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Note:
The Report of the Committee is published in Volume I (HL Paper 37-I)
The Evidence of the Committee is published in Volume II (HL Paper 37-II).
Minutes of Evidence

TAKEN BEFORE THE SELECT COMMITTEE ON COMMUNICATIONS

WEDNESDAY 18 MARCH 2009

Present

Bonham-Carter of Yarnbury, B
Eccles of Moulton, B
Fowler, L (Chairman)
Hastings of Scarisbrick, L
Howe of Idlicote, B
Inglewood, L

King of Bridgwater, L
Macdonald of Tradeston, L
Manchester, Bp
Maxton, L
McIntosh of Hudnall, B

Examination of Witnesses

Witnesses: Ms Tessa Ross, Controller of Films and Drama, and Mr Paul Grinney, Head of Business Affairs, Scripted Content, Channel 4, examined.

Q1 Chairman: Thank you very much for coming; welcome. This is the first meeting of a new inquiry on the British film and television industries and basically what the inquiry is about is we are trying to focus on how the film and broadcasting industries are supporting the United Kingdom economy, including jobs, promoting UK culture and talent, whether there is scope for them to make a greater contribution and, basically, what more can be done by government and other parties to help. That is the very broad remit that we have got and it seemed entirely appropriate that Film4 should give the first evidence following your great success with Slumdog Millionaire on which we very much congratulate you. Perhaps I could start and, just to get us focused and taking, perhaps, Slumdog Millionaire as an example, could you take us briefly through the process by which the story actually reached the screen and obviously the part that Film4 played in this.

Ms Ross: Thank you very much, it is lovely to meet you all. I take some credit for starting Slumdog Millionaire off. Film4, which I am sure we will go on to discuss later, spends quite a large percentage of its budget developing projects, most of which we develop in conjunction with production companies and producers, but we also seek out material and ideas wherever possible. In this instance a very talented book scout whom we worked with and my head of development called me urgently and said “We have just come across the most wonderful manuscript, will you read it now?” which I did. I very quickly met the agent, having fallen in love with the material, which was yet to be published, and we agreed an option on the material which was actually granted us because of what we had previously done. The agent and the writer of the book, Vikas Swarup, understood that Film4 stood for innovation and ambition and had previously been involved in films by, for example, Mira Nair who had done Salaam Bombay—just as an example of how they understood where we might be prepared to go with the development and production of the film to be made. I obviously have a huge number of relationships with writers and directors and one of these was Simon Beaufoy, to whom I pitched the novel very early on and said “You will love this”, which he did, but needed to obviously go and discover the country and how he might tell the story in India. Film4 was in the fortunate position of being able to send him as part of the development process to India to learn about the country and to see how he might incorporate the plot of the book into a screenplay. After a couple of drafts he asked me the question, “Do I get the rights to the game Who Wants to be a Millionaire or do I have to make it up on my own game?” I had previously worked with Christian Colson who was currently running Celador Films and said to him “I have a screenplay that I love and I have a problem I would like you to help with”, to which, having read the screenplay, he replied, “I absolutely love the screenplay, I would like to produce it for you and I can help you clear the rights to the game.”

Q2 Chairman: He was the producer.

Ms Ross: He became the producer.

Q3 Chairman: We have gone now from the stage where you have got the book, you have now in a sense handed it on to the producer.

Ms Ross: Yes, and we then agreed a deal with Celador Productions to co-finance the film with Film4 and to clear the rights to the game, and we both then agreed that Danny Boyle was our first choice director and the story goes from there really to what you have today, which is really the vision of a brilliant writer, an extremely talented producer and a visionary director.
Q4 Chairman: Just so we are clear, you originated the whole project. What is the stake that Film4 actually has in the film?
Ms Ross: Apart from the early stages of development we then agreed with Celador, who were fortunate enough to have their own capital to invest in film production, that we together with them would co-finance the film, and because our budget at the time was limited to £10 million a year it was important for us—

Q5 Chairman: For all films.
Ms Ross: For all films—for us to invest that money across a number of films; it would be foolish for us to finance two, say, with that investment. Celador were actually prepared to risk a lot more than we were, given that they were happy to make two films a year, probably, so our investment capped at £1.5 million and Celador invested the rest and together we were able to green-light the film. The film was effectively in pre-production before any other third parties came in to play.

Q6 Chairman: That presumably also meant that on the basis you had only put in £1.5 million and they put in £8 million the profit on the film goes to the production company, or the massive profit goes to the production company, is that right?
Ms Ross: My Head of Business Affairs, Paul Grindey, will explain this, but just very broadly it is absolutely proportionately fair, but because our investment represents both licence fee, i.e. the rights to play the film on television, and equity—which is what you would call the risk money, the gambling money—we make the proportion of gambling money back, plus whatever profit we are due. But of course the distributors in this case will make the profit, or a large proportion of the profit. Would you like to take over?
Mr Grindey: Yes. The way to make money in film is either to invest huge amounts of equity into production so you can dominate the profit plans or you own the distribution machine that takes the DVD sales, the box office receipts directly from the consumer. In the case of Slumdog it will be the worldwide distributors who make the most money, but Celador will still, as the majority financier, also make a very handsome return, as will we, but our return has to be set against the limited equity investment we were able to make in the film in the first place. Whilst it is a nice balance sheet item it is not something that transforms our prospects going forward.

Q7 Chairman: The real profit-maker out of all this has been the distributor, has it, or will be the distributor?

Mr Grindey: The distributor and Celador as well. Generally the film ecology—and I am sorry for using words like that, I know I am not supposed to any more—benefits as a whole from a film such as this. Not only are there benefits for the companies that are actually involved in distributing, marketing and selling the film, there is also a general perception of what is now possible in terms of independent film-making, a British film that was shot overseas and also has huge critical and award success in America. That will change audience attitudes to that kind of film and you may find in the future that US distributors are more receptive to this kind of film-making than previously.
Ms Ross: The important thing for us as well was that the American distributor in this instance bought the film having seen it, so the issue is that where we are in early and in order for us to be able to spread our risk across a number of films, we want to stand by talent and projects early on in cases where, for the most part the market, i.e. the distribution market, will not see the value and the risk early on. Of course we hope that the success of Slumdog means that they may come in earlier and help us finance these films but truthfully they are mostly taking the least risk at the latest possible point in order to make the most profit, and that is very much the way their model works.

Q8 Chairman: The film itself was financed in the UK; you had no difficulty on that?
Ms Ross: We had absolutely no difficulty in that having set up the film with Celador we were able to green-light the film with a company that had its own finances.

Q9 Lord King of Bridgwater: How representative of other films that you have made is this sort of financing structure? In other words was that pattern that you had for Slumdog pretty much replicated with the other films you have made?
Ms Ross: No, it is very particular and very unusual to be able to work with a production company who could invest their own cash. For the most part our films are made with many more partners, often with distribution investment from the UK if not from the US, together with the UK Film Council for example. This was a very unusual situation, not least because once Danny Boyle was on board there was a huge confidence worldwide in the film.

Q10 Lord King of Bridgwater: Do you get much private investment, like you get in theatres, people who back shows?
Ms Ross: There are not individuals. There are individuals through tax schemes but obviously these have become much more complicated recently and the tax credit has become the most regular form of tax support for film production.
Q11 **Chairman:** We will come on to tax credits—there are more questions about the financing and we might come on to that. Just tell me a little more about rights, could you? I am getting the vague picture, but what are the rights that are being sold at the same time as all this process is going forward?

**Mr Grindey:** Basically the right to distribute the film across a variety of media, whether it is the cinemas, on DVD, on television—pay and free—and also an aspect of this film was the soundtrack deal. Because we are using a very well-known composer we thought this soundtrack would have a particular value, so again the soundtrack we sold separately. In all these deals one tries to create as many profit centres as possible and to find the right partner who can give a decent push behind the film to get it made. In the case of *Slumdog* because we had agreed the film between us and Celador we were able to say with a high degree of confidence to the rest of the industry, to the distribution community, that this film was green-lit and going ahead and if you want to join the party then give us your best offer, which in this case took quite a lot of leverage away from the distribution community because our film was not dependent on any particular negotiation coming good. It was not a blind decision, we knew approximately how much we would be able to close deals for but that sense of boldness and confidence allowed us to get better deals, I think, than we would otherwise have enjoyed.

Q12 **Lord King of Bridgwater:** What is the normal breakdown in films between cinema attendance and DVD and later income, replays and all that?

**Mr Grindey:** It is a difficult concept because the film industry is very good at hyping up the largest possible number, so the box office is the number that is usually quoted. The box office is a pie of which half goes to the exhibitor and of the remaining amount half goes to the distributor, so the actual financiers get anything between 15 and 25 per cent of the final box office. In terms of the overall value of a film I would say box office is about 25 per cent of the film’s value, DVD is 45 per cent and the rest is television, and in terms of value to the film financiers, the film financiers rarely make money on box office.

Q13 **Lord King of Bridgwater:** 25, 45, 30.

**Mr Grindey:** Approximately; it varies film by film.

Q14 **Baroness Eccles of Moulton:** Could I just ask you a quick question about the origins of the script? I know that it was found by a scout and it had not been published; did it ever actually get published as a book or was it immediately part of your system and did not get published as a book?

**Ms Ross:** No, to everybody’s advantage it got published as a book under the name of *Q and A* and it has just been republished under the name of *Slumdog Millionaire*. It absolutely enjoyed a great deal of success and sold very well as an audio book as well and a lot of people heard it on the radio where it was adapted for radio. Vikas enjoyed a lot of success and what is wonderful when a film is successful is that it then only enhances the value of the book when it is back in bookshops.

Q15 **Baroness Eccles of Moulton:** Has the author done well out of it?

**Ms Ross:** Yes, the author has done well and the author has hugely enjoyed the transformation because of course the film is quite different from the book, but he has been both generous and excited about the changes that were made by the screenwriter and by the director and by the way in which the spirit of his book has been enhanced by what has been in the film.

Q16 **Chairman:** You were quite fortunate in this book, were you not, because I was reading a rather sad tale of a very good book, Sebastian Faulks’ *Birdsong* which apparently has taken now 16 years and still has not been released.

**Ms Ross:** We were very fortunate, and although we say four years, four years is pretty quick in the life of film-making. *The Last King of Scotland* which was a film we made three years ago was in development for seven years and underwent a change of writer and director throughout that time, and our ability to stay with projects which we believe have value and we believe will resonate with an audience when we get them right is obviously a huge part of our commitment to quality.

Q17 **Lord Maxton:** Could I just come back to these rights because it seems to me that the distributor takes all the rights basically, does he?

**Mr Grindey:** Yes.

Q18 **Lord Maxton:** But you of course are part of and linked to a TV channel. I always assumed that one of the deals you had when you made a film was that Channel 4 had the right to show the film before anybody else.

**Mr Grindey:** We carve that out from our UK distribution deal, that Channel 4 will have the TV premiere. In a lot of cases we do allow a prior Sky window because the Sky Pay TV deal is worth a lot to UK distributors and without that prospect of a big Sky Pay TV sale they will not put as much money behind the marketing of the film as we would otherwise like.

Q19 **Lord Maxton:** Once you have shown it, it is the distributor that has the Sky money.

**Mr Grindey:** The distributor would go first with theatrics and video, then Pay TV and then usually Channel 4 comes in after the Pay TV window with its
free TV premiere. For some films we take all television but given our limited investment power and the need to have films promoted to the marketplace with as much prospect of sales as possible for the distributor we often allow a prior Sky window. It is not something we particularly enjoy doing but it is necessary.

Q20 Lord Inglewood: If I might just ask one rather general question, which you may say you cannot really answer, which is that the money that is made from any film, some of it is divvied up to the people who actually make it and some of it goes to the distributors. Is there a kind of industry norm as to where you start from in thinking about that, say the distributors get two-thirds and the manufacturers one-third, or is every one a different deal?

Mr Grindey: It is a very good question in the sense that there has been a set industry convention for a long time which is basically what gets recouped first is the distribution cost and the distribution fee, so there is a waterfall of revenue and the producers and financiers sit at the bottom of that after the distribution and sales community take their fees and costs out first. One of the things we do at Film4 is we look for ways to build our partners, and very important to all Channel 4’s activities is its relationship with independent producers. So we have very little power to experiment but within our limited power we do try and experiment with different forms of distribution and different financial models, so we for example pay a share of our equity return to the production company that we work with, and that is because the position of producers in most film revenue plans is so terrible that they actually rarely see more than their upfront fee, and what we need to do, what we want to do, is to create a climate where producers are invested in the profitability of their films so they can be made for lower budgets and in a more sustainable manner because if you only reward producers with an upfront production fee then they are less concerned with making films at the right cost. That is one of the key things, that films should be made at the right cost relative to their market value.

Q21 Lord Inglewood: If I can take it a tiny bit further, if you are looking at film and the money that is derived from it, an awful lot of it goes to the distributors who come in at the last minute and as it were sweep off the cream. Is that right?

Mr Grindey: That is right, but what they have done, which we must not forget, is they have usually spent several billion dollars setting up a distribution machine that can release those films and which can take profits and market to the video wholesalers and to the theatrical chains. So they have already made a huge investment in distribution—those machines are very hard to replicate and there is a scarcity of those sorts of machines. If you get studio distribution you are pretty lucky, so they extract a price accordingly. I do think that over the next five years we are going to enter a period of experimentation where there are opportunities for more independently-minded companies to construct new distribution models. What we have now in film exhibition is a system which was really designed for analogue distribution, i.e. sequential windows based on a quality of viewing experience that is at its peak in theatric and it goes down to DVD and down to television et cetera. In the future with digitisation it is possible for the quality of experience to be the same everywhere—you can download something onto your mobile phone and link it up to a big screen, so that it becomes a high quality experience. The whole model is ripe for re-conception and there is an opportunity for independent companies to effect structural change in a way that they have not been able to do in the past because the studios have been so powerful.

Q22 Lord Maxton: Is piracy a problem in all of that?

Mr Grindey: It is a huge problem. All recorded media industries have this problem. For film, in terms of the theatrical admissions it is not a problem—it is a problem but it is not transformative because essentially the theatrical live experience is not something you can duplicate easily, but for DVD and for television it is a problem, and it is one of the reasons why it is very important to manage costs in the film industry, and one sees a deal shifting so that upfront costs often become lower and revenue reporting becomes more transparent because no one knows what the distribution landscape is going to be like in a few years time.

Q23 Bishop of Manchester: If I could address Tessa Ross on this, a few moments ago you used. I think in the space of about one minute, the word “success” at least three times. I was going to ask this later but I want to keep the momentum from what you were saying earlier. How, from your perspective on Film4, do you assess the success of a project? We have been talking about Slumdog Millionaire but of course there are lots of other things which I am sure you feel are successful, but may not necessarily be successful in your terms because of their financial comeback to you. It would be helpful to us if you could define what in your terms a successful project is, and also perhaps the reverse of that, an unsuccessful project. Then perhaps you could give us an assessment of the balance between how many unsuccessful projects actually have to be carried by one successful project.

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1 The witness has added the following clarification. There is no simple proportion of profits that accrue to the producers/ financiers. The operation of the revenue waterfall means that sometimes sufficient revenues arise to repay the financiers and reward the producers. Sometimes they do not, and in particular producers (as opposed to financiers) often do not receive any further share of profits.
Ms Ross: Of course. In order to explain that clearly I would have to describe how we set our remit, where the ambition is set for Film4. Film4 is a very small part of a broadcasting organisation which has defined itself particularly clearly over the last five years, say, by its relationship with that broadcasting organisation and seeing its job to support the development and production of films and talent that relate wholeheartedly to what that broadcaster stands for. So we see as an end user our channel and we stand by it by saying—here is the language I would use: I would say that we are ambitious and we are curious and we look for contemporary resonance in everything that we do. We are interested in new talent, we are interested in seeding the next generation of Danny Boyles and not just hanging on to the existing ones, but we want to create a home for those film-makers that we know are great and we want to make sure that we are continually searching for those that we do not know yet. That means that development is a huge part of it, as I said before, and making short films and first films and launching new talent into the marketplace is a large part of where we would judge our success. For example, we made a short film with a playwright, Martin McDonagh, who went on to win an Oscar with it and then made his first feature film, but we have also made other short films which, you know, have won either one or two prizes or no prizes but have probably launched their career less successfully with people who learnt not to do it, how not to do it or that they do not want to do it, or that they have learnt exactly how to do it again. That is a very important part of success and not success. The other thing I think is that the resonance of the tone of our work, it sitting on the channel, is how we judge success, so stories that we feel other people may not tell, journeys that other people may not take, launching projects and making them happen where other money might not is a huge part of where we judge our own success. The Last King of Scotland was a very successful film, a difficult film when conceived and when described to other financiers, but very successful because it went on to win an Oscar for its star and launched absolutely in mainstream drama film-making the career of its director. I would say that there are other films which have been hugely ambitious and on the edge of experience which are less well-known, and although they may have got into film festivals they probably have not had huge success theatrically but more on DVD. When we boil it down and we boil it down to aiming at quality above all else, so aiming at the sustaining vision of real talent delivering high-quality film-making, we judge that primarily I would say critically and financially. When those split—and they do often obviously, critical success can often not lead to financial success—we still feel if we have done it at the right price that we have launched careers successfully and we have made visible film-makers who would otherwise not have been made visible.

Q24 Bishop of Manchester: It would be interesting to have an example of a film that you have done on Film4 which you feel by many of the criteria you have just been describing was a success but actually did not make much money and perhaps did not even get very strong viewing figures. Is there something in that category that you can say “Well, from our point of view theatrically, launching people’s careers and whatnot it was a success, but frankly did not really get the audiences and we did not make money out of it”? Ms Ross: This is a known director and Paul has just brought up Dead Man’s Shoes which was the return of Shane Meadows to low-budget film-making. Shane had had an experience of making a larger budget film with a known cast and, quite early on when I started at Film4, he came to me and said “I have an idea, I want to experiment—it is a comedy. It is very funny and it is the story of a man and a mistake, let me go away and experiment and workshop it with my friend, Paddy Considine”, which he did. As the weeks went on he said “Well, it is not so funny any more” but he started to evolve a story which was very personal to him and which became the story of revenge that was Dead Man’s Shoes. It was very tightly budgeted, at very low cost, and actually went on to be critically very successful for Shane and gave him a huge amount of confidence and being able to go on and make This is England, which I would say became a much greater success and a visible theatrical success. Dead Man’s Shoes was far more a DVD success than it was a theatrical success, but I would go back to Dead Man’s Shoes as the creation of a very strong relationship with that talent and with a way of making work. In fact, Dead Man’s Shoes led to the creation of Warp X with Warp, the production company, who produced that film. Warp X has become a very creative way of our making low-budget features for first time film-makers and delivering, I think against a lower expectation of theatrical success, the opportunity for new talent to come through and make their first feature film.

Q25 Chairman: Just following that up for a moment, would it be fair to say that Slumdog Millionaire you have basically said is not going to be a financially transforming position as far as your company is concerned. It is going to make a profit, but it is not going to make a fantastic profit. Would that be true about all the successes that you have? Some of them make a profit but never a financially transforming profit. Ms Ross: That is absolutely the case. Unless we were take our small budget and invest it in very few films, i.e. huge investments in films that were built primarily
to deliver profit to that equity investment, we will always see a good, a fair, but a small return on our investment.

**Q26 Baroness McIntosh of Hudnall:** Good morning. The Bishop of Manchester has largely shot my fox, so what I am going to try and do is just pull a couple of things out of what you have already said to us if I may. Firstly, can you tie these measures of success that you have just talked about that you apply to your own work back into the remit of Channel 4 as a whole? You did touch on that.

*Ms Ross:* Yes.

**Q27 Baroness McIntosh of Hudnall:** Specifically, could you just tell us a bit about how your films relate to all the other elements of Channel 4’s output and can you build into that a little bit about how you see your work contributing to Channel 4’s public service broadcast remit, because I think that you do but at the same time it is not part of the statutory obligation that Channel 4 has that those films should contribute to it. Could you talk a bit about that, but can I just ask you one other thing which is that you have talked about development as being an extremely important part of what you do, which clearly it is. Firstly, that £1.5 million that was invested in *Slumdog Millionaire* which, by the way, we can see is not typical of the way that your films generally get made—that is quite important to recognise, all the money coming from one other producer, very untypical, yes?

*Ms Ross:* Yes.

**Q28 Baroness McIntosh of Hudnall:** However, was your £1.5 million in effect the aggregate of what you had spent on development or was it everything you had spent on development and then some? Can you talk about development and how it fits into the overall finance?

*Ms Ross:* Yes, and I will come on to the *Slumdog Millionaire* question as well. You are absolutely right that the way I test myself would be to say how public service is this—I may not use those words, I might say “Can we live with this decision whether it works out well or not, given that every decision we make creatively is hugely risky?” As long as we have investigated our every which way reasons for doing a project and supporting a particular writer or director or producer I feel that we can stand by the failure or success of each project, and that seems to me hugely important when we are spending £10 million a year, a huge amount of money, albeit a small proportion of the overall budget. Really in order to do that I have to ask myself what I stand for and what the place I work for stands for, and it seems to me that we are a microcosm but very representative of what the place stands for: the support of the future, the testing of the edges in order to deliver to the future mainstream—

I would say, for example, that the development and production of a series like *Shameless* which, in my role as Head of Drama, I developed and commissioned—a tone of voice, a writer, a very long-running series which is now in its sixth or seventh series, has hugely changed the ability of certain mainstream television to speak in a certain voice for example. Secondly, the questioning nature of Channel 4 as a broadcaster is very much represented in the kind of choices we make at Film4. Thirdly, and most importantly, taking away all the adjectives of what I feel we stand for in terms of adventure and risk-taking, our relationships with talent and therefore with the other departments as a commissioning body and within Channel 4 are hugely important. If you think of Channel 4 as one big door where film-makers and programme-makers can come in and we can say to them, “Look, from this tiny, three-minute documentary to this huge feature film everything here is possible, we do it all, you talent can come in and tell your stories to our audience whom we recognise and whom we believe we know, through any one of these doors, equally in any one of these forms—through documentary, through history programming, through drama, through comedy.” At the moment my job is Controller of Film and Drama because I strongly believe that the relationship between film and drama television in this country is fundamental. So much of our talent has come through theatre and television and it would be ridiculous and foolish not to understand that that small and hopefully growing pool of talent needs the possibility of experimenting across all forms of story telling. But we have not just worked with drama talent, we have developed projects that may have grown from one into the other, from say television into film, or from film and been able to be green-lit as television.

**Q29 Baroness McIntosh of Hudnall:** Can I stop you there for a moment because I just want to try and pin down this issue about PSB, which I am sure you are coming on to. Would you, where you sit, find it helpful or not helpful or neutral were your output to be specifically included in what Channel 4 is statutorily obliged to provide for the public money that it gets? The point is that you are vulnerable, are you not, to the challenge that public money is in effect being spent without that public service remit being contributed to?

*Ms Ross:* Yes.

**Q30 Baroness McIntosh of Hudnall:** On producing films which is basically a commercial activity, or is thought to be.

*Ms Ross:* You ask a hugely helpful question to allow me to say this, but inevitably engaging both the industry in needing Film4 and the channel in needing
Film4 is a huge part of my job, and therefore were it enshrined—it has been part of Channel 4's DNA since its inception in that fiction on Channel 4 was always Film on Four, so created very much early on by David Rose this notion that film was what Channel 4 did in its fiction ambition. I absolutely agree with you that more than anything we would like it protected in the future remit of the channel. In terms of how else I judge public service, I judge it in my ability to take risks, to ask incredibly difficult questions and to start projects and stand by them in the financing of them with money that other money would not. It seems to me hugely important to say that most of the films we make—a lot of which we would sit in this room and say have pleased a lot of people and have pleased both theatrical audiences and television audiences, and not just thrown new talent abroad to a market but have actually been hugely successful in themselves—are all about taking the risk at the beginning and would not have happened in a market-driven industry. That seems to be where public service is played out. I am sorry, I do not want to go on too long but the relationship with other departments is hugely important to a broadcaster, an end-user engaged in film because what that end-user can do is define the tone and type of film and the type of talent that it will support through to that medium. That means for example that our documentary department have stood by and commissioned feature films—we have helped them inevitably—our comedy department has, our history department has with a documentary called Deep Water. In all areas we have been able to grow relationships between commissioners and their talent through to film, which is hugely valuable within a broadcaster and a flexible broadcaster.

Q31 Lord Macdonald of Tradeston: Sky recently has said that Channel 4 has lost over £200 million on ventures outside the basic remit of its public service channel. Since you are outside that remit it seems to me unfortunate that we no longer have any separate figures for Film4 after 2006. It seems to be difficult to find out what your profit or loss might be. But just looking at the figures we do have, it looks as though—if I take the £10 million a year that you mentioned—you might have lost about £25 million of that in the years reported from 2000 to 2005. It is a big subsidy going towards an industry which, as Lady McIntosh says, is a commercial industry. You would not need a strong rationale for doing that because the accounting of American distributors, to be euphemistic, is notoriously opaque and, indeed, you know that the sums that can be earned in the film industry are quite eye watering. Should you not be more upfront about the cost of this, and indeed the rationale for it, because in the end it seems to be coming out of a public service pot and in some way subsidised by taxpayers?

Ms Ross: Yes, I believe personally that I am completely upfront about it and I would say that the £10 million invested in Film4 is seen as part of the commissioning budget for the channel. With a £550 million spend on production of content in the UK £10 million invested in the development and creation of films which come back to play on the channel as programmes is a programme budget, but it has a life outside of that programme budget beforehand, and the decisions we take on how we invest that money; at what level we invest that money and with whom we invest that money, are hugely related to the public service remit of the whole channel. I understand your question but given that our ambition is absolutely a priority for quality and films that will play on our channel and stand by the reasons we are there, the purpose we are there for, I would not describe it as loss, I would see it as investment in programming.

Q32 Lord Macdonald of Tradeston: Indeed, but you have got a portfolio which is uncommonly long, it goes back 25 years, and you would have thought that over that time you might at least have managed to achieve breakeven. I am a great admirer of what has been done in that 25 years but it just is sad that it seems always to require subsidy. It does seem again odd that over those 25 years, with a whole number of successful films in there, that you have not managed to balance the books as it were. Is it a deliberate decision to accept the loss?

Mr Grindey: Within that global figure—I do not know if Sky broke down any components of that global figure—you are dealing with investment return across films some of which were made 27 years ago, you are also dealing with the cost of establishment of the Film4 mini-studio, which was an in-house UK distribution company and international sales company, and then the cost of shutting that down. You are also dealing with a variable calculation of equity return and transmission value. It is not that we are not upfront about the figures, it is just that it is difficult to quantify. We see our position as priming the pump to attract investment: for every pound we invest in film we attract between £5 and £6 from third parties into our films, often from companies based outside the UK. As Tessa touched on earlier, the strategy to make money in film is either to own a distribution machine or to invest huge amounts of equity but that is a game that is too rich for Channel 4 to play. When FilmFour Limited, which I was part of back in 2002, was established it was a professionally-run company but ultimately Channel 4 did not have deep enough pockets to play the international distribution and sales game that would require to start making more money commercially. When we talk therefore about the value to Channel 4
we look at equity return, we look at transmission value and generally from the analysis that we have done we are not in profit, but taking into account transmission value, equity return, promotion of the Film4 brand, the general reputation of Channel 4 and its public value story, we deliver a return that is adequate. You must also think about Film4 investments given that we do attract so much third party money into our productions and we stimulate so much activity both amongst distributors, sales companies, producers, writers and directors that the bottom line benefit if you like is much more to the independent film ecology in the UK as a whole and less to the individual Channel 4 bottom line. That is one of the reasons why the public service aspect of what we do is actually very valuable because it allows us to look outwards in terms of the giving of benefit from our investments as well as looking inwards.

Q33 Lord Macdonald of Tradeston: You will come under increasing scrutiny, obviously, because the commercial pressures are on you. The way perhaps to deal with that would be to go back to being more open about the detail of your business. As I say, I am in principle very supportive of Film4 but would it not be best to go back to reporting in more detail and also try to list and quantify the benefits that you have been describing and how they might be set against what would be on the surface a constant loss?

Mr Grindey: How Channel 4's financial model is presented is clearly something under enormous debate and scrutiny at the moment and therefore the way in which Film4's activities are presented is the same way in which other public service aspects of Channel 4's activities will be presented, and that is under debate at the moment.

Q34 Baroness McIntosh of Hudnall: Could we just go back to the development point so we do not have to return to it later, but it also does tie in I think to what Lord Macdonald was asking about because that investment for example in *Slumdog* of £1.5 million is quite a small part of the budget overall, but in terms of what it gives rise to it probably delivers quite a big bang for each buck that you invest.

Ms Ross: Truly when looking at facts and figures and bottom lines one cannot really talk about instinct, passion, belief and talent, but the truth is that the investment we made in *Slumdog*, when you asked about whether £1.5 million represented the scale of our development, no it was expressed in a very small development truly, probably in the hundreds of thousands but not very much more than two I would have thought. But our investment represented the first money in, as it does almost all of the time, so what we are trying to do is identify those projects which we believe must happen because of their quality, because of the talent involved, because we believe they will enhance both the reputation of Channel 4, the career of the talent engaged in those films and the British film industry. Because we are so engaged in the British film industry and we have given ourselves a particular brief of supporting British production companies, British writers and British directors—because we believe we come with our money, we are not rich enough not to come with our money—and therefore our ability to understand the stories, the telling of those stories and the audiences to whom those stories will be told is very much part of how we invest. The value of the development that Film4 does, given that it is also related to the possibility of green-lighting a film, and the fact that our reputation in green-lighting quality films comes with our early and first investment in most films, is seen as a huge advantage to the production community in raising the rest of their money.

Q35 Baroness McIntosh of Hudnall: The last point on that then, for the investment that you make what degree of control are you able to exercise on the end product? You have talked a lot about quality; we all know the stories about who gets the final cut, but who does the final cut on films where you have put in the first money?

Ms Ross: Often the directors get the final cut. We are very happy to support that if we have a relationship with a director where we feel we can influence and support them through the process. There are times when we have invested more money in order to protect our relationship with a director going through a very particular experience with a studio who might need our support in final cut, and we are very careful not to invest where we can have no influence because then we have become like an acquisition department.

Q36 Baroness Howie of Idlicote: You have made it very clear how committed you are to helping the British film industry generally and indeed, I would have thought, in some of the ways you describe in contributing hugely to public service broadcasting generally. You have mentioned the business of uncovering, nurturing and funding new talent—you have mentioned a couple of times the work of Warp X, which you do in collaboration with the UK Film Council. I am just wondering about that; are there other enterprises, perhaps Skillset and people like that, that you get involved with in doing the same sort of thing. Also, how do you decide how much of your budget is spent—I am not asking for pounds, shillings and pence but how important is it in terms of the proportion that you spend of whatever it is you have to spend overall, thinking of its long term benefit right across the board?
Ms Ross: Our development budget usually forms between 15 and 20 per cent of our overall budget and we, as part of that development, co-finance short films with the Film Council, for example, and that will cost us £150,000 a year, matching their money, where we will co-finance five short films. From time to time we will invest a further £30,000 in another film-maker’s short film whom we wish to support in making their first feature film, so in order for that director to get experience behind a camera, working with an editor, a designer, we will make a further short film. With the UK Film Council apart from Warp X we also do co-develop, so they have been consistently good partners for us in match funding so that we were able to broaden the scope of our development slate and often pay more commercial writers or option more commercial projects to grow the possibility of larger films in this country, which seems to be part of the ambition that we all share to make more visible films as well as taking risks on the lower budget area. Warp X is an investment of half a million pounds a year; it is actually a very small investment to deliver three to four low-budget films a year and to get a number—at least three—first-time film-makers making at the moment primarily genre films which have been seen to be pretty visible and actually, for the most part, very successful commercially—for the talent anyway.

Q37 Baroness Howe of Idlicote: You are really helping with the way in which the talent that you have jointly uncovered with others has fed firmly into all the departments, as well as your own, the redirection as it were. Can you do better?
Ms Ross: We can always do better; I would never say I was completely happy at all. It has been a very nice few weeks and months to be congratulated on the success of a few films, but it would be very foolish to sit back and say it was all fine. It is never fine and it is always difficult. To look at the processes of engaging with new talent, of low-budget film-making, to question whether it is low enough, to look at ways we might spread our money in other areas and grow other larger scale and smaller scale films is hugely important to us. We investigate change all the time, truthfully.

Q38 Baroness Howe of Idlicote: Thinking again of some of the plans that are under discussion at the moment, with possible mergers and BBC Worldwide and so on, what benefit frankly would that be to enhancing the value of Film4 films. Is it not all pretty well maximised, the amount of profit you think you can make, or do you think there really is more to be made?
Ms Ross: The issue is not so much specific to Film4 as it is to Channel 4. We are part of an organisation that is facing a huge advertising downturn and a change in the structure of television in a way that is unknown, and therefore the kind of future that we look at at the moment is one of a continually smaller pot for all areas of the broadcasting organisation, not least us. The conversations with Worldwide as I understand it are ongoing and form part of an ambition to find a way of sharing with another public service broadcaster a growing pot between the two which might deliver benefit to both.

Chairman: We have gone down this road; that was our last inquiry. We have actually heard your case put very well. Let me go on; Lord Inglewood.

Q39 Lord Inglewood: What I would like to do is come back to some points that have come out particularly in the exchange between Lord Macdonald and yourselves, but just so we clarify matters. In 2001, Film4—which was spelled differently then—almost collapsed.
Ms Ross: Yes.

Q40 Lord Inglewood: There was something that you said which suggested that basically you were trying to do too much, is that right, and then the money haemorrhaged.
Mr Grindey: It was a mini-studio and it was set up with a separate set of accounts as a stand-alone subsidiary, with a brief to make money. It was a well-run company, but there was a fundamental problem with that brief because it did not have quite enough investment power to make real money. It had enough to play the game but not necessarily successfully, and the other problem with it was that a standalone company which has a machine to feed therefore has a slightly different editorial imperative when rewriting films, so if a film did not work commercially through that mini studio it often did not really sit on the channel well either so the rationale for its activities was very much less.

Q41 Lord Inglewood: Anyway, it lost money.
Mr Grindey: It lost money.

Q42 Lord Inglewood: And that was the end of that.
Mr Grindey: That is right.

Q43 Lord Inglewood: Then you renamed yourself almost the same as you are now. In financial terms—forget about the talent side of it which is important—in simply money terms you think that this is a model which is sustainable financially.
Ms Ross: If the future of Channel 4 is sustainable and Film4 is protected as part of its remit, as part of its activity, then yes, the ideal is to create a pot of money for the investment and creation of British film related to the ambitions of that channel which, through good and bad times, one could always afford do because, truly, films take a very long time and the idea that we
go up and down in our investment ability is the single most hurtful thing to the film industry. What you need to know when you are going into this business is that however long it takes you to develop your two, three, five, ten projects there is a known pot in this industry which you will be able to talk to, and of course when we are growing and seeding projects we are growing them because in three years time we expect them to be the next *Slumdog*.

**Q44 Lord Inglewood:** If I could just describe it, you said—and I paraphrase but I hope fairly—that what you felt you were doing was providing a modest but fair return for your investors, i.e. Channel 4.

**Ms Ross:** Yes.

**Q45 Lord Inglewood:** At the same time you said that actually if you add all the figures up at the end of the year there is probably a deficit—you did not put it in quite those words—and then you said that of course part of what we are doing is providing material for the television side. Is that counted in the figures that you gave us or is that something that as it were is an intangible bolt-on?

**Ms Ross:** It is not entirely intangible because of course one can look at how many times a film will play at a certain time of night and where you might spend that money on other programming and what it might cost you, so we can put a very vague figure on it and it will change depending on what we can afford to play and everything else.

**Q46 Lord Inglewood:** Of course, I appreciate that.

**Ms Ross:** But the truth is we are valuable while not profit-making.

**Q47 Lord Inglewood:** That is fine; that has answered the question, thank you. I have got to say this: I understand that a report in the *Hindustani Times* has said that your Sue Bruce has commented that there is a real chance because of the slump and the crisis that Film4 may not go on. Are you sanguine about the consequences of recent things and being able to proceed as you have done before for the immediate future?

**Ms Ross:** We are aware, as I think all our colleagues are across the other areas of commissioning, that the choices that will be forced on the channel if there is no solution to what it presently faces will mean that it will have to stop doing some things. What those things are I do not know.

**Lord Inglewood:** Again, that is entirely fair. Finally, the perspective that you put on the industry you are involved in is that if you are trying to do what you have described in quite a neat shorthand way as public service broadcasting quality films, you are never going to make much money at it, so is it an industry which meets Groucho Marx’s proposition that nobody ever lost money by under-estimating public taste?

**Q48 Chairman:** A lovely quote.

**Ms Ross:** I wish I was as clever as Groucho Marx. It is probably a hubris to believe that by believing that the talented, the writers and directors and producers that we work with, are cleverer than ourselves and by allowing them the space to find out what stories it is they want to tell we will end up being taken on better journeys and telling better stories. But there is something humble in that as well and that is that we do not know anything other than we believe over a period of time we have begun to recognise the huge pool of talent that this country has and we want to be able, where it sits well with the channel that we sit in, to liberate that talent.

**Chairman:** Any more quotes from Groucho? No. Lady Eccles.

**Q49 Baroness Eccles of Moulton:** My Lord Chairman, my question has been pretty well answered because it was connected very much with Channel 4 and what is going to happen with it and also some of your views for the future, and I really think you have covered that but if there is anything you want to add on that particular theme then this is the moment.

**Ms Ross:** All I can add is to say we would be foolish not to be worried.

**Q50 Baroness Bonham-Carter of Yarnbury:** I just want to come back to something you mentioned right at the beginning of this session, tax credits, where we have some understanding of the system. I wanted to ask two questions. One, I believe Mr Colson have some understanding of the system. I wanted to ask two questions. One, I believe Mr Colson managed to convince the Government to provide a tax credit for *Slumdog*. It was all about Britishness; can you explain how he managed to succeed in that argument?

**Mr Grindey:** The cultural test which films must pass to qualify for the tax credit, *Slumdog* passed it with a fine margin of error. The cultural test—you are probably all familiar with it—is the nationality of the production company, the nationality of many of the key crew; the director—was sufficient and the relevance of the story, if you like, was sufficient for it to pass. It was a tight squeeze and we certainly, when we were setting up the financing of the film, had a plan B in case it did not pass, but it did.

**Q51 Baroness Bonham-Carter of Yarnbury:** When you say it was a tight squeeze do you think there is a greater flexibility than when it was first introduced because I seem to remember reading that *The Constant Gardener*, for instance, failed to get tax credit, largely because it was filmed in Africa.
Mr Grindey: Probably the difference there was the nationality of the director actually and that probably just sent it under the threshold. The tax credit rules, the cultural test rules, were changed. We originally thought they were going to be more heavily emphasising industrial activity rather than creative origination and they were changed to make it more of a pure cultural test after negotiation with the European Commission. It is about right actually; it is right that Slumdog, if it passed, only passed with a slim margin and we would not have particularly complained if it failed. It is set about right.

Q52 Lord Macdonald of Tradeston: How much is it worth?
Mr Grindey: The tax credit is worth about 20 per cent of the budget of the film if the spend is all in the UK but for Slumdog it was worth about five per cent of the budget of the film because most of our spend was outside.

Q53 Baroness Bonham-Carter of Yarnbury: Can I ask Tessa, do you think it is actually benefiting the British film industry?
Ms Ross: Absolutely.

Q54 Baroness Bonham-Carter of Yarnbury: You do; despite the fact that there appear to be problems about co-productions, that there is a penalty.
Mr Grindey: I would not say it is a penalty, I would say that the previous system almost made it too easy to do co-productions because under the previous system the contribution to the budget of the film did not depend on local spend, which meant that you could set up co-productions where the minority of spend was in the UK but you get the full contribution from the UK and then if the co-producing partner was Canada, which had a spend-base test, you could maximise your subsidy that way. As it stands now the philosophy behind the tax credit in co-productions, where the benefit is based on actual local spend, is in line with most other jurisdictions, so what it has meant is that the UK is treated in the same way as any other jurisdictions. Is that an overall disadvantage? There are other factors to bring into play: there is the cost of shooting in the UK which is often much higher than in other jurisdictions, but the weakness of the pound has meant that that cost has come down. There are a lot of other factors that actually affect the viability of co-productions, be they majority or minority UK co-productions. There are probably things that one can do in terms of co-production: recognising national spend, and there are tweaks at the margins, but as a whole the current system is philosophically in line with most other jurisdictions.

Q55 Baroness Bonham-Carter of Yarnbury: The argument that has been put is that this is affecting the amount of co-production money you have access to.
Mr Grindey: It has affected that, but what I am saying is I think the previous regime where the value of the benefit did not depend on local spend, led to too much tension in the system. There may be other ways of adjusting it, but going back purely to that way of working is not the right way.

Q56 Baroness Bonham-Carter of Yarnbury: From the creative perspective, Tessa, would you like to see a rebalancing?
Ms Ross: The point for us at the moment is that it is very clear and very sustained and we know what we can expect, the rules are very clear. That is fundamentally the most valuable thing about it.

Q57 Chairman: You find the rules clear; from the outside people make jokes about writing essays and the rest about the Britishness test and all that. It does not sound to me exactly clear.
Ms Ross: Clear in terms of filming outside the country, maybe not, and that is why the fine line that Paul described on Slumdog is very particular. In terms of British production and British spend it is pretty clear what one can expect.

Q58 Chairman: Does it influence where films are made, does it influence people like yourselves or producers actually locating films inside the UK?
Ms Ross: In budgeting films people look at a number of options, if there are options available to the kind of film it is, so the benefits of a number of different locations will be judged in the best way of maximising the budget.

Q59 Lord Inglewood: We have a system of supporting films through the tax credit system; you also intimated that most other countries have equivalent but no doubt different systems so that the effect of eliminating the system in this country would be in practice to put us at an unfair competitive disadvantage to others, is that right?
Mr Grindey: Absolutely. Most countries that have an equivalent system actually have a greater level of benefit than that which is enjoyed in the UK, so for us to make any cut would be...
Q62 Chairman: But are they findable?
Mr Grindey: They are findable from the Film Council, yes.
Chairman: We are seeing them next week so that is fine.

Q63 Lord King of Bridgwater: Is there any EU rule that says there has got to be harmonisation or elimination of competition?
Ms Ross: No.

Q64 Lord King of Bridgwater: The most dramatic thing that has happened recently is the fall in the value of sterling; can you see signs more widely that this is attracting producers and directors to operate in this country? Suddenly the cost of crews and everything else has got a lot cheaper.
Ms Ross: It has definitely enabled American production to come back to the UK in a way that it felt unable to when the dollar was weak against sterling.

Q65 Lord King of Bridgwater: Even with the state of the world economy and all countries minding their budgets you are seeing in the industry more activity in this country.
Ms Ross: The possibility of that activity given that, as you say, the state of the economy around the world has put pressure on all activity and film production.

Q66 Baroness Bonham-Carter of Yarnbury: There was something you said earlier on, that you regarded your remit was to cover British stories and encourage British talent. What we are looking into is British production. Would you always go for British directors, for instance, in your projects?
Ms Ross: No. I would not always go for British directors but I would always find in any project a Britishness, if I can put it that way—a British production company, a British writer, a British story, because otherwise I would feel I was investing with no relationship to any part of the production. We have often built projects, and are doing so currently, with British writers and British production companies where actually a foreign director is the ideal creative way forward but I feel I am supporting British production.

Q67 Baroness Bonham-Carter of Yarnbury: This also feeds into your ability not to lose control over the production despite the fact that you actually are not the biggest investor.
Ms Ross: Yes. The bottom line is how can we have the biggest possible effect for good with the small amount of money that we have.
Lord Maxton: Let me go back some time to that historically awful film Braveheart.

Baroness Bonham-Carter of Yarnbury: He is speaking as a Scot!

Q68 Lord Maxton: But it of course was not a British film and yet its impact on Scotland was quite considerable in terms of the tourism impact, which was very considerable. One of the complaints, and one of the reasons why it was made very largely in Ireland was the availability of a studio facility in Ireland which was not available in Scotland. Is that a problem, do you think, in making British films generally outside of the M25?
Ms Ross: It is not a problem for the kind of films we make. It is extremely difficult for me to judge for the kind of film Braveheart was how they, i.e. American investment, are interested in different studios over here, but I suspect the studios are fairly available to that level of production because people book very far ahead, do they not?

Q69 Lord Maxton: Sean Connery has always been promising to finance one in Scotland but he has never got round to doing it.
Ms Ross: A studio, yes, although there is a great base in Scotland and great crew in Scotland, for example, so shooting in Scotland can be enhanced in many other ways.

Q70 Chairman: You have been very patient. If you were going to sum up it sounds to me as though you are saying that you are never going to make any very great profits from your film production and I have a quote here which I think means that you regard staying in low budget British films as really being the future as far as Film4 is concerned, would that be fair?
Ms Ross: It is a large part of our future. What I would hate to do is to limit the ambition of some of our directors to build larger scale films and certainly some of our current projects are very much those sorts of projects. Large scale for us, where we can have a meaningful relationship to production, has to be set at a very particular level because otherwise we will not have enough money to be at the large table with the big boys. It is important that we are able to grow the possibility of large scale film whilst protecting, as a large part of our production activity, a lower budget British film.

Q71 Chairman: And your concern as far as the future is concerned is really about the future of Channel 4.
Ms Ross: Our concern is that we, Film4, as part of the future of the channel, are protected and are able to see a long term future as part of that organisation.
Q72 Chairman: If you had one proposal to make to secure your future is there anything else that you would add to that?
Ms Ross: It has been put very clearly the suggestion that it be put into the remit as Channel 4’s remit may be up for rewriting. That would secure it as long as the financial upholding of that organisation was protected.

Q73 Chairman: Thank you both; you have been very patient and we have gone over our time. It has been very fascinating and a very interesting first meeting and I thank you very much for coming.
Ms Ross: Thank you very much for having us.

Supplementary memorandum by Channel 4

Channel 4 would like to make a brief written submission addressing three of the issues raised by the Committee in the oral evidence session with Film4 on 18 March 2009.

UK Tax Credit and Co-productions
The Committee’s recent evidence session with the UK Film Council included a discussion about Film4’s position on the current UK film tax credit. In light of this discussion, we felt it important to clarify our position on this issue.

In our oral evidence we stated that the principle behind the current UK film tax credit was in line with most other jurisdictions (ie benefit relating to national spend), which is preferable to the principle behind the previous system (ie benefit relating to film budget), which led to too much tension in relation to co-productions. We also made a passing reference to the possibility of improving the current operation of the tax credit, in relation to how issues of national spend and other minor areas affect co-productions, but did not expand upon these points further.

The UKFC made a more detailed submission on the issues relating to co-productions in their oral evidence—and in particular concerns over the “used and consumed” test which recognises spend on UK personnel working overseas and the proportion of UK qualifying spend which is eligible for relief. These issues were indeed the areas of improvement noted in our own evidence session, and insofar as we have knowledge of the UKFC’s position, we can confirm that we are in agreement that the “used and consumed” test and the maximum proportion of UK qualifying spend eligible for relief in co-productions should be adjusted.

Contribution by Film4 to UK Film Production
Our oral evidence session also highlighted the positive impact Film4 investment has in generating additional investment in its films from other financiers, as a result of their early investment.

Channel 4 has recently made a detailed assessment of this impact as part of our new Public Impact Report—a ground-breaking framework developed to measure the value and distinctiveness that Channel 4 brings to UK viewers. This audited report will be published alongside Channel 4’s Annual Report and Financial Statements in May.

The report found that Film4’s support for UK film helped to attract funding worth five times its own original investment—the total production budget of films part-financed by Film4 was £64 million (see box 1 overleaf).
**Box 1**

**ASSESSMENT OF CONTRIBUTION BY FILM4 TO UK FILM PRODUCTION**

<table>
<thead>
<tr>
<th>Funding sources for Film4 productions released theatrically in 2008, £million</th>
<th>Contribution by Film4 to UK film production</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investment by Film4 in feature films released in 2008</td>
<td>£64m total production budget of UK feature films supported by Film4</td>
</tr>
<tr>
<td>Other funds</td>
<td>Film4 invested £12.6m in 16 titles that were released in UK cinemas in 2008 or which premiered at film festivals (including Hunger, which was developed by Channel 4’s Arts department). The large majority of this sum was in films that Film4 developed or invested in early. Film4’s support for UK film helped to attract funding worth 5 times its own original investment—the total production budget of these films was £63.7 million.</td>
</tr>
<tr>
<td>Total budgets of films part-financed by Film4</td>
<td>5.0x uplift from Film4 investment to total production budgets</td>
</tr>
</tbody>
</table>

Channel 4 and “Non-core” Activities

In our evidence session Lord MacDonald cited statements from BSkyB that in recent years Channel 4 had overseen considerable losses from its non-core activities. This point is worth breaking down in further detail:

— Over the past five years Channel 4’s commercial investments have been a success, and are absolutely essential for Channel 4 to generate substantial revenues for reinvesting in public service content. Channel 4’s digital channels generated profits of £16 million in 2007, which have more than doubled in 2008, and are projected to grow further in 2009. Channel 4’s digital media investments are essential for Channel 4 to operate successfully in the digital age. Early losses on digital media can be seen as a strategic investment to generate future profits, with revenues for online and mobile growing strongly over the last three years. Where ventures have been judged as unlikely to return money for public service re investment—for example digital radio—they have been stopped at modest loss.

— To find any evidence of losses of substance, one has to look back well over five years. These relate to the FilmFour production studio, horse racing channel At the Races (both now closed), and the Film4 subscription channel (now a free to air channel). It is worth noting that a factor affecting the losses incurred by the Film4 channel was Sky’s actions as the distributor: Sky—which saw Film4 as a direct competitor to Sky Movies—limited Channel 4’s access to subscriber data, which restricted Channel 4’s ability to market to new customers. In addition, Sky also closed its unsuccessful Sky Pictures film production division in 2001, highlighting the challenges for UK companies looking to establish a film studio.

Regarding our “non-core” activities more generally, Channel 4 has sound commercial accountability mechanisms in place—pursuant to Schedule 9 of the Communications Act 2003—to demonstrate separation between commercial and public service activities, and to properly manage commercial activities to protect the primary functions of the channel. Ofcom has approved Channel 4’s Schedule 9 arrangements, and Channel 4 has appointed Deloitte to review compliance on an ongoing basis. Their 2008 audit report will also be published in May as part of Channel 4’s Annual Report and Financial Statements.

27 April 2009
INTRODUCTION
The UK Film Council welcomes the opportunity to provide written evidence to the House of Lords Communications Committee inquiry into UK originated content in the film and television industries.

Our evidence focuses on film and is structured as follows:
1. Executive summary
2. Key challenges facing UK film
3. Background on the UK Film Council
4. Answers to specific questions posed by the Committee

SECTION 1—EXECUTIVE SUMMARY

Contribution of the UK film industry
1. British people love watching films whether at the cinema, at home or on portable devices. Cinema admissions have climbed since the mid-eighties and reached 164.2 million last year. 2008 was a record year for the UK box office with the receipts totalling £850 million, (3.5% up on 2007’s £821 million), the highest since records began in 1989.

2. In 2007 the UK film industry exported £1,050 million of services, generating a trade surplus of £232 million. The UK was the third largest film entertainment market in the world and had the fourth largest film industry by value. An independent study by Oxford Economics in 2007 (based on 2006 data) calculated the overall value of the film industry to the UK economy at £4.3 billion and its extended employment impact at 95,000 jobs. As an integral and high-profile part of a growing spectrum of digital media industries, film is a vital driver of the UK’s wider creative economy. Of the 200 top-grossing films worldwide released between 2001 and 2007, 26 were British.

3. UK films play a central role in shaping and reflecting contemporary British culture, ranging from the serious exploration of important public issues in films such as The Queen and Hunger, to idiosyncratic comedies such as the Wallace and Gromit animations and St Trinian’s, and dramas that bring the talent of British writers and actors to a wide popular audience, such as Atonement and Pride and Prejudice. Film has also proven to be at the forefront in exploring issues of race and diversity, from Bullet Boy to Monsoon Wedding.

UK Film Council
The Background to the UK Film Council’s work is covered in more detail in section 2, however, in summary:
4. The UK Film Council is the Government-backed lead agency for film in the UK. Our goal is to help make the UK a global hub for film in the digital age, with the world’s most imaginative, diverse and vibrant film culture, underpinned by a flourishing, competitive film industry.

5. The UK Film Council is led by a Board of Directors recruited from across the whole film sector who provide a “can do” attitude to delivery. The UK Film Council provides the Government with objective advice on the needs of the industry.

6. The UK Film Council invests grant-in-aid and Lottery money in developing new filmmakers, in funding exciting new British films and in getting a wider choice of films to audiences throughout the UK. The Council also invests in training, promoting Britain as an international filmmaking location and in raising the profile of British films abroad.
7. During the last nine years the UK Film Council has transformed the way public funding for film is channeled to the film industry with a much more strategic approach for the future advancement of the industry. We have done this by working closely with every part of the film industry (development, production, sales, distribution and exhibition, and promotion); by building a research and statistical base; and by providing market intelligence to the Government, the industry and partners.

8. The UK Film Council has backed more than 900 films, both shorts and features, entertained more than 200 million people, and helped to generate approximately £700 million at the box office worldwide making film probably one of the most widely enjoyed and cost-effective investments that Lottery players see from their weekly contribution to the good causes.

9. The UK Film Council has been central to the success of many British films winning international film awards (Cannes, Oscars®, BAFTAs, Berlin, etc) and attracting cinema-goers in their millions including Bend it like Beckham, Gosford Park, Red Road, The Wind that Shakes the Barley, Vera Drake, The Constant Gardener, Man on Wire, St Trinian’s, Valiant, Touching the Void, This is England and Happy-Go-Lucky. Forthcoming films include In the Loop, Nowhere Boy, Cheri, Brightstar and FishTank.

10. The UK Film Council has backed talent, both new and established. These filmmakers have gone on to win international film awards at the highest level including BAFTAs, Oscars® and at Cannes. This includes effectively launching the international film careers of British filmmaker Paul Greengrass who has gone on to direct the Bourne films and United 93; Kevin Macdonald who directed The Last King of Scotland and is currently completing State of Play and James Marsh whose Man on Wire has just won the Oscar® for Best Documentary.

11. Diversity in film talent is essential to support new films which reflect British society and culture today, and key to the Council’s strategy is seeking out film talent from across the UK and from different backgrounds. We have encouraged filmmakers such as Amma Asante to make her first feature, the award-winning A Way of Life, and the writer/actor and BAFTA award winner Noel Clarke who was supported in making his directorial debut with Adulthood.

12. The UK Film Council has also improved opportunities for people across the UK to enjoy film, by investing Lottery funding in a range of cinema-related initiatives including:

- the expansion of community-based film societies and film clubs giving people in isolated, mainly rural, communities a chance to see current and classic films;
- equipping 78 cinemas with technology to give people with hearing and sight disabilities a richer experience and more opportunities to enjoy films at the cinema;
- funding for small and independent cinemas to improve facilities, particularly access for disabled cinema-goers; and
- www.yourlocalcinema.com which provides information about where and when screenings for people with disabilities are taking place UK-wide.

13. In undertaking all of this work, the UK Film Council has taken opportunities to optimise its public sector funding. Lottery investment in film production has returned more than £74 million in recoupment enabling us to invest back into film, for example, in skills and training, production and audience initiatives.

SECTION 2—KEY CHALLENGES FACING UK FILM

The challenges facing the UK film sector are explored in more detail in section 3, however, in summary:

14. Recession. The acute economic downturn has resulted in a severe shortage of liquidity across all industrial sectors, including film. This will particularly affect independent British films for whom debt financing is crucial. Our initiatives to give producers equity in their films plus our help for independent British film companies to develop films are giving more support for the independent production sector. The UK Film Council is considering what further help we can offer the film sector.

15. Copyright theft and infringement. The aggregate loss to the UK film industry of film piracy was estimated to be £404 million in 2007. This is the estimated impact on legal sales of the acquisition and viewing of pirate material.

16. If the Government doesn’t act, the money to invest in tomorrow’s Slumdog Millionaire or Man on Wire won’t be there. Action is needed now, before fast broadband becomes widespread and copyright theft and infringement escalates on a massive scale.

17. A Rights Agency as proposed in the Digital Britain Report could play a powerful role in helping to ensure all consumption of films takes place within a legal environment in which both access and value are maximised, to the ultimate benefit of both audiences and rights-holders.
18. The failure of the existing film finance model for UK independent films. The traditional model for UK independent films based on a patchwork of debt finance, public subsidy and pre-selling of rights is under threat.

19. The impact of copyright theft and infringement on revenues, the declining value of the DVD market in key territories of the world, the declining prices paid by terrestrial television and pay-TV broadcasters worldwide and the lack of revenue from online services are key issues.

20. Digital switchover for small independent cinemas. Many independent cinemas across the UK cannot afford the new digital equipment which they need to make the switch from traditional 35mm films to digital prints and are in danger of being left on the wrong side of the digital divide. The Government needs to consider how a public policy intervention might assist such independent cinemas in making the transition to a digital world and delivering benefit to communities throughout the UK.

21. International collaborations. The UK Film Council supports the decision to target tax relief at qualifying UK expenditure, however, the definition of UK does not recognise the creative and commercial needs of filmmakers to film outside of the UK. Widening the definition of UK qualifying expenditure to include a limited amount of activity undertaken by UK workers and companies should be considered.

The final part of this submission, section 4, answers the specific questions asked by the Committee.

SECTION 3—BACKGROUND ON THE UK FILM COUNCIL

Pre-UK Film Council

22. Before the UK Film Council was established, Government funding for film was channelled via four separate organisations—Arts Council of England, the British Film Institute, the British Film Commission, British Screen Finance and its associated companies.

23. As a result, support for the industry was patchy, disjointed and lacked any strategic leadership. This translated into poor scripts, a string of British films that failed to reach an audience, under-resourced training provision, no support for film or filmmakers in the regions, a lack of focus on promoting UK film internationally and a failure to nurture and champion one of the most powerful and popular forms of culture.

The early years

24. The Film Council was established in April 2000 becoming the UK’s first ever strategic agency for film. Charged with the twin aims of building a more successful and sustainable British film industry and promoting a dynamic film culture, it is sponsored and funded by the Department for Culture, Media and Sport (DCMS) and led by a Board of Directors drawn from the commercial film industry and the cultural sector.

The key aim of the UK Film Council in 2000 was:

“To stimulate a competitive, successful and vibrant British film industry and culture, and to promote the widest possible enjoyment and understanding of cinema throughout the nations and regions of the UK.”

On a day-to-day basis the Council has two functions:

— developing UK film policy/strategy and advising Government on all film issues including policy implementation;
— distributing Lottery and Grant-in-Aid funding to deliver specific film initiatives.

To achieve those goals, the UK Film Council had to address some of the inherent weaknesses of the British film industry.

UK Film Council—First phase: 2000–03

25. The UK Film Council’s immediate course of action (2000–03) was to tackle the patchwork of publicly funded film initiatives that had evolved over the years. New funds were set up that worked with the grain of the film industry to ensure effective intervention while addressing identified skills gaps.

Support was targeted at four key priority areas:

— script development;
— the production of new British films;
— skills and training; and
— developing a coherent regional structure for film by helping to create regional screen agencies across England.
In addition:

— a fundamental review of the BFI was initiated;
— an international strategy, with a particular focus on European collaboration, was mapped out and implemented;
— a UK MEDIA Desk was set up to help UK companies and film professionals tap into EC-funded film initiatives designed to encourage cross-border collaboration and trade;
— First Light was set up to give thousands of young people the opportunity to learn digital filmmaking skills; and
— a research and statistics unit was established.

The first phase moved existing public funding away from passive production support towards an active engagement with the underlying weaknesses of the film industry which the market had failed to address.

Second phase: 2004–07

26. The second phase (2004–07) aimed to make British films more competitive at home and in the global market. New tax incentives for producers were developed with HM Treasury thanks in part to the more sophisticated market intelligence the UK Film Council could bring to the discussion. But the main thrust of activity was towards better distribution of films and a more audience-led approach.

27. A targeted Prints & Advertising Fund was established to give audiences, particularly those living outside the big cities, more opportunities to watch classic, British, documentary and foreign language films such as La Vie en Rose, The Lives of Others, Guys and Dolls, This is England and Control on the big screen.

In addition, activity focused on:

— the roll-out of a 240-screen UK-wide Digital Screen Network to provide a mechanism for giving audiences more choice at their local cinema;
— a rapid expansion of community-based film societies (which have increased by more than 20% since 2000 and now number more than 300);
— improving access for people with hearing and sight disabilities to go to the cinema by funding subtitling and audio-description equipment as well as youlocalcinema.com, a website with details of where and when these screenings take place;
— a media literacy strategy supported by broadcasters and educationalists;
— an expansion of the already successful First Light programme; and
— education and enforcement strategies to help significantly reduce copyright theft and infringement in relation to film.

28. In addition, a determined effort began to promote long-term cultural diversity in an industry workforce which for years had failed to reflect the ethnic and cultural richness of present-day British society.

Current phase: 2007–10

29. The current strategy (2007–10) is geared towards one of the biggest challenges in the history of the film—helping the sector prepare for significant changeover in the digital age.

30. Digital technology is starting to transform the way in which film and moving images are financed, produced, distributed and consumed. Many of the historical barriers which made it difficult for audiences to gain access to a wider range of film are beginning to tumble.

31. By holding its cost base down and through judicious investment in past film productions, the UK Film Council has been able to provide an additional £5.5 million over three years on new activities particularly focusing on digital distribution.

32. The UK Film Council is creating new funding initiatives with partners such as NESTA and the Technology Strategy Board to support film in harnessing new digital technologies such as on-demand services which are beginning to offer consumers a far more diverse range of films.

33. In addition, activity is being pushed forward to maximise the benefit of film education for young people and to open up access to the UK’s rich and diverse screen heritage to people wherever they live.

34. With this evolving strategy the UK Film Council has begun to demonstrate how public policy can contribute to a dynamic industry and to a popular film culture—each feeding the other and enhancing the way people in the UK see themselves and the world around them.
What has the UK Film Council achieved?

Production—vital support for new British films

35. The UK Film Council has backed more than 900 films, both shorts and features, entertained more than 200 million people, and helped to generate approximately £700 million at the box office worldwide making film probably one of the most widely enjoyed and cost-effective investments that Lottery players see from their weekly contribution to the good causes.

36. Providing more effective support for production, the UK Film Council has been central to the success of many British films winning international film awards (Cannes, Oscars®, BAFTAs, Berlin, etc) and attracting cinema-goers in their millions including Bend it like Beckham, Gosford Park, Red Road, The Wind that Shakes the Barley, Vera Drake, The Constant Gardener, Man on Wire, St Trinian’s, Valiant, Touching the Void, This is England and Happy-Go-Lucky. Forthcoming films include In the Loop, Nowhere Boy, Cheri, Brightstar and Fishtank.

New talent

37. Identifying new filmmakers and providing them with creative support, funding and skills training and distinctive films has boosted the success of British filmmakers at home and abroad.

38. The UK Film Council’s New Cinema Fund invests £1 million of a total allocation of £5 million of Lottery money a year in funding filmmakers at various stages of their careers: they might be taking their first steps by making short films, moving through to making their first or second feature films or taking a new approach to film story-telling. The fund works with the National and Regional Screen Agencies as key partners in reaching out to film talent across the UK.

39. Filmmakers backed who have gone on to win international film awards at the highest level including BAFTAs, Oscars® and at Cannes. We supported Andrea Arnold in making her Oscar®-winning short Wasp, and then backed her first feature film Red Road which won the Jury Prize at Cannes. The Council is now funding her second feature film Fish Tank, due to be released later this year. The UK Film Council helped launch the international film careers of Paul Greengrass who has gone on to direct the Bourne series of films and United 93; Kevin Macdonald who directed The Last King of Scotland and is currently completing State of Play and James Marsh whose Man on Wire has just won the Oscar® for Best Documentary.

40. Encouraging diversity in film talent is key to both supporting new films which reflect British society and culture today, and to the UK Film Council’s strategy in seeking film talent from across the UK and from different backgrounds. The Council has encouraged filmmakers such as Amma Asante to make her first feature, the award-winning A Way of Life, and the writer/actor and BAFTA award-winner Noel Clarke was supported in making his directorial debut with Adulthood.

Building film in the regions

41. The UK Film Council established nine Regional Screen Agencies (RSAs) across England to tackle the disorganised framework for planning and funding film across the country which had resulted in years of waste, duplication, lack of purpose and missed opportunities.

42. Now established as valued partners in cultural and creative industry strategies, these Agencies, along with National Agencies in Scotland, Wales and Northern Ireland are impressive champions for film in their area and have been able to leverage significant financial support from non-UK Film Council sources—£21.5 million in 2007–08.

43. Practical support for emerging and established talent in communities across the UK has opened up new opportunities for individuals in their own regions. This means they are now no longer forced to move to London in order to develop a career and in the process this has brought a new vibrancy to film as well as contributing to local communities and economies.

Training and skills for the future

44. Nearly 40,000 people work in film and video in the UK. The UK’s film workforce is one of the industry’s key assets but a historic lack of investment in training and skills in the 80s and 90s risked undermining its competitiveness.

45. Working with Skillset, the Sector Skills Council for Creative Media, the UK Film Council set up the first comprehensive skills development strategy. That led to the creation of a Film Skills Fund backed by £50 million over five years including £32 million of Lottery funding, grant-in-aid and investment from the industry through a production-related levy.
20  THE BRITISH FILM AND TELEVISION INDUSTRIES—DECLINE OR OPPORTUNITY: EVIDENCE

46. More than 7,000 industry professionals working in every area of film have benefited from the Film Skills Fund to date and seven screen academies have also been established. In addition, new entrants to the industry have been able to follow accredited training routes leading to careers in film.

47. A new skills and training strategy is currently being developed to build on the existing good work and ensure that UK skills remain the best in the world.

48. The Council and Skillset also won a £1.4 million bid under the European Commission’s EQUAL programme to create new pathways into the industry. An Equality Charter and a range of sponsorships and awards have helped support a sustained commitment to creating a workforce which represents the rich diversity of British society.

Helping young people

49. The UK Film Council established First Light, an arms-length agency, with its own Board, which enables young people between the ages of five and 18 to make films. It has worked with 12,000 children and young people to make 900 films covering communities in every part of the UK. The impact of First Light on the schools and communities involved has been highly significant. Young people get the opportunity to turn their ideas into films, and they also pick up valuable skills which will stand them in good stead for the rest of their lives. First Light is now also involved in MEDIABOX backed with £6 million from the Department for Children, Schools and Families, a substantial project designed to give disadvantaged young people the opportunity to produce creative projects using film, television, print, radio, or online platforms.

50. Funded by the UK Film Council, FILMCLUB is an after school club which gives children free weekly access to thousands of classic and popular films and will be rolled out across the UK taking it to 7,000 schools over the next three years.

Digital Screen Network

51. The Digital Screen Network (DSN), the first of its kind in the world, installed digital projection equipment in more than 200 cinemas across the UK, enabling them to screen a vastly expanded range of content. As sponsor of the project, and with the active support of the cinemas involved, the UK Film Council has been able to play an active role in scheduling feature films. The DSN is already demonstrating that wider audiences can be won for what have traditionally been pigeon-holed as minority interest films—and at a lower cost than would be incurred by the manufacture and distribution of multiple prints of celluloid film.

52. This initiative has radically improved the commercial viability of offering audiences a wide range of contemporary and archive film from Britain and around the world. It has also pioneered an innovative approach from which commercial distributors and exhibitors have garnered valuable insights which have a wider application to their business models in a digital age. Moreover, it has helped ensure that cinemas remain at the heart of their communities by allowing them to be responsive to local tastes.

53. This can be demonstrated by the fact that since the UK Film Council introduced Lottery funding to back foreign language and specialised films, 62 specialised films have grossed more than £1 million at the UK box office, and half of these received support from the Prints and Advertising Fund. Before 2004, only 11 films had achieved the £1 million box office benchmark.

Opening up access to cinema for communities

54. In order to improve opportunities for people across to the UK to enjoy film, the UK Film Council has invested Lottery money in a range of cinema-related initiatives including:

— funding the expansion of community-based film societies and film clubs giving people in isolated, mainly rural, communities a chance to see current and classic films;

— equipping 78 cinemas with technology to give people with hearing and sight disabilities a richer experience and a greater opportunity to join with others in enjoying films;

— funding for small and independent cinemas to improve facilities, particularly access for disabled cinema-goers; and

— www.yourlocalcinema.com which provides information about services for people with disabilities, so that people know what to expect when they arrive at the cinema, helping to make their evening more of a pleasure and less of an ordeal.
Diversity

55. Key to every step of the Council’s strategy to develop and maximise the potential for film has been the strategic priority of building a more diverse workforce, and of helping all groups in society participate in and enjoy film.

56. The UK Film Council works with various groups and partners to create ways of working that support equal opportunities and diversity in film, providing practical tools and information to encourage diversity. For example, projects that are designed to give people from minority ethnic groups, people with disabilities and women equal opportunities to get into and succeed in the UK film industry and activities that champion and celebrate diversity in film, eg the Breakthrough Brits talent initiative in Los Angeles, the *Want to See More of Me?* exhibition at the National Gallery and regional tour, and the Move on Up workshop with the entertainment union (BECTU). All UK Film Council funding initiatives are equality-proofed.

British Film Institute

57. As the long-established lead agency for education and film heritage, the BFI has a central role in developing a lively and contemporary film culture in the UK and extending audience choice. The UK Film Council instigated a strategic review of the BFI’s role and functions. This has been completed and new initiatives are beginning to deliver change, particularly with regard to the BFI National Film Archive, the largest of its kind in the world and an asset of national and international importance. New collection policies and a new curatorial unit are already leading to significant improvements in the care and management of the collections.

58. The BFI’s London Film Festival brings filmmakers from all over the world to London. Last autumn the festival hosted 191 feature films and 109 short films from 43 countries including a record 15 world premieres. There were 398 screenings and 537 visiting international filmmakers, a record 1,096 industry professionals, and the highest-ever audience attendance. Two nights of free outdoor screenings on Trafalgar Square brought classic films to the public and were greeted with outstanding attendance figures with over 9,000 over the two evenings. More than 5,000 people participated in education screenings and events.

Screen Heritage

59. A strategy for the UK’s Screen Heritage has been developed in partnership with the British Film Institute (BFI), Regional Screen Archives (RSAs) and Regional Film Archives (RFAs). The aim is to secure the nation’s rich film heritage for the future and to make it accessible to as many people as possible regardless of where they live or where the material is held.

The first phase of investment is currently underway backed by £25 million in capital funding. The four investment areas are:

- capital works to extend and improve the BFI storage facilities with appropriate conditions to safeguard the collection;
- nomination of key collections in the English regions, leading to sustainable plans for their preservation and access;
- greatly extending online access to the nation’s screen heritage, including the digitisation of important new material;
- identifying, developing and evaluating effective use of screen heritage material in formal and informal environments.

Film festivals

60. As part of its strategy focusing on audience development, the UK Film Council introduced a £4.5 million Lottery fund for UK film festivals to offer people of all ages and backgrounds the opportunity to see more films, meet filmmakers, and enjoy the world of film.

61. Festivals being supported cover a range of geographical areas and genres including children’s films, animation, documentaries, silent movies, avant-garde, disability and films for and about women, eg Birds Eye View, DeafFest, Cinemagic and the Flatpack Film Festival. The first festival to be awarded support was the Edinburgh International Film Festival with £1.88 million over three years.
Promoting UK film internationally

62. The UK Film Council has commissioned research into the economic contribution of UK film in order to inform its international activities to support UK film. In 2006, the UK film industry had a turnover of nearly £6 billion and its contribution to UK GDP was £2.5 billion. The core UK film industry (production, distribution and exhibition of UK films) contributed £1.5 billion to GDP, increasing to £4.3 billion including all indirect effects (multiplier, tourism, etc).

63. The UK Film Council's film commission has worked to increase inward investment (mainly from the US) into the UK production sector, and has done so with considerable success, with UK-US collaborations such as Harry Potter and the Half Blood Prince, The Young Victoria, Mamma Mia! and The Dark Knight being filmed in the UK.

64. The new tax relief is supporting indigenous and inward investment film production. The environment for major international films coming to be made in the UK this year and beyond also looks more favourable largely owing to the turn in the exchange rate which is further enhancing the UK's competitiveness and encouraging the US studios to bring more work to the UK. However, the outlook may be affected by the severe economic downturn which has resulted in the major US studios making cuts to their slates of films.

65. Other strategic actions taken by the UK Film Council to help the industry infrastructure include supporting the setting up of the UK Screen Association, a trade body for the increasingly important post-production and facilities sector.

66. The Council has also invested in trade missions taking UK companies and films to countries with market growth potential for UK film (such as Hong Kong, Japan, Korea and India) and works with the Government to set up new co-production treaties encouraging international partnerships which are crucial in a global industry.

Tax relief for film

67. The UK Film Council worked very closely with HM Treasury to create a new tax incentive that worked for UK films of all budget levels. The new tax relief introduced at the beginning of 2007 returns real value to the industry and has been well received by the industry. Last year saw a 21.5% increase on the previous year in spend on indigenous British films, with £192 million spent in the UK on making 66 films. The tax credit also encourages inward investment film production giving crews, technicians and facilities the opportunity to work on international films.

Anti-Piracy and Findanyfilm.com

68. Combating film copyright theft and infringement is a key priority. The UK Film Council’s strategy report Film Theft in the UK made 30 recommendations for action by the Government and the industry. The Council is currently working closely with the key industry organisations addressing film theft by supporting public awareness campaigns.

69. The Council has also invested in the creation of a ground-breaking new website—FindAnyFilm.com—which will transform how consumers find the films they want to watch. It tells them when, where and how a film is available in the UK—legally and across all formats and platforms—cinema, TV, DVD & Blu-ray sale or rental, download and streaming. It is totally free and easy to use.

70. FindAnyFilm.com contains over 30,000 films in over 60 different languages ranging from English to Japanese, Hindi, Arabic, French and Cantonese, and is expanding on a daily basis.

Summary—Achievements

71. To sum up, the UK Film Council has helped create a clearer strategy for film in the UK. It has done this by working closely with every part of the film industry (development, production, sales, distribution and exhibition, and promotion); by building a research and statistical base; and by providing market intelligence to the Government, the industry and partners.

72. In essence, the partnership between the UK Film Council and the Government during the last nine years has helped move public policy for film from a relatively crude system of hand-outs for film producers to a much more sophisticated approach in which support for production, vital though it continues to be, can be located in the context of a broader overview of the industry as a whole, and popular film culture. This systematic development of inter-locking and mutually supportive policy and funding initiatives has brought clear benefits—economic, social and cultural—to the UK and to individual communities, and offers a solid platform for the evolution of future strategy.
SECTION 2—KEY CHALLENGES FACING UK FILM

UK film is facing a number of unprecedented challenges in the next few years. Some of the principal challenges are set out below.

Copyright theft and infringement

73. Since the publication of its Film Theft in the UK report in December 2004, the UK Film Council has been working with the industry and Government to tackle the serious issues of copyright theft and infringement.

74. Through involvement with agencies such as the Federation Against Copyright Theft (FACT) and the Industry Trust for IP Awareness, the UK Film Council has been able to play a clear strategic role in tackling both physical and online theft and infringements.

75. Currently, the six principal types of copyright theft or infringement involve illegal acts committed in one of the following ways:

1. Camcording;
2. Selling of counterfeit DVDs;
3. Unauthorised home copying;
4. Unauthorised filesharing/uploading/downloading;
5. Unauthorised streaming; and
6. Secondary piracy (the borrowing/viewing of material pirated by others).

76. In 2007 the aggregate annual loss to the UK film industry of film theft was estimated to be £404 million. This is the estimated impact upon legal sales of the acquisition and viewing of illegal material and breakdowns as follows:

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Theatrical</td>
<td>£88m</td>
<td>£102m</td>
</tr>
<tr>
<td>DVD rental</td>
<td>£55m</td>
<td>£21m</td>
</tr>
<tr>
<td>DVD retail</td>
<td>£200m</td>
<td>£238m</td>
</tr>
<tr>
<td>Downloads</td>
<td>£53m</td>
<td>£15m</td>
</tr>
<tr>
<td>PPV</td>
<td>£8m</td>
<td>£11m</td>
</tr>
<tr>
<td><strong>Total loss to film</strong></td>
<td><strong>£404m</strong></td>
<td><strong>£388m</strong></td>
</tr>
<tr>
<td>Loss to TV</td>
<td>£82m</td>
<td>£71m</td>
</tr>
<tr>
<td><strong>Total loss to film and TV</strong></td>
<td><strong>£486m</strong></td>
<td><strong>£459m</strong></td>
</tr>
</tbody>
</table>

*Source: IPSOS (commissioned by the BVA, major US studios and the UK Film Council)*

These numbers are significant in relation to the legal markets. The estimated loss to the theatrical market of £88 million is equivalent to 10.7% of the legal market in the UK, while the estimated loss to DVD retail of £200 million is equivalent to 11.0% of the legal market.

77. The recorded music business should serve as the canary in the coal mine for film and other creative sectors. According to the International Federation of the Phonographic Industry, 95% of music downloaded online is illegal. If the Government doesn’t act, the money to invest in tomorrow’s *Slumdog Millionaire* or *Man on Wire* just won’t be there. Action is needed now, before fast broadband becomes widespread greatly facilitating the opportunity for copyright theft and infringing activity—otherwise it will be too late.

The five key legislative reforms the industry is seeking from Government are:

78. For the Digital Britain consultation to deliver a legislative backstop that commits the ISPs to dealing with IP infringement on their networks and thereby achieving the goal of a “significant reduction” in filesharing as set out in the Memorandum of Understanding to which the Government, Ofcom, internet service providers and the content industries were signatories in July 2008. To achieve this, the Government needs to put in place a far more effective deterrence scheme, (based on a graduated response, with the ultimate sanction of “browser suspension” which would prevent people from surfing the web) as quickly as possible. The UK Film Council Board and the most influential stakeholders across the film industry share the same position. Such action is needed to ensure that higher broadband speeds do not lead to a colossal increase in illegal file-sharing and copyright theft which would fatally undermine the economic viability of the UK’s digital content industries including film. As the Government said in its discussion paper on the proposed Digital Rights

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1. [http://news.bbc.co.uk/1/hi/technology/7832396.stm](http://news.bbc.co.uk/1/hi/technology/7832396.stm)
Agency published on 16 March, without effective action “legitimate business will struggle to survive, let alone grow.”

79. For the Government to criminalise the act of camcording in cinemas. Despite the industry making a united case based on hard evidence, the Government wishes to pursue a test prosecution case utilising existing laws (in particular, the Fraud Act 2006). The challenge for the industry is to convince all Government departments (the Department for Culture, Media and Sport, the Department for Business, Enterprise and Regulatory Reform, the Department for Innovation, Universities and Skills, and the Ministry of Justice) of the seriousness of the problem. One possible route towards camcording legislation would be to include it in any new Communications Act

80. To secure legislation to curb illegal trade in counterfeit/pirated goods at occasional sales and markets and step-up enforcement to make non-retail markets a “clean” place to do business.

81. To reform damages so that new damages legislation becomes the “effective deterrent” required by the EU Enforcement Directive in particular, by extending the legal concept of exemplary and statutory damages to cases of copyright infringements.

82. To increase the maximum financial penalty available in Magistrates’ courts from £5,000 to £50,000 for online copyright offences. The industry also wants to see the disparity between maximum penalty for online copyright offences (two years) and the maximum penalty for hard goods offences (10 years) addressed.

83. This enforcement policy should also go hand-in-hand with a policy that encourages and enables film to be consumed within the licensing value chain.

The Digital Britain report states:

“Counter-piracy measures and effective rights enforcement are an important element, but only one element and insufficient on their own: new methods of legitimate access, based on new business models and incentive structures will be crucial.”

84. The UK Film Council thinks that such a Rights Agency should play a powerful enabling role in helping to identify and push forward ways in which barriers to access could be overcome. It should help to explore, for example, ways in which legislative and other potential solutions could be implemented to enable the exploitation of orphan works. According to a 2007 survey carried out by Association des Cinémathèques Européennes (ACE), approximately 50,000 of the surveyed works in archives across Europe were considered as orphan although this is likely to significantly underestimate the real scale of the problem as many archives simply do not know how many works are in their collections are orphan in nature.

85. The legal barriers to the exploitation of orphan works were identified by the Gowers Review and have been the subject of detailed discussion under the aegis of the European Commission. However, no solution has yet been implemented which enables them to be made legally available. This is a particular problem both for the UK’s archives (eg the BFI National Archive) and the archives which are members of the Film Archive Forum. It prevents works being made available which may have both significant cultural, educational and commercial value.

86. Many thousands of films are locked into a “copyright purgatory”, as a result of failed distribution and sales companies, production companies that no longer exist, bankruptcies, rights reversions, or unresolved creative rights that have resulted in a lack of audience access to these films.

87. Also, there are often challenging rights issues relating to works where rights holders can be identified yet the original licensing terms did not anticipate the advent of digital media. For example, the UK Film Council itself is the owner of rights to a number of British films from earlier decades which cannot be exploited for this reason.

88. The recently launched initiative FindAnyFilm.com (FAF), which is supported and funded by the UK Film Council, has highlighted some of the challenges. It is intended that it will become the UK’s most comprehensive search engine for film, and is a valuable tool helping users who are seeking to watch, buy, download or films via legal means.

5 See: http://www.hm-treasury.gov.uk/d/phb06_gowers_report_755.pdf p.69 and also the paper by the British Screen Advisory Council (BSAC) developed at the request of Gowers: http://www.bsac.uk.com/reports/orphanworkspaper.pdf
6 http://www.bufvc.ac.uk/raf/members.htm
7 http://www.findanyfilm.com/search
89. The site has for the very first time generated statistics on audience demand and film availability in the UK across different formats. Approximately 30% of the 30,000 films in the database aren’t available on any format—even on DVD, the cheapest, easiest and most ubiquitous of all digital supply technologies.

90. These unavailable films are not limited to the more specialised titles: many independent films have rights issues that have, over time, led to their disappearance from the market.

91. By playing an enabling role in helping to resolve, on a collective basis, some of these rights issues, a Rights Agency should help to ensure that all film consumption takes place within a legal environment in which both access and value are maximised, to the ultimate benefit of both audiences and rights-holders.

**Digitisation of cinemas**

92. The digitisation of cinemas has the potential to deliver highly significant benefits to audiences and communities through the range, choice and flexibility of programming. It also delivers efficiencies to distributors since it reduces costs significantly.

93. However, the digitisation of cinemas also poses some significant challenges. As public spaces, cinemas stand to play an important role in delivering a range of benefits sought by *Digital Britain*. This is particularly important in remote and rural parts of the UK and thought should be given to how public policy could assist this aspect of digital switchover.

94. The UK Film Council’s Digital Screen Network (DSN) became a world leader in helping to drive digitisation of cinemas. It has supplied around 240 screens (approximately 8% of all UK screens) in 211 cinemas (around 30% of all UK cinemas) with digital projection equipment. This delivers the highest quality image of digital material on the cinema screen and enables more flexible programming, so a wider range of films and alternative content can be shown to audiences.

95. The UK Film Council has also supplied a multimedia box as part of the kit which serves as a mixer linking digital play-out devices such as computers or DVDs, to the projection equipment. In addition to the primary aim of enabling a wider range of films to reach audiences, the DSN has helped to give the UK the lead in examining the early signs of how digital might change cinema.

96. However, the cost of digital equipment makes it beyond the means of many independent cinemas. Depending on the standards required and the type of venue, the cost can be as much as £80,000 for full 3D digital equipment in a traditional cinema.

97. The major commercial chains are investing and planning to collaborate with distributors to create the mechanism of a virtual print fee for sharing the costs of digitisation, but many independent cinemas across the UK cannot afford to participate in this process.

98. Independent cinemas are, therefore, in danger of being left on the wrong side of the digital divide and at a time when digital technologies ought to be helping them make an enhanced contribution to the life of the communities they serve, especially in remote and rural areas. The Government needs to consider how a public policy intervention might assist such independent cinemas in making the transition to a digital world and deliver benefit to communities throughout the UK.

**The failure of the existing film finance model for UK independent films**

99. The independent film sector in the UK, like other areas of the digital content industries, is facing some particular challenges in financing content as we enter a fully digital age.

100. The acute economic downturn has resulted in a severe shortage of liquidity across all industrial sectors, including film. This will particularly affect independent British films for whom debt financing is crucial. Our initiatives to give producers equity in their films plus our help for independent British film companies to develop films are giving more support for the independent production sector. The UK Film Council is considering what further help we can offer the film sector.

101. In addition, there are more systemic issues which relate to the transition to digital world including:

- the impact of copyright theft and infringement on revenues, including illicit peer-to-peer file sharing. A recent Oxford Economics report estimates that an effective response to stem illicit file sharing of films in the UK would create an additional £142 million in value for the UK film industry.8

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the declining value of the DVD market in key territories of the world mainly as a consequence of heavy price discounting. For example, although total DVD sales actually increased slightly in the UK in 2008 to 252.9 million units, in real terms, retail DVD film revenues fell from £1.98 billion in 2004 to £1.62 billion in 2007.9

— the declining prices paid by terrestrial television and pay-TV broadcasters worldwide. This is partly owing to the growth in the DVD market which has reduced the attractiveness of films to audiences in subsequent windows and on subsequent platforms; and partly owing to the fragmentation of TV audiences which has reduced revenues for television platforms worldwide. In real terms, total revenues for film on TV fell from £1.26 billion in 2003 to £914 million in 2007.10

— the failure to date of online revenues to provide any meaningful substitute for the decline in DVD revenues. In particular, the download-to-own (DTO) market remains extremely small, while the market for download to rent (DTR) or streaming, although larger, generates a much smaller amount of gross revenue. According to Screen Digest, the UK online movie market was worth £6.2 million in 2008. It also estimates the TV-based VoD and nVoD market for film (via eg Virgin Media and Sky) was worth £114 million. Therefore, the UK online movie market is still small but has experienced a nine-fold increase in value since 2007 (when the market was estimated at £700,000). This has been driven by the introduction of movies on iTunes in June 2008 and Xbox Live Marketplace.11

102. Because of these challenges the UK Film Council believes that the Government needs to consider how best public policy can help to optimise investment in film production over the next few years and as a consequence help ensure UK and international audiences can continue to see such great British films as Slumdog Millionaire and Man on Wire.

SECTION 4: ANSWERS TO SPECIFIC QUESTIONS POSED BY THE COMMITTEE

1. What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

103. In 2007 the UK film industry exported £1,050 million of services, generating a trade surplus of £232 million. The UK was the third largest film entertainment market in the world and had the fourth largest film industry by value. An independent study by Oxford Economics in 2007 (but based on 2006 data) calculated the overall value of the film industry to the UK economy at £4.3 billion and its extended employment impact at 95,000 jobs. As an integral and high-profile part of a growing spectrum of digital media industries, film is a vital driver of the UK’s wider creative economy. Of the 200 top-grossing films worldwide released between 2001 and 2007, 26 were British.

104. UK films play a central role in shaping and reflecting contemporary British culture, ranging from the serious exploration of important public issues in films such as The Queen and Hunger, to idiosyncratic comedies such as the Wallace and Gromit animations and St Trinian’s and dramas that bring the talent of British writers and actors to a wide popular audience, for example Atonement or Pride and Prejudice. Film has also proven to be at the forefront in exploring issues of race and diversity, from Bullet Boy to Monsoon Wedding. British film continues to enjoy a close and symbiotic relationship with British theatre, to their mutual benefit.

105. The cultural impact of the UK film industry is evident at home and reverberates on an international scale. A recent study commissioned by the UK Film Council of 200 iconic British films made over the last 60 years shows how British films have served to articulate and reinforce what might be seen as “core British values”, and at the same time challenged them to great effect, changing public perceptions. British films project a powerful image of the UK at home and overseas, whether it’s the fantasy worlds of Harry Potter and James Bond, British heritage in the form of Young Victoria or The Duchess or the impact of Bend it like Beckham which is widely credited with having sparked the establishment of women’s football leagues in India. One-tenth of the UK’s inbound tourism is estimated to arise from the publicity effect of film, a “cultural impact” which also carries significant economic benefits.

106. British talent is world class. Of the 200 top-grossing films released worldwide between 2001 and 2007, more than half (108) had British talent in leading or supporting roles, with actors of the profile of Kate Winslet, Keira Knightley and Ian McKellen joined by increasingly prominent directors, including Sam Mendes, Stephen Frears and Danny Boyle and writers of the calibre of Peter Morgan. Consistent support for new talent (in front of and behind the camera), good skills training and the facilitation of routes into the industry are all vital. So many of the iconic British films of the last 20 years, from My Beautiful Laundrette to East is East have

9 Source: UK Film Council Statistical Yearbook 2008
10 Source: Ibid.
11 Source: Screen Digest
celebrated the nation’s diversity, and building an industry whose talent base is even more representative of the population continues to be a vital, if partly realised, ambition.

107. British people love watching films at the cinema, at home and on portable devices. Cinema admissions have climbed upwards since the mid-eighties, reaching 164.2 million last year. 2008 was a record year for the box office with receipts totalling £850.5 million (3.5% up on 2007’s £821 million), the highest since records began is 1989.

108. The three top films at the UK box office last year were all films made with significant UK involvement: *Mamma Mia!* (with £69 million, the most successful film in the UK ever); *Quantum of Solace* (with £50 million and the highest opening weekend for any film in the UK with £15.4 million) and *The Dark Knight* (with £48.6 million).

109. Overall, the history of the British film industry has been one of volatility, boom and bust. We have always had our Oscar® and BAFTA successes but what we have seen in the last six to seven years is a sea-change with a more consistent flow of British films being developed, made and then welcomed by audiences. The level of investment in training is helping our workforce to maintain and expand its creative competitiveness, and developments in digital technology are giving film the opportunity to reach out to audiences in ways that were inconceivable ten years ago. If we are to enhance film’s present high commercial and cultural value, we need to build on the industry’s demonstrably enduring strengths.

110. So where and how is film delivering? The world-class reputation of British talent is matched by that for British studios, post-production and visual effects houses. Inward investment (mainly from the US) accounted for 58% of production spend in 2008, despite the strength of sterling. Sustaining the training and skills infrastructure, sustaining investment in the physical infrastructure through, for example, hi-end digital technology and green energy-efficient systems (an industry-wide strategy for environmental sustainability is in development), and marketing the UK’s facilities abroad are vital for the future.

111. In an intensely competitive and highly globalised industry, film production is extraordinarily sensitive to the climate created by fiscal incentives. Sustaining a robust and candid relationship between the industry and HM Treasury, and keeping the regulatory environment in tune with a wider global context will be vital.

112. The public/private investment mix in the UK has been generally successful. The role of the two publicly owned broadcasters, the BBC and Channel 4, has been vital to the evolution of British cinema. Their investment as funders and through buying TV rights has meant that films have been able to reach audiences UK-wide.

113. Digital technology is opening up new opportunities for the creation and distribution of film content and the UK Film Council and other public agencies are working to help film optimise its commercial and cultural potential to the benefit of both the industry and audiences.

114. The UK Film Council, with Arts Council England, the Museum Libraries and Archives Council and leading arts institutions is seeking to develop an online platform for quality cultural content and services, which should include the National Film and Television Archive, together with regional archives.

115. The UK Film Council, with the BFI and the public service broadcasters, has been the driving force in developing a Charter for Media Literacy and supporting initiatives that give practical expression to its ambition, both within and outside the formal education system.

116. The UK Film Council, through the National and Regional Screen Agencies, plays an active role in integrating the creative and technical skills of the traditional film industry into the wider network of digital-based media businesses and in brokering alliances that bring together skills training, business development and cultural regeneration at city and regional levels.

117. Digital technologies are bringing benefits to small independent cinemas through the UK Film Council-funded Digital Screen Network and improving access to film for people in rural areas giving them the chance to see films such as *Slumdog Millionaire*, *Young Victoria*, *Waltz with Bashir*, *This is England*, *Casablanca* and *Brief Encounter*. There are now 328 film societies around the country and 226 local authorities are running arts venues with dedicated screens and projection facilities.

118. The Digital Screen Network is largely responsible for the UK now having the most hi-end digital cinema screens in Europe and sustaining and extending the digitisation of cinemas through the current economic downturn will be vital.

119. The UK Film Council is supporting the adoption of ISAN numbers (International Standard Audiovisual Numbers) to identify audiovisual works. As with ISBN numbers for books, ISANs will assist film identification in digital distribution, retail and information networks.
120. The UK Film Council believes that this range of initiatives, together with others being developed in partnership with the industry and other public agencies, will, if sustained and extended:

— promote creative public engagement with the online world;
— use existing publicly funded assets and resources more effectively, often in partnerships with commercial providers; and
— help enhance the UK’s position as a leading centre of high quality film production and the home of a dynamic and inclusive film culture.

2. **How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?**

121. The current arrangements in the UK for distribution and exhibition in the UK favour the large budget blockbuster film over the smaller film which is often independently funded. This is because the commercial success of a film has traditionally been driven by cinema box office.

122. In order to provide UK audiences with a wider choice of film and to allow more filmmakers at all levels the ability to find a market for their movies, the UK Film Council has instigated a number of initiatives. These include digital cinema projection and a Prints and Advertising Fund (P&A). These funds have been hugely successful in increasing the diversity of films offered to UK consumers.

123. For example, since the UK Film Council introduced Lottery funding for foreign language and specialised films, 62 specialised films have grossed more than £1 million at the UK box office, and half of these received support from the Prints and Advertising Fund. Before 2004, only 11 films had ever achieved the £1 million box office benchmark.

124. The emergence of digital television channels has increased the market for independent British films and consequently provided the potential opportunity for more commercial value to be obtained by a wider range of films.

125. Distribution is split between the powerful studios (occupying around 80% of box office) and a number of independent distributors. The major studios dominate the valuable pay-TV market via output deals with Sky, and only one independent UK distributor is understood to have such an arrangement.

126. To be commercially successful a film needs to be able to play a sufficient number of cinema screens, with sufficient marketing money to generate sufficient box office to ensure profile and revenue in the remaining “windows” of exploitation.

127. It is arguable that most independent production in the UK is not structurally linked to distribution and audiences. This means that many films are made that are not able to find an audience.

128. In general, value is based around the “windows” system of releasing films to consumers. This system grew up in the analogue world (35mm cinema, video cassette, free terrestrial TV) and has adapted to the digital world by inserting new formats into various windows (theatrical, DVD, pay-per-view, pay-TV, downloads, free-to-air TV, etc).

129. For independent films the major source of industry financing is via UK and/or international film sales where advances are paid for the film on a country by country basis. However, this model is under pressure because of, amongst other things, the decline in value of pre-sales in recent years.

130. **How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade?**

131. Although hard goods piracy (counterfeit DVDs) is the dominant illegal activity, the challenge faced by the UK film industry from the substantial increase in online copyright infringements is also an increasingly serious issue facing the sector. The estimate for official download losses in 2007 is £53 million (52 million titles pirated12). Some 47 million viewings of illegally streamed material occurred, with an estimated loss of £11 million.

12 Source IPSOS
132. The rights system that grew up in the analogue world will need to adapt and become more flexible and responsive if film is to survive, let alone thrive, in an access rich digital world. Crucially it needs to be more switched to “yes”, ie allowing consumers access to material, rather than the current analogue-based system which is set to “no”, with the result that thousands of films are not available in any legal format for UK audiences or effectively locked into a rights “purgatory”. This new approach to rights needs to go hand-in-hand with a firm copyright enforcement policy.

133. A special effort will be needed across the film and audiovisual sector to ensure that film material and moving image heritage are digitised and made available to consumers (under a license that adds value to the rights holders).

134. There will be new companies and businesses emerging in the digital world. It is important that the conditions for their growth and survival are encouraged as much as possible. One key support will be to ensure that all public sector information and knowledge around film and film data is made available both to consumers and to the industry for the use and benefit of both. There is an opportunity for the UK to be a leader with a strategy and focus on the protection of both value and access for the benefit of the consumer.

135. Broadband speeds mean that file sharing and illegal downloads could threaten the traditional windows system of value.

136. The UK Film Council has pioneered digital cinema by supplying hi-end digital projection equipment to 240 screens in the UK. As a result, the UK is the world leader in the percentage of digital cinema installations and in new learning around this technology, and might continue to be in the future. However, there are major issues facing around 400 independent cinemas over their ability to fund the new equipment and a large percentage of those cinemas are likely to be at risk as and when the bulk of exhibition converts from 35mm to digital. This could and would have a knock-on effect to independent films, independent distribution and ultimately audiences. The UK Film Council has been working with the industry to see what might be done to prevent this happening.

137. In other areas the UK Film Council has been examining and working with UK distribution companies to strengthen their digital knowledge and strategy. One such programme is the “Take 12” initiative with NESTA working with 12 UK companies. Digital distribution in all its facets and new business opportunities may well continue to be dominated by USA film and technology companies.

138. Producers and production companies can benefit from the digital worldwide opportunities that emerge enabling access to a global audience. But this will have to be tempered with a new approach to marketing distribution and funding that matches these opportunities. Globalisation and worldwide distribution increasingly mean that the independent film financing and distribution model of territory by territory selling of rights will be outmoded and will need to be replaced.

139. The growth of cinemas and digital projection in emerging markets such as India and Russia is likely to increase the opportunities for UK independent films to achieve distribution. However the financial support provided by many national agencies (eg Germany, France and South Korea) to distributors distributing to foreign territories will make for a very competitive environment and the UK will need to find ways to address this challenge to ensure the UK achieves market share.

140. It is essential that effective international business models evolve to create revenue from international online distribution, to avoid the negative impact of decreasing ancillary distribution revenues in established markets and the consequent impact on independent international production finance.

3. Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

141. The film tax relief introduced at the start of 2007 has been broadly successful. The simplicity of the qualification system and the claiming process has been much welcomed by the UK film industry.

142. However, whilst the film tax relief has successfully supported large budget inward investment films and films made in and for a domestic UK market, the relief has not provided adequate levels of benefit for films that by their very nature involve filmmaking activity outside of the UK.

143. This lack of incentive has been felt hardest in the area of official co-production. Since the introduction of the current tax relief at the start of 2007 there has been a significant decrease in co-productions. Indeed, compared to the last year of the old tax relief in 2006, the number of co-productions made by UK producers has decreased by 61% in terms of the number of films made and 56% in terms of expenditure in the UK.
### Number of films and UK expenditure

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of films</th>
<th>UK expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>51</td>
<td>£109 million</td>
</tr>
<tr>
<td>2007</td>
<td>28</td>
<td>£72 million</td>
</tr>
<tr>
<td>2008</td>
<td>20</td>
<td>£48 million</td>
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144. This is because, unlike the previous tax reliefs, the current film tax relief is paid on UK qualifying expenditure only, not on the full budget of the film. The definition of UK qualifying expenditure does not include UK nationals working outside of the UK. Whilst the UK Film Council supports the decision to target precious tax relief at qualifying UK expenditure, the definition of UK does not recognise the creative and commercial needs of filmmakers to film outside of the UK. The new definition of qualifying UK expenditure only rewards activity that takes place in the UK and is therefore too restrictive because it does not support British filmmakers working overseas.

145. We would therefore suggest that HM Treasury should consider widening the definition of UK qualifying expenditure to include a limited amount of overseas activity undertaken by UK workers and companies. In order to ensure that there is no “relief tourism” we would also recommend that only activity that is script dependent can qualify for relief.

146. In addition, tax relief is available on qualifying UK production expenditure up to a maximum of 80% of total qualifying costs incurred by the Film Production Company (FPC). In a co-production, the UK co-producer (the FPC) can by definition only incur a proportion of total expenditure. What this means, in the vast majority of cases, is that a co-production structure will result in a loss of up to 20% of relief when compared with an identical film with identical spending patterns, but where only one company is incurring expenditure.

147. We would also suggest that the inbuilt structural issue that results in a co-production receiving 20% less film tax relief than an identical film that qualifies via the Cultural Test should be examined by HM Treasury with a view to ensuring that the way that an official co-production is structured is reflected in the rules for film tax relief and that they obtain the same amount of benefit as received by films that qualify via the Cultural Test.

148. Under the new tax credit scheme, relief is available for British qualifying films. Films must either pass the Cultural Test or qualify as an official co-production. The Cultural Test is comprised of four parts (cultural content, cultural contribution, cultural hubs and cultural practitioners) and films must score 16 or more points out of a possible 31.

Furthermore, qualifying films must:

- be intended for theatrical release; and
- reach a minimum UK spend requirement of 25%. UK qualifying production expenditure is defined as expenditure incurred on filming activities which take place within the UK, irrespective of the nationality of the persons carrying out the activity.

149. The UK Film Council believes that that the qualifying conditions set out in the Cultural Test and the UK’s co-production agreements target film tax relief at an appropriate range of films. Most importantly they ensure that relief operates in accordance with state aid principles and is targeted at a “cultural product” as agreed by the European Commission. A wide range of films have qualified under the new system, from large budget blockbusters such as *Harry Potter* to smaller home grown productions like *Slumdog Millionaire*.

4. Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

150. Yes, the UK Film Council is meeting its objectives of giving support to the production and export of British films. It is doing that through a number of different interventions as described below. In particular, the funds have played an important role in ensuring that films by internationally-renowned British directors such as Mike Leigh (eg *Vera Drake* and *Happy-Go-Lucky*) and Ken Loach (*The Wind that Shakes the Barley*) get made.

151. 4 (i) The Premiere Fund

The Premiere Fund has invested £64.2 million in 54 projects since its inception and 43 of these films have been released to date (ie are still in production or post-production). The box office revenues in the UK of its films to date are £92 million in the UK and £262 million in 12 key territories covered by Nielsen EDI. Of the 43 films, 28 have taken a total 141 awards, including two Oscars® and four BAFTAs.

The fund has delivered significant public value by enhancing the range of British films available to all UK audiences—supporting films such as *Gosford Park, Vera Drake, Miss Potter* and *How to Lose Friends and Alienate People*. In particular it is widely acknowledged that the fund has transformed the profile, quality and
therefore public expectation of Lottery-funded films. It has also given a major boost to creative talent—for example the fund supported *Bend it like Beckham*, the success of which paved the way for director Gurinder Chadha to go on to projects such as *Bride and Prejudice* and *Angus, Thongs and Perfect Snogging*. Furthermore, the fund provides access to finance for UK producers and generates recoupment which is returned to the Council for reallocation across the whole range of the Council’s areas of responsibility. Cash recoupment as at 31 December 2008 amounted to £21.5 million (34% of all awards).

However, the Premiere Fund is only able to fund a small number of projects each year in comparison to the total number of British productions in any given year.

152. 4 (ii) The New Cinema Fund

The New Cinema Fund (NCF) has invested £29.4 million across 73 feature films. It has also supported 555 short films under the digital shorts scheme and a further 49 higher budget short films under Cinema Extreme. The total investment since 2000 is £36.6 million. Award-winning filmmakers have emerged from this short filmmaking programme including the Oscar® and Cannes award-winning filmmaker Andrea Arnold (for *Wasp* and *Red Road* respectively) and the Berlin-winning Daniel Elliott (for *Jade*).

In addition, the fund was instrumental in setting up and running Warp X, the low budget studio with Film4 and regional screen agencies Screen Yorkshire and EM Media, which has produced six feature films, the first two of which were selected for the prestigious Sundance Film Festival, and including the latest film on release from the slate, *Hush*.

The New Cinema Fund has delivered public value by supporting and developing new talent and cutting-edge subject matter. The DCMS Peer Review of the UK Film Council concluded that “the cultural imperatives of the New Cinema Fund are the life-blood of the business and where talent is grown.” For example, the fund has supported international award-winning films such as *Bloody Sunday*, *Touching the Void*, *This is England*, *Man on Wire* and *The Wind that Shakes the Barley* and in the process has helped to launch the film careers of filmmakers such as Paul Greengrass (the *Bourne* films, *United 93*), Kevin Macdonald, James Marsh and Andrea Arnold.

153. 4 (iii) The Development Fund

The Council’s Development Fund provides £4 million a year to support filmmakers in developing high quality, commercially viable screenplays. Investing in development is a high-risk activity since most projects will fall by the wayside for a wide variety of creative reasons and therefore the market alone will not provide optimum funding for this part of the filmmaking process. The UK Film Council has seen on average around 13% of the projects in which it has invested development money converted into finished films. Funded screenplays include *Brideshead Revisited*, *Becoming Jane*, *How to Lose Friends and Alienate People* and the soon to be completed *Fish Tank* and *Brightstar*.

These policy interventions, in development and production, have produced a series of positive results for the public including:

- A broader range of culturally British films for UK and international audiences to enjoy at the cinema and on other platforms;
- A UK production sector which contributes to the UK’s creative economy, and to the UK film distribution and exhibition sectors;
- Opportunities for new and innovative talent to make films that connect with audiences in the UK and overseas; and
- Opportunities for established filmmakers throughout the UK to make films that connect with audiences in the UK and overseas.

154. As noted in Section 2 above, the UK Film Council’s interventions, although successful, need to be seen in the context of a wider environment which looks very challenging. An additional challenge in relation to the production funds is that Lottery funding is being reduced by just over £22 million during the period 2008–13 to help support the cost of the 2012 Olympics.

155. The broad issue of what more the UK Film Council could do to contribute to the UK’s film economy has been addressed in answer to Question 1. In relation to production, the Council’s ability to give direct support to production is constrained by the resources that are available.

156. However, the Council has also sought to provide indirect support, for example, through developing a tool to help predict the impact of the transition to digital media upon production financing13 and forming a partnership with NESTA to help independent film companies explore the potential of digital media.14

14 http://www.nesta.org.uk/film/
157. The UK Film Council’s Export Development activity accesses external investment to match its budget of £235,000 to help independent UK films and companies generate revenues to reinvest in the British film industry. The outcomes show that the UK Film Council is successfully delivering upon its objectives, eg:

- International Festival Sales Support Scheme—over the past two years 29 films have been supported at international festivals, generating deals of $9 million;
- London UK Film Focus—more than 150 international buyers have attended generating deals of more than $6.7 million over the last two years;
- International film Markets—supported 90 British company attendances to seven international film markets over the past two years generating deals worth more than $21 million.

In addition the Council’s Export Development team supports the Film Export Group (FEG) whose members include UK Trade and Investment, Skillset, the British Council, the National and Regional Screen Agencies, Visit Britain, UK Screen and Film Export UK.

5. *Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?*

158. No, this is why the UK Film Council has used public funding to intervene. The UK film industry is made up of a small number of large companies and a very large number of small companies (micro-enterprises) which have an occupationally diverse and highly skilled workforce. The effect of this fragmentation is increased by the fact that the workforce is characterised by very high levels of freelancers (90% in film production).

159. The fragmented business environment combined with a fluid labour pool presents challenges for the acquisition of the managerial and technical skills for the film industry. Until recently an absence of clear entry and progression routes into the industry often meant that people could not be supported properly by organisational structures, ie HR, for their skills development. When freelancers are not working, they are actively looking for work, and therefore taking time out for training represents a double expense of in time and money.

160. Extensive consultation with the UK film industry recognised the need to address skills issues as part of their business planning. This was dictated by two universally agreed conclusions.

161. Firstly, it has been recognised that skilled people are essential to maintain the strength and competitiveness of the UK film industry, a factor that has been reinforced every year as UK film professionals reap recognition and awards internationally. The reputation of the UK film workforce attracts international investment to the UK.

162. Secondly, technological changes in terms of digital production and distribution are constantly both an opportunity and threat, reminding the industry that its much coveted position as one of the top three film production territories in the world requires an up-to-date skilled workforce which can sustain this.

163. Since 2004, the UK Film Council’s skills strategy *A Bigger Future* has funded successful programmes including:

- the Screen Academy Network (seven institutions across the UK) which is delivering the best in film education and training including the UK’s first film MBA at the Cass Business School;
- Inside Pictures, a high level producer and executive development programme;
- Guiding Lights, a mentoring programme for emerging talent;
- courses on digital post-production for producers, digital projection training and lighting on film and high definition;
- a business consultancy service for independent companies working in the film industry, enabling them to train their staff in business and management skills;
- providing more than 500 bursaries to individuals to make film school a realistic opportunity for people from a wide range of backgrounds.
Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

164. In an industry predominantly made up of a freelance personnel, the aim of the UK Film Council is to provide support and funding to ensure that existing and emerging talent has access to innovative and entrepreneurial programmes. The current business environment needs to evolve further to foster a conducive environment which develops entrepreneurial talent. With very little funding in business skills, the existing predominantly cottage industry needs to develop its talent and take advantage of the UK and global marketplace.

165. The joint UK Film Council and Skillset skills strategy, A Bigger Future, and innovative programmes are starting to make a real difference. Helping to develop the business environment further the UK Film Council and NESTA launched “Take 12”, a new digital innovation in film initiative designed to drive growth in British independent film companies by encouraging them to maximise the opportunity of new technologies. 12 independent film businesses were selected to participate and for 18 months have been teamed up with specialist partners who will help them to develop the content, marketing and digital distribution potential of their film product or businesses to audiences around the world in new ways.

The skills strategy has supported many entrepreneurial and business skills programmes including:

- training linked to production for writers, directors, and producers that run in parallel to the production of micro-budget features and short films.
- the Skillset film trainee network subsidises trainee placements for UK film companies. Companies benefit from high calibre talent, while trainees gain further skills and experience.
- the Graduate Fellowship Programme provides job placements industry for people from BME backgrounds.

166. The Skills strategy grants comprise funding from the National Lottery through the UK Film Council and from the film industry through the Skills Investment Fund (SIF), a voluntary but soon to be mandatory levy on film production in the UK.

167. There is high percentage of graduates and graduate entry routes in the film industry and UK Film Council and Skillset have been working with the education and public sector to create partnerships that could sustain training provision for both entry and continuing professional development.

6. How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

168. It is one of the UK Film Council’s policy priorities to ensure an optimum fit between UK film policy and UK broadcasting policy.

169. The UK Film Council believes that historically the regulatory system has successfully helped deliver plurality in television, to the benefit of film among other genres. It also believes that plurality should be a cornerstone of provision of public service content in a digital age.

170. Such plurality is vital for a diversity of creative voices to emerge and acts as an important competitive spur. For example, plurality in the commissioning and acquisition of theatrical film is as important as plurality in relation to UK-originated drama.

171. Culturally British films shown on public service broadcasting channels have significant reach as the key public service broadcasters provide access, and significant impact. The UK Film Council wants this benefit to continue for both UK filmmakers and UK audiences.

172. The regulated, public service broadcasters have historically played a very important role in investing in and acquiring UK films and making them available to broad audiences. Film4’s investment in the Oscar®-winning film Slumdog Millionaire is just the latest example. The role of broadcasters in film will remain crucial in the digital age, especially if investment in other forms of UK-originated drama declines.

173. We believe that both the BBC and Channel 4 should expect to enjoy secure and adequate funding to deliver upon their public service objectives around film in a digital age.

174. In particular, the UK Film Council strongly supports the Government’s proposals, as set out in the interim Digital Britain report, for the creation of a second public service organisation drawing partly on Channel 4’s assets and a re-cast remit. The Council firmly endorses the proposal that film should be an integral
part of this organisation’s remit by investing in new British films through Film4 and using the Film4 channel to make UK and specialised film more readily available to the public.

175. The UK Film Council and its partners (including the National and Regional Screen Agencies and the British Film Institute) also have a growing role in working with non-public service broadcasters in delivering content in the digital age, particularly in areas of public service responsibility such as reflecting the cultural identity of the UK and alternative voices.

176. In particular, audiences could benefit significantly from being able to access in creative and innovative ways the wealth of cultural content which is made and held by organisations such as the BFI, the Royal Opera House and the Tate. This could be done through an intervention which enables these organisations—and others of all shapes and sizes—to create and/or distribute content on digital platforms.

177. In this way, the advent of broadband should be used to deliver a “once in a generation” opportunity to massively expand public access to culture. This would enable creative talent and publicly owned cultural institutions to connect their work with audiences in ways that were simply not possible in the analogue age.

178. Such funding could be used to build on existing cultural institutions’ expertise and their existing digital initiatives to expand the range and diversity of cultural content available to the public, and meet other identified gaps in public service content.

179. We do not however believe that redistributive levies are an appropriate way to fund such content in a digital age.

7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

180. We have addressed a number of these issues in answer to the previous question. However, we would observe that the opportunities and challenges arise not just in relation to new content but also in relation to archive content.

181. We believe that archive content is valuable material for public consumption in a digital age; particularly as technology has reduced the costs of making that content available to large numbers of people. We would encourage the Committee to consider the ways in which archives might play a role in delivering public purposes both via television platforms and across broadband networks.

182. We are aware that the British Film Institute (BFI) which we fund to deliver cultural and educational objectives, has raised concerns with Ofcom and others in the context of its Review of Public Service Broadcasting about the issue of archiving material from television broadcasters after digital switchover. In a digital age, where there is a much larger array of public service content of every kind, there are new challenges around the issue of what should be archived on behalf of future generations, and how a strategy for archiving material should be funded. We believe that Ofcom needs to engage with the BFI and other stakeholders to consider both the opportunities and challenges which now arise in relation to archiving.

23 March 2009

Examination of Witnesses

Witnesses: Mr John Woodward, CEO, and Mr Stewart Till, Chairman, UK Film Council, examined.

Q74 Chairman: Welcome, sorry you are a long way away. We keep on trying to get witnesses nearer, but so far we have been defeated, never mind. You know the purpose, I think, of what we are about. We are doing an inquiry on the British film and television industries, and we are going to focus on how the film and broadcasting industries are supporting the United Kingdom economy, jobs, promoting UK culture and talent, and whether there is basically scope for them to do more than that, and if that is so, what is that scope, and what mechanism we should actually recommend and support. So I wonder if I could just begin in this way: you are both immensely experienced in the film industry. How do you rate the success of the British film industry at this moment? How do you see the success? I mean, obviously Slumdog Millionaire has caused a great deal of interest, an incredible number of Oscars having been won, people say a new dawn is about to come. How do you evaluate where the British film industry is now?

Mr Till: I would say that as ever within the film industry, there is good news and bad news. The good news is loud and noisy, the box office is up, admissions last year, January 2009, up I think 7.7 per cent on January 2008, some people absolutely, slightly predictably perhaps in these difficult times, are going to the cinema and embracing film. British films last
year had a fantastic year, 31 per cent market share, up from 15 per cent in 2000, that is in terms of share of the UK box office. On a worldwide basis, we are calculating the number for 2008 as we speak, but we think it is going to come in at about 15 per cent. So around the world, 15 per cent of all films watched were British, which is a very good number. As you said, obviously a fantastic year for us at the Oscars, for Slumdog but also Man on Wire and The Duchess and Kate Winslet. So by a lot of criteria, I think we are in very good shape, and films have been made here, and most of the studios are already fully booked for 2009, so very good. On the other hand, I think there are two things we would also like to say. One, I think the British film industry is on the rise but there is room to grow. That 15 per cent of worldwide market share should and could get higher, and that is certainly an objective of the Film Council. Also you are right, we are on the cusp, as you know, we are moving from an analogue into a digital age, and with that comes enormous opportunities, absolutely, to distribute films on an easier and better basis, but comes with enormous challenges, particularly in the area of protection of intellectual property. I think in the next few years, the global film industry could do very well or could encounter some of the problems the music industry has encountered, all depending upon whether intellectual property is protected. So in one sense, I think we are in good shape, there is room for growth, but it is also entering a very pivotal important stage.

Q75 Chairman: The figures that I have, which indeed come from you, show for example that employment in the industry has gone down, if you compare it with 2006, presumably earlier in the decade as well, so employment has been coming down inside the film industry, would that be correct?
Mr Woodward: I think overall, if we go back to, say, 2000, which is when the Film Council was set up, and really that was the first time anyone started collecting this kind of data, overall it has gone up. At the moment we estimate that we are heading to 30,000 plus people working in the film industry.1 It is nevertheless true that there was a bubble which has burst in the mid to late 1990s, when a lot of films were being made off the back of what one might euphemistically call tax efficient funding, which pushed a lot of money into the film production economy, and got a lot more films made, which created more jobs. That bubble rightly has burst, it was not sustainable, and it was not frankly doing that much to help create a sustainable industry, but what it did do was push a blip up in terms of employment, which is now levelling out to what is probably a more realistic picture.

Q76 Chairman: If it had created these extra jobs, why is it so bad?
Mr Woodward: Well, I think your officials from HMRC would have a view on that.

Q77 Chairman: They normally do.
Mr Woodward: Put crudely, a very large amount of money that might otherwise have been going to HMRC from high net worth individuals was being fuelled into the production of films, not necessarily good films, and the designs of the funds were really there to protect the tax revenues of individuals rather than to help the film industry, and that was shut down fairly brutally by HMRC over a period of time.

Q78 Chairman: You have no regrets about that?
Mr Woodward: Absolutely none.

Q79 Chairman: That also explains why the amount of money going into British films has also gone down, presumably for the same kind of reason?
Mr Woodward: That is right, and the spike you can see three or four years ago was directly connected to that tax driven funding of films, which was creating more production and more jobs in the short term; it did not actually create, as far as anyone can discern, an additional number of excellent British films.

Q80 Chairman: And you are saying that worldwide, 15 per cent of films that have been seen worldwide are British films, is that right?
Mr Till: Yes, worldwide in terms of the Western film industry as we know it, so not including Indian films watched in India or Chinese films in China, but the worldwide film industry.

Q81 Chairman: What is your definition of the world then?
Mr Till: It is the world geographically as we know it, American and European and Latin American, all but the indigenous really Chinese and Indian film industries within their own marketplace.

Q82 Lord King of Bridgwater: What about the Middle East?
Mr Till: It is a very, very small box office, so it is almost negligible. It is the world in which we are competing. Within that, absolutely, 15 per cent of the box office, that statistic is only for box office, and obviously film is very much about box office, DVD and television audiences, but box office, 15 per cent. It is a number to be proud of. Obviously the Hollywood studios have the gold medal.

1 The witness has provided the following clarification. Employment in the film industry is higher now than in the mid 1990s. However, in 2007, the latest year for which figures are available, it stood at 38,634, which was the lowest level for 11 years.
Q83 Chairman: What would their share be?
Mr Till: Probably about 80 per cent, and then about 5 per cent is really the rest of Europe and a little bit of Asian film production that travels outside their indigenous marketplaces.

Q84 Chairman: So we benefit from English language?
Mr Till: Yes and no. Ironically it is a disadvantage in the UK, because the French industry obviously has a language advantage in France, the Hollywood films that come in have to be dubbed into French and therefore lose a little bit of their originality. In the UK we do not have that advantage against Hollywood, in terms of films coming into the UK, so we have that disadvantage locally. We have the advantage certainly of our films in America in reverse are not dubbed, where the French and Germans are obviously, but it is also worth remembering that, say, a French, Italian or Spanish film, along with a British film, going into Germany, have the same language issues. They are all then dubbed into the local language. I think it is a matter of pride that on a regular basis, 10–15 British films a year will work in Europe, albeit as they are dubbed, whereas one every other year German film will work in Spain or Italy.

Q85 Chairman: Does the 15 per cent represent a peak over the last few years?
Mr Till: It is a steady growth. In 2002, it was, I think, about 9 per cent. In our written submission to you, we will have it down to a percentage point, but a growth really from 9 to 15 per cent over the last six years.

Q86 Chairman: Presumably the fall in the value of sterling has not been unhelpful as far as people coming to this country are concerned?
Mr Woodward: Yes, I think going back to the statistics, what you can see from last year is that particularly in terms of servicing the big budget, mainly American studio financed pictures, the Harry Potter, the James Bond, last year was not a great year. As I think you are intimating, this year we are looking to a pretty healthy year in terms of film production, basically at the big studios, Pinewood and Shepperton, and in the visual effects houses, where that sector of the film industry, as you know, is about the most successful in the world now, and that is to a large extent down to the exchange rate. It is also due to the tax break which works very well and is simple and people understand it, but the exchange rate is very important. Unfortunately, again, back to Stewart’s point about the good news and the bad news, the situation is going to be somewhat different this year, we think, for independent production, because independent films are financed in a completely different way. It is not about one cheque from Paramount or Warner Brothers to make the film and the film going into a global distribution network owned by Paramount or Warner Brothers. Independent films are essentially—there are technical film industry terms for it, but essentially they are debt financed. People borrow money to make independent films, so when there is a credit crunch and when people who normally spend quite a lot of money buying the rights to your next film in Germany, France or whatever, are paying less for those films, because their buyers, television broadcasters, for example, are paying less for those films, it becomes much, much more difficult to go out and raise the patchwork of financing that characterises the way in which independent films are made, so we are expecting a pretty tough year for independent film producers this year.

Q87 Chairman: Does independent really incorporate all outside the big studios, the really big companies?
Mr Woodward: Crudely. It is a loose term, but I think in the film world, an independent is a production made by a company that is not owned, is not part of the studio system, because the scale the six studios have made them of a different order to any other film operation anywhere on the planet.

Q88 Baroness McIntosh of Hudnall: Can I just take you back to the numbers that you quoted for employment in the industry? I think you said 30,000, I may have misheard you, is that right?
Mr Woodward: Yes.

Q89 Baroness McIntosh of Hudnall: Is that, as it were, 30,000 full-time equivalent, or is it 30,000 people who define themselves as being predominantly employed in the film industry, and of those people, I mean, bluntly, how many are really making a living out of it?
Mr Woodward: I can send you more detail. This is based on a very serious piece of research we commissioned from Oxford Economics, I am pretty certain that that is absolutely full-time equivalents. These are real jobs.

Q90 Baroness McIntosh of Hudnall: So 30,000 persons’ worth of jobs in the film industry?
Mr Woodward: That is right.

Q91 Baroness McIntosh of Hudnall: Do you have an assessment of how many people are actually making up—is that 30,000 people doing 30,000 jobs, or is it 75,000 people doing 30,000 jobs?
Mr Till: I think it is a hard number to research, it is about 45,000 people doing 30,000 jobs, because obviously there is a high freelance labour force within the film industry.
Q92 Baroness McIntosh of Hudnall: Almost entirely freelance, as I understand it.
Mr Till: In the production side 45% are self employed, but obviously less in the distribution and exhibition.

Q93 Baroness McIntosh of Hudnall: So you are including the entire industry, distribution, exhibition, production, finance, everything, into that 30,000—
Mr Till: Yes.

Q94 Lord Maxton: But presumably there is quite a lot of overlap between people working in television and in film?
Mr Woodward: That is absolutely right, we worked quite hard to extract those figures and to net that out, if you like, but you are absolutely correct that there are a whole range of skills that are transferable, particularly between film and television.

Q95 Lord Maxton: And now increasing perhaps even into gaming?
Mr Woodward: Absolutely, into gaming.
Chairman: Let us go on to the role of the Council. Lady Scott?

Q96 Baroness Scott of Needham Market: Thank you. I wonder if you could just start off by telling us a bit about yourself. I am particularly interested in the relationship between your organisation and government, your sponsoring department, in terms of who is setting the objectives, and if you can give us a flavour at what kind of level, how much autonomy do you and your directors have as a private company, how does that all work with your sponsoring department?
Mr Till: That is a good question, and perhaps we should both answer it from a chairman and chief executive point of view. If I may go first, we were set up in 2000, and in some respects, it is a good question, because we try to hit both targets, in the sense that absolutely, we are a non-departmental public body, we are funded by the government through Lottery financing and grant-in-aid, and we are accountable to our masters at the DCMS, and we understand that. But we are also a bridge between the government and the film industry, so although our masters are from the public sector, we set up a board—we have always tried to recruit the best, the brightest and the most senior from the film industry—and then the board have gone out and tried to recruit very strong executives who understand the film industry. I have always argued, I think, there is no other film organisation in the UK that has as many strong executives within the film world. We have sort of public sector rules, financing, accountability, John is the accounting officer, but we try to have a private sector attitude and understanding of the film industry. In terms of our role, it is probably twofold. We are a strategic body for the government, so we get very much involved in giving advice about tax, about protection of intellectual property, strategy on training and education, and the British film industry on a global basis. We are also a funding authority, we invest in films, marketing support, funding training initiatives, funding the BFI and funding the regions, so we have a dual role.
Mr Woodward: I do not really have much to add about that, except I suppose in nuance. Going back to your point about independence, I report to a board which is chaired by Stewart in the traditional NDPB way, the board is appointed by the Secretary of State at DCMS. The interesting thing about the Film Council, and the reason I would argue that it has been successful in the way that it has, is that what it has managed to do is maintain a balance. It is not a lobby group for the industry, it is not our job to go off to the DCMS and the Treasury every week and say, “This is what the film industry wants, we think you should give it to them”. Our ability to be useful to government rests on the reputation, I think, that we have built up of being objective and clear-eyed about what is achievable. Partly that is about understanding what goes on in government, and what government is capable of doing, and partly it has to be built on an understanding on the part of government that we are going to be quite clear with the film industry that what the film industry might want is not necessarily what government is going to give it. So that is quite a difficult balancing act, and over time, I think we have got that more or less right.

Q97 Baroness Scott of Needham Market: In terms of your objectives, how would you characterise the extent to which they are set by government? Does government set you very high level objectives and give you freedom and independence to deliver those, or are they more prescriptive? How does that work?
Mr Till: They set a very high level; they set the overall objectives, and then rely on us on breaking those down into specific goals, strategies and tactics. So they leave it to us to come up with the strategy and the execution, but then not just to go off and try and achieve them. We have a very close relationship with the Secretary of State, Andy Burnham, with Barbara Follett, and, I would hope the DCMS would agree, with the executives working within the DCMS. Perhaps this is a dangerous thing to say, I know I am going to sound smug, but unlike some NDPBs, we see ourselves as the arm of the government, and our role is empowered and funded, obviously all our funding comes out of Lottery and grant-in-aid, as I said, and our role is to execute that strategy for and on behalf of the DCMS with the expertise that the board and the executives bring mainly from their experience working in the film industry.
Mr Woodward: But the brilliance of the mission from DCMS essentially is we have a sort of top line agreed statement. Our function is to help build a sustainable, successful British film industry and to support a thriving lively British film culture, and that is pretty much it. There are lots of KPIs embedded in funding agreements, as you can imagine, and they are available for inspection should you want to, but beneath that essentially the DCMS have been good enough to say, “We have appointed this board of people from the film industry who understand what is needed, and broadly we will leave them to get on with it”, and to date, I think we are doing an okay job.

Q98 Chairman: What happens if there is a division of view between you and DCMS? I cannot believe that two bodies are in total agreement all the time. Mr Woodward: I think that is a very fair question. The honest answer is we will always give government, whether it is the DCMS or the Treasury or whoever asks, we will give them objective advice about what we think the right way forward is. At the end of the day, it is, of course, up to government and ministers to decide whether or not they take that advice, and they do not always.

Q99 Lord King of Bridgwater: I think, Mr Till, you said that certain of the ways you operate distinguish you from other bodies. Was it in the same field; are there other bodies that overlap you in any way in the film industry? Mr Till: No.

Q100 Lord King of Bridgwater: Or was it just other NDPBs? Mr Till: Perhaps it was a little sweeping of me to say it, as I hear it fed back to me; in terms of the DCMS family of bodies, but not operating in film.

Q101 Lord King of Bridgwater: There is not a plethora of agencies of that kind? Mr Till: No, that was one of the great aspects of the Film Council, is when we were set up, it was very much a reaction to previously in the 1990s there were a series of bodies, British Film Commission, British Screen. It was very much a deliberate decision by the then Secretary of State, Chris Smith, to bring them together under one roof, the BFI would remain separate, but would be funded through the Film Council, so there would be one unified body and one voice, which I think has been advantageous.

Q102 Lord Macdonald of Tradeston: Can I just ask you then about the financial side of all of this? You are obviously working in a highly commercial industry, and investing about £20 million annually. Could you explain what the DCMS might want you to get as a return on that? Do they see it simply as a grant, as it were, that you are making to the film industry each year? I am looking at your financial review in the annual report, but it is not entirely clear to me what kind of return you are getting for that £20 million, and whether they are happy to write that off at the end of the year, or whether they expect you to be building a rolling pot for them of some kind. Mr Woodward: There are two issues that we are trying to balance simultaneously, I think. One is that we are using Lottery money to invest in films, and the Lottery legislation and the policy directions are quite clear, that if you put Lottery money into a project that starts to generate revenue, then quite rightly there should be some expectation that some of the revenues start to come back to be re-invested. So we do not give grants, we invest in films, in the form of loans, and if the films make money, we take that money back in and we use it to re-invest in new activities, which is very unusual. Certainly as far as I am aware, we are the only Lottery organisation—we have recouped around £75 million of Lottery funding since we were set up, and that money goes back into the top of the hopper and is reinvested.

Q103 Lord Macdonald of Tradeston: That is £75 million out of a total of what? What kind of percentage are you getting back? Mr Woodward: We get about £25 million of Lottery money each year. In terms of the way we invest in films, this is the other side of the equation, the other thing we are attempting to balance. What we do not do is invest in films in a commercial manner, because we are not there to make profit per se. Our job as we have interpreted it is to support the film sector, so what we will try and do is be the difference between a good film being made rather than not being made by putting in the missing bit of the film budget, and quite often we will put that money up on relatively soft terms, so that if the film is successful, some of the rewards of the film will flow not to us but to the film production company or the film distribution company, and that is one way of helping to build a sustainable film industry. In very concrete terms, the two production funds we run, one is loosely for very experimental arthouse films, and my mandate from the board is to achieve a 25 per cent return on that Lottery investment. The other fund, which is a more commercial fund in terms of the films they invest in, which is where films like The Constant Gardener or St Trinian’s would have come from, I am targeted to deliver a 50 per cent return on that. But as you can understand from those levels of return, we are clearly not in the business of profit maximising on investment, we are there to help enable the film industry to get films made.
Q104 Lord Macdonald of Tradeston: That is the Premiere Fund award, the commercial arm?
Mr Woodward: That is correct.

Q105 Baroness McIntosh of Hudnall: Can I just dig into that a bit further? Looking at the array of awards that you make, they are very wide-ranging in terms of the numbers, up to £1.5 million down to £10,000, or sometimes, I think, possibly even less. One jumped out at me, which was you have made an award to Polly Stenham to turn her stage play into a script.
Mr Woodward: Absolutely, there are two questions in there. Yes, we changed our rules relatively recently to shift the emphasis. Before we tended to work providing—and this is the Development Fund that I think you have alligned on—to take the idea of a stage play and turn it into a script. We were very heavily focused in the early years on working through production companies. We have broadened that, and we are now very happy to work directly with writers and directors as well as producers; we always did, but we did not emphasise that. That is not a problem or an issue for us, if people want to work with the creative people who work inside the Film Council developing the script, then we are happy to do that and as long as a decision is made by a film executive to fund that project, then that project will go ahead.

The second question you ask: if Polly’s film happens, the day that goes into production, we will expect all of the loan to be repaid, which is a standard film industry practice: on the first day of principal photography, development funds are repaid to the producer, which, as I say, goes back into the production budget for the movie, as and when it gets made?
Mr Woodward: That is correct.

Q106 Baroness McIntosh of Hudnall: So that award to her—sorry to concentrate on her, but just it is a fairly current one—would actually in effect get rolled into the production budget for the movie, as and when it gets made?
Mr Woodward: That is correct.

Q107 Baroness McIntosh of Hudnall: So you are not a grant-giving body in the normally accepted sense?
Mr Woodward: Not in the context of film production. There are other areas of activity where absolutely we are a grant-giving organisation. We make a grant to the British Film Institute for £16 million a year.

 Baroness McIntosh of Hudnall: Sure, but I am talking about film production.

Q108 Baroness Howie of Idlicote: You are also an advocacy body for the industry as such, and yet you are set up and clearly have excellent relationships with the government, and Andy Burnham and so on, and nothing has gone wrong so far, but how do you ensure that you represent every part of the film industry under those circumstances, when you are not even appointing the people who sit on the board?
Mr Till: Well, in a number of ways. We have an input into the board recruitment. We certainly say to the DCMS, “We think you should have this sort of skills base on your board”. The board members have a tenure of four years, and when someone steps down, we will say to the DCMS, “We think you should replace him or her with someone with this sort of skills base”, so that we end up with a board that represents most of the film industry. Then the recruitment board that interviews the applicants is made up of myself, as chair of the Film Council, a senior member of DCMS and an independent assessor, and we will interview the candidates and put forward a recommendation to the Secretary of State, who obviously may or may not ratify what the board put forward. So therefore, as one of the three voices on the board that makes the recommendation, we have that. So I would think it is absolutely fair to say we have an influence on who is recruited on to the board, an appropriate and above-board influence.
We also spend a lot of time engaging in dialogue with the industry, obviously it is a big part of all the executives’ jobs to be in that dialogue. Our strategy is set in terms of three-year plans, and every time before the plan is agreed and published, we will go over probably a three to six-month dialogue with the industry, in a series of meetings and town hall meetings and conversations to get their input into the strategy. Also, it seems perhaps the littlest thing, but it has been very fruitful, every, say, six to eight weeks, we have a sandwich lunch, just as an excuse, two hours, with about a dozen senior people, a different dozen each time, senior people from the industry, to discuss issues of the day, to get their dialogue. So it is very important that if we are the voice of the industry to the government, that we are not just the aggregate voice of 14 board members, but of the 30,000 or 50,000 people in the industry.

Q109 Chairman: How many board members?
Mr Till: 14 board members plus me as chair, so 15 in total.

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2 The witness has provided the following clarification. The award to Polly Stenham was not on the same terms as standard development awards. In this case, a small sum was offered for a high risk talent development or feasibility study and will not be recouped on the first day of principal photography.
Q110 Lord Macdonald of Tradeston: Could I just ask, on the allocation of money through your system, you obviously have some very fine films in here but also an awful lot of dogs as well. Are you fatalistic about that, or do you have a commissioning system where editors who consistently back bad movies get fired, and those who are talented get promoted? How does the dynamic of that system work?  
Mr Till: Of course, one man’s dog is another man’s Crufts winner.

Q111 Lord Macdonald of Tradeston: I think we know the difference.  
Mr Till: It is not always black and white. In terms of film, there are four funds, and they have very different criteria. There is the Premiere Fund, which does chase commercial films. There is the New Cinema Fund, that chases particularly new filmmakers, innovative filmmakers, and as John said, has a much lower recoupment rate. So with the New Cinema Fund, there is less priority of having a success this time round. If we are helping to develop a talent, then that may well be a successful project. There is also Development, as we talked about, and that is much more a long-term play. We also have the P&A Fund, a marketing fund that helps give marketing support to films to help them find a wider audience. But going back to the start, the Premiere Fund is obviously the one where we are investing in films that we hope will be successful, that is their objective. In terms of the fund manager, we have a fund manager, we have not had yet the need or desire to fire the fund manager, but they have a fixed tenure, not so much only about success, but because we do not want one voice or one set of tastes to reign for too long a period, so we do every four years change the fund manager, not because of failure or success, but just to have a new perspective. Also the critical thing, my slightly jocular remark about the Crufts winner, obviously there can be a film that can look on the surface as unsuccessful, but absolutely film financing is a mixture, not only of the box office, but DVD revenue, television sales, and then sales around the rest of the world. There will be many a film that we could mention that perhaps got critical acclaim in the UK, but did not work commercially around the rest of the world; compared to a film that actually the critics did not like but had enormous international success and/or DVD success, and was much more successful financially. So it is a more complicated criteria, but absolutely, still a criteria, and the board is not allowed to nor should it have any input into what films get invested in. That is the fund manager, that is obviously an appropriate check and balance, but the board do review on a regular ongoing basis the recoupment levels of the films in which we have invested, so we have a sense of financially which films worked as well as our own personal views on which ones were impressive pieces of filmmaking.

Q112 Baroness Howe of Idlicote: Can I just finish the point I was in the middle of making? You clearly have set up some arrangements, but do you think they work satisfactorily, i.e. with the industry, do you have any complaints from different parts of the industry still which you have not been able to deal with?  
Mr Till: Vociferous are the complaints from people who say we will not invest in their films, which is the majority, I do not know what percentage of applications we fund, but I think 5–10 per cent.  
Mr Woodward: Less.  
Mr Till: So a vast majority get rejected, and they tend to complain.

Q113 Baroness Howe of Idlicote: But if you see a change with the people you are talking to, you recognise something else needs representing, would you recommend that to the department, that that area should be represented, a member of that come on next time there is an appointment?  
Mr Till: I see. We are always working hard, the board does—absolutely, we do not just replace a producer with a producer, it is not automatically in that category. All the time, the industry shifts and moves, and you look for the skill base of the board to shift and move with it. The most obvious one is with the emergence of the digital sector, for example, two years ago, we recruited to the board the head of Arts Alliance and LOVEFiLM, who is probably recognisably the best digital exponent in the UK, as an example.

Q114 Chairman: I am used to annual reports which have photographs of the board actually smiling out at the public, sometimes these photo sessions take rather longer than this session itself. I cannot see any of that in your report. In fact, so far, I cannot actually find, and my assistants have been trying to find it, any list of the members at all. Am I right?  
Mr Woodward: The board is definitely listed in the accounts. There are no photographs.  
Chairman: That is fine.

Q115 Baroness Bonham-Carter of Yarnbury: You are investing that in film!  
Mr Till: We have the luxurious position—we can have a picture of Kate Winslet, for example.  
Lord Maxton: Or a picture of yourself.

Q116 Chairman: So you assure me they are here? We will try and find them.  
Mr Woodward: Our policy is to produce cheap documents though, and the photographs are on the website.
Mr Woodward: Yes.

Q120 Lord Maxton: Leading into a question which I was going to ask anyway, now you are in a competitive world in terms of tax credits, other countries, even American states now offer tax credits. What do they do in this particular area? How do they differ from what you are doing, and are they getting advantage from it?

Mr Woodward: They all differ, and the structures differ. Broadly, the UK is at the lowish end of the value of the tax credit, which is an interesting place to be, and it is not something that I think at the Film Council we would seek to complain about. We have never said to government that what you should be doing is entering a subsidy war with other countries to push up the levels of support. You need a tax credit frankly to be in the game, because most countries that are serious about their film industry provide one, but the UK tax credit, you will have read, is worth up to a maximum of 20 per cent of the film’s budget. If you go to Australia at the moment, you can get up to 40 per cent of your budget from the Australian government. If you go to Canada, if you use local and federal incentives, you can get up to 60 or 65 per cent of your budget. Ireland in the last week or two has moved its incentive up to be worth around 28 per cent, I think I am right in saying, of the budget. So Britain at 20 is at the low end, but we have always maintained the argument that in the UK, the tax credit is there as a cushion and an incentive, but in the end, this is not a Third World economy, we are not going to compete as an industry internationally on price alone. It has to be about skills and creativity, and our infrastructure and the skills that we have make Britain frankly—if you want to make a film anywhere in the world, Britain is kind of at the top of the list in terms of what is available here, in terms of resources and talent. When you put that alongside the tax credit, and you have to, I admit, throw the international exchange rates into the mix, that gives you the sort of triangulation which probably decides whether a film is going to be greenlit as a British film or taken to Australia or Canada.

Q121 Lord Maxton: I accept all that, I think that is right, we do have the skills, et cetera. There is also what I would call availability of other resources, for instance do you work with local authorities? If a film comes along and says, “We would like to shoot in X, Y and Z, and will the local authority co-operate?”, do you have to do that sort of work as well?

Mr Woodward: We do. What we have done is we work through a network. The way we work in terms of inward investment is that within the Film Council, we have a film commissioner who spends half of his time in Los Angeles, frankly, working with the studios on upcoming projects, and big films that might come...
into the UK, to get the package right. It is very straightforward business talk rather than marketing speak, about what can we do in terms of the UK environment to make you comfortable if you want to bring the film here. Once the film is greenlit to come to the UK, and there are issues around locations, around closing streets, around just the sheer difficulty of making a big thing like a film in a public place. We hand over to the network of regional screen agencies that we established, and they work on the ground, Film London obviously being the biggest and the hardest pressed in this area, given the iconographic interest that international films tend to have in London. It is the screen agencies who will work with the filmmakers to deal with local authorities, the police, so for road closure, river closure, all of those things that are needed in order to make sure that the filmmakers have a good experience when they come to the UK, and make them want to come back the next time, rather than going to the Czech Republic.

Q122 Lord Maxton: Is that something that has improved over the years? If you take Braveheart, which is the film maybe I would quote, that went to Ireland because certain facilities were not available in Scotland.

Mr Woodward: You are absolutely right. Braveheart was a long time ago. It went to Ireland to a large extent, as I recall, partly because the Irish were offering the army at a cheap rate as extras.

Q123 Chairman: I think we have been round Braveheart several times already in this inquiry. Let me ask about the tax credit. You would like to see the extension to the tax credit that you talked about. There was a constructive discussion between you and the DCMS; do I take it from that that the DCMS is sympathetic to your point of view?

Mr Woodward: I believe so, but I am sure you will have a chance to talk to ministers about that.

Q124 Chairman: So we assume there is a discussion taking place between DCMS and the Treasury on this point. Have you any estimate on what would be the cost of the extension that you are proposing?

Mr Woodward: I am doing this from memory, so if you forgive me, I might wish to correct marginally by following up, but one of the points we have made is in the submission about the technical details of how the tax credit should be extended, we have made the point that I think the Treasury has an allocation for the tax relief of £120 million a year. Currently, the production of British films is £104 million in terms of cost to the Treasury, so we are suggesting that as far as we can see—and again, the Treasury will have its own views on this, but as far as we can see, there is actually headroom in the current allocation of the Treasury to make that change, and not to have the tax relief cost any more than the Treasury estimated it was originally going to cost.

Q125 Chairman: A nice argument. I can see a public spending discussion going on for some time on that, but what is the gap between the £120 million and what is actually coming out?

Mr Woodward: We have proposed some ways of constraining it, and I was getting to the technicalities of it, because we want this change to happen; what we do not want is British filmmakers suddenly rushing off to foreign studios and taking their films with them, so we have suggested some constraints around it, particularly suggesting that the relief should be constrained to where there are very clear indications in the script that you need to go abroad, which would bring the costs down, and we think it would cost less than £15 million a year.

Q126 Lord King of Bridgwater: Can I just clarify one point? I am ignorant on this point about tax credit. You say Australia or Ireland offer 40 or more per cent. If a totally British team, unit, goes out and films in Ireland, only the external shoots or whatever, so there is no studio hire or anything else, is that eligible for tax credit in Ireland?

Mr Woodward: If they qualify as an Irish film, yes.

Q127 Lord King of Bridgwater: That is my point, what is an Irish film? If the total unit is British, paying British taxes and employing British people, would they get an Irish tax credit?

Mr Woodward: If they can qualify the film as Irish and satisfy the Irish authorities that they are contributing to the Irish economy, under Irish film policy, then yes.

Q128 Lord King of Bridgwater: This is the key point, is it not, what does that? What proportion of the cost of the film? Is it more than 50 per cent of the cost of the film, taking all the wages of the people and the location costs and whatever they may be, travel and accommodation?

Mr Woodward: With the UK tax credit, you have to expend more than 25 per cent of the budget in order to be—

Q129 Lord King of Bridgwater: 25 per cent of the budget of the film has to be spent in the UK?

Mr Woodward: In order to qualify for the tax credit.

Q130 Lord King of Bridgwater: So you can have 75 per cent of the costs of the film, bring in a completely American team, pay them wages in dollars and everything else, and you get a British tax credit?

Mr Woodward: Yes, if you are spending money in the UK, if I understand you correctly.
Chairman: We are going to go further into that. Lord Hastings?

Q131 Lord Hastings of Scarisbrick: Could you just take us through the logic and rationale and your sense of perspective about the cultural tests? They have different weightings, as we understand it. Could you just paint a picture as well of what you see as the disadvantage, maybe name a film or two that you have not been able to support because of it?

Mr Woodward: I have to say our perspective is we are pretty happy with the cultural test. It is pretty straightforward, it has 31 points, you have to score 16 points in order for a pass. The test itself is broken into four different bits: points for cultural content; points for cultural contribution; points around hubs, facilities, where you make the film; and points around who, individuals making the film, and so long as you hit the 16, you pass. We are not aware of any really serious issues where films that have wanted to qualify as British and are clearly not—you know, an American gangster movie set in Chicago, no, but films that are in any way designed to fit within the scope of what one might think of as a British story not having passed, it has been less of an issue. I think when you introduce something new, and bear in mind the cultural test is new, it takes the industry and the industry’s executives a while to get used to it, but I think you will find in the course of the investigation that most people think it is pretty good.

Q132 Lord Hastings of Scarisbrick: Would you enhance it in any way?

Mr Woodward: I would be tempted to leave it alone. We do not have any plans to enhance it at the moment, and the minute you want to enhance or change the cultural test, you open up the box marked state aids and European Union, and sometimes that is a box better left closed.

Q133 Lord Hastings of Scarisbrick: The lowest area is on cultural hubs, which is three points, which is about where it is filmed, and then the second lowest area is on cultural contribution, four points, on reflecting diverse British culture, heritage or creativity. Do you have any assessment on cultural impact?

Mr Woodward: Not yet, is the honest answer, because it is too early. I think we will be able to do that by putting together the statistics and the data we collect, but that is probably not going to be meaningful for, I would guess, probably another year or so, to be frank.

Q134 Lord Hastings of Scarisbrick: In the case of Slumdog Millionaire, how did that stack up against your various points?

Mr Woodward: I do not know, we did not finance the film. I can absolutely find out for you and send you that, but we would have to go back and look at that. The thing about Slumdog Millionaire is obviously very heavy involvement from Film4, Danny Boyle, a lot of the technical team, the crew, there are a lot of Brits in there, as well as people who were brought in on the ground in India, and the post-production and the visual effects, which traditionally occupies an increasingly large part of the film’s budget, would have been done in the UK, so the money can mount up in terms of UK spend pretty quickly, and UK contribution to the cultural test.

Q135 Lord Hastings of Scarisbrick: So who does the actual assessment?

Mr Woodward: The assessment is done by a department inside the Film Council which was pushed out to us from DCMS getting on for two years ago. We do the assessment and the assessment is passed to DCMS, and it is signed off at the DCMS.

Chairman: Lord Maxton, do you want to come in?

Lord Maxton: No, I do not think so, it is all right, believe it or not.

Chairman: I did not wish to cut you short on Braveheart.

Q136 Lord Maxton: It is one of the things that is not there, is what I would call the economic impact, and I am not going to use Braveheart, but there are films which have a direct impact, if you like, on the tourist industry, because the filming is about this country, but not necessarily made in this country, where it attracts large numbers of tourists into this country. Do you take any of that into account, or is that not part of the—

Mr Woodward: I think as the Film Council we do, but it is a matter of fact that the way the tax credit has been structured is to promote the making of films on the shores of the United Kingdom, not particularly around the making of British films that reflect a wider sense of British film culture. That is kind of incidental to the logic behind the tax credit.

Q137 Lord Maxton: So you might take it into account in giving a grant or some award to it, but it would not get tax credit?

Mr Woodward: Yes, we would. We are very careful about giving investments to films that do not qualify as British under the cultural test, or through the co-production treaties that exist.

Q138 Lord Maxton: But you have done it?

Mr Woodward: We have done it, but we do it very, very carefully, because at the end of the day, we are using UK public funding.
Q139 Lord Maxton: The Harry Potter films presumably—
Mr Woodward: Yes, I think even Warner Brothers would agree that they do not need money from the Film Council to finance Harry Potter.
Lord Maxton: I think that is probably true.

Q140 Baroness McIntosh of Hudnall: I want to go back to something you said as part of this, and it is not directly related to the tax incentive, but it is related to the question about people coming and making their films here. You said I think that the UK is the best place to make movies, I am paraphrasing what you said, but you made a pretty strong statement, on the basis I take it of the availability of technicians and technology, and studio facilities, and everything of that sort, post production as well as production, yes?
Mr Till: I think if I may—

Q141 Baroness McIntosh of Hudnall: Can I just get to the point of my question: can you substantiate that, because this is often said about the UK as a place to make movies, that it is top of the tree, and it has been certainly at moments top of the tree, but is it consistently top of the tree, and what would inhibit it from continuing to be there?
Mr Till: I think best place is a little sweeping. I think what we would definitely say is our production crews and facilities are the best in the world, the combination of their work ethic and their skill base is second to none.

Q142 Baroness McIntosh of Hudnall: Would the American studios agree with you about that?
Mr Till: Absolutely, that is why they regularly come to the UK. I think last year they spent about £350 million predominantly making Hollywood films in the UK, which means obviously taking sometimes the lead actors and the producers from Los Angeles into London. Obviously sometimes there are geographical issues, exterior issues, obviously if you want to shoot a film in the ice, or with lots of exteriors, but those little idiosyncrasies apart, we work very hard, the Film Council spend £6.5 million a year on training and education for the film industry, and a large part of that goes to consolidating the skills the production crews have to keep them at the highest level.

Q143 Baroness McIntosh of Hudnall: Sorry to stop you, but does that include the development of technologies? One of the things that is noticeable about film production in the last decade, say, probably two decades, is that the actual technology that goes into making films, particularly big films, has changed very significantly. Are we investing in staying ahead of the game in those technologies?
Mr Till: Absolutely. As we have the best production crews, which is kind of very analogue skills, in a studio, with building sets and cameramen and lighting, we absolutely have grown in the last five years the best post-production special effects, and Soho has taken over from San Francisco as the best and most cost-effective place, and obviously most of the investment in the new technology is done by the production facilities, because it is an incredibly expensive, fast-moving, capital intensive area, but we spend a large slice of the 6.5 million training budget on training people particularly with the skills and new entrants to work those machines, to set them up for careers, and provide an influx of quite specialist labour.

Q144 Chairman: You have given us a figure of £350 million from overseas companies spent in the UK on making films. Is that the UK trade surplus in films, or should other things be taken off that? I think they should, should they not?
Mr Till: The exports last year I think were £1.05 billion, which is made up of two elements: one the inward investment, ie the films that predominantly the studios make in the UK; and also revenues earned overseas by British films. So the box office of a British film in Korea, that is obviously the exports; the import, about just I think I over £800 million, so there was a trade surplus last year of just over £200 million, but the £800 million imports is obviously the money going back to Hollywood studios from the UK box office and DVD of the Hollywood films.

Q145 Chairman: Am I right in saying that that surplus has fallen, has it not, since 2004 when the figures I have suggest it was about £300 million?
Mr Till: You have better information in front of you than I do.

Q146 Chairman: Probably not.
Mr Till: One year is obviously always dangerous to compare, to take one year. The two elements are inward investment, which does go back a little bit to answering the earlier question, is also dramatically impacted by the exchange rate, because obviously the studios budget their films in dollars and the biggest variable which we cannot impact is obviously the pound to the dollar, so the peaks and troughs of inward investment, notwithstanding the quality of the workforce, absolutely will follow the dollar to the pound. In 2004, if the pound had been particularly weak, I do not think it was, then that would have encouraged inward investment and therefore increased exports, from factors outside our control.
But I would hope that with certainly the growing success of British films around the world, which we have seen absolutely, I think going from 9 per cent in 2002, British films’ share of worldwide box office has increased, to 2008, 15 per cent, that growth of a bigger share—of a growing market, remember, because the global film market is growing 8 per cent a year—would absolutely dramatically increase the export revenue British films are earning for this country.

Chairman: I am just going to bring in Lady Scott, and I can see there is a gentleman who is just going to whisper in your ear with some latest information on this, but we can come back to that.

Q147 Baroness Scott of Needham Market: I am not sure whether we have got to it there or not, because I have started getting confused about inward and outward, and I probably need to see it written down to try and understand that. I wanted to ask about how important it is to have inward investment, in terms of skills acquisition.

Mr Woodward: Hugely.

Q148 Baroness Scott of Needham Market: I think you have dealt with that, but what I was not clear was whether inward investment was dropping significantly, staying the same or going up.

Mr Woodward: We are expecting inward investment in terms of film production to be going up this year, we expect the 2009 figures to be better than the 2008 figures, and that is predominantly due to the dollar/pound exchange rate.

Chairman: We will try and put all this down, I think it would be useful from everyone’s point of view, but I know Lady McIntosh also had a question.

Q149 Baroness Macintosh of Hudnall: I wanted you to pick up on the question of what will inhibit, if anything, our ability to stay ahead of the game in terms of the services that we provide. The UK film industry is not large by comparison with the American film industry. It is rather remarkable, is it not, that we are able to say with confidence that we have such a high standard of service available to film makers from all over the world? What will keep us there and what should we be watching out for in terms of dangers and risks?

Mr Till: Perhaps I may first read one line in our written submission. “The film industry showed a net surplus of £232 million in 2007, up 81 per cent on 2006 and the largest surplus since 2001.”

Q150 Chairman: They are your figures. That is the trade surplus.

Mr Woodward: According to the ONS.

Mr Till: Yes, and that would be validated.

Q151 Lord King of Bridgewater: If we are getting figures, would you just confirm what the impact would be of the change in the exchange rate? Because earnings overseas would be worth more in sterling terms, and presumably the box office receipts that are going back to America would be worth less when converted into dollars.

Mr Till: We will absolutely include that. In answer to the question, the three variables about the Hollywood studios’ decision to make a film is, first, the exchange rate. That is the most powerful—we agree on that. The second, and I think the most important, is the quality of the workforce. I think it is vital that the Film Council continues to invest in the training and education of that workforce. We have spent £6.5 million a year over the last five years; so a very large slice of our budget. What I often think the Film Council does best is to do what the industry, because it is a very fragmented industry, does not do. The industry historically has not been good on training and education because it is so fragmented. These very small companies or freelance workers do not invest in it. One of the better things we have done over the last five years is that investment. As long as we continue to invest in that training and education, I think that we will attract a new workforce—because obviously we have to replenish all the time—and give them the career development throughout their career. The other thing is that at the moment, as John has said, we are absolutely not advising the Government that they increase the tax rate—the 16 or 20 per cent, depending on the budget of the film—but we should always keep an eye on it. It is a very competitive market. As someone said, there are 37 American states alone that are now giving subsidies. We are at the low end but we are still competitive in terms of tax relief. If our tax relief became very uncompetitive, we would go back to the Government and advise them that things had changed; but they have not got to that point yet.

Q152 Chairman: I think that it would be an extremely good idea if we could get some agreed figures on the trade surplus, inward investment and the rest, because I think that even now there is a certain amount of confusion—production, services, royalties, what goes in, what goes out—and it would be for everyone’s benefit if we could do that. Perhaps, in co-operation with you, we might seek to do that.

Mr Woodward: Could I make one point there, My Lord Chairman? We are to a large extent—and it was interesting that you raised these questions—a little at the mercy of the ONS here, who compile this. I think that it therefore has to be a three-way conversation with the Office of National Statistics, if we could.
Chairman: Yes, absolutely. That is an extremely good idea, and I would be the last person to start disagreeing with the Office of National Statistics and their great expertise. Lord King—a question on distribution.

Q153 Lord King of Bridgwater: This is the whole question about how important distribution is. Whatever the quality of the material we are producing, are we producing wonderful films that actually we cannot get anybody to distribute for us? What is our position over that?

Mr Till: You are absolutely right. The attention often gravitates towards production but the film industry is actually an industry of two halves, production and distribution, and so it is a good thing to focus in on it. There are two very different distribution models. There is the studio model—the Hollywood studios, who finance, produce and distribute films. They are fully integrated and they distribute around the world, often in 30 countries. Then there is the independent sector, where an independent producer will have his film financed by a mixture of financing and fragmented distribution, and then will have his film distributed on a country-by-country basis by different distributors around the world, which is really the independent distribution sector. I believe that, in the main, if a producer puts together a good film it will be well distributed. There are slight caveats. One of the Film Council’s responsibilities is to try to give some marketing support in the UK to films, to help create a more diverse film package for the British consumer. That is one of our roles. Also, one of our roles is that we are operating at a time when it has probably never been more difficult to have films financed. Although we are riding the recession very well in terms of the box office, we are not riding the recession very well in terms of independent film financing because, obviously, like every other sector, there is an enormous lack of liquidity and that is a big problem for the financing of films. The distributor is therefore finding it difficult. However, if you are a British film producer and you have a good film, whether your film is financed by the studios—and that happens—or by the independent sector and distributed in the UK by a British distribution company or a Hollywood studio, all those alternatives are good for the British film industry.

Q154 Lord King of Bridgwater: What came out surely, over Slum Dog in particular, is that you will not produce the film in the first place unless you have an idea about the distribution before you start?

Mr Till: Absolutely. I think that one of the big sea changes of the British film industry in the last 10 years, and a big contributor to its success, is that British producers are now making films for which they believe there is an audience. Historically, they perhaps made films that they wanted to see, which is a dangerous conceit; they now make films for which they believe there is an audience. That does not mean that it has become more populist or more crass, because films like Slum Dog, Hunger and Man on Wire prove that.

Q155 Lord King of Bridgwater: It seems to me the key point here is that at the moment you say ticket sales, attendances, are good, so the money is coming in at that end. There is no money to finance the films at this end, pre-production, and that is presumably where the squeeze is applying, so that increasingly in the future it will be the distribution and the end people to whom people will be looking to fund films. Is that right?

Mr Till: That is right.

Mr Woodward: That is absolutely right.

Q156 Lord King of Bridgwater: I suppose the key question I am coming to is how well are we placed in terms of ownership and influence on distribution networks globally?

Mr Woodward: We lack scale. That is the single biggest problem. Everyone has problems, but the independent distribution sector is in quite rude health and they are an entrepreneurial bunch. By and large, however, we are talking about a relatively small number of pretty small companies. What we do not have in the UK is anything approaching the scale of the Hollywood studio, which has the ability, as Stewart said, to select the film, finance it, get it made and then distribute it in all markets, increasingly day and date across the planet, with all the advantages that scale bring you. The British film industry does not have that.

Q157 Chairman: When did we last have that?

Mr Till: We had a company called PolyGram. I was the Head of International at that company. We were set up in 1992. Up to the year 2000, we made films like Four Weddings and a Funeral and Notting Hill, and set up distribution in 13 different countries including North America. We were unfortunate. We were bought by Seagram, who wanted to merge PolyGram Records and MCA Records, and we were a casualty of that takeover. Speaking personally, if there is one thing that the British film industry could benefit from, I would argue that it is a British-based mini Hollywood studio that had a worldwide distribution capability. However, that is not within the remit of the Film Council. PolyGram invested several hundred millions of dollars getting to where it got to. What we do work to is to try to set up market conditions where that is more possible than without our activities. We always have an eye on trying to create the landscape for that to happen; but, as John said, we are held back. It would be a better and easier place if that company existed.
Q158 Chairman: We have not had that, have we, since J. Arthur Rank?
Mr Till: Well, PolyGram.

Q159 Chairman: Okay, and then you go back quite a long way.
Mr Till: Before that, yes.
Mr Woodward: We do.

Q160 Lord King of Bridgwater: Is it unrealistic to think that we could buy a stake in the major global distributors?
Mr Till: The Hollywood studios? The public sector would not want to do that; maybe British-based companies might want to do that. There are several start-up plans. In my day job, we are developing a plan to set up a 2009 version of PolyGram. There are two or three organisations, individuals in the film industry, who have that aspiration; because it is quite an exciting business model.

Q161 Lord Macdonald of Tradeston: In terms of the economic relevance of the industry, which you said employed 30,000 people, the brutal arithmetic is that, with almost 30 million people employed in the United Kingdom, that is one in 1,000 jobs. That is almost barely relevant in national terms. Does not therefore suggest that the imperative for investment by Government is surely the cultural one rather than the economic one?
Mr Till: I do not think that it is either/or for a start. I think that the Government should have an absolute eye on the cultural imperative, and we do. Of the roughly £50 million a year we spend, £16 million of that goes to the BFI, who mainly do a lot of the cultural work. The cultural imperative is very important but I do not think that it is either/or, and it should be both. Oxford Economics calculated that the British film industry was worth £4.3 billion to the UK economy in 2007. I do not think that there is any industry that can have such a quick impact on the way Britain is perceived culturally around the world than the film industry. Although in terms of the criteria of headcount, no, we are not a heavy hitter; but, in terms of economic impact and ability to communicate and market the UK, I think that we are up there in the very high regions. Commercially and culturally, I think that the British film industry—I would say this, wouldn’t I?—has a very important role to play.

Q162 Baroness Howe of Idlicote: On the point of PolyGram, the role it was playing and the importance of it to the industry, do you see any future in some of the schemes that are being planned or thought about at the moment as far as broadcasting, i.e. BBC, Channel 4 and so on, and Worldwide? Could that take over that role?
Mr Till: We both want to answer this one! We believe that the BBC and Channel 4, Film 4, have a huge obligation as part of public service broadcasting to the British film industry. We did negotiate with the BBC for them to increase their production funding. Unfortunately, their clause was that it was subject to a satisfactory licence fee. They felt that the licence fee award was not satisfactory and therefore they pulled back from the increased commitment. We are also very concerned by the noises coming out of Film 4, that they may be forced to shrink their budget from ten to eight, or even below. As producers and investors in British film, they have a paramount role and I think that, as public service broadcasters, they have that obligation. They should be bent on to fulfil to at least the current levels, if not beyond.

Q163 Baroness Howe of Idlicote: But not Worldwide?
Mr Till: It would be difficult for them to go on and set up international film distribution, because that is not their capability or their skills base.
Mr Woodward: We have consistently argued for Channel 4 to increase its investment in film and possibly, off the back of Slum Dog, one hopes that might finally be possible. You said BBC Worldwide—I assume that you may be alluding to Lord Carter’s plans.

Q164 Baroness Howe of Idlicote: Yes, exactly.
Mr Woodward: We think that is very interesting. If there is to be a policy development which is to create a new public service content machine, that sits there to be complementary to the BBC and to provide public service content that is different from the BBC, whether or not Channel 4 is or is not part of that—if that is to exist, we would absolutely make the case that film needs to be considered as a major genre within that new organisation for support, along with children’s television programming, regional news, and all of the other deficits that have been identified, going forward.

Q165 Baroness Howe of Idlicote: But not as a distributor? I was thinking of it as taking over from something like PolyGram.
Mr Woodward: Not in terms of a rights-owning organisation that is out, exploiting those rights systematically around the world. Where I think an organisation like that could be incredibly important, depending where Lord Carter and the Government take the development of the plan, is obviously around digital distribution and the distribution of films through new technology and broadband to the British public. I think that is a huge issue for the film industry that we have not really had time to touch on this morning.
25 March 2009

Mr John Woodward and Mr Stewart Till

Q166 Chairman: It is not a big studio solution—the idea of a public sector big studio?
Mr Till: It is a big, local, UK, digital distribution solution; it is not a worldwide solution.

Q167 Chairman: We have gone way over time. That is because we are very fascinated by what you have been saying; it has been very interesting. There is just one last question. You gave quite a rosy picture of the British film industry really, but you said that there was “room to grow”, to use your words. In 60 seconds, give us the main headings of “room to grow”, where that room to grow would be.
Mr Till: There are two extremes. The growth that we have helped encourage from 2000–09 is an upward curve and I think that that nine to 15 per cent box office can grow, and there is momentum. The industry and the Film Council have to keep implementing the good practice of the last nine years. I think that digital offers enormous opportunities and enormous growth for filmed entertainment. Those are the two momentums. Equally, though, we are facing a chasm. If the intellectual property that is created by producers and by distributors within the British film industry is not protected, and if we move in this digital broadband age to the music industry where 95 per cent of all downloads in the UK are illegal and the rights owner gets no revenue—if we move to that situation, and technologically we could within a year or two, and 95 per cent of downloads did not produce any income for the film industry, that is Armageddon for us.
Chairman: We may want to explore some of these issues further with you, perhaps informally or perhaps at another brief meeting like this, but in the meantime could I thank you very much for coming this morning. It has been very interesting evidence and we are deeply grateful.

Memorandum by the Broadcast Entertainment, Cinematograph and Theatre Union (BECTU)

1. BECTU is the trade union for workers (other than performers and journalists) in the audiovisual and live entertainment sectors. With thousands of members, both staff and freelance, working throughout the film, broadcasting and independent production sectors, we have a strong interest in the future of UK-originated film and television programme production. Our submission is, as requested, short. It focuses on two of our main areas of concern—the system of film production tax incentives (Q3) and the future of public service broadcasting/PSB (Q6).

Q3 Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate?

2. BECTU has welcomed the new system of film production tax incentives and the linked “cultural test”. We believe that they have had a broadly beneficial effect on UK production compared to the production levels which might otherwise have occurred (with the exception of co-productions).

3. However, we do have a particular concern about the tax incentive system in relation to the practical operation of the “use & consume” provision, which restricts tax credits to those services, including employment and labour services, “used & consumed” on the territory of the UK.

4. There are two aspects to this concern. One is in relation to the provision of UK labour and services abroad. It is common for such services to be provided for films shooting on foreign location—but, in contrast to the previous film tax regime, they do not attract tax credits under the current “use & consume” rules. There is thus a disincentive to the use of such services, to the detriment of our film industry. However, we note that this argument has been put forward by many other parties including, we believe, the UK Film Council.

5. The other aspect to our concern—one on which we place a priority—is in relation to the provision of non-EU labour and services for film production on the territory of the UK, which now benefit from tax credits. Given that there is no restriction on the provenance of such services; that this is a mobile industry consisting almost entirely of freelance workers; and that our film industry attracts significant inward investment, especially from the USA—we now perceive a growing trend for incoming US-based producers (and others) to seek to bring non UK/EU labour into the UK on grounds of “familiarity” or “continuity”. This has the effect of denying employment opportunities in the UK to UK/EU labour.

6. In contrast to our previous tax regime, there is now no financial disincentive to engaging non-EU labour and we believe some film producers are exploiting this purely on grounds of convenience, ie they seek to bring in non-EU labour—even in relatively junior roles—purely because they are used to working with particular individuals and regardless of the availability of eminently qualified and experienced UK/EU labour.
7. This is compounded by the replacement of the previous work permit system with the new points-based “managed migration” system for incoming foreign labour. The new system—effective from November 2008—allows only the retrospective checking of sponsors’ certificates after they have already been issued. There have been lengthy discussions with the Home Office/UK Border Agency on these issues and we have participated in the framing of Code of Practice for our sector. However, the fact remains that the new system is employer (i.e. “sponsor”)-led and allows considerable potential leeway for the inappropriate use of non-UK/EU labour. We emphasise, however, that we have never and will never object to the engagement of key creative workers from abroad—and this is confirmed in the Code of Practice.

8. Our sole concern is to protect our domestic skill base in film production—on which the Government has provided welcome financial support for the training infrastructure. We do not wish to see this undermined by a perverse disincentive, under the “use & consume” provision of the tax credit system, to the use of UK/EU labour. We believe this is an issue of joined-up Government: we need to ensure that film tax policy does not undermine public policy on training and skills development.

9. Lastly, we recognise that any realignment of the film tax regime would have to have regard for EU state aid regulations. However, we emphasise that our concerns are only in relation to incoming labour from outside the EU. Furthermore, the state aid provisions are to be reviewed in 2011—and this provides an opportunity for a fresh approach which would allow UK tax incentives to support the provision of UK/EU labour and services to original production in our film industry.

Q6 How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

10. We regard our PSB system and its supporting framework of regulation as the vital element underpinning the range and quality of UK television production, which has historically led to high levels of audience approval domestically and significant levels of appreciation internationally (reflected both in exports and international awards).

11. However, we recognise that our PSB system—and therefore UK-originated television programme production—now faces significant structural problems:

— The growth of digital multichannel broadcasting is leading to a fragmentation of audiences and therefore of revenue for commercial PSBs ie ITV, Channel Four, Five.


— We note that the BBC—rightly regarded as the cornerstone of our PSB system—is constrained by an inadequate licence fee settlement which has already resulted in significant job losses at the Corporation.

— We agree with Ofcom that there is no evidence to suggest that the purely commercial market will fill any gap in original content left by commercial PSBs and will not provide sufficient competition for the BBC in a number of areas valued by audiences.

12. We have put forward proposals to both Ofcom and the Digital Britain team on how to remedy the commercial PSB funding gap—and therefore the potential future shortfall in production of original UK public service content.

13. In summary form, our views on future funding are as follows:

— We oppose top slicing the BBC licence fee since this would only siphon off vital resources from one part of our PSB system to another. Indeed, we advocate an upward renegotiation of the BBC licence fee settlement. We further oppose the reallocation of the so-called digital excess licence fee since the BBC will continue to have a significant role in promoting digital switchover and the growth of broadband.

— We favour the continued allocation of gifted spectrum for commercial PSBs. We advocate the reservation of additional spectrum for HD (high definition) PSB services on Freeview. We also advocate allocating a suitable proportion of the proceeds of any spectrum auction to bridging the commercial PSB funding gap (although we would prefer a reconsideration of Ofcom’s market-based proposals for spectrum allocation by auction).
— We particularly favour consideration of industry levies. We note, in Ofcom’s words, that “content distributors and aggregators were benefiting from access to high quality UK content for which they were not paying”. We further believe that, apart from live sports coverage, non-PSB broadcasters such as BSkyB produce a pitifully low level of UK-originated content relative to overall revenue.

— Jointly with NUJ, we have commissioned our own research on levies from IPPR (Institute for Public Policy Research) and will be happy to supply copies of the research report. This outlines, with indicative figures, a series of practical proposals for levies both on non-PSB broadcasters (eg BSkyB, Virgin Media) and on new media platforms (eg internet service providers, telecom/mobile phone companies). Such levies are eminently deliverable, could adequately bridge our PSB funding gap and have a range of foreign precedents.

— We believe that official reluctance to introduce such levies will reflect not any lack of practicality in the proposals but merely a lack of political will to introduce a levy in the face of predictably shrill opposition from the broadcasters affected and their extensive lobbying resources.

— Furthermore, we believe that a levy on non-PSB broadcasters could be constructed on a sliding scale or banded basis in relation to their levels of UK-originated production ie the higher the level of such production, the lower the levy. Such a system could both provide much needed resources for commercial PSBs and also a strong incentive for non-PSB broadcasters to increase their levels of UK-originated content.

14. We recognise that there are more detailed and specific arguments on the situation of ITV plc and of Channel 4. While there is no space in this submission to address these particular arguments, we take the view that the above proposals for additional funding could provide a necessary underpinning for more specific measures (eg on ITV regional news; on C4’s relationship to BBC Worldwide). Without such additional funding, these measures in themselves are likely to be inadequate in our view.

15. However, we recognise the particular problems in respect of UK children’s programming. We believe that children’s television is too important to be left to the market, in view of the social, cultural and educational implications of leaving British children without any significant alternative to a television diet of American and other imports. We would support consideration both of additional funding streams (as set out above) and of production tax credits (but—in respect of the latter—emphatically only if these are available to in-house producers at broadcasters as well as to independent producers).

16. In summary, we believe that the growing PSB funding gap is the key structural problem which needs to be addressed if we are to maintain a UK-originated television production of a sufficient level, range and quality. We believe that—just as in the global financial system—free market solutions are inadequate and that a strong PSB regulatory and funding system is our best hope for the future.

CONCLUSION

17. We welcome the Inquiry and hope the Committee will take note of our views on film production tax incentives and also on support for public service broadcasting as our main source of UK-originated television production. We look forward to the future progress of the Inquiry.

16 February 2009

Examination of Witnesses

Witnesses: Mr Luke Crawley, Assistant General Secretary, and Mr Martin Spence, Assistant General Secretary, BECTU, examined.

Q168 Chairman: Thank you very much for coming and we are sorry to have kept you waiting. I think that you have probably been watching proceedings and so you will have heard quite a lot of the evidence. Could I begin by asking you about how you see the state of the British film industry at the moment? We have heard from the Film Council a quite rosy picture. I think it is not unfair to say that. How do you see it from your point of view?

Mr Spence: With the focus on the level of production—because I am here today representing that section of our membership working in film production, most of them freelance workers but not all—it is a mixed picture. Last year was not great and it was certainly down on the year before. This year, I think that John Woodward distinguished accurately between the larger-budget, US studio-based pictures, where it looks as if we have a reasonably good year coming up. There are four big pictures under production in this country now and a lot of our members working on them, and that is great. However, the bulk of British film production in any given year is the lower and medium range of films, which are UK-originated, UK-financed films, made primarily with UK audiences in mind, and it is looking much more difficult in that area—for all
the reason that you have just been hearing about.

Q169 Chairman: Raising the money?
Mr Spence: That is right. Looking ahead to this year, therefore, it is a mixed picture.

Q170 Chairman: What implications has it had so far for employment? Looking back over the first nine years of this decade, has employment been growing? What has been happening?
Mr Spence: I think that the discussion you had earlier on with John and Stewart was interesting because you did focus on the way in which employment in this industry works. The production workforce is overwhelmingly freelance. The discussion focused on a figure of approximately 30,000 for the size of the workforce, but that, as you accurately identified, is the number of full-time equivalent jobs.

Q171 Chairman: 45,000 people, 30,000 actually—
Mr Spence: That is right. There are many more people trying to get that work than there is work available to be got. Of course, in good years when there is a general sense of optimism, that encourages would-be participants in the industry maybe to drop the other strings to their bow and concentrate on trying to find work in the film industry, since the studios seem to be busy and there seem to be jobs on the go. Tracking it and statistically tying it down, however, is incredibly difficult. You can count the number of jobs that were available at the end of the day and were filled with bodies; what you cannot count are the number of people who were trying to get those jobs and failed, and who are hanging on around the fringes or the penumbra of the industry, still subjectively regarding themselves as part of it but perhaps, objectively, having a rather more ambiguous status. Now it is difficult. Our members in the construction departments, in set construction and set design, are very busy at the moment, pretty much fully employed because of these big US studio-financed films that are on the go. As to our members around the camera, the people involved directly in shooting, in recording material, some of them know that they have jobs coming up but many of them are looking ahead to a pretty bleak year, for the reasons I outlined before.

Q172 Chairman: How many members do you have altogether?
Mr Spence: Altogether we have between 26,000 and 27,000 members. Of those, about 11,000 or 12,000 are freelance and of those—and again one cannot be specific because individual careers cross boundaries—perhaps 7,000 or 8,000 of our freelance members are working regularly or predominantly in film production.

Q173 Chairman: There is obviously a bit of cross-over between film and television.
Mr Spence: Cross-over between that and television and between that and commercials production, that is right.

Q174 Baroness McIntosh of Hudnall: Can we come to the issue about tax incentives? There was a lot of discussion about that. In your evidence you were fairly clear that tax incentives were helpful and that, I think I am right in saying, this particular regime of tax incentives is helpful. Can you amplify that a bit for us? What it is that is helpful to your members in particular? Can I ask you to consider a couple of other issues arising out of the tax regime? One of them is the question of the cultural test, which we discussed briefly with the people who were in those chairs before you. How does that affect your membership? Is it applied in a way that on the whole seems to you to be fair and reasonable? Has it indeed provided any direct benefits to your membership? The third point, which is again related but not the same, is that you raise in your evidence the issue of the way that companies now use the “used or consumed” provision within the tax benefits; you raise some anxieties about it possibly changing the way in which companies are employing, and that they are bringing non-EU employees into this country under that provision. Could you give us a bit more background on that as well?
Mr Spence: Yes, I will try to cover all those points.

Q175 Baroness McIntosh of Hudnall: In the interests of speed I thought that I would bowl the whole lot at you at once!
Mr Spence: First, in broad terms, like the rest of the industry, yes, we welcomed the introduction of the new tax credit—for two reasons. It followed a prolonged period of real uncertainty, and that has a cost because investors were holding back until they knew how the land lay. To have a clear, new arrangement in place was therefore welcome. The arrangement itself in its detail is welcome. I have to say that John Woodward and Stewart Till can speak with more knowledge and expertise than me. I am a humble trade union official; I am not a film financier. However, my understanding is that it is simple; it does work; the definitions are clear; people know whether they have qualified as a British film and, if they have, they can be sure that the paperwork will be dealt with effectively and the money will flow quickly—so it works, and that is great. It ended a period when, frankly, we had a system which was set up in good faith but which was
being widely abused and was unsustainable. That is bad. It is bad in itself; it is bad for tax revenues; it was becoming bad for the reputation of the industry, and nobody who works in the industry benefits from that. For all these reasons, therefore, yes, we welcome it. It is tied up with the cultural test. This obviously emerged from the negotiations that had to be done with the European Commission. Reference was made earlier to the need to pay attention to the state aid rules and so on. The European Commission, in allowing the UK to move to this new arrangement, and paying attention I am sure to the fact that a major part of our industry is an export industry in film production services to the United States—that is the commercial and historical reality—from the European Commission’s point of view they had to be satisfied that the new arrangement met their requirements for a form of exclusion from the usual state aid rules to be genuinely justified by cultural considerations. That is what the cultural test is about. We therefore understand the political reasons why it has to be there. That touches on your third point about the “used or consumed” provision and how it is working in practice. Perhaps I can best explain this by referring to the previous regime, which was called Section 42 under a section of a piece of financial legislation. In order to qualify as a British film previously and for the previous tax advantage, one of the provisions was that the producer had to be able to demonstrate that 70 per cent of their spend on crew was on UK or EU crew. In other words, that there was a significant majority local—and broadly defined “local”, European Union local—but majority local employment on the film. No such provision exists now. The cultural test, which is available on various websites—there was discussion about it before and you have access to it—does require certain key, senior, creative practitioners, or does give you points if certain key, senior, creative people are UK or EU in origin. It gives a single point if there is a majority UK/EU crew—that is one point out of 31—and another point if certain senior heads of department are UK or EU. Overall, however, if you are scoring high on other considerations, then there is absolutely no bar to your having, for example, a majority American crew working on a film that is physically shot here in the UK, that is sufficiently British in its subject matter and ticking enough boxes in other regards for it to be culturally British; you are getting the tax credit and, as long as it is shot on the territory of the UK, it qualifies. The problem for us in that arrangement as compared to the previous arrangement is that, for an incoming producer, it creates an enormous comfort zone for them in terms of where in detail they find their crew. Perhaps I could give an example. We have never objected historically if a particular producer wished to bring in, let us say, an American director of photography—a cinematographer. That individual might have the eye, the understanding of the mood, the narrative and the intention of the film. That might be the perfect person to direct photography, to light that film, for creative reasons. No problem. We understand that. There has always been international flow at that level of talent in the industry. Previously, though, that director of photography would not be able to say blithely, “If I’m going across to the UK I’d like to take my favourite camera operator and my regular focus puller; and I’d quite like my regular grip and my usual gaffer as well”. Previously, the producer would have had a very clear incentive to say, “That doesn’t work. We have to demonstrate majority UK or European crew here, to tick the right boxes. We want you but, come on, you’re freelance; you’ve worked with hundreds of people over the course of your career. There are great people over in the UK. The skills are undeniable; the experience is undeniable. We’ll find you someone brilliant to work with—but it’s you that is coming and not the rest of your mates”. Now, if the cinematographer makes the same demand, the producer will find it easier, in terms of their relationship with that cinematographer, to say, “Okay, let’s see what we can do. Have your camera operator; have your focus puller. Do you really need the grip? Can we try and find someone local for the grip?”—and there is a different sort of discussion going on. We are finding that, with grades such as grips—highly skilled people who are responsible for effecting camera movements, for tracks, camera cranes, dollies, and all those pieces of film-specific equipment—there was never a question of grips coming in from the United States a few years ago; it just never happened. Now it is happening quite regularly. I think that the regime we have ended up with, because of the new areas where the producer is under pressure and where the producer has much more freedom of manoeuvre, actually acts as a perverse incentive to bring in many more crews, not just from outside the UK but from outside the European Union, than they previously could. In the medium and long term that undermines the skills base, which you have just heard from Stewart Till and John Woodward is one of our key selling points.

Q176 Chairman: How would it work the other way round? If a British director went to the United States, would he be able to take with him what you have referred to as “his mates”?  
Mr Spence: No, he would not, because what would be required in the United States—and good for them, because they have very clear arrangements to protect their skills base—we have all heard of this
term “green card” but there are also other arrangements. What would be required is a set of permissions, one aspect of which, which is of interest to us of course because we are a trade union, is that our sister union’s permission for a particular employment of a non-US citizen to be allowed in the United States would have to be signed off by the US trade union before it went to the government or public agency that finally gave permission. They therefore have a much more robust set of arrangements to protect their skills base and their workforce.

Q177 Baroness McIntosh of Hudnall: The point you make is well taken but, in terms of actual evidence of impact, this particular regime has not been running that long. Three years, something like that? Mr Spence: Since 2007.

Q178 Baroness McIntosh of Hudnall: Not even that long. You have given the kind of example, but is there a trend that you can evidence which shows that there is in fact employment being lost in this way? Where would we look for that evidence? Can you provide it or is it available elsewhere? Mr Spence: We believe that there is a trend. Until recently, the evidence emerged from those cases where we were consulted informally for our view by the Border and Immigration Agency, the UK work permits office as was, when we had work permits in place. There was no obligation upon them to consult us or seek a view but sometimes they did. We noticed a trend, from soon after the introduction of the tax credit, for particular industry grades—I have mentioned grips and that is one of them, sound recordists is another—where there had never really been an issue in the past suddenly starting to come up, and their seeking our view. Now there is a new regime and the information flow is in different ways, under the new points-based managed migration system. We hope that there will be better information on this as time passes but always, I am afraid, after the event now. We will be chasing events.

Q179 Baroness McIntosh of Hudnall: In terms of why that change was made, at the point at which the regime changed, what was the rationale as you understood it for reorganising the way that the permissions worked, so that there was that new opportunity for overseas film producers to bring their own crew in with them? Mr Spence: Do you mean the rationale in that there was no equivalent—

Q180 Baroness McIntosh of Hudnall: What you were describing earlier was a regime that operated in a way which made that very unusual. Now we have one which makes it less unusual; indeed which, as you said, provides what you call perverse incentives. There was presumably a rationale that brought about that change. I just wondered if you could tell us what it was. Mr Spence: I think that it stems from the nature of the cultural test, from the agreement that needed to be reached with the European Commission that if some special arrangement was to continue to be in place for film production, to encourage film production, it had to be justified primarily on cultural grounds and not primarily on economic or employment grounds. So the cultural test, as a cultural test, fails to provide an equivalent mechanism, as we see it, to protect the skills in the workforce in this country that previously benefited from the Section 42 regime in an equivalent way.

Q181 Baroness McIntosh of Hudnall: Do other European Union countries have the same problem? Mr Spence: Obviously they are subject to the same EU rules as we are, but I think that this is where the interesting question of the language we speak becomes a factor. The French film industry, which fights its corner formidabley, and which is formidable in all sorts of ways, of course benefits from the fact that the French language is an enormous cultural asset and a nationally specific asset. They are not making films in the language of world business, world commerce and, specifically, of Hollywood; so it is much easier, frankly. We welcome the inward investment but it is also much easier for us to have to face the downside of our skills base being, as we see it, undermined by this much easier regime which allows skills to come in from North America.

Q182 Baroness Eccles of Moulton: Is there any risk, if the system was tightened up so that the chosen director—who you made very clear is the right one for the job—was not allowed to bring the team with him which he normally works with, that he might turn down the assignment altogether? Has that ever been thought about or happened? Mr Spence: Yes, and it is a point that has been put to us as we have made these arguments in different places. Case by case, yes, there may a risk. A director or a director of photography, a senior creative individual in high demand, can pick their projects. If that were the swing factor, then that would be the swing factor. All I can say, though, is that under the previous arrangements we were successful in attracting very significant volumes of investment from North America, and it did not seem to be an insuperable barrier to their nevertheless choosing to invest in this country and to make films in this country.
Q183 Baroness Eccles of Moulton: They were happy to come and work with teams provided at home, as it were?
Mr Spence: Yes, they were.

Q184 Lord Maxton: Although obviously there is the language question, if an American company wants to make a film in Italy, France or wherever, do those countries impose different rules in terms of allowing crews in, or do they have the same problems as we do?
Mr Spence: Like us, they cannot discriminate against workers from other—

Q185 Lord Maxton: EU people.
Mr Spence: Exactly, from other EU countries.

Q186 Lord Maxton: What about an American company? I know that spaghetti Westerns are well out of date but, coming into Italy to make a spaghetti Western, would the whole crew come in?
Mr Spence: I plead ignorance to the immediate question. I am not familiar with the Italian or, say, German arrangements sufficiently. We could try to find out and get the details through to you. It is a good question.

Q187 Lord Maxton: For comparative purposes.
Mr Spence: As I say, I think that we are more exposed to the problem than those other European countries.

Q188 Lord Maxton: Because of the language?
Mr Spence: That is right.

Q189 Lord Macdonald of Tradeston: You were saying that there seemed to be a lack of evidence on the first question about the non-EU residents employed in the UK. Is that the same for the pattern of employment of your actual members? How many members do you have in this area and is it going up or down? What are the trends there?
Mr Spence: We are just about holding our membership steady at the moment, I am pleased to say. Not all trade unions are finding that easy to do but we just about are, in difficult times. As I said before, of our 11,000 or 12,000 freelance members, I reckon about 7,000 work predominantly in film production; but it is pretty much a guess. Different careers have different profiles to them at different times.

Q190 Lord Macdonald of Tradeston: In those grades are they all largely unionised—the grades that you are talking about?
Mr Spence: The latest independent statistics—Skillset, the Sector Skills Council, did a workforce survey last year and found that about 30 per cent of the workers in the industry that they surveyed were members of BECTU. We sometimes find slightly higher percentages when we do analyses of crews on particular films, but that is an independent figure and so I will live with that.

Q191 Lord Macdonald of Tradeston: Could I ask about the co-productions? The impression that you give is that the tax incentive has not been beneficial to co-production. I think that is accepted. What other factors have contributed to this, and how would you like to change it? Again, an impression picked up was that the co-productions sometimes lacked some of the cultural values that we would be looking for. Are you saying that you want to see more co-productions just to create more jobs, rather than for the cultural value they would bring?
Mr Spence: No, I think we would say that we would like to see more co-productions happening for both reasons. Obviously we welcome the employment. We were aware of the situation we were in before, where lots of films were being made, frankly not for reasons of film production or the cultural value of the product but purely as a vehicle for managing certain individuals’ tax affairs. We would not wish to go back to anything like that. We do not welcome, if you like, employment on any grounds, because ultimately that will come back to bite you. My reading of the problem with co-productions is about the 25 per cent threshold, which is a bit of a barrier but, more importantly, about the fact that a credit is only achieved for production on the territory of the United Kingdom. Here we completely support the Film Council’s argument that there should be some loosening up of that and it should be possible to have a British-qualifying film with majority production in the UK, but where production location filming outside the UK also legitimately qualifies.

Q192 Baroness Scott of Needham Market: We had an understanding from Film 4 that they were not too fussed about changing the regime. I wonder if you want to comment on that, because we were a bit surprised.
Mr Spence: The Film Council is more in the frame than I am in terms of being across the views of different parties in the industry, but my impression was that there was a broad consensus that certainly some flexibility about the question of location shooting outside the UK would be an unambiguous good. We have this further argument on the detailed way in which the “used or consumed” provision works as well.

Q193 Chairman: Most would still have to be shot inside the UK; it is just the balance, in effect.
Mr Spence: That is right.

Q194 Baroness Howe of Idlicote: Turning more to the content side of television, we have heard a lot of the reasons why there is concern, and you have given
some in your paper anyhow: the growth of digital multi-channel broadcasting. Ofcom’s estimate of a potential funding shortfall, and so on. The thing which is perhaps interesting here is if in fact, as you say, more UK audiences still prefer to watch UK productions, why necessarily does that mean that more of them are not being made? Why is it a detriment, as it were, to the UK television industry to make these films? I can see that it can be some detriment, but are there not some upsides to the fact that the audience actually likes the British productions? Is it just the fact that buying in films from America or whatever is so cheap, because of the way the economic situation and other changes are going, that makes a problem?

Mr Crawley: There is not an easy answer to the question but I think that it is largely economic, in the sense that the American films are made for the American market and costed to make money in the American market. Having done that, anything they can gain from selling them into the UK market is clearly additional. They are not trying to recover their costs entirely from selling to the UK market and so their prices can be lower. Clearly the UK audience does like to see American films, but then so do the audiences in other countries around the world. For American studios there are lots of possibilities of earning money back on the return of their investment, whereas the UK film, depending on how UK-specific it is, is not necessarily going to be watched by people in Korea or Africa, for example; so it will not necessarily attract the same kinds of sales. If you are sitting as a business person saying, “Shall I invest in this?” and think, “I can make returns from the UK market and they will be such that, if I can make returns from the UK market and the rest of the world, they will be considerably higher”, I think that I would rather make a film that might make considerably higher returns. I have to say that I think that is a short-sighted approach, because clearly we are capable of making films, and indeed television programmes, that are sold across the world, and you can get a return on your investment that is equal to anything that any other country can do. However, I do think that it is an economic argument rather than anything else.

Q195 Baroness Howe of Idlicote: Is there a specific answer that would help as far as reversing that is concerned?

Mr Crawley: A specific answer in the sense of directing investment? Unless you are going to say that UK television channels, whether they are cable, satellite or whatever, must show a certain proportion—we already have rules of that kind in place to a certain extent. It is not very obvious that we want to go down the road, or whether the UK Government would want to go down the road, of compelling investors in films to invest in only certain kinds of films. Clearly tax incentives of the kind we have talked about are an indirect encouragement, or a fairly clear encouragement, and it is more or less successful. If it can be made more encouraging, without necessarily costing large amounts of money to the public purse, which is stretched at the moment, then clearly that could work. There is not an easy answer to it.

Q196 Baroness Howe of Idlicote: An extension of this whole area is the grave concern about public service broadcasting and the various shortfalls that there are. A particular one that I am interested in is the shortfall of children’s television. I find this quite extraordinary because, for all television companies, the children of today are after all the viewers of tomorrow. You might think that there would be rather more attention given to that group in starting their interest young and keeping it going. Again, do you anything further to say here?

Mr Crawley: I think that our paper does identify the problem. It is a commonplace really in the industry. ITV does not feel that it should be compelled to make children’s programmes as part of its public service remit and it is busy trying to get out of it as fast as possible. Clearly broadcasters find it cheaper to buy in, say, Nickelodeon. I think that the BBC is trying to hold the line with a children’s channel, CBBC. I agree with you, however. I think that it is at the very least short-sighted, if not plain crazy, to ignore the children who will grow up to become your adult audiences and the ones that you want to sell on to advertisers and so on, in the commercial sense, to not produce something which specifically ties them in to you and encourages them to want to watch your channel, or, I would also say, listen to your radio stations. I think that it is a very significant failing of the BBC to take children’s programmes off Radio 4. I understand that young children are possibly more likely to listen to digital, but, on the other hand, they might also start listening to digital and looking at digital and they are less likely to look at the BBC.

Q197 Baroness Howe of Idlicote: The radio side you regard as equally important, which is good to hear. I notice that you, though not very many other people, seem to think that the settlement for the BBC was not very generous. Surely, even within the generosity or lack of it that is there, is there not some way perhaps your members could do rather more to put a bit of pressure on the BBC to spend rather more of its budget on these things?

Mr Crawley: I think that we do put pressure on the BBC to focus on children’s programmes. We have a lot of members who work in children’s programmes and they are vociferous, to say the least, in trying to encourage the BBC to go down that road. I think that
the BBC just says, “We’ve got so much money to spend and we’re choosing to spend it elsewhere”. They are still making children’s programmes obviously, but they are trying to contain their budgets. One of the difficulties, amongst other things, is that when the licence fee was settled—which was some time ago, before the crunch began to bite—2 per cent was then seen as being likely to be considerably below what inflation was expected to be. It has turned out that inflation is now at zero as we speak and so some might say that a 2 per cent licence fee is rather good. I think that the key factor the BBC should remember—and obviously does remember and, if it does not remember, it is reminded of it repeatedly—is that it is guaranteed income every year and other broadcasters do not get guaranteed income. The BBC needs to be conscious of that fact and try to spend its money appropriately—which I have to say it does try to do.

Q198 Chairman: Most other businesses would give their right arm for a solution of that kind. Mr Crawley: Yes, and possibly one of their feet as well! There is no question but that that kind of guaranteed income is an extraordinary thing.

Q199 Chairman: Do you think that it is the BBC making an excuse? “Children’s programmes in terms of popularity are not what they were. Let’s try and get out of this. We can’t say explicitly that we’re going to get out of it, so we’ll actually talk about the licence fee.” Mr Crawley: I think that the BBC, to remind ourselves, is still making a lot of children’s television programmes. It has the CBBC. The issue I was identifying is Radio 4, where I think they have taken a retrograde step in taking children’s programmes off Radio 4 and putting them onto the digital radio channels. I think that the BBC still has a very large financial commitment to children’s programming. The BBC does many things. Many of its critics say that it does too many things. I think that the BBC needs to focus on the things that it does well and it does need to focus on things like the children’s audience, because the children’s audience is essential for the future. I have sons of my own and my best efforts have managed to make them listen to radio; my best efforts have failed to make them watch BBC television, because they have so many other interests on the internet and other sources of information. It is a very difficult battle. They are in their twenties, and I think that with the generation below them it will be much harder.

Q200 Chairman: That is the point, is it not? The viewing habits of young children have changed out of all recognition. Mr Crawley: Yes.

Q201 Lord Maxton: Do you seriously think that having more children’s television would mean that they would watch more television later? I have my doubts. I think that young people have now moved to a whole range of ways of looking at what they want to watch, rather than being tied down to sit with their mother and father in front of a television screen, watching the programme that the mother and father want to watch.

Mr Crawley: I think the point is not whether they will grow up to become great TV watchers in the sense of a mainstream channel TV watcher; the point is that they will grow up watching. I would hope, television programmes made in this country by people from this country, which reflect the culture, the existence, the life, the economy that is around them in this country, and therefore know something about their country that they will never know from watching Nickelodeon. Nickelodeon is relatively easily available in cable packages and satellite packages, and I think the BBC needs to do as much as it can to make sure that the programmes that it makes—which I think are British TV—to give them the habit of watching British TV, or British programmes. Let us not say “TV”, because they may be consuming them through the internet, through many other ways, on their mobile phones. That is clearly going to happen. If they have no habit of watching or wanting to watch and understand their own culture through a visual medium, however, they will just watch whatever they see. If whatever they see is the cheapest product that is brought in from America, then that is what they will be watching and I think that will impoverish us all.

Q202 Chairman: You have defended the BBC. What about ITV? Mr Crawley: I think that ITV is in a very difficult situation. We have been very critical of ITV because we think the position they are in is partly caused by the move that is happening but partly caused, we feel, by managerial failings. They have been trying to get out of their public service obligations for a long time, local TV news especially. Each time they have gone to Ofcom and said, “It is so expensive making this local television news. Can we make a bit less of it?” Ofcom has said, “Oh, well, all right then”. I do not think that is Ofcom’s role. They are supposed to be representing the viewer. I think that the viewers very clearly do not want less local TV news. If anything, they want the same as they were getting before the latest change; but, more, they like to see about their neighbourhoods; they like to see what their local politicians are doing; what is happening in their local areas, and so on. That matters to them. ITV, however, has now collapsed into these very large areas, which we think is very poor and robs ITV of a very important part of its regionality. There is no question...
but that ITV has a very difficult job indeed, and also STV and UTV, because viewers are deserting them in droves. Advertising is deserting them in droves. That is their big problem because they cannot get the income from advertising.

Q203 Lord Macdonald of Tradeston: Can I ask about Channel 4, which has a reputation for paying top dollar for acquired American material? Do you see any trends there? Are they cutting back on the American buy-ins that they have?

Mr Crawley: I cannot say for certain that I see trends yet, but if they do not then they would be very short-sighted, because they clearly have major financial problems. They are making redundancies in the same way as ITV; not on the same scale, obviously. That is affecting our members. We have members at both companies. I think that they would be wise to be cutting back on the kind of money they are prepared to pay. After all, there are only so many people in the UK market who want to buy American products. If somebody who is prepared to pay top dollar is saying, “We’ll pay less” then they can do something about driving the price down, which I think would be sensible.

Q204 Baroness McIntosh of Hudnall: Can I go back to your evidence, in which you were very clear that you did not see the top-slicing of the BBC licence fee as any kind of solution to any of this. Indeed, you were saying that you thought that the licence fee settlement should be enhanced—which sits slightly uncomfortably with the view that you have just given us about the rather handsome position that the BBC appears to find itself in now, because of the way the economy has gone. In terms of providing this UK-originated content that you presumably are particularly concerned about, because it provides employment for your members amongst other reasons, why would you not be in favour, for example, of taking some element of the funding that the BBC currently enjoys? You have just said yourselves that the BBC does a great deal, perhaps too much I think you said.

Mr Crawley: Perhaps not quite that. I think we recognise its critics do say that.

Q205 Baroness McIntosh of Hudnall: Let me just finish the point. There is an argument running at the moment that one way of solving some of these issues that you have just been discussing is to have an element of contestable funding available, the source for which could be additional funding coming from the public sector. Unlikely, you might think, at the moment. It might therefore have to come from reorganising the funds that are currently going in other directions, including the BBC. Why would you not be in favour of that, if it were going to result in a higher level of UK-originated product which provided work for your members?

Mr Crawley: First, were it to happen in the way you outline, it may not necessarily result in a higher level of UK production; but, assuming for the purpose of discussion that it did, why would we be opposed to it? The reason is a very simple one. I think that to take the first step of carving away a section of the licence fee, which has been tied to the BBC since it was invented back in the 1920s, is the thin end of what could be a very destructive wedge. It begins to accept the principle that the licence fee is not for the BBC as the main public service broadcaster; it can be used for other things. I think that is a very damaging thing to do, and the temptation for future governments could be to say, “Oh, well, we’ve taken some. Why don’t we just take a little bit more” or “Why don’t we keep taking a bit for this? This is a good cause. That’s a good cause.” I think that is a very big mistake. There are other sources of funding.

Q206 Chairman: They have actually taken things, have they not? We are at the moment financing the digital switchover from the licence fee.

Mr Crawley: Indeed. We argued very strongly against that. We argued very strongly with the BBC that we thought it was a poisoned pill. They claim they were absolutely clear with the Treasury, when they reached the agreement. The position was that they would have the money, it would only be for digital switchover, and when digital switchover was over, it was over; but they now seem to be half-saying, “It’s still our money” but then saying, “We might be prepared to give it up”.

Chairman: I hesitate to intervene on this but we are slightly going backwards—not you, but we—inasmuch as we have a report coming out on this reasonably soon in the area of public service broadcasting. Conceivably we might leave that to one side and go on to the other questions that we still have.

Q207 Lord Maxton: I think the point you were about to make was the question that I was going to ask. You are proposing a levy on certain specific areas.

Mr Crawley: Yes.

Q208 Lord Maxton: First of all, who besides Sky and Virgin Media are you thinking this should be on? Is it on internet companies, Google, Yahoo and other platforms? How exactly would it operate?

