727614/Wales_MoU_FINAL.pdf). Accessed 12 Oct 2020

<sup>2</sup> [Pact Census. Pact, Sep 2020.](#)

<sup>3</sup> <https://www.bbc.co.uk/news/entertainment-arts-52474911>. Accessed 12 Oct 2020

it becomes harder for talent to come to the UK and for companies to film in the EU, as well as changing access to EU markets.

14. We would therefore argue that as part of its deliberations, the Committee considers the timing of any changes it might be considering. We would take a view that any changes should be implemented in the medium or long-term, not least because changes could, as we point out below, cause disruption, and have a short-term or even long-term adverse effect on access to markets for TV production companies in Wales.

### **The BBC, including its governance and funding**

15. One of the core principles of the BBC's public purpose is to reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions and, in doing so, support the creative economy. BBC Wales has recently co-produced with S4C on drama series such as *Un Bore Mercher / Keeping Faith* and *Craith / Hidden*, which have subsequently gone to BBC Network and have drawn significant audiences from across the UK.
16. However, the case remains that this arrangement means that producers receive a percentage uplift for network transmission rather than access to significantly higher original network commissioning budgets. There are concerns in the sector that BBC Wales becoming more of a devolved service could not only make access to network commissioners even harder than at present, but could also reduce the possibility of network seriously considering a purchase of titles produced in Wales.
17. The BBC estimates that during 2019-20, £207m of TVLF money was spent on services in Wales (including S4C).<sup>4</sup> Devolving the BBC, and therefore the funding mechanism, would mean that the benefit to Wales of funding gained from TVLF money would be lost, with this funding totalling £32m in 2019-20.

### **S4C, including its governance and funding**

18. If S4C were to be fully devolved, with UK Government no longer having a place in its funding and policy, we question whether this would mean S4C would have the power to require the TVLF funding to be the subject of a separate negotiation, or whether DCMS would simply negotiate the whole settlement with the BBC, which would then itself decide upon the appropriate level of funding for S4C.
19. If the BBC were also devolved and the TVLF model continued, then clearly a proportion of that could be used. Looking further ahead, with discussion on the funding model for the BBC possibly changing when its next Charter comes in 2027, it needs to be considered where funding for S4C would come from if the BBC were paid for in another way. The likelihood is it would need to be a direct grant from Welsh Government. This in turn would be subject to the same political pressures as any other public funding, the competing demands of which could dilute spending on S4C.
20. S4C's Chair is a UK Government appointment, so devolving full responsibility for the broadcaster would mean this power would transfer to Welsh Government.

### **The other public service broadcasters (ITV, Channel 4 and Channel 5)**

---

<sup>4</sup> [BBC Annual Report and Accounts. BBC, 2020, p140](#)

## **ITV**

21. ITV Wales does provide news, current affairs and other content, but largely, ITV is a UK-wide service. ITV invests in TV production companies in Wales, e.g. Boom Cymru, and it is able to do so using the economies of scale which give it the investment power to do so. A Wales-devolved ITV may not have the same financial ability to invest, and it might not be able to commission for the UK-wide networks as ITV currently does.

## **Channel 4**

22. It is not clear how devolving Channel 4 would work in Wales, given the fourth terrestrial channel in Wales is already S4C, with Channel 4 taking up a different EPG position. As with the other broadcasters, it would decrease economies of scale and possibly result in fewer and less well-funded commissioning opportunities overall, even if there was a renewed focus on Wales-produced content.
23. Separating out a part of Channel 4 to operate solely in Wales would require changes to the regulatory functions currently carried out by Ofcom.

## **Channel 5**

24. TV production companies in Wales work with Channel 5 to produce programmes and it is another valued place for companies in Wales to gain commissions. It is owned by Viacom, an American company, but has public service obligations in return for being broadcast on the terrestrial network. It is not clear what devolution would look like for Channel 5.

## **How any changes proposed align with the shift to digital media consumption**

25. There are increasingly calls by the UK PSBs for regulation of online TV streaming services, including their being required to give greater prominence for PSB services. This has been accepted by both Ofcom and UK Government, but has still to be worked through into legislation. Some UK PSBs are calling for greater regulation of advertising on online platforms to be in line with the regulations to which they have to adhere. Any devolution of broadcasting regulation would therefore entail encompassing these and any other future regulatory or legal developments.