



UK Coalition for Cultural Diversity

Response to the White Paper *Up Next: The Government's Vision for the Broadcasting Sector*

Key Observations

1 Objectives and Governance

The White Paper lacks a comprehensive statement of objectives both with regard to the regulation of Media in the UK, and the role of public service broadcasting in safeguarding and promoting our national culture.

2 New Technologies

The White Paper points out on pages 12/13 the competitive and content challenges from the global streaming platforms. However, whilst referring to increased choice (range of providers) it does not consider choice in terms of diversity of content.

It does not take into account the importance of British citizens receiving a full range of British programming on all platforms, made especially for them, as opposed to programmes produced in other countries and largely made for global audiences.

It also lacks a strategy to deal with 'discoverability'. This issue is critical as digital platforms have become the main gateway to access culture and the functioning of algorithms in controlling what is available is neither transparent nor its impact widely understood. Significantly, many studies have shown that local and European digital services play an essential role in promoting cultural diversity, often being more likely to foster the discoverability of local content

Provision for Children

No mention is made of the lack of children's and young people's programming (with the demise of the Young Audience Content Fund YACF) which is essential for the cultural development of future generations in their appreciation and understanding of the culture and communities from which they come. In this respect please refer to the Children's Media Foundation report "Our Children's Future: Does Public Service Media Matter?"¹ and in particular Lord Ed Vaizey's overview:

many of our children are getting one clear message from their teachers and parents and a very different, often confused message from the media content they access on their phones, tablets and laptops. Instead of engaging with content curated for them by a well-regulated public service broadcasting system,

¹ <https://www.thechildrensmediafoundation.org/public-service-media-report>

*our children are increasingly watching content 'curated' for them by an algorithm.
(p142)*

3 Support for UK Independent Film-Making

Channel 4 Films, BBC Films and the current PSB range of commissions provide essential stimulus to UK independent film-making. This is not sufficiently acknowledged in the White Paper. The government's Global Screen Fund, whilst welcome, only provides a fraction of the funding invested in national production by neighbouring European countries and in spite of the widely publicised boom in studio provision in the UK, this is largely serving inward investment production rather than genuinely independent UK production.

4 International Treaties

The White Paper should acknowledge the necessity of protecting the sovereignty of our audio-visual sector by exempting culture and audio-visual production in Free Trade Agreements with other countries. This is a requirement of UNESCO's Convention for Diversity of Cultural Expressions, 2005 to which the UK is a signatory.

Recommendations

1. Objectives & Governance

It should be clearly stated what are the objectives of our media regulation in the UK. For example any UK Media Bill should state that the UK media communications sector, comprising public & private elements, uses national, regional, local and international undertakings and facilities and provides, through its media content, a public service essential to the maintenance and enhancement of national identity, cultural sovereignty, and UK democracy.

It should also be stated that the media communications sector serves to safeguard, enrich, and strengthen the cultural, political, social, and economic fabric of the UK.

The participation of Civil Society, which public service broadcasting exists to serve, should be given representation both in governing structures and official structures monitoring performance of providers.

2. Availability of British Content on streaming platforms

As part of their being given access to the British media market and our whole society, it is entirely appropriate to make obligations on streaming platforms in respect of the principles mentioned above.

In that respect, it is entirely appropriate to establish a regime that requires online streaming services that benefit from operating in the UK to not only invest in UK programming, but that 30 % or more of their catalogues should comprise British programming which is well signposted. This approach would ensure a meaningful contribution to the diversity & availability of British programming on all platforms which is so important for the production economy, social & cultural cohesion and democracy in our society.

2.1 To ensure that British citizens are able to make informed choices and that British content has sufficient visibility and is easy to find on the services that British people use:

We recommend that OFCOM impose discoverability obligations on all audio or audio-visual entertainment media content undertakings, as it deems appropriate, including:

- catalogue or exhibition requirements;
- prominence obligations;
- the obligation to offer UK media content choices; and
- transparency requirements, notably that companies be transparent with OFCOM regarding how their algorithms operate, including audit requirements

2.2 We recommend that a consultation is conducted on the need for cultural levies on large streaming platforms, (expressed as a percentage of annual turnover in the UK), to be directed to a single institution tasked with funding creation, production and discoverability of British productions on all screens. This is particularly, but not exclusively, in view of the shortage of children's and young people's content and the demise of the YACF.

2.3 We recommend that OFCOM use its power to collect data to be used as evidence to gauge performance of providers in relation to gender and diversity issues and universality of outreach. It should also aggregate data on consumption in relation to online media content undertakings, and this should be published in aggregated form and made available to production companies.

The data should be subject to a programme of annual review which should provide the basis for adjustment and development of providers' delivery of their public service remit.

(See Annex 1)

3 Support for UK Independent Film

Independent film companies should retain or share IP rights with PSB providers to ensure the sustainability and presence of smaller local production companies in the UK marketplace and in order to guarantee the diversity and local focus of PSB programmes.

The tax benefit scheme should be expanded to include lower budget productions thereby providing additional incentive for investment. Currently only UK qualifying productions with a budget greater than £1 million per hour's length can qualify. This focus on high-end production discriminates against many potential UK productions whether fiction, documentary or childrens' film/television.