Mr Crawley: We have just completed a piece of work with our sister union, the National Union of Journalists, which we hope to be publishing very shortly. I would be happy to send you a copy. It looks into this exact topic. Clearly we can talk about levies—and some people find that interesting, some
people find it reprehensible—but we need to back it up. What we have tried to do in this piece of research is to back it up and to show that money can be raised, or we could consider raising money from recording equipment and blank media levies—which is done in many European countries. There are some figures to show the kind of incomes that are possible from those sources. Re-transmission levies, which are a commonplace throughout Europe; that is to say, if a satellite company wants to re-broadcast the equivalent of BBC1 or BBC2, it has to pay for the privilege to do that. That happens just about everywhere in Europe and in some ways we are, surprisingly, a rather anomalous country for not doing it. The re-transmission could bring in as much as £63 million a year. There are direct media levies, which obviously would be placing a levy upon media companies—essentially a tax on their turnover, for example. Again, that could bring in considerable sums of money. Then looking at new media and having, for example on mobile phones, on handsets, a mobile phone levy, where a levy on the company of one per cent could bring in £210 million a year. These are not inconsiderable sums. Yes, we understand that there could be quite a lot of sensitivity in government about pursuing this course of action at the present time but we think that is a political question, because there is no doubt that these are used as mechanisms for raising funds in other countries, which are then used to subsidise one form or another of public service broadcasting, and we think they could be used here and could produce the kind of money that is necessary.

**Q209 Lord Maxton:** Some people would argue that they pay the licence fee and, in a sense, why should they then have to pay—because they would in the end have to pay, via a recorder or suchlike—a levy under your scheme? Why would they have to pay both? They do not in other countries, presumably.

**Mr Crawley:** In other countries it is often a mixture of that kind of funding and also some kind of licence fee and so on; but also advertising income. People who think that they do not pay for ITV do not recognise that they are paying through the products they buy which are then advertised on ITV, and so on. That is exactly what would happen, in exactly the same way. I do not think there is anything wrong with having a mixed model, particularly if it produces what we want—which I think is a very diverse cultural economy, which produces different kinds of programmes, different kinds of public service broadcasting from different kinds of producers. I do not think that it would be a good thing for the UK cultural world if there was only the BBC as a kind of huge monolith making public service broadcasting and nobody else. It is very important that there is something like Channel 4, however that turns out, and I think that there should be obligations placed upon ITV, or whoever replaces ITV. If they want access to digital spectrum, then I think that there is an obligation that they should have to produce some sort of public service broadcasting.

**Q210 Lord Maxton:** Who would control the distribution of this levy?

**Mr Crawley:** That is a difficult political question. It depends how much you are going to raise and what kinds of arguments there would be. There is no easy answer to that.

**Q211 Lord Maxton:** Would you have a TV Council, in other words, like the Film Council?

**Mr Crawley:** That is a possibility, yes. That is not something we have looked at. We think that there is a bit of a battle to persuade politicians that they want to raise money in this way. If we win that battle, then along the way we will—

**Q212 Chairman:** I am not sure that you are in the best economic climate just at this moment.

**Mr Crawley:** I would not disagree with that.

**Q213 Baroness Eccles of Moulton:** My question is related to the current economic climate. Presumably you have done some calculations on how this levy would hit the bottom line of the various companies or the various organisations who would be required to pay it, and also how that then, in its turn, would impact on the consumer; because presumably most people want to retain their bottom lines in the healthy state, or threatened state, that they might find themselves in today. What outcome have you derived from looking at it from the other end of the telescope, as it were?

**Mr Crawley:** The outcome we derive is that we think significant sums of money can be raised with very small sums of money being levied on blank media, for example, or computers or DVDs, or whatever that might be. We do not think that we are talking about putting pounds on the cost of the DVD; it is pennies. Obviously people would rather not spend anything they do not have to spend, but clearly other countries are able to do it and it does not cause the destruction of their economies. I think that we could probably do the same, if we chose to do so. However, I do recognise that it is a political decision. As to the levies on the companies, I imagine that Sky would be deeply unhappy at the idea that it would have to pay a levy that went towards public service broadcasting, but Sky could always choose to make public service broadcasting programmes, which it does not do or hardly does at all now, and therefore try to access the levy. That is a choice that is available to any company that has to pay the levy, and I think it could produce quite a different kind of broadcasting.
Q214 Chairman: I think that we are going backwards a little bit here as well. One last question on UK content quotas. When there are particular areas which are under threat, let us say children’s television, in the sense that the programmes are not being originated in the UK, have you ever thought of having UK content quotas?

Mr Crawley: It is something that we would support generally, but it is not something that we are prepared to put forward as a solid idea. We think that it is a good idea in principle, but it is not very clear. For example, how would it work with a channel like Nickelodeon? Clearly that is not UK-originated. However, we think it is quite important that there is some kind of encouragement. Whether or not a quota is the right way to encourage broadcasters to carry UK-originated children’s programmes, I think it would be one way of putting pressure upon them to do so. It is something we would support. Our members in the BBC would certainly support it.

Q215 Chairman: We are looking at the film industry and the television industry. We are looking at it to see what contribution it makes to the UK economy and, in particular, I suppose how that contribution can be improved and increased. I wonder if you would give us a very short, 60-second solution on what you would suggest as far as that is concerned. What would be your priorities? Can we start with film and then go to television?

Mr Spence: It is a very broad-based question, as it is intended to be. Perhaps I could interpret it in this way, in terms of what contribution we might make to a positive development in film production. I would say that it is to build on the work that I hope we are already doing, about maintaining and improving the skills, at all levels, of the workforce. It is our concern about the threat to the skills base that underpins the arguments we have been making about the “used or consumed” provision. However, I believe that, for all the differences of opinion we sometimes have, we are very well served by the institutions we have in place in the industry at the moment. The institutions that I primarily mean are the UK Film Council—we had some views about how that should be constituted and about the rights to representation of industry bodies when it was first set up. These were not arguments with the Film Council but with the Government about the rules and provisions governing the Film Council. There it is: it runs as it does. We have a good relationship with them. They consult us and, when they do not consult us but we think they ought to, we let them know. We have a robust relationship and, if they did not exist, we would be arguing that something like them should be invented, because they provide a useful forum for the industry to come together and find points of agreement that might be difficult to find otherwise. We also have Skillset, the Sector Skills Council, on which we are formally represented as are the other industry bodies. Skillset and the Film Council have worked together very effectively over the past few years in developing a strategy for skills in the film industry. I suppose what I am saying is that we have a continuing opportunity to do a great job of continuing to place this country as a very attractive place. Not in terms of competing on cost, as John Woodward said, but in terms of competing at the top of the market on skills, quality and creativity, quality of product. There is an opportunity to do that. The institutions are there for us to do that and we would want to continue to play our role in delivering that.

Q216 Chairman: Are the educational training facilities there?

Mr Spence: They are there in part. One of the good developments of recent years is that, through Skillset, we have identified mainly higher but also some further education institutions that have been branded as academies—as screen academies in the film industry and as media academies in TV, digital, animated production and so on. There is an especially close relationship between the industry and those particular institutions. That is important, because I am afraid that there are a lot of low-quality media courses, a lot of low-quality education provision, promising young people a future in a glamorous industry which, frankly, is not going to happen. What we have been trying to do through the academy system is to identify those institutions that are genuinely doing a good job, so that we can then point young people towards them if they are serious about a career in the industry. In the industry itself, it is a patchier picture in terms of training as opposed to education. There are many small training providers, doing a good job. However, times are getting hard, money is getting squeezed, and I think that we will have some difficulty in the coming years in funding ongoing professional training for people who are already in the industry but who need to keep up to speed with their skills as technology changes.

Q217 Chairman: If I wanted to become an animator, could I get the training?

Mr Spence: You could. In animation there are some very good courses you could attend. You would graduate and you would then be in a highly competitive labour market.

Lord Maxton: Do not fancy your chances, in other words!

Q218 Chairman: Highly competitive, but meaning with other people?

Mr Spence: Indeed, that is right.
Q219 Chairman: What about television? I do not fancy my chances remotely!

Mr Crawley: In television the theme of training is equally important. The BBC remains committed to training. I think that it has been through an unfortunate period in the last five years, where it has essentially reduced its staff training and outsourced it to a great extent; although it is still there and the commitment is still there. ITV has just announced that it is reducing its commitment to Skillset, skill training and, given the kind of contortions going through the company and the other redundancies, that is obviously unlikely to change in the near future. If you were to ask what would be good for employment in television broadcasting, I would say a period of stability. I think that we are unlikely to get that, frankly. The BBC has just seen more than 5,000 or 6,000 people made redundant in the last three or four years; ITV are going through 1,000 or so at the moment. If we can get to a position where ITV has an economic model that appears to work, there may be some stability there. However, I have to say that does not seem to us to be extremely likely. They are predicting a fall of 20 per cent in advertising this year and there are some who say that is an optimistic assessment rather than a pessimistic one. I hope that it is not an optimistic one because, if it is worse than that, then I think that there will be further redundancies. From the point of view of employment, therefore, some stability would be most welcome, but I am afraid that it is pretty unlikely.

Chairman: Thank you very much indeed for giving that evidence. It is very clear. We are at the foothills of what we are doing at the moment. If points come up, perhaps we can come back to you with supplementary questions.
MEMORANDUM BY EQUITY

INTRODUCTION

1. Equity is a trade union representing 37,000 performers and creative personnel who work across the whole spectrum of entertainment in the UK. Our members work in a range of media and the creative industries including visual broadcasts, sound recordings and film, principally in drama, comedy or entertainment roles.

2. Any decisions regarding the future of the British film and television industries will have a direct impact on the production, distribution and funding of our members work, as well as the creative process and the content of programmes in which they are involved.

3. This submission does not provide a response to all of the issues raised in this inquiry, but seeks to address the matters most relevant to Equity’s membership.

CONTRIBUTION TO THE UK ECONOMY AND CULTURE

4. The Government has placed a welcome emphasis on the continued success of the UK’s creative industries. It has acknowledged that they are a real success story and have been one of the fastest growing sectors of the economy, contributing a total of £60 billion a year and accounting for 7.3% of GDP and two million jobs.

5. The film and television industries are vital to this success and are arguably the most visible representation of UK culture throughout the world. Therefore there are sound economic and cultural reasons to encourage and enable these industries to prosper.

6. While the success of British film and television programmes are certainly a cause for celebration, Equity has always argued that key genres of entertainment should be measured in a much broader way than simple economic success.

7. In particular, drama is the means whereby we can all ask those important questions of ourselves and each other. Therefore the production of television drama should not be seen as a luxury of optional add-on for broadcasters who can afford it. It is not simply about telling a good story, however important and interesting that might be. It is about holding up a mirror to society and asking questions of ourselves. Moreover, it can also include and unite people, by telling shared stories and providing a common culture and developing a shared social identity.

8. Therefore it is important to remember that despite the economic importance of UK content—and its increasing availability across new technology, new digital platforms and high speed broadband networks—what is important to the viewers and audiences who watch television is high quality content. Anything else is simply a way of transmitting content.

SUPPORT FOR UK CONTENT

9. Equity maintains a strong interest in the future of UK content and has made numerous submissions to Ofcom as part of its review of public service broadcasting. The review identified particular challenges to the provision of original PSB programmes and the role of commercially funded PSB broadcasters (ITV, Channel 4 and Five).

10. In recent years these channels have seen advertising revenues fall, audiences fragment as digital channels and new media expand, and the value of their airwaves (spectrum) plummet. As a result Ofcom estimates that broadcasters will have a funding gap of £145 million to £235 million by 2012.
11. Consequently original production is declining in key genres like UK children’s programming and local news, with ever greater pressure on the production of high quality drama. This is particularly evident from the recent announcements by ITV regarding job cuts and plans to reduce production and end making a number of key dramas.

12. Equity’s position on these matters is guided by the need to ensure that both the BBC and commercial broadcasters can continue to contribute positively to producing original British programming as much as possible in the digital age. The broadest possible range of UK content provides competition for quality, is in the interests of audiences and the future of the broadcasting industry.

13. In particular the BBC plays a key role as the cornerstone of PSB, providing a broad range of programming for audiences and supporting the creative industries. The BBC is the biggest employer of performers in the UK and the main provider of education and training.

14. The role of the main broadcasters in original production is also vital because—despite the explosion of new channels—the vast majority of television production in the UK still comes from these main broadcasters. Only 10% of spending on UK production comes from other digital and satellite channels broadcasters. Instead these channels rely upon a combination of investment in sports rights, film rights and content produced originally by public service broadcasters, rather than putting anything back in terms of original content.

15. The decline in original production by the main broadcasters and the failure of digital and satellite channels broadcasters to invest in original content has created a crisis in British broadcasting—and consideration of new structures and models of funding.

16. Equity has commented on these issues at length as part of the Ofcom review, but essentially we would favour a much more detailed examination and consideration of industry levies to support original UK content. There are a number of potential forms for such a levy, including those on recording equipment/blank media; retransmissions; non-PSB broadcasters and new media.

17. Industry levies offer the opportunity to use significant new income streams to address the PSB funding gap. We call the committee to give detailed consideration to industry levies—especially those on non-PSB broadcasters and new media platforms (which do not compete with existing income streams to rights-holders). Exploration of these options should not be prevented by the anticipated objections from non-PSB companies, which are gaining immensely from the digital marketplace but which contribute a totally insignificant amount of original UK content.

**Support for the UK Film Industry**

18. With respect to the issues raised regarding the film industry, Equity broadly supported the new tax relief system for film. The system provides a tax credit level will be 20% on low budget films (with production budgets up to £20 million) and a tax credit level will be 16% on higher budget films (with production budgets of £20 million and above).

19. However we do share some of the concerns about the definition of UK expenditure. As the committee will be aware the structure of the systems means that there is no incentive to buy British—even in the UK. As long as you work in the UK, your labour will count towards tax relief and nationality does not matter. This undermines the sustainability for the UK film industry by incentivising Nationals from overseas, who will not add to the critical mass need in this country to maintain the ability to make films in future.

20. Conversely, British cast and crew working abroad on a British film will pay tax (and presumably spend most of their income) in the UK, but the cost of their work will not count towards tax relief on the budget of the film. The same applies for goods and facilities.

21. Unless 80% of the film is shot and posted in the UK, a lower tax break benefit will be delivered to the independent production sector than was anticipated by the industry despite the claim that it should be worth “typically worth 20% of budget.”

22. It may cause damage to British led co-production activity from James Bond to The Constant Gardener since UK producers will not be bringing much to the table in terms of the percentage of a co-pro budget because their film will only get tax relief on costs expended on the soil of the UK.

23. The aim of the new tax credit is to promote the sustainable production of culturally British films. It would therefore seem desirable for the tax credit system to incentivise the engagement of British talent and services wherever they work in the world.
CONCLUSION

24. Equity is pleased to have the opportunity to participate in this inquiry and puts forward these comments as a serious attempt to address the difficult challenges facing these important industries.

25. We would welcome the opportunity to provide oral evidence to the Committee on this issue. As the representative organisation of actors, singers, comedians, and other creative contributors who feature in many of the film and television, we believe that we could provide a valuable perspective on the inquiry.

4 March 2009

Examination of Witnesses

Witnesses: Ms CHRISTINE PAYNE, General Secretary, Mr MALCOLM SINCLAIR, Vice President, Mr RORY KINNEAR, Member, and Ms MAGGIE STEED, Member, Equity, examined.

Q220 Chairman: Good morning, thank you very much for coming. As you know, we are doing an investigation into the film and television industry, and what we are really trying to see is the health of the industry, and to really see, in a sense, what contribution it makes to the national economy, but also what further could be done to help and aid in this process. Obviously, from Equity’s point of view, it is rather crucial as far as the future is concerned, so I wonder if we could start with some bread and butter issues to begin with. You have 37,000 members at the moment, and they include mainly actors?

Ms Payne: They include actors, variety artists, singers, dancers, theatre directors, theatre designers, choreographers, stunt performers, fight directors. 37,000, I suppose you would say, very diverse members.

Q221 Chairman: Television presenters, I see.

Ms Payne: Television presenters, absolutely.

Q222 Chairman: That confirms one’s view—I will not say that.

Ms Payne: Now, now!

Lord Maxton: Not MPs.

Q223 Chairman: Not yet. Of the 37,000 members, a great number of actors. How many do you think are in work at any one time?

Ms Payne: A very small proportion.

Q224 Chairman: How small?

Ms Payne: Very, very small. We think about a third of our members at any one time are actually working within our industries. I am glad to say that all three of our members here at the moment are, but—

Mr Kinnear: But not this morning, obviously.

Lord King of Bridgwater: I am not sure about that!

Q225 Chairman: Has the recession had a notable impact yet?

Ms Payne: I think at the moment, it is difficult to judge the impact of the recession compared to the impact of the changes in television, our industries generally. It is quite hard to separate the two. If you look at what is happening in ITV, would that have happened if the recession had not happened? We tend to think that it probably would, and that is symptomatic of the way our industries are changing, but undoubtedly the recession is going to have more impact and possibly in a way that you might not imagine. It might make it more difficult for our members to actually remain in the business, because a lot of them are out of work for long periods of time, and if that gets longer, then it gets more difficult for them to sustain those careers.

Q226 Chairman: What do you find about new entrants coming in? Does it have a deterrent effect, or do people simply think that this is a good career, and they are going to do it come what may?

Ms Payne: I think to some extent it depends where those young performers are coming from. If, like Rory, they are coming out of drama schools and they have been on courses that have been particularly training them to enter the profession, then they probably come into the business with their eyes wide open and are aware of the difficulties. If they are entering the profession from other areas, then they may not be quite so familiar with the peaks and troughs of our industries.

Q227 Chairman: Rory Kinnear, you are probably the most recent member on the panel coming into the profession. You were at drama school. How long did you spend there?

Mr Kinnear: I did postgraduate study at LAMDA for two years, having done a degree previously, and I think the impulse that makes anyone want to become an actor does not change, and I do not think that is dependent on financial circumstances in the outside world. But I do think that the further you get down the line in one’s career, the more you are aware of the dependencies of the financial system to support the artistic community. Certainly I would say about a third to a half of my year at drama school have now left the business. Some of them would have probably not have succeeded even without the decreased output of drama that we are seeing, but certainly a number of them, you think had they been given time to be nurtured, they would have made a career out of it.
Chairman: That is quite a high percentage, is it not? When did you leave drama school?
Mr Kinnear: I left drama school in 2001.

Chairman: So that is in a relatively short space of time, up to a half.
Mr Kinnear: Once you hit your 30s, the prospect and glamour of working in a bar when you have a degree yourself diminishes.

Chairman: What do you feel about it, Mr Sinclair?
Mr Sinclair: Things have changed a lot. Maggie and I both went to Bristol Old Vic, and I came out in the mid 1970s, and it is very interesting now, young actors say to me, what advice can you give, and I say I do not know, the business is completely different. The opportunities for work, with the collapse of the repertory system, and the shrinking of drama, the type of drama that is done on television and in film, has meant that we now have different careers. I did seven years in repertory theatre. That is simply impossible now. Now I think I am quite a good actor, but when I started I was a rather indifferent actor, I think, and I was able to slowly develop for seven years. That is impossible—it does not actually affect the stars, stars are going to be stars whatever, they have a certain something, a certain magic or a certain something. But for the absolute backbone of the profession, like anything we do, you have to learn your trade, and the opportunities for learning the trade in the theatre are diminishing. Your purview is films and television; the opportunity to learn your profession in film and television is also diminishing, lack of rehearsal time, speed, all these sorts of things, and the fact that your creative input is now being overtaken by I would say the management, which is something we may or may not get on to, but it has been a huge, huge change. The other thing I would say is when I started in the theatre, it was still quite a verbal medium, now it is much more a visual one. So the fact that scripts are cut to the bone and scenes now are two minutes when they could have been ten minutes, all this makes a huge difference to what you do.

Chairman: But you persisted, self-evidently, in spite of all these difficulties.
Mr Sinclair: I am touching wood. It is all right so far, that is all you can say.

Chairman: Maggie Steed, what do you feel?
Ms Steed: Very similar to Malcolm really, I think it is very difficult now for people coming into the profession to distinguish between what is really good work and what is not. Particularly with film and television, and particularly television, the constraints that are put upon you are absolutely to do with budgeting and speed up, so that, for instance, 20 years ago, we would be expected on television to turn over, say, three pages a day, on the studio floor. Now that will be at least seven pages. That means that everybody, directors, cameramen, lighting people, actors, have to be prepared to make quick decisions and compromise their work enormously and move on to the next scene. So it is very difficult for young people to learn what is really good work, or to be in the hands of people who encourage them to do good work, but also it means that that has a sort of drip-down effect on the nature of the work that the general public is seeing. So they think they might be seeing something good, but my goodness could it not be better, you know, could it not be more interesting, more full of life, more engaging and questioning, in all sorts of ways? We are all of us driven back to a sort of default position. You will speak to directors maybe during your enquiries, and to writers, particularly to writers, who just are not given the freedom, because the budget constraints married to the notion of whether the audience will like it, which actually is very much to do with income, where you are going to sell it, et cetera. The whole thing just makes the notion of freshness and truly reflecting our society something that is put on the back pedal, to be quite honest, and that is difficult for all of us.

Chairman: Looking at the state of British television today, from what you are saying, it sounds as though it is not an improvement on what has gone before.
Ms Steed: Absolutely not.
Mr Sinclair: May I come in there? When we started, we sort of patted ourselves on our backs that British television, particularly the BBC, but not just the BBC, I mean Granada with The Jewel in the Crown, were producing the best drama on television. That is no longer the case. It is now, by general consent, HBO in America, in the United States, that is producing the best drama, The Sopranos, Six Feet Under, The West Wing, The Wire, which the BBC are finally showing, seven years after it was made. We think the reason for that is in HBO, the most powerful figures in the making of the programmes are the creative people. Aaron Sorkin, David Simon, who did The West Wing and The Wire respectively, Alan Ball, I think his name is, who did Six Feet Under, they are the writers and they are the producers in charge of the show. That used to be the case here. It is no longer the case. We used to have the Tony Garnets and the Mark Shivases, the television companies would say, “This is your budget, make a show”. They would cast it, hire the directors, designers, cameras, they would make it, they would show it. That is no longer the case.
Q234 **Chairman:** Is this a question of financial priorities? The BBC—not just the BBC, because they are probably better than any, but the BBC choose to spend however many millions they spend on Grand Prix racing rather than making good drama.  

**Mr Sinclair:** I know, or high salaries to certain presenters, of course.

Q235 **Baroness Bonham-Carter of Yarnbury:** Represented by Equity.  

**Mr Sinclair:** That is, of course, a problem, yes.

Q236 **Chairman:** We have actually done Jonathan Ross, I think.  

**Mr Sinclair:** But it is more systemic than that. I know the BBC now are cutting back, but it is just the overmanagement. In order to cast somebody, or to get a script passed, it now has to go through layers and layers and layers, and some of the people who have to make the decisions have never been programme makers, and they are managers. They are probably very good managers, but managers should manage, not create. I talk to GPs, and they say the same thing is happening in the health service. It is a national, if I may be pompous for a minute, failure of nerve, because they will not trust the doctors and they will not trust us to make the programmes. They have to second guess us, and make sure we do not fail, so what happens is there is no risk. The risk is cut down, and if you cut down the risk, you cut down the imagination and you get dull programmes.

Q237 **Chairman:** Basically what you are saying is with the same budget, you could actually make rather better programmes?  

*Ms Steed:* Budget is a problem, especially with ITV, but I think you could, yes.

Q238 **Chairman:** I will bring in Lady Bonham-Carter in a moment, but what about film? With *Slumdog Millionaire,* and however many Oscars it has won, are we on the verge of a new age in British film?  

**Mr Sinclair:** That hardly got any funding from this country. It nearly did not get made.  

**Mr Kinnear:** I think also, seeing them as separate spheres of TV and film or theatre, the fact on the creative level is the interdependence between all of them, and theatre has always been in some way subsidised by fees that actors certainly can earn in television and film. At the Donmar or the Almeida, your wages will be £400 a week before tax and agent’s commission, and in a way, TV has always supported that, and film, but equally, the people we hold up for great national pride, such as Danny Boyle, Kate Winslet, Rachel Weiss or Daniel Craig, they have all learned their craft originally and to some extent still recently plied it in British subsidised theatre and British television and more prosaic British drama, and that is a continuum of excellence that goes from theatre through to TV, through to film and then back again. The circle of that is in danger of being broken.

Q239 **Baroness Bonham-Carter of Yarnbury:** Just something that Maggie Steed said about how you did do three pages and now you are expected to do seven, you can see it on the screen. I completely appreciate the short scenes, and we do not value our writers probably enough, but just one question which is that technology has been advancing and I know I come from a television background, in the past there was a lot of hanging about; has new technology not to a degree meant that things can move more swiftly?  

*Ms Steed:* No, I do not think it really, really, really has, and I think the notion of hanging about, it always looks as though it is a lot of hanging about, but there is always something important going on somewhere. Somebody is relighting something, somebody is gathering other props or resetting things. You know, a film set looks the most anarchic place in the world, but it is highly organised, and it does take a lot of time to set these things up. I am sure maybe film editors would say it has now, because film editing, it is all computerised, and there you can speed the situation up. But actually, on the floor, in practice what has happened, because as you say you can see that, with the page turning, means that there is no real time for rehearsal, there is no real time to discover different ways of doing a scene that will probably reflect what the writer really needs, there is no real time for directors to work out an interesting way of shooting things. This is not just a question of aesthetics, it is a question of reflecting the content, and it is artistic but it is not aesthetically in the air, it answers the problems set by the material. So things become banal, and I cannot stand the dumbing down thing, but actually it is reflected in our industry. We are asked to dumb down, we are asked to not be complex, so therefore we are not asked any more to reflect life.

Q240 **Baroness Bonham-Carter of Yarnbury:** Is it partly to do, Malcolm, not just to do with management, but to do with the types of programmes? I am just thinking soap operas, when you have very good acting—  

**Mr Sinclair:** Indeed, it is very difficult, because a lot of colleagues knew that we were coming here and, of course, long for me to tell some of the stories, but obviously I cannot because then they get into terrible trouble. For example—no names, no pack drill—a big, very important television writer, big series a couple of years ago, had a very big star in it, I will not even tell you the story because you will be able to
identify it. In terms of the script, the star appeared about two thirds or halfway through the first episode. From on high, the management, and this is not a fly by night, this is a proper television company, said, “No, we need to get the star in in the first five minutes”. Now the writer was strong enough to resist it. But that is the sort of banal pressure that never used to be there. Soap opera can be marvellous.

**Q241 Baroness Bonham-Carter of Yarnbury:** But it has speeded things up.

**Mr Sinclair:** It has speeded up. The other thing I would like to say is the BBC used to have what we used to call the North Acton Hilton, by North Acton station, which was I do not know how many floors, 10 or 15 floors of rehearsal rooms, because every drama, from sitcom to the soaps to the dramas, would all go in there and rehearse for a week or two weeks before they ever got near a camera. That has been knocked down.

**Q242 Baroness Scott of Needham Market:** Even before the current recession, you are in the position of representing a group of people, the bulk of whom are out of work at any one time, so can you say a bit of the nitty-gritty of how you represent their interests in terms of pay rates, both at a strategic level and within all the different sectors of industry that you work?

**Ms Payne:** We have collective agreements, they are national separate agreements covering television, film and theatre. So, for example, in theatre, we have four national agreements covering the West End, subsidised repertory theatre which Rory has referred to, commercial theatre which is outside the West End touring, and small scale theatre. Those are our four main agreements. In television, we have four main agreements again: an agreement with the BBC, with the ITV companies, with the independent television producers, PACT, and we also have a separate agreement with TAC which is the Welsh language producers for S4C. We have one film agreement with PACT, the Producers Alliance for Cinema and Television, and that is our one major agreement that covers all aspects of film. We negotiate those with the trade organisations, and we have spent the last two or three years seeing if we can negotiate one television agreement because of the way that television has been coming together, and there are similarities to a large extent in the way that television is made. What those agreements fundamentally do is they provide a minimum basis of payment upon which the actors will negotiate for making the television or for making the film or for appearing in the theatre, and then for television and film, there will be ongoing use fees, and these are very, very important. In television, we have ongoing payments for repeats, for sales of the programmes overseas, for DVD/video uses, and now we are also receiving payments for our members for use in these new emerging channels which again are very important because they provide an ongoing income stream to our members which helps sustain them in the industries.

**Q243 Lord Maxton:** Could you just explain? You mean channels like Dave and UK Gold and things like that?

**Ms Payne:** Yes, those channels, the programmes which are predominantly UK-based programmes, our members will get additional payments if they have already been shown and they are shown again for that. Or if it is something being made primarily for that channel, which at the moment they are not, then they will get the initial fee and then ongoing usage fees. So that is the principle of the way our agreements work. There is a fee for making, which is negotiable, and then separate fees for using.

**Q244 Baroness Scott of Needham Market:** How often would you renegotiate the terms of those agreements?

**Ms Payne:** We have collective agreements, they are national separate agreements covering television, film and theatre. So, for example, in theatre, we have four national agreements covering the West End, subsidised repertory theatre which Rory has referred to, commercial theatre which is outside the West End touring, and small scale theatre. Those are our four main agreements. In television, we have four main agreements again: an agreement with the BBC, with the ITV companies, with the independent television producers, PACT, and we also have a separate agreement with TAC which is the Welsh language producers for S4C. We have one film agreement with PACT, the Producers Alliance for Cinema and Television, and that is our one major agreement that covers all aspects of film. We negotiate those with the trade organisations, and we have spent the last two or three years seeing if we can negotiate one television agreement because of the way that television has been coming together, and there are similarities to a large extent in the way that television is made. What those agreements fundamentally do is they provide a minimum basis of payment upon which the actors will negotiate for making the television or for making the film or for appearing in the theatre, and then for television and film, there will be ongoing use fees, and these are very, very important. In television, we have ongoing payments for repeats, for sales of the programmes overseas, for DVD/video uses, and now we are also receiving payments for our members for use in these new emerging channels which again are very important because they provide an ongoing income stream to our members which helps sustain them in the industries.

**Q245 Lord Maxton:** How long do these go on for? If you take a programme like Dad’s Army that is still repeated again and again, I think there are only two actors left who are in it, do they still get paid?

**Ms Payne:** Yes, absolutely.

**Q246 Lord Maxton:** So Ian Lavender is still picking up money for—

**Ms Payne:** Yes.

**Q247 Baroness Scott of Needham Market:** Just finally, the agreements you are negotiating now, are you coming under the cosh because of the current financial situation and all the problems with ITV and so on? Is that being used as a lever to make the agreements much more difficult for your members?

**Ms Payne:** I would say it is, but I would say it is in two ways. I would say the first way where there is pressure is in terms of establishing the minimum terms, because there is always pressure to try and increase the minimums, but I think the second pressure, which is not a pressure that the union can directly be involved with, which individual actors and their agents are, is negotiation above the minimum, and many, many actors will tell you that in many cases,
they are actually receiving less now than they were ten or fifteen years ago for the same sort of programme. Can I bring Rory in?

Mr Kinnear: I spoke to my agent, who said that for the majority of actors, whom the capricious finger of fate has not earmarked as stars, in terms of their television wages, they are roughly a fifth of what they were say three to five years ago.

Q248 Chairman: Did you say a fifth?

Mr Kinnear: A fifth, yes.

Q249 Bishop of Manchester: All four of you have spoken very powerfully about what I interpret you to be saying is an inadequacy of training these days, and considerable constraints on creative opportunities. In paragraph 13 of the written report which was submitted, you spoke of the BBC as being the key provider for training and education in the creative industries in this country. Now I think what you said is really very important for us to hear, given our particular brief, and I wonder if you could now be a little bit more analytical and talk about the contribution as it is now by the BBC in providing that training for the creative industries. Do you feel there is an overdependence on the BBC, and if, as you were saying earlier, there seems to be an inadequacy, could you define for us what other opportunities exist at present for training for people in the kind of jobs that Equity covers?

Ms Payne: As far as the BBC is concerned, in terms of being directly involved in the training of our members, of actors in particular, it is quite an obscure route by which the BBC comes to it, because our members are rarely employed at the BBC for long periods of time, and so over the years, we have had to find more imaginative ways whereby the BBC can actually contribute towards the training of actors. The training of technicians and other people who are there more permanently is something that they are more easily able to do. But because actors come and go, it is not as straightforward. So the imaginative ways that we have found, for example, are that the BBC are one of the major participants and contributors to the National Council for Drama Training, and the National Council for Drama Training is a body that was set up about 30 years ago. That accredits vocational courses in drama schools, whose prime aim is to prepare actors to enter the profession, and they have done that very successfully, not just in terms of financial support, but they have also given people from the BBC who will go into those schools and assess the value of those courses and work with students and with teachers on those courses with the schools to try and develop the courses, so that they really start to address the changes that have been taking place. That is a very valuable way that the BBC and other broadcasters—terrestrial broadcasters, I hasten to add, not the cable and satellite broadcasters—have contributed. They have also contributed through our Actors Centres. We currently have two Actors Centres, which are entirely dependent on contributions from the terrestrial broadcasters, and those contributions are declining and in some cases are ceasing. Channel 4 stopped investing in our Actors Centres four or five years ago. ITV has just stopped investing. And the BBC, which was the major contributor, I think at its peak it put in about £70,000 into continuous professional development for actors, is now relying on project funding. So that core investment in our Actors Centres is declining. That is a real worry for us, because the Actors Centre in particular provides opportunities where actors can keep up with the developing technologies, and we are having to look at organisations like the Sector Skills Councils, Skillset in particular, which covers the audio-visual industries, and to a different extent Creative and Cultural Skills, which covers the theatre side. For example, Skillset have just invested £90,000 in a training opportunity for our members primarily in Scotland, Wales and Northern Ireland, to do some before camera training and development. So those sorts of problems and those sorts of organisations are how traditionally the broadcasters and the BBC have invested in the ongoing training of actors.

Q250 Bishop of Manchester: But you are saying the cable companies have never really invested?

Ms Payne: No, not at all.

Q251 Bishop of Manchester: And the terrestrials are diminishing other than the BBC?

Ms Payne: Yes.

Q252 Bishop of Manchester: What channels of communication do you have with the BBC to try and encourage them to continue to support you, or are you finding that, as you have described, there are different ways in which you can get support and training? Is there some merit in not being wholly dependent on the BBC, which you would become if all the other terrestrials are beginning to back off?

Ms Payne: I think what would be helpful is if the other broadcasters who are benefitting from our members, both in terms of the programmes they make and the programmes they want them to make, actually started to invest and show some commitment to that training, and they never have.

Ms Steed: And to production.

Ms Payne: And to production itself, which I am sure we will come on to, but I think Sky put £25,000 for one year into the Actors Centre and that was six or seven years ago. So they are not exactly showing an
urge to commit, but they want the benefits of our members being available and being up to date with the new technologies when they want them.

Q253 Baroness Howe of Idlicote: I just wondered, clearly you are facing a pretty grim situation, I think we take note of that, but I was just wondering what happened rather earlier in life. There are a lot of absolutely brilliant child actors around the place, where do they get their training? I know there are one or two quite arty secondary schools, as it were. So to what extent are you finding pupils coming up, people with natural ability but who are helped a lot younger than perhaps we are thinking of at the moment?

Ms Payne: I think there will always be opportunities for people who have not had training to enter our profession, and that is how it should be, that there should be those opportunities. I think it was Rory that was talking about when we had the subsidised repertory system where a lot of young people would go automatically and come through into film and television from that. But children, if that is your particular question, children will be found where they will be found. There are lots and lots, some might say too many, schools that are providing opportunities for children to dance, to act, to sing, and those sorts of things, and some of them will come through. I think Italia Conti is probably one of the shining examples of how children would come through.

Mr Kinnear: Equally with television and film for young children, my sister is a casting director, and obviously if there are children involved in their films, they want the naturalness of an untrained child, and I think the natural confidence and uncowededness and ability of a child will see them to a certain level. But also they will require the lion’s share of time on set in terms of direction, in terms of evincing a performance, which other established actors are meant to bring to the table instantly. Obviously that natural ebullience and confidence will only get you so far, and certainly within TV and film you see the supporting actors, of whom most of the industry and most of a film is made up, will always have been through some theatrical training. If it is not encouraged, that level of dedication, certainly after doing a degree, it was not until after the first year of my postgrad at drama school that I really discovered enough about acting to realise that it was not just showing off and getting attention for yourself. In making those discoveries, you realise it was as rewarding a job as much as you put into it. To not have that opportunity to take risks and make mistakes, to actually focus on the craft, it then does just come about that the job becomes about who you are rather than who you can become.

Q254 Baroness Eccles of Moulton: Just to go back for a moment to your point about Sky not really contributing very much, or hardly anything at all, to training, how much UK originated drama does Sky commission?

Ms Payne: On one hand? Very little. We were discussing this obviously before we came, and we think you can probably name the drama productions that Sky has actually invested in. By this we mean first run UK originated production. Very, very little, and this is of great concern to us, because as the television landscape is changing, then these channels seem to be taking all the advantages of the work that our members have done, but contributing very little back to it. That is a real concern to us going forward.

Q255 Lord Inglewood: Over the last decade or so, we have seen an enormous amount of debate, discussion and evolution of courses at universities and colleges which are vocationally focused. What you are telling us is that there is a real weakness in the training of actors. Has any of that expansion contributed in any useful way to the training requirements of the acting profession and Equity members?

Mr Sinclair: There is one big thing that of course contributed to, I would say, a slight diminution. It was, of course, the abolition of the closed shop. When Equity ran a closed shop, perhaps this is a rather delicate subject, I do not know—

Q256 Chairman: I had better declare an interest. I was the employment secretary who abolished the closed shop, and I had a charming delegation, led by your predecessor and Michael Dennison, coming to see me, so I remember the issues well.

Mr Sinclair: But you were not persuaded.

Q257 Chairman: I was not persuaded.

Mr Sinclair: That has made a huge difference, because what used to happen of course was after you graduated, you got yourself a job then you became a member, but you could not appear on television or film. When you did not appear in the West End until you had done 42 weeks of work, so immediately, you were seeing more experienced actors. Whether that is a good or a bad thing, and listen, we are not coming here asking for it back because we know that is an absolute impossibility, and I hope Equity has transformed itself, but that has made a very big contribution. The other thing that has changed is when we were starting, you would start to become quite successful in your late 20s, perhaps in your 30s. Now they want youngsters. The agents and the casting people are trawling the drama schools, trawling the universities, just to pick up the hot new things, and the trouble is, sometimes they are hot new things for two, four, five years and then that is it, they
are on the scrapheap. I mean, it is a game, it is a question of one's natural life, it is all short-term, but how you address that I am not sure.

Ms Steed: Can I just say, at the risk of repeating myself, I think as well it is about education for life really. We are not talking solely about the training of young actors, it is about all of us being able to keep our skills honed and about the fact that particularly in television, it becomes increasingly difficult to do because you are asked for less. So one learns bad habits. And everyone learns bad habits. Everyone learns shortcuts.

Mr Sinclair: We become glib.

Ms Steed: We become glib and the work becomes glib, and then audiences, who might not necessarily realise what is happening is that they are not seeing a very well written scene, go, “I think I will make a cup of tea”, because somehow they get it, somehow they get it, and that is the thing, and so one's own work suffers. We all know we need to keep sharp and creative, and you are dealing with something that slips through your fingers, and it is not just a question of art, it is a question of technology as well. I mean, as I say, directors will say this to you, cameramen will say this to you, right across the board.

Q258 Chairman: Is that the same internationally? If you look at United States television and drama, I cannot remember who made the point, but the point that producers of The West Wing and things like that are doing rather well.

Ms Steed: No, it is not the same. In America, that particular form of funding for those programmes is public subscription and they have a lot of money. So they can say to a writer, “This is a great idea, run with it, give us breakdowns for 25 episodes, plans for all these different characters”. They can cast people who are not necessarily stars, although more and more, of course, because of the crisis in the film industry you are getting people like Glenn Close and William Hurt coming into these series and realising this is an interesting world to be in, but it means that there is room for far more complex work. I mean, The West Wing, it is just an utter delight of work.

Mr Sinclair: We used to laugh—Clive James used to put programmes on and you used to see South American soap operas and we would scream with laughter in our rather superior way because the scenery was flaky and they did not remember their lines, and you know, we are getting pretty close to that. Rory, what about the story about The Devil's Whore? I think this is very useful.

Mr Kinnear: I am currently working with the writer Peter Flannery who about 13 years ago had tremendous success with a series called Our Friends in the North, during which time he already had prepared a treatment for The Devil's Whore, and had an idea of a ten part series, and having been lauded with as much praise as he could possibly imagine for Our Friends in the North, it took 13 years to turn The Devil's Whore from a ten part drama into a four part drama.

Q259 Bishop of Manchester: Could I just ask about the international side in terms of Europe? You have talked about America, the situation over there. Are the other European countries in a similar situation, or would you describe—

Ms Steed: You see, I cannot speak for that so much, because I do not speak French or German fluently enough to have experience, and, you know, we are absolutely tied to the States from that point of view. I am about to start a television series, a comedy series, that has had a 25 per cent cut, BBC, 25 per cent cut, because it has not been resold to America. Now that means, yes, if people are asking, would you take a wage cut in the current climate, yes, hello, I am just now going to be in four episodes instead of six, so I have had my wages cut by a third. So we are so married to the States. It is far more difficult for us to know what the situation is in Europe.

Ms Payne: What we do know is that our programmes are still selling very, very well overseas. We do not have the same sort of systems here that there are in the rest of Europe. But our systems here have held us in very, very good stead, you know, the regulation, the investment, the public service broadcasting nature of our television is why we have had these successes, why in the past we have been able to produce quality productions that we have. What we fear is whatever else is happening in the rest of the world, what is happening here is very, very worrying.

Q260 Lord King of Bridgwater: We should be doing pretty well, because the world is moving over to English increasingly, and if there is one element of globalisation, that must be it, and as television spreads and the demand for services grows, the opportunity is enormous. Are writers members of Equity?

Ms Payne: No.

Mr Sinclair: Some are. I do not know if you are—

Q261 Lord King of Bridgwater: Some are?

Ms Payne: If they are working as a writer, then they will generally be members of the Writers' Guild of Great Britain, but some of them may be members of Equity.

Q262 Lord King of Bridgwater: When you look at the West End, for example, and the amount of musicals and the amount that run forever, and the theatres that get locked up, and the feeling that there is a shortage of good creative writing, actually part of
Mr Sinclair: happens, does it not? a way they could not in the past, surely. That back here and work here for six months and so on in for six months to do a programme and then come there, but now people can go and work in the States really came back, because the ability to move was not but once Charlie Chaplin went, he basically never

Mr Kinnear: Just in terms of the industry as a whole, as a national industry, for which one could be proud, the extent of the exodus to America is a very worrying trend. It has obviously always existed to some extent, but never before in such numbers.

Q263 Chairman: Is that right, never before in such numbers?

Mr Kinnear: Certainly in terms of people deciding to look for work in America, having given up looking for work here. I think we either take the risk of losing all that talent to America, when they start working, or the rest of our industry becoming like patient lap dogs waiting with paws crossed to see if they will make any productions over here. I know of one American four part series which at the moment—they are currently deliberating daily whether or not to shoot it in Mexico, London or Prague, according to the currency exchange rate, with the daily fluctuations, so it goes across Europe.

Lord Maxton: You say it has always gone on.

Baroness Bonham-Carter of Yarnbury: Starting with Charlie Chaplin.

Q264 Lord Maxton: Starting with Charlie Chaplin, but once Charlie Chaplin went, he basically never really came back, because the ability to move was not there, but now people can go and work in the States for six months to do a programme and then come back here and work here for six months and so on in a way they could not in the past, surely. That happens, does it not?

Mr Sinclair: Yes. I do not know if you saw the comments of Dominic West who is the star of The Wire, English actor, Eton educated, and like you, he can go back and forth, and his frustration is coming back here to make not as good programmes as he is making in Baltimore. This seems very surprising. As to what Lord King has been saying, actually the West End is going through a very good time at the moment in terms of plays and in terms of the actors who are in the plays, because the producers in the West End are creative and they are in charge. They are not overmanaged by anybody. They hire the theatre, they hire the team, and they put the show on and it works or it does not work. But you are saying some of our best young actors are at the moment in the West End and some very good plays there, and one of the reasons is they do not want to work in television.

Q265 Lord King of Bridgwater: Actually, I am just trying to think, and you know much better than I do, but the view from the bridge, these are repeats, I am looking at where original material is coming out. You were both in, I think two of you did The History Boys, and look at that going round the world, you went round the world with it, creative new material. Are you as a union satisfied there is enough support or encouragement for creative writing?

Ms Steed: No. 

Q266 Lord King of Bridgwater: And trying to encourage it happening because it is the raw material.

Mr Sinclair: Absolutely.

Q267 Lord King of Bridgwater: We talked a lot—you get all the glamour, you are the front thing, but it is actually writing that will make it for you.

Ms Steed: That is absolutely right. I think if you are talking about—there are writing schemes for the theatre, I cannot talk so much about that any more, but if you are talking of television, writers, they have to write to order now. They cannot come along with an Edge of Darkness, very rarely can that happen and people go, “Gosh, that is extraordinary, you mean we can have ghosts on television, and we can have nuclear power?” They cannot do these wild things any more.

Mr Kinnear: Also, something like the Royal Court is probably the hotbed of encouraging young writers for the theatre, but TV is so quick to poach and when they poach, they want it written to order. I know a writer called Lucy Prebble who had a big hit at the Royal Court with The Sugar Syndrome, and then she was immediately snatched up, aged 23, to write Confessions of a Call Girl, an eight part drama about a young prostitute, for which they had to have a certain amount of titillation here, and a certain amount of titillation there, to get the viewing figures. Luckily, she has been burnt by that enough that she is now wanting to write another play, but the money that they can offer obviously will attract them, but then once you enter the world of TV, you are no longer your own master.

Q268 Lord Inglewood: There is a conundrum, it seems to me, at the heart of what you are saying to us, which is that the television world is dominated by the money men, the money men are calling the shots, and yet the effects of the way they are calling the shots is they are making product, if I can use that anodyne offensive word about it, which frankly is not very good, and therefore they are not making as much
money as they otherwise might if they did the job properly, is that correct?

*Mr Sinclair:* I think that is true, and I think the whole management culture—if there is a creative problem, the instinct of a manager, I am of course overgeneralising, but the instinct of a manager is to solve a management problem by more management. There was a terrible joke about ten years ago, a story that went round actors. You go to White City, to the BBC for a job, they were making less and less programmes, and every time you went there, a new building had been put up to house a whole new department, and you think, “This is where the money is going, because it is not coming to us, thank you very much”. I have been banging on about this all morning, but I do think that management solve problems by more management, and the actual bedrock of the problem is they have to leave it to the creative people. It is a problem we have when we talk to the Arts Council about making a decision. We had a big row with them about a year ago because people who were not qualified to make artistic decisions were making artistic decisions and surprise, surprise, they were very bad decisions, and this is what I think—

**Q269 Lord Inglewood:** In other words, what you are saying to the money men is if you want to make money, rely on the judgment of the creative and artistic people, do not rely on the bean counters, is that it?

*Mr Sinclair:* Yes, and the terrible word demographic, you will hear that word all the time.

*Ms Steed:* Also the fact is that there is no—as I say, there is always a real collision somewhere along the line between money and artistic endeavour, but we have—in order to do those endeavours, there has to be a margin within which you can fail because without that, you are not going to get anything alive, and that is the problem. People are frightened of failing, they will just go, “We will just do this, because this is”—

*Mr Sinclair:* No risk, no imagination.

**Q270 Baroness Bonham-Carter of Yarnbury:** We have discussed a lot about there being a lack of money around. I was interested actually by what you said, Mr Kinnear, that the strength of the pound affected things. Although you were asked earlier about the effect of the recession, I imagine in the film world anyway, the fact that the pound is now weaker has a positive effect.

*Mr Kinnear:* Yes.

**Q271 Baroness Bonham-Carter of Yarnbury:** You think that is the case?

*Mr Kinnear:* Certainly this year, but obviously last year, you can see the fluctuation.

**Q272 Baroness Bonham-Carter of Yarnbury:** In your written evidence, you suggest something that seems very interesting, which is an industry levy. Can you just explain how you see that working, who would be targets for such a levy, and how much it would raise?

*Ms Payne:* This is a proposal, I think, that in a lot of quarters is falling on deaf ears, because it is quite controversial, and I think there is a danger that the controversial nature of it will prevent a proper examination of the issues, and we would really urge you to give this some considerable thought. We have not got the solution, but we have ideas, and the ideas that we have stem from the basis of how is good quality content, particularly drama, children’s, light entertainment, that our members are involved in, how is that going to be made and funded in the digital future? That is where we start from. When you look at the pressures on the BBC, and on Channel 4, and now on ITV, which essentially make up our public service responsibility, and we are absolutely committed to a continuing public service responsibility in this country, we think that is vital, particularly Channel 4, and particularly the BBC, because the breadth of those channels, what they are able to deliver. They are a little bit like we have been talking about theatre, the National Theatre and the small scale theatre of the television world, and that is vital for creativity, for competition, and for quality. So even though we have been expressing some real concerns about what those channels are currently doing, and where they are, particularly the BBC, we nevertheless think that a way has to be refound and that has to be protected. So the aim would be, going forward, how can channels such as BSkyB and the other cable and satellite channels, who are benefitting from these programmes, how can they be persuaded, encouraged to invest more in quality production, particularly drama, which is not cheap? To some extent, why do they have to be encouraged? Why would they not want to do it naturally? If you leave it to the market, there is an argument that says the market will decide and deliver, and that these sorts of programmes will emerge automatically, because that is what the market does. Well, it is not. Sky are concentrating on sport, on film, on news, and they invest in drama now and again.

**Q273 Baroness Bonham-Carter of Yarnbury:** They employ Ross Kemp, of course.

*Mr Kinnear:* As a documentary maker.

**Q274 Lord Maxton:** And they are largely a platform, of course, for other channels.

*Ms Payne:* Absolutely, but we are here primarily talking about what our members do and what is of interest to them, and the sorts of concerns that they have been exploring with you today. So how do we
Ms Payne: Can we ask them? I think what we would just like is for all of these to be explored, and to be considered, and then for a conclusion to be reached, and if that conclusion is exactly what you have said, then at least we will have had that discussion, where there seems to be such a reluctance to even allow the discussion to happen, and that is of concern to us.

Q279 Baroness Howe of Idlicote: Just thinking further along these lines, you have obviously given the targets of the manufacturers and the makers of the programmes, so what concerns me is a little more detail about who would make the decisions. Would you want another regulator to decide where the money goes, what the targets should be? I have a very good one, which seems to be getting further and further down the line, which is children’s television, particularly the BBC and other things, and even the last half hour of analogue TV and radio has now gone. I think you would need a little more of a framework to think this through. I mean, quite clearly, Sky should be a big target here, because they do very well out of the franchise they have there. But there must be others as well. Could you just expand a bit more?

Ms Payne: I think where we were starting from was the fact that Ofcom recognised that there were benefits being made and nothing was being put back, they were not making a contribution. They did not come up with any solutions going forward as to what might happen, and this is why we particularly welcome you looking at this because this is a real opportunity, we think, to explore all of those ideas. Would a new structure need to be set up? Well, a framework to think this through. I mean, quite possibly. But I think as long as its aim was to achieve this additional funding, which could then be put back into content, into UK first run original content, I think if we start from the basis that this is what we want to do, because we think it is important and it needs to be done, and we are prepared to explore every opportunity as to how we might do that, then that is when the ideas—I mean, from our side, that is when the creative process would start. What worries us is that that debate is being stifled because of some of the reasons that we have heard today, and so it has never really got off the ground. I was very privileged to hear a presentation by Steve Morrison, who is chief executive of ALL3MEDIA, to the British Screen Advisory Council and I was very impressed because that is the first time I ever heard anybody talk about how levies might apply, and how they might then be allocated, but it is at that sort of early thinking stage. I do not think anybody has a solution. We just want to have that debate and discussion.
Q280 **Chairman:** You could not actually achieve the same thing by—you have been rather complimentary about subscription income on the other side of the Atlantic. Is there any element there?

**Mr Sinclair:** I mean, of course, the market in America, the United States, is so vast, it does not need many contributions to start building up a very big fund by which to make programmes, but I do not think it is possible here. To go back to the levy thing, I think rather than on computers, our thinking is channels like Sky, Dave, that is really where our focus should really be.

**Mr Kinnear:** Which themselves are subscription channels. I think also, in terms of the way in which Sky or ITV trumpet and fanfare any new drama that they have on their channels almost gives away their actual inherent support for the idea of new made drama, because they see it, the strength of it, in terms of increasing their brand and their brand recognition, it is just that they do not do more than the bare minimum.

**Mr Sinclair:** That public service idea of putting on drama absolutely survives on Radio 4. Mark Damazer, who came and talked to us, that ethos is absolutely there about we have a duty and a joy in making these programmes and putting them on. Four or five plays a week go out, quite apart from the soaps and all the rest of it. That is where we think: BBC, look what they are doing.

Q281 **Baroness Howe of Idlicote:** Can I just follow a tiny bit up? As you know, a shortfall has been identified in digital Britain and all the rest of it, and there are a lot of targets like news, et cetera, but are you also saying, are you thinking there might be a way in which, however they are going to decide to make good at least a proportion of this lack of funding, that it ought to be tied to UK production, UK content, rather than more widely public service broadcasting scenarios? It certainly would do with drama.

**Mr Sinclair:** I would think so. Of course, we being British actors, of course we would go yes, it makes it much easier. Here is another example. They tried to do a *West Wing* over here, it was called *The Palace*. They did it on the cheap. They filmed it in Lithuania. And then they wonder why the programme fails. I mean, we have members who could be working—we are not technicians, our sister union BECTU gets very angry about that, of course, but that is the sort of decision that we just go, “Are you surprised the show is no good?”

Q282 **Lord Maxton:** Has that not worked the other way round, the programmes in British television that they then try and reproduce in some form or another in the States? It fails just about as dismally, does it not?

**Ms Payne:** Sometimes.

**Mr Sinclair:** Yes indeed, but imitation is the problem.

**Ms Steed:** Not necessarily always.

Q283 **Lord King of Bridgwater:** Can we just talk about something a bit different? I just want to get a picture on the employment side. You have 37,000 members, and we had a brief reference to the closed shop. How many do you think there are in the industry eligible to be Equity members who are not? What proportion do you think? Would you find, I mean, in a normal production, that actually virtually everybody was an Equity member?

**Mr Kinnear:** I am currently working at the National Theatre where at the beginning of every rehearsal we have a talk from an Equity representative who encourages everyone to pay their fees. Obviously with the introduction of direct debit funding, it makes it easier to pay one’s subs but I would say in terms of the actors, certainly in the company I am, two thirds of the acting company were already members of Equity and others had let their subscriptions lapse, but when encouraged and when shown the benefits, are keen to sign up.

Q284 **Lord King of Bridgwater:** You mean when they are not in work they let them lapse?

**Mr Kinnear:** I think also people forget that they have not paid their subscription.

Q285 **Lord King of Bridgwater:** Can I then move on? We have some figures here about employment in film production but I am not sure they are any of your members, are they? Are these very much production people?

**Ms Payne:** I think there might be.

Q286 **Lord King of Bridgwater:** I have a figure here of 22,000, workforce in film and video production. That does not include your members?

**Ms Payne:** It might include them. I think those are figures from the UK Film Council.

Q287 **Chairman:** That is right.

**Ms Payne:** We are not sure, but we think that actors might be included in those figures, along with everybody else that is employed in the film industry at that time.

Q288 **Lord King of Bridgwater:** That figure had been growing quite steadily and now it is on its way down again. What about that?

**Mr Sinclair:** Well, I mean, the vagaries of the British film industry, I mean, up, down, up, down, *Slumdog Millionaire* we are a success, a couple of terrible gangster movies and *Lesbian Vampire Killers*, we are a failure. There is no sustained film industry and as I was saying earlier, *Slumdog Millionaire* had to get its
finances outside this country. I was brought up in the 50s, I remember British films, but then, of course, there was a levy then which went back into British film production.

Q289 Lord King of Bridgwater: That was when you had what was called the film investment bubble, there was a lot of money going into it, and now there is not, and down it goes.
Mr Sinclair: Down it goes, and I think one of the consequences of, I would say, the unsatisfactory nature of a lot of television drama is that more people are going to the cinema and more people are actually going to the theatre too.

Q290 Baroness Bonham-Carter of Yarnbury: What was the levy on?
Mr Sinclair: I was very young, but was there not a levy—

Q291 Baroness Bonham-Carter of Yarnbury: I am asking you.
Mr Sinclair: I rather wish I had not volunteered that information, but was there not—

Q292 Lord Maxton: It was on the ticket you bought at the box office.
Mr Sinclair: Yes, which went into British film production.
Lord Maxton: And they made some pretty awful films too.
Baroness Bonham-Carter of Yarnbury: Yes, but they made a lot of films.

Q293 Lord King of Bridgwater: It is very interesting. I have noticed that more people at the moment are going to cinemas and theatres, but do you think it is on a scale that actually is going to change the investment prospects?
Mr Sinclair: One always thinks that when you get a Slumdog Millionaire and they make millions and millions of pounds and dollars, that someone is going to invest.

Q294 Lord King of Bridgwater: But most of that money is actually not going to be kept in this country?
Ms Steed: No, absolutely.

Q295 Lord King of Bridgwater: I think we have Channel 4 here, and Film4 get a fraction of it.
Mr Sinclair: Film4 has been a marvellous thing.
Ms Steed: And BBC Films.
Ms Payne: I think Film4 is a bit underfunded.

Q296 Lord Inglewood: If I might, can we move on just to talk about films in particular, and particularly about UK productions, because there is a system of tax incentives for what you might describe as UK productions and I gather that that fiscal encouragement is to be found really in all countries. I think I am right in saying that in a film which gets support fiscally from this country, it is possible that nationals of other countries can be engaged in the production. Now first of all, do you think this is necessarily a bad thing, because superficially, I accept that it does not look appealing to you; on the other hand, it may mean that films actually take place here which otherwise would not take place here, and therefore there is marginal increase in opportunity and contribution and jobs for equity and other actors and so on. Secondly, do you have any figures about the way this is working out?
Ms Payne: Unfortunately, we do not have any figures, so we do not know to what extent our members are being displaced by actors coming from non-EU countries into the UK.

Q297 Lord Inglewood: In thinking about this, are you right to suppose that every actor who comes in from either outside, I think the test is actually a British test, on this bit, either elsewhere in the European Union or from America, is displacing one of yours? The alternative is the thing might not happen here at all.
Ms Steed: Absolutely.
Mr Sinclair: I have to say, at a gut level, I have no great objection to that. Particularly very successful actors come from all over the world to come and work here. I think that is great, and it is great to go and work with them.
Mr Kinnear: Also, one would not want to be denied work in other countries as a result.
Mr Sinclair: I do not think we have any great objection to that, and I do not feel the tax incentives should be tied—so you can only get the incentive if you use British actors.
Ms Steed: You are not going to sell the movies anyway.

Q298 Lord Inglewood: If you have a Slumdog Millionaire, you cannot very well film it in Britain.
Ms Steed: Exactly.

Q299 Lord Inglewood: Do you do much work abroad, collectively, Equity members, not only in the United States but other places too?
Ms Steed: Yes.

Q300 Lord Inglewood: Is there a fair amount of reciprocity, even handed reciprocity across national borders?
Mr Sinclair: In my limited experience, I would say yes.
Ms Payne: America is the only difficulty, because our members actually working in America is more difficult, both in film and in television, and particularly in theatre, and of course with the changes to the work
permit arrangements, it is now much easier for American actors to come and work here. So we are monitoring that situation very, very carefully to see if it continues to be even handed. We hope it will.

Mr Kinnear: If you see theatre as the bedrock of launching a career, then I think there is an unequal reciprocity in terms of British actors being allowed to work on Broadway is very limited. Two productions I have been involved with have transferred to Broadway, both of which with entirely American casts. It has been entirely recast with Americans.

Q301 Lord Inglewood: That is because of the work permits?
Mr Kinnear: The working agreements. Whereas successful American productions can come here with a totally American cast.

Q302 Lord Inglewood: Does that have also a spin-on in terms of employment in film, which is after all our principal focus? If you cannot do the Broadway you cannot then get the breakthrough into American film.
Mr Kinnear: Yes, you cannot be seen by American casting agents, by American directors, because I do think it is a two coast industry between LA and New York in America, they work interdependently.

Q303 Baroness Eccles of Moulton: So getting the entry visa or whatever, that is an immigration question, it is not industry specific?
Ms Payne: Yes.

Q304 Baroness Eccles of Moulton: It is industry specific?
Ms Payne: It is immigration.

Q305 Baroness Eccles of Moulton: So it would apply whichever industry you were working in?
Ms Payne: Yes.

Q306 Baroness Eccles of Moulton: So it is a kind of blanket protectionism?
Ms Payne: Within the States, yes, it is. But I think within theatre, it is slightly different from the—because the unions are very different. Our sister union covering theatre has a very different arrangement with its members, which is why there are often difficulties for our members working on Broadway and transferring in successful British productions when they do go over there. I think the film and television industry is slightly different, in that our sister unions there are slightly more relaxed, but nevertheless they are looking at their industries, at their actors, and at their work opportunities, and at their career development, because it is very much about experience and opportunity as much as anything else. So yes, they are looking at that, whereas we have to some extent I think lost that by the new arrangements that have come in. It is much easier now for American actors to come and work in the UK. We have a system in the West End whereby we regulate to some extent, and we have a code of practice that works, but we have nothing like that in film and television.

Q307 Baroness Eccles of Moulton: So there is a union membership implication that applies in America to a greater extent than it does here?
Ms Payne: I would say yes.
Ms Steed: Yes, it is not just immigration.
Mr Sinclair: The unions are more powerful in America, because they do not exactly have an official closed shop, but as near as dammit they do.

Q308 Baroness Eccles of Moulton: So there is an imbalance there?
Ms Payne: Yes.
Ms Steed: Yes.

Q309 Lord Inglewood: Is that showing a great deal of solidarity between the comrades? It is not, is it?
Ms Payne: Yes, I mean I think it shows—
Mr Sinclair: One envies them in some way.
Ms Payne: —it is a realism and the American unions have what they call their global rule one, which says that whenever, wherever and whenever their members of the Screen Actors Guild are working in film and television production anywhere in the world, they work under the Screen Actors Guild contract and that is something that their members will do, and they do do. We do not have—
Ms Steed: Or part of them actually.
Ms Payne:—those sorts of arrangements, but there is no evidence as yet that American actors are swamping our work here, in terms of UK film and television, but as Rory said earlier, there is evidence that our members are starting to go to the States, and are successfully finding work.

Q310 Lord Inglewood: Can a Brit join this outfit, the American—
Mr Sinclair: Oh yes. SAG has a lot of British members.

Q311 Lord Maxton: If you go and work there, you more or less have to sign up?
Mr Sinclair: Yes.

Q312 Lord Inglewood: So you are all members.
Mr Sinclair: I wish!
Ms Steed: We had to join American Equity in New York.
Q313 **Lord Maxton:** You can do that, and you can do it easily?

**Ms Steed:** You do it for the time of your engagement.

**Mr Kinnear:** It is not easy. You have to be part of a production which has been greenlit—*The History Boys* was one of the very few British productions that was taken wholesale with the British cast to America, which artistically makes sense, because the two productions that I was involved in that were remounted with American casts both failed, having been widely praised in Britain by American reviewers. It makes artistic sense.

Q314 **Lord Maxton:** But a young actor just going to the States, to Hollywood or to Broadway, looking for work, would not find it easy to get membership?

**Mr Sinclair:** No, the Hollywood hills are full of English actors crouching there.

**Lord Maxton:** Working in the bars?

**Chairman:** Lord Maxton, you were going to go on to co-productions.

Q315 **Lord Maxton:** That is right, it is the tax regime that exists at the present time that makes co-production more difficult than it was in the past. Do you want to see any changes in that? Others do, I know, the Film Council—

**Ms Payne:** I know, and I think probably others have more experience and can give probably better evidence, the Film Council and PACT, on this. I mean, where we are is we very rarely know whether a co-production has failed because we generally get involved at the casting process, when it has been greenlit, it is going to happen, so I think probably organisations like the Film Council would be better placed to give that sort of evidence than we are for those reasons.

**Lord Maxton:** And they have. Thank you.

Q316 **Chairman:** We have run over time but let me ask you all kind of individually a last question. I mean, if there was one thing that you would like the government to do in this area, for the benefit of the film and television industry, and therefore for the benefit of your members, what would that be? What would be the number one priority?

**Mr Kinnear:** I think personally speaking as the youngest representative, one’s ambition coming out of drama school, and how one got excited about becoming an actor, was to be part of this continuum of excellence of British drama that was internationally heralded and which represented our cultural life internationally and globally. The fact that British drama is itself a symbiotic, self-supporting, self-educating, culturally alive organism, to be able to safeguard creatives, to be able to do what they do best and what they are passionate about, which is to be able to safeguard a certain level of dramatic output from British television and film every year.

**Ms Payne:** I would say to preserve the very best of our public service broadcasting system so that a lot of what Rory has said can be continued, because if we do not do that, then we really fear that quality content, the sort of content that our members work in in particular, could really be lost. If I had a second one, I would say encourage BSkyB to put some more in as well.

Q317 **Chairman:** Just to go to the first one, a lot of that would go back to the BBC, would it not, on public service broadcasting, and on the priorities inside this budget that they have, and what they use their money on?

**Ms Payne:** I think we would like to see the BBC and Channel 4. I think we would like to see those two channels continuing with that remit, ideally ITV, but I think ITV is in a very sad and difficult place at the moment, and so we have to look to the two stronger organisations at the moment, and that is the BBC and Channel 4.

Q318 **Baroness Bonham-Carter of Yarnbury:** Even though Channel 4 get a much lower audience?

**Ms Payne:** Yes.

Q319 **Chairman:** Malcolm Sinclair?

**Mr Sinclair:** Yes, in a way going back, I would love you somehow to persuade particularly the BBC to trust their creative people, and to realise they do have a huge responsibility. They realise their responsibility to music, they support the orchestras, they support the Proms. Wonderful. You know, nobody but the BBC could do that, and they do it wonderfully. I feel drama is on a much lower—they should just trust us more, that is what I should say.

Q320 **Chairman:** Television drama, and I think you were saying radio drama on the other hand is—

**Mr Sinclair:** Is looking pretty healthy. It is very interesting talking to the people who run Radio 4. If they are threatened with cuts, as they sometimes are, of course, they defend as best they can their drama, and they do it pretty successfully. And the best actors work on Radio 4. There are better actors who work on Radio 4 on the whole than you will see on British television.

Q321 **Chairman:** Good, thank you. Maggie Steed?

**Ms Steed:** Well, it really is to protect the artistic life of the theatre and television, and to be able to nurture new work, and to, yes, give the creatives their head,
for people to create a situation where this whole management thing can be unlearnt, and other people can be given their heads and competence and the possibility of failure.

Mr Kinnear: I would say that theatre and radio currently in this country are the most exciting and culturally alive artistic media, largely because the money men think there is no money in it, so we are left to our own artistic devices, and we can come up with the goods.

Chairman: Well, we will have the opportunity of putting these points to all kinds of people who will be giving evidence to us, like BBC drama and the rest, and I would like to thank you very much this morning, it has been a fascinating session as far as we are concerned. You have put your evidence very clearly, very well. I just hope that perhaps this meeting is rather more fruitful as far as you are concerned than the last one, when you came before me. Thank you very much.
WEDNESDAY 22 APRIL 2009

Memorandum by the Producers’ Alliance for Cinema and Television (Pact)

10-POINT OVERVIEW

1. UK-made content represents, challenges and, at its best, unites our society.

2. UK film industry contributed more than £4.3 billion to UK GDP in 2006, while the £3.5 billion UK television content sector is the largest in the world in proportion to GDP.

3. The 2003 Communications Act enabled independent TV producers to own/exploit IP rights. As a result, independents generated £126 million to fund UK content in 2008.

4. Pact proposed a similar intervention—a Digital Rights Framework—to the Government’s Digital Britain review and asks the Committee to support our proposal.

5. Channel 4’s remit should include UK children’s content and, if a contestable fund is created following Digital Britain review, children’s content should be eligible.

6. In film, UK producers sell all IP rights to fund a film, and rarely secure any significant share of box-office revenues. As a result, they cannot develop their businesses.

7. To address this, we have agreed in principle with the BBC, Channel 4 and the UK Film Council for producers to share in their recoupment, giving producers an income stream they can use to attract investment.

8. To build on this, Channel 4’s remit should include UK film, and UK film should continue to be part of the BBC Charter.

9. UK tax credit for film should include overseas costs of UK cast, crew and equipment on UK films. Because it currently does not, UK co-productions have halved since credit introduced in 2006. This represents a direct loss of £50m per year to UK.

10. The UK Film Council has a crucial role in stimulating UK film industry, but its deal terms when investing in UK films are commercially aggressive and can make it more difficult for producers to raise the rest of the film’s funding from the private sector. The Film Council should review its approach so as to ensure it maximises its role in the development of the UK film sector.

EXECUTIVE SUMMARY

1. UK-made film and television content represents, challenges and, at its best, unites our society. This was a key conclusion of Ofcom’s recent review of Public Service Broadcasting (PSB), which found that UK-made content was crucial to reflecting UK cultural identity and representing diverse viewpoints.¹⁵

2. In addition to this cultural significance, the film and television industries play an important economic role. Taking into account multiplier effects such as the positive impact on tourism or service sectors, the UK film industry contributed more than £4.3 billion to UK GDP in 2006, and more than £1.1 billion to the Exchequer.¹⁶ According to new analysis commissioned by Pact, the £3.5 billion UK television content sector is the largest in the world in proportion to GDP—even higher than the US.¹⁷

3. Digital technology is creating challenges and opportunities for the financing models of both film and television. As audiences and advertising revenues fragment across digital television channels, on-demand broadband services and other new platforms, some traditional sources of funding are under increasing pressure. Ofcom predicts a funding shortfall of up to £235 million per annum by 2012 just to maintain current

¹⁵ PSB Review Phase 1: The Digital Opportunity, Ofcom.
¹⁶ The Economic Impact of the UK Film Industry, Oxford Economics, July 2007,
¹⁷ The Economics of UK TV content supply, Oliver & Ohlbaum Associates, interim report, March 2009.
levels of UK-made, public service television programming.\(^{18}\) This raises issues for UK films as well as UK television content—Tessa Ross, FilmFour’s head of film and drama, told this review in oral evidence that her department faced uncertainty.

4. In response, producers of content must be able to develop new sources of production funding. In television, this has been achieved with the introduction of the Codes of Practice in the 2003 Communications Act, which enabled independent producers to own and exploit Intellectual Property (IP) rights to the content they create, alongside broadcasters. Independents have developed new sources of production funding by exploiting their IP rights—global exports of UK television content have for example grown nearly 39% since 2003.\(^{19}\) Producers have then used these revenue streams to grow businesses of global scale, and to generate investment worth £126 million for the development and production of UK television programmes in 2008.\(^{20}\)

5. The Government’s Digital Britain review is currently reviewing the Codes of Practice, and Pact has proposed that a similar rights framework that allows producers as well as broadcasters to exploit IP rights should be developed for the digital era. We ask the Select Committee on Communications to examine the case for this “Digital Rights Framework” and, if it agrees with our argument, to support our proposal.

6. We propose that this Digital Rights Framework would sit alongside additional support for certain television genres with a clear public service value and where there is a confirmed market failure—for example, UK children’s content. We support proposals from Ofcom and the Digital Britain review for Channel 4’s future remit to include UK children’s content and that, if a contestable fund is created, children’s content should be eligible for support.

7. In film, Pact’s overarching aim is to stimulate the production of UK content and the growth of sustainable companies in the UK film content sector. UK producers have typically had to sell off all IP rights to their films in order to raise sufficient production funding to get a film made (the Codes of Practice in the 2003 Communications Act do not apply to film), and have rarely been able to secure any significant share of revenues should their film be a box-office success. This has meant they are unattractive to investors, and unable to develop their businesses as has occurred in the television production sector.

8. To help address this, we have agreed or are in the process of agreeing with the BBC, Channel 4 and the UK Film Council to allow the producer to benefit from a share of the recoupment of their equity.\(^{21}\) This reflects the fact that the BBC, Channel 4 and the UK Film Council are themselves in better recoupment positions as a result of the new tax credit for UK film production. In this way, the tax credit is being used to enable producers to receive a share of revenues from a film’s success, which in turn will make UK film production more attractive to private investment—this is the same core principle that has underpinned the success of the Codes of Practice, as it provides creative entrepreneurs with revenue streams that can be re-invested in the development of product and capacity.

9. As such, these agreements with the BBC, Channel 4 and the Film Council are essential to delivering the Government’s stated aim in introducing the film tax credit “of promoting the sustainable production of culturally British films.”\(^{22}\)

10. To build on this, we have four key proposals to stimulate UK film and foster a strong UK film production sector. Firstly, we ask that the Committee should examine the case for an explicit commitment to UK film for Channel 4 to be introduced under its remit (possibly as part of the new Channel 4 remit that may emerge following the Government’s current Digital Britain review). This is important as there is currently no specific requirement on Channel 4 to invest in UK film.

11. Secondly, we ask the Committee to support the BBC’s continued investment in UK film as part of its Charter Agreement.\(^{23}\) This is particularly important given the current economic climate.

12. Thirdly, we are concerned that the new tax credit system for film, while broadly effective and welcome, excludes the legitimate costs of UK cast and crew members working on UK films overseas, as well as other UK elements such as equipment hired from UK companies that is used on UK films abroad. As a result, UK co-productions with international partners have more than halved since the new tax credit was introduced in 2006, falling from over £100 million per year to under £50 million.\(^{24}\)

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\(^{19}\) UKTI/Pact annual export figures.

\(^{20}\) Pact survey 2009.

\(^{21}\) We have finalised such an agreement with the BBC, and are in the final stages of an agreement with Channel 4. With the UK Film Council, we have an agreement in principle but this is yet to be finalised or implemented.

\(^{22}\) Reform of Tax Incentives: Promoting the sustainable production of culturally British films, HM Treasury, July 2005, Section 1.4.

\(^{23}\) BBC Charter Agreement, 8 (2) (a).

\(^{24}\) UK Film Council.
13. The previous tax incentives regime for film (Section 42/48) supported co-productions because it funded a percentage of the total budget of a qualifying film (whether it shot in the UK or overseas). However, the new credit only applies to services “used and consumed” in the UK.

14. Economically, the decline in UK co-production activity represents a direct loss of more than £50 million per year of spend in the UK. However, the real impact could potentially be several times that once multiplier effects are factored in. This fall directly undermines one of the key stated goals of the Government’s film policy: making the UK “a global hub for film,” as expressed in the Department for Culture, Media & Sport’s current policy directions for the UK Film Council.

15. Fourthly, we propose that the UK Film Council should review its commercial deal terms when granting producers production funding from its National Lottery funds. In Pact’s view, the Film Council should ensure that any commercial terms that it seeks should be consistent with the remit set by the Department for Culture, Media & Sport. In terms of high level, overarching principles, this includes to “develop a sustainable UK film industry.” As a policy priority, the DCMS’ policy directions to the Film Council require it to foster “a flourishing competitive film industry.”

16. Currently, the Film Council takes commercially aggressive approach when negotiating with the production sector to fund a film through its National Lottery grants. This can have the consequence of making it more difficult for the producer to secure the remaining production investment to cover the rest of the budget from other sources in the private sector. Historically, this has often meant that the producer ends up with less of a margin, which is a potential contributory factor to the difficulties of the production sector in attracting other private investment and developing its business model.

17. We stress that the Film Council has a vital role to play in stimulating UK film and that its National Lottery funding for film development and production is crucial to maintaining diversity within UK filmmaking. We are also hopeful that the Film Council will finalise the producer recoupment agreement that we have noted above—in our view this will mean the Film Council has taken a significant step in fostering a flourishing production sector. To build on this, our proposal is that the Film Council review its wider policy on deal terms with the UK production sector with a view to playing an even more critical role in the development of the UK film sector.

18. In summary, our proposals on film and television for the Committee are:

- Television: Review case for producers owning and exploiting IP rights alongside broadcasters in the digital age under a Digital Rights Framework
- Television: Children’s content to be part of Channel 4’s remit and to be eligible for contestable funding if the Government creates such funding following the Digital Britain review
- Film: Film to be an explicit part of Channel 4’s remit
- Film: BBC should at the very least maintain current commitment to film under the BBC Charter Agreement
- Film: UK elements in a UK film shooting overseas should be counted towards the UK tax credit
- Film: UK Film Council should review its deal terms when funding UK films

INTRODUCTION

1. Pact is the trade association that represents the commercial interests of the UK independent production sector. We have more than 600 member companies across the entire UK, involved in creating and distributing television, film and interactive content.

2. The independent production sector creates 49% of all new UK television programmes each year across the BBC, IT1, Channel 4 and Five.

3. The sector has a turnover of more than £2 billion per year and employs 20,950 people—more than the terrestrial broadcasting and the cable and satellite sectors respectively.

25 DCMS direction issued to the UK Film Council under Section 26 (1) of the National Lottery Etc Act 1993, N. The UK Film Council’s Strategic Plan 2007–10 states that, for the UK Film Council, UK co-productions are one of the direct (and indirect) indicators of success in achieving the goal of making the UK a global hub for film (Film in the Digital Age, UK Film Council policy and funding priorities, April 2007–March 2010, page 35).
26 http://www.culture.gov.uk/what_we_do/creative_industries/4114.aspx
27 DCMS Policy Directions issued to UK Film Council.
29 Independent production census 2007–08, Digital-i for Pact.
30 Employment Census 2006, Skillset.
4. As well as television, the independent sector encompasses the leading producers of UK films, with credits including Slumdog Millionaire, The Last King of Scotland, Girl With A Pearl Earring, Bend It Like Beckham, Notting Hill, Trainspotting, and Happy Go Lucky.

5. We welcome this review by the House of Lords’ Communications Committee, and the opportunity to contribute. We can also supply the Committee with our submission to the Government’s Digital Britain Review on request.

6. For further information please contact Adam Minns, Pact’s Director of Policy: 020 7380 8232, adam@pact.co.uk

Question 1: What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

Cultural contribution of UK film and television
1. In Ofcom’s consumer research for its PSB review, the regulator found that 83% of the public thought it important for the PSB channels to provide content made in the UK and reflecting life in the UK.31

2. Ofcom’s PSB review concluded that UK-made content was essential to four public purposes:
   — Informing our understanding of the world: home-grown content is crucial to informing ourselves about the UK and ensuring that events in the rest of the world are made relevant to UK audiences;
   — Stimulating knowledge and learning: UK content is clearly intrinsic to learning about UK topics; however, it also help UK audiences to understand international issues by using appropriate reference points;
   — Reflecting UK cultural identity: UK-made content is essential in reflecting the culture of the UK as a whole, including the devolved nations and English regions, both to UK audiences and to the wider world; and
   — Representing diversity and alternative viewpoints: UK programming is crucial in making us aware of diverse communities and views from within the UK; at the same time, it plays a valuable role in interpreting viewpoints from around the world for UK audiences.

3. The important role of domestic content within PSB is enshrined in the Communications Act 2003, which states that licensed PSBs must broadcast an appropriate level of original (ie UK) productions.32

4. Historically, the UK production sector has succeeded in delivering high levels of UK content. However, this success is not just about the sheer volume of UK content: quality and diversity are also fundamental. The independent sector has a continuing and important role to play in achieving this, acting as creative catalyst, challenging and complementing broadcasters’ in-house production departments across a wide range of genres. UK content is crucial in reflecting and defining our society, but a dynamic, competitive and innovative content creation sector ensures the quality and range of that content. This year’s Oscar winner Slumdog Millionaire is, for example, a notable example of a UK film made by an independent production company.

Economic contribution of television
5. According to new analysis commissioned by Pact from Oliver & Ohlbaum Associates (O&O), the £3.5 billion UK television content sector is the largest in the world in proportion to GDP—even higher than the US.33

6. The independent sector (comprising production companies that are external to broadcasters) plays an increasingly important role in creating UK content. The independent sector has an annual turnover of more than £2 billion and creates around half of all UK television programmes each year across the BBC, ITV1, Channel 4 and Five.34 The sector employs 20,950 people—more than the terrestrial broadcasting and the cable and satellite sectors respectively.35

7. This is due to a combination of a well-financed licence fee broadcaster in the BBC, commercial public service broadcasters with a traditionally significant commitment to originated output, plus a reasonably well developed secondary and ancillary market for content rights. Additionally, since the 2003 Communications Act introduced Codes of Practice between broadcasters and independent producers, independent television producers have been able to own and exploit Intellectual Property (IP) rights to the content they create. This

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32 Communications Act 2003, section 278 (1) (a).
33 The Economics of UK TV content supply, Oliver & Ohlbaum Associates, interim report, March 2009.
34 Ibid.
35 Employment Census 2006, Skillset.
has enabled them to drive a pronounced increase in UK exports—since the 2003 Communications Act, UK television global exports have risen nearly 39% to hit around £800 million a year.\textsuperscript{36} In addition, indies have used IP rights to open up innovative new media services (indies launched online video-on-demand services before the commercial PSB broadcasters, for example).

8. Independents are using the resulting revenues to become significant investors in the creation of UK content creation, and invested £126 million in 2008 in the development and production of UK television content.\textsuperscript{37}

\textit{Economic contribution of film}

9. UK and Republic of Ireland box-office admissions recorded their strongest year ever in 2008, despite the economic recession. Box office revenues rose 5% cent to hit £949 million, while 164.2 million cinema admissions represented a year-on-year rise of 1.1%. Of the top 20 films, UK films had a market share of 31%.\textsuperscript{38}

10. In the same year, the value of UK film production totalled £578.2 million, encompassing locally-made films, international co-productions and inward investment from overseas films shooting on location in the UK.\textsuperscript{39}

11. However, this figure belies the multiplier effect of UK film production in stimulating the wider economy. Estimates vary but, according to a recent report, the UK film industry employs 35,000 people directly but supports a further 95,000 jobs, taking into account people working in its supply chain, the contribution to UK tourism, trade and merchandise sales. The same report suggests that films depicting the UK are responsible for attracting one in 10 overseas tourists, spending around £1.8 billion a year.

12. Taking into account all multiplier effects, the UK film industry is said to have contributed more than £4.3 billion to UK GDP in 2006, and more than £1.1 billion to the Exchequer.\textsuperscript{40}

\textit{Challenges and opportunities: television}

13. Due largely to the fragmentation of audiences and advertising revenues across digital services and platforms, funding from traditional PSB broadcasters for UK content is coming under increasing pressure. Ofcom predicts a funding shortfall of up to £235 million per annum by 2012 just to maintain current levels of UK-made, public service programming.\textsuperscript{41}

14. But as well as creating a pressure on traditional funding sources, the growth of new services and platforms as a result of digital technology opens up the opportunity of raising investment for content creation by exploitation in as many of these new markets as possible. The independent television production sector, underpinned by the Codes of Practice, can be part of the solution for the funding of UK content. As we have noted above, independents have proven that they are incentivised to exploit their IP rights, and can excel at doing so. As result, they are now investing the resulting revenues into content development and production.

15. Yet the contribution of indies must not be taken for granted. O&O’s analysis for Pact, and its previous work for Ofcom’s PSB review, indicates that the market conditions that made the introduction of the Codes of Practice necessary—namely the dominance of the four PSB broadcasters in the commissioning market—remain in place today. Without the Codes of Practice, PSBs would be able to demand control of all IP rights when commissioning programmes. When this has occurred in the past, PSB broadcasters have sought to restrict access to content by the market in order to protect their own core services. In the digital era, this would not only restrict the availability to the public of content on new platforms and services, it would also prevent independents from exploiting IP rights in those markets, and thereby stop them raising investment for programme production.

16. The Government’s Digital Britain review is currently reviewing the Codes of Practice, and we ask the House of Lords Communications Committee to review the case for extending the principles underpinning the Codes—the disaggregation of IP rights and the ownership of rights on the part of the producer—into the digital era and, if the Committee agrees, support our position. We detail our position in response to question 7.

\textsuperscript{36} UKTI/Pact annual exports survey 2008.
\textsuperscript{37} Pact survey 2009.
\textsuperscript{38} UK Box Office Report 2008, UK Film Council.
\textsuperscript{39} UK Film Council.
\textsuperscript{40} The Economic Impact of the UK Film Industry, Oxford Economics, July 2007.
BBC Films and Channel 4’s FilmFour remain key investors in UK film production, often taking risks on material that would not attract financing from commercial sources, but which nevertheless is hugely significant culturally (and often proves highly commercial once it reaches audiences, as shown recently by Channel 4’s independently-produced Slumdog Millionaire).

We note the comments of Tessa Ross, head of film and drama at FilmFour, to the House of Lords Select Committee that funding for film at FilmFour could be under threat. Although the provision of UK feature films is included as part of the general definition of PSB under the Communications Act, there is currently no legislative requirement specifically for Channel 4 to invest in UK film under its public service remit. The Communications Act defines UK feature films as a public service genre but this does not mean that Channel 4 must be the provider of such a service (or indeed any other licensed PSB broadcaster). Although any significant change to a PSB broadcaster’s current output must be approved by Ofcom in advance as part of its annual statement of programme policy, Ofcom’s decision must take into account commercial pressures on the broadcaster, meaning that film could in principle be cut or removed entirely from Channel 4’s schedule in response to current or future financial pressures.

Exactly the same legislative and regulatory framework has failed to prevent significant and well-documented cuts in the children’s genre— even when Ofcom asked ITV not to make cuts in the children’s genre, the Communications Act only requires ITV to “take account” of Ofcom’s guidance, which meant that ITV went ahead with the majority of its proposed cuts against Ofcom’s wishes.

Given the current commercial pressures on Channel 4 it is therefore important for film (as well as children’s content, as we explain in Section 6) to be explicitly enshrined in its remit (which the Digital Britain review has proposed to redraw). We therefore ask the Committee to support film being made part of the remit for Channel 4 or whatever service emerges as a PSB alternative to the BBC following the Government’s Digital Britain review.

We also ask the Committee to support the BBC’s continued investment in UK film as part of its Charter Agreement, and to recommend that the BBC should at the very least maintain its current levels of commitment to this genre. We note that the Charter Agreement calls on the BBC to develop a strategy to stimulate the UK film sector. As a key investor in the UK film production industry, the BBC’s continued commitment is all the more important as the production sector enters a recession. The committee should be aware that the investment per hour in new UK films by the PSB broadcasters (in this case BBC and Channel 4) has already dropped by a third in recent years. It is typically left to the producer of the film to raise investment to cover the gap between what the PSB broadcaster is prepared to invest and the actual cost of making the film.

The total value of UK film production in 2008 was down 23%. Within this, spending on indigenous films was up, but the expenditure on inward investment projects and on international coproductions was significantly down.

In terms of inward investment (from overseas films shooting in the UK), this fall is likely to be attributable to a combination of short term or cyclical issues including a US writers strike and actors’ dispute and reduced output by the US studios, plus competition in the form of subsidies offered by other countries around the world. The decline in co-production activity is, however, due to a flaw in UK public support for the film sector through the tax credit, which we will detail in response to question 3.

Question 2: How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?

1. The Committee should be aware that only a small proportion of box office receipts ever returns to the UK production sector. On a UK film, an exhibitor (ie the cinema) will take up to 75%, with the distributor keeping a large proportion of the remainder. After that, investors, including the UK Film Council and public service broadcasters Channel 4 and the BBC, recoup prior to the producer. This has historically made it difficult for the UK production sector to develop sustainable businesses that are attractive to investors.

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42 Communications Act 2003, Section 6 (b).
43 Communications Act 2003, 264 (6) (b).
44 Ibid, 265 (3).
46 BBC Charter Agreement, 8 (2) (a).
47 Ofcom, figures to supplied to Pact under Freedom of Information Act.
2. To address this, we have campaigned for the BBC, Channel 4 and the UK Film Council to allow the producer to benefit from a share of the recoupment of their equity. This reflects the fact that the BBC, Channel 4 and the UK Film Council are themselves in better recoupment positions as a result of the tax credit. In this way, producers are able to receive a share of revenues from a film’s success, thereby making UK film production more attractive to private investment—in essence, this is the same core principle that has underpinned the success of the Codes of Practice in stimulating the growth of the UK television content sector. We see this as crucial to ensuring that the tax credit is more than just a subsidy, that it actively stimulates the growth of a sustainable film production sector. This delivers on the Government’s statement in introducing the film tax credit that its core aim is “that of promoting the sustainable production of culturally British films.”

3. The BBC and Channel 4 have agreed or are finalising agreements to this effect, while talks are progressing with the UK Film Council—we have an agreement in principle but not finalised as yet. We view this initiative as particularly important at a time when the production sector is entering a recession.

4. In addition, we have asked where possible that the tax credit be treated as producer equity alongside the investment from the BBC, Channel 4 and the Film Council, which would also enable the producer to secure a revenue stream should a film be successful. In practice this has often been difficult to implement, however, as third-party commercial sector investors have refused to accept such an arrangement. Our agreements with the BBC, Channel 4 and the UK Film Council that producers share in their recoupment are therefore all the more important—and an example of how publicly-backed institutions can work in partnership with the independent sector to deliver the Government’s aim of fostering a sustainable UK film production industry.

5. We would also like to point out that the level of investment per hour from Channel 4 and the BBC in new UK films has fallen steeply in recent years. Figures from Ofcom show that the cost per hour to PSBs of first-run original (UK) films has fallen by a third since 2003, from £467,000 to £310,000. It is typically left to the producer of the film to raise investment to cover the gap between what the PSB broadcaster is prepared to invest and the actual cost of making the film.

6. This fall in cost per hour, as well as Tessa Ross’ comments to the Committee, shows the pressure that UK film is under. In Pact’s view, it is important to ensuring continued investment in UK film by Channel 4 and the BBC that both broadcasters are required to make a commitment to UK film as part of their remits. This is already the case for the BBC, but we ask the Committee to recommend that the BBC at least maintains current levels of investment in film production. We have also asked in this submission that the Committee supports film being an explicit part of Channel 4’s new remit following the Digital Britain review.

Question 3: Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

1. Pact broadly welcomes the new tax credit as an effective way of funding UK film. Without such a system we would expect the level of UK film production to drop more dramatically than it has done over the last two years. Indeed, while the overall level of UK film production may have declined in recent years, the level of wholly domestic films has remained constant, and even grown.

2. The fall in UK film production in the last two years has been in inward investment (overseas films shooting in the UK) and international co-productions. We see the decline in inward investment as largely cyclical, due to relatively short term factors such as strikes in the US and cutbacks at US studios, plus competition from overseas subsidies. However, the fall in co-production activity is directly related to the introduction of the new tax credit system in April 2006. Since 2006, co-productions have more than halved, falling from £108 million in 2006 to £48 million in 2008, as the table below illustrates.

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48 Reform of Tax Incentives: Promoting the sustainable production of culturally British films, HM Treasury, July 2005, Section 1.4.
49 Ofcom, figures to supplied to Pact under Freedom of Information Act.
UK CO-PRODUCTION LEVELS SINCE NEW TAX CREDIT (£ MILLION, UK SPEND ONLY)

Source: UK Film Council.

3. To be clear, the table and figures above refer only to the element of the co-production spent in the UK, in order to best reflect the impact on the UK economy.

4. This fall directly undermines one of the key stated goals of the Government’s film policy: making the UK “a global hub for film,” as expressed in the Department for Culture, Media & Sport’s current policy directions for the UK Film Council.\(^{50}\) Co-productions, including the level of co-productions, are cited as one of indicators of success in achieving this goal by the UK Film Council, the Government’s strategic film body.\(^{51}\)

5. The previous tax incentives regime for film (Section 42/48) supported co-productions because it funded a percentage of the total budget of qualifying films (whether they shot in the UK or overseas). Criteria for co-production status included salaries paid to UK crews working in the co-production territory.

6. Broadly, Pact supports the new tax credit scheme as a practicable and effective mechanism for stimulating film production, with the exception of co-productions. The new credit only applies to services “used and consumed” in the UK. This leaves the UK without any public support for co-productions. The effect is evidenced in the fall in co-production activity since the new tax credit was introduced.

7. In Pact’s view it seems reasonable that UK artists and crews working overseas should attract the UK tax credit, as well as equipment hired from UK companies that is used for UK films shooting abroad.\(^{52}\)

8. Under the previous Section 42/48 scheme, there was abuse by certain UK tax fund schemes, which were used to finance overseas productions with little UK involvement. Providing these productions met a minimal level of UK requirements, UK tax relief would be granted against the entire production, including elements with no UK connection. This could not occur under the reform of the current tax credit that we are proposing, as the credit would apply only to the UK element of the overseas shoot (such as UK nationals working in the crew or cast), in addition to spend in the UK as it does now.

9. We are not advocating a return to the old system under Sections 42/48, whereby all overseas expenditure on a film, including that with no UK connection, was eligible for UK tax relief. We are asking that, where UK nationals are working overseas in the cast and crew of a UK film or UK co-production, this should eligible. This will create an added incentive to employ UK cast and crewmembers, thereby increasing expenditure and employment in the UK, and enable UK production companies to play a more active role in international co-productions.

\(^{50}\) DCMS direction issued to the UK Film Council under Section 26 (1) of the National Lottery Etc Act 1993, N.

\(^{51}\) Film in the Digital Age, UK Film Council policy and funding priorities, April 2007–March 2010, page 35.

\(^{52}\) By equipment we mean equipment supplies and services that are invoiced by and paid to UK companies, including (but not limited to) cameras, sets, costume, consumables such as film tape.
10. The consequences of the current exclusion for legitimate UK elements overseas are both economic and cultural. Acclaimed UK films such as The Wind That Shakes The Barley or the Oscar-winning The Constant Gardener would face significant difficulties raising funding, because their UK crews working on location overseas would not count for tax credit purposes.

11. In addition, and most importantly in terms of raising investment for the creation of UK content, UK producers need to be able to work with partners in overseas countries to raise production funding from markets around the world. This ability is increasingly important given the pressures on traditional sources of funding in the digital era, and is directly undermined by the exclusion of UK costs incurred overseas.

12. We therefore ask the Committee to call for the credit to be extended to cover UK nationals and UK equipment on UK films shooting overseas.

Question 4: Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

1. The overarching remit for the UK Film Council, set by the Department for Culture, Media & Sport, is twofold: to develop film culture in the UK; and to “develop a sustainable UK film industry.” As a policy priority, the DCMS’ policy directions to the Film Council require it to take into account the need for “a flourishing competitive film industry.”

2. In our view the Film Council plays a vital role in stimulating the production of UK films, and its National Lottery funding for film development and production is crucial to maintaining diversity within UK filmmaking. We welcome the Film Council’s commitment as part of its current policy priorities in its three-year plan help provide UK companies with better access to debt and equity finance and to develop an initiative “to provide UK film companies with better access to corporate finance.”

3. However, there are in our view areas where the Film Council’s policies could potentially better deliver its DCMS mandate to foster a flourishing film industry, specifically in relation to the production sector. We are now working with the Film Council to develop ways to enable the UK film production sector to develop businesses that are capable of attracting private investment for the development and production of UK films. We have an agreement in principle with the Film Council that it will follow the BBC and Channel 4 in agreeing to allow the producer to benefit from a share of the recoupment of their equity. This reflects the fact that the BBC, Channel 4 and the UK Film Council are themselves in better recoupment positions as a result of the new tax credit for UK film production. In this way, the tax credit is effectively being used to enable producers to receive a share of revenues from a film’s success, which in turn will make UK film production more attractive to private investment — this is the same core principle that has underpinned the success of the Codes of Practice in stimulating the television production sector, as it provides creative entrepreneurs with revenue streams that can be used to raise investment for production and develop businesses.

4. Using the tax credit in this way will mean the Film Council has taken a significant step towards developing the strength of the UK film production sector — and in delivering the Government’s stated aim in introducing the film tax credit “of promoting the sustainable production of culturally British films.”

5. In addition, we have asked that the tax credit be treated as producer equity, enabling the producer to recoup alongside the BBC, Channel 4 or the UK Film Council. However, in practice, third-party commercial sector investors have often refused to accept this arrangement, making it all the more important that the producer share instead in the recoupment by the BBC, Channel 4 and the Film Council. Enabling producers to share in recoupment in this way demonstrates how the publicly-backed sector can work in partnership with the independent production sector to strengthen the film industry in the UK, and thereby use the tax credit to work towards the Government’s goal of sustainable production.

6. We look forward to working with the UK Film Council on other initiatives that will stimulate the ability of film companies to attract investment that can be used to fund the creation of UK films. As part of this, we support a review of the Film Council’s overall approach to dealmaking with the production sector when it contributes to a film’s development and/or production costs through its National Lottery funds. Currently, the Film Council takes a commercially aggressive approach when negotiating with the production sector. This can have the consequence of making it more difficult for the producer to secure the remaining production investment to cover the rest of the budget from other sources. Historically, this has often meant that the

53 http://www.culture.gov.uk/what_we_do/creative_industries/4114.aspx
54 DCMS Policy Directions issued to UK Film Council.
55 Film in the Digital Age. UK Film Council policy and funding priorities April 2007–March 2010.
56 We have finalised such an agreement with the BBC, and are in the final stages of an agreement with Channel 4. With the UK Film Council, we have an agreement in principle but this is yet to be finalised or implemented.
57 Reform of Tax Incentives: Promoting the sustainable production of culturally British films, HM Treasury, July 2005, Section 1.4.
producer ends up with less of a margin, which is a potential contributory factor to the difficulties of the production sector in attracting other private investment and developing its business model.

7. As the Committee will be aware, there are relatively few other sources of UK public investment for film that the production sector can access instead of the National Lottery funds administered by the Film Council, particularly as public funding for film from different organisations was folded into the Film Council on its creation.

8. A review of the Film Council’s policy on dealmaking should therefore encompass:

— Whether monies recouped by the UK Film Council from its investments in film production should go to non-production activities, including the Film Council’s overheads;

— The potential for the Film Council to allow producers to recoup their equity (in the form of the tax credit) alongside their own equity (pro rata and pari passu), and to encourage other financiers to do the same. The BBC and Channel 4 are we understand already actively facilitating this;

— The effect of the Film Council only finalising a deal once all other parties, including private sector companies, are on board—including whether this creates difficulties for the production sector when seeking to raise investment from other sources, and whether supporting a production at an earlier stage would present a genuine risk to National Lottery funds; and

— The appropriate, most efficient level of supervision over a production, particularly where there is a verified completion bond in place.

9. We reiterate that the Film Council’s National Lottery development and production funds are a key investment in the film production sector and the Film Council has a vital role to play in stimulating UK film production, and that we welcome the Film Council’s agreement in principle to enable the producer to share its recoupment as a potentially significant step in stimulating UK film production and the production sector.

Our proposal for a wider review of the Film Council’s approach to dealmaking is aimed at building on this hugely welcome step, with a view to ensuring that the Film Council’s activities are aligned as closely as possible with the goal of helping deliver a flourishing production sector.

Question 5: Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

1. Pact’s concern in the current economic climate is that support for skills development must be at least maintained. Having the necessary skills base in place will be crucial for companies to take advantage of opportunities created by new technology as they emerge from the current downturn.

2. Pact members contribute to industry training through their contributions to the Industry Training Fund, which supports a wide range of training initiatives, including schemes for the freelance sector and funding for Skillset, the sector skills agency. In addition, the production sector contributes to the Skills Investment Fund run by Skillset.

3. Pact itself runs or supports a range of training initiatives. We run the Talent Attraction Scheme with the BBC, ITV and Channel 4, Creative Business Wales and Skillset, which is aimed at developing skills at companies in the devolved Nations and regions. Pact is also currently involved in joint mentoring schemes with NESTA and with the Cultural Diversity Network. Additionally, we have developed a cross-platform training programme for Pact members to strengthen and improve their positioning as suppliers of digital media.

Question 6. How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

1. As we noted in response to question 1, due largely to audiences and advertising revenues fragmenting across digital services, Ofcom predicts a funding shortfall of up to £235 million per annum by 2012 just to maintain current levels of UK-made, public service programming.58

2. As Ofcom identified in its PSB review, certain core areas of PSB—other than news, most immediately children’s—are already experiencing particular shortfalls. Without urgent steps it is clear that the PSB system will fail audiences in these key areas. In the case of children’s programming, this is already a reality: investment

from commercial PSBs has plummeted over the last decade by 80%, destroying the plurality of programming in many areas.\(^59\)

3. Pact therefore welcomes the commitment to addressing this issue in the Digital Britain interim report, which stressed the important of “plural public service provision of high quality, original UK programming for children.”\(^60\) This followed and built on Ofcom’s conclusion in its PSB review that “UK programming for school age children is one area of particular concern.”\(^61\)

4. Throughout the PSB review and subsequent Digital Britain review by Government, Pact has supported the existence of a strong public service alternative to the BBC, be that a well-funded Channel 4 or another entity. We see this as crucial in providing audiences with a rich choice of public service content. We have agreed with Ofcom and Digital Britain’s proposal that this “PSB2” service should have a commitment to children’s content as part of its core remit. If this service were not sufficient, possibly due to lack of funds, the Government should consider adopting Ofcom’s proposal in its recent PSB Review of creating a contestable fund for core public service genres where there is a clear market failure, such as children’s.

5. We have suggested that one way of providing some of the funding for this contestable fund would be to address the nature of Public Sector Procurement, where Government or NGOs commission new media content from external suppliers. This is an increasingly important area as more Government services are moved online and, in terms of investment in new UK content, is worth around £200–£300 million a year—considerably more than the contribution of the BBC’s online services.

6. However, when external companies are commissioned by Government under Public Sector Procurement, the commissioning entity retains all IP rights. This means that the external supplier cannot exploit that content globally—it is “warehoused” by the commissioning entity. This is a potentially significant waste of public resources.

7. In our response to the Digital Britain review, we therefore proposed that the Government adopt a rights framework similar to the Codes of Practice in television for a range of services, including Public Sector Procurement. This would enable external suppliers to retain and exploit a share of the IP that they create. Under the current Codes of Practice in broadcasting, the commissioning PSB broadcaster receives a share of any revenues generated by the indie producer from subsequent exploitation. In the case of Public Sector Procurement, revenues due to the commissioning entity, ie the Government or public agency, could flow instead into a contestable fund for commissioning public service content.

8. We have also proposed that the Rights Agency that the Digital Britain review is developing should include in its remit a role as a collecting agency, which could potentially extend to retransmission payments by non-PSB broadcasters of content originally commissioned by PSBs. Revenues could be returned directly to the rights holder, or used to create a contestable fund for core public service content.

Question 7. *How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?*

1. The structural changes facing the broadcasting industry give rise to significant challenges. As we have mentioned, Ofcom predicts a funding shortfall of up to £235 million per annum by 2012 just to maintain current levels of UK-made, public service programming.\(^62\)

2. In the digital era, it will be crucial to make content commercially available to the public as quickly and as conveniently as possible, taking advantage of new platforms and services. It will also be vital to raise investment for content creation via exploitation in as many of these new markets as possible.

3. The independent production sector, underpinned by the Codes of Practice or a similar IP rights framework, can be part of the solution for the funding of UK content. It has proven it can excel at exploiting IP rights and investing the resulting revenues into content development and production, as we have noted previously in this submission.

4. Yet the contribution of indies must not be taken for granted. Separate analysis for Ofcom and for Pact by Oliver & Ohlbaum Associates (O&O) indicates that the market conditions that made the introduction of the Codes of Practice necessary—namely the dominance of the four PSB broadcasters in the commissioning

\(^{59}\) Pact figures.

\(^{60}\) Digital Britain, interim report, page 48.

\(^{61}\) Ofcom’s Second Public Service Broadcasting Review: Putting Viewers First, page 11.

market—remain in place today. Although the overall spend by broadcasters on UK content may decline due to cyclical and structural pressures, O&O’s analysis suggests that the proportion of spend controlled by the four PSBs will remain unaltered through to 2020. While those PSB broadcasters may spread their commissioning across a greater range of digital channels and new media platforms, they will still control 90% of all commissioning of UK content. That dominance enables the PSBs to demand control of all IP rights when commissioning content.63

5. Whenever this has occurred historically, PSB broadcasters have sought to restrict access to that content in order to protect their core services. This is occurring today when broadcasters commission outside the Codes of Practice (on their digital channels or online, for example).

6. In contrast, since the Codes of Practice were introduced, independents have maximised the exploitation of IP rights, driving exports and new media services, as we have noted previously. In the process, independents are making content available to the public as quickly and as widely as possible. However, removing the Codes of Practice would fatally undermine the independent sector’s ability to retain and exploit IP rights, and its ability to use resulting revenues to invest in content creation.

7. The Government’s Digital Britain review is currently reviewing the Codes of Practice. Although the details of the commercial terms surrounding the Codes of Practice should evolve for the digital era, Pact has detailed the case for retaining the high-level principles enshrined in the Codes—the disaggregation of IP rights and ownership of IP on the part of the creator—in its submission to the Digital Britain review, which we can supply on request. We ask the House of Lords Communications Committee to review the case for introducing our proposed “Digital Rights Framework” and, if the Committee agrees, to support our position.

March 2009

Examination of Witnesses

Witnesses: Mr John McVay, Chief Executive; Mr Charles Wace, Chair; and Ms Andrea Calderwood, Vice-Chair for Film, Producers’ Alliance for Cinema and Television (Pact), examined.

Q322 Chairman: Welcome and thank you very much for coming; we are very grateful to you. I think you know what we are doing. What we basically are seeking to do is to look at film and television and see what contribution they are making—I suppose that economic contribution is one of the most important but it is not the only contribution—and then to see what else the Government, any government, can do to help the movement go further. That is what we are about really, to see what else we can suggest in two very important industries. Mr McVay, perhaps you would like to begin. Could you explain to us what the objectives of your organisation are and how your organisation is made up.

Mr McVay: I would like to introduce my Chairman, Charles Wace, who will give you an opening statement on what that is.

Mr Wace: PACT is the trade association that represents the interests of the independent production community in terms of television and in terms of film. I think that we like to see ourselves as being one of the few successful parts of the creative economy at the moment, even despite the credit crunch and everything that has been thrown at it. The independent production community currently turns over some £2 billion. We create more than half of all UK TV programmes. In the UK as a whole when you look at film, it actually has a total investment of more than £0.5 billion in terms of film last year. Collectively, we employ more than 21,000 people and that is more than all the PSBs put together, the public sector broadcasters put together, and it is not just commercial success, it is creative success as well. If you look at the last Oscars, Slum Dog Millionaire was a run-away success with eight Oscars in the film sector and, in the documentary sector, Man on Wire winning an Oscar for best world-wide documentary.

Q323 Chairman: Your estimate is that you employ 21,000 people?

Mr Wace: That is indeed correct.

Q324 Chairman: How many companies? I have it down here as 600 member companies.

Mr McVay: That is correct; it is around 600. It changes because the barriers to entry to be a film or TV producer are quite low. So many people start up businesses and, if they are still in business two years later, they have probably become a producer. The churn rate is quite high; we estimate around 20 per cent of our membership at any time.

Q325 Chairman: I suppose there is always the feeling that when one says independent production companies, these are really rather small companies, but in fact that is not the case, is it?

Mr McVay: No. As a consequence of the Communications Act 2003, we have seen considerable consolidation in the sector. When I started at PACT many years ago in 2001, we had over

63 The Economics of UK TV content supply, Oliver & Ohlbaum Associates, interim report, March 2009.
1,000 companies and we are now down to 600. The top ten companies account for 80 per cent of all TV product for British broadcasters and increasingly the top six account for the vast majority of international production as well. They range in scale from companies turning over £200,000 a year to companies turning over in excess of £300 million a year.

Q326 Lord Gordon of Strathblane: Chairman, I wonder if it would be possible to get from our guests a short paper just illustrating this very wide spread that there is between the small garret operation and the company that is really at least as big as some television companies.
Mr McVay: Yes, absolutely. There are various documents which we can provide you with and we would be delighted to do so.

Q327 Chairman: Why has the Communications Act 2003 had an impact?
Mr McVay: For the 20-odd years prior to 2003, the independent sector was effectively a fee-based business where you were a gun for hire, where you worked for a broadcaster and you obtained little, if any, value in the intellectual property rights in the programme. Post the Communications Act 2003—and a very progressive and far-sighted bit of legislation if I may add—it enabled companies—to the number of people you employ; I think you said 21,000. Mr McVay: That is according to Skillset’s own employment census.

Q328 Chairman: In some parts.
Mr McVay: I would say for the UK, it enabled entrepreneurs to raise money to float on the stock market, to raise funding from private equity and venture capitalists and that drove a period of consolidation where companies moved together in order to become more globally competitive. That has been very productive. The UK independents now account for a large part of US prime-time networks and, for some of our members, the revenues from the US will exceed $100 million over the next year.

Q329 Chairman: If you were to generalise, do you find the independent production sector in sturdy health at the moment?
Mr McVay: I think that it is precarious. Clearly with the downturn in advertising revenues and the pressure that places on commercial broadcasters, there is increasing price pressure in the market, but because producers own their own intellectual property rights and are able to sell then to the international market where, for instance, a company like ITV may now offer considerably less for an hour of prime-time drama in the UK, producers are now able to go and find the deficit finance in other territories and bring that to the UK programme budget, which means that UK audiences actually still get high-quality programming that actually our market cannot really afford. So, it is a combination of spread risk between the broadcaster and the producer and producers, because they own their property, are driven to exploit it internationally. So, we have moved from basically a cottage industry focused on earning fees for a job to basically becoming a more global and IT-based industry.

Ms Calderwood: It also means that producers actually bring investment to production whereas in the past producers were always looking for the broadcaster to fully fund production. Producers actually bring a significant proportion of investment to the table.

Q330 Chairman: Previously, you were rather a gun for hire, if I can put it that way, working entirely on a fee basis.
Mr McVay: Absolutely and well paid.

Q331 Chairman: Now, it has become much stronger. Do the producer companies have too much power?
Mr McVay: No because, at the end of the day, it is the buyers who are always dominant; it is the buyers who have the money and you have to produce the ideas and the talent in order to win a commission. Given that the four main terrestrial networks are still the dominant buyers in the UK market, if you cannot win a commission and you cannot come up with the package that the broadcaster needs, you will not win the work. Buyers are still the people who write the cheques and, without coming up with ideas and winning commissions . . .

Q332 Baroness McIntosh of Hudnall: May I go back to the number of people you employ; I think you said 21,000.
Mr McVay: That is according to Skillset’s own employment census.

Q333 Baroness McIntosh of Hudnall: What I think we are struggling with is understanding what these employment figures actually mean in terms of whether that is a full-time equivalent number or whether that is 21,000 people for example who regard themselves as predominantly employed in the business of making film or television but do not actually necessarily make a full-time living out of it. Can you unpack the figure for us a little?
Mr McVay: As I say, it is Skillset’s figure but I am happy to provide further analysis on that. As I understand it, it is the full-time equivalent but the vast bulk of those jobs are freelance jobs and short-term contracts which applies to film and television—that is how the industry is structured—where productions flex. Production companies flex when they win a commission and reduce when they do not have any work.
Q334 Baroness McIntosh of Hudnall: Putting it very simplistically, 21,000 people, so to speak, might in fact be twice or three times that number of people doing the equivalent of 21,000 people’s worth of work, which means that the spread of work actually does not provide necessarily a good living for everybody who is involved in the business.

Mr McVay: I think that, like in any labour market, if you are highly skilled and highly talented in the film and television industry in whatever grade you work in, whether that is in production, directing, executive producer or post-production, you can earn a very attractive living and indeed that is why many people choose to work freelance because they have a choice of the different products that they work on. It is a creative industry, so it is not like you are turning up and packaging sandwiches, you are working on creative products. So, for many people, the choice of a freelance career is the way they develop their creative talent and ability and indeed that has been one of the strengths in the UK where we have a very flexible and creative labour market. Clearly in a recession where it is harder to raise finance for production and there is a decrease in production, that will impact unfortunately on the labour market as well and, like many other industries, one of the things we have to look at is our cost base in the UK, particularly in high-cost drama, in order to make sure that we are competitive both in terms of attracting inward international film production but also sustaining our very high levels of television drama.

Chairman: We will obviously go into the very high levels of television drama.

Q335 Lord Inglewood: Earlier in your remarks, in the context of television, you talked about the relationship between the broadcasters and yourselves. Obviously, partly because of the 2003 Act and partly because the terms of trade arrangements have been put in place, there have been changes in that relationship. Do you think that one side or the other is starting from an essentially dominant position and, if so, how?

Mr McVay: I think that was one of the major insights in the Communications Act 2003 in that it created a more shared risk and more shared value and reward for the investment and the exploitation of British content. So, I would not say that either party is dominant. Again, one of the beauties, if you like, of the Communications Act was the introduction of very high level codes of practice which have been introduced by the Regulator. Those codes of practice do not dictate the terms that are subsequently negotiated. Those terms are negotiated between ourselves and the four regulated broadcaster concerned—BBC, Channel 4, ITV and Five. So, it is a market negotiation and that market negotiation reflects the differences/changes in the market. I would say that, like any negotiation, you win something out of that and you lose something out of that but, at the end of the negotiation, by and large, most people have walked away reasonably satisfied that the terms they achieved were equitable.

Q336 Lord Inglewood: That is probably the crucial point. You feel that the framework within which you operate enables a fair deal to be struck from each side’s perspective?

Mr McVay: Yes. Clearly some broadcasters post the negotiation maybe felt that they did not do as good a deal as they wanted to, but all is fair in love and war.

Q337 Lord Inglewood: Win some, lose some.

Mr McVay: Yes.

Q338 Lord Inglewood: You also spoke earlier about the desirability of being able to exploit all the secondary IP rights which obviously have burgeoned and become much more valuable.

Mr McVay: Yes.

Q339 Lord Inglewood: Then you intimated that you felt that your members were not getting a fair crack of the whip. Is that right?

Mr McVay: I think that previously we do not think that we were getting a fair crack of the whip. I think we have every chance now to exploit our content. There are still some issues in the market which we think are damaging to the long-term development of the communication and media industries in the UK and that is often to do with what is called a hold-back by broadcasters on the content, particularly in relation to returning popular series where those series cannot be released for secondary exploitation for anywhere from two to three years. In 2006 when we agreed that, that seemed eminently sensible but, in a world which is accelerating to high-speed broadband, two years might as well be 20 years. We think that there needs to be some sort of review about what is effectively warehousing of content from the secondary markets in order to allow particularly broadband and video-on-demand services to further develop in the UK.

Mr Wace: I think the framework is that the industry is moving ahead very quickly in terms of digital and I think that we are very keen to see the framework that exists in television also replicated in the digital framework as well.
Q340 Lord Inglewood: Digital Britain is proposing that there should be a government review of this area. Are these the kinds of things that you are thinking that review should contain and is there anything else?  
Mr McVay: Absolutely. We do think that Digital Britain has an important role to play to set the framework or give at least a direction of what sort of market we will see developing in the UK. One area which we have asked Digital Britain to look at specifically is public sector procurement. Currently, if you are creating a website for a government department, you might come up with a unique bit of code that could be used later on in some other commercial application. Again, currently, if you write that code, it then gets taken off you under Crown copyright and it cannot be exploited. Our position is that while clearly there are issues around state aid on that and clearly the public should get some return to their investment, that investment could be seen as seed funding for the development for our next generation of digital companies making digital content.

Q341 Lord Inglewood: But the converse is true that if suddenly all this framework were to be removed, you think that your members would be in an unfair position in the market.  
Mr McVay: If we did not have the codes of practice via the Communications Act to sustain the development of the sector, we would retract very quickly, broadcasters would seek to take all programme rights on all platforms in perpetuity in the universe, however so invented, “from their previous contract”.

Q342 Chairman: I would like to follow up Lord Inglewood’s question. When you mention the public sector, are you basically saying that the public sector are an exception really to the fairness deal that you happen to have done elsewhere?  
Mr McVay: I think that we have demonstrated that if you allow British IP creators the opportunity to exploit the IP that they do create, both domestically and internationally, then they are driven to do so. If they have no access to the products they create because they are effectively warehoused either under commercial terms or under Crown copyright, then you are still guns for hire, and, as we move to a more digital era, we think that there is an opportunity to try and replicate what happened in television in the new digital commissioning. Clearly, the public sector spends in excess of £300 million a year on digital content.

Q343 Chairman: Have you put this to the Government?

Mr McVay: We have; it is part of our Digital Britain submission.

Q344 Chairman: But you presumably put it beforehand, did you not?  
Mr McVay: We have been talking about this to Government for about two-and-a-half years.

Q345 Chairman: Then you must by now have some vague feeling about how the Government respond to all this after two-and-a-half years of conversation.  
Mr McVay: We and various others have put various submissions to the Government around the development of Digital Britain, hence I think the creation of the Digital Britain project in order to resolve lots of issues around that, and clearly public sector procurement is part of what Digital Britain is looking at.

Q346 Lord Macdonald of Tradeston: ITV seems to believe that taking more of its production in-house is essential to future viability. It is also looking at the possibility of ceasing to become a public service broadcaster. If that happened, would all your agreements with ITV then fall? Would they be free to take everything in-house? Is there anything in their present proposals about changing the quotas in terms of independents being commissioned from outside London et cetera that concerns you?  
Mr McVay: If ITV want to get 75 per cent, as they are entitled to under the law, of their own commissions, it is just a matter of them coming up with good ideas that their commissioning editors want to commission. There is nothing to stop them doing that right now. The fact is that about 36 per cent of all the programming is made externally by independent producers from across the UK. There is nothing to stop them doing that because it is just that there has been a vast migration of talent from ITV because of particular difficulties to the independent sector which is far more attractive in that you can work for a number of broadcasters, you may actually get some share options which make you money and clearly it is a far more exciting time in terms of who you can work with. ITV are perfectly able to hit 75 per cent. It is true that any broadcaster that ceases to be a licensed public service broadcaster is not subject to the codes of practice contained in the Communications Act, but there is an issue arriving in 2012 where the current legislation has to review whether those codes would be extended to digital platforms, amended or ceased altogether, and that is clearly a decision that any government will have to look at and the Regulator will have to look at by the time we reach 2012. I think that in terms of changing the definitions, this has been looked at twice by Ofcom and, on both occasions, they have said that any other changes have a range of
unintended consequences and the current system seems to work quite well. I am very sympathetic to the concerns of Scottish Television, your previous company, who feel that ITV may not be dealing fairly with them as a broadcaster from Scotland in winning commissions for ITV network, but I think that has a lot more to do with ITV's ambition to restrict external supply rather than to do with STV's status as a broadcaster or not as an independent producer. I think that it has more to do with the corporate strategy of ITV management and less to deal with definitions or legislation.

Mr Wace: I would like to make one other point as somebody who runs a production company outside London. ITV's decision to stop regional programming or large chunks of regional programming has had a devastating effect on the independent production community outside London because they were the lifeblood to many small companies and now they can no longer rely on ITV as a source of revenue which has had a very significant impact.

Q347 Lord Gordon of Strathblane: For clarification, while accepting that the reasons for the dispute with ITV may be as you state, you would, as an organisation, not resist the idea of STV being regarded as an independent producer for ITV or indeed ITV itself being regarded as an independent producer for the BBC.

Mr McVay: I am saying that we have an open mind. I make it clear that we will certainly have to look at what the consequences of that are because clearly, if you define STV as being an independent broadcaster, then you may also have to consider NBC Universal being defined as an independent producer as well. It would be hard to see how you carve out legislation on the definition of a postcode or a nationhood. I think that there is a real range of unintended issues there which means that we are quite open minded to have a debate about it but I think that Parliament and the Lords have to be sensitive to the fact that there are other broadcasters in the UK like NBC Universal, a major American studio, who might also suddenly become an independent producer as well.

Chairman: Let us move on to UK content.

Q348 Baroness Howe of Idlicote: I was very interested in what you had to say about children's programmes and that there is an 80 per cent fall which is absolutely appalling by any standard. Under those circumstances, I think you were suggesting that Channel 4 should have it enshrined in their requirements, but there are presumably other genres like drama which are in the same sort of ghastly situation. Is there a reason in your view for ensuring that children above drama have preference or are you really suggesting that both those should be made mandatory as far as Channel 4 or any other public service broadcasters are concerned and, if so, how would you do it?

Mr McVay: I think that we start from the position where there is clear evidence of market failure, such as in children's, then it is important for the State to consider what is the appropriate level of provision of that genre within the system and clearly, with ITV exiting the provision of children's programming several years ago, that is when we first started flagging up that there was going to be a car crash in children's production leaving the BBC as a monopoly buyer and provider, which is exactly what has happened, particularly in the age ranges of eight to 12 where there is no factual programming or drama now for children other than on the BBC. We would like to see a solution and the one that we posited is that Channel 4, under its new remit, PSB2 or whatever it will be called, should have an explicit commitment to older-aged children, i.e. from eight to 12, to provide factual and drama programming for them. We think that this would be in Channel 4's benefit because it would help build an audience for Channel 4 leading them to be in a very lucrative demographic as those children matured into 18 to 35 year olds which Channel 4 rely on. If drama is proving to have a market failure, then the rationale would be that there should be some solution for drama. At this point in time, clearly there is the recession in advertising which puts pressure on the amount of drama and the cost of drama in the UK. There is not actually a market failure as such; we may be heading there but I do not think we are there yet. If that were the case, we would support some sort of intervention to support the appropriate levels of drama to be agreed between the broadcasters and the regulator.

Q349 Baroness Howe of Idlicote: You concentrate rather on the older-aged children—and there is an equally ghastly gap now as far as junior children as far as public service content is concerned—and say nothing about what is happening on radio with the BBC having got rid of that. What would you do about that and also should Ofcom be given greater powers given the fact that it did recommend, as you state in your evidence, that ITV should continue?

Mr McVay: One of the major problems was that children's programming came into tier three in the Communications Act which meant that Ofcom could recommend but had no powers to do anything about it.

Q350 Baroness Howe of Idlicote: Exactly.

Mr McVay: So, ITV were at liberty to exit children's programming because of the opportunity costs that they saw in their schedule and Ofcom were powerless.
So, no matter how many people—and I am sure you have heard many other people including ourselves—complain about that, effectively the legislation did not give Ofcom powers to do anything about it. We would like to see that changed and I am sure that Ofcom have a view about that as well. In terms of pre-school children’s programming, the market has exploded for pre-school over the past several years with many cable and satellite channels providing a range of different products, most of that acquired and imported. We have also argued that if the Channel 4 solution was not credible or was not sufficient and there needed to be a fund that was contestable, then those channels should be allowed to compete for that funding in order to produce British content for preschools and clearly that is where the vast majority of British children actually watch programmes; it is not always CBeebies; it is actually on Nickelodeon and Cartoon Network, most of which are occupied by acquired programming that has little, if anything, to do with British culture.

Q351 Lord Hastings of Scarisbrick: Picking up on the point that you have just made, Mr McVay, that there are other suppliers outside of the PSB suppliers, is it not possible therefore to argue that children’s television is superserved by multiple offerings?

Mr McVay: It is superserved in terms of the volume of acquired programming but not made in the UK. It is underserved by the volume of UK-originated content. We have no problem with many channels competing to give children a range of entertaining content from America, France, Japan, Canada and elsewhere. The problem we see is a deficit in the UK-originated content on those channels, many of whom would be quite happy to invest some of their own funds if there was a way to support that as well. The gap between their advertising revenue and the cost of UK production is too great for them to invest currently and many of them, when we talked to them, including Disney and Nickelodeon, would absolutely consider doing more British content if there was a way to incentivise that to happen.

Q352 Lord Hastings of Scarisbrick: Could you give us some scale of the figures of the gap between production costs for children’s programmes and advertising return.

Mr McVay: I do not have that on me but certainly we can provide that to you from the Ofcom research which they did at the beginning of last year.

Q353 Lord Hastings of Scarisbrick: If your appeal in your evidence is that Channel 4 should have this written into their terms of operation, would this represent a revenue stream that was reliable as it can cause funding dilemmas?

Mr McVay: Yes, it would. Whatever the solution is to Channel 4’s long-term budgetary needs for British content, within that, we would like to see a part carved out specifically for children. Clearly, how much that is could range from £15 to £25 million, but that would give a number of things. One is that it would give competition to the BBC to give different voices for children on British programmes because clearly Channel 4’s editorial approach to children’s programming will be different from the BBC’s, which is good. Secondly, for us as producers, it means that there is more than one buyer in the market. So, if the BBC does not like my idea, I have somewhere I can maybe go and try and take it and that is clearly a good thing for the creative industries. Children’s programming is very unlike most other areas of programming in that most of the people who work in it as producers are ex-teachers and they are very vocationally driven. We are very concerned that, if you only have one buyer, then why would you want to ever be a children’s producer? If the BBC do not like what you make, then there is nowhere else to go other than abroad.

Q354 Lord Hastings of Scarisbrick: In your evidence, you say that you are pushing for Channel 4 to take on further remit or for public broadcasters you talk about programming for school-age children you say specifically. Technically, that goes up to age 18 but you have not mentioned beyond 12 in your previous comments.

Mr McVay: I think that is because the Ofcom research and our own earlier research on this before Ofcom did their work indicated that the gap was in factual programming for eight to 12 and drama for eight to 12. Most tweens, 13 and upwards, tend to watch up, so they will actually watch older programming. For those who are slightly younger, there is not a watch up because most of what they may want to watch up to their parents might not find appropriate for their age range. Without that, then their only choice is to go and watch more cartoons on the cable and satellite channels. It is not because they probably want to do that, it is because they do not have a choice to watch anything else.

Q355 Lord Hastings of Scarisbrick: Given your comment about watching up, which is to a large extent on general programming, do you think that there ought to be a specific British content remit for the 13 to 18 age category?

Mr McVay: I am not entirely sure about that. Our focus has been on slightly younger, either to 12 or eight to 13, if you want to dovetail with your

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1. The witness has added a clarification to the effect that PACT’s concerns about children’s programming extend not only to the eight to 12 age group, but also to those up to 15 years, who may not be ready to “watch up”.

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question, because that is where we have seen the most market failure. I think because 13 to 14 year olds tend to watch older programming and programming that their parents will probably watch with them, then we do not see the same issues arising there. If you are 14, you can access a range of factual programming, drama and documentaries which are probably quite appropriate for you, in fact probably very educational and developmental as well, and of course the soaps. Soaps are a very good way of people reflecting on the lives that they lead as well.

Q356 Baroness Eccles of Moulton: Mr McVay, I have two questions and they are related but different. The first one is about the Government public sector procurement and the warehousing under Crown copyright of the intellectual property rights and how this could possibly be released in favour of the next generation. Do you have anything to add on that particular point?

Mr McVay: Yes. After the Philip Graff review of BBC.co.uk in 2004, Philip recommended that a 25 per cent external quota was applied to BBC.co.uk, at which point the BBC said, “This is all very difficult. We cannot do this. It is all new media”. We then spent two years developing framework agreements with co.uk. Those frameworks cover a range of types of provision from you inventing it to you just making it to you just writing the code. That has worked very effectively. We think that there are frameworks already in the market which could be adapted in principle to the public sector which would give clarity to suppliers on the types of contracts we are entering into with the public sector, but also clarity to the public sector as to what they were getting as well. We think it is worth considering. The private sector has effectively already moved this forward and we think there are lessons there that could be used in order to release some of that IP from Crown copyright subject to stated issues being resolved. It may be meaningless; it may be valueless. However, unless you actually try it, who knows? The next bit of code or a certain application for the Department of Health to assess diabetes might actually be a bit of code that could be utilised in various applications around the globe. Charles has a very good example of precisely how this does not happen just now.

Mr Wace: We made a social networking site for the BBC for children which was a site that was designed to be safe for children to actually be able to socially network, a sort of closed environment and that is now the framework of the C-BBC website which has been enormously successful. The technology behind that website could, under the new terms of trade that we have with the BBC, now be sold by that independent production company around the world. Under the existing framework, which was not in place when this was developed, it was not able to be sold, so it was not actually exploited. That is a very tangible example of how technology is merging from a broadcast project into the software projects to which John was alluding. They are becoming one and the same increasingly.

Q357 Chairman: Could the BBC not have exploited it?

Mr Wace: Yes, they could and they have. One of the points that we feel strongly about is that if, as an independent production company, you can actually exploit your own copyright, you tend to do it much more successfully.

Q358 Baroness Eccles of Moulton: Would this actually mean more benefit to the original external supplier?

Mr McVay: It could do, yes. Currently, we cannot assess it because it is warehoused under Crown copyright and there is no way to get any market valuation. It will be up to the market. The UK is a market leader in terms of creativity. We punch way above our weight globally because of our creativity. I think that any government we have going forward will clearly look to deliver a range of public services through online and, if Digital Britain does deliver universal broadband access for everyone, then there is a huge opportunity to use that case mix to drive forward the development of new digital businesses that could become globally significant and we think that it is an historical opportunity for Britain because of our creativity, because of our unique placing between Europe and the US and because of our English language and our high technical skills to actually look at all investment, both public and private, as a way of releasing another generation of creative entrepreneurs who could then take advantage of the new digital world. It is hard to assess the value. We think that it is more if you want a political position and a philosophical position on it rather than a pure economic one at this time.

Q359 Baroness Eccles of Moulton: My next question is one that we have asked several other witnesses and it is one of great importance and it is to deal with the commercial public service sector broadcasters’ financial straits, and that is mainly Channel 4 and ITV, and how they have a heavy reliance on commissioning original UK content which is in decline. What would be very interesting to us is whether you have other ideas as to how more investment can be generated or leveraged from elsewhere.

Mr McVay: They do have high levels of commitment to British content, and I think that that is a very good thing. It does make is one of the most exciting
communications markets in the world and one of the highest quality and I think it is good for our overall creative industries which are, as you know, an important part of our GDP. One of the consequences of the Communications Act is that by giving the IP back to the producers, broadcasters have been able for the first time in 25 years to reduce their prices in the market. Prior to that, they had to fully fund a programme, so they had to take all the risk. Now, because they will not fully fund a programme, the producer has to take some of the risk and go and find the rest of the money. That money is currently coming from American networks, it is coming from DVD sales, it is coming from French broadcasters and German broadcasters, all of whom are paying for a slice of a British programme or a British format. That money is now going back into actually subsidising the programme budget for ITV, Channel 4, Five and the BBC, and increasingly for the BBC as all broadcasters seek to reduce the price of the programmes that they commission. For many producers, that is quite a challenge and, for some areas where the programme may have little commercial value, say for instance a topical documentary, we think that it is not in the public interest and broadcasters should fully fund those programmes. However, for the vast majority of other programmers, most producers now expect to have to raise a deficit in order to put that into the programme to enable it to be made for the British public. That has long been the state for British film producers who have to go out to the international markets and raise all the money for the films that they want to make.

Q360 Baroness Bonham-Carter of Yarnbury: UK content, about which we are talking, is obviously driven by UK talent which needs to come from somewhere. Although we have a plethora of, dare I say it, media courses, we have fewer and fewer ongoing traineeship schemes and indeed, as I am sure you know, Mr McVay, there was a piece in The Guardian this week saying that most traineeship courses seem to have been put on the backburner because of the recession. I know that you come from a training background and that you are on the Board of Skillset and so on. Are you concerned about what is happening from the point of view of traineeships?

Mr McVay: Yes. I am also on the Board of the new Industry Training Board for Film Skills as well.

Q361 Baroness Bonham-Carter of Yarnbury: Indeed. Mr McVay: Yes, I am. I think that what was a particularly crude response to the recession was when ITV received £20 million of regulatory relief by the change to the licence and the next day they immediately halved their commitment to all training budgets. I think that was a very short-sighted and very damaging approach to take. Clearly in a recession, you must look at your cost base. However, as you come out of recession, the thing that will ensure that Britain is competitive is our skills and talent. Particularly in the creative industries, if we are not able to sustain investment in high-level talent, when opportunities do arrive, we may not be able to take them because we will not have the right talent available. Clearly, my members who are facing increasing price pressure from the broadcasters, while it is tough to invest in training, we are committed to try and encourage everyone to do as much as they can. With the new Film Skills Industry Training Board with a mandatory training levy, then the film industry will be paying and playing its way on that. However, I think that it is incumbent on the public service broadcasters, given that they do get a benefit from the licences that they receive, to ensure that they invest in skills. I think that it will be one of the most difficult issues over the coming 12 to 18 months.

Ms Calderwood: Just to back John up on that, I think that it is crucial for the future health of the industry but also for diversity. Both myself and John would not be sitting here if it were not for various training opportunities. I worked with John on a training course—we both benefited from Lord Macdonald who I remember coming to talk to me on a training course I was on—and it brings people who would not otherwise be in the industry into the industry. Having training is absolutely crucial for a diverse and healthy industry going forward.

Q362 Baroness Bonham-Carter of Yarnbury: Otherwise, it is work experience for which you are not paid.

Mr McVay: No work experience, if you are not paid, is actually illegal unless you are on a proper recognised course or are working for a charity, and that is something we took steps to eradicate two years ago because it is an iniquitous practice; it often relies on custom and favour and relationship which can be to the detriment of achieving a truly diverse workforce.

Q363 Baroness Bonham-Carter of Yarnbury: In my day, the BBC had a wide variety of traineeship schemes; do they still offer traineeship schemes?

Mr McVay: Yes, they still do. Clearly, the BBC is in a very comfortable position having regard to income and possibly, at a time of recession where others face more difficulty, the BBC should be doing more in order to ensure that there is a broad range of talent being made available to the industry in general going forward as part of its public purpose.
Millionaire been a bumper year for Film 4. Having the board and sometimes it pays off able to look forward and are able to invest across some consistent investment in film, they are Channel 4 play a crucial role in that. As there has been some consistent investment in film, they are looking for a new talent. I think that the BBC and has to be started afresh and you always have to be though sometimes they come back. Each new film successful, it tends to be taken off. This year has been a bumper year for Film 4. Having Slum Dog Millionaire, having Hunger, having Man on Wire, and having films like that I think has shown that, when you can invest across the board in film, you can get very strong returns, but it needs to have a confidence in the market to do that. Tessa has done a fantastic job of running Film 4, but whoever is running it needs to know consistently that investment will be consistently there, which is why I think it is very important that it is part of the remit. As to the level of investment, as John said about children’s, that is something that could be discussed within the general content to the funding of Film 4 because what film does is tend to bring investment in from around the world. So, if you have approximately £10 million worth of funding that Film 4 has just now, it can do an awful lot with that because it can be the crucial risk funding, if you like, both for development and to be the first money into film which is something that Film 4 does very effectively. When I produced The Last King of Scotland for example, Tessa was one of the first people who said that she would back the project and she stayed with it consistently while we decided on various scenarios as to how we would put the rest of the budget together. While they were around half of the money in the film, it was crucial that that money was always there and was consistently there so that, when we went through all the various other hoops that we had to go through to set the film up in Uganda and so on, it was consistent funding. The way that Film 4’s funding is set up means that they can be the most effective funding for British production companies.

Baronetess McIntosh of Hudnall: May we go back to the question of Channel 4 and its remit. In your evidence, you made reference to some remarks that Tessa Ross made when she was in front of the Committee a couple of weeks ago about the, as it were, public service element contained within what Film 4 does and she, as you have pointed out, very strongly felt that Film 4 should be included in Channel 4’s public service remit and you seem to take the same view. Obviously from the point of view of the independent producers, there is a lot to be said for that: it guarantees that there would be a continuing market for independent production in the future. However, two things. Firstly, what do you think would be an appropriate quantum, as it were, of Channel 4’s resources that should be devoted to film if it were part of their public service remit? Secondly, what would that contribute in your view to public service broadcasting overall?

Chairman: Was The Last King of Scotland a commercially successful film?

Ms Calderwood: It was a commercially successful film. It has made approximately four times its budget; it made about $40 million internationally. It has repaid its funding to its investors in the UK. Before Slum Dog Millionaire happened, there was a sense of “Will Film 4 be able to continue?” which was ironic because it was making money back from films like The Last King of Scotland and it does consistently make its money back. Every time there is pressure on Channel 4 or there is pressure on broadcasters, there is a question mark over film. I think that if film was part of Channel 4’s remit, then that question would not keep coming up every time and it would be very ironic if Film 4 had not continued just when Slum Dog Millionaire was about to hit, and there is a feeling that Slum Dog Millionaire has certainly helped to bolster Film 4’s position. As making film is such a boom and bust business, it should not have to depend on that because what Film 4 does is to invest across a range of films and, with any film investor in the world—and some of them are successful and some are not—there needs to be a consistency of funding.

Baronetess McIntosh of Hudnall: Firstly, I would entirely agree with you that it would be hideous if we were to lose Film 4 just at this point. Frankly, at any point in its history, it would have been a great loss. Turning to the issue about its contribution to public service broadcasting specifically, I might personally feel sympathetic to the idea but I think that, in terms of it being capable of being understood what contribution a film, for example Slum Dog Millionaire, is making to the notion of public service broadcasting as such, it is
a little more difficult to pull that out. For example, compared with children’s programming, it is perfectly clear that there is, as you have already said, market failure, there is a need and there is a public interest to be served in providing high-quality programming for children which all of us can understand. However, to make it a specific requirement of a public service broadcaster that they should be investing in film, particularly when those films then turn out to be commercially successful in the way in which Slum Dog Millionaire has been, is a more complicated argument and I wonder if you could amplify that a little.

Ms Calderwood: It was not obvious that Slum Dog Millionaire would be the huge hit that it is when it was first initiated. It is a story about poor people in the slums of Mumbai and obviously there has been great debate about whether glamorising that life has been the right or the wrong thing to do. I think that by being able to commission a very diverse range of stories and subject matters which both represent the UK to UK audiences beyond the television audience and also represent the UK international is an absolutely crucial part of public service broadcasting. Film allows you to tell a range of stories that you would not necessarily tell on television. Although we are incredibly well served with television drama in this country, there is still a range of subject matters particularly subject matters which are a kind of cross-over between British stories and international stories. That is something that I think we do quite well in film and a lot of our films which have been successful have done that. Also, there is a sense where we can tell very particularly British stories, both to ourselves in a more broad ranging and entertaining way, in films like The Full Monty and so on which have classically been an entertaining product for audiences in the UK but have also represented Britain abroad very effectively. I think that British films are absolutely central to public service broadcasting where it leads on from drama, it leads on from factual broadcasting. Film allows you to tell a range of stories and subject matters particularly subject matters which both represent the UK to UK audiences beyond the television audience and also represent the UK international is an absolutely crucial part of public service broadcasting where it leads on from drama, it leads on from factual programming, it allows us to represent ourselves to the world as well as to tell a broad range of stories to ourselves and it also allows British talent to be very active within Britain. There is a very clear pattern of British talent. Kev McDonald, for example, with whom I made The Last King of Scotland, has just made State of Play which is a British TV drama for Hollywood. His next project will be a much more British film. It allows British talent to come and go within the industry, everybody gets to raise their game and it brings more investment back here. If we were to lose British film, which I think we almost certainly would if it were not for the broadcasters’ investment in film, there would be a huge gap in the range of output that we have in Britain.

Chairman: I am afraid that we are going to move on because we are a little coming up against time.

Q368 Bishop of Manchester: In the evidence which you have helpfully been giving this morning, words have appeared such as “deficit”, “recession”, “tough times” and I suppose not surprisingly and I wonder if we could be a little more analytical about that and if you could help me to interpret the figures at which I have been looking and trying to make sense of which are the UK Film Council’s figures for film production over the period 1992 to 2008. It would appear that, for example, the year 2003 was a very good year. It would also appear in terms of co-productions that things have gone downhill quite rapidly over the last few years. If I were to try, in a very amateur way, to sum up the figures at which I am looking at the moment, I think they would suggest to me that, in terms of film production expenditure and in terms of employment, you are at a bit of a stagnation point at the moment and I wonder if you could clarify that for me, please.

Ms Calderwood: I think the area in which there is a real cause for concern is in co-production and that is as a direct result of the tax credit which has come in. The tax credit has been a good thing in many ways. It has stopped abuse of the system that was there before. It is very clear and very straightforward to operate and people know exactly what they are going to get from the tax credit. However, the one problem we have with it is that it is based on goods and services used and consumed within the UK. For example, despite the fact that they had top British talent working on Slum Dog Millionaire, they could not claim tax credit on for example the director, the director of photography and so on because they were working outside of the UK. One thing that we are campaigning for as strongly as we can is that the tax credit is applied to British talent and British facilities used outside the UK as that would have a clear financial benefit to production. The Treasury set a target for how much they expected to spend on the tax credit and that target has not been reached. Even if we did change the definition to be on British goods and services used outside the UK, we would still be within the Treasury’s target for that. It would make a huge difference to film production and it would also incentivise production companies to use British talent. For example, I am in the process of financing a film that is set in Nigeria and I will probably use crew from South Africa because they are slightly cheaper and there is no benefit to me taking British crew there. However, if I could claim tax credit for a British crew, I would take my British crew to Nigeria. If we could change that definition, then I think it would incentivise us to use British talent—we all want to use British talent because that is who we would be a huge gap in the range of output that we have in Britain.
know and who we like working with—and it would give a clear financial incentive to use them.

Mr McVay: Clearly, in times of difficulty and recession, it would be good to give jobs to British workers rather than give jobs to South African workers.

Ms Calderwood: It also allows us to bring more to the table on co-production. The British industry likes to invest in British content. So, if you are trying to do international co-production, there are difficulties in what you can bring. If an international producer wants to shoot here and we can make more of the tax credit, then it allows us to co-produce more easily which would allow the level of co-production to go up again.

Q369 Bishop of Manchester: We have heard about the issues over tax credits in other evidence. In terms of the economic downturn to which Mr McVay was referring a moment ago, how hopeful are you that things will get better, or are you really in a stagnation which goes deeper than simply an economic downturn?

Mr McVay: In terms of the headline figures, you can see those various blips from 2003 to 2008. A lot of that is to do with dollar/pound exchange rate where Americans assess the cost of filming in the UK against the dollar/pound. Clearly, since that situation has improved, I am sure that, under the good offices of our Film Commissioner and the Film Council, they are working very hard to attract lots of American production to the UK and therefore we are hopeful that inward investment will be sustained if not increased. However, for indigenous co-production, the figures are very blunt and very bleak in that we have gone from a peak of 165 in 2003 to 42 co-productions last year. Now, that is where our major concern is because the co-productions are used by British indigenous companies, not by inward investment.

Q370 Lord Macdonald of Tradeston: Just staying on co-production for a moment, are there any other economic factors involved or are you saying that the new tax credit scheme is entirely responsible for this decline?

Ms Calderwood: I think that it is the key factor. You can see the difference. As John was saying, the dollar exchange rate had an effect for a few years. It has now gone the other way. Similarly, the euro exchange rate has gone the other way, so actually you are more likely to be able to now co-produce or the investment from the US for example goes further than it used to. That will start to slide in a different direction but I think that the tax credit is the one key factor that has made a difference.

Q371 Lord Macdonald of Tradeston: Going back to the generality of the film tax credit scheme, you implied that it was an improvement on what went before. What kind of impact has it made on your members compared with the previous regime?

Mr McVay: As the previous regime was subject to a number of loopholes and various very sophisticated financial instruments, sideways tax relief et cetera, when you were the producer and you had someone in a suit coming up to you and saying, “I can give you 40 per cent, don’t worry how this is put together”, you know, people wanted to get their product made. The new tax credit is very clear and very precise which means that the producer has confidence that, if they qualify for British film, the Exchequer will pay the percentage of the budget that is appropriate to the qualification and that is something that they can take to the bank and then there is not going to be any sudden review or any loophole being closed all of which caused incredible instability in the market for a number of years and which meant that when British producers were financing a film, they did not really know at which point the Inland Revenue may come round and say, “Actually, that process is no longer allowed. Therefore, you are now 20 per cent short on your budget” and you then had to go and find another 20 per cent from financiers somewhere else in the world. That created a great deal of instability and insecurity. Whilst there are parts of the new tax credit which we feel could be improved, compared to the previous regime, it is far more secure and stable and I think gives far better value to the taxpayer.

Ms Calderwood: Another advantage of the tax credit is that it has been clearly targeted at producers rather than at financiers if you like, and what we have been doing in PACT is working with the public service broadcasters and the public funders to the Film Council to maximise the benefit of tax credit to producers. Initially, we tried to have the tax credit regarded as producer equity because it is not money that anybody else has to recoup, it is money that helps to finance the film but does not have to be paid back to anyone. That did not prove possible in the marketplace, but what we have done is that, by demonstrating to BBC, Film 4 and the Film Council how the tax credit improves their revenue, we can take a share of that revenue and we have negotiated figures around 25 to 30 per cent with the broadcasters and we are just in the process of trying to confirm that with the Film Council. The Film Council have agreed the principle of that, but it is now with the DCMS to be approved for state aid issues. That is something that would also make a very concrete difference to film producers because, as we said earlier, film producers basically have to sell their rights in order to finance the film, but this would create a revenue stream to film producers which would link the
revenue of the film company to the success of the film in the marketplace and I think that that will make quite a crucial difference to film production companies.

Q372 Lord Macdonald of Tradeston: If you are expanding the scope of the scheme, are you confident that you could define precisely what changes were made and that you could avoid the abuse through the extension of the scheme?
Ms Calderwood: Yes because it is targeted at production companies and it is very much targeted on talent and facilities used and consumed in the film production. It very much now works on real films whereas before there were films that were almost made up as tax breaks basically. The tax credit as it stands now is here to make sure it is specifically for film production.

Q373 Lord Maxton: You have some criticisms of the Lottery funding in the UK Film Council, which you have accused (“accused” might be the wrong word) of being commercially aggressive in the way they approach the money they get. Maybe you can explain what you mean by that.
Ms Calderwood: The Film Council has done a fantastic job—to make that clear to begin with. I was previously the Head of Production when the Lottery franchise was active in Lottery film production when the Arts Council was giving money to film, and there was a big question mark then about whether it was possible to invest Lottery money successfully in film. I think the structure of the Film Council, which has fund heads specifically investing in certain films, has been shown to work and they have been involved in a broad range of successful films. The issue that film producers have with the Film Council is that their revenue from film goes back into funding Film Council overheads. So it is actually part of the structure. What we would like to see is a review of that structure to make sure that when Lottery funding was invested it was in the most productive and supportive way to enable successful British producers rather than to have to drive their overheads.

Q374 Lord Maxton: What will be the impact of the fact that, because there is the Olympics, there is going to be a cut in Lottery funding, and there are indications, increasingly, that in the recession people are going to spend less on the Lottery anyway? So the general pot is going to be smaller. Is that going to impact, do you think?
Mr McVay: We do accept that both those factors, the Olympics and, already, restructuring of the Film Council’s finances, may impact on the amount of funds that they have to put to film. However, provided whatever amount they have is put in intelligently and supportively, we think you can still get optimal results to develop an indigenous and sustainable British film industry.
Ms Calderwood: I think the case is quite similar to the case that used to be made when the terms of trade that John referred to earlier for television were being lobbied for; people said would TV companies know what to do with the revenue—would it not mean that the broadcasters would be weakened—and, actually, it has shown that the industry is stronger because they are stronger TV production companies. That is the argument that we are making for film companies; it is not to take all the revenue away from the Film Council but it is just that if there is a more substantial proportion of investment that comes back to film production companies they can move away from being fee-based companies—as the TV companies used to be—and they can actually work more effectively as stand-alone production companies. It is less of a cap-in-hand relationship; it is more of a genuine, healthy industry rather than always having to, effectively, ask for subsidies. So it is to find a way that we can share the revenues, because if production companies are incentivised to get revenue then I
think, having worked in international productions where the production companies do have their government investment and their equity share, they are actually better funded companies, so they can bring investment to the table, as the TV companies do. So it is to try and find a way that a proportion comes to the production companies which would, in the end, benefit the Film Council because we should be able to make more profitable films on that basis.

Q375 Chairman: That is a very interesting point. Thank you very much indeed. It has been a very interesting session, and thank you also for this extremely good submission, which I think is a model of what should be. We are very grateful. I think we are almost certainly going to have other questions to you, but perhaps we can correspond with you. Thank you for coming.

Mr McVay: Thank you very much.

Examination of Witness

Witness: Mr David Pope, Chief Executive Officer, New Producers’ Alliance (NPA), examined.

Q376 Chairman: Mr Pope, I gather you are going to stand.

Mr Pope: If that is okay with you. I would appreciate that.

Q377 Chairman: Fine. I do not think we have ever had anyone giving evidence standing up. Okay. Let us begin with you. Could you, perhaps, first of all, explain to us a little about your organisation?

Mr Pope: Yes. Good morning, and thank you very much for the invitation. The New Producers’ Alliance, the NPA, is an open access membership organisation for producers, directors and screenwriters, and a training provider. The organisation has been in existence since 1993, and I have been with them for three years. Our operations are split between membership services and training. Examples of membership services would be structured networking events in the industry, providing what we would call a project guide before major markets like Cannes and Berlin. A project guide means members who were attending would be able to submit details of their project and that would then be sent out to financiers, distributors and sales agents who were attending the market. In terms of training, we offer a broad collection of training around those job descriptions—producers, directors and screenwriters. We have very broad constituencies within our organisation because we have open access, so we have short filmmakers, we have a very large constituency of filmmakers who are moving from making short films into looking to make their first feature film, and then we have more established members who are making feature films.

Q378 Chairman: Your work is concerned just with (I say “just”—it is a big industry) the film industry, not so much with television.

Mr Pope: That is correct, yes. That is where our focus is—on producers, directors and screenwriters who are moving into the film industry, whether that is as a new entrant (certainly we do have some people who come to us who are looking to bring in skills because they are making a transition) or whether it is from producing television to looking to producing film, or it is people working in other job descriptions who are looking to move up.

Q379 Chairman: Basically, therefore, you are concerned with what is, in effect, quite advanced training. Would that be fair?

Mr Pope: I think, within the training landscape, our main priority is what we would call continued professional development. So we are not a film school; we are not dealing with people who are new entrants looking to enter the industry for the first time, but we are providing a set of training and skills development which we try to keep in line with developments that are happening within the industry.

Q380 Baroness Eccles of Moulton: Good morning, Mr Pope. I want to ask you about how the NPA is funded. We know that you work with DCMS, the Film Council, regional screen agencies and others. What other sources of funding do you have?

Mr Pope: Our funding breaks down, roughly, into three areas: membership fees (because we are a membership organisation); our second major revenue stream is training (we charge for the training; it is not free, but you pay significantly less if you are a member of the organisation than if you are not), and then we receive some sponsorship. The only organisation out of that list that we receive any funding from is the UK Film Council, and we receive a sponsorship amount from them.

Q381 Baroness Eccles of Moulton: The UK Film Council revenue is the most reliable, is it?

Mr Pope: In what respect?

Q382 Baroness Eccles of Moulton: Presumably, you have sources of funding where you cannot predict what it is going to produce.

Mr Pope: Absolutely. Training and membership are subject to market forces. We have some other, smaller sponsorship deals which tend to be with service
Baroness Eccles of Moulton: What about forward planning?
Mr Pope: It is an ongoing concern. We are constantly looking for new revenue streams. The current revenue stream which is, I guess, most to the fore is looking to investigate ways of putting our training and information services online. We are quite an old-fashioned organisation in the current landscape of film membership organisations. When the organisation started, which is not actually that long ago, the internet was practically non-existent, and now there is a huge amount of possibilities for filmmakers to exchange information online. We are very good at the physical presence: we are very London-centric, and we are constantly trying to address that; we want to do more work in the regions, and more work internationally, and we see the possibilities of online training and online provision of the information that we gather to be a good move forward. Hopefully, that will extend into a bigger revenue stream.

Q384 Baroness Eccles of Moulton: You do, obviously, have a website?
Mr Pope: Yes, absolutely. We need to work on the website to be able to bring these services in.

Q385 Bishop of Manchester: I am trying to make some sense of the figures from the UK Film Council on film production expenditure. These are the figures from 1992 to 2008. It does look, particularly last year, that in terms of co-productions there was a pretty significant drop, but even overall, if we look back over this quite long period of the 1990s and through into this decade, it does suggest to me that the film production expenditure and employment figures are probably stagnating at the moment, and I wonder if that is your estimation of the situation. If it is your estimation, have you got any suggestions about how things might be improved?
Mr Pope: I think co-production is a particular issue because the figures you have will reflect there has been a steep decline in the recent years. I think that is a particular subject, and if you are going to come on to talk about the tax credit, that kind of links in with that.

Q386 Bishop of Manchester: That is coming up.
Mr Pope: The UK film industry is the sort of industry where it depends who you ask. Obviously, in the public domain there are success stories. We continue to produce a good amount of film and we continue to maintain the market share. There are challenges to the industry, and if that is what you would like me to speak about then I am happy to do that. Obviously, the recession affects all industries. In the case of the UK film industry the contribution to the financing of films the banks were making has, for all intents and purposes, gone. This is essentially gap funding, which is very much money coming in late in the financing stages and is required to be given back early in the recoupment process, and so that last 20 per cent of the budget has gone. I do not think it is going to be seeing the effects of that for a while because I am sure you are aware of how long the projects take to put together, and how long films take to evolve and come to fruition.

Q387 Chairman: How long would you say that was? Is there an average?
Mr Pope: I would say two years. Let us say a year for a decent draft of a script to be ready to go into financiers, three months in production and post-production. So a minimum of two years for a project.

Q388 Chairman: Many take much longer than that.
Mr Pope: Yes, yes, definitely, and some very well-known projects—very famous films in the public domain—have had very long development processes. Linked in with that, in terms of the current economic climate, all businesses have got cash flow issues. If your product has that kind of development time and you are looking to get a return on that, obviously, cash flow in your company is a significant issue. So it is not new to anybody, and it is affecting all industries, but those are two quite significant things. One is bank funding of films which, obviously, has taken a hit.

Q389 Bishop of Manchester: Presumably, if this goes on for too long there will be very serious implications in terms of the creative resourcing for the film industry because people will not want to come into it if they feel there is no future.
Mr Pope: I would agree with that. Also, you will have migration of talent and skills from the industry.

Q390 Bishop of Manchester: Has that already started?
Mr Pope: I do not think it has started yet. I think that there are some issues that need to be resolved, and obviously that is a big macro-economic set of issues. The second issue is that there are going to be cuts in public funding to the UK Film Council and the film sector, so as my membership apply for funding from the production funds of the UK Film Council and to the regional screen agency production funds, that is of concern to my membership. In terms of just going on to the co-production issue, the NPA membership has been hugely in support of the tax credit. Is it appropriate to move on to that?
Q391 Chairman: We will come on to the tax credit. You speak, really, with two hats; you also have your own production company, Advance. How do you see it from that point of view? How do you see the economic position at the moment for films?
Mr Pope: Currently, the film projects that we have in development are—all of them except for one—to be produced in the UK. So they are being written here to be shot and post-produced in the UK. So there is a certain set of economic incentives there.

Q392 Chairman: The exchange rate, presumably, helps, does it, a bit?
Mr Pope: The exchange rate helps for inward investment. I think that is something that is very important, and the exchange rate changing is obviously more attractive to the American companies to come and shoot here, and that is very important for sustaining our workforce and our industry. One project is written to be shot in the United States, and that has a slightly different economic structure.

Q393 Baroness McIntosh of Hudnall: Just thinking about your membership, presumably there is a significant number of your members, or possibly the majority, who are making small, low-budget films, some of which do not get captured by the kind of official statistics about what the film industry in this country is producing. Can you talk a bit about those people who are either making very cheap films because that is what they want to do, or because that is all the finance they can secure and they are just starting up, or whatever? Who are they? What proportion of your membership do they represent? What kind of contribution is that level of filmmaking, in your view, making both economically and culturally to the film industry as a whole?
Mr Pope: Yes, we have a large constituency of those filmmakers, and thank you for recognising that. I think low-budget filmmaking—its definition and its place in the film industry—has changed in recent years, to the extent that there are public bodies that have low-budget film schemes. So Film London has a micro-budget scheme where they are shooting films for around £100,000. One of those films has just been released in the cinemas (it is called Shifty and it is on all the posters), and the NPA, because we have a constituency of filmmakers that work in low-budget independent feature filmmaking, are very happy to see that. So we have a large constituency of our members engaged in that area. Budgets have been shrinking; any producer that comes in will tell you, even from their experience that budgets have been shrinking. I think that there is a recognition in terms of talent development whereby it used to be that you made short films, or you worked in television, and then you would go and do a feature. Now there is this middle ground where micro-budgets are seen as an effective training ground to bridge that gap between short films and bigger budget films. I think changes in technology in the last 10 to 20 years—in the main, access to production and now distribution—have changed the landscape.

Q394 Baroness McIntosh of Hudnall: Can I just interrupt you there for a minute? Is there a parallel in the film industry with what has happened in the music industry, where independent music producers and creators of content have actually bypassed the traditional distribution mechanisms and gone, for example, straight on to the internet, and allowed their work to be seen that way? Is there a parallel group of filmmakers who are doing something like that, and making their work accessible that way?
Mr Pope: Absolutely.

Q395 Baroness McIntosh of Hudnall: Is that work giving rise, then, to those people becoming more conventional filmmakers of the kind that we are used to hearing about, or are they a separate group?
Mr Pope: I would say it is early stages for what we would term “DIY distribution”. Some areas of the industry would not really recognise it. It used to be that self-distribution was a bit like self-publishing; it was that nobody else would distribute it so you had to do it yourself, instead of it actually being an economic model whereby you look to recoup as much as possible from your endeavours. Obviously, the internet has changed everything, in terms of that. Lessons from the music industry: I think people should look at that model of what has happened to the music industry very carefully, but it is another way of distributing content. Theatrical is there, theatrical is not going to go away; any of my filmmakers would want their film in the cinema in some shape or form, whether it is a very broad release or if it is geared more towards a marketing exercise for the launch of a DVD or the content going online. However, there are very entrepreneurial filmmakers out there who are looking to investigate ways of using the internet, because the internet is a global market. Obviously, there are huge concerns about rights and piracy and those issues, but from an economic point of view you can reach very large audiences.

Lord Maxton: Leading on from that, one of the problems that your members must have is that, in a sense, we are all now film producers on the internet; we can all make films for Facebook and YouTube, and all these other things.
Chairman: Facebook, you say? You and the Prime Minister.
Q396 Lord Maxton: Do you find that difficult? Are your members finding now that people can watch almost what they want to watch and it does not have to be produced commercially, in a commercial way?

Mr Pope: A lot of the arts and cultural endeavours are facing the same issue: music, journalism—it is affecting a lot of different industries. My personal opinion is that quality will out and there is a certain amount of types of material that people will watch for a certain time, but then captivating stories, well-told, will engage people.

Q397 Lord Maxton: I agree it is not necessarily in the creative area, but if you take the news area, some of the best news video that has been around—the landing of the 'plane on the Hudson River, the car on fire driving into Glasgow Airport—has all been delivered not by professionals but by amateurs on a phone.

Mr Pope: In answer to your question, our organisation’s responsibility in that area, I see, is to present people with opportunities and current trends and things that are changing, and get our filmmakers to think about whether that applies to the stories that they are trying to tell. If your story is a period drama, you are going to adopt a certain model of production, you are going to be reaching a certain audience, and you are going to look to distribute it in a certain way as well. If you are making a film that is all shot in three rooms and it is an urban environment, modern day, your production model may change; your audience may be different, your audience may be viewing content in different ways and you may not want to put so much of your emphasis on to a theatrical distribution because you know that your audience is going now to buy it on DVD, or download it. We encourage our filmmakers to look at the story, think about the audience, adjust their budget accordingly and then look at how they want to distribute it after that.

Q398 Lord Hastings of Scarisbrick: Can you tell us, Mr Pope, about First Light and your own involvement in it?

Mr Pope: First Light is one of the huge success stories for the UK film industry and the future of the UK film industry. My engagement with First Light has been not extensive. I was actually privileged to be asked to come in and be what they call an industry mentor, which means that organisations apply for funds to make films with children and young people, and then First Light attaches people from the industry to the organisation to provide advice to them on a broad range of issues—so accessing crew and equipment, and production logistical issues like permits. I basically worked with, I think, three schools and a production company on different projects, depending upon the experience of those providers. In the schools there was a lot more for me to do but in the production company there was not as much for me to do because they were experienced filmmakers within their own right. I could go on for a long time about how important I think it is because it is, basically, building future generations of filmmakers.

Q399 Lord Hastings of Scarisbrick: You say they apply for funds from the UK Film Council.

Mr Pope: From First Light.

Q400 Lord Hastings of Scarisbrick: Where does First Light get its resources from?

Mr Pope: I could not speak for First Light but I believe its funding is from the UK Film Council.

Q401 Lord Hastings of Scarisbrick: To what extent? Do you know?

Mr Pope: I would not know, but I think it is an initiative that is generated by the UK Film Council.

Q402 Lord Hastings of Scarisbrick: Was it a direct initiative of the UK Film Council?

Mr Pope: I believe so.

Q403 Lord Hastings of Scarisbrick: In what way do you think the UK Film Council could further extend remits, just as First Light has done and brought many more young people in?

Mr Pope: I would say, in light of future cuts, keeping First Light properly funded and going would be important in that area. Obviously, I have no idea how the UK Film Council is going to deal with the cuts that are coming up. I would not want to be in a position to prioritise different things, but in answer to the question I think it is a really vital service to the future of the industry.

Q404 Lord Hastings of Scarisbrick: Could you just give us some scale of some of the films that have been made and, maybe, where—other than the internet—they have ended up being distributed? For First Light.

Mr Pope: When I was there I was asked by the schools about possibilities as to where it should go, and there are actually children’s film festivals. I believe that they tried to get a digital television channel to screen films. They have a big awards ceremony in London. Apart from that, I could not speak for distribution channels for the films. A lot of it goes on line, and when you look at the generation that it is targeting in terms of becoming filmmakers then online is the distribution route.
Q405 Lord MacDonald of Tradeston: How many fee-paying members do you have in your organisation?
Mr Pope: It is around 900.

Q406 Lord MacDonald of Tradeston: You have mentioned earlier the tax credit scheme. How have the changes impacted on your members compared to the previous regime?
Mr Pope: The current scheme, we believe, works very well, principally, in terms of the rate at which the money comes back, the fact that you can apply for an interim payment, it is transparent and now that the tax credit can be cash-flowed because the money is coming from a reliable source. That is something that has evolved over the last couple of years. To my knowledge, I have no members who were caught by the very fast transition that happened (if that answers the question). We have members who are looking to co-produce, and we also have other producers, who are not necessarily members but who we are constantly in contact with, who co-produce, and I would say that the issue with the tax credit is that for films being shot in the UK and for inward investment it has worked incredibly well, and in terms of emerging producers and clarity in being able to access those funds, it has worked extremely well. If you work in co-production the figures fairly reflect the downturn, and you have probably heard this argument, I would think.

Q407 Lord MacDonald of Tradeston: Are there any particular changes that you would be looking for that would help the low-budget films, in particular?
Mr Pope: Low-budget films, in particular. Maintaining funds that exist would be good, whether it is national funds or funds at the regional screen agencies. When we are talking about low-budget filmmaking I think it is really important to consider short films as well, because training and skills development, obviously, is very important. A certain type of training stops at a certain point, and then you make a short film and then you make your feature. If you do not get to make those short films it makes it more difficult to make a feature. So it would be a problem with the advancement of talent. Short films are not, for the most part, made as an economic commodity; they are made as an expression of talent and to show that you can move forward into feature filmmaking. So they are very reliant on public money. That would be my main concern, at the moment, if there are any cuts in funding to production funds, but to remember about short filmmaking as well, because it is a significant stage in the advancement of talent.

Q408 Lord MacDonald of Tradeston: As you know, in the new regime there is a cultural test there. There was a time when low-budget films and art films were part, really, of a cultural insurgency of people who were challenging the established broadcasters and the commercialism of the feature film industry. Is that one of the main purposes of your organisation? Or is it simply a development stage into the commercial cinema?
Mr Pope: A development stage, I think, is an appropriate way of looking at it. However, we would not say: ‘Do you make commercial films or do you make art house films? Therefore we can offer you advice’; we would go back to that triangle of “What is the story?”, “Who is your audience?”, and “Make a budget”. So whether someone comes to us with a high-budget, action film that they want to shoot out of the country with a very high budget, or they come back to us with what they would term an art house film, for which there is an audience, for us the issue is: if you want to make an art house film, who is the audience, what can you look to get back; therefore, adjust your budget and then you can reassure your financiers that the budget reflects the audience. So that would be the same advice, whatever the story. That mechanism would be the same advice, whatever the story was.

Q409 Baroness Bonham-Carter of Yarnbury: When you say “we” how many of you are there providing the training?
Mr Pope: The structure of the organisation: there is myself and I have three members of staff, two of which are part-time. So I have an administrator and a sponsorship and funding officer. We do not have full-time trainers; we recruit trainers from the industry. So all of our trainers are practitioners and we believe very strongly that our trainers should come from the industry, so their knowledge is current.

Q410 Baroness Bonham-Carter of Yarnbury: It depends on demand how many training schemes you have going?
Mr Pope: Yes, effectively. We create new training schemes as new challenges come or as we see that there will be a potential in the market for them. We have a roster of trainers that provide those services. Were we to be presented with a subject that we felt we would have to go and look for new trainers then we would do that; we would find people with very specific knowledge and skill sets to deliver that training. So, obviously, changes in technologies and media mean that there are certain areas where we are looking for other areas of expertise to come in and inform that. In terms of the more traditional structuring of feature films from development to distribution, we have a set of tutors who can come and deliver that who are active producers. They are on a freelance basis.
Q411 Baroness Bonham-Carter of Yarnbury: I may be slightly repeating Lord MacDonald’s question, but what type of person comes to you for training? Is it individuals?
Mr Pope: Yes, it is individuals, although individuals in the film industry are production companies. We sometimes have partnerships coming to us, we may have a writer and a producer who are coming together for some of the training, but in answer to your question it is the individual who is running that production company that comes to us for training.

Q412 Baroness Bonham-Carter of Yarnbury: In a more general sense, how do you assess the current availability of training in your industry—outside of what you are providing?
Mr Pope: I think it is very good, and I think, certainly since I started, it has completely changed. We are hugely in favour of a national strategy for Skillset to be put in place; it is from every angle of the industry, for every age group.

Q413 Baroness Bonham-Carter of Yarnbury: Can you expand a bit on what you refer to as the national strategy?
Mr Pope: The fact that some film schools have been looked at and designated as recognised centres of excellence. (I am not sure that is the phrase that would be used). So that is one aspect. Continued professional development is seen as a significant training strand, so that people who are already in the industry may require more skills and knowledge. That is very important, and it is very clear. Skillset liaises with the industry very well; so they listen to what the industry is looking for, in terms of skills.

Q414 Baroness Bonham-Carter of Yarnbury: In this time of recession, who is funding all this training that you are referring to?
Mr Pope: It would very much depend upon the training provider. Film schools charge fees; some film schools, I believe, would get funding from Skillset. A training provider like us, the way that we would gain money from that fund, would be in two ways: one is that when it is announced that there are certain priorities that are being looked at in terms of continued professional development, we may put in a bid if it suits the type of training that we provide. We have only done that once and the training is actually running this week—a five-day training programme for producers from groups that are under-represented in the workforce, which is running as part of the East End Film Festival. Another way that money would come to us is that there is a funding scheme to provide grants to individuals, so some of the people who are more experienced—because you have to have a level of experience to access those funds—would have their fees paid for through that. As an economic consideration, that still contributes to the revenue stream. I can only speak for our organisation, really.

Q415 Baroness Bonham-Carter of Yarnbury: We are going to see Skillset.
Mr Pope: Okay.

Q416 Baroness Bonham-Carter of Yarnbury: Just one final question: do you think there is enough training for entrepreneurial skills—not just the creative skills—for making films and succeeding in the film business? Or is that not something you know about?
Mr Pope: The film industry is art and commerce and you have to view the two in equal balance if you are to succeed in any way. Do I think business training is important for producers? Absolutely. We provide it in certain ways, yes, and I know it is a priority that everyone looks at and keeps going. For example, one of the things that we do is get our producers to interact in various ways with other professionals that they would be working with on products—so lawyers and accountants constantly sit on panels that we would present as members from the industry.

Q417 Lord Maxton: I am slightly concerned, first, before we move to distribution. Can you give us some idea of exactly what your revenue stream is, over a year?
Mr Pope: £120,000.

Q418 Lord Maxton: Out of that you have to pay—?
Mr Pope: We have to pay our staff, our overheads, which is a small office, and the running of that office. We do not have any training facilities; we use a variety of models for that and sometimes we have sponsorship venues. For example, every month we do a producing panel which is on a different topic of production, from producing, from development to distribution, and the BFI host that on the South Bank. For other training we would hire training spaces. Yes, out of that sum there is staff, trainers and overheads. We are a very small operation.

Q419 Lord Maxton: Can I turn to the distribution of film in this country. Is it a constraint on the way in which your members can make money?
Mr Pope: Are you talking about theatrical distribution?

Q420 Lord Maxton: The current arrangements for film distribution. Who controls it, in particular?
Mr Pope: There are different ways of distributing. Our primary advice to a producer is that if you are going to be working in theatrical distribution then work with a reputable sales agent, because a sales agent’s job is to sell the film on behalf of the producer, especially if your intention is to sell internationally.
Are producers, in general, the people who benefit the most from a distribution of a film? I think you have to be careful of the deals you do right at the very beginning.

**Q421 Lord Maxton:** In the film industry itself, the actual cinema industry rather than television or anything else, it is getting into that distribution system, is it not, that is difficult?

**Mr Pope:** Getting into exhibition spaces is as much of an interaction between the distributors and the exhibitors as it is between the sales agents and the distributors as it is between the producers and the sales agents. So there is a chain there. Cinema audiences are consistently good. In the UK there are great hopes that digital projection will help broaden the variety of material that is in the cinemas. I think that probably best addresses what you are asking rather than individual deals between distributors and sales agents and producers. There is a hope that digital projection will help prioritise certain content on certain days and certain times when certain audiences are going to be there to see it. How that works out is still early days. There is a possibility that it will help broaden the variety of content that is available. That is important—that the cinemas are not dominated by large-budget films with large marketing budgets.

**Q422 Lord Maxton:** They are dominated by one or two big companies who own most of the cinemas. They, at the end of the day, decide what films are going to be shown.

**Mr Pope:** There are some independent cinemas, and I think it is as important that they get the funding to get the digital projection systems in as the big cinemas. I think that is important for the cinema-going public.

**Q423 Chairman:** These are all issues that we need to take on. In the meantime, we are all, I suppose, rather uneasily aware that in 10 minutes' time we are going to be listening to a Budget which might have an impact upon us all. Virtually everything we have just said over the last two hours may be totally irrelevant—but we will see. Thank you very, very much indeed for coming. We are very grateful for the way you have given your evidence; it is unique in our experience to have someone standing up for that length of time, but thank you for that. Perhaps if we have got any other questions we can come back to you.

**Mr Pope:** I appreciate the invitation, thank you.

**Chairman:** Thank you very much.
WednesdaY 29 April 2009

Present
Eccles of Moulton, B
Gordon of Strathblane, L
Howe of Idlicote, B
Inglewood, L
Macdonald of Tradeston, L
McIntosh of Hudnall, B (Chairman)
Manchester, Bp
Maxton, L
Scott of Needham Market, B

memorandum by dr carole tongue

"culture must be transverse, serving as a basis for the development of a diversified humanity. Films have an essential role to play in this field. National policies must help us support independent operators who are passionately committed to try and attract publics. This must not be based exclusively on commercial forces."64

executive summary

1. The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005 underpins nation states’ rights to take measures aimed at enhancing the diversity of cultural means of expression, including through measures to support the indigenous film industry and public service broadcasting.

2. Tax credits could be given to the high quality, tightly defined UK/EU feature/documentary film and drama produced by television with no loopholes. That would reduce costs and assist successful film investing commercial channels like ITV and Channel 4 to continue investing in British film.

3. The revised EU Audiovisual Media Services (AMS) directive 89/552/EEC, adopted in December 2007, calls on Member States to ensure that all audiovisual media services (as defined in the directive) broadcast 51% EU/national public service programming, including feature and documentary film, in their output. This should be applied to all relevant services licensed in the UK.

4. Where this level of broadcast is not practicable or applicable, particularly where new on-demand services are concerned, then discussions should take place between government, Ofcom and the relevant services, including video on demand channels, as to appropriate proportionate levels of investment to be made in public service programming, especially feature and documentary film, as defined in the directive.

5. Ofcom should commission an in-depth study, including modelling, as to how the AMS directive, through broadcast or investment, could be applied fairly and proportionately to all traditional and on-demand audiovisual media services and what outcomes in terms of investment in original public service programming, especially UK film, would result.

6. Where audiovisual players who benefit from video on demand revenues but do not wish to invest directly in UK film and become rights holders, then OFCOM should model and then make proposals for a proportionate industrial levy on their turnover or advertising revenue to be invested in a fund which then other UK film investors can draw on to make British film.

The UK government has signed up to and ratified a number of international agreements which are extremely relevant to the matter in hand, chief amongst these are:


On 20 October 2005, the 33rd UNESCO General Conference adopted by a majority of 148 votes to two the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (CCD). The major objectives of the CCD are the recognition of the dual nature of cultural expressions as objects of trade and artefacts of cultural value and the recognition of the sovereign right of governments to formulate and implement cultural policies and measures for the protection and promotion of cultural diversity. Importantly the Convention underlines that cultural expressions cannot be considered as purely commercial commodities because they communicate values, meaning and identity.

The ambitious role assigned to the CCD by its proponents is to fill an existing lacuna for cultural objectives in public international law and to serve as a cultural counterbalance to the World Trade Organization (WTO) in future conflicts between trade and culture.

The Convention describes cultural diversity as concerning the human right to live one’s own cultural identity as well as the human right to have access to the wealth of cultural diversity represented by others through, inter alia, the strong provision of public service broadcasting and the existence of indigenous film industries. These are, in addition, important for democracy, tolerance, and mutual respect between peoples and cultures both within the UK and between the UK and other nations.

**EU Audiovisual Media Services Directive**

The role of investment in UK film by broadcasters is critical for the future of the industry. In this respect the over-arching legislative framework is the EU Audiovisual Media services directive which the UK government signed in December 2007. The government is actually studying its implementation at the present time.

Its guiding principle is that these services are as much cultural services as they are economic ones and that they are increasingly important for society, democracy, education and culture in ensuring, inter alia, diversity of cultural expression.

All channels are expected to invest in and broadcast over 50%, wherever possible, of British/EU drama, documentary and film. This is one key component of public service television: investment in high value indigenous audiovisual material which serves to encourage and illuminate the diversity of our culture and that of our neighbours.

The European Audiovisual Observatory report on volume and origination of fiction on all EU TV channels illustrates that UK non-terrestrial channels invest very little in home grown film productions. Channels like Disney and Jetix broadcast no UK programming at all.

In some EU countries member governments have reached agreement with those channels that do not presently achieve the 50% level of indigenous programme broadcast, to reach this target over time. Prior to the establishment of Ofcom, the ITC opened discussions with a range of non-terrestrial channels about increasing the number of British-made dramas, documentaries and films they transmitted. It was planned that such agreements would be monitored. There is no evidence for any agreements being taken forward by the ITC. Since the establishment of Ofcom, no further action in this regard appears to have been undertaken.

There is a role for the government and Ofcom to re-open this avenue to ensure greater investment in, and broadcasting of, local-made film across all channels.

**New audiovisual services investment in UK Film?**

In the course of the discussions on the revision of the “Television Without Frontiers” Directive to include in its scope the audiovisual non-linear media services, the EU Council of Ministers approved on November 13, 2006 to a clause whereby “Member States shall ensure that on-demand services provided by media service providers under their jurisdiction promote, where practicable and by appropriate means, production of and access to European works within the meaning of article 6. Such promotion could relate, inter alia, to the financial contribution made by such services to the production and rights acquisition of European works or to the share and/or prominence of European works in the catalogue of programmes proposed by the service”.

This means that governments shall ensure that new media service providers invest in the production of national and European audiovisual programmes and promote them on video on demand services. It encourages governments to ensure a level playing field in the financing of programming both on traditional TV services (articles 4 and 5 of the Directive) and on new media services and that all players, particularly news operators from the telecommunications sector, make a fair contribution to our audiovisual culture.

The Directive is thus the legal basis for governments in the digital age to demand a fair and proportionate investment from all channels as well as from new media players such as telecoms companies providing video-on-demand.

Already France Telecom has committed itself to investing 10% of its video on demand turnover in French and European film. In Canada the government has established a video on demand fund to which VOD services contribute and whose funds go towards investment in Canadian film.

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It is also a win-win situation in commercial terms as high quality drama/film/documentary can lead to major commercial and artistic successes as evidenced by Channel 4’s investment in multi-Bafta and Oscar winning “Slumdog Millionaire” or ITV’s investment in *The Queen* which also won an Oscar and received substantial box office returns.

*Investigate different investment models in UK film*

So how do we achieve the necessary levels of investment by broadcasters and new audiovisual players in indigenous film production in the present climate, in which the commercial imperative conflicts with high investment in these genres?

**Potential models**

1. Tax credits (with no loopholes) could be given to the high quality, tightly defined UK/EU feature/documentary film and drama. That would reduce costs and assist successful film investing commercial channels like Channel 4

2. All non public service broadcasters, including video-on-demand operators, should be asked to contribute to the production and exhibition of indigenous film in line with the Audiovisual Media Services Directive

   or

   They should pay an industrial levy under the AMS directive (which was not even modelled by OFCOM despite support expressed during its recent Public Service Broadcasting Review consultation), of approximately 3–5% of either advertising or turnover. This would be paid to a distributing body which would distribute the money to UK film investors and rights holders such as Channel 4 to invest in indigenous films.

**Conclusion**

A strong consensus exists in government, as well as among citizens, audiovisual creators and public service broadcasters, that as a society we need more diversity/plurality of high quality drama/feature film/documentary film. This is particularly important where children’s film is concerned to ensure that children can access stories on screen from their own culture.

At the same time the advertising revenue that underpins investment in such programming by ITV and Channel 4 has drained away—towards the internet in particular.

Additionally these channels have to compete with non-terrestrial channels which are not making a proportionate contribution to the UK film industry. New audiovisual players, of considerable financial means, are also now benefiting from film content, without making any corresponding investment in such film.

It is only fair that all those who benefit from showing films make a proportionate contribution to UK/EU film production and distribution as stipulated by the AMS Directive to which the UK government is a signatory and also in the spirit of the Unesco Convention on the protection and promotion of the diversity of cultural expression.

**Annex 1**

**The French model**

In France, the new audiovisual law adapts the legal framework to the French approach on the free attribution of channels in exchange for investment in the production of programming and equal obligations for both public and private channels.

Currently, broadcasting services have two fold investment obligations in production: direct and indirect. In addition to their direct investment described below, broadcasting services, whether public or private, invest 5.5% of their turnover in a special funds for the audiovisual production (COSIP) administered by the National Centre for Cinematography (CNC).

The direct investment in production by broadcasters concerns both cinema and TV production. For cinema, the law provides that broadcasting services invest (rights’ acquisition or co-production) 3.2% of their turn over in European cinematographic works, from which 2.5% must go to French speaking works. In 2005, it represented for example €32,21 million for France 2 and €47,716 million for TF1. Canal+ has a special status: it has to invest 12% of its resources in rights’ acquisition of European cinematographic works, 9% of them have to go to French speaking works. It represented €182,415 million in 2005.

66 Inquiry of the Culture, Media and Sport Committee of the UK House of Commons into Public Service Media Content. Written Submission from the Federation of European Film Directors, FERA. 2007.
For this investment in audiovisual production (TV), broadcasting channels have the obligation to invest at least 16% of their turn over in French speaking audiovisual works. It represented €240.63 million from TF1 in 2005. France 2 contributes to 18.5% of its turn over into European audiovisual works, including 16% to French speaking works (€184.67 million in 2005) and M6 contributes to 18% of its turn-over in the production of European audiovisual works, including 13.5% to French speaking works (€95,505 million in 2005). This investment in audiovisual production must primarily be in original drama, creative documentaries, animation and life performance.

The new law provides that in exchange for a reduced length of their licence due to the switch to digital TV in 2011, private broadcasters (TF1, M6 and Canal+) will benefit from an additional digital channel on which they will have enhanced investment obligations in production of cinematographic and audiovisual works (a decree will detail these enhanced obligations).

In addition, new frequencies for mobile TV and HD TV services will be subject to an additional contribution of 0.1% of turnover for mobile TV and 0.2% for HD TV to the special fund for the audiovisual production (COSIP).

Moreover, the new law has decided to modernize this fund by enlarging its scope not only to editors of TV services (broadcasters) but also to distributors of TV services in order to include all platforms of distribution of TV services in a technologically neutral way, like cable, satellite or Internet services providers who distribute broadcasting services, especially through triple play offers (internet access, phone and TV services). The contribution of these distributors ranges from 0.5% of turnover between €10 million and 75 million to 4.5% of turn of over €530 million.

April 2009

Examination of Witnesses

Witnesses: Dr Carole Tongue, Chair of the UK Coalition for Cultural Diversity; and Mr Peter Grant, Counsel, McCarthy Tétrault LLP, examined.

Q424 Chairman: May I first say that our Chairman, Lord Fowler, is away at the moment. First, he gives his apologies and, secondly, I apologise for not being him, but I will do my best to live up to his high standards. We would like to ask you a series of questions which may be more directed towards one or the other of you in turn, but I am sure I do not need to say that we would be very happy to hear from either of you on any of the questions. Please feel quite free to come in, even if you have not been directly addressed. May I start by asking you both if you could briefly outline your own background and experience for us so that we know and the readers of our report know where you are, as it were, coming from?

Dr Tongue: Thank you, Baroness McIntosh. I was a member of the European Parliament from 1984 to 1999, and in the last five years a spokesperson for the Socialist Group on culture, media, sport, youth and education and spokesperson in the Parliament on public service broadcasting, preparing a report on the future of public service broadcasting in the digital age, which led on to the adoption in 1997 of a protocol in the European Union Treaties protecting public service broadcasting. Also during that time I chaired what is the equivalent of an all-party group on cinema and audiovisual within the European Parliament. Upon leaving the Parliament, I continued to lecture on European audiovisual policy at the University of Loughborough and more recently at City University and became a visiting professor at the University of the Arts. I was invited to chair the Independent Film Parliament, a parliament designed to address itself to the non-mainstream of Britain’s film community, to hear their concerns, to ensure that their concerns were aired. When the UNESCO Convention on the Diversity of Cultural Expression was adopted in 2005, a convention upon which I worked in achieving its formulation, shall I say, and adoption with my colleague Peter Grant over many years, I formed, with Holly Aylett, a coalition1 here in this country comprising approximately 150,000 creators, including from the Federation of Entertainment Unions, independent producers and independent musicians, to take that Convention forward, to publicise the nature of it in this country, to talk to government about it, at all levels, be they local, regional or national. Most recently we held a joint seminar with the Commonwealth Foundation to explore how we could increase our collaboration, particularly in film, television, music and literature, with the developing world.

Mr Grant: I am very pleased to have been invited. I should tell you of course I am a Canadian lawyer, so I am on delicate ground here in a country of which I am not a citizen. I have been a communications lawyer in Canada for 40 years with one of the largest law firms in Canada, and my specialty has been focusing on the cultural industries in Canada. I am also the author of many legal texts in the communications law area and of a general purpose book called Blockbusters and

1 The UK Coalition for Cultural Diversity, established in November 2006.
Trade Wars that was published about five years ago and deals with the implications of trade law on cultural policy around the world. The preparation of that book gave me an opportunity to look at countries around the world and what they are doing to support cultural diversity. All of these countries are faced with the problem of competing with Hollywood, and the large American market, that basically can amortize its high cost, audiovisual programming over a huge market and then be able to sell it in other countries at prices that make it almost impossible for other countries to compete in the high value, audiovisual sector without government support. As I say, I have written widely about these issues. Most recently, I was asked by an affiliation of writers’ guilds around the world to do a study of the crisis faced now in English language countries outside the US with respect to drama and children’s programming, caused not just by the recession, which is causing problems for all of the sectors that rely on advertising, but it was, frankly, presaged by a crisis caused by the increasing fragmentation of audience, which has dropped the share prices of over-the-air television stations around the world, not just in the UK or in Canada. That is the background I bring to this session. I would be delighted to help in any way I can.

Q425 Chairman: Thank you. I am sure you are both aware what the thrust of this inquiry is; it is specifically directing itself towards UK-originated content. What we have not specified is the thing which emerges most strongly from the evidence of both of you, which is the centrality of drama to the question of how UK content, or any culturally specific content, is defined. I wondered, before we get on to more detailed questions, whether from your different perspectives you could explain to us why you have put drama up there as the leading component in what one might call cultural capital-building?

Mr Grant: There are two things that distinguish drama from other genres that are of interest to me. One is that it is the highest cost version of audiovisual programming; by far the most expensive and difficult type of programming to produce to a quality level. The response to it is also highly unpredictable; the demand is unpredictable because people have to experience the drama before they know whether they like it or not. We start with the premise that this is the hardest to finance and the riskiest type of programming. The second thing to say about it is that it is also the most popular genre of programming on television today. By far more people watch drama than watch any other general genre. Now, there will be isolated examples of unique sports events and the final episode of Survivor that will get pretty good ratings but overall if you want to get consistently good ratings and what the Americans like to call “water cooler programmes” (these are programmes people talk about the following morning around the water cooler), drama has always been the biggest ticket item. Those are the two elements that distinguish drama but then the economics of it are the big problem for countries outside the United States. Only the United States has a market large enough to support the production of high cost, audiovisual production, without the interposition of government policy, whether through regulation or subsidy. That is a function of the economics. They have 300 million people over which to amortize it; the UK has one-fifth of that; Canada is one-twelfth of that; Australia is one-fifteenth of that; Ireland is one-sixtieth of that. All these smaller countries of course face the problem that they too want to have local drama. It is highly popular. They do not spend as much on their drama as the Americans do; the numbers I have shown show a typical drama in the UK or Canada will only cost one-third to one-half of what a typical drama in the US will cost, but the US drama comes into our markets essentially paid for and amortized over the American market and therefore is priced locally at a price that is a fraction of what a local broadcaster would have to pay to do something similar. The result is that unless there is government intervention, the private sector in broadcasting would inevitably pick imported drama over local drama. It has nothing to do with its comparative popularity; it has only to do with the economics.

Q426 Chairman: You quote in your evidence, and I need to remind myself exactly who you are quoting, an ex-TV executive Trina McQueen. You give a very long and detailed extract of her report on the making of West Wing, which is fascinating in terms of understanding the economics. Right at the end of that, I think talking about non-US derived drama, she says: “No broadcaster has ever made money on drama.” That is a very powerful statement and if true a rather devastating one.

Mr Grant: She was talking, of course, about the Canadian situation. I would say she is wrong in respect to soaps. I would say the evidence is that UK soaps are not only popular but because of their lower cost, they can be made at a profit and they are and do make a healthy profit. When I lay out this framework and talk about the crisis, as I say, faced by drama around the world, particularly in English language countries, I am focusing primarily on one-offs, one-hour series, but not soaps. They do appear to have a different economic structure.

Q427 Chairman: I would like Dr Tongue to come in on this. But can I ask you to amplify this a little more on the question of the cultural importance of drama because it might be said in a globalised world that the fact that British audiences watch West Wing or The Wire or whatever really does not matter because it is all high-quality drama, but you make a rather more
nuanced point than that about the importance of indigenous drama. Could you just explain that a bit to us?

Mr Grant: I devote a section in my report to that issue because there are a number of people who will say, “Let’s leave it to Hollywood. They make good quality drama. Everybody likes to watch it and that should be enough.” The response I think by policymakers to that is two-fold. One is that people appreciate having their own stories told and their own experience reflected on the small screen. So there is a real demand for local programming, whether it is drama or the other categories like news, sports and so on—not to the exclusion, of course, of the most popular and quality programming from the United States because we want that too. That is issue number one. The second issue, though, is an interesting one. It has only come out in the last few years as people realise the importance of creative clusters to their economic strategy as nations. Creative clusters are essentially groupings of the creative personnel in cities and regions that are able to produce quality cultural products of all types: books, film, music and so forth. Drama of course is the one category that probably uses all of the creative energies and all of your creative forces together. It is the highest cost within programming but it is also the most ambitious and, if you have a structure in the country that supports local drama, it is a major contribution to the development of these creative clusters. There have been studies in Europe in many countries, certainly in Canada and Australia, about the importance now of creative clusters to the economic wellbeing of a nation.

Dr Tongue: I would like to concur and add this. Doris Lessing said that story-telling and our ability to be able to tell our stories is what it means to be human; it is the essence of human nature. I do not know how many times I have read other great creative artists express that feeling, that sentiment; it goes to the heart of what we are and it goes to the heart of our democracy; it goes to the heart of citizenship also. In the UNESCO convention it is spelt out very clearly that it is part of DNA—drama, the telling of stories, the diversity of our stories, finding expression and being able as a society to explore the multitude of stories we have to tell each other so that we do not only just get a mirror back of our own experience which helps to raise our self-esteem, to make us feel less alone, but also—“Ah, that is what has happened to those people in Consett,” or “That is how those people are living in that fishing village in a remote part of Scotland.” If we do not have that, we do not understand ourselves as a society and therefore have the kind of audiovisual social cohesion, going back to what Peter was saying, where we can come together and share those stories and build a mutual understanding. It is even more important in a multicultural society. If you take a film like Udayan Prasad’s My Son the Fanatic based on Hanif Kureishi’s short story, this was an invaluable film for portraying what was going on in Yorkshire across generations and across different cultures and yet that film barely got distribution in this country, and was on more screens in France than it was in Britain. I thought what a shame that was, what a pity; this is just one of those films that we need to be watching together and to be able to discuss so that we come to an understanding of where we are as a society. Just to finish, this is nowhere more important than in the field of children’s film and television. Ofcom has documented in its 2007 report—and you can glean more figures than the one I am going to give you—that of over 100,000 hours transmitted to children in 2007, only 17 per cent was made in the UK and only one per cent was newly-made programmes. We have seen ITV withdraw from children’s production; Channel 4 just about keeping its nose in there; Channel Five, barely. They are in direct competition with subscription channels that have set up here. When I looked at the statistics, these channels are barely showing, if at all, any programmes made in our society specifically for our children. This is something that educationalists and policy makers have always said all along was something very important. In a school library we would expect our children to have range and depth and diversity. We would not expect a library that only contained 20th century literature from a continent and a country that was not our own.

Q428 Lord Macdonald of Tradeston: To Mr Grant in particular, the present economic model for making drama is still prohibitively expensive for smaller nations, and let us take it from Canada down, as it were. It is prohibitively expensive to make drama that covers the range of your national experience. Is that because we are trapped in an industrial model that is overly expensive? We have had the disruptive technologies, the digital technologies, coming in all the way through the camera, the stock, the editing process and right down now to distribution and to the computerised effects. Do you see a new kind of drama emerging from that which would take on the vested interests of that huge industry of television and film? Mr Grant: It is an intriguing thought because there have been improvements in productivity through the introduction of digital technology in film and in television. However, that being said, the critical input to high quality drama is still the labour of people, particularly writers, actors, directors and so on. If you move to animation, the cost of special effects is also starting to go up. There is not a heck of a lot of room there for huge savings. That being said, the average cost of drama in the UK, Canada and Australia is far lower than in the American
jurisdiction where they of course spend a lot on star salaries and so forth. Certainly in Canada, there would be very few indigenous dramas where anyone at the acting level is paid anything more than union scale. You would not have these unbelievable perks and so on that go to the star system in the US. That causes a problem of its own because then you have a talent drain as people leave to go to Hollywood to try to make more money and there is not much you can do about that. Certainly, as one of the strategies, most countries are trying to keep their costs down and to some degree of course Canada has been a beneficiary of this recent problem because a number of American productions have decided to produce out of Vancouver or Toronto because they get the benefit of the lower labour costs and tax incentives. That of course is coming at a great cost to the Los Angeles talent base that wants to have all the production based in California. You raise a legitimate question but I think there is a limit to the amount of savings that can be engendered by new technology.

Q429 Lord Maxton: That is interesting because in another experience down the corridor, which to you, Mr Grant, means the House of Commons, I visited the Skywalker Ranch, George Lucas’ place, over 10 years ago. I was told there by one very enthusiastic computer buff that there will come a point where all you would need is a photograph of the actor, an example of their voice and doing about four or five of them, you would then be able to make a film without them being present at all! That has not happened, I would accept. Are we not going to move towards that sort of area with the manipulation of computers? We are already seeing in Titanic for instance some of that was computer-generated?

Mr Grant: We are talking, though, about megadollar films; this is the problem. I can tell you from my experience in a law firm that we all thought that the introduction of computers would somehow increase productivity in law. Of course, what it has meant is that instead of going through just two drafts of a document that has to be physically typed, you go through 18 drafts because you can change them just a line or two and where is the cost saving? The same is true when somebody has a computer screen in front of them and a myriad of possible creative solutions and they want to try them all. You end up spending more, not less. The MPAA (Motion Picture Association of America), as you may know, publishes its annual statistics on the cost of American films. A mainstream film in the US, and these are 2007 numbers, finally topped the $100 million mark; it was $65 million I believe for the production costs and about a little more than $35 million for marketing and prints. This has been a steady increase north of inflation over the last 10 years, which is to some degree incomprehensible because motion picture box office admissions have not gone up; in fact they have tended to come down until this last quarter then they suddenly went up. I do not know whether this is because movies are seen as recession-proof or whatever. DVD sales, as you may know, have started to plunge. I can see there are real pressures now on the Hollywood model.

Q430 Lord Gordon of Strathblane: Assuming that it is going to be expensive, looking at ways of funding it, with the recession in advertising, people are naturally looking at the possibility of a subscription-based drama channel. First of all, is there any evidence that subscription is more robust in a recession than advertising?

Mr Grant: Absolutely. We have seen the numbers; they were just published a few weeks ago in Canada. The pay and specialty subscription services, as they describe them there, are healthier than ever, and it is because they have the two streams of revenue to depend on—advertising and subscription revenue. In most countries, not the UK but certainly in Canada, Australia and France and other examples, the governments of the day through their regulator will require subscription services to support local programming, and this has turned out, certainly in Canada, to be absolutely crucial for children’s programming and for drama. We now have more money coming into the Canadian drama sector from the pay and specialty services than we do from over-the-air television, even if you include our public broadcaster and the private broadcasters combined. Australia also requires any drama subscription service to spend at least 10 per cent of its budget on Australian drama, and in France as you know Canal+ is a major support for the French film. These examples do demonstrate that the approach of regulating the subscription side of the industry can be a huge benefit to supporting local drama.

Dr Tongue: Could I corroborate Peter on that and add some other examples? Peter mentioned in France, for example, that there are obligations on subscription channels to invest in local production, and very specifically in drama, film and documentaries. I think a useful example for your committee, Baroness McIntosh, is that an obligation is imposed on Canal+, broadly speaking the equivalent of BSkyB, whereby they are asked to invest 12 per cent of turnover in French/European film, because you cannot be discriminatory under European law. The resulting investment is astonishing. From that one broadcaster it is £100 million a year invested in the French/European film industry. I pause there because I want us to reflect upon that. That is a significant contribution to the European audiovisual industry and a lot of our films are funded from that. In Italy, 10 per cent of
advertising revenue of all channels is required to go to finance film and particularly children’s television. In Spain, five per cent of annual income of channels must go towards the financing of Spanish and European films and TV films. Peter has given you the figure for Australia. So there is a possibility and the legal basis for such measures lies within a European AVMS Directive, to which we are signatories. It is quite within our rights, if you like, and possible to make that kind of demand upon our channels. It seems amongst the countries that I have studied in the OECD, beyond ones perhaps that Peter has studied, that we are an anomaly in not choosing to require subscription, normally cable and satellite channels, to make that kind of investment.

Q431 Chairman: One thing that I do not think emerged, or at least I could not quite pull it out of the evidence that we had from you, was the quantum of revenue that comes into subscription channels compared with the quantum of revenue that comes in from advertising either to those channels or to other channels that rely on them. It seems to me that Lord Gordon’s point about the robustness of the subscription channels’ ability to go on creating depends upon their market continuing to grow. Can I add one thing for you to consider in relation to that? Where there has been a requirement on subscription channels to contribute to indigenous production, what has been the quality of what has been produced as a result of it? Has it resulted in more innovation, in the use of new talent or different talent? What impact has it had on the actual product?

Mr Grant: I can speak to both issues. In terms of the dollar amounts, and let us focus just on English Canada (the French market is a different market), about Canadian $1.7 billion is generated in advertising revenue to support the private television sector; another $300 million supports the CBC, which is our equivalent to the BBC but, unlike the BBC, does rely in part on commercial advertising; there is another $1 billion that goes into the CBC from a parliamentary appropriation. That is the economic model for English Canada for free-to-air television. Then you move over to the subscription services. The subscription services are all offered to Canadians through cable or satellite companies. Cable and satellite companies now get about $2.9 to $3 billion a year in revenue. A piece of that then flows back through their affiliation payments to the programming services that are providing services through the broadcast distribution undertakings. If you take a look at my report, you will see in Table 5 that each of the programming services in Canada is required by law to support local programming to a certain percentage of their overall subscription and advertising revenue. It differs depending on the type of service, so a movie service like the equivalent of Canal + or Sky Movies or HBO in the US, in Canada those services are required to spend 32 per cent of their subscription and advertising revenue on Canadian drama. There are some rules around that. It is previous year’s revenue and so forth. Just to take you through that, if you go to Table 5, you will discover that the two movie networks—one is called the Movie Network which is our equivalent to HBO—spent $19 million on Canadian drama last year and Movie Central, which is its equivalent in Western Canada, spent $13 million. Between the two of them, they spent above $35 million on Canadian feature film and drama. Children’s programming is interesting. Like most countries, children’s programming has moved off free-to-air over to the subscription type. You now see a whole bunch of children’s channels. In Canada we have four of them. They are listed on Table 5. One is Teletoon, which is an animation channel; there is a service called YTV; another Family Channel; and one called Treehouse. YTV, for example, which has nothing but children’s programming, is required by law to spend 40 per cent of its aggregate revenue on Canadian children’s programmes, and that amounted to $17 million last year. With that, they do a whole bunch of original Canadian series; some of them are dramatic, some of them are magazine shows. In terms of quality, I guess the quick answer is that those programmes are sold all around the world because, having made them in Canada with the benefit of these government regulations and they are required to spend the money to produce them, they then enter into the international children’s market and are sold around the world to various services. Many of them are very well known. I guess the best known would be the Degrassi: The Next Generation, which is not only an operating children’s programme in Canada but it is the number one show on the Viacom network for children in the US.

Chairman: Thank you. I would like Lady Scott to come in at this point because it would be interesting to start thinking about the UK situation, specifically in comparison with some of what you have been describing.