4 International Trade

The White Paper should support a comprehensive cultural exemption in any trade agreement with another country or group of countries in order to safeguard British sovereignty and to develop the British cultural industries. Such an exemption would ensure that the British Government is free to adopt measures vis-a-vis internet platforms on behalf of indigenous creative industries in a way which would be of benefit to the United Kingdom. It is also important to have the freedom to introduce the proposed provisions of the Online Harms Bill or any changes as outlined in the government's new White Paper.

Please reference - UKCCD Briefing, May 2021. *Free Trade Agreement UK – Canada: Briefing for Ministers*
<https://ukccd.org/ukccd-briefing-for-culture-in-free-trade-agreements/>

The significance of creative industries goes far beyond economic considerations. Creative industries are vital to the identity, autonomy and social cohesion of our country. Beyond our borders they are critical to UK's global strategy both for trade and soft power: the expansion of both depends on our prestige in exporting our creative works and the development of a robust protection of intellectual property rights. Culture is not a commodity which can be traded in the same way as tangible goods.

ANNEX ONE – *Relevant sections of AVMS Directive*

The UK was a signatory to the European Union's AVMS Directive and played a central role in developing its provisions. The UK is now in a position to re-shape its provisions in favour of encouraging the exhibition, production and discoverability of specifically UK audiovisual works.

Below are the articles from the Audiovisual Media Services (AVMS) Directive relevant to the promotion of European works by streaming platforms and their investment in local production (Articles 35-40)

(35) Providers of on-demand audio-visual media services should promote the production and distribution of European works by ensuring that their catalogues contain a minimum share of European works and that they are given sufficient prominence. The labelling in metadata of audio-visual content that qualifies as a European work should be encouraged so that such metadata are available to media service providers. Prominence involves promoting European works through facilitating access to such works. Prominence can be ensured through various means such as a dedicated section for European works that is accessible from the service homepage, the possibility to search for European works in the search tool available as part of that service, the use of European works in campaigns of that service or a minimum percentage of European works promoted from that service's catalogue, for example by using banners or similar tools.

(36) In order to ensure adequate levels of investment in European works, Member States should be able to impose financial obligations on media service providers established on their territory. Those obligations can take the form of direct

contributions to the production of and acquisition of rights in European works. The Member States could also impose levies payable to a fund, on the basis of the revenues generated by audio-visual media services that are provided in and targeted towards their territory. This Directive clarifies that, given the direct link between financial obligations and Member States' different cultural policies, a Member State is also allowed to impose such financial obligations on media service providers established in another Member State that target its territory. In that case, financial obligations should only be charged on the revenues generated through the audience in the targeted Member State. Media service providers that are required to contribute to film funding schemes in a targeted Member State should be able to benefit in a non-discriminatory way, even in the absence of an establishment in that Member State, from the aid available under respective film funding schemes to media service providers.

- (37) Broadcasters currently invest more in European audio-visual works than providers of on-demand audio-visual media services. Therefore, if a targeted Member State chooses to impose a financial obligation on a broadcaster that is under the jurisdiction of another Member State, the direct contributions to the production and acquisition of rights in European works, in particular co-productions, made by that broadcaster, should be taken into account, with due consideration for the principle of proportionality. This is without prejudice to the Member States' competence to establish, in accordance with their cultural policy and subject to compatibility with State aid rules, the level of financial contributions payable by media service providers under their jurisdiction.
- (38) A Member State, when assessing, on a case-by-case basis, whether an on-demand audio-visual media service established in another Member State is targeting audiences in its territory, should refer to indicators such as advertisement or other promotions specifically aiming at customers in its territory, the main language of the service or the existence of content or commercial communications aiming specifically at the audience in the Member State of reception.
- (39) Where a Member State imposes financial contributions on media service providers, such contributions should strive for an adequate promotion of European works while avoiding the risk of double imposition for media service providers. In this way, if the Member State where the media service provider is established imposes such a financial contribution, it should take into account any financial contributions imposed by targeted Member States.
- (40) In order to ensure that obligations relating to the promotion of European works do not undermine market development and in order to allow for the entry of new players in the market, providers with no significant presence on the market should not be subject to such requirements. This is particularly the case for providers with a low turnover or low audience. A low audience can be determined, for example, on the basis of a viewing time or sales, depending on the nature of the service, while the determination of low turnover should take into account the different sizes of audio-visual markets in Member States. It might also be inappropriate to impose such requirements in cases where, given the nature or theme of the audio-visual media services, they would be impracticable or unjustified.

ANNEX 2 *Recent UKCCD submissions regarding public service broadcasting*

1 Submission to the House of Lords Communications and Digital Sub-Committee on the Future Funding of the BBC

<https://ukccd.org/our-submission-to-the-house-of-lords-sc-on-the-future-funding-of-the-bbc/>

2 Submission to DCMS Consultation on potential change of ownership for Channel 4 Television Corporation, September 13 2021

<https://ukccd.org/channel-4/>

ANNEX 3 *UK Coalition for Cultural Diversity*

The UK Coalition for Cultural Diversity, UKCCD, is the UK's leading civil society network supporting UNESCO's groundbreaking Convention on Diversity of Cultural Expressions, 2005. UKCCD acts as a consultative partner to UNESCO-UK and the UK government on the implementation of the aims and obligations of the treaty, which became legal in this country in March 2008. UKCCD is a founder member of the International Federation, IFCCD, which links over 600 creator and cultural organisations worldwide.

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