Q432 Baroness Scott of Needham Market: We recently published a report which you may have seen about the current situation with regard to public service broadcasting, particularly the ITV Channel 4 model, which relies on advertising. Clearly, the combination of the recession and the longer-term structural decline that you referred to is now bringing into question their ability to spend much money on high quality drama and children’s programming. I wondered if you wanted to comment first of all on the UK situation but also whether, looking across the world, there are models which you think have been more resilient in terms of both the long-term decline
and the current recession and whether there are particular challenges for the UK in terms of the way it is set up with the ITV-Channel 4 model.

Mr Grant: Certainly, as I point out in the report, ITV, Channel 4 and Channel Five are all very vulnerable because they are exclusively supported by advertising revenue, and that has dropped, not just as a function of the recession but even before then it was under pressure because of the fragmentation of audience. One looks around the world—and I am focusing here on the English-speaking world which faces the heaviest problem from Hollywood because there the programming has very little cultural discount, it is widely popular, it has stars and so on, so we are up against that economic conundrum. There are actually two types of model that seem to work. The most common model in these countries is to require the subscription programming services to do something towards local programming, either a scheduling or an expenditure rule. In Canada we do both. In Australia it is strictly an expenditure rule. In France they do both. That is one model and it is quite effective because, as I say, if you look for example at a service like the Movie Network in Canada, it runs every Canadian film ever made. There are only 50 films made per year but you can eventually see them on paid television because they are required to run them all. They also support local drama series. It is very similar to the HBO model in that sense, except that the government regulation requires them to do it. If they were not required to do it, they would spend very little, if any, money on indigenous programming because they could run a perfectly acceptable film-based service running just on Hollywood products. You really miss a bet if you do not require a local service to support local programming because, in the absence of government intervention, their shareholders would just tell them, “Forget about local programming; it is too expensive. Just get the imported drama at a fraction of the price and the money will drop to the bottom line”. Government intervention is absolutely required if you want to expect something at that level. I mention that there is a second technique that is unique to Canada but it is a model that works there, and that is, instead of focusing on the programming services, you go down a level to the cable and satellite distributors of those services. Here you are thinking more of companies that are not in the content business at all; they are really in the distribution business. They are like ISPs, telephone companies, cable companies, satellite companies. Canada there has for some years now, since 1994, required all the cable and satellite services to contribute five per cent originally and it is now six per cent to funding of local Canadian programming. Of that amount of money, which was about $200 million last year, about two of the six per cent supports community programming; one per cent supports local news on small stations where the local news is now under threat; and three per cent supports high ticket drama and children’s programming, all administered through independent funds. That is another mechanism, and it is down at the distributor level. That mechanism is becoming more interesting to people as they confront the internet because it is very difficult to figure out how to go after the network programme providers, the websites, because they are all over the world. How do you regulate them? Canada and France have looked now closely at imposing a levy at the internet service provider level because these are all local companies. Often very few companies dominate the field; they are provided by cable and satellite and primarily telephone companies. You could imagine then taking, say, residential broadband revenue and taking a small part of that to support local content on the internet, and realise that everything on the internet is usually multiple platform; it is usually programming that actually was on original traditional media and then moved over and was given extra runs on the internet platform. I should say that the CRTC is looking at the imposition of a levy on ISPs. It is a very controversial question. Their hearings on this matter ended towards the end of February and I was told last week by the Chair of the CRTC that they expect to issue their decision on this in the first week in June. We will know by mid-June whether Canada has decided to grasp the thorn here and impose a levy; and we are talking about a levy of perhaps two or three per cent, which would generate about Canadian $70 million a year to support Canadian content. That model is also an interesting one and is now becoming more and more relevant as we see internet starting to take over.

Q433 Lord Inglewood: Mr Grant, in your evidence in your fourth chapter you talk about the cultural toolkit, which is really a schedule of possible forms of government intervention that can promote domestic, cultural and presumably benign items. First of all, do you have preferences and in particular and against that background, if you are trying to measure the success or failure of a policy of this kind, how do you do it? It cannot be done by the total volume of materials produced. Presumably you have some kind of qualitative assessment. It is better, presumably, to have less better than lots of rubbish. In your own mind, how do you balance those things? Do you think there are any particular lessons for this country?

Mr Grant: That is a tall order, my Lord. Let me start by saying that you have here a difficulty in establishing what is worthwhile. Many people would say that the proof of the pudding is in whether people will watch it, because we do not want to have a lot of money thrown into something that nobody will
watch. Everybody understands that. The problem is of course that when funding drama, or children’s programming for that matter when it comes to that, the predictability of demand is very difficult and, as I point out in my study, even for Hollywood, which produces 25 new drama series a year, the Kagan Report showed that 63 per cent of all new drama series introduced in the last ten years by the four commercial networks failed; in other words, they never survived past 11 episodes. This is a stunning indictment but the other side of it shows you that all those losses were paid for by the enormous profits of the ones that did succeed, like CSI. By the way, CSI, I was intrigued to know, was 50 per cent supported by a Canadian company, which sold out its interest a year ago for $900 million. It is the single most profitable television show in history, but it was a fluke. I devote a whole chapter in my book to explaining why CSI was a magical strike of lightning because nobody expected it. Another good example of this problem of predicting whether it will work or it will not work is the famous French film Amélie, which you may recall from a few years ago was a big export success. I remember interviewing the director of the CNC and saying, “You must be very proud of Amélie?” He said, “Oh, Mr Grant, we are embarrassed with this film.” I said, “How can that be?” and he replied, “Well, they approached us for script and development money and our readers said it did not have a shot, so we did not give them a penny.” Now, as it happens, the French system rewards of course film makers with a piece of the box office levy based on their box office ticket sales in the previous year as a proportion of all ticket sales, so we need not have a tag day sale for the producers of Amélie. In the end, they were rewarded but, as I say, nobody could have predicted that that programme would have succeeded. That being said, it seems to me that if you are faced with that conundrum, the best approach for it is to place your ticket on a lot of different bets and have a sufficient volume of production that a few of them will end up being winners, and then you reward the winners and you move on. There will always be a few programmes that you thought would work and, in the end, did not get the kind of response you wanted, or you move on and you put more money in to different types of product and eventually you will discover that some of them will be wonderful programmes that everybody can be proud of.

Q435 Lord Inglewood: Is there any way then of assessing or identifying what you need to have to get that critical mass?
Mr Grant: There have been some studies done at university level on the question of the creation of cultural clusters, which I mentioned; in other words, what is the appropriate size that then generates spillover effects and so forth that allow the industry to grow of its own motion and so on. These are all at a very preliminary level and I have not seen really good numbers on sizing to show exactly what would be the appropriate size or minimum size to achieve certain results. One thing you can say is that certain types of sectors require less investment and involvement than others. The hardest to support is feature film because it is the most expensive and most difficult but, for example, you can imagine clusters working on documentary that would not require as much effort to put together. You would not require the same investment in writers, art directors, actors and so on for that sort of programming. We have had an example in Canada where the National Film Board has focused on documentaries and it has provided world-class material in that vein, but it is a more limited kind of strand of production than the full panoply of resources that are required for a feature film.

Q436 Lord Inglewood: If you look at the UK industry, that as national industries go, if you look at it that way, is really quite big compared to many other countries.
Mr Grant: Yes.

Q437 Lord Inglewood: Do you think we have already reached a size where we have an appropriate critical mass, bearing in mind the existence of the items from your toolkit that are actually in place?
Mr Grant: Most of the items in the toolkit are in place in the UK, with the principal anomaly being the fact that the UK does not go after subscription programming services to support local content, which to my mind is surprising when I see the success of that technique in other countries. That being said, though, the UK spends a lot more on the BBC as a per capita support, in terms of support for that form of public broadcasting, than any of the other countries in our model. Canada, Australia, New Zealand and Ireland spend a fraction per capita on their public broadcasters that the UK has elected to support with the BBC. That has the benefit that you now have of course an incredible world-class supporter of UK drama in the BBC and it is immune from the recession because it is not subject to the advertising decline. Some of the other countries would be very envious of the UK, wishing that they had public broadcasters that were well-funded and did not depend on advertising. That being said, I look
at BSkyB and I note that its annual revenue exceeds that of the BBC and yet there is no mechanism here to require it to support local programming. **Dr Tongue:** May I add to Lord Inglewood who asked if we had got to a critical mass. I was talking to somebody about this yesterday. In each region of Germany there is a film fund, 50 per cent supported by the regional government and 50 per cent supported by the regional broadcaster, drawing on income from the various channels that I will not go into again. If you look at the region of Berlin-Brandenburg, for example, the revenue of just that one regional film fund is €38 million, roughly the same income as the United Kingdom Film Council. I leave you to draw your own conclusion in the sense of whether we have reached critical mass and do we need more money, given what Peter has said about the enormous outlay required on the prototypes of films and the need to produce an enormous number of films in order to produce those very few winners.

**Q438 Baroness Eccles of Moulton:** Dr Tongue, could we move on to look at Europe and the implications for the UK industry of the Television without Frontiers Directive? First of all, what are the implications of the Directive for UK television and the creation of UK original content, which is the central focus of our report? Will it be necessary for there to be any regulatory changes made by the Government and Ofcom to accommodate it? Really relevant to that, the Commission decided to include the audiovisual non-linear media within Television without Frontiers. When we were doing our inquiry into it on the EU Sub-Committee, we were quite unkeen about the inclusion of the non-linear aspect. Is there any way that including the non-linear bit would help European countries to raise more money to invest in local programming or was it really focusing much more on being in a position to monitor content and all the unattractive material that can be promoted through the non-linear media? That is two questions really but I thought I had better ask them both at once. **Dr Tongue:** Thank you very much, Lady Eccles. It depends how we choose to implement the Directive. Ofcom has been given the responsibility for implementing the Directive and if we take the first provision on every channel—shall where practicable carry at least 50 per cent of local content in essentially the drama/film/documentary category—we state categorically in British legislation. The question is whether, in our monitoring of that, we then pursue that categorically in British legislation. The question is whether, in our monitoring of that, we then pursue that issue with anybody who does not achieve that. The answer is: no, we do not pursue anybody who does not achieve that. If you look at Spain or Austria—and I will focus on Spain for a moment—what is interesting about Spain with that provision, Spain’s regulator chooses to sit down with other channels—cable, satellite, subscription channels—and say: “Look, we appreciate it might be difficult for you to reach that 50 per cent right away. You might be new. You might not have the audience”, or whatever. But they come to an agreement in Spain: we want you to reach 40 per cent as fast as possible and, once you have reached that, we want you year on year to increase your broadcast of home-made programming in the drama/film/documentary category. They do not allow any slippage back. So far, Ofcom has not, as it were, engaged with the non-terrestrial broadcasters in this country to encourage them, over time, in a proportional way—for example according to longevity, audience and turnover—to increase the domestic programmes they broadcast. That is the first point. It depends how we choose to implement it. The second thing that Ofcom could do would be to look at what we have already mentioned, for example, children’s channels that are carrying largely American material—Cartoon Network, Nickelodeon, etcetera—and, if they are not able to broadcast immediately sufficient domestic programming, then they can be asked under the rules to invest in production or acquisition of rights; in other words, in our children’s programming made in this country. We have already given you information about a number of countries—France, Italy, Spain, Australia and Canada—that come to that kind of arrangement with broadcasters. There is then the levy option which I will just mention before I come on to new media players. A recent report commissioned by the National Union of Journalists and by BECTU, very recently published, has attempted to model levies on some of the audiovisual players that Peter has mentioned, and that again should be looked at and could be looked at if we chose to do so. May I quote some levies that do exist that Ofcom could look at, research further and on which they could produce a report, so that at least we could have a proper, open and detailed policy discussion that actually looked at these alternatives. I believe that they have mentioned these possibilities in various reports and then have not pursued them. I think they could be called on to pursue these options. Poland: 1.5 per cent of income of all broadcasters to the Polish Film Institute; France, five per cent of all advertising income to their CNC, their UK Film Council; Sweden, commercial broadcasters pay a percentage of revenue into a film fund; Italy, TELE+, the equivalent of BSkyB, pay into their film fund; Canada, five per cent of gross revenue of broadcasters go to an audiovisual fund. You could then have a situation where Channel 4 could, by a mechanism, be able to draw on some of those funds for example to continue to do what it

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2 The Directive (Article 4.1) refers to broadcasters reserving for European works “a majority proportion of their transmission time excluding time appointed to news, sports events, games, advertising, teletext services and teleshopping”.

3 Centre National de Cinematographie.
does very well in Film 4 but to do even more. Finally, to come to the new audiovisual media services, it was decided by Member States in the Directive\textsuperscript{4} that it would be technologically neutral and where new services were akin to broadcasting, like video-on-demand, then Member States in their regulation should call upon—and this is the actual wording: “Member States shall ensure that new audiovisual media service providers promote production and access to indigenous European content”. That provides a number of possibilities again that it is incumbent upon Ofcom to research and to model what is possible and what the outcomes would be. The report by the NUJ and BECTU, available of course to your committee, says that if you levied one per cent on mobile phone operators or internet service providers, that would produce a revenue for drama/film/documentary, depending on where you directed it, of £210 million. If you levied one per cent on video-on-demand providers/Virgin Media and BSkyB, that would produce £70 million. In other words, some research has been done as to what levies might produce if they were levied on new audiovisual media players like ISPs or video-on-demand providers. It depends on the political will to take that forward, to model it, to have a discussion, consultation, and then decide if that is what you wish to do.

\textbf{Q439 Baroness Eccles of Moulton}: In summary, would it be fair to say, looking at the industry across Europe, that our arrangements let our industry off very lightly compared with most other countries? \textit{Ms Tongue}: I will be brief: yes.

\textbf{Q440 Lord Gordon of Strathblane}: I will be equally brief with the question. You say at the bottom of page two that the ITC (Independent Television Commission) did, in fact, open discussions on this. \textit{Ms Tongue}: Yes.

\textbf{Q441 Lord Gordon of Strathblane}: (a) Could you put a date on that, and (b) would you like to guess why they were not carried forward either by the ITC or Ofcom? \textit{Ms Tongue}: All I know is that that was during the mid-1990s. It may well have been under the leadership of Patricia Hodgson, but that you would need to check. I think there can only have been a sudden lack of will, but also it may have been as a result of very forceful representations by cable and satellite channels that they should not be required and that they would wish to do something voluntarily. In fact, BSkyB for a while invested approximately £15 million in the British film industry through British Screen. That voluntary contribution to our industry by BSkyB seems to no longer operate, but it did at one time, and that may well have been something that they said to the ITC at the time. I was not privy to those discussions. “We will do this instead”, that may well have been the discussion, but you would have to speak to those who were in charge at the time.

\textbf{Q442 Chairman}: It would be fair to say, would it, that your view is that it would be unwise to rely on goodwill and that the Government would be wise, through Ofcom, to investigate these kinds of regulatory interventions? \textit{Ms Tongue}: I would like to finish by saying in answer to that question, Lady McIntosh, that I think you have put your finger very much on something. The leadership on this, I think, does have to come from Government, does have to come from both the DCMS and BERR, because Ofcom has shown reluctance and has even spoken of its reluctance in terms of, “We could not possibly make that decision”, or “We could not decide to do that. We would need a Government lead.” That has actually been said by people at Ofcom; so I think Government leadership on this is important.

\textbf{Q443 Chairman}: We have got a couple more questions for you. I know we are a little over time, but I hope you will bear with us. \textit{Ms Tongue}: Yes, of course.

\textbf{Q444 Bishop of Manchester}: This is just a quickie and follows on directly from what you have been saying, and I just wanted you to clarify it. When you were talking about the percentage of drama requirement in the continental countries the phrase you used was, “And they do not allow any slippage back”. I just wondered if, in addition to the point you have just been making, there is any specific penalty issue or anything like that which might be helpful to us in this country in terms of the non-terrestrial channels and their seeming inability deliver the correct percentage? \textit{Ms Tongue}: On the question of sanctions, a range of sanctions are open, of course, to all regulators, from a letter of warning, to a revocation at the end of licence, to a levy of three per cent of revenue. Again, it is entirely up to the regulator, who has that panoply, or can be given that panoply, of sanctions. I think if talks were to be conducted and pressure were to build from a variety of sources, from those representing creators, parliamentarians, citizens, that made it clear that we expected broadcasters and audio visual media players across the piece to be making what I would call a fair, proportionate contribution to the audio visual culture of this country through investment in drama documentary and film, that is something that would enable those discussions to bear fruit and you would have broadcasters realising

that it is a commercial win-win situation. Canal+ is one of the most successful broadcasters and holders of rights. It is the biggest holder of rights in Europe. If companies invest in rights and they produce it adds to their commercial success, so it can be a win-win situation for everyone.

Q445 Baroness Howe of Idlicote: I think all of us would have been particularly pleased with the emphasis that both of you have placed on children’s programming, the UK content side of it, and I certainly would be. We have gone over the various models of investment that you have already mentioned in the structures you put forward, so I will not repeat that, but just thinking about some possible criticisms, how would you respond to objections (and I am a sure you have had them in the past) that levies act as a disincentive by removing cash from a business level and, indeed, levies are simply passed on to the consumer. Secondly, how would all this revenue, in the different ways you have described, actually be distributed? Who would have access to this money and how would their use of it be evaluated and, perhaps even more important in this world we live in, which is full of regulators, would it require yet another body to distribute this money or could it be done by one of the existing organisations, such as Ofcom?

Ms Tongue: In answer to those who might reject what we have proposed, we could say that we have held back until now to allow the development of these services, many of which are now fully mature and well able to make greater efforts to broadcast local content and to invest in it. We can argue that we have signed up to the UNESCO Convention for the diversity of cultural expression, the European Directive, that we are acting on the basis of our commitments to ensure cultural diversity in drama and film. We can also add the economic argument that it is a win-win situation for all audiovisual players, that it is very important that our industry is strengthened. We can use the argument of competition that, now that all these platforms are in competition one with another, it is important that each player makes an appropriate and proportionate contribution to our domestic content under the legislation we have. It need not take a new body. In France it is their Ofcom who administers all the levies coming in and dispenses them for film. It could be the UK Film Council that receives a discrete fund, and appropriate criteria, very tight criteria, could be drawn as to what and who could drawdown those funds. So if Channel 4 wanted to support another Slumdog Millionaire, for example, they would have to show that they were fulfilling certain criteria and adding to their own resources to make that necessary package for a significant film of that kind. That can be modelled and looked at, I think, beyond today.

Mr Grant: The Canadian experience is that all of the major “pay” and “specialty” services are making more money than the “over the air” sector and are all highly profitable; and now they have consolidated so a lot of them operate more than one service, which benefits them, but there has not been a problem in terms of apportioning a proportion of their programme spend to Canadian programming. It is just built into their business model, and, of course, it helps garner success and attractive audiences. At the level of the cable and satellite companies, where I mentioned that they have a six per cent imposition of a levy, again, the cable and satellite companies are highly profitable and went to a new height of profitability, 26 per cent this last year as reported last week by the CRTC, and the penetration of cable and satellite companies, all of whom are subject to this levy, is now 90 per cent in Canada, which is one of the highest levels in the world. The US is 89 per cent. We are even a bit on top of that. So it has not affected penetration. That being said, at the distributor level you always will find them suggesting that if there is to be a levy it will simply be passed on to consumers and will increase the price to consumers, and to a degree that must certainly be true because it will be part of their business model, but it can be done in a way in which it is built in over time that will not affect penetration or their general business model, in my view.

Chairman: Thank you very much. I think we will have to stop there. I am sure we could get a good few more hours out of it if we wanted to, but thank you very much indeed for your patient response to our questions and we are sorry that we have kept you slightly longer than we intended.
Examination of Witness

Witness: Mr Tim Adler, Editor, Screen Finance, examined.

Q446 Chairman: Good morning, Mr Adler. Apologies, again, firstly for the fact that you are not looking at Lord Fowler, which I am sure you were anticipating keenly, but he is away and has sent his apologies; secondly, for keeping you waiting. I hope you found the tail end of the last discussion at least interesting enough to keep your attention. We would not have wished to have kept you waiting; so thank you. You will know, I am sure, what we are about. We have not really, but you clearly do. Could you tell us a bit about how you generate the statistics that you use—where they are coming from, do you collect them yourself—and how do you set about identifying trends?

Mr Adler: I should start by apologising myself. I have just stepped off a plane from Washington and I am suffering with jet lag, so I apologise if I am not as sharp as I sometimes can be. Screen Finance is a trade magazine that has been going for about 21 years. It was founded by The Financial Times Group and I have been editing it for ten years. I like to joke that it is aimed at film financiers and those who love them, but its core readership is accountants, bankers, lawyers who service the film and the television industry worldwide.

Q447 Chairman: Is that a large group of people? What is your core readership in terms of numbers?

Mr Adler: It is regrettably small.

Q448 Chairman: Possibly not regrettably. If we think we need more film financiers, it is regrettable, of course, but what sort of numbers is it?

Mr Adler: The subscription always hovers around 500, which makes me think that people come in, people drop out, but that seems to be the size of the world around the globe. On the other hand, the magazine costs £800 a year to subscribe to and that does put it out of the pockets of many film producers.

Q449 Chairman: But it does reveal, does it, that the number of people who have a professional interest in financing film is actually very small, which is interesting in itself?

Mr Adler: Yes, because the turnover of companies involved is quite high. I will know that the industry has grown up when I meet somebody who says, “I made so much money from the movies that I opened a shoe factory.” It is normally the other way round, it is people who have had shoe factories who want to get into the movie business.

Q450 Chairman: Thank you. I am sorry I interrupted you. Please go on: the collection of the material that you put into your publication for that readership.

Mr Adler: Can I carry on about the magazine itself?

Q451 Chairman: Yes.

Mr Adler: I really see my job as truffling out new sources of finance for film producers, and if one of my readers can get to a new source of funding for the rest of the pack really the subscription has paid for itself. On a wider level, we also cover regulatory issues at the European Commission, regulatory changes, tax changes, that kind of thing. In terms of statistics gathering, what I really concentrate on is tracking UK-linked film production month by month; that is both indigenous production involving British film producers and inward investment from Hollywood. The information is then broken down into a granular level of sources of funding where the money is coming from, and that involves a lot of phone bashing, ringing up people and getting them to tell me things they really would rather not divulge, including how much films cost to make, which is the key point. In terms of the way that I compile the information, I take a wider view than the UK Film Council, which is solely concerned with the amount of British investment in film. I look at the production budgets as a whole, and, according to Screen Finance’s figures, almost a billion pounds was invested in UK-linked film production last year, although a tenth of that was just for the latest James Bond film, which had nearly a million pounds thrown on screen every minute. It is a very cash intensive business.

Chairman: I think the question the Bishop of Manchester might want to ask you is directly relevant to that.

Q452 Bishop of Manchester: I think probably we need a little tutorial in the process of film financing. Obviously there are some films that do not have cash thrown at them in the way that you have just been describing, so I think it would be useful for us to hear from you some of the different ways in which a film can be financed and could you then go on to say is there any difference in a major way between how films are financed in the United Kingdom and, for
example, how they are financed in the rest of Europe or over in Hollywood?

*Mr Adler:* Let us start with Hollywood. The films made by the Hollywood majors like Warner Brothers and Disney are fully financed by them. The average Hollywood film costs around $100 million to produce, and that is just a romantic comedy, that is not a blockbuster like *Dark Knight* or *Iron Man*. They are fully funded by the studios. Although increasingly the studios have been taking on outside investors, they have been keeping the “slam dunks”, such as *Harry Potter* or *Batman*, for themselves but have been sharing risk with Wall Street over the past few years in terms of investment. It has been calculated that Wall Street has invested around $15 billion in Hollywood over the last few years, with the studios sharing the risk with them, because the movies can be an incredibly profitable business, unlike books for example.

**Q453 Lord Maxton:** What is the percentage of success against failure? Is it one in ten?

*Mr Adler:* Yes, it was once explained to me as the rule of ten. For every ten ideas, one becomes a script. For every ten scripts, one will be taken forward to be thought about for production. For every ten films that are made, one will make enough money to pay off the costs of the other nine.

**Q454 Bishop of Manchester:** Going back to the point that I was asking in terms of this country, let us say I want to make a film, where do I get the money from? Is there a classic route that I would follow in order to finance it?

*Mr Adler:* Imagining a film budget as a pie chart, over the past 20 years for films of any substance or ambition the film project idea will be taken to one of the markets that goes on throughout the year. Foreign film distributors, companies that release the films, will decide, “Yes, we want to be involved in this project”, and they will put up a percentage of the budget in exchange for the rights to that film, and slowly this patchwork of advances is knitted together providing the majority of the budget for an independent, i.e. non Hollywood, film.

**Q455 Bishop of Manchester:** Would the film distributor at that point be injecting a large amount of cash, or would they be saying, “We will guarantee a certain amount of funding in the future as things progress”?

*Mr Adler:* What will happen is that the distributor’s letter of agreement will be taken to a British bank that lends against their paper, and the bank will then lend against this distributor’s paper enabling the film to be made.

**Q456 Bishop of Manchester:** So the distributor is giving a guarantee.

*Mr Adler:* The distributor is giving a guarantee.

**Q457 Bishop of Manchester:** If you are making a film (and I think we picked this up when we were hearing about *Slumdog Millionaire*) really unless the film distributor comes in with the kind of guarantee you are talking about, you might as well give up the idea of doing the film?

*Mr Adler:* Not so fast. What has been happening over the last five years is this model is falling into disuse. Distributors are finding it increasingly difficult to sell on these films to television, which is the ultimate end user, because television stations around the world are showing fewer non-Hollywood films and this has caused a real problem. It really does seem to me that at moment the whole formula does not seem to be working in the way it once did. Going back to the pie chart, a smaller percentage of the film’s budget is coming through this sale of overseas rights. Other elements, other pieces of the pie, might be the UK tax credit, which accounts for 20 per cent of the budget for an indigenous production, perhaps some local funding, some private investors and some bank lending, and this will make up 100 per cent of the budget, but the credit crunch has badly affected the industry. Several banks, including Bank of Ireland, have announced that they are pulling out of film finance, and that has created a real problem for independent film producers.

**Q458 Chairman:** Obviously, what a filmmaker is selling in getting finance into the production is a package of possibly exploitable rights. You have explained that the distributor will take a significant portion of those but not all of them, and currently what is left, conventionally, is for the actual originator of that content to make his or her money once everybody who comes into this patchwork of financing has taken out what they need to get from it?

*Mr Adler:* This is the tragedy of the British film industry. Unlike the television business, the producer is not left with much at the end. In order to get the film made he has to sell off the rights, which is the value in the production. The whole purpose of being a film producer is that, in the end, down the line you can create a library of rights that then becomes a cash generator, or can be, for generations. In the case of *Tom and Jerry* cartoons, their production cost was paid off back in the 1940s, but for MGM, or whoever owns the rights now, this is a cash cow that will just keep on being milked. The problem is that most British film producers never get to that position of creating a library of rights, although some are trying.
Q459 Lord Maxton: Can I briefly ask about what I would term the impact of the money going into a film on the creativity of the film? You do get stories—I do not know how true they are—of an American financing filmmaker coming into a British film insisting that the end be changed to make it more suitable for the American market. I gather The Madness of King George was actually originally titled The Madness of George III and it was changed for the American market to The Madness of King George. Does the money impact on the creativity as well?

Mr Adler: I would argue that imagination does not cost anything, and some very interesting films have been made by British film producers that have not had huge budgets. The problem with the way the whole system works at present is often the only money the producer will see is his or her fee that is payable on the first day of shooting and, because the producer has got a mortgage to pay, often films are rushed into production so they can get the fee, which is the only money they are going to see because they are not going to see anything further on, and that is a real problem.

Q460 Baroness Eccles of Moulton: In your patchwork pie chart I do not think you mentioned the Film Council as one of the components when it comes to the contributors to the sum total. Is that because actually what the Film Council can do to help the film creating industry is so negligible that it does not really bear mentioning?

Mr Adler: No, that was a combination of my own stupidity and jetlag. The importance of the UK Film Council cannot be overestimated. It is a very important body for the British film industry. As you know, it consists of two production funds, a script development fund and a marketing fund, and, as I think you are already aware, the Film Council is facing a 15 per cent drop in its revenue because of the dubious honour of hosting the Olympics. This is very bad news for British film producers. There are two production funds: one, the New Cinema Fund aimed at experimental film and young filmmakers, and the other is the Premier Fund aimed at more established filmmakers. It has never been really clear to me exactly what the remit of the Premier Fund is. It seems to me that it is kind of commercial, but not that commercial, and I would like to see the remit more defined, for example, to stop talented British directors from going abroad and working on their next project in Hollywood but keeping them here to do a project of more ambition.

Q461 Baroness Eccles of Moulton: Does the fact that the pool that the Film Council has to distribute is shrinking have an effect on the way in which funding can be attracted from the other sources you mentioned, that the creator goes to the Film Council first and that is the hook on which the other funding is attracted, or, in fact, does finding the distributor come first?

Mr Adler: In putting together a film, the key thing is getting a distributor on board. In the film business, confusingly, the distributor is called the “sales agent”, as opposed to television where it is called “the distributor”, but it is the same thing, and what I find alarming is when I talk to young filmmakers making their first film for not negligible amounts of money, a million pounds, I say to them, “Do you have a sales agent on board?” and they say, “Oh, no, we just took out a second mortgage because we wanted to make the film and we thought we would think about that later”, which seems to me to be madness. The way that the market is going now, it seems to me that the British film industry is bifurcating: on the one hand there are small films costing a million pounds or under, mostly privately financed, people funding private investors, the tax credit, maybe some local Film Commission money, and, on the other hand, anything of ambition is going to have to involve a Hollywood film company, and that is not particularly good news. I would argue, in terms of the subject matter of British films because then it is going to be period films and romantic comedies, because that is what Hollywood wants to see from Britain.

Q462 Baroness Eccles of Moulton: When you were describing to us why the producer in the film industry really does not do very well at end of the day, I think you implied that this was different from what happens in television. Is that so, or was I not hearing correctly?

Mr Adler: The difference is that due to the Communications Act 2003 the independent television producer now retains his international rights, and that has been a fantastic fillip for the television industry and has really changed it. It is a game changer, as they say. What needs to happen is a similar kind of revolution when it comes to rights for the film producer because without the rights you cannot build that library that you need.

Q463 Baroness Eccles of Moulton: That would have to be legislated for?

Mr Adler: Yes, it would have to be.

Q464 Chairman: Can I ask you one other question about the Film Council? It has been put us that the terms of trade between the Film Council and those who come to it for money are a little bit tougher than is entirely appropriate; in other words that the Film Council takes a very highly commercial view of its role in providing finance for films. Do you have a
view about that? Do you think it is true? Do you think it should be different?

Mr Adler: Anecdotally the Film Council is a body that producers are reluctant to get into bed with because its terms are so tough, and it is not a grant, it is treated as commercial money. They also want to sit equally with other equity investors, and some argue that the Film Council should take a step back from that and allow other equity investors to get their money back first. The Film Council argues that the well will run dry pretty quickly if we allow that.

Q465 Chairman: But, given what you have said about the criticality of the Film Council money in terms of getting certain kinds of UK film made, what is your view about the stance they should take in securing a return on their investment?

Mr Adler: I am agnostic as to the mechanics. The Film Council enjoys the highest rate of recuperation of any film fund in the world because its terms are so aggressive. Other national film funds would not expect even half of the money to come back. If I can talk a little bit about the history of the Film Council, I do think there is something that needs to be changed in terms of its structure. Can I do that?

Q466 Chairman: If you would like to tell us that.

Mr Adler: If I may. The Film Council was set up back in the late nineties, or the idea was generated back in the late nineties, to bring together all the disparate film funding agencies under one roof. The way it was put to me was that the Government just wanted to have a single number on the speed dial it could call, and it was argued that the new organisation would be leaner, fitter than what had preceded it, but, like any bureaucracy, it seems to have swelled and now has 90 members of staff, and I cannot help but think that some savings could be made there in terms of the bureaucracy. The other thing that occurs to me is that since the Film Council came into existence ten years ago Ofcom has been created, and I do not understand why the Film Council now is not part of Ofcom if the point is to get the film industry at the heart of Government thinking.

Lord Maxton: In Scotland Scottish Screen is merging with what was the Scottish Arts Council so there is one body covering that whole area.

Q467 Lord Gordon of Strathblane: Just a brief factual question relating to something you said about producers not really having any rights or having to sell them off too early. Surely, under copyright law, there are rights that cannot be assigned?

Mr Adler: The rights, strictly speaking, are licensed.

Q468 Lord Gordon of Strathblane: Yes.

Mr Adler: Eventually the rights come back, but a long time later.
Mr Adler: I would argue that whenever anybody from Hollywood, or Spain, or France wants to expand outside their own territory, they come to Britain first because we have the most sophisticated film and television finance sector here. The difference is as you go further east across Europe the way films are financed changes. There is much more emphasis on the role of the auteur film director, the man or woman who writes, produces, creates the film, whereas in Britain we have a much more sophisticated model in that the creative elements are split between the director, the writer and the producer. It is just more of a grown-up, sophisticated model here compared with elsewhere in Europe.

Q475 Lord Inglewood: Can you then say that some of the problems that are experienced by the industry in Europe result from, in your words, this slightly unsophisticated way of doing it?

Mr Adler: I would say that the problem being experienced elsewhere in Europe is that the old times of the auteur school of filmmaking, with its emphasis on what the director wants to say regardless of who the audience is, is something that has become less fashionable than, say, in the 1960s. Audiences have become much more mainstream, I think, in terms of what they want to see, which is why a foreign language cinema is just not as popular as it was in its heyday.

Q476 Lord Inglewood: Cynics would say that that is a result of the homogenising effects of pernicious American influence across the airwaves of the rest of the world. Would that be a parody in reality?

Mr Adler: These are cultural questions which I do not feel entirely comfortable answering, but I think the further east you go the less compelling the storytelling seems to be. Americans have become very sophisticated in the way that they tell stories that people want to see.

Q477 Chairman: Can we come back to the tax regimes, the one that previously existed and the one that we have now? You have made it pretty clear that the previous regime was very generous and there was a significant amount of money made out of it, and I think we have heard (and you may agree) that there was a significant degree of abuse of that system. Could you, without perhaps naming names, give us an idea of what, typically, the kinds of abuses were that were actually damaging to the film industry as opposed to being damaging to the revenue?

Mr Adler: In terms of the abuses that were damaging to the film industry, it was the amount of money that the financiers were retaining in terms of fees that was not being passed on to the film producer. The point of the section 48 and section 42 tax breaks was to raise money for the film industry and what was happening...
was that the intermediaries, the financiers, were charging these outrageous fees for their participation in the Government’s largesse.

Q478 Lord Inglewood: This is true throughout almost every sector of economic life, is it not?

Mr Adler: Yes.

Q479 Chairman: But you did say, I think, if I heard you right, that there were some things about that system that were actually lost which were valuable when the new system was set up. Would you amplify that a little bit?

Mr Adler: Yes. Under the current tax credit producers can raise, if it is a wholly UK film, 20 per cent of budget through the tax credit and, if it is an inward visiting Hollywood production, Hollywood gets about 16 per cent of its budget if it bases a big film, a Batman or a Harry Potter, here. Under the old system, as competition increased between the financiers, film producers were raising anything up to 35, 37 per cent of their budgets through these schemes, which was a fantastic fillip for the industry.

Q480 Lord Gordon of Strathblane: I am just wondering if, in the light of that, you think that in the criteria used for the tax credits they give insufficient attention to the tourism spin-off of British locations?

Mr Adler: It is clear to me that what is going on now is that there is a kind of “soft money”, as it is called, an arms race going on around the world. The British were the first out of the gate with our 20 per cent tax credit, Germany matched that with its own 20 per cent tax credit, France has just introduced a 20 per cent tax credit earlier this year and Italy, this week, has introduced a 25 per cent tax credit. The same thing has started happening in America: states competing with each other to attract film production to their state. In Michigan you can claw back 40 per cent of what you spend if you base yourself there. So there is a kind of soft money arms race going on and it seems to me clear that we are going to have to sweeten our offer soon before we get left behind. The reason why that is important, or why these tax credits work, is that the Inland Revenue gets back nearly double what it loses in the short-term in making these tax credits available because once a big Hollywood film comes to your area the trickle-down effect, in terms of what is spent on food and taxis and wages, is huge. A big Hollywood production employs a lot of people for a short period of time, so studies have shown that, broadly speaking, nearly double what the Inland Revenue loses in the short-term it gets back within a few years, but because legislators see this as a budget loss it is kind of counter-instinctual.

Q481 Lord Maxton: There can be a longer term input too in terms of tourism.

Mr Adler: Absolutely.

Q482 Lord Maxton: There are now tourists who come specifically to see a particular location that was in film.

Mr Adler: Absolutely, I do not know if you remember, in America there was a film called Field of Dreams about a man who built a baseball field. Apparently the buses line up to go and visit this movie set baseball field, and the guy that owned the field was saying, “If you film it, they will come.”

Q483 Lord Maxton: You did say early on that one of the income streams for British films that has been decreasing is the TV pay per view film channels, it is showing fewer British films. Is there not one market, I do not know if it is below it or alongside it, what I would call “the download market”, and if I have got two films (and I am not going to tell this audience what those two films are) sitting on my computer downloaded from iPlayer, which I pay for, do Apple contribute anything towards the film industry when they sell me those films, or is that an income stream?

Mr Adler: Apple will obviously have to pay for the rights to be able to show the films on the iPlayer. It is interesting that France has already started instituting a recycling levy on new forms of television distribution, such as video on demand, to keep increasing the pot for French domestic film production. Films are always the loss leader for every other window or platform. The films cost a lot to make and yet everybody else benefits, apart from the film producer, as the film makes its way through video, then pay television, then free television. I think it could be argued that these other platforms should contribute back into the pot because all the money is in distribution, not production.

Q484 Chairman: Going back to your earlier point about the terms of trade, you suggested that it would be helpful to the film industry if there were a similar arrangement with film purchase as exists now with television as a result of the 2003 Act.

Mr Adler: Yes.

Q485 Chairman: What impact would that have on some of the other ways in which films are distributed and money is made from them? If those rights were retained by the filmmakers, what would then happen to the way that revenues are generated down the line?

Mr Adler: In terms of negotiations with other financiers, it puts the filmmaker in a much stronger position: because they will say, “We have these rights.” It strengthens their hand in terms of negotiations with other financiers; it builds up their position.
Q486 Lord Gordon of Strathblane: In the light of your previous comments about the huge benefit to the Inland Revenue of the tax credit in terms of the benefit to the location and the area, I take it you would advise us to resist the pleas of PACT and others to have the tax credits available to UK artists and crews working overseas?

Mr Adler: It seems that the way that the tax credit is structured at the moment creates a lot of anomalies that are not very clear to me. I think the tax credit should be liberalised so that the “used and consumed” rule that exists now is relaxed so that filmmakers shooting films overseas can still claim a portion of their budget back otherwise we are going to end up with a lot of parochial films.

Q487 Lord Gordon of Strathblane: But it would be a limited pot of money and you can get a demonstrable return out of stuff using UK locations. Is there not a strong argument for concentrating on that?

Mr Adler: I see the way your thinking is going. The amount of UK co-production though has dropped off dramatically. I think in the last year that figures are available for £70 million of production disappeared, involving UK producers, and that is not a good thing.

Q488 Lord Gordon of Strathblane: That arises directly out of the application of the tax credit system and the cultural test that goes with it. Is that correct?

Mr Adler: That is right, yes.

Q489 Baroness Scott of Needham Market: I wanted to explore, very briefly, where you see tax credits going internationally. If there is a spiralling system and the amount available on tax credits is getting higher, is there not a stage when everyone has raised theirs to a point where pretty much everywhere is offering the same? Where does that end internationally?

Mr Adler: The European Commission has been very hands-off about this question. You would imagine that Brussels must hate this because the idea of countries competing against each other offering tax breaks goes against the whole European project. As to where it will end, I do not know. I cannot see countries offering tax credits of 40 per cent as being sustainable, but, on the other hand, we do not want to be left behind, and I think there is a danger that we will be left behind unless we sweeten our offer.

Q490 Chairman: What do you mean by “sweetening the offer”?

Mr Adler: As I said, Italy has introduced this week a tax credit equating to 25 per cent: you get back a quarter of what you spend.

Q491 Chairman: When you talk about sweetening the offer, is it just about increasing the quantum?

Mr Adler: The level, yes.

Q492 Chairman: Or are there other ways in which you can encourage people by a combination of tax credit and other benefits to use UK facilities or to make their films here?

Mr Adler: That is a very interesting point, and I am sure there could be some more sophisticated thinking, but at a very simple level I think the amount of benefit on offer to visiting film producers will have to increase if we are to keep pace.

Q493 Lord Maxton: It is not just tax benefit, is it? There are other benefits, like locations, and so on?

Mr Adler: The whole difference between film and television is that television, for the most part, does not travel abroad. Film does travel abroad, and it can send a very positive image about Britain and Britishness around the world, and that is why the film industry is really important. It is a kind of “soft” power, and I think that can easily be lost unless legislation keeps pace.

Q494 Bishop of Manchester: What is your assessment of the morale in the film industry in the UK at the moment?

Mr Adler: As much as I hate to say it, I think we have got a pretty good report card at the moment. As a business, it battles way above its weight. A British independent film winning best picture at last year’s Oscars is amazing, and when you consider the paltry amounts of money that British broadcasters, such as Channel 4 and the BBC actually invest in the film business—£10 million pounds each—what they get in terms of the BBC brand around the world being seen on cinema screens is a fantastic deal from the broadcaster’s point of view.

Q495 Chairman: Just to pick up your point about Slumdog Millionaire, some might say that was a very sentimental decision on the part of the Oscar jury. I am not saying I necessarily agree with that, but it was certainly an unusual decision, as you have said, and very, very exciting for the UK film industry, but in the end what difference will that make to the UK film industry’s ability to go on making films? The fact that Slumdog Millionaire won the Oscar, a big prestige event, very good for Danny Boyle, no doubt he will get lots of offers, no doubt quite good for some of the other technical and creative performing artists who were involved in it, but what does it do for the industry?

Mr Adler: What has winning a best picture Oscar ever done for us?
the british film and television industries—decline or opportunity: evidence

29 April 2009

Mr Tim Adler

Q496 Chairman: That is the question.
Mr Adler: It is a good point. What really needs to happen in Britain is that we need to create more Working Titles. Are you familiar with what Working Title is? The company that makes Love Actually and Bean, and most big—

Q497 Chairman: Atonement.
Mr Adler: Atonement, yes. That is absolutely the ideal model. A British film company that can get its hands on the levers of international film distribution because of its relationship with Universal, and we need to create more Working Titles, and I think it is happening. We have film makers like Andrew McDonald, who has a relationship with 20th Century Fox, so that is 28 Days Later, and, within the last few months, Pathé, the company that helped make Slumdog Millionaire, have signed a similar agreement with Warner Brothers. This is what we need to be encouraging.

Q498 Chairman: Would I be right in thinking that what you are pointing out is that we have a volume of talent in this country that can be hooked successfully to finance in order to make film which has a distinctly UK character but that what we lack is the brokering of those two together, which is what an outfit like Working Title does, is it not?
Mr Adler: Yes. At a higher-up level, it seems to me that the British film industry is going in the right direction. We have got fantastic talent that is being recognised around the world and the bigger companies are now forming alliances with Hollywood majors and that is to be encouraged. What concerns me is the level down below that, the more grassroots level. It seems to me that the old film financial model seems to be broken and, unless we are making really small parochial films, I do not see how those are going to get made, which is why we need to encourage the banks to get back into the business. It may be that the tax credit has to be sweetened or raised so that it can cover a larger proportion of the budget otherwise it is not going to happen. That is the part of the equation that is not working at the moment for me.

Q499 Chairman: Would I be right in thinking you would be in favour of additional sources of revenue being generated from things like levies on distributors, on the providers of platforms on which films are shown when they get to the point of being available for television and the Internet?
Mr Adler: I think that BSkyB in particular needs to start putting something back into the pot. BSkyB generates a large amount of its income from its movie channels but it does not contribute anything back into the business, and I think some kind of recycling of cash would be very helpful.

Chairman: Thank you. Mr Adler, I feel we should let you go as you have been so good as to come here straight off an aeroplane and provide us with very sharp answers, if I may say so. Thank you very much indeed, and sleep well.
WEDNESDAY 13 MAY 2009

Examination of Witnesses

Witnesses: Mrs Jana Bennett, Director, BBC Vision, Mr George Entwistle, Controller of Knowledge Commissioning, BBC, and Mr Peter Salmon, Director, BBC North, examined.

Q500 Chairman: Good morning. I am sorry you are quite a long way away, as always in this room, but welcome. I think you know what we are doing, so I will not go through a long explanation of that. Basically what we are trying to look at is film and television and seeing really what contribution they make to UK plc, both in terms of the economy and also in terms of culture and other aspects as well. Let me start on BBC Films, if I may. It may come as a bit of a surprise, I think, to some people that there is an organisation called BBC Films. Tell me what the remit of it actually is.

Ms Bennett: My name is Jana Bennett and I am Director of BBC Vision, which includes our television channels and BBC in-house production but also BBC Films is within BBC Vision. I am also with my colleague, Peter Salmon, who is the Head of in-house production, that is Vision productions, as Chief Creative Officer and is about to be taking up post as Director of BBC North, which I think is relevant to the discussion about the industry and particularly our role in it, and George Entwistle, who is the Controller of all of our factual commissioning across television and online and BBC Knowledge Commissioner. For my own position, BBC Films is part of our fiction story, the scripted story for the industry, in terms of our partner industry. It is run on three basic fronts: one is innovation and to help boost the creativity of the sector; the other is the actual investment in the sector. We are the second largest funder in terms of the British industry, British films, and in many ways that plays three roles: one is sometimes development funding at an early stage—something like The Damned United, which has, I think, come out as a very good film, there would be a development effort at the front end of scripts and so on. Sometimes we help with the completion of the funding of a film and other times we will help to bring together the various parties and we will be a catalyst for the creativity around a particular project.

Q501 Chairman: Film4 and you: are you roughly comparable, or not?

Ms Bennett: I think we are a bit bigger than Film4, who are having to justify financial pressures and reduce their budget, as far as I know, but I am sure they can talk about that themselves. BBC Films, when we entered the new licence fee period, we committed, as far as we could, to increase our investment, so we stepped it up from £10 million a year to £12 million a year. This is not for profit ultimately. If we are successful, we want to bring any dividends back both to defer licence fee expenditure and investment, but also, more importantly, the catalytic effect is to raise, in a way, more finance outside the BBC’s investment in order to make these films happen at all. So our £12 million commitment is there pretty much to stay in terms of this licence fee period.

Q502 Chairman: If I was a licence fee payer, which I am, would I not actually say, “What do I get out of this?” You are investing £12 million a year, risking £12 million a year. If that all goes down the plug hole, I am £12 million poorer.

Ms Bennett: I think we are a bit bigger than Film4, who are having to justify financial pressures and reduce their budget, as far as I know, but I am sure they can talk about that themselves. BBC Films, when we entered the new licence fee period, we committed, as far as we could, to increase our investment, so we stepped it up from £10 million a year to £12 million a year. This is not for profit ultimately. If we are successful, we want to bring any dividends back both to defer licence fee expenditure and investment, but also, more importantly, the catalytic effect is to raise, in a way, more finance outside the BBC’s investment in order to make these films happen at all. So our £12 million commitment is there pretty much to stay in terms of this licence fee period.
films make it back onto BBC television channels. So although they may have theatrical releases, they are also ways of having home-grown British film on BBC channels, and so none of that investment is wasted from the point of view of fitting the schedules as well. I think that is another important part of it. We also know that the audiences that television can bring to film are substantial and, therefore, the benefits are not only seen in the theatres.

Q504 Chairman: Does that mean if the film is not a great success, you still have the fall back that it is going to appear on BBC television in any event?  
Ms Bennett: I never think of it as a fall back; it is far more positive than that. Something like *Billy Elliott*, not only was it an amazing success—

Q505 Chairman: No-one is claiming that that was anything other than a success.  
Ms Bennett: —but it also made its way into the Christmas schedules on BBC One, and that was a huge success and more successful than some of the biggest blockbuster movies. *Mrs Henderson Presents* is another example. We also have a kind of cultural aspect to our investment, which is that it is very good that we are supporting people like Michael Winterbottom’s work or interesting new directors who may choose part of their career in terms of cinema and film but also will be working in television. So someone like Armando Iannucci, having done *The Thick of it*, wanted to make a film *In the Loop*, and it was again quite a prudent investment; it will also be on television. So we are actually making sure we are, in a way, recycling our investment for the benefit of the biggest possible audience that these films can get and, thus, stimulating the film industry at the same time.

Q506 Chairman: We are getting quite accustomed in this film inquiry to people coming along and saying, “This film is an enormous success.” People are rather less forthcoming about what their failures are, and, as I understand it, in this industry you do have failures. What are your failures?  
Ms Bennett: I think I would point to the fact that the BBC Trust is doing a review of BBC film, as part of the commitment we made when we went into the Charter commitments, and I am sure will be addressing some of the hits, misses and maybe that come along in an industry which is bound to have risks associated with it. So rather than do the performance review just now off the top of my head, I would want to share that with the committee, if I may, because there are obviously areas where we are hoping to stimulate new talent, new writers and to go with some of their creative ambitions, and this is an area which is not a dead cert. This is true of Hollywood as well, but it is very true of British film, and as an industry we want to be able to take risks and also make sure we are not just going for mainstream talent but trying to break new talent. There are bound to be some disappointments in that, but, on the other hand, there is a long road to success and as we fail with some we are learning from failure as well.

Q507 Lord Gordon of Strathblane: Clearly films can be bought to be put on BBC television whether you have invested in them or not. So that of itself would not justify investing in a film: the fact that it will eventually appear on television. You went through some of them in the last answer but one, but could you run through very quickly the criteria a film must meet before you would invest in it?  
Ms Bennett: Often it is about the script being something which would be, hopefully, complementary to television—in other words we would not make it another way—that it is, on the whole, trying to back British talent, and that might be performing talent or writing talent or both: we want to be innovative and we want to make sure that we are reflecting British talent. That might be in the area of period drama, like *The Duchess*, for example, or *Billy Elliot* but also the writing talent in something like *In the Loop* or the acting talent in *Revolutionary Road*. So there is a filter which is about backing British talent which is applied to British projects, but they are also quite bespoke project by project. I think the important thing is that we cover innovation and that we are also stimulating British talent. They do not always come together as being either mainstream or niche pieces, but that there is a British lens over this.

Q508 Lord Gordon of Strathblane: But it would have to be made in Britain as well, not on location abroad.  
Ms Bennett: I do not think we are completely strict about that, because a writer’s imagination may take him many different places. I do not think we want to be restrictive in that respect. I think there may be a tendency to search for British subjects, but I think some of our best writers write about anywhere in the world, and that is true, for example, with the great Channel 4 success—it happened to be in Mumbai, but it is definitely a British success—so I do not think we would want to make them put down the shutters in terms of their imagination.

Q509 Lord Macdonald of Tradeston: This question is almost the converse of the Chairman’s earlier one, but with the two mediums which are so symbiotic, why do you spend such a bizarrely small amount of money on film: £10–12 million out of your vast budget? Surely the BBC could have a much more
formative role in the British film industry if it put a proper resource into it.

Ms Bennett: We have obviously thought very hard about the amount of investment and have set aside investment from the licence fee for film and, also, in structuring the 10 million going up to 12 million we have thought about it very carefully. Your question points to the balancing act. In the end, we are providing content through our services, programmes and online in terms of television. Our core activity is British television commissioning in terms of the actual direct relationship between the licence fee payer and having output that we put on the air and know is going to be premiered on the BBC. I think that has to be our core mission. I think our other role (and the BBC does have a cultural role) is to support the creative industry, the creative sector of film, but also other sectors as well, such as music; and there is a very big stimulus effect of our £12 million making us the second biggest funder. So these are smallish amounts of money doing a very great piece of work in terms of drawing in other investments, and I think that effect is one which is terribly important as a stimulus. But given all the different things that we need to do and the fact that there are pressures for Channel 4 to reduce its investment, I think the most important thing is the fact we have continuity and consistency of commitment to it. I do not know whether that is too high or too low a figure, but it is one that we can afford within what is a tight licence fee settlement.

Lord Maxton: Can I check the detail here. Your relationship with BBC Broadcasting, the actual four channels: I assume that your films are shown for nothing. The licence payer does not have to pay twice.

Ms Bennett: The licence payer definitely does not pay twice. I think there is a valuation in the schedules, for reasons of good financial management, that we want to value what we put on and how we schedule, but there is not a doubling up against the licence payer. We are not charging them twice; absolutely not.

Lord Maxton: Obviously, if they buy any other film they have to pay the producers of that film for it, but with your films the BBC do not have to?

Ms Bennett: When we are investing we are investing for the licences.

Baroness Eccles of Moulton: The licence fee investment does not in any way prevent them?

Ms Bennett: No, it does not.

Baroness Eccles of Moulton: Thank you.

Lady Inglewood: Early on in your remarks you said, “We make a film and in any event put it on the television”, and you approached this from the perspective that you make the film and then it has an application in the television market. But surely, given the way that the two media are fusing, in fact you are making some material that can be shown on television and is good television material which also may have an additional value spun out into cinemas and other forms of release? Is that not the right way to look at it, not the other way round?

Ms Bennett: If I am speaking with a television hat on, of course I would say it would be great to have every BBC film on television first, but then it would not be a BBC film, because the definition of film would be that it has a theatrical release and many of the other partners would have problems being part of a television financing structure when they are investing for cinematic release. So we are respecting the way the film industry as a sector operates in terms of getting distribution money and other partners in to make these films possible. Because we are by and large very much a minority funder and, therefore, although I think windows between the film world and the television world are shortening and imaginative things are possible, on the whole we would not end up attracting the sort of finance that makes these films possible in the first place if we were just saying it is a BBC channel’s first exposure. But, indeed, I think the audience goes up when it goes on television usually, so I do not think there is a short-changing of the licence fee payer at all, and there are other things that happen because of film release. For example, Planet Earth has been made into a feature film after the fact—it is a feature release first. It will be shown also on BBC television. So there are ways of connecting up the different types of talent involved to do imaginative things, but I do not think we can jump to a television film; we cannot collapse the definitions, I do not think, very easily.

Lady Inglewood: My point is that the whole debate to discuss this is prefaced, in that you have got television, you have got film and actually the reality of it in the current world is that that distinction is increasingly being blurred, and that is actually quite important in terms of looking forward to what the products of the future might be.

Ms Bennett: I accept that point. I think being imaginative and flexible is absolutely what both sectors have to apply themselves to.
Q516 Chairman: Did you see the comments yesterday by Andy Duncan, the Chief Executive of Channel 4, who criticised the BBC for outbidding Channel 4 for the rights to a US drama series entitled *Harper’s Island*? He went on to say, “I do not understand why any of the licence fee is spent on acquisitions. The BBC competes against us and ITV for feature films and acquisitions, all of which would appear on British television in some other way. If they did not spend this money, they could spend it on regional programming.” What is your comment on that?

Ms Bennett: I was somewhat surprised by some of those remarks, and surprised about giving us financial advice, in a sense, when they are trying to work out what their financial position is day by day, it seems! If we look at the big pieces which are very important to Channel 4, we have not competed with Channel 4 head-on for *Lost*, for *Desperate Housewives* and for other really significant acquisitions, and the piece he is talking about, I am surprised it was depicted in that way given that my understanding is that they backed out of that particular bid.

Q517 Chairman: Perhaps that was because you were outbidding them at that time.

Ms Bennett: They backed out of it, from my understanding, for editorial reasons. When you look at something like a recent acquisition called *Cleveland*, which is a spin-off of *Family Guy*, a very successful animation, we absolutely made sure we did not bid in excess of any figure we would recognise as being value for money. So I think it is a different thing indeed. When you think of the licence fee payer, there is a desire from licence fee payers to have some of the best of the rest of the world and they would like to see complementary acquisitions, and the BBC is very selective about it. Indeed, we are not increasing our acquisitions, they are probably in decline, but something like *Mad Men* and *The Wire* had no other bidders and, not only that, they were not even first premiering on the BBC. We have been careful about our deals. The same with *Heroes*: that was first bought by Sci-Fi Network. The idea that our audiences do not have some interesting complementary acquisitions is one which is not for Channel 4 to decide to talk about, I do not think, from the point of view of how we need to serve our audiences: it is with a varied menu and a varied diet. However, our major role is UK origination and a stimulus to the whole industry, and we absolutely keep this ratio in proportion and, indeed, the ratio of acquisitions is not going up.

Q518 Chairman: I get the message you are not over the moon about Channel 4’s finances.

Ms Bennett: I am happy to come in and look at their finances.

Q519 Chairman: But does it not have a point, that if you did not spend so much on acquisitions, you could spend it on more original programming?

Ms Bennett: We are not increasing our acquisition spend. In fact, since I have been head of television it has been held and made to decline, because I want to be very selective on the kinds of pieces that give complementary types of flavours and creativity to the audience and also things that we would not be able to afford to make. Also acquisitions are very good value for money and they do offset other costs in the schedule, which allows us to protect higher levels of original investment in individual projects. So there is a value for money equation here where the licence fee payer wants to have that variety, some of the best of the rest of the world, and that includes French series like *Spiral* the original *Wallender* from Scandinavia, it allows us to have a richer mix at very good value for money, which allows us in turn to protect the other parts of the schedule, which are by far the majority, with high level original production and original investment.

Q520 Chairman: How much do you spend on acquisitions?

Ms Bennett: I am happy to send the committee the most recent figures.

Q521 Chairman: Roughly?

Ms Bennett: There is a difference between the series figure and film packages. I would rather be accurate and send you the information, if that is possible.

Q522 Lord Maxton: I assume that does not include sporting rights, does it?

Ms Bennett: No, it does not.

Q523 Lord Maxton: Do you not have a budget for that item?

Ms Bennett: Yes, we set a budget, but it is in two pieces, so I do not want to be inaccurate about the budget.

Q524 Lord Maxton: Can you tell us what the budget is?

Ms Bennett: For acquisition it is split into two pieces. One is television series and the other is film packages.

Q525 Chairman: That is the information you are going to give us.

Ms Bennett: Yes.

Q526 Baroness McIntosh of Hudnall: Could we go back to the question of how you actually get involved in film production and how the content is derived? I was quite interested that you mentioned *Revolutionary Road*, for example, a short while ago. I think most people who know about that film would assume it was an American film. It has a British
director and his British wife, but they are US based, and it is an American story and it was filmed in America. Perhaps you could use that as an example to show how you got involved with that particular project. You talked about, for example, how you get involved in development funding, you get involved in back-end completion funding and you get involved in brokering talent and money. Where does something like Revolutionary Road sit in that spectrum?

**Ms Bennett:** It is probably more of an exception than illustrating the rule, but every film does have a bespoke financing and editorial genesis. It is a fairly rare case, where BBC Films optioned the book and then co-developed the screenplay with an independent producer attached.

**Q527 Baroness McIntosh of Hudnall:** A UK independent?

**Ms Bennett:** It was a UK independent, Sam Mendes. So we are in quite a strong position regarding attracting financing because of Kate Winslet and Sam Mendes, who are the British talents with regards to where they live, but also Dreamworks wanted the film because of their relationship with Sam Mendes, as I understand it, and so it was extremely good value for money for the BBC in that that was mainly our financial role, optioning the book.

**Q528 Baroness McIntosh of Hudnall:** Can I stop you there. In optioning the book, which is the first thing you need to do in order to develop any material, what were you expecting to get out of that option? Where did that fit into your business model?

**Ms Bennett:** That would give us the ability to have a large degree of creative control or input, in terms of what talent would be attached to the project, and also allowed us to help determine the writer to write the screenplay and also, therefore, have a sense of what the editorial would end up feeling like should it be financable. The other side of it was that we had free TV rights and public service rights in the UK in perpetuity because of that, and also ended up having a return on our development funding. In other words, it really reduced the risk or exposure of the licence fee in the project but also we thought that the talent associated with it, in the end, would not have been agreed without knowing that whole package.

**Q529 Baroness McIntosh of Hudnall:** So you bought quite a lot with what I would take to have been initially quite a small investment as a proportion of the overall production budget?

**Ms Bennett:** Yes.

**Q530 Baroness McIntosh of Hudnall:** Can you tell us what that proportion was?

**Ms Bennett:** In the end, we did not fund any of the production because of having optioned the book. As I say, we received a return on our development funding as well through the other financiers and we, therefore, had no exposure to the production costs in that case. That is quite rare. There are many other projects where we are putting in more production money as well, but this is an example, being at the very front end of a project, that we felt was promising.

**Q531 Baroness McIntosh of Hudnall:** Could you give us an example of a film, from the list that you have put into your evidence of some very successful films, where you were not so involved in the origination of the project?

**Ms Bennett:** Another one which is unusual because it won the Oscar, and we are very proud of it for that reason, was Man on Wire, which is a very different piece altogether. This is a documentary feature which would not have been made, really, without the BBC’s involvement, but there was also a co-producer with BBC Documentaries as an in-house department, and the French team, who, as you know, actually told the story, obviously had to be very involved. So we provided, in that case, one third of the core investment with a short theatrical window of one year, which gave the film the opportunity to be a contender for the big awards around the world, including the Oscars, which it won the best documentary feature for; and this was a success for Storyville, as a strand, but also helps to attract other types of very interesting projects having done it. That is an example of us being a co-funder and co-producer. Another example, which would be very different, would be The Damned United, where we were a co-producer—we helped to keep the project together when other financing was not available at various points—but also our involvement helped attract the Screen Agency in Yorkshire, for example, who are also very important partners. So that would be more of a good example of us being part of a partnership of different partners coming together: Screen Agency in Yorkshire, Yorkshire Films being invested in editorially, a very good partner, ourselves and then the distributor.

**Q532 Baroness McIntosh of Hudnall:** You have got your £12 million that you are investing. Do you have more or less an idea of what you are levering into film production for every pound that you are putting in?

**Ms Bennett:** I think the ratio is probably about five to one. It is hard to be scientific about it because every film is so different in its structure, but certainly it is a catalytic amount of money, I think, for the industry.

**Q533 Baroness McIntosh of Hudnall:** It is about five to one’s worth of catalyst.

**Ms Bennett:** I think that is right.
Q534 Baroness McIntosh of Hudnall: Finally, in this business model, in all of the projects that you do get involved in, presumably the one thing that you are always going to demand out of it, however large or small your investment, is the right to show it on television, or does that ever not come to you, for first television exhibition?

Ms Bennett: There may be exceptions, but I do not know of one. We are very, very clear that that is very much the point of it being the BBC and BBC Films; that we have to bring a benefit back to the BBC’s audiences. There are imaginative windowing arrangements. For example, a project may be theatrically released even in America but not Britain first—those sorts of variants are possible—but we do want the licence for the BBC television channels as absolutely part of every package.

Q535 Lord Gordon of Strathblane: Dealing with outside producers, it must be a difficult struggle between maximising the use of the licence fee and making a profit. How do you balance the two, bearing in mind that the Director General recently, with regard to television programmes, has said we need to start rebalancing things in favour of the broadcasters rather than the independent producers, and there might be moves like that in film as well? How do you strike a balance?

Ms Bennett: As my previous answer reflected, we first look at the importance of bringing back value to the licence fee payer through transmission of the films, and that is the most important value we can bring to the audience. Secondly, though, if there is a profit to be made (and it is very uneven in terms of successes and profits), then we would have a proper financial negotiation with every single film package, depending on where we entered the project or our role in it, a percentage at the back end, should it be profitable. However, in this industry we know that, for example, distribution and marketing costs, which we would not be funding, can be quite substantial. So there is a great variety of possibilities in terms of the back end, and I think, should we be participating in profit, we can offset our investment further down the line or reinvest that money, but overall it is not the independents who are trying to only benefit from it, it is also distributors and all the different partners. So it is very unlike the television independent sector, I think.

Q536 Lord Gordon of Strathblane: I appreciate that, but in terms of retention of rights, for example. I can quite understand, indeed it should be a prerequisite, as I think you said, that it should be shown first on BBC television, but would you then block its use on other television channels? Would that be part of your agreement?

Ms Bennett: We would have bespoke deals with every single project, but, on the whole, we would have a number of licences. Some of them would be UK in perpetuity, but they would not necessarily all be, because, again, we would be pragmatic about, say, not completely warehousing a project if the only way it can be made is by having another partner in, let us say, pay.

Q537 Lord King of Bridgewater: On this business that the Chairman raised about the criticisms of Mr Duncan in terms of damaging the BBC and the budget you have for buying and bidding in film markets, is that something in which the Trust gets involved or as the Executive Board do you just make your own budget and go on with it?

Ms Bennett: The budget process is scrutinised by the Trust on an annual basis and actually in more detail when the six-year plan was being set. So they would certainly be able to see it and, also, with the film review, for example, they will be able to ask questions about the level of the budget we have set aside and made available and would have the overview of what the choices are between different types of spend. So, of course, they have an element of quite detailed scrutiny there and questioning and challenging.

Q538 Lord King of Bridgewater: Have they ever required amendments to the amount that you were proposing to spend?

Ms Bennett: The debates around the budget have been very vigorous at times.

Q539 Lord King of Bridgewater: That is not the answer.

Ms Bennett: They have pressed management to reassess different types of budgeting, absolutely, whether that be the kind of questions they have raised around children’s funding, yes, whether they would ask management to come back to them with a plan that satisfies them.

Q540 Lord King of Bridgewater: Have they actually required amendments?

Ms Bennett: They have asked for amendments, yes.

Q541 Lord King of Bridgewater: Which might have involved reductions in the amount you were going to spend?

Ms Bennett: I would say, actually, possibly in both directions. In the children’s review recommendations, it is to ask for us to reassess the level of children’s budget given the pressures on the commercial sector, market failure pressures. That is a very strong recommendation for us to take very seriously, and the meaning of that would not be lost on management.
Q542 Lord King of Bridgewater: I am particularly talking about this amendment that Duncan poses. In that particular field have the Trust got involved and requested you to make changes?
Ms Bennett: They have not made a specific request in that area. I think probably because we have made the strong arguments that I have made here about why we think it is in balance and a very prudent amount of money. Indeed, without films on the BBC we would be very, very short of money—we could never afford the amount of original production in our current budget levels to make original production fill the schedules—so we understand that argument.

Q543 Lord Inglewood: You told us how, when films are made, it comprises an alliance of various different sources of money, and, obviously, once that has happened, you want the films to be shown; it makes commonsense. How important are your partners in this process of trying to get the films seen as widely as possible? For example, I gather you have had over the years a kind of alliance with Miramax and Disney and Weinstein, that kind of stable. How important has that been in achieving films being shown particularly in America?
Ms Bennett: The major role of their distributors is to have theatrical distribution. It is a relatively freestanding effort, I think, in terms of cinema. Theatrical release cannot leverage the fact that we are doing television transmissions effectively, because they are windowed quite a long way apart and also—

Q544 Lord Inglewood: It gives you some money you would not otherwise have.
Ms Bennett: —we are protecting the value. The fact that we are usually transmitting later than the theatrical release protects the value in the cinemas, and we respect that in terms of that enabling financiers to come in and distributors to be partners with us. I am not sure I have answered your question.

Q545 Lord Inglewood: Before anything happens, a lot of the money is spent and all these people become involved.
Ms Bennett: Yes.

Q546 Lord Inglewood: How important is it to you, to the project of a film, getting proper distribution? In particular, do you create your alliances with a view to achieving that?
Ms Bennett: Yes.

Q547 Lord Inglewood: In the cinema.
Ms Bennett: We think it is very important to have good distribution but that actually also the distributor understands what the editorial in the project actually is. So we have the marketing of the film and, therefore, the branding of the film done in such a way that we think it reflects what we believe its potential to be. That means we want to be with the right partners and have the right understanding of the value of the project. Therefore, we would not want it to be marketed in just any way in order to make it successful if that meant distorting the editorial, and so the kind of partners that we get, that we all work with, have to be sympathetic to the editorial of the film, and that is very important. However, we all want these films to be as successful as possible. We also do not want someone to not back a film properly in terms of distribution. The television audience want to be more aware of the buzz around a film, frankly, than how many cinemas it is actually in. They are not really counting that. They want to feel it is a successful editorial project itself that they will like, and we also remarket those films when they appear on BBC channels anyway.

Q548 Lord Inglewood: How do these relationships you have had with the kind of people I have described compare with what you envisage BBC Worldwide would do for you?
Ms Bennett: There are different types of expertise that are brought to every single project, so there would be no rules here at all, although we would want to respect the editorial emphasis of a project and the talent behind it. Worldwide as a partner does have a strong understanding, obviously, of editorial values of the BBC, but in the pragmatic world of film finance there are bound to be many different partners and, also, partners fall away when the editorial does not fit either the budget available or the other partners. There can be no one rule here, I do not think.

Q549 Lord Inglewood: It is pretty Hobbesian.
Ms Bennett: I think it is.

Q550 Lord Inglewood: Red in tooth and claw out there, but to look at the other side of the equation, in a way you have got all kinds of independents and producers and people involved in making this film and in the television world there have been agreed terms of trade as to the rights, and so on, to divi it up, and film producers are now saying they would like to have something similar, and yet I now understand the broadcasters are arguing that perhaps the independent producers have got a bit more in TV than they ought to have had. First of all, do you think there is a case for some sort of terms of trade for film and, secondly, do you think the relationship that exists in the television area is, in fact, about right or would you like to see a rebalancing?
Ms Bennett: I think the way in which film is financed is very, very different from the funding model created, partly because of the licensing and partly because of
the public service broadcasting ecology in this country in general. I think that there are agreements about what is an equitable sharing of profit, for example, back-end, but with the film, there are so many different partners who take different sorts of risk, I think the television terms of trade really simply would not make sense for many projects. That is not to say that we do not work with PACT or with the UK Film Council on what kinds of negotiated deals we should respect, I just think the model for television does not really apply, because I think the risk profile is completely different. On the terms of trade, I think what we are looking for within the terms of the trade is an adapting framework, adapting to things like new media and multi-platform and the fact that we have unknown business models for both independents and for broadcasters in the new media space and, for example, there we are in need of desperate finance. Overall though, I think we are working with PACT on having flexibility within the terms of trade as opposed to saying that we should wash them away, and that is what the BBC have said before now as well.

Q551 Lord Inglewood: No doubt the definition of what is equitable varies as to who you are? Ms Bennett: Of course it does, it depends on who you are. But we think it is also about who is taking the funding risk, who is investing the development process, and also there is a value to marketing, to scheduling and to the added value of commissioning and also who raises third-party finance. All those are factors.

Q552 Lord Macdonald of Tradeston: This is a question in three parts about the current tax credit regime for films. Firstly, what has your experience of it been, secondly, how important a contributor is the tax credit scheme to the success of the UK film industry and, thirdly, is there any adaptation of the scheme that might be justified for television? Ms Bennett: Firstly, the tax credit scheme is very important to the sector, and enormously important in a world where tax credit schemes are competing with each other to attract projects and projects are moving globally, and will increasingly do so, I am sure, between different film finance set-ups. It is a very globalised industry, and television is also affected by this too. Firstly, it is enormously important for UK film production to be maintained, and it is working well. We support producers keeping the benefits of the UK tax credit. There have also been some issues here. When I mentioned the globalisation point, that tax credits, if they only apply to spend in the UK—if we take a very narrow view of that—could be damaging to the existence of some projects, potentially, or the existence of them being British film projects: because there is shooting outside the UK on many projects, partly editorial, partly climates, facilities like tanks if you are doing ocean-based scenes: it is a vibrant and competitive global industry. So we are sympathetic to efforts to re-examine this position of definition in order not to constrain the film industry’s aspirations in this country and also to look at preventing there being disadvantages to certain films. *The Constant Gardener* is one where the UK producer could not get UK tax credits on any of their Kenyan shoot; yet it is a British crew and cast and a British piece. Looking at how classification or definitions can be thought about for the future of the industry, which is a global one, I think is an important next phase.

Q553 Lord Macdonald of Tradeston: Any adaptations for television? Ms Bennett: For television, I think the definition of, let us say, a nation’s indie only counting as national or regional indie if they spend in the UK has some similar disadvantages. If we look at something like *The Number One Ladies’ Detective Agency*, it is shot by necessity, because we wanted it to be authentic, in Botswana. As an indie that would not count as a British production. However, it is full of British talent and the BBC has funded it with other partners. So I think this is something to look at because, as I say, it is an increasingly globalised industry when it comes to television as well, though not where the film is.

Q554 Baroness Eccles of Moulton: We have been talking a lot about the films that you invest in and that go out for general release into the cinemas first and then come back into the schedule. Presumably there are other films that you invest in for release that do not get released but do get shown on the schedule. Is there a third category of film that is made specifically for TV and is not aimed at being released into cinemas? Ms Bennett: Yes, there is the category of, basically, some feature documentaries and feature length dramas made for television only. They would not necessarily come from BBC Films; they might have been discovered. The possibility of something being for television only might be discovered by BBC Films. For example, a feature length documentary like *The Fallen* was not considered as a film; it was considered as a feature length documentary only for the BBC; so there is absolutely that category. We do have 90-minute dramas, for example. In our jargon we call that a drama, not a film, but the audience probably would not give us the same classification. On the other funds, most projects start with a theatrical release, and I do not know of any exceptions, ones that have failed to be distributed anywhere. I will certainly look into that, though, to see whether I am missing some exceptions.
Q555 Baroness Eccles of Moulton: But, of course, drama can come into a separate category altogether. Ms Bennett: Yes.

Q556 Baroness Eccles of Moulton: So how do you decide at the beginning, when the idea is first received or generated, or whatever, which of those streams you are going to direct it towards? Ms Bennett: BBC Films has a ring fenced budget. So as an organisation and as a group, with very determined leadership who are interested in film, their job is to stimulate the industry and do the things that I mentioned earlier in terms of supporting creativity in the film sector. They have their focus on film and are not going to be wanting their budgets to be taken away from them for television drama, for example. Although they will be flexible possibly about a project having the best home or starting point as a drama, let us say, on the whole they will be very protective of their budget. It is human nature. So we actually determine to spend the money as film money, and it is ring fenced.

Q557 Chairman: Can we be a little more general in the last 15 minutes that we have got. As well as BBC Films, the BBC does a bit of television and radio. Ms Bennett: I am pleased the Chairman has noticed.

Q558 Chairman: I notice from your evidence that you say, according to the PWC Report, that the BBC generates around twice the economic value of the licence fee. That is a wonderful statement. Just tell me what that means. Ms Bennett: That report, which is obviously available, is looking at the effect of outward investment, whether that is through the independent sector where we have opened up more competition in the form of the work which independents can compete for more projects. Firstly, it is not just the independents, for example, it is also in-house producers who also spend money commissioning music, for example, post-production; the effects of training of, say, actors; the amount of graphics; stills; the multiplier effect of spending money in the creative community is also being enhanced with technology spend and with innovation which creates positive market impacts. I will hand over to Peter Salmon briefly to talk a bit about the thinking behind this regarding BBC North in Salford. Much of that is premised on the idea that there will be a creative cluster which benefits just from the amount of certain commitment by the BBC as a broadcaster and producer.

Q559 Chairman: Mr Salmon, you have been very patient.

Mr Salmon: Just a brief mention for the big new project, BBC North, which is going to be based in Salford but, hopefully, its tentacles will spread out.

Q560 Chairman: We know a bit about Salford. Mr Salmon: Clearly the buildings are now being constructed up there, but the idea is bigger than the buildings. It is hopefully about helping to stimulate the creative sector in the north of England, working with universities and training bodies on new talent from that region, starting to put down roots with technologists and technology companies. Again, we are moving 700 technologists from the BBC to that part of the world. There are a lot of people who work in the sector, for instance, in Yorkshire with whom we would like to create partnerships. We are very intent on making that money ago an awful lot further than Salford in stimulating production, training, technology, et cetera, partnerships on a very general level. Indeed, the property build, the way we are commissioning technology, is not about the BBC in sourcing all that technology; it is about working with technology companies outside the BBC to get the links and the best technology for the BBC in that part of the world.

Q561 Baroness Howe of Idlicote: I would like to follow that up a little bit. You do say very firmly in your evidence that you are committed to further significant shift of network production out of London. We know (and you have told us a bit about it) about the planned move to Salford, for example and which will begin sometime next year, the actual work. What effect is this going to have on the different genres of programming? What difference, too, will it have on screen? You have said a little bit about the skills base and the training side of it, but is there the right level of production and craft skills available in these parts of the country and will it require a bit of rethink about whether that goes on? Mr Salmon: I think there are many challenges. We have outlined, as you know, a very extensive public commitment to reaching new levels of investment outside London by 2016, beyond this licence fee. I think that is an unprecedented commitment on the BBC’s behalf over the next few years. We want to do it in a careful but also a sustained way. We need to do it step-by-step to make sure that, for instance, drama in Wales is done off the back of the already very powerful existing achievements of drama in that sector. You can think about what we have done in natural history through Bristol over the years, again, building on a start about 50 years ago and now turning that into a rather extraordinary international centre for natural history production. Similarly, if I think about my own task in recruiting probably several hundred new people to come and work for the BBC in the north of England, we are currently
working with more than 50 training organisations in the north of England, making sure that new entrants to the industry are people working on creative courses, media courses, et cetera, working on the kind of skills that we need for the kind of employment market that we would like to stimulate. So on a number of levels we are trying to build on some of the recent successes, the strong foundations, the centres of excellence that we have already established in parts of the UK. Hence, a couple of years ago, Jana announced the fact we are going to move quite a cluster of existing series or strands, from Casualty to Crimewatch to The Weakest Link, to other parts of the UK because there is no doubt that returning series and returning business plays a very important part in centres feeling secure, making long-term commitments to technology and resource and people, et cetera. Currently a lot of that business is based in London where there is already a strong commitment to returning series. So we are trying to spread this stuff right around the UK.

Q562 Baroness Howe of Idlicote: Last week some of us went down to Pinewood and we did actually see quite a number of your own productions going on there. Pinewood is pretty close to London, but presumably you are counting it as out of London. So is this not really a bit of a cheat in terms of how much you are going to be moving out of London?
Mr Salmon: I do not know if we do count Pinewood. For instance, if you take some of the resources that we use in Pinewood, again without trying to be too parochial or over-segmented about the sector, Dragons Den, a lot of which is produced in Manchester, we shoot some of the final stages of that in Pinewood. Why? Because it is cost-effective; the technology is rather good; the skills base is pretty good there as well. So we do of necessity, given the efficiencies we are under, also have to kind of shop around the UK for the best possible deals.

Q563 Lord Inglewood: One small point about the move to Manchester. I have heard people say that the effect of the move Manchester is going to be significantly to damage what you call the “media city” aspect of London, and that in a world where these things are becoming global, what we may end up doing is falling between two stools, eroding London and losing international competitiveness and not actually creating an equally globally significant player in Manchester. I just wondered whether you have any thoughts about that.
Mr Salmon: Shall I pick up first and hand to Jana about the bigger picture? The commitment to Manchester is substantial. The commitment to the north is substantial. It is, hopefully, a transformational commitment by the BBC to a quarter of the licence fee payers.

Q564 Lord Inglewood: There is no dispute that is what it is.
Mr Salmon: No, I am just saying. I hope, in how we have chosen the production bases and the platforms and the people going there, that they are complementary to each other in the north of England so they can be successful—this is a centre for the Internet age—but, equally, they are complementary to, hopefully, our very strong existing and continuing base in London and other parts of the UK. So this has not been an ad hoc commitment or piece of work; it has been done in the context of an overall strategy for the UK production sector.
Ms Bennett: Our whole approach has been trying to look at what scale, what kind of critical mass, can help with sustainability, so we keep replenishing development and the talent base and training: having enough scale but wanting to be committed to a number of bases to reflect the UK better. We have made quite a lot of estimates of what would the scale be that would allow sustainability to allow people not to have to feel their next project has to be somewhere else. The whole thinking has been about specialist centres which can try to be excellent not in everything but in some things, with drama having its particular cultural importance spread probably the most and factual second but comedy for example being concentrated because it is a much tougher genre. We have looked at spreading ourselves around the UK but with the right critical mass. It is not random so we do not end up being spread too thinly.

Q565 Bishop of Manchester: It is very tempting to explore the Salford issue further because I think there are some serious points as to how far the eventual development will match what was originally being put to us in the Charter Committee when some of us were on there. Mr Entwistle, first of all on the whole issue of the cultural impact of the BBC as you see it from your particular position—and then I want to ask you about prioritising your investment—let us turn for a moment to culture and how the BBC defines culture. If I were to start off with T S Eliot, we would be brought straight into a religion sphere which I see is in your job description anyway, but I think that would be too narrow for our purposes at the moment. Yet interestingly, in the written evidence produced by the BBC, culture in any form of description was confined simply to music. I wonder if you can help us by saying how broadly do you define culture within the BBC and, perhaps even more importantly, how you can evaluate the BBC’s cultural impact in respect of entertainment and factual programming, your particular sphere, against the impact of other channels?
Mr Entwistle: The definition of “culture” we work with, within my commissioning sphere, falls I would say very largely into the arts and music territories. I
do not think you would be surprised by the range of things that would cover. To take some examples, the forthcoming poetry season on BBC2 and BBC4 right at the heart of that; *The Culture Show* and the plans we have just announced for how we are going to alter and enhance that; Radio 1’s Big Weekend this last weekend, extensive coverage of popular music on Radio 1 but also on BBC3, so a very wide range of very accessible through to absolutely demanding—opera, T S Eliot—so not in any sense a kind of filter that it is hard to get cultural experience through, a broad filter, but a proper emphasis on the full range of experiences within that, accessible experiences, very popular experiences, but also more demanding experiences properly elucidated. Could you expand your question on the broader impact the BBC approach to culture has on the UK as a whole? Is that what you mean?

**Q566 Bishop of Manchester:** I was looking at the other channels and how you yourself would assess the role or the success of the BBC in its broadcasting in cultural terms alongside what other channels are able to do. In fact, that would lead you into answering the issue about prioritising of investment because, as we all know, some of the other channels are now backing off. For example, children’s programming. Indeed, the BBC itself to a certain extent. There is a backing off of religion programming in other channels. How do you see the BBC in these cultural terms in its role vis a vis other channels?

**Mr Entwistle:** The defining structure for everything we commission through knowledge is something we call the knowledge strategy. At the heart of that is a stated and clear commitment to a whole series of territories, the like of which you will not find from any other broadcaster. The commissioning structure I have just reorganised is very much targeted at that. In the new structure we have a science and natural history commissioner to make sure that our commitment to science coverage is something that is absolutely stated and understood. That goes through to an arts commissioner, a music commissioner and all the very specific sub-genres within knowledge, all of which represent our exceptional public services and our exceptional commitment to those territories. That is the genre perspective. Extending that into the channels, we are very, very firmly of the view that what you do not do with art, to take an example, is put it in a digital only channel environment and ask people who love it to find it. We are committed absolutely to a broad approach to putting art on BBC1 where it is important that we try and get it to large audiences, audiences of over four million, hopefully as high as five million, and that is balanced with a much more detailed, expert coverage of the arts we do on BBC4. Every single one of our four channels has a distinct role in our minds in terms of communicating information about the arts to our audiences. We really do hope we will get people who would not count themselves arts enthusiasts swept up in something like Jeremy Paxman’s Victorian series over on BBC1 and at the same time we know we can cater for really quite detailed and expert levels of understanding in some of the series we have done through Andrew Rowan-Dixon for example on BBC4.

**Q567 Bishop of Manchester:** Do you feel that it is a particular responsibility of the BBC to watch what is being withdrawn in these genres and strands on other channels and compensate for that on the public service broadcasting main channel?

**Mr Entwistle:** I do not see it necessarily as our duty to compensate. I see it as our obligation to be completely aware of what is going on, but for example *The South Bank Show* has its equivalent on BBC in the shape of Imagine, a show that we have always scheduled earlier in the evening and which is again a commitment to a regular, serious arts and culture strand on our mass audience channel.

**Q568 Baroness Bonham-Carter of Yarnbury:** I want to come back to skills and training. I notice from your biographies that one of you was a news trainee, one was a broadcast and journalism trainee and another was a general trainee. I just wondered how many of those traineeships are on offer at the moment?

**Mr Entwistle:** I do not have a definitive answer but I can shed some light. We can check and give you an absolute and detailed answer. We have recently reintroduced the equivalent of the general traineeship for the first time in a number of years—I think three or four years, possibly a little longer than that. I sat in on some of the recruitment for that which was an absolutely enormous exercise, absolutely fascinating and a tremendous reminder of how important that kind of thing can be for us. I am afraid I am not up to date on where news are with the news traineeship. I do not know whether that still exists or not, but we can check that for you.

**Ms Bennett:** It does exist. I was a news trainee myself. I was very keen that we both have daily training and also training on the job which is very important. Also, fresh intake training schemes where there are relatively few people and very hard fought for places but very intensive training over quite a period of time are very valuable. When we look back at the organisation and also the industry as a whole, there are many people who are real successes in other organisations as well as in the BBC who have gone to those intensive courses. Overall, last year we had 57,000 days’ worth of face to face training of staff, so there are very many other different types of training we do as well. 5,000 days of training were also delivered to individuals and organisations in the
wider industry. We also want to reach out and we do with Skillset for example, but we are wanting to take the big step of sharing.

Q569 Baroness Bonham-Carter of Yarnbury: You are still committed to skills training?
Ms Bennett: Yes, absolutely. We understand that our role in training becomes more important with the structural pressures that the industry is under. I do not think we can be the sole provider of everything but we want to be more porous and open. One of the big steps we are preparing for is to share the remarkable resources of the College of Journalism which give most importantly case studies and shared experience of thinking and decision making which, in the end, is no real substitute for that type of dialogue in terms of training. That being more of a public resource I think will make a big impact. We are hoping also to follow a similar road with something which does not exist yet, which is the College of Production. We understand obviously that the industry relies on all sorts of different types of production training and the College of Production, which television and vision production has a huge stake in, will cover different genres: drama, comedy, factual documentary making and entertainment.
Mr Salmon: I am on the National Council of Skillset and in many ways that is just a reflection of particularly my new job, how important training and development can be, not necessarily done by the BBC but done in conjunction with partners all over the UK, particularly in the north of England.

Q570 Lord Maxton: The BBC said that they could enhance public service broadcasting with partnerships with other organisations including broadband organisations, as far as I understand it. That was announced in December. Where are you now with the whole partnerships situation?
Ms Bennett: There is a strong commitment to pursuing the various partnership ideas that the BBC and others have brought to the table. They include a very wide ranging set of ideas and initiatives, bringing internet services to the television screen, which has been the subject of consultation with the Trust. That project is called Canvas, which is of great importance to broadcasters who are searching in a way through combining the advantages of the new broadcasting with the web. Also, sharing with BBC iPlayer. I think that is called Project Marquee. That project again is a shortcut for sharing the intense research and development spend in terms of bringing that technology together in what is a very good service. Bringing the BBC’s local and regional infrastructure to support continued delivery of regional news and sharing back office calls and some pooling of footage is another one. Also, research and development in digital production. We call it the Digital Management Initiative, DMI, which we believe will help the industry be more sustainable by reducing costs, by basically going tapeless. It is going from very hands on production to digital, tapeless production. That is a jump which we think can help the entire industry. We know we have £60 million-worth of efficiencies that we believe we can make through DMI and we want to share that with the rest of the sector, which is in our interests in terms of bringing down production costs and it is in the sector’s interests in terms of having a more sustainable industry. We believe that in trying to find a sustainable base for an industry—which is under structural pressure from the collapse of some advertising spend but also structural pressure from the web—it is imperative for us to be more efficient, not just to save money for the licence fee payer but to make the industry itself more resilient. These various projects have that in common as well. Finally, the partnership ideas I suspect you will talk to John Smith and his colleagues about with Worldwide and Channel 4. Across all these fronts partnerships are very important to us. The other side of partnerships is cultural partnerships. The idea of having for example an archive partnership with BFI, reaching out to different arts institutions is another big label of a different partnership. The BBC sees that as incredibly important in terms of sharing and building public value and seeing ourselves as a different sort of organisation, one that is much more open and appreciative of the fact that when two dance it is a rather more beautiful thing than with one person going solo.

Q571 Chairman: You did mention BBC Worldwide and they have been very patiently waiting to give evidence. Thank you very much for coming this morning and for answering the questions in the way that you and your colleagues did. I am very grateful indeed. There are one or two issues, it seems to me, that we need to explore further and on which we need more information but perhaps we could follow this up by letter.
Ms Bennett: Happily.
Q572 Chairman: Welcome. Congratulations for winning the Queen’s Award for Enterprise last month which must have caused you a great deal of satisfaction. What were your turnover and your profit in 2008?

Mr Smith: The reported figure for last year was £916 million turnover and £118 million profit for the year to 31 March 2008. We are just in the middle of going through the audit for the current year. You know what it is like. We can very happily supply to you, perhaps privately, the figures which are still confidential but you will see, I hope, in the figures for this year an increase in our turnover to a number over £1 billion, and a pretty satisfactory performance in other respects, I hope.

Q573 Chairman: The recession has not really hit you?

Mr Smith: Of course it has. We are far from immune from it. The last time I was in front of you one of the points I made to you was the benefits of being a diversified media company really shine through in a time like this, because we really do suffer in some areas. For example, parts of our business that rely on advertising. For example, magazines crucially depend on advertising and indeed our TV channels around the world also rely on advertising but only about 20 per cent of our total turnover is advertising dependent. Many other things—e.g., DVD sales—are actually doing rather well in this difficult economic climate. What you find is some things are up and some things are down. Overall, we are up.

Q574 Chairman: The fact is that of the media companies that I have experience of and read about, whether they are on this side of the Atlantic or the other, you are one of the few that seems to be increasing your revenue.

Mr Smith: I am not sure whether to crow or apologise.

Q575 Chairman: I think I would crow if I were you. It may be your last opportunity to do that. That is some achievement. Given that achievement, given what you have done for BBC Worldwide and given the way that you have built it up, it surely follows from that the last thing you want is to have a merger with Channel 4, is it not?

Mr Smith: There is much written about this topic that is not quite right, as you can imagine. I think there has been talk of merger. I have not participated in a single discussion with Channel 4 that would imply a merger is on the cards. Conversely, more accurately, we proposed to Channel 4 back in the late autumn, October last year, a new joint venture which would be formed in which we would have 50 per cent and they would have 50 per cent, UK only, which took account of the things that they are very good at, the skills they have, their brand—their advertising capability is very good—and the things that we are good at and put them together in a single, new venture in which we would share the ownership equally. We have been negotiating that pretty well I think for the subsequent months. We are at the point where we know the size, shape and nature of the venture that we would form together. We are agreed on all the things that really matter about it with one or two exceptions which we are still debating. To be honest, there is not much fundamental disagreement between us about those things. It is just that there is a handful of things that we have not yet run to ground. We are a few weeks away from being in a position where we could sign it. Crucially, for us to be able to enact it does require a degree of government support. On that topic of course we do not yet know what the government’s view is about this proposal as opposed to all the other proposals in front of them about the future of Channel 4.

Q576 Chairman: That is a very neutral way of putting it. I have listened to the Minister for Broadcasting in the House of Lords talking about PSB 2 and, as I understand it, PSB 2 would be formed by Worldwide coming together with Channel 4. You must have heard that as well?

Mr Smith: A lot has been said and written about it.

Q577 Chairman: That is a bit too bland, if you do not mind me saying so. This is the Broadcasting Minister, not some stray journalist or observer or academic making this comment.

Mr Smith: I am not going to use the word “strange”. I can only repeat what I have said. I think that there have been all sorts of ideas mooted. The only one in which there are active negotiations going on is the one I have described to you.

Q578 Chairman: Let me put it another way. We know, because the Department has said so, that the final decision rests with the BBC Trust on such an issue.

Mr Smith: Yes.

Q579 Chairman: Am I right in assuming that in your guidance, your evidence and your proposals to the BBC Trust you would be opposed to the idea of a merger?

Mr Smith: I do not think it would be a good idea. Whether I am opposed I do not know. I do not think it would be a good idea because I believe the very best ventures are formed when two organisations are going to get something out of it and they both share...
a common objective about what it is all about. They arise when you are taking account of the very best that each organisation has to offer in the formation of a new venture. For example, in the UK where we have television channels, there is something to be said for putting our activities around those television channels together with what Channel 4 do in the world of television. For example, we would use their TV ad sales house which is extremely good. Where there is not any commonality—for example, we are a massive, international exporter, as you know, but Channel 4 does not really offer anything which we can export—any kind of enforced marriage in a situation like that where there is no genuine synergy coming from it tends not to survive. I think it is a big mistake to try and put two things together that really do not happily sit with each other.

Q580 Chairman: You say you are not opposed to it—you have not quite used that word—but if I were to listen to what you have just said, that it is not a good idea and various other phrases, I would take it that you are against a merger.

Mr Smith: I do not think it would be a good idea. I am happily on the public record saying that. It is my history and nature that I will try and make anything work.

Q581 Chairman: What you really think is going to work and what you are working to make work is the idea of, if you like, partnership between the two organisations?

Mr Smith: Yes.

Q582 Chairman: You feel then that not only do you have something to offer but Channel 4 has something to offer?

Mr Smith: Most definitely and as a result there are pure, hard, financial synergies and an increase in profit which both Channel 4 and we can share in as a result of doing it.

Q583 Lord King of Bridgwater: Can you put any approximate figure on that at all, knowing what is supposed to be the Channel 4 gap?

Mr Smith: Yes, I could. There are obviously disputes about the extent of Channel 4’s financial problems. Indeed, you yourselves suggested that there should be more inquiry about that topic and I do not really, honestly know what the extent of Channel 4’s financial problems is.

Q584 Chairman: I have just received a letter to rather challenge your view on that, but there we are. Mr Smith: I do not know is the straight answer. What I do know is what this particular venture would do, to which the answer is if we can form it in the way that has been proposed and get over the implementation hurdles that still exist in front of us this is a venture which would be a UK only venture, which would turn over a figure in excess of £800 million and produce a profit in the order of £200 million. You can work it out that if we have 50 per cent of that each you can see how much the benefit is to Channel 4.

Q585 Chairman: How does that impact on the revenue figures that you were talking about at the beginning?

Mr Smith: In our case, what we are proposing is that we take the assets that we have in the UK, which are around the television channels essentially—we have 50 per cent of the UK TV channels, as you know—and we also have a DVD business called Entertain, which happens to be the largest UK owned DVD business in Britain in which we have 60 per cent. Those two organisations, the other partner in both cases, have made public their need or desire to sell their stake. Processes are underway which are obviously subject to normal, commercial confidentiality about the on-sell of the other 50 per cent of those two ventures. That is an important preamble because, in the case of BBC Worldwide, if we form the venture I am proposing with Channel 4 which would include the stakes that we already have in those ventures, the effect on BBC Worldwide of forming the venture with Channel 4 is not that significant from a turnover point of view because we already have 50 per cent of UK TV and we already have 60 per cent of Entertain. The effect is much more substantial for Channel 4 because if they were able to secure those stakes, in the event that they do become sold and we can form them into this venture, they get the benefit of 50 per cent of the turnover of those ventures, which they do not currently have. On top of that, both organisations would get 50 per cent of the synergies and the synergies, we believe, are up to £100 million.

Q586 Bishop of Manchester: In the written evidence that you very kindly sent to us, you said that BBC Worldwide’s activities have invested around £1 billion back into UK creative talent, which is a sort of overall phrase which reminds me of collectors on tube stations asking for donations for charity against worldwide poverty. You do not know quite where it is going to go to in the end. I wonder if you could help us by unpacking what is meant by this £1 billion going into UK creative talent. Is it the BBC itself which invests it? Is it BBC Worldwide which is investing it and precisely in what is this money being invested?

Mr Smith: This is BBC Worldwide, not the BBC, so we are talking about the company of which I am chief executive. The easy way to think of that £1 billion is it breaks into three distinct elements. The first element is the direct investment that we make in the
purchase of programmes from people who are making programmes. Sometimes we are buying from the BBC in which case we are investing in programmes that they are going to be making anyway. Sometimes we are investing in independents and sometimes we are making them ourselves. The first heading is investment in TV programmes. The second heading is our investment in a whole range of other forms of intellectual property, children’s toys, books, videos and so on, a long list of things. The third element is the profit that we make which we dividend back to the BBC and they spend on a range of new programming that would not happen if it were not for our dividend.

Q587 Bishop of Manchester: How do those balance our percentage wise?
Mr Smith: Roughly a third each. I could give you the exact figures.
Bishop of Manchester: That would be very helpful and perhaps you could give us the precise, financial sums for each one, please.

Q588 Lord Macdonald of Tradeston: You talk about an ambassadorial role that is partly bringing the world to the UK and the UK to the world. I just wondered what tension this sets up with your commercial role. Are you always conscious that you somehow have to maintain the brand of the BBC and indeed the image of Britain when you are making deals? What constraints does that put on you?
Mr Smith: There are advantages and disadvantages, like all these things. There are sticks and carrots. We have a range of distribution outlets around the world which are BBC branded, 42 individual television stations all over the world which are BBC branded. Indeed, we have launched 18 new ones in the last financial year alone. One of the key parts of our strategy is to launch more. We would like to have as many as we can of themed, specific channels which have the BBC’s brand on them. There is the preschool children’s channel called CBeebies. We have a BBC Knowledge channel and so on. On top of those TV channels, we also have BBC.com, the international website which as you know carries adverts, and a range of other ways in which we can export UK creative industries through production of programmes and so on all over the world, magazines, etc. The channels are probably the ones worth focusing on because they carry the BBC’s brand. The fact that they carry the BBC’s brand carries with it a huge advantage because that instantly means something to people who are potential subscribers. Indeed, we now have 285 million homes around the world subscribing to our channels. It is an asset in that regard, but it brings with it obligations and responsibilities. We must not ever do anything that would bring the BBC’s brand into disrepute. That is an absolute fundamental. All of the editorial controls and compliance regimes that you would hear the BBC talking about you would see applied right the way through our own channels’ business as well to make sure that that cannot happen. It does not mean that we simply offer the world an exact transcript of what people in the UK see. We do not simply take that and transmit it all over the world because it would not appeal to the same extent to people living in Manhattan, for example. We do have a different editorial makeup, different programmes. We have some programmes made by ITV on our channel in America for example and we have lots of programmes made by independents that do not appear on the BBC. The essential values of the BBC have to be applied in all those outlets.

Q589 Lord Macdonald of Tradeston: You are obviously in that role a very important national champion competing with other very big, global players. Is there a risk that you will be hindered in your commercial activities and your expansion by the kind of nagging that you will get from special interests here in the UK, select committees even, government decisions? Do you feel there is a danger that your commercial activities will be reduced and you will not be able to invest as much as you have in the past?
Mr Smith: I will not repeat the crowing or apology point but it is obviously an issue. I take the view that a company that is successful is better than one that is not and that it is better to have your foot on the accelerator than to be looking in the rear view mirror, signal, manoeuvre, evade, all that kind of thing. My own view is keep going. As you know, the Trust are reacting to the various issues that people are raising at the moment with their own review about what the future directions, scope, parameters, governance and so on of the company will be and, when they finally report, we will patently comply in every single respect with whatever it is they say. The key thing that holds us back though is the inability to take on substantial amounts of debt because our own balance sheet is consolidated into the PSNCR. For obvious reasons, no Chancellor is going to welcome the idea of lots of additional public debt at the moment, even though it is not any recourse to the BBC and certainly no recourse to the government. The effect of that is that, for a £1 billion turnover company, we have a debt level of about £150 million which is incredibly low. It is the key reason why we cannot grow even quicker than we have been doing. Contrast that with the kind of companies we are competing against in the likes of Disney, Sony, NBC Universal and so on which have access to billions of capital.
Q590 Lord Maxton: Although you are called BBC Worldwide, a fairly substantial part of your market is in fact UK based. Could you just give us an idea of what proportion that is of your turnover and profit?  
Mr Smith: Certainly. It is about half. Three years ago we introduced a new strategy, the one we have been proceeding with that has allowed this growth. The company has virtually doubled in turnover and tripled in profits. We laid out a strategy of which the key element was to increase the amount of business which was coming from outside the UK from what was then 40 per cent to something north of 66 per cent. We are currently at just over 50 per cent so we are making strides in that direction and it is still our strategic intention to try and get to two-thirds by the end of the five year plan. Amusingly, we have done quite well in some countries which we have made a priority like America, India and Australia, three countries that we have decided to make top priorities. We have done quite well in the UK as well, so although our international turnover is growing very quickly so is the UK. Having said that, we are now north of 50 per cent and we are on our way towards two-thirds.

Q591 Lord Maxton: There is one area obviously where there is, if you like, an overlap between the two markets. That is what I would call the legitimate download market on the internet where anybody around the world can download, presumably. How do you operate that? Do you do that in conjunction with organisations like iTunes?  
Mr Smith: Yes.

Q592 Lord Maxton: You do not have your own separate download website?  
Mr Smith: In the UK we would have had our own download service known as Kangaroo. You may recall it fell foul of the Competition Commission. That would have been a merger with Channel 4, ITV and ourselves. That is the reason it fell foul of the Competition Commission, obviously. In the UK we are still looking at what our alternative choices are. There are some. We could go it alone and form our own UK download system. It would be no doubt reasonably successful. The question is whether it would have enough scale if we are on our own compared to something as big as Kangaroo would have been or compared to one of the big American players as and when they decide to really go for the UK market place. A second alternative is to form a venture with one of the other big players in the States, of which Hulu is probably the biggest. Hulu is a merger in the download space between the News Corporation and NBC Universal and Disney have now joined that party, so you have three massive powers that have joined one. A third possibility is to do some sort of deal with Apple or one of the other players. There is a range of other possibilities. Outside the UK we license our material to just about everybody we can. We have deals with MySpace and YouTube. We have deals with Apple. Indeed, we account for two per cent of all the TV downloads that Apple have on their entire iTunes platform across the world. We are quite successful in licensing our material to other people.

Q593 Chairman: You mentioned the debt issue. You have obviously thought about this. It obviously restricts what you can actually do in terms of expansion. What solutions have you come up with? What options are there?  
Mr Smith: I am not sure I have a solution because the solution is tied up with bigger politics to do with national debt, the role of the BBC and the Trust’s view about how free Worldwide should be to act independently of the BBC. There are all sorts of options. We could stay as we are. Indeed, the company has been growing really rather well. As I mentioned, the turnover has nearly doubled and the profits have tripled. Even at that level, as you see, we attract a degree of concern and criticism from competitors. Depending on your viewpoint, maybe it is fair that a national institution should not own 100 per cent of a subsidiary which is growing at an amazing rate and also taking a lot of debt on in the process. Maybe that is a fair argument. I think it is more tied up with the bigger politics than a solution I could offer to you.

Q594 Chairman: Theoretically, you could be an independent PLC but branded BBC Worldwide. Would that be an option which is worth exploring?  
Mr Smith: Like all solutions, it would be made to work. I think that is probably a question better levelled at the BBC Trust and the government than myself. I am operating under the constraints that are put on me and if they alter I will operate within those instead.

Q595 Lord King of Bridgwater: If we look at general recognition, BBC Worldwide around the world is seen as the jewel in the crown. We get great respect for that from the good audience and great respect for what you put out in terms of news, the balance and all that. In terms of us earning our living in the world and getting the best return we can, it is only BBC Worldwide which is going to deliver it, is it not? It is through that mechanism that we will get any payback. If you went into something like a stand alone or something like the Network Rail situation or some organisation that borrows which is not against the national debt situation, you would see a real
opportunity to expand your earnings which are all repatriated to this country, are they?

Mr Smith: They are all repatriated to the BBC.

**Q596 Lord King of Bridgwater:** And come under UK tax?

Mr Smith: Certainly.

**Q597 Lord King of Bridgwater:** What would you see as the opportunity if you could draw on more debt?

Mr Smith: All companies grow by a mixture of organic means and acquisition. Apart from a small number of acquisitions which have led us to the debt position we have, I think the feeling is we probably will not have much more, if any more, acquisitions in the future because we cannot take on significant amounts of additional debt. Our growth is limited to organic only. From a policy point of view, maybe that is okay.

**Q598 Lord Macdonald of Tradeston:** Would you agree that there is probably no possibility of any other UK entity ever emulating what you have done and therefore you are the only potential international champion for the UK? Secondly, where does your size of £1 billion turnover rank against the American and other corporations that you are up against?

Mr Smith: On the first, I am only the recent caretaker of it obviously so I claim no credit for it. I think it is the only chance Britain has ever had and will ever get at having a global media company. That is my honest opinion. It is partly because of the power of the BBC brand, partly because of the sheer scale of the amount of programming that is invested in in the UK market place. We have now built up this very diversified portfolio of businesses which includes channels, internet services, magazines and so on, which gives it huge scale and clout therefore on the global market place relative to everybody else in Britain. In terms of the second part of your question, we are tiny relative to the turnover of the big US studios. I do not have the figures in front of me. I will happily send them, but we are off the scale in terms of how small we are compared to those.

**Q599 Chairman:** Could you send us those figures?

Mr Smith: Yes.

**Q600 Bishop of Manchester:** In the PricewaterhouseCoopers report although, as they say, that is for the BBC Trust, they did nevertheless make the point that there were stakeholders critical of BBC Worldwide’s recent investment activities. Do you want to comment on that?

Mr Smith: We have talked about this in this very room. The two things which our competitors have been complaining about are, firstly, the acquisition of Lonely Planet and, secondly, our stakes in independent TV producers. I stand firm in my belief that both make sense. I will happily debate it but if you are a competitor you can and will obviously take a very different view, particularly if your own business is up against them, competing.

**Q601 Chairman:** The more you expand, the more useful that is, is it not, to the British industry, particularly the British TV industry?

Mr Smith: Yes. I absolutely agree with you. I would like to suggest that in a way other organisations can benefit from the brand clout that the BBC brings. Indeed, quite a lot of customers around the world assume that if something is British it is coming from the BBC anyway, wrongly, but that is the assumption. Why not benefit from it and get some financial upside from using it?

**Q602 Lord Inglewood:** I did a bit of work for you once. I do not know if you paid any attention. I will not ask you that.

Mr Smith: You helped us work out the strategy which we are now succeeding in implementing.

**Q603 Lord Inglewood:** *Mea culpa.* The one question that struck me was, if we are to go ahead and try and create a really competitive global business on a par with the big boys from BBC Worldwide, do you think it is necessary that you have to go into partnership with somebody else, possibly American. Can you do it alone?

Mr Smith: I do not think we could get to the size of a US major without a completely different business model and total separation, no restrictions on debt, etc. Even then it would be quite a risky thing to try and do. It is worth saying that in America’s case they have the massive advantage of scale, in a place where there are 250 million people, a common language, common currency, and so on. It is a much easier place to become huge than it is in a market where you have lots of different languages, different currencies, different cultural interests and so on. Secondly, in the case of the American market, many of the studios have been completely vertically integrated, distributors as well as producers and broadcasters, and make programmes with the global commercial potential in mind right from the very start. Something like Heroes, very successful for NBC Universal. They will commission a long run of maybe 13 or 26 episodes knowing it is going to be successful. They will spend tens of millions of dollars on marketing it because they know it is going to be successful. In the
case of the British content model, we tend to be more eclectic. We tend to commission shorter runs, often a handful, five or six or something like that. Even if they are successful like Life on Mars, we then decide it is time to have something else. You cannot put the big, multimillion dollar investment behind the marketing of something when it is only a few episodes because, by the time people have got to like it and started to watch it and buy it, it comes to an end. There is a fundamental difference in our cultural approach to programmes in Britain to the cultural approach in America. I do not think we could ever get to that scale, in other words. We have a company here which is a big, global media brand. It is growing in its success. The turnover is growing, profits are growing and so on. It is an outlet for talent, TV programme producers and other people of intellectual property. It can do even more for Britain and I do not think any other organisation here is likely to get into a place where it can be that advantageous for the UK creative industry.

**Q604 Lord Inglewood:** Although the comparison is not exact, what you are describing is slightly reminiscent of the thinking of Lord Rank when he did his film projects. That, as they say where I come from, was a flop at the finish. You are quite confident that the same will not apply here?

**Mr Smith:** How can you be confident? The good thing about being diversified is that you can be relatively quite insulated from market downturns. We are obviously affected in areas but not totally. With the amount that the UK economy invests in content, there is a pipeline of material which means there is no particular reason why the model should fail, as far as you can see.

**Q605 Baroness McIntosh of Hudnall:** I think we might be coming to Mr Garvie’s realm. This question of investing in production companies is clearly contentious for some. Can you explain to us a bit about what kind of relationships you are in with these independent companies? For example, when you talk about taking a stake in them, as you have done in various bits of your evidence, is that to do with investing in individual projects or is it actually investing in the business and being a co-owner of it in some cases? The other thing that I would be really interested to know is in what way your investment in content through those independents is different from the investment that the BBC, through its commissioning activities, is co-producing with independent companies. That goes back to something that Mr Smith mentioned earlier in relation to another aspect of your activities, which is the extent to which you act independently of the BBC. What kind of a relationship is this?

**Mr Garvie:** We are distributors of rights. Our ideal position is to secure rights on a first look basis or a development project. What we have discovered in recent years is the rise of the independent sector and the super indy. Many independent producers were being aggregated within larger companies, often foreign based, who had a distribution arm. Consequently, to take a company like Kudos which we have had a long relationship with for programmes such as Spooks, Life on Mars, Ashes to Ashes, we have distributed their content. They are now owned by Kudos who have bought from an American distributor. We decided we had to do something different to secure the kind of rights we needed to continue as a business. We have been approached by lots of people who wished us to invest in them. We have been very particular and we have invested in far fewer than the number who approached us. We are not interested in controlling British talent. Our aim is to help British talent operate on the international market place. Whereas most distributors wish to invest in a British, independent producer with the end game of selling that company, that does not really interest us. What we want is wonderful content and to help British writers and producers develop that content. If I can briefly talk about the first company we invested in, it was called Left Bank Productions, which is headed up by a chap called Andy Harris, who was head of drama at ITV, who among other things devised The Queen and won an Oscar for that movie. He was an absolutely extraordinary talent. He had a number of offers from other people which were financially far greater than we offered. We only wanted a small share of his company because of the level of investment we had to put in to help him secure some of the rights and some of the talent he wanted to work with. It was a rather modest amount of money. Also, we offered a fantastic back office. Coming to your second point, what we could help Andy achieve was to get his ideas onto television screens. If you take a programme like Wallender of which we are very proud, it was Andy’s first production and won a Bafta for best drama only last month, which is a fantastic achievement for a new company. If you look at the end credits of that television programme, you might find them rather amusing. They go on for almost as long as the programme itself and they have a patchwork of different companies. Increasingly, the world of television drama is like the world of film drama. You need some money from Germany, some money from France. You need an American presale and you need a UK sale. We have invested in eight companies in total in the UK, two of which could be described as comedy companies, six of which are drama companies, two of which are related to writers who need some help in bringing their content to the international market place. We are there because we think we can help them achieve the aim—and the
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Mr John Smith and Mr Wayne Garvie

Baroness Bonham-Carter of Yarnbury: Evidence is that we absolutely can—in a very difficult market of getting top class drama onto the screen.

Q606 Baroness McIntosh of Hudnall: To take the Wallender example, why is it BBC Worldwide who are acting as the honest broker for getting that show onto UK television and not the BBC itself?
Mr Garvie: We have no role to play in the commissioning of a programme by the BBC. We are quite clear about that.

Q607 Baroness McIntosh of Hudnall: But that was shown on the BBC.
Mr Garvie: Yes, and that was sold by the production company to the BBC.

Q608 Baroness McIntosh of Hudnall: Quite independently of you?
Mr Garvie: Independently of us. We had nothing to do with the selling and the commissioning of that show. That is absolutely appropriate. The BBC did not pay 100 per cent of the budget and that is where we come into play.

Q609 Baroness Bonham-Carter of Yarnbury: Are you saying that you, BBC Worldwide, invest in these companies?
Mr Garvie: Yes.

Q610 Baroness Bonham-Carter of Yarnbury: You do not push these companies towards the commissioning?
Mr Garvie: Absolutely not.

Baroness Eccles of Moulton: I think you said that your accounts are consolidated with the BBC's and therefore that is where your profit, as it were, goes. If you go into the joint venture with Channel 4 on a 50/50 basis, presumably the profit will then be shared 50/50 and 50 per cent of the profit will be on Channel 4’s balance sheet because they are not going to be consolidated with the BBC, I do not imagine. Will that not mean that there will be a smaller profit going into the BBC's main account?
Mr Smith: Forgive me, but no. The reason why it is no is that we already have half of the profit from these existing ventures with other parties owning the other half. What will happen for the BBC and BBC Worldwide, in the event that this venture is pulled off, is we will have what we currently have plus half of the synergies.
Baroness Eccles of Moulton: That was why it was so important that you achieved 100 per cent ownership where you at present only have 50 per cent or 60 per cent.

Q612 Baroness McIntosh of Hudnall: How does BBC Worldwide’s investment in independent production companies sit within the BBC’s accounts if you are not accountable to the BBC for how you invest or what you invest in and there is no read across, as I understand it, from the investments that you make to any outcomes for the BBC? How does it sit in how the BBC accounts for its own spend?
Mr Smith: Imagine, as it is true, two entirely separate companies with totally separate balance sheets. We are BBC Worldwide, a limited company by shares, that has its own balance sheet, assets, liabilities, etc., its own board chaired by an independent director and so on. We make a profit. That profit is the profit made by BBC Worldwide reflected throughout the accounts of BBC Worldwide. Separately, the BBC receive the licence fee income. They have their own balance sheet, assets, liabilities, and they account in their annual report for how they spend and, for Parliament, make clear how much they spend of the licence fee on different things and so on. From the point of view of Companies House a group annual report and accounts is put in which consolidates the two together. Our stake in independents will appear in our fixed assets as an investment and, when they consolidate for Companies House, they will consolidate that into their fixed asset figure as well.

Q613 Bishop of Manchester: In the light of all that you have been saying, I take it then that some of the comments that are here in written evidence about the desirability of BBC Worldwide to be more closely tied to the BBC’s broader public service remit are something you would not agree with?
Mr Smith: The devil is in the detail. It depends what it means. At the moment, there is something called the four Cs which include as one of them that everything we do must fit with the BBC’s public purpose activities. The debate is around the words “fit with”. Should it say everything we do should arise from or plainly support or never conflict with? Slightly different wordings mean something slightly different. At the moment, I and the company are taking the view that we are not going to get into areas of business that patently do not relate to what the BBC is all about. We are not going to get into farming or the construction industry or something. We are basically in broadcasting and we are essentially in the world of television, radio, online. That is one way of looking at it, but you could take it further and I think it depends what the Trust finally decide they do want the remit to be. You could take it a lot further if you wanted to and be quite constricted about it, or you could loosen it up a little bit. A lot depends on the final words that are determined.
Q614 Bishop of Manchester: And presumably whether or not the Channel 4 thing goes ahead, because that presumably would move you a little bit further away from these potentially constricting bits?

Mr Smith: Forgive me. I am not totally sure that that is right because I think even this venture—bear in mind it is UK only—in which we would have 50 per cent would essentially be what we do at the moment. We currently have ten TV channels under the brand UKTV with things like the Dave Channel and Yesterday and so on, highly profitable and very successful. Many people do not realise that is partially owned by the BBC but it fits with what the BBC’s public purposes are. It is about transmitting quality content to the UK population.

Q615 Lord Maxton: What about the content because at the present time I think some of the content comes from your other partners.

Mr Smith: Yes, it does.

Q616 Lord Maxton: Will you still be able to have access to that content?

Mr Smith: Yes. I am not aware that anybody is suggesting we should not have access to that. Indeed, if you looked outside the UK, our TV distribution business where we sell programmes to other broadcasters, 40 per cent of our front catalogue are programmes that have not been made by the BBC.

Q617 Chairman: Would you regard Lonely Planet as a successful investment?

Mr Smith: I will regard it as a successful investment. It is early days, as you can imagine. It is slightly off topic for your discussions today, but I think BBC Worldwide is increasingly becoming a global brand company. If you think of the way things are going, brands like Doctor Who, Top Gear, Dancing With The Stars, Earth—you heard Jana Bennett talking about Earth, the movie, which is a BBC Worldwide initiative which was number one in the box office when it launched in France, Germany and Japan—we think that at the end of five years perhaps half of our total turnover will come from a handful of global super brands. Providing they fit with the BBC’s public purposes—and I am going to argue that Lonely Planet does exactly that—Lonely Planet is one of those global super brands. It is the world’s number one travel type brand. We bought it partly because we think we can use its power around the world to help us make more money out of TV programming that the BBC has produced like Palin’s Europe and things like that.

Q618 Lord Gordon of Strathblane: One has to face the reality of copyright theft and I was struck by a remark that Mr Garvie made that your business was really trading rights. A lot of people grab your rights without paying for them, copyright piracy. How big a concern is that?

Mr Smith: Huge. Last week the BBC arranged an all day seminar with representatives of people across the industry to try and get together to see if there is any concerted action that can be taken about the piracy problem. It is massive. Can I give you a few statistics?

Q619 Lord Gordon of Strathblane: By all means.

Mr Smith: It is hard to get absolutely copper bottomed numbers about piracy for obvious reasons. It is piracy; you cannot really tell. We believe that for every legal music track which is bought roughly 20 are stolen and that the average teenager in Britain has 800 illegal tracks on their iPod. 25 per cent, it is believed, of the UK population have consumed something illegally in recent years. Bit Torrent, one of the more popular of the illegal file sharing sites—I say “illegal”; I do not actually know whether it is illegal—has 150 million unique users across the world. File sharing is believed to account for about 60 per cent of all internet traffic. What is sad about any of those numbers really—and I could obviously give you a lot more—is there is a sort of mental philosophy, a moral value set, which allows people to make statements like, “Only yesterday my teenage son was downloading something off Bit Torrent.” I am not saying my teenage son is though I have no idea. I hope he is not because I have told him not to, but people feel it is okay. It is the kind of thing that teenage people do so it is all right. Would you say, “Only yesterday my teenage son was in HMV nicking 10 CDs?” You would not dream of it. There is a sort of belief that it is somehow okay to do these things. It is a big, big issue for us. It affects the music industry obviously; it affects the TV industry; it affects the film industry; it affects physical DVDs where we believe every year 30 billion counterfeit DVDs and CDs are published around the world. It affects toys; it affects games; it affects software and so on. It is incredibly important because it affects ultimately the amount of money the industry has to spend on content. In terms of what can you do about it, we are not there yet. There is no doubt about that. Indeed, Lord Carter’s Digital Britain is looking into it as well. We had the seminar last week at the BBC. Our feeling is that a concerted effort probably needs to comprise of several elements. Firstly, education. It has to be in the mix; it is not the whole story but it is the first element. People do need to be told that it is actually illegal to download stuff illegally on the internet so that teenage sons do
not feel it is all fine. I think there is an element under the heading of education of finding better ways of warning people that they are about to do something that is illegal before they actually do it, which would be a good thing. That is the first heading. The second heading is enforcement one way or another. We have to be able to collect money from people who use the content and we need to find ways of being able to enforce it. The recent case in Sweden is quite an interesting one. You know about that, I am sure. The third, perhaps most important one though is we all feel we need to be developing new ways of doing it which allow us to make money out of it legitimately. The only way we are likely to come up with that is if we are quite imaginative about finding ways of making money from it and make it easy for the consumer, reasonably priced and make it so that it is not harder to do legitimately than it is to do illegitimately.

Q620 Lord Gordon of Strathblane: This is what I wanted you to expand on, your sort of one stop shop. Mr Smith: Kangaroo, had we done it, would indeed have been a one stop shop. I think there are some lessons from other technologies. Mobile phones are a good example. Mobile phones do not really suffer piracy either at all or to anything like the same extent for the reason that there is an integrated billing and payment system around a mobile phone which allows the operator to bill people monthly for their consumption in an integrated way to do with the actual consumption that they have. It is all tracked and it is all billed. Not only that; you can charge micro payments for minutes of usage on a mobile phone. If something like that appeared around the internet, maybe introduced by the ISPs, that would be quite a good way of doing it.

Q621 Lord Gordon of Strathblane: It was that area I wanted to concentrate on, without in any way belitting the loss of copyright revenue from music tracks, which clearly is major. I understand, having attended a previous one day seminar on this topic, that ISPs like Google are making content available frankly illegally. Surely something can be done about the big boys as well as the teenage sons? Mr Smith: May I give you an example about YouTube rather than Google? It is all in the family. I have watched with interest the evolution of people’s attitude to stuff being posted on YouTube. If you are a content owner, you basically have three choices. You can stand on the sidelines and do nothing, which some people do. You can sue them and hope and there are some famous, multibillion dollar law suits in the air right now around YouTube; or you can do some kind of deal. We took the view three years ago that we were going to go for the third option. The deal in our case for YouTube means that we supply fully cleared material, with all rights payments properly paid over, to YouTube. They put it on the site and it has BBC Worldwide branding on it, so we get the benefit of brand credit and we get a share of the revenue that they make for advertising for every clip that anybody sees on YouTube that is coming from us. As part of the deal, we can flag the minute we see any examples of illegal versions of those clips appearing on the site and they will instantly undo and take them down. Our feeling is that you can work in partnership with the likes of YouTube and make money out of it. The audience still gets the material.

Q622 Lord Maxton: I do not allow my son to download illegal stuff but what does happen is that one of his friends or he buys a CD. All of them then borrow it in turn and rip it onto their computers and then download it onto their iPods. That is however rather similar, is it not, to me buying a book and then lending it to four or five different people to read and it comes back to me? Is there not a hole there that is almost impossible to police? Mr Smith: I think we are agreeing it is a very difficult topic and it is made more difficult by a belief amongst people that it is absolutely fine to do it, almost that getting material free on the internet is a matter of right.

Q623 Lord Maxton: Are not some pop groups directly doing it themselves or some music publishers now putting their stuff free on to the internet with advertising attached to it? Mr Smith: Yes.

Q624 Lord Maxton: Is that one way around it? Mr Smith: Yes, most definitely. I think there are different ways of making money. There is advertising. There is subscription. There are plenty of subscription sites. There is pay per view. There is pay to own, known as download to own. No doubt there are things as yet unthought of which are going to emerge in due course. All of these things are there and available. We just all have to work together to make it work and to reduce the amount of piracy by making it easier for people, priced properly, together with education and enforcement.

Q625 Baroness Howe of Idlicote: Forgive me for saying so but I find the thing extremely complicated. On the film distribution side for example I think that you had a recent agreement with NBC Universal to distribute UK films owned by Universal on cable channels in Poland. In this area what one is concerned about is: is this a new venture? Has it a lot
of potential and value not just for you and BBC films—the two of you will no doubt be sharing some degree of the profit—but also for independent producers? Is this a new area that you are moving into?

Mr Garvie: On that particular deal, you have to look at film as any other content. The channels management team in Poland thought that a body of British films would be quite useful for the channel, so they went to NBC Universal and purchased the right only for Poland. It is not in any way at all a new joint venture and certainly is not leading to the launch of, say, a BBC Worldwide branded film channel. It was a particular deal in Poland from what I understand.

Mr Smith: It is extraordinarily complicated and I sympathise with you, if you are not in the industry, trying to understand it. There are basically people who make, people who distribute and people who buy. Some companies do all three in different ways. In this particular case, NBC Universal, the distribution arm that has the rights to these films, is a direct competitor to us—we are a television distributor who competes with them. We also happen to buy because we own channels. Those channels need content, so we are buying material from distributors, of which NBC Universal is one. That sounds complicated even just saying it like that but, if you imagine that there are three different parts to the value chain, each of them is either supplying material, distributing it or buying it, you are bound to get situations where companies who seem like your competitor in one place are actually your supplier or your buyer in another place.

Q626 Baroness Howe of Idlicote: I can see that but I think I have gathered that it is something rather unique, shall we say, certainly at the moment. Might there nevertheless be potential for the future here?

Mr Smith: Yes, most definitely.

Q627 Chairman: This has been a very fascinating session. I suppose one of the side products of all the various statements about your organisation and Channel 4 is that it has put you well and truly on the national and political agenda in this way, perhaps for the first time. Whether you welcome that or not, I do not know.

Mr Smith: That is the question.

Q628 Chairman: We welcome very much the evidence you have given. It has been very important. I think you will find that there are a number of things we would like to follow up with you. Perhaps we could do that. Thank you very much.

Mr Smith: Of course.
WEDNESDAY 20 MAY 2009

Present

Bonham-Carter of Yarnbury, B
Eccles of Moulton, B
Gordon of Strathblane, L
Hastings of Scarisbrick, L
Inglewood, L
Macdonald of Tradeston, L
Manchester, Bp
Maxton, L
 McIntosh of Hudnall, B
(Chairman)
Scott of Needham Market, B

Examination of Witness

Witness: MR STEVE MORRISON, Chief Executive, All3Media, examined.

Q629 Chairman: Good morning, Mr Morrison; thank you very much for coming to see us. I am sorry you are not looking at the Chairman you might have expected to see, but he is not able to be with us today and he sends his apologies. We are very grateful to you for coming to talk to us. I know that you wanted to make some opening remarks which I am sure you realise, that we might want to jump in or pick up on the points that you make.

Mr Morrison: Thank you very much. Thank you for inviting me here today. As you probably know, I am Steve Morrison, Chief Executive of All3Media. We are the largest UK TV independent production group and I am also the Chairman of Northwest Vision and Media which is the strategic authority for the creative industries in the north west of England. I have a very short statement. Since the recent changes in TV terms of trade the UK independent TV production centre has been flourishing and has seen remarkable growth. We currently export over 53 per cent of the world’s TV format hours when the UK is only six per cent of the global market. British people watched more TV per day last year than the year before. However, despite the appeal of our programmes internationally and at home, the funding model in our home market that underpins this content we produce is under grave threat. Britain traditionally has been used to seeing more rich content and national TV culture per viewer than virtually any other country, approximately £3 billion of original new commissions a year. Ofcom, our regulator, now calculates that there was a drop in spending of £314 million per annum in original British content between 2004 and 2008, and they forecast a further reduction of up to £375 million per annum by 2012. Thus the UK economic model is under threat, not just because of the current advertising downturn but because the public service broadcasters—that is the five main UK terrestrial channels—have diminished in relative scale in the face of digital multi-channel television and the internet which together now receive two-thirds of the income coming into UK TV and internet platforms. Despite the emergence of these new players the four traditional public service broadcasters are still responsible for over 90 per cent of the investment in UK originated content and the new platforms that earn two-thirds of the revenue contribute less than ten per cent of UK original programme spend. So as the traditional broadcasters have come under pressure, UK original commissioning has gone down. Our company, All3Media, also has production companies in Holland and Germany and we have discovered that most European countries have found innovative ways of raising money, not public funds or government money, but largely reuse fees paid for private copying and retransmission fees from pay platforms for the right to carry mainstream channel programmes. These methods raise nearly 700 million euros a year in Europe. I believe that the UK leads the world in digital switchover but not in finding new funding models for the digital era. I appreciate this opportunity to share these and other new methods with your Lordship’s Committee today.

Q630 Chairman: Thank you very much indeed, Mr Morrison; that has certainly opened up some fairly rich topics for discussion. Before I invite colleagues to pursue some of the points you raise, could you talk to us a little bit about your own company and what you do in VECT and what sort of programming you are making?

Mr Morrison: I hope that everyone here will have seen one of these programmes. We are a group of production companies; there are 18 companies in all. We make a broad range of what you might call “multi-genre”—across all the genres—so hopefully members will have seen Formula One, Richard and Judy, Wild at Heart, Midsomer Murders, Shameless, Skins, Victorian Farm and many, many more.

Q631 Chairman: What you might call something for everybody.
Mr Morrison: Hopefully everyone has seen something. The idea basically originated in this way, that we felt when we left our broadcasting roles—which were largely in Granada Television—that small independent producers needed the protection of a group in order to explore how they could build their business. As you probably know, what has happened in Britain is that we have moved from a fully funded economy where the broadcasters traditionally paid all the costs of the programme into what you might call a deficit funded economy where producers now have to fund the gap between what the primary broadcaster will pay and what the programme actually costs. This is particularly acute in drama and other high cost programmes. We felt that by setting up our own international distribution organisation—which is something we previously had at Granada—we could bring help to smaller producers to explore these other ways of recovering income and build their business.

Q632 Chairman: Can I just understand what you said there a little bit more? You have a group of companies and that group is in effect a collection of independent producers operating under an umbrella, but are you saying that you also provide opportunities for small independent companies to benefit from the scale of your operation, but to retain their independence. Mr Morrison: That is correct. The companies within the group run on a very devolved federal model. They run all their day to day business, their own programme development, their own programme production; we do not believe in running their business for them. We believe we are there to help them grow their business but they run it themselves.

Our international distribution organisation which, if I am allowed modestly to say has just won the Queen’s Award for Industry, although it is quite young, also helps other independent production companies by giving them advances against the value of distributing their programmes around the world. Another company may come to us—nothing to do with our group, maybe even a competitor to our group—and say, “We have sold a programme to the BBC, there is still a gap, can you help us fund that gap?”

Q633 Lord Inglewood: I just have a point for clarification. You have described your group as being federal. Mr Morrison: Yes.

Q634 Lord Inglewood: I was not clear whether it is a federation of people who are completely independent from you or whether the federation is within your own ownership or whether it is partial?

Mr Morrison: It is largely within our own ownership. We enter into ownership relations with these companies which partly rests on down payment for acquiring the company and also we incentivise the company to earn more as their business grows—what is conventionally called an earn-out arrangement—and in most instances we own the whole company until they earn-out part of its value. In the small minority of cases we might have a majority holding but the management retain a minority.

Q635 Lord Gordon of Strathblane: My interest is the alternative funding models. I think we all agree that the present system is in trouble. Mr Morrison: Yes.

Q636 Lord Gordon of Strathblane: You have alluded to various things that happen, particularly on the continent. I wonder if you would like to expand a bit on that. Mr Morrison: What we discovered by having companies in Holland and Germany is that there are two very straightforward ways of raising money that we do not use in Britain. One is what I would call reuse fees so when a person buys a piece of kit—a DVD player or a personal video recorder or even a DVD—they pay a small amount within the price of that kit for the right to copy copyright material. They only pay it once so, for example, if you are in France and you buy a DVD player, within the price of that kit there is a fee which is recovered and put into a national fund to help pay for national content. That gives you the right to copy copyright material for as long as you use that piece of equipment.

Q637 Lord Gordon of Strathblane: What is the size of the fee? Mr Morrison: It varies from country to country; 22 out of the 27 European countries do it. France charges, for example, one euro within the price of a DVD and 15 euros within the price of a DVD machine or a PVR; Germany charges 12 euros; other countries charge less. The only countries that do not do it are Malta, Luxembourg and Cyprus—which I believe are all too small to run such a system—and the UK and Ireland who have not yet seen the need to run such a system.

Q638 Chairman: Just to be clear, these amounts that you have described that are charged in respect of each of those purchases, are they irrespective of the value of the equipment, is it just a flat fee? Mr Morrison: It varies depending on the price of the equipment. It is a proportionate charge and it is different in every country. For an MP3 player which you would buy for recording music it would be...
smaller; for a DVD player which is more expensive it would be larger. To go back to your first point, this raises about 600 million euros a year. The second method which is widespread (it is used in 30 European countries, even beyond the EEC) is what is called retransmission fees whereby pay platforms—and this originated with cable—pay the copyright owners of the main channels’ programmes for the right to replay those programmes on their systems.

Q639 Lord Gordon of Strathblane: Forgive me, I am obviously showing great ignorance but I thought that was the system here as well. Mr Morrison: No it is not. We do not call it retransmission, we call it simultaneous transmission. The pay platforms in Britain do not pay for the right to carry the main channels. In fact, in some cases, the main channels actually pay the platforms.

Q640 Lord Gordon of Strathblane: Sorry, are you talking about BBC1 appearing on the Sky platform or cable. Mr Morrison: Yes.

Q641 Lord Gordon of Strathblane: Why would they pay for it? They are given free distribution, as it were. Mr Morrison: The answer to this is that the Europeans see it completely differently from us. When cable started in Holland a case was brought before the European Commission where the copyright owner (the maker of the programme or the equivalent of the BBC) claimed a small payment in arrears for that programme being played on a pay platform because the pay platform was earning money from showing that programme. That case won and now 30 countries in Europe follow this model. The money raised from this system is lower than raised from the reuse fees. In 2007 (the last figures we have) 99 million euros were raised in Europe from this method.

Q642 Chairman: I would like to bring the Bishop of Manchester in in a moment, but may I just ask you in respect of the reuse fee, is it clear to the consumer that a percentage or a cash amount of what he or she has paid is being levied in this way? Mr Morrison: I do not know precisely but recently you will have heard that President Sarkozy introduced new laws in France and they have a sort of national committee which determines what these sums are. For example, in France they have just introduced a new fee which is a charge on telcos—what we call ISPs in Britain, service providers—which is up to 0.9 per cent of their revenue if they earn over 30 million euros a year. So we are talking about the equivalent in a large case of, say, France Telecom, and that charge—which will also go back into national content—will raise, they expect, about 380 million euros a year.

Q643 Chairman: Just in France? Mr Morrison: Yes, just in France. If you do not mind I will look at this in two divisions. Division one is what has been going on for about 20 years which is reuse fees for private copying and retransmission fees for the right to use mainstream channel programmes on pay platforms. That has been happening for about 20 years. What we are beginning to see in Europe are two new ideas which is either a broadband connection charge because broadband will also be bringing these rich £3 billion worth of programmes which the viewer through broadband will be able to access and therefore it makes broadband more attractive. The argument goes that the service provider should help pay for content that goes through broadband. The fourth thing that is being considered, I believe, is to look at content aggregators—namely companies like Google—and say that if they are guiding a citizen to rich content—say journalism or audio visual content—but not paying towards the cost of that content then they should pay something towards national UK culture which is being accessed through their system. If you do not mind I would like to divide these innovative ways, none of which Britain actually practises, into two. The first division is what is done already and has been done for many years in most European countries; the second division is what is just beginning to be thought about because of the rise of broadband. My general point is that we rely too much on the traditional broadcasters for paying for content as they have become less and less of the whole system. Now the BBC and the commercial public service broadcasters who rely on advertising are about a third of our UK TV and broadband market and the other two thirds really does not contribute very much to the origination of UK content for historical reasons which I have partly described. Therefore I think the task now is to look at painless ways—if we can find them—to tap into the new developments whereby people watch television and audio visual content. To give you a very good example, a new platform—a pay platform like cable or satellite—may entice you to buy a PVR; it may be branded own PVR. You are then enticed again to pre-record television programmes. Indeed even to pre-record the whole series. This has a direct effect on the funding of those programmes because it obviates the need to go out and buy a DVD or even a box set of DVDs. The pay platform has paid nothing for these programmes if they have appeared on the main channels. So they are enticing you to grade up by using a recording device that gets content for free. I believe, as happens in Europe, that we should explore...
how people would pay a small charge for the right to copy those programmes.

Q644 Bishop of Manchester: The way you are describing the contrasts between the continent and this country is very helpful but I wonder if you have any specific ideas in terms of proposals that you might want to put to the government in terms of legislation that might be required. You have ranged over various things; are there particular priorities in that which you would feel important to be brought into British law?

Mr Morrison: I am not an expert on the law but my belief is that introducing these methods does not require primary legislation. That is the interesting thing about it. We claimed an exemption in the 1988 Copyright Act for what the Europeans call retransmission and we call simultaneous transmission. In those days there was no satellite, it was just for cable. We invented that retransmission from using copyright material and having to have a licence for it. If we dropped that exemption—and it is only a small exemption, it is not a new law—we could then go to the pay platforms through the regulator and say that we think it is right for you to pay something towards the costs of these £3 billion worth of British programmes because you are benefiting from having them on your platform. In fact, over half the viewers to British pay platforms come to the main existing British public service broadcasters so they would not really be able to run a proper business without those channels. Therefore I think that initiative is open. I also do not believe that the second initiative requires legislation. If the government—again perhaps through Ofcom or perhaps by setting up a different body—could establish the right kind of licence fees for the right to copy copyright material when you buy a piece of equipment. My own amateur knowledge of this is that this would not require primary legislation. There is another interesting point here. We have a British industry which does collect copyright fees and has done for over a hundred years which is the music industry and therefore we have a model in the UK—a good British model, not a continental model—that we could look to. They raise about £650 million a year from collecting fees from all sorts of players, so they will go into a club, a pub, a sandwich bar, a television channel, a pay platform and collect fees for the reuse of copyright music. So the precedent has been established (a) that those pay platforms pay copyright fees for the use of copyright music, so if you are paying for it for the sound why not pay for it for the picture; and (b), they have established a system which is an industry system—a voluntary system—whereby they have collecting agencies which go round all these players and agree fees and if they are not agreed the copyright tribunal upon which judges sit can adjudicate a settlement if there is no agreement and there is also a system where you can be fined if you do not pay. So there is already established a kind of voluntary system but within a legal framework and a code of practice in an adjacent industry which could be a model.

Q645 Lord Maxton: One thing you have not mentioned in all of this is the fact that in this country we pay a substantial licence fee to the BBC and what you are actually suggesting is that if I have Sky or cable television or broadband I should then pay on top of that licence fee extra money to watch BBC on those rather than paying for it through my licence fee. Why should I pay for the BBC iPlayer to watch television on my broadband on top of the licence fee? Most other countries do not have a licence fee as far as I understand.

Mr Morrison: Many of these countries in Europe do have licence fees as well, for example in Germany there is a very substantial licence fee. If I could just take your question, Lord Maxton, and divide it into different elements, the BBC licence fee gives you the right to watch BBC programmes live and free for up to seven days catch-up. It does not, in my opinion, give you the right to watch them beyond that point. So, for example, viewers in Britain are perfectly happy to watch BBC programmes on UK TV surrounded by advertising because those programmes are beyond the licence period that the BBC has when it buys a programme. If the BBC buys a programme from one of our companies they have the right to play it over a period and to have a catch up period, but beyond that it can be sold to other channels. Viewers who are also BBC licence payers also buy DVDs of BBC programmes and are very happy to do it even though they pay the licence fee. My point is that for retransmission fees I do not believe that platform should pass on the cost to the subscriber because the platform is getting the benefit of £3 billion of wares on its shelves which attract subscribers who already pay; for reuse fees I think the consumer should pay because they are not buying the right to see the programme, they are buying the right to copy the programme beyond the period that the licence fee is paid for. Because the BBC is no longer fully funded and deficits are emerging in all sorts of genres, if we do not find these other methods the licence fee will not be sufficient to pay the cost of British programming. We have to find routes to fund the deficit in the total cost. In the last four years, network transmitted programmes on the BBC have gone down by approximately £250 million per annum according to Ofcom and that is because they can no longer afford the full cost of the programmes within their licence fee and their other obligations. So unless we tap into some other means above and beyond the licence fee we cannot plug that gap.
Q646 Lord Maxton: Therefore you are not suggesting any changes to the licence fee itself.
Mr Morrison: No, none at all.

Q647 Lord Maxton: It seems to me that one of the things that is wrong with the licence fee is that it is for one house which, when it was first devised, was for one device—the radio basically—now of course it is a licence fee for multi-device households. Should we not take that into account?
Mr Morrison: I am not an expert on this but I notice that Eric Huggers the other day thought that a licence payer should pay for watching BBC programmes on the iPlayer because the iPlayer can connect you through the computer to your TV set if you live in a Virgin home and when Project Canvas comes in it will be able to connect everybody—it is a kind of new form of Freeview box—through the computer to your TV set. I heard Eric Huggers (who I think is their head of technology and future media) say that there should be a payment for that. I am not challenging the BBC licence fee but what I think is that as a society there will come a point where the BBC licence fee cannot grow any larger and unless we hop onto the conveyor belt of other means to help fund our culture and our programmes we will be capped and relatively the investment will go down. We must bear in mind that the investment is going down at an alarming rate at the moment; it has already gone down £350 million a year and it is forecast to go down another £375 million a year, so it seems to me sensible to look at these other methods that other countries employ.

Q648 Lord Inglewood: As I understand it, what you have said—which I do not disagree with—is that one approach is to start by looking at the intellectual property rights involved in this process and, for reasons which I am not sure I or you fully understand, it appears that the retransmission rights (if I can call them that) is not a right that is currently economically recognised in UK law.
Mr Morrison: That is correct.

Q649 Lord Inglewood: The difference between ourselves and the continent is that the retransmission right there is recognised as a discrete, financially valuable piece of intellectual property and as a result they gain the revenue through that.
Mr Morrison: Yes.

Q650 Lord Inglewood: It seems to me that what we are really talking about is not actually the legal position per se, it is how you collect the monies, is it?

Mr Morrison: That is correct.

Q651 Lord Inglewood: Presumably if you have a system of collection societies the great problem is going to be piracy.
Mr Morrison: No. If you do not mind me saying, piracy is a separate issue.

Q652 Lord Inglewood: Does it have a bearing on this?
Mr Morrison: It has a bearing on it, yes. What I would say to make it simple in my mind is that we need to protect copyright against piracy and we need to collect copyright for every use that earns somebody money. We should follow the money basically. I am not an expert on piracy; I have generally left that to my colleagues in the film and music industries. What I have focussed on—because I have learned about this through our international group—is the collection of copyright. As it happens the music industry, which has problems with piracy, has still found secure ways to collect £650 million a year from the reuse of copyright music.

Q653 Lord Inglewood: They argue, do they not, that in fact there is a lot more being used that they are not collecting. Presumably your sector has not concerned itself about piracy issues because there has been no need to do so because actually piracy is legal.
Mr Morrison: It is not actually legal because in the Copyright Act you are actually not supposed to copy TV programmes except for time shifting; you are not supposed to copy them for other purposes.

Q654 Lord Inglewood: But de facto—
Mr Morrison: I think you are onto an important point. De facto British people are now copying TV programmes for all different purposes. Twenty per cent of homes have PVRs and it is predicted by 2013 that 75 per cent of homes will have PVRs. What I am saying is not to stop that but to find a way of collecting small sums of revenue for it either within the purchase price of the freestanding kit (the PVR) or, if it is something you bought through a platform, you should pay a small amount (say 50 pence a month) in your subscription if you have such a box for the right to copy.

Q655 Lord Inglewood: What you are saying in terms of collecting is that you can either go straight to the rights or you have some sort of levy on various items of equipment that, analogously to the licence fee, give you the right to then see the material that is transmitted through it.
Mr Morrison: I do not actually call it a levy because I think that has led to British prejudice. It is a licence fee for the right to copy.
Q656 Lord Inglewood: Going back to what John said, surely the answer to this is that this fee is really a kind of amortisation of an equivalent to a licence fee across all platforms. Why do we not just have one single system for funding all television in this country which is this form of charge and you could do without the BBC licence fee because they would pick up their share of the total through that device?

Mr Morrison: I believe you should not do that for two reasons. I think we have achieved a huge amount by having the BBC licence fee and I think we should not tamper with it because the whole system of our creative industry, which employs 20,000 people and brings a lot of enjoyment and information to the public, could be undermined.

Lord Inglewood: I was just trying to work out the logic of it.

Chairman: If I may say, I think we could just get into a really different kind of debate at this point and we might perhaps, on this day of all days, not go there. I just want to bring in Lord Hastings, Lord Gordon and Lord Macdonald and then I think we must move on.

Q657 Lord Hastings of Scarisbrick: What is your own assessment of the cultural sensitivity of having the system you set up in the UK and Ireland? There must be reasons why it is not proposed to work other than just oversight. What is your reflection on the largest television market in the world in the US, which I understand does not employ a similar system? Given what you said at the beginning about how vibrant the UK creative industries are and how dominant format sales are, the implication of that is that despite some of the complex figures you have given us the UK system is very profitable compared to the Europeans, so you could argue that the Europeans have to have a supplementary collection system to maintain their sector. We do not need it because of the export potential and profitability.

Mr Morrison: I think the problem is that what was is no longer. What was, was that we had a very strong home market thanks to the licence fee and the robustness of spot advertising on ITV, Channel 4 and Channel Five and a tradition of £3 billion a year of British programmes, and also a tradition of many short runs of new programmes. Unlike many other countries we do not run a few programmes for ever, we commission original, vibrant new series every year. This has meant that we have generated a lot of formats and we have a tradition of original programming being bought. This has sold spectacularly well world-wide. If the home market goes down—and actually it is going down at an alarming rate at the moment, we are racing downhill from £3 billion probably towards £2.5 billion and we could end up at £2 billion if we are not careful—then fewer programmes will be commissioned (for example, there has already been quite a significant reduction in drama being commissioned because it is expensive) and that means that those programmes which have been tried out and been successful on the British market will not be available to be sold abroad. So not only will we lose out in Britain but our international position, I believe, will be undermined. Sorry, what was your second point?

Q658 Lord Hastings of Scarisbrick: The core point is that there must be a reason why it is not appropriate for the UK psyche to want to do this.

Mr Morrison: This is very interesting because one has to go back into history to try to work this out. When the Copyright Act came in in 1988 there was no independent production sector. There was no real thinking about programme copyright; it was really more an issue of broadcasting and not an issue of production. I think that one of the reasons why we had this exemption is, as I think one of your colleagues said, the BBC and other broadcasters wanted to have universal application on any platform so the “must carry” in their mind was greater than the “must pay”. In Holland they have a “must carry” and “must pay” system where the cable platforms have to carry the programmes but they are also obliged to pay (not a great deal by the way, it is about 25 million euros a year in Holland) for the benefit of carrying all the public channels and they pay in arrears depending on how many programmes they have actually played. We have to make a distinction here between the main channels’ programmes which in Britain our platforms do not pay for and their own multi-channels—digital channels—which are perfectly happy to commission original British programmes but unfortunately only commission less than ten per cent of the whole. What I am focussing on is the 90 per cent which basically gets a free ride on the pay platforms and it does not in Europe. It may be that they had to do it in Europe because they had to find innovative methods of raising money and there was a legal case brought by a copyright owner which the courts found was legitimate, so these things got established. We perhaps did not have to do it in those days because the licence fee and the spot ad funding method of advertising was sufficient; it is now no longer sufficient.

Q659 Lord Hastings of Scarisbrick: Exactly as the Chairman said, on this very day in the Commons a debate is taking place about whether the licence fee should be increased or not, the sensitivity of the public would seem to be that this is not a moment to add extra television or media related taxes.

Mr Morrison: I would totally disagree with that. If the public understood that British programmes are actually reducing at an alarming rate and that our
creative culture and creative industry could be undermined, I do not think that many people would mind paying a very small sum for the right to copy on their copying machine on which they can copy in advance every episode of a series forever.

Q660 Lord Hastings of Scarisbrick: If it was built into the system.
Mr Morrison: Yes.

Q661 Lord Macdonald of Tradeston: Can I just ask you to explore the relevance of your request really to the amounts of money that are required? You talk about 600 million euros being raised across Europe (£500 million) and I would guess in proportion Britain on the same scale would raise maybe £100 million per annum from that. That does not seem a lot in the context of the £300 million plus that is being lost at present per annum. How would you hypothecate that money? If it is down to around £100 million that you are looking for, how would you hypothecate it? How much would come back to independent producers and would it really be a relevant solution? We have spent a lot of time on it but I wonder how significant it is in the great scheme of things.
Mr Morrison: Lord Macdonald, our calculations are that if we carried out in Britain reuse fees on self-standing kit and integrated platform PVRs, TV platform retransmission fees for the right to carry public service programmes, a broadband charge for the right to carry public service programmes and a search internet fee for the right to access rich British content, we could reach £500 million by 2012 in the UK alone.

Q662 Lord Macdonald of Tradeston: Charging the British consumers as much as the rest of Europe put together.
Mr Morrison: No, it is not like for like. In Europe the 700 million euros is only for the first two, the traditional two: reuse and retransmission. Now that France has introduced a broadband connection charge they are expecting to raise 380 million euros incrementally from that alone. I am just looking at the British proportionality of the two things that are already done and the likely British proportionality if we did two more things in the broadband market, which could amount in aggregate to £500 million by 2012. If we did not do them all it would amount to less. Even if we did just the reuse fees on the kit we calculate that that could amount to £176 million by 2012; the retransmission fees could amount to £83 million; the broadband fees could amount to £71 million (which is nothing like the amount they are raising in France); and the search internet fee could amount to £32 million. There are various other things that could be done. One of the things I am asking the government to consider in Digital Britain is that a very small pilot fund should be used for testing micro payments in online access to content, so small production companies can get together with technical companies and work out frictionless ways—easy payment ways—of testing whether the consumer would actually pay for content. In this panorama there are at least five different categories which, if we did them all, could amount to £500 million and would amount to less the less we did. I think it is very, very significant that 30 other European countries are doing it and we are not, and we do it in the music industry—parallel creative industry—in another way.

Q663 Lord Macdonald of Tradeston: Would most of that go to the producers?
Mr Morrison: No. In different countries in some cases the money goes to the copyright holder so that is either the producer or the broadcaster if it was a home produced programme. In other cases they slice off some of these funds and set up a national content fund—like a cultural fund—which is then contested for other reasons. So someone could apply to that national fund—it is called contestable funding—to access a top up in a genre where there is not enough money from the broadcaster.

Chairman: Mr Morrison, we have spent a great deal of time talking about these funding issues which are clearly very important, but I would like us to move on and talk a bit about the content that either might be funded by these additional funds or will not be funded if additional funds are not found. Could we move onto the question of budget cuts and impacts? Lord Hastings?

Q664 Lord Hastings of Scarisbrick: Can you just help us to understand how the budget cuts in public service television have affected production capacity?
Mr Morrison: There has been a very good report from Ofcom which I hope members can access. It was given yesterday in public at the Westminster Media Forum. It lays out which genres have gone down in the last four years and how much spend has gone down in each genre. Obviously members will have heard that children’s programmes are under considerable threat; some news programmes, particularly local news, are under threat. My concern is that we do not get too bogged down in the specialist sub-genres of the problem and miss the whole problem which is that the whole creative industry in Britain, our creative spend and our creative culture is being undermined probably by 20 per cent at the moment in aggregate. So the £3 billion that we have been used to is rapidly marching down to probably £2.5 billion within a year or two and Ofcom calculates that in the worst scenario it could end up at £2 billion (which is a third down) by 2020. So there
are two issues, there is the aggregate issue where fewer original programmes are being commissioned every year and the main problem is in the more expensive genres—drama and comedy—and the most expensive, documentary. Then there is the specialist problem which is that certain areas like children, local news and possibly arts are also being commissioned less than they used to be before.

Q665 Lord Hastings of Scarisbrick: Is any of that slack being taken up by cable and satellite? Sky is making a big pitch in their advertising of their original content.
Mr Morrison: I think the problem with cable and satellite is that in Britain the secondary market—cable and satellite—has largely depended on acquired programmes and the volume of original commissioned programmes has been quite small.

Q666 Lord Hastings of Scarisbrick: Is it growing?
Mr Morrison: It is growing. Since the cable and satellite platforms have a joint funding model which is subscriptions and ads, they are more protected in the recession than the main public service commercial channels and therefore I would expect to see an increase in commissioning in the multi-channel world, but it is so small relatively to what the big, traditional players were spending that it does not make up the difference. At the moment the satellite and cable channels spend less than ten per cent—that may go up to 11 or 12 per cent—but if the 90 per cent from the main channels goes down to 75 per cent there is still a huge funding gap. The big problem is that there is a major funding gap that has emerged in the funding of UK content.

Q667 Lord Hastings of Scarisbrick: There is clearly pressure on the independent production sector in your own company as a result, could you give us an honest assessment of the scale of impact on the sustainability of your profits in the future?
Mr Morrison: What will happen is that the cost of programmes will exceed the licence that is paid by the primary broadcasters and the independents will have to find the money to fund that gap. If they cannot find the money they will go the way of the UK film industry and start putting in their own fees and their own margins to try to fund the gap and, before we know where we are, we will end up with an independent production industry that is basically a “for hire” business with no way to build its business. That would be a reversal of what we have achieved so gloriously in the last five years where we have never been more successful on the world stage. The danger is that the producers will scramble around trying to find the money to make up the deficits; they will not find enough because these other users are not contributing to these programmes. They will end up at best as a break even business and at worse a loss making business. Then the smaller ones will go out of business. The larger ones, because they can sell abroad and have international distribution, will be better off but they will also be challenged by the fall in their own home market.

Q668 Baroness Bonham-Carter of Yarnbury: Referring back to something you said at the beginning about how you nurture the smaller indies, is this an on-going process in this time of trouble? Are you acquiring and helping small indies as we speak?
Mr Morrison: Yes.

Q669 Baroness Bonham-Carter of Yarnbury: Are you an exception or is this something that other super-indies also practise?
Mr Morrison: On the first point, in a recession surprisingly it is often more difficult to acquire than in a boom market. Superficially you would imagine that prices would be lower and therefore it would be a good time to acquire. What you find is that the whole mood changes and the banks and others regard acquisitions in a less positive way than they did in a boom market. Having said that, we are continuing to help small companies to look selectively, to acquire small companies and also to help creatives start up their own business. For example, we started up a business a year ago called Studio Lambert which required, if you like, a line of credit for a year and a half before it could break even. It has just won its first network commission in America for one of its factual programmes. If everything was like that the system would work tremendously well. We are still helping where we can individual talents and small companies either through our international distribution capability or through acquisition and further investment. There are other large indies that do do this so, for example, you might see this happening with Shine or with Shed or with RDF. As I said earlier, I think the financial circumstances are more challenging now but we can still do it and we want to go on doing it because we think it is progressive for the industry. Nobody has left us so something must be working and most of these companies have grown substantially during the period they have been with us.

Q670 Baroness Bonham-Carter of Yarnbury: Do you feel this is threatened?
Mr Morrison: I think it is threatened, yes. I think the whole creative economy here of what we might call audio-visual content production—because it is going to go beyond television—will be threatened and it is already threatened if we do not plug the funding gap.
Q671 Bishop of Manchester: In terms of encouraging indies and indeed individuals in programming, where you are in a position, particularly in the North West, what is the role as you see it of MediaCityUK in providing that kind of resourcing and other kinds of support? I ask that question because anecdotally one hears that the take up by some of the independent companies for MediaCity is not going as well as had been hoped.

Mr Morrison: This is a big topic and the Chairman might cut me off, but just briefly MediaCity is a big opportunity to introduce multi-platform methods of content. We should now be training our young people in a kind of fusion way so that they understand not only the methods of television production but also the methods of computer software so that they are capable of looking at audio visual content on screen but also online which will end up being similar screens. If I may plug my own company, we have just won the BAFTA for the best interactive award for one of our programmes which was for the online side. If you go back to the North West I believe, as the Chairman of Northwest Vision, that in partnership with the RDA we should help establish a multi-platform lab which allows customers like the BBC to get innovative methods of new audiovisual content. But the broadcasters are the customers and whatever we set up will not mean anything, it will just be a white elephant unless the customers have the wherewithal to buy sustainable content. We could set up terrific studios and little labs, but if there is nobody there to buy the material it will just wither on the vine. I started discussions with the BBC, in my Northwest hat, to try to find ways that we can work together both with the broadcasters and with the universities because these multi-platform digital content labs are terrific educational tools as well as for the production of content for channels. So we could simultaneously provide real training on the job and lower cost content across more than one platform. We have to think ahead and throw ourselves ahead into modern methods but at the same time bring the customers with us to buy such content for their own schedules and they will not be able to do that—going back to Lord Hastings’ point—unless they have substantial funds themselves.

Q672 Bishop of Manchester: I think what you are saying to me is that part of the MediaCity set up could end up being a bit of a white elephant.

Mr Morrison: I hope it will not and we are working very hard to see that it does not, but the customers—which are the educational establishments and the broadcasters—will need to have the resources to get the benefit of the lower cost content that could be made in these more modern methods. The whole thing is a bit of a circle.

Q673 Baroness Bonham-Carter of Yarnbury: That leads very neatly into what I wanted to ask you about which is on skills and training. What sort of formal training do your companies offer in TV production skills? Do you think there is adequate training? Can I just make an observation which I picked up from the forum you referred to which went on yesterday? One of the effects of the fall in revenue that you have mentioned a few times is that it also affects room for innovation. There is pressure on producers to make hits which means there is less room for newcomers, less room for young people from diverse backgrounds. As we know, the television industry has suffered from people getting jobs through people they know anyway and this is just being exacerbated by the economic situation we find ourselves in.

Mr Morrison: Taking the question in two parts, firstly on the skills and the training, like other independent companies we participate in a number of schemes. There is something called the Indie Training Fund, there is Skillset, there is the National Film and Television School which we contribute to and we do a lot of training in-house. We take on a lot of work experience young people in the north west of England through Northwest Media and Vision (which incorporates what used to be called Media Training Northwest). So we have a skills department in Northwest Media and Vision. We have just won a £2.8 million fund from the RDA purely for the development of skills in the north west of England which includes things like media apprenticeships, mentoring internships where people are brought in but they are very carefully guided through the companies. We have a company in the North West called Lime which makes Hollyoaks and Lime does do a lot of what you might call internships, apprenticeships and work experience.

Q674 Baroness Bonham-Carter of Yarnbury: Are they paid, out of interest?

Mr Morrison: Some are and some are not.

Q675 Baroness Bonham-Carter of Yarnbury: That is another problem.

Mr Morrison: Yes, some are schemes that are brought to us when people are coming towards the end of their course and it is really a part of their course; others—like the media apprenticeships—are paid (the scheme sets out a rate and we participate in it). The short answer to your question is that the independent sector is finding ways but these ways are not as substantial as you would get in, say the BBC, or what you used to get in various ITV companies, although these companies are now under pressure. To go to your second point, innovation, there was a very famous curve by Professor Cave which basically said that very small companies find it hard to innovate because they are desperate to get a saving and
therefore they have to make more conformist material. Very large companies sometimes find it difficult to innovate because of the scale of bureaucracy of their operation. It is actually companies in the middle—middle-sized companies you might say—that have enough stability and where withal not to worry about the next sale that do do most innovation. Because we have a federal system in our group, the 18 companies have 28 creative centres within them all over the world and they all innovate individually bottom up and not top down. We hope we have devised a system which encourages innovation. However, if you are a new company in today’s climate, desperate for a commission, I think you would find it pretty hard to offer something way to the left of what is currently being done because the buyers will become more conservative. You have put your finger on it; that could change the platform that Britain is for our international success if we end up becoming more conservative in our channel commissioning as to what we buy.

**Q676 Baroness Bonham-Carter of Yarnbury:** Looking at the bigger picture, are you concerned that we are facing skill deficiencies in the future? ITV, as we know, is not doing training at all any more. Are you concerned about the young people coming through not having proper training?

**Mr Morrison:** I think there is a great appetite amongst young people to get involved in media of all types and, if I can make it even broader, the creative industries as a whole. I think it does behove us in the business to find ways to bring in young people and to let them experiment. I think the thing I suggested earlier, which is the multi-platform digital lab, is an example of allowing young people to get access to low cost productions which are things we have done in the past when I was at Granada and things I think we should do now in the independent sector. Unfortunately I still come back to the main point that unless we find innovative funding methods, some of which are being practised very well in other countries, we are all going to find that these areas which we would like to have will drop off.

**Q677 Lord Inglewood:** At the beginning of your evidence you commented that the codes of practice to do with the terms of trade when they came in in 2003 have been a fillip to organisations like yours. We have subsequently heard evidence from the broadcasters that they want to see them changed and the balance shifted back towards them. Would I be right in assuming that this really is evidence of the fact that there is not enough money to go round?

**Mr Morrison:** If I could start somewhere else, the broadcasters got a huge benefit from the change in the terms of trade as well as the producers. The producers’ benefit was that they retained the copyright and could go round other markets trying to find deficits and raise other monies. The broadcasters got the benefit that they no longer had to fully fund some more expensive genres of programmes; they could just pay a more flexible licence which left a deficit. As we have discussed the broadcasters have saved about £340 million per annum since this system came in and the schedules are still full. The way they did that was to pay less for the primary licence than they previously paid for perpetuity. They were buying less in effect. The other thing that happened was that the producers then had the obligation to go round these other markets finding the deficits and I think PACT calculates that producers now put back £190 million a year into the broadcasters’ schedules in order to pay for the deficits of the programmes they buy. The first point is that the broadcasters have actually benefited from the change in terms of trade and having more flexible pricing and actually reducing their costs. The second point you raised was “Have the broadcasters managed in this period”? Is that right?

**Q678 Lord Inglewood:** The inference from them saying to us that they wanted to see a re-calibration of the terms of trade was that they felt they were not getting a fair deal.

**Mr Morrison:** I think that actually this does not really hold water. To go back to what Lord Macdonald said, I do not think it is a material amount. They used to export these programmes that they wholly owned and the amount they made on them was very, very small in comparison to the cost of their schedule. I think they may have lost a few million and gained a £190 million in subsidising the prices of their schedules from the producers.

**Q679 Lord Inglewood:** I sense that you are not crying in your beer over their predicament in that regard.

**Mr Morrison:** No.

**Q680 Chairman:** Thank you very much. I hope you are not crying in your beer at all, Mr Morrison, at least not as a result of this morning. Thank you very much indeed. As you can tell, your evidence sparked a great many questions and was extremely interesting. Thank you very much for coming and giving it to us so helpfully.

**Mr Morrison:** It is a pleasure. May I say, if it is interesting to your administration, there is quite a lot of documentary evidence around the schemes that are practised in other countries. There is quite a lot of data around so if your management wants to follow up on any of this as a help to what is actually going on, our team would be very happy to furnish you with those documents.

**Chairman:** That is very helpful; thank you very much.
Examination of Witnesses

Witnesses: Mr Dan Patterson, Managing Director, Angst Productions, Ms Anne Wood, Creative Director, Ragdoll Productions and Mr Roger Graef CEO, Films of Record, examined.

Q681 Chairman: Good morning. Can I formally welcome you all. Thank you very much indeed for coming this morning. I am sorry we have kept you waiting a little bit; I hope you have not minded that too much. What I would like to ask you, if you would be so kind, is just to give us a little thumbnail of your particular area of work in the companies that you are running and the work that they are producing. Some of it obviously we know but it would be nice to hear from each of you the current state of play for you. Let us go from left to right as I am looking at you and start with Mr Patterson.

Mr Patterson: My main area is comedy, entertainment sort of stuff. Over the years I have done Whose Line Is It Anyway? for Channel 4, the Clive Anderson Show for Channel 4, Room 101 for the BBC, The Brain Drain for the BBC. The main thing I am doing at the moment is a show called Mock the Week which is kind of like Have I got news for you? But slightly more young and dynamic I would say. We tend to do rounds at the end; we have had “Unlikely things to hear in the House of Lords”.

Q682 Chairman: Yes, I was just about to say that we all have reason to fear you, and I am sure we do.

Mr Patterson: That is about it. I am very reliant at the moment on Mock the Week; at the moment that is really my only commission but fortunately we are doing well. We are BBC2’s biggest comedy entertainment show so we have been commissioned for this summer, next winter and probably next summer.

Q683 Chairman: I think we will probably want to come back to the question of commissioning and how it happens, but Miss Wood can you tell us about your company?

Ms Wood: My claim to fame is that I founded Ragdoll Productions in 1984 and have been very successful up to this point in that we did Teletubbies and our current show is In the Night Garden. The most recent and most experimental is Tronji, currently on BBC because that is the only channel available to us to broadcast any of our work at the moment. My experience has been that this work has become increasingly difficult even though we are, I suppose, the kind of company that Mr Morrison described as middle size, which means that we are innovators. We are totally dedicated to children’s public service broadcasting even though we are an independent production company. We are a family company; we have no outside shareholders therefore those of us like me who control the money also control the agenda. Basically the company was set up to make the kind of work that sadly we have seen disappearing rapidly from the cultural scene and that is of great concern.

Q684 Chairman: Thank you. Mr Graef?

Mr Graef: I have been doing one kind of broadcasting or another for a very long time—four decades and heading towards the end of that one—and my company Films of Record started in 1979 with The Secret Policeman’s Ball (which is still in circulation, I am rather proud to say) and we have been making high end documentaries for 30 years on whatever subject interests me really that I feel people need to know about because I do not. Fortunately we have been getting access to all sorts of public institutions over the years. Currently, as we speak, we have access to the HFEA, we are filming child protection agencies in Coventry; we are filming inside Thames Valley Police again to do a very interesting experiment there. It is the first time that anyone has ever looked at how much crime happens in a fortnight. We are also filming inside Great Ormond Street Hospital (a three part series) and another one on the Children’s Act, 20 Years after the Children’s Act. So we are still doing high quality documentaries. My other claim to fame and interest here is that after my years at Granada with Lord Macdonald and Steve Morrison I became part of the founding board of Channel 4 and helped to create a sort of public service voice, then went on to the BBC to do the police series which some of you may have seen which helped change how rape was handled. So my role in broadcasting has been as some kind of keeper of the flame of public service broadcasting and using broadcasting to change things that I hope—and everyone seems to agree—are worth changing.

Chairman: I think the thing that strikes me immediately is that all three of you in different ways and in different genres are actually innovators and have always been. I want to go therefore, before we get on to issues about commissioning, to some questions about where the talent is coming from and the training that is necessary to sustain the innovation that you and others may need to keep coming up with. Lady Scott?

Q685 Baroness Scott of Needham Market: It has always been said that the situation in the UK, because of its structure and funding models, has enabled new talent to come along, to be nurtured and that the training has also been good, but we have also been hearing about how the undermining of the model for UK broadcasting has resulted in challenges with regard to training and so on. I am really just interested in your perceptions of what is happening in terms of that, bringing in new talent, providing
training opportunities and what that might mean for the industry.

Mr Patterson: Are you using the word “talent” as normal sane people use it to mean or in the industry term to mean the people who appear on screen?

Q686 Baroness Scott of Needham Market: Having a claim to being fairly normal and sane, in general terms, bright people who come along but maybe not quite mainstream. Something about innovation here, that is probably what I am getting at. Are we playing it safe?

Mr Patterson: In terms of the training of people, I am a very small company and I just take on people for the one show. Right now I do not see that there is a lack of people coming through. I do know that there is a lack of training in the industry generally. Certainly when I came through you would see that in the BBC or ITV producers but all sorts of people were trained up and there was a steady flow of those and that is, I think, under threat at the moment but I do not have immediate experience of that. I think the question is the other way round. It is not because there are no innovators around but because broadcasters are worried about taking innovation which Steve alluded to I think; during times of crisis everybody gets much more nervous. I do not think we have any shortage of great writers around; I do not think we have a shortage of great performers around; I think it is a worry amongst people to take risks. I definitely think that is the case. When I came through—I do not want to sound like the good old times— I think people were much more likely to take something that was a good idea. Now the question you get asked all the time is: “Who is in it?” That is almost the only question other than what it is going to cost.

Mr Graef: Even with documentaries they are saying two million or one million for that so we cannot do it.

Mr Patterson: That is right but if you attach a big piece of what they would call talent, so with an artist on it, then they are much more inclined to take that risk. I do not know what you do about that—I do not know how relevant it is to what you are looking at—but it does seem to me that in times of crisis everybody gets nervous and everybody reins in their innovative instincts. I think as well that—somebody mentioned it earlier on—it is this idea of wanting to go for hits; the feeling is that when times are difficult we go for a hit. In my experience you cannot go for a hit; all you can do is be good. That is the be all and end all of broadcasting; you do it as well as you can do it. It might then become a hit. If it is no good it will not become a hit, but what you cannot do is shortcut that. You cannot start getting rid of the nuts and bolts of good writing, of good producing, of good script editing. I do believe, contrary to one or two of the questions, that actually the BBC is the greatest institution in broadcasting that has ever been. I worked for quite a long time in the United States and I am absolutely convinced that that is the case and I think it needs protecting. It drives me crazy, I have to say—and it is not like I do all my stuff for the BBC, I do not have any special pleading here—but I do think it is tremendously important that we protect the BBC and we protect the licence fee. I believe all the programmes that you guys watch and all the programmes that you guys grew up on would not have been made in a system outside the BBC.

Q687 Baroness Scott of Needham Market: The question about creativity and budget cuts is one I think we will come back to but I think specifically it is this question, as you were just saying, that to make a good programme it is not just about having a name, there is a whole lot of other stuff and that requires people to be trained.

Mr Patterson: Absolutely.

Q688 Baroness Scott of Needham Market: Is there an extent which we will reach and then get into problems some time in the future simply because we have stopped investing in training at a certain point?

Ms Wood: We are already there. My area, children, is always in the vanguard. Everything that Mr Morrison described has already happened in the children’s sector. I would concur with everything that Dan said, including about the BBC. The current Director General of the BBC has said that the difference between public service broadcasting and any other kind is the ability to take creative risks. He has cut the children’s budget—and many others—to the bone in the interests of saving money. If you have no investment, you have no creative risk taking. Whoever controls the money controls the creative risk taking. If you have no creative risk taking you have no innovation. It comes down to the funding every single time. In the children’s area we have dropped completely—we are on the point of annihilation—and that is not an exaggeration. It is happening as well in the grown up world so everyone is now beginning to take notice. It is very, very serious indeed and we will not have innovation soon at all.

Mr Graef: I would like to build on that, if I may, in a different direction, which is the notion of what encourages innovation. I did a series a long, long time ago—the first fly on the wall series—where we were in a school and we brought in an educational psychologist from California to penetrate the atmosphere of despair in this school. He asked the best teachers in the school three questions which I thought were really interesting. One, what are the conditions that encourage learning? Two, to what extent are they present in your classroom? Three, if they are not, what can you do about it? I have tried to apply that to television and to ask what it is that
encourages creativity. Is it present in my company? If not, what can we do about it? The question of encouraging young people to take risks or indeed encouraging commissioners to take risks, was definitely alive, present and well when Lord Macdonald and I were at Granada because we had the space to waste ideas, to go down paths that would not yield anything, to try things and so on. What has happened is two-fold. Firstly, there is the economic reductionist pressure of very tight budgets: because technology allows you to shoot and edit quicker, the accountants who look at the budgets say in that case we must shorten the budget and shorten the schedule. In my experience with documentaries, especially open-ended ones which are not scripted in advance, very often the best things happen on the very last day. We had been filming the rape documentary in the Thames Valley for nine months; we had tried six other rape cases and it was the last week of nine months when we got that case. That is a film which, according to other people, has changed public policy more than any other. We had tried; it was not as if somebody had just walked in. We knew rape was important but it took us nine months of trying. By the way, the original budget was for eight and a half hours and in the end we had eleven 45-minute films and another five hour films that grew out of the access. That flexibility—the investment and the open-ended process—has really eroded big time. The problem in terms of the training that you were asking about is that the younger people coming into the business do not have any experience of that. What then happens is that they are thrown in at the deep end very often. We use work experience just as Steve was talking about and try very hard to balance their training without exploiting them, but very often we see them coming from big production line companies where they have been asked to do shooting, they have even been doing editing, they have even been researching. These are things we had to train people over time and you learn from people who know better, from series editors and so on, face to face contact, conversations and all of that. The culture is eroding very fast and young people are there; there are plenty of people who want to be in the media, but their experience of it is hit and run. They do not know how to look after protagonists; they are invading people’s privacy big time without knowing what the law is (and the law is changing every day). Meanwhile, in broadcasting, more and more money is going to pay for lawyers and editorial policy people and indeed senior executives. The head of HR BBC is getting the same money as my budget at Great Ormond Street, three parts over a year. That is one person who is actually not doing a very good job and he has only been there for 18 months. There is a mismatch between the executive caution and the money flowing in that direction and the erosion of the creative conditions for wastage—good, creative wastage—that is a contradiction in terms in today’s climate. So the young people do not have any kind of encouragement in the culture of the business. They do in Films of Record and I am sure they do at Ragdoll and at Angst and indeed at Windfall. There are half a dozen companies where we all get people from each other because we are passing them on having trained them up. We have had 30 years of keeping the faith, never letting anyone down, and you cannot send somebody who has come out of companies that have just ripped off reality shows by the car load and never know what care, attention and probity really means, and expect them to act with care, attention and probity. Unfortunately that is no longer just an automatic assumption; you have to make sure that people are not ethically colour blind and I am afraid that that ethical colour blindness is spreading like Dutch elm disease across the media.

Q689 Baroness Bonham-Carter of Yarnbury: Can I just pick on a point you referred to there, Mr Graef. You train them up and you send them all around—this is something I asked Mr Morrison but I do not think he actually answered—is the television world not a very cozy world? There is a lot of work experience, it is who you know if you are a young person and with fewer and fewer practical training courses you are getting less diversity in the people who are coming into the business.

Mr Graef: There was always some degree to which Oxbridge candidates had a head start. I do not particularly care whether somebody has been to university.

Q690 Baroness Bonham-Carter of Yarnbury: I really meant people you know.

Mr Graef: I know what you mean but I am saying that the person I know who feeds me people is an old colleague of mine, David Lloyd, who runs the City University Documentary and Current Affairs programmes. As part of their course they come to us, not all of them but many of them. So if they come out of City University, because I know David knows what we are doing, then I trust them. It is not because David is a friend, it is because they are being trained properly. It is the same with the National Film School and the London Film School. They come from where people I know are giving them the kind of message and they will have seen the right number of films. Again it is a question of what people watch and what they learn; how they watch critically and really see why Wife Swap is different from Breaking up with the Joneses. They are both about families but one is a completely structured staged thing with a bible saying that if they have not fallen out by day three make them fall out, and the other follows the family. If you just watch the programmes they are both very
similar. So it is the ability to watch critically and understand the difference and so on. It is not because somebody is someone’s son. I will let them come for a week or two but I will not hire them unless they are good and we test them.

Mr Patterson: When I was trying to get into the business I had no contacts at all. I remember Gary Marshall, producer of Happy Days and all sorts of things that make a good producer, came and lectured at our American university and said, “The good news is that if you are good enough you will make it because there are not enough good people”. I think by and large that is still true. I think we all want someone to walk in that door who is great; somebody to send us a script that is great. We are always looking. Clearly if you know somebody that is significant, but I think we are all still looking. The problem is, as you are alluding to there, is that there is less training. I also think—and this is a very difficult area to get into and I do not want to be specific—that the same companies are getting all the commissions. It often is companies where the person who runs the company used to work for that broadcaster or the other way round. I do not feel this so much with the BBC because it is so enormous. This is only my experience and it could be statistically completely wrong if someone were to look into it, but the experience we have at the moment is that the same companies are getting all the commissions and there are some very good ideas going around out there which are not getting commissioned.

Ms Wood: It has been like that in our area but I think we have gone beyond that now because there are only a few of us left who can actually make anything, but that used to be the case. They used to be called sweetheart deals I think. My own experience is that I never went to university and I do not know how I have become what I have become really other than through a passionate belief in the importance of children’s imaginative development which began with my experience as a teacher and I was invited into television. So I in my turn try to invite into Ragdoll people from outside, particularly from children’s literature for example. I hope to be making a series at the moment with a very, very gifted young illustrator. But I have to go looking for them; they do not come because they do not actually see that there is anything worth coming to children’s television for any more.

Mr Patterson: We are all in a weird position in that I think that if you look at all three of us and the stuff that we make I believe we are from a certain sector; we are not fundamentally trying to make money. What we are trying to do is make programmes. Obviously you want to make enough money that you can live comfortably, but it is more important to us that we have enough money to make the programmes. There is an old adage that knocks around where you have the words fast, cheap and good. You can take any two of those but you will not have the third. So if it is fast and cheap it will not be good; if it is good and fast it will not be cheap; if it is good and cheap it will not be fast. Eventually you get squeezed on one of these and I am sure it is the case in the children’s sector and with documentaries. We find that each year they want us to make the show for less and what happens is that you start going, “Okay, that new person we were going to bring in, that extra researcher who is not necessarily so valuable, they are not on any more”. That is where I think it all ties into what you are asking, it is just getting squeezed.

Chairman: I would like Lord Inglewood to pick up from here with issues that might bear on this.

Q691 Lord Inglewood: I want to ask you a bit about the process because we have seen over the last 20 years or so significant changes in the particular terms of trade and the way in which the business is transacted. I would like to ask each of you how you feel the process—the systemic background to what you are doing—has changed. Do you think the changes that have taken place have been to your advantage or disadvantage?

Ms Wood: The difference is now that you get, if you are lucky, 15 per cent of what a programme costs to make. In the old days when independent production first started—when I started my company in 1984—you would get the full cost of making the show; you would get a production fee and that was meant to allow you to survive until you got your next commission. The fast, good and cheap analogy comes in here because at Ragdoll we cannot develop a show properly in under two years. What has happened with the terms of trade now, which is affecting the whole of the industry, happened with us ages ago. We invested a million pounds we did not have in Teletubbies ten or 12 years ago. Up until that time the bank had held our family home against borrowing so one was not able to make those kinds of leaps, then when we had a back catalogue, the bank held the back catalogue. The house was off the bank’s books, which is all I was gambling with, so we took an enormous creative risk and financial risk and made a programme that earned the BBC £200 million to date. That will never happen again because, unless you can make something like 65 per cent gross profit on turnover you have nothing left to invest in a show of that scale or of that innovation. So that opportunity has gone.

Q692 Lord Inglewood: The reason that opportunity has gone is the fact of the relationship that was put in place by the terms of trade.

Ms Wood: No, not at all. The reason that opportunity has gone in the children’s area is that you can no longer sell your company to terrestrial broadcasters around the world in the way we could
12 years ago. In the UK, for example, we now have 25 channels all of which are transmitting children’s programmes; 120,000 hours of children’s television are broadcast annually in the UK, of these 120,000 only one in five has ever been made in the UK and of those one in five less than one per cent are new UK originations. The new terms of trade have coincided in the children’s area with this explosion of channels so our way of being has changed in that we are doing officially what Ragdoll have been doing unofficially for some years, which is hanging onto its own intellectual copyright by putting in its own money. Other independent production companies since the revised terms of trade are now able to do this as Steve Morrison I think explained. It has not affected my company significantly at all because we have always been doing it.

Q693 Lord Inglewood: Previously you were able, under the terms of contract, to do the negotiating. Ms Wood: That is right.

Q694 Lord Inglewood: But was the dominance of the commissioner so great that in many instances you could not if you were in your position? Ms Wood: To be honest, 12 years ago the way in which you negotiated contracts was a lot easier than it is now because the source of funding for children was coming from the Education Department, which is no longer there, the BBC Children’s Department and BBC Worldwide and we were the fourth in the instance of Teletubbies. That no longer applies; that system no longer operates. I can only speak from my own experience I am afraid, but the terms of trade do allow more independent production companies to retain more of their own copyright but this is only valuable if there is a market internationally for what they do. I work with younger children because I chose to work with younger children because I wanted to survive as a company and I understood that young children universally worldwide develop in the same way so therefore it should be possible to make something that had a worldwide market. Fortunately for me that proved to be the case. If you are working in the area of documentaries or any kind of area where this is not the case, where there is not that kind of market or you are working for older children (if you want to make a programme, for example, that might raise the aspiration of children in the area of art or science, particularly girls) there is nothing that does that, nothing at all. It is a very complex picture and the terms of trade will help if it means that all independent producers can hang onto their intellectual copyright—because that is all you have after all—but it is not the answer by any means.

Q695 Lord Inglewood: Do the others agree with you? Mr Graef: In our case, just as Anne is suggesting, there is very little international market for our films because they are particularly addressing British issues unless we do co-productions. For my sins I did the first of the co-production in the 1960s because they were arts films about people that everybody in different countries were interested in. That was fine. I have done a lot of co-productions when it was appropriate. I did the first film on Islam with the Germans, Americans and the British, for example, in Morocco. When you have an international subject it is fine, but to do the kind of particular documentaries about British institutions, Australia maybe, Canada maybe (Canada cuts everything to ribbons). There is a co-production treaty now. I wrote mine on a page and a half and got a lawyer to translate into legalise; now it is 35 pages and you have to make sure there is a crew member from each country. It is a nightmare and it has stopped co-productions instead of encouraging it. The commercial basis in which I operate is really to get the broadcasters, wherever possible, to pay for all of it. We have a really lovely idea now which has taken five months to fund properly. It is called The Rise and Fall of Detroit and you can see Detroit is in a very interesting condition right now, but the money we started out looking for was enough to make it; now we are going to have to get the money from somebody else. This is the important bit; when we were funded before the terms of trade we had the insurance and the music cleared because the BBC has a blanket agreement on both. This week there was a film on Pakistan, we had access to the Pakistani Army and we wanted to send somebody there. In the end the producer went inside the BBC because we could not afford the insurance. The insurance would have made such a dent in the fixed price budget that it was not worth filming. It is not worth filming in Iraq, Afghanistan or any war zone unless the insurance is somehow covered, unless they pay for it but they do not want to because they have a fixed price. This is the accountants’ rule, okay. For half an hour abroad you get Y; for half an hour here you get Y. It is really, really hard to change that. In the old days people said, “How much will it cost to make this?” and they gave you the money.

Q696 Lord Gordon of Strathblane: The purpose of this Committee to a large extent is to try to find ways to help the current situation. I think you might agree that perhaps there is very little we can do about increased competition and indeed fragmentation of even the domestic market, but do you think there is anything we could do to persuade the new players in media to do more in the way of
home grown production and independent commissions?

Mr Patterson: I think on those two things there are things you absolutely could do if you told them that that is what they had to do. I do not mean that flippantly. I think left to themselves a new broadcaster is not going to feel, because of economic realities, that they have to go into the kind of areas we go into. Comedy tends to be more expensive than reality shows. I do not believe anybody here would think that there is a lack of reality shows knocking around, but I think there is a lack of comedy. Unless you legislate, people are not going to do it because why should they? That is why I think the BBC is so important, because in a way it is a public service and they have to do that sort of stuff and they do do it. However, in other places when the chips are down, those are the first places that go, drama, comedy and children’s.

Ms Wood: In children’s you would think that if there were 25 channels you would be able to raise money and I can understand from where you are sitting that is a paradox. These channels are completely taken over by cheap imports, usually from America. They have American ownership; there is no reason why they could justify commercially putting any money into a British show. The situation is very complex but the Save Children’s TV Campaign has submitted a memorandum to this Committee where there is a suggestion that a fund be established that will allow an alternative— Let me get the expression correct. We need a new competitive funding model outside of the BBC. In my view that could be organised so that all of the players—the online players as well as the broadcast players—could be obliged to contribute to it, but it would have to be instigated, it would have to be mandatory and it would have to be launched. I am afraid, with government money because it is not going to come in the first place from anywhere else. However, it could be got up and running and it could provide a very serious alternative which would revive something which is actually dying.

Q697 Lord Gordon of Strathblane: What leverage would the government have in insisting on this from digital broadcasters?

Ms Wood: If it was set up in a way that was mandatory so that the producers applying to the fund had to also bring in money from broadcasters and online players—I am not asking that producers be given a handout, I am asking that there is an alternative fund that allows competition to thrive for public service children’s programmes outside of the BBC—you would still be in the same position of having to raise your money with other players but tax breaks have been suggested and tax breaks would help on the part of other companies for investing in such a fund or contributing to such programmes that were created through such a fund.

Q698 Lord Macdonald of Tradeston: In order to make programmes that are perfectly targeted for a British audience, they have to be culturally specific and, as Roger Graef says, they therefore do not travel too well. The attempt to turn broadcasting into a major international industry for the United Kingdom is almost at odds with the cultural service that you say people are getting in decreasing measure.

Ms Wood: Yes, I agree with that. I think that is absolutely true. I was suggesting, however, that there are other media platforms that children are operating for themselves far ahead of us that could also contribute but it would have to be driven by the broadcast platform in the first instance. I believe that certain ITV companies and Channel Five already do try very hard to put decent programmes out for children but they have no money to contribute in any significant way to the costs now which are much higher than they used to be. High definition is very fine but it is very expensive. The design qualities required on children’s programmes are such that you really are operating at the highest possible budget level. You are quite right; I am not suggesting it is an international industry, although I am suggesting that we could be better at it. We used to be the third biggest export earner after film and drama but we are no longer there, but we could be. The export potential of children’s programmes from the UK has seriously been impaired.

Q699 Lord Macdonald of Tradeston: So when you invented Teletubbies you invented a new international language for children because Teletubbies can play almost anywhere, just as if you invest in animation it can be dubbed and played almost anywhere. The international markets are a distorting factor in this.

Ms Wood: Yes, it is.

Q700 Lord Macdonald of Tradeston: It is much more difficult perhaps to make science programmes for girls.

Ms Wood: And for older children, absolutely. It is a distorting factor. When we invented Teletubbies we invented it for the BBC who had no idea what was going to happen.

Mr Patterson: I worked in the United States for four years and the reason I came back—other than personal reasons—was because I felt it was much easier to get something on in this country and make it work than it is in the United States. The way to get something on in America was to do it first here. The first part of what you said that it is culturally specific and therefore harder to get abroad, actually my own experience with Whose Line Is It Anyway? was that it
was the first programme that went out to the United States where we said, “We are going to do it exactly like we did it in England; we are not going to have you tell us that an American audience will want this”. We did it exactly the same and since then all the other ones like *Who Wants To Be A Millionaire?*, *X-Factor, American Idol*—they are all done exactly like they were done in England and they have worked there. So actually I think the issue is to make conditions here right again to be able to have the innovation to make those programmes.

Q701 Lord Macdonald of Tradeston: You are talking about a format sale rather than a programme sale.

Mr Patterson: Yes, I think that is a good distinction; I think that is true. It is a format kind of thing but that is not an insignificant part.

Mr Graef: The point about those conditions—what are the conditions that encourage creativity—is that you have to have money to burn. You have to be able to say, “This isn’t right yet, let’s keep going”. There is pressure to get hits. We did *Rail Cops* about the British Transport Police but nobody had even heard of the British Transport Police before that. I remember being told by the channel controller that they wanted five million after the news. I said, “Sorry, it will be good, it will be popular and we will see how many there are”. She said, “Yes, I know it will be good and popular; I want five million after the news”. We got 4.95 million. I then discovered that nobody had ever got five million after the news. The idea of setting Films of Record a task of doing something that no-one had ever done in ratings terms in a brand new open-ended series, then they moved it to nine o’clock, moved it around all over the place and still the audience followed it but then they did not renew it because there had been too many uniforms on BBC with the new controller. We had actually come up with what appeared to be a hit. The audience followed it all around. It did exactly what they wanted and then they said “No” because at that moment in that year they wanted a change. That is the kind of market we live in. That answers your question about positivity, then the question becomes “Where’s the burn money?” When we started Channel 4 Jeremy Isaacs had something like £500,000—I cannot remember exactly—some back pocket money where if somebody came to him and said, “I want to do three hours Pina Bausch from Saddlers Wells”, he did it. “I want to do King Lear from Granada with Olivier”, they did it. It was not on the basis of ratings; it was not on the basis platform predictable outcomes. It was burn money and it was what made Channel 4 what it was. I think instead of having accountants to predict everything we need to encourage. Ofcom needs to do this; the Arts Council, NESTA and all the people who are interested in innovation should be saying to the BBC, “Let’s have caps and go through an MP’s expenses exercise with senior executive salaries and use that money to fund innovation”.

Q702 Baroness Bonham-Carter of Yarnbury: I want to ask about the opportunities you have. Has the existence of the WOCC—Window Of Creative Competition—been of benefit? I know there is no competition in the area of children but has that been of benefit to you two?

Mr Graef: It has to some extent because they really want to give us more programmes than current structure which supports the internal house. Does everyone know what the WOCC is, by the way? Basically there is X amount that is guaranteed to in-house, Y amount that is guaranteed to “indies” and the bit in the middle we can compete for. Yes it has, because they like our ideas and they trust us to do things. To take *Panorama* for example, they only have a small number of slots for “indies”; we have most of them. That is a problem for us because we are coming up with other ideas and they are saying, “Sorry, you’ve already got them; we can’t do that”. So real competition is not there. When we were at Granada there was this fact that we did not have to keep selling the next programme, we were being paid to think (it was the first time I had ever been paid to think). You want enough in-house people so they have a critical mass that thrives. To come back to your question, one of the weaker parts of the BBC structure is that BBC4 is only on from 7.30 in the evening for a few hours and with a low budget. If BBC4 was treated the same way that comedy in BBC3 is treated as a kind of seedbed, I think you would find more risk being taken in BBC4 with more money promoting it and the BBC’s own rationale justified visibly. This is another thing you could change perhaps or perhaps your Committee could recommend to Ofcom. Some years ago the BBC decided only to promote a very small number of programmes, the ones that would make the most impact. You may have noticed yourselves that week in, week out, day in, day out it is the same programme being plugged right across. You say, “Hold on, you are actually doing lots of other good stuff, so why don’t you tell people about it?” “No, because we want to maximise the audience”. That is exactly what they should not be doing. People need to know what their money is going on and they will not keep the extra licence fee going unless people realise just how rich the BBC actually is. That is where this mindset works against it. Real competition is, I think, lively and healthy and so on. When it is only a kind of narrow demand on a very small number of programmes that you can go for it is not rich enough. I think they need to open out more and really let those in-house teams thrive, but they closed the documentary department last year. There is no BBC
in-house documentary department. This is the interesting thing about that, instead they went into specialist factual, now specialist factual writes scripts. They are about history and so on and you can predict what is going to happen; that is why they are specialist factual science and so on. With documentaries a lot of us go out and explore without a script. We can say, “This is what we hope, this is why it is a problem, this is what we are trying to do” but it is a very different ethos and that is why we get work. At the same time, we need to grow those open questions, not the closed ones with answers already written before you start filming.

Q703 Lord Macdonald of Tradeston: If we take the figures we have been given, the BBC at present is relatively well-funded. A lot of what you are saying is that it is reapportionment inside the BBC budgets.
Mr Patterson: Yes, that is right.

Q704 Lord Macdonald of Tradeston: Given that a lot of the cost that has been pushed up is through the cost of talent who have been the great beneficiaries from the opening up of the markets, since the market is now closing down in public service broadcasting is there not the opportunity then to scale down the fees to a lot of the talent and in fact make cheaper comedy programmes which are just as good and perhaps even better?
Mr Patterson: They are bringing it down, to be fair on them. One of the things that has happened to us is that they have said, “You can’t raise them this year; if anything it’s a hold or going down and we will back you up on that”. In the past they have not always backed us up, they have just said to go and talk to the company and we get squeezed from both sides... This year they have backed us up with the talent thing. Talent is a significant part of the budget. I think it is horses for courses in terms of whether a certain programme costs a lot or costs a little. There are times when I have been squeezed and you come up with a better idea and that is true, but I agree with you that in order for good stuff to come through there must be less of a climate of fear, fear of failure. One of the biggest broadcast changes in my lifetime, I think, is the fact that the BBC at some point, a number of years ago, became worried about ratings. The reason it became worried about ratings, I have to say, is because they were worried about the government’s pressure on the licence fee. I can see why ITV worry about ratings but almost any great comedy hit you care to mention did not do well in its first series; there are exceptions but not all of them. All the ones that we love, all the flagship shows that everybody thinks are wonderful I believe that at the time, if it was now, a number of them would not have been brought back. By the way, I know that in a world where everybody is making cut-backs there is this perception of waste, but going back to what I said at the beginning about the BBC, if they stopped going “Unless we are getting five million after the news we’re not going to do that programme” I think you would see better programmes coming through. Everyone thinks it is very fashionable to say that there was no golden age of television; I absolutely believe there was. If you look at what was up for BAFTA over the last few years and look at what was up for BAFTA in the 1970s, 1980s, and the 1990s, I believe there is no comparison and I do not believe it is because there is any less talent around, I believe it is because the fundamentals of how programmes are made have been changed and a large amount is to do with the climate of fear. The climate of fear also exists in the BBC having to respond to Daily Mail kinds of things about free speech, what you are allowed to say and what you are not allowed to say. This does not help in terms of legislation, it is purely my own thoughts, but if some of that fear could be got rid of I think the desire to take risks to innovate, to do things, as I said most of us in this room the kind of programmes we like as opposed to wall to wall cheap imports or cheap reality shows, I think we would all benefit. Television is a weird business in that the product of it affects us all in a different way to most businesses. It is a very complicated business but I think us and our children are more affected by what is on those television screens than almost any other aspect of life. It seems to me that it is very important that we have a climate where good innovative shows can be made.
Ms Wood: Can I just add a personal, off the record example? Last year I was trying to get this very complicated programme Tronji away from a particular type of direction which I failed to do; it is going out but it is going out with a lot of BBC meddling which I am a bit unhappy about. In one of the meetings a young man aged about 30-something I suppose was in the discussion and I was fighting my corner. I said to him, “What is your problem with the ideas I’m putting forward? Are they too intellectual?” He said, “Yes”. So I said to him, “So you are saying to me that you don’t want children to be intellectually challenged” to which he said, “Yes”. He said, “What you don’t understand is that children have their finger on the remote and Dastardly and Mutley and all this American animation is on the other side and they will switch if we challenge them in this way”. I do not want that to be quoted.

Q705 Chairman: Unfortunately it will be quoted but I do not think you have said anything that will get you into trouble.
Ms Wood: It is actually so serious, that you cannot have a serious intelligent conversation about programme content in certain areas. Not in all, I have to say, but in that particular instance.
Mr Graef: I do not agree with Dan on this question of the BAFTA business. I am on the BAFTA jury as it happens and/or the RTS juries and the quality of documentaries that is going out at the moment and indeed programmes like Samantha Morton’s film Unloved which I hope some of you saw at the weekend, I mean there is brilliant television being made and there are some really terrific commissioning editors who want to take risks. The point about the climate of fear is that they do not feel empowered to do that; they do not feel that they can risk the money. We are already looking at 2010/11 budgets and 2011/12 budgets because the money for this year is spent, and it was spent months and months ago. If you only have a tiny amount of money left then you just do not take risks. That is the point about burn money. If you did legislate and were able to say that each broadcaster including, God forbid, the digital broadcasters, should have a pot of development R&D; every other industry has R&D as part of its major investment.

Q706 Chairman: What you seem to be suggesting is that in some way we should stop making a distinction between public service broadcasters and other broadcasters and say that everybody is a public service broadcaster and that everybody should have a duty under your regime, as it were, to contribute to the quantum of high quality public service broadcasting.

Mr Graef: When the IBA was around it was terrific in that respect because it held everyone’s feet to the flame. It was not just Granada who had wonderful people at the top. Thames—which was more interested in money—did wonderful programmes too. They had to.

Q707 Chairman: How do you sustain that in the context of an enormous variety of digital opportunities and numbers of channels which can carry an enormous quantity of programmes which have been made and paid for somewhere else? When we come to the question of what it costs to produce the work that you are doing—which I think I will ask Lady Eccles to ask about—then it has to be put in the context of what it costs to buy other things in, does it not?

Mr Patterson: Yes.

Mr Graef: Yes.

Q708 Chairman: So when you talk about burn money you are talking about money which a broadcaster could, for example, spend on buying additional programming from somewhere else.

Mr Graef: Yes. It is a question of where that money would come from. It is an investment in the creative industries; this is an investment in the future understanding of our own society; it is an investment in the arts and music. I do a lot with young offenders and the Koestler Trust for art in prisons shows that there is a huge amount of talent locked up inside costing £28,000 or £30,000 a year doing nothing whereas if we actually gave them the chance to use those labs you were talking about earlier on in school all this sort of stuff would be interactive with television if we had enough left hand/right hand kind of conversations. There is plenty of money sloshing around; it is just being used in a creative way.

Mr Patterson: There is a certain amount of cost to make a certain kind of programme.

Q709 Chairman: Can you tell us what that is?

Mr Patterson: A sitcom in this country costs—I do not know exactly because I have not done one for a while—well over £200,000.

Q710 Chairman: £200,000 for what?

Mr Patterson: Per episode.

Q711 Chairman: For a half hour episode.

Mr Patterson: For a half hour episode. In America that same sitcom would cost well over a million dollars. The argument that is always knocking around here is why can we not do more sitcoms like those big American ones. The answer is because money is invested in it. I wrote a sitcom for the BBC with two other writers in the 1990s and three of us shared a tiny amount for writing each of these episodes, each of which took six weeks to write. In America you attract people because in life you generally get what you pay for. If you go to the satellite places they tend to offer you about half what you would get at a terrestrial place to make the programme. Something has to give in that. When you look at comedy entertainment shows on the satellite broadcasts—all the new digital ones—they tend not to be as good as the ones like Have I Got News For You?, QI, Mock the Week (the big ones that are knocking around) because they are done to the right extent. What you see on television is the tip of the iceberg in terms of the writers who have been doing their job and the researchers who have been doing their job and making sure it was all done properly. It does cost a certain amount and my fear is that if all the new opportunities are only in digital and the satellite places, you cannot make that genre. Drama and sitcoms do cost more. On the other hand we do get satisfaction from them. If you were going to name your ten greatest television moments I would imagine that some of it would be great drama and great sitcoms, and I would imagine few of them—not all of them because I think there is room for everything in broadcasting—would be in reality television.

Ms Wood: Can I just tell you about In the Night Garden? In the Night Garden cost £16.5 million to make, which is a small feature film budget. There are
a hundred episodes which, even as I sit here my sales person is in America trying to sell it to PBS in the States; we have already sold it to China. We took that risk—a huge creative risk—in association with BBC Worldwide. What has also got to be remembered is that there are no high culture/low culture barriers. If you make a hit like In The Night Garden we are in conversation with both the Victoria and Albert Museum and the London Symphony Orchestra to do events and to set up exhibitions and performances of music, with Derek Jacobi’s voice in a Peter And The Wolf kind of way. There are spin-offs if you care enough about the content. What we are talking about is quality content provision. Quality content provision can go into all these platforms. If you leave the digital providers without any specialist knowledge, you will get violent video games because that is the tradition it is coming from. If there is no specialist content provider prepared to take the risk and think ambitiously then you will get a rather pathetic output. You have to be brave.

Q712 Lord Inglewood: I want to ask one question and that is in your individual experience do better quality programmes make more money and do better?
Ms Wood: Yes.
Mr Graef: They do better but they do not make more money.
Ms Wood: They do in my case.
Mr Graef: There is just one thing I wanted to bring up again and that is the burn money. It is not the burn money to make the whole programmes; it is burn money to develop the programmes. It is the idea that you do not have the pressure to produce it instantly, you can try things, just simply explore unchartered areas. Everyone says the want innovation, by the way. All the commissioning editors say they want to break through new ideas; they talk it up but then the culture of fear produces a regression to the mean. What you need is money on the edges of ideas in the known universe. Of course on the web a lot of that happens and kids just do it for themselves; people make little web films and show them. That is a community that is operating all by itself away from television. I am in television to reach people so I want to make sure that I am in a conversation but I need some money not to have to come in immediately to fit into certain slots with X or Y number of viewers. That is not the way good films are made.
Mr Patterson: When you ask if better programmes do better, what do you mean by better programmes?
Lord Inglewood: Collectively you have been telling us about wanting to make better, higher quality programmes and I was using the words in whatever sense I thought you had been using them to us.
States. I think what I am trying to explore is whether you feel, at the end of the day, that the quality we produce here in this country is going to see us through, will prevent people from pressing the button and looking at the animations coming over from the United States? Or are you genuinely worried that there are going to be some quite fiercely competitive channels coming over from Europe and from America?

**Mr Graef:** In my field I think documentaries have never been better made. They are really wonderful documentaries all the time, but it is a question of whether people see them or not. I think marketing is a crucial ingredient in this. That is why I mentioned the point about the BBC shooting itself in the foot in not promoting its best films. I am not so worried about foreign competition because I think our documentary and film makers are as good as any in the world. There are some wonderful ones around. *Storyville* is another example of what I am talking about, which is a programme which invests in foreign film making, but they only have a modest amount of money. I long ago urged the Director General to give them an extra million quid and it would change the whole landscape of world film making because they invest all over the world, just as *Film4* did when it started. We are not at threat from everywhere else, it is really a question of whether it will just implode through lack of internal support.

**Mr Patterson:** In my particular area I do worry actually. I think there is some very good programming being made. When I mentioned the golden age, it is not that we do not have anything great at the moment, there is great programming being made but I think it is harder to do it. By the way, I do not know about Europe, I think there is some very good stuff coming in from America. Most of the comedies that I really like are coming in from America. I do not see America as a big threat; I think they cost a certain amount. I do not believe you can do that except through the broadcaster. I think there will be cheaper things coming through and, talking about the fear factor and the burn money, being able to do things on line will help certain genres no doubt, and you can do it on the web. It does not have to be a broadcaster paying for that, it is much cheaper. By and large if you are doing studio based comedy shows they cost a certain amount. I do not believe you can do that except through the broadcaster. I think there will be cheaper things coming through and, talking about the fear factor and the burn money, being able to do things on line will help certain genres no doubt, but the amount of money they are offering means it is self-selecting, there are only a certain number of kinds of shows you can do. I do not know enough I am afraid in terms of selling things in terms of the digital thing if that is the way your question is going.

**Q720 Baroness Bonham-Carter of Yarnbury:** You have been talking through this session a lot about the negative effects of budget cuts and lack of money and so on, but we are living in a world with new technology. Looking at this more positively, to what extent does the new technology and new ways of thinking allow you to make the programmes you make more cheaply?

**Mr Patterson:** I have one or two projects knocking around which you can go out and shoot on a street and you can do it on the web. It does not have to be a broadcaster paying for that, it is much cheaper. By and large if you are doing studio based comedy shows they cost a certain amount. I do not believe you can do that except through the broadcaster. I think there will be cheaper things coming through and, talking about the fear factor and the burn money, being able to do things on line will help certain genres no doubt, but the amount of money they are offering means it is self-selecting, there are only a certain number of kinds of shows you can do. I do not know enough I am afraid in terms of selling things in terms of the digital thing if that is the way your question is going.

**Q721 Baroness Bonham-Carter of Yarnbury:** I was also thinking of cameras, editing and so on. Can you not make things much more cheaply?

**Ms Wood:** You can make it with much fewer people. One of the exciting things about the new technology from my point of view is that I am finding the talent that I am developing as an authorial talent is able to control the writing but also the editing and even the music. So you can find the kind of auteur for children’s programmes now. The people who are really good at children’s programmes are gifted; it is a gift to do that particular kind of work. With the new technology you can control that within a small authorial group of people and that is very, very exciting but it is no cheaper. When you come to execute the idea, if you are working on high
definition, your editing and your rendering time is horrendous so that you are paying people for longer in the post-production side of things which more than overtake the costs. There are great advantages but you need the time that Roger was referring to to allow that process to happen. It can take anything up to two years if you are going to make something like *In The Night Garden*, for the sake of argument. This is what public service is about as distinct from the commercial. If we lose the ability to make the kind of programmes that are clearly made with the public service remit, even if they do make money later, but they may not, they still are valid.

*Mr Graef:* There is a paradox here. The answer is yes, cameras are much cheaper, the editing equipment is quicker and so on which means that the accountants look at that and say, “Great, you can do it in half the time”. But it is thinking time. In the days when we started making television, when you actually used film, just the amount of time it took to rewind the tape would give you a chance to think. When you match that with younger people with the training problems we have discussed who are not getting the collective knowledge that was passed on by being with people who knew and had been there, you have people producing stuff which they can actually put out instantly on the web, by the way, or at least send to Sky News or BBC from wherever it is. We have not even talked about this user generated content which is a huge new thing, but there is no editorial intervention because the pressure on news organisations to be first means they are all watching each other so you can get a loop of disinformation reproduced across the whole of this huge 24 news network which then animates the current affairs people to say, “Oh, we must do something about that”. It takes time to send somebody to primary sources; you do not hear that phrase any more because they have Wikipedia and they think that is a primary source. There is a culture of erosion of what authenticity is.

*Q723 Lord Maxton:* In a very short period of time you will not be able to differentiate between the web and television.

*Mr Graef:* We are making a crime series which is the biggest BBC1 factual project this year. There is a huge website about crime and what you can do about it and all that. That is taking us as much effort as making the series. It is not a shortcut but it is a very useful thing.

*Q724 Lord Maxton:* It is for you but when each person essentially becomes their own broadcaster on the web which their friends can then watch on television then you are in a new ball game.

*Mr Graef:* They virtually can now.

*Q725 Bishop of Manchester:* Is the building of MediaCityUK of any relevance to your companies?

*Ms Wood:* Not to mine, I am afraid. I am middle-sized, I am in middle England and I employ about 60 people full time local to me and that is really all I can offer.

*Mr Graef:* You are talking about the one in Salford I presume. I just wish we had the money to make programmes.

*Ms Wood:* Yes, hear, hear.

*Mr Patterson:* I do think the web and online stuff is going to revolutionise things in a way that we do not even know about yet.
WEDNESDAY 3 JUNE 2009

Memorandum by Lord Puttnam

1. Digital Cinema

Over the next five to 10 years, digital distribution will increase very significantly in the UK and around the world. Currently 10% of UK cinema screens are equipped for digital presentation, succeeding the long-established industry standard of 35mm projection. Digital enables much greater flexibility of programming as well as an image on screen that does not deteriorate due to wear and tear.

Currently it costs around £1,000 to strike a conventional film print; digital upload from a portable hard drive onto the cinema’s projector costs considerably less, even allowing for bandwidth and/or technology licensing fees (which would be driven down over time in any event). Even on small releases (10–20 screens) this represents a significant saving. On large-scale releases (200+), even more so.

However, while the UK’s modern multiplex infrastructure has developed entirely over the last 20 years (the first multiplex opened in 1985), the town centre/independent cinema infrastructure dates back many decades—in some cases converted theatres built in the 19th century. These cinema buildings, well established parts of their local community, have not faced such a complete upheaval/change in technology since the 1920s.

Most vulnerable are the smaller sites in rural/coastal locations—serving smaller communities which cannot afford the transition to digital. The industry’s transitional model—the virtual print fee—is most effective for larger circuits.

If there were to be Government support for covering or accelerating the cost and mechanics of switchover for these smaller cinemas there’s the potential for a “civic trade off” by way of using cinemas either out of hours, or at specific times of the year, for more obviously public/civic/educational purposes.

In particular, it would be possible to make imaginative use of 3D for community purposes—for example, showing the London Olympic 2012 events live in 3D.

The demonstrations that I have seen of 3D, especially sport, have been extremely impressive and I think its popularity for certain kinds of films and for certain kinds of events, including sport, will very rapidly become apparent.

2. Training

One of the great successes of the present Government in recognising and promoting the UK’s Creative Industries, has been the attention paid to maintaining and strengthening our talent and skill base, though enhanced education and training at just about every level.

If I’ve one disappointment, it’s that there appears to have been little in the way of a matching commitment from so many private sector employers across the Creative Industries.

One of the very first acts of ITV, on being released from a slew of PSB obligations, was to all but walk away from its long and very honourable commitment to training. Presumably believing that in its newly found freedom it will have no need of programmes made possible by the combined talents and skills emerging annually from The National Film and Television School or the industry training body, Skillset.

It could be that ITV has come to the conclusion that it won’t be around long enough to require the services of the next generation of talent.

That’s bad enough for the talent, but it’s a catastrophic indictment of the company’s future from the perspective of its shareholders.
An abundance of talent of every kind is the only certain way of ensuring a bright future for the whole of the sector; combine that with a consistent supply of world class skills, and you've held down costs whilst creating what would seem to me, an unbeatable combination.

The National Film and Television School is one of the cornerstones of our training sector. We would be extraordinarily myopic and foolhardy were we to do anything which imperils its ability to be fit for purpose in a digital age.

Maybe it’s because all of this is so self-evident that it gets remarkably little attention; but I get the sense that many employers, who honestly should know better, seek to evade or avoid their very obvious responsibilities in this area.

28 May 2009

Memorandum by Mr Michael Kuhn, Director, Qwerty Films

1. My name is Michael Kuhn and I run Qwerty Films, an independent UK production company.
2. I've been in the film business for over 20 years.
3. I built up the only UK based World Wide integrated film production and distribution company of modern times (Polygram Filmed Entertainment).
4. I attach my resume (Appendix A).

Observations on the Independent Film Production Business

1. Historically the UK contributes significantly—an annual average of 10%—to the global English language film business.
2. In recent years UK producers have regularly produced a significant number of movies with exceptional international success and profitability.
3. However, the UK production community has always suffered from insufficient capital being available to support it in a sustainable way. The UK Film Council has failed to remedy this despite it being within their remit and resources.
4. The main issues that are needed to remedy the situation is to group together the top four to six producers (who account for nearly all commercially successful UK films) to create a sufficient large slate of films that are capable of being financed.

Funding Required

My company has modelled the amount of funding required to create a slate of 18 films within the budget range of £5,000,000–£12,000,000 (being the normal budget range of independent British films). We estimate that if the independent producers were to raise 50% from a combination of UK pre-sales and UK tax and a limited amount of foreign sales, and the balance were to be provided by a funding organisation, such as the UK Film Council, the amount the Film Council would need to raise would be approximately £100,000,000 of which £65,000,000 would be debt and £35,000,000 Film Council equity. This equity element would be spread over three years and could be funded, in my opinion, from existing UK Film Council resources without derogating from its other responsibilities. I attach a summary of the proposal (prepared for raising the money from commercial sources) (Appendix B).

I would be happy to give further evidence if required.

4 March 2009

APPENDIX A

Michael Kuhn Bio

Michael Kuhn was born in Nairobi, Kenya in 1949. After primary school he left to attend Dover College in England in 1962 and went on to Clare College Cambridge in 1968 to read Law.

He joined Polygram N.V (now part of Universal) in 1975 and in 1991 set up Polygram Filmed Entertainment, which made and distributed over 100 feature films and which between them won 14 Academy Awards. These films included “Four Weddings and a Funeral”, “Notting Hill”, “Dead Man Walking”, “The Usual Suspects”, “Lock, Stock and Two Smoking Barrels”, “Elizabeth”, “Trainspotting” and “Priscilla, Queen of the Desert”.

APPENDIX B

Summary of the proposal (prepared for raising the money from commercial sources)
He set up Qwerty Films in 1999 and secured finance to produce bigger budget movies and has investments in a music company, theatre and a film development joint venture with the Film Council. Qwerty Films has produced eight features in its first six years of operation, including “I Heart Huckabees”, “Kinsey” and “Severance”, and the recently completed “The Duchess”, starring Keira Knightley and Ralph Fiennes, which was released in September 2008 by Pathé in the UK, and by Paramount Vantage in North America (Bafta and Oscar win for Best Costume 2009).

His book “100 Films and a Funeral” was published in 2001 and a documentary based on it is being released this year.

He was appointed Chair of the National Film and Television School in 2002.

**APPENDIX B**

**Investment Return Summary**

<table>
<thead>
<tr>
<th>Funding Summary</th>
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<tbody>
<tr>
<td><strong>Equity—Investment as % of Neg Cost</strong></td>
<td><strong>Budget GBP—£000s</strong></td>
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<tr>
<td>Producer-Sourced Investment</td>
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<td>UK Tax Credit</td>
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<td>Recoupable “Soft Money”</td>
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<td>UK and Other Pre-Sales</td>
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<td><strong>Sub-Total</strong></td>
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<th>GBF Investment</th>
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<td>From (say) Film Council</td>
<td>43.75%</td>
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<tr>
<td>Debt</td>
<td>56.25%</td>
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<tr>
<td><strong>Total</strong></td>
<td>100%</td>
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**GBP—£000s**

| Total Cost | 169,300 |
| Total Equity | 44,600 |
| Total Debt Required | 44,600 |
| Total Funding Required | 89,000 |

| Peak Cashflow Equity | 20,000 |
| Peak cashflow Debt | 17,000 |
| Peak Cashflow Total | 37,000 |

Funding committed, say 55,000

**Investment Summary**

| GBF—£000s |
| Investment in Slate | 80,000 |
| Monies Recouped | 100,300 |
| Tax Credit Fee | 800 |
Nominal Catalogue Value 1,100
Development and Overheads (6,400)
Interest on Debt (2,900)
Slate Fees Payable (2,900)
Recovered Development and Overhead 8,000
Sub Total 18,000
Return on Investment 22.60%

Examination of Witnesses

Witnesses: Lord Puttnam, a Member of the House; and Mr Michael Kuhn, Qwerty Films, examined.

Q726 Chairman: Thank you very much for coming this morning both of you. One of you we know rather better than the other but there will be an equality of questions as far as this is concerned. Just to start with a bit about your biographies, Lord Puttnam, how many films did you produce in your career?
Lord Puttnam: 30.

Q727 Chairman: 30 films in that time? Including things like Chariots of Fire and The Killing Fields.
Lord Puttnam: And some far less illustrious ones, Chairman!

Q728 Chairman: I see that you are now the President of the Film Distributors’ Association.
Lord Puttnam: I am.

Q729 Chairman: And you wrote this extremely good book The Undeclared War, which is not about the current Cabinet (I thought I might get that in!) but it is about the film industry; is that right?
Lord Puttnam: Yes.

Q730 Chairman: Michael Kuhn, tell us a little about yourself. In the last few years you have produced I think it is eight in the last few years and before that I set up a company called PolyGram Filmed Entertainment and we made or distributed about 110 films, something like that.
Mr Kuhn: I think it is eight in the last few years and before that I set up a company called PolyGram Filmed Entertainment and we made or distributed about 110 films, something like that.

Q731 Chairman: We would like to come back to that because that is obviously a very important part of recent film industry history. Let me start by asking you this: in 2002 Sir Alan Parker, who was Chairman of the Film Council at the time, said: “We [in the United Kingdom] can never be the biggest film industry in the world, but we should be right up near the top of the league, not permanently hovering in the relegation zone.” Do you think that is a fair comment on the UK film industry today?
Mr Kuhn: My main theme I really want to talk about today is how after all this time and effort, and despite commercial success, we still do not have a sustainable film industry and what we can do to make a sustainable film industry. That is my simple theme.

Q732 Chairman: In essence, is it fair to say what the Commons Select Committee said about five years ago that the United Kingdom film industry is producer-driven and there is an enormous amount of talent and it produces some extremely good films, but when it comes to being a successful film industry it is not distribution-led and therefore is not as successful as it might be? Is it that contrast between producer-driven and distribution-led which is one of the reasons for our relative lack of success?
Mr Kuhn: Yes, just off the top of my head I will give you a very simple example from years and years ago. There was a little film called Waking Ned Divine which cost a small amount, a few million dollars, and I think from memory it did $70 million worldwide at the box office, and I did a calculation showing that if that had been distributed by a studio which had the distribution margin and all that on a worldwide basis it would have generated for the producers $30 million profit pre-tax. In fact, the producers I think got back less than $5 million, so even if you have a hugely successful film like that and you are just the producer, the amount you get back is not sufficient to allow you to reinvest and create a sustainable business whereas for a studio a big hit like that is, and that is really the difference.

Q733 Chairman: Is that your view as well Lord Puttnam?
Lord Puttnam: Yes, it would be. I can think of another film, a very nice little movie, again a small film called Hear my Song which I think, to everyone’s amazement, and possibly even the producers’, got terrific reviews and a lot of wonderful word of mouth but of course they had only made about three prints. By the time they had re-organised themselves to actually make enough prints to satisfy the demand the media wagon had moved on and by the time the film limped into more cinemas it was way too late. That for me would be a classic case of a film which actually could have made a great deal of money but the distribution mechanism was not there to exploit it.
Q734 **Chairman:** And has the world changed because of the digital revolution? All our assumptions about distribution, are they the same assumptions as five years ago?

**Lord Puttnam:** If you are prepared to look ahead certainly the situation that will be emerging with digital cinemas will be much more flexible, you will be able to move much more quickly and you can probably adapt—and I bow to Michael’s more current knowledge—your marketing budget more rapidly and more intelligently to the marketplace. That will be one of the many advantages of a move towards digital distribution.

Q735 **Chairman:** But it does not negate the traditional distribution system?

**Lord Puttnam:** No, the big issue is that we have seldom had the resources in this country for a marketing executive in a studio to be able to look at a film and say, “I think this could be a huge success,” and then have the courage to put the sort of resources behind it that would drive it that success. By way of example, when I was making films in the early 1970s in the UK for EMI the rule of thumb was that they spent ten per cent of the production budget of the film on promoting the film. Irrespective of whether it was going to be successful, it was ten per cent; that was the way they did it. In 1977 when I did Midnight Express, Columbia Pictures looked at the film, which had cost $3.3 million, and they spent $6 million promoting it, and made a fortune. That sort of thinking and ambition would have been unimaginable in the British film industry at the time.

Q736 **Chairman:** You have both got experience of this. Take us to that comparison between the UK and Hollywood. Is it totally unrealistic to think that the UK can ever be a competitor to Hollywood?

**Mr Kuhn:** I think it depends at what level you mean. If you mean can the UK produce films that equal Hollywood box office, I think we definitely can, and I have attached on my submission examples of films that were modestly budgeted that certainly a Hollywood studio would be thrilled to have, whether it is the Full Monty at over $200 million or, going back to a film I made Four Weddings and a Funeral, which was $250 million. Those are Hollywood level films. It is unrealistic to think that we can get the capital base needed, or it is very hard to imagine how it can be done to rival the Hollywood studios to pay for the negative costs and the marketing costs. For example, when I was involved with PolyGram Films, the total capital required was somewhere in excess of $600 million to have a fully integrated studio operating worldwide. It is very hard to imagine how you could raise that out of the UK today. That does not mean to say that we cannot do something to create a sustainable film business that operates on a basis whereby you access some of the margin that a studio has in return for having fully-financed films, and therefore you do not get the full benefit of worldwide distribution but you get some of it.

**Chairman:** Let us take that forward. Lord Macdonald

Q737 **Lord Macdonald of Tradeston:** Can we just know a little bit more about past experience before looking forward. You had over 100 films with PolyGram which is obviously a very substantial portfolio, and therefore a lot of the arithmetic of portfolio investment should have been worked out in that time. Did it actually work out as being profitable as a business model for the investors at the start?

**Mr Kuhn:** I can answer that because when PolyGram was sold and I had the opportunity to try and sell the film operation as a separate stand-alone entity we put together a book, obviously, for potential investors showing that over the next three years with the current portfolio and the distribution system it would generate 15 per cent operating margins, which most studios would be thrilled to get today, so the answer is yes, it did.

Q738 **Lord Macdonald of Tradeston:** Looking back again at the Philips investment in PolyGram, this was obviously a company interested in video and television production and so on, but coming from a Dutch source is rather unexpected. What can we learn from that PolyGram model and are there the equivalents, the unexpected equivalents today, perhaps, of Philips, who would be prepared to come in and take a risk in this global market?

**Mr Kuhn:** Philips were dragged kicking and screaming into the entertainment business generally because they basically inherited, originally, the family interests of the Siemens family and the Philips family, with Deutsche Gramophone and Philips classical labels. They caught the Beatles wave and suddenly had a huge entertainment company by accident. What I learned from it is that it is very rare and very hard for hardware companies to understand the ethos of software companies—if we look at GE now, there are a lot of tensions between GE and the entertainment side because it is just not a natural fit. Can it be repeated now? That was then and this is now; the whole world has changed so tremendously that if there are entities that are going to get involved in that kind of activity it will be companies that are in the new media.

Q739 **Lord Macdonald of Tradeston:** Looking forward to the new media and referencing an article in The Economist of 23 May, the assumption is that the old models are very difficult to sustain now and
the film industry might be going the way of the music industry.

Mr Kuhn: There are two ways of looking at it. Here is the optimistic way: if you were running General Motors you would get up in the morning and want to kill yourself, because not only are you making losses but no one wants cars. That is a big problem. It is a different sort of problem when you say everyone wants movies, everyone wants music, but how on earth do I make money out of it. That is a different quality of problem.

Q740 Lord Macdonald of Tradeston: But everybody has got a remote control, they are not necessarily near a cinema and, particularly for British films, with something of an arthouse tradition to them, it looks as though video on demand might be the way forward. I look at the names mentioned here: IFC, Synetic and Magnolia as distributors who are moving in to try and develop this video on demand market. Is that a way forward for British films?

Mr Kuhn: Personally I think the studios will find their way through it, but it is going to take some time. I was at the centre of the music industry when they were overtaken by the internet and the reason was, in my view, pretty simple: it all comes down to human beings. They sit there on a Monday morning and think should I (a) spend every day, nine till one, with boring people trying to think through what the internet means to the music industry or (b) launch the new U2 album? Guess what the answer was: let us sit and concentrate on the U2 album, someone will figure out this internet thing and they did not, and that was the end of the music industry. To a degree it is the same with the film industry now. Anyone who is just a normal punter will understand that it makes no sense at all nowadays for audiences not to get movies when they want, how they want, so instead of having to wait for a video release so many weeks after. Everything should be price differentiated, so this Friday Terminator 7 is coming out and if you want to watch it at home, all right you can: £100. If you want to watch it three weeks later it will be £50. If you want to watch it on video and so on, so it is price differentiated when you want it and how you want it. But in order to get from here to there requires a tremendous change in the infrastructure of Hollywood and when you are on a five-year very expensive contract, and you get a big bonus if you get a market share of a certain amount—David will tell you more about that—there is absolutely no incentive to sit down and work this all out, which is enough to give you a wet towel and two aspirin every day to think about it.

Q741 Lord Macdonald of Tradeston: Could I ask Lord Puttnam then, do you think that we should be looking for a sustainable model for British film going forward through a combination of the video on demand distribution and the digital distribution to cinemas which become somehow cultural centres for communities?

Lord Puttnam: Yes, I do. I am not at all depressed about the future and maybe I can explain why. The sheer proliferation of outlets today for a piece of material, good or even reasonably indifferent, is extraordinary. My own experience this year, for those who saw me whistling down these corridors a couple of months ago, maybe worth explaining. I got the largest royalty payment for Chariots of Fire this year that I have had for 20 years and that is down to two things: firstly, last year was an Olympic year and there is always a bump but, secondly, the sheer number of television stations around the world that will automatically franchise that film during that period has gone up exponentially. That is despite all the piracy and all the other things we have to bear with. The truth is that there is real growth in this market. The other answer to the question is I do believe that VOD, the move towards digital, the factor of 3D digital, which we should certainly touch on before we leave because that, at least for the foreseeable future, is pirate-proof and that is why it represents an enormous investment for the Americans. All these things testify to the fact that it is not all doom and gloom. The UK’s advantage lies upstream, it lies in the fact that we are still, pound for pound, turning out more talent, more people that other people want to work with and, as a result, more films are getting made in this country than we have any real reason to expect or justify. It is a talent-driven business. The good news for Britain is that, whilst they talk about Hollywood, the Americans have never cared where films got made, as long as they were well-made, made at an appropriate price and had talented people in them. That is what saved us; if the Americans had ever been protectionist about film production as such we would have been in desperate straits.

Q742 Baroness McIntosh of Hudnall: Can I pick that up because one of the things I am finding difficulty in understanding is the relationship between the talent as it were and the business end. We have talked already about this being a producer-driven industry in this country as opposed to, for example, a distribution-driven industry, but you have got to have the material, you have got to have the stuff to distribute and therefore I cannot quite understand how anything can start with the distribution, it has to start surely with the talent. One of the things that we have been trying to think about is exactly what you have just talked about, Lord Puttnam, the relationship between the talent that we have in this country and where the resources are which is, in the main, not in this country, it is in Hollywood. Can you tell us a bit about how that dynamic actually works?
First of all, is there actually a special relationship of any kind between UK talent and the Hollywood movie industry and, if so, how does it work and how does it pay off for us, does it pay off enough? Secondly, is it the case that in terms of the particular quality of UK material, the best of which seems to come from independent film makers, if there were a stronger or more highly evolved relationship between UK film makers and, for the sake of argument, Hollywood money, is that going to have an impact on the character of films that get made in this country?

*Lord Puttnam:* They are two very, very different questions. The character of the films that get made in this country is a facet of the determination of individual talents so, for example, Mike Leigh, Ken Loach, determine to make films that use and work from this country’s history and character. Ridley Scott, on the other hand, who is working in a studio in the UK right now and who makes much bigger films, tends not to see the world that way and makes films about whatever subject he believes can become successful, any subject that frankly justifies the sort of budgets that he prefers to work on. First of all, therefore, there is a cultural paradox. If you want to sustain what we had, if you like, in the late 1940s—Michael Balcon used to talk about films that reflected Britain and the British way of life, that is a cultural activity and we as a nation have to decide how much that is worth to us. If we want to reflect ourselves and our own lives, that probably means investing public money in ensuring that that happens. Another paradox is that we have a disadvantage compared to much of the rest of the Europe in sharing a language with the Americans, because you can make German films for German audiences and you make French films for French audiences and Spanish films for Spanish audiences, and that market is always likely to continue. We share the English language so we do not have that advantage. On the other hand, the actors coming out of our acting schools—and bear in mind we have six of the 12 best conservatoires in the world in Britain so we put out an extraordinary amount of very, very fine actors—for example, share a language with the Americans, our technicians share a language with the Americans, our technicians have a reputation for travelling very well, much better probably than technicians anywhere else in the world, so we tend to deliver into the marketplace the actor and the technician of choice. That may sound rather strange but it is very important. British crews are the crews of choice for people like Stephen Spielberg as and when they can work with them. So we have a number of very, very valuable advantages and this significant language disadvantage which hits straight at your point about the cultural integrity of the films. In France it is very easy to explain why French films should reflect the French way of life but the British have a much tougher cultural argument to make.

**Q743 Baroness McIntosh of Hudnall:** If I can just pursue that for a minute, you are talking on the one hand about as it were the cultural output, which is the film itself, and then you are also talking about the skills that are necessary to make those films or any films, and we have an advantage in that we have a lot of talent that can write and direct and perform. We also have a lot of talent—and I know you are going to want to talk about training it—that can supply a wider film industry. If you look to the future do you see it as likely that we will become more service providers through the skills of our technicians and the capacity of our production facilities, or that actually we will continue to provide a significant quantum of the necessary talent in terms of writing and directing and performing?

*Lord Puttnam:* We have to accept that we are largely in the service industry. It happens to be a very profitable end of the service industry and, as you quite rightly say, it is crucially dependent on our investing in that talent and making sure that our talent base continues to come through, but I do think on balance that our future lies in the servicing as opposed to the cultural end of the industry. Do not forget that we have an extraordinarily strong television base and that also mitigates against the argument that you badly need to have films that reflect British life.

**Q744 Chairman:** I want to bring in Lord King in a moment, but just to go back a moment, Mr Kuhn, to what you were saying, did I understand correctly that PolyGram was sold basically because the business it was in was not the same as the hardware company that actually owned it, so it was as simple as that?

*Mr Kuhn:* Yes, in essence. Obviously, with the benefit of hindsight, they did an incredible deal, they sold an asset that had no value on their balance sheet for $10 billion which, if it was sold today, would be worth under $1 billion, so they did quite well at the time.

**Q745 Chairman:** But it also meant that that part went out of Europe and became part of Universal.

*Mr Kuhn:* That is right, and that is the scary thing when you look at not just the film industry but you look at the games industry. I think I am right in saying that there is hardly any of the games industry owned by the UK any more, maybe with one exception, yet we produce some of the best games designers and all that kind of stuff. In my mind it is very, very simple. We have a sweet spot for the films that we are really good at making, which is the budget range £5 million to £15 million, and that is what we should concentrate on. What is missing is a door you can go and knock on if you are a film maker and say “Here is my great script with this great cast, give me £10 million.” You cannot do that in the UK; that is what we have got to fix. We are not talking about
Ridley Scott—his current movie is, I believe, costing over $200 million; that is not what we are talking about, we are not in that business, we are in a different business.

Q746 Bishop of Manchester: In recent times how many Oscar-winning films have been wholly funded by the UK?
Lord Puttnam: Only one ever, and that was this year, with Slumdog Millionaire. I am very sad to say I only managed to attract £17,000 in total into the budget for Chariots of Fire from this country.
Chairman: That is a depressing statistic, is it not? Let us go on, Lord King.

Q747 Lord King of Bridgwater: Can I go back to one thing which we did not quite cover. On the American-British involvement how significant is the exchange rate? In other words Britain was thought of as an expensive place when we were up to $2. We came down to $1.35, now we are back up to $1.64. Did you see a sort of movement pattern emerging where people would say “We had better do a bit more in the UK because it is a bit cheaper,” or “We will do a bit less because it is more expensive”?
Lord Puttnam: It is not fundamental but it can be very helpful. I have no doubt at all, though I have not asked, that for Ridley Scott’s film currently being made, at that sort of budget, the exchange rate would have been a very significant part of the decision to shoot in this country.

Q748 Lord King of Bridgwater: If I can go on to the key question I want to ask, we are trying to get a picture of what is really happening in the British film industry. Is it pretty stagnant, as some people say, not really making any progress—as Mr Kuhn was really saying a bit earlier— are we just staggering along, not really on an easily sustainable model?
Lord Puttnam: It depends, Lord King, at what point you start the story. I have no doubt at all that things are easier for a would-be or young film maker today than they were when I started in the late 1960s, with one very important exception. My career and all of my contemporaries’ careers were crucially dependent on the existence of the Eady Fund—and I am very keen to raise this. As Lord Macdonald will remember, the Eady Fund was fundamental to allowing at least two generations of film makers to get their early films made. The Eady Fund was a hypothecated tax, set up in 1948, it first actually paid out in 1950, it lasted until 1984 and was responsible for 820 films, some very good films. The important point is that Ridley Scott’s first film, Alan Parker’s first film, my first film, the early work of our entire generation was partially funded out of the Eady Fund; that is not there any more. In every other respect I would say things are better now than they ever have been for people starting out in their career.

Q749 Lord King of Bridgwater: When you look at the UK—and we have just talked about whether there is a special relationship with Hollywood or not—how does it compare with other European countries, would you say? How are they battling through these problems? You have talked a bit about French for the French and German for the German.
Lord Puttnam: It is a little bit like the Champions League in soccer; each year one or other country does rather well and a couple of them do less well, but if you took a ten-year period we all have our moment in the sun. We have had two or three excellent years during those ten years and then the French have had a couple of good years and the Spanish have had a couple of good years. Michael is right. The problem is that we are all playing in the Championship not the Premier League; the Premier League is exclusively an American game.

Q750 Lord King of Bridgwater: Is the moment in the sun in terms of awards for popularity but not for profit?
Lord Puttnam: No, we have had some extremely profitable years—the Full Monty, at $213 million income, is probably the most profitable film pound for pound that has ever been made in the history of cinema.

Q751 Lord King of Bridgwater: How much of that would have accrued to the UK?
Mr Kuhn: Very little. Most of it went to Fox for distributing it in America and I cannot remember who was the UK distributor. To answer your question on the foreign aspect, here is an important thing to notice: almost alone in Europe our films are not funded by broadcasters. In practically every other European country if you get a good project together it will be mostly funded by TF1 or one of the French broadcasters or Canal Plus in France and so on; we are not.

Q752 Lord King of Bridgwater: What about Film 4?
Mr Kuhn: It is pathetic.1 They do great work—he is on the board of Channel 4.

Q753 Lord Maxton: He is Vice-Chairman.
Mr Kuhn: Yes. The point of the matter is—and we agree on nearly everything but these things probably not—it beggars belief that a few years ago Channel 4 bought a package of American films for in excess of

1 The witness has provided the following clarification. Film4, which has had a fabulous year, has had its budget cut when it should have been increased.
S$200 million and then claimed great credit for spending less than £10 million a year on film; ditto the BBC, if you look at their budget for acquisition it is absolutely staggering. We cannot get the exact figures out of them but it is absolutely staggering. I know you had them here the other day and they were saying how marvellous they are, £12 million, but you say against that, how much are you spending on acquisitions?” It is staggering. If I am a French producer and I have got a good project, I go and see Canal Plus or TF1 and they have an obligation to have a certain amount of French-produced product. I am not saying we should have the same thing, I am just saying it is a wholly different thing. We have the disadvantage that David spoke about, which is that we are competing with the Americans for talent, which the French in general are not, or the Germans or the Greeks or the Scandinavians, yet we do not have the help from the broadcasters. We know that that ship has passed, that has gone now because of the plight the broadcasters are in and we are not going to be revisiting it, but it is a very important difference between what happens on the Continent and what happens in the UK.

**Q754 Lord Macdonald of Tradeston:** Surely, to Lord Puttnam if I may, the point is well-made that the BBC with its income of £3.5 billion is spending less than £20 million on film despite the symbiosis between the two mediums; why should that be? You might be in trouble on Channel 4 but would you not say that the BBC should be spending many multiples more on film?

**Lord Puttnam:** I would like to see them spending more money and, given the right political encouragement, they certainly could improve the spend. Let me speak about Channel 4 a second. I am sure Michael did not mean pathetic, I am sure he meant inadequate, which would be fair enough.

**Q755 Chairman:** You think that is better, do you, Lord Puttnam?

**Lord Puttnam:** It is more accurate. We are obviously hugely conditioned at Channel 4 by what sort of audiences different things attract, and the truth is that a reasonably inexpensive single drama gets the same sort of audience as a movie, so it is quite difficult for me to get drawn into that debate. We are now back to the distribution business. If it were possible for the BBC or Channel 4 to organise their distribution arrangements better and to ensure that the films they do make were distributed more globally, more intelligently, then I think things could change, although in fairness the one time that Channel 4 did try to have a global arrangement with Warner Bros it blew up after about three years. It did not seem to work for either party.

**Q756 Chairman:** How would you do that? What part of the BBC would you use for that?

**Lord Puttnam:** It would necessarily come though Worldwide and the only way you are going to do it is by making sure there is a sufficiency of investment, and between Channel 4 and the BBC you could mount enough money to attract serious interest from one of the American studios, but I think sufficiency would need to be somewhere closer to $100 million than $20 or $30 million.

**Chairman:** Lord Gordon, do you want to come in on this before we go back?

**Q757 Lord Gordon of Strathblane:** One of the key challenges is other sources of funding. I imagine that levies are never popular, but on the other hand they did work for a long period in the British cinema. Would you like to see them reintroduced and extended, not merely to the cinema but obviously DVDs, digital downloads et cetera?

**Lord Puttnam:** One of the tragedies was that the Eady Levy fund was abolished not because anyone thought it was a bad idea or because it was not reasonably successful; it was abolished entirely as a result of Treasury orthodoxy, the Treasury hated hypothecated taxation. It was the only hypothecated tax and they wanted to be rid of it. In the end there was a great battle which went on for years and years and years and they eventually managed to scrap it. The industry at large would very much love to have the levy back; the exhibitors might have a slightly different view but I doubt they would argue too much. It was a very successful arrangement because it took from the £200 million budget movies that we are describing here a tiny proportion of their income at the box office and recycled it into UK cultural products; it was a very sensible, sane and successful arrangement.

**Q758 Lord Gordon of Strathblane:** Presumably you could extend that, as I mentioned, to DVDs and digital downloads.

**Lord Puttnam:** You most certainly could. I just got back overnight from Singapore and I was delighted to find that in Singapore, very sensibly, every single DVD sold has a seal on it and you have to break the seal to open the DVD. The seal is a government tax and the seal guarantees the purchaser that it is not a pirate DVD, it is a legitimate product, and some of that money recycles back into the Singapore film and television industry; it is an absolutely sensible arrangement. We tried to do it in this country in about 1987 and it did not survive the legislative process, but it was always a good idea and it would have, I think, have dealt a death blow to the development of piracy.
Q759 Chairman: Why would it have done that? It sounds to me as though it might encourage it in fact if you wanted to try and get round it.
Lord Puttnam: No, because the seal was effectively, if you like, a Treasury seal. That authenticated the fact that on this DVD a royalty had been paid and therefore, by definition, if the police ever found any DVD that did not have the seal on it, it was a pirated DVD, so you were able to separate the wheat from the chaff much more easily.

Q760 Lord Gordon of Strathblane: Would you be content if this fund were reintroduced—would it be distributed via the UK Film Council or would you have another agency?
Lord Puttnam: I would like to see it distributed through the UK Film Council because one of the most coherent things that has happened—Michael may not necessarily agree about this—is that here is a body that speaks with a single voice and is able to represent the interests of the whole of the film industry.
Lord Gordon of Strathblane: If I could turn to Mr Kuhn, I am anticipating that he does not quite agree with you because the only bit you have got underlined in your front page is the “UK Film Council has failed to remedy this [the shortage of funds] despite...”
Chairman: We are coming on to the Film Council; can we just take it in turns?

Q761 Lord Maxton: Could I just ask on the piracy question that you raised about DVDs, it is relatively simply to put that sort of seal on a DVD, but presumably the penalties that the Singapore government have are higher than we would have in this country.
Mr Kuhn: Death.

Q762 Lord Maxton: Like death, yes. How do you do that with download which is actually going to be much more significant or, for that matter, copying a film at home onto your own DVD recorder? You cannot deal with it in that same way, or can you?
Lord Puttnam: My understanding is not at present, but I am a great believer in technology. I have no doubt at all that a way will be found over time. As I mentioned, one of the great attractions for moving into 3D is the ability to confuse and confound the piracy issue.
Chairman: Let us go back then, Lady Howe.

Q763 Baroness Howe of Idlicote: Moving to the tax credits system, you mentioned that the exchange rate obviously has had quite an impact on the productivity of the film industry, but looking at the changes that were made in 2006 when tax credits were only available to those meeting the Britishness test, that appeared to have quite a good effect initially. Is that your view and what is your view of the current situation; are there any changes that would be beneficial to make now?
Lord Puttnam: My own view as a non-practitioner is that after three or four false starts, going right the way back to the mid-1980s, we have a system which seems to be fairly admired, which has been road-tested sufficiently. These systems can always be improved and tweaked because there are very smart accountants all over the world who seem to find ways around them, but for the most part I hear very few complaints about the present situation. Michael will be more informed.
Mr Kuhn: It has been fantastic and the reason it is fantastic is that for the first time ever the Treasury brought in all the practitioners in a very inclusive way in designing it. It has been designed very cleverly, very effectively, and were the economy different we would like more of it. The only reason that it is not as effective as it might otherwise be is that every other economy in the world has realised what a fantastic generator of employment the film industry is and have come along with even more attractive tax benefits than we have in the UK, so we are relatively unattractive if you just look at that. We are roughly net 17 per cent after costs as the benefit to your budget and there are many, many jurisdictions, including many states in the United States, that are way above that.
Chairman: Let us move on to the future of British studios. Bishop of Manchester?

Q764 Bishop of Manchester: I was interested to see last week Pinewood coming forward with some quite upbeat plans for their future. I wondered—this is probably to each of you to get your responses—what you feel the prospects are both for the Pinewood and the Elstree Studios and the significance of them within the whole UK ambience for film making?
Lord Puttnam: There is no question that there is a future for studios. Again, I am sorry to bang on about 3D but 3D will be a studio-based medium, quintessentially. Pinewood’s future has always been intimately connected with its negotiations with Beaconsfield Council for permission to be at least partially a theme park—this has all been to do with traffic impact studies and there have been millions spent over the years looking at this issue. I gather we are quite close to having an agreement on Pinewood being both a studio and a theme park. That is where the economies of scale begin to work, that is entirely the way the American studios work, and it is a pretty well-proven model and we appear to be moving in that direction. We need studios, we absolutely need a world-class studio facility. Britain would be in real
trouble if we did not have the availability of sound stages, but the ability to strengthen the business model by adding another source of income is for them very important and its impact should not be under-estimated.

**Q765 Bishop of Manchester:** What about the links between Pinewood and Elstree and distributors, be they British or American. Is there any way in which, from the experience that each of you has in these fields, you would want to advise them about how, having made good films in good studios, they can actually get them distributed?

**Lord Puttnam:** No. I come from a different era in which, if I made a film that had any money at all from, for example, EMI, part and parcel of the deal was that you went into Elstree Studio because they owned Elstree Studios. Similarly, I made Bugsy Malone for Rank and you used Pinewood, it was not very negotiable. They were tied studios and they came as part of the deal.

**Q766 Bishop of Manchester:** Mr Kuhn, have you got any comments to make on that?

**Mr Kuhn:** There is often a big misunderstanding because when you mention film studios to people they think Warner Bros, Paramount, Universal and all of that, they are about these lovely lots with beautiful girls dressed as showgirls and Red Indians walking around the lot, you know. That is not the film industry. The studio is just like a factory, it is a facility, it is a relatively small business compared to the actual business of making films and there is lots of television that goes on there, game shows and all kinds of other stuff. If I were presumptuous enough to give them advice it would be two things: (a) raise enough funding so that the reason you go to Pinewood and so on is not simply because they have a great facility there but you can invest some money in the films that go there and then it would create another income stream and be part of that, particularly studio films, and (b) I would do something to equalise the fluctuations in the exchange rate that you mentioned earlier—for example, a version of an export credit guarantee scheme or something similar, so that the exchange rate that would have been applied to the cost charge would be within a band and anything outside that band you need not worry about, because the studio is always worried that it might be 1.35 now but what if it suddenly goes back to two to the pound and so on. There is a certain amount of hedging they want to do but, as you know, hedging is very expensive and you do not want to spend a huge amount of your resources on that.

**Q767 Baroness Eccles of Moulton:** Mr Kuhn, if I could just return for a moment to the connection between production and distribution, I understood you to say earlier on that the big blockbuster films or the series—for instance the Harry Potter series—really need a worldwide network of distribution that only can emanate from Hollywood.

**Mr Kuhn:** Correct.

**Q768 Baroness Eccles of Moulton:** And if the Brits are going to get better at distribution they really must concentrate, I think you gave a bracket of five to ten million. Do you have any further suggestions to make about how we could start to encourage better British-based distribution?

**Mr Kuhn:** You have to acknowledge the fact that we are not, without a huge increase in available capital resources, which is not realistic, getting into the distribution business, so it cannot be that we can suddenly jump into being a distribution business and get that part of the business benefits. But what we can do, if we had a fund that could 100 per cent fund our British films in the range I have mentioned, is go to a distributor and say “I want to do a deal with you to distribute this film”. You obviously get a much better deal than if you are going on bended knee to the distributor at the time you are trying to put the film together and saying “Can you invest in my film and take distribution rights.” That is creating circumstances whereby of course you will not get the same margins back and upside on a hit movie as we would if we were a studio, but if we got 30 per cent of what a studio gets or 20 per cent we would have a viable industry. That is what my plan and my thoughts are and that is entirely within our resources. While I completely support David’s idea, the Eady levy and all that kind of stuff—and while I have mentioned about broadcasters—above all, having been in this business for 20 years, I am a realist. If we want to have action now we have to look at what resources do we have now, that we can do something with now, to implement something now, if this is going to all happen in our lifetime and not 15 years from now by the time legislation has gone through.

**Q769 Baroness Eccles of Moulton:** What do you see as the spark that would actually get that going; would it be the individual?

**Mr Kuhn:** As I said the Film Council—and I do not disagree with David, I think it is fantastic that we have a Film Council, they do tremendous work in loads of areas—the one thing they had a remit for when they were set up however many years ago was to help create a sustainable business, and there is no sign of it, there is no sign of it, and it is within our resources. What you have to do to sustain a business in this country—sorry if I am going on—on an ongoing basis would require capital of about £100 million, of which about £30 million would be required for equity—not all at once, over three years, say £10 million a year—and out of the Film Council’s
budget of around £57-£60 million they are capable of
doing that. That is now, they can do it now, they have
got those resources now, and on the assumption that
they are going to have those resources and they are
not going to be decimated by the Olympics and all
that, they can do it. That is my point.

Q770 Chairman: We are going to come on to the UK Film
Council in just a moment but people are waving
their hands at me in a rather agitated manner at the
moment, but I am just going to ask a question. Did I
understand what you said about the distribution
business, that there was no realistic prospect of us
getting into a very strong position there? What you
appeared to be saying was that if the industry got into
a stronger financial position then it could do a better
deal with the distributors, but you seem to be saying
that as for this country having a future in distribution
itself or a British company having a future in
distribution itself, there was not much prospect of
that.
Mr Kuhn: Yes, that is correct.
Lord Puttnam: I would like to amplify that if I may
because we could end up chasing a shadow. You have
to look at the global distribution business in film in
exactly the same way as we look at Google or, frankly,
Microsoft; those businesses are gone, they are owned
elsewhere and that is not going to change. They have
done extraordinarily well and, fortunately, as a film
maker, one is able to attach oneself to a Rolls Royce
distribution organisation. To try and replicate it I am
not sure would be worth the taxpayers’ money. What
I would say is that the effectiveness and efficiency of
the existing distribution arrangements are such—and
this is a very important point to get across. I
mentioned I have made 30 films; as it happens 15 of
them were made so-called independently, that is to
say different distributors in different countries
putting up different sums of money; the other 15 were
made for majors, of which a dozen were for Warner
Bros and a couple for Fox. Every penny of royalty I
receive only comes from the American major studios.
I cannot trace or lay my hands on where those other
monies may or may not be, so in a sense the only
reliable source of continuing payments 20 years later
is from the identifiable companies who are still there,
keep their books, keep their records and actually pay
their royalties. That is a very, very powerful argument
for the status quo.

Q771 Lord King of Bridgwater: You have clarified
very helpfully this point so that we do not chase too
far down the distribution route and emphasised that
if you have a bigger investment to start with you
strengthen your arm in arguing the case and getting a
better return for your money—that is very clear. In
that connection what has happened to angels in the
sense that you are not going to get much money out
of any government in the short term with the
financial situation as it is so you are looking at the
private sector for any chance of achieving that. We
have got a question coming later about VCTs,
venture capital trusts, and EIS schemes as well, or
alternative ways in which angels play more of a part
because this seemed to me to be a feature a while
back, with private individuals investing in films and
people of substantial wealth who are prepared to put
a bit of money into what was obviously speculative
but was a risk investment instead of putting it into
race horses. How is that going?
Mr Kuhn: I am on the advisory board of a new EIS
structure, Goldcrest, that has just set up, and I know
you have big experts behind coming for the next
session, but my understanding of it is that unless
something is structured for investors nowadays on an
almost no risk—taking into account tax benefits—
basis, there is no hope, they are not interested. The
nature of our business is that it is a risk business and
it is entirely dependent on tax structures and EIS, VCT
all that kind of stuff, but there are limits on how
much they can bring, there are actual limits per EIS
grouping and so on, so it is small beer in my opinion.

Q772 Lord Maxton: It is what I call the timescales in
distribution in that you get the cinema distribution,
but it always used to seem to me that between that
and then seeing it on television or gritting it on a
DVD or a video as it used to be—not in my youth
but was a risk investment instead of putting it into
Terminator 7
whatever it was by then. There is a natural
collapsing, therefore, but I would argue that it should
not be resisted as it is now by the studios but
encouraged, and “windows” should be differentiated
by price. We should be saying “You can have
whatever you want when you want but it is going to
cost you more or less.”
Chairman: Let us move on to the Film Council and
Lady Scott.

Q773 Baroness Scott of Needham Market: Just going
back to the Film Council, I always thought of it as a
rather plucky organisation doing the best it could
with limited resources, but you are suggesting that in
fact they have wilfully decided to under-invest in the
area. What I am asking is what should they not be
spending money on in order to divert their resources to where you think they should be?

Mr Kuhn: I thought someone would ask that so I made a little list. For example, they spend £4 million a year on supporting the print and advertising costs of films—there is a P&A fund. I did a very back of the envelope thing—in their last report £1.2 million of that £4 million went to major studios. Why? They have got £8 million going to regional screen agencies. I know the regional screen agencies and there are two or three that do a really good job, but nine—do we really need the overhead of nine regional screen agencies in places which have almost nothing and no activity at all? They have got a new cinema fund in which they invest £5 million which is supposed to encourage brand new talent that has not really been seen before and give them their first shot, but I notice that they have been supporting Jane Campion, Michael Winterbottom, Noel Clarke, Shane Meadows, all of whom are not “new talent”. Why are we still spending money on that, and so on. There is a whole list that I could go into, and all I am saying is that if you go through all that—I know they will make a big plea about their overheads and so on, but it is not a matter of not increasing your overhead. Every organisation in the country in the last year has been reducing their overhead to reflect what the market entails, and if the purpose of reducing the overhead is to increase the sustainability of the British film industry what better way? £10 million out of that budget is not impossible to do and I would not say that this is a wilful neglect, it is just a lack of imagination and taking the things that are easy to do. If I say “diversity” everyone will put their hand up, “I am in favour of money for that”. It is a regional screen agency, nations and regions—if you just say “nations and regions” and everyone is in favour of it, put money into that. Support regional cinemas—yes, we must definitely do that; capital grants for regional cinemas—yes, we should definitely do that; support art films—yes, we should definitely do that; education and screenwriting courses—there are two million, but maybe three million would get us better scripts, let us do that. Enough. In the order of priorities—and this is what I am saying, it is not wilful, it is nothing malevolent, it is just that hang on, education is one priority. I understand that, but surely the best thing for our industry, for the young writer, is to be able to go somewhere where they know that the person behind that desk can say yes to a film without referring to Hollywood. Is that not the best thing and should that not be the priority? That is my point.

Q774 Baroness Scott of Needham Market: What you have described is not uncommon in the quango state, where competing priorities and so on pull an organisation in different directions and you end up pleasing no one. Looking forward, particularly in the context of potentially a six per cent reduction in funding resulting from Lottery funding, how do you think the Film Council should reorder itself so that it works in a way that each of you would think of as better and potentially with much less money to do it with?

Mr Kuhn: I guess you are saying it should not.

Lord Puttnam: I fundamentally disagree with Michael. The word quango is pejorative, unfortunately, but actually the Film Council does a very, very good job. Its remit requires it to have regional outreach: try to imagine the uproar if it decided not to invest in Wales or to ignore Northern Ireland? The balloon would go up, we all know that, we are politicians, we live in the real world. The Screen Agencies do well: there are nine regional agencies, about three of which—Michael is right—are absolutely excellent, and a couple of which are probably substandard. It is not a cruel business; at some point I am sure there will be a bit of churn in terms of the people running them, but they have not been going that long. It would be a very good idea if the other six were more closely modelled on the three that are successful—maybe that is the point they will reach. The demands on their resources are therefore enormous, and the remit is possibly too wide; it might well be worth going back and looking at the remit of the Film Council and asking if too much is not being expected of it, but where I disagree with Michael is that I think the Film Council is there to pump prime, it really only has enough money to pump prime. Could you criticise five or ten per cent of its activity? You could criticise five or ten per cent of the activity of just about every organisation I have ever come across, but for the most part it does a very, very good job. It is developing, it is changing, it is evolving; it is well-run and we should be rather proud of it.

Q775 Chairman: Mr Kuhn, would you like to add anything to that?

Mr Kuhn: I would hate to think that I was anti Film Council because I am a big supporter of it. Chris Smith did a marvellous job setting it up and it really has been in many respects a great boon. But someone needs to stand back and say “What are the main priorities?”, and the main priority to me—and I have been banging on about this for years—is to help create a sustainable film industry. It is not something I spout; I have made a plan, I have specified it, I have given it to the Film Council, they know what it is and I do not think they would disagree with it. We have people on the banking side, even in this climate, who are willing to put up the bit that is not equity to this plan—this could be implemented right away without Eady levies or any of this other stuff, which we are all in favour of but will take ages to do, but it does need a visionary reordering of priorities. I repeat again; I
do not in any way want to resile from what David said. I am a big supporter of the Film Council and by and large, other than that, they do lots of fine things.  

**Lord Puttnam:** You have to remember where we came from. It is entirely thanks to John Major and his decision to put Lottery money into film that life was breathed back into the industry. From 1988 to 1993, the film industry if it wished to meet could only meet courtesy of Denton Hall and Bergin’s basement. The industry literally did not have a place to meet. It was that bad. We have moved a long, long way from those days and it would be insane to begin to go back. Maybe the remit of the Film Council is too wide and it may well be something this Committee will want to comment on, but to imagine that we are not in another world from that which existed 15 or 20 years ago is wrong. I think that is probably what Michael is saying.  

**Mr Kuhn:** I agree.

**Q776 Lord Gordon of Strathblane:** I was going to take Mr Kuhn on to his suggestion of grouping together the top four to six independent producers to create a slate almost like a unit trust in terms of being able to invest in it. Are you suggesting that the Film Council should act as the catalyst for creating that? In a way, to be fair, could the independent producers not do it themselves?  

**Mr Kuhn:** We are trying. I have had due diligence done by three or four potential sources of equity and they have all said, “We think it is entirely viable.” They have done the modelling and all that kind of stuff, but you have to wait until the markets change before we can hopefully go round and get the equity side, which we are doing. It is not that we are not doing it; here is an entity that could help us.

**Q777 Chairman:** You mentioned the Lottery but of course it is double edged, is it not, when you get into a period when Lottery funding gets cut across the board. I am sure we will hear about that in tomorrow’s debate on the creative industries.  

**Lord Puttnam:** It was a very specific criterion that I think John Major attached to Lottery funding that production of films would be specifically eligible for the purposes of Lottery funding. It was an anomaly, incorporated into the legislation. It made all the difference in the world. It transformed the way the industry is organised in this country.

**Q778 Chairman:** It is the stop/start bit of it, is it not? If you have Lottery funding and then you decide on the Olympic Games and you are now going to cut it back, that helps not a bit.  

**Lord Puttnam:** It is a real worry.

**Q779 Lord Hastings of Scarisbrick:** Both of you are heavily involved in the training establishments. Taking your evidence, Lord Puttnam, I think you make an equivalent amount of space looking at digital cinema as you do looking at training. You say that you have one disappointment. Do you want to expand on your disappointment?  

**Lord Puttnam:** It is a frustration. It is so utterly self-evident to me that the industrial decline of Britain has been based on the inadequate funding of our talent base right across the board. It is a sort of national myopia. The idea that we could have a successful film industry in which you allowed a situation to occur whereby ITV, on the same day that it is released from £20 million worth of PSB obligations, cuts its external training budget completely is lunacy. What does it say about the company? Is ITV saying it does not regard itself as having a future? Does it regard itself, as do so many other companies in Britain, as working on the freerider principle in which people are trained by other companies and when they are good enough they will use them? A nation with any serious intent to remain in the forefront or to move from the Championship to the Premiership that does not invest continually and even lavishly if necessary in training every scrap of talent it has does not understand the workings of the twenty-first century marketplace.

**Q780 Lord Hastings of Scarisbrick:** On this particular area of film skills talent investment, is there a US model that we should look at?  

**Lord Puttnam:** No, and that is ironically one of the reasons why the American industry ends up making as many films as it does in the UK. It has no coherent training structure whatsoever. There is a reasonably coherent training strategy in France. I do not say this with any embarrassment: we have the best talent in the world in this country pro rata and maybe right across the board but we have a “God will provide” attitude to it. We will pay a powerful price unless we find a way of ensuring that resources are made available for seeking out and training everyone who has a scrap of talent.

**Q781 Lord Hastings of Scarisbrick:** You seem to put the blame in your evidence on the government but you are also criticising ITV.  

**Lord Puttnam:** I think the government did try genuinely to create a sustainable structure. We thrashed out a voluntary levy with the industry and of course the first moment that levy is effectively tested one of the key components of it, ITV, is found wanting. What it has led me to believe is that voluntarism, when it comes to training, does not work. I know I am a relatively lone voice in this. But I have been a lone voice for a very long time. We have a building trade in Britain because we have a
Lord Puttnam: It requires imagination to invest in training. When I look back at my own background, I started as a messenger in an advertising agency, so I learned marketing from the ground up. At 28 I decided film was my passion and I moved into the film industry. I would not have been as successful a producer as I was had I not, by God’s good grace, started lift in advertising. We have not thought through the implications of what makes a film producer, what makes a good director. You have to go upstream and find out how you get really good young people to understand the implications of the thing they are good at. As I go round primary and secondary schools—as some of you know, that is what I do—if I address a class of six year olds and ask them how much creative work do they do, all the class will put their hands up. If I then say to them, “How many of you regard yourselves as creative six year olds?” about half of them put their hands up. If I then go into a secondary school and ask 16 year olds how many of them regard themselves as creative, if I am lucky, two or three do. How have we managed to create a situation in this country whereby people between the ages of six and 16 decide they are not creative? That is what we need to address. Solve that and you begin to have the answers to a lot of the other questions.

Chairman: It has been both a fascinating and very important period of evidence. I would like to thank you both very much for coming. There may be issues we want to follow up with you. Perhaps we could do that by correspondence. Thank you sincerely for coming today.
On the “benefits” side of the equation it is true that digital distribution mechanisms, for example video-on-demand (VOD), are generating a multiplicity of new pricing models for content. However, these are invariably unprofitable in the short to medium term.

**THE ECONOMICS OF THE CREATIVE INDUSTRIES**

The film and television industries are also both species of creative industry. The UK has an enormous reservoir of creative talent—in the film and TV industries as more broadly across the creative spectrum. However, for a variety of complex reasons we are not good at building sustainable creative businesses here. The result is that we do not have the kind of mature, fully scaled businesses in the UK which would allow us to take full commercial advantage of the opportunities presented to us by our creative brilliance and technical skills.

Even our most brilliant audiovisual successes, for example *Four Weddings and a Funeral*, deploying British writers, producer, director and actors, tend to generate box-office income, profits and tax revenues which end up somewhere else, usually the USA. This is typical. We have failed to design and implement policies for the creative industries which would, expressed positively, enable the economic benefits of creative success to be owned and enjoyed in the UK, and, less positively, prevent our creative industries from slipping further into the status of service facilities to the rest of the world.

**FILM AND TELEVISION**

Against this background the future for our film and TV industries is uncertain. We have yet to develop a commercially sustainable model for commercial content investment, either in the audio-visual or other content segments of the wider creative economy.

We have largely failed to build significant independent business capacity in the creative economy generally. However the change to the Terms of Trade brought about in the Communications Act 2003 has enabled us to build a few independent TV production companies which, though not financially significant in the wider scale of things, have been successful in making programmes, competing internationally and delivering export revenues.

There is much talk in government and regulatory circles about “new business models”. All new business models for online and mobile distribution of audiovisual content are embryonic and experimental. Film and television are completely different propositions as regards their financing models, but to our knowledge none of these models are currently generating sustained revenues or significant profits.

**PUBLIC POLICY**

The contribution of the UK film and television industries to British culture has been discussed extensively in our universities and elsewhere. Their contribution to the UK economy is less well documented, and as far as we can tell has been largely ignored by the Treasury.

In recent years two reports especially have helped to illuminate public understanding of the economics of the audiovisual sectors. The House of Commons Select Committee on Culture, Media and Sport published a comprehensive and brutally accurate report in 2003 entitled *The British Film Industry*. This correctly identified the historical weakness of the UK film “industry”, or cottage industry as it really is, as being an obsession with production and disregard for distribution (see below).

Then in 2007, the Work Foundation published a much broader analysis entitled *Staying Ahead: the Economic Performance of the UK’s Creative Industries*. This study underscored the economic importance of the creative sector to British life and the wider knowledge economy, but also drew attention to the weaknesses and challenges that confront all our creative industries, including the audio-visual sector.

The Work Foundation, NESTA (National Endowment for Sport, Technology and Arts) and others have highlighted serious shortcomings in the availability of relevant economic data on the creative economy. This deficiency has been acknowledged by statisticians at the DCMS. We do not have good information, for example, about the extent of economic “spill-overs” between the subsidized performing arts, especially theatre, and the commercial UK film and television industries, although anecdotally we know these are extensive.

Most TV and film actors, directors and producers get their training in the subsidized arts sector and/or at the BBC. Many of them move backwards and forwards throughout their careers between the public and private domains. It is unfortunate that we do not have better data with which to document and understand these “spill-overs”, thereby facilitating informed, evidence-based policy-making by government.
It follows that the second part of the Committee’s first question is more difficult to answer than it might be, in that any measures to enhance the economic contribution of the film and television industries are likely to be based on a less than adequate understanding of important aspects of the overall “balance sheet” of the creative economy.

The real answer, however, has already been highlighted. In film and TV, as elsewhere in the creative economy, we need to design and implement policies which would enable the economic benefits of creative success to be owned and enjoyed in the UK. This is above all a matter of creating sustainable business capacity, and we are a long way from achieving success.

2. How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?

These questions were addressed by the Commons Select Committee on Culture, Media and Sport in its 2003 report. This highlighted what the Committee regarded as the key structural weakness of the UK industry, that it was producer-driven. By contrast, it noted, a winning film industry is distribution-led.

The Select Committee highlighted evidence submitted by the UK Film Council to the effect that:

- The scattered and fragmentary nature of the (British) financing model contrasts sharply with the integrated model which forms the basis of US studio financing. The “cottage industry” approach of the UK production sector, comprising scores of film companies, is remarkably successful at delivering excellent, culturally significant but ultimately unprofitable British films. This industrial structure (also) fails to deliver a consistent flow of films such that risk can be spread across a slate of projects. This inability to run a portfolio of films to mitigate financial risk acts as a very strong disincentive to private investment into the production sector. Obviously this approach (also) does nothing to build the significant corporate structures which are essential to achieve a sustainable industry.

This analysis still applies in broad terms, although it is important to note that the value chain of all content businesses has been significantly impacted by digitalisation.

At Ingenious we have created a number of integrated film funds in recent years. These were based on the realisation that the keys to commercial success in the film business were, exactly as the Select Committee had described, distribution, sustainable financing and an uncompromising practice of working with the best creative talent available. This allowed us to raise several hundreds of millions in investment capital which was invested, alongside a variety of partners, in such films as *Girl with a Pearl Earring*, *Vera Drake*, *Hotel Rwanda*, *Bride and Prejudice*, *Notes on a Scandal*, *Hot Fuzz* and *The Golden Compass*.

The period after 2003 marked a relative boom in the production of British films. It was stimulated to a degree by government tax reliefs, notably at the lower budget end of the market, but was due mainly to equity investment. Much of this investment was attracted thanks to decades’ long accounting rules that embodied the principle that investors’ losses could, for accounting purposes, be offset against profits. These rules were changed in the Finance Act 2007. The consequences for the raising of finance for independent UK film production have been both negative and significant.

It is not completely clear what the Committee is referring to in its reference to “long run changes in international film production and distribution”, which are many and various. It should be noted that digitization and “digitalization” trigger both positive and negative effects. On the one hand they help industry reduce production and distribution costs significantly; on the other they facilitate “piracy” at the level both of illicit P2P downloading by individuals in their homes, and industrial scale copying by professional crooks.

In the absence of effective action—nationally and internationally—to combat both forms of “piracy”, we are faced with a collapse in profits in the film industry, some half of which have derived from DVD sales in recent years.
3. Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

The short answer to the main question is that it depends completely on the criteria established for making a judgment. We would say “no”, but this response has to be set within the wider context of the tax system as a whole.

At Ingenious we disagreed with the replacement of a fiscal incentive by a grant to producers. In our view this change was always likely to remove, or at least diminish, commercial incentives. We failed to win that argument however.

Given that we could not persuade HMT/HMRC to preserve the principle of fiscal incentives, we offered qualified support to the introduction of the film production tax credit. This was in the context of the tax system as it existed before 2 March 2007. The restriction of so-called “sideways loss relief” (SLR) governing individuals in partnerships was introduced on that date by government as an anti-avoidance measure. The new legislation (Finance Act 2007) was both blunt and indiscriminate. It made, and continues to make, no distinction between bona fide investment and tax avoidance. The government rejected a legislative solution devised by Ingenious that would have enabled it not to throw out the baby with the bathwater.

The tax credit can provide up to 20% of the funding for British films, leaving 80% or more of remaining funding to be raised from private investors. Our experience as investors before 2007 was that the availability of SLR was crucial to attracting the large sums involved in putting together production slate financing. There was a vital linkage here: SLR effectively enabled the larger share of funds to be raised from investors—funds which, in turn, made the production tax credit work. In the absence of SLR, or an equivalent form of relief designed to encourage the raising of high risk equity capital, the production tax credit is insufficient in itself to enable films to be made. This was true even when banks like Bank of Ireland and Alliance and Leicester were still in the film financing business, from which they have now withdrawn.

4. Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

The Film Council (UKFC) cannot meet its objectives stated at their most ambitious level because it does not have the levers at its disposal that would be necessary to deliver success. For the film industry to enhance the contribution it makes to the UK economy it would need to benefit from a radically new content investment model, sustainable financing and the capacity to build business capacity. UKFC cannot achieve any of this unaided. There is a sharp disconnect between means and ends in the Council’s remit and powers.

5. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

The answers to these apparently straightforward questions are far from simple. General UK business culture tends not to look upon creative business, as in film and TV but also music, games and publishing, as “serious” business. This is in marked contrast to the USA where the entertainment industry is mainstream business and can recruit easily from the ranks of the best MBAs. In consequence, we have great difficulty finding business talent to partner with creative talent at the same level of excellence.

Our answers, therefore, would be “Probably not” and “not really” respectively, but these are very complex issues.

One of the most promising initiatives in recent years has been the inauguration of the Centre for Creative Business (CCB) at the London Business School under the leadership of Prof. John Bates. This was a collaboration between LBS and the University of the Arts which depended crucially, however, on LBS support and contributory government funding. CCB’s failure to attract sufficient funding commitments to continue to operate at LBS is a sad commentary on our priorities in this crucial area of policy.
6. How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

A combination of Channel 4 and the quota system has been successful in supporting TV content, notably by incentivizing content creators and independent producers through changes to the terms of trade. In this respect the Communications Act 2003 has been a remarkably successful regulatory intervention.

However, in the commercial sector, broadcasting content providers have historically been hooked on advertising, revenues from which are in steep decline. A combination of falling advertising revenues, new technology (eg personal video recorders), changing consumer behaviour and greater competition for consumers’ discretionary leisure spend poses a serious challenge to programme makers in all genres, with falling budgets and higher deficits for programme commissions.

All television genres are affected, but factual and news genres are particularly vulnerable because international co-production is not an option (as it is in the case of children’s programming). Drama programming is also under pressure because the commercial broadcasters cannot afford the steep hourly budgets required to develop quality content. Meanwhile ITV has commissioned and paid for a significant number of dramas that it has not broadcast due to bizarre accounting rules.

The Future

The UK is blessed with exceptional talent in both TV and film-making—as in the creative industries generally. The UK film and TV worlds are closely intertwined. Los Angeles is full of British writers, directors, producers and actors working in both forms. It would be folly to throw away this important national asset by not addressing the problem at the heart of the question, which is that audiovisual content businesses are going to find it increasingly hard to finance quality programme-making.

The holy grail of sustainable content investment—in film and television as well as music, publishing and games—requires a variety of responses. There is an opportunity for independent providers of risk capital to “fill the gap” created by falling revenues in traditional media companies. In the longer term the key is creative business sustainability, a goal which to date has proved elusive. The virtuous circle of sustainability lies in attracting more and higher quality business talent, drawing in more investment, practising the portfolio (or “slate”) approach to investing, attracting yet more investment, and so on. We are a long way from achieving this.

In both the short and longer terms the role of regulation is likely to be critical. We should not return to an earlier dispensation in which talented creators and producers were treated as mere employees and obliged to hand over their rights to their employers. A vibrant independent TV production sector is vital to maintaining the UK’s competitive edge in the global market.

We do not have a position on levies, other than to note that they are universally unpopular with consumers.

However, we would draw the Committee’s attention to the role of tax incentives, notably Venture Capital Trusts (VCTs) and the Enterprise Investment Scheme (EIS), in attracting risk investment to the audiovisual sectors. There is significant potential for enhancing the role that these reliefs play in attracting investors to entertainment funds, but only if the rules that currently govern them are substantially revised. We have made representations to the Chancellor on this subject.

7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

Again, these are exceptionally complex questions. The role of the BBC will remain crucial in seeding innovative content and encouraging the take-up of digital services generally. The future of TV content development will be determined by which of the other competing broadcast brands are able successfully to transfer to the internet, where quotas do not apply, and to “monetize” programme consumption.

The Committee asks about outcomes, but the outcome of this process in a converged world is unknowable! It is likely to be determined by a combination of two factors: (a) the tendency of future regulatory interventions; and (b) a global “battle of the brands” for attention and consumer spend.
The point about regulatory intervention can hardly be overstated. The BBC is itself a historic regulatory intervention. At the other end of the scale the Culture Secretary’s recent decision to ban product placement in all UK originated PSB content (as distinct from news, current affairs and children’s programming where there is complete consensus on prohibition), is a case in point. The ban will have the effect of demolishing the viability of some new business models, and weakening the viability of others, at a time when ministers are urging creative businesses to be more innovative!

March 2009

Examination of Witnesses

Witnesses: Mr Martin Smith, Special Adviser, Ingenious Media, Mr James Clayton, Chief Executive, Ingenious Investments, and Mr Andrew Noakes, Associate Producer, Eon Productions, gave evidence.

Q785 Chairman: Welcome. Thank you very much for coming. Certainly two of you have been here throughout and have heard all the previous evidence so I will not go through much of the preamble. Perhaps you could just tell us in a few words a little about both your companies?

Mr Smith: Yes. Ingenious Media is a financial investment and advisory business specialising in media, including what we call progressive media, which is those parts of the media which are at the forefront of technological change, regulatory change and changes in consumer behaviour. We invest in what I think it is useful to call the creative content sectors. As well as film, it is television, music, games, live events, and we have a number of businesses in these areas. We have an investments business which James Clayton is the chief executive of; which is the business of most relevance to the discussion this morning. We also have an asset management business. We have a corporate finance business. We have a ventures business, which is at the small end of venture capital. We have three consulting businesses which deal with media strategy advice, regulatory policy advice and consumer facing businesses.

Mr Smith: I think it very much depends on criteria. I think there are three verities here which dictate almost everything that we have to say this morning. It may be helpful if I underline those. The first is: “Nobody knows anything”, in the famous aphorism of William Goldman, the screen writer, critic and novelist. What Goldman means by this is that in the film business nobody can predict what is going to happen, either in relation to a specific film or even a slate of films. It is about extreme volatility and extreme unpredictability in terms of the demand side of the equation. The second thing is—and this is particularly relevant to your question—the tectonic plates are moving at the moment in a very specific way. We have a combination of a structural change in media markets brought about by the process of digitalisation, which leads in turn to extreme fragmentation in media markets, combined with a cyclical change which we all know about—the credit crunch and so on—which aggravates matters, which means that the uncertainty which I have just been speaking about from an investor point of view is even worse than it might otherwise be. The third conditioning remark is that, it does not matter how brilliant your script is; it does not matter how great your directors and your actors are; you cannot do anything if you do not have any money to invest. What we do is raise funds, raise risk capital, from anything if you do not have any money to invest. We have a combination of a structural change in media markets brought about by the process of digitalisation, which leads in turn to extreme fragmentation in media markets, combined with a cyclical change which we all know about—the credit crunch and so on—which aggravates matters, which means that the uncertainty which I have just been speaking about from an investor point of view is even worse than it might otherwise be. The third conditioning remark is that, it does not matter how brilliant your script is; it does not matter how great your directors and your actors are; you cannot do anything if you do not have any money to invest. What we do is raise funds, raise risk capital, from anything if you do not have any money to invest.

Mr Noakes: Ten of them in total out of the 22 that were made.

Q788 Chairman: You were associate producer on Casino Royale and indeed on Quantum of Solace.

Mr Noakes: Yes.

Q789 Chairman: Martin Smith, you quoted a comment in a speech in 2008 from Alan Parker, that we can never be the biggest film industry in the world but we should be right up near the top of the league and not permanently hovering in the relegation zone. Do you think we are in the relegation zone at the moment?
we will not be able to make that move from the Championship to the Premiership.

**Q790 Chairman:** Mr Noakes, what is your view about the British film industry at the moment? At times people appear to be rather depressed about the outlook for it. How do you view it?

**Mr Noakes:** It is a rollercoaster. When we are on a high, we are on a massive high and everybody is working and everyone thinks it is rosy. There is always going to be a decline and it just depends how far that goes down. If it goes too far, there are too many people unemployed. There are too many people saying that they are not working; it is not a great industry to be in; it is not a great place to be. The ideal would be just to maintain a level, whatever that level may be, whether it be at the very, very top or whether we are happy to be in the middle. I guess everyone wants to be at the top. What we need to try to avoid is these peaks and troughs. The troughs are killing the industry and companies. I know crews that are now leaving. Certain people have decided they cannot stay in this industry. It is just crazy. They are up; they are down. They do not know where they are. Their wives are getting upset with it, so they are just pulling out. “That is enough, thank you.”

**Q791 Chairman:** Your own James Bond series of films is a bit of an argument against all that. How long has it been going now?

**Mr Noakes:** Since 1962.

**Q792 Chairman:** You have been through one or two general economic crises in your time.

**Mr Noakes:** Bond is the most successful franchise ever. I do not know why. It is brilliant. It is James Bond. It is English. It is everything that we want it to be in this room. It is a formula that works. It is a formula that very, very rarely changes from film to film. It is still the classic great locations, great looking girls, the cars, the gadgets. We have pulled away from gadgets at the moment but I think they will come back. People do like them. Michael and Barbara are very traditional about what you will see Bond do and what you will never see Bond do. Sometimes people would suggest it would be great if you could see Bond in his kitchen cooking breakfast. You never see Bond’s house. You do not want to know where he lives.

**Q793 Chairman:** Apart from the characteristics of this wonderful actor, do you keep the same film team with you?

**Mr Noakes:** Kind of. It is changing now. Directors are coming in with their own agendas and their own power. I think directors are getting more powerful. They are allowed to bring their own crews in. They have a comfort zone. Producers will give the job to a director and say, “That is your job. Now you make the movie. We are going to oversee you, but the creative side is really your baby.” He will argue that he wants a core five, six or ten people, but from our side, yes, we do keep the same family.

**Q794 Chairman:** James Bond is meant to be quintessentially British, is he not? How much British money goes into this film making?

**Mr Noakes:** Not a lot. None. It is completely US financed.

**Q795 Lord Maxton:** Even *Casino Royale* was not made in this country either, was it?

**Mr Noakes:** No, but it was made under a co-production. We shot about six weeks in Pinewood. We needed the 007 stage. It is a unique stage. It is the only one in Europe.

**Q796 Lord Maxton:** The external shots were all done in Prague?

**Mr Noakes:** We did a lot in Prague and the Bahamas.

**Q797 Chairman:** Was that right from the beginning? The first James Bond film was also US financed?

**Mr Noakes:** Yes, very much so. Harry Saltzman was the original producer and he was an Englishman. He could not get any finance. He went to the American studios and he could not. He then teamed up with Cubby Broccoli. He then arranged the finance through United Artists. United Artists have ever since basically retained the ownership of their rights. They keep being bought and sold, but yes, it is always America and America will receive the funds.

**Q798 Lord Macdonald of Tradeston:** Mr Smith, you are obviously not burdened by any great legacy in Ingenious. You have 5,000 investors. Have they been investing long enough to see the kind of returns that you would get from your approach to film financing?

**Mr Smith:** If I may, I will pass that question to James.

**Mr Clayton:** Not quite yet. The average lifecycle of a film from investment to the end of its first cycle of economic life is probably six to seven years, so we are still in the early stages. We can predict with a reasonable degree of accuracy post-theatrical release what the ultimate revenue stream will look like, but it is still too early to say.

**Q799 Lord Macdonald of Tradeston:** Is there anything you would like to add if you were able to listen to Michael Kuhn and his analysis?

**Mr Clayton:** I agree with every single word he said.
**Q800 Lord Macdonald of Tradeston:** There is nothing additional that you would want to add?

*Mr Clayton:* It is important to understand that the film business within the UK falls into two parts. There is the aspect that is funded and driven by the US studios, for whom the business is global. Then there is the aspect that is driven by very hard working, tenacious, imaginative UK producers who are originating and producing their own material out of the UK. The two are very, very different.

**Q801 Lord Macdonald of Tradeston:** It was a certain irony to hear my radical friend, Lord Puttnam, explaining that he wanted to keep the entry barriers up through 3D film because it was in danger, presumably, of being overrun by people who could make films more cheaply. I noticed in Cannes there were 5,500 films with only 600 released annually in America. If we have a disruptive technology here that can blow away a lot of the old structures and the old orders, I can understand their trying to defend against it, but does this undermining of an American dominated, international model not give the British the opportunity to ride the new wave and form our own niche?

*Mr Clayton:* I do not think it is us and them. I think differentiation. You give people what they want at the right price, when they want it. The great advantage for video on demand and immediate delivery technologies is that more products can get into the market place. The challenge is how you market it. There is a system of gatekeepers at the moment. The distributors decide what films they want to buy and risk releasing. The cinema owners decide how they want to programme and the TV stations decide what they want to buy. With video on demand, in theory anyone anywhere can make a film and make it available on the internet. What we will need to see is people actually marketing them in such a way that we, the consumer, can decide what we want to buy.

**Q803 Lord Macdonald of Tradeston:** Can you model that with a potential audience now in billions?

*Mr Clayton:* It is impossible. There are revenues starting to come through from video on demand. It is still very embryonic. It is hard to predict to what extent traditional revenue streams from theatrical and home entertainment will fall and be compensated by the uptake in video on demand and online.

*Mr Smith:* I was following the discussion in the earlier session about video on demand. The business models for VOD are all still untested, or almost completely untested. None of these companies that I am aware of is making any money or certainly not any serious money. It is fantastic for the consumer. If you want to gorge on Chabral or Eisenstein every weekend, it is great because you can actually access that long tail, to use the well known phrase, much better. But for investors and from a business perspective we really do not know where VOD is going.

**Q804 Chairman:** Can you explain briefly the process involved in financing the latest James Bond film, *Quantum of Solace*?

*Mr Noakes:* The studios are pretty easy to finance. Bond is unfortunately too easy. I will probably get shot for that. We base ourselves on the last movie. We know what it took, so we can go to the studio and say, “We want to make the next film.” They are going to give us an indication of what they want to spend on the next one. They will look at what the last film cost. They will tell us what they want to spend. We will then start playing around with numbers and then it becomes a bit of a horse trade. If they say they want to spend 180 million and act like it is 200 million, we will compromise somewhere in the middle. They know that they want the product; we know that they want the product. It is just a matter of finding the right number that fits for them.

**Q805 Chairman:** With this degree of certainty, could you raise the money even in Britain?

*Mr Noakes:* I do not know for sure but in all probability. In this case, Sony co-own the rights with us. We own 50 per cent; they own 50 per cent. The rights are going back to MGM after *Quantum of Solace* so we will be dealing with MGM. MGM could pass it to any studio they like and say, “Who wants to finance Bond?” and do a deal with them.
Q806 Baroness Eccles of Moulton: On the question of risk and reward, in the previous evidence it became absolutely clear that the big risk on the distribution side for big enterprises cannot really be dealt with here in the UK. We talked about how that could be stimulated on a smaller scale. From what you have told us about the investors that you have collected together, that seems to be moving absolutely in the right direction, but clearly it needs to grow. We were given an example of the Film Council as being the possible source of this encouragement. Do you think the fact that the distributors take the risk and therefore they get the big rewards means that our producing end is really suffering quite a lot from not getting a fair cut of the cake and there are more efforts that can be made in that direction added to the ones that we have already heard about?

Mr Clayton: The risk/reward equation is absolutely at the heart of our investment policy. Assessing risk in film is tremendously difficult. As Michael said, no one says nothing but I would like to take Andrew up on his offer! You could finance a James Bond film in a heartbeat out of the UK because the track record is unparalleled. There is nothing else like it. Going back to your direct question, we raise money from investors on the basis that we pursue a portfolio approach. That means a blend of studio distributed films worldwide where you know that you have a partner who is aligned and you understand the economics of that business; versus supporting the independent sector and taking more of a view on how well an independent film will perform. When we assess an independent film, one of the key things we look for—and this is the tension between production push and distribution pull—is how receptive distributors are to that project. There is a balance between taking money from a distributor at script stage, which shows they believe in the project, they are prepared to release it, they think it is going to work, and sacrificing potential upside from their territory if it does work, versus holding it back and going for it later when you hope that you have a film that has exceeded your expectations. Our view is you have to strike a balance between the two. You want some distributor buy-in, so that you have sold off some of your territories to show that the film does have a value. Then you would also like to hold some back so that if the film performs you are benefiting from the upside.

Chairman: We keep on talking about Championship and Premier League and everyone seems to agree we are in the Championship and not in the Premier League. Is most of Europe in the Championship as well?

Mr Clayton: I would not say that we are any better or worse off than the rest of the European territory. In some respects, I think the English language is a big advantage for us because it is something that does sell better internationally when the films work, whereas local language production is often generally constrained to its home territory. It is priced accordingly. Occasionally you have break out films that do translate and cross over but I think our English language is a huge advantage. A lot has been written and spoken about the holy grail of the pan-European distribution business which would go some way to helping create scale in the independent sector, but for cultural reasons that is extremely difficult to execute.

Q808 Chairman: The cultural reasons being language?

Mr Clayton: Yes. The only people who have successfully pursued it are the studios because they deliver a type of product that works in any territory: big, event driven films with stars.

Chairman: Which you can dub?

Mr Clayton: Which you can dub. Typical, lower budget, English films with particularly English subject matter are much harder to distribute, notwithstanding the language, internationally unless they have very mainstream appeal.

Lord King of Bridgwater: We have clarified a lot this morning and you helpfully heard the earlier evidence. This business about how to help British film production comes down very much to how you can get more investment into the original production of films. In your evidence you mention this issue about VCTs and EIS as well. In fact, the press comment I have here is that that is looking quite a promising area. How many people are there like you working in this field? You are one of the companies trying to rally round investors. Is that right?

Mr Clayton: A handful.

Q811 Lord King of Bridgwater: How do they rate?

Mr Clayton: We have an existing investor base of around that number, but we raise funds annually, so with each year the investor base increases. We have current investors who return and the network grows every year.

Lord King of Bridgwater: Have you the material in which they need to invest? In other words, have you plenty of opportunities for investors or do you not have enough?

Mr Clayton: It is challenging. One issue that is worth underscoring that Michael referred to earlier is that there are certain constraints in terms of size imposed by VCT and EIS rules which make them not particularly suitable for film investment. The other challenge is we raise money and then we deploy it. It
is fine where we can deploy amounts with US studios because their businesses are hugely capital intensive and volatile and their conglomerate parents put a lot of pressure on them to find co-financing sources that smooth out that volatility. Finding good quality, commercial UK independent films to invest in is much more challenging.

Q813 Lord King of Bridgwater: How many companies are there like you, do you think?
Mr Clayton: Five or six; ten at most.

Q814 Chairman: When the rules changed on tax credit, you seemed to be a bit underwhelmed by that or am I wrong? I think you said in your speech, Mr Smith, that where private investors previously stood to lose only £60 out of every £100 invested now they stand to lose the lot in an unsuccessful venture.

Mr Clayton: This goes to the issue of “sideways loss relief”. When you are raising money for investors and trying to encourage them to take the decision, to take the risk of supporting creative content, which as we all know is an incredibly risky business, we as fund managers have to find ways to try and de-risk that investment for them, make the investment decision as easy as possible. Part of the way we do that is working with trusted partners, where we have an alignment with our money and their money. Another way is tax. A lot has been written about this. I think it is important to understand that you could use tax to enhance cash flow, perhaps protect downside, but the investors’ overall return always depended on our ability to choose the right films and make the right deals with their money. Without that knowledge, without that safety net from tax, if the films do not work, it is very hard—in fact, probably impossible—to look a sophisticated investor in the eye and tell them that it is a good idea to back film. Studio films, yes, because they have a consistent track record of delivering returns. Independent films? It is much, much harder because you simply do not know what is going to work. *Slum Dog Millionaire* is a very good example. We backed the last two Danny Boyle films, *Millions* and *Sunshine*, both of which lost money. I am not afraid to perhaps embarrass myself by saying if we had been presented with that project, a $15 million film with an Indian storyline with no cast, based on the last two films, I would have said no, because the risk and the return just did not work.

Q815 Chairman: Had it been under the old regime, you would have?
Mr Clayton: Yes, absolutely.

Q816 Chairman: In other words, what you are saying is the tax cushion has gone?

Mr Clayton: Correct.

Mr Smith: I think this is a vital point because it is the context within which we formed a view about the film production tax credit. When we discussed with HMT and others what the new credit should be, it was in the context of a tax regime which was abolished on 2 March 2007. It is the relationship between the two which is crucial.

Lord King of Bridgwater: Do we know what the abuse was?

Q817 Baroness McIntosh of Hudnall: I think that is where we want to go. This Committee has struggled over the last several weeks to understand firstly what was the nature of the tax system that was subsequently abolished and what were the kinds of abuse that led to the Treasury in the end deciding that they wanted to pull the rug from it. How does the new system work and why is it your view, as I understand it, that it is a less beneficial system from the point of view of attracting investment into film? Could you give us a little seminar on both bits of that as briefly as you can?

Mr Clayton: It is a very complex area.

Q818 Baroness McIntosh of Hudnall: We did get that much.

Mr Clayton: The underlying premise was that if you lost money by taking a genuine risk investment you could relieve that loss against your other earned income. You were taxed ultimately on your net position as opposed to your gross position. Our aim in our business is to create a sustainable bridge between private investors and creative communities. To do that you need to make their returns from performance of the film or the TV programme or the video game or whatever it may be. It was a sector that really needed policing because amongst all that you could have vehicles that had a commercial engine at their heart. Equally, you could have vehicles that were simply about tax avoidance. Put in 20, get back 40, no further returns from the film, end of story, so essentially free money to the studio or the film producer as opposed to a genuine risk investment that is seeking a genuine return from that risk. What we argued for at the time was a pre-clearance mechanism and a purpose test which would have allowed HMRC and the Treasury to vet the propositions that were in the market place and give certainty both to the investor community and the film community. Coming on to the new tax credit, one of the best things that it has achieved is it has given absolute certainty. It is in the form of a grant, because it is money that has gone. Notwithstanding how successful the film is, HMRC and the government do not participate in the receipts from that. Under the way we operated, as worldwide receipts came back into the UK tax net, they were taxed on those
individuals who had made an investment, being the same individuals who would have enjoyed the tax relief had the film not performed, so there was a symmetry to it. The film tax credit is fantastic in terms of certainty. What it does not do is stimulate inward investment from the private investor community, which is essential if one is serious about sustainability.

Q819 Baroness McIntosh of Hudnall: We are struggling to understand why the old system was open to abuse and what the abuse was. As I understand it, you are saying, to put it very simplistically, that it allowed people who really had no interest in the film business and who were not concerned in any way with the quality of the product that was going to be produced, who had no commitment to that, to invest money in any old project, to put it very crudely, from which they could then get back a substantial financial return. Is that right? 
Mr Clayton: Correct, notwithstanding performance.

Q820 Baroness McIntosh of Hudnall: Your view at the time was that in some way—again, correct me if I am wrong about this—the Treasury and HMRC could have taken a position that would have meant there was more quality control in respect of the kinds of project.
Mr Clayton: Absolutely.

Q821 Baroness McIntosh of Hudnall: And that would have resulted in a beneficial tax scheme that delivered more benefit than the current one but was firmly located in preserving the quality of the product.
Mr Clayton: You have explained it far better than I did. That is absolutely right and the two would have been very complementary together. You could have had investment from the private investor community allied with the film tax credit, which gets you a long way towards being able to finance your budget.

Q822 Baroness McIntosh of Hudnall: If we come on to now, we have a tax system which delivers certainty in the way that you have described. It has certain aspects to it about which people are not entirely wholehearted—for instance, the cultural test which has certain things attaching to it which apparently have an impact on co-productions?
Mr Clayton: Yes.

Q823 Baroness McIntosh of Hudnall: There are presumably other complex, technical aspects of it which I have not got hold of yet which are different. Is there anything in the current system that could be modified, as you see it, from an investment point of view, without substantially increasing the risk that the Treasury will find itself stuck with another loophole but which would help with attracting inwards investment? Martin Smith made the point about the public policy implications not just about tax credit but about more general encouragement of investment into the business. It seems to me you are distinguishing that from simply saying, “Put public money into it”.
Mr Clayton: Correct. Within the framework of the tax credit as it currently stands, no, I do not think there is anything you could do to attract private investment into it. While we are on the subject of the tax credit, there is probably one point that is worth making in terms of its effectiveness. It is very attractive for the US studios because at its heart is a core expenditure test based on where your expenditure takes place. If you are an American studio bringing American stars to the UK, provided you satisfy your Britishness test, your spend on those stars goes towards calculating the basis of your rebate. If you are an independent producer trying to make your film for the lowest possible amount of money, which often means working outside the UK because it is a high cost jurisdiction, taking UK talent and working in, for example, another EU Member State does not count. That is an anomaly which has caused the levels of co-production in this country to fall off a cliff.

Q824 Baroness McIntosh of Hudnall: You do not think that could be modified within the existing regime?
Mr Clayton: I think that could be modified to make producers’ lives easier, but I do not think it does anything to help the argument for pulling in inward investment.

Q825 Chairman: If that anomaly was withdrawn, would that help in terms of encouraging inward investment?
Mr Clayton: It would help producers but it would not help investment from the private sector.

Q826 Baroness McIntosh of Hudnall: From a public policy point of view, what would help to encourage the idea that a government can do, other than manipulate the tax system? Mr Smith, your point is we do not take the film business seriously. We do not regard it as serious commercial activity. Is that correct?
Mr Smith: It is. It is why the discussion we have just been having about the film production tax credit is essentially a discussion about the 17 or 18 per cent. We do not focus on how we raise the other 82 or 83 per cent. This is the problem from a public policy perspective. The Treasury, as far as we can tell, does not engage with these issues at all. It is very important to understand the idea that we came up with, when
the tax regime was changed in 2007. Bear in mind this is not about film tax; this is general accounting rules. The Treasury at the time was not aiming at the film industry. It was aiming at all sorts of partnerships in timber and all kinds of other places. There was abuse taking place across the economy. They came up with this change and we said, “Look, oh Treasury. We understand that you are seeking to eliminate tax avoidance. We agree with that as a policy objective. We will give you a way which enables you to eliminate tax avoidance but does not throw the baby out with the bath water. Here is the amendment. This is how you do it. You have the purpose test and you have pre-clearance.” I will not go further into the technical details, but that is a matter of parliamentary record because those amendments were tabled during the course of the passage of the Finance Bill 2007. Government whipped against them because the Treasury did not want to engage on the key issue of how you encourage risk investment into the sector. The position of the Treasury was—and as I understand it still remains—that all we are going to do on film is in the film production tax credit. We are not interested in the risk profile of the creative economy as such. The policy objective—and I think this is the right question—is that if, as we are told in the rhetoric of government on the importance of creative industries to the future of our economy, if we wish to will the ends of a creative economy which is growing and which is contributing more to our performance within the global economy, we also have to focus more on the means, which is how do we get investors into this sector as a whole. That is what the Treasury has not focused on and, unfortunately, the Culture Department which does have an interest in these issues is simply too weak to get these issues raised at the right level within Whitehall. That is our perspective.

Q827 Chairman: There is a fundamental point here. Let us say you are going to get concessions here and there. Do you believe that it is companies like your own that have the future of the film industry in your grasp? Do you think that the film industry is going to be relying on private investors coming into this area? Mr Clayton: I would hate to think that it is on our shoulders alone but I do think private investment is absolutely essential. The economies of the independent market place at the moment are such that if you are an independent producer trying to raise £5 million for your quite British film, international buyers will by and large want to wait to see the finished product before they make a decision. They will not pre-buy it, which gives you a contract you can take to a bank to get discounted. There is the tax credit which is fantastic in its own way. If you cannot raise money from strategic partners elsewhere in the film business, then it all comes down to private equity and private investors prepared to take a punt on that film’s performance. At the moment in this country that is in the hands of the UK Film Council, BBC Films and Film 4 and outside that a handful of friends and family who are prepared to back the film maker’s judgment.

Q828 Chairman: And yourselves? Mr Clayton: And ourselves.

Q829 Chairman: How does that compare with raising money in the United States? How much of the money raised depends upon private investors putting money in? Are there a lot of high value, private investors who do that? Mr Noakes: In the States, I am not sure. Mr Clayton: In recent years there has been a wave of what is loosely called Wall Street money that has agreed to co-finance slates of studio films with studio partners over a period of two to three years. That money is drying up now because the markets have turned but the conglomerates, the parents who own these studios, generally do not like expensive subsidiaries that consume a lot of capital for a long period of time and have a very volatile industry. They prefer distribution, where they are not taking production risk so they are very keen to find financing partners wherever they can.

Q830 Lord Macdonald of Tradeston: There is an old saying on Wall Street that if somebody has gone slightly off their head they have “Gone to Hollywood”. In other words, they have started investing in film. Mr Clayton: It is still true.

Q831 Lord Macdonald of Tradeston: The people who did invest in film lost their shirts as well recently, did they not? Mr Clayton: I am not saying we know any better but there is a graveyard of investors who have gone to Hollywood with stars in their eyes and been told what is a good deal when it is not. Mr Smith: The hedge funds became very interested in the last two to three years in Wall Street and over a period of three years Wall Street hedge funds raised about $13 billion to invest in slates of Hollywood films. With one or two exceptions—the Dune slate is an exception—a lot of people have probably lost their shirts.

Q832 Lord Macdonald of Tradeston: Maybe Her Majesty’s Treasury noticed that. Mr Smith: Maybe.

Q833 Baroness Howe of Idlicote: You were very much part of the discussion that went on about reintroducing a levy. What about that as an
additional source of funding? What sort of areas in today’s world, rather than when it was originally evolved, could you legitimately take a slice of for film production?

**Mr Smith:** I think it is a very interesting idea. I followed the earlier discussion with interest and I think there is considerable merit in going down that road. However, I do have also to reflect on my time in the 1980s when I worked for the National Consumer Council in a number of capacities. Like many Members of the Committee, I remember the great furore around the proposal to place a levy on blank audio tapes. The whole of the consumer movement, the National Consumer Council, *Which?* magazine, the National Federation of Consumer Groups, everybody in the world came out against the idea and that is why it did not happen. Strangely enough, within the political economy of the UK, the idea of levies is a controversial one. Notwithstanding that, I think it is a very interesting idea not least because it would generate not large sums of money but potentially some money which could be redirected back to producers and provide some element therefore of sustainable finance going forward.

**Mr Clayton:** There is an interesting system in France. I forget what it is called. It applies a levy to independent French films which is then set aside and available to those producers for investment in their next project. It rewards success. It is not a grant that the producer gets irrespective of performance. It means the better his film does the more money he has to either develop his next project or contribute to his next production, which seems to me to be a logical approach.

**Q834 Chairman:** Does that mean, if a Hollywood film is shown, no levy?

**Mr Clayton:** In France it has to be a French qualifying film to be eligible for the levy. That precludes most Hollywood films.

**Chairman:** That sounds very French.

**Q835 Baroness Howe of Idlicote:** Thinking of some of the areas which are doing extremely well like video games, which perhaps once or twice in some less than desirable areas use films, would that be an area for top slicing?

**Mr Clayton:** I am not sure, to be honest.

**Baroness Howe of Idlicote:** I will leave that with you.

**Q836 Lord Hastings of Scarisbrick:** If, from your previous questions, levies are a way of raising money and piracy from your evidence is a way of losing it, could you quantify some of the scale of what you see as being lost through piracy and what the trajectory is?

**Mr Smith:** A very painful subject.

**Mr Clayton:** We have a live example. One of the films we co-financed recently was *Wolverine*, a spin-off of the *X-Men* series, released at the start of May. Shortly before release in April, a partially completed version of the film found its way onto the web. It was downloaded four million times and Fox, who are our partners on the film, estimate that it probably knocked $20 million to $30 million off the box office. It demonstrates that piracy really is a very clear and present danger. There has been a lot of talk about it and people have said broadband download speeds do not really permit film yet. It is not here. It is not with us. It is. I think that is a big wake up call for the industry.

**Q837 Lord Hastings of Scarisbrick:** Would you see a way of charging the broadband providers because they access the capacity for the download?

**Mr Clayton:** As you appreciate, it is an emotive topic for the ISPs because their view is it is not just their fault. There are some interesting areas for debate.

**Q838 Lord Hastings of Scarisbrick:** What would you do about it?

**Mr Clayton:** There is probably only a hardcore of consumers who know where to find this material on the internet. For most people, they probably have to go to Google first, so to what extent should we be asking the search engines to take some responsibility for directing people to this content?

**Q839 Lord Hastings of Scarisbrick:** Be specific. If you had to frame legislation on this, what would you want to do?

**Mr Noakes:** We met with FACT, the Federation Against Copyright Theft. They put the question out to a company that did research and they think that piracy is costing something like £500 million a year. It is a company called Ipsos which is recognised in doing this stuff, so it is a pretty good number. If anything, it is a conservative number. You mentioned the ISPs. The ISP providers get revenue. They advertise on their sites so when you are about to click on and download *Quantum of Solace* or whatever there is all this advertising sitting around it and they are getting revenue from that, from an illegal act that they are doing. They know what they are doing because they can absolutely watch their band width. If any one of us here is an ISP and we are throwing out two terabytes a day, it is pretty obvious we are streaming out pirate videos. They do not want to engage with fact or government. It is wrong. If you know something is going on, do not close your eyes to it and make money out of it. You have to be honourable and abide by the law. The government
needs to tackle the ISPs directly, head on, and say, “Enough is enough.” You cannot say the blinkers will not allow you to see around the sides. There is some craziness in the law. We have a test case where we have had a few guys go into a cinema and video our film. There is no law against camcording a film in a cinema. It is absolutely legal. FACT have been advised by the government that what they should do is try and prosecute these guys under the 2006 Fraud Act on going equipped to commit fraud. That is bizarre. You know we own the copyright; we know we own the copyright. What is on at the cinema is ours and the revenue should come back to the appropriate party, be it the US studios or the UK independents. We are happy to have a test case to try and push this through.

Q840 Lord Hastings of Scarisbrick: Some people would argue this is inevitable because of the internet, broadband and IT availability. How do you mitigate it?

Mr Clayton: I think you can mitigate it by collapsing the windows, so there are no dark periods. Part of the problem with piracy is that the film comes into the cinema and it then goes. If you have to wait four to six months before it is available on DVD, that is when piracy will be consumed; whereas, if it is always available but at different price points, it is like music and finding the point at which people are prepared to pay.

Mr Smith: There is a formal answer to the question which is that what we have submitted to Lord Carter in the Digital Britain exercise that he is leading—we, Ingenious Media—is that there should be a new regime in which the ISPs have a formal responsibility. We have dreamt up the idea of connected provider liability, the point being that we want them to assume a responsibility for what goes out on their wires for the reasons just mentioned, but also we want it to incentivise them because they also need to make a penny here and 2p there. It is about a carrot and a stick. We have to bring the ISPs into this as part of the solution. I agree absolutely with James. The answer to piracy is not a simple one. It is not only about changes in the law. It is about new business models, collapsing the windows as James has just described. It is a very complex set of issues. It is also about media literacy. Lord Puttnam has argued many times that we have to promote a discussion, not just in schools but within society generally, which encourages people to recognise the value of the creative content which is being made available to them so that they do not think it is right just to nick it. That is really the problem that we are facing.

Chairman: We are interested in what you have said about Digital Britain because we should have that in the next couple of weeks and we will see what they say on piracy. I think we need no persuasion, having listened to evidence from a number of people, that this is quite a complicated area and a complex area to take action in. We also note obviously the importance that various witnesses have put to it.

Q841 Lord Gordon of Strathblane: In your evidence you say that the Film Council cannot meet its objectives because it does not have the levers at its disposal that would be necessary to deliver success. Are you referring to finance or powers?

Mr Smith: Our view on the Film Council is that the objectives which it is set do not correlate means and ends. They are given the task of achieving something which they cannot achieve because they do not have the necessary levers at their disposal. They are not able because they do not have the powers and they do not have the commercial skills, frankly, to bring in significant amounts of investment.

Q842 Lord Gordon of Strathblane: What needs to be changed?

Mr Smith: That is quite a big question, as is the whole question of the nature of the Film Council. In a sense, you are inviting me to answer that.

Q843 Lord Gordon of Strathblane: If it could be improved, we would like to know how.

Mr Smith: I would start by asking the question “Which way does the Film Council face? Does it represent the government to the film industry or does it represent the film industry to the government?” There is little doubt in my mind that it represents the government to the film industry. Certainly if you look at what it was saying about the film production tax credit and the wider tax issues that we were referring to earlier in 2007, it was speaking on behalf of the Treasury. That worries me, speaking personally. It does not seek actively to promote the view of the industry to government. It does it the other way round. It does extremely valuable work on what I would call the supply side of the equation. It does fantastically good work in training and skills, in the roll-out of digital screen and so on. All of that is fine. What it does not do, because I do not think it can, is significantly contribute to the raising of risk capital. That has to be a task which rests much more broadly across government proper. That is a Treasury function. It is a BERR function.

Q844 Lord Gordon of Strathblane: A Treasury function to raise the risk capital?

Mr Smith: It is a Treasury function to promote a regime in which it is attractive to invest in these assets. It is also an issue for BERR and others in Whitehall. The real problem, if I may say so, that I have with the Film Council is the way in which it provides a narrative for what is happening in the industry as a whole. If you look at what it said last
Mr Noakes: Definitely. They have very big studios in Berlin. The Czech Republic will come in with a tax break. I hear this from the Czechs. I still talk to them. When that comes in, they are going to be unfortunately more competitive than us. Within the studio side, the American studios will pay a comfort factor. They may pay a million, two or three million, to come and shoot in the UK because you are guaranteed to get your movie made here. You are going to get the service. You are going to get the studios. Nothing really is going to go wrong here. The tax credit is not changing. It says exactly what it does on the tin. If you qualify, you will get your money and you will get it very quickly, which I think is fantastic. We have to remain competitive. From my side, competitiveness is the biggest issue. If we do not, we will fall into a slump in a few years’ time. We will not have films. Either the Czech Republic or Hungary will kick off again. They will get strong.

Q848 Chairman: Who is the major competitor at the moment?

Mr Noakes: Hungary, the Czech Republic and America. There are 40 states in America that have different tax incentives. As soon as one comes up with one, the next state tops it with something else. There is a little auction going on. New York has run out of money because theirs was so good that everyone went there.

Q849 Chairman: And Germany?

Mr Noakes: I did read all the agreements and I just got so bogged down with remembering numbers. I will gladly sit down and write up a synopsis of all the various breaks that are available.

Q850 Chairman: Presumably that is something you would look at?

Mr Noakes: Most definitely. You would look at your project and try to figure out where is the best place to make it, initially for the film and then certainly for the money. Business people will be jumping as much as the creative people as to where we should be making this film. If you have a headline that Australia is giving you a 40 per cent tax rebate, these guys in America will not want to know the ins and outs. They will just start screaming at their underlings, “Go and find out. Tell me why I should not be making a film in Australia.” That is their kind of mentality. They will read the headlines.

Q851 Baroness Eccles of Moulton: Do we not always have the edge on technical skill?

Mr Noakes: We do. In Prague they suffer but when we did Casino Royale we took something like 100 people out there from the UK. We were told we were mad and we did not need to take so many, but we wanted to. We wanted our comfort zone and we were still

Chairman: Are there any additional, short points that anyone wants to make? Mr Noakes, what is your view on the general availability and levels of skills in the British industry?

Mr Noakes: We have a very great level of skills. I know Vector have been here and they have been saying that we should bring foreigners in here. Sometimes you are going to have to let some foreigners come in. To let ten people in to employ 2,000 people is not a bad ratio. We are still developing skills. There is the Production Guild that is doing inward training within ourselves. There is a bunch of us. The Brits do run their own programmes. Skillset is a fantastic organisation. It has an awful lot of cover. I did not realise that Skillset has to cover many issues, not just film, which is what I am interested in. The industry is not broken but it could break. There are cracks and the cracks will either get bigger or smaller. The tax credit definitely brought Quantum of Solace back to the UK. Without it, Quantum would not have been in the UK. It just needs to be looked at. The Germans have a great incentive. They allow up to 30 per cent of their script pages to be shot in foreign countries because they recognise films will go abroad. If you have to shoot the Eiffel Tower, you have to. You cannot avoid it.

Chairman: Are the Germans a big competitor to somebody like Pinewood?
saving enough money to go there and have our comfort zone. Next time round, you could be taking fewer. The trouble is you go to a country that is cheap and you teach them and you will take on two guys that you may need to do one guy’s job. The next time you go there, one guy can do the job. We are our own worst enemy. We are educating the rest of Europe. Hungary is massive at the moment and I believe Hungary is still cheaper than the UK.

**Q852 Chairman**: These are some of the things we should look at. Mr Smith, do you have a last point?

**Mr Smith**: That is the point. We have the best technical skills and we have the greatest talent, but we do not capture the commercial upside in this country. We must raise our sights higher. We are not happy with the idea of being consigned to being offshore facilities managers, either to Hollywood, Mumbai or Shanghai. We do need to build business capacity. Michael Kuhn is right. 

**Chairman**: We are very grateful to you for coming today. It has been a very important piece of evidence and a rather good morning from that point of view. Thank you very much.
MEMORANDUM BY THE UK SCREEN ASSOCIATION

INTRODUCTION

1. UK Screen Association (UK Screen) is the trade body that represents the commercial interests of the UK facilities sector. The range of activities covered by the facilities sector is diverse but broadly speaking it includes: post production, visual effects, physical special effects, equipment hire, outside broadcast and studios. We have more than 150 member companies across the UK, providing creative and technical expertise, equipment, and accommodation to producers of moving image media.

2. Turnover in the facilities sector represents £2.4 billion per annum. The UK facilities sector services an estimated £5 billion domestic television, film, commercials and corporate production core sector. It also supplies overseas television, film and commercials production.

3. This document responds to each of the Select Committee’s questions as laid out in the “Call for Evidence: The British Film and Television Industries” as they relate to the UK facilities sector.

What do the UK film and television industries contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

4. The film and television industries contribute significantly to the economy and culture of the UK and as such are at the centre of our creative industries.

5. The UK film and television industries are of the most prodigious and well respected in the world. To enhance their contribution both culturally and economically we must ensure we: retain a high level of commercial and non-commercial UK originated content; continue to attract overseas work to the UK and export content and services globally; retain a critical mass of infrastructure and a strong creative and technical skills-base; create stability and certainty through a long-term commitment to film funds, film tax incentives and public service broadcasting; align Government policies to encourage innovation, SME growth, connectivity and international competitiveness.

6. In October 2008 UK Screen commissioned a study into the UK facilities sector. The purpose being: to identify the economic characteristics of the sector together with its key market segments (size, structure, profitability); to quantify the contribution of the sector to the UK economy as a whole (direct, indirect and wider spill-over impacts); to understand better the role of facilities sector in the broader television, film, commercials and corporate markets within which it operates; to articulate the prospects and challenges for the sector over the coming years.

7. To our knowledge this is the first time anyone has attempted to comprehensively map the UK facilities sector. Therefore, we believe this will be a vital piece of research not only for the UK facilities sector but also the wider film, television and screen-based industries. The report will be published in April 2009 and we will be happy to supply copies of the UK Facilities Report as soon as it is available.

How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?

8. The current UK arrangements for distribution and exhibition of films restrict commercial success in the sense that the physical delivery of 35mm film to cinemas is costly, resource intensive and not eco friendly. Delivery to Public Entertainment Centres by satellite and digital distribution will solve these problems by making content freely available at a fraction of the cost and impact on the environment. Financial backing for UK film projects has been adversely affected by the “credit crunch” and incentives need to be reconsidered by the Government.

Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

9. Inward investment films (big budget films that are financed from overseas but are made wholly or partly in the UK) account for the majority of the total UK production spend, for example 68%, 69% and 58% respectively in 2006, 2007, 2008.68 There was a significant decrease in inward investment films in 2008 to the UK) account for the majority of the total UK production spend, for example 68%, 69% and 58% respectively in 2006, 2007, 2008.68 There was a significant decrease in inward investment films in 2008 to £338 million compared to £523 million in 2007 and £558 million in 2006, however we believe this drop relates to a number of exceptional factors (US writers strike, threat of screen actors strike and adverse exchange rates) and is not a reflection of the new tax credit system. In 2009 opportunities for inward investment films are looking more favourable.

10. The UK facilities sector is one of the main beneficiaries of inward investment given its world-class visual effects, post production and studios. The changes to the tax credit system have brought stability and increased confidence in the UK as a destination for inward investment production and post production which has been received positively by the facilities sector. Furthermore, a high level of inward investment is critical in sustaining a meaningful level of infrastructure, including our creative and technical skills base, which in turn underpins domestic film production.

11. Co-production films (made both in the UK and abroad using UK crew, expertise and services) account for the minority of the total UK production spend, representing just 8% of spend in 2008 (£48 million). The attractiveness of the UK as a co-production partner has been diminished as a result of the new tax credit system which does not recognise production outside the UK.

12. For the UK facilities sector there has been a detrimental impact on the physical special effects, lighting, camera and crewing companies where deployment of their services on productions shooting overseas is no longer considered “good spend” and is not eligible for the UK tax incentive. Additionally, lower budget co-production films have historically been the mainstay for many small-to-medium post production companies, with fewer co-production films over the last few years there has inevitably been less of this type of work available to facilities in the UK.

13. Domestic UK film production has grown considerably in 2008 now representing 33% of total UK production spend up from 21% in 2007 (£192 million and £158 million respectively).

14. Domestic films are a very important to, and are well supported by, the UK facilities sector.

Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

15. The UK Film Council had a pivotal role in the review of the film tax incentives. It continues to work well with the industry as a whole, consulting every part of the production chain, sharing expertise and encouraging the alignment of interests (insofar as was possible) in order to positively impact public policy for British film.

16. UK Screen works mainly with the Office of the British Commissioner (OBFC) which focuses on inward investment opportunities. The OBFC has made good progress in building relationships with the US major studios and independents and in promoting the value, accessibility and simplicity of the new film tax incentives. It creates research and statistical production data which is useful to the industry; for example its support of research into the post production sector and more recently the cost comparative work. Its role in helping industry understand the Managed Migration Points Based System, and helping HMRC understand the exceptional nature of the film production was also important and continues as the new system beds down. As inward investment accounts for the majority of UK film production spend, and given its vast contribution to helping to sustain the UK film infrastructure, we believe an increase in the allocation of UK Film Council resources to the OBFC would significantly enhance the film industry’s contribution to the UK economy.

68 UK Film Council Statistical Yearbook 2008.
17. The UK Film Council works closely with Skillset, The Sector Skills Council for Creative Media, and has been instrumental in supporting the creation of “A Bigger Future” the film skills strategy which has invested some £28 million in the last four years.69 Given the importance of the facilities sector to film production, especially in this digital age, it is surprising that such a small proportion (about 0.3%) has gone directly to companies to support their in-house skills and training development needs. We believe an increase in resources targeted in this area would enhance the film industry’s contribution to the UK economy.

Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of the opportunities in the creative industries?

18. To create truly sustainable production of British films and television we must continue to develop the infrastructure with an emphasis on those businesses which support and nurture the screen-based industries as a whole.

19. There are a relatively small number of large world-class companies operating in the facilities sector for both film and television. The vast majority are SME owner managed companies which have grown organically through creative endeavour rather than business prowess. In general terms it is true to say there has not been a structured approach to leadership and management.

20. We must encourage rigorous business practises which allow people to run successful and profitable companies in order that they can invest in skills (creative, technical and managerial) and be internationally competitive.

21. We need to encourage training initiatives and apprentice schemes by reducing the bureaucracy and apportioning financial benefits to the companies supplying them.

22. We need continuity and stability in Government interventions, incentives and policy making as this gives the market the confidence it needs to be bold and build for the future in a challenging economic climate.

How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentive, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

23. The regulatory system has been hugely successful in supporting UK content in television. Production quotas for independent production, original commissions, regional production and regional programmes have encouraged a rich diversity of British content for terrestrial television.

24. Within this framework and through the operation of the Terms of Trade with the Broadcasters, the independent production sector has flourished and achieved commercial success (reporting a £156 million increase in UK commissions in 2007).70

25. There has been no such Government intervention in support of the facilities sector. Given the contribution this sector makes (especially in this digital age) we believe any regulatory system supporting UK content in television should be extended to include the deeper supply chain which underpins the creation of that content.

26. Specifically this should include a commitment by Broadcasters (and by association independent producers) to: procure services from the independent facilities sector and procure regional facilities and services.

27. Support is evidently needed to ensure high quality British programme making in factual, children’s and drama.

28. Any measures that encourage non-public service broadcasters to commission original UK television content would be welcomed by the facilities sector.

69 UK Film Council/Skillset “A Bigger Future”—The UK Film Skills Strategy.
70 Independent Production Census, Pact 2007–08.
How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

29. There are profound challenges facing the UK television industry (decline in advertising spend, proliferation of digital television channels, growth in new platforms, approach of digital switchover etc) which will out of necessity drive new business models and impact on the levels of investment in, and quantity of, UK originated television content.

30. Despite increases in some digital channels’ investment in UK programming in recent years the main public service channels (BBC channels, ITV1, Channel 4, S4C and Five) “account for over 90% of investment in new networked UK-originated television content.”71 Therefore, the UK facilities sector is to a great extent dependent not only on the continuation, but the growth of, public service channels originated television content. Similarly, in this digital age the facilities sector is crucial to any ambitions that the UK may have for its broadcast industries as its technical and creative expertise is unparalleled.

31. Access to compelling content will continue to be the key driver to broadband take-up and consumer engagement with digital services.

23 March 2009

Examination of Witnesses

Witnesses: Ms Gaynor Davenport, Chief Executive, UK Screen Association, Mr Alex Hope, Managing Director, Double Negative, Mr Simon Kanjee, Managing Director, Evolutions and Mr Saul Mahoney, Technical Director, Disney UK, examined.

Q853 Chairman: Welcome. You seem to be one down at the moment, which is not bad for this morning. Who is missing? It is Mr Saul Mahoney. I am going to ask you to introduce yourselves in a moment and what you do. Basically what we are trying to do is to look at the film and television industries and, in a sense, see what contribution they make both economically and culturally to the UK; and see what can be done to help further, if indeed any help and assistance is required in terms of policy changes. To get us going, could I ask you in a few words just to tell us about your own roles? Gaynor Davenport, would you like to begin?
Ms Davenport: I am Chief Executive of the UK Screen Association, which is the trade body which supports companies who provide services to the film and television industry. It is quite a diverse sector and, broadly speaking, covers post production, special effects, visual effects, equipment hire, studios and outside broadcast. In terms of the make-up of the sector, as I say it is very diverse. At this time would you like me to go into an overview of the sector?

Q854 Chairman: No; we will get to your overviews. Mr Hope, you are Managing Director of Double Negative; and just tell us about Double Negative.
Mr Hope: Double Negative is Europe’s largest film only visual effects company. We are based in Soho where the visual effects industry in this country is based. We employ about 520 staff and service both American studio-based films for America and shooting in the UK and a reasonable number of UK independent lower budget productions.

Q855 Chairman: You think that you are the biggest in Europe?
Mr Hope: Yes, in staff numbers.

Q856 Chairman: Is the characteristic of the industry much smaller units—a whole variety of smaller units?
Mr Hope: I can give you the visual effects overview now, if you like. Basically there are about nine or ten large companies in visual effects globally—and by large I mean employing more than 400 staff, of which three are based in the UK. If you compare that to ten years ago none were based in the UK; so we have seen significant growth in that area and we will supply some outlines on that.

Q857 Chairman: That sounds very interesting and we will come back to that. Mr Kanjee, let us look to you. You are the Managing Director of Evolutions; tell us about Evolutions.
Mr Kanjee: Evolutions is London’s largest independently owned broadcast post production company. We supply post production services to independent productions companies and broadcasters making television programmes. We have 150 staff; a turnover of around £10 million with 110 edit suites across four sites in Soho.

Q858 Chairman: Post production takes in everything, does it?
Mr Kanjee: Yes. Fundamentally we take the tape out of the camera or the disk out of the camera and after a period deliver a finished programme to a broadcaster.

71 Ofcom’s Second Public Service Broadcasting Review—Phase One: The Digital Opportunity.
**Q859 Chairman:** Just for the record, tell us roughly what that area would include.

*Mr Kanjee:* Sitting in an edit suite for a period of anything from two to 12 weeks. In the example of *The Apprentice*, which is one of the shows we have recently been delivering—

**Q860 Chairman:** Not for much longer, I think!

*Mr Kanjee:* . . . they will spend up to 12 weeks in an edit suite, taking 120 hours of footage from a variety of camera sources and then take that into an online suite where they will spend a couple of days crafting it into a grading suite, where they will change light and colour; and then there is a lengthy audio dubbing process also where we make it sound nice. Then we will add graphics as well. So literally everything from taking raw footage into what you see on your television screens at home.

**Q861 Baroness McIntosh of Hudnall:** What about reality television?

*Mr Kanjee:* Semi-reality.

**Q862 Chairman:** We will go into this as we go through the questions but just give us some idea of the size of the UK post production sector. How big is it in terms of revenue and the rest?

*Ms Davenport:* Looking collectively at the services sector or the facilities sector as it is known within the industry—so that is covering post production and effect but also the studios and outside broadcasting, equipment hire, etcetera—we have some 1300 independent companies providing services to the film and television industries. Collectively the sector employs more than 26,000 full time equivalents, of which—

**Q863 Chairman:** Your sector does?

*Ms Davenport:* Yes. Of which a third of that, just over 9000, are freelance; so individual contractors providing services to the companies. In terms of collective turnover of that sector, it was just over £2 billion per annum in 2008.

**Q864 Chairman:** Just to interrupt there, that figure has come from your latest?

*Ms Davenport:* From our latest research work.

**Q865 Chairman:** Which is not yet published?

*Ms Davenport:* It is not published due to the complexity of the sector and because this is the first time anybody has actually attempted to comprehensively map it; so it is taking us a little bit longer to make sure that we get it.

**Q866 Chairman:** Since 2003, I gather.

*Ms Davenport:* Yes, that is right.

**Q867 Chairman:** So is it £2.4 billion or is it 2 billion?

*Ms Davenport:* It is over £2 billion and the figure we put in our original submission for evidence was an estimation on where we were at that time with the statistics; so rather than throw in another figure I would rather come back to you. We will be publishing the report by the autumn and sooner if we are able to.

**Q868 Chairman:** Are you going up? If you compare it with the last time that there was an authoritative report in November 2003, has there been growth in this area since then?

*Ms Davenport:* Broadly across the sector there has. It is impossible for us to do a direct comparison with the previous reports as that looked wholly at the post production and visual effects, whereas this is a much wider report. Overall the sector does show growth and there are areas within the sector that have shown significant growth in that period.

**Q870 Chairman:** Of the particular post production activities, which are the most important financially, in terms of revenue?

*Ms Davenport:* In terms of revenue and employment, if you look collectively at post production and visual effects it represents 50 per cent of the workforce right across the sector. In terms of high end services within post production you would look to grading the audio services, so the high end work as opposed to some of the commoditised basic services.

**Q871 Chairman:** Let me ask the two witnesses on either side of you: are there post production activities in which the UK excels?

*Mr Hope:* Visual effects. We won the Oscar last year for *Golden Compass*. We were nominated this year for *Dark Knight*. The process by which Oscar selection happens is that they have a long list of seven that goes down to a short list of three and this year half the films on the long list were worked on by UK visual effects companies. If you compare that, as I said, to 1997, that has seen huge growth. There are four principal companies in the UK; their revenues between 1997 and 2004 quadrupled and we hope to be able to demonstrate continued growth—not at
that level but sustained and sustainable growth. Just
to go on to one of the points that Gaynor raised, one
go of the challenges that we have in supplying data to
you is that this is a rapidly evolving sector. The
technology that we are deploying is constantly
evolving; the way in which it is used is changing and
it changes the practices that our companies employ.
When I started working for one of my competitors 18
years ago I did what would now be called TV
graphics—flying titles for Barrymore were the state of
the art—and now the same technology is deployed for
visual effects. So what we are seeking to do is to
give you a current representation of our industry and
seek to draw comparisons with data that was
collected in 2003/2004, but there will be possible
anomalies there, which we will seek to explain.

Q872 Chairman: Are you film only?
Mr Hope: Yes; our company works exclusively on
film. Some of my competitors work on film, television
and commercials. The technology we use is the same
but the lifecycle of film production will be longer than
that of a commercial or a television programme.

Q873 Chairman: So when you talk about companies
in the UK you are saying, are you, that they are ahead
as far as Europe is concerned.
Mr Hope: Yes, absolutely. Today our company
employs people of about 32 different nationalities—
it fluctuates between low 30s and high 30s. They are
drawn from all over Europe—mostly UK but all over
Europe—and a smattering from the former
Commonwealth and America.

Q874 Chairman: What about television?
Mr Kanjee: Television is a much more localised
market, given the timeframes involved. So there is
very little import or export business for ourselves; we
tend to work exclusively for UK-based companies,
and equally across Europe that is the case—there is
very little movement of production across borders.

Q875 Chairman: Could you give me one more figure,
if this is possible. Do we have any recent figures for
post production’s contribution to UK exports and
inward investment?
Ms Davenport: Only collectively and not as an export
figure—it is a collective figure across the piece—and
that would be £800 million of the £2 billion turnover
for the whole sector.

Q876 Chairman: Is what?
Ms Davenport: Is the turnover for the visual effects
and post production sectors in entirety.
Mr Hope: But in terms of export I would have
thought for the visual effects sector that the Film
Council would be able to give you the numbers that
would reflect that. They do not necessarily publish
those but they may be able to help with that. I would
suggest that you talk to the office of the British Film
Commissioner.
Ms Davenport: It is something that we have explicitly
included in our report.

Q877 Baroness Bonham-Carter of Yarnbury: Mr
Hope, you deal with post production in film.
Mr Hope: Yes.

Q878 Baroness Bonham-Carter of Yarnbury: Do you
have offices in the United States?
Mr Hope: No. We have recently opened up in
Singapore; we have had an operation in Hungary.
Some of my competitors have offices in the States but
those are primarily commercials enterprises.

Q879 Baroness Bonham-Carter of Yarnbury: So
something like Framestore, for instance, who know I
does have.
Mr Hope: Framestore have offices in New York; the
Moving Picture Company has offices in LA and the
Mill has offices in New York. The Mill has just started
doing film work again to a small degree, but those are
primarily commercials ventures.

Q880 Baroness Bonham-Carter of Yarnbury: When
you are calculating your figures, Ms Davenport,
would you take into account offices outside of
Britain?
Mr Hope: We have not been given necessarily by the
companies involved a breakdown of turnover by
location and the sensitivity of their accounts may
preclude that.

Q881 Baroness Bonham-Carter of Yarnbury: But
they go on employing British people, do they, in their
overseas offices?
Mr Hope: British people and locals, yes. It is
important to note that all British visual effects
companies are working on films for American
studios. They will break into two kinds: those that are
culturally British and benefit from the tax credit
system, and those that come here purely because we
are cost effective and do good work. So we are
currently working on films with American companies
that are not benefiting from the tax credit, and the
Film Council does have numbers on that which, as I
said, are not published but they should be able to give
you an indication.

Q882 Lord King of Bridgwater: When you said you
had some head offices in America, are those sales
offices for the production facilities in the UK?
Mr Hope: They are operational offices, so they are
editing suites.
Q883 Lord King of Bridgwater: You have talked about how price sensitive it is; how much are you affected by the exchange rate?

Mr Hope: It is a significant driver for film coming into the UK, for film visual effects work coming into the UK. I think that as a sector the UK visual effects industry has responded well to those challenges. You will see that there was growth through the period from 2006 to 2007 when we went up two to one in the dollar in I think the third quarter of 2006, and you saw growth certainly in our company and the other major companies through that period. So it clearly presents challenges but we are a growth industry, none the less.

Q884 Lord King of Bridgwater: But it is less of a challenge now because you could grow at two dollars to the pound.

Mr Hope: The UK visual effects industry has never been busier than it is at the moment and we will see that through the rest of this year and into next year.

Q885 Lord King of Bridgwater: It would make it sound as though it is not actually price sensitive but it is the quality or service or delivery that you are able to give that is actually getting the business.

Mr Hope: There are three factors driving it. One is price; the second is the quality of the work; and the third is the scale on which that work can be offered. If you are working on a film like Harry Potter or the Dark Knight—and if I take the Dark Knight as an example—the scale of the visual effects requirement on that film is so large that there are very few companies globally who can deliver it. There are other films where you could get 20 or 30 small companies of ten to 50 people and divide the work up between them. On a film like the Dark Knight where we created a virtual Gotham City and where Framestore created—I do not know if you have seen the film—Harvey Two-Face, who has half his face removed, the complexity of that work means that you need hundreds of people working on it. We had a crew of 180 people at one point working on that film as a team and there are few companies that can offer that service.

Q886 Lord King of Bridgwater: Have you not already said that there were only four of the bigger companies—

Mr Hope: In the UK.

Q887 Lord King of Bridgwater: ... and three of them are British.

Mr Hope: Framestore, the Moving Picture Company, Double Negative and Cinesite; and in America you have Industrial Light and Magic, Digital Domain, Sony Imageworks, Rhythm and Hughes; and in New Zealand you have Weta. There are other companies like Pixar and Animal Logic. Pixar is exclusively focused on long form animation and that is the direction in which Animal Logic are going in Australia.

Q888 Chairman: So that we all know what we are talking about—and I think we do—is it possible to give the briefest summary about what visual effects incorporates?

Mr Hope: Visual effects can be defined as anything that you see in a film that you cannot shoot with a film camera and is then created in post production. So it might be something as small as removing the blemishes on an actress so that she looks more beautiful, to creating entirely digital characters. It is, I would suggest, the biggest growth area in the film industry because increasingly it provides both more cost effective alternatives to building a set. We work with the production team to assess how much it is going to cost to build a set for real, how much it will cost to build it in the computer. The same exercise will go on with regard to creating crowds, which ten years ago one could not create in the computer effectively and now it can be much more effective to do that digitally rather than hire thousands of extras.

Q889 Lord Maxton: And cheaper.

Mr Hope: Yes, it is cheaper; that is one driver. Then the second driver is we are doing things that you simply cannot film. So those two things are pushing forward the film industry. Benjamin Button won the Oscar for visual effects this year for creating a digital human being.

Q890 Lord Inglewood: In your first remarks you explained how the business had expanded in this country over the last eight to ten years. Is that expansion greater than in other places?

Mr Hope: Yes.

Q891 Lord Inglewood: What is the particular reason for it? Are we somehow more cunning or is it something to do with the exchange rates, as Lord King pointed to? Why has it happened here?

Mr Hope: All factors play a part. The British film industry, as I think other people have commented, did well under the previous tax regime; that was clearly not a system that was effective as there were all kinds of leakages and it has been replaced by something that we all feel works very, very well and that incentivises American productions to come to the UK. The exchange rate is a driver but the British visual effects companies, and the fact that they are all located within a ten-minute walk of each other in Soho, is a major attraction to our clients. I commented on the fact that the barrier to entry for
smaller companies is not having the scale. Some of our clients view Soho as a kind of collective super facility, so they will split up work between the four major companies and their directors and their production teams are able to spend their day walking between the various companies reviewing work, and that is a big plus to them. But, yes, exchange rates and tax incentives are significant drivers to work coming to this country.

**Q892 Chairman:** We will come on to tax. Mr Mahoney, welcome. You probably had a little difficulty getting here this morning.

**Mr Mahoney:** A bit, yes. I am sorry for being late.

**Chairman:** It is understandable. We are in the foothills, I think it can be said, of our questioning at the moment and we are trying to get an idea of the scale of the industry. Why do you not just listen for a moment and then we will bring you in.

**Q893 Baroness Eccles of Moulton:** If we could return for a minute to when the post production input is outsourced by a company, for instance, like Warner Brothers at Leavesden, they have these massive sets and huge studios, etcetera, and I suppose the impression that one would get would be that Warner Brothers look after their own post production work, but from what you say it sounds as if a lot of it is outsourced.

**Mr Hope:** Visual effects work will be outsourced. Each film is set up as an SPV—a Special Purpose Vehicle—with its own budget and they will hire crews and those crews are hired as individuals but they will engage companies from which to hire camera kit and to supply visual effects services.

**Q894 Baroness Eccles of Moulton:** So they will not actually own that part of the production themselves.

**Mr Hope:** No. Warner have owned and Disney have owned their own visual effects companies at times during the late 90s, I believe—PDI were owned by Disney and Warner Digital was owned by Warner; and they also had an interest in a company called Manex, who made *The Matrix*. But I think they have understood that they have more effective cost control through engaging companies to compete for that work and have a team within the studio who monitor those costs and ensure that creativity and costs are both realised.

**Q895 Chairman:** Mr Mahoney, bringing you in for 30 seconds. You are the Technical Director of Disney UK.

**Mr Mahoney:** Correct.

**Q896 Chairman:** Disney UK is an American company; what is the attraction of the British industry as far as an American company like Disney is concerned?

**Mr Mahoney:** We are currently producing a couple of films that are quite big properties to the Walt Disney company in that they are family properties and the attraction to the UK is partially through the richness of the source material. We are making *A Christmas Carol* and *Alice in Wonderland*; and because of the nature of these properties we are also using London facilities and UK-based talent. So the attraction really from a production point of view is usually the expertise and the cultural source.

**Q897 Chairman:** You find a reservoir of skill here that is attractive to you.

**Mr Mahoney:** Again, following Alex Hope’s point, production companies or studios such as ourselves will have a deal with a producer who then goes out and outsources their own visual effects companies and talent in terms of film makers. It is generally up to the film makers but we do not have any objection to that.

**Q898 Chairman:** The two films you have mentioned are both areas which are very British.

**Mr Mahoney:** Correct.

**Q899 Chairman:** Perhaps quite difficult to make in Los Angeles, although not entirely impossible; is that fair?

**Mr Mahoney:** That is fair to say, yes, and that is one of the reasons that film makers are likely to base themselves here, especially in the instance of *Alice in Wonderland*, that there is a lot of UK talent, actresses and actors, that they will use.

**Q900 Baroness Bonham-Carter of Yarnbury:** I have to interrupt here. *Alice in Wonderland* is being made in LA.

**Mr Mahoney:** A lot of it is being post produced here and Tim Burton is—

**Q901 Baroness Bonham-Carter of Yarnbury:** But it is actually being filmed in Los Angeles.

**Mr Mahoney:** Okay!

**Baroness Bonham-Carter of Yarnbury:** Sorry about that; there is a family connection here!

**Chairman:** On that point we will move on. Lord Macdonald.

**Q902 Lord Macdonald of Tradeston:** To explore the market a little more, it is the case that London, as you say, is the great dominating cluster in this business
but you do have 1300 companies. Film and advertising is presumably based in London and television is more dispersed. What is the geographical split in your 1300 people, Ms Davenport?

Ms Davenport: The majority of companies are London and Greater London based but there are creative clusters in the regions and nations, most notably in Cardiff, Glasgow, Bristol and Manchester. I do not have a specific split of those businesses but that is something which we can provide for you.

Q903 Lord Macdonald of Tradeston: But it is difficult to compete in the film market outside of London, I would imagine?

Ms Davenport: It is much smaller, yes.

Mr Hope: Yes, it is.

Ms Davenport: It is a handful of facilities outside London that would be working in that.

Q904 Lord Macdonald of Tradeston: What is happening with the dynamic with the digital equipment? Is that lowering the entry barriers to allow more people into the 1300 or is the very cost and complexity of it forcing the entry barrier up?

Ms Davenport: You are absolutely right that the barriers to entry are coming down. We have heard some impressive figures today, but if we consider that 65 per cent of the sector is actually made up of very small businesses employing less than five people; it is looking at the contribution that those smaller companies do make to the whole. Alex was talking about the four major visual effects facilities in London but there are also many specialist boutique companies which actually supplement those work streams, which is a very important part in being able to show the overall capacity for the industry.

Mr Hope: I think it is a characteristic of our industry over the last ten years that significant creatives have been able to break off from larger companies and set up on their own and that is what we did ten years ago—there were ten of us who started our business—and we have seen that with other smaller companies. I think that that would be a great thing to find ways to encourage; we as a business encourage it by outsourcing work to other companies in Soho.

Creating sustainable growth is about supporting those companies. Our clients like it because it creates competition. These are businesses that are set up largely by creative people and if you are looking for areas to support giving those people effective management training and support and easy access to that would be an important thing to do.

Q905 Lord Macdonald of Tradeston: The independent production sector, PACT, always seem to have a political agenda, which they have been very successful in pursuing. You by comparison have been pretty muted. Are there any demands that you would make of broadcasters, for instance, for outsourcing material to encourage your industry?

Ms Davenport: Within the industry itself we are also competing with broadcasters and production companies that are setting up their own in-house post production facilities. I think where the independent production sector has done incredibly well is in lobbying for their terms of trade, which really changed the commercial dynamic between their biggest client, the broadcasters and the sector. So having an independent production quota definitely gives the commercial benefit to the sector and there is not parity of that in terms of the services supplied to the independent production companies.

Q906 Lord Macdonald of Tradeston: So this very vigorous television market that we have in the United Kingdom with this turnover of more than £3.5 billion, is that one of the things that gives you a global advantage or are you at risk from Berlin, Prague or Los Angeles?

Mr Kanjee: I do not think in the television market we feel that there are any risks or threats from outside our shores; the bigger threats are internal right now with the way that budgets have been cut again and again within every broadcaster. I do not see that we see any threat from outside the UK.

Q907 Lord Macdonald of Tradeston: Does the cutting back of the budgets mean that if you are more economical more work is going to be outsourced to you from the broadcasters?

Mr Kanjee: Yes. The problem is that the cuts have become so great that they are eating into all of our margins and the television post production sector is a very, very competitive sector currently—probably over supplied in Soho. There have never been massive margins in the business in which we operate and we are seeing 20 to 30 per cent budget cuts from broadcasters to independent production companies and then obviously at the end of the supply chain we have to deal with it. So I think that is the biggest issues that most of our companies face currently.

Q908 Lord Macdonald of Tradeston: So it is very labour intensive. You mentioned that you had 150 people working for a £10 million turnover, so presumably your margins are pretty tight.

Mr Kanjee: Our salaries to sales percentage is between 50 and 60 per cent, which is pretty high. Our business is very much about people; it is a very labour intensive business and it is very much about the person you are sitting next to in a room or who is serving you tea and coffee or who is managing the media across the building; it is not an automated process, sadly.
Q909 Baroness McIntosh of Hudnall: Can I just follow up on that point about the cost of people as opposed to equipment. Going back to the point that you were making about new start-ups in this industry, what is the sort of relationship of capital investment to the way that the economics of this industry works? On the one hand it appears that you could break away from a larger company and start up with some relatively low costs in terms of overheads.

Mr Kanjee: Yes.

Q910 Baroness McIntosh of Hudnall: However, there is presumably the need for a constant reinvestment in capital terms because of the changes in technology and I just wondered what you can tell us about the cost base in capital terms and how that relates to the people side of it.

Mr Kanjee: A very difficult question. It changes rapidly and, as we have all said earlier, the pace of change technologically is incredibly rapid and the pricing of the capital investment that we need to make also changes. The big issue for companies in my sector right now obviously is High Definition, because that is the latest standard to which we are all going to have to adhere, and the cost of capital investment in that can range in one single edit suite to a quarter of a million pounds, potentially. If you want to upgrade a grading suite, for instance, there is a new monitor out from Sony, which is just a telly that sits in the suite and is £25,000; so the cost of investment can be significant and is not to be underestimated.

Mr Hope: I suspect the cost per capita in film is less but I do not have numbers on that. As Simon has alluded to, in television you have one person sitting in a suite with lots of equipment. My industry is characterised by somebody sitting at one work station; they will share a render farm between hundreds of people when they process their data between the studios and facilities in Soho. In terms of local market television tends to be focused in the UK. In terms of the ability to move data between the studios and facilities in Soho it is increasingly easy to do that. What you have in the studio is being able to offer a full service, which is one of the major attractions of the UK; so an ability to come here and shoot and deliver all your post production needs is an extremely attractive proposition, but they are not mutually exclusive.

Q911 Baroness McIntosh of Hudnall: Presumably you do have to invest quite heavily in the skills of the people who can do what you are talking about in terms of actually working on the software.

Mr Hope: That is the significant cost in the film industry and at the moment in the UK the biggest limiter to growth is the lack of skilled staff, which is why we very fortunately have dispensation from Mac for certain grades within our industry. But it is the biggest limiter we have to growth at the moment.

Q912 Baroness McIntosh of Hudnall: I think we are going to come back to that but can I just take you in a slightly different direction for a moment. The existing studios in this country, Pinewood-Sheperton, Elstree and indeed Leavesden, are turning out a lot of work. I would imagine that some of the people who are providing post production facilities are actually based at those studios and have their working operation there as well as those who are working in Soho.

Ms Davenport: Yes, that is right.

Q913 Baroness McIntosh of Hudnall: What is the dependency of the industry as a whole on the success of the UK studios, firstly in terms of having somewhere to be and creating the clusters that you were talking about earlier? Secondly, in terms of the generation of work from the UK studios what proportion—we know from what Mr Hope has told us that there is a lot of work coming into the UK from outside, but presumably there is also a lot of work being generated in the UK both for film and television and how dependent, if you can quantify it, is your industry on a high level of output from those UK studios?

Ms Davenport: I think it depends on which part of the industry you are looking at. All the studios do television as well as film and, as Simon has already said, in terms of local market television tends to be focused in the UK. In terms of the ability to move data between the studios and facilities in Soho it is increasingly easy to do that. What you have in the studio is being able to offer a full service, which is one of the major attractions of the UK; so an ability to come here and shoot and deliver all your post production needs is an extremely attractive proposition, but they are not mutually exclusive.

Q914 Baroness McIntosh of Hudnall: I do not see any prospect of this happening but if the James Bond franchise, which is currently based at Pinewood and for which special facilities have been built there, were for some reason to move elsewhere would the visual effects aspects of that be likely to go with it or would it be likely that they would stay in the UK?

Mr Hope: Visual effects are location independent, so work would come back to the UK.

Q915 Baroness McIntosh of Hudnall: You are confident of that, irrespective of the health and development of the wider UK industry?

Mr Hope: With the specific example you gave I believe that that work will come back to the UK. With the film like Hellboy II which was shot in Hungary, the post production came back to the UK,
and there are countless other examples. Having said that, I think that a strong and growing studio base in the UK is essential to continuing the vibrancy of the UK post production sector because it allows those smaller companies that I have highlighted projects to work on. I think what we will see over the next ten years is the technological evolution of the film making process, so the technologies that we have in post production increasingly being there with you when you are making your film. What I would hope we will see is that the UK is a leader in that field and that the filming and post production process are a single joined-up offering for us to maintain.

Q916 Chairman: Where does the competition come from in visual effects from elsewhere in Europe? 
Mr Hope: In Europe there are some companies in France—two or three smaller companies in France—and that is it really. There are some small companies in Germany at Babelsberg Studios. Those countries are probably more typical of where the UK was in the 1990s where broadcasting and commercials are supporting companies which increasingly have an interest in film as well and in the UK we have seen visual effects become a significant part of the revenues for certain companies.

Q917 Chairman: Am I right in my impression that the visual effects companies tend to be in the main bigger than you would get in, say, television in the broader aspect.
Mr Kanjee: Yes, I think that is fair.
Mr Hope: As we have highlighted, in London you have four of the biggest in the world. There are other smaller ones; and if you want to LA you would find a lot more smaller ones, and we want to encourage that kind of growth in the UK.

Q918 Chairman: What do you want to encourage? You want to encourage smaller ones?
Mr Hope: We want to encourage the growth of the sector and I think that that is best achieved by the growth of the large companies; also, smaller companies as well—ten to 50 staff—providing competition and pushing forward the creativity that we offer.

Q919 Chairman: But if you have a plethora of very small companies is that not quite difficult to get realistic competition, or am I wrong about that?
Mr Hope: I gave you two examples of types of films earlier: one a Dark Knight kind of model where you have to have one company working on one type of effect. There are other films where there are lots of different kinds of effects through the film and rather than using two large companies you could use ten smaller companies and that is certainly something that the studios find attractive because it creates competition and they get a better price.

Q920 Baroness Bonham-Carter of Yarnbury: A slight side question. You have mentioned Soho a lot and that you all work there and so on. It was suggested to me by someone from Pinewood—and you might say, “He would say this, would he not?”—that the infrastructure required for the post production work that you all do is not best served by Soho because it is not properly able to—
Mr Hope: There is not enough electricity.

Q921 Baroness Bonham-Carter of Yarnbury: That is right! That is exactly what he said to me. Is this true?
Mr Hope: It is true.

Q922 Chairman: The grid is too small, is it?
Mr Hope: There is not enough electricity. There are brownouts and blackouts in Soho every summer.

Q923 Baroness Bonham-Carter of Yarnbury: So would it make sense to move to somewhere like Pinewood?
Mr Hope: The challenge would be that our significant cost and our significant asset is our workforce and the difficulty of encouraging a workforce, as we have discussed, as being very international in moving out of London when one of the reasons for them coming to the UK in the first place is the opportunity to work in Central London.

Q924 Baroness Bonham-Carter of Yarnbury: So you would like us to recommend more electricity?
Mr Hope: Yes, please; and I am not joking!

Q925 Chairman: Presumably this has been going on for some time, has it not?
Mr Hope: In my case for two years I have been trying to get more electricity.

Q926 Lord Maxton: Presumably for the air conditioning.
Mr Hope: And the equipment.

Q927 Chairman: Who stands in the way of providing more electricity?
Ms Davenport: EDF?
Mr Hope: We are at an advanced stage in discussing it with a number of people!

Q928 Lord Gordon of Strathblane: Ms Davenport, earlier on Mr Hope referred to the dramatic growth in the post production sector. Mr Hope, you
Ms Davenport: credit system?
Mr Hope: I was referring specifically to the visual effects sector, yes.

Q929 Lord Gordon of Strathblane: How much is this dramatic growth down to the change to the tax credit system?
Ms Davenport: On visual effects?

Q930 Lord Gordon of Strathblane: Yes.
Ms Davenport: You saw tremendous growth under the old tax, the sale and lease back scheme, but I think with the introduction of the new film tax credit what you have seen is actually a much simpler system which is more easily explained and more accessible for people who actually should be legitimately benefiting from the film tax incentive. We saw a slight fall in activity for 2007 to 2008 but we felt that that was really down to external factors outside the film tax credits. So things like the writers’ strike, the threatened screen actors’ strike, which I understand has been resolved today or yesterday in the States, which is great, and also the exchange rate, the impact of which Alex has already touched on. So on the whole we think that the film tax incentive is working very well and warmly received in terms of inward investment, so US productions coming to the UK. Where we have seen quite a fall off in activity is for co-production and I know that that is something that has been raised with the Committee. So a lot of companies who are operating in the middle strata of the sector—it has been decimated as far as our sector is concerned. But there has been an increase in domestic film production. But if there was one tweak that we could see to the film tax credit it would be to have a recognition for post activity that was taking place outside the UK—sorry, not post activity but where crews and models and things that have been made by UK facilities that are used to be shot overseas, that that could actually contribute as good spend as far as the film tax credit is concerned.

Mr Hope: The issues of “used and consumed”, which I think you have touched on with other people, we would support.

Q931 Lord Gordon of Strathblane: Can we make sure that we are quite clear about this because at first sight it would seem that this would not be in our best interests to allow people to do their post production abroad and still get the same tax credit—it would not be in the UK’s interests.

Mr Hope: No. What we would recommend and encourage is co-production; and the ability of UK film crews to be able to work abroad, paying their taxes in the UK, seems to us to be a reasonable and sensible thing to do.

Q932 Lord Gordon of Strathblane: But in terms of visual effects, for example, you are talking about 150 people on one particular project; but you are unlikely to fly them to X, Y or Z.

Mr Hope: Absolutely not. But if we take Hellboy as an example, we had a crew working over in Hungary and when they were working in Hungary they did not qualify, necessarily; but when they came back to the UK they did. That would suggest that it would be better to have more Hungarians working on that production when it was being shot in Hungary rather than UK labour.

Q933 Lord Gordon of Strathblane: How do we stop people simply benefiting from the tax credit by transferring one key person and everyone else is employed locally abroad, in Hungary or wherever, and still benefiting?

Ms Davenport: I think it is making sure that they are British talent and, as Alex said, that they are principally UK-based and they are just attached to a particular production.

Q934 Lord Gordon of Strathblane: So you would only allow the tax credit for that proportion which employed British people abroad.

Ms Davenport: Yes.

Q935 Lord Gordon of Strathblane: Not any local people abroad?

Mr Hope: Yes.

Q936 Lord Macdonald of Tradeston: For European film making you said that the visual effects base was pretty weak across Europe. Do you therefore get an increasing flood of European films coming in to be sorted out in Soho?

Mr Hope: The budgets on those sorts of films are not at the same level as American studio pictures; so they would tend to stay within their respective countries, and my understanding is that the tax incentives in those countries would drive that as well. In visual effects our sector is underpinned by US studio pictures and we will seek to present data to show that—I think that the Film Council can give you their sense of that. Those studio pictures support our sector and allow, as we have described, world beating technologies to then be deployed on lower budget British films which get that benefit.

Q937 Baroness Eccles of Moulton: Before moving on to asking about the Film Council and public policy with regard to what more can be done to help post production in an international sense, could you just tell me—because it is quite related to tax, the tax credit system—Slumdog Millionaire was shot in
Bombay but was the post production work done here in the UK?

Mr Hope: Yes, it was.

Ms Davenport: In fact we won both an Oscar and a Bafta for British sound mixing, which was a phenomenal achievement; so we are very proud of that.

Q938 Baroness Eccles of Moulton: That helps to answer one of those problems, but is there anything more that can be done to improve the international competitive position of the UK in the post production sector, maybe through the Film Council, to assist public policy to make it more attractive?

Ms Davenport: Our biggest engagement with the UK Film Council is through the Office of the British Commissioner who focuses solely on inward investment features and I think that their contribution to this sector has been enormous. If you married the relatively small amount of resource that that department has within the overall Film Council, if we could see one improvement it would be to see a realignment of resources into that area; or, even better, more resources generally available across the piece.

Q939 Baroness McIntosh of Hudnall: Can I ask a question about this competitiveness issue because I am troubled by one thing which arises out of something that Mr Hope said earlier? As things stand at the moment the international competition does not look particularly strong, it appears, for visual effects—

Mr Hope: In Europe.

Q940 Baroness McIntosh of Hudnall: That is my question. If you project outwards from today towards where the threat might be coming from in ten years’ time, first of all where would you anticipate it coming from—would it be from India, would it be from China—

Mr Hope: Yes.

Q941 Baroness McIntosh of Hudnall: . . . would it be from Singapore.

Mr Hope: Both.

Q942 Baroness McIntosh of Hudnall: Secondly, what preparation can the industry engage in, either by trying to influence public policy or through its own activities in relation to what it can provide, to fend off that threat and to remain competitive, because on the face of it some of those economies from where the threat is going to be coming from are going to be considerably more powerful then than they are now, and certainly more powerful than we are.

Mr Hope: I think you have hit on the significant challenge facing certainly the film visual effects industry, which is all I can really speak for. In answer to your question currently the significant challenges come from the States and from Australia and New Zealand—there are some companies in Canada as well. I think, as you have said, increasingly we will see competition from Southeast Asia, India and China. Just stepping back from that we can perhaps usefully separate two kinds of visual effects work—what might be referred to as commodity work, which might be painting out the wires on a stunt man, or the higher end work of creating a digital character, at its most extreme perhaps. I would suggest that that lower end work will be very price sensitive and that for the higher end work, which is the more skilled work, there are significant barriers to entry. So a policy that focuses skills at that very top end is policy that is going to see a sustainable British visual effects industry and that is all about skills and ensuring that companies, both small and large, understand where there are R & D grants and things like that available to them, of which a lot of smaller companies in my sector are not necessarily aware. And seeing policy that is joined up between universities, the film visual effects industry and the games industry is what I would strongly recommend.

Chairman: I want to move on, if I may, because we are running out of time.

Q943 Lord Inglewood: The way that you have described the industry in Soho, it sounds to me that it operates on exactly the same kind of economic model as the Grand Bazaar in Istanbul or the Souk in Aleppo or something like that. But within that—and this is the real point of my question—the thing that enables us to do it is the intellectual base and presumably that is protected by intellectual property. Are you in fact vulnerable to people stealing your ideas and just taking them elsewhere?

Mr Hope: In film visual effects we all use off the shelve software and the larger companies create their own software on top of that. That is constantly evolving; and it may be a few lines of code to hold programmes that we have written. There are certainly risks of leakage of IP which we seek to protect, but we are not typically in the business of selling that software because the market for it is very, very small. You will find that some of the larger companies will go and write papers on what they have done a year or two after they have done it and share it with their colleagues at conventions like SIGGRAPH—Special Interest Group in Graphics—which happens every year in the States, and there is a culture within the industry of shared knowledge. What we are working on now will be widely available in two years time.
Q944 Lord Inglewood: So in order to retain a pre-eminence it is absolutely crucial to ensure that the cutting edge technological software writing skills are present?
Mr Hope: Absolutely.

Q945 Lord Inglewood: And if that fails it dies?
Mr Hope: It is driven by technology and creativity. You have people writing software but there will be a relatively small number of them and a higher number of technical but very artistic people using that software to create effects. I am sure that it is present in other industries but my ideal recruit would be somebody would have double maths, physics and art.
Chairman: You will have a fair shortage of recruits!

Q946 Lord Inglewood: Does that mean that potentially your industry could die very quickly? It is not like a car factory where you need an enormous physical infrastructure to do it at all; in certain circumstances the whole thing could just move somewhere else.
Mr Hope: I think it is about maintaining that impetus and maintaining scale because creating a company like ours and like our three principal competitors has taken time and I feel that we will be able to maintain our position on the world stage. But, yes, it is not like the car industry and there are those threats and that is why, in answer to the question about threats from overseas, I think the focus on the work in the UK needs to be on the very high end work.

Q947 Baroness Howe of Idlicote: I am going to be rather naughty and go back to an earlier question because it intrigued me, and it is about electricity—you must be huge users of electricity power generally. Do you have to have any climate change targets built into what you do? Is there anything like that involved in your work?
Ms Davenport: All the manufacturers are very conscious of their environmental responsibilities so we would certainly push back on them to do that, and then within our own environment we are looking at ways in which we can help companies.

Q948 Baroness Howe of Idlicote: There is nothing tied to tax incentives or anything like that, or any conditions?
Mr Hope: Not that I believe currently.
Mr Kanjee: One of the big drivers for the power issue is air conditioning and there are lots of EU regulations on air conditioning.

Q949 Baroness Howe of Idlicote: It is a major government initiative. I want to ask you about video games and you were mentioning the link-up there. Increasingly video games seem to have either bits of films in them or are inspired by films. What are the synergies between the UK videogames and indeed your own post production organisations?
Ms Davenport: At the moment we are not seeing a lot of activity in our sector crossing over into games, but I think as the games industry is more sophisticated in the materials it is producing then it obviously makes sense for the industries to be brought more closely together.

Q950 Baroness Howe of Idlicote: Is that the same for everybody because I must say that I am slightly surprised, given the huge growth in that particular industry?
Mr Hope: I would agree with what Gaynor has said. I am sure we will see convergence in the future but video games have to render their images on the fly, if that is understood by everybody, and what we do in our world is render images which we can take hours and hours to do and are then played back in real time at a later date. So the drivers behind the technology are very different. As computers get faster the ability for better quality real time rendering grows and so it comes closer to what we do, and at a certain point in time that is going to converge—but I do not think anybody quite knows when. Stepping back from it, people working in video games are using similar software to those in visual effects and graphics so at an early stage in their training there is a benefit from thinking about the two in the same context. At a higher level we have specialists who may rig characters—that is putting the bones inside a digital character—or paint the surface of that character and those specialisms are much more specific to our industry.
Chairman: Can I bring in Lord Maxton.

Q951 Lord Maxton: In a previous existence down the other end of the building I was on a visit with the Select Committee and we went to Skywalker Ranch, George Lucas’ place, where he was developing exactly the sorts of skills that presumably you were talking about. Someone told me there that eventually all the film industry would need would be a photograph of an actress, a photograph of an actor, photographs of particular scenes and they could then make a film. That has not happened; are you anywhere near it?
Mr Hope: Not yet.

Q952 Lord Maxton: But you think it will happen? Where is the technology going to take you?
Mr Hope: There are scenes in the Dark Knight that you would think were filmed with a camera and they are entirely generated in the computer. There are scenes in Benjamin Button where Brad Pitt is entirely
created in the computer; so it is happening. It costs too much to do it for an entire film at the moment.

Q953 Lord Maxton: At the moment, but is that where the technology is going?
Mr Hope: It has that potential.

Q954 Baroness Bonham-Carter of Yarnbury: It cannot please Equity.
Mr Hope: The performance has to be created by somebody; either it is created by an actor or it is created by an animator. You have very, very talented animators but they are not going to necessarily give the same performance as an actor.
Ms Davenport: You do see the graphic novels which are using a combination of the two.
Mr Hope: The fact that the three biggest directors in the world—Spielberg, Cameron and . . .
Mr Mahoney: Zemeckis.
Mr Hope: . . . Zemeckis are using performance capture technology to make films—Avatar, Tin-Tin and—
Mr Mahoney: Christmas Carol, which is entirely performance capture.
Mr Hope: It gives you a flavour of where filmmakers see the industry going.

Q955 Chairman: Do you agree with that, Mr Mahoney?
Mr Mahoney: I do and to highlight performance capture. Conversely, rather than taking an image and making a character out of it, these are very much character-driven films and all the visuals are painted on afterwards; but it is still very much about the performance of the actors.

Q956 Baroness Bonham-Carter of Yarnbury: Coming to what has been mentioned a couple of times, which is the skills base, and I think you were saying that you are concerned about the lack of the skills base. What would you like to see change?
Mr Hope: We would love to see as many highly skilled people coming into our sector as possible. We welcome Skillset’s initiatives over Screen Academies. You need to learn your skills to release your creative potential and the technology we use is complex; the training that needs to be given is currently supplied to a degree by universities. Certainly speaking for myself, we do a good degree of in-house training and because the technology is moving forward so rapidly the people who know it best are the larger companies. Currently the only training grants available are to SMEs. I would favour a move to bringing industry and higher education closer together, incentivising in-house training at larger companies; incentivise the training of those people giving training in higher education, so that people who are teaching a course in computer graphics have the opportunity to spend some time in a company like ours to learn what current best practice is. Somebody who is being trained now, who has just gone into higher education, is going to come into the industry in three years’ time and be useful in five years’ time. So determining where the industry is going to be in five years’ time rather than what is current best practice is key behind training up our workforce.

Q957 Baroness Bonham-Carter of Yarnbury: Mr Kanjee, you deal in broadcasting post production: do you think that the large television companies provide enough, in this world that is increasingly multi-skilled apart from anything else?
Mr Kanjee: Absolutely not. There are no formal training courses within businesses, within broadcasters or otherwise currently, and that is a real issue that we all face. We train our own; we take raw talent that we find from the colleges such as Ravensbourne, and we mould them and each company themselves invest huge amounts of time and money in creating the perfect post production professional. It is expensive and it is time consuming. There was a time when the BBC had a fantastic training course.

Q958 Baroness Bonham-Carter of Yarnbury: Does that not exist any more?
Mr Kanjee: No, it has not existed for some years.

Q959 Baroness Howe of Idlicote: Very quickly on the same point: what about apprenticeships? There is this whole takeoff of apprenticeships; are you involved in that?
Mr Kanjee: Yes, we absolutely are and, as Alex said, we are trying to bring the training institutions closer to us. We need the training institutions to understand our needs because it is not just about pushing buttons and understanding how software works; there are a lot of soft skills and people skills that are hugely important in what we do.

Q960 Chairman: This is probably for Mr Hope: if I wanted to make my career in sound—it was illustrated to us when we went to Pinewood how important that is and how crucial that can be—how would I go about that?
Mr Hope: I know about visual effects; I am afraid I do not really know about sound.
Mr Kanjee: If you want to go into sound, as with most disciplines within our industry you do some research and you find the leading companies involved in audio post production and you try and get a job there as a runner and start on the minimum wage and learn your trade that way. That is the way that most people will enter our industry, by being trained on the
job by people around them with whom they can develop a relationship.

**Q961 Baroness Eccles of Moulton:** Can I ask a quick question about skill drain? You train these people and obviously, as you say, it takes two years after they have left wherever they have been. Is there then a drain? Do you find that the people who have not been involved in the training then entice people away from you when you have trained them?

**Mr Kanjee:** We do, absolutely; yes; it is a real issue for all of us. We have a very sophisticated in-house training programme and actually the biggest threat we have on that front is preventing those people from being poached by competitors who do not.

**Chairman:** We have run over our time and we could go on quite obviously for another hour very easily indeed. I would like to thank you very, very much indeed for coming today. Mr Mahoney, I hope you have a more successful journey back than you had coming in. Thank you very much for coming.
focused at families and young children. We have sold about 30 million of those over the last five years.

Q967 Chairman: Your company has been sold as well?
Mr Smith: That is correct.

Q968 Chairman: Give me some idea of the size of the UK video game sector in terms of the revenue, number of firms and things of that sort.
Mr Rawlinson: Thank you for inviting us here today. We believe that our industry is sometimes overlooked against more established forms of media in the cultural sector of this country. We have in the UK a retail market for video games worth £1.9 billion last year. When you add in games-specific hardware and peripherals, that rises to over £4 billion. Richard will tell you in a moment about the development sector and how much we create of that content here in the UK.

Q969 Chairman: That is the total UK market?
Mr Rawlinson: The total UK market as sold through retail shops. In addition to that, people are consuming games online and paying subscriptions.

Q970 Chairman: That is the market in which everybody from all over the world can be competing?
Mr Rawlinson: Yes indeed. We are the third largest market in the world and the largest market in Europe. The American market is the largest at just over £11 billion followed by Japan at just under £4 billion, software only. We are approximately a quarter of the size of the Japanese market. In terms of our consumer, our consumer is aged from three to 93. The average age of a gamer in this country is over 30-33—so it is no longer the preserve of young children and boys, particularly teenage boys, but we do cater for the total market.

Q971 Chairman: What about the UK industry itself? We have this £4 billion UK market. We have other markets overseas. What is the revenue that the UK industry generates?
Mr Wilson: Our figures show that we generate about £2 billion per annum into global sales. To give a little more detail on the firm size of the games development sector, we have about 213 studios in the UK. Of those, 166 will be classified as independent game developers. Another 47 are publisher-owned studios and about another 73 are service companies that provide technological support, servicing activities to help game businesses. In terms of firm size, the overwhelming majority would be classified as small or medium sized enterprises. Our research shows that only about two per cent will be classified as large businesses. We estimate that about 48 per cent of our businesses have been in existence for at least six years and they are very export orientated. A typical games development business in the UK earns about 46 per cent of its turnover from the export of its product.

Q972 Chairman: If you have two billion revenue, roughly a billion comes from UK sales and a billion comes from export. Would that be right?
Mr Wilson: I do not know the breakdown of figures. My research shows that we have £2 billion in terms of global sales.

Q973 Chairman: Global meaning the UK and the rest of the world?
Mr Wilson: Yes.

Q974 Chairman: Is this industry going up in terms of revenue if you compare it to the position five years ago?
Mr Rawlinson: In terms of retail sales and people buying the product globally, yes. We are a growing market. Clearly we are in difficult economic times at the moment but against other entertainment forms we are holding up well.

Q975 Chairman: If we took it five years ago, the revenue being earned by the industry would be less than it is now?
Mr Rawlinson: Yes.

Q976 Chairman: If the UK is doing well in this respect, why is it that UK companies are being bought by companies from overseas? Why are we not just developing our own industry?
Mr Livingstone: Foreign countries’ publishers and investors see greater value in what we do than we do ourselves. It has always been difficult for creative industries to raise capital and finance in the UK and yet we are the most creative nation in the world. Look at the success of music, fashion, film, advertising, TV and, more latterly, computer games. We are perceived as an industry that does not have as great a value as traditional industries. All that is changing because we are the future. We are the marriage of art and technology. The problem that we are experiencing is particularly with skills. We have a skills problem. You were mentioning the film industry earlier and I would like to talk in great detail about the skills problems that we have, but we also compete on an uneven basis. We do not have a level economic playing field. A country like Canada is offering a 37.5 per cent production tax credit. France is offering a 20 per cent production tax credit. We do not have those benefits here at all. The film industry does. Whereas somebody working in film only generates £50,000 to UK GDP, someone in games generates £200,000.
Mr Jonathan Smith, Mr Ian Livingstone, Mr Michael Rawlinson, Mr Richard Wilson and Mr Simon Gardner

Q977 Chairman: When you were independent, did you find this a matter of frustration to yourself?  
Mr Livingstone: Because of various factors, we have moved a lot of our production overseas. Tomb Raider was developed in California. We have a studio in Montreal developing two games. As publishers, we are country agnostic. We go where the skills are high and the production costs are low. Unfortunately, the UK is one of the most expensive countries in which to develop computer games and also the universities are doing a great disservice in not supplying the skill graduates that we need.11

Q978 Chairman: Presumably, when the company was sold, the shareholders of the company got a reasonable profit from the deal, did they?  
Mr Livingstone: Absolutely not. Some did in the early days of the company. We had a market capitalisation in 1999 of over £1 billion but we were sold for £84 million in 2009. You could say in some respects that the markets have not really understood the changing nature of the business, the fact that it is an ethereal process. It is not two blokes in a garage making games any more for £20,000; it is teams of 150 people, highly skilled computer scientists, artists and animators working hard for two years to budgets of £15 million to £20 million to make a blockbuster title. If you look at a game like Grand Theft Auto 4, which was released last year, it has been vilified in the press but it sold six million units in its first week of sales. That generated half a billion dollars in revenue at retail. That is bigger than any entertainment release in any other medium. It was developed in Scotland, again by a company that is owned by a US publisher, and yet, rather than praise that achievement, it was largely criticised in the press. We feel the government has not helped us to change the perception of games. They are not all about violence. Brain training, online games, casual games, puzzle games, sport simulations, pony games for children. There is something for everybody now. It is a broad church of content on broad, diverse platforms. 75 per cent of the population now plays games.

Q979 Chairman: The Japanese company that bought your company has a bargain, basically?  
Mr Livingstone: Yes. It is great for our company’s balance sheet but again it points to the UK not recognising the value of its intellectual property. We are very good at creating IP in this country; we are not very good at hanging on to it. The real value of any kind of digital company comes from its ownership of IP. If it is sold off, we are in danger of becoming a work-for-hire nation.

Q980 Chairman: We have the creative talent but we do not seem to be able to develop it properly. Mr Smith?  
Mr Smith: We have extreme creative talent here, based in the UK, which we have been able to foster over 18 years of development at Travellers’ Tales. The reason we sold to a North American publishing organisation was about preserving the value here, the question of the entertainment business being able to fund the degree of investment required to make modern games and to take the risk in the creative environment that is necessary. We felt that Warner Brothers were able to give us the global reach, the global impact at an entertainment level and were willing to take the risks that were necessary to fund us to be competitive and relevant.

Q981 Chairman: Any reservations?  
Mr Smith: Apart from the fact that they are not UK? We were for a long time one of the UK’s strongest, independent developers. At least we are still employing great people here and bringing on their talent, trying to keep them working here in the UK.

Q982 Chairman: The corporate profits go elsewhere?  
Mr Smith: They do.

Q983 Lord Inglewood: Could you explain the process of developing a game?  
Mr Smith: It will vary from company to company depending on culture and history and, crucially, depending on the investment that they have been able to make over many years in their own in-house technology processes and people. For instance, our company can make certain types of games much more easily than other people can because of the investments that we have made over many, many years. In very broad outline, the idea for a game tends to come from the publisher, when we are talking about external IP, often tied to a licence, a movie property or a relevant toy property for children or families. That will be briefed to a creative team who will start to work, who will flesh out their ideas for how the game can be made within a timescale and a budget, which is then negotiated and usually driven down. Then a period of time will be taken to develop the game. It is quite complicated. In general terms there will be conventionally a pre-production process, a production process, where the team grows to its largest size, and then a post-production process where all the errors in the games are found and fixed.

Mr Livingstone: The difference between making a movie and a game is that a movie is a linear experience where the director controls the actors and there is no variance on that. Making a game is an interactive experience where the consumer controls the action. Therefore, the skills required to make a

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1 The witness has added the clarification that the computer games industry needs computer scientists, artists and animators, not generalists.
game are a lot more demanding, in my opinion, than making a movie. There are movie sequences within games, usually cut and created through CGI, computer generated imagery, but the core of a game is creating a 3D engine which creates an experience in real time. That is the real skill. Frankly, we are losing our skill at doing that. We have dropped from third to fourth in world development.

Q984 Lord Macdonald of Tradeston: In terms of the origin of the successful game, is there a particular affinity with the film industry or is it more to do with magazine publishing? Are you really stand alone and you do not need a particular strong partner from a larger industry?

Mr Livingstone: Historically, some games were made on licences like film licences, sports licences and some on books, but the real values have been created by creating our own intellectual property like Tomb Raider, Lara Croft, for example. That is an original IP that started as a game and then we can leverage that IP through a merchandising and licensing to create additional, incremental revenues. We licensed the movie to Paramount Studios and they made two blockbuster movies generating $450 million at box office. Therefore, Hollywood have seen the value of the IP that we have created and more and more films are being made based on computer characters because we have taken over from comic books and novels as being an important source of well known, recognised, global characters.

Q985 Lord Macdonald of Tradeston: You have obviously changed the aesthetic nature of watching screens for a lot of people—in particular, the younger generation—and we hear that a lot of films now begin to look like video games. Does that mean that your future lies at the top end with the marketing power of the big film companies and their global reach?

Mr Livingstone: A lot of media and film companies are getting into our space because they recognise that the compelling nature of interactivity is much more fun for children in particular. If you look for example at Disney, they recently acquired Club Penguin, which is a massively multiplayer online for children, five years and older. They bought it for approximately $500 million and the reason they did that is, through their own research, they realised when people went to the Disney website what they were doing was playing the games rather than looking at the usual content, so they wanted to acquire an MMO, a massively multiplayer online game, which had a large audience of children enjoying the interactivity of gaming. Not all games are violent. This is for a five year old with Avatar penguins, enjoying life in a community.

Q986 Lord Macdonald of Tradeston: You obviously suffer from a cultural lag in that the opinion forming classes have not quite caught up with video gaming. I remember ten years ago, when I was on the Scottish Enterprise Board in Scotland, we were very enthusiastic and the politicians were very enthusiastic to grow your industry. We were not hostile to it. I suspect that the problem of sustaining and growing the industry in Britain is something more fundamental than just general hostility.

Mr Livingstone: You make a great point about Scotland. They have been very supportive. Scottish Enterprise and the Scottish Government have been great. The University of Abertay is perhaps the best university in the UK for providing graduates both in programming and in art and animation. It is no coincidence that companies like Rock Star North that develops Grand Theft Auto and Real Time Worlds that has built a huge MMO exist in Scotland. They have created a culture where businesses work with academia and government to create a great initiative to go forward, but that has not been reflected in the rest of the UK unfortunately. I would like to talk in some detail about the skills crisis that we are now encountering.

Q987 Chairman: Mr Gardner, do you share all these concerns which are being expressed?

Mr Gardner: Yes, I do, on the whole. We are obviously in a different situation. We sold one of our studios to Disney a couple of years ago, so that kind of backs up your premise that there is a convergence of the industries.

Q988 Chairman: You are not UK owned either?

Mr Gardner: We are now. We sold one of our studios. Five years ago when I joined the company we had seven studios employing about 450 people. One of the biggest problems that hit us was the currency exchange rate and the UK became one of the most expensive places to develop in the world. That affected our business. We had to downsize our business down to what it is today, which is one studio and about 110 people. At one point we were down to 50 people. With the weakness of the pound against the dollar, we have been able to become more competitive but obviously the dollar is going back up the other way, so that has concerns for us at the moment. The other thing is a studio that we had to do was to focus on quality because the other development places in the world like China and India are able to compete on a work-for-hire basis. We have had to realign our business and head exclusively for quality, which is paying dividends, but that obviously costs a lot more, so our costs are rising.
Q989 Lord King of Bridgwater: The pound was overvalued at two dollars. It was undervalued probably at 1.35. I got the impression from you that if it stops around 1.60 or 1.65 that raises problems for you. Does it?
Mr Gardner: It is okay at the moment.

Q990 Lord King of Bridgwater: Some people take the view that 1.60 or 1.65 might be a more normal rate. If that is the case, what are the prospects for the industry at that level?
Mr Gardner: Better than they were at 2.10. It peaked at 2.10 which made us totally uncompetitive. At the current exchange rate, it is probably doable.

Q991 Lord Maxton: Is not one of your problems that you are an international industry in a way that the film industry and certainly the television industry is not? The television industry makes programmes for a British audience. The film industry makes films at least with British content, very largely. You are international.
Mr Gardner: That is our great strength.

Q992 Lord Maxton: It is, but it does make it more difficult for the government to understand why it should make you a special case.
Mr Gardner: The interesting thing is that we bring in hard, foreign currency into this country.

Q993 Lord Maxton: I am on your side.
Mr Gardner: In effect, we build things that we sell abroad. We are not limited by our location to the types of product that we can build. We can build a game based in New York or Los Angeles as well as anybody else. Okay, so can other people, so we have to compete on creativity and ability, but I see that as a great strength, not a weakness.

Q994 Lord Maxton: The only ones I can think of, to be honest, are golf games based on British courses and British golfers but outside of that are there any games which have basically a British content?
Mr Gardner: We have made games in the past like Robot Wars, things like that, which are based on British IP that was created by the BBC.
Mr Livingstone: We made one called Championship Manager, a soccer management game which was developed in our studio in London and it is largely for a UK market. It is not an action game. It simulates management of a soccer team.

Q995 Lord Maxton: I notice that the latest Microsoft game, the activity game you play in front of the television set without a machine at all, was developed by a British company. Is that right?

Mr Gardner: Some of the software concepts they are going to use with it were definitely developed—
Mr Livingstone: It is Israeli technology.
Mr Smith: That British company is owned by Microsoft.

Q996 Chairman: In passing almost, you said at the beginning—perhaps this is to the two trade associations—that you rather resented the feeling that video games were all about violence and having this impression. How do you rebut that argument?
Mr Rawlinson: The facts, actually.

Q997 Chairman: That is the best way.
Mr Rawlinson: In the last five years, over 6,000 video games have been classified for the nature of their content under the Pan-European Games Information rating system called PEGI. Of those 6,200 games, 84 per cent were rated as being suitable for players aged 12 and under and only six per cent of them were for adults only. In terms of the actual quantity of product, the numbers are quite low for adults. The sales of the adult product are higher but, on the basis that the average of a gamer is 33, that is not unreasonable. If we look at our comparative media markets such as film, the film industry is not characterised by one or two highly violent films such as Saw or Hostel, but unfortunately our industry is totally characterised by one or two violent video games such as Grand Theft Auto. This really is a total distortion of the facts.

Q998 Chairman: Is it also a distortion, the charge that your content is based on United States or Japanese values?
Mr Rawlinson: There are two distinct markets. There is a definite Japanese market, Japanese content, some of which travels into this UK market, some of which does not and stays very much locally based. Certain products that received some notoriety quite recently such as Rayplay, an online video game that really has no market in this country and, even if it were available to the market, it would not have been given a classification here. The rest of the market is a broad entertainment market. I would say a product that sells in the US sells in the UK and vice versa. Our products, our intellectual property, travel across to the United States as characterised by the sales that Richard has outlined for our inward trade.

Q999 Chairman: You sound as though you feel more strongly about the violent products having an impact upon the whole of the business than most people.
Mr Rawlinson: A negative impact?
Q1000 Chairman: Yes.
Mr Rawlinson: Only in perception.

Q1001 Chairman: You are fighting against that negative impact.
Mr Rawlinson: What we are trying to do is to be positive and promote the new games, the new styles of game play that allow interactivity, easy access. The Wii product hardware particularly allows anybody in this room who has never played a video game before to pick up a controller and play with games instantly. That is what we are promoting.
Mr Wilson: I do feel the public perception of video games is improving, despite some of the comments we have expressed this morning. For example, when Grand Theft Auto was released last year, it was interesting to see that The Times ran an editorial, on page two I think it is now, praising the product. A few years ago that would not have happened. To have a mainstream, what was a broadsheet paper, praising the product was a major breakthrough. I think public perceptions are changing. They are changing in most parts of the media. As far as our trade association is concerned—it is probably true of Mike and ELSPA’s position as well—we are more concerned about government policy and the relative indifference of government policy, towards helping the industry, rather than government ministers not being familiar with the sector or painting the industry in dark colours. We are much more concerned about the fact that we could provide a much more favourable tax environment for the games industry and we do want to improve skills and training within the sector.

Q1002 Baroness Eccles of Moulton: You have described how the market has moved up the age range. I wonder whether there is a future potential market for the retired, for the elderly, on three counts. First of all, they have the time. Secondly, pretty well everybody now understands how to operate a video game or whatever. Thirdly, there is a great emphasis on the elderly keeping their brains active so you might have a wonderful market there. Is there any emphasis on that?
Mr Rawlinson: We do already have that market and it is wonderful for you to recognise exactly those three points. Many properties are used in old people’s homes. Fitness games and brain training games are used in exactly the way that you have outlined. We are seeing a growing market there. If you characterise the market for video games as being the old, traditional, core market of young people, hard core games playing long hours, that market has not changed significantly but our growth has come from this massive expansion up the age range, particularly into seniors.

Q1003 Baroness Howe of Idlicote: You obviously feel pretty upset about the way in which the whole of the industry has been labelled as violent. I think one understands that. Equally, I have seen some of these very violent and pornographic films, so I do know they exist. Thinking about something that might help the image, PEGI is a little bit, shall we say, owned by the industry itself. Might it not be rather more accepted certainly by the UK if you also had the other, more recognised standard, the British Film Institute standard, on these films, because I think there has been disagreement about what came within the appropriate age range. Why not have both?
Mr Rawlinson: We have submitted evidence to the government on their consultation on this issue. The PEGI system, although established by the industry, as was the film ratings system back in the beginning of the 20th century, is independently administered totally separately from the industry. The research that we conducted of ratings carried out in 2008, where the British Board of Film Classification rated a number of products, the same products as PEGI, found in 50 cases that they rated at a lower classification age than the PEGI system. We believe that PEGI is more stringent than the British Board of Film Classification. More importantly, as our products are interactive and our players are playing across borders, across boundaries into Europe, the PEGI system provides the correct solution for products sold both in retail stores in the high street but also sold and played online and works for gaming today and into the future. We do believe that it is the right solution and we are hopeful that in the Digital Britain report the government will make some pronouncement on this next week. If that pronouncement is favourable to PEGI, the industry is ready to invest heavily in marketing and education of the system to ensure that consumers are fully au fait with all that it stands for.

Q1004 Baroness Howe of Idlicote: Having said all that, I still do not see why you could not have both. Mr Rawlinson: The issue there is confusion. To have two logos on the package—this fact was recognised by Tania Byron in her report—causes consumer confusion. What we need to do is differentiate linear film and TV products from interactive products. Starting with a different age classification symbol that immediately can enable the consumer to identify that this is an interactive product is a great place to start. Then we can go on and further explain the age classification and the content descriptors so that they understand the nature of the content, which is not just about content but is also about the conduct and the contact between players because we have an interactive experience.
Q1005 Baroness Bonham-Carter of Yarnbury: Mr Livingstone and Mr Smith, should you perhaps be focusing more on UK content in your games?
Mr Livingstone: The investment to make a game is between £15 million and £20 million and we are a global company with global distribution and we have to address a global market. Whilst it is great to have a UK-centric game like Championship Manager, if we are going to recoup our investment we need to sell probably in the region of 1.5 million units of a game to get our money back before making any major contribution. We need to have a global market. The US market is as big as the European market, so we cannot afford to dismiss that market.

Q1006 Baroness Bonham-Carter of Yarnbury: Does that mean you are targeting the US market rather than the UK market?
Mr Livingstone: No. We are looking for intellectual property that will address the whole market. Lara Croft, Tomb Raider is sold in every country just about on the planet because she has global appeal.

Q1007 Baroness Bonham-Carter of Yarnbury: I thought she was American.
Mr Livingstone: No, she is British. You probably thought that because of Angelina Jolie.

Q1008 Lord Macdonald of Tradeston: Can I come back to this question of what would appear to be the biggest problem of your business model as an industry? You suffer from the same threats as the film industry in trying to develop portfolios. As Mr Livingstone says, this is a 20 million development. I do not know what your success rate is for those developments that you start, how many are in your portfolio and how many are successful, but it looks to me as though you are clearly not capitalised well enough. The British film industry never has been, so almost from the start it is very difficult to see a future for your industry based on that business model, unless something is going to change.
Mr Livingstone: There is certainly a future for the industry because we happen to be very good at making games.

Q1009 Lord Macdonald of Tradeston: Can an indigenous, British industry become the global champion?
Mr Livingstone: We have not been able to get the backing from the financial markets in the UK to capitalise on our intuitive creativity. Our own company, Eidos, has been acquired by foreign publishers because they have seen the value.

Q1010 Lord Macdonald of Tradeston: That is understandable if you have to put £20 million at risk and the game might not be a success. I am still not clear whether your portfolio success is one in five or one in ten. How much do you have to put at risk until you get the breakout and get the money back? The business model is a very risky one and that is probably why Britain has never been able to find that capital to give you the product line flowing forward that you would need.
Mr Livingstone: We are more risk averse in this country, especially in the creative industries. In the US you get Ebay, Google, Facebook, etc., coming out. You do not have that happening in this country. It is the same mindset for approaching video games which are seen predominantly as a negative thing and I do not think the government has done anything to put its arm around us in the 20-odd years that we have been going. They have kept us at arm’s length because of the negative press and they have not understood the costs involved. They thought everything was bad about games. They did not think about the fact that you learn about how to solve puzzles and problems, choice and consequence, intuitive learning, community online, learning about just how to operate a computer. These are all positive things, to my mind.

Q1011 Lord Macdonald of Tradeston: The capital markets are risk averse about film because they have lost a lot of money in making films. You seem to have the same flaw, perhaps more so, in your basic business model.
Mr Livingstone: We are certainly a long term business. Whilst the Americans are more likely to take a few hits in the short term, they know they will win in the long term as consolidation takes place which inevitably happens like it did in the music and the film industry. All these independents will in turn be either bought or merged together to create bigger entities with more capital behind them.

Q1012 Lord Macdonald of Tradeston: I am very sympathetic to your dilemma. I am just trying to put it in an international, economic context.
Mr Livingstone: Our case, having said that, is not helped by the skills problem which I would like to address later on and also our inability to convince the government that we are the future and we should be backed financially.

Q1013 Lord King of Bridgwater: Can we get an answer to the question about the success ratio? Can you give any sort of figure for that? Is it one in five? How many flop?
Mr Livingstone: It is a case of roast duck or no dinner in most respects. In the charts, the top ten will be making quite a lot of money for the publishers. Anything
below probably 10 to 20 you will get your money back. It is like a share portfolio. The ones that really hit big more than pay for your flops.

**Q1014 Lord King of Bridgwater:** How many fail in relation to the number?

**Mr Rawlinson:** A lot. We can find that figure for you. It is complicated because for every title that comes out it may appear on a number of different platforms.

**Chairman:** That would be a very useful figure to have. Let us get on to what the government can do for you or what you would like to see them do for you.

**Q1015 Lord Gordon of Strathblane:** Mr Wilson, in your report you were lamenting the fact that Britain has been slipping in the world rankings in terms of revenue from third to fourth and I think you said this year to fifth. Are you saying that the UK games development industry is competing with one hand tied behind its back? Would you like to expand on that?

**Mr Wilson:** The principal point here is that some of our key competitors—for example in many states in the United States, in Canada, especially Quebec, in France and other jurisdictions, for example in Singapore and Australia—offer tax breaks for going into production or very generous research and development tax credits or grants. The most egregious example from a UK perspective would be Quebec, where it is quite extraordinary. Whereas the UK games industry has grown in terms of employees by about eight per cent over the last two years, in Quebec the workforce has grown by about 52 per cent because of the very generous tax breaks. At a federal level, there is a tax break for going into production that amounts to about 37 per cent. In Quebec itself the government, incredibly, will pay the salaries of game developers to the tune of 37.5 per cent of their wage costs. These are extraordinary benefits. Additionally, to help attract key personnel from other countries to locate in Quebec, the government offers income tax holidays. There are very powerful incentives for game developers and individual workers to locate to Quebec. It is very hard therefore for the UK games industry to attract international investment when some of the competitor countries offer such generous support.

**Q1016 Lord Gordon of Strathblane:** One of the points you mention in a recent statement is that the Canadian Government generates much more than that in inward investment. In other words, it is not simply a tax break; it is something that comes back with jam on it.

**Mr Livingstone:** Quebec have invested $500 million in attracting companies to invest in Canada. They do not see that as a handout; they clearly see that as an investment because publishers like Eidos have invested $1.5 billion by way of inward investment into setting up shop there.

**Q1017 Lord Gordon of Strathblane:** Specifically, what would you like the British Government to be doing? I imagine you would like to be treated like the film industry rather than differently in terms of regulation.

**Mr Wilson:** It would be fantastic to have the very generous tax breaks for going into production that our compatriots overseas receive for example in Quebec, but at a bare minimum we would like the UK Government to adopt a tax break of 20 per cent for going into production.

**Q1018 Lord Gordon of Strathblane:** How would the tax break apply?

**Mr Wilson:** It would be set against corporation tax.

**Q1019 Lord Gordon of Strathblane:** That would only help games that are successful and paying tax on profits?

**Mr Wilson:** That is correct. There is a scheme in operation in France—I think it has been in operation since 2007—which we would very much like the UK Government to adopt. That provides a 20 per cent production tax break for games production. The first results of the production tax break have been announced. About 120 French companies put in a claim for the tax break. About 40-odd benefited from it. The French Government decided to support their sector. At the very least, we would like the UK Government to support the UK games development sector.

**Q1020 Lord Gordon of Strathblane:** I understand you have been lobbying DCMS to that effect. Any success?

**Mr Wilson:** My impression is that DCMS ministers and civil servants are very sympathetic to the video games industry. The overwhelming impression I get is that the problem really lies with the Treasury. The Treasury clearly does not want to introduce that tax break.

**Q1021 Chairman:** The Treasury said—I am grateful to The Guardian for this—“Following approval of a cultural tax relief for games in France, the government is now working with the UK gaming industry to collect and review the evidence for introducing a such a credit in the UK.” Why is it working with the gaming industry?

**Mr Rawlinson:** I think they mean us.
Q1022 **Chairman:** Are you part of the gaming industry?

*Mr Livingstone:* It is a problem of perception.

Q1023 **Chairman:** Are you bracketed with the gaming industry?

*Mr Rawlinson:* We are totally separate and have nothing to do with that industry, but sometimes video games are confused with gaming.

Q1024 **Lord Inglewood:** Going back to the question of the various forms of public sector support available elsewhere in the world, what does the WTO have to say about all this?

*Mr Wilson:* The government did say that it would address this issue by going to the WTO to see whether the Canadian subsidies for example violated WTO rules. They found out there were no grounds for criticising Canada on that particular issue.

Q1025 **Lord Inglewood:** Is that because they were promoting domestic, cultural considerations or it just happened to be outside the rules?

*Mr Wilson:* It is outside the rules.

Q1026 **Lord Gordon of Strathblane:** Obviously, nobody will give you a tax break without some strings attached. What strings do you think would be appropriate? Would it be simply made in Britain or British culture or both?

*Mr Wilson:* The simplest thing for the UK Government to do would be to adopt the French criteria for allowing a games company to benefit from a production tax break. The French criteria include things such as originality, technological advancement in the way the game is developed, original IP and also a cultural element as well. For example, if such a tax break was introduced in the UK, if there were some points in the criteria whereby a UK games business might make a historically based video game, if it was using some new form of technology to create the game, they should receive points for that. In terms of some of the strings attached or some of the benefits that could float back, industry research shows that if we introduce a tax break of 20 per cent on games production in the UK over a five year period we would anticipate another 1,600 graduate level jobs being created and an additional £220 million in investment. We believe that a tax break for games production would create dividends for the UK games industry and help the UK economy.

Q1027 **Lord Inglewood:** In terms of the product you produce, how much damage is done to you by theft—i.e., piracy—of the products that you make? Secondly, in terms of the value of the businesses in this country making video games, how much of that is based on intellectual property they own? Is there a threat of leakage there? We heard about the visual effects industry earlier. Although people develop software, it soon becomes public knowledge.

*Mr Rawlinson:* The level of piracy and its effect will be determined by the hardware platform that the game is operating on. A platform such as Play Station 3 has not been cracked yet and therefore there is no piracy on that platform. If you take a platform such as the Nintendo DS where there is a device that can plug into the DS, into the memory slot, this can circumvent the copy protection that exists and a game such as the latest instalment of Grand Theft Auto for the DS was widely pirated. The commercial success of that product was completely decimated. It is dependent upon the hardware platform as to the effects and it is dependent on the title. I guess a My Little Pony type of title will suffer less from piracy than one of the hard core gaming products that is probably selling to technically savvy players. Piracy is a big issue. I would characterise it in this way: in the past, piracy was affected by criminals selling our product from tables at car boot sales and markets, one person selling a lot in a criminal way. Now we have millions of people sharing one or two files in a free way. The effect is exactly the same. The characterisation of it is quite different. The difficulty we have is that no one wants to say that the pseudo consumer is a criminal. However, that unauthorised sharing of intellectual property is hugely damaging to the industry. We do have the advantage of technical measures to slow that down in certain cases, but once that is cracked that is a big problem.

Q1028 **Lord Maxton:** Does that need a change in the copyright laws? If you look at copyright, to allow someone to copy something for their own personal use is allowable but to copy it for sale is not. A lot of the copying that goes on—the piracy you are talking about—is for personal use. It is lending to friends, your brother or whoever it might be, is it not?

*Mr Rawlinson:* There is certainly some updating required to the copyright law that picks up that very point that you make. Also, the penalties accruing to online infringements do not match the penalties accruing to offline infringements. We have issues there. Detecting and bringing to book criminal behaviour on the internet is incredibly difficult. Unfortunately, the very people who provide the conduit, the ISPs, hide behind their conduit status and fail to get involved in helping to provide the solution. In fact, the very traffic that harms our industry benefits them because it becomes a sales
benefit for people to sign up for internet access. In the earlier
days of broadband, companies such as BT were using the very fact of
downloading films, television programmes and games as a sales benefit
for signing up when they did not own the rights to that content. They were not interested.

Q1029 Baroness McIntosh of Hudnall: This is your moment, Mr Livingstone. I did not see anybody
dissenting from your view that there is a serious issue about skills training for this industry. We have
heard this also in relation to some of the types of technology skills that are required for the film
industry as well. We have heard it from one of our witnesses earlier. Whose responsibility is it to up the
ante when it comes to creating the skills that are necessary for this industry? You have said in your
evidence—and indeed, Mr Livingstone, you mentioned it earlier—that the universities are in
some way failing to step up to the plate as far as this goes. It is quite clear that the kinds of skills that
you need for your industry are in very short supply anyway because they are mathematical and
computer science skills. We know that the whole education system is failing to generate enough
people who can then, having acquired skills, come back into the education system to teach them. How
do you see the relationship between the industry itself and the basic educational skills that you are
looking for working together to address the issue that you are so concerned about?

Mr Livingstone: I do not think we can just expect the universities to churn out graduates that we require
without any help. If you step back a bit, there are 81 courses in the UK offering computer games studies.
Only five of those courses have been accredited as fit for purpose. The remainder have not passed or
tried to pass the accreditation scheme offered by Skillset. Because universities are funded via a quota
system, bums on seats, if they can cut out the tough part of the subject matter and relabel media studies
courses as computer games studies, they are going to get a lot more applicants. All these students learn
about is the social relevance of games and games design. Of course we need designers but we need the
technologists much more in number. They are doing these students a great disservice because they are
coming out thinking they are going to get a job and quite clearly they are not. What we need is computer
scientists, digital artists and animators. It is better for us to go to somewhere like Imperial College
where they do not even have a computer games course and hire straight out of there because they
have learned C++ programming language. They can start work tomorrow. The fact that these
courses have the word “games” in them should be investigated by the trades description people
because they are clearly not giving the games students the skills they need. We have to change the
perception of games to get people to understand that at school, if you learn mathematics, you might
be able to make the next Tomb Raider, to have some relevance in their lives for studying mathematics.
That will feed all the way up and then we can work with universities, with government, to create the
courses that we need. We can help teach the universities. Local students can work with local
companies so they can tell them about the technology, what is happening in content, what is
happening in the market place and then do some lectures and some mentoring and give some work
experience. This will help the studios to get the students that they require. If government can work
with universities and the industry, as is happening in Scotland, in Dundee, it will benefit everybody. You
cannot expect it just to happen magically. We are in a huge crisis at the moment because these poorly
trained students coming out cannot do the job that we require. We have to retrain them for about
two years.

Q1030 Baroness McIntosh of Hudnall: You refer to it as a huge crisis. That is pretty apocalyptic
language. There is some evidence that you have put forward that it is having an impact on the industry
now. What is your worst case scenario for the industry as a whole if this issue is not addressed by
government and by the universities?

Mr Livingstone: We will not be able to make the games that historically we have always been great
at doing.

Q1031 Baroness McIntosh of Hudnall: Over what period of time?

Mr Livingstone: We recently opened a studio in Montreal because of the production tax credits but,
secondly, there is a great skill base there. The government has worked hard to create universities
that create content for students to learn so that we can hire straight away. It is creating this ecosystem
with academia, with investment, with a positive government to create the culture—

Q1032 Baroness McIntosh of Hudnall: I am sorry to interrupt you. I do understand what the ideal would
be like and I understand that there are models for it. What I am asking you is: how near are we to the
edge of the precipice as you anticipate it for the industry if this issue is not addressed?

Mr Livingstone: I do not think we can say we are at the edge of a precipice as you anticipate it for the
industry if this issue is not addressed.
Q1033 Chairman: There are 81 courses, which I must say are news to me, offering computer games?
Mr Livingstone: That is right.

Q1034 Chairman: How many of those would you regard as fit for purpose?
Mr Livingstone: Five have been accredited by Skillset. There are probably another dozen that could be accredited by Skillset once they have met the criteria and had the graduates come through their system. A lot of them are just offering these generalist courses to get bums on seats. These graduates are coming out with no value at all.

Q1035 Chairman: Three quarters of the courses on offer are pretty useless?
Mr Livingstone: I would say so.
Mr Wilson: I do not think that is fair. I think we do need to clarify that slightly. There are some university courses, for example, by Bournemouth University, which are not accredited by Skillset. We know for a fact that Sony recruits very heavily from Bournemouth University even though that particular course is not accredited.

Q1036 Chairman: How many courses do you think are useless?
Mr Wilson: I genuinely do not know but I do not think it is fair to say that every single course that is not accredited by Skillset is rubbish. That is simply not true.
Mr Livingstone: I did not say that. I said five are. 12 probably could be but the rest are not doing what they should be doing. It is just generalist media courses with the name crossed out and “computer games studies” inserted.

Q1037 Chairman: Do you agree with that?
Mr Wilson: To be honest, I think the main issue is not so much the games courses and whether they have been accredited by Skillset or not. The main issue really goes back to the question which I think you put, the implicit one about supply. A lot of games businesses like to recruit computer science or mathematics graduates and of course, as you know from figures from the Higher Education Funding Council, the number of people studying computer science has fallen by about 20 per cent between 2002 and 2006. That is the bigger issue. So many other industries like manufacturing, the City up until about 12 months ago, are keen to recruit people with mathematical and computer science skills but it is the creative shortage. That is the more fundamental issue facing the industry.
Mr Gardner: There is also the issue that Skillset say that just under three-quarters of the graduates that come out of those games courses do not get jobs in our industry.

Q1038 Lord Macdonald of Tradeston: What do you pay to your graduates that you take on, because you cannot offer them security and clearly other industries in short supply for the scientists and mathematicians might pay more. Is there a lifestyle choice going into the games industry if you are a very bright graduate or do you pay them well?
Mr Livingstone: It is a lifestyle of course and we pay well. Obviously we are a lot more fun than banking.
Lord Maxton: And more rewarding.

Q1039 Baroness Howe of Idlicote: Everything is at the higher education level. Surely there is a gap too as far as apprenticeships are concerned? What is your view on that?
Mr Gardner: We have two interns in our studio, so we bring them in for a year’s placement with us. They are going into their final year. They are both in computing. They are in further education anyway doing degrees in computer science. One of the big problems is that people think, if they play and enjoy games, they can make them and I am afraid they cannot. Even on designers, where you would think it is all about fun and all the rest, the two best designers I have ever worked with both had first class degrees, one in English, one in maths, from Oxford and Cambridge respectively. There is an issue there.
Mr Rawlinson: There is an apprentice scheme for games testers that has been piloted down in Brighton, which is supported by Skillset. There are some apprentice opportunities within the industry but they are very defined and they are within that testing area generally. Otherwise, within development, our skills base is at the higher end.
Chairman: Thank you very much. We define this as an area of critical importance to you although there is a slight division between you on the cure for it and we will look at that further. Could I thank you very much indeed for putting the case so clearly and so well and with so much experience? Thank you very much and perhaps if we have any other questions we can come back to you.
Letter from the Film Distributors’ Association

1. **About Film Distributors’ Association**

1.1 Film Distributors’ Association (FDA), formed in 1915, is the trade body representing the generic interests of the UK’s theatrical film distributors. These are the companies that release films in cinemas and promote them to audiences, thereby setting in motion the value chain that propels the film economy and renews and enhances film culture in the UK.

1.2 FDA’s 21 member companies account for 96% of UK cinemagoing. We are grateful for the opportunity to contribute to your current call for evidence. Our submission is restricted to relevant aspects of film, not broadcasting.

2. **Your question: What does the UK film industry currently contribute to the UK economy and British culture, and how might this contribution be enhanced?**

2.1 Distributors, acting under license on behalf of filmmakers and financers, bring the finished films to market, launching and sustaining them and delivering the audience to local cinemas. In connecting films with their audiences, distributors serve as the lynchpin of the film business value chain. In 2008, UK citizens purchased 164.2 million cinema tickets, 1.1% more than in 2007, equivalent to 2.7 visits per head of population.

2.2 There is an economic multiplier effect triggered by film distribution, as well as production. UK distributors invest more than £300 million per annum in releasing films—approximately one-third of gross box-office receipts, which amounted to £854.3 million in 2008. Overwhelmingly, as a result of distributors’ campaigns, UK cinemagoers know in advance which film they want to see. Therefore, the true impact of film distributors’ investment in motivating cinema-going must also measure the directly related consumer expenditure in addition to the tickets themselves.

2.3 On average, each cinemagoer spends £7.50 during a visit in addition to their tickets, including transport, food and drink inside or outside the cinema. This equates to approximately £1.3 billion of spending per annum. Furthermore, 15–20% of DVD/Blu-Ray sales and 8–12% of video rentals are of films which their purchasers had previously paid to see at the cinema. This adds a further £350 million of annual expenditure as a down-stream impact of theatrical distribution, bringing the overall economic impact of UK film distribution to approximately £2.4 billion, of which only one-third is cinema ticket sales.

2.4 The top three films in UK cinemas in 2008 were all UK/US co-productions: *Mamma Mia! The Movie, Quantum of Solace* and *The Dark Knight*. The first two were made at Pinewood Studios, while all three had writers, directors and actors from the UK and Europe. In December 2008, five months after its release, *Mamma Mia!* became the UK’s highest-grossing hit of all time (£69.1 million box-office receipts, equivalent to approximately 14 million admissions). An initial theatrical release is a proven model for generating the largest possible audience overall, propelling consumption in other formats. In the home entertainment sector, *Mamma Mia!* Duly became the UK’s best-selling DVD of all time, the first title ever to sell more than five million copies.

2.5 Inevitably, the most successful films in the cinema tend to be business franchises with multi-media outlets. The most watched films broadcast on terrestrial television in 2008 were all parts of franchises; often their transmission coincided with a new entry in cinemas. The top four were: *Harry Potter and the Goblet of Fire* (7.7 million viewers on ITV1, Sunday 5 October 2008); *Indiana Jones and the Last Crusade* (7.5 million viewers on BBC1 on Sunday 18 May); *Pirates of the Caribbean: Dead Man’s Chest* (6.9 million viewers on BBC1 on Friday 26 December); and *The Chronicles of Narnia: The Lion, the Witch and the Wardrobe* (6.5 million viewers on BBC1 also on Friday 26 December).
2.6 But there is much more to the UK cinema market than UK/US films. In 2008, for example, UK distributors acquired and released films from at least 43 countries, including France, Japan, Brazil, China, Canada and Australia. According to FDA records, approximately 48% of 2008 releases had the US as their country of origin and 19% the UK. 16% came from elsewhere in Europe, 16% from Asia, and 1% from other territories.

2.7 The official share of box-office accounted for by UK productions/co-productions in 2008 was 31%, up from 28% in 2007. As well as the year’s top three releases (noted above), UK films that performed strongly in 2008 included The Duchess, The Boy in the Striped Pyjamas and Son of Rambow. Around 1.5% of UK box-office is accounted for by Bollywood films, a significant niche segment of the market.

2.8 The UK Film Council has a Prints & Advertising (P&A) Fund to support the release of “specialised” films in UK cinemas. It is an important and appreciated fund of £4 million a year, increased in 2007 from £2 million a year partly in response to lobbying from FDA. But it remains a poor relation: we estimate that, since the Film Council’s inception, less than 5% of its expenditure has been directed at supporting distributors’ P&A. And this at a time when digital distribution is starting to enable the wider releases of niche content. Of course the Film Council has many priorities, but we feel that even a modest redressing of the balance in favour of audience development (distribution), rather than supply (important as that is), would serve further to raise public awareness of, and interest in, non-mainstream titles.

2.9 Investing in distribution, when a completed film’s audience potential can be assessed more readily, is arguably a less risky application of public funds than investing earlier in the life cycle.

3. Your question: How do current UK arrangements for the distribution and exhibition of films affect the commercial success of the film industry?

3.1 Dynamic market: The UK cinema market is characterised by an abundant, regular supply of new releases and rapid churn. No fewer than 531 films were released in 2008, compared with 525 in 2007. There has been a significant increase in supply during the current decade to an average of more than 10 new entries a week.

3.2 Congested market: Films were distributed by no fewer than 92 sources in 2008, compared with 73 in 2007. Competition has intensified as a glut of suppliers seeks to fill or expand the market. This may be facilitated partly by digital releasing, which can reduce the physical costs of distribution, though does not necessarily do so.

3.3 Securing release dates and available screens to afford any film a little breathing space in the market is extremely tough. It is nevertheless important: as noted, break-out theatrical success has a positive impact on prospects along the value chain. In 2008, 130 films achieved a box-office gross of £1 million or more, while each of the top ten grossed in excess of £20 million. The top ten accounted for just over one-third (36.5%) of consumer spending at the box-office. An impressive opening weekend matters for every single release, as the softest performers must inevitably make way for new entrants.

3.4 D-cinema: Over the next 5–10 years, digital distribution will increase. Currently 10% of UK cinema screens are equipped for digital presentation, succeeding the long-established industry standard of 35mm projection. Digital enables much greater flexibility of programming as well as an image on screen that does not deteriorate due to wear and tear.

3.5 Digital represents a big opportunity for UK cinema; also a short—to medium-term threat. In the current transitional phase, distributors may have to pay twice (35mm print and digital copy) to keep a film in a cinema with mixed projection across its screens. And although digital copies are considerably less expensive than 35mm prints, a pre-requisite digital master can be very costly. Distributors have no interest in cinemas closing, usually of course quite the reverse; but some traditional community cinemas in particular may struggle to raise finance for the transition to digital projection systems that may be needed for future trading.

3.6 "Digital Britain": Cinemas provide an important part of the “media and cultural mix” for UK citizens, although as noted in 3.4 above, 90% of screens presently remain “analogue” (35mm). Unlike digital switch-over in UK television, which demands a change of equipment in 21 million households, digital switch-over in UK cinema would involve just 650 cinema sites—the entire UK infrastructure. With the prize on offer being pole position as the world’s first fully digital cinema nation, a transition fund that offers specialised cinemas and distributors a bridge into the digital age would be welcome and productive.

3.7 Separately, digital technology has made it much easier to duplicate and disseminate good quality copies of a stolen film. Industry research indicates that more than half a billion pounds was lost to the UK’s audiovisual industries last year alone due to film theft. A growing threat to legitimate business, digital piracy has
well-known links with serious, organised crime. Accepting reasonable responsibility to safeguard intellectual property, FDA invests substantial resources—both funds and time—in the efforts to combat theft and instil a wider appreciation of copyright among UK citizens.

3.8 We seek government intervention here too: it is imperative that, as in other countries, camcording is made a criminal offence in the UK, that trading at occasional markets is regulated in the public interest, and that internet service providers take appropriate, graduated action against unlawful file-sharing.

4. Your question: Is the UK Film Council meeting its objectives and could it do more to assist the UK film industry’s contribution to the UK economy?

4.1 In the last 7–8 years, the UK Film Council has managed to give a coherent, integrated voice to the various strands of film activity across the country, and to demonstrate the place of film—and cinema in particular—as the most influential of our creative industries.

4.2 However, as a fundamental development of Film Council policy, we believe that there should be clearer recognition of public demand, as well as trade supply, and that distribution as the lynchpin of the digital film economy merits greater support. Please see points 2.8 and 2.9 above.

We would be happy to answer any further questions relating to our submission in due course. I am pleased to enclose a copy of the FDA Yearbook 2009 which offers more data and comment on our sector.

17 March 2009

Examination of Witnesses

Witnesses: Mr Mark Batey, Chief Executive, Film Distributors’ Association, Mr David Kosse, President, Universal Pictures, and Mr Danny Perkins, Managing Director, Optimum Releasing, examined.

Q1040 Chairman: Good morning. Thank you very much. You know what we are doing. What we are trying to do is to look at the film industry and try and evaluate what contribution it makes both to the economy and culturally, and see if there are proposals that we can make to government which would help that. So that is, basically, what we are about. Thank you, first of all, for the written evidence, which I think is very clear. Could I just start by asking you, in a sense, to introduce yourselves? David Kosse, you are at Universal Pictures, are you not?

Mr Kosse: Yes.

Q1041 Chairman: Mark Batey, you are the Chief Executive of the Film Distributors’ Association. Mr Batey: That is right.

Q1042 Chairman: I will come to you, in a moment, Danny Perkins. Can we start with you? Tell us what your role is and who you represent.

Mr Batey: The Film Distributors’ Association is the very long-standing trade body for the theatrical distribution sector in the UK. So the remit is the companies that release and launch films in cinemas—that initial sector of the market. As you know, the noble Lord, Lord Puttnam, is our President (we are very fortunate to have had David for the last six months as our President), and the Association is formed of 22 member companies now. I think it was 21 when we submitted our written note a few months ago, but we have 22 member companies, who, between them, account for 96 % of cinema-going in the UK. So those 22 companies are the local UK offices of the six multinational film companies, and 16 of the independent companies, two of whom are represented on the panel here as independents.

Q1043 Chairman: In fact, am I not right, the top 10 distributors have a 95 % share of the market?

Mr Batey: Yes, just about. You find that in an awful lot of markets, do you not? Even though there is an enormous choice of films and an enormous supply of films in the marketplace—ten a week are new releases in this country—the top 20 of those, normally, account for 45–50 % of gross receipts. There is nothing terribly unusual about that, but, yes, that is true.

Q1044 Chairman: Is it possible to divide up how many of those are UK distributors and how many are in the United States?

Mr Batey: Sure. It is a slightly complicated picture. The six studios, if I can call it that—the six British offices of the multinational companies—normally account for approximately 75 % of the market. It varies between 65 and 75 over the year because, of course, it is a very product-led thing. Normally, those six companies account for around three-quarters of the UK market.

Q1045 Chairman: Those companies are Warner Brothers, Paramount, 20th Century Fox, Universal, Disney—

Mr Batey: That is right; those are the six. Then the other 25 % is hotly contested—
Q1046 Chairman: That is only five, but there we are. Warner Brothers, Paramount, 20th Century Fox, Universal, Disney—
Mr Batey: Disney and Sony Pictures.

Q1047 Chairman: Thank you.
Mr Batey: However, that is not the same as saying that Hollywood has a 75% market share and Britain has a 25% market share, because all of those multinational companies have long recognised the importance of local product around the world, and they are all engaged in British, specialised films (Sony Pictures released *The Damned United*, for example, a few months ago—the Brian Clough movie); they are all involved in that sort of niche, specialised, local sector of the market. The Film Council’s own data for market share of British films last year was 31%, which is very healthy. I think it was 28% in 2007 and 31% last year. So that is a pretty healthy figure. Some of that 31% of British film production or co-production is distributed by the multinational companies and some is distributed by local British companies. It is a complex picture.

Q1048 Chairman: I understand, but the profits from these big six would go back to the United States, just like for an English company working in the United States the profits would come back here.
Mr Batey: Ultimately, it would go back to the parent.
Mr Kosse: Could I interject? The profits on films are a complex thing to look at, but the studios usually take a financing model; they take a financing model in the profits, therefore there are participants in those profits, who are producers, actors, writers and directors. So on a British film that is a huge hit, yes, the distribution side or the financing side of the profit would come back to wherever that company is. In some cases it is Japan and in Fox’s case it is Australia. However, the profits from the filmmakers—their side of the profits—go to wherever they reside and wherever they come from. So in the sense of something like *Mama Mia!* which was a huge British film that we financed, the profits went to the studio as the financier, who took a distribution fee and then back to the participants.

Q1049 Chairman: Is there any rough guide about what percentage of the profit from a film (let us take a film that is in profit because some films are not), would go to whom? What percentage would go to the distributor? What percentage would go to whoever put up the finance? What percentage would go to the filmmaker?
Mr Kosse: I think the rough guide is the net usually comes back to kind of 50/50, but it is how you define the net. So there is not really (I wish there was) a simple guide; each and every one is a negotiation. The distributor tends to take, as a service fee for the distribution, between 8 and 15% of the gross receipts, across all media, as their fee compensating them for the overhead infrastructures and the risk that they are taking.

Q1050 Chairman: So 50/50 is not too bad a working rule for us to have in mind?
Mr Kosse: That is a long, long-standing—that is going back years and years. But it is how you define that net. The producer then has to pay, traditionally, their commitments out of their 50%. So they might have participations with writers and directors, there would be resource material if it was based on a novel or short story and then the residuals to actors, writers, craft people—all have their fair share.

Q1051 Chairman: In what way do the United States distributors operate in the UK? How does it differ from the UK? One, say, is basically, just doing very much the same job; it just happens that the only difference is ownership.
Mr Kosse: The studios are a very different animal from the UK independent distributors, but I can let Danny talk about that more. The studios, generally, are a model as to financing on a global scale a slate of movies—15 to 20 movies on a worldwide basis—and source those films from around the world. For us, many of our films come from the UK; roughly, over the years, probably five or six movies a year—sizeable budget movies—get produced here. The UK distributors have to acquire their films wherever they can acquire or produce their films—from the UK or from somewhere else. The UK distributors do not have the production infrastructure of a studio the way we do.

Q1052 Chairman: Let us turn to Mr Perkins. You are the Head of Entertainment.
Mr Perkins: For Optimum Releasing, an independent distributor.

Q1053 Chairman: How big are you?
Mr Perkins: We are about 2% of the market, and that is on a good day, really. So we are small in terms of the grand scheme of things but we are a company of about 50 people now. We have grown over the last ten years buying films independently and acquiring rights, and developing our portfolio of rights, and we exploit theatrically, then on video and for television as well.

Q1054 Chairman: You are UK?
Mr Perkins: We are UK only, yes. The company was bought a couple of years ago by a French media company StudioCanal, so we are part of a European
group which has distribution in France, Germany, the UK and Benelux. We are part of that as an independent financier of films that is an alternative to the American studios.

Q1055 Chairman: Why did you sell?
Mr Perkins: We started the company with two of us, with very low overheads. We got to a stage where we were risking more and more money and we felt we needed the security of a parent company so that we could continue to grow the business in the way that we were without the risks that were involved. We had various people that we spoke to from all around the world and the European parent that we have had a big catalogue of films, and the security that we have for DVD to pick these films out—1,400 British films that we own. It was just the right way of us growing the business.

Q1056 Chairman: In your judgment, is there any way that a UK originating company could ever become a sort of competitor to the big distribution companies in this country?
Mr Perkins: It would have to work alongside. We share the same language as Hollywood. That is a good thing and a bad thing, I suppose, really, in that Hollywood films will dominate the market. A company, to grow to that sort of size, would have to work with the studios and with the bigger players in the market. From scratch it is a big ask. There are some very strong independent companies but they have alliances with American companies. That is the key to it, really.

Q1057 Chairman: So, frankly, the chances of a Warner Brothers or a Paramount or a Universal being created in the UK are not so great?
Mr Perkins: Not great. I would love to say that they were, but no.

Q1058 Chairman: This is my last question: in the negotiations with the distributor, presumably, the film itself, and what slice goes to these people who made the film, etc. is going to very much depend on the perceived popularity of that film. In other words, if I come to you with James Bond, I am negotiating from strength.
Mr Perkins: Absolutely.

Q1059 Chairman: However, if I come to you with Barton Fink, that may be another matter.
Mr Perkins: I think we can sit here with a great example over the past twelve months of Slumdog Millionaire, which was financed by Channel 4. The American partner in the film was Warner Brothers, which pulled out of the film, and they had to sell the US rights on the finished film, so Fox were able to pick up the film in the US, having seen it, and it won eight Oscars. It has taken a fortune worldwide and that is British filmmaking talent and British writing talent, and I think it is something to be proud of that films can come from here at all sorts of levels (last year, with Mama Mia!—British talent) and create a huge success, a phenomenon, and then Slumdog Millionaire coming along and working around the world. We have seen, with things like The Last King of Scotland and The Queen in the last couple of years that British films from here that are not big blockbusters, unlike Bond or Harry Potter, can work internationally very well and can be commercially and critically successful. There are great opportunities in the market.

Q1060 Chairman: Commercially successful. It depends how you define it, does it not? Commercial successful, comparatively, but the big profits are probably not being made by the filmmakers.
Mr Perkins: I think The Queen is a great example of a film that, right up until release, might have been a television film—it might have been shown on ITV—but it took $55 million in the US and won a hatful of awards. The money that it made then on DVD, the people involved in that film did very well out of it. So there are opportunities.

Chairman: Thank you.

Q1061 Lord Inglewood: I hope you will forgive me; these questions are particularly directed to Mr Kosse and Mr Perkins. What does a distributor do? Clearly, you often provide money and help produce a film but then you actually physically distribute it and promote it. Can you describe, simply, what it is that you actually do under the umbrella of the description of being a distributor?
Mr Perkins: In its purest form it is acquiring rights and exploiting them—making as much money from those rights as possible, so those rights can be theatrical, which is the release in the cinemas, DVD or home videos (home entertainment rights) and television rights, and it is the distributor’s job to make those rights as valuable as possible. So he is investing money in advertising, publicity and promotion; when you put the film on at the cinemas it is negotiating with the cinemas; it is making people interested in seeing the film and then, hopefully, making enough noise and attention about the film so that people are then interested in buying DVDs of it, which is really the commercial driver—certainly for the independent sector—and then the television rights as well would have a higher value if you have been successful in the other ancillaries.

Q1062 Lord Inglewood: As a source of finance, on occasions, you are also in the business of creating the very rights you subsequently sell.
Mr Perkins: Yes, and in that sense we would be investing against our perceived value for the film on its release. Obviously, the more risk we take the earlier we
get involved in a project—whether it is a premise or a script or a film that has been shot and needs money—then we get a bigger share of those rights.

Q1063 Lord Inglewood: You analyse it on a completely hard-nosed basis.

Mr Perkins: Yes, I think we have to. The market is too cut-throat to indulge ourselves; it is about the film delivering and people wanting to see the film. In some circles people think it is vulgar to talk about the business being a commercial success, but I think if a film is commercially successful it means that people have seen it and I think any filmmaker would want their film to be seen by as many people as possible.

Q1064 Lord Inglewood: Is that the same for Mr Kosse? You are operating on a bigger canvass.

Mr Kosse: It is quite similar. We tend to look at things on a hard-nosed basis but, at the same time, we do things for relationships. It is a business for relationships, occasionally, and you take a risk on a film; if you have had two or three successes with a filmmaker and their next project is more risky than their last you tend to factor that into your decision making to provide support. So if we have made four or five successful films with a filmmaker we will tend to make that filmmaker’s next movie even if it does not look as safe a bet as the last one. I would like to make a point, if you do not mind, about the profits. The way it works is that the profits follow the money invested in the talent. That is where it goes to. So the distribution that is done is a labour-intensive and capital-intensive business that tends to generate a fee. It costs a lot of money to run a distribution company, both in the UK and around the world, and what we do as distributors is create awareness. We go from having no one aware of a film to trying to get about 70% of the cinema-going public aware of a movie coming out in a week, and wanting to see it, which requires a great deal of investment in advertising, most of which goes on ITV and Channel 4, in the outdoor and on the Underground. So there is a huge amount of support for that. But the profits go to the people who finance the movie. If the next Harry Potter was financed out of the City completely and all the talent was produced here and all the talent was done here, you would have every studio in the world biting your hand off to distribute that, the way that, for example, the Star Wars deals were done by Lucas Films, where Lucas Films controls it and Fox distributes it for a very, very low fee because the revenue potential is so high and they want to be able to have that film. It is not really, necessarily, as obvious as who the distributor is; you have to look behind them at who is the financier and what are the deals.

Q1065 Lord Inglewood: However, you guys are the gatekeeper to the income that any film might produce.

Mr Kosse: We are one of the collectors. There is a series of gatekeepers; there is the exhibition where, in this country, it is controlled by three players, basically, who dominate the market. They are collecting the receipts first.

Q1066 Lord Inglewood: You negotiate with the exhibitors.

Mr Kosse: We negotiate with the exhibitors but they collect the receipts first, they pass them on to us and we are passing them down to the filmmakers.

Q1067 Lord Maxton: Are in involved in any way with the exhibitors? In other words, are you shareholders in the company?

Mr Kosse: Do we have ownership? We do not have any ownerships.

Q1068 Baroness McIntosh of Hudnall: If you are a filmmaker, whether you are Stephen Spielberg or you are some guy none of us has heard of yet who is making their first film, the relationship with the distributor is a very critical relationship, is it not? Mr Perkins, looking at the information we have, it is clear that, although you only have 2% of the market, you have relationships with some very strong filmmakers. What is it about what you do for them that would make them come to you, and make that relationship with you, rather than going to one of the Hollywood distributors? What are the benefits of what you offer? Is it just about how much they can retain of what they earn, or is something more complicated than that?

Mr Perkins: I think it is different in that a lot of the filmmakers who work with us do so strictly within the UK. I think, with Universal, it would be an international, global deal, and I think they would make a lot more in that sense. We have worked with some great people and we have worked with some real talents, and I think that we are very open and transparent as a company. In the independent sector, some of our competitors are not the most honest companies in the world (I probably should not say that for the record), but people come back to work with us because they enjoy the experience, and I think we get close to the films, we care about them and they like the passion that we have for the films.

Q1069 Baroness McIntosh of Hudnall: Can I just interrupt you? A cynic might imagine that a distribution outfit of your scale would be picking up what the larger guys do not want. Is that the case, and do you build your relationships out of being, in the end, the only people who will take something on?

Mr Perkins: Yes, you could look at it like that, but I think the fortunate thing is that we have built a business over ten years with the “scraps” that are left on the table. The nice thing about the business is that it is not an exact science and there are films that
people do not see the value in, but we can, and we can
carve a niche by doing that. Even in the past year,
with something like *The Wrestler* with Mickey
Rourke, people did not want that film at all and it was
a struggle to finance it. We got involved at an early
stage, helped to sort it out and it became a film that
resonated around the world and delivered for us
really well in this market. So I think you could look
at it that way. The great thing about British audiences
is that they do want different things. If you boil it
down to an exact science you would say there is no
room for the independents because the studios can
cater for every taste and every genre of film very
effectively, and what I think is that the audience, if
you deliver a closed shop, will look out around the
back for something different. They want something
original and unique, and whether that comes from
another country, in another language or it comes
from a British film that is made on a low budget in a
digital form, then I think audiences want unique
vision; they want something different.

Q1070 Baroness McIntosh of Hudnall: Just to go
back to something you said earlier when you were
asked about whether your decisions were hard-nosed,
both you and Mr Kosse said yes, they were, and you,
I think, said: “We can’t afford to indulge ourselves”.
Mr Perkins: Yes.

Q1071 Baroness McIntosh of Hudnall: It sounds to
me as though, to some extent, you not only can but
must indulge yourselves in judgments which other,
perhaps, more commercially-driven distributors are
not prepared to go with. Is that fair?
Mr Perkins: I think the level of investments that an
independent would make means you can afford more
risk because there is less financial commitment in the
scale of a project. I think we can take risk. We have
had a good run in that our taste is in tune with a
proportion of the market, and I think that is what we
try and do. We absolutely will do something—
sometimes it is a gut instinct but it is only backed up
by the numbers that we think the film will deliver.

Q1072 Chairman: To a large extent, this part of the
function is rather like a book publisher, is it not, in
which you go to Harper Collins and they say: “We
don’t actually think there is much in this”, and then
you go to the small publishers and somebody picks
up a worldwide best seller.
Mr Perkins: Absolutely, and that is why it is such an
exciting business, I think, because you can have
examples like *Slumdog Millionaire*. There is one every
year, almost, it seems, which is great, but there are
films that come from left field, and it could be a
timing thing or it can catch the mood, and I think that
is the opportunity when an independent can move at
a faster pace than a bigger company.

Q1073 Lord King of Bridgwater: We are looking at
world power lines and how one could see what levers
might be moved that might help the British film
industry more and make a contribution to the British
economy, among other things—quality of life. The
people who seem to be left out of this, at the very end
of one of your submissions here, are the exhibitors.
Do they have any power in this? We have talked
about distributors and we have talked about
filmmakers, but what about the people actually
showing the films?
Mr Perkins: Power in which sense?

Q1074 Lord King of Bridgwater: Leverage or
negotiating power.
Mr Perkins: Absolutely. Yes, they can decide what—

Q1075 Lord King of Bridgwater: Or are they
continually at the mercy of the distributors who have
got the best films?
Mr Kosse: I think, in this country, we have got one of
the most consolidated exhibition sectors in the world.

Q1076 Lord Maxton: What about the small
independents?
Mr Kosse: Small independents are a very small part of
the market in this market, but you have got three
players that most of the world—

Q1077 Lord King of Bridgwater: Sixty % with three
people.
Mr Batey: Seventy %.
Mr Kosse: In most of the world you have the top
players—on average it might be seven—comprising
40 %. So those three exhibitors have a very, very
strong negotiating position. However, in terms of
influencing the films being made, they have very little
influence.

Q1078 Lord King of Bridgwater: What they are very
tough on is the reward you can get for what you have
influenced.
Mr Kosse: And the conditions in which the UK
consumer sees cinemas: the condition of the screens,
the condition of the seats, the amount of advertising,
the concessions; they have a lot of control in the
cinema-going experience: the quality of the images.
We deliver them a print or a digital master. They have
that final step in actually creating the environment
for that experience, and that experience can vary
dramatically, depending on their investment.

Q1079 Baroness Scott of Needham Market: I really
am still trying to understand what it is exactly that
you would see in a film that would cause a larger
organisation like yours to reject it, and yours (you
described it as) “picking up the crumbs”. What is it
exactly that you would spot in one of those films that
would make you choose it? To what extent is it about your ability to market it rather than some intrinsic quality of the film itself?

Mr Perkins: Every case is different, but it can be that we see an opportunity in a film—the way that we can position a film—that other people might not. The independent sector is very competitive. The UK marketplace is one of the most competitive markets in the world in terms of films. The studios are very strong and they are active on big films and they are also active on acquiring independent films. The independent sector is very strong; there are some really good companies there who are very well capitalised, and we have a condition where we get the lowest rentals in the world from the cinemas, in terms of the share of the ticket price that we get, but we have the highest advertising costs. So when we look at our contemporaries from other markets in France and Germany they find it incredible how we make a business out of it. I think the interesting thing for us is that despite all of this there are opportunities, and there are films that sometimes we are surprised that other people have not gone for that we see the value in, and that we put our faith in and our money behind it, and try and make it a success.

Q1080 Lord Macdonald of Tradeston: Going back to exhibition, why is it that, for instance, you have got Odeon and Cineworld and yet there is, probably, each week, a 90% overlap of them showing the same films? That does not sound very competitive. What is going on there?

Mr Kosse: They are both demanding the same films.

Mr Perkins: In terms of exhibition, the cinemas are all owned by venture capitalist groups and they have very stiff targets to deliver, and films are booked on the numbers, on the performance that they think they can make from each screen of the cinema. So we do not get any kind of special—we do not expect any kind of special—conditions. You have to deliver an audience, so another print of Harry Potter in screen six as well as the ones in one, two, three and four would make more money. You cannot blame the cinema for playing it because they have to deliver their numbers as well.

Q1081 Lord Macdonald of Tradeston: Let me take it one stage back then. I read in The Economist that at Cannes this year there were 5,500 films on offer and, perhaps, 600 each year would go into exhibition in the United States. So that implies that 90% of the films there will not get a proper exhibition. Then, when we have only two multiplexes in a large town, they are showing the same films. That sounds to me like a market failure.
it. In terms of churn you often find that producers who cannot find distribution for their films will raise additional money and self-distribute their films. I cannot think of any recent examples of that being a success; there is a certain art to distribution and you need those relationships and that experience to deliver success in the market.

**Q1087 Lord Inglewood:** Is it in effect a closed shop?
**Mr Perkins:** It is not a closed shop but if you want to build something significant it is difficult and takes time.
**Mr Kosse:** You certainly need reserves of capital because as we saw with the top films generating most of the box office, it is a hit business just like the music business used to be and like the book business is as far as I know.

**Q1088 Bishop of Manchester:** *Slumdog Millionaire* has been mentioned several times this morning and we have been told in previous evidence that this is the only example of an Oscar-winning film being wholly funded from within the UK. Do you agree with that, and if that is the case do you regard that as a one-off or do you think there is a possibility that will be a pattern for the future?
**Mr Kosse:** I do not know if it is the only one; I do not know who *Chariots of Fire* was financed by and how we define this thing of “wholly financed” is very, very tricky, it is such a patchwork of finance. I would not be able to predict the future on something like that but just to clarify the point of view I have in terms of the scraps—indeed, distribution is referred to a picking up the scraps—if you take just about any project to the studios, with defined terms for that project, half of the studios probably want to make the movie and half of the studios would decide it is not worth risking. If you took it to half the independents in the world, half of them might like it and say they want to do it but half of them might not see it. The studios do not have unlimited resources, unlimited time or unlimited knowledge as to what is going to work and everyone pursues their own strategy. People miss things and sometimes they miss things like *Slumdog Millionaire*. Maybe it is not in their business plan, maybe it is not in their strategy to go after lower budget films because they do not have the resources to pursue that. Maybe they have other arrangements or agreements with producers that are using up most of their resources and they do not want to get distracted by pursuing a film with a slightly lower budget. Throughout the history of the business there has been ample opportunity for the independent producers to find big gaps in the system; it has been around the world since the movie business began, there has always been independent production and distribution that has risen and fallen based on different country and different financing models that have come about.

**Q1089 Lord Maxton:** So far we have been talking about the theatrical showing of films but are you involved—you certainly are Mr Perkins—in what I would call the levels down from that which are the DVD market, the television pay to view and then if you like free to view and then of course download through the internet on computers. Are you involved in all those levels and what is the income stream from each of those?
**Mr Kosse:** Yes, we are involved in all of those, we are in all rights and we own the catalogues. That income stream changes by country and in the UK the DVD market is incredibly important. With most films, if you put aside the cost of production, it is very difficult even to recoup our expenditure on theatrical. We might break even unless the film becomes a huge breakout hit, say over £7–£8 million, and then a very profitable window comes in and that is the DVD window which is under pressure due to the closure of Woolworths among other things; that market is therefore under a lot of pressure. Then it goes to television, and that is where we capture most of our most profitable revenue because there are no expenses associated with it.

**Q1090 Lord Maxton:** Is the DVD market, like the CD market, going to be under pressure from the internet?
**Mr Kosse:** From the internet absolutely and from piracy.

**Q1091 Lord Maxton:** But sale on the internet is important, is it not?
**Mr Perkins:** The problem for the business is that the DVD market is starting to decline now and there is a move to electronic sell-through, to titles being available to download. The problem for the industry is that the cost of digitising all the content and making it available on the internet at the moment is prohibitive compared to the business that is actually being generated, so there will be a painful couple of years where the market is not that big in terms of download revenue but the cost of entry to that market is. That is what the industry is going to go through in the next two or three years and the financial model has to change slightly to account for that.

**Q1092 Chairman:** Mr Batey, you said in your written evidence to us that the UK distributors invest more than £300 million a year in releasing films. Presumably that includes advertising for example.
**Mr Batey:** Absolutely.
Q1093 **Chairman:** Break down for me the £300 million.

**Mr Batey:** Advertising is the major part of that expenditure as we have already established. About £170–£175 million of that is media investment if you like, so the money paid for spots on ITV, Channel 4, in magazines, posters and everything else. About £120 million or so at the moment is the physical print cost, whether that is trailers, the 35mm prints or the digital prints and so on going out to cinemas week in and week out. There are additional costs as well such as premieres, which are enormously expensive. There is an average of a premiere a week in London which is great for the citizens of London who were able to shake hands with Shia LaBeouf and Megan Fox the other night, it is fantastic for people that have access in London but it is actually an enormously expensive thing to do and you do not necessarily get the media coverage that you need off the back of it. That is another expensive part of releasing a picture theatrically. If you look at it in the round, the box office receipts in the UK were around £850 million a year last year and distributors are putting in £300 million to bring their titles to market. The £850 million gross receipts include VAT and so on. The theatrical sector in the UK is broadly—and obviously this is a huge generalisation—break even, it broadly washes its face, and DVD over the last ten years has been the cash cow that has driven revenue. The prices of DVDs, as you can see yourselves on the high street with the prices you are paying, are going down and the revenue from that important slice of the market is declining and the rise in online purchasing, downloading and so on has not yet at all anywhere near made up the difference. It is a tricky model.

**Chairman:** The £300 million is in addition to anything you as the distributor may put into the film itself.

**Mr Kosse:** Yes, it is in addition to the inward production.

**Mr Batey:** That is right, that is the release cost in the UK.

**Baroness Eccles of Moulton:** We have covered quite thoroughly the relationship dealing with six big companies and distribution in the UK, but just one point of clarification before I go on to ask you a question. They seem to be collectively described as Hollywood-based but I have noticed during our conversation that Japan was mentioned in relation to Sony and Australia in relation to 20th Century Fox, so would that mean that those two could then be described as Hollywood-based?

**Mr Kosse:** Columbia Pictures is only releasing in the studios owned by Sony Corp but their headquarters and most of their staff are certainly based in Los Angeles and they are part of the Hollywood community. 20th Century Fox is owned by NewsCorp and again they are based in Los Angeles. Most of our business is very people-dominated, people-driven and the executives and people are part of the Hollywood community. Paramount is owned by Viacom; Universal is owned by General Electric and Disney is owned by Disney.

**Baroness Eccles of Moulton:** I understand; that is the situation. While we have been discussing this subject generally there has been an impression gained that it would be very good if more of the ultimate profit and revenue from film could stay in the UK and there is perhaps more in this connection that is being claimed by distributors. I wonder whether Mr Batey has any thoughts about what could actually be done in order to shift the balance, if such a thing was possible, so that it is going to be possible to retain more of the ultimate revenue for UK companies.

**Mr Batey:** Do you mean UK productions or UK-based distributors?

**Baroness Eccles of Moulton:** Whoever actually is UK-based and has invested in a film at any stage in the process.

**Mr Batey:** It is a market driven thing, unfortunately. It is going to be very tricky, it varies according to the film.

**Baroness Eccles of Moulton:** Mr Perkins, do you have any ideas in this direction?

**Mr Perkins:** I do not really. The fact is, as David explained, the money follows the talent really and the amount of British writing talent and British source material, everything from the *Lord of the Rings*, *Harry Potter*, Bond films, the Aardman films, have been phenomenally successful on a big scale. *Mamma Mia* had British writers and there is a lot to be proud of. Film is an international business and you cannot be territorial about it. The fact that independently things like *The Last King of Scotland*, *The Queen* and *Slumdog Millionaire* have broken out and been successes around the world shows that at every different level there is a lot of talent in terms of writing, film-making and production talent to be excited about the UK. It is part of an international business and if good films can make money around the world the money will follow the talent, whether it is a writer or a director. The ownership of the companies involved in making that money is something that is established and it is difficult to see how that can be changed.
Mr Kosse: I do not think they were high and dry, I think they were being courted.

Q1103 Baroness McIntosh of Hudnall: I just wanted to go back to something you were saying right at the beginning about how the net profit works. We know that the net profit is a very mysterious thing but let us say that there is a net profit from a movie, it gets distributed as between the people who do what you do and the people who make the film. One of the things that seems to be emerging from the sort of evidence that we have had from film makers is that the most difficult thing is for the originator of a film to hang onto enough of what they own in terms of rights to be able to generate funds that will then fund their next film or their next slate of films. Within that, it has to be said, the distributors are often fingered—probably quite wrongly—as part of the problem rather than part of the solution because they are so important to getting the film made in the first place that maybe the deals are quite tough. Do you think that is fair from either an independent or a studio-based perspective?

Mr Perkins: It is fair. Often in the independent sector people will be keen just to get a film made and certainly in the early stages of their career they might surrender some fees within the budget so that they can actually make the film—it would be better to be paid something for making it than not making anything at all. We have been involved in a scheme called Warp X which is ourselves as a distributor with the Film Council, Channel 4 and some regional screen agencies as financiers and we have changed the model of the back end of the films. It is low budget films, all less than £1 million, but the film makers could come in and they would know that their film would have a UK release through us, it would be shown on Channel 4 and it would be fully financed, so it is kind of a mini studio. The back end of that was changed so that the talent, whether it be the actors or the directors, got a similar deal to the top end of the scale when they talk to someone like Steven Spielberg or Peter Jackson, will earn money from the start—as soon as the film starts earning money they will be earning money. It is much smaller figures but it is a different way of looking at it, to protect people in the early parts of their career and build a relationship with them in a different model. We have looked at that on that scale, but our investment in slate films is not that big so we can afford to be different with it. If we are investing a lot of money in a film then we need to be in a position to get that money back in the first place.

Chairman: We are coming to the last 15 minutes and we have still got quite a lot of things to cover. Lord Macdonald.
Q1104 Lord Macdonald of Tradeston: America has been dominant for the last century in this industry and America has always protected its position in the global industry very aggressively—indeed, you have still got on your books the Webb-Pomerene Act of 1918 which allows you to form export cartels outside your home market and distribute films in that way. I am just thinking of the reciprocity here. It is very difficult to challenge American dominance and American films give us great pleasure, but how does British film fare inside this global deal that is going on. What percentage of US box office is collected by British films?

Mr Kosse: I run the international side of Universal Pictures based here so I do not really look very closely at that percentage. I would have to venture a guess that it is quite small and it would depend on the year, but given that last year one of the most successful films of the year was Slumdog Millionaire you do occasionally have breakouts, but I would say less than five %.

Q1105 Lord Macdonald of Tradeston: You do have an enormously powerful negotiating position with a century of momentum and all that money and expertise behind you, so that has given you, obviously, a degree of resentment in many markets. Is there anything changing in the traditional relationship between the studios and the film makers in a country like Britain?

Mr Kosse: The relationships between the studios and the film makers around the world are very, very strong. All the studios have been pursuing more and more local productions over the last five or six years and in Universal’s case, going back to the time when Universal bought Polygram, there has been an ongoing and consistent investment in British film and in our relationship with British film makers. If you qualify British films as things like Harry Potter or the Bond movies, they are forces to be reckoned with within the US market and the global market. I do not sense the same animosity, I guess, between the studios and the local film makers or the local film markets that you know.

Q1106 Lord Macdonald of Tradeston: If you have deals with British production companies, in how many of those is there a clause that says “When you have made this film we will get you an exhibition in the United States”? Is that an important factor?

Mr Kosse: That would be done on a film by film basis if we bought the British rights. If we were making a film like Mamma Mia our investment in that movie is so large to begin with for production investment that I do not think the film makers in most cases need that kind of reinsurance contractually that they are going to get paid. They know we have just spent so much money we need the US market to work to recoup our costs. If we pick up a small independent movie, if we were thought serious about buying Slumdog Millionaire after it has finished, clearly the release commitment would have been part of that negotiation, that is unfinished film.

Q1107 Lord Macdonald of Tradeston: To Mr Perkins if I may, if you accept my former analysis that if you have got 5,500 films at Cannes and only one-tenth of those get exhibited in the cinemas so you have a basic overlap, that seems to me to be a market failure in that there are bottlenecks that should be cracked.

Mr Perkins: I hope so. With digital there is an opportunity because once of the barriers to entry for a distributor is the cost of the physical film prints. When we talk about £300 million being spent, a lot of that is on film prints. A film print is probably around £600 to £800, for the physical print that is shown through a projector in a screen. A digital print could be around, say, £200, so there is a cost saving there. In terms of our negotiations with the cinemas, if we have invested that money in a physical print we want to get the most return that we can so if we were in a screen we would say we want to be on every show in that screen that week. The opportunity with digital projection is that you could say we have got a film that is a family film so after eight o’clock there is no business in it, we will just take the afternoon shows and then the exhibitor can put two films on in that screen, or we could say we just want Sunday afternoons for this film because that is the only time it is going to make some money. There is, therefore, a flexibility in our negotiation with exhibition which is opened up to us because, one, the prints are less expensive and, two, it is easier to supply them through digital and look after them. There is an opportunity there and a cinema can have a much broader offering. That is really what we want, it is independence. The big films are good for us—anything that draws a big crowd of people into the cinema, whether it is Mama Mia or Harry Potter is great for the independent sector because we want people talking about film, going to the cinema and seeing posters and trailers. The big films are not for everyone, our audience exists around that and someone might say “I know a friend who went to see James Bond last week; that is not for me but I quite the look of X”, which works for us. Digital can therefore be good for us in that if it allows us to have more choice in cinemas then it can break that bottleneck that you describe and there are opportunities where we do not have to fight for every show on the screen in the week and we are a better proposition to the exhibitor.
Q1108 Baroness Howe of Idlicote: I am going back a little bit to the point that Baroness Eccles was making because there does seem to be this feel—and we have had it said to us many times—that there is not enough money to really encourage the creative talent in this country. What about levies, because they were in operation for something like 35 years; would it be a good idea to reintroduce them? DVDs may be on the way out but there are digital downloads and all those sorts of areas; might that be a good idea?

Mr Perkins: A levy system to encourage British films within cinemas would be difficult in terms of our dealings with the cinemas. They complain as it is almost about their terms of business and the best way of encouraging film makers is that digital is an opportunity, because the cost of entry to make a film, to release a film, can become lower. That is the opportunity; I am not sure that any kind of quota or levy or something like that would actually stimulate the market. The films have to be strong enough to compete with the bigger films and they have to survive on their own merits really rather than because they have a local advantage.

Q1109 Baroness Howe of Idlicote: I was just wondering also whether anyone knew why the levies were stopped in the first place; were they seen as a disadvantage or, for example, would they be seen as a disadvantage if reintroduced as far as the Americans are concerned; are there pluses and minuses there?

Mr Batey: The Eady Levy in the mid-1980s was stopped because at that particular time the market was on its last legs. It was prior to the advent of the multiplex in the UK and VHS video at the time was gaining traction very quickly and cinema-going was still plummeting. It had reached around 54 million admissions a year which is less than a third of what it is today and at that time the industry was pretty desperate to have levies removed. That is one of the snags with them in a way, that when the going gets really tough the industry would be desperate on all sides of the industry, whether a producer or an exhibitor, to get rid of them. It would be very difficult to introduce a system that benefited some producers but not others; that would be problematic.

Q1110 Baroness Howe of Idlicote: Again, it is this talent; we have all agreed we have got it and yet we are not able to tap into it. The Digital Britain Report out yesterday was certainly suggesting a little bit of levying in some respects, so again it is back in fashion. I do not know that I am really convinced why not on the digital side here too.

Mr Kosse: Again, a big part of what we need to encourage the film makers to do is continue. We have been talking a lot about the UK market and the dominance of the American studios, but we forget that in the UK we share the English language so UK film makers can be making the films, not just for the UK market but for the UK market, the American market, the Canadian market, the Australian market, and also English language films are the predominant source of cinema around the world. They are dubbed or sub-titled but still there is a huge opportunity for ongoing continued export, and these bigger films that are dominant, things like the Harry Potter or Mr Bean’s Holiday, films like that—if we encourage films to be made in this country they do not need to depend just on the UK market, they have a global market.

Chairman: We have three questions to get in. Lord Maxton, then the Bishop of Manchester and then Lady Scott.

Q1111 Lord Maxton: To some extent you have already covered this but I am still not entirely clear about digital distribution in cinemas. Do you sell a single copy of a film in digital form or do you sell multiple copies to the cinema companies who then put it out in each of their cinemas, or are we moving to a system where there will be a single copy which they will then digitise across their system?

Mr Kosse: There is a system emerging called “virtual print fee”. In other words in the analogue world we give them a print and they use it for a couple of weeks under some terms. In the new world they invest a certain amount of money to upgrade their systems. We agree with a third party that we will loan them now a hard drive that they will have to pay and they will then give us a virtual print fee over time, that will reduce in cost over time, until they recoup the cost of that investment. At that point they have paid for their investment and the costs of doing a print have dropped down to the cost of the hard drive which is significantly lower but it is still material. That is the model that is emerging over the world, whether it is done by a third party or by the exhibitor themselves and that is what they are using to fund the digital rollout.

Q1112 Lord Maxton: That is going to put the small independent cinemas at an even bigger disadvantage because presumably the investment required to show that type of thing is considerable—it is cheaper once you get there but the investment must be quite large.

Mr Perkins: It is where a third party can help in that they can form a collective group that would borrow the money to pay for the new projection system and then that is repaid over time by the virtual print fee.
so it can be that the independents can have access to digital projectors as well.

Q1113 Lord Maxton: In parts of rural Scotland there is public subsidy to cinema vans and they show the major films, they do not show art films. Is public subsidy a possible way forward?

Mr Perkins: Also what we have with the Digital Screen Network is 200 digital projectors in the UK; it is one of the leading markets in the world which is a good thing. There are different ways to market and it can be that digital projection equipment is cheaper to service and supply and can be used in smaller ways like vans and things like that, so there are definite opportunities there.

Q1114 Bishop of Manchester: One issue that has been exercising this Committee is that of piracy, and it would be interesting to hear from the point of view of the film distribution business how you regard that issue. Are you able to give any figures for the cost to you of piracy and any ideas about how it might be addressed?

Mr Kosse: We would perceive piracy as the number one threat to the industry for everyone—studios, independents, everyone around the world. In terms of both hard goods and online piracy, I have heard numbers as much as a 25% loss.

Q1115 Bishop of Manchester: Is that growing?

Mr Kosse: The market has been growing so yes. Overall has it been growing as a percentage? I do not believe it has been growing.

Mr Batey: It is the single biggest scourge that IP businesses across the board face and the estimate for the United Kingdom audiovisual sector is a loss of around £500 million a year, around half a billion a year. In terms of just the theatrical sector, that is right across the board, all sectors of exploitation. Just in terms of cinemas the perceived wisdom from all the research is that it is the equivalent of about a month’s cinema-going, so we would need 13 months to get to where we ought to be. One of the specific steps that ought to be taken—and I do not think it is covered in Digital Britain—is that camcording needs to be made an offence. At the moment it is not, it is a civil breach of copyright but it is actually not a criminal offence to take a camcorder into a cinema, copy what is on the screen and walk out with it. That just seems to me to be a nonsense.

Mr Perkins: We had someone caught in a cinema once with a camcorder and half the film on tape, but they were not allowed to be arrested. It could not have been any more red-handed, so it is very frustrating for the people trying to enforce it.

Q1116 Bishop of Manchester: Are there any other points? If you were saying to government or whoever these are the ideas that we have to prevent piracy, you have mentioned the camcorder, are there any others?

Mr Kosse: It is the ISPs and we have been public on that, getting them to take a greater role in the pursuit of pirates.

Chairman: The last question from Lady Scott.

Q1117 Baroness Scott of Needham Market: Moving outside piracy and in terms of the general health of the British film industry, widely defined, are current government interventions in terms of the tax regime and the money that they put into the Film Council sufficient? Is there more that government can be doing, are there areas that they are not involved in and they ought to be?

Mr Perkins: The tax credit for productions has been a really good thing, it is an encouraging thing. The Film Council has done some great work in the distribution sector over the last few years and I know that their budgets are under pressure because of the Olympics amongst other things. It would be a shame if the distribution they have done and their support is under pressure because that has been great for the independent sector and for broadening choice within cinemas.

Mr Batey: Can I really underscore that; that is absolutely key. The Film Council has been a terrific thing over the last ten years. The P and A funding that is available for distribution is a very small piece of its puzzle and we know that they have a lot of priorities to address and that is fine, but as digital grows and as the opportunity for more specialised film grows around the UK as well it is important that there is the software support if you like. This really is about content—it is not about the black boxes—that is what drives consumption and cultural development and it is important that that P and A funding that the Film Council has is increased as the opportunities for more specialised distribution increase around the country. As digital grows the software support needs to grow in tandem with that.

Chairman: Thank you very much. It is self-evident that we could go on all morning asking you questions. It has been a very fascinating evidence session and we may have questions to follow up in writing so perhaps we could write to you, but in the meantime thank you very much for coming and for the very clear way you have given your evidence. Thank you.
Memorandum by the British Film Institute (BFI)

INTRODUCTION

I welcome the opportunity to submit evidence on behalf of the BFI to the House of Lords Select Committee on Communications in its inquiry into the British film and television industries. This is a timely intervention as these industries are widely acknowledged as world class.

However, we believe far more emphasis could be beneficially placed on the vital role that cultural cinema plays in fuelling this world-class status.

The BFI itself is at a pivotal moment; at a point in history when the culture of film has never been so important or more all pervasive across society as a whole. The BFI is the UK's cultural agency for film, in the same way the National Gallery is for paintings or the British Library for print.

The BFI was founded in 1933 and granted a Royal Charter 50 years later. It has five objectives:

— to encourage the development of the arts of film, television and the moving image throughout the UK;
— to promote their use as a record of contemporary life and manners;
— to promote education about film, television and the moving image generally, and their impact on society;
— to promote access to and appreciation of the widest possible range of British and world cinema; and
— to establish, care for and develop collections reflecting the moving image history and heritage of the UK.

We are grant-in-aid funded by DCMS through the UK Film Council, with an additional £1 million levy coming from commercial terrestrial broadcasters to fund the television element of the BFI National Archive. A further 55% of our total funding is self-generated income.

Our mission is to ensure that everyone has access to the broadest choice of film culture, no matter where they live or how they want to access it. We show and distribute the sort of film that simply wouldn’t be available without the BFI’s intervention. It is this broadest spectrum of world cinema presented by the BFI that acts as a catalyst to spark, inspire and influence continued development across the whole of the creative industries.

The BFI is the guardian of the national film collections and our fundamental aims are to generate new knowledge through an exciting, innovative and accessible cultural programme and to reach new audiences by inspiring and motivating people to seek out film culture.

The BFI’s evidence to this inquiry is given within the context of our mission and aims. There are a number of specific issues the BFI urge the Select Committee to consider in its inquiry:

— The value of supporting the broadest film culture across society
— A successful film industry would not exist without a vibrant, healthy film culture
— The BFI National Archive and regional archives
— recognition of the real value and proven public demand for content in national archives. Sustaining the critical investment needed to continue the Screen Heritage UK Strategy1 to unlock this further
— addressing the future of Britain’s television heritage in the BFI National Archive after analogue switch off
— Tax Breaks for donations/rights—encouraging long-term growth of and access to the national collections through extending acceptance-in-lieu scheme for living arts donors
— Rights—the urgent introduction of a simpler system which balances the need for easy public access with compensation for rights owners. This was the basis of our recommendations to the Gowers Review that were broadly accepted by Government but which have yet to be implemented

1 See Appendix.
— Education—the adoption of film both as a teaching tool and as a compelling educational resource across the curriculum, and the teaching of film “grammar” as an entitlement for every school child

— Digital infrastructure—as proposed in the recent Digital Britain interim report, we call for a national broadband infrastructure as it would allow the BFI to leverage much greater public value from activities which are already invested in by the public purse. However, it also carries with it the imperative that to unlock this additional value, core revenue investment must be maintained.

Inquiry—Specific Response from the BFI

1. How do the UK film and television industries contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

“Something as powerful as film should be celebrated and understood.”—Anthony Minghella.

The BFI is the nation’s agency for film culture. Film culture has never been so important. Most of the information we need to navigate modern life comes through the moving image. To be literate in today’s society means to understand the language of film and television, to be able to “read” and “write” in a medium other than print.

Film is a social phenomenon—everyone is uploading or downloading; we live in a YouTube society; it is the medium of choice today. Film is probably the most powerful tool we have to engage with the young, a common currency or language; it is the most powerful vehicle for the promotion of social cohesion.

Film is also a huge economic driver—Britain is arguably the third most important centre in the world for film and the BFI’s role in supporting, inspiring and championing creativity through providing access to the broadest diversity of cinema from across the world is increasingly vital. We are helping stimulate a Creative Britain, ensuring a vibrant cultural framework and encouraging new talent. But it is not just about the high budget, heavily marketed “tentpole” films. The vitality of film in today’s society can be seen in the growing demand that the BFI is experiencing for a wider, more diverse spectrum of world and heritage cinema. We see it every day:

— Some 12,000 prints a year are loaned out by the BFI National Archive to support the programmes of 800 venues across the UK and overseas;

— tens of millions of people have over the past five years enjoyed hours of material from the Archive through co-productions with TV broadcasters;

— BFI Screenonline—the story of British film and television shown as through hundreds of hours of archive footage is free in every school, university and public library

— through its free education and teaching packages enabling film to be taught in the classroom the BFI has reached 5,000 schools and two million children;

— 1,000 hours of material has been digitised for free public access in BFI Mediatheques on the South Bank, in the BFI Library and at the mixed arts centre Quad in Derby, with five more venues to follow across the UK;

— Two million people a year enjoy archive films for free on the BFI’s YouTube channel;

— every year 300,000 DVDs of BFI films are sold;

— also this year, 1.3 million people will watch a film from the BFI—to see a choice of over 3,000 different films from across the world and from every era since the earliest days of cinema

— in 2008 there were over 122,000 admissions to the London Film Festival to see 300 films from 43 different countries; more than 27,000 tickets were sold for the London Lesbian & Gay Film Festival

But this is just the tip of the iceberg.

BFI National Archive—one of Britain’s greatest cultural treasures

The BFI National Archive holds the world’s most significant collection of film and television material and information, with around 60,000 fiction titles, 120,000 non-fiction titles and over 675,000 television programmes. Additionally this national collection contains the recorded proceedings of both Houses of Parliament, 45,000 books on film and television related topics, 25,000 scripts, four million stills, 15,000 posters, thousands of press books, set designs and extensive collections of the personal papers of filmmakers.
In 2003 the Culture, Media & Sport Select Committee report recognised the importance of the UK’s film and television archives and recommended that “the BFI should take the lead within the UK film and TV archive community and champion the whole sector...an over-arching national strategy promoting both good curatorship and increasing accessibility should be vigorously pursued.”

Following the last Comprehensive Spending Review, £25 million in funding was awarded for the project to begin and the BFI has now established a Programme Office to deliver the Screen Heritage UK project, on behalf of the UK Film Council. The aim of the project is to begin to realise the huge potential of both the BFI’s own and the numerous other regional collections, so that a rich and diverse source of public service content can be made available to UK citizens.

Through the Screen Heritage UK project, The BFI is leading on the strands that will provide fit-for-purpose storage for the national collection to ensure its ongoing preservation, and to provide digital access to them. But access is just part of the equation and it is the application of knowledge and contextualisation by the BFI that makes curated access so much more valuable to the public.

For example, as a key output from the Screen Heritage UK project, the BFI will be presenting A Portrait of Britain. Building on a very successful programme that ran in Liverpool as part of the Capital of Culture celebrations, this latest innovative online resource will give everyone in Britain a unique insight into their social, cultural and political heritage as seen on film and television. It brings together a curated collection of films and television programmes—taken from regional as well as national collections—that best explore the people and places of the UK and which provide a vivid picture of life in our nations and regions from 1895 to today.

Our moving image heritage has the potential to speak to and excite all tastes and interests. Everyone watches film and television, yet few people have access to archive films about the places where they live, how their grandparents’ generation survived life on the Home Front, or about the jobs their great-great grandparents did. Watching a film is an entirely different—and far more immediate—experience than looking at a photograph or reading a book.

Providing digital access to this heritage is a core priority for the BFI and we welcome the call for investment in digital infrastructure as laid out in the Digital Britain interim report. That investment is critical because it has the power to add public value to existing activities and to unlock value in new areas. Without it, that public value is lost. Indeed without it, the BFI will not be able to deliver its remit in the long term.

It is also in this context that we would argue for continued investment in the Screen Heritage UK strategy after the next Comprehensive Spending Review. We believe that it has the real (as yet untested) potential in the longer term to unlock commercial revenue streams that can be reinvested back into the UK’s cultural heritage.

Rights

The BFI is frequently asked why it does not just digitise everything in the archive and put it online. Aside from the obvious reason of cost and sheer volume, there is an underlying rights issue that curtails this notion and it remains a critical aspect of our work at the BFI.

We recommended to the Gowers Review in 2007, and more recently reiterated to David Lammy in his review of copyright (Developing a Copyright Agenda for the 21st Century), that there is urgent need for extensions to the rights exceptions for archives and education in order to facilitate our work in preservation, access and providing educational services.2

We fully support the need for a balance between compensating creative workers and investors for use of their work and the needs of the citizens and society to be able to access this material in the furtherance of knowledge generation. We were also particularly keen to see the issue of orphan works addressed urgently. Frustratingly as yet, the Government has not implemented the Gowers recommendations.

A new generation of philanthropy?

The BFI National Archive is a living, breathing entity with collections that are being added to every day. Clearly decisions have to be made all the time on what is taken into the collections and indeed what material the BFI should actively bid for when they become available. But we also want to see the creation of a financial environment conducive to individuals or their estates once they are deceased in donating personal collections to the nation.

2 It is worth noting that whilst digitisation is an excellent solution for access, it should not be seen as a long term solution for film archive preservation or to replace existing masters and film formats. There are currently no world-standards agreed for digital archiving of film, file formats are frequently changing and master film is still of a much higher quality when projected than digital.
Despite the welcome investment in the Archive in the last Comprehensive Spending Review, the financing of the BFI National Archive will require significant additional funding in the years to come to cope with the expected increase in demand. In an era of constrained public finances, so that we can attract a greater number and more complete collections to the BFI National Archive that have the power to generate public value, we believe an incentive would be to see the acceptance-in-lieu scheme extended to living donors, not restricted to just the deceased’s estate. In other areas of the cultural sector, acceptance-in-lieu has brought over £250 million-worth of works into the public domain over the past 10 years and we need to ensure that film collections are kept intact and can be saved for future generations.

Currently, many seminal or classic British film collections are owned by overseas organisations. We should value saving the right for British people to see British films.

Preserving Britain’s TV heritage

The BFI National Archive holds by far the largest accessible archive of British television programmes. The television collection—some 675,000 programmes—is not just an archive; it is a snapshot of life in Britain seen through the eyes of others over the past 60 years or more. It tells a mass of stories about our social, political and economic history and reveals how we have changed in Britain to become a more multicultural society. It is preserved so that future generations can look back and understand why we are the way we are in Britain.

Most of the material has been acquired for permanent preservation through off-air recording of the independent terrestrial channels, ie ITV, Channel 4 and Five, and this is funded by statutory provision under the terms of the 1990 Broadcasting Act and 2003 Communications Act. We have also acquired donations of television material on various formats since the late 1950s. Additionally, we select examples of regional programmes from independent television and we are the official archive of the Parliamentary Recording Unit.

Currently the BFI’s national television archive is funded by a levy on ITV, Channel 4 and Five as part of their public broadcasting commitment. But it is unclear what will happen after digital switch-over and there is a real risk that without this funding, the nation’s ongoing, not just legacy, television heritage will be lost for future generations. We would ask, therefore, that consideration be given to how television heritage will be funded post digital switchover.

London Film Festival—a critical platform for film in Britain

The London Film Festival is one of the world’s pre-eminent film festivals and very much part of the fabric of Britain’s cultural life. The Festival is renowned for its quality of programming and for the experience it offers, not just to filmmakers and film industry professionals, but also to the public.

Now in its 53rd year the London Film Festival provides a platform for filmmakers and film companies to present their new releases, as well as to network and attend special events, masterclasses and training sessions. For the public, the two-week Festival is an opportunity to see the very best in contemporary cinema from around the world. This ranges from World and European advance premieres of high profile titles, to work which they would otherwise be unable to see here—70% of the films screened do not receive theatrical distribution in the UK. Nowhere else in Britain can the public experience such a broad and diverse mix of contemporary world cinema.

The Festival has made its home in London, one of the great global centres for the film and creative industries, and it contributes significantly to the capital’s profile as a leading world tourist destination. Increasingly, the film industry is seeing the London Film Festival as a pre-awards platform and this is having a positive effect on the number of world and European premieres. Last year the Festival opened with the world premiere of Frost/Nixon and closed with the European premiere of Slumdog Millionaire. Additionally, with an exciting Gala programme last year including such releases as W., Hunger, Waltz with Bashir and the latest James Bond film, Quantum of Solace—many going on to win multiple film awards—the Festival’s profile and reputation continues to grow and so the public value increases.

We believe the Festival can become of even greater value to the industry and more exciting for the public, but it is in danger of becoming eclipsed by other international festivals with larger budgets. The more impact we can create for the London Film Festival, the more likely the industry is to support it and continue making it grow. We have developed a plan to capitalise on the growing status of the London Film Festival and have sought investment through the UK Film Council’s Festivals Fund.
However, we need to be cogniscent that whilst the London Film Festival punches well above its weight, its nearest rivals on the international stage have budgets far in excess of its own, typically two to three times as much.

2. How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry?

The BFI as a digital hub

The onset of digital has completely revolutionised the way in which the BFI can pursue its aims. Our strategy, as presented to Government, positions the BFI as a digital hub within a wider network of sectoral cultural partnership for the distribution and exchange of knowledge, learning and cultural programmes.

A diversity of film is no longer just about a few film fanatics watching classic subtitled films. Instead it means that everyone can engage in ways simply unimaginable before. It means we can respond by delivering the broadest spectrum of film to the many. In fact audiences expect us to provide intelligent access to their film heritage and we can tailor content for the individual or for the larger audience. Challenging and exciting in equal measures is the fact that audiences are no longer restricted to being passive consumers—they can influence what we deliver for them.

The BFI is totally committed to further exploring the ever-greater impact of digital technology in the work, enjoyment and lives of people across Britain.

This envisages a National Film Centre—a modern fit-for-purpose hub which values the virtual visitor as much as the actual visitor coming through the door. Diverse audiences from filmmakers to educators, families and students will be able to meet together in situ and online to share great programmes of film culture, knowledge and inspiration, while newly generated content will in turn be shared digitally with audiences across the UK.

Although physically situated in London, the BFI National Film Centre will most emphatically be national in terms of its reach as it exchanges digitally programmes of content and knowledge with a broad variety of communities, partners and constituents up and down the UK. It will draw on the richness of the BFI National Archive, updating it with new content and linking to the regional archives and the BFI's expanding Mediatheque network.

Digital distribution

The BFI is both a distributor and exhibitor of film. Each year over 600,000 people watch a film from the BFI in a cinema, village hall, arts centre or film society—around 600 venues across the UK every year. This level of access and audience is just one of many indicators we have of the extent of public demand for a diversity of films beyond those distributed by the American majors in Hollywood.

Films from the BFI National Archive or from the BFI Distribution collection are mostly distributed as 35mm prints, or in very rare instances as 16mm prints. Increasingly, new releases are also on digital formats such as digibeta, or distributed via the Digital Screen Network (DSN) which was established and is supported by the UK Film Council. The BFI has benefited from the support of the UK Film Council’s Prints and Advertising (P&A) Fund, primarily for new theatrical releases where we make both a 35mm print and a digital print.

Around 75% of cinema screens in Britain are housed within multiplexes which come under the control of a diminishing number of exhibitors. The programming of art-house cinemas is also consolidating as many regional exhibitors are reducing their programming expertise and relying on centralised programming, because funding into the sector is shrinking. This will lead to less diversity of film culture available, something we are monitoring carefully.

What we are increasingly seeing is more and more specialist cinemas faced with the situation where they cannot afford to upgrade to digital projection to show new film releases that are on digital format. Yet, if they remain with 35mm projection, eventually the number of new releases that they can show will fall away and they will become commercially unviable. Many exhibitors will therefore disappear and this puts at risk the BFI's ability to ensure the public has a full choice and diversity in film.

We recognise that in the long term digital distribution and exhibition will be predominant and this calls for massive investment in digitisation of the key elements of the BFI back-catalogue. The question is how much will digitisation cost and who will pay for it? And in most instances, before the material can be digitised, rights clearance will need to be renegotiated.
The BFI is sustaining its position to continue distributing film on 35mm, whilst also managing the start of the transition to digital. So all new releases/re-releases from the BFI now are dual format. However, in the medium term we would like to see intervention to help the smaller independent cinemas retain 35mm whilst also migrating to digital and consideration given to digitising the Archive distribution prints.

4. Could the UK Film Council do more to assist the UK film industry's contribution to the UK economy?

The UK Film Council must be supported to ensure that funds for film culture at the grass roots are valued as much as interventions to support the industry itself. Where that film culture drives a vibrancy and creativity in the industry it does not happen by accident, it comes about by investment in education and plurality of film programmes and resources.

5. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

Film in lifelong learning

Education permeates throughout the BFI, encompassing all we do—from our Library to our digital offer across Screenonline and Mediatheques, from the programme notes we produce to contextualise screenings to the booklets, commentaries and documentaries we release with our DVDs, and taking in research and scholarship with higher education partners.

But the BFI also works in formal education settings. We have been a world-leading pioneer in developing media literacy and media education programmes for more than 40 years. We strongly believe that in 21st century society, learning how to read the film "sentence" is, we believe, a fundamental right and just as important as learning to read and write. Literacy in schools must move beyond just the written word and embrace the critical, cultural and creative understanding of film and television, alongside reading and writing. This would include providing rights-cleared material for students to download and creatively repurpose.

Our experiences and anecdotal evidence suggest that to embed the moving image at the heart of Education would be welcomed by every child in the land—we would be speaking to them in a language they already understand. Likewise we would advocate for film to be used by teachers as a resource and tool in their classroom.

With our partners in the Film Education Strategy the BFI's vision for film education is to create a "cineliterate" population in the UK. Under the Charter for Media Literacy, being cineliterate means being able to choose and access, understand, create, and express oneself in moving image media. In this context the BFI provides access to the best in world and UK film culture from past and present, it offers choices and opportunities for people to extend their understanding of film in all its forms so that they can be part of the debate about it, and it helps people develop creatively—whether it be as filmmakers or as "consumers" of film.

Investment in skills

The BFI National Archive is recognised worldwide for its skills in the preservation and curation of film and television. Skills and equipment have changed significantly over the years, more so perhaps in television where there has been a succession of different formats introduced for filming and for broadcast recording. In many instances these formats have become obsolete but it remains incumbent on the BFI National Archive to keep Britain’s archive of television intact and accessible, so re-skilling and sharing of knowledge is important, as is the retention and maintenance of old equipment to play these obsolete formats.

In film, with the increasing transition to digital, there is an urgent need to introduce re-skilling for preservation and conservation purposes, whilst at the same time keeping existing skills for the legacy archive material on film.

To this end, the BFI has been working with Skillset, and with support from the UK Film Council, on a digital skills training initiative particularly geared towards developing skills in the film and television archive sector. Two initiatives have been designed, one for new entrants to the industry at the start of their careers and the other for skills development among more established professionals. Both initiatives tackle the transition to digital as specific strands on the courses, but they also acknowledge that film as a format is not going away. The BFI and Skillset aim to have courses up and running during 2009.
Investment in film culture is the oxygen which helps grow skills and knowledge. The BFI has an incubator effect that stimulates creativity and talent. At BFI Southbank the Future Film Institute is a group of young people who programme the sort of films that speak to them and their generation; the National Film and Television School regularly platforms its work there; many staff at the venue are resting actors or filmmakers between films; every day there are events where emerging filmmakers, writers, actors, cameramen, producers can meet established industry professionals.

The programme at the BFI is about taking risks, showing work which wouldn’t find screen space elsewhere. The BFI Festivals are prime examples—showing hundreds of films from across the world, 70% of which never receive theatrical distribution in the UK. And our emerging digital strategy is allowing everyone around the country to join in.

6. **How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?**

The BFI National Archive looks after the world’s most significant collection of film and television—an immense, rich source of public service content. We know there is ever growing demand and to grow engagement we believe consideration should be given to how increased access can be made to this material, which is owned by the public, in the same context as traditional content generated for broadcast.

7. **How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?**

Currently the BFI’s national television archive is funded by a levy on ITV, Channel 4 and Five as part of their public broadcasting commitment. It is not clear in the current climate what will happen after digital switch-over, the risk being that without continued investment in collecting, the nation’s ongoing television heritage will be lost for future generations.

We are in discussion with Ofcom in context with its own review of Public Service Broadcasting. Additionally, in our response to the *Digital Britain* interim report we asked that the BFI is included in discussions from the earliest stages to ensure that provisions are made for archiving Britain’s TV heritage in a post-analogue world.

**Appendix**

In October 2007 the DCMS announced a £25 million investment in support of a Strategy for UK Screen Heritage. The Strategy was drawn up by the UK Film Heritage Group in consultation with a wide group of stakeholders including the BBC and the regional film archives around the UK. It is now being taken forward as a programme of projects under the title “Screen Heritage UK”.

The BFI has established a Programme Office to deliver Screen Heritage UK on behalf of the UK Film Council. The vision of this £25 million initiative is that: “The public are entitled to access, learn about and enjoy their rich screen heritage wherever they live and wherever the materials are held.”

The business case for this strategy identifies a preferred way forward for the programme constituting investment in the following four strands:

1. Securing the National Collection: Capital works to extend and improve BFI storage facilities with appropriate conditions to safeguard the collection.
2. Revitalising the Regions: Nomination of key collections in the English Regions, leading to improved plans for their preservation and access.
3. Delivering Digital Access: Extending online access to the Nation’s screen heritage, through collection cross-searching and digitisation.
4. Demonstrating Educational Value: Identifying, developing and evaluating effective use of screen heritage material within learning environments.

*March 2009*
Examination of Witnesses

Witnesses: MS AMANDA NEVILL, Director, and MR ERIC FELLNER, Deputy Chairman, British Film Institute, examined.

Q1118 Chairman: Good morning, thank you very much for coming. I am not sure whether you were not both here for the previous session and have a rough idea where we are coming from. What we are really trying to do is look at the film industry to see what its progress is and what contribution it is making, both economically and culturally, and see what else could be done because we obviously make our proposals to government as opposed to the film industry itself. Could you start by telling me something about the role and remit of the British Film Institute?

We are in discussion with Ofcom in context with its own review of Public Service Broadcasting. Additionally, in our response to the Digital Britain interim report we asked that the BFI is included in discussions from the earliest possible stages to ensure that provisions are made for archiving Britain’s TV heritage in a post-analogue world.

Ms Nevill: Thank you very much for allowing us this opportunity to give evidence. Obviously you are taking masses of evidence from the industry and one of the jobs that Eric has is the Deputy Chairman of the BFI and a Director of Working Title, so he has very much a foot in both camps. Our job is to really try and amplify the voice for the importance of film as a cultural entity in this country. The BFI has been around for over 75 years, we are a royal chartered organisation and we are the national cultural agency for film in much the same way that the National Gallery is for paintings. If I was stuck in a lift and I was trying to explain to people what the BFI does, on a day to day basis what we do is we champion the diversity of film across the UK, so in other words we are on a mission to try and ensure that as many people as possible across the UK can have access to the broadest possible spectrum of film. Obviously what that means is we need to source those films, bring the films in and then tell stories about that film so we can get to the broadest audiences that we can.

Q1119 Chairman: Thank you very much. Your relationship with the UK Film Council is what exactly?

Ms Nevill: They are our funding body, so our grant in aid funding comes through the Film Council.

Q1120 Chairman: And your annual budget is what?

Ms Nevill: The grant in aid from the Film Council is £16 million, our turnover is somewhere between £32 million and £34 million a year dependent on how that year goes, so grant in aid is about 42% this year. We are quite a dynamic organisation and we took the liberty of giving you a sort of dashboard of the BFI’s performance over the last five years and we have managed to really grow quite a lot of our businesses.

Bear in mind that we only grow businesses that do not succeed within the market itself so we do not stray into what the market can already deliver. Our monies come from obviously sponsorship and fund-raising and also partnerships that we do. We have had some really great partnerships with people like Macmillan—we now do our publishing with Palgrave Macmillan because they could put in investment that we could not put in, but we have also had a really great entrepreneurial new partnership with Gracemates; those are the people who provide all the background information that you need, for example, when you are downloading from iTunes onto your iPod. We are now providing them with the data that you will need when you download videos. We have had big expenditure of money upfront and then we will hopefully, cross fingers, start to see royalties coming through. We then have businesses, so things like DVDs, the Imax BFI Southbank, the London Film Festival and RB2B, so film sales that we can make from the archive.

Q1121 Chairman: Do you get a levy from the commercial public service broadcasters or not?

Ms Nevill: I do not think it is technically a levy but you are quite correct, we get just under £1 million in total which comes to us through Ofcom because we fulfil the chartered obligations to maintain a national archive which is discrete and different to a commercial archive for IT, Channel 4 and Channel 5.

Q1122 Baroness McIntosh of Hudnall: Can we explore a bit this notion of film as culture and film as part of the wider cultural landscape? You make some quite strong claims for the importance of film; you say, for example, that “Most of the information we need to navigate modern life comes through the moving image. To be literate in today’s society means to understand the language of film and television, to be able to ‘read’ and ‘write’ in a medium other than print.” You go on to say that “Watching a film is an entirely different—and far more immediate—experience than looking at a photograph or reading a book”, and I could give other quotes. I might not altogether agree with you on the strength of some of the claims you make, but clearly you have a view of film as a medium for understanding ourselves, shall we say, that suggests that it should be higher up the cultural agenda than it currently is. Would that be fair?

Ms Nevill: That is exactly it. Just to be really clear, we are not arguing for one minute, as you say, that it is more important than any of the other forms of communication—books, literature and writing are absolutely essential.

I would take the lead from the Cultural, Intellectual and Academic Authority which says that “The role of the arts and humanities is crucial to our understanding of ourselves, to our sense of identity, to the development of our cultural and ethical frameworks. Culture is essential to the happiness and well-being of individuals and communities. It is not only important for our mental and emotional health but also provides the foundation for all our human development.” It is the BFI’s mission to try and ensure that as many people as possible understand the film as a medium for understanding ourselves, shall we say, and for that reason we are also trying to explain to people what the BFI does, on a day to day basis what we do is we champion the diversity of the claims you make, but clearly you have a view of film as a medium for understanding ourselves, shall we say, that suggests that it should be higher up the cultural agenda than it currently is. Would that be fair?
Q1123 Baroness McIntosh of Hudnall: Not least, it might be said, because they are often the source of film material.

Ms Nevill: They are, absolutely, and vice versa. Our argument is that film is always seen as the poor cousin within the cultural arena and as a society—it is very difficult to prove this in concrete terms—we underestimate the power that film has for good. Anthony Minghella used to say that when you saw a film you actually borrowed somebody else's eyes for two hours, and we also know that young people with things like YouTube and this massive social network in terms of informal education—so much of the information they get and the way in which they communicate comes through the moving image. I suppose our mission is to say that we should not overlook film, it is a really powerful tool that we could make more of.

Q1124 Baroness McIntosh of Hudnall: I am sure nobody would disagree with you about that; however, can you give us some indication, firstly, of what more you think needs to be done to try and make explicit the power of film—and we should not forget television since your responsibility includes television as a tool of communication—and particularly what are you able to do yourselves and through the Film Council to influence the kind of cultural impact that film and television has?

Ms Nevill: The first thing I should say is that there is a laziness if you like within the BFI in that when we say “film” it is our short form for film and television and in fact the moving image in its broadest spectrum. The question you have asked is quite a complex one because it is quite difficult to provide real concrete empirical evidence for where the impact goes, but what I can do is I can give you some examples of the alacrity with which the British public takes up certain things that we have done. An interesting example might be Mitchell and Kenyon. Mitchell and Kenyon were film makers at the turn of the last century and they made what at the time were seen to be very low level entertainment. What they would do is they would go out and they would film ordinary people doing ordinary things, so they filmed people leaving factories in Blackburn at the end of a working day or they would go to a leisure park or they filmed the first football match. Then in the evening what they would do is they would project these films in a tent and they would have audiences of 1,000 or 2,000 people a night because at the turn of the last century people just wanted to see what they themselves looked like on film. These films were considered absolutely culturally irrelevant, they vanished for many, many years but then were rediscovered in a milk churn—very dangerous, 800 nitrate films packed into a milk churn in a basement in the north of England. The identification and restoration of the films cost £4-£5 million and if it had not been for things like the partnerships that we had with Sheffield University none of that material would make any sense if you saw it. We then used digital technology to put it into the right speed so it could play, so it did not look like fast silent film, and there was a co-production with the BBC.

The audience figures that were achieved for those pictures of early British life completely took all of us by surprise. In the beginning we could not get the BBC to take it, and in the end we said “Have it for free; we have done this and we know people would like it.” The audience figures that we got on three consecutive Friday evenings were in excess of Little Britain and Big Brother. This was early silent film but what people loved was the fact that they were looking at what their grandparents were like, it gave a completely extraordinary window onto where we have come from and where our roots are. That is just one tiny example.

Baroness McIntosh of Hudnall: They were wonderful films.

Q1125 Chairman: Did the BBC then pay for you it in retrospect?

Ms Nevill: Not in retrospect but we did keep the DVD rights to it and it became one of our most successful DVDs. Then of course we went on after that to have this great relationship with the BBC and with the Discovery Channel and we are by and large doing one co-broadcast a year.

Q1126 Chairman: Could we bring in Mr Fellner because you are co-chairman of Working Title, Britain’s foremost production company. You have done Four Weddings and a Funeral, Notting Hill, Bridget Jones’ Diary and other films; what is the value of the Institute for you as a working producer?

Mr Fellner: I see it from the view of practitioners who I work with in the industry and I see how they came into the industry in the first place and how they were exposed to film. You have all had an incredible crash course into the film industry over the last few months from the minutes that I have been reading and you probably know a lot more about the industry than I do—it is amazing the people you have had speaking—but you will see that it is critical that new blood comes into this industry. We can never compete with America and the idea that we should try to compete is a non-starter—we are a smaller country and we should do our best to have the best possible industry we can, but we cannot compete with them. The only way in which we can create an industry is through our talent and we have amazing talent: we have incredible writers, incredible directors and first and foremost actors. Their exposure to film comes in two ways; one they go to their local multiplex as a young child and they see whatever the film is that first
turns them on to wanting to make movies or they have a cultural exposure to it. The BFI's main job is to try and expose people to the history and the culture of film; whether it is as important as we may like to think is for opinions to shape but ultimately it is an essential piece of the fabric of the industry, to bring on that talent, to teach them where they come from, to teach them about film, to give them exposure to earlier film makers and practices. The Mitchell and Kenyon thing is fascinating because it goes way beyond film, it goes into historical representation of what our country was like. That is unique, no other medium could present that; we could have books explaining it, we could have early photographs showing still images, we could have paintings, but to have a moving image record of how we lived our lives here in Britain is absolutely unique. The wonderful thing about the BFI is it has this archive which is the largest—Amanda will correct me, I do not have all the facts at my fingertips—archive in the world and it is predominantly hidden. Although it is the BFI’s job to maintain it, look after it and restore it, at the moment it is very difficult for us to share it with the greater public, and Mitchell and Kenyon was just one small piece of that. Imagine if the resources and the will, both political and financial, were there to be able to get that library into a digitised form and expose it to an enormous audience, it would resonate even greater and the talent pool would then grow beyond that. Amanda was talking to me earlier about should one teach maths if maths is not going to become a subject of choice in the real world? Of course one should because it is integral in one’s education. It is the same thing with cinema in that we just do not know how much of an impact it is having, but I have a teenager and young children and see that, sadly, I cannot get them to read as many books as I would like to, but they will watch moving images all day long. If we can somehow define what that moving image is and change what they are watching, we can somehow maybe change the world in which they live.

Q1127 Chairman: Having read your submission it seemed to me a bit that you were looking backwards but actually in fact, although that is obviously one part of what you are doing, you are looking backwards because out of that material you are going to encourage and help and bring on the talent of the future.

Mr Fellner: Absolutely. Every society has a responsibility to its cultural fabric. I am a commercial practitioner so I straddle the two extremes—I am an absolute commercial practitioner as a film maker and then I enjoy my limited work with the BFI at the other extreme as a cultural supporter and champion. I am not an independent in the middle. Sorry, I have completely lost track of what I was saying.

Lord Maxton: That is our job, not yours.

Chairman: You will not be lost amongst this lot! Lady McIntosh.

Q1128 Baroness McIntosh of Hudnall: Can I just take you back to what you said about your children and link it to what you said about the dominance of the American market, because clearly there is an enormous deal more material out there than is UK-originated and located with the BFI. That comes from other sources but is available to your children just as much as it is to anyone else and they can consume an enormous amount of that. As I understand it you are saying that what you want to do is to try to encourage people perhaps as it were not to consume quite as much of that but to consume a bit more that will tell them about their own heritage, their own cultural roots and will propel them towards becoming cultural practitioners of some kind in this country that will make them distinctive from the American influences.

Mr Fellner: I do not think so; if I put it out like that I maybe was misleading you.

Q1129 Baroness McIntosh of Hudnall: No, I am trying to mislead you.

Mr Fellner: First of all the archive is not just British, it is world cinema, so we are not banging a British drum only, we are banging a film culture drum.

Ms Nevill: We bring international cinema, world cinema, to this country and that is a really important part of our role. That is part of both contextualising the Britishness but it is also part of injecting all those world cultures. As an example, at this moment we are just about to release the recent film by Abbas Kiarostami—not that it would be picked up by anybody else because it is not going to make that much money. He is a really important eastern film maker.

Q1130 Baroness McIntosh of Hudnall: He was not allowed to come here.

Ms Nevill: He was not allowed to come here. Take Kurosawa. Nowadays we have all heard of the Seven Samurai; actually without the BFI you would not because we are the people who, on your behalf—we are publicly funded and we get up in the morning to do things for the public—bring films like that in and build the market for them. One extraordinary and really concrete example of how this can help the economy—I do not know if you have taken evidence from Thomas Hogue who looks after a company called LOVEFiLM. It is a fantastic phenomenon that has grown up in recent years—they are the company where you can actually go online, you can book your DVDs, they arrive by post and you watch them and then you send them back. It is very useful for us because they obviously carry BFI DVDs as well. They have a very, very sophisticated online customer
Mr Fellner: The arm that owns the archive is an extension of the Screen Heritage Fund and the current project is to try to restore and digitise the archive. The ultimate goal is to have a building which effectively becomes the digital hub for the world, where you create the film centre and that is where we have the film festival and you have all of the physical practical work of the BFI ongoing. From that emanates to the regions and to the world all of the digitised archive that can then be accessed by anybody anywhere. That is the Holy Grail.

Q1133 Baroness Eccles of Moulton: Ms Nevill, would it be possible for you to quantify the economic contribution that the Institute makes to the UK film industry? I know you have given us one example about the online DVD ordering and I cannot wait to go home and do it.

Ms Nevill: Thank you.

Mr Fellner: Can I say one thing, since Amanda has been involved in the BFI the number between the grant in aid and the total money spent at the BFI or the revenue of the BFI has gone enormously. What that shows is that the executive there are now on top of creating a modern BFI. I have only been a governor for five and a half years, but when I came, about the same time as Amanda, the BFI was in a very sorry state. If the truth be known, if it had not been for John Paul Getty it probably would not even have existed any more because the funding was so huge from him and so minimal in the way in which it was used by the BFI and the funding from the Government. What this shows is that if the BFI is targeted carefully, clearly and properly the financial impacts can be greater because they can do way, way more with less. Sorry, I hijacked the question.

Ms Nevill: It was a much more eloquent reply than I could have given, thank you Eric, because the answer is I cannot. I would not know how to do that with a cultural institution and perhaps I should find out if any of the other big cultural institutions manage to do it because it would be interesting.

Chairman: Before going to Lord Maxton can I bring in Lady Bonham Carter?

Q1134 Baroness Bonham Carter of Yarnbury: I was interested in you saying, particularly coming after our last session which was with the distributors, that you showed films that others will not distribute, and you talked about a Fellini season at the Southbank. Are they only shown in London or do you have outlets outside London?

Ms Nevill: We are the biggest distributor of cultural cinema in Britain and we have a saying that no screen is too small or too remote, so whether you are a small film society on the Isle of Unst or whether you are a multiplex in Birmingham, we try and give both as much love and what have you as we can.
the motivation? So the motivation for the multiplexes is they are there to show great films, and we the BFI think they are great films as well, but they are there to make money and, by and large, those films go in and are selected on the strength of the brand and the marketing impact that is behind them, so they are almost in the nicest possible way garages: the film goes in, the studios, the producers, the distributors have done all the marketing, they have actually built that property. With the independent cinemas they are building audiences on a day to day basis and it is a tiny, tiny fraction of the market. We bring in, say, our back catalogue of the titles that we make available for distribution; we have not got the sort of marketing and one could never justify it, so we have to work with that smaller network of cinemas and work really hard to build audiences for it. The one thing—and I have not got the figures here—that does cause me some anxiety is that the funding in the regions for those independent cinemas is diminishing and therefore our ability to even get that diverse cinema that we are very privileged to be able to bring into London, to get it out there gets more difficult.

**Q1136 Lord Maxton:** I am slightly confused because, coming from Scotland, as far as I understand it the Scottish film archive is held at present by the Scottish Film Council but about to be going to the new amalgamated archive; is that right?  
**Ms Nevill:** It absolutely is. The Scottish archive is an interesting one; in theory we are the national archive but Scotland has the national archive of Scotland and it has some fabulous material in it. We actually work very closely with them—for example, we recently restored all the Margaret Tate materials for you and we often come in like a lifeboat and help out with things like restoring nitrate.

**Q1137 Lord Maxton:** The other major archive in this country of course is the BBC’s archive which Greg Dyke promised when he was Director General would become free for everyone to watch on the internet, but somehow it has never quite happened. Do you have any relationship with the BBC in terms of their archive, in terms of cross-referencing and that sort of thing?  
**Ms Nevill:** Yes, we do. I would say that the actual delivery of that is very immature at the moment but we have just signed an MOU with them—we have a very close working relationship with Roly Keating who is now heading up the BBC archive and they are now a part of the screen heritage. The BFI is leading on behalf of the Film Council on this screen heritage initiative that Eric spoke about, and one of the fundamental things that we are doing there is to try and get over time the data of all the moving image archives within one common union database, and the BBC are coming in on that. The other area—and I am going to say it out loud because it would be good to have it—is that there are ways in which the BBC could really help us. For example, we are very keen and we have talked to them about the option of us using the iPlayer for the playback of digitised material from the BFI archive.

**Q1138 Lord Macdonald of Tradeston:** I declare an interest here as a former governor of the BFI but that was about ten years ago and we were still struggling with the huge burden of deteriorating celluloid and nitrate stock and so on. Where have you got to with all the money you have had in recent years in tackling that problem? Is it still a big issue or is it largely solved?  
**Ms Nevill:** Gosh no, it is not solved yet. The money is pledged and there but we are still waiting at this moment for the DCMS capital plan to be signed off; we are told it is just a formality. What we have done is what I would call triage work in the last three years so we have driven massive economies through in other parts of the organisation so that we could do emergency work, so we have got most of the critical master material into an environment which minimises decay, so in other words it is decaying at a lot lower speed than it was doing previously. That is a huge piece of work, and what the screen heritage monies will do—and it will only be phase one—is it will allow us to build two vaults where we can put the material. Film is not decaying because we have done anything to it, but the moment it leaves the chemistry lab or wherever it comes out of it starts to decay. The screen heritage monies will mean that we can build two vaults and we can freeze this material. That means that rather than having to spend money restoring and copying it just because it is decaying, it will stop the decay—it will not mend it—and it then means that we can take materials out and restore them according to the cultural plan and what we believe the public are likely to be interested in at this moment.

**Q1139 Lord Macdonald of Tradeston:** Could you just give us a context for that? How much material is there in that condition that will still have to be worked on? How many years will it take and how much money will it take if we want to have an archive where everything has been transferred properly and is now stabilised, preserved and accessible?  
**Ms Nevill:** Thank you very much for this question. We made a decision six years ago. Ten years ago the accepted wisdom for film preservation was that you copied the whole lot onto a different medium. If you have an archive where you only have 25,000 titles like, for example, the Danish film archive, you can envisage a scenario where you could achieve that. When you have an archive as large as the British film archive, which is 37 acres—so it is bigger and more
significant than the archive in the library of Congress—we worked out that it was going to cost over £100 million and even if somebody gave you a cheque the notion that you could get the skills and actually copy the stuff in time—you were not going to get there. We worked with the Image Permanence Institute in North America and we found that if we froze the material that would stop deterioration. We therefore moved from a policy of trying to copy everything to freezing it. If you have frozen it you can then say, right, we will start to pull out the material as best we can over the years that come and we can start to restore, preserve and digitise because the end game is getting that material out before the public. Shall I just jump to the cost? If we were to finish the physical housing of it we estimate that between £15 and £29 million extra is going to be needed over the next two or three years but the critical master material will be in the best environment possible as soon as we have built these vaults, in about 18 months.

Mr Fellner: You will be pleased to hear Leslie Hardcastle is still out fighting the fight—who I imagine was there when you were there.

Q1140 Lord Macdonald of Tradeston: Yes, indeed. I remember about 30 years ago making a series on early film and one of the researchers coming back and saying “They are doing it for posterity but they do not really want to give us any access”. My question related to that is clearly there is an enormous commitment to film and preserving film on the part of your staff and so on, and they will preserve things even if, for reasons of copyright, it is impossible for you to show them, or they might be preserving American B movies which you would put in a lower scale of preference, perhaps, to some of the important British material. How have you managed to tackle those kinds of issues and prioritise what you are doing at the moment?

Ms Nevill: The first thing is that the mindset is completely turned upside down: six years ago when we bought the strategy we talked about turning the BFI inside out. Internationally we are the busiest film archive, so in other words our commitment is to getting that material out in every way that we possibly can, whether it is on YouTube or through DVDs. We are very committed to it. In terms of silent film, worldwide we have got such a tiny slice of it—and there is clearly there is an enormous interest to the Institute or will the material now being preserved—perhaps, to some of the important British material. How have you managed to tackle those kinds of issues and prioritise what you are doing at the moment?

Mr Fellner: The first thing is that the mindset is completely turned upside down: six years ago when we bought the strategy we talked about turning the BFI inside out. Internationally we are the busiest film archive, so in other words our commitment is to getting that material out in every way that we possibly can, whether it is on YouTube or through DVDs. We are very committed to it. In terms of controlling what we acquire—because you are absolutely right, you have to be very careful with taxpayers’ money, it is a very expensive commitment to take on a film—we have a collecting policy which we drew up five years ago. We are just in the process of revisiting again that collecting policy, and it is that collecting policy that dictates. Then there are various structures in place where we go back to curators and challenge them every quarter—in fact we did so yesterday—to make sure that they are not, as you say, drifting outside what we decided we want to collect.

Q1141 Lord Macdonald of Tradeston: I see here you have 675,000 television programmes; given the explosion into the infinite of television channels how do you make that choice now, how is that made affordable? Has the industry given you enough money or do you want to top slice the BBC?

Ms Nevill: We are now digital and what we actually do with television is that we record off air but we only record terrestrial channels at the moment, which is an issue in its own right. We record everything and then we go back two or three weeks later and we get rid of probably 80% of it. The reason we do it that way unlike films is because television often picks up things you do not know are going to happen, obviously, so we do it in retrospect. The big issue for us—and I think I have brought it up but we have not completely got our heads around it—is that when we move into the digital world, you are absolutely right, who is going to fund the national television archive? The national television archive at the moment is funded by just under £1 million that we fight for very hard through Ofcom, from Channel 4, ITV and Channel 5. I have a lot of sympathy for them, they are in an extremely difficult economic environment at the moment so that is a deeply unanswered question and one that we need to address. What we are proposing to do as an organisation is to lead a working party to start looking at what the solutions might be, and it would be extremely valuable and helpful to have this Committee’s support to getting the broadcasters on side to work with us to address the issue you have raised.

Chairman: Can I bring in Lord Inglewood and then Lord King?

Q1142 Lord Inglewood: In terms of early film is there a “lot more out there” that will turn up and be of interest to the Institute or will the material now being graded separately mean that probably there is not much?

Ms Nevill: The irony is that nitrate film actually has been shown to last longer than acetate, so now we copy onto polyester because that is inert. It is such a good question because people always assume that we have this wonderful luxury of being able to say let us take in Slumdog Millionaire today and something else. Usually what happens is that somebody turns up with a pantechnicon and says this studio is closing or this post-production house is closing, we are either going to trash all of this or we are going to give it to you. Even Channel 4 gave us 4,000 prints of films and we have to really weigh it up, so a huge amount of time is spent sifting to make sure that we do not lose it, so we do have to take big pragmatic decisions about the material that comes in. In terms of silent film, worldwide we have got such a tiny slice of it—we run programmes called Missing Believed Lost and Initiative to try and dig things out, and it is not
unheard of—which is why we have a special licence—
for people to turn up to Stephen Street with ten cans
of nitrate film which is probably enough to blow us
all up.

Q1143 Lord Inglewood: Do you think there is quite
a lot still out there or not?
Ms Nevill: I do not know; I do not think I can give
you an intelligent answer. I would have to say it
would be fantastic if there was.

Q1144 Lord Inglewood: I know it is a silly question.
Ms Nevill: No, it is a really interesting one. Let us
hope that there is a lot more early silent nitrate film
out there.

Q1145 Lord King of Bridgwater: I may have missed
it but I am not quite clear, are you trying to keep
everything?
Ms Nevill: No.

Q1146 Lord King of Bridgwater: That is what I was
not quite clear about. There are these huge quantities
of programmes you are talking about; have you got
some sort of committee structure that looks and sees
what you keep and what you do not keep?
Ms Nevill: Yes, we do. Television is less of a concern
because it is digital now.

Q1147 Lord King of Bridgwater: So because it is
easier to keep you will keep lots of it.
Ms Nevill: No, sorry, we have actually decreased the
amount we are collecting now. We went through a
review with the broadcasters and agreed with them
that we would decrease the amount and we are
actually going back in retrospect.

Q1148 Lord King of Bridgwater: Who is making the
judgment as to what you keep?
Ms Nevill: The BFI curators.

Q1149 Lord King of Bridgwater: Independently.
Ms Nevill: No, what we have is we have a collecting
policy which we do in wide consultation. We also
have what we call an Acquisitions Review Board
which meets quarterly—we had one yesterday which
I chair personally—and in theory that Acquisitions
Review Board reports into the Governor’s Archive
Committee.

Q1150 Lord King of Bridgwater: So you are
protected against one person’s particular hobbyhorse
that might lose us some very valuable things from the
archive, mainly because it was not their personal
choice?
Ms Nevill: We are. The reason I would not say this is a
perfect science is because I think the biggest and most
responsible task that a national institution looking
after the national archive has is to make those
decisions. My background is museums and archives
and if you look back across archives they are full of
wonderful eccentricities and part of the big problem
is that you often are acquiring things, trying to look
into a glass ball to determine what the public might
be interested in in 75 years. For example, television
adverts which nobody was collecting; in a previous
life I know we sucked all those up into the museum
and of course now they are a wonderful picture of
social ways at the time.

Q1151 Baroness Howe of Idlicote: I have been
absolutely fascinated by what has been happening
since I was involved with things like the Museum of
the Moving Image, which presumably will all become
part of the great big exhibition place that you are
planning, but on the training side how much
involvement do you have in the process? How
important is it where you are recruiting from because
obviously you are doing something on the digital
side, training people, beginning to do that and
hopefully getting funding for that, but what other
aspects of training are you meeting or trying to
encourage in appropriate areas?
Mr Fellner: The educational side of the BF I is a
critical piece of the puzzle.
Ms Nevill: Can I address the wider spectrum of
education or do you want me to specifically look at
training?

Q1152 Baroness Howe of Idlicote: Yes, that is fine.
Ms Nevill: Training for the industry is done
magnificently I think through Skillset which, as you
know, is funded from the Film Council. Where we go
in education is really three areas: one is the formal
area where we have worked massively on this project
called Reframing Literacy which is about getting film
used across the curriculum in schools and then
evaluating it. We have had huge success there and
local authorities have really bought into it. The
second area is what I would call the informal area or
the development of audiences and what we do is we
pilot a lot of projects down on BFI Southbank, so for
example there we have a project called Future Film
Institute where we have this young group of people
who change all the time. They get to do everything
that the BFI does—they have their own festival, they
programme the BFI, they help outside, all those sorts
of things. The third area which is really important is
our relationship with higher education because so
much of what we deliver is for the benefit of higher
education, so access to the archive, the library. There
are huge amounts of digital resources that we provide
online—because we are absolutely seen as probably
the world’s greatest centre of knowledge about
everything you need to know about film—and also
quid pro quo: without the relationship with higher
education we could not fund or resource a lot of the activities we do.

Q1153 Baroness Bonham Carter of Yarnbury: Following on with this theme, one of your objectives is to encourage the development of the art of film and television and one of you said earlier that film is seen as a poor cousin in the cultural arena. One of the things that has come through in the evidence we have been getting is a concern that training schemes are being cut, that there are plenty of media courses but not enough practical training and it is going back to something that Eric Fellner said about how critical new blood is in the industry. Is this something that concerns you?

Ms Nevill: I do not feel sufficiently equipped to comment on where the actual funding to it is. We would absolutely share the concern if the level of funding Skillset has got is going to be threatened because—

Q1154 Baroness Bonham Carter of Yarnbury: ITV has pulled out of Skillset.

Ms Nevill: It has, yes. We would absolutely share that concern.

Mr Fellner: Outside the BFI I can answer the question; is it appropriate to do that?

Q1155 Chairman: Yes, please go on.

Mr Fellner: I see that there is a distinct lack of skills, especially on my side of things, production. Any industry is led by its leaders, led by its entrepreneurs, and we are not training enough people to go into that side of the industry. Whether it is because the brightest and the best have been misled—apologies if anyone is in the financial world—in going into that arena over the last five or ten years—maybe now we will see people who are more interested in it. I get inundated with people wanting everything from work experience through to jobs during university periods and then after university and none of them, even if they have done media studies, has a clue about how the industry really works. That is something that has to be addressed. In terms of the crafts the skills are working really well—teaching cameramen and designers, costume designers et cetera et cetera, it just works well. On the business side however it is very poor still.

Q1156 Chairman: It is the training for the business which is core, understanding the business and evolving the business is where you find there is a big lack.

Mr Fellner: Absolutely. There is another element to it which is that there are not enough companies, especially on the film side. There are ourselves, Film4, the BBC—I am stretching already to try and find organisations that have some form of pyramid executive structure that allows people to grow and learn on the job, so there is that problem in itself. There is also the fact that ultimately anybody who is intelligent, has commitment and has some form of taste and marketing knowledge can be a film producer, so the barriers to entry are very, very low. I hate to say that because it shows that I am obviously not that talented, but they are very, very low. It is tough.

Q1157 Baroness Bonham Carter of Yarnbury: What is your solution?

Mr Fellner: I was originally involved in Skillset scheme five or six years ago when I first started and there was great talk and fanfare of a fulltime business film course and it ended up being a very diluted, one day a week, CASS business school type of thing, purely because the money got diluted and diluted and that is all they could deliver. The quality of the lecturers was not as good as it should have been, the quality of on the job training was not as good, so what we did actually at my company was we just decided to set up our own internship. We finance it fully ourselves, it costs us a couple of hundred grand a year and we just think it is worth putting that kind of money in. We can give three places and we train people right across the board. All of the people that we have trained have since gone on to work in the industry and are starting to develop business skills and creative skills to take them into, hopefully, being the leaders of the future. It is a difficult one because the industry is small—you have probably discovered that over the last few weeks.

Q1158 Chairman: To what extent does it deserve the description of cottage industry at times?

Mr Fellner: It is not cottage in that the revenue generated by it, if you go all the way through the food chain from cinemas to DVDs to TV revenue to employment, all areas of it, including production, it is quite a big chunk of money. But compared to the global force of Hollywood it is a small industry and it is cyclical, it is horribly cyclical because it relies on two things: one is just general opinion that there is a trend. If you have a Slumdog everyone wants to come and make British films. It goes all the way back to, I imagine, Chariots of Fire and maybe even earlier, it comes in waves when the trend is right for studios to finance British films. The other thing is the exchange rate which I notice you have talked about extensively, and that is a major factor. Some of that has been flattened by the tax break which is a very welcome thing for the industry as a whole, but what has happened is that even in America—you are now seeing tax breaks in California and the idea that California would have to create a tax break to persuade people to shoot in Hollywood was unheard of just three or four years ago. But the tax breaks are
so large that are appearing in every state in the
country, mainly due to the recession, that now our 20
% is starting to look pale so now the exchange rate
becomes even more important. It is a horrible vicious
circle where every now and then everything is right.
At the beginning of this year you had Slumdog, you
had the dollar at 1.35 and everything was rosy.
Studios fill up, there is no room in the studio right
now. Next year it is going to be miserable.

Q1159 Lord King of Bridgwater: What about the
exchange rate because we have asked other witnesses
this question. It has been down to 1.35, it has been
over two, it is now 1.64. How do you do that?
Mr Fellner: You cannot. The only commercial thing
you can do is hedge it.

Q1160 Lord King of Bridgwater: Are you
competitive at 1.64, that is my question? Is that a
fair rate?
Mr Fellner: I would say it is the upper limit, beyond
that it starts to get expensive. We do have a major
benefit here. I am currently shooting a film in Santa
Fe and here in London right now, so I am watching
all the numbers on a daily basis and comparing them.
The competitive edge we have is that we do not have
teamsters—I do not know if you all know what
teamsters are. Teamsters are very well-paid and you
have to have them on an American film, we have to
have loads of them; here we do not have to have them
and that is a major, major saving in terms of how
we operate.

Q1161 Lord Maxton: The T&G should wake its
ideas up.
Mr Fellner: Let us not advertise that. When I came
into the industry it was impossible because I did not
have a union card so I could not get into the industry,
and I could not get a union card without getting a job.

Q1162 Lord King of Bridgwater: Some government
ended the closed shop.
Mr Fellner: I seem to recall it was early in my career.
I am not sure who it was.

Q1163 Chairman: It is nice to hear genuine old
Labour still speaking. Before I ask Lord Maxton to
respond, presumably it must be the case that a British
company like yours which has size is able to negotiate
with more clout than the smaller companies.
Mr Fellner: Negotiate with exhibitors or who?

Q1164 Chairman: With the distributors, the
exhibitors, everyone.
Mr Fellner: Absolutely. It is a success-led business; if
you have a hit you can do whatever you want, if you
do not have hits you are in trouble. The problem with
the independent film business in this country is it has
a hit once every two or three years and, as such, it has
very, very little clout. Plus, the very fact that it is
independent means that there are loads of different
factors and every negotiation then has to become a
fight and it is very, very hard. You have had the
studios in here and you have seen that the power they
have is enormous. It comes down to silly little things
like shelf space at any of the retail outlets. If you
cannot physically get three feet of shelf space to put
your DVDs on you cannot sell any DVDs. No
independent can get that shelf space because these
studios have access to it.

Q1165 Chairman: What is your batting average?
Mr Fellner: In terms of?

Q1166 Chairman: You say you have got to have a
success and you have obviously had some good
successes, but there are a huge number of films that
we know are really duffs. What is your batting
average?
Mr Fellner: It is today better than most but it could
change tomorrow. We have been very lucky, but what
we have done is we have done something which I
would encourage other independents to do and that
is rather than complain—I am not saying they do—
rather than look at Hollywood as an enemy, look at
Hollywood and embrace them. What we have done is
a partnership in terms of taking everything that we do
as well as we can and utilising everything that they do
as well as they can and trying to get some benefit in
bringing it back here. As such—I am English, I live in
England, I want to stay living in England, I want to
support the British film industry, I want our
craftsmen to continue, our talent to continue. So
what we have done is we have gone to Universal
Studios, we did a deal with them in 1999 and we
brought as much of their money back to the UK to
spend on making British films and then distribute in
a way that is hopefully as commercially successful as
possible by using their clout in the marketplace with
British films. One can get slightly distracted by how
much money are we investing in the UK and what are
we seeing as a return, but I think the industry is more
than just money, it is actually about the people, the
resources and the revenue generated by all of that
rather than us as an investment bank.

Q1167 Chairman: What about ownership? You say
you did a deal with Universal; does that mean you are
owned by Universal?
Mr Fellner: We actually are owned by Universal.
Working Title is a combination—we wanted to have
a European partner in so we kept Studio Canal who
are a French conglomerate involved in it. The
company is actually owned by General Electric.
Chairman: Yes, we saw the companies earlier.
Q1168 Baroness Eccles of Moulton: But that still makes you an independent, although you are owned by them.

Mr Fellner: We are weird because the fruits of our labours in terms of ownership—the fruits of my partner Tim Bevan, who I think you are seeing because he is about to be involved in the Film Council—the fruits of our labours and hence of our employees is as a result of ownership of a share of the copyright. So we may not own our company but we own a piece of every film that we make and that is where the real value is. The value is not actually in the company; it is very hard to make any money with an independent film company; I would suggest that it is virtually impossible. The only way you can do it is if you can access the distribution margin, which is the percentage that the distributor makes and then you have a share of that. Through the success that we had in the 1990s we were able to leverage that position and create an ownership of a piece of that margin.

Q1169 Lord Inglewood: Who is leader in this context? Is it a separate company—you say you leveraged the money out, the company is owned by Universal and you have a French partner, not a British European partner, but you as it were derive advantage from the profits you are making through a percentage of various sales that you achieve.

Mr Fellner: Yes.

Q1170 Lord Inglewood: Is that you as an individual or do you do it collectively?

Mr Fellner: When we negotiated it we had the opportunity to do two things: one was to just get the best possible deal for my partner and myself or to try and get the best possible deal for a sustainable company that could work through a long period of time which would include the employees and, ultimately, all the people that we then employ. We decided to do the latter, so rather than kind of just saying “Okay, we are guns for hire, the two of us” we said “No, we are going to stay with Working Title and we want to use a lot of the negotiable leverage that we have in making sure that we get a guaranteed overhead for the company over a long period of time, we want guaranteed development, we want guaranteed distribution, we want guaranteed BNA, we want the ability to make films even if the executives change at the company”—which they have done since we did the deal in 1999, so we could decide to make films ourselves. It created a sustainable company, which I know is the Holy Grail that everybody talks about, a sustainable industry, and the reason that Working Title has stayed around is for two reasons: one that we have had our fair share of success but in the periods when we have not done well we have been able to rely on the fact that we have created an organisation that is properly funded over a long period of time. The only way we were able to do that is because we decided to take the big bad wolf as a partner rather than go up against them.

Q1171 Bishop of Manchester: The final Report Digital Britain published yesterday says “The Government believes that piracy of intellectual property for profit is theft and will be pursued as such through the criminal law.” Earlier this morning we were hearing from the film distributors’ perspective that this is the number one problem facing the industry. What is your view on that and is there any way in which you are involved at the moment in trying to come up with ideas which can prevent or at least limit piracy?

Mr Fellner: It is true it is a major, major problem. It is theft and as such I was thrilled to see that written in such a black and white form because we have listened to the current minister who has waffled and suggested oh well, um, er, you have to support the people. I was shocked when I heard that—I went to a BBC conference about piracy and I just could not believe what I was hearing. Millions and millions and millions of pounds are invested in trying to create these pieces of material and it is not a charity, it is a business and it will get decimated in the same way as the music business did if there is not something that is done immediately. Sarkozy in France has shown that an iron will is what is needed; it will be interesting to see how that plays out now that it has become law over the next 12 months, but this is a fantastic beginning to an issue that should have been dealt with years ago. It would have saved the music industry if it had been dealt with properly.

Q1172 Lord Maxton: How far down do you go with piracy? If I copy onto my hard drive a film which I then put onto a DVD and give to my son essentially that is piracy, although at the moment it is very unclear what the law is in terms of giving away rather than selling. Where do you draw the line, that is the problem.

Mr Fellner: If you are giving away in your immediate circle that is one thing, but if you are giving away to strangers—which is what these file sharing things are doing—

Q1173 Lord Maxton: For cash.

Mr Fellner: Or for cash, yes.

Q1174 Lord Maxton: The problem is eventually it may finish up in the hands of a stranger because I do not know my son’s friends.

Mr Fellner: I am not a law maker.
Q1175 Lord Maxton: This is the problem that we have, is it not, how do you define what piracy is?
Mr Fellner: Can I say one final thing? In South Korea there is no DVD market any more—I do not know if anyone has told you that before. There is no DVD market any more because they have brought in the big fat pipe that delivers at incredible speed.

Q1176 Bishop of Manchester: What about within the cinema itself? We were hearing earlier that if camcorders being used within the cinema could be made illegal that would make quite a difference. Is that the case?
Mr Fellner: That was the case at the beginning. There is some of that now but the illegal consumer is so savvy now that they realise if they really want it they will go and get a good copy that has been stolen at source. There is still the pub business of the £2 DVD that has been camcorderd but that is slowly going to be dying out because the quality is such rubbish and even the people that steal the material want to steal good stuff, they do not want to steal bad stuff.

Q1177 Bishop of Manchester: Welcoming, if you have done, what the Government is saying in this Report, were you to be asked directly what are your ideas for enabling this to be put into practice, is there anything beyond what you have already said?
Mr Fellner: It is predominantly policing through the ISPs.

Q1178 Lord Maxton: Can I just come in briefly on this because there is an important question on the next wave of technological advances which will be through the internet presumably. That will allow smaller films, presumably?
Mr Fellner: Away from the piracy issue.

Q1179 Lord Maxton: Yes.
Mr Fellner: I do not know of any other industry where five or six companies have controlled an industry for 100 years in the same way as they have in the film business, but they have done it through three things. They started with property, physical studios in areas like California and then it spread slightly. They then did it through controlling the talent, all the talent was tied up to individual studios. Then they did it with finance because they were the only ones who could afford to pay for things. All three of those things have now gone but there is the fourth which is the only remaining barrier to entry and that is physical distribution, to have a network of physical distribution and the ability to get the shelf space, get into the cinemas and do output deals with television companies around the world. They are the only ones that have that infrastructure. Once digital distribution becomes available to any of us in this room, where we can go and make a film and we can stick it out there, if we can find a couple of hundred grand or whatever to publicise that material out there, the final barrier of entry to the industry will disappear and then the studios will be being competed with by the likes of you and I. That is not more than five or ten years away; I do not know if they fully believe that but a lot of people in the industry believe that.

Q1180 Lord Maxton: So the next form of technological development is linking in your television set.
Mr Fellner: That you can do with Apple TV. I do not know enough about the technology companies but we are being set up basically. They could do it today, there could be one piece of kit that we could buy today that would have everything on it but they want us to go 3D and then 3D TV. Yes, once you have got one piece of kit with a remote keyboard and a remote mouse and a huge set-up, that is it. The problem is we can break down what the studios do and we can start to become competitive, but the revenue model is going to be very hard to work out because at the moment you get this streaming model, a water-borne model, from theatrical release to DVD revenue to TV revenue to ancillary revenues, and the minute that you put something new in there, nobody quite knows which bits are going to disappear and how much they are going to disappear, so it is very hard to work out how to price that new delivery system. The whole thing is quite sensitive and brittle, therefore, but in the next five or ten years it is going to be a very different world.

Q1181 Chairman: Thank you. Just one last question. You sound really quite happy with the progress that the British Film Institute has made and is making; is there anything that you want as far as the Institute is concerned, as far as government is concerned?
Mr Fellner: I will give the non-political response and then Amanda will give the political response. I just think that we are scratching the surface. You just have to look at the grant in aid for some of the other cultural bodies and you realise that the film industry, film culture, is woefully underfunded and should be funded in a greater way. Secondly, film has no dialogue directly with government so it has to go through the Film Council which ostensibly is a commercial body, so the idea that a cultural body is funded by a commercial body funded by the Government seems to be a mis-step to me. I know there are conversations about how those two bodies will operate in the future, but more money, more attention, more love would make an enormous amount of difference from my perspective.
Q1182 Chairman: That is the non-political answer so you are going to give me a political one.
Ms Nevill: I do not think I will actually.

Q1183 Chairman: Is there anything else you want to say?
Ms Nevill: Just one tiny little thing. We have talked massively about the archive and I am sure you all know this, but the BFI is not just about films of the past, we run the London Film Festival and we are in the business of bringing in films by emerging film makers, so it is very much a dynamo. Also we are leaving some bribes for you here.
Mr Fellner: These numbers are very impressive. You asked about how many prints go to the regions—12,000 prints a year go out of London around the country; 300,000 DVDs of old BFI library films are sold; 125,000 people come to the London Film Festival and it shows 300 films from 43 different countries. As a film producer I never took the London Film Festival seriously, I would never let any of our films be launched at the London Film Festival but now we do. With Frost Nixon last year it has now become a fantastic event, much bigger, and the industry is now supporting it in a much bigger way.

Q1184 Chairman: Thank you very much. We have ranged quite wide in the evidence.
Mr Fellner: Sorry about that.
Chairman: Do not apologise, it has been absolutely fascinating; thank you very much. We may have one or two other points to put to you but perhaps we might do that by correspondence.
WEDNESDAY 24 JUNE 2009

Present
Bonham-Carter of Yarnbury, B
Fowler, L (Chairman)
Gordon of Strathblane, L
Hastings of Scarisbrick, L
Howe of Idlicote, B
Inglewood, L
Maxton, L

Memorandum by Skillset

INTRODUCTION

1. This submission is made on behalf of Skillset, the Sector Skills Council for the Creative Media covering the sectors: Television, Film, Radio, Animation, Interactive Media, Computer Games, Photo Imaging, Facilities, Publishing1 and other content creation.

2. Skillset is an independent, industry-led organisation; jointly funded by industry and government, our job is to make sure that the UK creative media industries have the right people, with the right skills, in the right place, at the right time, so that our industries remain competitive.

3. Lord Leitch’s report on the UK’s Future Skills recommended increasing employer engagement and investment in skills through reformed, re-licensed and empowered Sector Skills Councils (SSCs).

4. SSCs are currently under the process of relicensing by the UK Commission for Employment and Skills with a new core remit of:
   — Raising employer engagement, demand and investment in skills.
   — Ensuring authoritative labour market information for their sectors.
   — Developing national occupational standards and ensuring qualifications meet employer needs.

5. The Creative Media industries have chosen to work at the skills and education agenda collectively through Skillset in order to maximise investment and impact.

6. Skillset will be willing to contribute to the Committee’s oral evidence sessions, if appropriate.

7. For more information on the work of Skillset, please visit our website: www.skillset.org.

FULL EVIDENCE AND ANSWERS TO SPECIFIC INQUIRY QUESTIONS

Q1. What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

8. The Creative Media Industries accounted for 4.8% of total UK output in 2008 (84% of the overall creative industries’ GVA);2 this is a significant input, particularly in relation to their 2% share of total employment across the economy with over 500,000 jobs (67% of the total Creative Industries employment).

9. The Creative Industries contribution to the UK economy was the subject of Work Foundation’s report Staying ahead: the economic performance of the UK’s creative industries,3 and also the focus of Creative Britain—the government’s strategic policy paper launched in February 2008. Creative Media industries are key to Digital Britain.

10. Some parts of the Creative Media Industries are suffering more during the recession, with television and regional newspapers particularly badly hit. These industries are experiencing significant reductions in production activity because of the economic downturn.

11. However, the UK Film and TV industries in terms of content creation still:
   — are the largest producer of TV and Radio content in Europe, with only the US generating more value from TV exports; and
   — are second only to the US in the Global Film Market, with increasing box office sales.

12. Skillset’s works concentrates on the area of skills and how training and skills development can increase productivity in these content driven industries, so that the film and TV industries can remain competitive and grow; this is particularly important in the current economic environment and in the face of global competition.

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1 Publishing as a sector became part of Skillset’s footprint in April 2008.
3 Work Foundation, 2007 (this report was commissioned by DCMS as part of their Creative Economy programme).
13. Both public and industry investment is needed in the development of people working in these industries. The ability to produce high quality, innovative UK-originated content relies heavily on the ability of the people working in the UK Creative Media industries to have the talent, skills and capacity to deliver such programmes/films.

14. In addition there are intrinsic issues that need to be addressed in order to maximise potential and in order to make sure that these industries can attract and develop the talent of all people; these are issues around diversity and fair access to the professions within film and TV industries and geographical distribution—so that the industry can be developed in all the areas of the UK, rather the current London-South East centred approach.

15. Apart from the contribution to the economy, these industries’ contribution to the culture, democracy and identity of UK cannot be underestimated.

Q4. **Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?**

16. The UK Film Council has been visionary, strategic and supportive in the development of training and skills that contribute to the production and export of British films. Since its inception, it has recognised that the skills and talent of the workforce are of major importance in maintaining the strength of the UK Film Industry and that a coherent approach was needed in order to ensure continued development of talent and high level technical skills.

17. In 2002 Skillset and UK Film Council jointly commissioned the *Developing Film Talent* research; based on those key findings and extensive industry consultation, *A Bigger Future*, the UK Film Industry’s five-year strategy—the world’s first film skills strategy—was launched in 2004. Skillset progresses the strategy’s aims. This is done with guidance from the UK film industry through the Film Skills Council, which includes representatives from the UK Film Council and Skillset, and, since 2004, with significant funding via the UK Film Council and the SIF (the levy from the production industry). See also Explanatory Notes.

Q5. **Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?**

18. Skillset has observed how technological changes had a profound effect on both sectors—in particular the advent of digital technologies—and how fragile the sector has been to economic recession pressures, fluctuation in currencies, regulatory and tax reforms and the global investment output. All these issues demonstrate that the business infrastructure is volatile and not always conducive to the development of economically valuable skills for Film and TV.

19. Skillset works with the Film and TV industry in order to address their skills gaps and future needs in a coherent and effective way.

**FILM**

20. **Film Sector profile**: below are some key statistics from Skillset research which describe the business environment and infrastructure in relation to skills and talent development:

- ONS latest figures estimate that 38,634 people work in the industry but these figures do not separate film from video production and distribution; Skillset data looks into the film production and distribution only, which includes 27,000 people; 62% work in cinema exhibition, 34% in film production and 4% in film distribution.5

- There are around 400 permanent companies in the UK film industry but this can fluctuate—only a few film production companies are permanent and mostly they are set up for the duration of a production only.

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4 Labour Market data provided by the Office of National Statistics (ONS) do not provide the sectoral detail required by the industry and Skillset to identify and fill skills gaps and shortages. Therefore, in 1999, the industry charged Skillset with generating Labour Market Intelligence (LMI) to a sectoral level and throughout the UK Nations. Unless otherwise stated, data and information in this section are taken from the following sources: Skillset Employment Census 2006, Joint Skillset/UK Film Council Feature Film Production Workforce Survey 2008, Experian 2007, Skillset/Equity Performing Arts Industry Survey 2005 and Labour Force Survey 2005–2007.

5 Please note that Skillset lists separate the Facilities and Animation sub-sectors which service Film, TV as well as other media production. For more information on these sectors please refer to the Skillset’s research section on the website: http://www.skillset.org/research/overview/
The film industry is made up of a small number of large companies and a very large number of small companies (micro-enterprises) which have an occupationally diverse and highly skilled workforce; 22% of the companies have one to five people.

¾ of the UK Film industry are based in London and the South East. However, due to the nature of film production, this workforce is also very mobile. Film workforce is characterised by very high levels of freelancers (90% in Film Production sector).

One in 10 people (9%) in the film industry are from a BAME group; if we take into account the London-centric nature of the industry (where almost a quarter of the whole London workforce is from a BAME background) and the fact that film culture should reflect the whole of the UK, this proportion is interpreted as under-representation of BAME groups in the film workforce.

Disabled people’s representation is also low—at 2% compared to 5% of the entire economy.

Overall representation of women is 43% and it varies from sub-sector to sub-sector, with the highest in film distribution (46%) and the lowest in film production (39%).

58% of people working in film production have a degree. This is an increasing trend—77% of people working in the sector and are under 35 years of age are graduates. 38% of the degrees held in the film production workforce are media-related, and this is also a growing trend.

In Skillset/UK Film Council Feature Film Production Workforce Survey 2008 nearly 25 (37%) of respondents had done some unpaid work experience in the film industry before getting a paid film industry job. This marks an increase in the proportion compared with the response in the 2005 survey, indicating the greater likelihood of unpaid work experience being undertaken by recent entrants.

Film—a case for intervention

21. The fragmented business environment with the fluid pool of labour presents challenges for the acquisition of the managerial and technical skills for the film industry. Absence of clear entry and progression routes into the industry often means that people working cannot be supported properly by organisational structures (ie HR) for their development. For freelancers, when not working, they are actively looking for work; therefore taking time to train is usually seen as double expense in terms of both time and money.

22. As detailed above, the UK Film Industry and the UK Film Council recognised the need to address skills issues. This is because, firstly they have recognised that the skills and talent pool are key for maintaining the strength of the UK Film Industry—a belief that has been reinforced each year as UK Film professionals have reaped recognition and awards internationally. It is the reputation of the UK film workforce which is key to attracting international investment. Secondly, the technological change and the effects of digital production and distribution are constantly both an opportunity and threat, reminding the industry that its much coveted position as one of the top three film production sectors in the world requires an up-to-date skilled workforce which can sustain this.

23. The Skillset Film Skills Fund is the largest fund in the UK dedicated to supporting film specific training. Over the past four years, the Film Skills Fund has distributed around £7 million in grants every year. The fund awards grants to organisations to create, deliver or facilitate film-specific training. Individuals can benefit directly by accessing screen bursaries to support training and by a range of subsidised courses, now supported by the Fund.

24. Highlights of what has been achieved to-date includes:

— Over 12,000 training places have been subsidised through the Film Skills Training Fund. Over 1,400 Screen Bursaries have been granted to individuals in order to use for their Continuous Professional Development (CPD) needs.

— Training has been provided across all sectors of the film industry—however, priority areas were identified through Skillset’s consultation with industry and its Research work (eg Feature Film Production Workforce Survey). These areas included technical areas, such as use of High Definition technology, post production, animation and special effects.

6 Disability, as defined by the Disability Discrimination Act (DDA), covers many people who may not usually have considered themselves disabled. It covers physical or mental impairments with long term, substantial effects on ability to perform day-to-day activities.

7 Disability data for cinema exhibition and distribution are taken from the Skillset 2006 Employment Census which relies on employers whereas data for film production are taken from the joint Skillset/UK Film Council Second Feature Film Production Workforce Survey 2008 which relies on individuals’ self-classification.

— Training has also been provided for different professions in the film industry: scriptwriters, directors, production accountants, projectionists, producers, to name but few.

— Managerial training has been provided at different levels—from Production management to European Co-production; the Skillset Film Business Academy at Cass Business School provided programmes at MBA and MSc level (20 students enrolled on the first ever Executive MBA in Film Business).

— In December 2008 Pinewood Studios, Skillset and the Skillset Screen Academy at London College of Communication and Ealing Institute of Media cemented their collaboration with a partnership agreement to support training, particularly crafts and technical grades in film production. A Set Craft Apprenticeship scheme began delivery in 2008 to train the new generation of Set Carpenters, Plasterers and Painters.

25. Since there is high percentage of graduates (58% in film production, out of which 21% are post-graduate degrees and 38% are media-related) and graduate entry routes (the level of those entering work with a degree is increasing over the years), industry has been working with the education sector through Skillset to create partnerships that can sustain training provision for both entry and CPD. The aim is to influence the education infrastructure to be more conducive to the acquisition of the managerial and technical skills required to work in the industry.

26. The Skillset Screen Academy Network was launched in 2005 and seven institutions (including the Film Business Academy at Cass) were selected by the industry as delivering the very best in film education and training. A full list can be seen on: http://www.skillset.org/training/san/ssa/

27. In addition to the Network, Skillset has worked with the industry to accredit eight Postgraduate Screenwriting courses: http://www.skillset.org/film/training and events/article_3785_1.asp

28. By establishing these networks and activities, A Bigger Future has supported a lot of entrepreneurial and business skills developments—below are some examples:

— Training linked to production, with training programmes for writers, directors, producers that run parallel to production of micro-budget features and short films.

— Skillset Film Trainee network: The Skillset Film Trainee Network subsidises trainee placements for UK film companies. Companies benefit from high calibre talent, while trainees gain further skills and experience.

— The Graduate Fellowship Programme provides on-the-job placements in the film industry for people from BAME backgrounds.

— Inside Pictures: an intensive training programme for a mixture of Producers and industry Executives delivered by Qwerty Films. Participants attend three week-long modules in London and Los Angeles. List of past participants and outcomes from the experience can be found on http://www.inside-pictures.com/

— Since 2005, Skillset has provided a business consultancy service for independent companies working in the film industry, enabling them to train their staff in business and management skills.

— Skillset commissioned a review of the business skills training in the Screen Academies which examined what business skills training was already present in the Academies and then made recommendations as to how that provision could be enhanced and improved.

29. *Evaluating the impact of A Bigger Future so far:* In 2008, independent consultants (BOP Consulting) were commissioned to evaluate the impact of A Bigger Future strategy in its first Review. Their findings demonstrate an overall positive impact with the caveat that some of the interventions have a long-term approach and therefore it will take longer to evaluate properly (like the Screen Academies). Notable successes included the high level of training accessed by both new entrants and established professionals; the positive impact of the careers advice; the positive influencing of the UK’s education and training infrastructure; and the fact that the strategy attracted additional match funding to support delivery, including substantial investment from HEFCE/HEFCW, the devolved administrations and regional EU funding—an estimated overall leverage of £53.5 millions over the five years of the strategy.
30. The Review also made suggestions for improvement—two in particular relating to the development of technical and business expertise:

— Exploring the skills implications of new, disruptive technologies, such as digital distribution, exhibition and convergence, as the industry itself embraces these new technologies.
— Identify and establish the appropriate vehicle to deliver business skills to the industry.

31. Finally, the review recommended that funding should be extended, with an interim year till the next steps of the Strategy are developed; it was noted that given the likelihood of reduced Lottery funding, there will be a need for both efficiency gains and economy savings going forward. The UK Film Council is revising its overall strategy for the future in the light of this and we trust it will still prioritise investment in skills going forward, building on the strategic foundations that have been established through A Bigger Future.

TELEVISION

32. **TV Sector Profile:** the TV sector shares some of the workforce of the film sector (in production) and many of its characteristics. Below are some key statistics from Skillset research which describe the business environment and infrastructure in relation to skills and talent development:

— Around 55,900 people work in broadcast TV, cable and satellite and independent production.
— Overall the TV industry comprises of 1,450 companies (with two or more people working).
— Broadcast television has a small number of 10 companies which account for 41% of the television workforce. There are around 250 cable and satellite companies which account for 24% of the workforce.
— The independent sector comprises of a large number of SMEs (around 1,100 companies) and accounts for 35% of the TV workforce.
— 25% of companies employ less than five people, and 31% employ 5–10 people. 22% employ 11–20 people and 12% employ 21–49 people. 10% of the companies have 50 or more people working for them (2% employ more than 200 people).
— 66% of the TV industry is based in London; however, there are creative clusters in cities around the UK; mediacity:uk, for example, is a new development concentrating in Salford/Manchester with links all over the North of England.
— People from a BAME group make 8% of the TV industry’s workforce; however, given that so many companies are based in London, this figure is quite low.
— Disabled people representation is also low—at 4.7% compared to 8% in the wider creative media workforce.
— Overall representation of women is good with 44%; however, there are still some areas where women are under-represented, especially in some craft and technical roles.
— ⅓ of the TV workforce are graduates—a higher proportion than the Creative Media overall. 46% of the degrees held are media related and this is a growing trend.
— The TV industry relies heavily on freelancers; more than a third (34%) are freelancers. However this varies by sub-sector: 57% of the independent production workforce are freelance; 26% in broadcast TV; 3% in community TV; and 12% in cable and satellite.
— Routes into the industry are still fairly informal and incidents of unpaid working still very common; 47% of the TV workforce has undertaken unpaid work at some point in their career (more likely to be at the start of their careers). 58% of TV freelancers have worked unpaid compared to 42% of TV employees.

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11 Disability, as defined by the Disability Discrimination Act (DDA), covers many people who may not usually have considered themselves disabled. It covers physical or mental impairments with long term, substantial effects on ability to perform day-to-day activities.
12 Disability data for cinema exhibition and distribution are taken from the Skillset 2006 Employment Census which relies on employers whereas data for film production are taken from the joint Skillset/UK Film Council Second Feature Film Production Workforce Survey 2008 which relies on individuals' self-classification.
13 For the purpose of this document, and the sources of these data, as agreed by the industry “freelance” is defined as an individual with a contract of fewer than 365 days.
33. **TV sector intervention for training:** For similar reasons as the ones explained in Film, the TV industry needs a more systematic approach to co-ordinating training for both employees and freelancers. Similarly with film, the industry recognised that skills and talent development is essential to sustaining a healthy industry.

34. The TV Industry, working with Skillset, developed the TV Skills Strategy, launched in 2006. The strategy develops actions that will help the development of talent and skills while both entering in and progressing within the industry. The implementation of the strategy is guided by industry through the Skillset TV Skills Council chaired by Peter Dale.

35. Below are some of the key activities achieved from the TV Skills Strategy:

35.1 Skillset’s Research programme has created a unique bank of intelligence to underpin the work of the strategy with information on size, skills gaps and needs of the TV industry, as well as its changing nature and profile.

35.2 In 2008 alone, Skillset Careers delivered 206 face-to-face guidance sessions with the TV workforce ie people currently working in TV and wishing to stay in the sector, people working in TV but wishing to move into a different sector, people currently working in TV, wishing to continue to do so, but also looking to work within other sectors and vice versa, new entrants to the sector. Skillset Careers has also helped 777 people via email and 215 via phone in England alone.

35.3 The Skillset Media Academies Network of 19 Academies—the first ones launched in December 2007. They were assessed rigorously by industry evaluators drawn from the education sector and the television, interactive media and post production industries. The final selection was made by a high-level panel chaired by Greg Dyke. Altogether our Skillset Media Academies Network comprises of 22 HE institutions, 18 FE Colleges and five training providers. More information can be found on: http://www.skillset.org/training/san/sma/

35.4 Building on existing excellence of training in Further and Higher Education institutions, the scale and nature of this UK-wide partnership is ambitious. The Skillset Media Academies aim to bridge the gap between training and employment by focusing industry’s engagement and offer of support to a network of education partnerships with demonstrated excellence in learning and openness in industry collaborations.

35.5 The Skillset Media Academies network presents a great conduit for a variety of activity:

   — An outreach focus, creating ladders of opportunity into HE for individuals from diverse backgrounds.

   — Strong, industry focused and supported undergraduate programmes including a range of Foundation Degrees and endorsed qualifications. The Skillset Academies will focus industry’s support for, amongst other things, work experience opportunities, bursaries, scholarships and internships.

   — A new focus for employer and freelance professional development, through higher level qualifications or continuing professional development (CPD) programmes (short course provision, “bite-size” training, on-the-job accredited programmes, etc).

   — A brokerage focus for Creative Media businesses: providing a Research & Development centre function and developing the experience necessary to support business development, management training and create our future business leaders.

35.6 **Apprenticeships:** The Advanced Apprenticeship in Media Production developed closely with the BBC and piloted as part of the mediacity:uk development in the North West is now to become a national qualification feeding to a new Digital Media Apprenticeship, piloted and intended to support the London 2012 Olympics and Paralympics Games.

35.7 **Work Experience Guidelines:**\(^\text{14}\) Co-ordinated by Skillset at the request of the industry and in consultation with the main employers, trade associations and trade unions, the Work Experience Guidelines were jointly published by the Department for Business, Enterprise and Regulatory Reform and HM Revenue and Customs.

36. Skillset has also submitted evidence and proposals to the Cabinet Office’s Panel on Fair Access to the Professions\(^\text{15}\) (for media, publishing and journalism professions) in order to support more structured new entrant schemes and paid internships. We hope that the current occurrences of labour exploitation through

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\(^\text{14}\) See: http://www.skillset.org/tv/jobs/article_55411.asp

\(^\text{15}\) Led by Ministers Liam Byrne and Alan Milburn.
unpaid work experience will be reduced over the years, as the Guidelines to Work Experience and good practice models for new entrants will help in changing the current culture of recruitment.

37. Skillset has been able to support the TV Skills Strategy because, further to the core SSC funding received by Government, we also receive industry contribution. It is worth noting that, the broadcasters contribution to Skillset’s core budget has also been reduced over the last year—please see breakdown below:

38. Core contribution:

<table>
<thead>
<tr>
<th></th>
<th>2008–09</th>
<th>2009–10</th>
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<tbody>
<tr>
<td>BBC</td>
<td>£325,000</td>
<td>£325,000</td>
</tr>
<tr>
<td>ITV Network</td>
<td>£229,975</td>
<td>£100,000</td>
</tr>
<tr>
<td>Channel 4</td>
<td>£200,000</td>
<td>£180,000</td>
</tr>
<tr>
<td>Five</td>
<td>£31,000</td>
<td>?</td>
</tr>
<tr>
<td>Indie Training Fund</td>
<td>£92,000</td>
<td>£20,000</td>
</tr>
<tr>
<td>Sky</td>
<td>£0</td>
<td>£0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>£877,975</strong></td>
<td><strong>£625,000</strong></td>
</tr>
</tbody>
</table>

39. High levels of freelancing, a mobile workforce, high cost of training and the added cost of not being available to work when on training are the main reasons for providing support through the Skillset TV Freelance Fund (STVFF). STVFF is the result of an agreement between all UK broadcasters, Pact and the trade unions, to invest in training for the freelance television workforce. The contributors are: BBC, ITV (including all national and regional companies), Channel 4, Five, cable and satellite companies, and the Indie Training Fund (http://www.indietrainingfund.com/home/).

40. Skillset is administering the Fund according to priorities on the type of training set by the industry through TV Skills Council. In 2007–08 all UK broadcasters and independent production contributed £1.5 million to the Skillset TV Freelance Fund (STVFF). These monies were used to support over 100 new entrants for the TV industry and around 1,000 training places for experienced professionals. In 2008–09, this contribution was already reduced to £1,335,000—so far16 these funds have supported 105 new entrants and 784 experienced professionals (CPD).

41. STVFF contributions:

<table>
<thead>
<tr>
<th>STVFF</th>
<th>2008–09</th>
<th>2009–10</th>
</tr>
</thead>
<tbody>
<tr>
<td>BBC</td>
<td>£496,000</td>
<td>£496,000</td>
</tr>
<tr>
<td>ITV Network</td>
<td>£217,000</td>
<td>£0</td>
</tr>
<tr>
<td>Channel 4</td>
<td>£162,000</td>
<td>£110,000</td>
</tr>
<tr>
<td>Five</td>
<td>£56,000</td>
<td>0</td>
</tr>
<tr>
<td>Indie Training Fund</td>
<td>£335,000</td>
<td>£70,000</td>
</tr>
<tr>
<td>Sky</td>
<td>£69,000</td>
<td>£69,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>£1,335,000</strong></td>
<td><strong>£745,000</strong></td>
</tr>
</tbody>
</table>

42. As you can see, in the current economic climate, the STVFF is expected to see a more dramatic reduction; ITV have already confirmed that they will not be able to contribute. We are still waiting to hear from Channel 5 regarding their contribution this year. The Indie Training Fund’s contribution in 2008–09 was £335,000; for 2009–10, they have currently committed £70,000. Independent production is the sub-sector which relies most heavily on the freelance workforce (57% of its workforce are freelancers).

43. The financial constraints mean that the STVFF in this year will only have just over £745,000 to distribute on training for both new entrants and experienced professionals. The STVFF is not the only way that employers invest in the skills of their workforce. However, these cuts impact on the most vulnerable sections of that workforce and are a good indicator to cuts that are impacting on companies’ own training budgets. It is of concern that there will be less investment to a crucial part of the industry at a time when the economic recovery will depend on the ability of the workforce to maximise their potential and remain competitive in a global marketplace.

16 Please note that at the time of this document, some of the supported training courses were still running.
44. Below are some of the actions and impact that the Skillset TVFF has achieved up to date:

— Skillset TVFF schemes support the acquisition and re-enforcement of core and craft skills including writing and storytelling as well as those which develop new competences required in the convergent media world.

— Training for very specialised but vital craft skills areas included Design categories, and Archiving skills.

— Paul Abbot’s Voicebox Scheme aimed at new writers and the BBC’s Design Trainee scheme aimed at new entrants.

— Recognising the speed of change, Skillset TVFF supports training based on the demands of technology and other innovation, such as multi platform content development.

— Developing creative leaders and high-level project management skills for multiplatform content through: DV Talent’s “Fast Track” scheme; the Glasgow Research Centre’s “Leading Edge” scheme aimed at Series Producers and Senior Executives; and a new scheme run by Manchester-based Inspiral to help freelancers set up their own indies.

— Compliance and relevant Editorial Standards issues are embedded in TVFF supported courses, especially those aimed at Series Producers and Creative leaders.

— The Trainee Researchers Scheme where trainees were offered year-long paid placements as TV researchers with independent production companies including short placements at the BBC and ITN.

— The Skillset TV Freelance Fund supported “Tailor Made Solutions” schemes specifically aimed at developing freelancers in the North West and Wales.

— 67% of all grants in 2008 have gone to training schemes outside of London.

— Research is to be conducted into the effectiveness of online learning and its popularity with freelancers to see if more projects can be delivered this way ensuring more flexibility and value for money.

45. Skillset has attracted public investment from both national and regional public bodies to support the strategy’s work in the UK TV industry. Some examples of this support for companies and individuals include Train to Gain Sector Compact and the Skillset Cymru Training Framework. Train to Gain is the National Skills service funded by the Learning and Skills Council (England) that supports employers to develop the skills of their employees in order to improve business performance. The Service offers skills advice through a Broker who can then assist in identifying and accessing support including funding for training. The agreed with the Learning and Skills Council Sector Compact for the Creative Media industry will re-direct Train to Gain funds to sector priorities which could bring £11 million investment for the whole creative media sector for over three years. Skillset is lobbying LSC and DIUS to allow micro-SMEs (with under five people working)—representing 50% of the overall companies in Creative Media industries (22% of film companies and 25% of TV companies)—to use their Management and Leadership funding. In Wales, Welsh Assembly Government’s support for the Creative Media industries through the Skillset Cymru’s Training Framework and Talent Attraction scheme has contributed an additional £596,000 in funding support for companies and individuals.

46. Skillset has already made a bid to the Economic Challenge Investment Fund (HEFCE for England) to support retraining and upskilling for those who have been made redundant and has been discussing similar support bids for Wales; this will be in addition to the Scottish Funding Council’s 5.8 million (over five years) support to the Scottish-based Skillset Academies and Accredited courses and HEFCE’s investment through the Employer Engagement Fund (public-private sector co-financing) of £2.5 million (over three years).

47. At present Government’s skills investment is focused on supporting individuals with low or no level skills. High level skills are expected to attract full investment from employers. The current recession, fragmented nature of the industry and the need to identify and grow key sectors of the economy calls for a flexible and differentiated approach regarding the accessibility of public funding. A more strategic, flexible approach to co-investment with employers and individuals for all the skills is required to help both the Film and TV sectors.

48. Both the Creative and Digital sectors are being identified by Government as growth sectors. Skillset is working with DIUS on its policy of skills activism—following Peter Mandelson’s “industrial activism” and with BERR and DCMS through Digital Britain. All these discussions require the Government to invest in high-level skills with the industry.

17 Currently the offer is available only to companies of over five employees.

18 “[W]e need to widen and diversify the specialist bases of the UK economy and focus on how we further commercialise and internationalise these bases . . .”, Peter Mandelson Speech, RSA, 17 December, 2008.
Q6. How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

49. The ability to produce high quality, innovative UK-originated content relies heavily on the ability of the people working in the UK Film and TV industries to have the talent, skills and capacity to deliver such programmes/films.

50. The Communications 2003 Act has made provision for a system of co-regulation for training: Sections 27 on Training and equality of opportunity and section 337 on the Promotion of equal opportunities and training:

51. Section 27 states:

“(1) It shall be the duty of OFCOM to take all such steps as they consider appropriate for promoting the development of opportunities for the training and retraining of persons—

(a) for employment by persons providing television and radio services; and

(b) for work in connection with the provision of such services otherwise than as an employee.

(2) It shall be the duty of OFCOM to take all such steps as they consider appropriate for promoting equality of opportunity in relation to both—

(a) employment by those providing television and radio services; and

(b) the training and retraining of persons for such employment.

(3) It shall also be the duty of OFCOM, in relation to such employment, training and retraining, to take all such steps as they consider appropriate for promoting the equalisation of opportunities for disabled persons.”

52. Section 337 states:

“(3) The regulatory regime for every service to which this section applies includes the conditions that OFCOM consider appropriate for requiring the licence holder to make arrangements for the training and retraining of persons whom he employs, in or in connection with—

(a) the provision of the licensed service; or

(b) the making of programmes to be included in that service.”

53. Ofcom’s new duties and functions derived from these sections which place increased obligations to promote training above and beyond previous legislation. The Act broadens Ofcom’s oversight responsibility across the industry with regard to training, by not just including terrestrial television broadcasters as before, but now effectively adding radio and cable/satellite companies with more than 20 employees.

54. S4C and the BBC have also agreed to be included under these responsibilities. Skillset has produced Memoranda of Understanding with the BBC and S4C respectively; both these agreements set a framework for mutual collaboration to support learning and the development of skills across the industry at every level to ensure the Industry remains creative, productive and globally competitive. These agreements demonstrate good practice and a willingness to share objectives and priorities in strategic areas of training.

55. The Communications 2003 Act also gives Ofcom a general duty to promote self-regulation. Section 3(4)(c) stipulates in particular that in performing its general duties Ofcom must as appropriate have regard to the desirability of promoting and facilitating the development and use of effective forms of self-regulation. With this in mind, Ofcom, Skillset and the Broadcasting industry set up the Broadcast Training and Skills Regulator (BTSR)¹⁹ in 2005.

56. The BTSR (http://www.btsr.org.uk/) was established as a co-regulatory body working with Ofcom, the industry and Skillset. Details of this system are set out in the Memorandum of Understanding which confirms the partners’ commitment to co-regulation and their agreement to some fundamental points.

¹⁹ Please note that co-regulation also covers the Radio industry.
57. The purpose of the system is to ensure an industry-led method of planning, organising, facilitating and measuring the delivery of training and retraining in UK television and radio which is both cost-effective and fulfils the statutory obligations for training. In the process the aim is to ensure that high quality training and retraining is provided in television and radio which is relevant to the industry’s needs and appropriate for sustaining the quality of the services which viewers and listeners receive.

58. The system gives responsibility to broadcasters for setting objectives and standards for training, both individually and (as appropriate) collectively through Skillset. The BTSR oversees this process and assesses whether the arrangements made by broadcasters for meeting their objectives are adequate. If the BTSR decides that remedies need to be put in place, broadcasters will be expected to take due account of this.

59. The powers of the BTSR derive from the relevant conditions in broadcasters’ licences, the guidance issued under the licences and the BTSR’s ability to call on Ofcom to use the relevant powers in its licences to issue directions, impose sanctions and set more detailed licence conditions where necessary.20

60. This system has been in place for over three years. In compliance with this co-regulatory partnership, Broadcasters have agreed to measure the effectiveness of their learning and development through a process of self-evaluation. By using a self-evaluation framework devised by BTSR, Broadcasters are equally supported and challenged to measure their own performance as individual organisations and also to enable comparisons across the broadcast industry. There are many positive outcomes from this process which help promote models of good practice and reveal gaps in provision and training needs.

61. However, there are also issues; there seem to be confusion amongst the industry on the functions of Skillset and BTSR; the system is still in the early days of its operation and impact is hard to measure. Moreover, there is concern that the current powers have not been sufficient to allow for meaningful dialogue.

62. The current economic climate has exacerbated this concern as described above. ITV have already confirmed that they will not be able to contribute to Skillset and they have also cut their contribution to the National Film and TV School (NFTS). We await to hear from Channel 5 on what their intentions are. It is of concern that there will be less investment to a crucial part of the industry at a time when the economic recovery will depend on the ability of the workforce to maximise their potential and remain competitive in a global marketplace.

63. Ofcom has taken legal advice on its powers to intervene and have identified that Section 337 of the Act applies only to the staff and freelancers that are directly employed by the broadcaster and therefore does not cover Skillset and the NFTS. However, they have identified that under their overall duty of section 27, they are “to take all such steps as [Ofcom] consider appropriate for promoting the development of opportunities for the training”.21 We await to hear what further steps Ofcom and BTSR are going to take in relation to the current situation with ITV.

64. Ofcom has convened a Strategic Review Group amongst Skillset and BTSR to consider within the changing context “how well is the industry equipped for changing training and development needs and for the changing nature of its workforce—what is it doing to prepare for future needs and challenges”. As mentioned in their Terms of Reference, this group is tasked to identify the key issues and points of pressure, differentiating between commercial and public service broadcasters, between smaller and larger companies, and between TV and Radio. Therefore, it is vital that there is more joined-up thinking and activity between the group and the implementation of the PSB proposals; we would like Ofcom and Digital Britain to address this as soon as possible.

Q7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

65. In 2008 there were two major reviews whose remit involved the above issues. Ofcom engaged in these issues on both Phases of the Public Service Broadcasting Review. We believe that both subsequent Reviews lacked focus on the issues of talent and skills development, with the exception of a consideration on the impact that PSB decisions will have to journalism entry route in the local tv and radio industries: “This comes at a time

20 Memorandum of Understanding Between Ofcom, ITV Network and GMTV, Channel 4, BBC, BSkyB, Commercial Radio Companies Association (CRCA), Satellite & Cable Broadcasters Group (SCBG), Skillset, S4C and Five (2005).
21 Communications Act 2003, Section 27, paragraph (3).
when the future of regional and local newspapers and radio faces unprecedented challenges thus endangering what has traditionally been the spine of local and regional journalism across the UK and the training of the UK’s young journalists traditionally provided in the regional and local media.”

66. As we have stressed before, the ability to produce high quality, innovative UK-originated content relies heavily on the ability of the people working in the UK Creative Media industries to have the talent, skills and capacity to deliver such programmes/films. Skillset submitted to both PSB Phases and below is a short summary of our position: “Skillset believes that Ofcom’s market assessment and solutions on the PSB review present ambitious proposals for going forward. We would like to attach in these a key component: that PSB status is attached to a clear commitment and obligation towards the development of the human resources and technical expertise that will deliver PSB programming in whatever platform it could be available.”

67. In particular, Skillset was concerned that the Ofcom’s “Preparing for the Digital Future” did not have a consideration on how the new PSB models were going to address fundamental issues relating to the digital media workforce’s future capacity, capability and development in order to produce UK-originated content within the digital landscape.

68. These issues become even more important when considering Ofcom’s proposals involving Nations and Regions’ coverage: “[...] There seems to be very little consideration in the current report of the knowledge, experience and skills issues or the fact that these issues can play a vital role in making the new proposals viable and sustainable (as both the Scottish and Welsh Broadcasting Commissions have already considered). Moreover, in the Skillset 2006 Employment Census we observed an increase in the concentration of the industry in London (66% from 58% in 2004). Our contribution to this debate will be in making sure that there is opportunity and investment to support the creative talent and skills of the people working in the creative media industries and businesses on both National and Regional level.”

69. Since then, a worsened economic climate and further forecasting around the strength and weaknesses of the UK Economy has pushed the interests of the media professionals and businesses as a matter of urgency. We were encouraged to see early this year the recognition of the development of skills and talent as part of the infrastructure of the UK’s Digital Economy in Lord Carter’s DCMS/BERR Digital Britain Interim Report. Skillset together with e-Skills (the Sector Skills Council for Business and Information Technology) was asked to submit proposals on Skills for the Digital Economy for the Digital Britain final report.

70. Research undertaken by the UK Commission of Employment and Skills shows that companies that continue to invest in the skills of their workforce during a recession are 2.5 times more likely to succeed and grow coming out of it. The UK Film Industry with support of public funding are showing strength and depth in their commitment. The UK TV Industry, challenged by the current commercial context, are struggling to demonstrate the same commitment which has to be of deep concern for a content creation industry in the midst of structural and technological change.

25 March 2009

22 Paragraph 9.6, Page 86, PSB Phase 2 Statement, Ofcom 2009.
23 Skillset’s Response to Ofcom’s PSB Phase 2 Consultation.
Examination of Witnesses

Witnesses: Ms Dinah Caine OBE, Chief Executive, and Ms Kate O’Connor, Executive Director, Policy and Development, Skillset, examined.

Q1185 Chairman: Welcome. I think you know what we are about. We are trying to look at the film and television industries to see how they are progressing and what contribution they make both economy and culturally, and to see what government can do to improve that, if government can deliver it. It is a very complicated business and it is a question of what government can actually do. Training is obviously an important part, where government has always had a particular interest. Perhaps I could start by asking which skills are most in demand and which are most in deficit in the UK film and television industries?

Ms Caine: We decided that it probably would be best if Kate were to field all the film questions and I were to field the TV ones, just to make things simple, so Kate will kick off on film.

Ms O’Connor: The film industry is relatively contained in terms of numbers employed within the sector. Overall there are just under 30,000 people employed in the film industry and that includes people employed in the cinema and exhibition sector. If we are really focusing on the production side of the film skills agenda, about 10,000 are people employed across a huge range of different skills areas, from the highly creative through to the very technical and craft oriented. One thing I would like to say before I answer your question specifically is that Skillset over the last five years has worked in partnership with the UK Film Council and the industry directly, to put in place a film skills strategy which addresses issues from the cradle to the grave. Because some of the issues are not just about skills shortages but about making sure you have all the right kinds of people in the industry, that there is open access to jobs within the industry, that we have created a diverse workforce that really pulls on the talent for the UK, so our issues are not just about plugging specific skills gaps and shortages but making sure the industry is open and moves into it are clear. The kind of skills shortage issues that we have been addressing are increasingly a shortage of some of the craft and technical areas.

Q1186 Chairman: Meaning?

Ms O’Connor: Ranging from people who build sets, through to highly specific technical skills in the visual and digital special effects industry—and there is a global skill shortage of some of those skills—including compositors and artists in that sector.

Q1187 Chairman: In the special effects industry, what kind of skills would you require?

Ms O’Connor: In the visual and digital special effects industry that I have just talked about, there is that fusion of creative and technical skills and being able to come up with ideas/characters and then manipulate images and create these fantastic special effects.

Q1188 Chairman: What would be the basic background that you would need to do that?

Ms O’Connor: Lots of new entrants come through with degrees in animation, or sometimes in subjects like computer games development even, because some of the skills overlap, or some of them are coming from an arts background. The employees in the sector say that quite often they want those kinds of skills to cross the traditional subject disciplines, that within our universities we have quite demarcated departments, with science and IT in one block and animation and art in another, and the two need to meet in the middle. I have to say quickly that some of our courses are really grasping that. They are doing particularly well in Bournemouth and at the University of Hertfordshire; in Teeside; at Central St Martin’s. There are some really good courses coming through with the support of Skillset and the industry feeding in their needs. It is that mixture.

Q1189 Chairman: Would a person come to Bournemouth, say, with an initial degree, and then do postgraduate work, or would he or she go there initially?

Ms O’Connor: It is a mixture. Lots of the animation degrees that we have accredited on behalf of the industry—we have Kite marked some of those degrees—are at undergraduate level, but then there are very specific specialist degrees at postgraduate level at Bournemouth, at the National Film and Television School, Central St Martin’s and other centres of excellence. We have created this network of media and screen academies where there is a real mix of undergraduate and postgraduate provision. That is the aim of the industry.

Q1190 Chairman: If you were to delineate one area where there were skill shortages, it would be in this rather specialist area. Is that right?

Ms O’Connor: There are definite skill shortages in visual digital special effects, so much so that we have had to register these jobs with the Home Office in terms of special arrangements for work permits and so on. That is a particular area of need, in the visual effects area.

Q1191 Chairman: That means that we have to take people in from outside.

Ms Caine: Yes.

Ms O’Connor: Exactly so. Also, at the same time as doing that, we want to create our home-grown talent through our universities and schools and colleges. In
other areas, it is more a case of keeping pace with the change in technology and the different kinds of working practices, and so our strategy is to make sure that our technicians and our craftspeople can work within the new context of HD or use new types of camera equipment or whatever the particular issue is. Some of our work is about making sure that our continued professional development takes place with our existing freelancers, because 90 per cent of the industry are freelancers.

Q1192 Lord Maxton: You have to do some forecasting, do you?
Ms O’Connor: Yes, we do.

Q1193 Lord Maxton: As to what the next trend is.
Ms O’Connor: Yes, we do. Absolutely. In fact, as we speak, Skillset is refreshing the strategy for the film sector and we are calling in groups of employers and equipment manufactures and the people who are funding films and thinking through the pricing formats. We pull from that the implications for the skills of the workforce, so that we keep pace.

Q1194 Lord Gordon of Strathblane: On this business of education and training in the Digital Britain report, I imagine you welcome very much ICT being a major building block in primary education, but there is a remarkable statistic which I must confess I did not quite believe that only ten per cent of those doing A-level computing are female. (a) do you think that is correct and (b) have you any explanation for it?
Ms Caine: We certainly think it is correct because that information was supplied by the Sector Skills Council which deals with that area, which is e-skills. Certainly they do have problems in the ICT industry of attracting women and, indeed, of people from BAME backgrounds to work in the industry, so much so that they have specific initiatives to do with computer clubs for girls and so forth. Yes, that statistic is there and we understand it to be absolutely correct.

Q1195 Chairman: Is there anything else you want to say about skills in film in demand?
Ms O’Connor: There is a big issue about making sure that we have integrated business skills within everything we do. That has come through time and time again in conversations we have had with the industry and all of the representative bodies.

Q1196 Chairman: We have had that in written evidence as well.
Ms O’Connor: Then there is the issue I mentioned at the front end of my answer which is about ensuring that we have a more diverse workforce. The majority of the film industry is based in London and the South East. As I have said, 90 per cent are freelancers, and just one in ten of the workforce is from a BAME background—which absolutely does not reflect the workforce in London and the South East. That is something we really do want to address with the industry.

Ms Caine: I would just add one thing on film, if I may, which is of course that it is also very, very important that we maintain our investment commitment to developing a creative talent—the writers, the directors, the producers and so on—because at the end of the day they are the major engine of British production, and obviously the kinds of areas Kate was talking about are also very, very critical for inward investment, from the American industry in particular, which is the biggest investor in the film industry. Turning to TV, in some ways it is quite interesting that we are talking about film and television as siloed industries, at a period when we are also looking at digital Britain and a growing emphasis on content creation which is available for multi-platform environments whatever they may be. Just some headline stats: about 55,000 people work in broadcast TV, cable and satellite and independent production. We are just in the middle of doing some work with Ofcom looking at changing skill sets for the industry and that has thrown up some very clear areas, one of which is multi-skilling, which can take a variety of forms. An example would be assistant producers now being able to self-shoot and self-edit. There is a lot of talk about t-skills, where people need to have an awareness of, as it were, the production processes across the piece. It is very important in this multi-platform environment, but then a specialism. There is a big need to maintain the core creative skills—very similar to the film industry. That is, as it were, what is commoditised. Particularly with independent television production, the markets in which they make their money are increasingly through exports to other territories, so it is that core creativity which is critical. There are craft and technical issues in specific areas, and we are very happy to give you more detail on this if you want it in further written work. Cross-platform skills are obviously very important now. Everything from technical skills, core production skills, management and leadership, particularly around exploitation of IP, legal rights, compliance and business modelling. Finally, there are specific gaps and shortages. We are an organisation that works across the UK. We work in the nations and we work in the regions. You will see definite differences in relation to geographic areas; for example, to take Scotland, basically with the BBC now growing network share and other things there is a real need to develop script talent there to drive some of the business coming in and some of the network possibilities. As I say, we have all the detail on this, so if you want us to draw down the detail we can.
Chairman: That is very kind. In a sense I started before I should have, so perhaps you could tell us in a few words what Skillset is and what it aims to do.

Ms Caine: Skillset is the sector skills council for creative media, and our evidence shows which sectors that covers.

Chairman: Yes.

Ms Caine: In effect, we work with and through the industry to make sure that we have the right people with the right skills and talent in the right place at the right time. As a sector skills council we are industry-led and managed, but we are also licensed by government in all four nations. We are one of 25. The licence which is issued by our regulator, the UK Commission for Employment and Skills, requires us effectively to demonstrate that we have full employer and industry support. We have to deliver in three key areas, one is providing detailed labour market information and skills forecasting on the needs of our industry, one is around the development of national occupational standards and qualifications, and the final one, which is the biggest and broadest and we feel has the most impact, is to work with the employers and workforces in our sectors to encourage attention to skills and investment in skills. Clearly within every sector the context will vary. For example, with us, because our sector recruits so heavily from higher education, we have placed a lot of time and effort into building relationships with higher education. That is who we are.

Chairman: To try to summarise your summary, you are working absolutely hand in glove with the industry itself. The industry supports you.

Ms O'Connor: Yes.

Ms Caine: The industry manages and leads us. In the industry are people who, as it were, go forward to say to Government, “We want this organisation to do the work that it is doing and we want this organisation to be licensed.” All 25 sector skills councils have just been through a re-licensing process. Skillset was one of the first to have gone through that. It was an in-depth analysis, undertaken by the NAO. At its heart was checking with our employers that they support us and want us. As the Digital Britain report says, the outcome of that is that we have been found to be a sector skills council—and I quote without wishing to sound bigheaded—of the “highest calibre who commands the support of our employers.”

Chairman: Did I not see in your evidence that you want an industry training board?

Ms Caine: We do not want an industry training board.

Chairman: You do not.

Ms Caine: The film industry wants an industry training board.

Chairman: You do not want one but the film industry does.

Ms Caine: As an organisation, we have pursued the establishment of an industry training board because that is what the industry has said they want to do.

Ms O’Connor: In film.

Ms Caine: In film—just in film, to be very specific about that. As Kate says, it is a 90 per cent freelance workforce. The outcome of work that we did in 1997 on The Bigger Picture, which was the film policy review, identified skills as one of the key areas. We worked with the industry to set up a voluntary levy which we currently collect on behalf of industry, the Skills Investment Fund. It brings in about £750,000 a year on average, depending on production levels, and at the moment compliance runs at about 60 to 70 per cent. The industry saw the benefits of what the voluntary levy had brought but also did not want others to “free ride”—if I can quote—and therefore the consultation is taking place with the industry and the industry have said that they want to set up a statutory levy.

Chairman: I think I remember that this debate started in the 1980s and went on and on. I seem to remember when I was Secretary of State for Employment we had this debate.

Ms Caine: Probably. There are only two other industries where there are still industry training boards, one of which is construction and one of which is engineering construction. Film is now wanting to join them. The thing that joins all of those three sectors is that they all rely mainly on freelance workforces.

Chairman: For the industry—and we are going to come on to funding in a moment—the great advantage that they see is that there would be a compulsory levy and no-one would be able to get out of it.

Ms Caine: That is correct, because they all rely on a common pool of labour. In other sub-sectors that we deal with, absolutely they would not be going there, they would not be going anywhere near there, because they employ people and they have a direct relationship.

Chairman: Is not the disadvantage—and I am trying to remember 20 years ago—that you have a rather impersonal top-down approach rather than an industry, more committed approach?

Ms Caine: Certainly your memory is correct in terms of what I understand, because it was slightly before my time, of how those large industry training boards
worked. I would say two things. In this instance we have already operated a voluntary levy. The people who decide how that money is spent and where it is prioritised are representatives of the industry. They are working producers in the industry. The same will hold true when it becomes an industry training board because it has to be representatives of those who are in support of the levy. We are probably only going to be collecting about £1 million to £1.25 million. It is small. We already have a very well-thought through film skills strategy and we feel very close to that employer base. It was grants and paybacks and exemptions, and there seemed to be a whole bureaucracy around the old ITBs which I think we absolutely have avoided.

**Chairman:** I remember that the construction industry training board had a training centre which was positively military in its approach. It took me back to my National Service.

**Q1206 Lord Inglewood:** I would like to turn now to money and ask a number of discrete questions, which I hope do not sound too stupid, and then we will get a clear picture about your funding. You get cash given to you by the Government. You get cash given to you by the Government.

**Ms Caine:** Yes.

**Q1207 Lord Inglewood:** And . . . ?

**Ms Caine:** Okay. We get cash given to us by the Government. We get a core grant of about £2 million to deliver our role as a sector skills council, so that is the same as all of the other sector skills councils. We then have contributions to our core activities for the broadcasters and from the film industry.

**Q1208 Lord Inglewood:** Those are voluntary on their part.

**Ms Caine:** Yes.

**Ms O’Connor:** Yes, from the film industry and from the broadcasting industry. We then hold specific restricted funds, again for film and for TV, which are there purely for the purpose of investing in training delivery.

**Q1209 Lord Inglewood:** Where does the money in the fund come from?

**Ms Caine:** The money in the film skills fund comes from a combination of sources. One is the skills investment fund that we were just talking about, the £750,000 industry levy. The rest, £6.5 million for the last four years and £5.4 this year, comes from the UK Film Council and is Lottery financed. In terms of the training funds we hold on behalf of television, the picture is a rather moving one there.

**Q1210 Lord Gordon of Strathblane:** Yes, and not in the right direction.

**Ms Caine:** And a reducing one. Basically, in 2007-2008 all UK broadcasters and independent production contributed £1.5 million to our TV freelance fund.

**Q1211 Baroness Bonham-Carter of Yarnbury:** Is that satellite channels too?

**Ms Caine:** Yes. They have made some contribution. That has reduced in 2008-2009 to £1,335,000, and this year we are down to £745,000. Obviously I can give you the breakdown and, indeed, would probably highlight two key areas there for your attention.

**Q1212 Lord Inglewood:** You do not “go out and earn money”. That is not part of your brief.

**Ms O’Connor:** We do not earn money in the sense of generating income but we do bid for project activity and we can bid for that project activity from a range of government agencies across the UK. Some of that money then is spent on delivering training, commissioning training, and some of the project money we bid for contributes to our core costs, in fact.

**Q1213 Lord Inglewood:** When you say delivering training, do you train yourselves, or do you always get other people to do it?

**Ms O’Connor:** We always commission third-party trainers, yes. We always get the money out to the expert trainers. We do issue bursaries as well, so chunks of our money from both TV and film go out to the individual so that they have a bursary that they can choose training from. But mostly our money goes to training providers, who can then offer the training at a vastly subsidised rate to freelancers in either TV or film or, where the skills cross over, both.

**Q1214 Lord Inglewood:** You were talking about universities earlier. You do not do subsidised courses there, do you?

**Ms O’Connor:** No.

**Q1215 Lord Inglewood:** You merely discuss with them what they are doing.

**Ms O’Connor:** Yes. Again I am afraid it is different in terms of the approach we take with film and television and the other industries we deal with. With film it is very different because the funding we have allows us to invest directly into further and higher education provision, and so for the last five years we have done that. We have set up this small number of screen academies, just to look at film skills, including institutions like the National Film and Television School, Bournemouth, the London Film School, the Edinburgh College of Art (Napier), Glamorgan and Newport in Wales and Ealing College and the London College of Communications. Those screen academies focus on skills, training and education,
and we do fund some of their programmes to ensure that they are working more closely with the industry, doing outreach, talent scouting. We have all sorts of programmes that we help them with directly by giving them cash, and we also give students who could not otherwise afford to do a course bursaries so that they can take up that offer. With our wider work with further and higher education, we do not have that kind of fund, so we try to work with those colleges and universities, that is the majority, to improve what they are doing. Obviously this is where the Government comes in: working with agencies like HEFCE in England and the Scottish Funding Council, HEFQW in Wales and the Department for Education and Learning in Northern Ireland, to try go get them more funding for these very specialised and high level and highly needed courses in further and higher education. We do work with government to try to lever money into those courses. 

Ms Caine: On that, to come back to your well-observed point, our role is mainly as a broker and we bring to bear the employer leadership and influence to try to seek to influence the rest of the publicly funded education and training system, as well as, obviously, in this instance we have talked about the detailed money that we collect from the industry which we can invest directly.

Q1216 Lord Inglewood: Presumably, such is the world that, looking forward, funding is going to get tighter rather than easier. Are you worried? 
Ms Caine: Yes, on two counts. To go back to the industry and TV, we are worried. It is very interesting, if you look at economy-wide reports that the UK Commission for Employment Skills have produced, they demonstrate that businesses which invest in the skills and talent of their people during a recession are 2.5 times more likely to grow and be healthy coming out of recession. That is the first thing. The second thing is that it would seem, talking to other sector skills councils, that in this recession some sectors are maintaining their investment in their redress to skills because they see it as important to what I have just talked about, and other sectors are finding it challenging. I would say that certainly our experience in this sector at the moment is that that perhaps is the case. If you look at TV, obviously you can take investment in ourselves as one of the indicators. It is obviously not the only one. I think that across the board you will find that broadcasters have over the past two years all cut their investment in training and skills. If you look at our figures and the money that we receive then obviously ITV has now cut us and the National Film and Television School. We have 100,000 transition on core funding in this financial year, but I also want to highlight the independent production sector because, thus far this year, they have only been able to commit about 20 per cent of what they normally provide. Also, I would point to the fact that in TV the biggest barriers are for freelancers and I think that is very interesting when you start to look at the breakdown in freelance use across the industry, because the independent production sector utilise that 57 per cent of its workforce as freelance compared to 26 per cent for the large broadcasters. We know—and I will not bore you with the statistics but we can provide them—that there are all sorts of barriers for freelancers, including employers investing in their training. When you look at the investment by employers in segments, then in 2008 in terms of our workforce certainly, although we cannot say in what area, 78 per cent of broadcast TV employees have received some training, and it is only 36 per cent in the independent production sector. That is quite a big difference.

Q1217 Baroness Bonham-Carter of Yarnbury: Just picking up on what you were saying about the contribution made by broadcasters, is that largely by the free-to-air broadcasters? 
Ms Caine: Yes. We have some contributions to the freelance ones, £60,000 from Sky and the small cable and satellite companies it is £1,000 basically per channel, with a ceiling of five channels, but overall they probably contribute then about 150,000 a year. 
Ms O’Connor: Yes, that is the maximum.

Q1218 Baroness Bonham-Carter of Yarnbury: ITV is not contributing anything, is that right?
Ms Caine: No, as of this year. I think it is very interesting with ITV because, given that particularly recently it has obviously recognised that commoditising Britain’s talent has a real way of delivering value, it seems to not be addressing investing in the industry’s talent in the same way.

Q1219 Lord Inglewood: Taken in the round, just standing back from the immediate problems you are facing, does the industry as a whole pull its weight financially in respect of training? 
Ms Caine: I would say it is a spiky profile. Some companies like the BBC invest heavily and continue to do so, but then of course they have specific obligations under the PSB. As a sector, I have to say that we are blessed in one way with attracting, if you like, the brightest and best, but also sometimes the oversupply of those people wanting to work in the industry can lead to a certain sense of complacency around the amount of active effort, investment and focus that needs to be made in terms of preparing us to maximise our potential in terms of the future.

Q1220 Baroness Bonham-Carter of Yarnbury: You were talking earlier on, Kate, about how there were particular skills shortages in the special effects area, which I thought we were not so long ago pre-eminent
in. Why have these shortages come about? What has changed?

*Ms O'Connor:* In some ways we are victims of our own success here. We are seen as global leaders in our visual special effects and post-production facilities and we win lots of contracts in terms of that work, and therefore we need quite quickly, the top four companies particularly, to bring in vast teams of people to work on these quite complex movies and with very specific skills. That is when they need to pull in numbers at any one point and then obviously let them go when they are not working in a particular movie.

**Q1221 Chairman:** They would be freelance

*Ms O'Connor:* They would be freelance or on short-term contracts. We are making sure those skills are feeding through our higher education specialist school, our screen academy and media academy network.

**Q1222 Baroness Bonham-Carter of Yarnbury:** You have talked a lot about higher education. What about at school? We have the games industry and they said if only they would tell girls and boys that if you learn maths you could make video games.

*Ms Caine:* Yes, absolutely.

*Ms O'Connor:* We are working on that agenda as well. Most definitely. There are certain things that we can influence directly, like we worked very hard to create this new creative media diploma, the new alternative to GCSEs and A levels that has been on offer this year, and that includes strands for animation, computer games development, and builds in science and traditional subjects with the more arts based subjects. Really importantly, we are keen, but there is a blockage in the system, to get that careers information through the schools, about the range of careers and the kinds of skills people might need, because it is not all about presenting, it is not all about the creative side. We need to make sure that people understand the business context and some of those science backgrounds.

**Q1223 Lord Maxton:** Do you get any funding from the games industry?

*Ms O'Connor:* No, we do not. No direct funding.

**Q1224 Lord Maxton:** Even though they must benefit from what you do.

*Ms O'Connor:* They do not contribute to our core costs and we do not have a similar fund in the same way that we did for film and television.

**Q1225 Baroness Bonham-Carter of Yarnbury:** We have had evidence from Mr Fellner about the lack of business skills.

*Ms O'Connor:* Yes.

**Q1226 Baroness Bonham-Carter of Yarnbury:** Is there anything we can learn from abroad about doing better at developing business skills?

*Ms O'Connor:* Yes. I am sure there are examples of some courses that build in that business context and some approaches to training that build in the business context in a far more integrated way than we are doing. But going back to film, the question was about the contribution to the industry and support from the industry. I think the film industry has shown incredible foresight to get involved in this five-year strategy and the move to supporting a mandatory levy I think is the ultimate demonstration of their commitment to skills into the future. On business skills, we had identified this as a real need of the film industry five years ago and we established a business academy which was set out to be one of the world leading examples of how to address business skills training for the film industry, and that is something we are still working on getting right. But we at that time and still are probably leading the way in having a very big focus in film business training on TV
that there should be co-regulation between Ofcom and Skillset. However, at that stage Ofcom had just launched the Advertising Standards Authority and had particular rules. It has particular rules which it applies to co-regulation which means you have to set up these third-party bodies. I think some people observed that, given that training and skills is a complex area, not as high up the industry’s agenda as perhaps as we would like, it perhaps becomes quite crowded and, also, as we said in our evidence, what has become clear during the course of this last year is that, for example, the clauses in the Act Ofcom now understand to not cover the freelance issue, which, as I indicated before, is one of the most challenging in terms of addressing.

**Q1230 Baroness Howe of Idlicote:** Before I move in to a rather more specific question, perhaps I could follow up the point that Lady Bonham-Carer has been making earlier, particularly about contact with schools and the need for much more creativity coming out into your industry. Do you do any of this directly with schools or do you do it at second hand through helping design courses? Might there be a case for doing it a little bit more visibly yourselves?

**Ms O’Connor:** We do not do it directly. We are not funded or resourced to do it directly. Until quite recently, officially we did not have a particularly strong role or remit for the pre-19 school-based education policy at all. It is only since the development of the new creative and media diplomas and industry-facing diplomas that we have had a role to inform what happens on courses, but no funding of resources to do direct work to engage the industry with schools. Having said that, and again on film, there are a number of agencies who do lots of good work with schools and we are involved with all of those bodies to help support their work. Media Box, with government funding, gives grants to disadvantaged young people so that they can develop their skills in radio or TV or computer game or whatever medium they want to explore, and there are organisations like First Light, and obviously there is the British Film Institute, and Film Education and Film Club, all of whom have the role and remit and money to have direct involvement on film education, but those kinds of arrangements do not particularly exist directly for the other sectors for which we are responsible. It is a gap in terms of our funding and ability to be able to do that.

**Ms Caine:** In terms of the 14–19 diploma, we have engaged numbers of TV employers in terms of helping support implementation, including providing lots of work-related learning materials online and so forth. BBC Blast, for example, has done a lot to help roll this one out. We have tried to make information about the industry available to the careers advisors, but the difficulty, if we just talk about England, is that there is not an all-age careers service at the moment. It is very fractured and it makes, as it were, the sharing of information coherently to all those constituencies quite challenging.

**Q1231 Baroness Howe of Idlicote:** Thank you very much. Moving on to more specifically, what really more could be done to support the supply and development of these relevant skills? I am thinking now about where the responsibility for this lies, whether it is with policymakers or where. Referring a little bit to our visit to Pinewood the other day, where we saw and heard that apprenticeships were really working in and going to be clearly a very attractive remit for young people if sold correctly. Having said that, the film industry itself, as opposed to the relevant practical skills, did not seem quite as involved as they might be in the actual apprenticeships. Is this an area that needs developing? Is this not one of the areas that might be made more attractive, particularly to girls, going back to that point about ICT and the lack of girls going into that industry? Do you have views on that for those industries?

**Ms Caine:** In terms of the overall answer to the question, perhaps we could come back to you on Digital Britain, our submission to that and the recommendations that have come out of it specifically in terms of apprenticeships. Absolutely, I think right across the film and TV industries, there is more that we can do and should be doing to engage people in that being the route. Kate, perhaps you could talk about film and then I will talk about TV.

**Ms O’Connor:** Yes. I am sorry that we are doing this off-the-job training when they are not working and back in college. We have spent a lot of time trying to get the model right and we are definitely convinced that it can be expanded, but sometimes our numbers are tiny compared to other industries. For example, the wider construction industry will have thousands of apprentices, and economies of scale make sense with government funding. Ours are small—we might be talking about a couple of dozen apprentices in Pinewood at any one time—and so funding to help support those brokerage arrangements, where it is critical to have someone organising those kinds of apprenticeships,
Q1232 Baroness Howe of Idlicote: Given the apprenticeship side has money in this sort of area, surely more could be done with that.

Ms O'Connor: Yes.

Q1233 Baroness Howe of Idlicote: As combined with industry.

Ms O'Connor: Definitely. The one thing to remember, though, with apprenticeships from our point of view—and government funding is available and is a huge priority—is that funding at the moment is available only to those who do not already have a degree or a Level 3/4 qualification, so you are talking about apprenticeship funding being available really for 16-21 year olds with maybe GCSEs and probably not A-level type equivalent qualification. There are very few grades in the industry where that is the typical age profile or that is the typical qualification profile coming in. The grades where it is suitable—the set crafts, make-up and costume, some of our other craft and technical areas—it tends not to be the answer for the industry as a whole because we tend to recruit at graduate level which is where the Digital Britain areas come in.

Ms Caine: Exactly. Also, to pick up on TV, which is linked to my previous answer: as Kate says, there is a tendency to recruit people with higher education qualifications, which immediately rules out the normal old-style apprenticeship recruits. So that is a cultural thing, because when you look at it, a lot of roles in the industry do not need that and they could be definitely open to apprenticeships. In TV at the moment we are looking at how we can really work with employers to define what would be seen as “killer skills”—you know: “What would you really want young people to have skills in that would make a big difference to you?” Metadata management, at the moment, is one of those. We are trying to look at developing a digital media apprenticeship which embodies some of those things that really people want and need now, and hopefully, using that to help pilot and to get the industry to see that they do not always have to recruit at HE level.

Q1234 Lord Gordon of Strathblane: A lot of small companies would insist that the best form of training is on-the-job training.

Ms Caine: Yes.

Q1235 Lord Gordon of Strathblane: How far do you go in providing a degree of accreditation for these almost informal training schemes?

Ms O'Connor: We are looking at exactly that now. The rules of accreditation and qualifications as part of work have been relaxed, and so we are really exploiting that to look at ways in which we can accredit on-the-job training.

Q1236 Lord Gordon of Strathblane: Coming back to this business of current powers, I rather get the impression that you wish you had powers to make sure that people volunteer to contribute!

Ms Caine: I think we would like people to recognise that investing makes sense.

Q1237 Lord Gordon of Strathblane: Yes, I follow that, but you do say that the powers are not sufficient to ensure meaningful dialogue. That sounds to me like “to ensure that they do start contributing”. It is a problem, voluntary schemes.

Ms Caine: Yes. Perhaps it would be good to ask Ofcom and BTSR some of these questions.

Q1238 Lord Gordon of Strathblane: As well.

Ms Caine: I think that perhaps what we thought the Act said and what they now feel the Act says are slightly different.

Q1239 Lord Hastings of Scarisbrick: Just talk us through a bit more your reflections on the role of the BBC as the primary trainer/skills provider. They are your largest cash contributor.

Ms Caine: Yes.

Q1240 Lord Hastings of Scarisbrick: Some might possibly argue that if the BBC was not putting cash into organisations like yourselves it could do a much more enhanced job. It has the internal capacity for skills development apprenticeships and training internally. How do you respond to that?

Ms Caine: I think under the Charter and the Framework Agreement, the latest one, it is very clear that the BBC has been given responsibilities to support its own workforce but—to use Tessa Jowell’s term of “creative venture capital”—to take it to its privileged position, if you like, to ensure that it invests and works with the rest of the industry on these issues. The second thing is obviously the WOCC. Now that up to 50 per cent of their commissioning comes from the independent production sector, and they are therefore relying quite heavily on the supply chain, also demonstrates that in terms of their own business interests they need to be looking at practices outwith their own and potentially learning from those but also supporting schemes which provide industry-wide solutions. I think the days of the BBC, if you like, creating fortress BBC are long gone. It is a new business environment, it is a new industrial model. They recognise that, they are willingly embracing it, and
they are working very effectively with us and the rest of the industry.

Q1241 Lord Hastings of Scarisbrick: Could you give us some examples of how you have been working with the BBC on extending the reach of their skills?

Ms Caine: I know Peter Salmon came and gave evidence. One key area at the moment is the BBC move to the North. We are working as Skillset North and we have brought together the three Regional Development Agencies, the three Regional Screen Agencies and the industry—all of it, from computer games, interactive, through to advertising, film, TV.

In the North, we have a very senior industry committee led by Tom Gutteridge from Standing Stone. That is working and has achieved coordinated investment, but it is working with the BBC to look at how, as it were, we can ensure that once they have identified who is going to move and who is not, there is local talent and skills available to meet their needs. Also, obviously that move should be, and is, I think, creating greater opportunities in other sectors in the North, so that we are also using it to try to ensure that the skills are there for those other sectors.

Q1242 Lord Hastings of Scarisbrick: Is your impression that the BBC is being as diligent in investment in its own training for the North as it has been in the South?

Ms Caine: It is absolutely a key priority. The partnerships that they have built for training and education providers in the North, and particularly the partnerships that they have developed, as it were, working through us, I think are a real priority for Peter and his team, yes.

Ms O’Connor: Linking one of the previous questions on apprenticeships with the work the BBC have been doing, they have been a catalyst for saying let us take this issue of recruiting non-graduates and train them up under the Government’s apprenticeship formal scheme and offer formal qualifications. They really are leading the way in that and helping us develop our approaches so that they might be models that we can scale out to the rest of the industry. Although the example of their work started in the North West and increasingly across the rest of the North of England, they are now working very hard with us to prepare schemes in and around the Olympics and to support apprenticeship training generally and to be real ambassadors for that kind of approach.

Q1243 Lord Hastings of Scarisbrick: You are seeing no slippage in the BBC investment?

Ms Caine: Not as yet.

Q1244 Lord Maxton: Mark Thompson—and I only heard a snippet on the radio—was expressing grave concern about the whole top slicing. Do you think, if the BBC felt their funding was being threatened, that training might be an area they would look at?

Ms Caine: I know that in the debate around the money for digital switchover, and what will happen to it or not happen to it subsequently, that training was one of the areas that Mark identified as being something that that money could be used to further enhance. I do not expect that to have an impact in terms of their current investment and commitment.

Q1245 Lord Gordon of Strathblane: Is it not right to say that you would like PSB status to involve a commitment to training?

Ms Caine: Absolutely right. That is where we are pleased with what Digital Britain has said, because, in a sense, as I say, the BBC Charter strengthened the BBC’s commitment to training and training across the industry precisely because of that level of PSB commitment in the licence fee. Digital Britain has now restated that. It has restated its believe that PSB broadcasters should be committed to skills and talent and has also identified Channel 4 as needing to develop its activities in this area and the Government will be bringing Channel 4 and Skillset together to look, in the light of the revised focus it has, at that issue.

Q1246 Lord Hastings of Scarisbrick: To move on to the area of new skills, new technologies, 3D, whatever the next phase happens to be, and you talked about the US being the dominant training provider and investor worldwide, how are you keeping in front of the game? Where do you get your research capacity from?

Ms Caine: We were talking about the US being the major inward investor in the film industry rather than—

Q1247 Lord Hastings of Scarisbrick: Taking new technology as a whole, how are you getting an enhanced picture on new technologies for training?

Ms Caine: It is quite challenging, I have to say. In terms of the questions you have asked about future gazing, it is not really in the DNA of business in this country as much as it is in other countries to do that as a regular exercise.

Q1248 Lord Hastings of Scarisbrick: It is so intrinsic to this business, is it not?

Ms Caine: It is so intrinsic to this business. So we do, and obviously in every area in which we work we bring together leaders from the businesses, and it is to them that we turn to ask for their informed position,
but we also obviously have connections across, with Ofcom and the research departments there and the research departments at the BBC. So we are networked into the various research bodies and then seek to do our best with our original soundings as well as then quite often willingly giving us their information to achieve the best picture we can, but I do think we have things to learn there internationally and I do think there are things we need to do to improve our ability to do that.

Ms O’Connor: We have a relatively small research team and, although we are starting a futures research programme this year to collect that information systematically, we clearly need that international benchmark. We need not just to be talking to the key players in the UK but analysing this on a world basis.

Q1249 Lord Maxton: How closely were you involved with the team doing the Digital Britain report? Are you reasonably content with what it proposes? Is there something else you want to recommend? What would you recommend?

Ms Caine: Yes, we were very intimately involved with the Digital Britain team. When the interim report came out, the chapter on skills, I think Stephen Carter would absolutely recognise, was one of the least well-informed and therefore he commissioned ourselves and e-skills, the sector skills council for the IT industry, to produce a report. We duly did, and we are happy to make that available to you, and the Digital Britain report basically says that government has accepted that analysis, has accepted the recommendations that we made, which we are very pleased with. Those recommendations covered both talent pipeline and, as we were saying before, the need to move and invest in graduates coming into the industry, as well as new business modelling and so forth, and the setting up of digital hubs for cross-disciplinary work. That is great—the analysis accepted, the recommendations accepted. The difficulty we always come back to is investment, because although Digital Britain is the first example of both industrial and skills activism, new jobs, new futures—or new futures, new jobs—and I cannot remember which way round it is—where the sector’s needs are supposed to come first, the evidence we submitted to Digital Britain also commented on skills policy. Skills policy and public funding are currently very tied to PSA targets which are focused on the delivery and support of low level skills. We were saying that, in high growth sectors, there should be incentivisation and support for high level skills, that, as it were, all sectors, all regions, all nations should not necessarily march to the beat of the same drum but should be allowed to march to the beat of different drums depending on the areas of need. That of course is the bit that has not really been acted on, because I think in terms of DES (now BIS) they are overspent on most of their budgets.

Ms O’Connor: In a nutshell, we have been arguing for apprenticeships, yes, but also graduate apprenticeships. We have argued for on-the-job training schemes that look at the issue of diversity and just what qualifications people have before they arrive at those schemes. We have argued for specialist postgraduate funding: not in large volume, really targeted, high level world-class postgraduate programmes that need to be supported. All of that has found its way into the Digital Britain report and was understood by the writers and Lord Carter, as Dinah said, but we are concerned that it will not find its way into public policy or funding decisions unless it is really pushed now.

Ms Caine: The Higher Education Framework which comes out at the beginning of July is a key policy document that relates to a lot of the recommendations that we made, so we will have to see what the outcome of that is. In summation, that is the public funding side of things. Obviously, also, we have discussed the industry’s responsibility to invest in the future and the people.

Q1250 Baroness Bonham-Carter of Yarnbury: You were talking about how the BBC has been very good about apprenticeships, but the evidence we received last week was that their internal traineeship schemes have been cut back. There is no post-production membership scheme any more. Is that not a rather negative step?

Ms Caine: It is very interesting because in the run-up to the Charter and so forth—I cannot remember which one it was—the BBC’s Green Paper of response, there was a commitment there that the BBC would not cut its investment in training. At that stage it invested about £57 million a year. I think if you were to ask them now you may find that it had reduced from that figure.

Q1251 Lord Gordon of Strathblane: A very quick and I hope not too parochial point. Were there to be an ITB would we not be in a rather strange position that they had the power to introduce a levy only in England and Wales and Scotland would remain a voluntary levy under Skillset?

Ms Caine: Yes, it is a strange position and it is all to do with devolution because at that point nobody ever thought about the ITB Act so the position we were in—and it was looked at at every level in Scotland—was that potentially the only way through was for the Scottish Parliament to agree to hand that power back, and the view was that actually ITB probably was not the best thing to have that very first debate on in terms of handing any power back to England.
Q1252 Chairman: I think we might write to you about the employment figures because one of the things which is rather puzzling is getting accurate employment figures in this industry.

Ms Caine: We do have them.

Q1253 Chairman: Just one very last point on security of employment. Both in films and to a lesser extent in television, but still to a very substantial extent, freelance working is the norm. Is it possible to think in terms of more secure working and a more secure future? Is it a deterrent to people actually joining the industries in the first place?

Ms Caine: In terms of TV, given the current economic climate and in terms of the levels of redundancies that are taking place and the reshaping of the industry that is taking place, whether or not it would be preferable to have more security, I do not see that happening. That is the first thing. The second thing is whether it is a deterrent. Increasingly—and I think that particularly in times of recession—the precariousness of employment in an environment where people are now much more inherently cautious will be something that they do take into account. It is no surprise if you look at the statistics on women in the industry that most of them disappear after about 40.

Baroness Bonham-Carter of Yarnbury: Before that. When they have their first child usually.

Ms Caine: If you are wanting to attract the brightest and the best then it is not necessarily the most attractive way of employing people.

Chairman: You have been very good and given us some very excellent evidence. I think there are quite a number of things that we will want to follow up with you on that, but thank you very much for coming this morning.

Memorandum by Film and Television Freelance Training (FT2)

FT2 was set up in 1985 by employer bodies and unions in feature film production in response to the film studios going “four walled” and the loss of staff positions and traditional studio-based apprenticeships. It quickly became apparent that for freelance crew to be economically viable they needed to be able to work on TV drama as well as feature films and commercials. FT2’s brief is to provide, on behalf of the film and television industry, apprenticeship-style training preparing production, craft and technical new entrants with the skills, industry knowledge and industry contacts to launch successful freelance careers as assistants in their department. Central to this mission is our equal opportunities policy and our brief to assist the industry improve the diversity of the workforce. We have a good track record of supporting women in technical areas, people from ethnic minority backgrounds and people with disabilities into careers in the film and television industry. Case studies of FT2 graduates can be found on our website www.ft2.org.uk

1. What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

Feature films and television programmes are a key component of the cultural material readily available the British public. People of all ages enjoy cinema visits, DVDs regularly provide entertainment for families and individuals and the television is a daily source of news, information and cultural entertainment. It is vital that more people from diverse backgrounds are supported to enter and progress in the industry. What appears on the screen is influenced by the people behind the camera and it is important in a multi-cultural society that talent from all sections of the community is encouraged and developed.

5. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

Freelance employment and companies being formed for a particular project and then disbanded pose particular challenges to the development of skills and talent in this sector. The current stop-start pilot based approach to public funding support for training is also an issue. For the sector to be healthy we believe a constant drip feeding of new talent across all departments is required. Quality training employing industry practitioner trainers and using industry standard equipment is expensive. Public funding is too often geared to a throughput of large numbers of young people at minimum per capita costs. There is a danger that this approach will raise expectations that cannot then be translated into jobs.
Memorandum by the National Film and Television School

INTRODUCTION

The House of Lords Select Committee on Communications inquiry into UK originated content in film and television’s main focus is on how the audiovisual industries support the UK economy, create jobs and promote UK culture and talent. The National Film and Television School (NFTS) is at the heart of training the content makers of tomorrow’s audiovisual industries and we therefore believe that it is important for the Committee to consider a sustainable funding model for the NFTS as part of its investigation into the British film and television industries’ future. In our submission, we address the following points for which the Committee requested evidence:

1. Contribution of UK film and television industry to the UK economy and how this contribution can be enhanced.
2. Implications for UK originated content of the current financial pressures on public services broadcasters
3. Conduciveness of current UK business infrastructure to the acquisition of the managerial and technical skills required by the film and television industry

1. CONTRIBUTION OF UK FILM AND TELEVISION INDUSTRY TO THE UK ECONOMY AND HOW THIS CONTRIBUTION CAN BE ENHANCED

The creative economy as a whole contributes 7.3% to the overall GDP of the UK economy of which over 70%—or 5.6% of total UK output—is contributed by the media industries (Creative Britain: New Talents for the New Economy, 2008). The creative industries have been identified as one of the sectors of strategic importance for UK economic future growth by the Government (Guardian, 26 January 2009 and Digital Britain Report 2009) and have grown at twice the rate of the economy over the past decade (Creative Britain). As the London Development Agency’s own figures show the creative economy accounts for £21 billion or 16% of London’s Gross Value Added (GVA) annually and it is the second largest industry after the business services sector (LDA website).

NFTS contribution to the UK film and television Industry

The National Film and Television School is the recognised centre of excellence for the audiovisual industries, one of the world’s leading film and television schools and at the heart of training the next generation of audiovisual content creators. The NFTS is by far the most successful provider of talent and technical skills to the UK audiovisual industry. The future of the film and broadcasting industry depends on a well-trained and entrepreneurial workforce with high value, globally competitive skills which can take the film and television industry into a digital future. The fact, that in the last two and a half years alone, NFTS graduates have been nominated for nine Oscars and multiple BAFTAs (see Appendix A), as well as had over 3,800 credits in over 2,200 shows broadcast on BBC, ITV and Channel 4 is evidence of the leading role NFTS graduates play in creating content for the audiovisual industry.

The NFTS turns talent not only into jobs but into success. In 2008, 16 shows with key graduate involvement were nominated for a BAFTA with 29 individual credits, out of which eight won. NFTS graduates were also involved on 2,235 television shows broadcast by the BBC, ITV and C4 with over 3,803 credits since January 2007. Moreover, nine shows with graduate credits were nominated for the Royal Television Society Awards. Four feature films with key graduate involvement were nominated for an Oscar in 2008 and two graduates won Oscars.
NFTS graduates are the creators and/or play leading roles in some of the UK’s and indeed the world’s most successful shows and films such as the *Harry Potter films*, *Life on Mars* and *CSI*.

Here is just a small selection of films and television shows which have had international success and were also sold internationally, making an enormous contribution to the UK economy:

<table>
<thead>
<tr>
<th>Film/Show</th>
<th>Director</th>
<th>Gross (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Harry Potter and the Order of the Phoenix</em></td>
<td>David Yates, Director</td>
<td>$938,212,738</td>
</tr>
<tr>
<td><em>Star Wars Episode III</em></td>
<td>David Tattersall, Director of Photography</td>
<td>$848,754,768</td>
</tr>
<tr>
<td><em>Star Wars Episode II</em></td>
<td>David Tattersall, Director of Photography</td>
<td>$649,398,328</td>
</tr>
<tr>
<td><em>Casino Royale</em></td>
<td>Steve Lawrence, Art Director</td>
<td>$594,239,066</td>
</tr>
<tr>
<td><em>Bridget Jones—The Edge of Reason</em></td>
<td>Beeban Kidron, Director</td>
<td>$262,520,724</td>
</tr>
<tr>
<td><em>Wallace and Gromit—Curse of the Were-Rabbit</em></td>
<td>Nick Park</td>
<td>$192,610,372</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$3,485,735,996</td>
</tr>
</tbody>
</table>

Figures are Lifetime Gross from Box Office Mojo (owned by IMDB)

For other key shows which have been sold internationally, please refer to Appendix C.

2. **Implications for UK Originated Content of the Current Financial Pressures on Public Services Broadcasters (PSBs)**

*Financial Impact on NFTS*

The current financial pressures on public services broadcasters have already had a direct impact on the National Film and Television School. Broadcasters, who are currently under no formal obligation to fund the School but until recently contributed close to 20% towards the School’s core funding for training future content creators, have cut or altogether cancelled their contributions dramatically. Consequently, NFTS core funding and survival is severely threatened.

The NFTS has 13 core funders where most similar educational institutions have one (Higher Education Funding Council England-HEFCE) or two. The NFTS receives just over 50% of statutory and lottery funding via DCMS and Skillset. A further 20% of core funding is provided by seven broadcasters and the remaining 30% of income is derived from 15% in fees, 4% HEFCE funding and income from other sources such as fundraising. In the last three months NFTS lost its funding from ITV, Channel 5 and Discovery. Sky and Channel 4 have had to reduce their funding. In total cuts to date have amounted to over £500,000.

Naturally, the NFTS was prepared for this eventuality for some time and tried to secure more funding from HEFCE to cover the shortfall caused by these predictable cuts from broadcasters (excepting the BBC). However, HEFCE has advised that it will not be able to provide additional funding to the NFTS due to the government’s severe underestimate in the number of undergraduates taking up university places in the UK. As a result, HEFCE has been forced to cut the number of co-industry funded places, the scheme under which NFTS applied, from 40,000 to 10,000 and is not able to provide additional funding to NFTS.

It is important to note, that the PSBs are currently under no specific compulsion to fund the School as part of their obligations to fund training and develop new talent. A new funding model is therefore urgently required for the National Film and Television School, if it is to survive into 2010 and beyond as one of the world’s premiere Film, Television and new media Schools.

*NFTS proposal for a new funding model*

In order to ensure that the NFTS is able to carry out its pivotal role of training and educating the next generation of behind-the-camera talent for Britain’s digital future with high value globally competitive skills, we are asking government and the industry to cooperate in developing and providing a new funding model for the NFTS. We would like to ask government and the industry to make the following recommendations and/or provisions:

1. NFTS’ core funders to be reduced in number from 13 co-funders to just four who bear the responsibility for funding the National Film and Television School
2. These would include
   - all broadcasters with PSB status. A legal obligation to directly provide an agreed amount of funding to the NFTS should be included in their PSB obligations.
   - DCMS (as present)
   - UKFC/Skillset (as present and at the same level)
   - HEFCE or DIUS direct (increased contribution towards core running costs)
3. Conduciveness of Current UK Business Infrastructure to the Acquisition of the Managerial and Technical Skills required by the Film and Television Industry

We cannot give you a direct assessment of the conduciveness of current UK business infrastructure with regards to the acquisition of the managerial and technical skills required by the film and television industry. However, our unrivalled links with Industry partners in training future talent and skills assessment surveys conducted by Skillset have identified a number of challenges the UK media work force faces and the training gaps and requirements which arise from the technological challenges of the digital age.

Training needs for the Digital Age

Digital content is produced and distributed through an ever increasing range of platforms and technologies. This change is affecting virtually every role in the media and accelerates the need for staff and freelancers to regularly update their skills. High Definition (HD) TV and interactive TV (iTV) are having a major impact on mainstream production and services. The UK leads the way alongside the US and Japan in digital television as a major distribution platform, as well as through internet and mobile technologies.

These rapidly changing technologies will continue to increase demand for extensive technical skills including software development and applications, digital technology and broadcasting, as well as computer generated processes. The following specific training needs and skills shortages were identified by the Sector Skills Agreement for the Creative Media Industries published by Skillset 2008: Demand for individuals with skills in programme innovation, deal structuring, cross-media ownership, intellectual properties (IP) issues and scheduling skills who can operate fluently across different platforms. Specific technical expertise such as shooting on HD and Managing Tapeless Workflows, Shooting and Editing Digital Media and IP across platforms are fundamental skills needed in this changing climate.

NFTS Career Professional Development Provision

The NFTS is already plugging this gap and responding to the training needs identified above through its Short Course Unit and its plans for a Digital Village. Our Short Courses Unit serves the Industry as a whole by providing over 70 short-courses each year to more than 500 industry professionals who require training on pioneering new technologies. One quarter of the courses offered by the NFTS Short Course Unit are specifically targeted at new digital media skills but all of the courses incorporate some enhanced digital content. In addition, there are a range of management/leadership courses which directly address the demands of broadcasters.

NFTS Bridges to Industry Programme

We also work closely with our industry partners through our Bridges to Industry programme. We have joint projects with the BBC films and factual entertainment, Channel 4, Curzon Cinemas, Vertigo Films, Toshiba Corporation, and Sky. In addition, our students are involved in producing over 150 films and shows each year while at the NFTS. They are also offered the opportunity to make and learn from making commercials, music videos and feature length micro films, virals and digital content.

Indeed our objectives are different from others. We look to our graduates to not simply find employment but more importantly to create jobs in the creative economy. Each time one of our graduates creates a show or a film, they create jobs in the creative economy. Over 88% of all our graduates are actively working in the industry and related fields. NFTS is instrumental in addressing current skills shortages behind the camera by training all students on cutting-edge technical equipment in film and television studios which are comparable to industry standards.

The NFTS Digital Village: A national resource for the digital age

We plan on ensuring that the NFTS remains a national centre of excellence into the future by providing state-of-the-art training facilities for NFTS students and the industry through the development of our Digital Village. The Digital Village will create a central “digital hub” for server-based production accessible internationally as well as allowing digital access to library and other film training resources for research, training and education. It will also allow us to provide future proofed facilities to service a tapeless environment, and exploit current potential of the digital revolution fully. The Digital Village will be open to the industry to serve as a research and development centre for digital technology, introducing our students to the latest innovations while providing an industry standard testing ground. The refurbishment of the main film studio will be a part of this with a more flexible, multi-use space for lectures and conferences, as well as upgrading equipment with digital and wide-screen technology.
CONCLUSION
As the above evidence demonstrates, NFTS is at the heart of training the future content creators for the audiovisual industries.

— It is already responding to the technological challenges posed by the digital age by equipping its students and media professionals with the new technical and business management skills required, through its curriculum and CPD courses.

— The financial pressure experienced by the broadcasters has had an immediate and drastic impact on the core funding situation of the NFTS and its ability to train the next generation of talent.

— Consequently, we would like the House of Lords Select Committee on Communications to consider, recommend and make provisions for the NFTS to receive a new funding model which would be based on four core funders as outlined above.

All of the above and Appendix A listing BAFTA TV nominations for 2008 and 2009 with NFTS graduate credits, plus Appendix B listing credits for the weekend of submission of this report, demonstrate that NFTS is at the heart of training the next generation of behind-the-camera talent generating high quality UK originated content for all UK broadcasters, filmmakers and broadband content. For all the above reasons, we would like the Committee to include an obligation for the government and the Industry to jointly fund the NFTS.

APPENDIX A

BAFTA TELEVISION NOMINATIONS WITH NFTS GRADUATE CREDITS IN 2008 AND 2009

BAFTA NOMINATIONS 2008

Best Single Drama
— Boy A Editor Lucia Zucchetti
— Coming Down the Mountain Composer Rob Lane

Best Drama Series
— Life on Mars (Series II) Co-Writer/Co-Creator Ashley Pharoah; DoPs Balazs Bolygo & Tim Palmer; Online Editor James Osborne
— Rome Art Director Dominic Hyman
— Skins Director [2 Episodes] Minkie Spiro
— The Street (Series II) Title Music Composer Rob Lane

Best Drama Serial
— Britz Rerecording Mixer Stuart Hilliker
— Best Continuing Drama
  The Bill Co-Directors Roberto Bangura, Kim Flitcroft, Ben Morris, Jan Bauer, Chris King & Diana Patrick; Co-Writer Nick Martin
  Holby City Co-Directors Fraser MacDonald, Chris King; Co-Editors Riaz Meer & Alastair Reid
— Best Factual Series
  Paul Merton in China Composer Rohan Stevenson; Co-Editor Doug Bryson
  Tribe Producer/Director/Camera Wayne Derrick
— Best Single Documentary
  The Lie of the Land Producer/Director Molly Dineen; Associate Producer Mark Frith
— Best Comedy Programme
  Fonejacker Animation Direction “Talented Mouse” Sequences Leigh Hodgkinson
— Best Situation Comedy
  The IT Crowd Production Designer Dennis De Groot
BAFTA Nominations 2009

Best Single Drama

_Einstein and Eddington_ Co-Producer Ildiko Kemeny; Sound Assistant Tawa Durowoju
_The Shooting of Thomas Hurndall_ Rerecording Mixer Stuart Hilliker
_White Girl_ Editor Una Ni Dhonghaile; Rerecording Mixer Sven Taits

Best Drama Series

_Doctor Who_ Director [2 Episodes] Douglas Mackinnon; Orchestrator/Conductor Ben Foster
_Shameless_ Director [2 Episodes] Fraser MacDonald; DoP Gavin Struthers

Best Drama Serial

_Criminal Justice_ Sound Mixer William Quinn; Sound Assistant Joanna Andrews
_Dead Set_ Director Yann Demange

Best Continuing Drama

_The Bill_ Directors Roberto Bangura, Diana Patrick & Gill Wilkinson
_Casualty_ Directors Fraser MacDonald; Suri Krishnamma; Roberto Bangura; Chris King & Diana Patrick

Best Current Affairs

_Saving Africa’s Witch Children_ Co-Producer/Co-Director Joost Van Der Valk

Best Comedy Programme

_Harry and Paul_ Director Sandy Johnson
_That Mitchell and Webb Look_ Production Designer Dennis De Groot

The work of NFTS graduates has also had major success internationally. At last year’s International Emmy Awards, projects with graduate involvement met with success in three categories… winner in the Children & Young People category was the Aardman series _Shaun the Sheep_ (Co-Devised by Alison Snowden & David Fine; Co-Executive producer Nick Park; Co-Animator Gareth Love) whilst winner of Best Comedy was _The I.T. Crowd_ (Designer Dennis De Groot)… series II of _Life on Mars_ (Co-Writer/Co-Creator Ashley Pharoah; DoPs Balazs Bolygo & Tim Palmer; Online Editor James Osborne) took the prize for Best Drama Series.

APPENDIX B

A TYPICAL RECENT WEEKEND OF UK BROADCASTS SHOWING NFTS GRADUATE CONTRIBUTIONS IN BOLD

TV Listings: Terrestrial/Satellite

(N.B. This list is not exhaustive and is based primarily on published information)

Saturday 21 March

<table>
<thead>
<tr>
<th>Channel</th>
<th>Time (GMT)</th>
<th>Program</th>
<th>Contributors</th>
</tr>
</thead>
<tbody>
<tr>
<td>ITV1</td>
<td>13.40–15.45</td>
<td>Inspector Morse: The Remorseful Day Editor Jamie McCooan; Camera Operator Steve Alcorn (rpt)</td>
<td></td>
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<tr>
<td>CH4</td>
<td>20.00–21.00</td>
<td>Grand Designs Series Producer Madeleine Hall; Composer Jon Wygens [new student] (rpt)</td>
<td></td>
</tr>
<tr>
<td>Sky Comedy</td>
<td>20.00–21.45</td>
<td>Run Fatboy Run DoP Richard Greatrex; Rerecording Mixer Stuart Hilliker; Digital Compositor Dan Pearce</td>
<td></td>
</tr>
<tr>
<td>Modern Greats</td>
<td>20.00–22.00</td>
<td>O Brother, Where Art Thou? DoP Roger Deakins</td>
<td></td>
</tr>
<tr>
<td>Sky Family</td>
<td>20.00–22.20</td>
<td>Harry Potter and the Order of the Phoenix Director David Yates; Sound Mixer Stuart Wilson; Model Unit DoP Nigel Stone; Specialist Researcher Celia Barnett; Assistant to David Yates Jamie Wolpert; Digital Compositors Paul Bellany &amp; Dan Snape; Draughtsman Gary Jopling; Draughtsman/Stand-By Art Director Stephen Swain; Orchestrator Bradley Miles</td>
<td></td>
</tr>
<tr>
<td>ITV1</td>
<td>21.00–23.20</td>
<td>Notting Hill Composer Trevor Jones</td>
<td></td>
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<tr>
<td>Film4</td>
<td>21.00–23.35</td>
<td>A Knight’s Tale DoP Richard Greatrex; Model Photography Nigel Stone</td>
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APPENDIX C

A SMALL SELECTION OF TV SHOWS WITH NFTS GRADUATE CREDITS WHICH HAVE BEEN SOLD INTERNATIONALLY AND MANY WORLDWIDE

— Creature Comforts (Writer/Director/Producer—Nick Park, Animator—Gareth Love)
— A Grand Day out With Wallace and Gromit (Writer/Director/Producer—Nick Park, Composer—Julian Nott, Sound—Danny Hambrook, Adrian Rhodes)
— Wallace and Gromit in the Wrong Trousers (Writer/Director/Producer—Nick Park, Composer—Julian Nott, Sound—Adrian Rhodes)
— Wallace and Gromit in a Close Shave (Writer/Director/Producer—Nick Park, Composer—Julian Nott, Sound—Adrian Rhodes)
— Wallace and Gromit in a Matter of Loaf and Death (Writer/Director/Producer—Nick Park, Composer—Julian Nott, Sound—Adrian Rhodes)
— The Bill (176 credits in total)
— Holby City (57 Credits including Director, Writer, Cinematographer)
— Life on Mars (Co-creator/Co-writer—Ashley Pharoah, Director—John McKay, Cinematographers—Tim Palmer, Adam Suschitzky, Balazs Bolygo)
— CSI (Executive Producer/Director—Danny Cannon, Director—Robert Bailey)
— Shameless (Director—Fraser MacDonald, Writer, 2nd Series—Amanda Coe, Cinematographers—Gavin Struthers, Peter Butler)
— Skins (Director—Minkie Spiro)

CH4 21.00–23.40 Gosford Park Researcher Celia Barnett
BBC3 21.05–23.05 Interview With the Vampire Co-Editor Joke Van Wijk
BBC2 22.45–00.15 Trauma Sound Designer/Supervising Sound Editor Paul Davies
Sky Drama 22.45–01.00 Becoming Jane Visual Effects Producer Ben Lock
Sci-Fi/Horror 23.25–01.10 I Still Know What You Did Last Summer Director Danny Cannon
CH4 23.40–01.55 Courage Under Fire DoP Roger Deakins

Sunday 22 March

Sky Premiere 00.00–01.30 Three and Out DoP Richard Greatrex; Composer Trevor Jones; Rerecording Mixer Adrian Rhodes; Online Editor James Osborne

FIVE 06.10–06.20 Little Princess Director Edward Foster; Editor Richard Overall; Composer Bradley Miles; Sound Barnaby Templer & Jake Roberts (rpt—and Monday-Friday at 07.15)

FIVE 06.20–06.30 Peppa Pig Director/Designer/Co-Creator Mark Baker; Sound Design/Edit/Mix Jake Roberts & Barnaby Templer (rpt—and Monday-Friday at 08.15)

Modern Greats 18.10–20.00 We’re No Angels Editor Joke Van Wijk

ITV3 19.00–21.00 Persuasion Composer Martin Phipps; Rerecording Mixer Adrian Rhodes (rpt)

Sky Family 20.00–22.15 Stardust Digital Compositors Paul Bellany & Daniel Snape; Rerecording Mixer Sven Taits; Junior Draughtsman Will Coubrough; Art Department Assistant Louise Begbie; Composer’s Production Assistant Natalie Holt

BBC1 21.00–22.00 The No. 1 Ladies’ Detective Agency Part 2 Dialogue Editor/Supervising Sound Editor Simon Chase

ITV1 21.00–23.00 Lewis Series III: Allegory of Love Director Bill Anderson

Action/Thriller 21.00–23.00 The Bourne Ultimatum Digital Compositors Paul Bellany & Daniel Snape

CH4 22.15–00.15 Elizabeth: The Golden Age 2nd Unit Photography David Katznelson

Sky Drama 22.45–01.00 Becoming Jane Visual Effects Producer Ben Lock

Sky Indie 23.45–01.50 Fear and Loathing in Las Vegas Digital FX Tim Ollive
— Bleakhouse (Cinematographer—Kieran McGuigan)Larkrise to Candleford (Composer—Julian Nott, Cinematographers—Balazs Bolygo, David Schwartz)
— Jane Eyre (Writer—Sandy Welch, Composer—Robert Lane)
— Doc Martin (Director—Ben Bolt)
— Midsomer Murders (Writer—Nick Martin, Editor—Samantha Winter, Sound—Ron Bailey)
— Secret Diary of a Call Girl (Directors—Yann Demange, Fraser MacDonald, Cinematographer—Gavin Struthers, Production Designer—Greg Shaw)
— Merlin (Composers—Rohan Steventson, Robert Lane, Miguel D’Oliveira, Director—David Moore)
— Wild at Heart (Co-creator/Writer—Ashley Pharoah)
— Where the Heart is (Co-creator/Writer—Ashley Pharoah, Directors—Jan Sargeant, Chris King, Diana Patrick)
— Dead Set (Director—Yann Demange)
— Sex Traffic (Director—David Yates)
— The Street (Composer—Robert Lane)
— Charlie and Lola (Editor—Yulia Martynova, Art Director—Leigh Hodgkinson)
— Peppa Pig (Co-creator/Director—Mark Baker, Sound—Jacob Roberts, Barnaby Templer)
— The Little Princess (Director—Ed Foster, Editor—Richard Overall, Composer—Bradley Miles, Sound—Jacob Roberts, Barnaby Templer)

Examination of Witnesses
Witnesses: Mr DOMINIC DAVENPORT, CEO, Escape Studios; Ms SHARON GOODE, Director, Film and Television Freelance Training; Mr TERRY ILOTT, Director, Film Business Academy; and Mr MICHAEL KUHN, Chairman, the National Film and Television School, examined.

Q1254 Chairman: Let us begin. Thank you very much for coming. Michael Kuhn, you know what we are about because you have been here before. Your other three colleagues have not been here before but basically what we are about is looking at the film and television industries to see what proposals and suggestions there are to improve the industry and the way that the Government can take any action, if any action is available to them. Obviously training is one of the most important areas for any industry. Before we begin, because we have a bewildering range of talent in front of us, could you just say in a few words what your organisation does so that we can categorise you. Shall we begin with Mr Ilott

Mr Ilott: Thank you, Lord Chairman. I am Director of the Film Business Academy at the Cass Business School. Cass is the business school of City University. The Film Business Academy has been going for about three years. It is still in the pilot phase.

Q1255 Chairman: And you are business orientated?

Mr Ilott: It is totally business.

Q1256 Chairman: Ms Goode?

Ms Goode: I am Director of FT2 Film and Television Freelance Training which was set up in 1985 initially by the film industry to provide apprenticeship-style new entry training in junior technical production and craft areas, in response to the growth of the freelance sector and the loss of traditional in-studio apprenticeship routes. We cover both film and television.

Q1257 Chairman: And you specialise very much in freelance?

Ms Goode: In freelance and we are a not-for-profit training organisation and a registered charity.

Q1258 Chairman: Mr Davenport?

Mr Davenport: I am CEO of a company called Escape Studios and we are a finishing school for the visual effects industry in this country. We provide a bridge between what goes on in academia and what goes on in industry.

Q1259 Chairman: We were hearing in the previous evidence about special effects and I would imagine special effects and visual effects are the same thing.

Mr Davenport: One is real and one is generated by a computer so not exactly.

Q1260 Chairman: Do you get into both or not?

Mr Davenport: No, it is all computer generated. Everything we do is what is known as computer graphics (CGI).
Q1261 Chairman: That helps me if no-one else. Doubtless everyone else understood that distinction. How long have you been going?
Mr Davenport: Since 2002.

Q1262 Chairman: Michael Kuhn?
Mr Kuhn: I am sorry I am here again!

Q1263 Chairman: You are very welcome. We are on every Wednesday morning.
Mr Kuhn: I am standing in for Nik Powell, the Director of the National Film and Television School, which is the best film school in the world. We have about 200 students in 13 disciplines and we do television and film training for post-graduates.

Q1264 Chairman: And you are a school. Tell me more about how it is organised?
Mr Kuhn: We are based in Beaconsfield in an old studio and we have 13 disciplines covering all sort of things like directing and screen writing and producing and cinematography, but also editing, sound design, special and visual effects, digital post-production and all that stuff. The two main industries we service are the film industry and the television industry and unlike most training courses our graduates whiz straight into work and straight into creative businesses for work. So we are not like someone who is doing an academic course which has no practical application, studying cinema in the 19th century or something like that. This is hands-on, bang out to their area and you are making The Bill or working on Harry Potter.

Q1265 Chairman: How long do the students stay with you, so to speak?
Mr Kuhn: In theory it is two years.

Q1266 Chairman: In theory?
Mr Kuhn: One of our first students was Nick Park of Wallace & Gromit fame who was notoriously there for seven years, illegally, but two years is the formal training.

Q1267 Chairman: And if I were a student would I pay for myself?
Mr Kuhn: Yes.

Q1268 Chairman: So that means you cut off quite a lot of people potentially?
Mr Kuhn: Potentially except we hand out £500,000 a year of scholarships both for fees and for living expenses. That is one of the things we are going to come on and talk about. The only reason that I and many of the other governors are involved is because we do not want to be involved in a school which is for rich middle-class children to do something while they think what their career should be. It never has been that sort of school. It has always been open to talent irrespective of means, and we want to maintain that.

Q1269 Chairman: What age do your people come in?
Mr Kuhn: The average age is 26.

Q1270 Chairman: So they are post-graduate probably?
Mr Kuhn: Yes. I am not entirely up-to-date, but roughly they arrive with £10,000 or £11,000 of student debt from their undergraduate days.

Q1271 Chairman: And you add to it?
Mr Kuhn: We add to it but we try to add as little as we can. That is part of the deal.

Lord Gordon of Strathblane: Can I chip in one point on the funding bit.

Q1272 Chairman: Can we come to that in a moment. Let us just get the introductions done. Mr Davenport, just tell us a little more about you.
Mr Davenport: My background is I came out of the visual effects industry myself and I was an animator and visual effects artist. I worked in that region for about six years. I set up the school because of my career path. I had come out of studying fine art at Chelsea and tried to get into the industry, and it was almost impossible unless you had done one or two degrees to get into the industry, so there was an obvious opportunity. I raised the finance and started a business. It was a very small school. We have grown over the years and we are now teaching about 500 people from all over the world who come to us because we are a centre of excellence and we have expertise and experience that represents what is going on currently in the industry. I think that is the reason we exist really because the majority of universities in this country are not able to keep pace with the advancements in technology and the way in which production techniques and workflow are changing on a weekly or monthly basis. So we act as a route for a lot of people who come off the back of degree courses with no chance of getting a job and accelerate their learning and push them into an industry with dedicated recruitment teams and partners in the industry. We work with all of the major players across the visual effects industry to build what they want at the right time with the right skill-set.

Q1273 Lord Gordon of Strathblane: Can you guarantee jobs at the end of the day?
Mr Davenport: No because we are a privately owned company. We have help from Skillset but other than that we have to charge for our courses to exist and therefore we have to take all-comers.
Q1274 Lord Gordon of Strathblane: What is your success rate?
Mr Davenport: I would say that out of the people who come to us who want to get a job rather than just doing it as a hobby we probably place 80 per cent of those people in careers and that is across film and television.

Q1275 Chairman: Ms Goode, tell us a little more about yourself in the same terms.
Ms Goode: We recruit people. We do not look for any formal qualifications. Having said that, 80 per cent of the people that apply to us have already got degrees, often in vocational film and television at BA level. We are equally interested, if not more interested, in trying to get people 18 plus to work on certificate 18 material, who have maybe done City & Guilds sound engineering or perhaps have come through one of the independent training providers, who are community-based and who access people from diverse backgrounds. Right from the beginning we have had a very strong remit from the industry to help improve the diversity of the workforce.

Q1276 Chairman: Thank you. Everyone says that there is a great shortage of business skills particularly in the film industry. Is that your impression?
Mr Ilott: Yes certainly. The Film Business Academy was started by Skillset. Kate and Dinah, to whom you have just been listening, were very instrumental in that, the perception being that there was a huge dearth of business skills in the industry. So the Film Business Academy runs a film strip on our executive MBA programme at Cass, which is a world-ranked programme. We run a film strip on our executive management programme. We run various short courses. We are planning to introduce a postgraduate diploma in the Master programme to make rather more vocational business education available. Our courses are very expensive. The MBA is £39,000 and it is two years part-time.

Q1277 Chairman: Who pays for that?
Mr Ilott: So far of the students we have had they pay roughly 50 per cent of the fees out of their own pocket and the other 50 per cent is a combination of Skillset bursary funding and arrangements with Cass, because Cass has a very special deal for film industry students. Roughly across the piece it is about 50 per cent.

Q1278 Chairman: So you have got to be pretty dedicated or pretty rich?
Mr Ilott: Extraordinarily dedicated. The MBA students are themselves in employment. Their average age is probably 34. They are in the film or television business mostly. There are a couple of people from radio and outside but they are already working in the business. They have got a lot of business experience in film and, yes, they are extremely dedicated.

Q1279 Lord Maxton: Do their firms pay for it?
Mr Ilott: I think out of the film cohort probably only one. In other cohorts we have more sponsorship.
Chairman: I suspect that we are going to find it quite difficult to get common replies from you all but we will try and get some strands anyway. Lord Inglewood?

Q1280 Lord Inglewood: What I would like to do is to ask each of you to slightly elaborate on some of the points you have made already. If I could start with Michael Kuhn. You have explained that those who study at the National Film and Television School pay and you provide bursaries, so presumably all is on an even keel for as long as (a) enough people want to come and (b) the bursaries cover those who cannot afford it themselves. Is that the sort of model which it is based on?
Mr Kuhn: As usual with anything in this country, it is an incredible hodgepodge. Originally we were funded by the Eady Fund which David Puttnam was talking about. Last year we had 13 different funders. You can imagine that servicing those funders is quite tricky and that is what the school has to deal with, but the bulk, 40 per cent, comes from the DCMS. Then we raise about 13 per cent ourselves and between us and Skillset and then we get about 16 per cent from fees from the students. It is a whole hodgepodge of things. Also I should mention that like most of the higher and further education industry the international students, ie non-EU students, pay more than the domestic students. I think that is widespread across the higher and further education landscape. We see it as our major objective to try and not allow means alone to stop people coming.

Q1281 Lord Inglewood: But given the various funding streams and so on, it must be a bit of a worry with the world’s economy in its current state?
Mr Kuhn: It is a big worry and like all these bodies you spend your time trying to break even, which we have managed to do in the seven years that I have been there, but it is going to be incredibly difficult going forward. We want to build on our success. For example, we would like to expand into the games industry and be a centre of excellence like we are in film and television for games. We do not really have a centre of excellence for that in this country. One of the points I would make is that government has to start prioritising things in the funding of higher and further education. It cannot be that they do not take an interest and say we do think that film and television and games is a really high priority. We need to find the money, whether it is out of HEFCE, out
of Skillset, the Lottery, or any of the various funding bodies to give them the money they need. We already are very self-sufficient—we have built a new building for £8 million without any government money, we have doubled our student numbers, we have raised our student fees—and we do not look for handouts, but I think there comes a point where you have to say if we are a priority (which I believe we are) the Government has to find a way of supplying the funds. We are not talking large sums of money. We are talking about a few hundred thousand pounds to put us on an even keel and that is really important.

Q1282 Lord Inglewood: Mr Davenport, you are obviously set up differently. I understand that it is a private organisation and again your income is derived from the fees you charge.
Mr Davenport: Absolutely.

Q1283 Lord Inglewood: If for whatever reason the market will not generate fees then your business is under stress.
Mr Davenport: Yes, I suppose, in direct response to that, the number of people who are applying to come on courses with us has gone up because we have seen a dramatic increase in the volume of people who are looking to get jobs specifically in the visual effects industry. Because of the tax breaks in this country and because of the volume of work that is coming in because of the dollar being so strong, a large number of films where the post-production would not ordinarily have been done in the UK are now happening here and that is driving a need for a large number of people to enter that industry. Companies within the visual effects industry are looking to America and to Europe and to Asia to find alternatives because the talent is not here.

Q1284 Lord Inglewood: Do you offer scholarships?
Mr Davenport: We are not able to. We offer some ourselves on an ad hoc basis to people we think really deserve it and we do not charge them anything but we also work with Skillset and some of our courses have been fully funded by them.

Q1285 Lord Inglewood: Are employers sending people to you?
Mr Davenport: No.

Q1286 Lord Inglewood: It is below that?
Mr Davenport: We are providing people for them, absolutely, but also in response to the worry about smaller fees, we have generated an on-line version of the school which allows people across the country and outside of the UK to access the skills and the expertise that we have through the internet.

Q1287 Lord Inglewood: Do they pay for that?
Mr Davenport: You pay for that as well but obviously it is a lower cost of entry.

Q1288 Lord Inglewood: If I could move on to Ms Goode.
Ms Goode: We do not charge fees. We actually pay the trainees a training allowance of £230 a week to enable them to live in London. We are targeting people who could not afford to support themselves.

Q1289 Lord Inglewood: Where does the £230 come from?
Ms Goode: At the moment all of the funding is from the industry. The majority is through Skillset’s TV Freelance and Film Skills Fund. We have 29 trainees on a 44-week programme at the moment which costs around £25,000. £20,000 is through Skillset and the other £5,000 is from either direct contributions from production companies or in-kind industry support.

Q1290 Lord Inglewood: Do you anticipate this state of affairs continuing? I know Skillset is sitting behind you.
Ms Goode: It has shrunk. Five years ago we had what was known in the industry as the Rolls-Royce model which was a two-year all-singing all-dancing course. That cost between £40,000 and £50,000 a person. We have shrunk this year to 44 weeks and I think it will be shorter next time, which does give us concerns in terms of hitting our diversity targets because there is always that tendency that you recruit people at higher levels if it is a shorter scheme and we really do want to keep our remit open for people with less experience and fewer contacts.

Q1291 Lord Inglewood: I sense from the nuance of what you are saying that actually you are concerned?
Ms Goode: Put it this way: our scheme ends at the end of July and as of today I have got no funding from August. We will be going into reserves. That is an ongoing problem. Five years ago and before that we were always very successful in using the industry funding to draw down public matched funding. We had a big ESF national project, we had lots of projects through GOL and we had small projects through LSE co-financing. More and more that became narrowed in terms of the criteria of those funding bodies and the sorts of people we could recruit. It is targeted at people furthest away from the labour market with no qualifications. Most of the people that come to us to be trained as freelance need

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1 Government Office for London
to be a stage further than that. They need to be focused. A lot of them are higher educated. We do not look for it but they are. The people that the industry recruits do not fit that very tight remit.

Q1292 Lord Inglewood: Is it principally a problem of the criteria for those who are seeking matched funding rather than those who might offer matched funding being unwilling to produce it?

Ms Goode: We have never had the problem of industry matched funding. The problem that we are going through is not being able to access the public match.

Q1293 Lord Inglewood: Finally to Mr Ilott, in terms of your customer base it is slightly different I suspect.

Mr Ilott: It is. Our situation is somewhat different because we are a department of a university so it is a very different setup. What I would like to address is the fact that Cass is a research-led business school and the Film Business Academy is going through something of a change to emphasise our own contribution to research, of which we have not done anything, in a structured way. Research-led schools have a completely different economic characteristic to training programmes. It is partly why our fees are so expensive. Part of the change we are going through at the Film Business Academy is to put more emphasis on research because we believe there is a need for it. I was interested to hear the conversation you had earlier with Skillset. I think academia has a lot to contribute towards research so long as it is orientated towards practitioner needs, which I think we can do. The other reason is our teaching, because if it is not derived from original research, quickly becomes teaching yesterday’s models and in the current digital environment yesterday’s models wear out very quickly. It is something we need to do for pedagogical purposes. Part of that is widening the brief of the Film Business Academy to include all the creative industries, which is something we are discussing doing at the present time, to widen what we do. Part of that means widening our funding base. If I can characterise that: the first cohort of MBAs we had who are now just finishing and will graduate this year, when they came on board the MBA programme was £35,000. Cass put in 11, Skillset on average put in 12, and the students on average put in 12. Compared to the NFTS and Michael’s position it is a very simple funding arrangement. Going forward we expect to have far more public sector funders and NESTA and so on, and Skillset’s contribution will be proportionately reduced going forward. I do not think we are hugely anxious either about students coming forward or funding. I think our expectation in terms of volume is relatively modest.

Q1294 Lord Gordon of Strathblane: Could I start off with Mr Kuhn perhaps and the funding problems of the National Film and Television School. You say a new funding model is urgently required. Do I presume that you would impose a compulsory levy on the industry?

Mr Kuhn: I am not a great one for compulsory levies. What I would do is support what is laid out in the Digital Britain report and what I think I overheard earlier on that certainly the public service broadcasters should be compelled to support it. That is much more appropriate than compulsory levies which do not take account of what market circumstances are. Part of the reason why we are in big trouble this year is because, without any notice at all, Channel 5 and ITV withdrew funding to the tune of half a million pounds which is very hard to cope with.

Q1295 Lord Gordon of Strathblane: That is fully understood but for the avoidance of doubt you would have a compulsory levy on ITV since it is called a public service broadcaster?

Mr Kuhn: Is it, I do not know, I am confused!

Q1296 Lord Gordon of Strathblane: If it wishes to continue to derive the benefits of being a public service broadcaster you would have a compulsory levy on it?

Mr Kuhn: Whether you call it a levy or not but anyway an obligation, absolutely yes, because you just have to look at the back of our submission to see every single week the number of programmes that are produced with our graduates. We are effectively their training programme and it cannot be done for free; they should contribute to it. I fully understand that they have got tremendous difficulties because of what is happening in the market-place but either you are in the business or you are not and if you are in the business and you are given a privilege involving a public service remit, then you have an obligation to support training.

Q1297 Lord Gordon of Strathblane: Before coming on to my next question I wonder if I could ask Mr Davenport to elaborate on his on-line courses.

Mr Davenport: We teach a full range of courses that teach the skills that are necessary to enter the visual effects market, the games market, the design and visualisation market and television and commercials market. We have taken those and we have turned them into video content and created a system that provides a social learning environment so that people are studying with mentors and tutors on-line. That system is being bought by universities across the country to supplement their learning experience, because their ability to spend time with the students and give them vocational skills-led training is being
removed, because I suppose they are being pushed toward generating research and the funding that is available to them is more in that place than it is in being able to deliver that kind of skills training.

Q1298 Lord Gordon of Strathblane: Is there any scope for the National Film and Television School to do something of that nature?
Mr Kuhn: We have examined it a lot. It would be easy to set up the technology to do it but the problem arises if you are doing, with a limited number of staff, a very intense, very crammed two-year course. To free them up to do what I think is an essential part of online which is to have one-on-one with the tutors, they just do not have the time. They would have to write the courses, implement them, keep the standards up to a very high level, and it is a matter of priorities and our priorities are our 200 students there for two years of crammed work with people who are practitioners and teachers as well, so that is really what has stopped us getting into that, after a lot of research and thought about it.

Q1299 Lord Gordon of Strathblane: I fully recognise that a centre of excellence like the NFTS is very important for the industry as a whole, but a large part of the cost for a student outside the immediate South East area must be the student accommodation costs of attending courses?
Mr Kuhn: True.

Q1300 Lord Gordon of Strathblane: If you could get that money channelled into providing you with more tutors to do an Open University-style course.
Mr Kuhn: Yes, absolutely, it is all to do with the resources. If we had the resources we could have more staff. We are just looking at our resources now and we are just about keeping our heads above water and to say we will divert staff to do the servicing required is very problematic for us.

Q1301 Lord Gordon of Strathblane: What in the way of modular teaching do you do as well as the full courses which obviously is the main business of the school? Would you provide accreditation for modules provided by individual employers?
Mr Kuhn: We have a short course unit which is very active and one of the best in the country and very popular. They do both individual training to upgrade your skills to whatever you want to upgrade your skills to for the independent sector but we also do bespoke courses. For example, we have done one for Sky for their presentation on the television side. We do a course with them to help them develop presenting skills and news reading skills and all that kind of stuff. We do both in that regard and we have always looked on our short course unit as a very important part of our work of servicing the independent sector which, as you know, is so big in our business.

Q1302 Lord Gordon of Strathblane: How much do you consult with the industry about the structure and content of courses?
Mr Kuhn: A tremendous amount. They are involved in the creation of the courses, in the validation of the courses, in the assessment of the students, in the admissions process. Practically every bit of it is staffed and involves the industry at all kinds of levels, both the business side and the creative side.

Q1303 Lord Gordon of Strathblane: My final point would be that, rather as medical schools only train enough doctors for employment later on, do you have regard to employment opportunities in the number of students you accept?
Mr Kuhn: We probably do not do as great an analysis as we should do, but I would say, generally speaking, in this country when you look at the items you have been looking at—and reverting back to my evidence when I was last here—first of all, Skillset have done a fantastic job of bringing together an overall view and we rely on them for a lot of the information that you were just mentioning. I think their role should be expanded and their resources increased but, having said that, equally important, and even more important to this whole training question, is where are the jobs? I said last time about the Film Council that they must spend more time worrying about where are the jobs and the sustainable industry that we need to have. I was listening to Dominic just a moment ago. Our industry should not be dependent on whether the pound is strong or weak. That is not a good way of setting up an industry. Our industry should be because we have great talent and we have great companies here to hire people and to need people all the time and are strong enough to be able to deal with ups and downs in the exchange rate. That is really what we need. That is really the other side of the coin of training. I think we have made tremendous strides with the help of Skillset thinking about the industrial infrastructure that we have here. In games, films and television it is bad and that is really one of the major issues we have to face.

Q1304 Baroness Howe of Idlicote: Again a general question for you all on the demand for and the supply of relevant business and technical skills. I take the point entirely about the fact that we are in a bad moment at this time but to what extent does that compare with what is happening in other countries? How do we compare in that way?
Mr Davenport: I suppose on my part, in terms of what my company delivers by way of training for the visual effects industry, we are at the very top of what is delivered across the globe. The major problem in this
industry is that the intellectual property is not generated in the UK. It is coming from the States or it is coming from Japan or it is coming from forces outside of the UK so we are not masters of our own destiny. That is deviating slightly but that is what I would like to say about that. An interesting place for delivering these sorts of skills, if you look at France and Germany, if you look to the major studios like Pixar or Dreamworks which are in California in the States, they are extracting students from courses there that are completely funded by the government. There is one school called Supinfocom in France and one called Filmakademie in Germany where they are given probably the best visual effects and animation training available in the world.

Q1305 Chairman: I know you said in Germany but whereabouts in Germany?
Mr Davenport: It is in Baden-Württemberg. Supinfocom is in the South of France. I cannot remember exactly its location. They are completely funded and they are based on generating people who can sustain an industry within that country, even though they are then exported by the likes of Dreamworks and Pixar who obviously see the skills and the expertise that is there and see that it is greater than what is going on in their own country.

Q1306 Baroness Howe of Idlicote: When you said earlier that 80 per cent of the people you train get jobs, you are referring to right across the globe then, are you?
Mr Davenport: Yes.

Q1307 Baroness Howe of Idlicote: Are you saying that compares very favourably?
Mr Davenport: I would say so.
Ms Goode: Our area is very much freelance film and TV drama technical craft areas, and in terms of where Britain stands in the world. The reputation of those crews is still very high. Those crews as individual freelancers are on the whole very committed to training the next generation. The people we train we are putting them in alongside assistant level people and the way that the industry recruits freelance, what is important is what productions they have had experience on and who is training them, and it is that word-of-mouth thing. I think to keep that standard of the reputation of British freelance crews and to continue to be attractive to American productions, it is not a big sector but you need to drip feed across all departments people in at the bottom particularly from diverse backgrounds.

Q1308 Baroness Howe of Idlicote: This applies to you all. Are you really saying, despite the fact we have heard that other countries are really paying for the basic training in these sorts of skills, and you may be building on them, as it were, still you think that we are doing a better job or are you really saying that the Government and others should be doing far more?
Ms Goode: With more money we could all do a much better job. I think there is the commitment within the industry to training but it is very hard to fund. With an industry that is cyclical in production, up and down, you can have a year when very little is in production, and we know what is happening in broadcast, it is cutting back, that is a challenge. It is a challenge in terms of the creative industries and the impact they have on viewers because what we need is high-quality content produced by people from a variety of backgrounds to keep that cultural thing up. I think that needs public support.

Q1309 Baroness Howe of Idlicote: Still what is going through my mind is given that this is such an important area and growth industry etcetera, why is it that other governments are doing it and ours is not if it is so important?
Mr Kuhn: It has to be borne in mind that there is a big distinction between the high-end digital post-production and computer graphics. We started our course a few years ago at the Film School and the first problem was we could not keep the students to finish the course because they were being stolen halfway through the course by the big special effects companies. There is such a demand, it is such a booming thing. You do not have to be an expert to think about computer games. Every ad you see on the TV, films, the computer graphics and special effects side, the high end side is so booming that it is not surprising that it is a world on its own. If you think about the lower end like a crew going out to shoot a documentary (which used to have a bigger crew and now there is almost no crew and so on and so forth) that is a much more tricky area, so it is two worlds.

Q1310 Chairman: We say it is a growth industry but we have some evidence from the UK Film Council which appears to show that since 2001 there has been a really quite appreciable drop in employment inside the industry on film and video production. Is that your impression?
Mr Kuhn: Yes, but then I am saying to you that this bit of it is a different world. There is a bit of it that impacts on film and television but there is a huge amount of high-end post-production digital and special effects which has nothing to do with film and television; it is to do with the games industry, the advertising industry and all kinds of other industries that are nothing to do with the film and television industry.

Q1311 Lord Maxton: And are also international?
Mr Davenport: Yes it is international. It is a global freelance market.
Q1312 Lord Maxton: The skilled people you train, do they go abroad?
Mr Davenport: Yes.

Q1313 Chairman: What do you feel about Baroness Howe of Idlicote’s point on that last question?
Mr Davenport: Do we do this as well as other people?
A private company like mine could not exist if we did not do it well enough. That is what I would say. We are doing something because there is a massive gap in the skills that are being generated by mainstream education. They move too slowly. They are not able to fund things properly. They are not able to attract the level of competence in their tutors to deliver what is necessary. There are probably two universities in this country that do it properly.
Mr Kuhn: It is allied to the industrial base. Last year we ran a course for the Film Council for producers and I was with them in Los Angeles last year. We went in to see Dreamworks Animation in Glendale, who obviously make the big animated features. There were a thousand people coming to work every day there who do nothing but computer-generated animation. If you are in the training side of the business not to have such an entity here is a tremendous disadvantage. I am sure you would agree that to have our school next door to Dreamworks Animation would be such an incredible thing but we do not.

Q1314 Baroness Howe of Idlicote: That perhaps answers some of the points but I wanted to hear from Mr Ilott because, after all, people are going on your courses and maybe they are just doing it for interest but they pay one heck of a lot of money.
Mr Ilott: They certainly do not do it just for interest.
In answer to your original question the Film Business Academy is unique and the evidence in support of that claim is that our students on the MSc management programme have been drawn from 13 countries and overall we have drawn students from 23 countries. On our executive MBA programme we have students flying in from New York on a monthly basis to do the programme. We held an academic conference last week which attracted 32 leading academics from 15 countries in Europe and all over the USA. I think that is because the Film Business Academy idea as an idea is a unique one and it has attracted a lot of global interest. However, the business skills that we teach are mostly generic. There is only a stream on the existing MBA programme because 80 per cent of what you need to learn is generic to business. From that point of view I think we are a long way behind. Business education is far better understood by employees and employers in the USA than it is in the UK and it is far better understood in certain business sectors in the UK than it is in the creative industries. We have a real problem in terms of business education that the industry itself does not have much respect for higher education of any kind and certainly not for post-graduate business education. I would agree with what Michael Kuhn said earlier that if the sector is so important and if, for example, the issues raised by Digital Britain are so important then the resources being put towards this are almost derisory. One of my big criticisms of the Carter Report is that the sums of money involved for training Digital Britain seem to me derisory.

Q1315 Baroness Howe of Idlicote: What you are really saying is that the lessons to be learned have not yet been learned by the people involved. What more could the companies involved in this country be doing? Should they be doing more with contributing towards things like apprenticeships and internships and things like that and how can all of us encourage them to wake up a bit to the competition?
Mr Ilott: If I could answer that on the business side, certainly in the film business most people in positions of authority today got where they are by hard graft, by talent, and by taking enormous risks with their lives, and if that was good enough for them why should everyone else go not through the same.
Unfortunately I do not think that that answer is the right answer. There is a considerable cultural resistance to business education in the industry amongst those people who are in positions of making decisions. That can easily be changed. The example I would give is Universal, which is a major American studio which has a big office in London. When they were acquired by GE Capital, they acquired along with a new owner a whole new attitude to training and staff development. GE puts a lot of emphasis on staff development and all of a sudden Universal are being asked “Where is your staff development plan, what training and education are you providing for your people?” We have a dialogue going with Universal as we have with uCinemas and with others about how we can contribute to their new found enthusiasm for staff development. I do not believe that would happen were it not for the fact that a new company bought them and that new company had a much more developed and sophisticated sense of how to develop and retain staff.

Baroness Howe of Idlicote: So it is really market forces.

Q1316 Lord Maxton: Could I come back to that point I was making about it being international because we have tended to talk about the TV and film industry but the games industry, although it may not be as strong as we would like in this country, does exist and presumably you, Mr Davenport, are training people very much to work in that games industry?
Mr Davenport: Yes.
**Q1317 Lord Maxton:** But they told us you cannot produce a game which you can pay for which is based in this country and only sold in this country.

**Mr Davenport:** No.

**Q1318 Lord Maxton:** In other words, it has to be an international market?

**Mr Davenport:** Yes.

**Q1319 Lord Maxton:** What percentage of your graduates, shall we call them, actually move and work abroad at the end of the course?

**Mr Davenport:** I think there is a question of apprenticeship in the UK and then once they have one or two years’ worth of experience they will disappear, off to the States or other areas like Canada.

**Q1320 Lord Maxton:** They are paying in your case so it does not matter quite as much but if the state were involved in paying then there would be the argument, as there always is with the doctors, why would you train a doctor who is then going to go and work in the States?

**Mr Davenport:** Yes, I think again forces are at work because a lot of the games studios in this country have been acquired by people like Microsoft or large American organisations and they are not in control of their own destiny, so they are also looking at the costs of generating these games because the price of a game has stayed the same but the number of people that are involved in producing them at that level of detail and content has gone up dramatically. So they are looking at staffing resourcing issues and looking to develop in places like China, India and Korea where there are large groups of highly trained but cheaper people to do the grunt work and the intellectual property and the creation of the ideas is all from the UK. So the model is changing, I think. I would imagine you will see only the high-level work for the games industry going on in the UK and the rest being farmed out to cheaper locations.

**Q1321 Lord Maxton:** In the film and TV industries how much of the work that you do in terms of computer generation is beginning to overtake some of the skills that are at present there in the film and television industries? The building of sets is an example. How much can you now generate of a set?

**Mr Davenport:** I would say most of it is being done digitally. Directors are able to fix it in post, so to speak, so they shoot whatever they like and then it all goes to the post-production facility and they are given the job of fixing a lot of the work as well as adding sets and fixing a lot of the problems that they would have ordinarily thought about earlier on and built sets, all that sort of stuff. I can see a shift in emphasis for the industry as a whole.

**Q1322 Lord Inglewood:** This is a question principally for Mr Ilott which is if you look at the business pages of a newspaper you see how great business leaders one day are leading a company that makes milk bottles and the next day leading a company that makes motor cars. Are the people on your courses people who want to be successful business people, who think that the film and digital industries are the places to go, or are they people who are interested in film and want to hone up their business skills in order to become captains of industry? It may be, Mr Kuhn, you will have something to say about that aspect.

**Mr Ilott:** From our point of view it is definitely the latter. If people wanted to be successful in business I do not think they would choose the film industry as their preferred route. Nearly all the people we get on the MBA programme are already in the business. On the MSc programme they want to be in the industry and our short courses are delivered mostly to companies. The people that we are teaching are mostly vocationally oriented and very committed to working in film (film being widely defined).

**Q1323 Chairman:** I am going to ask each of you just one last question. Our only status is to report and to make proposals to government. We can review the whole industry and we can conceivably say interesting things about it but our power is to make proposals to government. What would your number one priorities be? When I say number one priorities, I mean the number one priority of each of you as far as government policy is concerned? Who would like to start?

**Mr Kuhn:** I think it really is a matter of prioritising available funding for training for this sector. At the moment it is not prioritised. Skillset have done a great job and they should be given more money and be encouraged. At the Film School we like to think we have done a good job. We should tell HEFCE they need 500 more a year; give it to them.

**Q1324 Chairman:** We are talking about £500,000?

**Mr Kuhn:** Out of a budget of £7 billion it is not exactly going to break the bank. They are always pleading poverty but every five minutes you get another initiative and they find £20 million here and £8 million there and £12 million there. If they do not have the money the Government should find the money. Thirdly, which is all part of the same thing, it absolutely should be without doubt an obligation on public service broadcasters who are paid for out of the licence fee and public money to bear a large part of the burden of training costs. That is about prioritisation. It just needs someone to take a look at it and say “This is ridiculous, we want this sector to be a mainstay of this country”. We are not talking about huge sums of money and across the board we
should prioritise it to give the resources for this to happen. I would be amazed if anyone on this table did not agree with that simple proposition.

Q1325 Chairman: That is a challenge. Mr Davenport?
Mr Davenport: I would come at it from a different slant. I would say the problem with education in this country is that the majority of organisations involved are not run like businesses. They are not made to take responsibility for the way in which they conduct themselves and think logically and cohesively about the way in which they are generating money to be able to do these things themselves. We have a lot to learn from America from the way in which a lot of their private schools are run. They deliver the very best education across a whole set the fields and people pay for it.

Q1326 Chairman: I assume, although I am not an expect, that the Americans are not overgenerous in federal or state support?
Mr Davenport: No.

Q1327 Chairman: Sharon Goode?
Ms Goode: “Dear Father Christmas . . .” I would like to encourage the public funding organisations to revisit their criteria, both in terms of not allowing people with degrees to get a second bite of the cherry because sometimes they have got the education but what they need is the level two and three craft skills. I would ask them to look at the job output criteria because in the freelance sector it is very hard to be able to promise 13 weeks or more work within 13 weeks of completing a course. They might have a day on a commercial, then a gap, then six weeks on a feature. It is up and down. I think that needs to be broadened. Particularly for independent training providers I would love to see a mechanism where people who are working with the hardest to reach who do not want to go to college can actually access HE funding to support those young people who want vocational skills and not academic skills.

Q1328 Chairman: That point about people with degrees, they might have a degree—and I must be careful what I say—in media studies, for example, but that does not necessarily equip them with practical training although that might be the area they want to go in. What you are saying is that in addition (and it does not have to be media studies, it could be anything) there might be support available for the more practical skills that they are going to need? Is that the point?

Ms Goode: The graduate internship idea of taking people and giving them a reality check in term of access points. It is the assistant skills or the business skills or whatever it is.

Q1329 Chairman: Mr Ilott?
Mr Ilott: I think that the service industries in general and the creative industries in particular, and within the creative industries especially film, are not really taken very seriously at public policy level. Can I quote from a recent paper from the economist Professor Alan Freeman where he says: “Economists tend to react strongly against the idea that the cultural and creative sector is analogous to an industry. They cling to industrial classifications they regard as tried and tested, organised around different types of material production. The cultural and creative sector is seen as a seven-day wonder soon to disappear along with ‘knowledge industries’, ‘bioscience’ and all other such transitory fancies.” He goes on to say: “All basic elements of the economy are being re-shaped: its markets, its industrial structures and its property relations. I venture that the cultural and creative sector is a prototype of this reshaping, a paradigmatic industry which has refined and organised the use of creative labour on a new level, providing a model of organisation which a much wider range of service industries are now following.” Alan Freeman’s paper really addresses the neglect by the academic community of this sector. As I am sure you know, small and medium-sized enterprises constitute 90 per cent of our economy in terms of number of enterprises (not by employment but the majority by employment) and the problem we have with it not being taken sufficiently seriously is that we have suffered a bit from neglect and lack of support, which Michael and others have addressed, but also a lack of demand and a lack of rigour. I think we are allowed to get away with things because we are not properly supported. The latest evidence for that is Stephen Carter’s report on Digital Britain, which makes enormous claims which I agree with about the significance of what is happening in digital media but where it comes to the training and skills part of that report it provides a very nugatory proposal for investment in providing necessary solutions. I would like to see that attitude change.

Q1330 Chairman: That is very helpful. Thank you again very much for your evidence. I think we may need to follow up with you one or two of the points that you have made and perhaps we could do that by correspondence. Thank you very much for coming this morning and for giving your time to this inquiry.
Mr Kuhn, do we see you next week?
Mr Kuhn: No. I promise, never again.
Chairman: You are very welcome any time you feel like coming. Thank you very much indeed.
WEDNESDAY 1 JULY 2009

Examination of Witnesses

Witnesses: Mr TIM BEVAN, Co-Chairman, Working Title Films; Mr ROY BUTTON, Managing Director, Warner Bros Productions; and Ms TRACEY SCOFFIELD, Director, Rainmark Films, examined.

Q1331 Chairman: Welcome and thank you very much for coming. You know what we are doing because we have seen at least one of you before.
Mr Bevan: No, you have seen my partner before.

Q1332 Chairman: I do beg your pardon. Mr Bevan, I think you are going to take over as the next Chairman of the UK Film Council?
Mr Bevan: I am, yes.

Q1333 Chairman: When does that take place?
Mr Bevan: The beginning of August.

Q1334 Chairman: Many congratulations on that. I think you know what we are doing. Basically what we are trying to do is to see if there are any ways that government in its policies can actually help the development of the film industry on the basis that it is a successful industry and we would like to see if there is anything we could propose which is helpful. I think the best way of starting is could you let us know a little about your organisations?
Mr Bevan: I am the Co-Chairman with Eric Fellner of Working Title Films, which is a film production company which has produced over the past 25 years 100 films, at least half of which have been British. We started as an independent and then in the early 1990s we made a production deal with PolyGram which turned in 1998 into a production deal with Universal Pictures and Canal Plus which is the deal we work under now. Universal and Canal finance our overheads and our development and our productions.

Q1335 Chairman: Does that affect the ownership of Working Title?
Mr Bevan: Yes, they own it. I am an employee.

Q1336 Chairman: Without beating about the bush you are owned by Universal.
Mr Bevan: I am owned by Universal. We are on a term deal. It is a very difficult thing for the industry because the film industry, like any creative industry, is all about the talent. Yes, Eric and I are considered to be the talent and we are on an employment agreement with Universal.

Q1337 Chairman: Does that limit the kind of freedom that you used to have?
Mr Bevan: Absolutely not. We have a deal which is probably one of the best in the world where we have complete creative autonomy and we are able to develop and to produce the films that we choose to produce. We have built this autonomy up through having a fair amount of commercial success over the years. We made the decision consciously that we wanted to be with a studio because the two things we wanted were creative autonomy but we also wanted to be part of the worldwide distribution system because at the end of the day there is no point in making a perfect movie if cannot get it distributed.

Q1338 Chairman: So you regard it as a good deal for you?
Mr Bevan: It is a good deal for us and it is a very good deal for the British film industry too, having a substantive player funded in such a manner working out of London.

Q1339 Chairman: How long has the deal been going on?
Mr Bevan: The Universal deal started in 1998 and it was re-upped a couple of years ago and goes through to 2020.

Q1340 Chairman: Can you almost see on a graph the effect and the impact of it?
Mr Bevan: No because we had done pretty well before the deal in actual fact. I believe that the job of the film producer is to produce movies and to spend as much time as possible in developing material with good writers and good directors that is as high in quality as it possibly can be. The reason back in 1992 that I made a deal for Working Title with PolyGram is as an independent I had been spending far too much time rushing around trying to raise money, trying to make distribution agreements, trying to do this, trying to do that, and had not spent enough time on the fundamental thing that a film producer should...
I, Tim Bevan, Mr Roy Button and Ms Tracey Scoffield

Chairman: We will come to the questions in a moment. Tracey Scoffield, you have an independent company?

Ms Scoffield: I do. I am rather at the other end of the scale from Working Title. I co-own a small independent film and television drama production company called Rainmark Films with my business partner Frank Doelger. Over the past four years since we established ourselves we have produced five projects, four of which were television films, co-productions between HBO in America and the BBC in the UK, and one feature film which is about to be released in the autumn of this year. We are currently in pre-production with another feature film, also for HBO and the BBC called The Special Relationship about the relationship between Tony Blair and Bill Clinton.

Chairman: We are not going down that road.

Ms Scoffield: Like Working Title, Rainmark’s overheads are funded by an American organisation, in this case HBO, Home Box Office, who have provided us with the stability and the creative opportunities we need to get these films made and co-financed.

Chairman: Are all your films co-financed?

Ms Scoffield: I would say that all feature films are co-financed unless they are made directly with a big US studio. Tim can speak more about that.

Chairman: I will come back to you in a moment. Mr Button, welcome.

Mr Button: Morning, ladies and gentlemen.

Chairman: Just tell us a little if you would about Warner Bros. Warner Bros had a long connection in the UK.

Mr Button: Very much. It started out, I wanted to say in 1923 but I think it was even earlier than that, as a distribution business that was set up in Soho, one of the first there. Basically they have been a presence here since then. They had a full-time production arm probably from 1957-59 and from 1963 they had a full-time production presence, which is the only full-time production presence in England of any major studio employing someone like myself. From that point we have done probably 20/30/70-odd films between then and now. We are, as I have said before when we met earlier, in a particularly good place at the moment in terms of we are getting an awful lot of work due to the script nature of what we do. We have got Harry Potter which is the biggest film franchise ever made which we are just finishing now. We have long-term plans for Leavesden Studios. As you know, I have three or four other projects on the go. We are shooting two at the moment and we intend to stay and survive here as long as we possibly can because it is a great place to be.

Chairman: As far as you can see that is the future?

Mr Button: Absolutely.

Chairman: I just want to ask you one question and then I am going to hand over to my colleagues. Just tell me in simple terms each of you how you raise finance for your films. How do films get financed in the first place?

Mr Bevan: In the case of Working Title it is a co-financing arrangement between Universal and Canal Plus. Whatever the film costs they finance it, so ours is a relatively simple arrangement.

Chairman: Before you had this deal with Universal, or ownership indeed?

Mr Bevan: The traditional way of financing a lowish budget British movie would be that you would seek to get some form of cornerstone financing, be it from the BBC, Film4 or from the Film Council or whatever, and you would then look to take the benefit of the tax incentive here in the UK and then you would look to pre-sell distribution rights, and obviously that is the part in this economy which is particularly tricky because the bottom has dropped out of the pre-sales market.

Chairman: What about you, Tracey Scoffield?

Ms Scoffield: For a smaller independent producer who does not have a single source of production funding as Working Title do, it is an altogether more complicated jigsaw in terms of raising production investment. Most UK independent producers if they have a project which is set within the UK, which exists within the normal parameters of a UK film, will go to the same list of people. They will go to BBC Films, they will go to the UK Film Council and they will go to Film4. There are a couple of other sources of funding within the UK but those are really the three main cogs in the machine for production funding in the UK.

Chairman: Then after that presumably you will need further backers as well?

Ms Scoffield: Outside that you have to use your imagination and any contacts you have and the advantage of any relationships with sales agents who may be willing to put some money up as an advance
but, as Tim has just said, the bottom has fallen out of distribution over the past 18 months so those pre-sales are really rare these days.

Q1351 Chairman: Are there merchants banks or something like that which specialise in this area or not?
Ms Scoffield: Not really.
Mr Bevan: They have gone.
Ms Scoffield: There used to be, on a very speculative basis, and they often invested in very dodgy films.

Q1352 Chairman: They invest in a lot of dodgy things.
Ms Scoffield: Films which we recognise as being vanity projects rather than films that existed within the industry properly.

Q1353 Chairman: Mr Button, when it comes to Warner’s do they self-finance?
Mr Button: Self-financing, very simple.

Q1354 Chairman: So you make a decision. Harry Potter is not exactly a hard decision—
Mr Button: We make a correct decision for all the right production reasons and, as Tim said, very much with the incentive, very much with the script placement, very much with the talent base here, and we are self-financing. We will green light our own budget and the money comes in; simple as that.
Mr Bevan: Can I just interject, I think that it would be true to say—although I would not wish to speak on behalf of Warner’s—the tax incentive in the UK for Working Title’s films and independent films and indeed studio films is a major part of the incentive for shooting here.
Chairman: We will come on to tax credits in a moment. Lord King?

Q1355 Lord King of Bridgwater: What people would fear with an American takeover is if the going got a bit rough it is the overseas arms that might be cut back and a ‘Hollywood jobs for Hollywood workers’ sort of slogan might be deployed. Have you found any sense of that? As a slight subsidiary, if there is a strike in Hollywood, like there has been, do you get caught up in that?
Mr Bevan: There was indeed a strike last year.

Q1356 Lord King of Bridgwater: And were you caught up in that?
Mr Bevan: We were marginally caught up in it because everyone looked extremely closely at the exact definition of what a British film was at that point as to whether we were outside of their union system or not.

Q1357 Lord King of Bridgwater: On the main question, the point about Hollywood jobs for Hollywood workers?
Mr Bevan: I have worked in the movie business for 25 years and in my experience Hollywood will go where it is cheapest. Making motion pictures is a very, very, very expensive proposition. We are benefiting right now from a great exchange rate with regards to the film industry and we have a very good tax incentive. When any big movie is doing the equation they will look at shooting all over the world basically and there will be two things they will put into the equation: can we make it cheaper there and is the talent base there. The talent base is very important obviously.

Q1358 Lord King of Bridgwater: So if the exchange rate goes badly wrong there will be no sympathy, they will be straight out?
Mr Bevan: Yes.
Mr Button: It just makes it a lot harder. It is exactly what Tim says. It is all about the bottom line. For several scripts and projects we get, one is in a position to have to do variations budgets. It is not just I get a script, I am asked to position it, work it out, can it be made in England or should it be made in Hungary, or should it be made in other incentive countries in the world, which is why we have got to remain competitive to be on the same par as Hungary and somewhere else, somewhere else and somewhere else. I do five different versions of the same film and then commercially we will make the decision as to where the best place to make it is.

Q1359 Baroness McIntosh of Hudnall: I wanted to ask Mr Bevan about Canal Plus. The Hollywood connection is easy enough to understand and it is also easy to understand the commercial imperatives that might be at work there. It is perhaps less easy to understand what Canal Plus are doing supporting a UK independent producer. Can you talk a bit about that relationship?
Mr Bevan: Outside of Hollywood Canal Plus is one of the biggest players in the movie game basically because of its pay television deals. Up until 1998 we had been funded by PolyGram, which is a European company, and post-1998 we were very keen when we made the deal with Universal to keep a European element to our business because a lot of the films that we produce are European based and we felt as Europeans they were more likely to understand them and we wanted that ingredient. Ironically what happened was Canal Plus shortly afterwards got sold to Vivendi and Vivendi shortly afterwards bought Universal, so there is a whole hodgepodge and we have ended up with Vivendi still having a stake in Universal of 20 per cent and they wholly own Canal Plus, so it is all one big melting pot, like every other business basically.
Q1360 Baroness McIntosh of Hudnall: And as far as Canal Plus' French origins are concerned?
Mr Bevan: There is an advantage to them investing in Working Title because they can fulfil quite a lot of their quota obligations, because it is much more regulated in France as to their EEC obligations and all the rest of it with regards to their broadcasting.

Q1361 Lord Macdonald of Tradeston: Why does that not work for Sky then?
Mr Bevan: It would work pretty well for Sky if they chose to do it.

Q1362 Lord Macdonald of Tradeston: Do you know why they do not choose to follow the Canal Plus model?
Mr Bevan: I am not absolutely certain but I am pretty certain it is because there is a very rigorous ruling in France about what qualifies as a European film or whatever as part of their Canal Plus broadcasting regulation.

Q1363 Baroness Bonham-Carter of Yarnbury: I am going to come to tax credits later but one of the things you said, Tracey, about merchant bankers who used to invest in films in a slightly dodgy way, was that to do with previous tax incentives?
Ms Scoffield: It was to do with previous tax incentives and they would be presented with feature film projects that had no genuine foothold within the film industry but were purely put together to make money for the investors, but these films very rarely saw the light of day and they very rarely had a proper foothold within the industry with one of the substantive investors that mean something within the industry.
Mr Button: That was under the old sale and leaseback system.

Q1364 Baroness Bonham-Carter of Yarnbury: We do not want to go back there.
Mr Button: Absolutely not!

Q1365 Baroness Bonham-Carter of Yarnbury: We have talked about finance and I want to ask about the creative process now and the stages involved in developing a film. How are ideas for films developed and what resources are available?
Mr Bevan: I happen to believe that the culture of a movie is about where the people come from rather than where the money comes from. I think that is a very important thing to get on the table because like every other industry we are part of a global industry. What makes an Aston Martin British is the fact that it is built in Oxfordshire and not the fact that it is owned by Ford and I think it is very similar in the movie business. The fact that Working Title is British and comes from a British cultural perspective is the important thing and so our culture is in what we do. The development process for Working Title falls into three areas basically. One is creative relationships that exist; so we work with Richard Curtis, Stephen Daldry, Joe Wright, Edgar Wright and all of these names who have already made movies. We chitchat with them about what they want to do next and develop material accordingly. Secondly, it is from source material which is books, magazine articles, original screenplays and all the rest of it. Over the years we have made Atonement, Pride and Prejudice, the Bridget movies, we have made the Hornby books and so on and so forth and that is reacting to pre-existing material in the market place. The third manner, broadly, is by coming up with ideas ourselves for things that we think would make interesting movies and finding a scriptwriter to do them. Over the years we have made Elizabeth, French Kiss and The Interpreter which would have come from that.

Q1366 Baroness Bonham-Carter of Yarnbury: And there is some money for developing this before it becomes a film?
Mr Bevan: Part of our overall deal is we have a development fund. In each of those three areas obviously what you do is you come up with the idea or the material or whatever and you go to a scriptwriter. You decide who you think is the most appropriate scriptwriter for the material. You hope that they will respond to it and if they do then you start to develop the screenplay with them which is a long and arduous and very dull process.

Q1367 Baroness Bonham-Carter of Yarnbury: What is the average time?
Mr Bevan: The quickest we have ever done is French Kiss which went from an idea to shooting within a year. The longest we have ever done is The Interpreter which went from idea to movie within 15 years, and the average is probably two or three.

Q1368 Lord Maxton: What about the new media, do you look at that at all, things like YouTube, and see if there are any new ideas coming through there?
Mr Bevan: Absolutely. We look anywhere for a new idea.
Ms Scoffield: As a source of ideas to build a screenplay round. My previous experience at the BBC may be of use in answering this question because I worked in BBC Films for ten years as head of development and executive producer. For most independent producers in the industry, unlike Tim, they are obliged to go to any number of different sources to pick up the funding they will require to get a development going. More often than not they will end up asking writers to do first-stage development for nothing because you have to get a written proposal together to attract development funding.
You asked about the creative process. For the purposes of production, the division of talents is really divided into development and production. Those are always two separate funds within any organisation that provides funding for feature films. Until about five or six years ago there was a real dearth of development funding in the industry. It was when the UK Film Council in its former incarnation suddenly realised that development was a very key activity and required a lot more investment that they ploughed a lot more money into it and they created more of an infrastructure for development of talent within the UK. That is to say people who are trained to work on scripts. I should give a tiny bit of background to that. For any feature film project within the industry the script is key. You cannot raise money on a feature film without having a script that is deemed to be good quality. The script is also the document that will attract a director, a cast and other crew to work on it. It will be the first-stage document in attracting distributors right down the line with the film, so developing a good screenplay, which is by no means an easy task and nobody really knows how they are going to turn out when you start off, is critical. It is a very, very speculative operation because the script might turn out to be no good or you might not be able to raise the funding on it, but it is the key initial activity within the life of a film. My favourite story about how long it can take is when I was at the BBC I was sent a script on spec, which is to say that it was effectively in the slush pile, and it was by an unknown writer and it was called *Hotels and Dirty Pretty Things*. We took this screenplay on and it gradually became the film *Dirty Pretty Things* which was directed by Stephen Frears. In the time it took to develop it the writer of the screenplay had gone from being a jobbing screenwriter to developing the format for *Who Wants to be a Millionaire*, so this is an example of how quickly the television industry can work, as opposed to the film industry. He was a multi-millionaire by the time *Hotels and Dirty Pretty Things* was made into a film, which took five years.

Q1369 Baroness Eccles of Moulton: We have been concentrating more on production and development in the UK but, as Mr Bevan said, this is a global industry and presumably you are always looking to see what the competition is doing. Perhaps I could ask Roy, you are responsible for not only the UK but Europe, Africa and the Middle East and clearly you are very, very concerned that the industry thrives here because you have these big studios, et cetera. I just wondered where you see the main competitive threats coming from, both through the business route and also talent and skills?

Mr Button: Firstly, one has to dissect the script as to where it can be made. That limits where the competition could come from. Basically you could read it and if it has got Africa or Morocco or somewhere like that, you are driven there anyway and you have to put a production plan together that actually fits going to there within the financial regimen that you are being asked to do. The first thing one would do is break it down to see whether it would qualify for here so that you could shoot some here and then go abroad and come back and do pre-production and post-production and everything else here. If it falls within that remit then that is great because that is what we try and do. As Tim said, it is all about the bottom line. If it does not fall within that remit then all bets are off and we have to figure out where the script is driving us and, where it is relevant to a certain country, whether they have rebates. One tends to be looking at all these things. Certainly Hungary is a particular place. It is Hungary, Canada, Australia, Italy is trying to get one, France has got a version of one now but it is quite restricted, so the biggest competition to us—again it is difficult to say because it is script-driven—is Hungary maybe, depending what the script is. However, what they can offer in terms of crew base, studios, facilities and the rest of it is not a jot of what we can do here.

Q1370 Baroness Eccles of Moulton: So we win on talent and technical skills?

Mr Button: We win on talent, technical ability, facilities, vendors, studios, CGI houses, just about everything, and we benefit from what I will say in front of everybody is the best tax rebate system in the world.

Q1371 Baroness Eccles of Moulton: So the way you are driven away from here is either because the script directs it or—

Mr Button: I am driven away by the creative content of it. I am perhaps not driven—one is obliged to service the script so one does that, but what I spend a lot of time on is trying to dissect the script as to how one can make it successful and still get what the filmmaker wants.

Q1372 Baroness Eccles of Moulton: And the bottom line fits in?

Mr Button: Of course.

Mr Bevan: The US is a big competitor because a number of States in America have a tax incentive schemes and obviously they have the benefit that it is the biggest English language country in the world.

Q1373 Baroness Eccles of Moulton: But they do not have the same skills, do they?

Mr Bevan: They do but they import them. The thing you have to bear in mind about the film industry is that it is pretty mobile and it will go where the work is basically. A number of States in America have very powerful tax incentives.
Mr Bevan: New Mexico, Minnesota and New York have levels of rebate but that comes with a lot of complications as to crew base and you then have to put a pencil to how many bits of equipment and people you have to take there. One weighs against the other.

Q1374 Lord Gordon of Strathblane: Just how does it work financially for you as a producer? Do you work for a fixed fee or a fixed fee plus a percentage of the total take?

Mr Bevan: The latter.

Ms Scoffield: The latter.

Q1375 Lord Gordon of Strathblane: Obviously you have got very good agreements, Mr Bevan in particular, that allow you total creative freedom, but since there is so much talent here is it not surprising that all the majors are still American-owned? Can we not generate a financial base that would create something here?

Mr Bevan: I think the entry cost is just too prohibitive now. Over the years that the studios have existed you have seen potential competitors emerge and then potential competitors get eaten basically. If I may, I would like to do a little oversight of the industry at the moment. We have been talking about the front-end side of the business which is the production side of it, the truth of which there is good news and bad news in there. On the other side of the coin there is a lot of bad news and I think we really have to recognise this. The economic downturn throughout the world has caused a collapse in advertising revenues. One of the engine rooms of the motion picture business is selling their product, whether they be an independent or whether they be a studio to television. That is reducing and whatever happens we will never get back to the level that we have been at in the past. That is one tsunami. The second tsunami, which is a far more pernicious one, in my opinion, is the digital world. Unfortunately, the economic crisis is slightly shielding the real tsunami which is the digital world and which is affecting our business profoundly in negative ways as well as positive ways but very negative ways in terms of revenue.

Q1376 Lord Gordon of Strathblane: Would you like to expand on why?

Mr Bevan: The way the economic model of a film works is forget how it is paid for and all the rest of it; there are three primary areas in which it is exploited. It is exploited theatrically throughout the world, it is exploited on DVD at the moment throughout the world, and it is then exploited on television throughout the world, broadly. The theatrical release of a film is extremely expensive to do because of advertising it and marketing it. As a rule of thumb, unless it is a mega-hit, it is a wash basically. What you spend in getting it away goes on your prints and advertising, so you are looking for your revenue machine in movies to come from television and DVD exploitation, both of which are under immense threat, television for the reasons I have said but also in terms of digitisation. All of a sudden in every country there is a proliferation of television outlets basically, which is having the effect of bringing the costs down because obviously there is less money for each of those organisations because advertising revenue for each of those organisations has gone down. Secondly, and more importantly right now, is that sales of DVD around the world are collapsing and this is because of the internet and basically file-to-file sharing on the internet and internet piracy. If we do not do something about that not only for our creative industry but for every single creative industry then the creative industries broadly are in huge trouble. The creative industries I see as a bucket, and a pretty fantastic bucket and they are a bucket of talent, which is fantastic for this country and it is fantastic for any country that has a strong creative industry base, but right now there is a hole in the bottom of that bucket and we need to do something about it.

Q1377 Baroness Eccles of Moulton: If the ISPs do not join in it is going to be very difficult to control.

Mr Bevan: Basically it is industry’s responsibility. It is our job as an industry to come together to make a new business model for moving forwards, but then we have to have the backup of extremely forceful measures to stop this piracy because piracy is going to kill us.

Q1378 Lord Maxton: You talk about piracy but the fact is I would not download a pirate film but I can download onto my commuter and pay for a film without having to go and buy a DVD.

Mr Bevan: Absolutely. That is fine. That would be the model that we would love but unfortunately there is a generation of people, probably everyone under the age of 35 for instance, who have got used to being able to download music on the internet and there is a culture that music should not cost you anything. We are in great danger of that spreading into our industry. It is spreading already into our industry and it is a big, big issue. The Digital Britain report has been good in at least that has been acknowledged but the time-frame to do anything about it is absolutely ludicrous because Rome will have burnt to the ground by the time we do anything.

Q1379 Chairman: How quickly?

Mr Bevan: Immediately. This needs to be sorted out now. I am sick of hearing politicians saying the future is with creative industries. Yes, I would love it to be with creative industries and I think there is a fantastic
opportunity. We have brilliant people across all of the creative industries in this country. It is a fantastic potential employer and it is a fantastic flag for our country but there is a hole in the bottom of the bucket and we have to do something about it because print will be destroyed, books will be destroyed, music will be destroyed, we will be destroyed.

Q1380 Lord Gordon of Strathblane: Without being defeatist about beating piracy, one could at least look at compensation for it by a levy on some of the media they use.

Mr Bevan: There are many, many ways to go at it. One of the things we have to do as an industry is come up with a business model that makes films available on the internet at a reasonable price and all the rest of it. It is very urgent because what you cannot allow is this culture that a film has no value to enter into the food chain because reversing that is gigantically difficult, as you know.

Q1381 Chairman: Are you working with the Government at the moment on this?

Mr Bevan: Everyone is well woken up to the thing but you know what working parties are like.

Q1382 Lord Maxton: But the internet is international and not national. It is very difficult to control that sort of downloading culture at a national level.

Mr Bevan: I would agree but one very key element in this is that we are in the English language basically, as is America, so if America and us and Australia take this thing really seriously and front-foot it, we are well on the way to coming up with a decent defence strategy at that point.

Q1383 Lord Macdonald of Tradeston: There is obviously a very close relationship between film and television and the overlap of available skills and talent and staff and so on. It seems to me extraordinary that with the revenues of say BBC and Channel 4 running into billions the amount that they spend on film is probably £10 or £20 million. From your perspective initially Tracey why is there such a disparity? Why are they so reluctant to invest in film? Surely it should run into hundreds of millions rather than £10 million?

Ms Scoffield: I would like to think so but the fact is that the BBC has always had a very ambiguous attitude towards being involved in the feature film industry at all. The reason for that is that they do not take first delivery and have the premiere of these films. If the BBC creates an original television drama then it can have the advantage of premiere-ing that drama and gaining the maximum publicity and benefit for it. If it invests in feature film, albeit only partial investment, it can take up to three years before the BBC gets that film to air on television by which time most of its impact will have been dissipated by other platforms.

Q1384 Lord Macdonald of Tradeston: But with the leverage that they have with their huge revenue and global reach surely they could be doing the deals with Warner’s and others for a privileged relationship with the big American distributors?

Ms Scoffield: Their acquisitions department does that to an extent and has output deals with all the bigger studios but that does not really benefit production in this country.

Mr Button: No. We have gone down the road quite a bit but there is no-one actually coming forward to try and get that going at all.

Ms Scoffield: BBC Films as a department exists within the larger drama group of the BBC and I am not sure—but it will be a matter of public record—what their current budget is. When I was there it was held at £10 million for five years. I think there was a slight increase about four years ago. They spread that sum very, very thinly by very clever deals and very clever investments but it does not go that far.

Q1385 Lord Macdonald of Tradeston: Tim, you will recall the days of the 1980s with the huge anticipation and indeed the involvement of Channel Four in so much good original film-making. What has gone wrong there?

Mr Bevan: I think what has gone wrong is the financial pressures that independent companies find themselves under from the collapse in advertising revenues which has profoundly affected it. I agree, I think it is a great shame that television does not support film in a more front-footed manner in this country because we do have creatively this fantastic cross-fertilisation between the two media which other countries do not, and indeed the theatre. The current crop of directors—Paul Greengrass on the Bourne movies, Joe Wright on Pride and Prejudice and Atonement, Kevin Macdonald on State of Play and others who I cannot remember right now.

Q1386 Lord Macdonald of Tradeston: Charles Sturridge who is coming in shortly.

Mr Bevan: They have all come out of television. Each and every one of them has had this fantastic creative training in television. Indeed, a lot of our crews who would be working on Harry Potter movies have probably been trained at the BBC.

Ms Scoffield: And writers.

Mr Bevan: So it is a great shame there is not more of a mutual support system.

Q1387 Baroness McIntosh of Hudnall: This is a slightly heretical question but I would just like to hear the answer. Why should television invest in films? If I
take the example of *Pride and Prejudice*, a film that you made very successfully very recently, the BBC made an extremely successful six-part version of *Pride and Prejudice*—we all know this but just for the record this is the case. It used a very successful screenwriter. It had a wonderful cast. Why would the BBC want to invest in film specifically when it can do that? I use *Pride and Prejudice* because it is an obvious example but there are other situations where you would have to have a pretty good reason, would you not, for investing in a film which is going to show up on television three years later or even going to show up on television next year?

*Mr Button:* That is what I was going to say. It is in terms of them filming it. Years ago television was on tape. 90 per cent of it is now film. Doing a TV film and doing a middle to moderate movie is exactly the same. It is all the same crew base and it is all the same people, which is one of the things I work very hard at in making sure we bring as much work over here as possible because as much as I can keep going, as much as we can keep going, it keeps people working. With Tim’s films, our films, everybody’s films, you keep a core of people working at a particular level that allows them to be able to do the middle and the lower end movies and TV. If we were not doing it they just would not exist, they would not receive the training, they just would not be around unless we kept this going. That is why I am interested in the higher end because I think the higher end keeps the middle and the lower end going.

**Q1388 Baroness McIntosh of Hudnall:** That is a very good argument on one level.

*Mr Bevan:* I would say there is a cultural argument as well.

**Q1389 Baroness McIntosh of Hudnall:** That is what I want to get at.

*Mr Bevan:* Which is that we are a talent-driven business and we throw up in this country a remarkable number of fine directors. For the size of country it is absolutely incredible the number of people we throw up. We want them on the whole in their careers to continue to reflect Britain culturally as well as going off and making commercial movies and money and all the rest of it. There are very few sources of funding in this country and I think a lot of them would have been trained in television and as a sort of *quid pro quo* you kind of feel that television should support those movies in order to keep those people here. It is a great shame. Sam Mendes, for instance, has chosen never to make a British movie, which is absolutely ludicrous in my opinion. Maybe if there was more incentive from television and all the rest of it he would choose to make them here because it is about the specific people. Richard Curtis (who came from television) and I have been involved in all of his movie career. It is always entwined like that, and television has been very supportive of him and he has been supportive of television too with his movies. *Four Weddings* was a Film4 film. Gus spoke about Film4. The original Film4 model was fantastic where I got started. It was where they made movies, they took risks, they backed really interesting people. You fudged the windows a bit so you did a year of DVD and theatrical and then it went to Film4 and those early Film4 seasons—*My Beautiful Launderette*, *The Draughtsman’s Contract* and things like that—were fantastic cultural moments.

**Q1390 Baroness McIntosh of Hudnall:** Just developing your cultural point, the cultural reach of film, what I am hearing—is this right—is much longer in the sense that film is an international business and television is largely a domestic business.

*Mr Bevan:* It is more potent I would say. I happen to live in Notting Hill and I made the movie and I see people every day when I drop my kids at school taking pictures of the black door now—Richard moved the blue door—from every nationality in the world and, with the greatest respect to television, I just do not think it carries that potent force.

**Q1391 Baroness Howe of Idlicote:** I think we had a little fly in on skills and the importance of having them around for both sides, but nevertheless we have got rather behind in skills compared with other countries, which is probably one of the reasons why the apprenticeship scheme is being backed by the Government. What are the skills most in demand and most lacking as far as the film industry is concerned, and in particular of course film production? How does the availability of these sorts of skills compare with, say, the United States? I imagine they are pretty low compared with the United States.

*Mr Button:* I think we try on all of our films, and I know that Tim does and all the majors that are here, to always avail ourselves of any trainees or training opportunities or apprenticeships for as long as we can on a film. Remember that a film is only between A and B, it is not very long. I sit on the British Film Training Board which is what we want to develop. The country spends lots of money with the Film Council and the Film Council then eke it out to Skillset in terms of training courses in many areas. Certainly in some of the craft grades that I am interested in, scenic artists, painters, plasterers, all that sort of thing, less so for the more mechanical stuff like electricians and props because that is somewhat simpler because it is less talent driven. What we have got to do is try and get these people on these courses which the government run. But my goal is then to create another organisation that takes them off of these courses and gives them work placements on films, because you will not learn anything as well
Mr Button: a graduate. as everybody who works in these houses tends to be interestingly they are huge post-graduate employers into that. They are huge employers and very the moment because we are not supplying the trainees know that they are recruiting from all over Europe at production houses in this country and I happen to production. We have very successful digital post-enormous room for growth which is in digital post-

Mr Bevan: I think there is an area where there is enormous room for growth which is in digital post-production. We have very successful digital post-production houses in this country and I happen to know that they are recruiting from all over Europe at the moment because we are not supplying the trainees into that. They are huge employers and very interestingly they are huge post-graduate employers as everybody who works in these houses tends to be a graduate.

Mr Button: CGI. These are the visual effects houses of which we have five major ones in London Mr Bevan: We could grow those very rapidly because we are definitely up there with being the best in the world.

Q1392 Baroness Eccles of Moulton: But who should be doing more, is it the industry itself or policy makers or government?

Mr Bevan: I think a bit of both. I am very wary of saying anything about the Film Council seeing as I have not got there yet but we do need to look at where the funds are going in training and whether we are under-resourced in that or not.

Q1393 Baroness Eccles of Moulton: Do you think that incentives and disincentives for companies funding apprenticeships can be jigged around a bit so that more creative companies can offer them? I think Working Title has about four.

Mr Bevan: We have an internship but I think that scheme could be quite readily grown.

Ms Scoffield: I think the only thing prohibiting a company from doing that would be the size of the company and the resources they have to offer proper training through an internship. My company is pretty small so we do not have the resources to take people in the whole time and offer them a very rounded view on the industry or to look at a particular job. I do mentor people from the National Film and Television School which runs quite an ambitious outreach programme in terms of connecting its students to people within the industry before they leave.

Q1394 Chairman: What you have just said is bad news which is in the post-production area we are recruiting from outside the country.

Mr Bevan: It is.

Q1395 Chairman: It is not because there is a lack of ambition from people here.

Mr Bevan: We need to do a refocus basically, which I think could happen quite quickly.

Q1396 Baroness Bonham-Carter of Yarnbury: Do you think it could start earlier, in schools for instance?

Mr Bevan: Yes, it should happen in schools. The post-production houses are very good at training but they need to go to a design college or whatever and say, “This is the course I need. If you put people through this course I will employ them at the end of it.” It is a bunch of quite smart people so it is actually something that can be relatively easily effected but it needs to be effected because I think over the next two or three years ‘employment, employment, employment’ is going to be the catchphrase.

Mr Button: Tim is right, you have to inject those courses which are talent-driven within the universities because those courses do not exist whereas they do in France.

Q1397 Baroness Bonham-Carter of Yarnbury: What qualifications do they need?

Mr Bevan: It is the wrong people running the courses. You have got to watch “media courses”.

Q1398 Baroness Bonham-Carter of Yarnbury: What qualifications do you need to get on a course?

Mr Bevan: The interesting thing is if you walk into one of these post-production houses there is a physics post-graduate, there is a history post-graduate, and you need that level of intellect buzzing around the place in order to make the whole thing work and come to life. So I think it is a post-graduate course of the right design. You need to get the guys who are running these big houses to come together in a group and say this is what we need, and probably elect who is going to be teaching it, to be quite honest.

Q1399 Chairman: I think we had already identified—but what you say has confirmed it—that this as a big issue and something which government could do something about.

Mr Bevan: Yes.

Mr Button: If I am not wrong there is a committee and an organisation that represents all houses, is there not?
Mr Bevan: Yes, there is.

Chairman: Let us move to the film tax credit and Baroness McIntosh.

Q1400 Baroness McIntosh of Hudnall: Mr Button has already told us that we have got the best tax credit system in the world so maybe we do not need to know any more than that but let us just see whether opinion varies.

Mr Button: I could elaborate for hours if you want.

Q1401 Baroness McIntosh of Hudnall: It would be very helpful if from the perspective of each of you we could hear a bit about how the tax credit system that is currently in operation works. Does it support the industry as well as it should?

Mr Button: Let me just qualify my statement: It is but we cannot take our eye off the ball. We have to maintain consistency with what it is and how it is because there is competition.

Q1402 Baroness McIntosh of Hudnall: And you have warned us about that before.

Mr Button: We have to keep our eye on what we are doing and how we are doing it.

Q1403 Baroness McIntosh of Hudnall: For the moment it is operating fairly well given that there are some competitive offers out there.

Mr Button: Funnily enough, certainly in the CGI area, there are elements of Canada that Tim knows about where you can get more rebate on elements of CGI work which is a little model worth looking at.

Q1404 Baroness McIntosh of Hudnall: For the purposes of this Committee then what should we be looking at in prospect by way of either modification or improvement to the tax credit system or is it okay?

Mr Bevan: We did some self-policing three years ago and cleaned the tax credits system up brilliantly because it undoubtedly had been exploited badly. It is working brilliantly for inward investment in terms of bringing the studios into this country to make big films here. It is working quite well for domestic British films, but I think there is a tweak in there where it can work a lot better.

Q1405 Baroness McIntosh of Hudnall: Is this co-production?

Mr Bevan: It is co-production so that if it is a proper British movie the tax credit could extend to some percentage of the budget that was spent offshore because if it says in the script you have to go to France it does not stop it from being a British movie. The other thing is—and it is probably a no-brainer—extending it to make it 30/35/40 per cent instead of 25 per cent is a big deal for the Exchequer because I think what you would get back in VAT and PAYE and inward investment is probably going to come out cash positive in all of that basically by putting some more into the tax credits scheme. I think if you did that and you get to a proper number, if a British producer knows that they have got 30 or 40 per cent of the budget cornerstoned as a tax credit, then the whole food chain works in a very different way. That is because as an independent producer I know in my brain if I can get 18 per cent out of the UK that feels like top-up. If I can get 30 per cent that feels like a cornerstone piece of financing and I can go out and raise the rest of the money and I think it will encourage entrepreneurs because producer entrepreneurs is what we need in the business more than anything else.

Q1406 Baroness McIntosh of Hudnall: Will it change or increase the likelihood of real UK content being made?

Mr Bevan: Yes.

Mr Button: Yes, one hundred per cent.

Mr Bevan: Yes, provided you come up with the right criteria to qualify for it.

Chairman: Mr Button, you were involved—and I do not wish to in any way challenge your assessment of it—

Mr Button: Please do, I am very happy to be challenged.

Q1407 Chair: You were involved in the design of this tax credits system?

Mr Button: We were very much involved, as Tim said, in the demise of the old system which I was very pleased to see go because it did not do, morally more than anything else, what everybody wanted it to. Just to touch upon two things. We did not want lawyers and banks making vast amounts of money off of what was meant to be for a film production purpose. Moving on, we have developed a system that is very straightforward. It is designed specifically for the film. You set up an SPV for the film. You can have your own tax filing. You can make an interim filing during production in case you need money as you go along. We do not because we file once and then we file at the end. You can have any amount of interim filings which is a great aspect for some of the lower budget films who need money during production. I agree with Tim.

Q1408 Chair: Your point is we need to keep competitive on the rate?

Mr Button: I will not get into Tim’s rice bowl of about 30 or 40 per cent but certainly I am aware that there are other places in the world that have topped up to 25 per cent on a basic level, so if there is any edginess...
it is definitely worth looking at. I totally agree with the fact that the more competitive we can make this, the more sexy we can make this, the more we can get here because the more you get here, the more VAT, the more tax, the more incentives, the more training, the more facilities, the more studios, the more everything. It absolutely benefits everybody. Plus the fact there is one little cherry on the top of this cake which we have touched on before, if we are looking at altering it or thinking about it or touching it, which is the famous words of “used and consumed” as an element of the tax rebate. Basically, in a nutshell, what it means is that if you have a wonderful film in England and it qualifies and you are doing all the shooting on it, and you have two weeks in France, the money expended on elements of facilities, cameras, lights, people that you have spent in England (so they have paid VAT, tax and everything remains in England) that you take to France does not count in your good spend in England.

**Q1410 Baroness McIntosh of Hudnall:** And that is the co-production issue largely? That works even if every single person that you take to work on that shoot in France is UK-based?

**Mr Button:** Is British, correct.

**Ms Scoffield:** It is bad spend.

**Mr Button:** It is bad spend. You do not get to count that amount of money although it seems illogical because all that money stays in the English tax system, so if there is any cherry on top of this cake that could be analysed. To be quite frank, Pinewood may or may not have a different point of view. I have explained it as best I can and said, “You should welcome this, you should look at the inside of this.” They are worried that if you did this it would encourage people to rush off from English movies to sit in a stage in Czechoslovakia or somewhere else. I have explained that it is very easy. All you do is say to get this you can have that as good spend but you can only spend two per cent of your shooting schedule in a foreign studio, end of story, and that answers them. That stops people panicking. “Oh, everyone will rush off and sit in another studio and still get English money.” In actual fact there was an element in the sale and leaseback that only allowed you to do a very small amount of shooting in a foreign studio anyway. What I am saying is introduce this small percentage back which allows you to have a sale and leaseback but does not upset the apple cart in terms of studio space. I desperately want that to happen on the grounds that I am hoping to get my own studio space.

**Q1411 Lord Gordon of Strathblane:** I am conscious of the fact that two of you alluded to the fall through of deals with distributions and getting the money up-front. How big a problem is that and what can we do to remedy it?

**Mr Bevan:** Basically the reason that distributors will not put the money up-front is that they do not know if their own comfort zone, which is television and DVD sales, exists or not so they do not have that to fall back on. It all comes back to the piracy issue.

**Q1412 Lord King of Bridgwater:** We have asked other people and the exchange rate has featured so strongly in this business of where things happen. I think you said it is rather cheap at the moment.

**Mr Bevan:** It is 1.62 at the moment. We will know today.

**Q1413 Lord King of Bridgwater:** It is rather advantageous at the moment. You would say that?

**Mr Bevan:** It is more advantageous than it was a couple of years ago.

**Mr Button:** Certainly six or seven months ago it was two something.

**Q1414 Lord King of Bridgwater:** Because then Mr Button was talking about the huge assets we have here. As I understood it, the whole thing is really making this a very attractive place. How much of a swing is really needed in the exchange rate to move it from good to bad?

**Mr Bevan:** On a smaller movie it does not make as much difference as on a bigger movie obviously, but we were budgeting a $40 million movie when the exchange rate was going from 1.75 down to 1.60 or 1.55 or something like that and it is probably a $3 or $4 million differential in that, so it is big. You were thinking that was good. If it was going the other way you would be beginning to think I am not sure I can get this through.

**Mr Button:** Recently it has been a very, very big issue. I think I know where you are going. You are wanting to look at an average that says if it is this it is okay and if it is that it is not. It is not pen-able. You can be at 50, 60, even 70, and you are still okay. You could be up in the 90s, dependent on the script, dependent on the nature of how committed you are to getting it.

**Q1415 Lord King of Bridgwater:** It takes time, as you have said, to set these things up and a lot of people made a lot more money than they expected to. It was up at around two for a long, long time and you made
Mr Bevan: I can remember when it was 1.47. The volatility of exchange rates affects every industry and, yes, it affects ours profoundly.

Lord King of Bridgewater: The significant thing about the film industry, people say we are going through a rough time, the pound is under pressure, but that means we will export a lot more. The trouble is in this country we do not make as much as we used to. This is one of the few industries where that looks as though it is going to be true and a softer exchange rate is actually very good for our business.

Baroness McIntosh of Hudnall: It is about the commercial terms on which the Film Council enter into agreements to fund, which appear to be comparable with the terms that you would expect to meet if you were looking at any other source of funding. The question is therefore is that fair, is that right, should the terms be of a different order, and in what other ways can the Film Council actually help more than it does now to stimulate film production as well as all the many other things that it does?

Ms Scoffield: Is this the premium?

Chairman: What could the Government do about that?

Mr Bevan: Not a lot. It is something that business has got to sort out. It is a commercial thing.

Bishop of Manchester: Is it the united view of the three of you that the levy idea is not a helpful one at this point?

Mr Button: I agree with Tim. It is something that I think would certainly cloud the waters. If somebody were to come up with a levy for something as interesting as training or anti-piracy or something like that, that is probably as much as you could touch that area.

Chairman: A very last question, Lady McIntosh?

Baroness McIntosh of Hudnall: The UK Film Council is a very important source of funding for smaller movies (and larger movies in some respects) and for smaller independent movie makers and you said that it was one of the few sources that you can expect to go to. It has been said to us, and you will have to be brave and not look at Mr Bevan while you answer this question, that the terms that the Film Council set with the people that they agree to fund are pretty tough.

Ms Scoffield: Is this the premium?

Chairman: So as the incoming Chairman, Mr Bevan, do you have a view?

Mr Bevan: I feel a little wary about going on the record with anything about the Film Council because I have not met my board yet, but I would be happy to go on record to say that everything needs looking at!
Q1422 Lord King of Bridgwater: The Chairman congratulated you on becoming Chairman of the Film Council. Are congratulations in order or is it the short straw?
Mr Bevan: I think it is the reverse probably. It is congratulations or commiserations.

Memorandum by Mr David Sproxton, Executive Chairman, Aardman Animations
Please find below responses to the Committee’s questions:

1. What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

I’m sure the recent successes at the BAFTAs will have shown the strength of the UK film industry and the way its presence is felt across the world. The difficulty lies in the ownership of the films that do well and who the money returns to. So often this is to USA based studios or companies that have the finance to take risks on films that most UK based companies cannot.

2. How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?

Exhibition in the UK has long been dominated by US based companies. Digital projection in theory could have helped break that circle but technical standards have again been dominated by the US industry. Finding the money for marketing of small UK films in the face of the big budget US films is another problem. Films like “The Age of Stupid” have shown there is another way but whether such a model can be utilized across more general films is yet to be proven.

It’s all about finance in the long run and being able to take considerably risks without going bankrupt in the process. Having a constant drip-feed of income from a library of work helps mitigate the losses and very few UK based production companies or distributors have libraries strong enough to keep the company afloat during risky times.

3. Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

A tax credit for TV, properly administered, would strengthen the position of UK producers against their French, Canadian and other subsidized competitors. Sectors like Kids, which rely on co-production for finance, would particularly benefit—as would the economy and the cultural life of the UK generally. At the moment, where finance is scarce, UK broadcasters can acquire all rights in overseas productions (that have been in receipt of state subsidies) much cheaper than they can order shows from UK producers.

In Kids TV, where the problem is particularly acute, a Canadian or French producer can access up to 70% of the cost of a production from the their domestic market from broadcast license fees (enhanced for indigenous production) and from tax credits and subsidies. In the UK the maximum a producer can expect to raise for an animated production would be 25% of the budget. This places UK producers in a weak position when negotiating with potential co-producers and means that they have to give up rights and revenues to their co-producers.

4. Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

There is always more that could be done but resources are always limited and in the case of the UKFC are diminishing in the run up to 2012. Broadly the UKFC is meeting its objectives but will find it increasingly difficult over the next 3–4 years as resources become squeezed.
5. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

In other areas of business the UK seems to have success, so why doesn’t it have such success in the film industry? Some of this is to do with managerial skills—talent management alongside business acumen—and some of this is to do with the raw materials of scripts. We have failed over the last 10 years to develop a strong feature film writing skill base that is happy to stay in the UK and not be tempted by the lure of bigger money in LA. Those that are successful find more opportunities with more money in success in the States than in the UK and somehow we need to turn that around. Again it comes down to money and the ability to create more opportunities to produce films which will get a wide circulation.

6. How successful has the regulatory system been in supporting UK content in television?

The food advertising ban has taken millions out of the market for kids’ programmes. EU quotas on overseas content are very weakly enforced, there has been a failure of regulation to support UK content.

Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed?

Children’s, especially programming for older kids aged 6–11 is in urgent need of support. ITV, 4 and five have all withdrawn from funding and providing a platform for this content. The BBC has reduced the time available to kids programming on BBC1 and UK productions are not competitive on price against the productions of our subsidized competitors. Merchandising revenues are a vital part of the funding mechanism for kids’ shows and these are increasingly hard to generate without a terrestrial platform for a show or without the tremendous marketing muscle that a Disney, Nickelodeon or Cartoon Network can bring to bear on their own, 100% owned productions.

Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content?

Absolutely. A Tax credit would make UK productions competitive again.

Might financial measures, such as industry levies, be feasible and effective?

Levies can work, there should be an immediate levy on ISP’s who are facilitating piracy of copyright material.

7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content?

UK production will continue to be dangerously threatened by increasingly savvy overseas competitors with access to subsidy and soft money.

To what extent are these effects irreversible?

TV is in decline—this is not reversible. However the decline is being exacerbated in some genres by unfair competition from abroad.

To what extent are they being offset by changes elsewhere in the creative industries sector?

At the moment advertising revenues are migrating online but not being reinvested into content production. This is a worrying trend. Soon, as revenues evaporate, there will be no way of funding high quality TV content other than via the BBC. The market will need to make an adjustment if new production is not to disappear altogether.

What are the implications for television content creation of digital switchover and widespread broadband availability?

Digital switchover will cause huge problems for ITV, 4 and five (if they still exist by then). There will be a huge, irreversible fall in viewing of all terrestrial channels from which only the BBC will be protected through its funding mechanism. Widespread broadband availability will not help content creation but will probably further undermine the content business model through piracy and through the reluctance of consumers to pay for content online. The market will readjust to a certain extent but digital switchover will hasten the end of TV viewing as we know it.

17 March 2009
Memorandum by Directors UK

**Summary**

(i) Directors UK—representing 4,000 screen directors recognizes the unique opportunities facing the film and television industry offered by the emerging digital distribution markets. The screen, small or large is a crucial part of our defining culture and capable of being a major export contribution. We argue that in a multi-platform work, where a film can be watched on a 3D cinema screen or a telephone, that the development of ideas and content is the key to the expansion of this major industry whose contribution to GDP last year was £3.2 billion in film, while television gave a GVA of approx £5 billion. We argue that rights ownership is the key to both creative authors and business and that UK Directors should have a protected share in the ongoing use of their work as they do in Europe and the US.

(ii) Independent film development is currently dominated by the successful UK Film Council which has been a major advantage in refining film policy and promoting UK content. Directors UK argue however that a broad development culture is needed to promote diversity and believe that the commitment to Film Development Funding should be formally included in the PSB remit of BBC and Channel 4 and development funding increased as the fastest way to grow the industry.

(iii) Directors UK welcomes the current UK Tax Credit but examples three areas where it could be made more effective for UK Independent production: Improving the UK Producer recoupment position, creating a more cost effective cash flow and making co-production regulations more flexible to benefit UK crews working out of the UK. We also suggest that a more effective system of commercial finance could be constructed under a central authority which could attract outside investment on a greater scale and with clearer long term business objectives.

(iv) In television Directors UK argues that the centralisation of the Broadcaster’s commissioning process, and unreasonable levels of control over the details of programme making, has led to formulaic and repetitive programming formulae and that this had contributed to audience decline. We argue that the Broadcaster should empower the content creators, writers, directors and producers and offer creative authority in exchange for economic discipline.

(v) Finally Directors UK celebrates the range of talent and experience that makes up our industry and believes that the current opportunities for expansion, backed by a clear government commitment to the support of UK content and talent, offer a rare business and creative opportunity.

1. **Introduction**

(i) Film, or any audio visual image, whether on the cinema screen, the television, the computer screen, a gaming machine, a telephone or other technologies yet to be invented is one of the most powerful means of communication we possess. It can transcend geography and language and allow a world audience to share an understanding of a single work or idea. A country can to some extent be defined or redefined by the energy, vitality and diversity of its film and television culture and as a business model it is flexible and offers huge opportunities for expansion.

(ii) Every film and television programme has a director who is the key creative, fusing the multiple strands of material (writing, performance, music, design and photography) into a single audio visual form. For this reason the director is recognised under UK and European law as an author and copyright holder of an audio visual work.

(iii) Directors UK (formerly DPRS) is a new organisation created in 2008 under the presidency of Paul Greengrass, with an elected Board of film and television directors whose recent work includes: The Bourne Supremacy, Notting Hill, United 93, Harry Potter and the Half Blood Prince, Enduring Love, Bride and Prejudice, Cranford, State of Play, Britz, Inspector Morse, Dr Who, Shackleton, The Government Inspector, Bleak House, No 1 Ladies Detective Agency, Operation Kill, Warlords, Little Britain, Wife Swap, and Company of Soldiers. The Board, in turn, represents a total membership of 4,000, comprising nearly every working film and television director in the UK. Directors UK defends both the creative and economic rights of these directors and collects and distributes residual payments both nationally and internationally.

(iv) Like many industries, the film and television industry is threatened by the current economic climate but at the same time revolutions in technology offer exciting possibilities for expansion. The UK audiovisual industries, with a proven talent base of content creators and world class technical expertise, is uniquely placed to take advantage of this.
Responses to Consultation Questions

2. What do the UK film and television industries currently contribute to the UK economy and British culture?

(i) In total the “creative industries” (film, television, music, advertising, publishing, radio, software etc) account for an economic output of £60 billion per annum or 7% of GDP.\(^1\)

(ii) The UK Film Councils Statistical Yearbook 2007-2008 reports that the total turnover of UK film industry was just below £7 billion, contributed £3.2 billion to UK GDP and accounts for 39,000 jobs, of which 22,600 are in film production.\(^2\)

(iii) Exports increased by 15% to £1,050m, with £646m from royalties (up 11%) and £403m from production services (up 22%). The film industry showed a net surplus of £232m in 2007 (up 81% on 2006 and the largest surplus since 2001).\(^3\)

(iv) Cinema admissions rose 1.1% in 2008 and UK Box Office rose 5% (£949m).\(^4\)

(v) The total value of the UK DVD rental and sales market was £2.6 billion, in 2007, 250 million units were sold (up 9% on 2006)\(^5\)

(vi) UK television accounts for some 80,000 jobs (cf The Work Foundation) and a GVA of £5 billion.\(^6\)

3. In what ways might this contribution be enhanced?

(i) New technologies are revolutionising film distribution mechanisms which will have a major effect on production worldwide. Increasing use of digital projection in cinemas will allow both Exhibitor and Distributor to be more flexible in methods of delivery to the consumer and to respond quickly to public demand for particular events or productions.

(ii) The traditional divisions between cinema and television and even theatre and opera may also become eroded and consumers will be able to choose whether to see a film on a 3D screen, a cinema screen, a home TV screen, a computer screen or a portable device and pay according to their choice, or (as now on ITV) accept advertising in lieu of payment.

(iii) The effect of these rapidly advancing phenomena is to lay even more stress on the role of content creators. The defining factor in how one survives in this much more complex world is the degree of quality and distinctiveness in the work that is produced. The authors i.e. directors, producers and writers in the new multi-platform world will be the key to ensuring the UK maintains a global pre-eminence and we will therefore argue that the committee should look at ways to support and develop this crucial group.

(iv) The film business in particular is capable of rapid expansion on the basis of relatively limited investment. The UK industry is operating below capacity and the development of ideas seeking a world market is the key to this expansion.

(v) Other European countries e.g. France use a Levy system on cinema ticket sales, video and home entertainment sales, and television licensing to create a centrally administered fund that is used to fund ongoing production. This reduces producers’ reliance on external funding which in turn allows them to retain more rights and create a more sustainable business model.

General Recommendations:

— Government commitment to support and encourage film production.

— Support content creators and protect authors’ rights.

— Support UK productions and co-productions.

— Support development of new and innovative UK content in film and TV.

— Support UK training initiatives for emerging and existing talent.

— Investigate operation of Levy system on cinema admissions in Europe and its impact on sustaining production.

— Explore ways in which the “private copying” levy should be applied to the digital age.

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2 UK Film Council Statistical Yearbook 2007–08.
3 Current figures issued by the UK Film Council.
4 Bigger picture Research, online, 2009.
5 UK Film Council Statistical Yearbook 2007–08.
6 Europe Economics report: UK film, TV, music and software sectors: their importance to employment and output, Dec 2008.
FILM

FILM DEVELOPMENT

4. Successful development (acquiring rights and commissioning scripts) is the starting point to growing production. There are three elements to the development of any project: Producer, Director and Writer. Directors UK argue that the earliest possible assembly of these three elements creates the most efficient route to production. The main UK based source of independent finance for film development is the UK Film Council.

5. Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

(i) The UK Film Council has been a hugely successful champion of the film industry and is the key authority in the support and development of the film landscape in Britain, both in its advancement of new work and protection of historic work in the national and regional heritage collections.

(ii) Currently the UKFC has a development fund of £4m. It also supports, via the Lottery Franchise (£5.5m), a number of UK companies who can separately fund development. We strongly support this process and the Directors Lab 2009 which helps emerging directors but we urge that the role of the director be more fully incorporated into all levels of development. The Development Fund offers finance for producer and writer but often ignores the director. We argue that the route to production is more effectively assured by the early involvement of the director and funding should be made available for this.

Recommendation:
— UKFC to support the early assembly of key triumvirate Producer, Director and Writer.

6. TV Broadcasters contribution to Film Development

(i) Television has an important role to play in encouraging a diverse national film development culture which is crucial to supporting growth in the industry. Television benefits from film development and production, because it encourages and grows the creative talents on which the industry is based. Investment in film development can be recouped through the acquisition of transmission rights at a competitive price. Current trends suggest there will be an increase in films made for UK Broadcast that have a theatrical life in other territories (cf Film 4’s: Red Riding).

(ii) This practice is well established in Europe where most National TV companies play a significant role in film finance eg Canal Plus in France, ZDF and ARD in Germany, STD in Sweden. Currently the two major UK Broadcasters who impact on film production are BBC and Channel 4 who together contribute approximately 6-7% of UK public investment in film funding.

(iii) BBC – The BBC annual budget is over £3.5 billion. It currently spends approximately £10m on UK film development and production (cf PACT Survey 2003/4 by David Graham Associates). Of this we understand 10–15% is spent on development. Recent films developed by the BBC include: The Damned United, An Education, Revolutionary Road, The Duchess, Easy Virtue, The Boy In The Striped Pyjamas, Brideshead Revisited, The Edge of Love.

(iv) Channel 4 – currently invests £10m annually which also covers development and production. Recent productions include: Slumdog Millionaire, Happy Go Lucky, How To Lose Friends and Alienate People, Brick Lane, This is England and In Bruges.

(v) Both these sources of funding are currently under threat. BBC Films has recently been brought into the centralised TV Drama department and reports suggest that Film 4’s budget will be cut by 25% this year.

(vi) We would argue that UK Film development finance should be included in the BBC’s PSB requirement, and clearly distinguished from television drama commissioning. That TV broadcaster commitment to film development is vital to create a diverse development culture and that relatively modest investment in development can have a disproportionately large effect on UK production.

Recommendations
— Include BBC funding of UK film content in PSB remit.
— Include Channel 4 funding of UK film content in PSB remit.

7 UK Film Council website
8 UK Film Council Statistical Yearbook 2007–08.
9 PACT Survey 2003/4 by David Graham Associates
10 UK Film Council Statistical Yearbook 2007–08.
— Government commitment to promote and diversify film development.
— Increase Broadcaster funding of UK Film Development.

**Film Production**

7. **Have the 2006 changes to the Tax Credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?**

(i) The current Tax Credit system was intended to direct benefit towards production more efficiently than previous tax benefit systems. It has been particularly successful in attracting major films produced in the UK but financed by American studios, which has brought much needed work to UK Studios, Facilities Companies and Crews and investment in the core skills and facilities for which the UK is justly renowned.

(ii) However there are other areas in which we believe it could be made more effective:

(a) UK Independent Producers—The maximum credit (20%) was intended to help local producers have an equity stake of up to 20% in their own work which would stand equally with any other investment in the film, and whose potential value would in turn allow them to attract investment in their own companies. Despite support for this principle by UKFC, BBC and Film4 in practice other equity financiers regard the Tax Credit as “soft money” whose recoupment position is not equal to other investment. Therefore it has been less successful in creating an ongoing support for independent UK producers.

(b) Credit Benefit—The full credit (ie 20%) is rarely applied to independent production because the producer is required to cash flow the credit (ie borrow the money) which is not payable until delivery. This significantly reduces its value, sometimes to 17% or less. This might be alleviated now that the government has become in effect a banker by allowing certain government-controlled banks to cashflow this credit with little or no interest attached, thus allowing the maximum benefit to production. Or by UKFC, BBC etc performing a similar role.

(c) Co-Productions—The system of raising money through the pre-sale of distribution territories has largely broken down with many distributors expecting to buy films after, rather than before production. Contemporary practice therefore involves a sales company producing estimates of a films value in different territories and then seeking to attract equity investors on this basis. Inevitably these financial models produce low estimates (to ensure protection of equity investment) which are exchanged for maximum rights ownership. To alleviate the level of equity investment it is necessary to access the maximum amount of “soft money” via various nationally supported schemes. The UK Tax Credit currently operates less effectively in co-productions because it applies to territorial spend as opposed to creative spend. ie a UK co-production shooting on a foreign location gets no benefit from employing UK creatives and crew. This is not the case with other European countries, so that for example a German director working in the UK would qualify as part of the German spend. Co-production numbers have fallen in the UK (From 52 in 2006 to 29 in 2007 according to UKFC figures).\(^{11}\)

**Recommendations:**

— More flexibility in the operation of the tax credit to reduce borrowing charges possibly via arrangement with government-controlled banks.
— UK co-productions should be able to count UK based crew against UK spend when working abroad.
— Strengthen recoupment position of UK tax credit investment.

8. **How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the Film Industry? How might long run changes in international film production and distribution affect the UK Film Industry and its export potential over the next decade?**

(i) The UK Film Distribution system is dominated by 10 Major companies: Warner Bros, Paramount, 20th Century Fox, Universal, Walt Disney, Entertainment, Sony, Momentum, Icon and Lionsgate who have a 95% share of the market. Leaving the 66 smaller distributors (who handle 58% of film titles) with just over 5%.

(ii) Much of the product distributed by these Majors is US financed and produced. However, UK Films also

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\(^{11}\) UK Film Council Statistical Yearbook 2007–08.
have shown that they are capable of attracting large audiences. UK films in 2007 included: *Harry Potter and the Order of the Phoenix*, *The Golden Compass*, *The Bourne Ultimatum*, *Mr Beans Holiday*, *Stardust*, *St Trinian’s*, *Atonement*, *28 Weeks Later*, *This is England*, *Last King of Scotland*, *Miss Potter*, *Elizabeth The Golden Age*.

9. **To what extent is the raising of finance an inhibiting factor in UK film projects?**

(i) The raising of finance is obviously crucial to film production. Traditionally this has been a mix of major Studio and independent production. The system of raising independent production finance through the presale of individual distribution territories has largely broken down with many distributors expecting to buy films after, rather than before production. Contemporary practice therefore involves a small number of reputable sales companies producing estimates of a film’s market value in different territories and then seeking to attract equity investors on this basis. Inevitably these financial models produce low estimates (to ensure protection of equity investment) which are exchanged for maximum rights ownership. To alleviate the level of equity investment it is necessary to access the maximum amount of “soft money” via various nationally supported schemes which means that most Independent film become increasingly complex co-productions, relying on support from different national governmental strategies, equity investors and banks. The complexity of combining this mix of equity investment and so called “soft money” routinely result in independent productions spending 10% or more of production budgets on finance and legal charges.

(ii) Successive tax based schemes have failed to support a coordinated business plan for outside commercial investment in UK Independent film financing. Each film is often financed on a one-off basis with multiple financial sources requiring competing lawyers in expensive negotiation. Nor does the finance plan offer any support to sustainable production. We believe that a centralised agency, possibly operating either as a commercial arm of the UKFC or as an independent authority, which was able to co-ordinate outside investment on a bigger scale in UK based films, and which also created an ongoing production model, would enable UK film to attract investment more efficiently. Similar models are currently employed by US studios, but no equivalent exists in the UK industry.

Recommendation:

- Enable cost effective international co-production
- Investigate a centralised mechanism for investment.
- Support the simplification of co-production formulae.

10. **Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?**

(i) To succeed, both the industry and individual creators must be supported. Rights ownership is one of the keys to this. It is important that creators benefit from the increasingly long term usage and multiple platform opportunities of works they create. Directors UK fully supports the recent copyright initiative by Minister of State David Lammy who stated that “It is vital that we have a system that supports creativity, investment and jobs”. Historically UK directors derive significantly less long term financial benefit from the ongoing use of their works compared with directors in other countries. Although recognised as authors and rightsholders, UK Directors are invariably required to assign these rights to UK production companies and/or UK broadcasters for little or no payment. This is not the case in many other European countries where there is traditional and legal acceptance that creators must be compensated for their rights. Directors in the US (including many UK directors working in the US) receive payment for all uses and exploitation of their work as a result of favourable collective bargaining agreements negotiated on their behalf by the DGA (Directors Guild of America), which are not available when the same directors work in the UK.

(ii) In this context Directors UK welcomes the current review being undertaken by the Strategic Advisory Board for Intellectual Copyrights (SABIP) and its recognition of the need to “Provide, through financial and other benefits, incentives and rewards for creative and innovative work”.

Recommendation:
— Support the operation of an effective global copyright system to ensure authors benefit from the long term use of their work.
— Work to ensure an effective piracy and anti P2P legislation combined with an ordered and managed availability of audio visual work to paying audiences.

TELEVISION

11. Development and Production

(i) British television has always been respected and celebrated around the world for its quality, diversity, and the conviction of its ideas. It has been a world leader in terms of production value and originality, never been afraid to innovate, challenge, and reach for the highest and best of what drama, entertainment and factual programming can be. These core ambitions are now under real threat, eroded and undermined by a combination of revenue pressures in the commercial sector and political sensitivities that prevail at the BBC. We ask Government to encourage, foster, inspire and embrace a more vital and provocative television industry, because in so doing, we protect and preserve an essential part of our great broadcasting tradition – as well as a fundamental part of what it is to be a vital and vibrant democracy.

(ii) The television industry is currently going through its own revolution with audiences increasingly being able to watch programmes when they choose to: 50% of the UK population have used some form of “Catch Up” and 20% view “Video on Demand” on a weekly basis. The key skill of the old broadcasting model, “scheduling”, whereby the broadcaster dealt programmes to a mass audience like a deck of cards, trying to draw the viewer from one programme event to the next is being rapidly replaced by the prospect of the consumer having access to a wide selection of current and past programmes at any one time. This will have a profound effect on content, requiring every individual programme to compete for the audience’s attention, a concept of course that already applies to other media such as theatre, cinema or the internet.

12. How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

(i) Successive Governments have sought to create a more creatively independent and competitive television industry but in effect the opposite has happened. Instead of a diverse culture of independent companies invigorating the central broadcasters, a dependent culture has been created with independents competing for work from a small group of centralised commissioners. Large and small independent companies are increasingly reluctant to take risks because there is no alternative market and robust debate is silenced.

(ii) There was no simple “Golden Age of Television”, but 20 years ago it could be argued that there was more competition in the UK broadcast market than there is now. Then there were major drama and current affairs departments in different ITV regions, eg: Yorkshire, Granada, Thames, London Weekend, all of them fiercely competitive with a decentralised BBC all offering different perspectives, tastes and ambitions. Channel 4, which had a clear remit to offer alternative programming, offered further diversity. Managerial reform in both BBC and ITV, however, has made commissioning increasingly centralised so that the total output of the primary channels BBC1 and ITV1 and Channel 4, is effectively under the control of a tiny group of individuals. This had led to repetitious and formulaic programming where every minor rating success generates copycat programming which is one of the key causes of audience disenchantment and declining viewing figures. A culture has developed where fear of failure is a stronger motivation than the desire to succeed. As Directors UK Board member Peter Kosminsky said in Broadcast last week: “I’ve always felt that the BBC is like the captain of the ship, but the captain is absent at the moment”.

13. “Are there particular types of programming . . . for which more support is needed?”

(i) The answer to this is a definite “yes”. The PSB argument has focused on a limited number of areas, eg regional news, religious affairs and children’s programmes, but the area of concern is much wider. Ofcom states that “PSB programmes should reflect life in the UK and our cultural identity. They increase our understanding of the world, stimulate our knowledge and interests and make us aware of different cultures and viewpoints”. This principle should be applied to a broad range of programming. While statistically broadcasters can show that drama or documentary hours have remained constant, this is often made up of increased hours of soaps, formulaic series, reality TV, home improvement and cooking shows. Investment in innovative and risk taking

13 The Association for Television On-Demand (ATVOD) survey, March 2009.
programmes has dramatically declined. The authored factual documentary one of the great mainstays of UK TV as seen in: ITV’s World In Action, This Week, Network First, First Tuesday or BBC’s Omnibus, Real Lives, Everyman and Survival has all but disappeared.

14. **How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?**

(i) It is impossible to predict structural change exactly, what is certain however is that in any structure, creative content and the financing of creative content will be the constant. As access to high width broadband grows it will be easier and cheaper to get films and programmes to a wide audience and commercial networks must and will take advantage of this. But the strong UK tradition of ensuring a place for broadcast content that is freed of the restrictions of the commercial market should continue to have a place in our culture. To meet this challenge it is essential to support and enable the creative originators, the producers, directors and writers on which innovative programs depend.

(ii) Specifically, over-centralisation of management in recent years has led to less efficient production. Increasing delayed approval or “greenlighting” of programming results in poor planning and inefficient use of financial resources, and executive micro management of programme details erodes creative authority and creates addition financial penalties. As our industry wrestles with the problem of making better programmes for less money a key element in this process is to support economically disciplined creative authority.

**Recommendations:**

- That the PSB requirement be clearly defined to include innovative drama, current affairs and factual documentaries.
- The BBC increase its commitment to innovative UK content and use its financial strength become a market leader in this area.
- That the BBC concentrate on its core skill of investing in programmes and contain managerial and organisational costs.
- That Channel 4, as suggested in Ofcom’s recent PSB report, be developed as a strong public service alternative to the BBC with a clear remit to deliver news, current affairs, programmes for older children, innovative drama and a full range of digital media content.

**Conclusion**

The current economic climate coupled with revolutionary technological change offers a chance to redefine and renew a powerful commitment to a film and television culture that is the envy of the world. In particular we look to the Public Server Broadcasters to take their place as a cultural leaders, concentrating on supporting a diverse and innovative creative community and developing new talent, and to government to promote the expansion of this major UK industry.

23 March 2009
Examination of Witnesses
Witnesses: Mr Miles Bullough, Head of Broadcast, Aardman Animations; and Mr Charles Sturridge, Chairman, Directors UK, examined.

Q1423 Chairman: Welcome, thank you very much for coming. I think you heard a bit of the last evidence in any event so you know the form we are taking. Can I begin with two rather general questions really getting you to introduce yourselves. First of all, Mr Sturridge, you might like to say just a word or two about Directors UK. You give a rather encouraging picture of how you see the future.

Mr Sturridge: I think the picture has potential for encouragement in the long term although there are obviously very serious problems in the medium term which I am sure you have being discussing. I am here in my role as elected Chairman of Directors UK which is a new organisation although it has older parents, it has come from a longer tradition. We represent 4,000 member directors in television, film and related audio-visual industries. We really came about because of a strong feeling among working directors that their voice was not heard and was not represented in debate about our industry. Over the last two years we have built up the organisation into what I hope is a new force in arguing for the creative side of our industry. In particular, we have a very vigorous board of working directors who include David Yates, currently directing Harry Potter, Paul Greengrass, currently directing The Green Zone, Peter Kosminsky, and other members who are all currently working in the industry and therefore offer very immediate experience. In our submission to your Committee, my Lord Chairman, we tried to outline our premier concerns and also our view in general of the state of the industry and what could be done in an inquiry, that we welcome, to look for ways of improving the assistance government gives the industry.

Q1424 Chairman: You suggest that with all the technological change which is taking place that this is an opportunity?

Mr Sturridge: Yes, it is an opportunity which carries with it risk. The absolutely inestimable revolution that is taking place is in the dissemination of audio-visual work in films and television, something that historically has always passed through a very narrow doorway both in television and film, which is basically distribution. Obviously it is not quite the same for television and film but you still have to go through this doorway in order to get your work to the viewing public. We are now facing a change which, although it is much debated and much discussed, understandably, is still not, I suspect, completely understood. We are in a sense in a generation of cavalry officers trying to work out tank tactics. We are moving from one system to another. What is exciting from the point of view of the creative originators, who I represent, is that ease of access to the audience, which offers enormous opportunity to those people who create content. It offers a certain amount of giddy unsteadiness to those who have been protected by the narrow gate up until now, some of whom you will have spoken to in the last few weeks. We think therefore it is particularly important to look at the underlying structure of how the industry works specifically in rights. Directors under UK law are authors of every work they produce, a right that is casually disregarded by most of the rest of the industry. We look to see that this opportunity to re-examine the skeleton of entertainment is used to produce a structure that will last for the next 50 or 100 years.

Q1425 Chairman: Okay. And thinking of animation, do you take the same view of the future?

Mr Bullough: Parts of it, yes. I run the television division of Aardman Animations and, generally speaking, we are also rather excited by periods of great change. We see new opportunities opening up. We see new audiences for our products and, generally speaking, we embrace periods of change. They obviously bring with them challenges and thank you for the opportunity to come here and talk about those. I think it should be in the context that this is really quite an exciting period for our industry. In particular, we worry about the competition overseas. We produce much of what we do in the UK. Aardman employs between 300 and 400 people making UK content for UK audiences. Our business is being challenged really quite dramatically by subsidised overseas competitors, and this is something that we would like to share and see if the Government can help us address, and the tax credit system which has come up this morning already we would like to see that extended to animation, especially for kids, which we fear is suffering particularly badly.

Lord Gordon of Strathblane: Why does it not extend to that if it is a film?

Chairman: It is television.

Q1426 Lord Gordon of Strathblane: Sorry, yes, I appreciate that.

Mr Bullough: The other challenge is the concept which the consumer has adopted which is at the point of delivery everything should be free. This is particularly challenging for us and also for all content creators, including directors who Charles represents.
Q1427 **Chairman:** When you say that you are particularly concerned about overseas subsidised competition, that is in the television area in particular, is it?

**Mr Bullough:** In particular. It also applies slightly to film but colleagues in Canada, France, Belgium, Germany, Australia and Ireland all enjoy a level of tax credit or subsidy that can provide them with anything between 25 and 70 per cent of the budget of their productions. When we as a British producer set out to raise finance for one of our productions, be it *Wallace & Gromit* or *Shaun the Sheep*, we would be looking at getting a maximum of 20 or 25 per cent of the budget out of the UK and that would be from broadcast and up until recently DVD advances, so we start from a position whereby we can sell premium products to the world’s leading broadcasters in the UK and still have only raised 25 per cent of the budget. Our Canadian colleagues can do the same and with the tax credits and various subsidies available to them they can raise nearly 70 per cent of the budget.

Q1428 **Chairman:** Would it be fair to say in those countries which give tax credits most of them give tax credits both for film and for television?

**Mr Bullough:** Yes. The corollary of that is because we have a treaty with Canada we end up entering into official treaty co-productions with Canadian companies whereby Aardman ends up producing our shows, especially our CGI shows in Canada, so we have recently produced two series whereby the division of labour was we employed approximately 20 people in the UK and our Canadian co-producers employed something like 100 people in Canada to make a series that is Aardman branded.

Q1429 **Lord Macdonald of Tradeston:** Part of the logic of that is that those countries have vulnerable television industries that have to be defended by subsidy whereas Britain has a strong television industry based on the licence fee and therefore does not need the subsidy. Taking it further the logic is that therefore those who get the licence fee should ensure that you are probably sustained?

**Mr Bullough:** Yes, the BBC is probably a slightly different case in this argument. The BBC is really the only viable source of finance amongst the terrestrial broadcasters in the UK for kids’ programming in particular.

Q1430 **Lord Macdonald of Tradeston:** Do they give you good deals?

**Mr Bullough:** They give us absolutely terrible deals because they are the only show in town. To be fair, we have a very good partnership with the BBC so I do not want to disparage them.

Q1431 **Chairman:** What about ITV?

**Mr Bullough:** ITV are out of the kids’ business essentially and Channel Five does what it can and does a very good job with pre-school programming, *Peppa Pig* being a very great example of that.

Q1432 **Chairman:** And Channel 4?

**Mr Bullough:** Channel 4 does almost nothing in children’s programming although I am pleased to see that the Ofcom *Digital Britain* report suggests that Channel 4 should get back into children’s programming.

Q1433 **Lord Maxton:** There are children’s channels that show just animation

**Mr Bullough:** Correct. They are all American.

Q1434 **Lord Maxton:** They are all American?

**Mr Bullough:** *Cartoon Network*.

Q1435 **Lord Maxton:** And you cannot get into that?

**Mr Bullough:** We can but the terms are tricky sometimes.

Q1436 **Lord Gordon of Strathblane:** How has the children’s market been affected by the ban on food advertising?

**Mr Bullough:** That particularly affected ITV. There are various numbers we have seen—£27 to £30 million coming out of the children’s TV business—so it has definitely had an effect and encouraged ITV to withdraw from the sector.

Q1437 **Baroness McIntosh of Hudnall:** Just before I get on to the question I want to ask, could I extend this thing about children’s work one little bit further. Mr Sturridge, you have made films for children. These are rarer than hens’ teeth these days, other than the ones that come out of the big Hollywood studios directed towards a children’s audience, but what you might call handcrafted film work for children is very, very rare. Is it just that it is very difficult to fund it or that there is not a market for it? Why is it so hard to get that stuff made?

**Mr Sturridge:** I think there is a difference between television and feature film in this respect. I think that it is considered difficult to fund because that audience in both cases does not support an economic return that is sufficient to fund production. Television has tended to argue that it does not make enough money out of children’s programmes and therefore has always done it reluctantly and, in recent years, with increasing lack of financial commitment. In terms of feature films I suppose the two obvious ones that I have done, *Fairytale*, which was essentially American funded, it was a Paramount film, and *Lassie*, which was a classic example of the complexity of creating an
independently financed film in the UK. I think at the core contract meeting I sat at a table with 11 lawyers all representing different financiers. That is a sample of the kind of Byzantine complexity one has to go through in order to assemble what was in fact a very low budget, six-week shoot £6 million film.

**Q1438 Baroness McIntosh of Hudnall:** That takes me very nicely to the question I did want to ask which is for the benefit of those of us who are not regularly part of the industry, understanding what a director does and how much control he or she has, firstly, over the original material and, secondly, then over what emerges as a result of the work that has been created through the production process, is quite mysterious. There is a mythological version of it that the film industry has created for itself about who a director is. Can you just talk a bit about, generally speaking, where a director fits into the whole creative process?

**Mr Sturridge:** Yes. I would say essentially the director is the engine of the creative process and the core position the director operates is at the centre of balancing on the one hand the creative aspirations of the work, whether it is the script or the film itself, and at the same time the economic realities of it. The director is the one who is most able to manipulate and affect that equation, which is the crucial thing to the making of the film. The French have a number of words for director and the one that I think is most expressive is réalisateur, which combines two meanings, realising meaning to understand, and you have to understand what it is you are trying to do, but realising it in the sense of making that understanding fact. In the end a film starts in the head of a director and one’s initial conversations are trying to not only explain but to excite people by the nature of what you are going to end up with and then your job is actually to end up with that thing which you explained at the beginning. We stand curiously in between two crudely defined cultures of director, one in Europe and one in America: Europe where the director is more quickly recognised as the central author of a film or television work, and not only celebrated as such but to some extent rewarded by right as such—and I differentiate here between reward by right and reward by negotiation, so to speak—and America (and this is a slightly crude definition) where the director is seen more as a part of the production machine element in that process. I would not in any sense suggest that American directors are not extremely powerful figures, but traditionally we have slightly faltered between the two—underrepresented in our legal rights, which have recently been to some extent technically corrected but not entirely recognised as being corrected, and the American system. My contention really is that the director is a very unique figure in terms of the kinds of people you have been talking to in the last few weeks because we work every system. We work for the Americans, we work in television, we work in independent films, and a lot of us in all of those things, whereas you will be tending to talking to people who in one way or another are committed to a specific system and defending that system. We are used to slipping between all of them.

**Q1439 Baroness McIntosh of Hudnall:** Two quick follow-up points that come out of that. One, is it is not generally easy to understand what the relationship is between the director and the producer in respect of some of those issues and sometimes then the question of creative control can be located more with one than the other, depending on the way that the deals are put together? Two, go back to your point about the creative energy coming from the director, would it be your view that in terms of sustaining a genuinely UK cultural content within the UK film industry that the important people in terms of creative energy and creative character are the directors rather than say the producers or even the screenwriters?

**Mr Sturridge:** I think there are a number of important people but I think the director has traditionally been the most overlooked in terms of its effect on the industry. To answer your question in a slightly more literal sense, which is to say what does the director physically do, the director in the end is standing in the field with a group of actors, a field in which nothing will happen unless you actually make it happen. The director is responsible from the creation of the scripts. In some instances, my own for example, the director may be the writer as well but that is a kind of coincidental juxtaposition of roles, and occasionally even the producer, which I have also been, but the core task is the finalising of the script, the casting of the actors, the selection of the crew, the staging of the scenes, the choosing of the shots, the editing of the film and the delivery of the film as requested, so to speak. The director is literally responsible for every physical element of actually transforming a pile of pages into a piece of celluloid at the other end. There is no bit of that the director is not responsible for. Creative control is in the end, however it is defined, always a negotiable factor and I would argue that, although seldom legally defended, very few people would deny that the director is at the centre of every creative decision and in the end directing is a Darwinian process and directors adapt to the conditions that make their survival most effective, but what they are best at is getting their own way!
Chairman: Mr Bullough, do you want to add anything?

Mr Bullough: There is quite a difference between the film industry and the television industry in that the film industry tends to be director-led (although that is not always the case) and the television industry tends to be writer-led or producer-led. Certainly in America, show-runners come from a writing background and directors are hired guns who execute the writer’s vision. As for creative control, it is entirely negotiable and we operate a range of policies from Nick Park, who clearly has creative control over everything he does, and a new director who we would not give creative control to over a big project.

Lord Maxton: There have been famous examples in the past of directors and producers falling out on content. The most famous example is probably David Puttnam and Bill Forsyth, is it not? In that case the producer won?

Mr Bullough: Yes.

Lord Macdonald of Tradeston: For financial reasons.

Mr Bullough: The money usually talks and it depends who the money is backing.

Mr Sturridge: That is certainly true but in end all the successful versions of that relationship are collaborative. Collaboration is the key to film making. Film making is not produced by argument in the end. If you believe in something you will fight for it and that is quite proper and the director’s cut has been invented to sort that problem out.

Chairman: Q1442 Lord Maxton: Exactly, it is financial reasons.

Mr Bullough: The money usually talks and it depends who the money is backing.

Mr Sturridge: That is certainly true but in end all the successful versions of that relationship are collaborative. Collaboration is the key to film making. Film making is not produced by argument in the end. If you believe in something you will fight for it and that is quite proper and the director’s cut has been invented to sort that problem out.

Bishop of Manchester: Can I spend a moment looking at the issue of public service broadcasting and the obligations because, in the written submission from Directors UK, that clearly is an issue which you regard as very important, and in your conclusion you say: “In particular we look to the public service broadcasters to take their places as cultural leaders . . .” and there are specific recommendations that you make in terms of the PSB requirement being clearly defined to include innovative drama, current affairs and factual documentaries. Also in your document you talk about the PSB remit including BBC funding of UK film content and you also refer to Channel 4. There are two areas I would like to explore with you for a moment. In your conclusion you are really making the point very strongly about this is an economic climate which provides us with a moment for redefining and renewing et cetera. Just looking for a moment at the regulatory aspects of public service broadcasting and thinking in terms of what you are saying about redefinition and renewal, what would you like to see done in terms of any change?

Mr Sturridge: There are two areas there, specifically television and television’s relationship to films. If I can separate those for a second. We are currently in an extremely difficult broadcasting climate. Or it would be extremely difficult if one element of that was not funded to the level of £3.5 billion a year, which obviously puts the BBC in a uniquely powerful position in an industry which is otherwise extremely economically threatened at the moment, for complicated reasons, and partially of its own making frankly, and it is very clear in the short term that both ITV and Channel 4 are enormously reducing their commitment to make programmes of any ambition whatsoever, quite openly, and that is a very difficult situation. I think that overall in broadcasting, despite this financial inequity, there has been an absolutely astonishing change in the nature of the programmes we the public are offered. One of the things that is so obvious that it is often ignored is that what we the public care about is the programmes that we see. We do not care that the managerial reformation is more or less. We would like it to be more efficient but when you have a culture which is essentially a managerial culture, which is effectively what the BBC has become, all its attempts to redeem itself tend to be done in managerial terms, and it is finally the programmes that we care about, and that is what we want to see changed and that is what we think we pay our licence fee for. What we are seeing is a huge decline in a number of areas. The PSB remit is obviously clearly focused on things which are not unimportant but I think not the only issues—children’s programming and regional news for example—and it did not, I feel, concentrate enough on the enormous collapse of author documentary and investigative documentary which used to be a core skill of ITV and BCC, and of innovative drama, which has been astonishingly reduced, so that although we can point to both these groups and usually find one or two programmes that seem to contradict this statement, we have nothing like the plurality of programming that we were enjoying before. That is not because of some sort of mythical golden age. I am not really a believer in television, which was complicated and by no means perfect when I was growing up in television 20 or 30 years ago, but at the same time it has very much, I feel, lost its way in creating varied and challenging content for our audiences. I think that is what we expect from the public service remit and I feel that the core argument that has been substituted is “in order to justify the money you give us we must be as popular as everybody else”, which is just paying the money to get the same thing. We want something which is more varied, more challenging, more innovative. We do not want it to be unpopular but I do not see those two as a contradiction. I feel
that the argument has failed to be properly argued and that is one of the reasons we as a group were created, to articulate this slightly more clearly.

Q1444 Bishop of Manchester: Are there any specific ways in which you would recommend stronger regulation over all PSB and are there any specific things that you would want to say about the way the BBC operates in its governance which allows this populism that you are talking about?

Mr Sturridge: I think it difficult to regulate content or legislation for content. I would like in this context perhaps to make a personal observation rather than a regulatory suggestion, which is that one of the things I have observed in my own career in television—and I emphasise this is not an argument to return to previous systems but it is just a observation—is that I grew up in a much more plural environment whereby you had six or seven very fiercely independent independent television companies who would compete with each other for programming and who, if you had an idea and went to one and they did not like it, you could go to another and they would potentially like it more, and also a much more varied culture at the BBC. We then went through 15 years ago a huge change when we were promised that the introduction of independent programming would create a more plural culture and bring more people into it. It has had the reverse effect which is that it has created a hugely dependent independent culture which is dependent upon a very narrow commissioning stream, which means, bluntly, there are about four people in the country who control the whole drama output. It is insane that it should be so reduced, not that those people in themselves are failing but how can four intelligences make the decisions for absolutely everything we see. That is both dispiriting and I think poorly serves the audience.

Q1445 Bishop of Manchester: Mr Bullough, do you want to say anything?

Mr Bullough: I think that is a very, very important point. The issue is how do you measure the success of the BBC? Do you measure it in terms of audience numbers or do you measure it in terms of something much, much harder to define, such as quality? I think the most important thing is that to be able to experiment and to take risks the BBC has to be allowed to fail. If we create a climate in which the BBC does something which does not achieve good ratings for example and is perceived to have been a failure then we are on a very slippery slope towards mediocrity.

Q1446 Chairman: The trouble is of course that other parts of the media, ie the newspaper media, will actually highlight the fact that this programme has “failed” or at least has not had a large audience, and that has an impact on the BBC in that they feel the case for the licence fee is going to be reduced, so there is an eternal circle.

Mr Bullough: It is government by tabloid journalism at the moment which is something we all have to fight.

Mr Sturridge: Just to make a slightly obvious point here. We are here in an industry which admits openly that it has a declining audience. We are not in an industry which has got a hugely solid situation. The exaggerated argument for this is that it is a declining audience because of increased alternatives to watch but as a person who lives in a multi-aged household with many sources of entertainment available to them, that household does not sit all the time watching the mythical other channels. In fact, it is less engaged with television than at any time I have ever known because it does not really feel it is serving them at all. It is not part of their key culture and that is because it is not really addressing in a powerful enough way the needs of the audience.

Q1447 Lord Maxton: Up to a point that is true but they are also finding on their computer screens other sources of stimulus, whatever it might be, which they do not feel they get from television and do not need to get from television.

Mr Sturridge: A lot of the reason they do not get it is because it is not there. Government by tabloid, which everybody suffers from, means that it is important that we debate what it is we expect. We need to make it clearer what we want particularly from public service broadcasting.

Mr Bullough: I think how government can help is to define clearly what it would expect of the public broadcasters and to make it clear that ratings is not the be all and end all. Of course we do not want our public service broadcasters to make things that no one wants to watch but they should be allowed to make a few of those things and to fail occasionally with things that attempt to be popular.

Chairman: We have been through the whole process in which the Government and the BBC were meant to be making all that clear but we will leave that to one side. Lord Macdonald?

Q1448 Lord Macdonald of Tradeston: Charles Sturridge, you were regretting the decline of ITV and it is arguing at the moment, pretty successfully it would seem, that it should be released from its remaining public service broadcasting obligations. Part of its positive approach is to say we will continue to make British programming, in particular popular quality drama. Is there a way that that can be secured given the uncertainties going forward about the ownership of ITV?
should Ofcom be trying to secure the fact that it plays a particular role in producing British drama?

Mr Sturridge: I think the ITV question is a difficult one and in a way I feel hesitant about pronouncing absolutely confidently upon it. The reason I say that is because I think there are, if one takes the initials off ITV literally—independent television—big opportunities for independent broadcasting, i.e. not funded by the licence fee, which will be substantially altered as the transmission mechanism begins to open up, which it frankly has and will do in a matter of a very short number of years; this is not a long-term thing. Whether or not what we understand as ITV can make itself the centre of that process depends on some revolutionary thinking by that group of people, which is not in evidence at the moment and will not be based on the old analogue system but on encouraging a broader window for independently produced programming on a wider frame of subjects.

Q1449 Lord Macdonald of Tradeston: Still thinking of Ofcom and the way it now appears to be engaging with BSkyB and its singular and very profitable position, is there a way again that you think Ofcom should be encouraging Sky to commission more first-run UK programming?

Mr Sturridge: I think Sky is slowly beginning to do that. I have no access to the managerial decisions of Sky but the opportunity that HBO seized in America, which in some senses was seized at a slightly weaker position in American television as a whole (although American television has caught up with what HBO were doing) is the kind of model that we feel Sky might begin to look at, which is to take advantage of its subscriber base and, in relative terms, its secure income as opposed to ITV’s, which is fluctuating, and use it to produce high-quality UK programming in different genres. It is new at this but it looks as though it may be beginning to take it a bit more seriously and any encouragement that Ofcom could give to that would be a very good thing.

Q1450 Lord Macdonald of Tradeston: You lamented the decline of the authoritative and aesthetic commissioners of the past and all the plurality. How best could you take that argument forward, particularly with the BBC, which is in a responsive mode you might say at the moment to popular complaints about its conduct? How would you challenge that managerial domination and open it up to a more creative type of commissioning editor?

Mr Sturridge: I think that in combination with us, the public, the BBC has to articulate its case more clearly. I think it has failed to seize the cultural advantage or to argue the cultural case, or the creative case more accurately, and has been caught in a process of across-the-board cutting to prove that it is being economically sensible in these hard times, but it is doing it in a very kind of flat way. Most programming has been cut by between six and seven per cent a year over the next three years, as opposed to saying we are going to reduce our overheads, reduce our managerial costs and increase our investment in programme making and take this opportunity of a weak programme market to show that we can be the leader in the creation of content. That is what we want to hear—someone who is giving us something to pin our colours to, not just ducking and weaving to avoid our disapprobation.

Q1451 Lord Macdonald of Tradeston: It is interesting how little we now say about Channel 4 which was once seen as the most creative and adventurous of the channels. What would be your Directors UK critique of their structure?

Mr Sturridge: Channel 4 was created with a very clear and well-argued remit to be different from everybody else. It was deliberately funded in a route that was intended to cushion it. Although it was funded by ITV, the essence was to protect it and not to treat it as a straightforwardly commercial company. That protection, as we know, has now fallen away in a very drastic manner. It has tried to cope with that by proving its commercial ability and in that process has lost the reason we invented it in the first place. I am not pretending I have a simple answer on how you reinvigorate that process but I definitely believe that there should be a competitive public service broadcaster with the BBC. If there is just one it is clearly going to produce a less innovative result and I think there does need to be a radical solution to the funding of Channel 4 but it has to be accompanied by a very clear and argued remit of what they are going to do with it.

Q1452 Lord Gordon of Strathblane: I would like to turn to levies. Both of you, perhaps for different reasons, have argued in favour of levies. Can I first of all ask Mr Sturridge, how would you see your proposed levy working?

Mr Sturridge: We were discussing two different kinds of levy which have two different effects and I was not surprised to catch the end of the last consultation in here where Universal Pictures and Warner Bros were not exactly overwhelmed by the idea of levies because they are interested in a very different kind of economic model. Loosely speaking, the first of the two that we discuss in our report is a reference to a version of the Eady Levy, which is in effect a levy by the consumer at the point of purchase of a ticket, and would be a way of allowing the UK industry to take advantage of the enormous amount of money that changes hands that is
primarily going to the US industry. I think that in this year when the Film Council is losing 50 per cent of its Lottery funding to the Olympics that we should re-look at this issue. I think the argument of the ticket price is a true one. Having just come back from Los Angeles yesterday one is very conscious that the UK ticket price is (a) much higher than anybody else’s and (b) as Tim was explaining, a very inequitable proportion goes to the exhibiter and not to the making of films itself. In the context of value for money that is something that the exhibiter has to think about, not so much to use the levy as an excuse for putting ticket prices up. The second one which I would just quickly like to get on to is a very different kind of levy, the private copying levy. This is something which is crucially important to the remuneration of content creators in Europe and is totally absent from the UK system whereby private copying (and I would just quickly emphasise this is nothing to do with piracy, this is to do with the use of legal copying in Europe) is compensated in almost every European country by a levy on copying devices, bluntly, hard disks and that sort of thing. This is something which is a key part of the way content creators literally physically survive and has been absent in the UK up until now, although I believe it has been recommended and it may be coming into UK law and the concept of private copying is going to be created here (currently it is technically illegal to copy from your CD to your iPod) but without the key EU argument that this should be accompanied by remuneration to the author. That is really important and would at a stroke change the real financial situation of a large number of disadvantaged UK authors.

Q1453 Lord Gordon of Strathblane: So both levies, as it were, would be hypothecated. The first would go to general film production and the second would go to the reward of the authors which would include particularly directors.

Mr Sturridge: It would definitely include directors but it would also include composers, writers, performers and producers.

Q1454 Lord Gordon of Strathblane: Mr Bullough, you also talk in favour of an anti-piracy levy.

Mr Bullough: I think we should slightly broaden that out. I am slightly concerned about the levies or additional charges that appear at the point of delivery because that seems to me to be where we are having most trouble extracting money from the market. I support particularly the copying levy. If content is free, and that is what everyone is trying to work towards, and we are trying to work towards universal broadband to deliver more free content to more free people, then who else is benefiting? The other people that are benefiting are the people distributing, the carriers, the platforms, ISPs. They have had a tough time up to now putting the infrastructure in to enable that to happen, and quite rightly we should not have touched them whilst they were doing that rather expensive process, but we are now moving from infrastructure to content delivery and it strikes me that there could be an opportunity to say to those people they are getting all this free content, the iPlayer is an absolutely stunningly successful piece of technology which is enabling ISPs to construct the argument they should be charging more for the bandwidth that is coming into your house because you are watching so much video on the iPlayer, that they should be perhaps encouraged to contribute to some kind of fund as is the case in Canada to a certain extent. It is a complicated system in Canada but there are two funds called the Bell Fund and the Canada New Media Fund into which broadcasters and telcos place money which is matched by the government and which can stimulate content creation. I think that is an interesting model to explore. I do not think it is easy, it is very complicated, but I think that is an area that needs looking at.

Q1455 Lord Gordon of Strathblane: You will have heard the argument that this could discourage the take-up of broadband which I think would be a matter of some concern.

Mr Bullough: The take-up of broadband is driven by the consumer. If you ask people to pay one pound every time they watch a football match on television they would not pay, but if you ask them to pay £25 a month to watch football matches on television, they seem very happy to pay. So, in my view, adding a pound for example to your monthly subscription which is diverted to a content fund is a much easier and much more acceptable way of raising money in this climate than asking consumers to pay at the point of delivery.

Q1456 Baroness Eccles of Moulton: Mr Bullough, could we return briefly to the question of tax credits for animation. You have told us a bit about it already and your relationship with Canada and all that, but I suppose one of the important aspects of it is for the Inland Revenue to believe that there is a good incentive on the tax recovery side. Could you just say a little bit more about how that might work and how they could be persuaded?

Mr Bullough: The example of Ireland is a good one where there is a 28 per cent tax credit available which is cash positive to the Irish Exchequer. Animation in particular but all television production is hugely labour intensive and a vast proportion of our budgets are spent on labour. By partnering with overseas companies where subsidies are available we are offshoring that activity and that
tax revenue, that VAT and that spending is lost to the UK economy. There is obviously an equation to be worked out. I would be surprised if a 40 per cent tax credit were profitable for the Exchequer but other countries’ experience would seem to suggest that between 20 and 30 per cent as a tax credit is profitable for the Exchequer, and it would seem, as we have got a system in place for films which is working pretty well, as we have heard, to extend that to certain types of television or perhaps quite generally to television would seem an interesting idea to explore. I think it could be beneficial to the overall tax pot.

Q1457 Baroness Eccles of Moulton: When you say it would be interesting to explore, it sounds as though there has not been much progress made yet in persuading the powers that be to consider it seriously.

Mr Bullough: There has been a lot of talk about it. You have probably heard about it already and you will hear more about it over the coming weeks. It is something that PACT, the independent producers’ organisation, feels very strongly about. I think it is particularly relevant in children’s television where the subsidies for children’s television in other countries are very high. We are in a situation now where fewer than a quarter of British children’s programmes are made in the UK and that is scary and for a company likes ours, where in a sense we have to make our programmes in the UK, we cannot make Wallace & Gromit and Shaun the Sheep anywhere else, it really is a direct threat to our business.

Mr Sturridge: Just on the tax credit. There is a precedent for it. The precedent shows what is good and what is bad about it. Sale and leaseback was allowed for television programmes. I did a film called Shackleton which benefited enormously from that. Ten per cent of the budget came from a sale and leaseback deal. However, what happened in the end was that it started to get used by a broader section of programming, and the famous example was Coronation Street was using it, and this in the end got the Government annoyed and they kicked over the whole thing. The key to having a tax relationship is defining what it is for and why it is there, not just using it across the board, but to specify what it is used for.

Q1458 Baroness Howe of Idlicote: I think you were both here when I was asking questions about the skills base and obviously I am going to ask you the same sort of questions, but I noticed also that one of the comments that was made in what you have written is that we have failed over the last ten years to develop a strong feature film writing skills base. You seem to be implying to some extent that is also due to a lack of managerial talent in this area and I wondered if you would like to develop that a bit?

Mr Bullough: In our sector we feel that the education system is not delivering to us the graduates that we need for our business. We take graduates from the multitude—I think 175 media courses are run in the UK—and it is as if we are starting from scratch. So in terms of vocational training, for us this is not happening in the UK and we are falling badly behind particularly France and Germany where there are two or three really world-class schools that are delivering people to us who we can put on to a production with a minimum of training and they are up and ready if you like.

Chairman: How long does it take you to train them? Is that too wide a question?

Mr Bullough: It is slightly wide but you are looking at between one and two years to get somebody up to standard.

Chairman: That would be a post-graduate?

Mr Bullough: That would be a post-graduate. Some obviously are quicker than others but between one and two years would not be unreasonable to suggest.

Q1461 Baroness Howe of Idlicote: What about the throughput to that point and how much should the industry be doing and how much should you expect government and policy makers to do, and in what direction?

Mr Bullough: It is important first of all to distinguish between academic courses, which are fine, but courses which are advertised to students as being vocational I feel should be truly vocational. I think there should be a much closer tie-up between those courses and the end users of those graduates in a sense. I slightly worry that the funding mechanisms for higher education at the moment encourage quantity rather than quality. Training is obviously a big issue in our sector. I would advocate that some of the funding that currently goes to the higher education institutions should go to them if they partner with an industrial partner. It would be the end users who would be able to, in a sense, finish off that training and make sure that the students are actually fit for the jobs that they are being groomed for.

Q1462 Baroness Howe of Idlicote: And lower down in that sphere, internships and apprenticeships, can there be a greater link through because presumably some of the people who start at that level could go on?

Mr Bullough: Absolutely. We are overwhelmed with requests for internships and apprenticeships and it is a very expensive business for us.
Q1463 Baroness Howe of Idlicote: So what are you suggesting, subsidies?
Mr Bullough: I am suggesting that some sort of help or diversion of funds from higher education into internships and apprenticeships would be highly beneficial.

Q1464 Lord Macdonald of Tradeston: How do you differ from the video games’ need for graduates? Are you looking for mathematicians and physics graduates and others, a less creative input?
Mr Bullough: There are two sides to our business. We have a pretty substantial CGI business, where we are looking for exactly the same type of people as the computer games business. Then we are also looking for raw animation students who have that creative animation ability. They are different to the computer engineers.

Q1465 Baroness Bonham-Carter of Yarnbury: This has come up over and over again and I tried to ask Tim Bevan but maybe I did not put the question correctly. It sounds to me like it has needed to get to children earlier and that it is not just a matter of the apprenticeships or the higher education but that, at school, children should be being taught that if they learn certain subjects which are not really very popular at the moment they might end up with quite exciting jobs. Is that something that you recognise?
Mr Bullough: I think it is important to strike a balance between education for education’s sake, which I completely approve of, and not trying to bash into our teenagers the need to be worrying about employment too early. We start worrying about that in this country pretty early anyway because when you choose your A levels that has an absolutely huge effect on your future career. I think at the moment schools are doing quite a good job in teaching creativity. Art is slightly relegated to the end of the summer term when all the boxes have been ticked and the results are in. My daughter is learning animation at school, she is learning database programming and she is a 12-year-old, so I am quite impressed with the way we are approaching this at primary and secondary school level. I do believe the problem is with higher education.

Q1466 Baroness Bonham-Carter of Yarnbury: I was visiting Pinewood yesterday and they said that they have a real problem with craft skills, not electricians, not plumbers, but craft skills.
Mr Bullough: And if we could find a way of getting Pinewood to partner with its nearest college or university which is supposed to be training those types of people, if government could encourage those partnerships, and frankly, the only encouragement that is worthwhile is financial, I think that would help Pinewood as well. We probably take more graduates from Superinfocom in France and from the Filmakademie in Ludwigsburg than we do from UWE, which I could walk to from my office.

Q1467 Chairman: Is it not the case that in many other occupations, law for example, which is perhaps not the most exact comparison, you have many people who take a general degree at university because they can do law for the rest of their life (and you might argue that is rather a good idea they do that) and then they come out and after that do their two-year professional qualification. Doing it this way sounds to me to be an unnecessarily specialised way from a very early moment?
Mr Bullough: I think you are right but I also think there is a problem with the expectations that students are given at the beginning of the course. I have a history degree myself, which I have not used at all since I left university but I would not swap it for anything. I think it is the expectation that students have going into a vocational course which they believe is going to deliver them qualified into the workplace. That is the problem and where colleges are offering vocational courses they should be vocational.

Q1468 Chairman: Is it really rather a criticism of the media course which in fact is not particularly vocational at all?
Mr Bullough: Yes.
Chairman: Let us go on. Lord Maxton?

Q1469 Lord Maxton: Can I briefly talk about the UK Film Council. Would you like to see any changes in the UK Film Council’s funding policies because it has been said to us that they do have a reputation for being commercially too hard in terms of the funding they provide.
Mr Sturridge: I think in a way that is kind of not necessarily focusing on the crucial point here. I think the Film Council has had a transforming effect on the industry. No-one would deny that it has focused on the process of financing films. However, its resources are limited; its overheads are high, and I think it can be made more effective. I think it could consider a number of supportive strategies which would make it more effective. One of the many difficulties—and I am thinking of the smaller independent film here, not so much the Working Title film—is the operation of the tax credit. The tax credit is a very good idea but it works most effectively for people like Warner Brothers who cash flow it themselves and they get the full benefit of it. I do not remotely discourage that. However, for a
smaller independent film they have to cash flow it which in effect means they are getting 16 or 17 per cent not 20 per cent and they are the ones who need the 20 per cent. As government moves into the banking industry in a very different way, we could begin to think of a more efficient way of using the credit, that we are trying to create to affect production, to make it more effective in production. Bluntly, I think there should be a way of cash flowing it which allows a bigger proportion of the sum to go to the production and not to a bank. I think that there are a number of areas of outside investment, non-governmental investment, which cannot really find a place in the UK system because it is too piecemeal, which is encouraged by the bigger American studios. I am talking about major investments of hundreds of millions of dollars, and it cannot find a way to do that in the UK, and I think there may be a way of identifying sources of private investment which do not particularly want to subscribe to the American system but cannot find a way in which it can work in the UK system, and the Film Council might be a portal for that sort of process. I think on any level plurality is crucial to development and that what is happening at the moment is (and you have had Tessa Ross from Channel 4 here) is Channel 4’s ability to develop has been severely reduced in the last 18 months and that means there is only one place to go and it is a terrifying thought that there literally is only one meeting you can have with an idea and if that does not work there is no idea. I have just come back from Los Angeles where you can have 18 meetings, not that they all work but at least you have different places to go, and that is one of the great difficulties in the UK system.

**Q1470 Lord King of Bridgwater:** Would you like to say some more about this issue about where you choose to make films and to work? You heard the end of the discussion we were having with the others about relevant studio facilities, skills, the exchange rate. What determines it?

**Mr Bullough:** From our point of view we would like to make everything in Bristol. That is our starting point. In a sense, for us it is easy because in the scripts if it says “and they fly to France” all we have to do is build a little model of France and put the Eiffel Tower on the set and we are done. So in a sense for us that is easier but then the next question is where are we going to get the money from? The question after that is okay if we are getting the money from there, how much of the production do we have to do there as well? That represents the thing that I wrestle with on a daily basis. Okay, the money is coming from Canada; how much of this production do we have to do in Canada? Okay, we are going to get the money from France, et cetera, et cetera. That is entirely what drives our business.

**Q1471 Lord King of Bridgwater:** That is entirely public sector finance of one sort or another. Do the private sector investors in other countries mind where it is made?

**Mr Bullough:** No, they do not. Most private money would like Aardman’s productions to be made in Bristol as well because it is a sort of assurance of quality.

**Q1472 Lord King of Bridgwater:** You made the illustration of how many people are working on one particular part of the production in Canada. Overall what percentage of your work is done in Bristol at the moment?

**Mr Bullough:** I would say at the moment it is 100 per cent and—

**Q1473 Lord King of Bridgwater:** But I thought you were talking about Canada.

**Mr Bullough:** Yes, we finished the Canadian production a year ago. Today all our shows are being made in Bristol. Next year we will have a substantial number of people working in California on a movie for Sony.

**Q1474 Lord King of Bridgwater:** Why?

**Mr Bullough:** Because they are providing the money and they have a big CGI facility there which they would like us to use.

**Q1475 Lord King of Bridgwater:** So this is Hollywood jobs for Hollywood people which I asked about before?

**Mr Bullough:** In that sense, yes. We do not have the capacity in Bristol to make the size of movie that we are making for Sony so we would probably have to make that somewhere else.

**Q1476 Lord King of Bridgwater:** Tim Bevan rather dismissed the idea that American investment meant the jobs would move to America.

**Mr Bullough:** Yes, I think the feature film we are making is probably the exception rather than the rule. It is a big CGI movie and they have a production facility that is ready and waiting to make that film so they are putting the money in and they would like us to use that facility rather than help us build one in Bristol, which from a commercial point of view I can understand. It would be nice to build it in Bristol and that is an ambition for us in the long term.

**Q1477 Baroness McIntosh of Hudnall:** If you were free agents in this (which obviously you are not) could you actually make that film in the UK? Okay
maybe not in Bristol but could you do it somewhere else in the UK? Do the facilities exist?
Mr Bullough: Yes they do.
Mr Sturridge: There are so many examples of this that they are crowding me out here. Aardman obviously has a specific situation because they are building everything, but I developed for two years a film about the three Bronte sisters set, as you would guess, in Yorkshire. It was separately reconstructed to be shot in Brussels, Hungary, the Isle of Man, Ireland, anywhere except Yorkshire, and the reason is that film financing is inevitably a totally pragmatic event and one has to try and find the financial equation that produces the best value for the physical budget and that was virtually impossible to do in the UK in numerical terms.

Q1478 Lord King of Bridgwater: Just on that, so which were the bits that made it impossible and which were the bits that took you to Hungary and Brussels?
Mr Sturridge: The two primary financial sources at the time were what in Effect is called soft money, basically tax or production advantages gained from shooting in specific territories which could not be matched by the UK system, ie a better deal in the Isle of Man, a better deal in Luxembourg, a better deal in Hungary than you could get in the UK which offered you more—

Q1479 Lord King of Bridgwater: Not putting money up but a question of tax?
Mr Sturridge: Yes, the money tended to come from a mix of tax investment, which really was not interested in what you did with it as long as it fulfilled the current tax regime at the time, and the soft money came from a certain amount of money being put up by those respective countries or put against budgets.

Q1480 Lord King of Bridgwater: Have “angels” gone completely?
Mr Sturridge: Yes, effectively. The old system, which would seem quite logical, was that you approached a number of parties, and there were separate distributors who said, “I will give you the French rights for X” and, “I will give you the German rights for Y.” What happens now, broadly speaking, in independent films is that you have a sales agent who calculates what they reasonably think you will get in those various territories. Inevitably that calculation is very low because they are betting on an uncertain market. Then you raise either bank money or tax money against that calculation with a small amount of pre-sales. It is not financed now by pre-sales.

Q1481 Lord King of Bridgwater: And they are getting most of the equity. That is what you said in your paper.
Mr Sturridge: Absolutely.

Q1482 Chairman: Okay. Thank you very much indeed. I am afraid we have gone over time with you but thank you for your patience and thank you for the excellent way in which you have given your evidence. I think there may well be points that we would wish to come back on so perhaps we can do that. Thank you again for coming.
Mr Bullough: Thank you for the invitation.
EXECUTIVE SUMMARY

This is the submission of Save Kids' TV (SKTV), a coalition of parents, producers, artists, educators and others concerned about screen-based media for children in the UK.

Our main conclusions are:

— Children spend a significant amount of time using media—broadcast, web-based, and mobile. It is extremely influential in developing their understanding of their own world and the wider society around them. So they need and deserve a wide range of good quality indigenous content that is age appropriate.

— Despite a substantial increase in broadcast hours, the quantity and diversity of such programming available on British television has declined in the last ten years. The regulatory system has not only failed to protect or support children's programming, but with the recent restrictions on advertising to young people, and the inability to prevent broadcasters pulling out of children's, it has actually been detrimental.

— Quality, quantity and diversity will not be guaranteed by the BBC alone. But the market will not make good this gap. Until alternative sources of funding have been put in place, children will suffer diminished choice and quality.

We are witnessing a complete failure of the market to supply this crucial area of public service programming, and as we move to a new digital future it will be children who lose out. The situation is almost catastrophic but not yet irreversible, if Government acts quickly.

Our main recommendations are:

— Government must act now to put in place effective, sustainable and future-proof plans to stimulate high quality children’s content on existing and yet-to-be-invented commercial platforms. This is vital in this transitional period, when revenues in the children’s sector are under strain, if original long-form narrative content is not to be lost forever.

— The second Public Service Provider (PSB2) proposed by Lord Carter’s Digital Britain Review must have children’s provision “written into its DNA”, with its funding and core values protected by law.

SKTV—WHO WE ARE

— Save Kids’ TV (SKTV) is a coalition of parents and professionals who understand the importance of rich, high quality media experiences for children.

— We are allied in our approach with other organisations campaigning for the best possible media provision for British children. These include The Voice of the Listener and Viewer, PACT, The Writers’ Guild, The Society of Authors, BECTU and Action for Children's Arts.

— However, SKTV is an independent organisation; its membership, comprised of parents, children’s workers, academics, television and arts professionals (all children’s specialists) are all volunteers. We receive no funding from the food, advertising or broadcasting industries.

— Although we are called Save Kids’ TV, we believe that all media content designed specifically for and with children is critical in helping them make sense of, contribute to and enjoy the complex, confusing and often contradictory world in which they live.
— We believe that children have the right to a rich mix of content that reflects their own culture and the society in which they live, and that gives them a view of the wider world. We wish to see a healthy balance between indigenous and imported programming in UK kids’ viewing.

— Our aim is to ensure continuity in the provision of high quality media content for children regardless of where they find it. Despite the inroads on their time and interest from games and user-generated content, these and other new forms of activity cannot provide the full menu for a balanced media diet. We believe children will always want and need fully formed stories told by professional storytellers, whether they be fictional or factual narratives. This is true now for broadcast television and will become increasingly the case as emerging media such as broadband video-on-demand takes its place.

— We believe that predominantly watching poor quality imported children’s programming and adult content is not only detrimental to children themselves, but to society as a whole.

— We are consequently deeply concerned by the erosion of the diversity and quality of programming made for children in the current market climate, and we see no evidence that new platforms are prepared to fill the gaps with their own rich, challenging, long-form narrative content.

— We therefore believe that Government should look ahead to ensure high quality UK originated content on the new platforms as they come on-stream.

1.0 Regarding The British Film and Television Industries

This submission concentrates on the children’s sector of the film and television industry. In the evidence that follows we are concerned with:

— How well the broadcasting regulatory framework is supporting UK originated content and whether the current arrangements are adequate for the digital age.

— The value of the second Public Service Broadcaster concept as advanced by Digital Britain.

— The case for provision of children’s public service material on new media.

To put our evidence in context, we will outline why children need high quality screen-based media in the first place1.

2.0 High quality UK-originated children’s media content is culturally important—the evidence

2.1 The case for the power of television to benefit children’s lives has been forcefully made in Professor Maire Messenger-Davies’s book Television is Good for Your Kids.2 Her broad conclusions are that children bring their own resources of common sense, healthy scepticism and creativity to television; and that their lives and imaginations can be stimulated and enhanced by the use of media content.

2.2 Good television can support formal education. Preschool programmes such as the CBeebies channel’s In The Night Garden and CITV’s pre-school show Jim Jam & Sunny have the DCSF’s Early Learning Goals at their core. They teach about colour, number, letters etc. in a structured way, with considerable input from educationalists.

“There is evidence that attention and comprehension, receptive vocabulary, some expressive language, letter-sound knowledge of narrative and storytelling all benefit from high-quality and age-appropriate educational programming”.

2.3 The educational benefits of children’s television have been demonstrated in a number of academic studies. Researchers at the University of Minnesota studying comprehension skills in young children conclude that good children’s television supports learning and literacy.

“Children who learn these comprehension skills from television viewing before they are able to read, come equipped, so to speak, with some very important tools when they later start to read.”4

2.4 Good television also stimulates informal learning. Series like Fifi and the Flowertots promote care for the environment and a healthy lifestyle. Amongst older children, CITV’s Art Attack feeds the imagination and encourages creativity, while How 2 (CITV) and Big Bang (CITV) tackle science, technology and engineering

1 Although not primarily concerned with children’s film, we believe that the issues are similar to those in television.
2 Davies, M. M. Television is Good for Your Kids, London: Hilary Shipman. 2nd edition 2001
in a child-friendly way. The FIVE series *A Different Life* has portrayed children who have rare disabilities or who live in the South African bush.

“Television can be of general benefit to children. It can bring them into contact with aspects of life they would not otherwise become aware of. It can provide a valuable tool in the home and at school not simply to keep children occupied but also, if used appropriately, as a constructive way to use their time…. It is a channel through which a range of entertainment, drama and learning can be obtained and experienced.”

2.4.1 It is precisely these types of programme that are under greatest threat in the current climate. In fact all three of the CITV examples above have been decommissioned. And FIVE has cancelled its programmes for older children through lack of funding—hence the demise of *A Different Life*.

2.5 Programmes without overt educational aims also offer children a learning experience that parents value. A recent American study showed almost all parents point to “learning” as one of the biggest advantages of television. Buckingham and Sefton-Green point to the potential pedagogic value of non-educational programmes in that they show children how to learn. They argue that “education” should be distinguished from “learning”. Children learn skills from popular culture such as how to behave, how to feel and how to respond. The pre-school series *Peppa Pig*, for example celebrates family values. This type of “learning” thus makes television one of the major players in the socialization process, alongside more traditionally recognised socializing agents such as the family, school and peer groups (Signorielli & Morgan 2001). Television’s value in childhood goes beyond diversion and entertainment. It reflects society’s values and the common culture (Takanishi 1982).

2.6 Television can be an active and inspiring activity for children, and the tabloid stereotype of children slumped in front of the screen is far from the norm. Younger children experience television as a social activity with 94% of their viewing taking place with either family or friends. For the vast majority of young children, watching television is active and they are often inspired to do other things while watching: 48% of children talk to the characters on screen, 77% sing, 69% talk about the programme, 38% play with toys related to the programme, and 73% of children dance:

“Parents report that their young children generally lead well-balanced lives, with popular culture, media and new technologies playing an important, but not overwhelming role, in their leisure activities. Engagement with media is generally active, not passive, and promotes play, speaking and listening and reading.”

2.7 Amongst older children, shared viewing is a source of great enjoyment and cultural bonding. Similarly, watching shows with siblings and parents, “being included with the grown-ups”, is one reason why prime-time entertainment shows and soaps are popular amongst children. Moreover there is a reciprocal tendency whereby many children’s programmes are watched by parents with their children, which gives the child endorsement and approval. This is an important family experience.

2.8 Television is part of the “cultural glue” of our society. It remains one of the most significant ways in which children receive, both formally and informally, culturally relevant information for their development. Globalisation of the economy creates global content. However, children need a balance between global and local cultures:

“It’s essential that countries design and observe laws aimed at protecting the audiovisual space occupied by the national productions for children.”

2.8.1 Despite the onslaught of the global, British broadcasters have up to now continued to provide programming that validates children’s local experience. CITV has a long history of locally produced and located drama and comedy, from *Catweazle*, via *Press Gang* to *Barking* and *My Parents Are Aliens*.

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8 ibid. pp.28–29. 2004
12 Marsh Jackie Digital Beginnings University of Sheffield 2004
14 Alejandro Malowicki speaking at the EICTV, Cuba. Translated from the Spanish in *The Eye and The Ear* El Ojo y la Oreja Newsletter 41. November 2006 www.eictv.org
2.8.2 Furthermore, programming with a local perspective can address issues, which are specific to particular groups in society. For example, the Bafta-winning *My Life As A Popat* (CITV) was nominated for a Commission for Racial Equality award, while *Uncle Max* (CITV) was particularly effective with socially disadvantaged children and children with hearing difficulties.

2.9 Children watch a lot of television designed for adult audiences. Some of this is positive, but much of it assumes levels of experience and sophistication that children do not have. If children get their understanding of relationships, sexuality, problem solving, violence, ethnic friction etc. from *EastEnders* and *Big Brother*, they will not have a rounded view. They need content that is targeted to their understanding and their developmental life-stages.

2.9.1 High quality children’s television presents its audience with an age-appropriate view of the world. Programmes such as *That Summer Day* (2006, BBC1) offered a child’s-eye view of 7 July bombings, a viewpoint that was nowhere else reflected. Similarly, UK-produced Children’s TV is more likely to encourage young people to be healthy than adult television: an episode, for example, of CITV’s animated series *Grizzly Tales for Gruesome Kids* about a boy who is turned into a turkey twizzler will have more resonance for a child than *Celebrity Fat Club*.

2.10 Disadvantaged children in particular need children’s TV. For them, free to air television is their main source of news and entertainment, which makes it even more important that it is available in child-friendly packages on the platforms that they use:

“Recently, I held a series of creative writing workshops in Hull primary schools. All in fairly impoverished areas, it was clear that in many cases, the only regular creative experiences that the kids had in their lives, was from watching children’s TV. How important then, that we give them quality kids’ dramas, that explore important issues, morals and debates, in an entertaining way, in a cultural approach and language that they immediately engage with.”

2.10.1 However, it would be a mistake to see middle class children as exempt. All parents want to feel that their children can safely watch television without fear that inappropriate content will alarm or confuse them.

2.11 Above all, children still need to be children. In our increasingly accelerated and commercialised culture, their dedicated programmes afford them that space.

2.12 CONCLUSION:

2.12.1 Lord Carter recently stated that the provision of News and Local programming were “essential for a healthy democracy”, offering fairness and access to all, so that everyone can engage with their world. The provision of good children’s media is equally important and for exactly the same reasons; even more so, if the “digital generation” is to create a healthy democracy for tomorrow.

2.12.2 Rich media content can support children’s formal and informal education, and is part of the “cultural glue” that holds society together. UK-produced children’s programmes help to support the government’s objectives for children expressed in the Children’s Act 2003, with respect to being happy, enjoying and achieving through learning, and making a positive contribution to society.

3.0 High quality UK-originated Children’s Television is under threat—the evidence

3.1 The UK now has 25 children’s television channels. That has brought a huge increase in the number of hours of television broadcast. However, the increase in hours does not give a true reflection of what’s really being offered to children.

3.1.1 In 1996, the then ITC required the commercial PSB broadcasters to transmit a minimum number of hours of original production with quotas for particular genres. So for example ITV had to provide 77 hours per annum of Pre-school, 52 hours per annum of Factual/Information and 70 hours per annum of Drama. The overall hours of origination, including repeats was set at 390, and the full quota including acquired programming was 520 hours of children’s content per year.

3.1.2 ITV broadly delivered against these quotas up to and including the year-end 2003, when the new Communications Act was introduced. With children’s television placed in “tier 3”. Ofcom’s resultant “light touch” regulation left the broadcasters to their own devices, in terms of hours and content commitments. From airing 9–10 hours of children’s programming per week, ITV1 has now reduced its commitment to just two hours per week, at weekends before 9am, when everyone else is asleep.

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15 Ofcom Children’s food choices: Parents’ understanding and influence, and the role of food promotions. July 2004 appendix 3
17 Westminster eForum Digital Britain 16.1.09
3.2 Until recently ITV was the principle competitor with the BBC in producing original UK-based programming for children. However, CITV’s overall budgets from the introduction of the 2003 Communications Act until the closure of its production arm Granada Kids in 2007 show further evidence of decline, which has particularly affected originations:

- 2003–04 £35 million\(^{18}\)
- 2004–05 reduced to just over £30 million\(^{19}\)
- 2005–06 reduced to £26 million
- 2006–07 reduced to £11 million
- 2007–08 less than £4 million
- 2008–09 near £ zero

3.3 For 30 years, ITV’s commitment to children’s programming met with worldwide critical success. Why has that commitment now ended? Why is original programming under threat?

3.3.1 Contrary to popular belief, children’s TV is not lucrative for broadcasters or production companies. While *Bob the Builder* and *In The Night Garden* make large profits, such programmes are rare and almost exclusively in the pre-school genre because they sell internationally. For the vast majority of children’s programmes there is little potential for international sales and merchandising.

3.3.2 Thus on commercial television, production was substantially paid for by revenue from advertising. As children’s programmes do not attract a high advertising spend, commercial broadcasters are reluctant to make them. When they are made, their production budgets are significantly smaller than those of comparable adult programmes. Children’s drama typically comes in at about 30% of adult drama cost (£200,000 per half hour), and children’s game shows at 25% (£70,000 per half hour).

3.3.3 For ITV, the vast majority of its advertising revenue is focused on its share of adult-only commercial impacts (ie one person’s viewing of a 30 second advertising spot). Because of the way impacts are calculated, ITV usually gets more money from a small number of adults watching ITV1 than a large number of children watching it. Adult impacts are far more important than children’s impacts, and a much lower-rating adult show (such as re-runs of 1970’s sit-com *Rising Damp* recently transmitted in the previously dedicated airtime for children on weekday afternoons) generated greater revenue for the broadcaster than a top-rating children’s show.

3.4 In the long term, fragmentation of the advertising market, with the arrival of so many dedicated children’s channels, has also reduced advertising revenue associated with children’s programming for channels like ITV1.

3.5 The regulations limiting food advertising have reduced revenues further. PACT estimates annual cuts of £35 million across the commercial sector as a result of the advertising ban.

3.6 Falling advertising revenues, deregulation, and the ban on HFSS food advertising to children have combined to discourage commercial broadcasters from producing their own children’s programming.

3.7 (Channel) FIVE, which runs a successful low cost pre-school service, *Milkshake*, has indicated to Ofcom that it sees children’s programming as a key part of its future public service remit. However it cannot commit to programming beyond pre-school. Its service for older children, *Shake*, the only commercial TV service for children offering any genuine documentary content, has already fallen victim to the funding crisis.

3.8 The cable & satellite channels produce some programmes in the UK, particularly Nickelodeon, Disney and a new initiative at Cartoon Network. But the investment is significantly lower than that previously at CITV with estimates of the annual spend on programming at Nickelodeon, for example, in the region of £5 million before the recent accelerated downturn in advertising revenue caused them to make further production cuts. For the most part the children’s channels source new programming mainly from their US owners, or co-produce across several territories. Furthermore, they are currently not required to commission or even report on their UK production spend. Everything to date has been due to the dedication of their UK programmers. We value their contribution, but they too are suffering the effects of the new advertising regulations. With falling revenues and far less terrestrial commercial competition the pressure on these channels from their parent companies will be to maximise revenue rather than production. It is unlikely they will ever be able to produce the volume of UK-originated children’s content once made by CITV.

3.9 Taken together, the overall expenditure on original programming across all the channels in the commercial sector at 2005–06 levels is estimated to have been £35 million—significantly the exact figure which it is thought has left the industry now that the new advertising regulations have taken effect.

\(^{18}\) Source: ITV published figures
\(^{19}\) These three figures are SKTV estimates. ITV has not officially reported CITV’s spend since 2003–04
3.10 However these estimates do not take into account the accelerated decline in advertising revenue across all the commercial channels that has occurred in the last 12 months.

3.11 If UK-based commercial kids' TV collapses, the BBC will become the monopoly supplier for UK-originated children's programming. While the BBC provides a wonderful service, this would not be advantageous for several reasons.

3.11.1 The effect on the industry will be that the BBC will, as a duty to its Licence Fee payers, pay less and less for programmes—high market rates cannot be justified if there is no market. Falling budgets will lead to reduced quality, or to greater reliance on co-production, so that even less programming is of quality and UK based.

3.11.2 Equally the BBC’s access to creative competition amongst its suppliers is decreasing as the once-thriving children’s production industry withers.

3.11.3 As relaxed regulation has allowed competitor channels to capture large audiences in the daytime schedule, the maintenance of the Terrestrial blocks of programming for children on BBC ONE and TWO has already been eroded. Newsround and Blue Peter has made way for The Weakest Link, resulting in a significant loss to the children’s audience. That loss has been identified as a failing by the BBC Trust in its recent report on children’s services at the BBC.

3.11.4 The BBC is unlikely to enjoy its current level of public subsidy forever, and as funds are eroded, cuts will be made. Anticipating a low licence fee settlement for the BBC, its Director General, Mark Thompson, has already stated that children’s programming at the BBC will be re-evaluated in the light of ITV’s withdrawal.20

3.11.5 The BBC itself admits that a reduction in competition will be detrimental for children:

“Anything that curtails healthy competition curtails our ability to deliver for our audiences now and in the future. And that is bad for the media industry as a whole.”—Richard Deverell, Controller, Children’s BBC.21

3.12 Conclusion

3.12.1 In the current market climate, with a diversity of choice of channels, there is fragmentation in funding, which is leading to less diversity in the choice of programmes. Ofcom has stated that fewer than one in five hours broadcast are of programming made in the UK, with less than 1% made up of new UK originations.22

3.12.2 Apart from the BBC there is no UK broadcaster able to invest meaningful amounts in UK-originated programming. Regulation of hours on terrestrial channels is proving insufficient to ensure continued investment in quality, with ITV’s departure from children’s programme production the sharpest evidence of decline in provision.

4.0 The likely effects of a reduction in UK-originated Children’s Television

4.1 Children watch an average of 15 hours of television a week.23 There is no reason to suppose that this average will fall because UK-originated content is reduced.

4.2 While viewing family programming is to be welcomed, it cannot replace 15 hours a week. Children will still watch in their bedrooms, and increasingly on their PCs. They will want to access programming made specifically for them and increasingly that will not be made in the UK.

4.3 Ofcom’s research into children’s media literacy shows that low-income families watch the most TV. Therefore the loss of high quality indigenous production for children will disproportionately affect the 25% of UK children living in low-income homes. For many of these children it is their only cultural and societal reference point.

4.4 There is evidence that the BBC has a different reach from those of the commercial channels.24 Bearing in mind each channel appeals to a particular demographic, it cannot be assumed that a child deprived of CITV will automatically become a CBBC viewer.

4.5 A significant number of CITV’s shows have always been made outside London and the South East (eg My Parents Are Aliens, Jungle Run, How 2, Big Bang, Bel’s Boys). As commercial schedules fill with animation and acquired programming from outside the UK, despite the BBC moving to Manchester, this regional representation of children’s lives will also decrease.

20 The Guardian 2 February 2007
22 Second Public Service Broadcast Review: Putting Viewers First. Ofcom. 21 January 2009 (Sec 11.4)
23 Second Public Service Broadcast Review: Putting Viewers First. Ofcom. 21 January 2009 (Sec 11.10)
24 Ibid Appendix 3
4.6 According to Ofcom’s 2006 media literacy audit, 72% of children aged 8–15 have access to digital TV, 64% have access to the Internet at home, half own game consoles, and 65% of 8–15s own mobile phones (including 49% of 8–11 year olds). Children are using new platforms for their media experiences and exploring new content such as games and user-generated material. But these should form part of a rich mix of media. As the emerging platforms mature, children will seek out long-form content there—looking for stories. We need to ensure there is age-appropriate content for them by preserving the skills to make it and ensuring its quality through funding.

4.7 If the present situation with relaxed PSB regulation is allowed to continue, SKTV foresees in the next five years a scenario in which Ofcom’s inability to set minimum spending rather than the current hours quotas, or more detailed genre-based requirements, means there is no pressure to produce new programming. Advertising regulations will severely reduce the potential for all commercial broadcasters to commission quality programmes. Original indigenous children’s content will practically disappear outside the BBC, a BBC stunted by the lack of competition. There is little likelihood that emerging media will take up the funding slack. With the consequent media diet of repeats and acquisitions on the dedicated channels, a generation of children will grow up with few contemporary references to their own lives in the media they access. Our children will be disempowered, our creativity stunted and UK society irreparably damaged.

4.8 There is another scenario however.

4.8.1 In its response to Ofcom’s initial consultation on the future of children’s programming in 2007, Save Kids’ TV proposed a new and innovative public service for children, which would serve the unmet needs of today’s children and address a significant gap in the market that has failed them. With a strongly mandated and fiercely protected public service mission, the service would provide content for all children, particularly those in the 6–12 age range, across a wide range of programming and interactive genres.

4.8.2 Populated with mainly UK-produced content, it would be informative and educational, fun and entertaining, non-exploitative, safe and secure; it would provide a genuine alternative to, and competition for, the BBC.

4.8.3 It would cement potential growth in the relationship between the games industry and the content industry for children, from a position of funded strength for the content side. It would ensure that the values, diversity and editorial integrity, which has characterised UK children’s television in the past, filters through to the new delivery platforms and through them also into the games sector.

4.8.4 At the beginning of 2009, Ofcom published its Final Statement on Public Service Broadcasting25 and proposed the establishment of a new public service entity, which could play a role in delivering children’s content. It also raised the idea of contestable funding for children’s PSB content, should this entity be unable to serve the needs of children.

4.8.5 Weeks later, Lord Carter’s interim report “Digital Britain—the Future of Communications”26 identified the importance of plurality in the provision of PSB content for children, and supported the idea of a second public service institution. SKTV welcomes the Digital Britain report and the emphasis it places on public service content for young people.

4.9 Conclusion:

4.9.1 The prospects for maintaining plurality of supply, and therefore a diverse range of locally-produced quality content in public service broadcasting in the digital age—at least with regard to children’s content—are poor.

4.9.2 SKTV urges for a new funding solution to create a buoyant sector and to support UK-specific cultural content for our young people.

4.9.3 Whatever the future, we know from experience that unless the mechanisms providing for children are clearly mandated, funded and regulated, those mechanisms will become preoccupied with the needs of adult audiences, which will be fulfilled at the expense of children. There needs to be a braver vision and more forward-thinking solution, before it is too late.

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26 Digital Britain: The Interim Report. DCMS 29 January 2009
5.0 CHILDREN’S FILM

5.1 Although we are not primarily concerned with children’s film we believe that the issues are similar to those in television: ie a decline in indigenous, culturally relevant films in which children see themselves and hear their own voices.

5.1.1 Despite the high profile of film franchises like Harry Potter, there is actually a very small number of films released for children in the UK (only 7% of the total number in 2008).27

5.1.2 Of the 37 films aimed at under 14s, 23 originated in America, seven from the UK and seven from Europe. The children’s market is dominated by US studio films made in the UK as inward investments.28

5.1.3 There is a real lack of smaller scale, culturally relevant indigenous films in the tradition of the old Children’s Film Foundation or those made in other European countries.

5.2 The Film Council has no particular remit for children’s films, although it has supported user-generated schemes such as First Light and Media box.

5.3 The broadcasters have done little in this area although Sky has broken the mould this year with Skellig.

5.4 We would argue that unless the Film Council earmarks specific funds for children’s film production the situation is unlikely to improve.

6.0 RECOMMENDATIONS

6.1 As media evolves, we need to ensure that children don’t get short-changed. Even though over 90% of homes with children now have multi-channel television, we feel strongly that whatever happens long-term, until the completion of digital switchover, provision should be maintained at 2005 levels on free-to-air television. The BBC alone is not enough. If necessary this should be achieved through changes in the regulatory position of the free-to-air broadcasters.

6.2 We welcome the Digital Britain Review’s proposal for a second PSB entity but insist that if such an entity is established, a solid commitment to children’s provision must be enshrined in its constitution: a commitment to provide a dedicated, substantial and sustainable offering that meets the needs of all today’s children, and is available via broadcast and digital platforms.

6.2.1 To address market failure effectively, it should be sufficiently funded, and required to commit those funds to the commissioning of unique, high-quality factual, drama and entertainment programming of relevance and interest to UK children; telling their stories, hearing their voices and connecting them to their culture, society and the wider world. The purpose should be clear: to engage, entertain, educate and empower children of all ages, to help them participate effectively and constructively in society as informed and active citizens.

6.2.2 If a second PSB proves unviable, SKTV would welcome a solution using contestable funding to create an independent alternative public service provider for children’s content, provided the above principles apply to the body set up to deliver the children’s content.

6.2.3 This fund should be independently administered and should not be accessible to the BBC.

6.3 However, we believe that our original proposal for a dedicated and comprehensive children’s service contains the core principles and ideas that address market failure and responds to the innovative, creative ways that today’s children engage with media; embracing the best of the participative and interactive characteristics of the digital world.

6.3.1 We are currently in discussion with Digital Britain and have submitted to the Department for Culture, Media and Sport, a model for governance structures, budgets, sources of funding and the look and feel of the service; the details of which are included in our report: “A Future For Children’s Media”.29

6.3.2 We are also seeking partners in this project to draw in expertise and support from the Games industry, from the education sector and from potential broadcast and delivery providers.30

7.0 CONCLUDING COMMENTS

7.1 British children need a diverse range of culturally relevant material as their media diet. The market alone will not provide this. Government needs to intervene to help.

7.2 As Tony Robinson, actor, writer and presenter,31 argues:

“In a world in which children are assaulted by media messages on a host of electronic platforms, children’s TV should remain a beacon of quality and positive values.”

27 UK Film Council Research and Statistics Unit
28 UK Film Council Research and Statistics Unit
29 A list of supporting organizations and individuals will be available by 12 May 2009
7.3 SKTV believes that the UK can once again have a world-leading children’s production sector by being bold and creating a new institution that addresses failure both in the supply and distribution ends of the market.

7.4 Young people are often at the forefront of new technology, adopting its use long before their elders. It is not enough to “protect” them by restricting what may be harmful—they need content that nurtures them. SKTV believe our innovative proposal utilises all that is good about convergence and therefore asks the House of Lords’ Select Committee to support it as the best possible way forward for children’s Public Service media provision, enhancing their general and cultural education, sense of inclusion and overall well being.

30 April 2009

Memorandum by Voice of the Listener and Viewer

Voice of the Listener & Viewer (VLV) is an independent, non-profit-making association, free from political, commercial and sectarian affiliations, working for quality and diversity in British broadcasting. VLV represents the interests of listeners and viewers as citizens and consumers across the full range of broadcasting issues. VLV is concerned with the structures, regulation, funding and institutions that underpin the British Broadcasting system. We have limited our response to broadcasting matters as we have no specialist knowledge or insights into the UK film industry.

1. What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

VLV believes that the UK film and television industries make a major contribution to the British economy, culture and wider society. In particular, despite the preponderance of US films and television programming, research indicates that audiences most enjoy seeing fiction and non-fiction that relates to their own societies. The role of the UK Film and TV industry in helping 21st century Britons understand, and value, their own society and culture is enormous. A society that does not reflect on its own experiences is an impoverished one—thanks to the UK film and TV industry that is not the case here.

There is evidently a growing problem as regards investment in children’s television—particularly outside the BBC. Investment in original UK children’s programmes fell by 17% since 2001, even though at the same time total investment in UK programmes rose by 4%, according to Ofcom’s Future of Children’s Television Programming report (2007, p 47). In consequence, for child audiences, the offer largely comprises imports and repeats: across all the material broadcast to children in 2006, strikingly only 1% was UK-originated first run material. It could hardly get any less (Ofcom 2007, p 30).

These trends threaten to meet neither children’s own priorities nor their developmental needs. Already, children’s viewing is disproportionately greater for UK-originated programming and disproportionately less for imports (Ofcom, p 97). Moreover, much that is imported for children is animation, so that cartoons account of 61% of programmes for children; yet they account for only 41% of their viewing. Children prefer to watch drama and factual programming, exactly the two genres most under threat. Ofcom (p 73), reports that drama accounts of 12% of output but 19% of viewing, while factual is 5% of output but 7% of viewing. Further, 19 of the top 20 (ie most viewed) children’s programmes in 2006 were BBC1 (p 102).

So, children vote with their EPG’s for diversity in genres, especially those whose funding is most threatened (drama and factual) and they want UK programming, as indeed do their parents (p 115). But the market does not deliver according to their preferences: for although targeted by marketers and advertisers more than any child generation in history, children are insufficiently profitable by comparison with adults.

VLV believes that children need and deserve programmes which reflect their own rich and diverse heritage of language, literature, values and environment, as well as those of other countries and cultures. Viewing high quality UK-originated programming affirms children’s identities and sense of their place in the world and it stimulates their imagination and play. Research suggests that children’s response to television can be more subtle and complex when the young people portrayed and the dilemmas they face closely resemble themselves. This is not just a matter that affects children. Children grow up. The quality of the programmes they watch as they grow will affect the quality of our society when they form the adult population.

2. How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?

This is not an area that VLV makes claims to any specialist knowledge or insight.
3. Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

This is not an area that VLV makes claims to any specialist knowledge or insight.

4. Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

This is not an area that VLV makes claims to any specialist knowledge or insight.

5. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

This is not an area that VLV makes claims to any specialist knowledge or insight.

6. How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

Up until relatively recently the regulatory structure for British broadcasting has indeed provided a climate that has encouraged the production and distribution of high quality UK content. However, the “light touch” of Ofcom has given rise to some changes for the worse in UK content. Most worryingly has been the withdrawal from providing children’s programming that Ofcom has allowed ITV to undertake over the past few years and their most recent moves to cease providing local news. VLV believes that the licence fee has been an effective means of guaranteeing both the quality of UK programming on television and the continued existence of PSB pluralism—now threatened by the retreat of ITV from most of its PSB commitments and the possibility of Channel Four being forced into a merger with RTL (owners of 5). VLV believes that there is scope for industry levies as a means of boosting the funding available to PSB broadcasters which has not been sufficiently explored. We would argue that ensuring that the commercial organisations that benefit from the output of the PSB broadcasters should pay something towards maintaining the viability of these broadcasters seems wholly equitable.

7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

VLV shares with the House of Lords Communications Committee’s view, as expressed in the recent Report into Public Service Broadcasting that “... there is a continuing need for public service alternatives to the BBC.” We are concerned that legislative and regulatory changes that will follow publication of the “Digital Britain” report will make the continued existence of PSB programming outside the BBC difficult if not impossible, especially in view of a possible Channel Four/Five tie-up.

SOME COMMENTS THAT DO NOT FALL NEATLY INTO THE FORMAL QUESTIONS ABOVE

Top Slicing

VLV has not supported top-slicing of the BBC licence fee to fund commercial broadcasters. The licence fee is a simple mechanism to fund the provision of public service broadcasting by the BBC, free at point of use and without of advertising. Most consumers and citizens support this method of funding. At present it is already being “top-sliced” to fund the Digital Switchover Help Scheme. In early 2008 the Audit Commission hinted that some of the £600 million might not be needed. From that moment there were requests from all parts of the communications industry for a slice of the money to fund pet projects. Few of these projects involved the provision of public service broadcasting. VLV is concerned that if top-slicing continues there will no longer be clarity in the use of the money which will lead to confusion among consumers and a fall in support for the licence fee.

However we await the final Digital Britain Report and will revisit this subject when it is published. The survival and financing of public service broadcasting with good, UK produced content from a number of providers is our objective.
New Technology

We are cautious about consigning “old” technology to the past. Each new communications technology has been perceived as the death knell for one or more of the old technologies. Respected commentators saw television as putting an end to cinemas as the vehicle for watching films. This has not happened. Film did not end live performances in theatres. Radio, a technology from the early decades of the last century, still thrives among the competing technologies of the 21st century. The restructuring of the UK television industry that may be necessary will not change the basic technologies. It will not alter the desire of the citizen and consumer to access UK produced, high quality programmes in the most economical and user-friendly way possible. Most TV “water cooler” moments are still provided by programmes on the major free-to-view terrestrial channels.

18 May 2009

Examination of Witnesses

Witnesses: Ms Anna Home OBE, Chair, Ms Jayne Kirkham, Executive Committee Member, Save Kids’ TV; Ms Jocelyn Hay CBE, Honorary President and Mr Lewis Rudd MBE, Member of the Board of Directors, Voice of the Listener & Viewer, examined.

Q1483 Chairman: Good morning. Welcome. I think you know what we are about. What we are trying to do is, we are looking at the film and television industries and seeing really, in a sense, because of their reforms, what we can propose to government which would be helpful for them, and obviously, children’s television is one of the areas that we would like to take evidence on. Just to begin, we have your details here but for the record, could you say very briefly what your organisation is, starting with Mr Rudd.

Mr Rudd: My name is Lewis Rudd. I am a Board Director of the Voice of the Listener & Viewer. I am particularly concerned with the children’s programmes issue on the Board and I have a background in broadcasting in children’s programmes.

Q1484 Chairman: Jocelyn Hay, we have seen you before.

Ms Hay: Indeed. Yes, I am Jocelyn Hay and I am Honorary President and founder of the Voice of the Listener & Viewer. May I put forward apologies from our Chairman, Richard Lindley, who, as you know, is chair of another charity, which has the Prince of Wales today. Voice of the Listener & Viewer was founded just over 25 years ago by me, with the help of a number of other people, and it represents the interests of listeners and viewers in particular as citizens and consumers. It has no relationship with the former National Viewers’ and Listeners’ Association founded by the late Mary Whitehouse. Our concerns are with the institutions, the structures, the regulation and the funding that underpin the British broadcasting system, in particular public service broadcasting, and the principles of public service broadcasting. We do not handle complaints but we are concerned about trends in broadcasting.

Chairman: Ms Home, do you wish to add anything?

Ms Home: I am Anna Home and I am the Chair of Save Kids’ TV, which is a voluntary organisation which was set up three years ago in the aftermath of the ITV debacle on children’s programming. We are only concerned with the future of children’s media in this country. My background is also in children’s television. I ran the BBC Children’s Department for a number of years.

Ms Kirkham: Jayne Kirkham. I am on the Executive Committee for Save Kids’ TV. I am a writer but my background is very much working with children and young people. I got involved in the campaign three years ago, when it first came to light that ITV was pulling out of children’s television. That is who I am.

Q1485 Chairman: Many thanks. Let us get down to the substance of the questioning. You all refer in your evidence to the growing problem of UK-originating children’s programmes and you quote the Ofcom figures that investment in original UK children’s programmes fell by 17 per cent between 2001 and 2006 and that in 2006 only one per cent of children’s programming was UK-originated, first run material. What do you think are the reasons briefly for that decline? Who would like to begin?

Mr Rudd: Anna Home has already referred to the fact that ITV backed out of making children’s programmes. ITV was the second largest—and second by a long way ahead of other providers—commissioner of new children’s programmes made specifically for UK children. That was the biggest factor in that decline and, of course, it has been followed by the problems that other broadcasters have had in the current financial climate.

Q1486 Chairman: Does that one per cent figure of children’s programming, first run, UK-originated, include the BBC?

Mr Rudd: Yes, indeed.

Ms Home: Yes, it does. I cannot quote the figures but the BBC is spreading its money more thinly across its range of children’s programming as well, so there are a great many more repeats than there ever were in the past, and that is why the origination figure is so low.
Q1487 Lord Gordon of Strathblane: Is that not a rather misleading figure? Is that a one per cent of everything that is available, irrespective of whether anyone is watching it or not? What is the percentage of programmes that are actually watched by children that are UK-produced?
Ms Home: These are specific programmes aimed at the children’s audience.

Q1488 Lord Gordon of Strathblane: In terms of actual viewing figures, of the programmes that children are actually watching, what percentage are British-made?
Ms Home: I cannot give you an exact figure but a very high percentage of those British-made programmes are watched and very much valued by children.

Q1489 Chairman: Let me put the question in a slightly different way: why is it important for children that there should be UK-originated content?
Ms Home: This comes down to the whole issue of culture and children’s culture. It is important that children have a view of the world as well as of their own country, as it were, but at the moment the balance is all the other way; they are seeing a huge amount of the world, particularly of the American world, and relatively little of their own. In terms of drama in particular, which is one of the genres which is most at risk because it is very expensive, where children see themselves reflected, their own lives reflected, in a context which they comprehend, is hugely important, both for their education and for their cultural development as citizens.

Q1490 Chairman: In other words, you are getting a situation where it is the United States which is reflected to them rather than what is actually happening here in the UK?
Ms Home: Yes, not entirely but to a large extent. There are 30 children’s channels in this country, most of which are transmitting either American or non-British origins.
Mr Rudd: The non-British ones, and indeed, quite a lot of the British ones, will often be made with at least one eye on the largest market in the world, which is the American market, so you get American-type programmes to a considerable extent even when they are not American-made, and even though they are made in this country. The financing of animation, for instance, is almost always predicated on major sales throughout the world, particularly to America, so you do not get the reflection of our culture. I could go on and give one particular example.

Q1491 Chairman: Please do.
Mr Rudd: Disney produces some very high-quality, well-made programmes, but they do have a particular culture. I was watching High School Musical, a very successful programme, and they referred to one of the characters winning a scholarship. It was only after watching it for some time that I realised that a scholarship meant a sports scholarship. I know we all want to support sport but I find this a misuse of the word “scholarship”.

Q1492 Chairman: You are painting a pretty depressing picture as far as the UK is concerned. How does our position compare with other European countries? Has anyone done any work on this?
Ms Home: In other European countries there is subsidy for European content. So in France and in the Scandinavian countries there is much more support for indigenous material.

Q1493 Chairman: Support of what kind?
Ms Home: Financial.

Q1494 Chairman: Yes, I realise that but how is it done—through the tax system?
Ms Home: There are a variety of different ways of doing it.
Ms Hay: The European Union has just granted the German Government special arrangements for supporting its own children’s channel, Kinderkanal, and after all, France and other countries have set investment quotas to help meet the European Directive requirement of 51 per cent of original European production. These are quite legitimate and they are available and used in Canada and in other OECD countries and produce very good home-grown children’s programmes. From VLV’s point of view, it is a whole cultural heritage that children stand to lose, of language, of literature, of references, a whole environment, and the values are different. Most imported programmes have much more commercial, consumerist values than those we make.

Q1495 Chairman: We are accustomed to help through financial help in the film industry but basically you are saying in television as well in this particular area that should apply as well?
Ms Hay: Yes, it could apply.
Ms Home: It is one of the possible solutions.

Q1496 Baroness Howe of Idlicote: My question is really going back to this business of the one per cent, because the one per cent of the 30 channels, or whatever it is that we talking about, is clearly important because it is such a small percentage. Just
thinking about ITV, who have opted out completely, they did have a plus of having a certain amount of material for children based or originated in this country. What percentage of that one per cent has been contributed by ITV which is no longer there, as it were?

Ms Home: None. ITV is not commissioning.

Q1497 Baroness Howe of Idlicote: They are not doing any?

Ms Home: I think they have commissioned one series for the CITV channel recently but that is in the last three years.

Q1498 Baroness Howe of Idlicote: So in the last years the percentage might have been higher because they were still doing it?

Ms Home: No, they have not been doing it since 2003.

Ms Kirkham: They have just started to re-commission but they are only putting in about 10-20 per cent of the complete budget, so they are not funding the whole show. People have to go outside of the broadcaster to find the rest of the money to put a show together.

Q1499 Baroness Howe of Idlicote: The important thing is to find out just what children are watching.

Ms Kirkham: I have some figures here actually, in answer to Lord Gordon’s question. Of the top ten children’s programmes—this is from BARB ratings—

Q1500 Bishop of Manchester: Can you just define children—what age group are we talking about?

Ms Kirkham: Nought to 12 years. The top ten programmes for the week 22 to 28 June, the number one show was Newsround, the BBC’s news programme for children. Then there are three cartoons, American cartoons; then MI High, which is a BBC drama; another cartoon; Horrible Histories; Hider in the House; Escape from Scorpion Island; and Hider in the House again; they are all British-made programmes. They are all distinctly British and that is six out of ten of the top ten programmes were distinctively British. So children are watching them.

Q1501 Lord Gordon of Strathblane: That is a truer figure, is it not, than the one per cent? If people are actually watching children’s output made in Britain, it is an encouragement to more people to do it because they are getting an audience for it.

Ms Kirkham: Yes, they are. Newsround, I would imagine, is made completely by the BBC and is funded completely by the BBC but MI High is made by Kudos, which is an independent company. It will only get a certain percentage of the money from the BBC, otherwise it has to go and find its funding elsewhere. There is very little money coming into the sector.

Lord Gordon of Strathblane: That is very interesting. Thank you.

Q1502 Chairman: Is there some part of it that is first run material? When we are talking about this one per cent, are they all first run shows?

Ms Kirkham: I believe they are. Certainly Newsround will be. MI High, yes, that was. I do not have the figures down here. I would not be able to say but I think they are, because I know they have had new series out in this last quarter. They are then on the digital channels. These, again, are on the terrestrial channels. They are repeated, round and round and round, on the digital channels.

Q1503 Lord Hastings of Scarisbrick: Just to take us back to the German and French subsidy examples that you mentioned, could you just help us to understand—if you do not have it, the Committee Clerk, I am sure could get it—does the European subsidy support received by German and French broadcasters result in a higher percentage of indigenous programming made or is it just a figure that is provided which goes into a central pot? Does it result in more children’s programmes than we have in the UK and by what percentage?

Ms Kirkham: I believe it does.

Q1504 Lord Hastings of Scarisbrick: Do you actually know?

Ms Kirkham: I do not have figures here, unfortunately. As a writer trying to make programmes, I have been working on a co-production between France and England and I know that the French are much more protective about the cultural import. So a co-production between France and England has to have much more of a French skew than an English skew.

Q1505 Lord Hastings of Scarisbrick: As a parent, when I have been in France and I go on to the television network and flick through the channels, I see as many American cartoons in France as I see here. So does their system result in an improved amount of indigenous programming and by what proportion?

Ms Kirkham: Yes, there are more indigenous children’s channels, I believe, in France. Telefrance 1, Telefrance 2 and Telefrance 3. I think, all take children’s programmes. Then there is Gulli. I am thinking off the top my head here. I think there are about five or six. I am sorry I cannot be more specific. We have three digital channels; they have more, and, as I say, they are fiercely protective of indigenous programming.
Q1506 Lord Maxton: To what extent is that language? Obviously, we share a language with the United States and therefore it is easier for our channels and our children to show American than it is for the French because the French want to see something in French, not in English.

Ms Home: That is absolutely true. In response to your question, I think more money does not necessarily mean better quality.

Q1507 Lord Hastings of Scarisbrick: Exactly.

Ms Home: That is why, if there is to be more money, and one hopes there is, there will also have to be ways of safeguarding quality. There is no point in just giving out money and creating dross. It has to be properly monitored, it has to be of value and it has to be, I think, in the widest sense, public service.

Q1508 Chairman: I am a wee bit confused after this. We began on the basis of one per cent of children's programming was UK-originated, first run, and that sounded a rather serious figure but now you are saying that, on the latest figures we have, which are actually children watching programmes, over half are UK-originated programmes.

Ms Kirkham: That is only ten programmes out of 23. That is of two channels. There are 23 channels. This does not take into account the likes of the American shows that are big on Nickelodeon or Cartoon Network, for example, but the shows that are rated here are definitely, as I say, a large proportion in the top ten, but remember, there are hundreds of programmes that are aired.

Q1509 Chairman: That is actually the top ten of programmes being watched by children over all the channels or over terrestrial channels or what?

Ms Kirkham: Over the terrestrial.

Lord Gordon of Strathblane: Chairman, I think we need clarity on this. I think BARB measures digital channels as well.

Q1510 Baroness McIntosh of Hudnall: Listening to the discussion, I am beginning to wonder about the specific categorisations that you are making about children's programming. For example, there is evidence, I think, beginning to emerge that a kind of programming that is designed for children to watch as part of the family group—and one might think of *Robin Hood*, for example, which has recently been axed, and certainly programmes like *Doctor Who*—are programmes that a lot of children watch but are not, generally speaking, classified as programmes for children because they look for a slightly wider audience. Do you consider that programming as part of the entire quantum of material that is for children and therefore merits your concern?

Ms Home: I think that is the icing on the cake, if you like. Family programming of that nature is additional to what one would call the core children's programming.

Q1511 Baroness McIntosh of Hudnall: It is significant though, is it not, because the extent to which children watch television—and you make quite a good point in your evidence about the cultural significance of UK-originated content in terms of how children develop and learn. What they do with their families and the material that they see as part of a wider family group is also very significant in terms of what they learn and the cultural norms that they absorb.

Ms Home: Absolutely. I would agree with you entirely but, remember, there are not that many of that kind of programme.

Q1512 Baroness McIntosh of Hudnall: So would you say that the difficulty that we are facing in the generation of programming of all kinds includes some material, which may not fall directly into the category of programming designed for children, but actually does affect how they watch television, if there is not as much of the *Doctor Who* and the *Robin Hood* kind of thing?

Ms Home: Yes.

Q1513 Baroness McIntosh of Hudnall: So we should be concerned about that too?

Ms Home: Yes. Storytelling, which is an absolute basic in child development, whether it is children listening to stories on their own or watching and listening to stories with their parents, is hugely important and should be invested in.

Q1514 Baroness McIntosh of Hudnall: Can I drop in one point that is not really directly related because it is about a different medium but one of the things which has happened dramatically is that children's programming has been lost from mainstream radio. I wondered whether you had any observations to make about the impact that that has on television or that television has on it, and what assumptions underpin the fact that the BBC in particular has decided not to invest nearly as heavily.

Ms Home: I cannot speak for the BBC because I am long since out of the BBC.

Q1515 Baroness McIntosh of Hudnall: Or any other programme maker.

Ms Home: I think the BBC is very aware of the importance of the spoken word, and in fact, they are working on a new strategy at the moment to create new services for children to listen to as well as to watch, but online, not on the main channels. I think,
to be fair to the BBC, the axing of Go For It—if I had been in charge, I would have axed it long since.

Q1516 Chairman: Because?
Ms Home: Because no children were listening to it.
Mr Rudd: I think this is quite an important point related to television as well. Go For It is a very interesting example of lip service, saying “Let’s do half an hour, three-quarters of an hour a week on Radio 4”, which probably has a very low audience of children at other times, “because we ought to be seen to do it”, and the BBC has also done programmes on a much bigger range of children’s programmes on Radio 7. Of course, that is not available to a lot of children because a lot of people do not have DAB radio. One of the things, if we are going to advance on children’s programmes on television, that is worrying about some of the ideas that are going about, it is very important that children’s programmes should go out in a context and an area where children will be aware of them. I think what we must be very wary of, if we are going to advance towards programmes on channels other than those of the BBC, is people popping in and out, especially if there is funding available, and taking funding to do one particular series which nobody sees or something like that. There has to be a commitment somewhere—and this is what I think we are all seeking—an ongoing commitment from a broadcaster other than the BBC to televise children’s programmes.

Q1517 Lord Gordon of Strathblane: On this question of funding, the way we channel subsidy in this country, as you all know, is the BBC licence fee. Are you suggesting either that part of the BBC licence fee be hypothecated and an insistence that some be spent on children’s programming or, going further, that part of it is hypothecated and available to broadcasters other than the BBC to make children’s programming?
Ms Home: No, I do not think any of us are doing that.
Chairman: We will actually come to funding in a moment.

Q1518 Lord Maxton: Could I just suggest that children now, particularly in the later years, look increasingly to other media rather than television or radio for their entertainment, and education, to be honest. If you look at the BBC website, for instance, there is learning, you can learn languages, you can do all sorts of things. Is that not the trend?
Ms Home: Yes, it is.

Q1519 Lord Maxton: What would you do about that?

Ms Home: What we are talking about is content. I do not think it matters how that content is delivered, where it is delivered, as long as there is content there to be consumed.

Q1520 Lord Maxton: But in the games area, for instance, the games industry are saying they cannot produce games which only reflect British culture and lives. They have to sell on the international market.
Ms Home: Yes, and that is true of a lot of other media.

Q1521 Lord Maxton: Games are a very good way for children to learn.
Ms Home: Yes. It is part of an overall mix.

Q1522 Chairman: Just to sum up, because we want to move on, having heard the evidence, are you saying, both organisations, that, in your view, there is a crisis in UK-originated programmes as far as children are concerned?
Mr Rudd: Yes.
Ms Hay: Yes.
Ms Home: Yes.
Ms Kirkham: Yes.

Q1523 Lord Maxton: For television or across the whole of the media?
Ms Home: Primarily for television but multi-usage.

Q1524 Chairman: Primarily for television?
Ms Home: It all started with television. Remember, this crisis started in 2003. This is a world which moves very fast and the multimedia world is ever-increasing. As I said earlier, what we are concerned about is content and I think that is what we should focus on and not so much narrowly on television. It just so happens at the moment that the lead is still coming from the world of television but increasingly the world of television and the world of online and the world of interactive is all going to merge. We are in this peculiar transitional period at the moment where we have not quite got to the new world yet and we must protect the old world into the new world.

Q1525 Chairman: You have mentioned a number of times 2003, which was the time of the Communications Act. Is there any relationship between those two or is it more about food advertising?
Ms Home: That is another issue, of course, and the question of which tier ITV’s children’s programmes sit in in terms of regulation.

Q1526 Baroness Howe of Idlicote: Just on this business of content, because I think it is obviously crucial, are you concerned at all about the increase in rather more dramatic incidents in things like soaps,
which of course are watched by kids, and indeed violence, in the continuing way which seems to be developing an appetite. Does this concern you in any way, that it might have an effect long-term on behaviour?

Ms Hay: Children do watch a lot of soaps with their parents, between seven and eight o’clock, and certainly, as an organisation, we would support the watershed of nine o’clock. I think actually parents have to accept a lot of responsibility as well if children are watching with them. I think it is partly a feature of competition. Audiences in general obviously like the soaps and the way they are presented, because they have large audiences. I do not think you can spoon-feed absolutely the whole population on nursery food for the whole of the evening up till nine o’clock. There is a balance, and I think the Broadcasting Standards Commission used to do a very good job, and one hopes that Ofcom is doing a good job in monitoring that. But there is a balance, and parents also need to exert some parental responsibility themselves over what their children watch.

Q1527 Baroness Howe of Idlicote: I think I put it rather badly. What I was getting at perhaps is the fact that the appetite that is being created in ordinary individuals and children means that the broadcasters are feeding yet more drama, yet more violence. Are you concerned about that?

Ms Hay: That is quite true, but I think there is a great deal more violence in the imported programmes that are made specifically for children too. This, I think, is of concern. Certainly, most of the UK productions reflect much softer, gentler values, than many of the imported cartoons, which are extremely violent, and in your face.

Q1528 Baroness Howe of Idlicote: And some of the games too.

Ms Hay: It is a different set of values that comes with a lot of them.

Q1529 Baroness Eccles of Moulton: If we could just leave children for a moment, the next question is probably more directed at VLV. You have actually both referred to the light touch that Ofcom has tended to use towards broadcasters since the Communications Act of 2003. This has obviously affected other genre apart from children’s programming, and one that you particularly mentioned in your evidence was the provision of local news. Are there other areas? Maybe you would like to say something about other areas that might have been affected by this approach of Ofcom.

Ms Hay: Yes. I think one of the disappointing aspects of Ofcom since they came into being is that they act very much as an economic regulator, and therefore they are very good on consumer issues, and value for money and that kind of thing, but they do rely very heavily on competition and the market to provide. This is much more difficult in cultural and democratic areas, and I think one of the things that we would like is a regulator that recognises that broadcasting particularly; and more and more other media too, but in particular broadcasting and terrestrial broadcasting, which has always been regulated in the public interest, has a profound influence on British democracy, on British culture and British society, and children’s programming is one aspect of it. These are much more difficult to measure and to quantify, particularly in economic terms, but the Green movement has begun to do that and to make people realise that there are wider contexts in the quality of life. This is something that we would like, for Ofcom not always to be relying on economic factors and value for money. It is much more difficult and they have shied away from it. We have tried to draw their attention constantly to the fact that viewers and listeners as citizens have different needs from viewers and listeners as consumers. Whilst Ofcom has frequently conflated the two, and even hyphenated them for a long time, it is difficult to see that they have actually understood that difference, and quite what power the Content Board has to regulate, it is not given the prominence that the Consumer Panel is in any of Ofcom’s reports.

Q1530 Baroness Eccles of Moulton: So you think there should be perhaps more attention paid to the Content Board?

Ms Hay: Yes, we do, to the Content Board in regulating content and in supporting content that is actually providing some public service, informing, and helping to develop an informed and active citizenship, and in reinforcing the best of British culture. And using broadcasting, television and radio, and more and more online services, as a factor contributing to British society and cohesion and quality of life.

Q1531 Bishop of Manchester: Earlier on Jocelyn Hay was referring to concerns about public service broadcasting. If we go back to the Communications Act 2003, there are some quite specific definitions about public service broadcasting which also include children.

Ms Hay: Yes.

Q1532 Bishop of Manchester: I sense from the latest report, Digital Britain, that there is a shifting away from a precise definition about PSB to something which is more diffuse and may perhaps omit in the

8 July 2009 Ms Anna Home OBE, Ms Jayne Kirkham, Ms Jocelyn Hay CBE and Mr Lewis Rudd MBE
future specific mention of, for example, children. I want to ask you a bit more in a moment about public service broadcasting but I would just like to get your reactions, and indeed those of any of the other of our witnesses today, about what you sense from Digital Britain is the move in public service broadcasting and if it concerns you.

Ms Hay: Again, we have noticed that there are different definitions. The 2003 Act was along much more specific quota-type programmes and we thought that children’s were protected but, unfortunately, they were in the wrong tier and we were wrong-footed in some ways, when we felt that they were specifically mentioned. But other programme genres were affected too. For instance, the BBC’s public purposes actually describe in a much better way the breadth of value that public service principles can bring to broadcasting than quantifying them perhaps in actual genre terms. It is a motivation, an ethos, that infuses programme making that really is the ethos of public service, I think.

Q1533 Bishop of Manchester: In your written evidence prior to this meeting you were expressing concerns that if what Digital Britain seems to be suggesting were to be pursued, then public service broadcasting beyond the BBC would be very severely limited, or indeed disappear. I wonder if you have any particular suggestions that you would want to make in this evidence about how public service broadcasting in this country could continue in a way in which it was not confined simply to the BBC.

Ms Hay: We, again, were very disappointed last year when Ofcom produced its review of public service broadcasting that it did not take more notice of a suggestion put forward particularly by Steve Morrison from All3Media, that levies on a range of different providers—hardware, software, equipment manufacturers, ISPs, all kinds of things—should be looked at as an alternative source of funding. Again, he quoted chapter and verse of how this is done in other countries, on the Continent, and showed how very small sums and very small levies that are not significant in themselves can actually, in aggregate, produce very significant sums of money that have provided investment in other countries. I think one new one now that I do not have the details of but I heard recently was Portugal. Ofcom did not take up Mr Morrison’s suggestions at all, to our disappointment. Digital Britain has not taken it up either, although more recently some of the entertainment unions have put together some research into this which shows, we believe, that it could be a viable source of funding. We strongly urge that proper research and attention is paid to this.

Q1534 Baroness Scott of Needham Market: I want to come back to this question of content and the fact that, for commercial reasons, ITV have withdrawn and therefore what you are suggesting is that Ofcom should intervene more to protect the content rather than just accept the commercial case. I really want to ask you to expand a little on that, particularly on the question of whether Ofcom has enough power to do that or whether it requires more government intervention. Would you imagine that there might be some way of requiring content on the non-terrestrial channels that we have not looked at before, and how do you deal with the financing of that? If ITV say, “We simply cannot afford to do what you want”, how do we then provide an economic model that makes it viable for them?

Ms Hay: It will be very difficult because ITV is a commercial company, and it is liable to takeover. There are rumours in the financial press from time to time that a hedge fund or something is looking at it as a possibility for a takeover and, of course, it could be taken over by a foreign company. So it is very difficult and we believe it would be wrong for public money to be put into a commercial company under those circumstances. Channel 4 is a public corporation, which is different, or it could be another publicly funded or publicly supported, publicly owned, public service broadcaster from that point of view.

Q1535 Chairman: Anna Home, did you want to add anything?

Ms Home: No, I agree very much with what Jocelyn is saying. It appears from Carter that Channel 4 is being thought of as an alternative public service provider to the BBC across a wide number of genres. It is something that obviously needs to be explored but, again, I would have concerns, particularly going back to children’s programming, about the commitment and the range—but perhaps you do not want to go into that at the moment. As far as levies are concerned yes, I think that should definitely be researched and looked at as soon as possible.

Q1536 Baroness Scott of Needham Market: In your evidence you mention the scope for industry levies. What you are saying is that you would only want that income to be available to publicly owned broadcasters. What would you do to encourage ITV? Would you see contestable funding being the answer to that, where in effect they would be paid to provide certain programmes?

Ms Hay: No, we are not in favour of contestable funding. It is a very difficult thing to administer.
Q1537 Baroness Scott of Needham Market: So what would you do about ITV then, or have you written them off?

Ms Hay: I think ITV is a very difficult subject at the moment. If it does not have the money, then it is difficult. I do not know quite what the answer is. We are not an industry body but we do believe that levies could help to provide funding that can be shown on different channels, in particular on a publicly owned one, but I think the actual nitty-gritty of it still needs to be looked at and researched, and the funding properly considered, which it has not been up to date.

Q1538 Chairman: You are saying, as I understand it, that if it is an organisation like ITV, which is dependent upon commercial revenue, then we cannot possibly put any public money into that; it has to be a publicly owned organisation. Is that your view?

Ms Hay: Yes. Voice of the Listener & Viewer has not yet finalised its response to Digital Britain, so we are still in the process of studying and considering our response and the options. But we are very disappointed that these opportunities to look at additional funding from levies and from investment quotas have not been properly explored. We urge that they should be properly explored before any other things are considered.

Q1539 Baroness Scott of Needham Market: One last question. The film industry has told us that the tax break system is very beneficial. Should that be extended to make high-quality children’s programmes and would that be a way of getting round your commercial/public divide?

Ms Hay: I would think it would.

Mr Rudd: Yes, that would certainly be helpful to production and it would be a stimulus. It would not be a full answer to the problem. Going back to ITV, ITV and Five are still in a contractual relationship with Ofcom. The cards are moving away from Ofcom as the terrestrial position goes away; ITV’s role may become less dependent on Ofcom. There is a time at which ITV can say, “I can hear what you’re saying, Ofcom, but actually, rather than go along with these conditions, we will fly on our own.” I think that is possible. It is a sort of bargain between the two. On contestable funding, I think all of our instincts tend to worry about contestable funding, how it is done—the point I made before about people popping in and out when they get some funding. I do not like using the Arts Council in a negative sense, but people are worried about the Arts Council, about who is doing this, and this is why the first port of call for a sustained children’s service on traditional broadcast television seems to us to be Channel 4.

Ms Home: I do not entirely agree. I think we at Save Kids’ TV have not dismissed contestable funding at this stage of the proceedings. We would like to investigate it further but it is a question of where that contestable fund comes from. If it is top-sliced from the BBC, I think we would have a fairly negative view about it.

Q1540 Chairman: If it came from the money which is already being top-sliced from the BBC perhaps you would have less objection.

Ms Home: Yes, maybe. I think the point Lewis makes, I see it as bits of Elastoplast being stuck here and there, the odd good series being commissioned and then being lost because it is not part of a proper, recognisable service. We have to be very careful that lip service is not paid to this.

Q1541 Lord Gordon of Strathblane: I want to be quite clear about the attitude to ITV because I think it is a matter of fact that Channel 4 has about 40 per cent of the audience of ITV. You would rather ITV became totally deregulated and had no public service obligations than allow public money to go into it, hypothecated purely for the delivery of, for example, children’s programming?

Ms Hay: No, I am not saying that ITV should be deregulated at all. I think one of the things that we also need to recognise about ITV is that it is in a cyclical business, and whilst we are in a recession at the moment and we are also in the process of moving towards new media, which, as Lord Maxton said, are eroding the television audience, they are not replacing it entirely, in the same way as television has not replaced radio; it is an additional form, but we hope that next year we will come out of this recession and that advertising revenue will increase again. Who is to know? Next year ITV might be quite successful.

Chairman: That is the most optimistic economic forecast I have heard in years!

Q1542 Lord Maxton: The advertising revenue for commercial television was dropping dramatically long before the recession.

Ms Hay: Yes, but not as rapidly as was formerly forecast.

Q1543 Baroness McIntosh of Hudnall: Can I just ask you about one aspect of television that we have not, I think, touched on, which is pay-TV? If we look out further than the next three to five years, with the range of digital channels that are available, one thing that we might think is interesting is that when Sky made a big ballyhoo about their first bit of commissioning of drama, it was a children’s book that they chose to adapt. The difference, obviously, between pay-TV and ITV, or indeed BBC, is that it is
Baroness McIntosh of Hudnall: Without paying for them.

Mr Rudd: I think it is already happening. That is true.

Q1544 Baroness McIntosh of Hudnall: One swallow does not actually make a summer, one might say.

Mr Rudd: No, but there are commissions by the commercial television channels of occasional things which could be qualified as public service. Certainly, Nickelodeon has done something called Nick News, which was very good factual programming for children. The trouble is, they would not sustain it and they will not sustain it but the other problem of course is that these are not available even with the switchover; these programmes are not available without paying for them.

Q1545 Baroness McIntosh of Hudnall: They depend upon people's willingness to pay to get the programmes, and that is obviously counter-cultural in the UK—not probably so much in the USA—but I really wanted to know whether you imagine that part of developing the response to these problems that we have been discussing might be that television that is paid for becomes a more significant player.

Ms Home: I think you have to look at every option, and I do not think one should say "No, never," but you have got to remember that it is paid for and that one of the sections of the audience which is very reliant in terms of its educational and cultural content is the less privileged, and therefore you have to be really careful, I think, that you are not denying them.

Q1546 Baroness McIntosh of Hudnall: So you would see it fundamentally as an access issue as we go forward?

Ms Home: Yes.

Chairman: We have been talking an awful lot about the independent sector. Let us look at the BBC.

Q1547 Lord Hastings of Scarisbrick: Picking up the vibes from the comments you have made, we can see that you are not convinced that the BBC is doing enough on children's programming, whether radio, television or online. Can you be very specific, say to the older group, between nine and 12: what would you, with a blank sheet of paper, say ought to be the BBC's programming offering for that group of children and where?

Ms Home: I think currently it would still be both terrestrial and digital. I think CBBC is probably the least successful of the BBC's offering. CBeebies, which is for babies, is very successful. CBBC is a very difficult audience. I think, because it is an audience which is trying to be more grown-up than it actually is but I think it is not a teenage audience; it is this awful "tween". If I were there still, I think I would be trying, and I would have problems because of the funding, to provide more contemporary drama. I think that is really what is lacking. You probably all disapproved of Grange Hill. I was the person who started it. I think there is a lack of that kind of contemporary drama. We talked earlier about kids watching slightly unsuitable soaps. They want that kind of content but they are not getting it in their own terms.

Q1548 Lord Hastings of Scarisbrick: Would you put Waterloo Road into that category?

Ms Home: No, Waterloo Road is for grown-ups.

Q1549 Lord Hastings of Scarisbrick: I think the majority of children probably watch it.

Ms Home: Yes, I think they do but I do not think it is their life.

Q1550 Lord Hastings of Scarisbrick: Just following on Lord Maxton's point then, would you say the BBC should invest more specifically, for example, in games for BBC online or should it stick to television?

Ms Home: I think the BBC, like everybody else in this world, will need to be increasingly multimedia. The BBC website, as you say, the kid's website is excellent. It is very, very good. I have just been at a conference in Sheffield called Showcommotion, where we talked a lot about—we do not talk about television now; we talk about media and we talk about multimedia, and I think the BBC is leading the way in that—but the BBC could always do that.

Q1551 Lord Hastings of Scarisbrick: Newsround is the top programme but in terms of its audience, it is much younger. For that older group, nine to 12, would you want a segmented youth news BBC programme?

Ms Home: Whether it is a news programme or a news magazine or a current affairs strand I think is debatable. I do not think it would necessarily need to be pure news but I think a current affairs strand.

Q1552 Lord Maxton: Can I suggest you are right in talking about media but at the moment, of course, those media are either computer or television but in the very near future you are going to be able to watch any television programme from anywhere in the
world on your television down the internet. What happens then?

Ms Kirkham: Children already are. They do not watch in a linear fashion in the way that we might watch television. They will watch it on their PC. They cherry-pick programmes. They are already doing that. You cannot talk about just television any more.

Q1553 Lord Maxton: That then moves into an area where you have to begin to say can you regulate at all?  
Mr Rudd: Yes, this is where you have to be careful about competition. The competition authority killed off Kangaroo, which was this convergence. The BBC is now working on Canvas and, from our conversations with the BBC, I think they are quite worried about the competition issues to be raised. There is a thing called Hulu, which is not British, which I think is going to steal a march on Kangaroo and Canvas because of our own Competition Commission blocking it.

Q1554 Chairman: Do you regret the decision?  
Mr Rudd: I regret it if the Competition Commission has crushed something which would otherwise have happened. Because things have either got to be competitive or not happen. I think it is a great pity that that should have happened, especially if we find that somebody from America slips in and steals the ground.

Q1555 Chairman: There was an article, was there not, in the Media Guardian on Monday?  
Mr Rudd: That is right.

Q1556 Bishop of Manchester: MediaCityUK is literally getting off the ground in Salford at the moment. It will have world-class studios, top training facilities. Alas, ITV will not now be there but it is hoped that independent companies will be, that there will be great encouragement of creativity and, of course, the BBC will be there, and within the BBC the Children’s Department. Are you excited about that? Do you think it is going to make any difference or is it all irrelevant?  
Ms Home: No, I think it is really interesting. Again, at this conference in Sheffield Peter Salmon came and gave a keynote speech and, as you know, Richard Deverell, who is the current Controller of BBC Children, is going to be Peter Salmon’s number one person in Salford. I think that is all very interesting. He made a speech where he made it very clear that the Children’s Department was going to be at the heart of Salford and I think that is terrific for them. I think it will give an opportunity to look at things in a different way from when you sit in a dreadful building called the East Tower in Television Centre, which has no relation with the rest of the world at all. I think it will be very healthy for them but, having said that, there was a lot of euphoria and a lot of excitement but I think it is a hard road to go down because I think there is going to be a lot of disruption; a lot of people are going to find it quite hard to make the choices, although a lot of them have already made the choice to go, and I think there will be a lot of talent and there will probably be a gain of a different kind of talent.

Q1557 Bishop of Manchester: The independent companies—do you think that does provide an opportunity for new ideas?  
Ms Home: Peter made this very controversial statement, which was that there would be positive discrimination in terms of Northern posts.

Q1558 Bishop of Manchester: I am all in favour of that.  
Ms Home: There was a certain intake of breath in the room from London and the South East.  
Ms Hay: May I also add a question which concerns us, and this is something I heard at the weekend, that a huge proportion of BBC staff have chosen not to move to Salford, which is deeply worrying if a reservoir of talent and expertise is now going to be lost to the BBC because of that. I cannot tell you the percentage because I cannot remember but it was a huge percentage of those in those departments that are moving who are not going.

Q1559 Bishop of Manchester: I do take that as a serious point but I think it is wrong to assume that there is not the potential talent in other parts of the country.  
Ms Hay: Yes, but it will mean disruption in the mean time.

Q1560 Lord Maxton: Could I just ask, there is one area which is what I would call the self-producing media, which young people in particular indulge in: YouTube, Facebook, and these other things, where what they watch, what they want to watch, is themselves or their contemporaries rather than watching children’s programmes. Would you agree?  
Ms Home: Yes.

Q1561 Lord Maxton: How do you regulate that?  
Ms Home: I think it is one of the very exciting bits of the new mix. Save Kids’ TV put forward a proposal, a rather woolly proposal, for a model of a new service for kids which would include a lot of user-generated content within an overall service. I think the thing about user-generated is that it is fine and it is wonderful for kids to be able to express themselves in that way. I think also you have to remember that they are not professionals and that it is also quite
important to have professionally made television—let us not talk about television—content as well.

Q1562 Baroness Howe of Idlicote: I just want to go back to the business of regulation for a brief minute. You said quite a lot about the failure of light touch and so on but, just thinking into the future, I have heard it suggested that it would be a good idea for the Content Board to actually have to publish its findings, because at the moment, of course, it does not publish its findings. They go straight to the main board. Would that be a help in the sense that whatever they were being asked about various programmes and so on you would have their judgments printed for the general public to know? Somebody mentioned using sticking plaster. Is there a sense in which, because of the difficult period—both the recession and all the things we have been hearing about coinciding—it is a good idea to have sticking plaster a while, whilst you work out what is the best way forward?

Ms Hay: I suppose it is better than nothing. The Content Board and the emphasis on content seems to have a very low profile at Ofcom. We hear very little about its funding. They do produce a broadcasting bulletin but it is mostly an analysis of complaints and adjudications to do with that. When you look at the annual work plan and the annual report, there is very little attention given to the Content Board. Whether it is because of the structure of Ofcom, when it was considered a strength that the Content Board was part of the main board and not separate or independent as the Consumer Panel is, I do not know.

Chairman: Thank you very much indeed. Perhaps if we have any other questions, we could write to you.

1 The witness has clarified that this is a reference to imposing positive programme obligations.

**Supplementary memorandum by Mrs Jocelyn Hay CBE, Honorary President, Voice of the Listener and Viewer**

**Funding Original UK Content**

Investment Quotas. I believe that Ofcom should take steps to explore and impose Investment quotas requiring non-terrestrial broadcasters to comply more closely with the European Audio Visual Directive which states that 51% of content should be originally produced within the European Union. Although this requirement is modified by a clause stating “where practicable”, France and some other member states require satellite and cable broadcasters to invest a percentage of either their advertising revenue or turnover in original European drama, documentary or film production. This benefits viewers and the production industry alike. The obligation on the French satellite channel, Canal Plus, for instance, to invest 20% of its turnover in original European production, results in an investment of approximately the equivalent of £100 million annually.

A number of OECD countries, including Spain, Italy, Poland and Canada, also now impose a requirement that their commercial broadcasters invest a percentage of their revenues in indigenous drama, documentary or film production. This enlightened regulation actually benefits all parties in the longer term—viewers, industry and government—since the investors acquire the rights to the programmes they produce and can then exploit them via different media and platforms. Canal Plus for instance is probably now the largest and most successful rights holder in Europe.
Cultural Considerations

Other countries protect and subsidise indigenous production, especially for children, on cultural grounds. For instance, the EU has granted Germany exemption from competition rules on cultural grounds in order to allow investment in original German content for its children’s channel Kinderkanal. Television is still one of the most powerful influences on democracy, culture and social mores. Many children now spend much of their leisure time watching television because of their parents’ reluctance to allow them to play unsupervised out of doors. Since the UK is the most competitive market in the world for young viewers, many spend much of their time watching satellite and cable channels which rely heavily on imported American programmes. Yet these programmes are made primarily for the American market and they reflect the American language, culture, values and environment. Children who watch them do not pick up the general background information that most people assume is common knowledge. For instance, the “911” issue. When some firemen asked a class of West Sussex children what number they would phone in an emergency many replied 911, a fact they had learnt from watching American soaps like Baywatch. Many people laugh when they hear it, but how much else are these children NOT learning that we assume everyone knows? Only last week a two year old saved its mother’s life by phoning 999 as she had seen on BBC CBeebies.

Industry Levies

In July 2008, Steve Morrison, CEO of the independent production company, All Three Media, presented figures at an Ofcom/LSE seminar which showed that significant sums of money could be raised by imposing small levies on a wide range of service providers, including Internet Service Providers, cable and satellite operators, hard and software producers, equipment manufacturers, etc. So far as I know, these figures have not been seriously considered by Ofcom or Government. Mr Morrison recently re-published these figures and in June 2009, the entertainment unions presented suggestions for similar non-punitive levies which could raise significant sums for original indigenous production. France, Spain and more recently, Portugal, have all done so successfully. However, so far as I can tell, neither Ofcom nor Lord Carter in his Digital Britain report have given serious consideration to these suggestions or the revenue they could raise. Yet I believe they offer the potential for a very valuable and effective new source of income which could finance original, indigenous drama, documentary and film production, including content for children and other threatened genres.

Lord Carter in his Digital Britain report went some way to thinking imaginatively about new sources of revenue by suggesting a levy of £12 per year on fixed telephone lines. But I consider it would be fairer to impose the levy on mobile phones, even additionally on mobile phones, which now greatly outnumber land lines and more and more are the choice of younger adults.

Top Slicing the BBC Licence Fee

For more than 80 years the licence fee has been used exclusively to fund the BBC’s radio, television and online services. It is clearly identified with the BBC in the public mind and any attempt to share the income among other broadcasters or news providers would destroy that clear line of clear accountability to the public. I believe it could prove difficult to impose the impartiality rule on multi-media providers, that it could be seen as an attempt by Government to threaten the BBC’s independence; and that to use money raised directly from the public via the licence fee to subsidise commercial services would be wrong.

Radio

VLV has supported the development of Digital Radio, but attempts to force an early switch to DAB Radio should be resisted. The current version of DAB radio used in the UK lags far behind versions used elsewhere and is high in energy consumption. An early switch to DAB would also, according to Government figures, result in some 45 million radio sets needing to be dumped.

The Need for Open Technical Standards

The best news for consumers was the recent move by 30 mobile telephone operators to common standards for their battery chargers. One reason for the success of Digital Terrestrial Television (DTT) Freeview is that it is based on common technical standards, thus creating an open, horizontal market in equipment and services. This should be the aim of a Digital Britain.

17 July 2009
Memorandum by the Satellite and Cable Broadcasters’ Group

THE SATELLITE AND CABLE BROADCASTERS’ GROUP

The SCBG is the trade association for digital programme providers who are independent of one of the main terrestrial broadcasters. Its members are responsible for over 100 channels in the UK. Many member companies are pan-European broadcasters, producing and commissioning content for different national markets.

According to recent Deloitte research, SCBG members made a total economic contribution to the UK economy in 2007 of over £2.2 billion and invested a total of £1.2 billion in programming, employing nearly 25,000 people in skilled jobs.

SCBG member channels provide citizens and consumers with programmes and services for a diverse range of audiences across a wide range of genres and audiences, including entertainment, factual, educational, history, music, nature, art and science. Our member companies make and show programmes for children and young people, and for ethnic minorities in their own languages. SCBG members’ channels can be found on all of the UK’s major digital pay and free-to-air platforms, which are now available in nearly 90% of UK homes.

For a full list of members and more details about the SCBG please go to www.scbg.org.uk

INTRODUCTION

The SCBG welcomes this inquiry into the future of UK content. The key to ensuring continued success is to acknowledge that the UK content market depends on all its providers—PSBs, multichannel operators, online and mobile content providers. We are keen to be involved in plans to ensure a high standard of UK-originated content in the future.

The current market situation has affected every area of the creative industries. However it is also an opportunity to break down the conventional barriers that have existed between PSBs and other broadcasters/content providers and think clearly about what the best possible market to provide the best possible service to viewers should be in economically challenging times.

This position outlines multi-channel broadcasters’ contribution to the UK content market, gives some suggestions for how to support that market going forward and focuses on the issue of intellectual property and how to protect investments in content.

SCBG Contribution to UK content—Facts and Figures

The SCBG agrees that the new digital world has vastly increased the amount of content and applications available to consumers, much of which was previously considered the exclusive preserve of the PSBs. Innovative, thematic programming in areas such as the arts, news and science and nature produced by SCBG members has changed the face of the UK broadcast market for the better.

SCBG members provide a wide range of high-quality programmes across most digital platforms, including Freeview and online, and increasing levels of pay-TV subscription mean that more viewers than ever have access to this content.
Results from the latest OFCOM report on the market\(^1\) estimate that:

- Somewhere in the region of 46% of UK homes subscribe either to pay satellite or cable services.
- The overall growth rate of take-up in Q3 across all pay-TV platforms was reported as 1.7%, with a steady growth pattern of around 1% per quarter.

According to research commissioned by SCBG:\(^2\)

- Content spend by SCBG members in 2007 was over £400 million,\(^3\) of which £119 million was on UK-originated content and most spent with independent UK content producers.
- Almost 94 000 hours of factual programming were broadcast in 2007 from a range of SCBG members including Discovery, The History Channel, National Geographic and UKTV.
- Programmes such as the 2008 MTV European Music Awards in Liverpool, broadcast live on MTV in November 2008, the History Channel’s “50 Things You Need to Know about British History”, and Discovery’s “The Big Experiment”, which taught children from an underperforming school science in an engaging way and helped them gain a GCSE in science are all examples of how commercial broadcasters produce UK content which contributes towards a wider public service content provision and acts as a spur to encourage PSBs to produce an even broader range of content.
- SCBG members also work with PSBs on co-productions such as Five/The History Channel’s “Brits Who Changed The Modern World”, “Peppa Pig” on Five which is a co-production with Nickelodeon, and Discovery Channel/BBC co-productions such as “Blue Planet”. Shows such as the “Walking with Dinosaurs” (another BBC/Discovery co-production) would never have been made without the contribution of SCBG members.
- Co-productions often debut on a PSB channel, and are shown later on the commercial partner’s service, which prevents the credit being shared equally between both partners. Therefore the actual figures for investment in public service content by multichannel operators are likely to be higher than the official figures state.
- SCBG members also purchase substantial amounts of UK “secondary” content that has already been seen on the PSB channels. This provides revenue to UK independent producers (who control the exploitation of many of these programmes); to the distribution companies that broker these deals; and also to the broadcasters that originally commissioned the programmes. In addition to the financial benefits of this activity, it also serves to bring new audiences to PSB content.

Based on industry data from BARB:\(^4\)

- SCBG member channels represented 19% of all television viewing during 2008;
- They represented 21% of all multichannel TV viewing during 2008 (ie viewing in households with with any form of digital television);
- They represented 30% of all pay-TV viewing during 2008;
- The average weekly reach of the SCBG channels in 2008 was 35.56 million individuals. Some 70% of the UK population watched a channel from an SCBG member during the average week.

Of course, these statistics do not include the millions of viewers in continental Europe who are watching a channel operated by an SCBG member under an Ofcom licence.

**Seize The Opportunity—a Chance to Create a Strong Future for the UK Content Market**

The SCBG favours the taking of a holistic view of the market, with multichannel broadcasters considered as an integral part of it and as a potential part of the solution to the problems of ensuring the continued provision of high-quality public service content to British viewers. There are a number of potential solutions to the current crisis for broadcasters:

**Encourage continued investment from across the sector**

The UK is viewed as an international hub for the creative industries. In order for this to continue to be the case, policy-makers must take a forward-looking stance on what they want the media industry as a whole to look like in 10 or 20 years’ time. The rapidly changing market means that now is the ideal time to put conditions in place which would ensure a comprehensive programme of regulatory reform and the creation of

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\(^1\) Communications Market: Digital Progress Report Digital TV, Q3 2008

\(^2\) “The Satellite and Cable Broadcasters’ Economic Impact”—Deloitte 2008

\(^3\) This figure does not include spend on news and sports as these figures are not included in Ofcom’s estimates

\(^4\) Research from BARB Full Year 2008 Figures—Individuals 4 +
incentives to encourage a vibrant market where all players will invest in UK content. The SCBG believes strongly that its members have a significant role to play in the provision of high quality public service content to viewers and looks forward to seeing an imaginative government strategy which will reflect the contribution that all content providers can make to UK public service content.

The creation of market conditions which would encourage more co-productions across a number of areas and a number of platforms would allow PSBs the chance to produce large-budget crowd pleasers such as “Blue Planet” in conjunction with a wide range of broadcasters and content producers, whilst focusing more of their own budgets on content the market will not provide. A step further might even involve the creation of incentives for joint ventures that would encourage co-productions on core PSB content. This could possibly come in the form of tax breaks similar to those already in place for the UK film industry.

An example of an opportunity potentially missed was the Government’s decision to reject the possibility given to it by the AVMS Directive to allow product placement. As the content market continues to evolve it is important not to restrict one section of it with rules which do not apply across the board.

Ensure a Clear Remit for PSBs

The provision of content that the rest of market is unable to provide should be the primary focus of the BBC and other commercial PSBs. This includes local/regional news and current affairs, regional programming, and content for older children and teenagers, as identified in the latest PSB Review from Ofcom. Having a clear remit on where to focus finances will help PSBs prioritise their spending. It will also help other content providers by giving more certainty to them on what the activities of the PSBs will be, thus leaving them free to develop programming and business models that will complement the work of the PSBs and add to the viewer experience.

Review the Terms of Trade

The public service broadcasters—including the BBC—still retain control over considerable secondary value in UK programming through their application of “holdbacks” over content. Programmes that could be sold by broadcasters and producers into the secondary market, raising revenue that could be reinvested in original content, do not easily find their way to cable and satellite channels that would like to buy them, and could bring them to the attention of new audiences. Channel 4 also maintains an unreasonably tight grip on its programming, through similar arrangements.

Programmes originally commissioned for a PSB channel should be made available more quickly to the rest of the market than is currently the case, and on much fairer terms. In particular, the BBC continues to make unreasonable demands over the scheduling, branding and promotion of content that it originally commissioned when it appears on other non-BBC channels. These rules must be reviewed in order to enhance the flow of rights across the whole market.

Removing these bottlenecks could result in substantial new investment in content from the secondary market.

Reject Calls for Levies

There has been a significant amount of debate recently on the issue of levies to be paid by other sections of the creative economy and consumers to fund PSB content. This is a flawed argument for a number of reasons:

The concept of a levy on consumer recording equipment will not be a popular one. While it is true that this method has existed in some EU States for some time, it is also true that in Member States such as Spain where the idea has been mooted recently it has been hugely unpopular, sparking Facebook protests and email campaigns by consumers.

Furthermore, in France where the idea of levies to support public service content is being piloted a number of issues have emerged. Firstly the trade-off in France for PSBs to access levy funding has been that they may not advertise at all between 8pm and 6am, something the SCBG is sure would not appeal to commercial PSBs in the UK. Secondly, the downturn in the advertising market means that commercial broadcasters are left doubly disadvantaged because they are losing advertising revenue and still paying a levy. SCBG argues that this is a lose/lose situation and could serve to undermine the capacity of broadcasters to invest in new content, thus depriving producers of the income they need.
Avoid Short-Term Solutions

In order to continue to offer audiences a choice of high-quality content across a number of different platforms, multichannel broadcasters need to be confident that they are competing on fair and level terms with the BBC and other commercial PSB broadcasters.

All broadcasters are faced with a deteriorating advertising market. Although not all broadcasters enjoy the power of ITV and C4 to negotiate favourable deals with advertisers, all of us have difficult business choices to make.

SCBG members are concerned that short-term action by Government to shore up the financial models of the commercial PSBs will cause long-term damage.

In the main, the competition for advertising revenue is a zero-sum game. There is very limited elasticity of demand for advertising, so more revenues for one or two of the broadcasters inevitably means less revenue for others.5

We note that all of the various options being explored as part of the Digital Britain Review for Channel 4 are designed to enhance its ability to generate advertising revenue in some form or another. The position of C4 in the market is already extremely strong—it commands a much larger share of net advertising revenue than its share of viewing would suggest. If C4 were expanded, underpinned or enhanced in a way that increases that strength even further, that would result in a deterioration in the position of the rest of the market. This would starve multichannel competitors of much of their revenues, and much of their incentive to continue investing in high quality content.

The issue is not just about leverage in the advertising market. Were C4 to be granted the ability to cross-promote its services more widely (such as through arrangements with other joint-venture or third party channels) this would result in a similar diminution of competition. Equally, any revision to the Terms of Trade that grants C4 greater control over rights, and enhances its already substantial power to manipulate the flow of its programming into the secondary market, would also result in damage to its competitors.

 Aside from the concentration of C4’s power in the market for advertising and rights, we are also concerned that any further implicit or explicit support for C4 could result in a transfer of funding from the commercial sector to the public sector, and could therefore constitute State Aid.

Any intervention in the market to protect the positions of the current PSB institutions must therefore be undertaken with extreme caution, giving due consideration for competition law and for the EU rules relating to state aid to broadcasters.

We would also point out that there are two policy discussions underway that could affect the distribution of advertising revenues between different parts of the market. Ofcom is reviewing its rules on the amount and placement of advertising on television. The SCBG submitted a position paper which gave very clear evidence that even slight relaxations of the stricter rules for PSBs would have a catastrophic effect on the rest of the broadcast market. The Office of Fair Trading is also currently investigating whether it should lift the controls on the way ITV sells its advertising (the Contract Rights Renewal remedy). Neither investigation has reported back as yet, but significant changes in either area, coupled with a strengthening of Channel 4’s position could distort the broadcast advertising market beyond all recognition. Care must be taken that what might be a short-term fix does not undermine the market as a whole.

Protecting Investment in Content

SCBG believes that copyright is vital for the UK’s content and communications industries welcomes the government’s stated aim of ensuring that the copyright framework is effective and enforceable nationally and across borders.6

Broadcasters, as well as film and music rights holders, suffer from significant revenue losses as a result of illegal file-sharing and other forms of piracy, and believe that an effective structure is required within the UK to ensure that consumers are properly educated about, and deterred from, the illegal viewing of copyrighted content online.

Whilst we also welcome the Government’s support for investment in Next Generation Networks to ensure equal access to audio-visual content files it must be recognised that access to higher download speeds facilitates illegal as well as legal access, and underscores the importance of an effective deterrence and enforcement regime.

5 For more information on the market for television advertising please see the impact assessment in Ofcom’s “Review of Television advertising and Teleshopping Regulation” consultation paper.
6 BSkyB and Virgin Media do not share the SCBG position on many of these issues. Please refer to their individual submissions for their positions on the Rights Agency and enforcement matters.
SCBG recognises the Government’s view that there has been a fundamental change in consumer expectations that content can be found and shared for free, and a corresponding resistance to paying for that content. The illegal sharing of music files has contributed significantly to this change in attitudes in the last decade, particularly among the younger sections of the population, and as download speeds increase these expectations are likely to deepen further in relation to all audio-visual content and other services.

We also understand a view exists that content providers must respond to “consumer desires to access content in a time and manner they want, allowing them to use it how they want, and at a price that they are willing to pay”. The reality, however, is that consumers want increasingly to consume content for free and immediately post-release across all digital distribution platforms and devices, and no matter what content providers do to address this demand they will always find it impossible to compete with their own content offered illegally for free.

“Competing with free” is completely incompatible with the economic realities of the content production and distribution business. Companies rely on an income stream that maximises the value of their initial investment across a period of time, and without this revenue stream content production will be seriously impacted. This is even more important at a time when advertising spend is in decline, and broadcasters and content producers are coming to rely more heavily on pay-TV revenues.

While broadcasters and other content providers will continue to develop ways of making their content available to consumers across as many platforms as possible, at a price which they are willing to pay and at times when they want to see it, this can only be as a result of commercial negotiation. Many SCBG members already make their programming available online through a variety of services, such as iTunes and their own VOD sites, but ultimately they will always need to strike a balance between availability and price which maximises revenues.

For this reason SCBG welcomes the Government’s proposal to explore the potential for a Rights Agency bringing together all interested parties, including broadcasters. To deliver an effective and meaningful contribution in the fight against piracy, the Agency must be given a clear set of objectives building on the principles enshrined in the recent MoU between ISPs and rights holders, and the accompanying Government objective of reducing illegal file-sharing by 70–80% within 2–3 years.

Agency objectives could be achieved through a mix of new education initiatives building on the significant levels of activity already under way through FACT and the Industry Trust for IP Awareness, as well as further exploration of technical solutions to discourage illegal file-sharing.

To avoid becoming an ineffective talking shop, the Agency must be empowered to act effectively to ensure that its objectives are delivered, or at a minimum have its work underpinned through a co-regulatory arrangement with Ofcom.

SCBG also believes that the Agency could provide a forum for discussion on the development of business models that reduce the incentives on people to file-share illegally, but as noted by the Government this must be strictly within the boundaries of competition law. As stated above, any discussion on this issue should only be as background to the free development of business models by rights holders themselves, in negotiation with platform providers, and there should be no decision making or enforcement role for the Agency or Government in this area.

Most, but not all, SCBG members welcome the proposal to legislate to require ISPs to notify alleged infringers of their conduct is unlawful, and to collect anonymised information on repeat infringers.

Our concern here is, however, that the legislative proposal does not go far enough, and fails to allow for an effective technical measure to be used with persistent infringers to prevent them from continuing their illegal activities. The most effective graduated response system is one that carries credibility with the infringer, and without proportionate technical measures being a possibility (such as suspension of an account for a period of time) it is less likely that their behaviour will cease.

It is also disappointing that the Government sees legal action against identified infringers as the only proportionate measure that can be threatened through the graduated response process. As the Government itself notes, seeking to tackle infringement through individual civil court actions can be costly and time consuming for rights holders and is perceived to be disproportionate by consumers. The impact of such actions on the level of file-sharing is also uncertain, given the relatively low number of cases that can be brought set against the millions of individuals who watch content illegally.
CONCLUSION

SCBG members believe that the key to ensuring the continued high quality of the UK broadcast market is using the talents and strengths of all broadcasters and content providers to complement the work of the BBC and other PSBs. The contribution non-PSB broadcasters and other commercial content providers can make to the public service landscape should not be underestimated as it so often has been in the past. Putting in the place the legislation and policy approaches which will encourage more investment will be crucial to ensuring the UK’s strong reputation for great content continues.

Hand in hand with the need for ensuring investment is the need to ensure that those who invest in high-quality content can protect their intellectual property rights in it. The SCBG welcomes government initiatives to get all the relevant parts of the industry to discuss potential solutions and looks forward to continued efforts in this area.

27 March 2009

Examination of Witnesses

Witnesses: Ms Kerry Neilson, Executive Director, Satellite and Cable Broadcasters’ Group, and Mr Howard Litton, Managing Director, Nickelodeon UK, examined.

Q1563 Chairman: Welcome and thank you very much for coming. We were to have Discovery as well, but apparently they do not give evidence in public.
Ms Neilson: No.
Mr Litton: I just wanted to come and see you all, so I am happy to be here!

Q1564 Chairman: First of all, just tell us briefly, in a few words, the role of the Satellite and Cable Broadcasters’ Group.
Ms Neilson: In a few words, the Satellite and Cable Broadcasters’ Group represents the multi-channel broadcasters in the UK; so people like Nickelodeon, MTV, Discovery, Sky, Virgin. We represent them to Government, both here and in Brussels—obviously, because a lot of the legislation that affects us comes from that direction.

Q1565 Chairman: Who do you not represent? Are there people outside in your area?
Ms Neilson: By all accounts, when we spoke to Ofcom before, there are something like 638 licences for multi-channel television and we do not have 638 members; but we do represent all the larger players in the market.

Q1566 Chairman: The big ones.
Ms Neilson: Yes.

Q1567 Lord Maxton: You do not represent them?
Q1570 Lord Maxton: Do you not represent them?
Ms Neilson: No.

Q1571 Baroness Bonham-Carter of Yarnbury: You represent Sky?
Ms Neilson: Yes.

Q1572 Lord Inglewood: I assume they are what are called the “respectable” channels and the non-respectable channels are not under your umbrella.
Ms Neilson: I could not possibly comment on what is respectable and what is not.

Q1573 Lord Inglewood: You know what I mean by my question.
Ms Neilson: I get your gist.

Q1574 Lord Inglewood: You know the gist of my question?
Ms Neilson: Yes.

Q1575 Chairman: Before we go down that road—I can see that we are getting near the end of term! Nickelodeon—tell us about that. Who owns you?
Mr Litton: We are 60% owned by MTV Networks at the moment and 40% owned by Sky. It used to be 50:50 up until a few years ago. So it is basically MTV Networks and, in turn, Viacom, who are the overarching owner of that. I have been at Nickelodeon for longer than I care to say, but for 14 and a bit years; and Nickelodeon has been around for about 15 and a half, 16 years, something like that. We have effectively three main brands, which are preschool brand, Nick Jr, which effectively works or competes with or complements CBeebies—I guess would be the best example in the public service sector; NickToons, which is an animation channel, and probably SpongeBob would be the thing that you would all hopefully know about and the main character there; and Nickelodeon, which is very much more aimed at older kids, although again it
Chairman: biggest, and everything else tops it up really. 40% from subscriptions. Those are by far the two is something like probably 40% from advertising and Mr Litton: what proportion is subscription? from that, what proportion from advertising and

Baroness Howe of Idlicote: is as important as subscriptions to all of our general trend for everybody, but certainly advertising Ms Neilson: I could not honestly say that it is a sector—how are they divided between advertising and subscription revenue?

Mr Litton: Yes, definitely. The core of the brand of Nickelodeon is all about doing things from what we say is like a kid’s point of view. It is trying not to talk down to kids too much; trying to talk to them at their level. So if we are doing something at the more serious end, it is trying to make them feel like they are not being overtly educated, but trying to do it in a fun way.

Chairman: We will come to some of these issues. Can I just ask another bread-and-butter question? Revenue trends in the cable and satellite sector—how are they divided between advertising and subscription revenue?

Mr Litton: For Nickelodeon specifically, our main revenue streams are obviously the money that we get from Sky, that carry us as a platform; subscription rates; advertising. Those two are by far and away the biggest revenue streams. Then there is obviously revenue from consumer products. If you buy a SpongeBob toy in the shop, there will be an element of that money flowing back to the channel.

Chairman: Is it possible to say what comes from that, what proportion from advertising and what proportion is subscription?

Mr Litton: We could get the exact figures but I think it is something like probably 40% from advertising and 40% from subscriptions. Those are by far the two biggest, and everything else tops it up really.

Chairman: Would that be a general trend? Ms Neilson: I could not honestly say that it is a general trend for everybody, but certainly advertising is as important as subscriptions to all of our members.

Baroness Howe of Idlicote: Could I ask this? Forty and 40, 80; the 20 left—is some of that going to product placement?

Mr Litton: No, that would be revenues mostly from consumer products. We would do licences to various people: like a towel manufacturer in Manchester might make a SpongeBob towel, and we would get a share of that revenue.

Lord Gordon of Strathblane: If you are as dependent on advertising revenue, presumably you are as hard hit as the rest—

Q1576 Chairman: Do you concentrate upon children and young people?

Mr Litton: Yes, definitely. The core of the brand of Nickelodeon is all about doing things from what we say is like a kid’s point of view. It is trying not to talk down to kids too much; trying to talk to them at their level. So if we are doing something at the more serious end, it is trying to make them feel like they are not being overtly educated, but trying to do it in a fun way.

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Q1579 Chairman: Would that be a general trend?

Ms Neilson: I could not honestly say that it is a general trend for everybody, but certainly advertising is as important as subscriptions to all of our members.

Q1580 Baroness Howe of Idlicote: Could I ask this? Forty and 40, 80; the 20 left—is some of that going to product placement?
in the middle. The ecosystem for kids was very shaken up, damaged—whichever perspective you have—when ITV either pulled out or were forced out, if you like, from kids’ television. Depending on what the numbers are, and it is difficult to pin it down, but let us say somewhere between £25 million to £40 million of PSB money disappeared out of the kids’ sector when ITV left. I have never said that we are going to replace that money. We are trying to grow our original production, doing all of these things that we can do for UK kids. We are one of the green shoots, if one may use that phrase—it is a popular phrase these days—growing, trying to do as much as we can; but there is still a gap. When Ofcom did their report, I thought it was a very fair report because it demonstrates that there was market failure at the older kids’ end, drama and factual. If you look at that bluntly, why is factual difficult? It does not really get fantastic ratings from a commercial perspective; so, from my point of view, I really want to do it. We have done things like Nick News. We have won BAFTAs and all sorts of awards, perhaps on the back of it, and that is brilliant; but when it comes down to generating revenue from viewship, kids would be watching maybe more entertainment-driven shows. My balance is therefore trying to provide them with the entertainment—and that is what Nickelodeon is really about. We are trying to do other bits, but the factual element has definitely been a challenge. Again, the BBC, which is providing, quite rightly—and I am on the record as a huge fan of the BBC and I think that they do great stuff at the younger end with CBeebies—

Q1582 Chairman: Where would most of your children’s programming come from?
Mr Litton: Most of it would be third-party programming that we buy on the open market; so we go to the various markets and you find something and say, “That’s great. I really feel that’s going to fit with our brand”. If I could use an example, there is a show from Australia called H2O, which is about magical mermaids. It kind of fits, and so we would buy that. We also get a very large proportion from our American big brother/sister—“Mum” and “Dad”—whichever way you would look at it—and so that is where your SpongeBobs are coming through. The other part would be—and I guess this is where I am very passionate about it and where it gets more difficult, though—wanting to produce UK content and to commission content. Ultimately, I guess my balancing act to the shareholders is to say, yes, we get all this fabulous stuff from America, and it is very high quality—I think that is another interesting debate to be had. It is not that it is horrible; actually, the challenge for the UK market is that it is extremely high quality. It is $1 million an episode. It is amazing. I would wish that we could make a SpongeBob out of the UK, but there are all sorts of things that maybe will have to change.

Q1583 Chairman: Kerry Neilson, does it worry you that we seem to be in a position where comparatively little UK-originated programmes are made?
Ms Neilson: I think that there are a number of contributing factors, and certainly one element that my members bring up fairly regularly is that the UK—and I know these are straitened times—is falling behind in the creation of incentives for originated content. To give you a few examples that I have collected arbitrarily from members, there are tax breaks in Singapore; lots of other countries in Asia are working with television companies and their travel and tourism boards to look for partners that are creating—

Q1584 Chairman: I think that we will come to incentives in a moment but, as a statement of fact, the position appears to be that overwhelmingly the programmes that your members are showing are foreign-produced.
Ms Neilson: Not necessarily, no. A lot of the programmes that our members are showing are also UK-produced and they would be bought on the secondary market, which is then feeding more money back into the market for content creation.
Mr Litton: Perhaps I could also say this, without going into too much detail. For Nick Jr, for example, it is much more important for mums and dads—and I am a dad—that it is British. With Nick Jr, which is our pre-school channel—and because we have CBeebies as the sort of benchmark—we have to invest and want to invest, and as a dad I want to, and we put a lot of money into Fifi and the Flowertots, Roary the Racing Car, Peppa Pig. These are massive shows which, without digging too deep, people say “Oh, that’s on Milkshake”, but actually we put more money into those shows than Five would put in. The reason we do it, bluntly, is because it is going to drive the success of the channel; because if it is not British, it will not work that well at the younger end. We therefore do put a lot of focus there. At the older end, it is true to say that, with something like a SpongeBob, it does not really matter where it comes from: it is just a fabulous bit of television which kids love. For me anyway, there is a distinction between what we would be putting into younger programming, where I think it is really important that they hear British accents.

Q1585 Baroness Bonham-Carter of Yarnbury: We have had representatives from production companies that make children’s programmes, and they are deeply depressed.
Mr Litton: Yes, absolutely. I am not surprised.
Q1586 Baroness Bonham-Carter of Yarnbury: They say that there is no one commissioning anything.
Mr Litton: I do not think it is true that no one is commissioning anything. From their perspective, there was a lot of commissioning going on when ITV was around—a lot. You had, if you like, the green shoots of us doing things; so, in the ecosystem, to them a giant dinosaur—perhaps that is not the right thing—has gone away. With all of the bits that we are doing, I think that if you asked about Nickelodeon specifically they would all . . . Someone said to me recently that we were now the acceptable face of kids’ cable and satellite. I do not know if that was a good thing or a bad thing, but I think that we have moved very much from being just a pure, very small, US channel. I think that is part of why we have had success. For me, being as British as we can be is actually a positive thing, only limited by the resources that I have, the ability to spend money; so I have to focus on the areas that really make sense, to be “British”. So I think they would probably give us a pat on the back, but it does not solve their problem, because maybe half of that money was wasted—I do not know—maybe some of it was wasted, but there has just been this big beast that has gone away. If I was a producer, yes, I definitely would be sitting there—the animation sector. I was in Sheffield a week ago and a guy spoke on behalf of the animation sector. I think that someone in the audience has just been this big beast that has gone away. If I say that there is no one commissioning anything. From their perspective, the numbers are really falling off a cliff, effectively, in terms of the advertising revenue. I do not know if you have ever dealt with advertising salespeople, but it is hard to get a direct answer oftentimes about how bad it is going to be. It is, “Well, it could be minus-£2 million or it could be plus-£2 million”, and you think, “Great, thank you very much!” However, it is definitely looking as though it is going on a downward trend; so all of the hopes that maybe there was going to be some money—for kids in particular—you have toy companies especially, where the first thing that goes is their marketing spend. It is all going. They are all holding back. The only real hope that we have to see some decent returns this year is that they are holding back and holding back, and then it will go “splurge”

Q1587 Baroness McIntosh of Hudnall: I just wanted to ask you if you could remind us about the audience base that you have. Obviously, you are giving us a very good account of what you are doing in terms of commissioning and the success you have had with the shows that you have bought in as well, but what percentage of the potential audience that there is out there has bought the packages that allow them to get access to your stuff?
Mr Litton: I will give you a general view; I cannot give you the exact number. I think that we are in about 50 or 55% of homes, something like that—of all homes in the UK—but we reach about 65 to 70% of kids, because people who have kids tend to buy multi-channel, as more of a proportion.

Q1588 Baroness McIntosh of Hudnall: Within that 50% there is therefore a high representation of family homes?
Mr Litton: Absolutely, yes. To be honest, that is why Sky love having a channel like Nickelodeon, because I guess they want to target families. That is something they are really keen to do, which is lucky for me, I guess, because hopefully they will pay us a decent amount of money, which in turn helps us to invest in programming, which in turn makes it good, which hopefully makes them want to have us on their platform.

Q1589 Baroness McIntosh of Hudnall: Can you say what the trend is in terms of the growth of that market?
Mr Litton: It has been up, actually.

Q1590 Baroness McIntosh of Hudnall: I mean per annum, roughly, how many new subscribers are you expecting to get?
Ms Neilson: In general, at the moment it has been a three% growth this year; so, since I wrote this position paper, where it said 46% we are actually up at 49%.
Mr Litton: There was a massive growth when it all went digital; when Sky, as I am sure you will remember, kind of gave away set-top boxes, however many years ago that was. That drove a massive uptake, and it went from 20% to 50-plus%. I think that it is a slower growth now.

Q1591 Lord Inglewood: Can I ask a slightly different question, which is advertising? Is the current advertising recession hitting you?
Mr Litton: Bluntly, yes.

Q1592 Lord Inglewood: Badly?
Mr Litton: Because we get different revenue streams, I would say that at the end of last year I was thinking that we would somehow manage by cutting our cloth and maybe we will still be able to do what we need to do and it will be okay. I have to be honest with you, a couple of weeks ago at the last board meeting, it was looking very much darker and blacker in the sense that the numbers are really falling off a cliff, effectively, in terms of the advertising revenue. I do not know if you have ever dealt with advertising salespeople, but it is hard to get a direct answer oftentimes about how bad it is going to be. It is, “Well, it could be minus-£2 million or it could be plus-£2 million”, and you think, “Great, thank you very much!” However, it is definitely looking as though it is going on a downward trend; so all of the hopes that maybe there was going to be some money—for kids in particular—you have toy companies especially, where the first thing that goes is their marketing spend. It is all going. They are all holding back. The only real hope that we have to see some decent returns this year is that they are holding back and holding back, and then it will go “splurge”
in November/December. But I have to say that, as the days go by, I am feeling less and less that that is the scenario. Yes, it will impact. My perspective is that I say to the shareholders, “Look, even though that is the case, we still need to do all of the stuff that we are doing. I still want to do the UK stuff; I still want to invest . . .”; but from their perspective they could easily say, “Well, Howard, tough times . . .”.

Q1593 Chairman: Kerry Neilson, is that a general position?  
Ms Neilson: I think that generally speaking everybody, including the PSBs and ourselves, is suffering from the downturn in the advertising market. However, last week there was some fairly encouraging news from the Institute of Practitioners in Advertising, who do an annual survey and who felt that there might be a slight upturn towards the end of the year, because now the marketing people are beginning to look at spending.  
Mr Litton: Send them my way!  
Ms Neilson: I will do!

Q1594 Lord Inglewood: Can I ask you about the impact of the decline in advertising revenues? Does it mean that the price of material that already exists that you want to buy goes down, simply through the workings of supply and demand, or does it mean that, frankly, you just have to do less, which obviously includes doing your own material?  
Mr Litton: There is no relationship to the lack of money in advertising: you still have to buy the programmes or make the programmes. It does not get any cheaper to do the UK stuff, in fact it gets more and more expensive.

Q1595 Lord Inglewood: The commissioned stuff does, but the stuff off the peg—does that get cheaper?  
Mr Litton: No, it does not. Our programming that we get direct from the States, interestingly, when the deals were done there were inbuilt inflationary amounts going up; so actually, funnily enough, as the industry has contracted we are paying more; then we get into exchange rates and so on, which is another impact that we have had in particular. When you are out in the open market, if there is a fabulous show, you all have to try and get hold of it; so whoever will pay the most will get the show—all things being equal, with relationships and so on.

Q1596 Lord Inglewood: The price of the product and your ability to pay do not directly correlate?  
Mr Litton: No, not at all.  
Ms Neilson: Also, as advertising revenues go down and as the market contracts generally, not just because of the downturn, people’s intellectual property will be the one thing that will make them money; so that is more likely to become more expensive than less expensive.

Q1597 Lord Gordon of Strathblane: It is very encouraging that your own enlightened self-interest has enabled you to persuade the parent company that the pre-school stuff should be UK-originated. Is there anything we could recommend that would make it easier for you to convince them that some of your other programming would be better if UK-originated?  
Mr Litton: To be honest, that is where I maybe would not agree that that is the issue at the older end. At the older end we could, for example, try to do a SpongeBob out of the UK—it is probably around $1 million an episode to do that sort of show—or I could go down the live act, the kind of iCarly, the kind of My Parents are Aliens, that kind of UK show—we could go down that route, which will probably cost a couple of hundred thousand dollars an episode and probably deliver us more ratings. From a purely “What’s going to give us the biggest bang for our buck” approach, it would be “We want to do UK but we will go down the live action route, because that will deliver ratings for the channel”. The dynamic at the older end is not quite the same as the pre-school end, because fundamentally I do not think it is a real problem that kids are watching SpongeBob—as long as it is a fabulous quality and brilliant show, and there are a lot of other things on other channels as well; whereas at the pre-school end I do feel that. However, the irony in all of this is that it is not really the pre-school sector that is affected badly; it is the older kids. In a nutshell, that kind of encapsulates the challenges you have. I would not say that every pre-school producer would say, “Fabulous, it’s all happy days for us”. They are still suffering. But because they can put business plans together—for example, on the BBC, they have Teletubbies, In the Night Garden—there is a way that they construct a business plan so that it can sell around the world; they can make fabulous quality toys and so on, and can make revenue. They can sit with their business plan and say, “Look, this makes sense, so let’s do it”. With live action, with factual and with older kids’ programming, it is more difficult to extract the economic value from that around the world. It becomes difficult. My perspective to the shareholders, therefore, is “We need to do this stuff”. We are not yet at the stage where my shareholders are saying, “Don’t do it”. If the thing keeps going down and down, there will come a point where they will go, “You know what, Howard, I know you want to do your bullying stuff; I know you want to do your green stuff; I know you want to do your 25 half-hours of whatever production you’ve got lined up”—and I am very proud of that stuff because, at the end of the day, with my Nickelodeon hat off, I am a Brit. I want
British stuff. I am a dad as well. I want my kids to grow up in this kind of world where they get quality stuff. I am sorry, that is a very long, rambling answer.

Q1598 Chairman: No, not at all. Kerry Neilson, what about incentives?
Ms Neilson: Obviously it is difficult at this point to ask for tax breaks from anybody. Clearly, that is not something that is working.
Mr Litton: That is what the producers would be asking for, and I would agree with that. Give it to the people who are making the stuff.

Q1599 Chairman: So what would you ask for?
Ms Neilson: I think that there are ways of developing the industry. The UK is already considered to be a media hub. There are other countries within the EU and further afield that are looking to do the same thing. Our view is that you could start to encourage more co-productions, for example by creating the right environment for those. What that is, I am not too sure; but you would have to encourage some of the bigger PSBs to take more part in co-productions. That is something that is not quite as prevalent as we would wish it to be at the moment.
Mr Litton: The Channel 4 situation for example, from my perspective, could be quite a positive move. There is a lack of detail around what they actually have to do on kids particularly but I can remember that, when I first joined Nickelodeon, Channel 4 used to do kids’ programming and were a great source of co-production; also a source of selling Nickelodeon product to them. If they are going to get into kids and spend X million, that would be fabulous. I am just not sure where the money is actually coming from their perspective either, in order to be honest with you. I welcome that and if they go for the older kids and cutting-edge, factual things, the sort of thing Channel 4 ought to be arguably—fantastic!

Q1600 Baroness McIntosh of Hudnall: Can we come to the question about how you do generate funds for UK-originated content? In the SCBG evidence, for example, you were very vehemently against levies of any kind. You also talk quite strongly about the terms of trade that currently operate between you and the providers of content. Somewhere in all of this there are issues about what it costs to generate UK-originated product, who will supply the funds to do that, and how they will then get back the money that they spend. There is a matrix, is there not—
Ms Neilson: There is.

Q1601 Baroness McIntosh of Hudnall: . . . which has to work in a virtuous way rather than in a vicious way. First of all, on the question of levies, it has been suggested for example that there could be a retransmission fee levied on cable and satellite broadcasters, a relatively small levy, which would generate a significant sum which could then be reinvested in creating the content that those broadcasters need, obviously. What is your view of that?
Ms Neilson: First of all, our concern is that throughout this debate there has not really been a holistic view of what the market is like at the moment. There has been—and I suppose it cannot be avoided—a focus on the amount of PSB content that has been provided by the PSBs and the amount that has been provided by us, and the sums add up in the way that you have already seen. Our concern is that the move is then immediately to say, “We should tax them, in order that we can support them”. There is a limited and zero-sum amount of money in the pot for production. If you take money away from the non-PSB broadcasters and give it to the PSB broadcasters, we have even less money to make the shows that we are making, and that would be the first thing that goes.

Q1602 Baroness McIntosh of Hudnall: Can I interrupt you for one second on that? What you are implying in what you say is that, given your sources of revenue, which principally—or perhaps not principally, but significantly—are the people who are paying to buy the satellite programming that you offer, they would not pay any more than they are currently paying. In other words, you cannot hike up your revenues in order to create an additional fund. You seem to be implying that there is no more money to be found anywhere in the system.
Ms Neilson: It is unlikely that you would ask consumers to pay more. I do not think it is likely that the platforms are going to ask consumers to pay more.

Q1603 Baroness McIntosh of Hudnall: I am sorry to press you on this, but why do you think that it is unlikely?
Ms Neilson: Because in a market such as the one that we are in at the moment, if you start to increase your prices there is every chance that people will stop subscribing.

Q1604 Baroness McIntosh of Hudnall: Is there?
Ms Neilson: You would have to test the theory by putting them up and seeing, but our considered opinion is that that is the case.

Q1605 Baroness McIntosh of Hudnall: What you are saying is that the pricing you have is (a) very accurate and (b) extremely sensitive. Would you say that is the case?
Ms Neilson: I think that it is very much the case. If you look at issues related to that sort of pricing, because obviously we cannot test the theory in vivo, in some
of the other European Member States there has been a move to attach a levy to recording equipment. It is already working in some. They have moved to do that in Spain and in a few other countries. It is hugely unpopular. There have been Facebook protests and it is a major consumer issue. If we start saying, “The reason you are paying more for your cable and satellite, Mr Consumer, is that we need the money to make more originated content and we are therefore charging a levy”, that will be hugely unpopular. It is not something that I would imagine any of the companies which give services such as that are likely to do.

Baroness McIntosh of Hudnall: I interrupted you anyway, as you were developing your argument.

Q1606 Lord Maxton: What research have you done to show why people subscribe rather than getting Freeview? Do you know why? My instinct is to say—because I know why I do it—it is because I want to watch sport.

Mr Litton: Good reason!

Q1607 Lord Maxton: And I can do that better on Sky than anywhere else. Is that a driver?

Ms Neilson: Sport has been a driver. I do not have all the facts for that one at my fingertips. I am sure that I could provide them to you after the meeting. I think that people are looking for a wider group of channels. I know that some of the factual channels, for example, are a driver as well. The likes of Discovery is something that does drive people towards subscription television, but obviously live football would be another—and children’s programming, which Howard was talking about.

Mr Litton: You have to remember that, in the whole context of this—and I cannot speak on behalf of Sky, and I guess that maybe you should talk to them—when they are one of your major sources of revenue in a marketplace where everybody is looking for high margins, cutting costs, and revenue down the toilet, et cetera, I can tell you that a negotiation with Sky is not, “Hey, Howard, it’s fantastic you’re doing all this brilliant stuff. Here’s a massive big cheque . . .”.

Q1608 Chairman: “Not fun” is what you are saying.

Mr Litton: They are a shareholder in my company, so they are lovely, obviously!

Ms Neilson: They are a member of the SCB Group.

Q1609 Lord Inglewood: What sort of churn levels are you having on subscriptions?

Mr Litton: I probably should know that, but I do not. I could definitely find that out for you.

Q1610 Baroness Howe of Idlicote: Looking at the European scene for a moment, it has certainly been suggested to us that rather more pressure should be put on the European directive requirements that a minimum 51% of programmes should be EU content. What are your views on this, and are there any reasons you can think of for not implementing them more vigorously?

Ms Neilson: First of all, I cannot comment on individual channels and what their quotas are. I know that was one of the questions I was sent earlier in the week. However, all of our members, in conjunction with Ofcom, with whom we work very closely, are very careful to do what the directive says and to stick to what the rules of the directive are. You have to remember that some of the wording says “where practicable”. For example, the Chinese Channel could not possibly have a 51% European quota of EU-originated programming. I suppose that they could in the Chinese language, but it rather negates their purpose. So there are certain channels where it really is not practicable for them to have that quota. There are others where they look at them and take them very seriously, and are working towards making sure that they do have that. I know that Howard is one of them.

Mr Litton: We absolutely do. Again, I would say a great big tick for us on the Nick Jr end, because we exceed those quotas by quite a way. On Nickelodeon and on NickToons, it is a bit more difficult. If you thought that it was all just about fantastic UK content that you were doing and that was what was fulfilling your quota, that would be one thing; but what would tend to happen is that, if there was a quota that you tried to impose, people would be putting Czech animation on all day long, nine till whenever. It would be very difficult because for me, in the end, it boils down to having to do the right thing and moving towards those, but you cannot do it at the expense of quality. At the end of the day, for me, if SpongeBob is the best animation in the world for UK kids—and obviously I am a bit biased—most people would look at that and say, “You know what? Would I rather have SpongeBob than an average-to-poor UK production?” Again, it is not all fabulous. That is the other thing we have to remember in this debate. Not everything that the UK does is absolutely amazing and everything that everybody else does is absolutely terrible. It is a balancing act.

Q1611 Chairman: It is balancing, is it not? It is getting the balance right.

Mr Litton: Yes.

Q1612 Chairman: But the balance at the moment is not right.

Mr Litton: From my perspective, we are growing our EC/UK content, but I only want to grow it with quality. I am not going to do it under any circumstances. I think that we are doing—and I guess maybe I would say this—but I genuinely think that
we are doing the right thing and moving in the right direction. I cannot speak for other cab-sats and what they are doing, because I do not really have to agree with what they are doing; I am just doing what I am doing and that is what I think we need to do. Going back to the Ofcom report, I think the issue is the factual and the older kids' content. I guess the green shoot is Channel 4. What are they going to do, though, and how is that going to be funded? My own perspective is, try to get as much money in the hands of the producers as you can, the people who are making the content; incentivise that; find some way to get more money to them, because ITV went away and it is not coming back, on that scene anyway. How do they get the money? I guess that bigger brains than me will have to figure that one out. It is interesting. The quota thing is like all things: it is not quite such a black-and-white issue, once you are in it.

Ms Neilson: I think also when you impose something like that, if you impose it to the extent that you remove the words “where practicable”, you are in danger, as Howard says, of creating a false expectation and also endless reruns of Don’t Forget your Toothbrush.

Mr Litton: I think that really is a balancing act—and I am speaking here not with my Nickelodeon head on. If you look at some countries, it is not about encouraging mediocrity. You can have a lot of subsidies and various things, and you can just encourage a whole bunch of people to make a whole bunch of stuff that ticks a whole bunch of boxes, but actually is not very good. What you want is something that encourages really quality programming to come through. I do not know how you get that balance right, but I feel that the UK is lacking in the kids’ sector from some additional whatever-it-is—tax breaks, animators, producers—something to enable more of the stuff that Ofcom recognised as lacking to be made. We can do as much as we can, but I am just one part of the solution. I like to think that we are part of the solution.

Ms Neilson: I watched a lot of French and Spanish TV when I lived in various other countries and they have quite good European quota levels. It is not as good as the UK’s broadcasting.

Q1613 Lord Maxton: Are not large numbers of the older age group in your area, above ten and up to 15, sort of thing, delighted to watch mediocrity on Facebook, on YouTube, because what they are watching is them? It is themselves, their friends, whatever it might be. As long as they are watching themselves or their friends, they would rather watch that than watch something else.

Mr Litton: I will have to disagree with you a little bit on that one, with respect. I think that kids are very astute consumers. They know rubbish when they see rubbish. We all watch a little bit of rubbish as part of our diet. As adults, we might go home and “veg” for a bit and watch something that is not so great, and we might watch a fabulous historical documentary, or whatever. Generally speaking—going off on a bit of a tangent—we do not give kids enough credit for their intelligence. I think that they will seek out quality. From my point of view, the reason kids watch SpongeBob or iCarly, and in multi-channel homes they will choose Nickelodeon over, say, even CBBC, is not because it is rubbish or because it is poor quality; it is actually the complete opposite. If I were at the BBC at the older end, I would be saying, “How come these channels are making all this stuff that older kids are watching?” I think that there is a challenge for teenagers, though, because kids watch older kids.

Q1614 Lord Maxton: The use of the term “mediocrity” may have been inappropriate. It is the increasing switch, and that people of that age group are using the internet for their entertainment rather than watching television, and particularly watching television in what I would suppose you would call in a linear sense rather than watching it by pre-recording or whatever.

Mr Litton: I think that the death of television is slightly overstated in a lot of quarters. In fact, kids’ viewing is slightly up over the past few years. However, you are right; with that audience, like teenagers and young teens, it is almost as though, if they know it is made for them, they do not want to watch it. They are a very difficult audience to pin down — maybe the 13 to 16 year-olds. That was what came out through Ofcom. When you look at the BBC doing BBC Switch, they are trying desperately to engage with teenagers. The last thing they want to be called is “kids”, and the last thing they want to feel is that they are being talked down to. How do you get that? It is a difficult audience to pin down.

Q1615 Lord Hastings of Scarisbrick: Perhaps I can take you to one part of your evidence on page 5, where you talk about “Avoid short-term solutions”. A lot of this is focused on Channel 4. You say that if Channel 4 were “expanded, underpinned or enhanced in a way that increases that strength even further”, you acknowledge that Channel 4 could be a great investor in children’s content in the future but, in essence, you seem to be saying, “Don’t let them have a way to get more cash”. Are you threatened by them?

Ms Neilson: No, I do not think that is the case. This position was written at the time when there was still the very strong possibility of a merger between Channel 4 and BBC Worldwide, which we did think could create a media leviathan, which I think would have been problematic for many companies.
Chairman: You think that is dead, do you?
Ms Neilson: You can never say that anything is dead, but certainly what came back from the Digital Britain review was that it would be more joint ventures and looking at that sort of thing. Clearly, the Government feels that Channel 4 has a lot to offer and we would agree with that; but what we are really saying is that whatever steps you take you have to take carefully and make sure that you do not kill off other bits of the market. For example, a joint venture between Channel 4 and BBC Worldwide that looked at DVD sales or international sales of their programming—fine. But to rely on getting Channel 4 more of the advertising market share is to rely on something that, first of all, will not support them for very long, because we have already established that it is, if not in decline permanently, certainly reduced. That is the first thing. Also, they actually punch above their weight in the advertising market; they do rather well. They are quite good at targeting the difficult-to-reach ABC1 young adult market.
Mr Litton: Skins.
Ms Neilson: That sort of thing. To give them more of the share of the pie will not necessarily help them particularly, because it is a small pie; but it will also kill off some of us. In the context of some other research Ofcom was doing on the placement and duration of advertising, RADA, we got Oliver and Ohlbaum to do a bit of research for us. Any slight move towards the PSBs from the revenue that the non-PSBs are taking—for example, the idea that is still on the table at the moment, that you could reduce the level of advertising that we are allowed to do to the same level as the PSBs—would give them a gain of 1% of the market. It would mean that we lost 8% of the market. That is a gain for them of £34 million and a loss for us of £80 million. Tweaking the advertising market from a policy point of view is not a good idea, as far as we can see.

Lord Hastings of Scarisbrick: Your primary concern is around protecting the advertising cake and the share of the advertising cake. Would a partnership with Channel 4 that was not necessarily just to do with advertising revenue, some other form of cash transfer or other associated partnership, be favourable to you?
Ms Neilson: Our concern is still that if you merge two fairly large organisations in the UK media industry, it would be a problem. As one organisation, it would have an incredible amount of power and it would not necessarily do the UK market any good. I believe that Channel 4 also support this approach. The move to encourage joint ventures, which look at ways of monetising the content that they are producing seems to be quite a popular one, and it is one that we could feel comfortable with.

Lord Hastings of Scarisbrick: They could use it to invest in original children’s content.
Ms Neilson: They could well do.
Mr Litton: I would welcome Channel 4 spending more money on kids. That has to be a good thing. I do not want to be affected economically, obviously; but I think that it makes sense. It is just a question of figuring out the detail, I guess. Also, only if it is what was highlighted in the Ofcom report—older kids, factual and tween-teenagers, if you like. If they are going to do, for want of a better description, junior Skins, that is a good thing; if they are going to do some great factual things that get teenagers engaged with that kind of stuff—fabulous! I welcome it because, speaking on behalf of the kids’ industry as a whole, we need another player to come in and help producers to have another home somewhere, where they can go with their product, to keep the thing bubbling along. It is what we were saying about producers: they are in a slightly difficult place at the moment.
Ms Neilson: The issue is how the money is used. If the money is used in a way that recreates something that is already happening in the market, then it is not necessarily a good use of funds, for openers. If it is used to fill some of the gaps that are creating problems for PSB at the moment, then perhaps that would be a good thing.

Chairman: You have a very clear view on the role of the BBC, and indeed the other PSBs as well. You say, “The provision of content that the rest of (the) market is unable to provide should be the primary focus of the BBC . . .”. That is very interesting but does it not mean that what you are really saying is “They can do all the unpopular stuff and we will do the popular stuff”? Does that not totally undermine, or would it not totally undermine, the whole basis of the licence fee?
Ms Neilson: I think that is a particular way of looking at it. It is clearly not the way that we would consider the thing to be.
Q1622 Chairman: You do not think that it would undermine the licence fee?
Ms Neilson: No, I did not say that. I said that what I think we were saying when we made that comment about the BBC is that there are a certain number of areas where there is overlap in the market. Perhaps given that there is little more funding available and given that there are certain areas of the market where there is not activity happening in PSB, they should look more closely at what they are doing to address those gaps.

Q1623 Chairman: So you are talking about the gaps in the market.
Ms Neilson: We are talking about the gaps in the market.

Q1624 Chairman: You are not actually challenging the BBC doing a wide range of programmes.
Ms Neilson: Absolutely not. No. We are talking about addressing the gaps in the market and perhaps moving some of the funding away from areas where there is already overlap looking at where do they need to make some ground on older children as well, as we were talking about earlier.
Mr Litton: It may not be my place to say it, but my thing with the BBC is that, at the younger end, a massive big star, a big tick for CBeebies. CBBC? Work in progress maybe. It is doing a lot of good stuff but it is not really reaching that older kid audience. For me, it is not so much about making the unpopular stuff; at one level it is about making yourself a bit more popular and a bit more in touch with the kids. Frankly, I think that one of the few places that can do the big, high-budget, factual and the big dramas will be the BBC. I think that they do a really good job with spending the money. My argument, from a channel controller’s point of view, is that in multi-channel homes they do not compete that well with, say, Nickelodeon and even Disney. Although, with my commercial head on, in a way it may be good that they do not compete so well, with my UK citizen head on I think, “Could they do better at that end?”—because they have got a lot of money.

Q1625 Lord Gordon of Strathblane: Moving to another aspect, we have been talking about putting more into the bucket of UK creativity and content; but, as one of our witnesses said a couple of weeks ago, that is no use if there is a hole in the bucket—referring to copyright and piracy. This, quite correctly, is a major concern of yours.
Ms Neilson: Absolutely. As I said earlier, in these times when we can rely less on advertising revenue, the copyright issue in the programmes that we produce is very important, and making sure that it is not—without wishing to use too strong a word—stolen online. It is very easy in the online world to say that people are sharing it and that everybody should be allowed to access things for free; but, quite frankly, you have heard how many millions of pounds it takes to make an episode of one particular programme. You cannot give these things away for free. No one has yet found a business model where content can be given away for free and can then be funded entirely by whatever it is that they do.

Q1626 Lord Gordon of Strathblane: Do you think that the Government is on the right lines in Digital Britain in measures to combat copyright theft?
Ms Neilson: Certainly everybody within the Satellite and Cable Broadcasters’ Group is agreed that there needs to be some form of action to address intellectual property theft. We think that the Government is on the right lines. There are still some concerns about enforcement, and obviously the Government itself is concerned that it does not want to criminalise individuals, and nor do we. However, we do think that there needs to be some sort of carrot-and-stick approach perhaps: lots of education; lots of telling people how much it does cost to make these programmes and that there are not bottomless pits of money to do it; but also the threat of sanction perhaps if they do not follow the rules of the law.

Q1627 Lord Gordon of Strathblane: You say “everyone” but in a footnote at the bottom of that page you say that BSkyB and Virgin Media do not share your position on many of these issues. Would you like to elaborate on that?
Ms Neilson: They do not share a specific part of the position.

Q1628 Lord Gordon of Strathblane: Which?
Ms Neilson: You have to imagine that the Satellite and Cable Broadcasters’ Group is a very broad church and both Virgin and Sky are internet service providers as well as broadcasters. There has been a debate over the last few months about what the ISPs should do, what the broadcasters should do, and what job the Government has in the context of all of that. Obviously, it is not my position to make comment on that particular debate, but we have agreed as a group that we feel very strongly that there needs to be some sort of action about it.

Q1629 Lord Gordon of Strathblane: So it is only the question of the action against internet service providers that they disagree with you on?
Ms Neilson: Yes.

Q1630 Lord Gordon of Strathblane: They agree that something should be done?
Ms Neilson: Yes.
Q1631 Baroness McIntosh of Hudnall: There may be more to be said about piracy, but I wanted to pick you up on something that you said in approaching the piracy question which was to do with the importance of intellectual property, and to take you back to a question that we did not quite get to, which was to do with the terms of trade. Of course, intellectual property is the single most valuable thing that you or any of the producers with whom you work has. You have said in your evidence that you are not happy with the terms of trade that currently operate between you and the producers—and I am paraphrasing now—and that it is punitive in respect of what you can buy from them, in terms of the secondary market.

Ms Neilson: Yes.

Q1632 Baroness McIntosh of Hudnall: Surely you would accept that it is their responsibility as producers, and some of them are also broadcasters, to get the maximum value that they can from the intellectual property that they generate—so where is the balance to be struck for you?

Ms Neilson: Let me explain the general issue around the terms of trade. We do not feel that there is anything particularly wrong with the fundamental model that is in place. You are quite right that people are entirely free to choose to whom they sell their content. Our problem is that quite often the likes of the BBC will not sell a piece of content, are not necessarily transparent about why that might be the case, and are basically losing out on quite a lot of revenue that could then be ploughed back into further programme-making. Our suggested solution is that, within boundaries obviously—that they can choose to whom they sell this content—the likes of the BBC, Channel 4 or ITV should think more carefully about perhaps monetising it further. A lot of content does not get sold and does not get used again, and there is no rhyme or reason to why that might be.

Q1633 Baroness McIntosh of Hudnall: Are you suggesting that Ofcom or another regulator—and there is only one other, the BBC Trust—should be under some further obligation to look at this issue and to rethink the terms of trade, so as to impel or compel broadcasters and producers to operate differently?

Ms Neilson: I think that to compel is probably a little bit strong.

Q1634 Baroness McIntosh of Hudnall: What are the incentives then?

Ms Neilson: What we would say would be to encourage, and I think that the incentives should be that, if you are in a position to sell more of this content, then you will have more money. It is market economics in many ways. If you are not going to get more licence fee, if your licence fee payment is frozen at the BBC by whatever the Government decides, then you need to think of other ways of making money. This is a very good way of bringing more money into the market. We have had the discussion about advertising. It is not bringing any more new money into the market; that is a closed pot. This could bring fresh investment into the market for content. It is not necessarily the case that they should be impelled to do it, but they should be encouraged to think very carefully about it, because of the nature of what it could do for them.

Q1635 Baroness McIntosh of Hudnall: In the conversations that you have with them when your members are trying to buy material from them that they cannot acquire, what kinds of arguments are they encountering?

Mr Litton: It is not a huge problem for us at Nickelodeon. There have been a couple of examples over the years where we might have enquired about a show from the BBC that we might have wanted to put on our channel, and then it has either gone a bit quiet, we have not had any calls returned, or they have just said, “No, we can’t sell it to you”. As a channel controller, I understand the competitive nature of that, because if it was me—I am not a public service provider, though—I would be, like, “Do I want to sell it to them, because I am competing with them?” CBeebies, CBBC, competing with Nickelodeon, why would I allow us to have that? But taking the point in the broader sense, in my view it should be more transparent. I would quite like to know—and I cannot say it has happened a lot, but on a couple of occasions—transparency, I suppose, would be the thing. What is the reason? If the reason is, “I’m not selling it to you because, frankly, it is just going to compete with me and I need the ratings”—okay, fine. It would be good to have that kind of transparency. I do not think that they should be compelled, though.

Q1636 Lord Maxton: I have two points on piracy. One is, where do you draw lines? If I record something on my DVR, put it onto a disc, give it to my son because he wants to watch it, that is not piracy presumably. If he then passes it on to somebody else, is that piracy? Obviously straight copying is piracy. That is obvious and straightforward. However, there are fine lines to be drawn. Is somebody going to prosecute Stephen Fry for confessing that he has downloaded pirated material? The second point is that I get emails, which I have never taken up, which offer me thousands of films from around the world, thousands of television
Q1637 Chairman: When did you get these emails, Lord Maxton?
Mr Litton: I think that you should go to the police and tell them that you are getting these dodgy emails. It is incredibly complex.

Q1638 Lord Maxton: It is called “creepy Software”.
Mr Litton: There is a huge challenge in this area, where you do not want to criminalise people who are not criminals. My view is that if there is an obvious economic unit that is making huge amounts of money and causing the entity that has made this fabulous show to lose lots of money, and maybe even go out of business, that is where you have to target it in the broadest sense—but I am not an expert in this area.
Lord Maxton: The copyright laws are different in different countries. In the United States I think the copyright is shorter than in this country.

Q1639 Lord Inglewood: On this point, the difficulty as I see it—and we have asked a number of witnesses about piracy—is that everybody is opposed to piracy, as it is analogous to theft. That is motherhood and apple pie. Nobody really has the faintest idea what you should actually do about it. On the one hand, we want to stop people’s property being stolen; on the other hand, we want to let people live in the digital world. The challenge, surely, is working out what you should do and how, and trying to move on from this rather nebulous, virtuous overview of the problem.
Ms Neilson: I think that is true. It is probably true of the Government as well, who have taken a very similar stance, unfortunately. Coming back to Lord Maxton’s point, however, the people who are running the websites that are making vast amounts of money from the file-sharing of individuals are the ones who we should be going after. I think that is the most important thing. You could have prosecuted every single person who used Pirate Bay, but why would you? What you needed to do was get the people who were running it in the first place and making money from it. That is what people forget: there is money to be made from your—

Q1640 Lord Maxton: That is the problem. They can be running that website—
Ms Neilson: From the Cayman Islands.

Q1641 Lord Maxton: From anywhere in the world and, as soon as they are threatened with prosecution, they will move to another country that is not threatened.

Ms Neilson: And this is something that the industry is dealing with on a daily basis. I used to work for the magazine publishers and, just before the summer last year, they managed to come up with a website where you could upload pages from your favourite magazine and share them. Of course, they were making a lot of money from that and they were in the Cayman Islands. It took the whole of the magazine publishing community across the world to shut them down.
Chairman: We will come back to piracy at the next session, and turn now to training.

Q1642 Baroness Bonham-Carter of Yarnbury: The future of British content is obviously not just dependent on new commissioning programmes; we need a talent base. Can I first ask you, Ms Neilson, do the Satellite and Cable Broadcasters’ Group provide any in-house training schemes or fund any industry training schemes?
Ms Neilson: We cannot provide in-house training schemes, because it is me and an office! It would happen in a phone box maybe.

Q1643 Baroness Bonham-Carter of Yarnbury: What I meant was your network, the people whom you represent.
Ms Neilson: The Satellite and Cable Broadcasters’ Group is a member of what is called the Broadcast Training Standards Regulator, which is the co-regulatory body that looks not only at training but also, from two months ago, at equal opportunities. A number of members from my organisation would sit on the board. We have a member from Nickelodean, Karl Burnett, and a member from QVC, Dan Kirkel, who both sit on the board of BTSR and who work quite closely with them on working groups. As an organisation—and obviously I represent many—we are therefore connected to the regulator; we report regularly on levels of—

Q1644 Baroness Bonham-Carter of Yarnbury: Do your members actually provide training schemes?
Ms Neilson: We do not provide them but we provide funding for training. There is a levy that you pay that provides funding for training.
Mr Litton: We have lots of training schemes in the company. To my mind, the biggest training scheme that we do is to employ lots of young, talented people to come into the business. Sadly, I am one of the oldest people in the company now. We get young producers who come in as PAs and they work their way up; they have made content and they get passionate about kids’ telly. There is that and there is also formal training which we do.
Q1645 Baroness Bonham-Carter of Yarnbury: You do have specific schemes, do you?
Mr Litton: Yes, we do. I do not know exactly what they are; I just know that we do them, because Karl always sends me the lists and says, “This is what we are doing”. Most of the time it is, “This is the training budget”. We are looking at every budget at the moment; but I am really keen that we keep the training budget at the highest level it can be. Again, that could be one of the things that, as you go forward, you have to look at.

Q1646 Baroness Bonham-Carter of Yarnbury: Turning the question round, do you find that you are able to recruit people with the skills that you require?
Mr Litton: Yes, I think so, because we are very popular and—

Q1647 Baroness Bonham-Carter of Yarnbury: I do not mean that. I mean that there are people out there.
Mr Litton: Yes, there are plenty of young people desperate to work in television, and plenty of really talented young people who are really intelligent. I think that generally we would get all sorts of people coming in, with jobs at all different sorts of levels; but when people come into our company at post-university level, let us say, they come in and they are desperate to work in television. They want to work in kids’ television; a lot of them are very passionate about children’s television. That is the great thing about children’s TV: people feel very passionate about it, and it is lovely. They come in and, yes, I am proud of the fact that when I look at all the guys who have come in, some of them have literally started off as the post-boy and now they are making shows. To give one example, one of the anti-bullying spots we do has just one a UNICEF award. That was made by a talented young lady called Jane Laffey, who came in very young; she has made this and it has won a fantastic international award. So, yes, it is happening, but I would not pretend that Nickelodeon is the solution to training. We do our bit, and I am pleased that we do.

Q1648 Baroness Bonham-Carter of Yarnbury: It is just that other people have said to us that there are skills shortages in certain areas, like animation and post-production.
Mr Litton: Yes, if you look outside—and I have made the point about animation earlier—the worry is that, if things are not being made, if projects are not coming to the UK, the animation community are saying to me all the time that it could be a case that, if you go to an animation school in Bournemouth and you come out at the other end, where are you going to work? There may be no animation industry at all, and so you have to go to France or Canada, or even LA. You get that kind of brain drain over to the west coast of America. That is a very good point and it is something that we have to be very wary of. I am speaking to this from the channel perspective, but it is a really good point.

Q1649 Baroness Howe of Idlicote: Could I talk about the apprenticeship level? The Government is very keen on apprenticeships. Is that too low a level for you to begin? Could you not encourage that?
Mr Litton: I do not know the details of exactly what we do in terms of the actual training structure, but I know that the apprenticeship for us is built into the structure of the company. If you come into the on-air department, you will come in as maybe a production assistant. If you have talent and you work really hard, you would be able to become an assistant producer and, if you go on from that, you become a producer. That is the way we like to do it and, allied to that, there will be some formal training schemes that are managed and funded by the SCGB, and that is how it works.

Chairman: I am going to have to cut it off, because we have run over time. Thank you very much for coming. The information that you have given is very interesting and valuable and perhaps, if we have any other questions, we can come back to you.
Examination of Witnesses

Witnesses: Ms CLARE BINNS, Programming Director, City Screen, Mr PHIL CLAPP, Chief Executive Officer, Cinema Exhibitors’ Association, PROFESSOR IAN CHRISTIE, Board Member, Association of Independent Film Exhibitors, and Mr TIMOTHY RICHARDS, Chief Executive Officer, Vue Entertainment, examined.

Q1650 Chairman: Welcome. Could you very briefly, in a few words, tell us about the role of your organisations, who you represent and how?
Mr Richards: I am here representing Vue Entertainment. It is a company that had a grass-roots start-up. The company was started ten years ago, and we have been building and buying multiplex chains for the last ten years; so in the space of ten years we have gone from my garage to a company that now has 66 multiplexes and we will serve approximately 35 million people this year.

Q1651 Lord King of Bridgwater: What are the brand names that you have taken over? Odeon?
Mr Richards: No.

Q1652 Lord King of Bridgwater: Warner?
Mr Richards: We took over Warner Village, Cinemark, Ster Century, an independent in Oxford and Village Roadshow International.

Q1653 Baroness Bonham-Carter of Yarnbury: Where was your garage?
Mr Richards: In a house.

Q1654 Baroness Bonham-Carter of Yarnbury: In Britain?
Mr Richards: It was here. I started originally in L.A. Then we moved back here in 1999.
Ms Binns: I represent City Screen. We have 18 cinemas, which could be described as niche cinema, the Picturehouse chain; so we are small, central-town sites, which play a mixture of mainstream and what are known as art house cinemas. We also have a company called City Screen Virtual that books for other cinemas. We book for about 30 other sites, which range from small, council-run cinemas to cinemas owned by individuals, and anything in between.

Professor Christie: I am here to represent the Association of Independent Film Exhibitors, who unfortunately could not find any of their leading members today. I have a relationship with them because I used to work in exhibition at the British Film Institute for 20 years and saw most of them develop. I am Vice-President of Europa Cinemas, which is an organisation that represents about 1,200 exhibitors across Europe, which show a significant proportion of European films. It includes, for instance, some of the cinemas that Clare has in her group and most of the members of AIFE in Britain.

Mr Clapp: I am Chief Executive of the Cinema Exhibitors’ Association, which has been in the business since 1912 in various guises. It is the trade organisation for UK cinema operators and currently represents about 90% of the UK market by screen and market share, including Vue Cinemas and City Screen to my right, and a large number of the members of the Association of Independent Film Exhibitors as well.

Q1655 Chairman: Our inquiry is about what we can recommend to Government about how things can be improved, in the broadest way. I wonder if you would start by telling us what you see as the biggest problem that you face at the moment—the biggest problem and what could be done about it by Government or some regulatory action. Who would like to begin?
Mr Richards: Very briefly, the state of the industry. 1985 was a turning point, when the first multiplex opened in the UK. It was also when exhibition hit rock bottom. It peaked in the post-war period at just over a billion attendances per year; it went down to 54 million. 1985 was the beginning of the investment that exhibitors have made in the market, which has led to an almost 400% increase in attendance over that period. It is therefore a very vibrant market. This will probably be another record year for box office. Going now to your question, I think for us right now the leading issue is piracy. It is something that we are very concerned about. It is very frustrating that we as an organisation invest very heavily in trying to combat piracy and we catch people regularly in our cinemas camcording. Just to be clear, these are not students; these are not young people out on a lark. This is sophisticated, organised crime that is engaged in the piracy. These are sophisticated recording devices. They set up lectern-like channels on seats in the cinemas; they go during quiet times; and they get an HD-quality, perfect print. We catch these guys and we cannot do anything with them at all.

Q1656 Chairman: What solution would you put?
Mr Richards: What has been happening across the world in the last ten years is that governments have been passing legislation banning camcording, and there has been a public education as well: the message sent out to everyone that camcording in the cinema is illegal and will be prosecuted.

Q1657 Chairman: What countries does that take place in?
Mr Richards: In the US; all of North America now; several markets in Europe and Australia. The UK is really one of the last Western nations that does not have legislation.
Q1658 **Chairman:** Has it had an impact? Has making it illegal had an impact?
**Mr Richards:** I think what you see realistically is that you push it away. Until you get a global protection—certainly with English-speaking markets in particular, the most important ones, once you get rid of all the English-speaking markets it makes it that much more difficult to get a perfect reproduction. Those are the most sought-after. We have bounties on movies—we hear about these—where there are amounts from £10-£20,000 on a big blockbuster for the very first, perfect digital reproduction. This is big business.

Q1659 **Chairman:** What do other people feel?
**Mr Clapp:** Perhaps I could just add to Tim’s answer. I work with my counterparts in North America, both US and Canada, and in continental Europe. A large number of them are—I would say that “amazed” is not to underestimate it—that there is not a specific piece of legislation in the UK. The position in the United States and in Canada is that they have legislation at both the state and the federal level. Initially, that legislation came in in the early 2000s in the North American states, and essentially you saw the problem migrate: first along the border and then over the border into Canada. Canada then legislated and the problem migrated from Canada. The anglophone problem, as it were, migrated to the UK; the francophone problem migrated to France. France has legislated twice, to my knowledge, in the last four years; first of all with broad copyright legislation and, most recently within the last couple of months, with a specific anti-camcording piece of legislation.

Q1660 **Chairman:** So we are one of the countries which has not legislated in any way?
**Mr Clapp:** To my knowledge, of what you might call the developed film territories, we are the only country left.

Q1661 **Chairman:** The only country?
**Mr Clapp:** And the effect of the legislation absolutely is not to stop the problem dead. I would never claim that. What it does, however, is that it reduces the frequency of the incidents, because there is a deterrent—people know it is illegal, they know that they will be dealt with by the courts—but it also reduces the quality of the capture of the film. As Tim said, £20-£30,000 bounties are offered for the first, full, high-quality capture of a film; so they inevitably migrate to areas where they think they are less likely to be dealt with.
**Ms Binns:** I absolutely agree. I think that is the top priority that we should be talking about here, but there are also two other things that are pretty crucial for me. One is the need for all cinemas to be able to go digital. That is fine for the bigger cinema chains, but for the sites outside of the chains—

Q1662 **Chairman:** We will actually come to that one, so do not worry about that.
**Ms Binns:** Okay. The other thing is film choice: the ability for people to have a real choice in the kind of films they see.

Q1663 **Chairman:** Professor Christie, what about you? Number one priority, number one problem?
**Professor Christie:** I think that the issue of piracy is of course serious, especially for the international studios. Most piracy is of studio films. Somebody said to me jokingly, but not really jokingly, that if more European films were pirated it would be a great mark of success; because, frankly, it would indicate that they were popular in that gut-level way that big studio films are. I think that we are talking here about a problem that mainly affects the revenues of giant international corporations. European cinema, sadly, has a lot of different problems, and I include British cinema in that. The question of film choice, which Clare mentioned, is absolutely paramount. If you live, let us say, in Leeds—and Leeds is a very particular example—it is a major city and it has one specialised cinema. It is very historic, very wonderful—the Hyde Park—
**Ms Binns:** Which we book.
**Professor Christie:** Which you book nobly, and you do your best! In a comparable size of city, Krakow in Poland for instance, the same size, there are eight Europa Cinemas member screens in that city. In Bologna, which is considerably smaller, there are also eight or ten. So we are talking about a serious underscreening in Britain; not necessarily in the multiplex range, because the arrival of the multiplexes was indeed a transformation. Everything that Tim has said is absolutely true. It was a miraculous event in the late Eighties. That solved the problem for mass market films; it did not solve the problem for anything which is not mass market. There the choice remains dire, despite the efforts of City Screen. If we did not have City Screen, frankly, we would not have a cinema culture outside of London.

Q1664 **Chairman:** Going back to Tim Richards and to Phil Clapp for a moment, it would seem from what you have said that there is no particular difficulty—maybe some difficulties but no overwhelming difficulty—in introducing legislation which has the effect of at least combating piracy.
**Mr Richards:** Absolutely right. This is not an issue that is that difficult. It is very clear that if you are camcording in a cinema, it is not something you go in there and do accidentally. You are doing it; it is
wrong; and you could prosecute it. I think that it is fairly black and white.

**Q1665 Chairman:** Therefore, Mr Clapp, why has it not been done in this country?

**Mr Clapp:** It has been a long-running discussion and debate with Government. Government officials would maintain that the current Fraud Act 2006 is sufficient to deter and prosecute.

**Q1666 Chairman:** The current . . .?

**Mr Clapp:** The Fraud Act, going equipped to commit fraud. The difficulties with that are manifold. First of all, I have sat in several meetings with government lawyers where there has been a disagreement among them as to whether it is applicable. So you can imagine, on a cold Friday night in the Cardiff Cineworld, a policeman turning up is hardly likely to be equipped to understand whether or not something is an offence. Colleagues who work at FACT, which is the industry organisation for tackling copyright theft, have gone as far as to produce and publish an advice leaflet for the police on what constitutes evidence in these circumstances—to give them a helping hand, as it were. The second issue, and it has been said to us in quite plain terms by government officials, is the concern that, by criminalising and making camcording a criminal rather than a civil offence, we essentially raise the bar on other offences. I think that there is a mindset within Government and they probably underplay the extent to which camcording is a serious problem. Consistently, nine out of ten illegal recordings of film which are found in hard copy or on the internet start off as camcords in a cinema. Just because it is on the internet does not mean that it is a digital steal, as it were.

**Q1667 Chairman:** Obviously, from everything that you are saying, the Fraud Act has not prevented this from taking place.

**Mr Clapp:** I have said that on several occasions. The Fraud Act has been in play now for two years. We have had, until very recently—and we can comment on this—a run of no doubt good luck but also very hard work of cinema staff in stopping camcords being taken. Two have been stolen in the last two weeks: one from one of Tim’s cinemas, *Ice Age 3*, and one from an Odeon cinema, *Public Enemies*. To be honest, it is unsustainable for cinemas to continue to put in the resources they are doing, with night vision goggles, with extra staffing, et cetera, in the full knowledge that currently, when they apprehend these people, all they can do is ask them politely to leave. They cannot even confiscate cameras or film.

**Q1668 Chairman:** There is no problem here with someone taking a recording and passing it on to his son and things of this sort. What we are talking about here is deliberate acts.

**Mr Clapp:** We would obviously prefer that people did not do that, but any misapprehension that this is casual, amateur activity—all you would need to do is see the gangs that operate both in the UK and in the States where, as Tim said, three or four will go in. Essentially, it is a military operation. They will have two guys at either end of the aisle, to block people from coming in and blocking the site. They will put microphones three or four seats apart, to get a stereo effect. They will have—it sounds incredible—tripods; they will have clamps on the back of the seat with a coat over them; and they will make themselves as unfriendly as possible, so no one disturbs them. It really is only through the actions of cinema staff in deterring that, sometimes high-risk actions, which has stopped this problem so far.

**Q1669 Lord King of Bridgwater:** I am interested in this point about enforcement. What do you do? Do you call the police? Do the police come into the middle of the performance, march in and start arresting people amongst shouting and screaming? Do you invite the police to wait till the end of the film to pick the people up? You have a real problem on enforcement, have you not?

**Mr Clapp:** Yes. As a counterpart to the advice to the police, FACT produces an advice document for cinema staff and also undertakes widespread training of cinema staff. The advice is clear to cinema staff. First and foremost, do not do anything which would put yourself at physical risk. Secondly, if you think that on calling the police they will turn up in time—and that is often an experience thing rather than an expectation thing—and the people can be apprehended, then do. If it is 15 minutes from the end of the film, for example, do what you can to disrupt that. Take down any particulars of identities, what the people look like, how they acted, et cetera. But, to be honest, I think the frustration is that, even if cinema staff go through all those steps—it is a process whereby if the police do turn up you do this, and if they do not turn up you do another—99 times out of 100 no further action will be taken.

**Q1670 Lord King of Bridgwater:** What do you want actually? It is costing the industry a lot. The industry has to act together. You have a rough idea of when it will happen, because it will happen very early in the release of a film, if somebody is after being the first copy out. What about private security agencies who you might employ, who might have some authority and some idea of which cinemas they might be targeting, and work in that way? Because what you
Lord Gordon of Strathblane: It is a fine and/or imprisonment, but I do not know factually.  
Mr Richards: It is a criminal action.

Q1671 Lord King of Bridgwater: And in America? What do they do to people?  
Mr Richards: It is the same thing in the States. To your point in terms of the enforcement side, it is really no different from what we are doing right now. The only difference is that, instead of actually identifying who is doing it and asking them to leave, when they leave they will have handcuffs on. That is the difference. From an enforcement standpoint right now, we are trying to stop it; we are doing our best to stop it.

Q1672 Chairman: And it would. The legislation itself or criminal law would actually have a deterrent effect in itself, I imagine, if it were passed.  
Mr Richards: Correct.

Q1673 Lord Gordon of Strathblane: Mr Clapp, you were at DCMS until less than two years ago.  
Mr Clapp: Yes.

Q1674 Lord Gordon of Strathblane: Do you think your colleagues there are convinced that a change in legislation is required?  
Mr Clapp: I think they are.

Q1675 Chairman: Why do they not do it?  
Mr Clapp: Because it is partly what is now BIS—what used to be the DTI—and it is now the Ministry of Justice. Ministers in what I might call “junior” departments do not have the sway, when it comes to a Minister of Justice looking at the piece of legislation it wants to put through, to put this anywhere near the list.

Q1676 Chairman: Unless Government has changed since I and Lord King were in it, surely you have Cabinet committees and things like that to sort these things out?  
Mr Clapp: There have been repeated recommendations to Cabinet committees and repeated recommendations by the UK Film Council, who are by no means partis pris on this, that it is—outraged is too strong—a very surprising situation for the UK to be increasingly the last man standing when it comes to the camcording of films.

Q1677 Lord King of Bridgwater: If this Select Committee recommended action of that kind, would the industry mobilise in a very powerful way behind their recommendation?  
Mr Richards: We already are.

Q1678 Lord King of Bridgwater: This is what Lord Fowler knows. This is how you get it up the agenda.  
Ms Binns: It is absolutely what happens to the person who is caught that makes the difference. You will never be able to cover every single screen in the UK with resources to get those people out but, once the person is caught, it is the fact that it is a criminal act and they go to prison.

Q1679 Lord King of Bridgwater: How many people do you think are actually doing it?  
Mr Clapp: It is a comparatively small number, if we are talking about the kind of industrial-scale camcording.

Lord King of Bridgwater: It is really sophisticated.

Q1680 Lord Inglewood: Currently, it is possible in theory to proceed under the civil law. Presumably, if ever anybody tries, the case normally collapses. Has anyone tried? Secondly, presumably you are dealing with men of straw and so on; so that in fact it is a completely valueless tool as far as you are concerned in protecting the intellectual property rights.  
Mr Richards: I am a lawyer by training and, when I heard that the fraud legislation was sufficient protection, I did not even understand how or why. I had to have it explained to me that somebody buying a ticket would have to demonstrate that they are purchasing a ticket with the fraudulent intent of not going in to see a movie but going in to camcord the movie. You actually have to demonstrate that. I think the fact that there has been no successful prosecution to date speaks for itself.

Q1681 Lord Inglewood: Presumably under the civil law, under intellectual property law, it is a complete no-no.  
Mr Richards: Yes.

Q1682 Baroness Eccles of Moulton: Based on the experience of other countries and the sort of legislation that they have put into their law, is there any fine-tuning that would be appropriate if we were able to get legislation through, which would make it even more effective?  
Mr Clapp: You will be unsurprised to know that a large number of the pieces of state legislation in North America are almost identical in wording, and colleagues in France have stolen much of that. The experience of it is that a sufficiently broad piece of legislation, which makes it clear that it is a criminal
offence to attempt to record a film in a cinema theatre, is enough.

**Q1683 Baroness Eccles of Moulton:** So it could be quite simple and straightforward?

**Mr Clapp:** The reason why I say “sufficiently broad” is because we are essentially in an arms race when it comes to technology. The reason why we try to avoid using the word “camcording” now is because what was previously a camcorder is now a mobile phone. Responding to Lord King’s point on picking up at the start of a film, we have started seeing an increasing number of versions of films appearing where it is essentially a pantomime horse of a film. They have recorded the first half in one cinema. They have recorded it on a mobile phone or on what is called a flash camera, which is a camera that has about 90 minutes of capacity. They have recorded the second half in digital format in a second theatre and then spliced the two together—pretty seamlessly, it has to be said. These are not at all low tech.

**Q1684 Chairman:** Do you have examples of the overseas legislation?

**Mr Clapp:** Yes, I have them with me.

**Q1685 Chairman:** Would you be able to provide that for us?

**Mr Clapp:** Yes.

**Chairman:** That would be very helpful indeed. In the meantime, we will not take the whole session up on piracy. We have Lord Carter coming to us this afternoon, so we may raise this with him in passing.

**Q1686 Baroness McIntosh of Hudnall:** Can we talk about the relationship between the exhibitors and the distributors, and indeed the producers of film? It has been said to us by one producer in particular, but by a number of others by implication, that the share that exhibitors take of the revenues that are generated by film is not always generous to the producers, shall we say. Can you first of all tell us a bit about how your revenues do get developed? I assume that there is more than one stream. It is not just the ticket; it is a number of other things that build on the fact that people turn up to your cinemas to buy a range of different services. Secondly, can you describe, perhaps from different perspectives, what is the relationship that you have with the owners and distributors of the material that you are presenting? How much power do they have to determine the terms on which you will show their work, and how much power do you have to exclude or otherwise disadvantage some kinds of material?

**Mr Richards:** Wow!

**Q1687 Baroness McIntosh of Hudnall:** That is about six questions that I just thought I would run past you. **Mr Richards:** I think that there are several layers between a director, a producer, and when they actually get screened onto one of our screens. Our negotiations are typically with a middle man, a distributor, who is distributing a product on behalf of the producer and the director. Our specific negotiations are therefore with the studio distributor, and the studio distributor in turn has the power to negotiate its own deal with the actual talent that created the movie. In the UK there are three major players that represent a large part of the market. That is really the norm internationally. There are a couple of big players in the US; there is one dominant player in Canada; there are three dominant players in Australia; there is one dominant player in Belgium; two in France, and so forth. If anything, even though the three players represent a large part of the market, from an international perspective we are still in sync with the rest of the market. We have a very good, strong relationship with the studios: a symbiotic relationship where we both benefit from movies doing well. When push comes to pull, it is very clear who holds all the cards. Our only weapon in our arsenal is not to play a movie, and for us not to play a blockbuster movie, not to play a movie like last week which represented 80% of the box office, would be catastrophic. If we had not played *Mamma Mia* last year, for whatever reason, it would have had a profound effect on the company’s operations last year. If you look at distribution, therefore, the UK represents approximately five% of global box office, and that is just box office, which in itself is only the beginning of revenue streams leading from DVDs to pay TV, terrestrial TV and so forth. If you look at the balance of pain, so to speak, between exhibitors not showing a movie and a studio losing what probably represents 0.01% of total income, which for us would be a major catastrophe, the balance of power lies very clearly with studios.

**Q1688 Baroness McIntosh of Hudnall:** Can I be very clear? You refer to studios. The bulk of the material that you exhibit comes from the majors. I take it.

**Mr Richards:** I think that is probably one of the biggest misconceptions about the large multiplex operators: that we only screen blockbuster movies. That is absolutely not the case. We are a commercial vehicle. We screen anything and everything that our customers want to see. We have invested very heavily countrywide in trying to understand our customers much better. We screen everything. We found a Turkish community in Islington; we brought Turkish movies in. We have brought Polish movies in.
Q1689 Baroness McIntosh of Hudnall: But are the deals that you do with the people who are distributing those movies, who are on the whole not the big distributors—do you do different deals with them from the deals that you do with the studios?

Ms Binns: I think that we do. The fact is that smaller distributors have a much harder time of it, because they are in a much weaker position. From my point of view, our business model was based on us paying less to distributors than we now are expected to pay. Tim is absolutely right. The power lies with the studios. If we do not play the Mamma Mias, the Ice Ages, the Harry Potters, we would all be out of business: whether it is us who have niche cinemas or Tim. We would all be out of business. We therefore have to pay what they are asking us, more or less. The difference for us is that, when people come to our cinemas, they are generally coming absolutely for the choice of film. We have had to get up to speed with offering food and drink in the way that our kind of cinemas did not used to do ten years ago. So now, although we do sell popcorn and Coke, we have had to develop that as a stream of income, because we just cannot rely on film as an income; we have to rely on getting our spend per head from each customer up, whereas I think that the multiplexes rely much more on the popcorn and Coke element of it. But there is no doubt that, however much everybody says there is more choice, there is not more choice and the small distributors are the ones that are suffering.

Professor Christie: To pick up on that point, it is a thankless task being a small distributor in Britain. The studios will look after themselves. They are very well plugged into, now, a vastly better exhibition circuit, thanks to Tim and his colleagues in the other multiplex companies. However, there are strikingly fewer small distribution companies in Britain, and they are going out of business. The reason is really very simple: it is a mug’s game. If you have acquired a film, where would you show it? You would show it at a sprinkling of cinemas around the country. The kind of revenue that a medium-sized European or British film—British films are often the most disadvantaged of all—could expect to make if it got an open run—unheard of—at a suitable specialist cinema, who knows what it might be? Two, three, four, five times what it does make; whereas a typical small-scale film at the moment gets very brief, fixed runs at a regrettably small number of cinemas around the country. The total revenues are simply not adequate and are not what any country the size of Britain should return. If you look at it on a European scale, Britain has now been declassified within Europa Cinemas. It is a ‘B’ country; it is a country which cannot be expected to show the same level of European films, including international films, as Italy, France, Germany and Spain. No cinema in Britain can show the same proportion of European films that is normal in those countries, and that is to do with a complex of things. It is under-screening to begin with; not enough screens in the individual cinemas. Manchester is rather well-off. It has a triple at Cornerhouse; but there should be six, eight or ten screens for Manchester.

Q1690 Chairman: What can the Government do about that?

Professor Christie: In my view, the UK Film Council—of course, they are mainly geared towards production, perhaps not unreasonably; that is very much their remit—but in the distribution and exhibition field they made some big choices. One of those is pretty controversial; that is the Digital Screen Network, which you will have heard of. To be brief, on the one hand it put Britain in the forefront of any country in the world—we have more digital screens in operation than anywhere else—but, in doing so, it created a lot of problems down the line. Any exhibitor will tell you what those problems are. There are not enough digital projectors to make the miniplexes work. Secondly, the deal runs out in 2011. Who will pick up the tab? Thirdly, unexpectedly, digital is much more expensive to run than celluloid.

Mr Richards: I would have to disagree with you.

Professor Christie: At this moment. I have done a quick check with all the AIFE members of their experience—not yours, for reasons which we could explain. I have to say that locally, on the ground, it is more expensive for, let us say, Cornerhouse to run films digitally than it would be to run them in celluloid.

Mr Richards: I think there is an educational perspective there. I would have to disagree on that. The one thing that is interesting is this. We frequently do not get prints of a lot of the movies that we are discussing here. We want to show them; we cannot. I think one of the reasons is that the actual physical cost of the prints is very expensive. I think that we are probably all in agreement on this point. There are some fantastic British productions that do not get the kind of screen space they deserve, because of the cost. We want to show these movies. We may get one print for our 660 screens, or we may get two or three. The digitisation of the industry going forward will change that overnight, because we will be able to access a lot more product. Our screens are used only 15% of the time in the course of a year. We want more movies. We are desperate for more movies. I think that the digital revolution that is about to take place will allow us to show a much broader run of movies, and that is a win for everyone.
Ms Binns: Can I make one other point about that? Also, the problem that smaller movies have is that they have difficulty in getting those films out so that people can see them. It is not just getting the copies out there; it is the fact that marketing and advertising are a problem. If you are up against a studio spending £2 million on advertising a film, and they are doing it on £25,000, it is just ridiculous. How are you going to inform people about those films? The other thing is the digital screens. Yes, it makes it possible for people to show films but, at the moment, distributors are set about how you screen their films. What we are therefore doing, and I know that Tim is doing it too, is that we are beginning to play a lot of alternative content—the Metropolitan Opera from New York. Last night we showed a documentary across all our circuit, which was via Satellite Q&A. It was a political documentary. In order to do that, however, we had to take out shows of other films we were playing—and the studios do not want you to do that, because they see that as a loss of revenue.

Q1691 Baroness McIntosh of Hudnall: Which no doubt it is, in some respects. Professor Christie, can you amplify this point about the costs of digital screening? If you are suggesting that in some respects the UK Film Council’s decision to invest in the future through digital screening perhaps has some hidden downsides, could you explain to us what they are and what recommendation would you want the Film Council now to accept in relation to that?

Professor Christie: It was a bold and brave decision and many admire it, outside of Britain too. It is true that Britain is widely being looked at, because it is the one country in Europe where this has proceeded very rapidly, thanks to the Digital Screen Network initiative. But it was an experiment and it is a fixed-term experiment. I will tell you what the problems are, basically. First of all, in a cinema that has, let us say, three screens, if it has only one or two digital projectors, it lacks that flexibility to move films round between its large and its small screens. This is terribly important to the economy of a small cinema.

Q1692 Baroness McIntosh of Hudnall: That is one of the things you mean by a cost, is it?

Professor Christie: No, that is not a cost; that is an inhibition. They are not reaping the digital benefit. Everyone agrees that if we were all digital there would be potential savings. There is no dispute about that, none whatsoever. The problem is who is going to pay for it? These are very expensive projectors. They are extremely expensive and they seem to have a rather short life. No one quite knows how long they will last, but it is only a fraction of the time that a conventional mechanical projector will last. That is a very important fact. They are beginning to wear out. The third fact is that no independent cinema could afford to buy a complete set from scratch. It is inconceivable that, let us say, a four-screen cinema in some city in Britain could buy four brand-new digital projectors off its own bat.

Q1693 Lord Inglewood: How much do they cost?

Ms Binns: About £50,000.

Baroness McIntosh of Hudnall: That will come down.

Q1694 Baroness Bonham-Carter of Yarnbury: Clare Binns, you were talking earlier on about a lack of film choice. How strong is the competition for screen time in the UK and how easy is it for British films in particular to get shown? How might you suggest that opportunities for screening British films be improved?

Ms Binns: When we book films, I do not book a film because it is British; I book a film because I think our customers will want to see it. It is therefore whether it is what I consider to be a good film or a bad film for the audience. You would have to look at the way films are produced in the UK to decide whether or not the right films were being made for the UK market. That would be simply a matter of choice whether it was a good film or a bad film. In terms of the number of films that are released each week, there is an awful lot of films released each week but there is an awful lot of films that are frankly cluttering up the marketplace; because of the few screens we all have and because of our commercial imperative, there is actually a lot of bad films that are out there, but there are also good films that are out there that do not have the marketing spend, that do not have the ability, because of the nature of the kind of films they are, to reach the audience.

Q1695 Baroness Bonham-Carter of Yarnbury: Also, it seems to me in my experience, a lot of films come and go very quickly. You think, “I want to see that film” and then—

Ms Binns: I can give you an anecdotal instance. On Mondays we change the film for the Friday. Ten years ago, if you were showing a Spanish film and, on a Monday, the film perhaps did not take as much money as an American film that you were playing, you could persuade the distributor, “Give this film a chance. Let’s keep it on. It’s the kind of film that, if you give it some breathing space, will be all right”. That is absolutely not the case now. Now it is down to it being if a film takes a pound more, the distributor will be saying, “That film will have to stay on”. You are constantly finding that the smaller films, which, I agree with you, do take time to build, do not get a chance, because you have a studio saying, “Harry Potter is taking so much more money”.

Of
Q1696 Baroness Bonham-Carter of Yarnbury: I imagine that, as you have just said, a lot of them are the smaller films; so quite a high percentage presumably are British.
Ms Binns: Yes, absolutely.
Professor Christie: They are.

Q1697 Baroness Bonham-Carter of Yarnbury: So there are implications for the whole British film industry.
Ms Binns: Yes. Take a film that was released this year called *Shift*, which was a very good film, produced for £100,000 and which actually had quite a good marketing campaign. That was the sort of film that, if an audience had had a chance to see it, they would have enjoyed; but because the film did not do very well at the box office in its opening weekend it was hauled off the screens.

Q1698 Chairman: So what will happen to it?
Ms Binns: It will just go out on DVD.

Q1699 Baroness Bonham-Carter of Yarnbury: But it could build an audience there?
Ms Binns: There is no protection for the smaller films, because it is absolutely done on the financial decisions that are taken on a Monday.

Q1700 Baroness Bonham-Carter of Yarnbury: Do you have any solutions to that?
Ms Binns: I would say that the solution would be if there was some sort of support, where those films could perhaps have a slightly bigger marketing spend, where they could go to the Film Council. There is help there for them, but I think also some protection in the cinemas.

Q1701 Lord Inglewood: On this point, the relationship that exists between the exhibitor and the distributor is obviously contractual, but presumably there is a kind of standard template contract, so that the relationship between the two sides does not vary much. How exactly does it work? You run the cinema and yet the distributor, after you have agreed with him to have the film, is then in a position to pull the arrangement that you have made. Where does the balance of power rest? That is crucial, is it not, to how this goes forward?
Ms Binns: When you play a film, you will agree to play a certain number of shows each week. What I am increasingly doing now is that I will put a film in but I will say, “On the second Wednesday that I am playing the film, I am going to take out the main evening show because I am going to do a satellite event”. Then they may say, “Sorry, you can’t do that. Go and do it with somebody else’s film”. You will negotiate with them how many shows, how many weeks. They are entitled to ask for two weeks.

Q1702 Lord Inglewood: To what level of detail do you go down?
Ms Binns: Quite a lot of detail.

Q1703 Lord Inglewood: It is the same with the multiplex, is it?
Mr Richards: Correct, yes. But the studios are very commercial as well. I think that they do take a very pragmatic view on it and, although everybody wants their movie to keep playing for as long as possible, they all recognise that, by being flexible, by allowing movies to play over and under—the fact that there is not really a demand for *Saw V* at nine o’clock on a Saturday morning, whereas you could put in an *Ice Age* instead and then show *Saw V* at ten o’clock at night—that kind of flexibility will be seen a lot more now. Also, it will be increasingly easier with digital in the future. It is very difficult right now to show a broad range of product. Film is a big, bulky medium. It has not changed over 100 years. It arrives in cans; it is put together by the projectionist. We opened up the first digital multiplex in Europe in Hull a year and a half ago. We have a 10 terabyte server that holds 100 movies at once; so we have the flexibility of huge programme possibilities. That is the future. We want to show more movies to more people. That is our goal.

Mr Clapp: I should say at the outset that, as a trade organisation, we do not even tread with trepidation on the commercial relations between distribution and exhibition; we just stay out of it completely—or get threatened with law suits! On the digital issue, I am sure that we will get on to the extent to which digital is a threat to the industry, but digital is an unmissable, probably a once-in-a-generation-and-more opportunity for the industry. One of my concerns, and I think a concern shared by colleagues on the exhibition side, is that we do not go into a digital age with analogue thinking. Many of the relationships on both sides of the fence are between exhibition and distribution, not least because the individuals within them now are 20, 30 or 40 years old. We really need to begin—and, as Tim said, it is starting to happen—a dialogue to ensure that both sides, if I can put it that way, realise the full benefits of digital; not least—or actually paramount—for the audience. Digital not only allows existing cinemas to become more flexible with full digitalisation, but digital also allows new entrants into the market, for a whole variety of issues round the infrastructure of 35 mm. If any of your Lordships went into a 35 mm projection room, it would be essentially unchanged.
now from the way it was 60 or 65 years ago. It is like a steam engine room, with lots of big reels, et cetera. However, we are already beginning to see people embracing digital for new business models. A couple of months ago, Curzon Artificial Eye, who are in the same neck of the woods as Clare’s company, in terms of territory, announced a link-up with HMV record shops to run cinemas in record shops, in the space above. So, absolutely, there is a danger and a risk round digitisation for a large number of smaller guys, but there are also opportunities for the market.

Q1704 Lord Gordon of Strathblane: As far as I can see from everybody nodding, everyone is agreed that digital is the future; it is just a question of how we get there.
Mr Richards: Yes, there is no question.
Ms Binns: Absolutely.
Mr Clapp: Yes.

Q1705 Lord Gordon of Strathblane: Some can clearly afford to do it on their own as a business proposition, and the Film Council have put in place a subsidy. So where is the problem?
Ms Binns: There are a couple of problems. One is that the Film Council requirement was that you played a certain level of specialist film. I think that we are beginning to see that not everyone has been able to meet that requirement.

Q1706 Lord Gordon of Strathblane: So if that were removed, it would be all right?
Ms Binns: They could in effect take those digital projectors away. The second thing is that we all found very quickly that the only way to make this work in cinemas is to have every screen digital. As Ian said, if you have one digital screen it is no good at all. Also, the smaller cinemas, the mom-and-pop cinemas, of which there is a lot out there, have no chance of going digital. £50,000 for them is like a million pounds for someone else; so it is just not going to happen. Those are the cinemas that are often the hub of the community; where if you lose a cinema it is like losing a post office.
Professor Christie: We have lost those. The cinema is next!

Q1707 Lord Gordon of Strathblane: There is a very prominent case in Scotland, in Cambeltown, of the local authority stepping in to help a cinema, to avoid it going. Presumably things like that could happen.
Mr Richards: Dealing with the economics of it, though, right now there is a business model in place. The studios get most of the benefits, the overwhelming number of benefits. The Wall Street Journal estimated that there are several billion dollars that would be saved by eliminating the need for prints; so there are huge savings. The studios have agreed, and they have signed a deal in the US as recently as last fall, to convert 15,000 screens in the US market. Something that we, the majors, and through Phil’s initiatives with the CEA, have been very strong proponents of is that there is no solution until there is a comprehensive digital solution for the whole market. That is independents and majors; it is everyone. That is when everyone wins. What has happened in the US is that the independents, who do not have the same bargaining power or knowledge base that we perhaps do, have grouped together to form a buying group. That is the initiative that Phil has been working on and that we have been supporting, because that is the future. There will be some of these small operators who will not survive. That is just business, unfortunately. However, our goal is to try to keep as many independents alive as possible.

Q1708 Baroness Eccles of Moulton: I think that my question has pretty well been answered. It was the one about capital investment and how the smaller players were ever going to be able to cope with it. From what you have said, by clubbing together, maybe that will be halfway there.
Mr Richards: That is the future. The model is that the studios will be paying for the overwhelming proportion of the cost of the conversion, because they are the ones that benefit. The studios are the ones that want to see exhibition go digital as quickly as we can. I think that what has happened is that the credit markets, the capital markets, have frustrated the digitisation worldwide. It is not just the UK experience; it is worldwide. I think that as soon as the markets pick up you are going to see a very rapid conversion. There are a number of consolidators that exist in the UK today who have already worked out deals with the studios. You could do a deal with them today to convert. Again, that will be with the studios paying an overwhelming proportion of the costs.

Q1709 Baroness Eccles of Moulton: What about the short life of the kit?
Mr Richards: We are not seeing that. Like anything, it is a different kind of experience. Instead of engineers, we have IT specialists coming in now. It is a steep learning curve; it absolutely is. When we opened up in Hull, we did that because we wanted to learn. There is no 35 mm film in our complex at all. It was a much steeper learning curve than we had hoped for, but I think that there are very real benefits. When you sit in our manager’s office, there is a monitor, a panel; there are ten rows and it is drag-and-drop feature films. It is that easy, and this goes right throughout the cinema.
Ms Binns: Absolutely. The point is that you can have somebody selling popcorn and, in theory, they could push a button and the film would start.

Professor Christie: But it is not like that in smaller cinemas, it has to be said. What has happened is that many smaller operators, who are very sophisticated operators, are having to retrain their extremely skilled staff who were skilled in projecting film prints to become IT specialists. Therein lies the problem. It also ought to be said that every delivery to a Digital Screen Network cinema, which is funded by the UK Film Council, carries a £100 price tag. That is a levy for the delivery of that digital copy. That is a big cost if you are thinking about, as you might be, showing a film for a one-off. Suppose you think that it would be nice to show a film digitally for a single screening; but would you, if it carries a £100 levy?

Chairman: It would be marvellous to have a few cinemas that do not actually sell popcorn, I always think, but there we are.

Q1710 Baroness Howe of Idlicote: We have moved on to the subject of levies. As you can imagine, we have had quite a lot of suggestions of how one can raise additional finance for making films, and particularly UK-content ones. There was a period between 1950 and 1985 when there was a levy, the Eady levy. In that case, it seemed to work and worked for a long time. If that was re-imposed, what sort of an effect do you think that would have on attendances?

Ms Binns: It is another tax on us. Actually, I think that it did not work. If you look later on, it was ending up with distributors and it was not really funding films. The other thing is that it is all well and good but how do you decide the quality of a film? It is more about the quality of the films that are out there. I think that it did not particularly work, which is why it was scrapped.

Professor Christie: It certainly did not work in the later period. There was a lot of corruption. Anybody who works in the film business knows what that corruption was: collusion to cream off the money and give it to various interested parties. That was why it fell into disrepute. I remember well that the CEA threw its entire lobbying weight and made it a single issue, to get rid of the Eady levy. One had a certain sympathy, because the film business was dying during that period. Why have another tax, very much as Clare says; but, as somebody who is not commercially involved, I have to say—and this is a hard thing to say that perhaps nobody else here is able to say—if you do not tax the big revenue-earning part of the business, which is essentially showing studio pictures, if you do not derive some benefit from that, then there is no other obvious way to channel money into whatever you might decide you want to support on a national level.

Mr Clapp: You will be unsurprised to know that I am going to disagree with that vehemently. It is no surprise that the Eady levy was abolished, as Tim mentioned, when cinema admissions were down to 54 million a year. I represent 180 different operators, some very large operators such as Tim and some what I might call medium-sized, such as Clare’s, and a long tail of maybe 160 single or double-screen sites, et cetera. It is an incredibly marginal business for those guys. There is no one who is going to make a fat profit running a small mom-and-pop cinema. They will show a Hollywood product as much as anyone else, because they are in areas—Melton Mowbray, I can think of—

Q1711 Baroness McIntosh of Hudnall: Saffron Walden I can offer!

Mr Clapp: Indeed, Saffron Walden—one of mine—where actually there is no other cinema provision. If you load a tax on top of them because they show Hollywood movies, you will close them. It will have as bad if not more of an effect than digitisation on the network of cinemas. I absolutely accept that we are under-screened. I absolutely accept that more can be done to increase the number of screens, and digital is potentially the answer to that.

Q1712 Chairman: Under-screening has been a fairly constant point that you have been making. How easy is it to establish a new cinema?

Ms Binns: It costs a lot of money.

Q1713 Chairman: I understand that. I think that goes with the project, but is it difficult to obtain sites and planning permission? Is there any constraint there?

Mr Richards: It is a lengthy process. However, if you look at the building that has gone on since 1985, it is very dramatic. The number of screens in the UK has increased exponentially during that period. Certainly we and others in the industry, independents and majors, are still committed and we are still building. It is a little more difficult in the current climate. We have had a lot of co-development opportunities fall by the side, unfortunately; but you will see that come back. There has been a lot of new screens opened even this year.

Q1714 Chairman: Three and a half thousand screens in the country roughly?

Mr Clapp: 3,660.
Q1715 Chairman: That is up on—
Ms Binns: Often, I would suggest, we are about a long tail; so it is actually getting in there and it takes us—
Mr Clapp: That is 41% more than in the year 2000.
Professor Christie: What we crucially do not have, a real missing sector, is cinemas of between four and six or seven screens—medium-sized, small cinemas.
Ms Binns: Which is what we want to do.
Professor Christie: Which is what you want to do. Where you have those, I would say they have worked very well. However, you really have to look at other countries. They are not significantly different in their film-going habits. They too went down to a low level; they too have come up. They have experienced multiplexes arriving later than Britain. Britain was ahead of the whole of Europe. Multiplexes arrived in 1986 with a bang, and everybody else looked on. Now they are catching up in other countries. But we lack that kind of cinema which can sustain both European films, films from other countries which are not America, and British films.

Q1716 Lord Gordon of Strathblane: Have these ones abroad grown up purely through market forces, or has there been government intervention?
Professor Christie: The only country in Europe where there is large-scale government intervention is France. Every other country does not have that on a large-scale; in fact, in some cases it is strikingly absent—in most. Mostly they are commercial operations. If you look, for instance, at the Renoir chain in Spain, these are very impressive cinemas. Just look at their website. They are all called Renoir; they are in every major city in Spain; and they are an extremely efficient commercial operation of between six and eight screens.

Q1717 Chairman: I understand what you are saying but, to take Lord Gordon’s point, what is there to prevent there being an expansion in that kind of cinema in this country?
Ms Binns: Where we would find a help is to be working with the local authorities to identify land and to be able to work out a deal, where we could put a three to five-screen cinema in, which will bring a lot of footfall, et cetera.

Q1718 Chairman: So the problem would not necessarily be the finance of it; the problem would be finding the right site?
Ms Binns: Finding the land and the right agreement. If we could work with councils—and we have done at many of our sites—if we could identify land that we could use within communities, within high streets, et cetera, and work with the local authorities, that would be an enormous help to us.

Q1719 Chairman: Is there any resistance from local authorities to work with you?

Q1720 Chairman: You are at the bottom of priorities.
Ms Binns: Yes.
Mr Richards: I would disagree with that. We are one of the few industries where we are approached regularly by councils. We find councils across the country very flexible in terms of their approach. We opened up a new cinema in Camberley last year.

Q1721 Chairman: How many screens?
Mr Richards: That was ten screens. Again, we are flexible. We are building much more efficiently now, and we look at much smaller communities. It is a unique industry, because it is the heart of a community. There is no question about it. Because of that, councils across the country are desperate. Clare is right that it is difficult trying to find the space, but I do not think that is always because the community or council members are being difficult. Our example has been that they just cannot find the space, but are desperate to get a cinema into their community.

Q1722 Baroness Howe of Idlicote: This may seem so way out that it is not really worth looking at, but what has interested me recently is that, in fairly local communities, things like village halls and community centres are beginning to have quite sophisticated screens put up. I would have thought that is a potential for the future. I just wondered what your views were.
Mr Richards: It is, and that is why there are a few independent operators that I have met recently through the CEA that I have thought hugely of. You are absolutely right. They are the future, because they are the ones who are coming in and are not harping on the old days. They are looking forward. “How can we make a business out of this?” With a digital projector in there, they have the flexibility of alternate programming; they have the flexibility of bringing opera into small communities that do not have the ability to go to Covent Garden; they can bring in a large number of productions, British and American. That is the future of small communities. Absolutely right.

Q1723 Baroness Howe of Idlicote: Might any of you get involved in that?
Ms Binns: Yes, just because of the nature of the fact that we have a booking department. We book a cinema in Hexham, for instance, and we work very much with people. People come to us for our skills at negotiation and because we can try and get them a wide range of films. We tailor our services to people, so that they have an expertise which they did not
have. I think that it has been a fantastic resource for them but also it has helped build our business. It is a win/win situation.

Professor Christie: There is an organisation called the Independent Cinema Office, which is aggregating small exhibitors and helping them to work as minicircuits. Europa Cinemas is now funding the ICO and those minicircuits, particularly in low-density population areas, particularly suited to rural areas. Yes, village halls and multipurpose halls are a great resource. It is how cinema started. That is where the first film shows were held, before there were cinemas.

Mr Clapp: There is also an increasing interest in mobile cinemas.

Chairman: It has been a fascinating session and I think that we have got a lot out of it. What I would like to say is that, first of all, you are going to give me some examples of the legislation, which I think is extremely important. Secondly, if we have any further questions perhaps we could come back to you in terms of either conversation or letter or something of that kind. Thank you very much for coming this morning. I think that the whole Committee have found what you had to say really rather important.

Supplementary memorandum by the Cinema Exhibitors’ Association

ANTI-CAMCORDING LAWS IN OTHER KEY FILM TERRITORIES

United States of America

Camcording in the US is covered by both Federal and (in at least 40 instances) State legislation. This was the result of persistent lobbying by the US film industry, which had grown increasingly frustrated that, despite extensive efforts to raise awareness and understanding of the impact of film IP theft, there were insufficient means to tackle a problem that cost in 2005 an estimated $670 million in US theatrical sales, and $6.1 billion in worldwide box office receipts.

At the Federal level, the Artists’ Rights and Theft Prevention Act of 2005:

— “amends the Federal criminal code to prohibit the unauthorized, knowing use or attempted use of a video camera or similar device to transmit or make a copy of a motion picture or other copyrighted audiovisual work from a performance of such work in a movie theater;
— sets forth penalties for such violations, which may include imprisonment for not more than three years for a first offense;
— considers the possession of a recording device in a movie theater as evidence in any proceeding to determine whether that person committed such an offense, but shall not, by itself, be sufficient to support a conviction for such offense;
— requires the court to order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other copyrighted audiovisual works and any video camera or other equipment used in connection with the offense in addition to any other penalty;
— authorizes, with reasonable cause, the owner, lessee, authorized agent, or employee of a movie theater to detain, in a reasonable manner and for a reasonable time, any person suspected of committing such an offense for the purpose of questioning that person or summoning a law enforcement officer; and
— allows the victim of such an offense to submit a victim impact statement to the probation officer during the preparation of a presentence report.”

The penultimate provision of the Federal law above was particularly important to the theatre sector in that it provided their staff with protection from liability where they used reasonable measures to detain those suspected of illegal camcording.

These legislative measures are complemented by an extensive package of staff guidance, training and rewards for those witnessing camcording (closely mirroring the approach taken by FACT in the UK). As a result since the implementation of relevant legislation in the US, at least 130 acts of camcording have been reported to and acted upon by the police.
CANADA

Bill C-59, An Act to amend the Criminal Code (Unauthorized Recording of a Movie), which had its first reading in Parliament on 1 June 2007, was placed on a fast track and received royal assent on 22 June 2007. The act amends the Criminal Code by adding a new Section 432 providing that:

“(1) A person who, without the consent of the theatre manager, records in a movie theatre a performance of a cinematographic work within the meaning of Section 2 of the Copyright Act or its soundtrack: (a) is guilty of an indictable offence and liable to imprisonment for a term of not more than two years; or (b) is guilty of an offence punishable on summary conviction.

(2) A person who, without the consent of the theatre manager, records in a movie theatre a performance of a cinematographic work within the meaning of Section 2 of the Copyright Act or its soundtrack for the purpose of the sale, rental or other commercial distribution of a copy of the cinematographic work: (a) is guilty of an indictable offence and liable to imprisonment for a term of not more than five years; or (b) is guilty of an offence punishable on summary conviction.

(3) In addition to any punishment that is imposed on a person who is convicted of an offence under this section, the court may order that anything that is used in the commission of the offence be forfeited to [the queen] in right of the province in which the proceedings are taken. Anything that is forfeited may be disposed of as the attorney general directs.”

FRANCE

On 12 June 2009, the French Assembly passed the following statute clarifying its existing copyright legislative code:

Article L. 335-3 of the (same code) is supplemented by the following paragraph:

“The complete or partial camcording of a cinematographic or audiovisual work in a cinema theatre is also a piracy offence.”

The penalty for offenders is up to three years in jail and/or a fine of up to €300,000.

ITALY

ART. 22

(Introduction of art. 85-bis in Royal Decree 18 June 1931, n. 733)

The following is inserted after article 85 of Royal Decree 18 June 1931, n. 733:

“Art. 85-bis

1. It is prohibited to introduce, install or in any manner make unauthorized use in places of public entertainment of equipment or apparatus that allow the recording, reproduction, transmission or in any manner the fixation on an audio, video or audio-visual support, in whole or in part, of works of intellectual creation that are shown or disseminated therein.

2. The licensee or the director of the place of public entertainment must give notice of the ban pursuant to paragraph one by affixing, inside the place where the representation takes place, an appropriate number of notices that must be clearly visible to all the spectators.

3. This provision is without prejudice to the copyright norms, in conformity to the specific legislation that governs the subject-matter.”

JAPAN

Act to Prevent the Unauthorized Photographing of Cinematographic Works
Law No. 65 promulgated in 2007

(Purpose)

Article 1

The purpose of this law is, by providing the necessary matters to prevent the unauthorized photographing of cinematographic works having regard to the enormous damage to the movie industry caused by the vast disseminations of copies of cinematographic works photographed at cinema theaters, etc. without authorization, to thereby contribute to the promotion of cinematographic culture and the healthy development of the movie industry.
(Definition)

Article 2

In this legislation, the following terms shall have the meaning hereby assigned to them respectively:

1 “presentation” means “presentation” as defined by Article 2(1)(xvii) of the Copyright Law (Law No.48, promulgated in 1970).

2 “cinema theaters, etc.” means cinema theaters and any other places where the cinematographic works are presented to unspecified or many people and the entrances to the above places are controlled by an organizer of the presentation of cinematographic works.

3 “unauthorized photographing of cinematographic works” means “visual recording” (defined by Article 2(1)(xiv) of the Copyright Law) or “sound recording” (defined by Article 2(1)(xiii) of the Copyright Law) of the cinematographic works which are presented to audiences who pay fees at “cinema theaters, etc.” (those cinematographic works include the preview of cinematographic works without fees in advance of their presentation to audiences who pay fees at “cinema theaters, etc.”, but limited to those works intended to be copyrighted works, and excluding when the consent of the cinematographic works copyright holders has been obtained) (hereinafter “cinematographic works”).

(Unauthorized photographing of cinematographic works prevention by persons concerned with the movie industry)

Article 3

The organizers of the presentation of cinematographic works at the cinema theaters, etc. and other business persons concerned with the movie industry must make efforts to take measures to prevent the unauthorized photographing of cinematographic works.

(Exceptional provisions to the Copyright Law concerning the unauthorized photographing of cinematographic works)

Article 4

1 Article 30(1) of the Copyright Law is not applicable to the unauthorized photographing of cinematographic works. Concerning the application of Article 119(1) of the Copyright Law to persons who made unauthorized photographing of cinematographic works, the following part of Article 119(1) “… those who reproduced by themselves works or performances, etc. for the purpose of private use as mentioned in Article 30(1) (including the case where Article 30(1) is applied mutatis mutandis under the provisions of Article 102(1)), Article 113(3) ….” shall be replaced by “… Article 113(3) ….”

2 The above Article 4 paragraph 1 of this Law is not applicable to the unauthorized photographing of cinematographic works eight (8) months after the first date of the presentation of cinematographic works to an audience who pays fees at cinema theaters, etc. in Japan.

Supplementary Provisions

This law shall come into force three (3) months after the date of its promulgation.

Spain


Section 5.ª Concerning Exhibition

Article 15. General Norms.

The recording is prohibited of films projected in rooms of cinematographic exhibition or other premises or enclosures open to the public, even those of gratuitous access.

The persons responsible for the rooms of exhibition or other premises or enclosures mentioned in the previous paragraph will guard against such recordings, warning of their prohibition and being able to prohibit the introduction of cameras or any type of instrument destined to record image or sound. Also, they will communicate to the holders of the works any attempt to record the same.

July 2009
WEDNESDAY 15 JULY 2009

Present

Bonham-Carter of Yarnbury, B
Eccles of Moulton, B
Fowler, L (Chairman)
Gordon of Strathblane, L
Howe of Idlicote, B

Inglewood, L
Maxton, L
McIntosh of Hudnall, B
Scott of Needham Market, B

Examination of Witness

Witness: Lord Carter of Barnes, a Member of the House, Minister for Communications, Technology & Broadcasting, Department for Business Innovation and Skills and Department for Culture Media and Sport, examined.

Q1724 Chairman: Welcome, Lord Carter. It is very good to see you. I wonder if you remember the famous interview between Robin Day and John Nott, when Day said to the Minister, “Here today, gone tomorrow.” I do not want you to do what John Nott did, which was to immediately leave in a fit of temper!

Lord Carter of Barnes: I am taking my badge off rather than my microphone!

Q1725 Chairman: Just tell us why you are going. You have only just arrived.

Lord Carter of Barnes: I do remember the interview. One of the distinctions is that, as I recall it, I do not think he had pre-agreed that he was going tomorrow, and that is really the reason why. My task is done and we will be finishing the instructions to the Parliamentary Council, touch wood, on Friday for the Digital Economy Bill and at that point it seemed a natural break and with the necessary safe harbour rules it will mean I have taken two years out of my commercial private life. That was two years I was delighted to give, but two years is two years.

Q1726 Chairman: So when you took on the job it was pre-agreed, was it, that you would get to this stage and then you would go?

Lord Carter of Barnes: Correct.

Q1727 Chairman: But there is a big job of the implementation of this massive report which you have done here.

Lord Carter of Barnes: There are a lot of things that need to be done. It seems to me that they fall relatively neatly into three categories. One category is things which can be made to happen effectively straightaway. For example, this week the recommendations in here in relation to the way in which the Government procures ICT expenditure and the changing of the procurement arrangements were agreed across the CIO community in government, so you can then just get on with that and implement it. There is a whole series of things which fall into that first category. There is a second category of things which require primary legislation and that will be laid out in the Digital Economy Bill. There are people far better qualified than I to take a bill through and my hope is that the vast majority of the content of that bill will be non-controversial. Then there is a third category of things which are required to be done by places or spaces other than government, and where that is the case we have indicated to those parties that they should get on with it.

Q1728 Chairman: But you were a member, a part of this infusion of the government of all the talents, and we notice particularly today that other “goats” (if that is not too disrespectful) are going as well, such as Lord Darzi and Lord Malloch-Brown. Did you all get together? I do not know what “goats” do as a collective, but did you all get together to talk about this?

Lord Carter of Barnes: There was no collusion amongst the “goats”.

Q1729 Chairman: No collusion amongst the “goats”. Okay. So what next? What are you going to do next?

Lord Carter of Barnes: I am going to go to France, Chairman!

Q1730 Chairman: As a form of occupation?

Lord Carter of Barnes: As you know, the ministerial code sensibly precludes ministers from engaging in conversations until they are no longer ministers, and I am still here today, not yet gone tomorrow!

Q1731 Chairman: Okay. You will take an active part, presumably, in the House of Lords?

Lord Carter of Barnes: I hope so.

Q1732 Chairman: And you will be sitting on the Labour benches?

Lord Carter of Barnes: Indeed.

Q1733 Chairman: As you know, we have been looking at the film industry and we are reviewing the television industry from the point of view of the
Lord Carter of Barnes

Q1734 Chairman: But, with great respect, the only personalities which have been introduced have been introduced by your Secretary of State?

Lord Carter of Barnes: I am not sure that is true. If we are trading quotes from newspapers, I read another quote in the newspaper which was attributed to the Director-General of the BBC—I have not asked him whether it was his—that it was an ideologically-focused elite. I am not sure whether that included me, although I have never been described as part of an elite before. I think there has been a lot of trading of views, but the substantive question is, are we comfortable with the BBC as the single provider of news and impartial news up and down the country? I have just spent the last four weeks, following the publication of the White Paper, in different parts of the United Kingdom and London is, as it is in many areas, distorting because the questions of news provision are not so evident in London as they are in Scotland or Belfast, or Cardiff, or parts of England, and we got a very significant response through the Green Paper to the White Paper that this was a clear and present problem, which was not going to be solved by market forces alone and that there was a requirement to have some form of top-up funding. It seemed to us very credible to propose the question—and, as I think was made clear in the Secretary of State’s interview, mine was a voice which was very clear that this should be proposed as a consultation, not as a determined decision—as to whether or not this was an appropriate thing to do with some portion of the licence fee.

Q1735 Chairman: Going back to the Financial Times interview again, on top-slicing he called the BBC position “wrongheaded and self-defeating”. That does not actually sound to me like a bit of consultation, that sounds as though the decision has been made.

Lord Carter of Barnes: The decision has not been made. We are in consultation on the question. The decision which has been made is that there is a need for funding because there is a need to solve this issue, and that is the policy and to a degree the political question which needs to be debated over the next 10 to 12 weeks. It is not a new question for many of you on this Committee, and I certainly know that Stephen has been involved in this debate for a long time. It is a real question and it does touch a raw nerve. I do think the BBC are wrong to cast this as an un-askable question. It cannot be an un-askable question. It must be a perfectly legitimate public policy question for a government to ask as to whether or not we believe there is a need for alternative sources of funding for impartial news. That cannot be an un-askable question, and there is a degree to which it has been cast as though it is inappropriate for that question to be asked.

Q1736 Chairman: You will know what we said in our report on this, which was broadly supportive of the position you are taking. Is not the position that if we leave it as it develops at the moment without any kind of intervention, ITV are going to get out of regional news—they have said that—and we are back to the 1950s in the sense of BBC monopoly, but we are worse than the 1950s because in the 1950s there was a strong regional press and now there is not. Obviously I have my past interest in the regional press, but the regional press is not what it was and in some ways is in a precarious position, so the case which you make is rather stronger now than it has ever been.

Lord Carter of Barnes: It is. Clearly, the countervailing difference—I defer to your knowledge of then, but certainly now—is the existence of alternative news content delivered online, of which there is a whole range of options and providers, some of them traditional providers using the Internet as a means of distribution or re-purposing, or indeed commissioning original line content. But the difference is that there is no requirement for impartiality there—a very important distinction—and, as you rightly say, the pressures on traditional newsprint media are significant and only look like they are going to get worse. It is the convergence of those changes and those pressures which leads us to the conclusion that we do need to have some top-up funding. We are not—and this has been a piece of misreporting—trying to create a funding structure for commercial television news. We are trying to provide a funding stream to provide top-up funding to alternative news and information, however delivered, but the key point is that it will be required to be impartial.

Q1737 Chairman: But you are opening the door for local consortia of television companies and local and regional press? That is one model.

Lord Carter of Barnes: It could be radio companies, it could be dedicated news businesses, Reuters, MPA,. it could be online content providers, it could be any mixture of companies.
Q1738 Chairman: But the present regulation prevents that from taking place, does it not? Are you not going to have to change the regulation to enable the consortium to actually be formed?

Lord Carter of Barnes: As I understand it, Chairman, we will definitely need to take an enabling power in the Digital Economy Bill to facilitate the creation of the news consortium, that is definitely the case, and depending upon the terms of those consortium contracts you would need to amend the regulations so that the impartiality obligations applied beyond where they currently apply, which is only to licensed television broadcasters. But I do think there is an important distinction which has been misreported that somehow or other our proposals are, “Take money from the BBC and give it to commercial television.” That is not what we are proposing.

Q1739 Chairman: I understand that, but how quickly can this be done? This does not sound like something which can be done in the next few months. We are talking, because of what you are saying about the enabling legislation, about sometime in the future, are we not?

Lord Carter of Barnes: This could be done by 2010.

Q1740 Chairman: By 2010? Okay. How much public money would be available to support this kind of initiative?

Lord Carter of Barnes: The proposal we put in the white paper was that if you take 3.5% of the current licence fee as a kind of guide number you have around 135 million a year.

Q1741 Chairman: That would be an annual sum. My last question before I hand over to Lady Bonham-Carter—which we also pointed out in our report—is, what is going to happen to the analogue proceeds, going from analogue to digital? Analogue still has some value. What happens to the proceeds there? Where do they go?

Lord Carter of Barnes: The proceeds from Spectrum will be a matter for the Treasury at the time to determine at the point of auction.

Q1742 Chairman: So it sounds to me as if what you are saying is that they go back to the Treasury?

Lord Carter of Barnes: We could have a long debate about where they might end up, but the proceeds will be for the Treasury to allocate.

Q1743 Baroness Bonham-Carter of Yarnbury: Obviously our report here is looking in to British content and the health and survival of the BBC is very important for the health and survival of British television content. What guarantees are there that taking this contained element of the licence fee is not a slippery slope and that in the future other governments, particularly when they might get annoyed by the BBC, or whatever, will just take other sums of money from them to fund pet projects, rather like what happened with the National Lottery?

Lord Carter of Barnes: We do make a proposal on that in the White Paper, which has been sort of slightly ignored, particularly by the BBC, I have observed, because we take that question head on and we do acknowledge that the kind of unpredictability of constantly dipping in and out of funding is both unnerving and, as you rightly allude to, could create an unhealthy relationship between the government of the day and an independent broadcasting corporation, which would be wrong. I think we would all agree that. So we make the proposal that it would make sense, therefore, that if it is the view post-consultation that this is on balance a higher principle which we need to solve, a higher problem, do you introduce a corresponding amendment to the charter which would require any subsequent change to have to be debated in both Houses of Parliament before any change could be made? This is a House of Lords committee, but I do not think in a democratic country you can prevent a democratically elected government from making that decision. The allocation of public resources, however they are collected, seems to me to be ultimately the job of the democratically elected government, but I think what you can do is put safeguards to protect against what you identify. Actually, what we propose—and this is, I think, part of what the Secretary of State is alluding to—in this White Paper is both. There is a problem, the funding for alternative news, and there is a requirement to provide the sorts of safeguards you allude to. Here is a proposal on both.

Q1744 Chairman: It is very interesting, what you have just said. You would require any change to be, I think you said, debated in both Houses of Parliament?

Lord Carter of Barnes: I think those are the exact words, but hopefully somebody behind me can dig out the page reference whilst we are talking.

Q1745 Chairman: The point is that this Committee and the predecessor committee have been very critical of the whole Charter process because up until now it has been a straightforward deal between your Department and the BBC and, frankly, Parliament has not been involved at all. This seems to me to mark a fairly substantial shift that way, which we obviously welcome. Why do we not just put the Charter on a statutory basis?

Lord Carter of Barnes: That is a different question and one which we did not choose to address in this and it is for other people to comment on, I think, other than me. But I think implicit—in fact, let us be honest, explicit—in the Digital Britain white paper is a
recognition that if we were not at this stage when the last Charter agreement was agreed—and we can have a debate about whether we should have been—we sure are now. We are at a point where the funding for public content requires a level of scrutiny and debate that previously maybe it did not have. That cannot be characterised as an attack on the BBC. It has got to be characterised as a public policy debate about the importance of public content. It seems to me to be the wrong way to look at it. The difficulty is, it is one of those questions which is very hard to ask without it being misrepresented, as though you have some scurrilous secondary agenda, which we definitely do not have. We have said to the BBC—and indeed say in this White Paper—if someone can come up with an alternative funding stream which does not require us to top-slice the licence fee—we are not ideologically committed to top-slicing the licence fee. We are ideologically committed to trying to provide some funding for alternative impartial news.

Q1746 Chairman: I agree entirely with what you say, obviously, on the consultation with Parliament on this. I have to say the BBC—and indeed, if I may say so, some of your predecessor ministers—have argued strongly against this, but the BBC will not actually welcome it either. You recognise that is a problem?

Lord Carter of Barnes: I certainly cannot speak for the BBC. As I say, I think the report has raised the whole question around particularly British content, to go back to Lady Bonham-Carter’s question, and the importance of British content, certainly not just on television but on multiple platforms. I think it is inevitable that this is a debate which will need to be had, and desirable, frankly, to be had in a broader community.

Q1747 Lord Inglewood: In this context do you, as a matter of general principle, think that it might be appropriate to do something which the Treasury does not like, which is in some way to hypothecate revenues, presumably derived from levies, to achieve the kinds of things you have been talking about as a possible alternative to top-slicing?

Lord Carter of Barnes: We have proposed another hypothecation in this report in relation to next generation networks and clearly hypothecated taxes, however you describe them, have the benefit of transparency. In a sense the top-up which currently exists on the licence fee to pay for digital switchover is a form of hypothecation, is it not?

Q1748 Lord Inglewood: Once you start going down this road, you can expand the potential almost indefinitely?

Lord Carter of Barnes: I am sure there will be people from other departments who will have views on that.
content genres. But the difference in support for news to children is of an order of magnitude, I would say.

**Q1750 Baroness McIntosh of Hudnall:** Can I just ask you to answer specifically the question? Accepting the point about order of magnitude, is it your view that the 3.5% of funding which was previously allocated to a BBC-related purpose will be, or ought to be sufficient to provide both further support for impartial news programming and some support for other areas where there is currently a shortfall?

**Lord Carter of Barnes:** I think that is highly probable.

**Q1751 Baroness McIntosh of Hudnall:** “Highly probable” as far as you would be prepared to go?

**Lord Carter of Barnes:** It is highly probable because I do not think we know, because we do not know the cost structure for a news consortium which does not construct its business case off the back of a cost model that is based on traditional television broadcasting. Therefore, we do not know. It might be the case that actually you could do an independent news consortium in multiple locations at a considerably cheaper sum.

**Q1752 Baroness McIntosh of Hudnall:** But if the 3.5% was required by the news programme, you would be content for it to take all of it?

**Lord Carter of Barnes:** It would get first call and take it all. It is not so much that I would be content, I have to say that in the consultation process there was overwhelming support for that.

**Q1753 Lord Maxton:** I must say, I would express some concern over that. I thought some of the 3.5% was going to go to the provision of broadband for all, which personally I consider to be more important than whether or not we have so-called impartial news, and I have been around politics too long to believe there is such an animal, to be honest! So is any of this money going to be put into a pot which will ensure that every household has a minimal broadband provision?

**Lord Carter of Barnes:** Yes, it will. What we have said is that the money which is currently planned to be raised between now and 2012/13 to fund digital switchover we believe—and indeed the NAO have validated—will not be required in full. The majority of that surplus, some £200 million, will go towards the universal service you allude to. A sub-portion of it will go into pilots, which I believe could start as soon as next year, in answer to my Lord Chairman’s earlier question, to examine how these consortia could work. We will then learn what the cost structures are, who is interested, how it is going to work, and then from 2012 onwards you could then tender them in perpetuity, by which point you have delivered your universal service of broadband and going forward from then we would then use the 3.5% for independent, impartial news—or, to your point relatively independent and impartial news—and you would have completed your universal service obligation, so it is an ordering effect.

**Q1754 Chairman:** You are using the underspend, in other words?

**Lord Carter of Barnes:** Correct.

**Q1755 Chairman:** In fact the two Secretaries of State, Bradshaw and Mandelson, have both written to us on that, I think?

**Lord Carter of Barnes:** Yes.

**Q1756 Lord Gordon of Strathblane:** Moving on to Channel 4 as a major alternative to the BBC, I am interested that you referred to it throughout as the “Channel 4 Corporation”. I had not heard that terminology before. Is that a sign of its increasing importance?

**Lord Carter of Barnes:** I think we were just trying to be proper. I think that is its technical legal name.

**Q1757 Lord Gordon of Strathblane:** I confess to be unaware of it, but do you think it is wise to pick out Channel 4, which after all has got less than 40% of the audience of ITV, to use that as your platform as a competitor to the BBC?

**Lord Carter of Barnes:** I am not sure we did pick it out as a competitor to the BBC as such, although you could say it is described that way. I would put it in a slightly different way, which is that if you look at the entire market, with no disrespect to S4C and others, there are two publicly owned broadcasters. One is called the BBC and one is called Channel 4 and they do quite different things. As you rightly observe, they are of a quite different order of scale, they are funded very differently, but the thing they have in common is that they are both owned by the public and therefore they are required to do things that Sky One or VMTV are not required to do.

**Q1758 Lord Gordon of Strathblane:** No, but in a way the fact that they are publicly owned. I would agree, is a common denominator but there are other broadcasters who have the same obligations to provide public service broadcasting, such as ITV. Would it not have been better to try and build on ITV or a merger of ITV and Channel 4?

**Lord Carter of Barnes:** I personally do not think so. We have touched on this discussion in other lives and I think we lay out, you might say, quite starkly in the White Paper that one of the reasons for trying to encourage us in public policy debate to look forensically at the BBC and Channel 4 is because I think we are now at a point where we need to see ITV for what it is, which is a commercial business. It is a
commercial business which has the thin residual remainder of public service broadcasting obligations, but most of those are economic quotas and commissioning –

Q1759 Lord Gordon of Strathblane: UK origination, the same as Channel 4.
Lord Carter of Barnes: UK origination is a significant, but that is an economic obligation more than a content obligation. They could commission within reason anything they like as long as it is British. The driving purpose behind that piece of regulation is an economic quota, it is not a public service broadcasting obligation in the way that it used to be. So I think if you accept that, it is quite difficult, when you look at the evidence, to try and play King Canute on that one, I would say, certainly beyond 2012, which is the timeframe of the report. What that then means in terms of publicly biddable, publicly frame- able UK-originated content is that there are two providers, the BBC and Channel 4. That is why we looked at them side by side, because that is going to be the public broadcasting universe come 2012.

Q1760 Lord Gordon of Strathblane: If one looks at Channel 4, they are certainly saying to everybody they meet how hard-pressed they are financially at the moment, discharging a more limited remit. How are they going to manage to discharge a larger, much broader remit, bearing in mind the discussions with BBC Worldwide do not appear to be heading very far?
Lord Carter of Barnes: Well, let us reserve our judgment on that until the discussions are completed one way or t’other. There is no doubt, because of Channel 4’s funding model, they are facing similar, maybe not identical but similar challenges to any media business that is dependent upon advertising revenue, which is probably 90% of their funding, which is part of the reason why we pose the question as to whether or not we should look at their remit afresh and look at it more from the point of view of audio-visual content, however distributed, rather than just classic broadcasting. Because, as we all know—and Lady Bonham-Carter is the expert here on this—with 30 minutes of television production versus 30 minutes of online long-form video content the cost structures are radically different and Channel 4 is doing something significant in the online world but nothing by comparison with what it could do.

Q1761 Lord Gordon of Strathblane: But in a way they could do that at the moment and if they saw an opportunity of making money they would presumably have done it?
Lord Carter of Barnes: But Channel 4’s purpose is not to make money –

Q1762 Lord Gordon of Strathblane: Sorry, to break even.
Lord Carter of Barnes: That is all really we are saying: what is it in that macro world which you and I discussed before we would want Channel 4 to do and be? What we are saying is that there are certain things we would want Channel 4 to do and be. We talk about kids, we talk about film, we talk about news and we also talk about alternative forms of audio-visual content because those are all things you would want someone other than the BBC with some public purpose to be doing, particularly if, come 2012/2013, ITV plc is, bar economic quota regulation, a commercial animal.

Q1763 Chairman: Where have you got up to in your plans to put Channel 4 and BBC Worldwide together? Is that plan dead?
Lord Carter of Barnes: No, I do not think it is dead. What we have said in relation to that plan is that we think there is potential merit in it. On appropriate terms, we would approve a commercial deal. We would want that deal to be on commercial terms for both parties and if it required any form of financing we would be willing to provide that financing, up to a certain point, again on commercial terms. We have taken the role, as I would describe it, as constructive but transparent facilitator of a deal but we have not set about to create a forced marriage. I think that would be wrong because then you would end up with a commercial construct because of political reasons and that would not work. Even between publicly owned entities it would not be a good thing.

Q1764 Chairman: So you are not going to try to force the BBC?
Lord Carter of Barnes: No.

Q1765 Lord Gordon of Strathblane: You mentioned you might make funding available and yet I think you have ruled out Exchequer funding going directly to Channel 4?
Lord Carter of Barnes: There is a difference between making debt financing available for a deal and cash funding. Debt financing on commercial terms for a deal between Channel 4 Corporation and BBC Worldwide, if it makes sense for them, we have said we stand ready to do that but it must be an arrangement that both parties wish to do.

Q1766 Chairman: Nobody is actually arguing against having partnership arrangements and agreements, and all that sort of thing, but if the BBC say no to a merger, that is it?
Lord Carter of Barnes: Yes.
Q1767 Chairman: I saw your expression!
Lord Carter of Barnes: You put it better than I could.

Q1768 Lord Gordon of Strathblane: What is plan B then?
Lord Carter of Barnes: Plan B for whom, BBC or Channel 4?

Q1769 Lord Gordon of Strathblane: Channel 4.
Lord Carter of Barnes: That will be a question for the board of Channel 4 at that point.

Q1770 Baroness Bonham-Carter of Yarnbury: You talked in Digital Britain about liberalising Channel 3’s and Channel 5’s licences and picking up on what you were just saying. I think you envisaged Channels 3 and 5 not having public service broadcasting requirements beyond news, but you also said that you would expect them to provide a level of UK content, is that correct?
Lord Carter of Barnes: Yes.

Q1771 Baroness Bonham-Carter of Yarnbury: So what would be the Government’s response if they started to argue that they could not sustain current levels of UK content for commercial reasons?
Lord Carter of Barnes: That is a hypothetical. That argument has not been put in a sort of concerted way and we state very clearly in the White Paper that we think there is a case to continue the economic quotas on production, both UK production and the regional and independent production quotas.

Q1772 Baroness Bonham-Carter of Yarnbury: One of the things that has come out in other evidence we have had from producers and directors, and so on, is the choice problem that people are facing, that there are increasingly fewer places to go to get your ideas commissioned, therefore less opportunities for imaginative British content to get made, and also the problem of cosy relationships, if you have only got one place to go and then you fall out with that person. Again, this is a difficult question for Government, I appreciate, but it does seem to me important that Channels 3 and 5 do have to commission drama and content other than format content.
Lord Carter of Barnes: You know so much more about this than I. I could not agree with you more that competitive sources of commissioning is an important ingredient in the structure of the market for all sorts of reasons, some of which we allude to, and others. That is part of the reason why I think we should make the decision early on liberalising ITV on the things that frankly are going to go anyway, but hold the licence tight on the economic quotas. The temptation is, as always in life, to have everything you want but actually what you then end up with is neither of them working perfectly and it seems to me that if you are in a place of having to make a priority choice—the priority public policy choice is the one that you allude to—I think we just have to recognise that the residual so many hours of this and so many hours of that on the ITV licence are just out of date. If you recognise that, it then, I think, forces you to look at what the BBC and Channel 4 do in a much clearer way. So it brings clarity to each of those questions, it seems to me, and the sooner we accept that then the more purposeful we can be in what we put in Channel 4’s remit, what we demand of the BBC, and also maintain the sort of competitive commissioning you allude to in broader format entertainment.

Q1773 Baroness Bonham-Carter of Yarnbury: But no more demands on ITV?
Lord Carter of Barnes: The backdrop to all of this conversation is what is happening in advertising funded businesses. This Committee knows it. I started my life in the mid-1980s in the advertising funded business. It is unrecognisable. The yields, the inventories, the value of these businesses are in a wholesale different place and we have controls and regulations which are predicated on an economic model which just does not exist.

Q1774 Lord Maxton: Do you think that was going to happen anyway despite the recession, that change in advertising?
Lord Carter of Barnes: I do not know, to be honest with you, Lord Maxton. It is kind of reverse crystal ball gazing. I think it is not just a recession question. There is a structural change being driven by fragmentation, multi-platform distribution, audience efficiency, let us be honest, business efficiency, marketing efficiency. All of these things are good in many ways, but if you are used to getting very, very, very high margin yields on advertising space, display or tele-visual, that world is not what it once was and it is not going to go back there.

Q1775 Baroness McIntosh of Hudnall: I do accept that what you are saying is true, certainly for the moment, and I think the question Lord Maxton asked is a very important question because, of course, we are taking a snapshot of this industry at a moment when a lot of things are looking very bad. You are quite right to say we should not be in the business of crystal ball gazing, but there is at least, I suppose, some possibility that some of these models will either adapt or recover to some extent over the next three to five years or beyond. My worry about what you are saying is that it feels to me like a slight counsel of despair and what is troubling is that, for example, in relation to children’s programming—and I do not have any particular remit for children’s programming, it is simply a good example—over and
over again we have been told that the removal of ITV from the market as a commissioner of programming for children has had a really major impact on the overall availability of good UK-originated programming for children of all ages, but of course it is the upper age range which is the one which is suffering the most. Is it not possible that if you continue to take the view, as I have no doubt you will, that ITV in effect just has to be regarded as floating off into a commercial bit of the universe where its capacity to provide public service broadcasting is going to be over the long-term very limited, then the impact of its withdrawal—notwithstanding what you have said about how you can build up Channel 4’s remit—in other areas of programming is likely to be just as serious and the net effect of all of that could be that certain kinds of programming, which may not be commercially viable, or at least not commercially viable all the time, but which are culturally absolutely critical will continue to decline in volume and probably in quality?

Lord Carter of Barnes: These are all balances. You paint a scenario which there is much evidence to support. I would say the challenge in Government where Government has responsibility—and it does in some of these areas, let us be clear, not in all—is to make some allocative choices. We self-evidently are looking at a snapshot in time, but these trends have been going for some time. The volume of advertising money going online is not a snapshot in time, that is an unstoppable trend. The number of hours of television viewing that are being done either on demand or through search or storage is increasing and will increase inexorably. Therefore, the value of the passively captured advertising audience is going to change. It just is. So the monies flowing to commission and production are likely, in the traditional television model, to go down. If that is the case, then the commercially funded broadcaster—and remember, ITV plc raises it money from private shareholders—the money they spend they will spend on that content that they can monetise and children’s content is very difficult to monetise, and indeed in another place we have made it more difficult for them to monetise by putting restrictions on advertising that they can do around it.

Q1776 Baroness McIntosh of Hudnall: Absolutely, but I simply say that when ITV came to talk to us in the person of Michael Grade—and he has been several times—we did discuss with him the question of what value ITV puts on the licence that it holds as a public service broadcaster and one might suspect at times that he and his organisation have taken a rather aggressive attitude and have said, “Well, we are not going to do this and if you make us do it, we will take our bat and ball home and that will be the end of that. We will hand our licence back.” When we pressed him, it was pretty clear that he did not want to hand the licence back. He still regards it as something which has considerable value. Do you think that we, as the consumers of television, are getting good value from ITV if they are allowed to continue but with this very limited public service remit?

Lord Carter of Barnes: I think it would be invidious of me to answer that question directly. I think the UK viewer in this country is very well served by high quality content across the piece and all of these discussions and debate, as I say, are about getting a balance. All we are trying to do in our description is to say that that balance is shifting and we are having a debate about how fast and how quickly. My own personal thesis is that it is shifting a lot faster than we think and in political terms you do not often get a chance to table these questions. Let us be candid. We have tabled these questions now. In political terms we probably will not come back to them, because of General Elections and timing, for another two or three years. Two or three years will be the other side of digital switchover. It will be the other side of universal service in broadband. It will be the other side of probably average speed rates on internet connectivity of 4.5, 5 megabits. We will be on the other side of wireless broadband for mobile. The way in which people are consuming content is going to be unrecognisably different. That is not all bad. The public policy question is, what sort of UK-originated content do you want to have and what are the vehicles you have got for delivering it? I think the vehicles we are going to have to deliver it are the BBC, Channel 4, the economic regulatory obligations on the commercial broadcast licensees and around news, and I think there is a question which does need to be debated—and I think you are right to press it—around children, but I do not think it is just television content for children, I think it is broader content for children including online content.

Q1777 Lord Inglewood: If I might move on, still talking about public service broadcasting, in Digital Britain you said that Government was proposing to discuss with Ofcom whether its obligations to report on public service broadcasting on television should be expanded to take into account the “wider delivery of public service content” such as online and pay TV channels, because one of the pleas we have heard from a number of non-public service broadcasters is that they actually produce material which has all the public service broadcasting attributes and that they are therefore doing something in the public interest. How do you see the free-to-air availability of content being linked with how you see public service purposes?

Lord Carter of Barnes: I have an enormous amount of sympathy with those views. This conversation has, understandably, dwelt on what are the
Q1779 Lord Inglewood: So to some extent we are going back to the questioning where we almost started, the top-slicing of 3.5%, that one is trying to open up the entire offering to find, for want of a better way of putting it, arguably novel ways of producing things for people which have not been available in the past?

Lord Carter of Barnes: Or that the market alone, unaided, will not provide.

Q1780 Lord Inglewood: Yes, I include it in that.

Lord Carter of Barnes: Yes, absolutely.

Q1781 Baroness Howe of Idlicote: Still on this business of funding of UK content, I think you made it very clear earlier on where the priorities were and if the amount raised by the various methods we have been discussing was just enough for use, then tough, that would be it. So let us look at other methods because in fact I think you also said in Digital Britain, on p.118, that UK originated content was £314 million lower in 2008 than in 2004. It has been estimated by researchers that the UK could raise £83 million a year by requiring cable and satellite companies to pay a small copyright fee for the retransmission of the main public service channels. Is that is so, why have you, the Government, decided to reject that particular approach? It may well be that we need this if we are to have one of the areas which certainly I consider vital, which is more funding for children, as well as drama.

Lord Carter of Barnes: We have taken the view, for the reasons we outline in the White Paper, that we do not think the case is made for either the change in the current statutory rules or the introduction of retransmission or re-use fees. It slightly goes back to the previous conversation. Part of the reason why is because we do have a big intervention in this market. We have £3.6 billion a year of taxpayers’ money, it is not a small intervention, and whilst there are countries in Europe which do use such mechanisms for raising money they do not have anything approaching that level of intervention of public funding. We choose in this country to put all of that public funding through one institution and therefore its distributed benefits are distributed through the commissioning power of that organisation and the creative power. Other countries do it in different ways. It would be quite difficult, I think, to argue the case that we should do both.

Baroness Howe of Idlicote: There is also the other question I was going to raise about the re-use fees, but if 22 European countries can do it, are you really saying that there is no justification at all for us doing it? Just on the point you have made about the amount we put in via other methods because in fact I think you also said in Digital Britain, on p.118, that UK originated content was £314 million lower in 2008 than in 2004. It has been estimated by researchers that the UK could raise £83 million a year by requiring cable and satellite companies to pay a small copyright fee for the retransmission of the main public service channels. Is that so, why have you, the Government, decided to reject that particular approach? It may well be that we need this if we are to have one of the areas which certainly I consider vital, which is more funding for children, as well as drama.

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Baroness Howe of Idlicote: There is also the other question I was going to raise about the re-use fees, but if 22 European countries can do it, are you really saying that there is no justification at all for us doing it? Just on the point you have made about the amount we put in via other methods, again I come back to this point: I think we would all agree that children and drama—and other people have priorities—are very, very important, the UK originated side of this, so what other alternatives would you suggest if there is a determination to make certain that those sides are properly funded? We cannot use what I thought was a fairly obvious area because they are doing well.
Lord Carter of Barnes: As I understand it, the amount of money actually raised in those 22 countries via that mechanism is, depending on what the exchange rate is on any given day, 350 million sterling. Now, that is not a small sum of money. It is not an enormous sum of money across 22 countries by comparison with £3.6 billion and quite a significant proportion of that does not actually go to budget for commissioning content, it goes to the copyright holders themselves.

Now, fair enough, you might argue, but it does not solve the problem that you have been identifying that as a solution. We just found that every time we looked at this question we came to a view that in broadcasting and in content, much more so than in telecommunications, technology or Spectrum, each individual’s country history has grown up culturally. We have a series of subsidies in the United Kingdom. We do not charge Channel 4 for Spectrum. We do charge Vodafone for Spectrum. We have the licence fee. We give DDT Spectrum to the commercial broadcasters. These are all interventions and the net sum of them produces the picture we have got. If the conclusion is we are not happy with the picture we have got, I am not sure, Baroness Howe, it is a question of money. I think it is a question of allocation or who is doing what with the interventions we have currently got. I am not sure you come to the conclusion that the answer is we need more money.

Q1783 Baroness Howe of Idlicote: Can I press you a little bit further then? If that is so, might it not also be justified to say to Channel 4, to say to ITV, “Look, you’ve got the value of this and during the time you are using this we expect you to do more for children”?

Lord Carter of Barnes: I could not agree with you more, and we say exactly that in relation to Channel 4. One of the conclusions we came to, which is why we recommend changing the statutory remit of Channel 4, is that we believe there is a case for being more purposeful on what it is we want them to do as the second publicly owned commissioning broadcaster in relation to film in relation to children’s, in relation to news and in relation to audio-visual content beyond traditional television. I think we would absolutely agree with that. As it relates to ITV, we have been around that. Our judgment in relation to ITV was that the main contribution ITV continues to make beyond national news, impartiality, were the economic quotas and the commissioning benefits which flow from that.

Q1784 Baroness Howe of Idlicote: But were they let off a bit too easily by Ofcom?

Lord Carter of Barnes: I do not think so, I genuinely do not, but then I am probably biased on that question.

Q1785 Baroness Scott of Needham Market: We have heard a lot of evidence about the value of creative industries, not just as part of the cultural package but also economically, and a lot of that is predicated on the skills across the board in television and in film making, in which British workers are regarded as amongst the best in the world, but we have also heard a lot of concern that we are losing that competitive edge because of insufficient investment in training. I know that you have put some emphasis on that in Digital Britain, but what does not appear to be there are the means, how this is going to happen. I really just wanted to press you a little bit on what proposals you would have for improving skills and where the money is going to come from and particularly, for example, ITV have been withdrawing funding. We have also heard evidence that companies like Sky invest very little, although clearly they are reaping the benefit.

Lord Carter of Barnes: I am not sure, for what it is worth, I would accept the last bit. I think BSkyB have been a significant force for innovation in this market, in perhaps different areas than ITV, but transmission, distribution, packaging, live broadcasts, sport, outside sport. These are unrecognisable from where they were 10 or 15 years ago, indeed even in news broadcasting. I think they are different. I do not think there is a free ride. I am not sure the evidence would bear that out. I agree with you, however, that if we want to have industrial capability in this sector, which was really at a macro level, the ambition of the White Paper, to put a clear statement of industrial capability across the board, not just in television. You have to align the curriculum, education, higher education, the skills, the Sector Skills Councils. We do talk a bit about means in there in relation to the Sector Skills Councils and we give a ringing endorsement to Jim Rose’s report and a pretty strong endorsement to Baroness Morris’s report on digital skills in the curriculum, but it is planting trees, this stuff. You cannot turn the tap on and off, you have got to take a long-term view, and I think that is what we were trying to say, that if we as a country want to become industrially world-leading across the piece in this sector we have to look at it all the way through, we cannot just rely on our front-end television businesses to bear the load. Our telecoms industries are big contributors here, our technology industries are big contributors. Creative technology. We have significantly increased the funding to the Technology Strategy Board. These are big, big bets in an area which is going to converge much more evidently than it is today.
universities are not delivering graduates with the right skills sets, for example. So whose job is it to pull that together, to work with the industry, with the learning establishments, to make sure that the public investment and the personal investment that people are putting in can be rewarded by useful jobs at the end of it?

Lord Carter of Barnes: Well, at a practical level that happens, does it not, through increasing and in-depth engagement between industry, commerce and the major educational institutions? There is significant evidence of that up and down the country. At a governmental level, part of the strategic rationale for folding the Department for Innovation, Universities and Skills into the Department for Business was to recognise the point you made, that you have to see this as a kind of continuum. That has got to be operationalised. The thinking behind it reflects your question.

Baroness Eccles of Moulton: Could we turn now, Lord Carter, to a subject we have not touched on yet, which is the source of financing for the UK independent films. They are to some extent quite reliant on BBC Film and Film4 to support their financing. Would it be a good idea if investment in film was made a public service objective of both the BBC and Channel 4 with minimum annual investment levels? It is another intervention, of course.

Lord Carter of Barnes: It is another intervention. I think we somewhere between a quarter and a half agree with your question in that we do say explicitly and have written to the board of Channel 4 saying that we do wish to amend their remit to put an explicit obligation in the remit in relation to film. We would, I think, instinctively cautious about specifying minimum investment levels because they are quite blunt instruments, minimum investment levels, as we all know. They do not necessarily produce the outcome that one would always want, but the principal obligation we do wish to see laid on the BBC in a more formal way that it is today.

Baroness Eccles of Moulton: That means they would have to meet it up to some point?

Lord Carter of Barnes: Up to some point, and then you get into a question of the governance and accountability on Channel 4. I do not want to overstate this, and the trouble with doing these select committees is that everything always gets overstated and occasionally misrepresented, but I think going forward—and this slightly goes back to Lord Gordon’s question about casting Channel 4 and the BBC side by side—partly because of these discussions, we should have more explicit assessments of what the public service delivery by Channel 4 is. That is not a criticism of what they have done, do not interpret it in that way at all. I just mean that perhaps in times of public service plenty we enjoyed what they did, but going forward their contribution is going to become disproportionately scrutinised, I would say.

Baroness Eccles of Moulton: That leads me on to ask you a question about the UK film tax incentive and whether it is high enough to be still competitive internationally and whether in fact if it was raised the tax recouping by the Inland Revenue would just about be neutral anyway?

Lord Carter of Barnes: My understanding—and this is not directly my area of ministerial responsibility—is that we are not out of step on your kind of comparative/competitive point. There is a question about the so-called “used or consumed” obligation, our qualification criteria, and we are looking at that in quite some detail both within the Department for Culture, Media and Sport and across government to see whether either flexibility or a different interpretation would be beneficial. But I do not think the level is the question; I think the application and the criteria is where there is more work to be done.

Baroness Eccles of Moulton: Both points have been made to us quite strongly by other witnesses on both counts, both the level and the breadth of the applicability of the scheme.

Chairman: One last area. We are running out of time. We have run out of time.

Lord Carter of Barnes: I did arrive early, Chairman!

Chairman: I know. Even more, we have run out of time. Piracy. We have had a lot of evidence on piracy, not least the last session we had this morning on camcorder piracy, certain abuse, no question of inside family or anything like that, it is people deliberately going to cinemas and taking copies and then selling it. We are the only developed country, I gather, where there is not a specific law against this, making it a criminal offence. We gather also from evidence that the Department for Culture have put up proposals of this kind rather frequently but those have been knocked down by others in the Government. Do you not think there is a fairly overwhelming case for action to be taken in this area?

Lord Carter of Barnes: The honest answer, Chairman, is that I do not know enough to be able to answer that. I am reliably told that the argument which is put forward is that there is not a reason why the Fraud Act, as currently constructed, could not be used as the mechanism for control, but I am willing to accept that there are clearly people who believe strongly that that is not the case.
Q1792 Chairman: I understand that that is the Government line. I have to tell you that so far we have not met anybody in the industry who actually agrees with this and it seems to me self-evident that if the Fraud Act of 2006 was actually going to do any good, it might have done some little good by now. Now, you say that is not part of your remit, so—

Lord Carter of Barnes: No, I am not trying to play Pontius Pilate on this question, I am just saying that I do not know enough to be able to answer it. I take the point and we are conscious that it has been raised in evidence to this Committee. In a next door area in relation to piracy, which we did deal with in the White Paper, which was online piracy, there was a similar view previously expressed that there was a criminal action available to rights holders if they wished to take it, and the Government listened to that during the process of this consultation and has taken the view that there is a need for specific legislation in that area. My point was going to be, I do not know enough about this specific area, but more broadly I think the Government has shown, in the next door area, a willingness to recognise that the importance of piracy and the protection of intellectual property is something we need to preserve.

Chairman: Might I propose on that, that either before you go, or if you have gone then your successor might like to consider this point, and we will write a note to you to see if we cannot get a more definitive statement on this.

Lord Gordon of Strathblane: In terms of the damage that is done, some witnesses are telling us that the idea of getting advances in making films from distributors has just gone down the pan because they could not take a chance on actually retrieving the revenues because of piracy. One of the witnesses a fortnight ago described it as the “hole in the bucket”; no matter how much money and creativity you put into it, if it is draining away it is going to be useless.

Lord Maxton: Other countries may have these other laws, but in fact an American premier film you can download on the Internet the night of the premier, basically, because somebody at the premier will have filmed it and put it straight on. That is in America, not here.

Chairman: What is the point?

Lord Maxton: I am saying that it would appear that even in countries which have stronger laws than we do they are not being applied or making much difference.

Q1793 Baroness McIntosh of Hudnall: I just wanted to know, Lord Carter, whether you and your colleagues accept that the issue of piracy in all its manifestations, of which there are now many, is regarded by the industry as being the single most important issue they are currently dealing with and the one which is most likely to create very serious long-term damage to their capacity to continue? I am not challenging you with that, I just wonder whether, when you say the Government is attending to this issue, that is the degree of priority that it attaches to it?

Lord Carter of Barnes: What I would say on that is, my own personal view—you put it as piracy; I would say the role of intellectual property in a digital world, I think, is well worthy of a dedicated committee inquiry on its own. If we go back to the conversation you and I were having earlier about, is this a structural change in advertising values or is a kind of recession, this debate around intellectual property protection is a debate which is happening because we are moving from a world with analogue distribution, control mechanisms, rights and legal frameworks which by and large worked. We are in the middle of a transition into a world where we are going to need new legal frameworks, new control mechanisms, new pricing structures, new means of accessing and sharing content. We are right in the middle of that bumpy transition and it feels very uncomfortable. If you are a rights holder, there is nothing good about it. There is nothing good about it. But if you are a consumer, it is fantastically liberating. Somehow or other we are going to have to create a world where you balance those two. Now, the Government has tried in the area of illegal file sharing to construct a framework which we believe gets that balance right, but it is a very complex area.

Chairman: Have you just got time for two last questions?

Q1794 Lord Inglewood: We were told this morning that in relation to the Fraud Act, which is the Government’s weapon for dealing with copying of the kind you are describing, no successful prosecution has been brought under it, which presumably points to its efficacy, given the amount of copying which is going on?

Lord Carter of Barnes: Again, it is not my area, but I would say it is not the Government, it is currently our society’s mechanism for dealing with the question. The question is changing. Part of the reason why there has been no offence made is because user behaviour is changing at a rate and that question we need to address as well as the legal framework question.

Q1795 Chairman: Camcorder piracy is pretty straightforward, is it not? That is straightforward—

Lord Carter of Barnes: Theft.

Chairman: Theft. There is no excuse for it. Even the defenders cannot really excuse that part of it.
Q1796 Baroness Bonham-Carter of Yarnbury: I asked you a question earlier, which you quite correctly said was hypothetical. I will try it again, if that is all right, in a non-hypothetical way. This is going back to ITV and the obligations on UK content. If ITV were to ask to reduce its levels of UK content, should it be refused?

Lord Carter of Barnes: I am trying to answer your question, but to avoid causing a problem. That is rightly a matter for the independent regulator and the reason why it is rightly a matter for the independent regulator is because it is a piece of economic regulation. As it stands at the moment, those rules are very clear. We have just looked at that question and re-stated the position. I think that is very clear.

Q1797 Chairman: Okay. May I thank you very, very much. It has been an extremely interesting and valuable session. May I also say, in an entirely unpartisan way, we very much regret the fact that you are leaving as broadcasting minister because we have enjoyed working with you. Thank you very much.

Lord Carter of Barnes: I will say, in an equally non-partisan way, I have always enjoyed my engagement with your Committee, Chairman, so thank you very much.

Supplementary letter from Lord Carter of Barnes CBE

We covered a whole range of issues during the course of my appearance at the Lords Select Committee on Communications on 15 July. One specific area we touched on was camcording in cinemas and whether the existing legislation was adequate.

There has been a great deal of discussion on this subject, not only within government and within the industry, but between the industry and government.

Those in the industry, perhaps not surprisingly, take the view that specific legislation would be required. However, the nature of the criminal offences that could be charged is only one part of the picture. There are also issues about detection and the evidential burden that need to be addressed. To that end we are working with enforcement agencies to increase awareness and understanding of what IP infringement is and how it fits into the wider criminal and civil landscapes. The attitude of consumers is also relevant. The recent anti-piracy campaign by FACT, the Federation Against Copyright Theft, rightly recognises the value of those people who go to the cinema and support the film industry.

The debate has tended to centre around whether the Fraud Act 2006 could be used to lay charges successfully. The government’s view is that the Fraud Act should be fit for purpose, and that this should be borne out when there is a suitable test case. But in any event there are other criminal offences which, depending on the specific circumstances, might be used instead or in addition. For example, there are offences under the Copyright, Design and Patents Act 1988, and conspiracy charges can be used in this field when more than one individual is involved.

More generally there is an appreciable lead time between the introduction of new enforcement legislation and the time when those in the criminal justice community, the enforcement agencies, the prosecutors, the lawyers and the judges, are sufficiently trained up and comfortable about operating within the new framework. So the question is not so much whether to legislate afresh, but whether the uncertainty and delay caused by condemning the Fraud Act before it has even been tested is in the industry’s own longer-term interest.

I am aware that a number of other countries, including the USA, Canada, Italy and Spain have introduced specific camcording legislation. However, as we heard at the Committee, the evidence is unclear in terms of the impact the legislation has had. The indications are that a limited number of cases have been prosecuted in these countries, but often via already existing copyright or fraud legislation. The situation is therefore not so different from our own, where there are a range of options in terms of possible charges, and the new legislation is not necessarily the only or even the most appropriate solution available to prosecutors.

As I said to the Committee on Wednesday, there is a much broader question of Piracy and Intellectual Property Rights which might be worth the Committee spending time investigating. That decision is, of course, a matter for you and the Committee to judge.

On a personal note, I wanted to express my thanks to you and the whole House of Lords Communications Committee. I have always found your inquiries challenging but hugely enjoyable and I wish you all the best for the future.

July 2009
INTRODUCTION

1. The advent of the digital age has seen rapid changes to the way media, including television, is consumed. 90% of UK households now have access to digital TV and catch-up TV on the internet is growing in popularity. However, contrary to some expectations, the digital transformation of the media sector has not resulted in significant investment in content from the new operators. The public service channels (BBC1, BBC2, ITV1, Channel 4 and Five) continue to represent over 90% of all spend on original UK TV programming.

2. ITV is both the largest commercial broadcaster and the largest advertising funded media owner in the UK. We make more hours of network television than any other UK commercial producer.

3. However our continued investment of over £800 million a year in original content is under massive pressure due to structural change combined with the economic downturn. Unless there is an urgent programme of deregulation and a funding solution for regional news, we will have no option but to reduce this investment.

ITV’S ROLE IN THE UK CREATIVE ECONOMY

4. ITV is the most significant commercial broadcast investor in the UK creative economy with an unrivalled investment in original, high quality UK content. ITV spends more than double the amount in original content of our nearest commercial competitor, Channel 4, and has the highest proportion of original content spend of any public service broadcaster outside the M25 (concentrated particularly in the north of England). ITV’s investment in television content helps support the wider artistic and creative community by providing work for writers, actors, musicians, designers, directors and editors.

5. Television is an increasingly important sector for the UK economy as a whole with the most recent figures showing that UK TV exports grew by 23% in 2007 to nearly £663 million. ITV’s contribution to these export figures is significant. In 2008 ITV Global Content external revenues were £306 million—up 25% from 2007. To put it another way, over 40,000 hours of content are sold by ITV Global Content every year; Inspector Morse appears in 200 countries.

6. In addition to our existing production business—ITV Studios—we have already invested in a number of new production businesses such as the entertainment specialist 12 Yard as well as investing in production businesses in Scandinavia and Germany and concluding partnerships with other production companies such as Shine and Fox. We are also currently growing our US business very substantially and in 2008 our revenue from international production rose by 56%.

ENRICHING THE LIVES OF PEOPLE ACROSS THE UK

7. Television is still enormously significant in the lives of people in the UK. Hours of television viewing across all channels are over 3.5 per person per day. Two thirds of which is viewing of public service broadcast channels.

8. In quantitative research for Ofcom’s recent PSB Review, 83% of respondents felt that it was important that programmes made in the UK and reflecting life in the UK are shown on the main television channels. Ofcom’s annual PSB reports and audience research show that the majority of UK viewers regard ITV1’s key contribution as the provision of high quality original and engaging UK produced programming, particularly in drama, entertainment and the coverage of big national events. Through a rich mix of some of the UK’s most popular entertainment, drama, sport, factual, and comedy programming, ITV1 makes a vital contribution to reflecting and strengthening the UK’s cultural identity bringing a substantial part of the UK together. For

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example, the *X Factor* and *Britain’s Got Talent* finals were the two most watched Saturday night shows on 2008 on any channel.

9. The first quarter of 2009 has been no exception either and we have seen some excellent ratings for ITV1 programmes. For example:

- The *Dancing on Ice* final averaged 10.8m and an audience share of 43.2%
- The average live audience for our new drama series *Unforgiven* was 6.2 million and a 26% share of viewing.
- The average live audience for *Whitechapel*, a new thriller, was 7.6 million and a 29% share of viewing (from three transmissions).
- Our four-part documentary series, *Billy Connolly: Journey to the Edge of the World* attracted a series average of 4.7 million viewers and an 18.4% share.

**Supporting Democracy through the Provision of High Quality Impartial News**

10. ITV delivers significant public value through the provision for free to the whole of the UK of high quality, accurate and impartial regional, national and international news. ITV will spend over £90 million on regional, national and international news in 2009. Regional news accounts for around £55 million of this expenditure.

11. Our news programmes reach more people than Channel 4 and Five news combined and attract many viewers who do not otherwise engage with high quality news. ITV news also provides a vital source of plurality and competition to the BBC and Sky.

**Contributing to Digital Britain**

12. With the digital transformation of the media sector, ITV is also developing new businesses across different platforms and media. We have launched the UK’s two most popular digital-only channels, ITV2 and ITV3, thereby making a key contribution to the attractiveness of digital television.

13. We have also committed to fund a substantial part of the investment in the digital television infrastructure, and have been at the forefront of consumer and technical innovation in UK television—through Freeview, Freesat, the proposed project Canvas.

14. Furthermore, the reach and impact of ITV’s content can provide the same broad incentive for audiences to go online as it has provided for audiences to take up digital TV. ITV is particularly well placed to do this given both the scale of our reach and in particular our ability to reach those viewers who are light consumers of BBC services. In this context, ITV is building a compelling online presence in ITV.com leveraging key ITV brands such as Coronation Street or X Factor to grow user numbers very rapidly as ITV migrates audiences online. ITV.com recorded rapid growth in 2008 with a 546% increase in video views compared to 2007.

**ITV’s Content-Led Strategy**

15. ITV has refocused its corporate strategy to meet the challenges of technology and increased competition over the last decade. The objective has been to transform ITV into a content-led business: that is, to own the most attractive mass-appeal content, to make it famous on the biggest family of broadcast channels in the UK, and then to exploit that content globally and on digital platforms. This is a virtuous circle and promises a huge potential prize for both UK audiences and the creative economy.

16. At the operational level, this strategy is working well for ITV. Our investment in the best of British programming is drawing viewers back to ITV1 after years of declining audiences. In 2008, for instance:

- share of viewing held for the second year running
- share of UK TV advertising held for first time in 25 years
- digital channels grew revenues and profits ahead of plan
- Global Content revenues (including internal) increased by 10%
- Online users and video views continued to grow exponentially.

17. We continue to believe that this is the right strategy for ITV as the old analogue broadcast only model becomes unsustainable. However, the structural and cyclical pressures that we face today are unprecedented and there is an urgent need for the UK’s broadcasting policy and regulation to change at the same speed as we are having to change ourselves.
Structural and Cyclical Pressure

18. The need for regulatory change arises primarily from structural factors, though it is clearly compounded by the severity of the current recession. The structural factors affecting the viability of the UK’s commercial PSBs are well known: greater competition, fragmentation and an inexorable decline in the historic analogue business model.

19. In the analogue age in which ITV held a monopoly of commercial revenues, the Government was able to set a regulatory framework for ITV which extracted extensive public benefits in return for the monopoly of television advertising. ITV is no longer a monopoly but the burden of this legacy regulation remains and adds to the structural and cyclical pressures we are facing.

20. We are seeing a sharp drop in the price of television airtime as a result of the increasing number of advertising impacts in the market. ITV1’s airtime is around one third cheaper than in 2000. This oversupply of advertising impacts in the market is impacting on the ability of broadcasters to invest in original content—a point acknowledged in the Digital Britain report, which noted that:

“The huge growth of advertising inventory has produced a parallel reduction in the value of advertising impacts and their ability to fund professional long-form content.”

21. Therefore the analogue TV model which enabled PSBs to make a commercial return from a single broadcast on terrestrial TV of expensive UK originated content (as well as costly PSB obligations) is broken.

22. The impact of these broad structural factors has been compounded by the more recent and very severe cyclical decline in the UK television advertising market. We note the current market consensus that the UK TV advertising market will be down—12.5% year on year in 2009 following a 5% fall in 2008.

23. ITV has taken its own urgent steps in response. On 4 March 2009, we announced a three year plan to increase the efficiency of our business. Savings of £155 million will be delivered in 2009 rising to £175 million in 2010. While we have attempted to protect our programme budget as much as possible, we have had to make a small reduction this investment. Our concern is that, unless the pace of change in broadcasting policy and regulation catches up with the changes we are making to our business, we will have no choice but to reduce our investment in content even further.

24. This point is particularly clear when we examine the costs and benefits of ITV’s PSB licences—reflecting the changes to ITV’s PSB obligations following Ofcom’s PSB Review, and incorporating the latest assumptions on the key drivers of the costs and benefits of our licences. Even after incorporating the impact of Ofcom’s regulatory changes, ITV’s licence costs already outweigh the benefits by over £30 million (in 2008)—and this gap is forecast to grow to £123 million by 2014.

A Solution to Allow Continued Investment in UK Content

25. ITV does not want to reduce its programme budget. As outlined above, we believe that our future lies in the continued investment in great British content. ITV is doing everything we can to help ourselves. But, our capacity to maintain investment in originated content, thereby sustaining our contribution to the UK creative industries, is simply not sustainable unless urgent action is taken by Government.

26. In particular, the following actions are essential to help secure ITV’s future contribution to the UK creative economy:

— The removal of legacy regulation that was appropriate to a monopoly, analogue age but is a serious impediment to investment today

— A sustainable solution being implemented for regional news from 2010, ITV’s greatest PSB cost, based on Ofcom’s contestable funding model as set out in its PSB Review

Deregulation of ITV

27. The legacy regulation on ITV must be removed if ITV is to be able to develop a content led business model. The figure below shows the wide range of legacy regulations ITV is still subject to—many of which were designed for an analogue age in which ITV held a monopoly of commercial revenues.

2 Digital Britain report, Section 3.3.
28. Our priorities for action are:

— *The removal of CRR* remains a pre-condition for ITV continuing securely as a public service broadcaster. Although we recognise that this is outside the Government’s control, the removal of CRR is essential in order to allow ITV1 to earn a fair commercial return on its investment in UK content.

— *Reforming the Channel 3 Networking arrangements* in order to place ITV's relationship with the non-consolidated Channel 3 licencees on a normal commercial footing. This should eliminate the subsidy from ITV to the NCL’s (currently estimated to be £33 million per annum) and allow ITV to integrate production, broadcasting and secondary exploitation.

— *End the payment of licence fees by ITV to Government this year.* Given the rapidly declining television advertising market, and in the face of PSB licences that are already unsustainable, there is no justification for ITV to continue paying tens of millions of pounds to Government for its PSB licences.

— *Repealing UK protections for independent producers working for ITV.* Protections for indies are based on the assumption that broadcasters earn a viable rate of return from the broadcast of a commissioned programme. This assumption no longer holds in the case of commercial PSB in the UK. ITV and the other free to air broadcasters bear the risk in commissioning and funding original UK programming. However, if we are precluded from accessing a material amount of content revenue as a result of an independent production guarantee, and cannot assume any secondary benefits from the success of a programme, it is hard to see how ITV1 can maintain its level of investment in original UK content. We therefore support the Digital Britain proposal for a review of the terms of trade between broadcasters and independent producers.

— *Freedom to develop profitable revenue streams currently restricted by regulation.* The Government’s recent decision not to allow product placement in UK-originated TV programmes is unhelpful. It rules out an important new revenue stream for those who are committed to investing in and making UK content, putting the UK production sector at a competitive disadvantage. While other EU member states are going ahead and liberalising, UK producers will not be able benefit from this.
potential source of revenue. Furthermore, this decision flies in the face of the Government’s own analysis in the Interim Digital Britain report, which highlighted the huge challenges facing commercial media in the UK. UK viewers will continue to see product placement in programmes made outside the UK, while domestic producers and broadcasters are prevented from doing the same. Furthermore, it is simply not in ITV’s interest to “contaminate” programmes with product placement which would irritate viewers and prompt them to switch over. We fully supported the robust regulatory framework proposed in the AVMS Directive and the voluntary industry Code which goes further by setting out a clear process separating creative and commercial activity in the production process. We urge the Government to reconsider this decision.

A SUSTAINABLE SOLUTION BEING IMPLEMENTED FOR REGIONAL NEWS FROM 2010

29. Regional news remains the most significant cost of ITV’s PSB status. ITV currently invests around £55 million per annum to deliver regional news and we do not earn a return on that investment. At the same time, we are aware of the value placed on regional news by many viewers and by the Government and Ofcom.

30. To this end, we have had very detailed discussions with the BBC in order to establish the possible savings to ITV from a regional news partnership with the BBC. We have now reached the conclusion that such a partnership would offer valuable but modest cost savings to ITV’s regional news: the partnership proposed by the BBC would generate a maximum of £7.1 million of annual savings to ITV by 2016, with savings starting from a very low level (around £1 million to £2 million per year) in 2011 and 2012. The partnership would also raise serious editorial concerns around the scheduling of ITV’s regional news bulletins.

31. We have therefore reached the conclusion that the benefits of a BBC partnership will not be sufficient in itself to provide a viable, guaranteed future for news in the nations and English regions. A new mechanism is therefore needed to reflect the market reality that ITV cannot guarantee a regional news service for the longer-term.

32. Government therefore faces a choice. If it wishes to secure a guaranteed future for regional news, we believe that a publically-funded model is the best option to deliver this guarantee. We have noted with interest Ofcom’s proposal for a new contestable funding arrangement for regional news from 2011. ITV could provide the slots for regional news within its schedule, with the news service itself to be provided by one or more third party news organisations. We believe that this proposal is viable and that Government should take rapid steps to implement it so that ITV can maintain its investment in other areas of the schedule.

CONCLUSION

33. The digital transformation of the media sector has not opened up significant new sources of investment in original UK content. The public service channels continue to represent over 90% of all spend on original UK TV programming. However the investment made by the commercial public service broadcasters is under huge pressure as a result of the proliferation of digital TV channels and the migration of advertising spend to the internet. In order for ITV to sustain its investment in UK original content, an urgent programme of deregulation is required, including a funding solution for regional news.

34. Despite the significant challenges we currently face, we believe that ITV can be strengthened as a successful broad-based media company. The prize for viewers is continued investment in the best of British programming and support for the creative fabric of the UK.

27 March 2009

Examination of Witness

Witness: Mr Michael Grade CBE, Executive Chairman, ITV plc, examined.

Q1798 Chairman: Welcome. Thank you very much for coming. As you know, we are looking at the film and television industries, trying to see what more can be done by governments to help in their development. You, with your very extensive experience, should be in a good position to advise us on that. Apart from your television experience, of course, you are still Chairman of Pinewood, are you not?

Mr Grade: Indeed, yes, My Lord Chairman.

Q1799 Chairman: Thank you for your evidence and we will come to that evidence in a moment. Bring us up to date, will you, on your own position? When we first interviewed you, you were Chairman of the BBC. You resigned from that. Now you have resigned as Chairman of ITV. Why have you done that?

Mr Grade: I have not resigned. I have indicated to the board that I think it is time for them to find a successor as CEO and a successor as Chairman, because I have been combining, on a temporary basis, the two roles and, at my age, I do not think I am the great, long-term future of ITV. The reason I
came in as Chairman and Chief Executive was that the previous process to find a CEO successor had run into the ground. The shareholders supported my appointment; I have done just about three years, and I think it is time to clear the decks and leave it for the next generation to take it on from here. That is the story. I am still here, until we find a Chairman.

Q1800 Chairman: We will come to that as well. You were Executive Chairman, were you not—which you have just said?  
Mr Grade: Correct.

Q1801 Chairman: Against most of the guidance on corporate governance. Do you think that underlines the wisdom of that guidance: that Executive Chairman is not a good position to be in any more?  
Mr Grade: I think the only basis upon which you can create such a structure is with the support of shareholders, which is exactly what happened on my appointment.

Q1802 Chairman: Then what happened afterwards? Was it the perception of shareholders that the Executive Chairman role was not working out?  
Mr Grade: No. I was initially going to do both jobs for three years. The board, with the full knowledge and approval of the shareholders, asked me to do an extra year, so that we did not go through a disruptive succession process before the new team that I had recruited had had a chance to settle in and show what they could do. In the event, because of the timetable for various huge strategic decisions that we were going to have to make as a company, I went to the board and said, “I think we should bring this succession process forward”, and that is how it came to be brought forward.

Q1803 Chairman: Then your intention was to become the non-executive Chairman, was it not?  
Mr Grade: That was certainly the intention at the outset. I do not think that will work now. I think that probably I have to move on and leave a clean sheet for a new team to come in.

Q1804 Chairman: Because one of the people who might have become the Chief Executive apparently made it a condition that he would have a great say in who was the Chairman, reversing the normal roles in these things.  
Mr Grade: The process is being run by the non-executive directors of the company under the senior independent director. I am not part of that process; I am not part of the conversations that may or may not go on with prospective candidates. If the nominations committee wants me to meet candidates in order that I can brief them and give them a deeper understanding of the issues and so on, I obviously do that, but I am not part of the appointments process.

Q1805 Chairman: And you are leaving with no hard feelings?  
Mr Grade: Not at all. I feel that I will be leaving on the basis that the business, provided we get a recovery, is in exceptionally good operational health on every front, in terms of audiences, in terms of advertisers’ support, in terms of our content creation—our content business is booming, particularly in the United States; we are moving forward with some great plans online. I think that we are in very good shape to take full advantage of the advertising recovery. The biggest agenda item for me for the last three years has been the regulatory issues, which are stifling the ability of ITV to grow.

Q1806 Chairman: We will certainly come on to those. When exactly do you leave?  
Mr Grade: I will leave when a new Chairman is identified and actually in post.

Q1807 Chairman: It sounds to me, from reading the press on the negotiations that are taking place, that may be some time.  
Mr Grade: It will take however long it takes to identify the right candidate and secure the right candidate.

Q1808 Chairman: Are you surprised it is taking—  
Mr Grade: No. What surprises me is the extent to which this is being played out in the public arena, which is unfortunate. We are certainly not short of advice from our colleagues in the Fourth Estate. I have to say, coming in to work each day as I do, I feel as if I am inhabiting a parallel universe. There is the ITV business, which is going extremely well—and certainly the markets were very pleased with our statements yesterday and the work that we have done to manage this business through, I repeat, the worst recession in the history of ITV. Operationally, the business is booming. We have never had bigger audiences for years. ITV even has a comedy hit in Benidorm, which has not happened since Mafeking was relieved!

Q1809 Chairman: So why is there so much difficulty in finding a Chairman?  
Mr Grade: There is not. In all companies, in any succession process, you go through all kinds of ups and downs in the process; people change their minds; we change their minds; something goes wrong. This is no different to anybody’s process. What is different
is that there is a sort of round-by-round commentary going on in the media, because the media, as I am sure this Committee will not need me to tell it, is utterly self-obsessed. We get more ink than we should get really, but that is a fact of life.

**Q1810 Chairman:** Whose fault is that?

**Mr Grade:** Nobody’s fault. It is just a fact of life. Fortunately, the most important thing for us is that all this febrile speculation, upon hypothesis upon rumour, presented as fact, that one reads every day in the newspaper, is passing our viewers by as a non-event; because 15 million of them are turning up at the weekends to watch ITV.

**Q1811 Chairman:** So all those stories about ITV being in crisis—and I have numerous cuttings, which doubtless you have seen—you would deny that?

**Mr Grade:** The business certainly is not in crisis by any stretch of the imagination. The business is performing operationally as well as it has performed for many, many years. By any KPI, by any key performance indicator, this is a business that is being managed extremely well by the team I recruited.

**Q1812 Chairman:** So you see a future for ITV as the company it now is?

**Mr Grade:** If ITV is left to run as a business, then it will be very successful. By “successful” I mean it will attract viewers; it will attract advertising revenues; and, most important, will be able to show a return for its shareholders, which it cannot do at the moment because of all the issues that you understand well—about the value of our licences and the regulatory constraints that are put upon us.

**Q1813 Chairman:** When it comes to it, you are really standing by this evidence? I ask this because the evidence you sent in is dated 27 March, but basically you are saying that that evidence is still very much up to date.

**Mr Grade:** I think it pretty much is. There are some subsequent publications by Ofcom and the *Digital Britain* report, which have put dates and sums of money and verified a lot of the things that we have said; so, by and large, yes, My Lord Chairman.

**Q1814 Chairman:** One factual question. I am not asking you to comment on a market position or what might or might not happen, but could you confirm one point as a matter of fact? Since the Communications Act 2003, ITV can now actually be taken over by an American company, although there are no reciprocal arrangements for ITV to do the same in the United States.

**Mr Grade:** I believe that the statutes allow that, yes.

**Q1815 Lord Macdonald of Tradeston:** The Committee obviously has a particularly interest in the future of the programme production business in the United Kingdom. I wonder if you could look back over the last three years and tell us what the average spend was, and perhaps share with us what your business plan might be for, say, the three years ahead in terms of original content of production spend in the UK.

**Mr Grade:** I think as a whole, across all the ITV channels, we have probably spent an average—I will check this number and if my number is incorrect at this point we will write to you and give you a precise figure—I think we have spent around £750 million to £800 million a year on original production across all our channels: both our public service channel and our digital channels. That is being reduced at the moment because of the sudden reduction in the advertising revenue, and we will be saving about 15 to 20 per cent on our programme spend over the next two to three years, on an annualised basis.

**Q1816 Lord Macdonald of Tradeston:** Is that reduction influenced by what was your declared policy of taking work in-house and investing in UK production for sale abroad? Has that been bunched a bit in the last year or two and, if you are going, will it mean the production business will run down?

**Mr Grade:** It all depends on the state of the advertising market. Eighty per cent of our revenues comes from spot advertising. I could not tell you what December is going to be in terms of ad revenue. You tell me what the ad market is going to do over the next three years and I will tell you what we can afford to spend on programming. It is a simple equation. We have the three to five year plan, but obviously that is subject always to the vicissitudes of the advertising market.

**Q1817 Lord Macdonald of Tradeston:** What about the split between your investment and programmes for ITV1 and the investment being made in the other portfolio channels that ITV is investing in?

**Mr Grade:** We have increased investment in ITV2. ITV3 is essentially an archive channel which runs narrative drama from our archives and from recent offerings on ITV1. ITV4 has a lot of original commissions, some sport, some movies and so on; but, compared to what we spend on ITV1, it is a much smaller proportion. I think we increased our spend on the digital channels by £20 million last year, and that has paid off because those three digital channels are one of the great success stories of ITV in the last few years. They are growing at a considerable rate.
Q1818 Lord Maxton: You describe this as UK content, but at the present time some of that content is not available to people using terrestrial television in Scotland. I wonder if you could update us on the dispute you are having with STV and the threat that this might pose to STV in Scotland.

Mr Grade: There were two issues in that question. Perhaps I may separate them, because they are not really related. We have a commercial dispute with STV, which is extremely regrettable. We are shareholders in STV and we are also partners with them in the ITV network. You do not like to sue your partners, but we have a fiduciary responsibility to our shareholders. If we think people owe us money, we cannot treat them any differently from how we would any trade debtor. We therefore have to pursue that, which is a great shame. We tried everything to reach a settlement with them but we were unable to. The other issue is that STV, for different publicly stated reasons, has been denying Scottish viewers some of the best programmes on ITV—Doc Martin—

Q1819 Lord Maxton: The Bill?

Mr Grade: The Bill and a number of others. I am desperately sorry for Scottish viewers, who expect to see the full panoply of ITV schedule on STV. I think that originally STV were on record as saying that they wanted to make STV more reflective of Scottish culture and Scottish creativity; but, looking at how they have replaced some of the ITV shows with American cartoons and other things, I think that they have finally had to say that it is for economic reasons. I think it is a great shame and I am really sorry for Scottish viewers. We do everything we can to make those programmes available on our digital channels, to make sure that Scottish viewers are not denied access to some of the best programmes on British television.

Q1820 Lord Maxton: Negotiations are continuing?

Mr Grade: There is a review by Ofcom presently of what we call the networking arrangements, which is what governs our relationship with the two licences in Scotland, with Ulster and with Channel television. That is being reviewed by Ofcom and hopefully we will find a way through this. It is clear, however, that the old federal system, of which this is the last remnants—these networking arrangements between the consolidated ITV and what we call the non-consolidated licences, Scottish, Ulster and Channel—is a system that is now in deep disrepair and needs fixing. It is not difficult to fix; it should just be fixed on the basis of a business/commercial arrangement between us all.

Q1821 Baroness McIntosh of Hudnall: Mr Grade, could we go back to the question about how the quantum of spend on UK-originated programming is divided up as between types of programming? You have talked about an investment of upwards of £800 million, although you say that it is likely to be scaled back by quite a significant amount.

Mr Grade: It is being scaled back.

Q1822 Baroness McIntosh of Hudnall: It is being scaled back, so we will be talking more around £700 million—

Mr Grade: We will give you the exact figure. I am rather nervous about giving guesswork.

Q1823 Baroness McIntosh of Hudnall: I understand, but the implication of that is there will be some cuts.

Mr Grade: Yes. No question.

Q1824 Baroness McIntosh of Hudnall: In your evidence you talk about the contribution that ITV makes, and I am quoting now. “ITV1 makes a vital contribution to reflecting and strengthening the UK’s cultural identity, bringing a substantial part of the UK together. For example, the X Factor and Britain’s Got Talent finals were the two most watched Saturday night shows in 2008 on any channel”—which is great and an achievement not to be overlooked. However, it would be open to us to imagine that, of that £700 million or £800 million that you are spending, it is not evenly shared out between different genres of programming; that a lot of it probably is being spent on the things which will attract or have been proved to attract high audiences; and that some things, which are either or both too expensive and do not attract high audiences, will slip away. In terms of cultural identity, however, they may well be very significant. I am talking about original drama and I am also talking about children’s programming, from which I know you have largely retreated except in very limited circumstances. Can you talk to us a bit about how you see the portfolio of programme type within ITV in the future and what responsibility you think ITV still has to some of those significant but perhaps quite expensive forms of programming?

Mr Grade: First of all, ITV’s stock in trade, our business model, is based on high investment in high-quality programmes, UK-produced. That is what we do. There are no—presently and there have not been for some time—I think in my three years at ITV we have had one short American series in prime time; and if you go back to the so-called golden age of broadcasting, pre-digital, pre-Sky, the BBC1 schedules, the ITV1 schedules, were packed with American material. Hawaii Five-0, Kojak, Starsky and Hutch, Six Million Dollar Man, Dynasty, Dallas, et cetera—these were the lynchpins of the schedule. You do not see them on the main channels today,
because *Doc Martin, Benidorm, The Fixer, The Bill*—these are programmes that are more popular than American material. That is our stock in trade. We have a huge commitment, because our business depends on our ability to invest. Given the competitive nature of broadcasting today—where we face competition not just from Channel 4, Sky, Five, and the digital channels in terms of TV advertising, but we face huge competition from the internet and so on, who are trying to chip away at our revenue base—we have to be absolutely free to make the programme choices, the genre choices, the investment decisions that suit our business. We are no longer a monopoly: far from it. In the days when we were a monopoly it seemed to me perfectly proper for Parliament to decide that, in return for this monopoly, we should do certain good things, good works, but that age has passed; we are still left with remnants of it. We must be absolutely left free to run our business as a business, in order to protect the investment we make in British production. We cannot be told what programmes to make; nor should we be told who should make them; nor should we be told where to make them—which is the case at the moment.

Q1825 Baroness McIntosh of Hudnall: On the question of who makes them, for example, can you talk a little about your relationship with independent producers and what proportion of your spend goes out of house and what stays in-house in creating your programming?

Mr Grade: Our track record presently is that around 50 per cent of our original commissions go to the independent sector. We have a 25 per cent minimum quota. We have regulated terms of trade with suppliers, which seems to me to be an absolutely anomalous and iniquitous situation. However, we are very happy to do business with independents. The network is charged with getting the best programmes from whatever source, whether it is ITV Production’s share of the network, our own production business; their share of our ITV network commissions has been dropping over the last three years. It is an absolute meritocracy. What I find iniquitous is that we have regulated terms of trade with independent producers. We must be the only business in the world that pays 100 per cent for something and does not own it at the end of it.

Q1826 Baroness McIntosh of Hudnall: We may come on to that later, but can I ask you one other question about—

Mr Grade: I am happy to do so.

Q1827 Baroness McIntosh of Hudnall: I am sure. Some of the programming that you are creating, some of which is indeed extremely popular, is formatted; that is to say, it can be replicated elsewhere.

Mr Grade: Yes.

Q1828 Baroness McIntosh of Hudnall: As a matter of interest, can you tell us how much of that selling-on of format is done by ITV itself and how much is done through the independent companies who make the programmes?

Mr Grade: The fastest-growing segment of our business presently in revenue terms is our international production business. You may have seen in the cuttings recently that our team went to the United States and sold an American-formatted version of *Prime Suspect*. We have just co-produced with Americans a new version of *The Prisoner*—which you are all far too young to remember! Patrick McGoohan and the bouncing ball.

Q1829 Chairman: Speak for yourself!

Mr Grade: We have just re-made that. It is a fast-growing and a very important part of our business.

Q1830 Baroness McIntosh of Hudnall: Would it be fair to say that the things it is possible to do that with are on the whole of a more generic nature?

Mr Grade: You never know what is going to sell. The market changes very fast. If *Prime Suspect* is the hit I hope it will be and I think it will be in America, suddenly every American door will be open for British drama formats. The American market is very much fad-driven. As soon as you have a success in a certain genre, the doors are opened again. However, we are having great success with our international production business. I am very pleased about that.

Q1831 Lord King of Bridgwater: You have fairly said that it is not for somebody else to tell you how to share out the completely different genre that you produce. However, this is an inquiry into the British film and television industries, and you make plain in your submission the amount of UK content that there is in there. I can find no distinction in there between a quiz show and things like the *X Factor* moving up, when a lot of people may instinctively feel—we are talking about film and television and we are talking about UK content—that perhaps drama and that end of it is a more interesting area, in terms of developing British content. What actually is the proportion of UK content that you segregate out? I am not trying to tell you what it should be; what are you actually doing?

Mr Grade: I do not have the numbers in my head.

Q1832 Lord King of Bridgwater: Would I be right in thinking it is 75:25?

Mr Grade: I do not know.
Q1833 Lord King of Bridgwater: Is that wildly wrong?
Mr Grade: Seventy-five . . . ?

Q1834 Lord King of Bridgwater: Seventy-five per cent in what I call the quiz shows, the X Factor—
Mr Grade: Entertainment.

Q1835 Lord King of Bridgwater: In other words, non-drama. Popular shows—nothing wrong with that, but—
Mr Grade: I am not evading the question. I honestly have never looked at that as a segment, but we will certainly give you the answer.

Q1836 Lord King of Bridgwater: Let me put it another way round. You talked about probably reducing your budget this year to perhaps £600 million; possibly a cut of £150 million, if I have got it right, from the figures you gave. You said 15 to 20 per cent.
Mr Grade: It is over three years.

Q1837 Lord King of Bridgwater: It is an annual figure, is it not?
Mr Grade: Yes. It escalates up, because the shows that you see on the screen this year were committed a year or more ago, many of them; so it takes time to reach that target, for that to unwind.

Q1838 Lord King of Bridgwater: So how much do you think you are actually putting into drama and film?
Mr Grade: We do not make movies; we do not invest in movies. For historic reasons we did have an investment in the movie The Queen, which the Granada unit produced. We have reduced our drama output, under the current economic hardships, from eight hours a week of original drama to seven hours. This has been portrayed as the end of drama as we know it. The fact is that there has been more original drama in the ITV schedule this autumn, from Wuthering Heights to The Fixer to Benidorm to Doc Martin, et cetera. So we have reduced drama by one hour a week, of origination.

Q1839 Lord King of Bridgwater: Can I repeat the question? You gave us a figure of £750 million to £800 million, coming down by 15 to 20 per cent, and that is UK-produced content. How much of that is drama?
Mr Grade: Can I consult colleagues to see if anyone has the number in their head? Drama in 2008, we spent 50 per cent of our total programme budget on drama. In 2009, I think probably 47½ per cent.

Q1840 Lord King of Bridgwater: You mean about £400 million was spent on drama?
Mr Grade: No, because the total origination budget will include things that are not on my list, which includes regional news, regional programming and so on. I include that in the total of original spend.

Q1841 Lord King of Bridgwater: I do not want to trap you in any way. We are just trying to get a picture of what the ITV contribution is to the British film and television industries in terms of UK production—it is a commercial matter—in terms of the capacity of the UK to earn overseas and to be an asset in that way.
Mr Grade: Perhaps I can help you a little bit here. We will give you some greater detail but, looking at the figures that are in front of me, in 2009, on drama, entertainment and comedy, we will spend around half a billion pounds. That is excluding factual news, religion, arts, children, daytime and regional. I am sorry, but I am not used to looking at those figures in that way.

Q1842 Chairman: We might try to get all that agreed afterwards perhaps.
Mr Grade: Certainly.

Q1843 Chairman: You mentioned Wuthering Heights. I watched Wuthering Heights and I thought it was extremely good. Will Wuthering Heights cover its costs?
Mr Grade: No.

Q1844 Chairman: So you are doing it really as a service, are you?
Mr Grade: No. It will cover its costs and it will make a small profit. Will it get a proper return on the investment? Probably not.

Q1845 Chairman: So why are you doing it?
Mr Grade: Because you do not know that ahead of time. You think it will.

Q1846 Chairman: You actually thought that it would do better commercially?
Mr Grade: Yes. It is very possible—and I am not up to date on how well it is doing in the export market—I may well get a surprise and find that it has sold exceedingly well, because of the British reputation for producing series of that quality. We are the only country in the world that produces that kind of material and there is a good demand for it. We will have made a small amount of money on it, but we would not have got a proper return on the investment.

Q1847 Baroness Bonham-Carter of Yarnbury: I read an interesting article that, because of the popularity of Twilight and the fact that Wuthering Heights had
Mr Grade: I hope you are right.

**Q1848 Baroness Bonham-Carter of Yarnbury:** As a nurturer of talent in your career in television, I think we have got a sense that people out there are finding it difficult—new people, new talent are finding it difficult—to get their ideas onto the main channels. How easy is it for new talent or different ideas to find their way onto ITV?

Mr Grade: I think it has always been difficult for young talent to establish itself in the industry. I think it was more difficult in the old days, when every broadcaster had its own captive production industry, production factory, and relied 100 per cent for its programmes on its own producers. It was incredibly difficult. The way through that was that people became freelance. In the old days, you did not work for the BBC unless you were on the staff. Then when ITV came along, people decided that they would like to work for ITV and the BBC, so they became freelancers. That then developed into what is now a very successful and invaluable independent sector. So there are hundreds of sources of work for young people to get into. The points of entry have multiplied exponentially because of the advent of independent production. At the moment it is tough, because everybody is cutting back on production because the money is not there; so that does make it a bit harder. But as the purse strings are eased a bit, if we get a recovery, then so it will get easier to find work.

**Q1849 Baroness Bonham-Carter of Yarnbury:** And you do go looking for new talent?

Mr Grade: We certainly do, yes.

**Q1850 Chairman:** I want to move on to regulation, but could I just ask one question on what you were talking about—international sales of your programmes? Will it be of any assistance, if BBC Worldwide can give you help about—international sales of your programmes? Will it be of any assistance, can it be of any assistance, if BBC Worldwide can give you help in that area? Is there any virtue in the companies coming together to sell—

Mr Grade: We have looked at this from time to time. We have never found a model that creates value for our shareholders in such an arrangement. Would it be of any assistance, can it be of any assistance, if BBC Worldwide can give you help in that area? Is there any virtue in the companies coming together to sell—

Mr Grade: We have looked at this from time to time. We have never found a model that creates value for our shareholders in such an arrangement. Would it be of any assistance, can it be of any assistance, if BBC Worldwide can give you help in that area? Is there any virtue in the companies coming together to sell—

Mr Grade: We certainly do, yes.

**Q1851 Chairman:** Reading between the lines, or not even doing that, what is really standing in the way is the BBC?

Mr Grade: No, I would not characterise it in that way. They must look after the interests of the licence fee payers in doing the best deal that they can do, which would be proper. There is not really a model. BBC Worldwide is a very big distribution operation. Our business is smaller because we do not have the output that the BBC does. There is always a danger that, if you somehow fold into an organisation that is that much bigger than yours, your product gets lost; so you need all kinds of protections and so on. It is quite a complex and difficult thing. I would not lay any blame on the BBC on this.

**Q1852 Lord Macdonald of Tradeston:** There was a lot of talk about partnership between the BBC and ITV earlier, particularly in areas like regional news. However, my impression is that the benefits have been minimal for ITV. Is that right?

Mr Grade: I think that “minimal” is an exaggeration, given where they started. The Director-General was on record as saying that the value of these partnerships was something between £100 million and £120 million. After six months of negotiation with them on sharing regional news facilities—not editorial but below-the-line hardware, facilities, maintenance, trucks, kit and so on—we got to a point where it might possibly be worth £65 million by 2016; but in the meantime we would have to record the news and run it outside of peak time. It was just a non-starter. It was very unfortunate that they came out with that £100 million figure to begin with; it kind of set up an expectation, which was not sustainable as a result of the negotiations. I thought it was unfortunate.

**Q1853 Chairman:** On present plans, therefore, ITV regional news is going to go, unless some new initiative can be brought forward?

Mr Grade: We are very mindful of the fact that we operate under licences. All the different regions operate under licences from Ofcom until the end of 2014, and we are not in the business of not meeting those commitments. It is clear from what Digital Britain, Ofcom and indeed this Committee have said that there is a serious issue for ITV in the provision of regional news. We can no longer afford it. Ofcom now says, pretty definitively, that our licences go negative—that is to say, the costs and benefits of our licences go negative—in 2011. There are two big pieces in that deficit. One is the subsidies to Scottish and Ulster; the second is our provision of regional
news on the present basis. We can no longer sustain that. That is why we made the offer, if the policymakers could find some other pot of money to pay for it, to make the airtime available. Clearly, in terms of democratic value, it is important that there is equivalent reach as well as quality in the provision of regional news; that the BBC should not have a monopoly of regional news—which I am sure the BBC itself does not want.

Chairman: Let us move on to regulation.

Q1854 Lord Inglewood: I would first like to ask a rather general question. You have already referred to the regulatory burden on ITV and, in the evidence we have had from you, you have spelt out the details of the legacy regulations to which you are subject. If nothing is done and the world proceeds as it is now, what will the consequence be for you?

Mr Grade: A spiral of decline in investment. That is all you can do.

Q1855 Lord Inglewood: Which will lead you where in 2014?

Mr Grade: Hopefully, with our ingenuity and creativity, we would still manage to be ahead of Channel 4 and Five, but it would start to look like a very close race between the three commercial PSB networks. I think we would have very great difficulty sustaining our level of investment in production.

Q1856 Lord Inglewood: So the business would be degraded, the offering to the public would be degraded, you would not be the company you are today.

Mr Grade: The public interest in ITV is in our ability to compete with Sky and the BBC. The last figure I saw was about £1.3 billion spent on BBC1. We have to compete with that. Our model, as presently regulated, is not sustainable. It is absolutely not sustainable. You would end up with Sky and the BBC as two giant players and a lot of struggling commercial broadcasters. Unfortunately, in the competition regulatory field there appears to be no longer any public interest test for the Competition Commission. The Competition Commission acts absolutely correctly, honourably, and with the greatest integrity within the remit contained in its statute, but that statute no longer requires it to look at the public interest. For example, the issues that we have had with the Competition Commission—and one is ongoing over the advertising remedy. Take Kangaroo, for example, which was the working title for a proposed venture between the BBC, Channel 4 and ITV, to put all our catch-up content and archive onto a single portal on the internet, after the free window for the BBC to meet its public service obligations—the Competition Commission turned that down. I guarantee this Committee that the net result of that Competition Commission decision—which in their own terms I am sure was the correct decision from the way they look at it—will be that the Americans will take the lion’s share of the internet value in our content in this country very soon. It was an absolutely horrible example of where the remit for the CC—and I am in no way criticising the CC here, but it is their remit—does not allow for the public interest to be taken account of. It is a serious issue going forward in broadcasting, and I would be very happy, offline perhaps, to give the Committee further thoughts on that. If we may, we would like to submit a paper, because this is a very, very serious issue.

Q1857 Chairman: Is it too late to reverse that?

Mr Grade: I do not think it can be reversed. We could have appealed to the Competition Appeals Tribunal. We took the view that, with the time that would take, we had better get on with our lives. Getting a position on the internet is so important to us all that we could not hang around for nine months or a year, with an uncertain outcome. It is such a fast-developing, fast-moving market, we had to make other plans. Inevitably, those other plans will include Americans. You will find that the Americans will be here, taking money out of the creative industries because of a decision of the Competition Commission—a decision that in their terms, in terms of their statutory responsibilities, was perfectly proper and correct, but it is a deep flaw in the legislation that there is no longer a public interest test in cases like this.

Q1858 Lord Macdonald of Tradeston: Which American companies might take the money out?

Mr Grade: The obvious ones are Google, and I am sure that Hulu are looking to come into the UK—which is a combination of Disney, Universal, NBC and Fox. They have done it in the States. Hulu is very successful in the States; it is overtaking Google. They are looking to launch here in the UK. The usual suspects have all the content, so we will probably all have to do business with them. I do not know. But inevitably, as a result of that, none of that money that goes to America will get reinvested in the UK.

Q1859 Chairman: Perhaps you could send us further information on that. We have taken evidence on that in passing before, but we would be very interested to see the detail.

Mr Grade: I cannot overemphasise the importance of that issue for the creative industries in the UK.

Q1860 Chairman: You might like to think at the same time about whether, even at this late stage, there is anything that can be done.

Mr Grade: Thank you, My Lord Chairman.
Q1861 Lord Inglewood: I will focus on two specifics: first, contract right renewal and, secondly, the terms of trade debate. As far as CRR is concerned, I think we know how it works but it would be helpful if you could describe it in a couple of sentences.

Mr Grade: Do you mind if I do that first?

Q1862 Lord Inglewood: No.

Mr Grade: The contract rights renewal, which is what CRR stands for, was a remedy that was agreed at the time of the merger of Carlton and Granada. It was deemed at the time that the merger would represent a lessening of competition in the advertising market and that a remedy was required, and the CRR mechanism was agreed; indeed, it was suggested by ITV. What the remedy does, in effect, is give any advertiser who had a deal—any agency, because the way that air time is traded is on share of agency spend, the agencies who buy the air time for their clients, the advertisers—anybody who had a deal in 2003 with ITV had the right to renew that deal under CRR every year.

Q1863 Lord Inglewood: Forever?

Mr Grade: Forever. For example, the arguments in 2002 were—I am making this up completely—let us say you were Unilever, and you said to me, “We’re going to spend £50 million on television next year. What volume discount do I get?” and again I am making up numbers, I say, “If you’re going to spend £50 million, I’ll give you 10 per cent discount”. We shake hands and that is a deal. In comes CRR. In subsequent years you reduce your spend to £10 million or £5 million and you are still getting a 10 per cent discount; so the thing has ratcheted down the ITV revenues. In addition to that, nobody foresaw the enthusiasm and speed with which audiences would take up digital multi-channel. Digital has moved so fast. We are now at 90 per cent digital penetration multi-channel. That means the supply of air time for sale has grown exponentially. No matter how well we do as a network we cannot keep pace with the overall growth in supply. Embedded into the CRR mechanism—and here we are getting quite technical—is a thing called the SOCI ratchet, which is the share of commercial impacts, total commercial impacts. That universe of impacts has been growing and growing, so our share has gone down. As our share of commercial impacts goes down, so the price that advertisers are paying is less and less to get the same each year, because of the SOCI ratchet. It is a mechanism that has nasty side effects; it means we have to chase volume rather than quality of audiences all round the schedule, all times of day and night, irrespective of their intrinsic commercial value. It is a nightmare.

Q1864 Lord Inglewood: So what you are basically saying is that you would like it scrapped and let the market work?

Mr Grade: Yes, of course we would. We think, and we have made this case, and it has been published to the Competition Commission, that ITV is eminently substitutable now, because of the sheer volume of impacts that are available in the market. You do not have to have ITV on your schedule any more if you are an advertiser. We think we are substitutable and, as such, we think that this is a disproportionate remedy. That debate is going on now with the CC, as a result of their provisional findings. We are in conversations with them; they will be taking further evidence; we go through the process—but it is not helping our business.

Q1865 Lord Inglewood: Perhaps we can turn to review the terms of trade. You have touched on this. Again, what do you want to see happen here to protect your interests?

Mr Grade: I cannot see any reason to have regulated terms of trade with suppliers. No other sectors in this country, other than perhaps where there is a genuine monopoly, are there regulated terms of trade between a buyer and a seller. I do not think that Tesco, who have a considerable market position, have terms of trade with the people who supply them with root vegetables.

Q1866 Lord Inglewood: As a dairy farmer, I can assure you that we feel very strongly about this sort of issue.

Mr Grade: Through My Lord Chairman, would you care to have regulated terms of trade in your dealings with Tesco?

Lord Inglewood: If they were prepared to pay a bit more, I would bite their hand off!

Q1867 Chairman: At this point you are declaring an interest I think, are you not, Lord Inglewood?

Mr Grade: It is a nonsense that there are regulated terms of trade between two commercial organisations. If you are an independent producer, you have plenty of places you can sell your wares to. It should be a free market discussion, free market negotiation, and—

Q1868 Lord Inglewood: You do not think that there is a disproportion in the bargaining strength of the two sides?

Mr Grade: Yes, there is. There is a huge disproportion and the disproportion is now weighted so heavily in favour of the independent producers that we cannot get a return on our investment. I notice that PACT, giving evidence recently, said that they share the risk.
Yes, they do share the risk. PACT quoted £190 million of investment that independent producers make in original production. That is seven per cent of the total, for which they get an 85 per cent return of the upside. Not a bad deal if you can get it, and it is a completely distorted market now as a result of regulation.

Q1869 Baroness McIntosh of Hudnall: I did not want to let your observation, that there are many places that independent producers can take their offer, go by without asking you whether you really believe that is true. In terms of developing product that will be seen by a large audience, there is a relatively small number of places to which an independent producer can go. Is that not so?

Mr Grade: Regulated terms of trade grew out of the monopoly that Channel 4 had when it was born. Channel 4 was the first broadcaster in this country to be a publisher/broadcaster and was the monopoly buyer. At that time ITV did not buy from independent producers and the BBC certainly did not buy from independent producers. They therefore had a monopoly of purchasing power over the independent producers. It was deemed at that time, quite rightly, that there should be terms of trade. The independent production sector is very smart politically and they have parleyed that into terms of trade. They now have 25 per cent quota; they have quotas and terms of trade. This is market insanity. It is a nonsense. It is complete and utter nonsense. It is iniquitous—though I do not feel strongly about it, My Lord Chairman!

Chairman: I think that we have probably got the point!

Q1870 Baroness Howe of Idlicote: It is a fairly grim picture that you are painting. I seem to have read somewhere that the advertising side has actually had a bit of an up flip recently.

Mr Grade: I would not call minus-three, which was greeted by the market as good news yesterday, as an up flip really.

Q1871 Baroness Howe of Idlicote: Obviously it has now gone the other way, but I did read something about it. Just thinking of another area which is now being talked about, the previous Secretary of State seemed to have been very anti product placement, but this one clearly made his views known at the Royal Television Society’s do. How much difference would this make? I know that you rather favour this area. Are we talking significant sums that could make a difference?

Mr Grade: The truth is nobody knows. We have the experience in the United States, which is a very under-regulated and far less regulated regime, where I have seen estimates of five per cent of the total of revenue is from product placement; I have seen that as high as eight per cent. The rules are very lax there. I suspect that we will end up with tighter rules governing it. I take the view that, whatever amount, it will be incremental revenue. It will do two things. If it enables us to create more original programming, even if it adds up to one more 13-part UK drama series a year—it will be more than that, but if it does that—it is a hugely important step forward. Secondly, it enables us to compete a little more effectively with the complete unregulated Wild West that is the internet. It is as simple as that really. It will be a help. Advertisers will welcome it; it will make television more efficient and more effective for advertisers, which can only be good for business at the end of the day.

Q1872 Baroness Howe of Idlicote: And good on the internet too?

Mr Grade: Yes. There is nothing to stop you doing it on the internet now but, in any event, I am sure it will not have escaped this Committee. Product placement is all over our screens now. Any American film or series that you watch is full of product placement. You only have to look at the James Bond film, it is full of product placement—undisclosed, I hasten to add. It did seem to me an odd position for the previous Secretary of State to have taken, and he and I had a good debate over this issue, as you could imagine.

Q1873 Baroness Howe of Idlicote: If you were looking at the programming you are doing now, and you are saying that it would perhaps produce enough to make one good series as it were, could you put an actual figure on the amount?

Mr Grade: We do not know. It will grow slowly to begin with, as advertisers learn how to use it effectively. We certainly do not want to upset viewers. One of the other advantages, of course, is that scenes will start to look more real. Rather than having made-up products on the breakfast table in Coronation Street or in The Cabin in Coronation Street—these made-up brands with the tins all turned round, it is all completely unreal and a sort of make-believe world—it will make our dramas more realistic.

Q1874 Baroness Howe of Idlicote: Though presumably not, if you have to give too much space to describing the actual product?

Mr Grade: There is a separate rule about undue prominence—the undue prominence clause in the producers’ code. Ofcom’s statutory code prevents you from doing that anyway. To be honest, with this
product placement argument, at the end of the day, if we get it wrong, viewers will switch off. They will resent it; they will stop watching the show. The viewers are perfectly capable of deciding that they are prepared to watch a James Bond film, they are prepared to watch *Desperate Housewives*, *Lost*, 24, any of the American shows, full of product placement, and I have not noticed any civil unrest in the country as a result. This is a case where viewers, who have more choice than they have ever had before, are more than capable of switching off; so the market will actually determine what is acceptable and what is not acceptable, and we do not need any more regulation.

**Q1875 Baroness Scott of Needham Market:** You have just said that the last thing you want is any more regulation, and you also said earlier “We can’t be told what to make and who should make it”, but if you are a UK policymaker you are probably pretty concerned about the predictions that children’s programming, original drama, factual programmes, will all decrease in future years. If you were given the proposition, “We will relax some of these other, more onerous obligations, in effect in return for a quota on some of these other genres that are under threat”, how would you respond?

**Mr Grade:** The logic of that position is, “We will give you a pound back for that but we will want you to spend a pound”. It does not add up. There is £3.6 billion of public intervention in the broadcasting market of this country, called the BBC. Channel 4 has a hidden subsidy. It has no cost of capital; it has no shareholders to pay; it does not pay for spectrum; so there is a hidden subsidy at Channel 4. We make a huge contribution as a nation, willingly, into the broadcasting sector. It is the job of the public sector to meet these objectives not the private sector, which can no longer afford to do it.

**Q1876 Baroness Scott of Needham Market:** Your view then is that ITV, if necessary, could just withdraw from those areas if it felt that it was not commercially viable?

**Mr Grade:** We will deliver in cash or kind the exact value of Ofcom places on our licences. If Ofcom says our licences are worth £30 million a year, we will give the nation £30 million of value in cash or kind. Not a penny more, not a penny less. It is a simple equation. Costs and benefits of the ITV licences have to be brought into line. Otherwise we do not have a sustainable business model. If you want us to spend £30 million on children’s programmes in return for that, then we will not do regional news, we will not do national news; lots of things that we would not do. These are all choices. You tell us what you want us to do in return for the value of the licences and we will do it, but not more than that.

**Q1877 Baroness Scott of Needham Market:** Moving on to another aspect of regulation, the UK production quotas, you are currently exceeding by quite a margin that which is required of you. Is it cheaper to buy programmes from abroad and is that therefore an option to you, so that you could still remain within your quota but do that, or is there an issue about the quality of what is available?

**Mr Grade:** It is not about the quality. I would be hard-pressed personally, after 60 years of viewing television, to find a show the equal of *Mad Men*, which gets 200,000 viewers on BBC4. It is probably one of the finest television shows I have ever seen. It is up there with the greatest shows I have ever seen. It has very limited appeal. Because it has limited appeal does not mean that it is not high quality; it is extremely high quality. There are two issues. The first is the appeal of American shows. We find that *Doc Martin*, *The Bill*, these shows, do better for us than the American shows. They have a much greater appeal for the British audiences and we are pleased about that. The second is economics. Yes, you can buy a first series of an American show. If you say the average cost of drama is about £650,000 to £700,000 an hour, you could probably buy a new series on the basis of the pilot that you see in America for around $250,000—I am sorry to confuse the currency here. But, as we have seen with *Lost* and 24, once they are established on the terrestrial network, you only have a one or two-year contract with the distributor. If the show is a hit, then it is a free-for-all. Sky paid £1 million, or so it is reported, for 24 and *Lost*; Channel 4, in order to keep *Desperate Housewives*, had to start paying £1 million an episode. So actually the economics do not work like they used to. It was a wonderful cartel we used to operate in the old days, where we would all work together—and I am sure that Lord Macdonald will remember those days—we would all work together—and I am sure that Lord Macdonald will remember those days—we would all go to America, carve it all up, and we would pay $10,000 or $15,000 an hour for *Hawaii Five-0*; there would be a gentlemen’s agreement that nobody would bid for the other shows, and that was the market. You would put *Hawaii Five-0* in prime time, which would enable you to make *Brideshead Revisited* or *Upstairs, Downstairs*, because they were more expensive. That is how the economy worked. It does not work like that any more. If we get the same audience for an American show at $250,000 that we can get for *Kingdom*, *Doc Martin*, *Whitechapel* and all the shows that we make, we would have to think about it; but at the moment those shows do not command the appeal that a British production does.

**Q1878 Baroness Bonham-Carter of Yarnbury:** Can I move on to the matter of training, because obviously the future of British content is dependent on a continuing flow of talent. Perhaps I could roll two questions into one. What investment does ITV make...
Mr Grade: With great regret, with great reluctance. I have been a huge supporter of Skillset from the beginning.

Q1879 Baroness Bonham-Carter of Yarnbury: So it was a financial decision?
Mr Grade: A purely financial decision. We have exceptionally limited resources at the moment because of the economy and the collapse in advertising, worsened by the regulatory regime. We have made the decision that whatever resources we have need to spend on internal training and development of our own people first. Those resources are also needed, sadly, to benefit people who have been made redundant in ITV over the last few years, preparing them for finding their next jobs and so on. That has been where we have had to put the resources. We have had to cut the investment. It is not in our long-term interests for there to be an even greater skill shortage in the sector, not in our interests at all, and we have to get back to our previous levels of investment as fast as we can—as fast as the economy will allow.

Q1880 Baroness Bonham-Carter of Yarnbury: It seems to me to be an extraordinary decision to cut funding into training people for the future. We have been hearing from so many people that there is a real skill shortage.
Mr Grade: Sadly, when you lose 15 per cent of your revenue overnight, you have to make some very fast, short-term decisions. You do not want to make them but you have to; you have no choice.

Q1881 Chairman: We have had a number of comments from people as we have gone round that the universities are not producing the kind of people, the trained people, who would be fit to work almost straightaway in television or films. Is that an experience you have or not?
Mr Grade: Not at all, My Lord Chairman. There are no barriers to entry in this business. You do not have to have a university education, as I will be testament to. There are no barriers to entry—

Q1882 Chairman: It was not the barrier to entry; it was really the skills that they have to get in.
Mr Grade: I understand. People with flair, talent and determination will always get into the industry. There are lots of entry points. I think the idea that any single academy will train all the people ready for work that you want is a nonsense. A lot of people fall by the wayside because they do not have enough talent, no matter what their training; they do not have the flair; they do not have the drive sometimes—they give up very easily. I always think that getting into television is like being an actor: it is very hard. The ones who make it are the ones who are so determined to make it that they do not take no for an answer, and they might get a hundred rejections before they actually get in.

Q1883 Bishop of Manchester: In your written evidence you said that ITV “has the highest proportion of original content spend of any public service broadcaster outside the M25 (concentrated particularly in the north of England)”. What are the current plans of ITV for the site in the City of Manchester?
Mr Grade: We have, pre the crash, a very valuable site in Manchester at Quay Street, where we produce Coronation Street. We have studios and do a lot of things there. The development at Salford is an exciting development, but it is one that, as yet, makes no economic sense to us. If it made economic sense, we would be happy to go there; but we just cannot make the numbers work at present.

Q1884 Bishop of Manchester: I did hear at Media City the other day it being said, “Once we are up and running and ITV see the quality that is offered here, they will be coming over from Manchester to Salford”. The other aspect, which is not irrelevant to where we have just been a moment ago, is of course the training aspects, which the University of Salford in particular is setting up there. Would you not want to be in with all that?
Mr Grade: I think the vision at Salford is very exciting. In a way it is a bit like Canary Wharf: the vision is fantastic; it will take a time for it to get itself into a shape where it is economic. I was certainly part of the decision at the BBC to go to Salford. I do not think it is an issue of quality. I have no doubt the facilities will be first-class. I have no doubt that they will find someone who will know how to run the studios and so on. It is purely economics for us. If we are moving Coronation Street, there is a £20 million or £30 million bill for moving—because you rebuild the sets, the whole thing has to be rebuilt, the studios, et cetera. At the moment it does not make any kind of economic sense to us. We are still open to it and I have regular conversations with the people at Salford, but it just does not make economic sense to us at the moment.

Q1885 Bishop of Manchester: Would you have any contact with the training facilities that are going to be there or will you have some of your own in the Manchester site?
Mr Grade: I am sure we are plugged in. I know we certainly are in Yorkshire, to a lot of the training initiatives going on in Yorkshire. I do not know for a
fact about the North West and Manchester, but I would be very surprised if those initiatives are not mirrored in Manchester, because essentially it is the same people running those.

Q1886 Baroness Eccles of Moulton: Mr Grade, I have two quick questions which have a link but they are not really closely related and then Lady McIntosh has another one, though I think we are running out of time. The first one is about film tax credits and whether you would support the extension of them. If they were extended, would this make a significant difference to the level of UK content produced by all four ITV channels? I will ask you the other question at the same time. That is, whether the skills or the range of skills needed for television and film vary very much, and whether the UK industry is fully exploiting the synergies between the film and television industries or whether much more could be done in this direction.

Mr Grade: As far as film tax credits are concerned, obviously we would welcome anything that helped us to create more production; but we have been there before and there was considerable abuse of the system previously. I think it was the sale and leaseback scheme. There were rumours that some companies were doing sale and leasebacks on the weather forecast. I am not quite sure how that worked, but that was the rumour at the time, and that was closed down. I also think that, in these economic times, it would be hard to see that this was a high priority for the Treasury, given the difficulties they face in the demands on the public purse going forward. Would we welcome it? We certainly would. Would it make a big difference? It certainly would. However, I would not want to pin my future strategy on tax credits for TV production, much as we would welcome it. On your second point, I think it depends on the interchangeability of skills between film and television. It depends on the job. Directors can move easily; writers move easily; actors move easily. As you go through the different levels of skills, some are interchangeable and some are not. I think it is unlikely that a lighting director would move easily from film to television. Television is essentially lit from the ceiling; films are lit from the floor. I am oversimplifying a technical point. Film is single-camera; most television is multi-camera. You tell me what the job is and I will tell you whether it is interchangeable. However, one great thing about the UK, which you do not get in America—and I have worked in Hollywood—is that there is a real prejudice in America. If you work in film you work in film, and you turn your nose up at working in television. There is almost a Berlin Wall between film and television. That does not exist here. If it is applicable, people do not feel that if they have made a film last week they must keep it very quiet, or change their name if they are going to work in television next week. It does not work that way. There is almost a Berlin Wall there is a real prejudice in America. If you work in film America—and I have worked in Hollywood—is that great thing about the UK, which you do not get in America—and I have worked in Hollywood. However, one great thing about the UK, which you do not get in America—and I have worked in Hollywood—is that there is a real prejudice in America. If you work in film you work in film, and you turn your nose up at working in television. There is almost a Berlin Wall between film and television. That does not exist here. If it is applicable, people do not feel that if they have made a film last week they must keep it very quiet, or change their name if they are going to work in television next week. It does not work that way. There is almost a Berlin Wall there is a real prejudice in America. If you work in film America—and I have worked in Hollywood—is that great thing about the UK, which you do not get in America—and I have worked in Hollywood. However, one great thing about the UK, which you do not get in America—and I have worked in Hollywood—is that there is a real prejudice in America. If you work in film you work in film, and you turn your nose up at working in television. There is almost a Berlin Wall between film and television. That does not exist here. If it is applicable, people do not feel that if they have made a film last week they must keep it very quiet, or change their name if they are going to work in television next week. It does not work that way. There

Q1887 Baroness McIntosh of Hudnall: Can we take advantage of your being here to ask you a question that is more about your Pinewood connection than your ITV connection? It is to do with tax credit. Whether or not it will be possible or even advantageous to extend the tax credit into television, there is an issue about whether the current tax credit regime is appropriate for the film industry. What we have encountered as we have been investigating this is a slight division between, I suppose, to put it very crudely, on the one hand the providers of facilities and, on the other, the producers. The producers are keen to revise the tax credit system so that producing outside the UK, using UK technicians, would be eligible for tax credit. You know this story. It appears that the facilities providers, of whom obviously Pinewood are the biggest and the most significant, are not so keen on that because they see it potentially as a threat to their own business. Given that you speak for Pinewood, I suppose I should not be surprised if you take that view; but could you give us a quick heads-up on that?

Mr Grade: I think it is very hard to justify using taxpayers’ money to be invested overseas. 

Q1888 Baroness McIntosh of Hudnall: Even when UK actors, directors, technicians, are in fact making the work?

Mr Grade: Yes, but you are using tax money to create economic activity in other countries. That is not the purpose of it. Public intervention in a market of this kind is to encourage spend in the UK. When an American film comes here to be produced in the UK, it is not just the actors and the technicians that do well: there are the laundries; the cab firms; the restaurants; the hotels; transport; catering. There are so many businesses that benefit, which ultimately benefits the Exchequer because they are all paying VAT, tax and so on. It is the economic activity around a film that is so important; and the actual, intrinsic spend, the tax credit, is a great stimulus. This is the argument that won the day with the Treasury. In the light of experience, they are able to calculate what the benefit is, what return the taxpayer is getting on that investment, which is the right way they should look at it. I cannot see how you can invest taxpayers’ money overseas and expect to get a return.

Q1889 Baroness McIntosh of Hudnall: Fair point. Would you have any further refinements that you would like to see from the point of view of the UK film industry in the tax credit system as it sits at present?

Mr Grade: I have not talked to the Chief Executive at Pinewood about this in any detail, so pace what Mr Dunleavy might be saying to you or has said to you, I think the regime that the Government has put in place
presently has been effective in making us competitive in the international market for attracting inward investment in the UK. I think it works. Let us not rewrite a hit, as they say in Hollywood. It is working.

**Q1890 Lord King of Bridgwater:** Piracy—does it have a big impact for you? Do you have views on what should be done? We hear horror stories about it.

*Mr Grade:* Our lifeblood is our intellectual property and we have to protect it. It is our copyright and the contributors—the authors, the writers, the creators—share in the upside. If there is a Wild West, free-for-all in copyright, it is the end of the creative industries in the UK. It is absolutely the end. You are unable then to monetise your content. People are stealing it. We have seen what has happened in the music business. We cannot let that happen. We have the advantage that we are free at the point of consumption to begin with, so piracy is less of an issue in television; but it is a serious issue.

**Q1891 Lord King of Bridgwater:** The interesting thing is that we have heard some people expressing exactly what you have said about the real threat that it poses; though apparently there is some academic paper that says it has not had much financial impact at all, and it has been grossly overrated.

*Mr Grade:* Do we have to wait until it does have an impact before we act?

**Q1892 Lord King of Bridgwater:** Absolutely. As you say, you are free anyway and so there is not a financial advantage in pirating in your sense. From your point of view; therefore, you do not think at the moment it has yet had major financial implications but you see that the threat could be very substantial.

*Mr Grade:* It is going to, yes. Streamed video on the web is quite a new phenomenon. It is a huge phenomenon. The traffic that BBC’s iPlayer and ITV.com are driving to the web is phenomenal, and that will be monetised. There will be those people who will try to steal our content and monetise it through advertising, subscription or whatever.

**Q1893 Lord King of Bridgwater:** And the remedy . . . ?

*Mr Grade:* More difficult. I think it is extremely difficult. There are, as memory serves, a number of legislative tweaks which would create a greater deterrent to those thinking about piracy. You will never stop it. They are shoplifting. It is built into the economies of a store that you will get X per cent of shoplifting every year; you are going to lose X amount of stock to people who put it under their raincoats and slip out. It is an inevitable part of life, sadly, that people steal things. However, I really believe piracy is one of the biggest threats to the creative industries in the UK, and you have to act early. I do not see how you can lose by acting early. All you are doing is stopping people stealing. That is basically what it is, and that must be a good thing in any democracy or any country which operates under the rule of law. Stopping people stealing seems to me to be quite an important, good thing to do. I cannot see any downside from imposing a regime which protects people who invest and own copyright and deters people from stealing it.

*Chairman:* Mr Grade, you have been extremely patient. We have gone on longer than the time that we warned you about. We may have other questions and there are a few things to pick up from the evidence, but thank you very much indeed for coming today and for giving the evidence in the way that you have.
Q1894 Chairman: Welcome and thank you very much for coming; we are very grateful. I want to begin with an issue which has come up a great deal in the evidence that has been given to this Committee and that is the issue of piracy. A whole range of people have expressed their concerns about it and a whole number of film-related organisations have expressed concern about enforcing protection of copyright and the growing threat from illegal file sharing and other forms of online piracy. What is the view of BSkyB on this?

Mr Wheeldon: As you know, we are both a significant investor and owner of content, as well as an internet service provider, so we look at this from both sides. There is no doubt that illegal file sharing, peer-to-peer file sharing, is a very significant problem for the content industries and, if nothing is done about it, it will impact the ability for the content industries to continue to invest and, in the end, content needs to be paid for. We take it very seriously. We are broadly supportive of the direction of travel that the Government are proposing to go in with their legislative consultation. Obviously, we are looking forward to seeing the precise detail in the Bill, but certainly we believe that matching obligations on ISPs to send letters, to collect data—

Q1895 Chairman: Before you go on to the detail, which we obviously will, how has it affected you financially?

Mr Wheeldon: As you know, we are both a significant investor and owner of content, as well as an internet service provider, so we look at this from both sides. There is no doubt that illegal file sharing, peer-to-peer file sharing, is a very significant problem for the content industries and, if nothing is done about it, it will impact the ability for the content industries to continue to invest and, in the end, content needs to be paid for. We take it very seriously. We are broadly supportive of the direction of travel that the Government are proposing to go in with their legislative consultation. Obviously, we are looking forward to seeing the precise detail in the Bill, but certainly we believe that matching obligations on ISPs to send letters, to collect data—

Q1896 Chairman: But you cannot put a figure on loss?

Mr Wheeldon: I think it is very difficult. There have been attempts to put a figure on loss and the BPI estimated £180 million for the music industry and I have seen figures of £150 million for movies and TV but, to be frank, I think it is very, very difficult and of course, knowing what is the net loss, because not every bit of piracy would have resulted in a financial transaction to buy the content, it is quite difficult.

Q1897 Chairman: Your general attitude was expressed quite forcefully by James Murdoch in his MacTaggart lecture and perhaps, as he said so many other things, this part of it did not quite get the attention that it perhaps deserved. He said, “We don’t even have the basics in place to protect creative work. Whether it is shoplifting at HMV or pirating the same movie online, theft is theft. They are both crimes and should be treated accordingly. The Government dithers, dimly aware of what it has to do but afraid to do it”. Is that a fair summing-up of the BSkyB position?

Mr Wheeldon: It has certainly taken quite a long time to get to where we have got to in respect of the Government proposing a legislative solution. I was involved in all of those MOU voluntary agreement discussions going back almost two years now and we do seem to have taken an awful long time to get to the point at which we have realised there is not going to be a solution here unless there is some kind of legal obligation on all parties to take action.

Q1898 Chairman: Why does Mr Murdoch say the Government “is dimly away of what it has to do”, okay, “but afraid to do it”? Why “afraid to do it”?

Mr Wheeldon: I am not going to comment on whether the Government are afraid or not, but I certainly think there is a sense that there could be a consumer backlash from those who have enjoyed that access to content for free. There is certainly a strong campaign by certain groups out there that believe that somehow it is a human right to have access to all this content without paying for it and that the internet somehow
changes the rules of the game. I have to say that I find that a slightly bizarre and illogical position to take.

Q1899 Chairman: What would be your solution? What would be your proposal? What would you do to counter piracy?
Mr Wheeldon: As an ISP, we want to take action but we also recognise, as an ISP, that it is very difficult for us to take action unilaterally. If one internet service provider does it, that does not solve the problem. We have a competitive market; it will just go to others.

Q1900 Chairman: And you might lose some custom.
Mr Wheeldon: Absolutely. We recognised that fact some time ago. We have always said that, if there is going to be a solution, it has to be a whole industry solution. If that cannot be achieved voluntarily, then there have to be obligations on ISPs to take action and obligations on rights owners to follow that action up.

Q1901 Chairman: Can it be achieved voluntarily?
Mr Wheeldon: No. I think we have come to that conclusion. We attempted to reach a voluntary agreement last summer and it was very clear that the ISPs and the content industry had very different motives and incentives behind this and that it was going to be pretty much impossible to achieve that. Ms Turner Laing: I think it is fair to say we are one of the only ISPs who are fully involved in the content provision business as well. We have a slightly different view on it than, say, Charlie Dunstone at TalkTalk.

Q1902 Chairman: As a generalisation, it would be the ISPs who would be opposed to action in this area. Mr Wheeldon: As a generalisation, that is probably true, yes.

Q1903 Chairman: The only people who can actually cut through this would be the Government.
Mr Wheeldon: Yes.

Q1904 Chairman: I mean legislation of some kind.
Mr Wheeldon: Yes.

Q1905 Lord Inglewood: One small point. You use the phrase “take action”. Is that a euphemism for “cut off”, as in cutting off the gas or cutting off the electricity? What exactly do you mean?
Mr Wheeldon: We certainly believe that, if all ISPs have an obligation to send letters to those they have identified as being potential infringers, that is identified by rights owners, that would have a significant effect. The fact that letters are being sent out to the account owner, not necessarily to the user, will draw attention within households to what is going on. If you can combine that with an effective sanctions regime with a threat of a consequence if this continues, which I think does—

Q1906 Lord Inglewood: What consequence?
Mr Wheeldon: I think that does require, in the first stage, rights owners being prepared to take the very worst offenders to court because, in the end, we do believe this is an illegal action and it should be prosecuted. If that does not work, then there are a range of technical measures which the Government have set out in their consultation which could be applied. The latest iteration certainly includes account suspension. We do not believe it is right to rule any of those in and any of those out right now. What you should do is go through a proper test to decide which are likely to work and which are going to be most proportionate. If you have done that test and if you have assessed whether the letter writing has worked or not, then it seems to be fair enough to decide that it may well be that one or two of these are the right sanctions to apply in certain circumstances. But there needs to be that provision and there also needs—and let us be clear about this—the right of appeal to customers. You cannot do this without that.

Q1907 Chairman: The Motion Picture Association take the view that the initial first and essential first stage in tackling this problem is an obligation for ISPs to notify customers whose internet accounts have been used to download or upload copyright content and you would agree with that.
Mr Wheeldon: We would.

Q1908 Lord Maxton: Where do you draw lines in this, which is the real problem? If I download a film from Sky films, copy it on to a CD or DVD, give it to my son and he then gives it to somebody else, where do you start prosecuting because no money is actually changing hands, almost certainly? That is a free operation from all of us.
Mr Wheeldon: What you are describing there is format shifting which, in the UK, is not strictly legal but people tend to turn a blind eye to it—it is legal in many other countries—the principle being that the content has been paid for and then, once the owner has that, they should be allowed to transfer it to whatever device they choose. I am not going to comment on whether that should be made legal or not, but what we are talking about in respect of file sharing is actually accessing that content in the first instance without paying anything and that is a big difference.
Lord Maxton: Somebody is paying for you to provide the ISP service. You do not give your Sky Broadband for nothing and neither do any other providers.

Mr Wheeldon: You are paying for access to the internet but you are not paying for the content if you are accessing it via a peer-to-peer file sharing site. That content has got on to that site often illegally itself.

Lord Maxton: That is the file sharing site. I can access Sky because I am a Sky subscriber and I can access your Sky site online. There are hundreds of films there and I can download one of those on to my hard disk and then copy it on to a DVD and give it away. That is not file sharing in the strict sense of the word, but I presume that I can do that and I can do it with a whole range of other files too.

Mr Wheeldon: I certainly think through the television you would probably struggle to be able to physically do that because, through the television box, there is no mechanism to record that.

Lord Maxton: I am not talking about the television box. I am talking about the internet.

Mr Wheeldon: If you were to break the encryptions and you knew what you were doing, then you could do that. I am afraid I would regard that as piracy.

Ms Turner Laing: I think it is fair to say the films that are available on Sky Movies via Sky Player are encrypted. First of all, there is a conditional access there that shows that you have to be a Sky Movies subscriber and equally, you cannot take it off the system and transfer it because that is our—

Lord Maxton: It is quite interesting that Apple, however, with their iPlayer have got into some public difficulty because they have not allowed people to use and play their content on other devices and, as a result, they have had to change the rules on that.

Ms Turner Laing: But that is under the contracts we are under with the MPAA Studios who do not prohibit because obviously they are in the business of protecting their other revenue streams in the form of DVD, et cetera.

Lord Maxton: Is this not an international problem? To be honest, we could do all we want but, if the content is coming on the internet from somewhere else in the world, which may have different copyright laws, how do you deal with that?

Mr Wheeldon: With the system as proposed, the onus would be on the owner of the content, the rights owner, to identify what content is being accessed illegally and they can do that. They have ways of looking at particularly the illegal file sharing sites, they will identify the content which is not distributed free—some content is but a lot of it is not—and they will then take action to notify the ISPs that that content has been accessed illegally. There have to be obligations on rights owners to want to enforce their own rights, absolutely. You cannot say whatever you download is potentially illegal.

Chairman: Is it not also the case that a warning would actually have quite a big effect on many, many people? The pure issue of a warning would have that impact. I am not saying it is going to have that impact upon serial offenders, if I may put it that way, but it would have an impact upon many, many people.

Mr Wheeldon: I think you are absolutely right. I do think that the sending of a notification that this is going on to an account owner, who may not know it is going on, will have a significant effect, yes.

Chairman: There is no rule written down where the public have a right to free access/free downloading of anyone’s films, I would have thought.

Mr Wheeldon: Absolutely not.

Lord Inglewood: That is fine, but I go to you and I get this warning and I then immediately change to somebody else. There are a number of internet service providers out there.

Mr Wheeldon: That is why the obligations have to be on all internet service providers. That is why, in the end, a voluntary agreement was never going to work because you cannot have just two or three signing up and then the rest of them not. Everybody has to be party to this. So, you must know that, if you go to another internet service provider, not only will the same thing happen again, but actually the likelihood is that the data will be collected by the rights owners that will know you have already done it once, so the consequences that you might suffer are . . .

Chairman: One last question on this. You have a disagreement with Virgin Media; what is that on? It is not on this, I think.

Mr Wheeldon: They can speak for themselves on illegal file sharing.

Chairman: But it is not on that issue.

Mr Wheeldon: No.

Lord Maxton: Is it on price, is it not, or it was on price?

Chairman: We can follow that up. Let us move on. Let us go back and start with the performance of BSkyB and the trends.
Q1919 Lord King of Bridgwater: We now start turning to people who actually pay and how that is affecting your business. I have some very quick questions just to set the scene. Turnover and then the breakdown of that turnover, that is the breakdown between subscription revenues, advertising sponsorship and whatever you get from charging those using the BSkyB platform.

Ms Turner Laing: Our annual revenue now exceeds £5 billion. Almost 80 per cent of the group revenue was from subscription, with the remaining revenues being apportioned to wholesale subscription revenue, installation and service revenue; and our advertising revenue makes up approximately six per cent of overall revenue. It is a relatively small part of our business. I think what is important to understand is that we are, having just had the conversation on ISPs, in the triple-play business, so we are not strictly a broadcaster-based only business anymore.

Q1920 Lord King of Bridgwater: Dealing with the smaller before the larger, Michael Grade said some pretty horrific things about what has happened to advertising revenue in the last year. Has that been reflected in your figures?

Ms Turner Laing: Absolutely. We are definitely not immune to the advertising downturn and we have seen a significant loss. However, there are some optimistic small green shoots coming back into the marketplace, but we are not complacent on that because one cannot foresee what unemployment numbers will do in the early part of next year.

Q1921 Lord King of Bridgwater: Can you give a figure for how much it has dropped?

Ms Turner Laing: The market itself is down 15 points.

Q1922 Lord King of Bridgwater: Fifteen per cent?

Ms Turner Laing: Fifteen points, yes.

Q1923 Lord King of Bridgwater: What about your direct customers, in other words the subscriptions? What has happened there?

Ms Turner Laing: We have our quarterly results on Friday, so I can give you our last quoted numbers, which are 9.4 million subscribers. At the moment that is holding strong, although we have to obviously keep a keen eye on churn which is the amount of people who come out of subscription.

Q1924 Lord King of Bridgwater: What about your direct customers, in other words the subscriptions? What has happened there?

Ms Turner Laing: We have our quarterly results on Friday, so I can give you our last quoted numbers, which are 9.4 million subscribers. At the moment that is holding strong, although we have to obviously keep a keen eye on churn which is the amount of people who come out of subscription.

Q1925 Lord King of Bridgwater: You have 462,000 additional customers. If you say that it is holding strong, do you mean that you have lost 462,000 somewhere else?

Mr Wheeldon: Last fiscal year, we gained 462,000 net customers, so that is taking into account those who leave.

Ms Turner Laing: So, we grew.

Q1926 Lord King of Bridgwater: You are still growing in the recession.

Mr Wheeldon: That is correct.

Ms Turner Laing: So far.

Q1927 Lord King of Bridgwater: How about profitability? Have you had to spend more to get it?

Ms Turner Laing: Yes, because obviously the subscriber acquisition costs, or SAC as they are known, are very extensive. The amount of money that we have actually put into our marketing budgets to remain customers, bundled offers, et cetera, has increased.

Q1928 Lord King of Bridgwater: What effect has that had on profitability?

Ms Turner Laing: What emphasis?

Q1929 Lord King of Bridgwater: On profitability.

Ms Turner Laing: Profitability has held strong, but what we have done is had a severe review of costs. We have reduced our overheads significantly and thus we continue with our marketing costs.

Mr Wheeldon: I think it is important to understand that profitability is obviously not just about the subscriber numbers and the increase in subscriber numbers. For instance, looking at advertising, approximately six per cent of revenue is generated by advertising, but that is disproportionate in the contribution to direct profit because it falls straight to the bottom line. We have had to deal with that headwind and have managed to continue to grow profit despite that.

Q1930 Lord King of Bridgwater: How much churn do you get in your subscribers?

Ms Turner Laing: We average about 10.4 at the moment; 10.4 per cent of our customers churn.

Q1931 Lord King of Bridgwater: Turnover?

Ms Turner Laing: Yes. So, the number to focus strongly on is our net adds number.
Q1932 Lord King of Bridgwater: Some of the figures and the change in your share of viewers are pretty dramatically down, are they not? The entertainment channels contracted by 50 per cent over five years.

Ms Turner Laing: That is true, there is a trend down in overall share of viewing anyway, but you also have to look on the amount of channels that now exist in the marketplace compared with five years ago.

Q1933 Lord King of Bridgwater: You are a major player and a number of these channels are watched by a man and a dog, are they not?

Ms Turner Laing: I think that you have to debate whether the man or the dog would be very happy watching a small channel. For example, Sky Arts, those who watched our live opera from Glyndebourne was about 30,000 people. That is tiny in respect of a BBC 1 audience, but that is 30,000 very satisfied subscribers that it is actually on air. Share viewing is a very small metric for us. Also, I am not sure which of you have Sky Anytime at home in your Sky boxes, which is where we push the highlights of the week, which is not measured by BARB, so we have a totally different form of driving satisfaction from audiences.

Q1934 Lord King of Bridgwater: When you said that it is over a number of more channels and that is why your shares have gone down, do you have an idea of what share of the viewing has been taken by all the additional channels? Is that an adequate explanation for your fall?

Ms Turner Laing: No, it is not. We are in a very competitive market. As Freeview has grown, the growth of the dигinet from the terrestrial channels in the form of ITV2, 3 and 4 have grown enormously. If you look at the audience that comes off X Factor and goes straight on to ITV2, that is enormous, but also they do have the centre break in the middle of Coronation Street to promote movies or content, whereas we do not. Regarding share overall, Sky1 probably will do about 3.46 per cent share overall. That is not a huge drop from the late threes and fours that it was doing five years ago, and Sky Sports continues to deliver and we are breaking audiences in a lot of areas.

Q1935 Lord King of Bridgwater: I thought Sky Sports was marching on, but it seems to have fallen about 50 per cent or nearly 50 per cent. I have a figure here that it was 3.7 per cent and you are down to 2.6 per cent.

Ms Turner Laing: I think it depends on when that data has been done.

Q1936 Lord King of Bridgwater: It is 2003 to 2008.

Ms Turner Laing: The question is whether that takes into account the restart of the Premier League seasons because obviously the audience flexes up and down depending on whether football is available.

Q1937 Lord King of Bridgwater: What effect has Setanta and its activities had on that figure?

Ms Turner Laing: Setanta obviously had a pack which has now gone to ESPN and, whilst they had some extremely strong matches, it was not an overall factor in the decline in Sky Sports.

Q1938 Lord King of Bridgwater: It was not a factor in the decline?

Ms Turner Laing: It is a small element because, at the end of the day, the amount of matches they actually broadcast was relatively small, but obviously they had other things, like golf and boxing as well.

Q1939 Lord King of Bridgwater: So, less people are watching sport?

Ms Turner Laing: Yes.

Q1940 Lord King of Bridgwater: Really! Yet you have added cricket which you did not have in the earlier part of that period. Is that right?

Ms Turner Laing: Yes.

Q1941 Lord King of Bridgwater: You still end up with a lower share?

Ms Turner Laing: Share is not the only driver for us. I think that is a metric which has been used for terrestrial television and is not really a valuable marker for us in subscription television. What we do we deliver extremely well. We put an awful lot of investment into our sport, all our programming, and what we are trying to deliver is the best of it. I am not sure this metric that it has to be seen by millions of people is a true arbiter of quality.

Q1942 Lord King of Bridgwater: I understand that. We are dealing in percentages, but do the percentages reflect the actual numbers or is there a change in the overall total by which the percentages look rather different? In other words, what is 2.6?

Ms Turner Laing: In real terms?

Q1943 Lord King of Bridgwater: What is the number that 2.6 represents?

Ms Turner Laing: It is very hard to say exactly because you may get a viewing share of two million for a big football game and then you may get a share of 20,000 for women’s netball. What you are doing is aggregating all those different events up—
Lord King of Bridgwater: Someone has managed to produce these figures saying 3.7 down to 2.6. We can bandy around percentages, but what I am trying to get at is, what that actually adds up to?
Mr Wheeldon: What, in terms of total numbers of viewing?

Lord King of Bridgwater: Well, 2.6 of what?
Ms Turner Laing: Overall share that is distributed—

Lord King of Bridgwater: It is 2.6 of a global figure?
Ms Turner Laing: Of all television share in the UK.

Lord King of Bridgwater: What is that figure? Do you understand the point I am making?
Mr Wheeldon: You are talking about the numbers of people watching for the numbers of hours?

Lord King of Bridgwater: Yes.
Mr Wheeldon: I think you can broadly say that has not significantly changed over time. People still watch lots of television.

Lord King of Bridgwater: Someone has produced this precise 2.6 per cent figure and, when you actually ask what that means, what it is, 2.6 per cent of what . . . It may be that is an impossible question to answer.
Ms Turner Laing: I think that we can get you the numbers very easily from BARB. I would not have the correct figures with me.

Lord Gordon of Strathblane: I think the point obviously is if the universe has increased hugely, then 2.6 might be as big as 3.7 of a previously smaller universe.

Lord King of Bridgwater: Through My Lord Chairman, if you would like to give us the figure, that would be helpful.
Chairman: Thank you very much. Let us go on to investment and original content.
Q1956 Lord Inglewood: In a sense, what you are saying is the virtue of what you are doing is creating a lot of stuff which does not appear on television that is done by people in the outside world more widely.

Ms Turner Laing: That is correct.

Mr Wheeldon: If you look at the model of Sky News for instance, which is essentially about disintermediating the people who try to filter news, Sky News is about presenting it as it happens, when it happens and without creating too much of a filter. In many ways, Sky Arts is the same. It is about offering an opportunity for events that are happening, where there are high production values, to have access to a wider audience. I would argue that is of huge value to the customer and to the public.

Q1957 Lord Inglewood: You can also argue it I think from a commercial perspective, that a lot of these relatively niche programmes are a form of loss-leader, in the same way as supermarkets sell milk cheap because it draws them in and, given the bundling portfolio, the way you bundle your programmes, you are actually sucking people into all the other ones.

Ms Turner Laing: I am not sure that sucking in is what we are hoping to do. What we absolutely believe in is choice in content and, therefore, we offer hundreds of different channels. I think it is quite important to remember we are putting £300 million into other people’s channels, whether that is National Geographic, the History Channel or whatever. National Geographic spend over £12 million a year with UK producers.

Q1958 Lord Inglewood: I accept all that and I am not trying to deny the good that is done, but the Sky brand is not necessarily known for its pure philanthropy; there are other motives behind it.

Ms Turner Laing: What we are doing is enhancing that content because content can be consumed in so many different ways now, whether it is online, on your phone or on air. We want to obviously provide satisfaction and value to our subscribers, so we use that content in a million different ways in reaching them. For example, with the Glyndebourne opera, we actually ran a satellite feed to Chester and ran it live, a concert-in-a-field, to give value to those subscribers who could not go to Chester, a bit like what the National Theatre is doing.

Q1959 Lord Inglewood: What you are really saying is, in the digital world, the old-fashioned idea of creating content as if, as it were, you were putting on a theatre production is old hat, out of date, irrelevant and it is not the way you should look at it.

Ms Turner Laing: Correct.

Q1960 Lord Inglewood: I am not saying this is a proposition which is absurd.
Baroness Eccles of Moulton: Things like the Ross Kemp project and the rainforest --
Ms Turner Laing: They will continue.

Baroness Eccles of Moulton: You classify them as entertainment, but it is a little more than that, is it not?
Ms Turner Laing: It is factual entertainment, if you want. It is mainly because Sky1 is known as an entertainment channel, but obviously we like to deliver challenging documentaries as well as light entertainment or comedy.

Baroness Eccles of Moulton: Would you think of putting a greater emphasis on the more serious side of entertainment?
Ms Turner Laing: No, because we hope to offer a balanced diet and we are an entertainment channel. The platform itself carries a larger number of factual channels that do it extremely well, whether that is Discovery or National Geographic. There are a myriad of different routes which can deliver that kind of programming to the channel, but we are part-funding that indirectly.

Baroness Eccles of Moulton: They, Discovery et cetera, would also come under the category of UK originated content.
Ms Turner Laing: That is correct.

Baroness Eccles of Moulton: What plans for the future do you have for them?
Ms Turner Laing: We are in joint ventures with some of those channels. Obviously not in something like Discovery, but they tend to operate their programming budget on a global basis. The UK is a very significant part of that because it is obviously one of the most mature markets outside of the US. There is no doubt that the money that is put in from the UK elements of those channels is quite significant in making it happen.

Baroness Eccles of Moulton: You would have an influence over that?
Ms Turner Laing: On some of the channels that we are in joint ventures with, not necessarily Discovery.

Baroness Eccles of Moulton: Maybe it would be interesting to know a little more about that, not now but generally.

Ms Turner Laing: Absolutely. We can get their plans.

Chairman: Thank you very much. We are in slight danger of figures tripping us all up at the moment, but I just wonder if you are aware of these figures. Ofcom figures show that the main PSB channels spent £2.5 billion in UK originated programmes in 2007—that is £2.5 billion—and, in the same year, according to figures given in evidence by the Cable and Satellite Broadcasters Group, investment for all non-PSB channels was just £120 million. Are you aware of those figures?
Mr Wheeldon: Yes, I am certainly aware of the Ofcom figures. That includes BBC spend, the terrestrial channel spend, and Ofcom, in their public service broadcasting review, went into those in some detail. I have to say that, again, they obviously exclude the spending that Sky makes on genres which do not fit into Ofcom’s view of what is public service broadcasting, although interestingly include the BBC’s spending on sport, which is slightly odd.

Lord Maxton: The BBC spend on news or not?
Mr Wheeldon: It will include the BBC spend on news, yes.

Chairman: As a generalisation, why is BSkyB’s investment in original content so low as these figures appear to indicate?
Ms Turner Laing: I think it is fair to point out those are 2007 figures and we have increased our budgets quite enormously since then. Sky was very, very focused on sport and movies as being the major drivers of its subscription business. As the businesses matured and also as we found relative success in delivering admittedly small audiences to niche channels, but they are highly valued by our subscribers, the continuation is to carry on putting what is seen as relatively small numbers against those, so that you can deliver specialist programming.

Chairman: On the face of it, UK originated programmes for UK audience must make a great deal of sense because people probably most naturally go to them. Would tax breaks or any other kinds of incentives be of help to an organisation like BSkyB?
Mr Wheeldon: You do have to ask the question whether this is a market that needs more intervention. It already has £3.6 billion a year, which is essentially state intervention in the market to produce content and it is called the BBC. We would question whether there is a need for any further intervention. In fact, we would argue there is already far too much. If you look at investment in content and you look at where we came from, what we saw were areas of the market that were underserved—
movies, sport and news were underserved. We went into them to provide for customers who did not have that. The opportunity to invest from an organisation like us is always going to be most obvious where the market is underserved by others. If the state is already there, it is very hard to make a return.

Q1975 Chairman: I notice a very interesting change in the way you talk about public service broadcasting. You are now talking about the state as if it is some sort of East German organisation.
Mr Wheeldon: I am sorry, this is simply shorthand reference to the BBC.

Q1976 Chairman: I did notice Mr Murdoch, referring to the BBC, referred to and I quote “state-funded intervention” and “state-sponsored journalism”. Do we take this as being a new house style as far as BSkyB is concerned?
Mr Wheeldon: It is indisputably funded via a compulsory levy which is raised by the state. I think the description is entirely accurate. What connotations you choose to put on depends on your perspective.

Q1977 Chairman: Do you believe in public service broadcasting?
Mr Wheeldon: I believe that public service broadcasting as a concept exists. I would question whether the definitions of what is public service broadcasting are particularly helpful.

Q1978 Chairman: Would you like to see public service broadcasting reduced?
Mr Wheeldon: We believe that the market can produce an awful lot more of the kind of content that has previously been produced as a result of interventions in the market.

Q1979 Chairman: Let me put it another way. Do you think the BBC has too much power, too must finance and too much muscle in this area?
Mr Wheeldon: If I were to say “yes.”, I would simply be echoing what a vast swathe of the industry is currently saying.

Q1980 Chairman: Are you saying “yes”? Mr Wheeldon: I broadly would agree with that proposition in that at the moment, in terms of the ability for others to invest in the kind of content that you are all talking about today, the BBC is disproportionate and that is affecting other people’s ability to invest in that content.

Q1981 Chairman: Therefore, what would by your role for the BBC? Would you like to see it doing programmes that others could not do?
Mr Wheeldon: I certainly think the BBC needs to think about what is distinctive and what is not, as too often what the BBC does is not distinctive.

Q1982 Chairman: It would obviously be to your commercial advantage if the BBC came out of particular areas, would it not?
Mr Wheeldon: Not just to our commercial advantage, but I suspect you will find to the commercial advantage of virtually every other commercial broadcaster.

Q1983 Chairman: Although not necessarily UK plc.
Mr Wheeldon: It depends on whether you want to have an alternative to the BBC that is not funded via some form of government intervention.

Q1984 Chairman: Sophie, you actually worked for the BBC.
Ms Turner Laing: I did.

Q1985 Chairman: For how long did you work for the BBC?
Ms Turner Laing: Six years.

Q1986 Chairman: Did you feel at the time you were working for a state-funded organisation?
Ms Turner Laing: Yes.

Q1987 Chairman: In what way did you feel that?
Ms Turner Laing: Because the way that the funding is received means there is very little reality in delivering and operating under a PNL. You do not have to deliver shareholder value necessarily—the aim is obviously to do that—and your funding is secure over a set period of time. No commercial business has that security. I fundamentally believe that the BBC is capable of great creative innovation. I feel it has become very distracted in what it has been doing and, if it continued to make great content, it would be worth paying for but it has strayed very much into all sorts of other areas which commercial businesses are—

Q1988 Chairman: Compete with you?
Ms Turner Laing: No, commercial businesses, whether it is on the online world, whether it is the Lonely Planet example, which is always trotted out, or whatever. There are businesses that we are definitely not in but the BBC are in.

Q1989 Chairman: Did you feel, when you were working there, that the Government were breathing down your neck, which is a normal feeling about state-run organisations?
Ms Turner Laing: You have to remember, I was working for Greg Dyke, so I think the answer would be “yes” on that.
Q1990 **Chairman:** I am not quite sure I totally understand that. Was Greg Dyke breathing down your neck or was it the Government?

**Ms Turner Laing:** It was at the stage of Hutton, et cetera, and there were obviously quite a lot of problems.

Q1991 **Chairman:** Did you leave at the time of Hutton, in fact?

**Ms Turner Laing:** I left just before the inquiry started.

Q1992 **Chairman:** On that occasion, you did actually feel at the time of Hutton that the Government were actually breathing down your neck?

**Ms Turner Laing:** Very definitely.

**Chairman:** There may be some sympathy with that particular view.

Q1993 **Lord Gordon of Strathblane:** Obviously, the term ‘public service broadcasting’ covers a multitude of virtues, but do you think that original UK originated children’s programming is an important ingredient in it, for example?

**Ms Turner Laing:** Nobody has been able to truly define what public service broadcasting has been for the last 20 or 30 years.

Q1994 **Chairman:** I thought we did rather well in our report on it!

**Ms Turner Laing:** Apologies! I think children’s programming is a very important part. The BBC, obviously with two channels dedicated to children’s programming, provide a large swathe of that. We are a joint venture holder with Nickelodeon in their children’s channel. Children’s programming has had a great tradition in the UK, mainly because we have a very vibrant literature basis. My background is in children’s programming, so I very much feel that should be part of it.

Q1995 **Lord Gordon of Strathblane:** If we leave the BBC to one side, would you also accept that the terrestrial public service broadcasters, who are advertising dependent, have less money than they used to have and are certainly cutting their investment in, for example, children’s programming?

**Ms Turner Laing:** Then I think it does go back to the argument that, if the BBC are funded in the way that they are, does one need a great plurality of voices in children’s programming or is it sufficient, given that linear content is one way children consume and, quite frankly, a whole generation now have moved on to video games or online or whatever, so is the direct investment in linear content really viable for all the terrestrial broadcasters to be in as a market?

Q1996 **Lord Gordon of Strathblane:** I am surprised that you think it is acceptable that the BBC should have a monopoly of UK production of, for example, children’s programming.

**Ms Turner Laing:** They do not. We have a number of commercial children’s channels, Disney being an example, Cartoon Network, Nickelodeon, et cetera, who all produce here in the UK, so there is a vibrant market there. They just cannot compete on the investment in hours of drama, or whatever it is, like that because that is very expensive programming.

Q1997 **Lord Gordon of Strathblane:** Can you give us any figure for, for example, Nickelodeon spend in the UK?

**Ms Turner Laing:** I will have to come back to you on that; I do not have that with me.

Q1998 **Lord Gordon of Strathblane:** I think it would be helpful to have that. Granted that some people feel it is desirable that there should be more UK origination from other than the BBC, people have been offering evidence to us on methods of funding it because they recognise the market itself might not generate it. Somebody suggested retransmission fees. You are broadcasting terrestrial channels and you should pay a small levy for that privilege. Your reaction I think I can predict, but I would like to have it.

**Mr Wheeldon:** As we have already described, we are investing considerably in UK content and that is growing. You would be robbing Peter to pay Paul. If you restrict our ability to invest in programming, we will do less of it and that is the effect that a levy would have. The other point I would make is the terrestrial PSBs get very significant advantages from being carried on platforms such as ours and, indeed, they also have regulatory advantages which are valuable to them, such as due prominence on the electronic programme guide. That is pretty significant for the likes of ITV. Frankly, I think retransmission levies are just a way of taking from an organisation which actually already has an incentive to invest in content. I am not sure why you would want to do that.

Q1999 **Lord Gordon of Strathblane:** Would your reaction be the same if somebody suggested a levy on the equivalent of Sky + digital recorders, because of the reuse?

**Mr Wheeldon:** Again, this is a market that has a £3.6 billion a year intervention and you want to increase it. I just cannot conceive—
Lord Gordon of Strathblane: What people are looking at are ways of perhaps increasing it, not giving it to the BBC but giving it to other people.  
Mr Wheeldon: What I do not understand is why the assumption is always that the only way to get more people to do more investment in content is to fund it via some form of intervention. Actually, if perhaps there was less intervention there in the first place, more people would invest because they could make a return. Unfortunately, that starting point never seems to be arrived at, which is slightly odd.

Lord Gordon of Strathblane: I would like to come back to a point you made, Sophie, on film. Was there not way back a Sky Film channel?  
Ms Turner Laing: No. We had a production company called Sky Films that existed pre me, so about six or seven years ago, which lost a considerable amount of money. It was a good investment, they put a healthy investment in, but it had no real return for it. It was felt better that we went into long-form programming, such as dramas, factual and pieces like that. I think it is important to understand how our movie deals work with the studios because obviously we take a set amount of films from each studio each year and not a high percentage but a percentage is British films. For example, Universal’s films, which owns Working Title in the UK, flow through us and our licence fees that we pay to the studios are integral in them green lighting films. Without that comfort of our output deals, they would not green light that. We have been working closely with John Woodward to see what more we can do to enhance studio investment in film because, that way it is a natural progression of investment rather than forcing one down a route of producing relatively small films that in the end get small audiences because, at the end of the day, we are a mass market movie service, not Film 4.

Lord Gordon of Strathblane: You do not have any plans to go back into the film business?  
Ms Turner Laing: No. I would thoroughly prefer to put whatever investment I am lucky enough to get from my Chief Executive into drama.

Baroness Howe of Idlicote: There is clear audience evidence that they are very concerned to have a high proportion of UK originated content. Before I go on to a slightly broader question, I am not certain whether we have got what proportion of programming on your entertainment and arts channels is, in fact, UK content.  
Ms Turner Laing: All of our originated content is UK produced.

Baroness Howe of Idlicote: All of it?  
Ms Turner Laing: All of it. The percentage of original spend is all spent with UK companies.

Baroness Howe of Idlicote: Let us look at the effect of the AVMS directive, which actually requires 50 per cent of the output of European broadcasters, that is excluding sport obviously, to be EU content. What effect would that have on your work if it was enforced rigorously because, in fact, we had evidence from Carole Tongue that it was not being enforced as fully as it should be?  
Ms Turner Laing: Is that spend or hours?

Baroness Howe of Idlicote: Output.  
Ms Turner Laing: It does not define it. Therefore, what we prefer to do is smaller, bigger, better, so that we make sure what we invest in we do extremely well. As far as hours, we probably would not qualify for that but, as far as investment in actual spend, there is definitely the intention that we should be reaching those types of figures.

Baroness Howe of Idlicote: It would have an adverse effect?  
Ms Turner Laing: I think we should be able to do it, yes.

Lord Inglewood: A week ago when Michael Grade was sitting where you are both sitting now, he was, in his usual trenchant way, extremely critical of the Competition Commission’s rulings about Kangaroo and arguing that, by effectively making it impossible to have a single portal for video on demand with the television channels involved, we were condemning this country to an American dominance in that part of the business. Do you agree and do you think it is important that there is a kind of UK single portal for watching British TV on a video-on-demand basis? I am using layman’s words.  
Mr Wheeldon: We would argue that the market should be allowed to find the right means of delivery.

Lord Inglewood: The market had found a means of delivery and it was the Competition Commission that stopped it.  
Mr Wheeldon: The problem is that the market had not entirely. The big problem with all of this was the involvement of the BBC. When you have such a dominant player in terms of content involved in such a deal, it was always going to cause a problem.

Lord Inglewood: What you are really saying is the domestic TV market in Britain is completely dominated by one player that is abusing an economic
dominant position in respect of the whole marketplace, full stop.

Mr Wheeldon: I am not saying it is abusing its position, I am simply saying that it is self-evident that it is a dominant player.

Q2011 Lord Inglewood: Yes, but it is where you get abuse of the dominant position that is the problem, is it not, not the fact that you may have somebody who is in a dominant position.

Ms Turner Laing: Surely the debate on Kangaroo was that, if you are an aggregator of content and this was a platform that was being set up, you usually would take content from everywhere. For example, our platform is an aggregator of content. We do not decide on taste and decency terms who comes on the platform, Ofcom do. The issue with Kangaroo was a closed wall environment, so that it would only be public service broadcasting there. It is debatable whether the true full force of UK content could actually end up on Kangaroo.

Q2012 Lord Inglewood: Would you want to be on Kangaroo if Kangaroo existed?

Ms Turner Laing: We are involved in the consultation on Canvas. Last week, we did a deal with an IP TV company called Fetch. Our feeling is that, for IP TV delivery, we are looking to be on all sorts of platforms.

Mr Wheeldon: It is in our economic interest to distribute our content as widely as we possibly can.

Q2013 Lord Inglewood: Do you think that it is in the UK’s interest to have what I call a UK portal rather than have somebody like Hulu dominating the marketplace here?

Ms Turner Laing: I am not sure whether a UK platform is really who owns the platform. I think it is what content is accessed there and how independent producers can get their content on the platform and available. Channel 4 have recently done their deal with YouTube, so all their content is going to be available on an existing platform. I do not think that probability precludes them from doing a deal with Fetch or with anybody else who might come up. You want to get your content as widely distributed as possible. The consensus of needing to have a British Hulu I think is debatable.

Q2014 Lord Inglewood: I am not trying to put critical words at you, but the argument is that nationality does not really matter in all this.

Mr Wheeldon: Is it not more important where the revenue is going? If Channel 4 can get revenue streams from

Q2015 Lord Inglewood: That also may be important. I am trying to tease out what your thinking on that is.

Mr Wheeldon: There are not many industries anymore where we deliberately try to create national champions. That was seen to be a failure of industrial planning.

Q2016 Lord Inglewood: There is in the widest possible sense a feeling that it is part of British culture—I think you almost touched on it yourselves earlier—that it belongs to this country rather than the world as a whole and we want to encourage it. For example—and you may disagree with it—if you look at the European legislation, there is clearly a concept of the value of the distinctiveness of a European component in this wider world market.

Mr Wheeldon: I am not sure how a platform aggregator makes a big difference to any of that.

Ms Turner Laing: I think it would be fabulous to have one if it provided universality of access.

Chairman: We have run out of time but can we get in a question on training.

Q2017 Baroness Howe of Idlicote: Do you run any in-house training schemes and, if so, for what sort of programmes?

Ms Turner Laing: We have a variety of in-house training schemes and, if so, for what sort of programmes. We are involved in the consultation on Canvas. Last week, we did a deal with an IP TV company called Fetch. Our feeling is that, for IP TV delivery, we are looking to be on all sorts of platforms.

Mr Wheeldon: It is in our economic interest to distribute our content as widely as we possibly can.

Q2018 Baroness Howe of Idlicote: You are working in partnership, as you have said, with another organisation, but what about contributions like Skillset?

Ms Turner Laing: We are not part of Skillset for a myriad of reasons but we prefer to be very proactive in our own apprenticeship scheme. I think it is important to add that we are a large corporate sponsor of the National Film and Television School—I am a governor there—where we support on an annual basis and have done for many years and will continue to do so.
Q2019 Baroness Howe of Idlicote: Are you happy with the amount of training that goes on in those places? Is it, in fact, sufficient? Are there particular areas in which current skills are inadequate and what would you propose should be done about them?

Ms Turner Laing: I think it would be helpful if we were not sending hundreds of children to media studies courses at university where they are not particularly brilliantly taught and then we have to retrain them as soon as they come out.

Q2020 Baroness Howe of Idlicote: Higher education is not one of the areas you—

Ms Turner Laing: Some more vocational work would be much appreciated.

Q2021 Chairman: That is a complaint which has come out from a number of people in the industry. What can one do about it?

Ms Turner Laing: I think the issue is that it goes back to the whole way the education system is run about how many grades you can get through your students and media studies is seen as a very soft option, so you either have to cut that down or . . . The problem is that we are in an industry where the technology changes minute by minute, not year on year even, so it is quite hard. I think having a greater degree of practical experience, whether it is internships, as they do in America, or even engineering courses, would be much more helpful than what we have at the moment.

Q2022 Baroness Howe of Idlicote: You have mentioned apprenticeships. Do you think this is one of the areas where you could advocate rather more towards women in this respect because there are very few women who take up apprenticeships and I would have thought this was an area which would be quite interesting for them?

Ms Turner Laing: We have quite a well thought through diversity plan which covers both gender and ethnicity because, as you may know, I was Chair of the CDN for the last couple of years. For me, it is both gender and ethnicity, because television as a whole is pretty white and middleclass, hence providing our school leavers’ schemes. We only take pupils from our local schools in Hounslow, so we draw them from our local community. I think gender is an issue with technology.

Q2023 Baroness Howe of Idlicote: Given the emphasis that the Government are placing on apprenticeships, surely there is an area here where you could encourage them to do rather more.

Ms Turner Laing: We have a very open policy on work experience. We take part in the 11 million takeover day, which was a government-run initiative where we get everybody from primary schools into Sky to come and see what it is about. Our volunteering work that we do, whether it is planting trees or whatever, is done in co-operation with local schools, so that they have an understanding of the jobs which are available in television. School children predominantly see it as either you are a presenter or a cameraman and there are obviously a million other roles there to play.

Q2024 Chairman: We must be careful not to offend our Specialist Adviser on media courses—“too late” he says and he is probably right—and, even if we do, we probably do not mind! Would it be fair to say—and I am trying to shorthand it—that you would like to see a bigger element of vocational training in some of the media courses? This point that you and others have made that people are coming out of such courses, even when there are vocational parts in it, and simply need to be retrained right from the beginning. It seems a terrible negation of everything that has happened before.

Ms Turner Laing: I think that it is also supply and demand. As an industry, there is a certain percentage of people who work in the industry and the amount of students who are going into media studies far outstrips any of the intake that one would take on a natural turnover and, in a recession, people are not moving as frequently as they were before. You are pushing everybody down a very, very narrow funnel and basically you start really at the bottom. I started as a secretary, people start as a runner, and that is how you learn the business because it is very much by experience. If there was a greater degree of practical experience on the job where people literally went for six months or a year, just like when you are learning languages, you go and live in whatever country you are learning the language of, it would be much, much more useful because we would be able to put people quicker into positions of responsibility rather than needing to baby-sit for a year.

Q2025 Chairman: Would the media industry, particularly the television industry, I suppose, cooperate in that sort of scheme?

Ms Turner Laing: I do not see why they should not, because there is a very large freelance part of the creative industries. Who is to say you could not make up some of that freelance basis with internships.

Chairman: That is very interesting. Thank you very much indeed for the evidence. I think there are some issues we might like to clarify, if we might, in post so that everyone knows what figures we are talking about, because this area does very easily become confused. Thank you very much for the way in which you have given your evidence and we are very grateful for it.
Supplementary written evidence from BSkyB

The information below addresses the issues the Committee raised in the relation to AVMS and Sky Sports’ share of viewing.

AVMS

In relation Sky’s compliance with the Audiovisual Media Services Directive (“AVMS”) as the committee will be aware the current directive requires that, “where practicable”, European production should account for over 50% of the transmission hours of each UK broadcaster and that European independent production must account for at least 10% of transmission hours, with “an adequate proportion” (interpreted as 50%) transmitted within five years of production. Sky’s compliance report to Ofcom is considered confidential but we are nevertheless able to confirm, as per Sophie Turner Laing’s comments to the Committee, that many of Sky’s channels do currently meet one or both of the relevant quota requirements. Where neither quota is met it is because it is not practicable to do so, for example, Sky’s subscription and pay per view movie services may not comply because their schedules are very much dependent on theatrically exhibited films, for which they provide an additional window, rather than being a driver of independent production. Going forward we would expect that our growing investment in high quality UK originated content, will also raise the level by which we comply on those channels where it is practicable to do so.

Sky Sport’s Share of Viewing

Sky’s share of viewing is most often reported within the multi-channel homes category. Over the past decade the make up of this category has changed from being predominantly cable and satellite to include increasing numbers of digital terrestrial homes, none of whom receive Sky. As a result even though absolute numbers of viewers have grown our share of viewing in this category has become smaller because we are part of a larger viewing pool. The following tables illustrate this point in relation to Sky Sports. It shows that while our share of viewing has decreased in multi-channel homes our share of viewing in all TV homes has increased as has our reach and average audiences.

### Sky Sports Share of Viewing

<table>
<thead>
<tr>
<th>Individuals SOV</th>
<th>2003</th>
<th>2008</th>
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</thead>
<tbody>
<tr>
<td>Network (all UK TV homes)</td>
<td>2.0%</td>
<td>2.4%</td>
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<tr>
<td>Multi-channel homes</td>
<td>3.7%</td>
<td>2.6%</td>
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<tr>
<td>Satellite homes</td>
<td>5.0%</td>
<td>4.7%</td>
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### Sky Sports Average Monthly Reach

<table>
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<tr>
<th>Individuals Reach</th>
<th>2003</th>
<th>2008</th>
</tr>
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<tr>
<td>Network (all UK TV homes)</td>
<td>12.6m</td>
<td>14.6m</td>
</tr>
<tr>
<td>Multi-channel homes</td>
<td>12.6m</td>
<td>14.6m</td>
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<tr>
<td>Satellite homes</td>
<td>9.4m</td>
<td>9.8m</td>
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*Source: BARB/Infosyst*

### Sky Sports Average Audience

The following table shows that the average audience to Sky Sports has actually grown by 17% since 2003 with over 200,000 viewers on average tuning in.

<table>
<thead>
<tr>
<th>Individuals Reach</th>
<th>2003</th>
<th>2008</th>
</tr>
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<tbody>
<tr>
<td>Network (all UK TV homes)</td>
<td>175,000</td>
<td>205,000</td>
</tr>
<tr>
<td>Multi-channel homes</td>
<td>175,000</td>
<td>205,000</td>
</tr>
<tr>
<td>Satellite homes</td>
<td>141,000</td>
<td>168,000</td>
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*Source: BARB/Infosyst.*

19 November 2009
**Sky’s Investment in UK Originated Content supplementary briefing for the Lords Communications Committee**

**INTRODUCTION**

— We are pleased to be given the opportunity to supply the Committee with further evidence of our considerable and growing investment in high quality arts, comedy, factual and children’s programming in the UK. Sky currently invests £1.75 billion in content, of which approximately £1 billion is spent on originated content. In addition to the content we commission for our Sky branded channels we also support UK programming through our £323m investment in our third party channel partners such as AETN (History, Military History, Bio, and Crime and Investigation), National Geographic, and Nickelodeon.

— As a pay TV broadcaster our investment decisions are based on what customers want and are willing to pay for. We recognise that people care about the quality and variety of content available in genres that interest them, and just as we saw the opportunity to tap into people’s passions for news, movies and sports we now see the opportunity to provide more high quality UK originated arts, comedy, drama and factual programming.

— Sky does not publish details of our investment in specific genres, instead we judge our investment by the quality of the output we create and the value it generates for viewers. The supplementary evidence provided below is intended to help the Committee understand the extent of Sky’s commitment to producing high quality UK originated content and our ambitious plans going forward.

**Sky Arts:**

— Sky has four Sky Arts Channels, including two dedicated HD channels, broadcasting 36 hours of arts programming per day, more than double the monthly output of arts programming on all five terrestrial channels.

— The channels provide viewers with high quality and groundbreaking content including the world’s first simulcast opera in 2009—with the opening night performance of Jonathan Miller’s *La Bohème* at the ENO broadcast on Sky Arts 2 while Sky Arts 1 simultaneously broadcast behind the scenes. We also commissioned and broadcast the first live drama on British TV for nearly 30 years with Theatre Live; and broadcast unprecedented access to The Theatre Royal Haymarket, featuring Sir Ian McKellan and Patrick Stewart’s performances in *Waiting For Godot*.

— Recognising the demand and popularity of the content we produce, our investment in original arts commissions has increased significantly in the three years, since Artsworld joined the Sky family of channels, growing from zero in 2005 to 46.5 hours in 2007, 73 hours in 2008 and this year Sky Arts expect to broadcast 200 hours of originated programming, representing nearly 25% of the channel’s output.

— Sky’s investment in the arts also extends beyond the screen, taking the arts to wider audiences, through partnerships with leading arts organisations such as experiential artists Artichoke—the first project being Antony Gormley’s “One & Other” which saw the Fourth Plinth in Trafalgar Square populated by a different individual every hour of the day for 100 days, the ENB and the Hay Festival.

**Entertainment—comedy, drama and specialist factual**

— Sky’s vision for its entertainment channels is highly ambitious and our commissioning policy has moved to producing higher quality but less volume productions whose cost per episode significantly exceeded the amounts previously paid. For example on Sky 1 while the hours of first run original content decreased from around 233 in 2007 to 215 hours in 2008 our level of investment increased. This has helped cement the positioning of the channel in the audience’s eyes as a serious entertainment channel—culminating in Sky1 winning Entertainment Channel of the Year 2008 at the Broadcast Digital Awards where our industry peers recognised Sky1’s successes stating: “At its peak, it reaches heights few rivals can match—and those peaks are coming round much more regularly.” They added: “Sky1 has a strong balance of programming and the best choice of original commissions—huge shows, punching above their weight.”
Drama

— Nowhere has this strategy been more evident than in drama. The success of Sky’s first two Terry Pratchett adaptations, *Hogfather* and *Colour of Magic*, led to the announcement of a multi-million pound investment in homegrown, high-definition drama in March 2008. We commissioned and aired an adaptation of Martina Cole’s *The Take* and David Almond’s *Skellig* in 2009. Forthcoming commissioned drama includes a third Terry Pratchett adaptation, the recently wrapped *Going Postal*, due to air in April 2010; an adaptation of Chris Ryan’s *Strike Back* and Elaine Pyke, Sky1’s Head of Drama, has also greenlit *10 Minute Tales*—11 ten-minute silent films, each by a different writer and director, and showcasing some of Britain’s best on and off screen talent. Finally, in early 2010 we will start production on an adaption of Mark Billingham’s *Tom Thorne* series starring David Morrisey.

Comedy

— Sky is also broadening its investment in UK originated comedy programming and is aiming to develop comedy dramas, similar to classic series such as *The Darling Buds of May*, as well as sitcoms and sketch shows. Lucy Lumsden, former Head of Comedy Commissioning at the BBC, has now joined Sky to take this forward and there are currently a dozen scripts already in development.

Specialist Factual

— The highly acclaimed documentary series featuring Ross Kemp highlights Sky’s growing commitment to high quality factual content and represents some of our most popular programming. Following on from the BAFTA award winning *Ross Kemp on Gangs* series, the Afghanistan series was also nominated for Best Factual Series at the 2009 BAFTAS, and the latest series, *Ross Kemp in the Middle East*, has just completed filming. He will also be visiting the Amazon rainforest to investigate deforestation for two documentaries to be broadcast in early January 2010, in support of the Sky Rainforest Rescue campaign. Other critical and commercial successes in 2009 include *Mario and Nini: A Childhood Under Threat* that shadowed two boys struggle growing up surrounded by violence and crime over seven years; *Ben: Diary of a Heroin Addict*, a documentary that exposed the ugly truth about drug-taking from the home videos of someone who eventually lost their battle to drugs; *Goodbye Basra* an honest and controversial account of the British troops withdrawal; and the upcoming *War Torn*, an inspiring documentary chronicling the experiences of injured British service personnel as they scaled the Everest region of the Himalayas. Each film offered a distinctive voice on hard-hitting subject matters and played a decisive role in showcasing Sky1’s factual offering.

— Sky also makes a significant investment in factual content production through our channel partners including National Geographic and History. Like Sky, these channels recognise the importance of high quality British programming and their emphasis is also increasingly on commissioned UK series. For example:

— National Geographic’s investment in UK originated programming has increased from 117 commissioned hours in 2006 to 179.5 hours in 2008 and it expects to have commissioned and broadcast around 213.5 hours in 2009. It’s highly popular programming includes Richard Hammond’s *Engineering Connections*, *Sea Patrol* and *Britain’s Greatest Machines* with Chris Barrie.

— The AETN stable of channels (HISTORY, Military History, Bio and Crime and Investigation) now commission and co-produce around 250 hours of content annually. Programmes include the award winning *Falklands* series and *50 Things You Need To Know about British History* on HISTORY. In many cases co-production is undertaken with another UK broadcaster and the production company is UK based. If co-productions are excluded AETN still expects that it will have commissioned 84 UK commissioned hours by the end of the 2009–10 financial year, up from 71 hours in the last financial year. Looking ahead, AETN estimates that this figure will reach 90 hours of purely UK commissioned programming in 2010–11 financial year.

Children’s Programming

— As a joint venture holder with Nickelodeon Sky also supports the creation of highly valued children’s programming in the UK. As with AETN and National Geographic, Nickelodeon also recognises the importance of high quality local programming and their emphasis they have also increased their investment in commissioned UK series in recent years. This has led to a rise in the number of UK originated commissioned hours from 30.1 hours in 2007, to 49.5 in 2008 and Nickelodeon estimate that this figure will reach 55.5 hours by the end of 2009.
In addition to long form programming, Nickelodeon also invests in original short form content, which provides additional entertainment, learning opportunities and enjoyment for their audiences including *See Something Say Something* (as part of Nickelodeon’s anti-bullying campaign), *Log Jam* and *Watermill Farm* (all of which have been recently nominated for Children’s BAFTAs 2009), as well as blocks such as *Wake Up World* (mornings on Nick Jr) which includes interstitials such as *Are you ready* (helping pre-schoolers prepare for the day) and mechanics to teach children the time.

Nickelodeon also makes a significant creative and financial investment through second run programming (where a programme is shown on another channel prior to Nickelodeon network channels), for example *Peppa Pig* and *THE GRUFFALO* (special) where, without Nickelodeon UK’s significant investment, the shows may not have been made.

**Conclusion**

Sky’s considerable commitment to UK originated content goes much further than arts, entertainment, and factual content. It continues to make a significant investment in programming across all 26 of the Sky branded channels including the 40,000 hours broadcast a year of sports coverage and analysis of over 100 different sports, the 24/7 news services that reach on average 10 million TV viewers per month, and the 12 different film related programmes that Sky Movies produces every month, covering every single British Film that is released in this country. This commitment also extends beyond the Sky branded channels through the joint venture partnerships that own 21 of the 159 Sky distributed channels on our platform, including Nickelodeon, National Geographic, Comedy Central and HISTORY.

Taken overall, Sky’s massive investment in its digital platform has brought substantial benefits to the UK and has enabled a huge range and diversity of content to be made available to UK citizens. As we have highlighted innovation is in Sky’s DNA and we will continue to go on pushing boundaries as we are through our extensive investment in content and new technologies such as HD and 3DTV, offering viewers greater choice, quality and innovation.

*November 2009*
Memorandum by the BBC Trust

The future of communications and broadcasting in the UK has been much debated over the last year. Following Ofcom’s second review of Public Service Broadcasting, the Government recently published its interim Digital Britain report, which the BBC Trust and BBC Executive have recently responded to.

The Government’s report clearly signals the importance of the digital information and communications sector to the UK, and addresses some significant issues, setting out an ambitious agenda for progress. Digital and broadband technologies hold enormous potential to bring great benefits to audiences and to the economy.

As part of this ongoing debate, the BBC welcomes this opportunity to submit evidence as part of the House of Lords Communication Committee’s inquiry into British film and television. The BBC’s response is in three parts:

— This Trust preface sets out an overview of the current situation in the broadcasting industry and an update on the Trust’s ongoing review of BBC Worldwide.

— Also attached is “The economic impact of the BBC on the UK creative and broadcasting sector”, a report commissioned by the Trust from PriceWaterhouseCoopers, which identified the BBC as having a pivotal role in the stimulation, development and sustenance of the creative sector in the UK.1

— Finally, the BBC Executive has responded on the specific questions set by the Committee.

The current broadcasting industry

The BBC has been acknowledged as the cornerstone of the audio-visual public services, and as such the BBC stands ready to play its part in ensuring the benefits of digital technologies are delivered as widely as possible through the UK.

There are also difficulties facing industry, particularly in broadcasting, where major structural shifts are challenging traditional business models, a situation exacerbated by the current economic climate. Although Channel 4’s financial situation has been the subject of scrutiny throughout the PSB debate, it is clear that the challenges are far more widespread.

In looking to map out the digital future of Britain it is important to distinguish between those issues that are structural, such as the proliferation of digital channels and the migration of advertising revenue online, and those that are cyclical. This is a complex situation and it is important at this critical moment that the solutions implemented are sustainable in the medium to long term.

The Trust recognises the need for provision of public service broadcasting beyond the BBC. We do not believe that audiences would be best served in a world where just two broadcasters – the BBC as the sole provider of public service broadcasting and BSkyB as the most powerful commercial provider – represented the extent of the choice available.

The Trust also recognises that there are things the BBC can do to help ensure that audiences continue to benefit from a diverse range of public service broadcasting – both from the BBC and beyond. We remain of the view that a partnership approach, in addition to broader market contributions, holds the best potential to create the new value needed to fulfil this ambition. As part of the development of Digital Britain, the BBC is looking forward to engaging fully with Government as its thinking develops and with potential partners to deliver maximum value to audiences and citizens; indeed the BBC is already engaged in a variety of discussions around many of the areas highlighted by the interim report.

1 www.bbc.co.uk/bbctrust/our_work/economic_impact/index.shtml
It is equally important to recognise that, while the BBC can make a contribution this must not be at the expense of its existing and highly valued public services, and the stability that the BBC’s continued investment in the UK creative economy brings. We welcome the Secretary of State’s recognition that “we must also recognise that the BBC can’t play this enabling role unless it too has stability at the core. We have to treasure and protect the strength of the BBC if we are to ask it to transmit its value to others in new and innovative ways.”

In the current economic climate it would be all too easy to take the view that the public service broadcasting offer for viewers is in inevitable decline. The Trust does not subscribe to that view. The digital opportunity means that viewers already have more choice over what to watch and when to watch it than they have ever had before. The potential is there for the strength of this offer to grow as more and more valuable archive content, as well as new material, is made available in new ways. The BBC’s partnership vision, if successful, will ensure that not only BBC content but valuable content from other public service broadcasters is increasingly accessible to viewers in a variety of ways.

The interim Digital Britain report begins to look at some of the major developments in the communications sector, and it is important that Government continues to assess the full scale of the technological and structural changes that continue apace; certainly no easy task. It is important, at a time of major economic uncertainty and fragility within the broadcasting sector, to be vigilant of the dangers of unintended consequences. Experience proves that structural changes made in haste inevitably carry the risk of making long-term mistakes. There are also constraints on the capacity of the BBC and others to engage in the full set of issues within the Digital Britain agenda, and we are keen to understand more about the Government’s priorities and timetable.

The importance of BBC Worldwide

BBC Worldwide, the commercial arm of the BBC, is also an important presence in the UK broadcasting industry. Out of the scope of the PWC report, the Executive has, in its response, highlighted the importance of BBCWW in the context of the Committee’s review.

Last July the BBC Trust launched a review of BBC Worldwide’s mandate, strategy and governance arrangements. The aim was twofold: to see if any changes were needed to reflect experience since the present arrangements were established in the current BBC Charter; and to consider concerns expressed by others in the market about the impact of BBC Worldwide.

Since then, however, the public policy debate about BBC Worldwide has broadened to take in the new question of whether it has a role to play in sustaining a second public service broadcasting entity. In our view it would be wrong for the Trust to take decisions based on its current review until this new question about BBC Worldwide has been resolved.

The Trust does, however, believe that much of the analysis in its review is relevant to the current policy debate. We have therefore published an interim statement setting out our emerging thinking.

We will now work with the BBC Executive to assess more fully the potential benefits for audiences emerging from partnership options that the BBC and Channel 4 are currently developing. We will remain fully engaged in the public debate. We will return to the question of BBC Worldwide strategy as soon as there is sufficient clarity around the nature of the partnership options for the Trust to reach fully informed decisions.

27 March 2009

Memorandum by the BBC Executive

Executive Summary

— A recent independent PWC report identified the BBC as having a pivotal role in the stimulation, development and sustenance of the creative sector in the UK.

— The BBC generates around twice the economic value of the licence fee invested in it: an overall positive economic impact of around £6.5 billion per annum and over £5 billion in the creative sector alone.

— PWC concluded that BBC investment in new talent for the benefit of the creative industries goes well beyond what might be done on a purely commercial basis.

— The BBC spent £40 million on training in 2006-07 (more than six times more than any other PSB) and is increasingly sharing its training resources with others.

— The BBC has a crucial role showcasing British film and as well as making feature films through BBC Films with successes this year including two films winning both Academy and BAFTA Awards, Man
on Wire and The Duchess, BAFTA winner Wallace and Gromit’s “A Matter of Life and Death” and triple Academy Award nominee Sam Mendes’ Revolutionary Road.

— The principle of partnership is at the heart of BBC Films. BBC Films works with a wide range of partners both locally (the UK Film Council, regional Screen Agencies, UK theatrical distributors and sales agents) and internationally (major studios, equity funds, territory distributors etc).

— In recent years BBC Films has worked with talent from Kenneth Branagh, Michael Winterbottom, John Maybury, Stephen Frears and Saul Dibb to Dame Judi Dench, Cate Blanchett, Kate Winslet and Jim Broadbent on films such as Notes on a Scandal, Billy Elliot and Iris.

— The BBC’s commercial subsidiary, BBC Worldwide also plays a crucial role in the UK’s creative economy: over the past four years, it has generated and invested back into UK creative talent around £1 billion.

— BBCW takes the best of British talent into almost 300 million homes globally and is the largest exporter of TV programmes in Europe.

— BBCW has been named “best distributor of the year” by its peers in 2005, 2006 and 2008 as well as “best development partner” by indies in 2006.

— Both BBC public service activity and BBCW have the potential to contribute even further to the UK creative economy: in particular, with security of funding and clarity of purpose, the BBC is already driving digital opportunities with new content and services and raising public awareness of their benefits; given continued adequate funding, we see exciting opportunities to continue to meet the BBC’s “digital” public purpose and, through greater digital inclusion, to unlock important social, citizen and economic benefits for all.

(Please note that the BBC has not responded to those questions which are not matters for the BBC)

1. What do the UK film and television industries currently contribute to the UK economy and British culture and how might this be enhanced?

The economic and cultural importance of the UK film and TV industries is an area which has benefitted from a great deal of research and interest from academics and think tanks to Parliament and Government. This is particularly true in the past year, with Ofcom’s second Review of Public Service Broadcasting, the work of the Convergence Think Tank and, most recently, the Digital Britain project, whose interim report concluded that the digital information and communications sector was one sector, alongside energy and financial services, upon which the whole of the economy rests.

For its own part, the BBC has been entrusted by successive Governments as a cornerstone of the UK broadcasting sector and a leading proponent of creativity and cultural excellence.

As outlined in the above introductory comments, the economic impact of BBC public service activity on the UK has been the subject of an extensive independent report commissioned from PWC by the BBC Trust in January 2008. In summary, the report identified the BBC as having a pivotal role in the stimulation, development and sustenance of the creative sector in the UK. Significant investment in both in-house and independent production by the BBC underpins a sector which is becoming increasingly important to the UK economy. The BBC generates around twice the economic value of the licence fee invested in it. The overall positive economic impact of the BBC’s expenditure on creative activities (including expenditure on overheads and infrastructure) was estimated to be approximately £6.5 billion per annum or more than £5 billion in the creative sector alone.

The stable funding of the BBC, through a long-term licence fee, is a privilege for the BBC, particularly in the current economic climate, but also a vital source of stability for the broadcasting industry across the whole of the UK. The benefits are tangible at a local, as well as national level: last year the BBC spent £960 million in the UK’s nations and regions, and the BBC is committed to a further significant shift of network production out of London, this involves growth in the Nations from the 2007 figure of 6% of network spend to 17% by 2016, with an interim target of 12% by 2012.

The PWC report was commissioned by the BBC Trust to examine the impact of the licence fee funded activities of the BBC. Yet the BBC’s commercial activities also have significant benefits to UK plc.

BBC Worldwide (BBCW) has the size and brand recognition required to compete on an international scale, maximising the funds available to reinvest in BBC programming and opening doors for other British businesses overseas. Directly, over the past four years, BBCW activities have generated and invested back into UK creative talent around £1 billion. Indirectly, BBCW’s contribution to the UK creative economy goes far
by this, thanks to its ambassadorial role and contribution to the BBC’s public purpose of “bringing the world to the UK and the UK to the world”. Its activities provide the BBC and the wider UK creative community with an internationally recognised export platform—enabling BBC Worldwide to foster and promote the best of UK talent, from the BBC, other public service broadcasters and the independent production sector.

BBC Worldwide provides an international platform for UK television in several ways. It has a portfolio of TV channels, mainly branded with the BBC brand, which together reach nearly 300 million homes around the world. These broadcast a diverse selection of UK programmes and feature content commissioned by ITV, Channel 4 and Five as well as the BBC.

In addition BBC Worldwide licenses around 40,000 hours of UK programming a year to third party channels and VOD operators; in recent years this has included the licensing of clips to global platforms such as YouTube. Where programmes have limited international appeal in their UK version, BBCW works with other broadcasters to adapt the format for local versions, providing advice and production expertise to customers in the process. It is important to recognise that formats as opposed to simply exports of the UK transmitted versions of programmes, are a significant part of the exports of the UK creative industries. For example, “Strictly Come Dancing” is sold as “Dancing with the Stars” to some 40 countries around the world.

Its operations also create a bridgehead for UK talent, raising their profile and bankability with, especially, the US majors. For example showing the UK series of The Office on BBC America led to it transferring to NBC. More recently in 2008 the run of Gavin & Stacey on BBC America proved so successful that ABC announced a US version.

BBCW’s support for the independent sector is highly valued. In addition to providing an effective distribution service to indies for their output, BBC Worldwide also offers a variety of ways in which indies can secure up-front investment. These include first-look and development deals and, more recently, “seed-funding” in the form of small equity stakes where this suits the companies concerned—examples include Baby Cow, Sprout and Left Bank.

BBCW allows these smaller indies to gain international exposure which would otherwise not be open to them thanks to the reach BBCW TV channels provide to almost 300 million homes globally and its role as the largest exporter of TV programmes in Europe (the BBCW catalogue includes 30,000 hours of programming of which 22% is made up of titles from independent producers).

Over the past four years BBC Worldwide has generated £200 million for independents from its commercial activities.

BBCW’s role in this regard has been recognised by the industry. In Broadcast magazine’s annual survey of the independent broadcasting sector, BBCW was named “best distributor of the year” by its peers in 2005, 2006 and 2008 as well as “best development partner” by indies in 2006. This year, BBCW’s DVD subsidiary, 2entertain, won a Queen’s Award for export in recognition of its £150 million in export revenues (BBCW as a whole won the same award in 2002). The international dimension to BBCW’s contribution to the UK creative industries has also been acknowledged in the industry; for example, the Editor of Broadcast Magazine recently wrote “BBC Worldwide is important in exporting UK plc around the world. The success of Dancing with the Stars has been crucial in leading the (British) charge into the US. BBCW has the clout to get into markets that smaller outfits could have a tough time negotiating.” (Emily Booth, Broadcast, August 2008). In these ways the BBC, though BBCW, is fulfilling its aim, as described in the Charter Review Green Paper, “to showcase the widest possible array of UK talent and secure the best possible deal for UK plc”.

In addition to the economic contribution of the BBC, its cultural contribution is equally well-documented: the Arts Council England, for example, has recognised the BBC as the largest arts organisation in the UK. Cultural leadership is now in the spirit of the BBC’s public purposes through its Charter-enshrined duty in “stimulating creativity and cultural excellence”. In addition to its role promoting British talent on TV, radio and online (see below), and providing enjoyable, entertaining and enriching content to its audiences, the BBC also encourages active participation in cultural activity by its audiences. This ranges from Video Nation—helping viewers make and publish their own videos—to BBC Backstage, which offers tool, materials and advice to internet and software developers; from CBeebies content stimulating an interest in art, cookery, rhythm and music in pre-school children, to School Report, which gives 11–14 year olds the opportunity to make and broadcast their own news to a real audience and a real deadline.

The overall impact of the BBC in the British cultural arena is perhaps nowhere clearer than in music. The BBC directly invests in music talent through the search for the Young Musician of the Year and its employment of the five BBC Orchestras and the BBC Singers, the UK’s only full-time professional choir. It also brings live music to huge audiences. Last year, Radio 3 alone staged 500 concerts including the BBC Proms and worked in partnership with major festivals like the London Jazz Festival, while Radio 1 Big Weekend hosted the most
talked-about bands for pop fans. Above all, the BBC offers many thousands of hours of popular and new music, across the spectrum from Jools Holland on BBC2 to 1Xtra and the Asian Network.

The BBC also has a significant role in the UK film industry and has a partnership with the UK Film Council. First, the BBC has a crucial role showcasing British film. Second, the BBC has a feature film-making arm, BBC Films, whose successes this year include two films winning both Academy and BAFTA Awards, *Man on a Wire* and *The Duchess*, BAFTA winner *Wallace and Gromit's “A Matter of Life and Death”* and triple Academy Award nominee Sam Mendes' *Revolutionary Road*. BBC Films is committed to finding and developing new talent, as well as collaborating with some of the foremost writers and directors in the industry. In recent years these have included Kenneth Branagh, Michael Winterbottom, John Maybury, Stephen Frears and Saul Dibb. BBC Films productions include the acclaimed and four times Academy Award nominee *Notes On A Scandal*, adapted from Zoë Heller’s novel, starring Cate Blanchett and Dame Judi Dench; Stephen Daldry's *Billy Elliot* (BBC Films’ most successful film to date, which has taken some $100 million worldwide, won three major British Academy Film Awards and was nominated for three Academy Awards); the Academy Award-winning *Iris*, starring the Academy Award-winner Kate Winslet, Judi Dench, Jim Broadbent and directed by Richard Eyre; Stephen Frears’ *Dirty Pretty Things*; and Michael Winterbottom’s Berlin Golden Bear winner *In This World*.

The BBC has also, in March 2009, announced a partnership with the BFI to bring alive a great and historic archive of UK film to the online world.

However, despite the successes, the BBC is not complacent about its performance in the arts. Recent BBC Trust research showed that while audiences believe the BBC serves licence fee payers well in terms of creativity, it could still do more, for example, in demonstrating more fresh and innovative ideas.

One of the ways in which the BBC is seeking to further improve its contribution to public service broadcasting and the wider cultural sector, is through exploring the way in which it might extend its approach to partnerships. Through sustainable partnerships, the BBC could offer long-term, strategic solutions to the problems facing public service broadcasting, a sector so highly valued by audiences. By leveraging the cornerstone role played by the BBC in broadcasting, the BBC aims to deliver potential benefits not only to the commercial PSBs but also the wider broadcasting sector, strengthening the UK’s position as one of the world’s strongest creative economies. Initial estimates suggested these partnerships could deliver more than £120 million per annum by 2014 to public service broadcasting beyond the BBC. The wider ranging partnership proposals cover production, distribution and exploitation of content, and include sharing the iPlayer with other broadcasters and bringing it to the television set by developing a common industry approach to delivering internet services to TVs. Other proposals include encouraging broadband take-up through attractive content and marketing, helping support regional news beyond the BBC and exploring how BBC Worldwide’s already strong contribution to the wider public service broadcasting sector might be extended. The Partnership proposals could also bring benefits to organisations and institutions beyond the PSBs. For example, the BBC’s broadband proposals would also bring broader benefits, including through greater online linking to public service content; syndication of BBC content to newspapers and others; strong partnerships with the cultural sector; and support for the DAB digital radio platform. The BBC Trust has made clear that, as the guardian of the interests of licence fee payers, it will only accept proposals if they add value rather than just transferring value.

5. Is the current business environment in the UK offering the industries opportunities for the emergence of new talent or the acquisition of the managerial and technical skills required by the film and television industries?

The BBC has a long-standing reputation for creative and innovative content that breaks new ground and sets trends—such as David Frost’s *That Was The Week That Was* bringing satire to television in the 1960s and which made a reappearance this year. *TW3* was responsible for developing and launching the careers of those who went on to appear in *The Two Ronnies* and *Monty Python*, among others, and helped to establish an environment for comedy development that can be traced to *The Mighty Boosh* and *Gavin and Stacey* on BBC Three and Radio 4’s eclectic comedy offer including *The Now Show* and *Down the Line*. It is worth noting that the BBC gave David Tennant his first big role in 1994; Matt Lucas, most renowned for Little Britain, had been given his break in BBC comedy shows Reeves and Mortimer and Catterick; and Comedian Alan Carr won the BBC New Comedy Stand Up award in 2001 and was given his radio debut by Radio 2. The PWC report concluded that “based on the evidence compiled, including the above case studies, we conclude that the BBC undertakes many unprofitable activities in the search and encouragement of new talent for the benefit of the creative industries. These unprofitable activities would most likely not be replicated in the counterfactual [ie were the BBC not to exist as is, but potentially evolved instead into an advertiser-funded broadcaster].”
BBC Worldwide also have had a crucial role in promoting UK talent. Talent can not only derive financial benefit from BBCW’s activities through royalty payments, but which can also gain international exposure and recognition to opportunities for UK talent across film and international television, for example:

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Steve Coogan recently said: “At the moment the only people who recognize me in America are the cool people. People who’ve found me on BBC America.”

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Ricky Gervais’s website states: “The Office has become an international phenomenon, with deals by BBC Worldwide in 70 territories around the world …. The show broke new ground in the US following its hugely successful transmission on BBC America: Ricky Gervais became the first British actor ever to win a TV comedy-acting award at the Golden Globes 2004. Following its success on BBC America, the show’s format has been licensed ... to NBC for a US version that is currently in production. BBC Worldwide, in consultation with the writers, is also exploring opportunities around the world for local versions of the show”.

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Simon Pegg commented: “It used to be that you guys knew us from (Monty) Python and Benny Hill. Nowadays with BBC America and ... increased access. We’re closer than we used to be.”

The BBC is also a substantial investor in off-screen staff, in particular through its extensive contribution to training. This is particularly important because, as pointed out by the PWC report, training is often seen as an area of market failure where commercial employers are not incentivised enough to provide “socially optimal” levels of training. Many stakeholders interviewed for the report concluded that the BBC’s role in this area was “pivotal” and this seems corroborated by comparative expenditure: the BBC spent £40 million on training and development in 2006–07 while ITV spent around £6 million and Channel 4 spent £4 million. Nowhere is the centrality of the BBC’s role clearer than in the BBC’s Journalism training (BBC spent 2006–07: £6.3 million). This is also an area in which the BBC is demonstrating its commitment to partnerships with the wider industry. For example, the BBC plans to make available in 2009 its extensive online training resources to other providers by opening up its College of Journalism website. These resources include material such as the Safeguarding Trust course on editorial integrity.

The BBC plays a vital role in the UK film industry, with BBC Films having a partnership approach at the heart of its activity, making all of its films with independent producers, and often working with partners to co-develop scripts. All films require a combination of partners who finance via debt and equity investment or through pre-buying rights—either for sales internationally or for an individual territory or territories. BBC Films works with a wide range of partners, both locally (the UK Film Council, regional Screen Agencies, UK theatrical distributors and sales agents) and internationally (major studios, equity funds, territory distributors etc). The BBC provides strong editorial support and guidance to assist with films being produced at the highest standard for the audience to which it is aimed. Executive Producer and production supervision throughout the production stage ensures the film is produced on budget and schedule and with editorial excellence.

On top of its development and production activity, BBC Films aims to support the UK film industry and partnerships include our support of various training or professional organisations such as the National Film & Television School, the Script Factory, the Screenwriter’s Festival. BBC Films has an excellent and mutually supportive relationship with the UK Film Council in working not only on development and production but in working towards the development of a strong film culture and a sustainable British film industry.

6. How successful has the regulatory system been in supporting UK content in television?

It is inevitable that changes in audiences and technologies at times raise possible developments in the existing regulatory system. For example, the Digital Britain report has recently proposed to explore the potential for a Rights Agency in the UK, which the BBC welcomes. Strong copyright protection balanced by easy access to copyright material is essential in promoting creativity and the development of a digital knowledge economy. The BBC engages with this debate as one of the UK’s leading users and licensee of rights; a major broadcaster and distributor; and a creator of significant rights-holder value. As a result, we fully appreciate the essentially collaborative nature of the creative industries in which we operate.

The rights environment of the future will need to be one that is capable of efficiently protecting and rewarding the interests of all the collaborative creative elements that come together to create content, while content providers can concentrate on increasing the ability of consumers and audiences to enjoy compelling legal content provided how, where and when they want it. The BBC has therefore become increasingly concerned that the current copyright regime and copyright management practices no longer meet the demands of new technological developments and consumers’ expectations of being able to access broadcasters’ services (both current and archive) “any time, any place, anywhere”. Negotiations for rights on an individual basis or for specific platforms or territories are no longer efficient for content providers like the BBC in the age of the internet.
The complexity associated with on-demand rights clearances pose even greater difficulties for small businesses and individuals who want to use copyright material to develop innovative new content and services with copyright material. They present a barrier to entry into the market place for new players, thereby stifling creativity and innovation. These issues will become even more important as broadcasters such as the BBC seek to open up their archives to the public. The exciting opportunity to make many thousands of hours of programming—currently gathering dust in broadcasters’ archives—available online as a deep and rich public offering will be frustrated unless there are new systems in place to clear this material. One solution for many of these difficulties and the most effective way to promote the circulation of works online is for a copyright framework to facilitate and promote a “one-stop shop” through collective licensing.

7. What are the implications for television content creation of digital switchover and widespread broadband availability? How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content?

The history of technological development has presented enormous new opportunities to broadcasters and audiences alike. The BBC has played an important role throughout this history in helping all broadcasters realise these opportunities, latterly as the sixth of its Charter-enshrined public purposes: “in promoting its other purposes, helping to deliver to the public the benefit of emerging communications technologies and services and, in addition, taking a leading role in the switchover to digital television”. For decades—from the fundamental standards on which UK analogue radio and TV was based to PAL, Teletext, NICAM stereo sound, DTT and the web—the BBC’s Research and Innovation has created standards and technologies that have been made open and freely shared with the rest of the industry. In recent years, the BBC has helped build digital Britain through services such as BBC Online, Freesat, Freesat, the iPlayer, BBC HD, and the BBC’s multiple digital mobile services. Freeview, Freesat, the current work which the BBC, BT and ITV are undertaking on internet-connected TV—all are examples of the BBC working with others under governance arrangements that place it on an equal footing with its partners and in which its financial and in-kind contributions are quantified. More importantly, these partnerships—by bringing the UK’s broadcasters together—have delivered public value by offering audiences open, simple-to-use, common digital standards and platforms.

In particular, digital TV switchover brings undoubted benefits to both audiences and content creators. To audiences, it offers greater choice and more services, including interactive services, five BBC digital radio stations and extra TV channels (eg. BBC3, BBC4, CBBC, CBeebies, News 24 and BBC Parliament). To content creators it ensures that their digital content can be viewed by all viewers. More widely, it helps end the “digital divide” and ensure more efficient broadcasting resulting in the “digital dividend” of freed up spectrum.

Similarly, widespread broadband availability also brings wide benefits. Above all, broadband allows users to personalise services they use, and access content on demand: when, where and how they want it. As such, the award-winning BBC iPlayer has received more than 250 million requests to view BBC programmes since its launch 15 months ago: offering greater convenience and richer choice to viewers, and wider and more varied audiences to the BBC in-house and commissioned programme makers. Broadband’s “return-path” also offers great opportunities that ever before for interaction between audiences and content creators.

In addition to these benefits, the history of technological development has also revealed a range of profoundly disruptive forces. As outlined in Ofcom’s second Public Service Broadcasting Review, digital TV switchover potentially threatens to further fragment audiences and to remove a key plank from the hitherto successful financial model of supporting public service broadcasting beyond the BBC: namely the delivery of public service obligations and especially new UK produced content by commercial PSBs in exchange for gifted access to the airwaves. Broadband has also contributed to audience fragmentation and challenged the previous certainties in the linear TV and radio advertising markets. It is in this context that the BBC has developed its partnerships proposals described above: delivering real value to audiences and broadcasters but working with the grain of market and technological changes rather than simply reallocating existing funds. The BBC is ready to play an active role, as an enabler and delivery partner, in helping build a truly digital Britain. With security of funding and clarity of purpose, the BBC is already driving digital opportunities with new content and services and raising public awareness of their benefits. Given continued adequate funding, we see exciting opportunities to continue to meet our sixth purpose and, through greater digital inclusion, to unlock important social, citizen and economic benefits for all.

27 March 2009
Examination of Witnesses

Witnesses: Mr Mark Thompson, Director General, and Ms Caroline Thomson, Chief Operating Officer, BBC, examined.

Q2026 Chairman: Good morning, welcome and thank you very much for coming. Let me say first that we are examining the film and television industries to see what economic and cultural contribution they can make, and obviously we are going to spend most time on that, but, before that, could I just ask some questions really about decision-making inside the BBC and in relation to the events of last week and Question Time. It will not be an entire surprise to you that we are going to raise that. Could you just tell me how that decision on Question Time was made? As I gather, Question Time is made by an independent company contracted to the BBC. Did the initiative come from them? Did they or the BBC simply want to increase their audience? Were they chasing ratings? What was the process?

Mr Thompson: Could I, first of all, say good morning and, secondly, say that no part of this decision-making was related to a desire to increase ratings. Question Time, although it is made by an independent company, falls under the editorial control of the News Division of the BBC, BBC News, and there is a chain of command inside the News Division heading up from the Director of BBC News, Helen Boaden, to the overall Head of Journalism, my Deputy Director General, Mark Byford. We also have a Director of Editorial Policy and Standards, David Jordan, who sits, if you like, in the middle of the BBC as an independent source of advice on editorial matters to do with everything from strong language to journalistic best practice and so forth. One of his colleagues, a chap called Rick Bailey, is the Chief Political Adviser and Rick’s particular job is to look at questions of political balance absolutely within election periods, but not entirely, and also looking between elections at balance. The question of who should appear on different programmes is not something which is done, as it were, purely on an ad hoc basis when some researcher or producer says, “Wouldn’t it be a good idea if we did X”, but it is something we keep under constant review and constant discussion. Particularly over the last five years, I think I would argue, the 2004 European elections were something of a watermark, but I think you could also argue that the point of devolution at the end of the 1990s and the greater prominence of the national parties, and I am thinking particularly of the SNP, Plaid Cymru and some of the parties in Northern Ireland, all of these have meant that there has been an environment where we have been asking ourselves fairly continuously about whether we have got the representation of minor parties correct. The other kind of ongoing, constant debate is whether the proportion of appearances in different programmes of the major parties is exactly right, and that varies—and our view on that varies—from time to time depending on demonstrated electoral support for different parties. So the question of whether the British National Party, the BNP, should have an invitation extended to them to appear on Question Time has been a question that we have looked at over the months and years.

Q2027 Chairman: Over the months and years, but did the BNP put a formal application to you?

Mr Thompson: No.

Q2028 Chairman: So they never applied?

Mr Thompson: To be honest, Question Time is not a kind of competition you can enter for. We extend invitations, as we do for other programmes, to different parties.

Q2029 Chairman: But the BNP were not concerned that they were being excluded from Question Time?

Mr Thompson: In some sense, you have to ask the BNP what their view about this was. What happened from the point of view of the BBC is that this is something we have kept, as we do with other small parties, under review. The showing of the BNP in this year’s European elections, the election of two MEPs and also the recognition that they had a significant number of councillors, we believed, and were advised by those experts I have mentioned, Rick Bailey, that the objective criteria that we would typically look to be fulfilled before inviting a minor party on to Question Time had been fulfilled. On the basis of that, we decided to extend an invitation. It is not because we expect to have the BNP on every week, I should say, but very occasionally, as with other minor parties from the Green Party to the Scottish Socialists, there will be occasions when it feels right to invite them on to that programme.

Q2030 Chairman: But the point I am trying to get to is that it really was at your initiative and it was not because of pressure coming from the BNP.

Mr Thompson: Correct.

Q2031 Chairman: How far did this decision go up?

Mr Thompson: Yes.

Q2032 Chairman: Was the whole Executive Board involved in the decision?

Mr Thompson: It was something I was involved in in my role as Editor-in-Chief of the BBC and, although we certainly informed the Executive Board that we were likely to do this, it was something that I did as Editor-in-Chief at the BBC.
Q2033 Chairman: So there was not a discussion at the Board about the propriety of doing this?
Mr Thompson: No. There was a discussion between myself and the most senior editorial colleagues I have in the BBC, but it was something I did as Editor-in-Chief of the BBC.

Q2034 Chairman: But you have non-executives, as I recall it, on your Board.
Mr Thompson: We do.

Q2035 Chairman: Would that not be something which they might be asked for?
Mr Thompson: The Royal Charter and Agreement charges me with making these decisions in my role as Editor-in-Chief and that is the authority I have to make these decisions for which I am personally responsible. It is not one of a category of decision, of which there are many, where the Charter asks the Executive Board in session to make the decisions as a group.

Q2036 Chairman: What weight do you place on the argument that Mr Griffin leads a racist party and many British citizens feel threatened by that party?
Mr Thompson: The position I have taken is as follows: that Question Time, I believe, is an important democratic forum. It is, by some margin, the most widely watched, purely political programme on television in this country, and we believe it is important that the public who appear on Question Time should have a chance to put questions to politicians from across the political spectrum and that they have a right to do so. I do not believe that I have the authority to decide, as it were, once you have taken the objective criteria across, as it were, legal parties who are putting up candidates for election, indeed are gaining popular support and, therefore, getting candidates elected for public office, and I do not think it is appropriate for me then to take another layer of, if you like, value judgment to say, “Well, notwithstanding the balance of electoral support, notwithstanding the legality of these parties, I’m going, either on my own authority or on the basis of what somebody else has said as an opinion, to say that such and such a party is not suitable to appear on this particular BBC programme”.

Q2037 Chairman: You feel that that would be a function of Parliament?
Mr Thompson: Perhaps you may have heard me quoted saying this, that it seems to me that of course democratic societies can decide to proscribe political parties, to make them illegal and indeed to ban them from the airwaves. In the 1980s, there were some political movements and parties in Northern Ireland who were essentially banned from appearing on the air. If Parliament decided to do that, then we would not extend an invitation obviously for them to appear, the BNP, but I think that is a job best left to Parliament rather than given to me as an individual or to the BBC.

Q2038 Chairman: Okay, but let us just very briefly go to the programme itself. Did you feel that the programme shown was public service broadcasting at its finest or did you think it was a rather crude and unpleasant shouting match which might well have had the effect of giving some sympathy to the person who was on it?
Mr Thompson: Can I preface my remarks by saying that, because another of my duties as Director General and Editor-in-Chief is to potentially consider complaints from members of the public and from participants in BBC programmes after transmission, not at the first stage of complaint, but, if a complainant is unhappy about that, I may subsequently have to adjudicate on complaints, it is not appropriate for me at this stage to give a detailed personal assessment of this programme.

Q2039 Chairman: That is very convenient!
Mr Thompson: Chairman, it may be convenient, but it also happens to be true.

Q2040 Chairman: How many complaints have you had?
Mr Thompson: We have had, I think, a small, I do not have the exact number, but a relatively small number, ie, in the low hundreds.

Q2041 Lord Maxton: Including from Mr Griffin himself?
Mr Thompson: I am not sure whether we have received it, but I understand from the press that we may also be receiving a complaint from him.

Q2042 Chairman: Mr Griffin has now appeared on Question Time. He has appeared on this BBC showcase programme, so do we, therefore, expect him or members of his party to appear on Any Questions and the other political discussion programmes that you have on the BBC?
Mr Thompson: You will appreciate that this is not the first time that Mr Griffin and other members of the BNP have been interviewed by BBC programmes.

Q2043 Chairman: I am distinguishing between reporting and being interviewed. Appearing on something like Question Time and Any Questions seems to me rather different: programmes, discussion programmes, as opposed to reporting.
Mr Thompson: Again, I would say that there have been occasions when the BNP have appeared on BBC discussion programmes as well as in reportage. But the broad principle, in common with other parties
which have relatively low electoral support, that from time to time, and it will be rare given the level of support for the BNP, invitations will be extended to the BNP to appear on other programmes, absolutely the same principles will apply elsewhere.

Q2044 Chairman: So he could appear on Any Questions?
Mr Thompson: He could appear on any of the programmes that the BBC broadcasts which deal with UK-level politics in a way where we try carefully to reflect opinion across the spectrum.

Q2045 Chairman: Looking at it in the broadest sense, do you think it has been successful?
Mr Thompson: What I would say about that, Chairman, is that it is for the public to decide, firstly, whether it has been successful or not. By the way, all of the opinion polls suggest that there is a very clear majority of the public who think it was right that he should appear on this programme and indeed I believe that number has gone up after the transmission, although it was high even before the transmission. So I think it is for the public to decide. I think the question for me and my colleagues is whether we have discharged our duty in terms of reflecting the full range of opinion correctly. Now, my view is, as I have said, that it is a duty which is around essentially giving the public a chance to question and potentially also to challenge people across the full range of what is legitimate, political discourse, and the measure we use for that is parties who are actually standing, canvassing for votes and achieving votes in elections. Now, of course it is absolutely open to one political grouping or any member of the public to say, “I don’t like those people. I don’t like their policies and, therefore, I don’t believe they should be heard”. That is a completely reasonable opinion to hold and we have had many people on the airwaves in the last couple of weeks at the BBC making exactly that point. I did not believe I had the authority, however, to make that kind of value judgment myself or to make it on the basis of, as it were, third-party suggestions from others. I think the right thing for us to do is to say that Question Time in many ways parallels the democratic process itself and not everyone is going to agree with every opinion that is expressed on Question Time; that is not how democracy works.

Q2046 Lord Inglewood: You said that minor parties appear occasionally. Is occasionally once a year, once every five years? Can you give me a flavour of how that applies?
Mr Thompson: The underlying support for the BNP, I think, is somewhere around two to three per cent and it would appear to be unchanged, if not a little down, in the days after this broadcast rather than up. In the European election, they achieved six per cent of the vote, I believe, and just under a million votes were cast for the BNP. This is not an absolutely precise algorithmic science. I would say that you would be talking, in the case of a party which continued, if it continued, to receive that level of support, of appearances which would probably be no more than once a year and it could be less.

Q2047 Baroness Scott of Needham Market: Very briefly, until this programme was broadcast, the three main parties had sort of a quiet policy that they would not appear on platforms with the BNP. What would you do if you found yourself in a situation where in fact other political parties organised a boycott and said, “We will not appear on Question Time or Any Questions with the BNP”?
Mr Thompson: If I may say so, I do not want to get drawn into a hypothetical scenario. What actually happened last week was that all the main parties took a different view and decided that they would like to put an interviewee up, and that is the basis on which we would proceed if there were a point in the future, as there almost certainly will be if the BNP maintains its current support, where we decide to do this again with this or another programme.

Q2048 Lord King of Bridgwater: I may have missed the point, but you were talking about your role as Editor-in-Chief and the Chairman asked you about the non-executive directors on your Executive Board. Did you say that, because this was really an editorial matter, they were not consulted or informed?
Mr Thompson: To be quite clear, I would of course brief the non-executive directors and seek advice from the non-executive directors, but, as a matter of, if you like, the way our constitution works in editorial matters, I take personal responsibility as Editor-in-Chief for these decisions.

Q2049 Lord King of Bridgwater: Yes, I understand that, but did you inform the non-executive directors that he was coming on?
Mr Thompson: Yes, I did and sought advice.

Q2050 Lord King of Bridgwater: Just on the complaints point, a good old hobby horse of ours, you do not get involved unless it cannot be resolved. But I thought that was when the Trust got involved.
Mr Thompson: There is a series of stages in a complaint. I am, as it were, the last port of call on the management side of the BBC, after which, if a complainant is not satisfied with the response, it goes to the Trust. It should be said that the overwhelming majority of complaints we receive are satisfactorily resolved on the management side and only a tiny proportion go to appeal to the Trust. You will also know that, except in matters of impartiality,
complainants also have the opportunity to go to Ofcom. Ofcom actually has got authority to deal with almost all complaints, except in the matter of impartiality.

Q2051 Chairman: I am still not quite clear, after Lord King’s question, about the non-executives. I asked you whether you consulted them and I thought your reply to that was that you did not.

Mr Thompson: The distinction I am trying to make, and perhaps let me try and spell it out more clearly, is that editorial matters are not decisions which go to the Executive Board of the BBC for decision; in other words, where, as it were, in theory you would have a vote round the table, as we would, for example, in matters of the BBC budget or something that BBC Worldwide wanted to do or indeed about the overall programme strategy. Individual programme decisions, although I would brief and seek the advice of individual non-executive directors—

Q2052 Chairman: But is that advice on how to handle it?

Mr Thompson: Well, also talking decisions through, but the Charter gives me the sole responsibility, as Editor-in-Chief, of actually reaching this conclusion.

Chairman: Okay, we will move on. We have taken 20 minutes and the key reason we have invited you to come is the film and television industry.

Q2053 Baroness Bonham-Carter of Yarnbury: For what it is worth, I personally think that the more the public see of the BNP, the more poisonous they see them to be, but that is just what I think. On the matter of investment in public content, you said a moment ago in the case of Question Time that you were not chasing ratings. In the present day of television, how important are ratings to the BBC?

Mr Thompson: The issue of share, what share of viewing is the BBC getting on a particular evening for television or how well is Radio Four doing relative to commercial radio, is less important in the BBC today, and no one is given objectives around maximising share or anything like that. It is less important today in the BBC than it has been. I would say, at any point in the BBC’s history. What we try and focus on is two things: one, can we reach every household in the land with content that they find valuable, attractive and worthwhile, so we look at aggregate reach and, for example, with our news services, the News Division of the BBC, their objectives are around what proportion of the UK population can they reach with BBC News across television, radio, the web, mobile services, but looking at reach as a whole; and the other broad category is quality. The public want quality from the BBC and the other big thing we are into is asking the public whether or not they think the content they are getting is high-quality, excellent and valuable, and that is the way we try and concentrate all of the people who work for the BBC on giving the public what they say they want from us.

Q2054 Baroness Bonham-Carter of Yarnbury: The reason I ask is because of this question of content and the fact that you have obviously had to make cuts. Can I take up drama? Do the hours that you dedicate to drama provide the correct type of content? I believe you have taken swingeing cuts on the next series of Cranford, for instance. How do you come to a decision about where to make cuts which, I appreciate, you have to make, and do you think that the decisions you are making about the type of drama content that the BBC is providing are actually providing the best quality?

Mr Thompson: If I may say so, you are using the word “cuts”, but I think there are two different things which are going on here. One is the amount of budget that you have for money that you can direct at the whole content of the BBC. BBC Television, getting on for £1 billion on original content for BBC Television each year, so there is the kind of the size of the cake. Then there is the question of how can you make sure you are getting the best value for money out of the investment you are making. We are going through a revolution in media which brings with it all sorts of benefits, being increased functionality—that terrible word—in terms of usability of content for the public and so forth, better quality, high definition, 5.1 stereo sound, 3D arriving, so increased production value in terms of quality, but also potentially opportunities to make a programme of the same or higher quality for less money, so efficiencies, if you like. Across the UK economy as a whole, you would expect efficiencies to deliver two per cent a year, so the same output for two per cent less input per year, and in a relatively high-tech area like media, you would hope to do better than that. We are currently in a programme where we are trying to achieve an average of three per cent net of all restructuring costs per year for five years and in television that means, depending on the year, four or five per cent per year, and that is very stretching. I do not want to personalise it around Cranford which is, I hope, going to be fantastic and is going to be, I think, one of the real pleasures of the coming months, but, if you take programme X, we would hope that the 2010 edition of programme X we could make, on average, for five per cent less money than in 2009 without sacrificing quality.

Q2055 Baroness Bonham-Carter of Yarnbury: All programmes?

Mr Thompson: Well, no, because, rather than trying to take an absolute common slide rule to every single programme, you actually try and understand what is going on in different areas and make different choices. In English local radio, we do not believe
there is much more we can do around efficiency right now and they have got virtually no targets. In some areas of television production and in news we think there is more we can do. In news, for example, we have combined TV, radio and web newsrooms into one multimedia operation and we think we can drive news-gathering and the flow of news much more effectively than in the past and make significant savings. What we are doing throughout this process is asking the public systematically the same questions about quality, and indeed we are reporting to the BBC Trust regularly on what the public say about quality because, to say the obvious, if you take five per cent of a budget of a given programme and people say that it is five per cent worse, that is not a productivity gain, you have simply damaged the quality of the programme. So far across the piece, that seems to be going well and the public scores we are getting for quality are slightly up over this period even though we have already taken 15/20 per cent out of the budgets.

**Q2056 Baroness Bonham-Carter of Yarnbury:** Although your employees are on the record in the *Evening Standard*, saying that they are being put under intolerable pressures, particularly in current affairs.

**Mr Thompson:** Well, all I would say, to repeat, is that the idea that any enterprise would look for year-on-year productivity gains, especially when you have got so much new technology to throw at these issues, to be honest, is, I would say, unexceptionable. I do not know of any enterprise in the private sector, or indeed now increasingly the public sector, who would not accept that year-on-year savings through the use of technology and new ways of working are not possible. Now, is this process always popular with all of one’s colleagues? No, it is not, but I think that, if the BBC were to say, “You know what, we are uniquely different from every other organisation and we alone are never able to find productivity gains and we must always keep all programme budgets exactly where they are”, one, I think we would lose credibility if we did that, and I do not think it is justified, but, secondly, we would have found it impossible to launch the iPlayer and what we do on the web and the money that we found to increase the overall spend on original drama. What we are doing is we are not taking money out of originations and putting it into acquired programmes, but the money we are recycling we are able to put into new, original programmes and into new services, like the iPlayer.

**Q2057 Baroness Bonham-Carter of Yarnbury:** Is it a sensible way to stimulate British content, at a time when commercial PSBs are struggling so hard for revenue, to attack their revenue by competitive scheduling? I am thinking of *Strictly Come Dancing*. **Mr Thompson:** If you ask the British public what they want from the BBC, one of the things they say they want from us is entertaining and engaging Saturday night entertainment.

**Q2058 Baroness Bonham-Carter of Yarnbury:** But they want it from everyone, do they not, and, if there is a lack of money which, after all, comes from the advertising revenue, it seems a little short-sighted.

**Mr Thompson:** To be honest, I think this is not only a little unreasonable but, frankly, rather got up in recent weeks. *Strictly Come Dancing* and *X Factor* had clashed at least 40 times before this autumn. The idea that the two Saturday night entertainment programmes would occasionally be on the air or sometimes on the air together is not new. This season, autumn this year, we are going to have *Strictly Come Dancing* on a Saturday and last year it was on a Sunday, so *X Factor* has Sunday entirely to itself now. Our overall schedule across the weekend on BBC One is probably slightly more distinctive and slightly less competitive this year than it was last year. To be honest, I am persuaded, overall, if you step back, there is less entertainment on BBC One and more news and current affairs than at any time, I think, in BBC One’s history. We are spending less money on acquisition in relation to investment in original programming than at any time in our history. The whole run of play here is in the opposite direction. If you look at the BBC One schedule right now, we have got programmes like the David Attenborough’s *Life* series playing right in the middle of primetime in a way which no other channel and certainly no other mainstream channel does in Britain. I think it is a canard to imagine, and it sort of dates from a debate from five or six years ago, that the BBC is kind of ratings-crazy or pouring money into entertainment. Actually, where we put our money is in original drama, in what, we hope, is the best news and current affairs in the world, specialist documentaries like natural history. We have a new science programme playing on BBC One, and *Question Time* is a good example of a BBC One programme and a real platform for democratic debate in the middle of the schedule.

**Q2059 Baroness McIntosh of Hudnall:** Can I just follow that up, Mr Thompson, because there is a genre of programming in which the BBC has historically had great success and which is not now being effectively delivered by other providers, and that is children’s programming. I should say that I have started watching children’s programming again
for the first time in 30 years because I have now got a
grandchild who watches In the Night Garden and can
say that, although I have not the faintest idea what
is going on, it is lovely and she loves it. It is a bit of
original programming which clearly has been very
successful, but we were told by the maker of that
programme and by other witnesses that there is real
pressure now on the resources that are available for
making original content for children and that
actually, although In the Night Garden is directed at
very young children, the real gap is with slightly older
children. Can you tell us a bit about how you are
thinking about your investment in children’s
programming, given that probably the BBC really
does have to lead in this area where other people are
retreating?

Mr Thompson: I think that last point is absolutely
correct, first of all. I think it is particularly important,
given the problems with the commercial funding of
children’s programmes, and I think the BBC does
have a special responsibility and we expect our
investment in children’s programmes to go up rather
than down as a result, not greatly, but we would like
to put a little bit more money into children’s
programming. What I want to say is that even here
though, where we can, we want to try and again get
the best value for money, so sometimes on individual
programme budgets, nonetheless, we will say, “Could
we do such and such a programme in a different way
and perhaps do it for a slightly lower budget than it
had previously?” What is interesting though about
children’s programmes is that within the universe of
children’s programmes, in a sense, you have,
certainly in the BBC, almost a complete range of
programmes. You have Newsround, you have a news
programme, you have documentaries, you have
entertainment programmes, you have drama and so
on, and the shift that we have made inside children’s
programmes is to concentrate investment on the
kinds of programmes which can make the biggest
difference. So we have tried to spend actually slightly
more money on really eye-catching drama and not
just pieces like In the Night Garden for younger
children, what we call the ‘CBeebies audience’, but
also dramas like MI High and The Sarah Jane
Adventures for those older children, the CBBC
audience, which is five and a half to six up to about
nine. I would say, by the way, that, in my view, the
biggest gap we have, and British television has
actually, is not in the five and a half to six to nine
category, but it is nine to 13/14 for which we have
launched a service, Switch, which is an attempt to
address that audience, but that is probably the
biggest gap currently in the line-up.

Q2060 Baroness McIntosh of Hudnall: But in terms
of the quantum of investment where you are in this
environment where you are trying to get efficiency
savings and indeed where you probably are going to
have to make direct cuts, I would not be surprised to
hear that—

Mr Thompson: We are not going to do that, no. We are
actually going to protect the budget for our children’s
services which, by the way, seems to be much higher
than it was five or ten years ago. What we have
actually seen overall is an investment in this area,
partly with the launch of the two children’s channels,
and it is one of the areas we want to protect. Now,
what that means is that it will get a slightly higher
proportion of the licence fee because there is pressure
elsewhere, but we would absolutely accept that it is
one of the things which the public particularly look to
the BBC for. By the way, children’s content without
advertising is also something which parents tell us,
and possibly even grandparents as well, is really,
really valuable, that an environment where children
can watch original British output and not be
bombarded with advertisements is also something
which parents value.

Q2061 Baroness McIntosh of Hudnall: Can I just be
clear, since you said “original British output”, that,
when you talk about sustaining or increasing your
investment as a proportion of what you spend
overall, will you be spending that on original content
that is generated here?

Mr Thompson: The overwhelming majority. There is
some acquisition in children’s, as there is elsewhere,
but, as with our overall policy, our policy is only to
spend a very small proportion of our programme
budget on acquired programming. People want the
BBC, first and foremost, to deliver original
production and that of course is also, if you like, the
best policy in terms of the supply side and the creative
industries.

Q2062 Baroness Scott of Needham Market: I am
sure that will be hugely welcomed, that commitment
to children’s programming, because it has been a
recurrent theme through our inquiry. You have a
relatively predictable revenue stream over the next
three years in terms of the licence fee settlement and
you have also presumably got some flexibility that
you will generate from the two per cent year-on-year
efficiency savings.

Mr Thompson: Yes.

Q2063 Baroness Scott of Needham Market: So what
would be your priorities for investment over that
period, how do you decide, and what is the process by
which these discussions take place?

Mr Thompson: You perhaps heard that we announced
last month that we are beginning a process of
strategic review inside the BBC.
Mr Mark Thompson and Ms Caroline Thomson

Q2064 Baroness Scott of Needham Market: Yes. Mr Thompson: In a way, if I perhaps tell you about the strategic review, that gives you a sense of how we go about this and what are the questions. I would say that there are two basic tensions, if you like. One is across audiences and different types of programmes and services of where do you place your money, on this kind of programme or that kind of programme, on radio or television services. So across the current services of the BBC where do you make investment choice. Then there is another question which is, to put it crudely, the present versus the future and to what extent should you be trying to focus on the services you are delivering to the public today and to what extent should you be investing in the new digital services or the digital migration of the BBC in the future. So that is the kind of landscape of tension. We begin with copious amounts of audience research, so the first thing you try and do is ask all of the many different audiences of the BBC what their priorities are. You look at the six public purposes of the BBC and the things which, in the Charter, we are asked to do and then you look at the current environment of output and you look at what is happening elsewhere in media. Children’s is more important because other people are falling away, for example. The BBC cannot be a bank of last resort for every kind of programme genre and we will go bust very quickly if we try and do everything that is falling away everywhere else, but, for something as critical as children’s output, it is absolutely appropriate that the BBC should say, “Well, you know what, that comes up the rankings in terms of priorities because of that factor”. So we start then essentially playing with an economic model, which is literally a model, looking at how we could potentially shift funding and then, using the model, beginning to test what we think the likely outcomes would be in terms of audience satisfaction and so forth. I would say that the most important things the BBC does, no surprises here, are the absolute spine of outstanding news and current affairs, platforms like Question Time where people can debate the great issues of the day, and around that a commitment to investment in outstanding British content, great drama, comedy, specialist factual documentaries and so forth.

Q2065 Lord Maxton: Sport? Mr Thompson: Sport is a significant contribution as well, though what I want to say is that sport is a very interesting example of the choices you have to make. The licence fee provides about £3½ billion a year and we could spend it all on sport in terms of the rights and, if you ask the public what they would like us to have, you could spend a vast amount of money on sport and actually sport is one of those areas where we try and achieve the best portfolio of sports rights that we can within a constrained budget and we make choices in that context. So sport sits there as something the public definitely expect from the BBC, but sport does not trump everything else, so we try and strike a balance there.

Q2066 Lord Maxton: Formula One? How do you justify Formula One as expenditure on sport? Mr Thompson: Well, can I say, Lord Maxton, that I think Formula One this summer—

Q2067 Lord Maxton: A good audience. Mr Thompson: No, it is more than that, to be honest. I think it has been a really great thing for us to have. You have got two really credible British contenders for the Championship title, one of whom won. It has been a summer full of incident, full of incident, in Formula One and people have followed not just the races, but also, throughout each weekend, every kind of minute of the action in enormous numbers. By the way, 2009 is one of these years where, because it is an odd-numbered year, there is no World Cup, there is no Olympics, there is no Euro competition and actually it has really meant we have had a very strong summer of sport, and I think our coverage of Formula One has been outstanding. It may not be to your taste, but I can find for you, believe me, people who think the only thing the BBC should do is golf and people who want to kick television every time they see golf on it. Chairman: I think we are just getting a wee bit off, which is in no way your fault.

Q2068 Lord Inglewood: You have a policy of taking network production out of London and spreading it around the whole of the British Isles. How is that going and what do you think you will achieve by it and, in particular, are there any different ways it is going to affect different genres? Ms Thomson: I will do this because one of my responsibilities recently has been the move to Salford, but also what we call the ‘Network Supply Review’, which is the plan to move to 50 per cent of our network output being made outside London by the end of this Charter period, and we are pretty well on course actually. We took possession of the first building in Salford about three weeks ago, a month ahead of time and under budget, I am pleased to say, and we have appointed a new director, Peter Salmon, to lead that. We have got higher take-up from staff to move than we had predicted and we are very pleased as we have got about 45—nearly 50—per cent of the staff in the production areas who have said they want to move there, so I think we are well on course to establishing a really good production base in the north-west of England, responsible for the whole of the north of England as well, and that is the other key point about it. Just in the last week we had a really big event in Hull, for example, based partly out of the Manchester operation, so that is going very well. We have good
plans to move other production up to Scotland and Wales where the plans are quite well advanced and we have been working with people in the West Country. In Bristol we have announced a big city partnership there because Casualty is going to have to move to Cardiff, but then to invest more in the brilliant, popular, factual output that we make in Bristol, particularly based on the Natural History Unit. Also, there are good plans ahead for Scotland. We have an interim target in 2012 and I think we will hit that and then we will move on to 2016. What we want to achieve by it is to get, I think, a combination of things. First of all, there is clearly an economic benefit from having production based more widely around the UK. I think the recognition by all political parties at the moment that media and creative industries are one of the growth industries of the future and one of the things which Britain excels in is a good one, and we have done a lot of work on economic clusters, looking at how we can generate jobs, and I think in the north-west of England again there is a lot of support for that. Also, I recognise the scepticism about the content of the output point, but I believe that the perspective, the agenda and the way that programmes are made when they are made around the country rather than all being based in London will better reflect the UK, will reflect more perspectives, will be more diverse and will not just build jobs, but will mean that we run a service which better reflects people’s life experiences around the country, which will strengthen public service broadcasting.

Mr Thompson: We think we are getting good programmes out of this process as well. The actual output we are getting is really strong and unexpected with Doctor Who and the extent to which Doctor Who has been a great platform for finding Welsh talent of every kind from special effects to acting stars and so forth, and Occupation, a BBC One drama essentially about soldiers involved in the Iraq war, shot largely in Belfast with surprising success, so I think we are getting really good programmes out of this process as well.

Q2069 Lord King of Bridgwater: You say in your paper you gave to us that the principle of partnership is at the heart of BBC Films, but also that leveraging your key position, your cornerstone position, as you describe it, you do actually benefit and help all broadcasters really and maybe help in British content as well. I just ran into an interesting illustration of what concerns me last night. There was a showing by the History Channel of a very interesting new programme they have just made, The Soldiers’ Stories, and what they have done, we are back to Northern Ireland and there are a lot of old newsreel clips or it takes the whole history of the troubles in Northern Ireland and then finds the soldiers who were involved in it and interviews them now on their experiences and their memories of those experiences. I said to them, “Where do you get your archive from? Where does this newsreel come from?” and they said, “It’s all come from UTV”. I said, “Did you ask the BBC for any?” to which they said, “It would be absolutely hopeless to ask the BBC, impossible to deal with and far too expensive”. Now, it seems to me that that surely would not please you and in those sorts of areas it seems to me that, whilst I entirely understand that you want to protect your copyright and the work you put into a lot of very creative work here and get a proper reward for it, and maybe globally on that, there must be areas of the archive and work of that kind where you have, I think, almost a public responsibility to help make it available for people making creative programmes.

Mr Thompson: Absolutely, and I think we make our archive more available more widely than any other broadcaster in the world. In this country across the channels, but also, frankly, around the world the BBC archive is very, very extensively made available. What I cannot obviously do, without knowing more, is comment on that particular case.

Q2070 Lord King of Bridgwater: I do not want to press you on that, but it was the perception. Obviously, the History Channel is half-owned by Sky and half-owned, I think, by A&E and it certainly seems competitive, but there must be areas where, I would have thought, partnership was—

Mr Thompson: It is not impossible, no, but obviously you will appreciate, Lord King, that the archive is an interesting area where we have to tread quite a fine line here. If we gave our archive away, we would, in terms of market impact, damage the financial prospects of every other archive in the country, the ITN archive and so forth, who want to make a business, so we have a responsibility to make sure that we are not undercutting other archives. There is a market in this material as well—

Q2071 Lord King of Bridgwater: Can I just come in there because I think it is a question of striking the balance. I said, "What have you done with the rushes?" because it is a two-hour programme they did and they produced eight or ten hours, I think, of that, and they said, "We’ve given them all to King’s College, where they have a defence college, for their archive", and that seemed to me a very publicly spirited thing to do.

Mr Thompson: I agree with that.

Q2072 Lord King of Bridgwater: It disappointed me as it was just the sort of thing I would expect the BBC to be doing.

Mr Thompson: And we are. I will give you a couple of examples. There was an exhibition late last year at the Tate, a Francis Bacon exhibition. We gave the Tate for their website everything we had got on Francis
Bacon, including a vast amount of untransmitted material gratis in that case, we were able to do that gratis. We signed partnerships MOUs with a whole series of public archives. We are looking at whether we can enable other public archives to use the iPlayer as technology to get their archives directly to the public. We are, I think, more engaged than any other broadcaster in the question of not only how can we make our own archive available to the public, but how can we help them get their archives available.

**Lord King of Bridgwater:** Good. I think that would be helpful because obviously your people have a judgment to make and I think at the moment they are hearing the first part of your sentence, which is, “We cannot possibly start giving it all away to everybody . . .” and being a bit too tough.

**Q2073 Lord Maxton:** But your predecessor, if I remember rightly, Mr Greg Dyke, actually promised that the archive would be freely available to every licence fee payer on the Internet in the future, did he not?

**Mr Thompson:** Well, that aspiration remains exactly that and that is our goal. However, you will understand that, in a sense, the iPlayer and the arrival of the catch-up service is the first step in a process of opening the archive up, but, just to be completely clear about this, what, if you like, the public have paid for is a set of rights which varies from programme to programme. Some programmes essentially can be made freely available in perpetuity without any impact on anyone, but, if you are, for example, one of the writers, and I will cite David Croft here and James Perry, of *Dad’s Army,* you have an economic interest in *Dad’s Army* which did not stop with the BBC transmissions in the 1970s. There are some parts of our archive which are of serious and genuine commercial value and where there are owners of rights outside the BBC. Much of the BBC’s archive we do not have complete rights in and we never bought complete rights in, but the issue of how you exploit the archive has to be done in partnership, and again we are talking to rights-holders about how we do it together.

**Q2074 Lord Macdonald of Tradeston:** Can I take you back to your written evidence of March of this year when you thought that partnerships could deliver more than £120 million a year by 2014. Two weeks ago we had Michael Grade at the Committee and he said, “After six months of negotiation with the BBC, we got to the point where partnership might possibly be worth £64 million by 2016; it was just a non-starter”. Now, what would you like to ask you is that seemed to echo the scepticism that we had heard before of the BBC’s reputation for negotiating without ever conceding much to its competitors, so why did the ITV negotiations only deliver £64 million after seven years and was that a problem with the BBC or was it with ITV?

**Mr Thompson:** Can I just say that Michael has got his numbers jumbled up really. When we talked about £120 million a year, we were talking about a whole range of partnerships, of which one was the partnership with ITV to share regional news facilities. In that £120 million, the amount that we ascribed to the ITV regional news partnership was, I think, £8 million, and Michael is saying that after negotiation the £8 million turned into £7 million, so it is not that 120 became seven, but it is maybe that eight became seven. Now, I have to say, my own view is that the sharing of facilities with ITV is worth at least £7 million, and ITV accept that, so it is more or less what we had said it was then. In other scenarios, for example, the scenario of an independently financed news consortium, the value is potentially much greater because, rather than having to deal with an ITV legacy system of regional news centres, potentially we could create out of our regional news centres a kind of hub for regional news production which could be used by an independently financed news consortium which could be worth as much as £20 million a year. We feel that we have made real progress on the partnership agenda. We have signed some indication deals with our newspapers and we are still very much focused on trying to achieve a partnership with Channel 4 around the UKTV asset and the exploitation of television in this country. There are half a dozen different ways in which we think over the period we have managed to advance that agenda.

**Q2075 Lord Macdonald of Tradeston:** You have cited two of them there which would still leave almost £100 million a year to account for. Can I ask where that is going to come from?

**Mr Thompson:** Well, I do not think that is true because I think that, if we can successfully achieve the joint venture with Channel 4, that in itself will be worth many tens of millions of pounds to Channel 4.

**Q2076 Lord Macdonald of Tradeston:** How is the proposed partnership between BBC Worldwide and Channel 4 being negotiated and on what terms? Is there anything preventing an agreement being concluded there?

**Mr Thompson:** We are right in the middle of a commercial phase of that where there is also essentially an auction taking place for the Virgin Media 50 per cent ownership of the UKTV joint venture, but we are talking to Channel 4 continuously about how to achieve that, if we can, and there are third parties involved. Often these partnership processes involve not just one party, but a whole series of parties.
**Q2077 Lord Macdonald of Tradeston:** Is there a deadline on that negotiation?

*Mr Thompson:* Well, I think in the end that will depend on Virgin’s process, but we are not holding it up.

**Q2078 Lord Macdonald of Tradeston:** Turning it around a little bit, it could be argued that Britain’s only hope of having a national champion in the global television markets is BBC Worldwide, yet you are under a lot of criticism there and I read that you might be wanting to dispose of Lonely Planet because of the pressures from competitors. What is your ambition there for BBC Worldwide?

*Mr Thompson:* The first thing, remember, is that the BBC’s face to the world is a combination of BBC Worldwide, our commercial arm, but also the BBC World Service and our global news channel, so actually there are many parts of the BBC which reach out to the rest of the world. We probably reach between 300 and 400 million people every week with our content, and our global strategy attempts to combine the public purposes of the World Service and the ideals of the World Service, but with, in my view, the proper use of our commercial arm to get British content and British talent to as many people and markets around the world as we can.

**Q2079 Lord Macdonald of Tradeston:** But would it be more effective were it more detached really from the licence-funded BBC to give it more independence to compete with more aggression?

*Mr Thompson:* All I would say is that a lot of the value of Worldwide in markets around the world comes from the BBC brand, and Worldwide’s whole strategy is based around launching BBC-branded services. To state the obvious, if you separate it too far, the danger is that you end up with a set of services which say they are from the BBC, but which do not any longer share the objectives and the values of the BBC. So the challenge, if you like, is to find the right distance for the commercial arm, where it is close enough to the BBC to have BBC editorial control and the same values of the organisation, but also separate enough that we can clearly account for it and give it the ability to grow. Now, over the last five years of course, you are right, it has become controversial because in a converging world the BBC probably doesn’t invest into British content. UKTV is, itself, a joint venture. So the idea of partnership with the private sector is not, in principle, an objection. The view we have taken to-date has been that at group level complete ownership makes sense, but there is no natural antipathy to private investment. Indeed, one of the things we have tried to do with Worldwide is bring in private sector skills.

**Q2080 Chairman:** Do you set your face against private investment in BBC Worldwide?

*Mr Thompson:* I think the test, for me, is whether or not it is possible to ensure that Worldwide is fully part of the BBC in terms of its values and the character of what is projected around the world. We have successfully, in the past, entered into joint ventures; we have had a successful partnership with the Discovery network over the past ten years or more and we support hundreds of millions of pounds of investment into British content. UKTV is, itself, a joint venture. So the idea of partnership with the private sector is not, in principle, an objection. The view we have taken to-date has been that at group level complete ownership makes sense, but there is no natural antipathy to private investment. Indeed, one of the things we have tried to do with Worldwide is bring in private sector skills.

**Q2081 Baroness Eccles of Moulton:** Mr Thompson, could we now change the subject a bit and turn to the digital switchover budget and the potential surplus that might arise from this budget? There have been, I think, probably, quite a lot of ideas around the place for sometime now about how that surplus might be spent.

*Mr Thompson:* I suppose even a prospective pile of money attracts ideas.

**Q2082 Baroness Eccles of Moulton:** Absolutely. Maybe, even, the Treasury might have an eye on it, but that is another matter. Are there ways in which, if the surplus does materialise, it could be used that would increase the emphasis on UK content? Could it be used for children’s programming, factual programming? *Digital Britain* had some proposals. What are your thoughts on how it could be spent?

*Mr Thompson:* I am slightly tempted to say “Get behind me Satan”, in the sense that if you offer to write me a personal cheque for few hundred million pounds I am sure I could find a good use for it somewhere in the BBC. However, it is worth saying that, at the point when the then Secretary of State, Tessa Jowell, announced the Targeted Help Scheme, she made it very clear this was not money which was intended to be spent on the BBC, on its services and programmes, but was going to be used for several specific tasks: the Targeted Help Scheme, the marketing plan to enable digital switchover, and so forth. I think we will know by the year end, or early next year, once the Granada region has switched from analogue to digital; I think that is a big enough population group to give us a good sense then, projecting forward, for the likely outturn and by then
we will be able to confirm with a fairly high level of probability whether there will be an underspend and how big it will be. I would say that the use of the money which was raised—as I say, the public was told very clearly why it was raised—if there is an underspend, would be a matter for the Government, in the first instance, not the BBC.

**Q2083 Baroness Eccles of Moulton:** So they have first call on it?

**Mr Thompson:** As I say, it was money that was raised with the very clear intention that it was not going to be part of the main licence fee and, therefore, not intended for the purposes of investing in BBC programmes or content.

**Q2084 Chairman:** That is not the view of the Government.

**Mr Thompson:** I think it is absolutely the view of the Government. At no point have the Government ever suggested to us that it is money which should be allocated to the BBC for spending, no.

**Q2085 Baroness Howe of Idlicote:** You have mentioned the strategic review that is under way and this whole business about spectrum pricing as an alternative means to contributing to public service broadcasting. It would be interesting to hear how this could work, because I believe you have got your own version of this, which is being looked at. Could you tell us a little bit more about this?

**Mr Thompson:** I will, perhaps, ask Caroline. Firstly, the strategic review is a separate exercise—we do these, typically, every three or four years. So much as changed in the last few years. We did a review we called Creative Future a few years ago which led to things like the launch of the iPlayer. We now think it is time, looking at the licence fee, looking at BBC services and the way public use of media is changing, to do that again. That is what that is. That is about the BBC and its services. There is a separate question raised in Digital Britain, and by many other people, about the rest of public service broadcasting and, in particular, whether public funds are required to support some or other or several forms of public service content investment to ensure, for example, plurality of national and regional news or to ensure plurality in the provision of children’s programmes. As we know—indeed, this Committee has said itself (I cannot remember if it was the Committee as a whole)—top slicing is one scenario of taking the segment of licensing, for example, which is currently earmarked for the Targeted Help Scheme, and so forth, and using that in the future as a source of funds for other public service broadcasting. One alternative suggestion, which the BBC Trust included in its submission in the Digital Britain consultation process, was this catchily-entitled AIP, which—it goes back to the 2003 contact—is the idea that from a point in the future the BBC, and potentially other broadcasters as well, would pay a charge for the digital television spectrum which they have previously been gifted—these are the digital, terrestrial, multiplexes. The suggestion from the BBC Trust and the BBC is that this could, potentially, form the basis of a long-term flow of revenue which would make sense to the BBC. We are indeed occupying the spectrum, paying a charge for it does not seem unreasonable, which would potentially provide a long-term flow of revenue which could, if a future government wanted to do this, be put to other content uses but which would not have some of the disadvantages which we believe are associated with top-slicing.

**Q2086 Baroness Howe of Idlicote:** But would, in fact, be available to other broadcasters?

**Mr Thompson:** What it will be, will be, essentially, a charge which the BBC would pay Her Majesty’s Government and Her Majesty’s Government could decide what it wanted to do with the charge—in the way we pay VAT.

**Q2087 Baroness McIntosh of Hudnall:** Can I ask you a couple of very quick questions about BBC Film. In your evidence you have—entirely legitimately—talked up the success of BBC Film. You have prayed-in-aid some very big names indeed, and I do not dispute that you have a very significant body of success there to point to. However, it has all been achieved on the back of, really, quite small investment from the BBC into film production specifically. Given that, clearly, in terms of reputation and the brand that you talked about, the success of films like Revolutionary Road (which, frankly, I do not think anyone thinks is a BBC film, but it is indeed occupying the spectrum) and the brand that you talked about, the success of some of the films like Revolutionary Road (which, frankly, I do not think anyone thinks is a BBC film, but it is indeed occupying the spectrum), it is interesting to recall that it has BBC money in it, and others) must be helpful. Therefore, question one is: what would persuade you that it would be worth investing more BBC resources in BBC Film? Can I just, also, add a second point, which is a rather more technical question, which is the issue of terms of trade? We had evidence earlier in the year from Pact that the Film Council, BBC Film and Channel 4 Film, were at that time looking at developments in new terms of trade with independent film producers. Can you tell us how that is going and in what way it relates, if at all, to the terms of trade with television producers, which have been the subject of some, shall we say, question in some of the evidence that we have received?

**Mr Thompson:** To be honest, I do not feel well enough informed to be able to give you a complete answer to the second one, but I will write to you separately with detailed progress on terms of trade. On the first point, the balance that we are trying to strike with film
Baroness McIntosh of Hudnall: Q2088 what about 24, or 48, or 96?”

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production is recognising, one, we are, fundamentally, a broadcaster—TV, radio and web broadcaster—and the public pay the licence fee, first and foremost, to receive broadcast services from the BBC. Any film strategy which the BBC adopts has to be, in my view, relatable to our broadcast services. I wonder if I can just give you an analogy. We have a number of orchestras; depending on how you count, we support, in one way or another, at least five symphony orchestras around the country. The reason we do that is because we have an enormous need, on Radio 3 and increasingly on BBC television, for concerts and for classical music, and although our support of orchestras is partly an act of cultural patronage it is also related to the pleasure that audiences get from great music on BBC radio and television. In the same way, we are trying to balance, when we think about film investment, a role of patronage, of helping. The way we invest (and I know you had a session with my colleague Jana Bennett) in feature films is, essentially, to put money in quite early on in the life cycle of a feature film when it is useful in terms of paying for development and, in a sense, making the thing a going concern. So we try and make our money as useful as it can be to the people who are trying to get a given film made. However, I believe that at £12 million a year, we are at a level—this is paying, typically, investment in eight to 12 British films, alongside the Film Council, alongside Film4—that feels, to me, about right in striking the right balance. The public get from it not just a supply side benefit in terms of a British film industry which is making more feature films than would otherwise be the case, they also get to see these eight to 12 films on the air. So there is a direct benefit for the BBC’s audiences. At one level, of course, the film industry will always say: “If you can put 12 in, what about 24, or 48, or 96?”

Q2088 Baroness McIntosh of Hudnall: Can I stop you, for a moment. Just in terms of, so to speak, “bangs for the bucks” that you do put in, firstly, is it your assessment that you are getting by whatever measure a good return on the £12 million that you put in, and, secondly, are you talking up the BBC’s investment in film such as to reflect favourably back on the BBC as a film producer? I am not at all sure that I see that that really counts in your favour.

Mr Thompson: It is complicated, this. I have to say, very few people, I think, if you stopped them coming out of a multiplex this afternoon, would be able to tell you very much, having seen the feature film, about the studio that made it. Disney has a cache about it and Pixar. If you stopped people and asked them which studio made it, if they remembered anyone they would be most likely to remember the distributor, and film distribution, when I was at Channel 4, Film4 went into briefly, and in my view unsatisfactorily, is a very high risk game for specialists. I personally do not believe that broadcasters wisely get into the film distribution business. I think that, with feature films, you have to accept that the credit back to the BBC will be relatively limited, though I think it is there. If you were simply trying to acquire feature films for transmission on the BBC you would spend the money later in the process; you would put your money in at the end and you would probably put it in after the film has been made, and you could probably get more feature films with a slightly higher strike rate of success if you did it that way. The reason we do it early is partly an act of patronage and it is to try, again—touch of market failure—to go in and give backing to people who we believe have got a great idea for a film early on to help them make the film. Now, I would say the strike rate in recent years has been pretty good, but the question is often asked—it was asked about Channel 4/Film4 and Slumdog Millionaire—“Why don’t you make more money out of it?” It is because the biggest bets have been made typically by the distributors and, certainly judging by the brief experience I had at Channel 4 when I saw what distribution felt like in real life, that is an interesting game of casino, if you fancy it. I think, for a broadcaster, what we are good at—I hope—is seeing good projects, and we are good at delivering broadcast services. I would rather leave the high bets to other people.

Chairman: We are just going to take two very brief questions and replies, if I may.

Lord Ingelwood: Michael Grade told us when we saw him recently about Kangaroo; that the decision of the competition policy was one where he guaranteed that the net result will be that the US will take a large share of the internet value in our content in this country very soon. Currently, there is a lot of debate about Canvas, being kind of the son of Kangaroo. Do you think it is important that the Canvas idea proceeds? What do you think of Sky’s submission to the BBC Trust that “engaging in platform development and commercialisation is something it should not do” and that the Canvas project, in their view, was likely to stifle investment and innovation in the nascent sector? Finally, if I may, when we are talking about AIP, would you expect the licence fee to be hiked accordingly? Yes or no answers.

Q2089 Chairman: I think I prefer the first one, rather than yes or no to the others.

Mr Thompson: It is difficult to come up with one sentence, even to the first half. Briskly, then. Canvas is very different from Kangaroo; it is, essentially, a technology play rather than a content play. In other words, it is about a CD player rather than a CD, in a sense; they are quite different things. I believe Canvas is really potentially very important indeed if you want
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to see very widespread broadband take-up in this country, and, also, if you want the Freeview platform to have a future. I think it is an exciting way of developing Freeview, so that anyone with a Freeview box with a broadband connection can get very high quality internet protocol television—services like iPlayer and YouTube—to their main television set. I think it could transform the use of broadband in this country. I have read Sky’s submission. All I would say is, if the BBC had not got involved in the Freeview platform we would not be doing digital switchover. The BBC has been involved in platforms since the 1920s. Technology and innovation is part of what the BBC is about. We are, principally, of course, providers of content, that is the central point of the BBC, but we have had scientists and engineers working for the BBC since the 1920s; I think it is an entirely established and legitimate thing for the BBC to do.

Chairman: Thank you very much. We have taken you way over time, but many, many thanks for that. I fear there may be a number of questions to follow up on, but perhaps we can do that by post—or by some other means.

Supplementary memorandum by Skillset

**Skilset Research Background**

Skillset conducts a comprehensive research programme with the full engagement of the industry which informs the sector skills policies. There are three main research studies that we undertake regularly in the creative media industries: Census, Workforce Survey and Employers Survey. In addition, Skillset undertakes bespoke research projects which are focusing on specific groups or skills issues. Recently, Skillset completed a recession impact survey—From Recession to Recovery for the Creative Media Industries.

The following data is taken from these sources. More information about Skillset’s research programme can be found by visiting www.skillset.org/research.

*Additional data for the Committee:*

Below is a summary of employment size, freelance usage and significant skills gaps provided for Film, TV and Computer Games. Appendix 1, 2 and 3 will provide you with more detailed information on these sectors. In addition, since these sectors also rely heavily on a number of sub-sectors such as Animation, Facilities and Interactive Media, detailed information on these sectors is grouped in in Appendix 4 (Cross-sector group)

**Film**

— Total employment in Film: 47,900.3 (This figure excludes Performers4).

— Total freelance usage across film: 32% but in the Film production sector 91% are working as freelancers.

**Breakdown by Production Stage and Freelance Usage**

<table>
<thead>
<tr>
<th>Main source: Census 20065</th>
<th>Development &amp; Production</th>
<th>Post-production and faculties’ services mainly in film</th>
<th>Distribution</th>
<th>Exhibition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment</td>
<td>10,000</td>
<td>21,100</td>
<td>1,200</td>
<td>16,600</td>
</tr>
<tr>
<td>Freelance usage %</td>
<td>91%</td>
<td>30%—of Facilities sector</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

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3 This figure includes 21,100 working in post production, physical effect, procession laboratories, studio & equipment hire and other services for film and TV. These are the facilities services that are mainly involved in film production and post-production, but some of these companies are also serving the TV and Computer Games sectors. In total 45,050 people work in Facilities serving different sectors but mainly Film and TV. (For detailed breakdown see Appendix 1 and 4).

4 Performers are estimated at 18,600 working in the sectors within Skillset’s footprint.

5 These numbers were rounded to the nearest 50s. A Census form was distributed to every company for which records were available in the sectors covered, for completion on 12 July 2006. The Census excludes freelancers not working on Census Day because of the snapshot methodology employed of counting those working on one day. However, information from other Skillset research on those sectors excluded and freelance working patterns indicates a total industry figure for the sectors covered in 2006 by Skillset was around 550,000.
**Film skills shortages:**

— There is a sustained shortage of skills in Visual FX occupations particularly: Animation & CGI Supervisor, Animator, Technical Director, VFX Supervisor, Modeller, Rigging Supervisor, Rigger, Matte Painter, Texture Artist, Compositing Artist, Producer, Production Manager, Editor, R&D Tools, R&D Software, Software Engineer, System Engineer.

— Production employers say there is a shortage of highly skilled production accountants (may be due to low pay in film compared with other sectors eg TV) and availability of crew throughout the UK (areas lacking cited particularly are Northern Ireland and the West Midlands).

— In film production there is also shortage of development executive skills, in particular insight and commercial acumen.

**Key Film skills gaps**

— The most common key skills gaps are occurring due to the impact of new and digital technology across the film industry. On a senior management level, gaps in negotiation and leadership skills are frequently associated with the challenges of managing the change from traditional to digital media. For mid-level managers, more generic business and financial skills gaps also occur.

— In production, gaps in digital camera skills and awareness are constantly reported; new equipment also impacts on craft grades beyond the camera department such as the Art/Design departments.

— New legal requirements result in skills gaps in 1st aid/Health & Safety issues and a constant need for location managers to update their knowledge on these issues.

— For exhibition and distribution employers a key focus is exploiting opportunities such as online and digital sales, marketing and distribution and dealing with threats eg file sharing.

**Television**

— Total employment in TV: 56,550.

— This figure includes 650 people working in the constantly growing sub-sector of Interactive TV. An increasing amount of companies and freelancers from the wider Interactive Media, which employs a total of 39,750 people, are servicing the TV industry, (for the whole Interactive Media sector see Appendix 4).

— Total Freelance usage: 34% but this rises to 57% within the large Independent Production sub-sector.

**BREAKDOWN BY SUB-SECTOR AND FREELANCE USAGE**

<table>
<thead>
<tr>
<th>Main source: Census 2006&lt;sup&gt;6&lt;/sup&gt;</th>
<th>Broadcast TV</th>
<th>Cable &amp; Satellite TV</th>
<th>Independent Production</th>
<th>Community TV</th>
<th>Interactive TV</th>
<th>TV Distribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment</td>
<td>20,800</td>
<td>13,700</td>
<td>20,950</td>
<td>250</td>
<td>650</td>
<td>150</td>
</tr>
<tr>
<td>Freelance usage (%)</td>
<td>26%</td>
<td>12%</td>
<td>57%</td>
<td>3%</td>
<td>19%</td>
<td>2%</td>
</tr>
</tbody>
</table>

**Key TV skills shortages:**

— In a converging digital environment, future leaders will need a triangular hybrid of skills combining effective leadership with innovation or creativity and understanding of technology. Skills shortages are highlighted in management (putting together cross-platform teams), leadership and business skills.

— “T-skills”: broad skills combined with deep specialist skills; there is a shortage of new people in the industry that are highly specialised in one field but can communicate their capabilities and utilise their specialism across teams and platforms.

— Particularly in relation to new/digital media there is a shortage of production management skills to run multi-platform content.

— Broadcast engineering has long been recognised as a skills shortage area in television.

— Archiving, and especially digital archiving, is an area which is attracting increased attention as a challenging issue for the future.

<sup>6</sup> Ibid. All figures are rounded to the nearest 50.
**Key TV skills gaps:**

Convergence and a changing landscape across the TV industry points to skills gaps at different levels of the TV industry chain.

- Skills gaps in management and leadership, legal compliance, commercial awareness, accountancy/financial skills reflects those challenges faced by the people working in TV and relates to demand and availability of multi-platform content, rights management and exploitation and new technical tools.

- Knowledge and understanding of intellectual property to protect from piracy, as well competence to exploit intellectual property internationally, innovatory and taking full advantage of emerging markets.

- New digital cameras equipment (ie RED), HD transmission, new software or editing equipment require a constant update and/or acquiring new skills for key production and post-production areas (camera, art/design, make up, editing, multi-camera directing). This is particularly expressed in the Independent Production sector.

- Production skills for multi-platform content is both a shortage and skills gap, as existing workforce needs to enhance, add and complement their current skills base.

- Multi-skilling: the requirement to have multiple skills to work in a digital flow—from content creation and production to metadata management—while their core role and responsibilities are obtained (ie journalists, researchers). This will be particularly important for the converged newsrooms of the Independently Funded News Consortia (one of the Digital Britain proposals).

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**Computer Games**

- Total employment in Computer Games: 8,850

- Total Freelance usage: 8%

### BREAKDOWN OF EMPLOYMENT BY OCCUPATION

<table>
<thead>
<tr>
<th>Main source: Census 2006</th>
<th>Games production</th>
<th>Games operation</th>
<th>Games Business</th>
<th>General management roles (HR, Finance, IT &amp; Sales)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment</td>
<td>6,250</td>
<td>900</td>
<td>700</td>
<td>950</td>
</tr>
</tbody>
</table>

**Key Computer Games skills shortages:**

- Employers reported a shortage of appropriately skilled new entrants, particularly with programming skills that were aimed at games-centric workflows.

- Hard to fill vacancies were also reported on other senior roles including designers, lead artists and games producers.

- With the almost ubiquitous presence of games on numerous mobile devices, PCs and internet, there is an increasing need for project management and marketing skills, and the ability to interpret market data and stats to exploit gaps in the market.

**Key Computer Games skills gaps:**

- Programming, specific software applications, games design, management/leadership, business development skills and accountancy/financial skills.

- Online developments for MMO’s (Massively Multi-player Online games), network development and business management as perceived future problem areas.

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7 Skillset Census 2006. All figures are rounded to the nearest 50.
Regional differences in skills needs and gaps

The creative media workforce is a highly mobile workforce and apart from availability of work and suitable training (as reported in some cases above), the skill needs and gaps mentioned are impacting the whole of the creative media industries.

Skillset follows workforce development around concentrated creative media activity in spatial industry clusters, for example, in Film the London and the South East of England areas—due to large film studios; in TV and Interactive around the North of England—due to MediaCity-UK development. A large proportion of the TV industry is still concentrated in London.

October 2009

Examination of Witnesses

Witnesses: Ms Kate O’Connor, Executive Director, Policy & Development, Deputy CEO, and Mr Peter Dale, Chair, Television Skills Council, Skillset, examined.

Q2090 Chairman: Thank you. I am very sorry to keep you waiting, but we have had a rather longer than expected session with the BBC. As I think you were probably there for part of it you know what we were talking about. I am going to ask one or two general questions and hand over to Lady McIntosh. Do I understand from your figures that there are about 100,000 people working directly in film and television?

Ms O’Connor: That is right, that is the total estimate for both sectors, yes.

Q2091 Chairman: These figures seem to differ a bit from what the UK film industry sent to us?

Ms O’Connor: The figure that we have includes all sectors. I do not know if the Film Council were just giving you certain sectors or concentrating on the production sector.

Q2092 Chairman: What we might do—we can keep 100,000 in our mind—is we might actually be in touch with you both just to see how these figures get reconciled. Your figures will include people working directly for the industries. Would it exclude others who are dependent on it? For example, people working in shops or cinemas. Does it include or exclude those?

Ms O’Connor: It includes the exhibition sector, so it includes the cinema employees; it includes sectors like the visual special effects and post-production sector—some of those supporting facilities—equipment hire companies directly supporting the film industry, but not the wider range, I guess, of beneficiaries—say caterers or retailers.

Q2093 Chairman: You have not got a figure. The car industry, I remember from my days in the West Midlands, always quoted a direct figure and then five other jobs or ten other jobs were dependent on it.

Ms O’Connor: No, this does not include the dependencies; this is direct employment within the sector.

Q2094 Chairman: Let me tell you one of the complaints we have received from around the country, both from film and television companies. That is that people coming out of universities, even when there is a vocational element in their media studies, are not trained to work (you must have heard this) and it takes another two years to train them up. Is that a fair criticism?

Ms O’Connor: It is certainly a criticism we have heard, most definitely, from all sectors in the creative media industries that we represent. I think the answer is quite complicated, because some of those courses at degree level are not intended to be about training for work in the media industry; they are disciplines, like any other arts discipline, that students study because they are interested in the subject. The issue is not necessarily about: “There are X number of students studying media programmes and they are not fit for purpose for the industry”. Having said that, lots of these programmes at higher education are very practice-oriented, are designed to give people the skills to work in the industry, and it is those that we, on behalf of the industry, want to work with. In fact, over the last couple of years, the TV industry and interactive industry as well as the film industry have set up this network of academies, media academies and screen academies, and it is those particular higher education institutions and FE colleges who are now working with the industry to—

Q2095 Chairman: Can you give us some examples of the best ones you can think of?

Ms O’Connor: Well, they are all Skillset centres of excellence, in the sense that they have been through the criteria and met the benchmark in terms of industry definition of excellence, but they vary tremendously. The NFTS, for example, is both a media academy and a film or screen academy; Teesside University recently voted best university, is one of our media academies; Bournemouth University—another outstanding media and screen academy.
Q2096 Chairman: What has struck me, in just talking to people—I remember talking in animation, for example—people are now being recruited from France to come and work here. It seems rather absurd, given the demand that there is for work, from both points of view.

Ms O’Connor: Definitely. There is a real issue there with visual special effects and animation, in fact. In Europe there are some really fantastic centres of excellence that specialise in animation and visual special effects; they recruit very small numbers of students; the courses are well funded—the industry works in collaboration with those centres—and, without doubt, they are producing people with the skills the industry needs, and actually our industry is recruiting them here in the UK.

Q2097 Chairman: Do we have that?

Ms O’Connor: We are working on having that. The system that Skillset set up on behalf of the industry is to identify what we think are the best courses in the best institutions in particular subject areas, to kite-mark them and then to get the industry to work with them to ensure that there is that kind of fit.

Q2098 Chairman: What stands in the way? Why should France, for example, have a better system, so far as that is concerned, than we do?

Ms O’Connor: One of the things—and I hate to say this—is funding. Our higher education system has increasingly relied on having large numbers of students on courses, and the sheer volume of students in ratio to staff, equipment and access to the industry can sometimes be a real barrier. The notion that you keep this small and very specific and recruit the brightest and the best to those courses—

Q2099 Chairman: Is against the trend of what we have been doing?

Ms O’Connor: Yes, basically. So we are trying to identify, actually, a small number of courses and work with those, but they are course providers. Those higher education institutions, I think genuinely, need more funding to offer these particularly specialist courses; they need lower numbers of students and they need to be investing in them. So we are not asking for additional funding necessarily but just differential investment.

Q2100 Chairman: There is rather a plethora of media courses, at the moment. Obviously, not all of those are even aiming to provide training. It just worries me at times; media is not exactly, in all its aspects, the growth area of the British economy. A great future in regional newspapers does not seem one of the likeliest goals at the moment. Are we raising expectations with young people that we are not going to deliver on?

Mr Dale: I point to the contribution that the creative industries across the board make to the economy—in terms of output it is substantial. Thinking in terms of the old models of, maybe, regional journalism in print is not the right way to think about it, but to think about how, for instance, electronic games devices work with traditional broadcast producers and new models of distribution to provide content in lots of different ways; so not simply on the television, not simply on your games machine but in all kinds of different outlets. The thinking, at the moment, is that that is potentially extremely lucrative for the economy, generally, if we can provide the right kind of skills. Part of the problem that Kate is alluding to is part of a problem with the structure of higher education; that many very, very good organisations and universities still operate in silos of creative work. So, for example, in games, in a university the computer science department will have nothing whatsoever to do with the graphic design department, and there will be competition between them. So the issue overall, I think, is to do with one of alignment.

Q2101 Chairman: How do you break that all down? How do you, Skillset, actually start making progress or make more progress in this area?

Mr Dale: I think it is tricky, because it is quite institutionalised and it has been serving us for a long period of time. However, it is clear that the massively profound changes in the structure of the creative industries is not being kept pace with by the people who are training people to go and work there in the future.

Q2102 Lord MacDonald of Tradeston: Can I ask, as a supplementary to this to try to get evidence of the usefulness of the courses and to pick up on what Kate was saying, is there a way where you could try and work out the employability of the media graduates as against those in more traditional arcane areas of the humanities—whether it is poetry, Anglo-Saxon or whatever—that appear to have no immediate practical application? It would probably save you from some of the cultural disdain that seems to drip on media studies.

Ms O’Connor: On that, yes, absolutely. Time and time again studies have been undertaken to look at employability of media graduates, and always the evidence is that they are more employable: they find work easier and quicker than other humanities and arts-based graduates, and that evidence is there. Other organisations than Skillset have produced that very solid evidence and they can certainly supply it to you. The issue is they are not necessarily finding work in the media industry. That is because the media degrees are not necessarily, all of them, designed to do that, but what they do contain is fantastically
important knowledge and skills for the 21st Century and being able to understand and interpret and navigate the media. That is one side; these are very valuable higher education programmes, and certainly Skillset, on behalf of the industry, is not knocking media studies as a programme of study, and all of the evidence is there to support that.

Chairman: And we would not wish to be guilty of “cultural disdain”.

Q2103 Baroness McIntosh of Hudnall: I think my Lord Chairman has covered quite a lot of the ground that I might need to address, but in your evidence you do not just talk about the skills that are very narrowly targeted at particular bits of your industry being deficient here; you also talk about a much broader range of skills—for example, business skills, marketing skills, all of those things—which it would appear the industry is currently short of. I have to say I find that quite surprising because I think there are plenty of opportunities for people to acquire those skills, and you have to wonder why the industry is finding it difficult to recruit the people who have them. My question is: looking more broadly than the very specific, for example, computer-based skills that are needed for games development or that sort of thing, and into all the other areas, firstly, what connections do you have with higher education that allow you to encourage them to see the creative industries as a good place to take generic skills of those kinds? Secondly, what value does the industry itself have to add to people who come through with those skills to make them valuable higher education programmes, and certainly Skillset, on behalf of the industry, is not knocking media studies as a programme of study, and all of the evidence is there to support that.

Ms O’Connor: In terms of the engagement we have with higher education to ensure that those generic skills, as well as the specialist skills that we talked about earlier, are embedded, the apparatus we have set up is through this mechanism of academies—kite-marking courses. Once we start working with those higher education universities and colleges who want to work with the industry, leaving aside the wider media studies debate now and moving on to the more practice-oriented programmes, then we can start to build the kind of curriculum and the kind of programmes that are needed by the industry. Peter has talked about that already. What we tend to have is this faculty set-up with universities, with a media department over here, computer science over here, technology somewhere else and business in a completely different place altogether. What we have got to do is have a rewiring of the curriculum, literally, so that we bring those skills together and fit out our new workforce where they are taking those kinds of approaches. That is immensely difficult because we are talking about history, culture and the structure of higher education that is entirely independent.

Q2104 Baroness McIntosh of Hudnall: It is arguable, is it not, that it goes back further than just the higher education sector.

Ms O’Connor: Yes, back into the school sector.

Q2105 Baroness McIntosh of Hudnall: I think it was in your evidence, but I read somebody saying, that it is not always clear, particularly, of course, to girls, that if they acquire a certain range of skills—maths or computer science or whatever—that will take them in a direction towards the creative industries. That is not clearly flagged up early enough in the education system where people are making choices which will actually limit their horizons.

Ms O’Connor: You are absolutely right.

Mr Dale: I think there is also an issue about how the industry faces this problem and whether it is prepared to engage with that process of developing skills in early stages. Certainly one of the structural problems we have been having with the media academies is getting the industry to make recognition of what they might contribute. They tend to take the old view, which is that: “The academies or colleges will turn out people with some kind of skills, but they will have to match that with the curriculum that these places are offering”. That dialogue is not happening, at the moment. We are making a great effort to make sure that happens, but it has to be a two-way thing, I think, and it answers, to some extent, your question, Lord MacDonald, about the industry needing to be part of that process of expectation and saying: “Actually, what do we need from our skills support?”

Q2106 Lord MacDonald of Tradeston: Can I just pick up on that. In my own 30 years in television the continuing concern all the time was the shortage of writers for television. Since story-telling makes up most of the popular television, the British seem not to do it as well as the Americans, with their team systems of writing. What can you do about the skills gap in terms of the quality of fictional writing for screen writing and story-telling for television?

Mr Dale: I cannot give you the details but I know that Skillset’s freelance fund has spent a considerable amount of money over the last few years in putting money into training courses for writers—Paul Abbot’s Voicebox.

Ms O’Connor: Yes, absolutely. This picks up on the second part of the previous question as well, because there is only so much, I think, that can be done with
further and higher education at that kind of pre-entry stage, and there is always, always going to be the need for the industry to also train. It is, obviously, better if people have got some of their foundation skills and knowledge from their degree and programmes at undergraduate and postgraduate level but there is going to be a need for additional training. That is something that we have to look at very creatively because we rely on a freelance workforce to such a great extent in film and television.

Q2107 Lord MacDonald of Tradeston: Is that something that the industry would subcontract to higher education? I am involved, in fact, in a project at the moment that Shed Television have initiated (and I think Skillset is backing) to train postgraduates in writing long form television drama, which is a particular skill, whether it is for serials or series. Would you get the industry to go to higher education to run those kinds of courses for you?

Ms O'Connor: I think that is a fantastic example of where that industry/education partnership really works, because there was not a course like it at all in the UK until Shed took the impetus and set that programme up. The teachers are from industry, the potential writers have access to briefs and the industry context. It is a perfect example.

Q2108 Lord MacDonald of Tradeston: I declare an interest as the Chancellor of Caledonian University where it is happening, but it does seem odd that there is only one university involved when there is such a need for it. Is that a priority going forward?

Mr Dale: I think it should be. One of the problems here—and this goes across the whole sector, it seems to me—is that there is an over-supply of very bright, ambitious, young, talented people, and that leads to a degree of complacency, I think, in the industry, that there will always be a supply of people; “Provided we like the look of them we will put some money into them”. I think the biggest structural problem is how do you start to shape the basis on which those people grow and the skills they acquire quite early on? Writing is certainly a case of that but I think broadcasters will always take the view there will always be another writer waiting to get in.

Baroness McIntosh of Hudnall: Can I say I think that is a really important point because—I do not know if you would agree—there is a very high wastage rate, and although Lord MacDonald made the point about the need constantly for the skills of writers to be developed, actually, what the industry does is take up a high number and, in the end, only a very few of them finally make a significant career. That is where the question of the level of expectation that the industry and indeed the higher education sector is generating becomes very, very critical, does it not?

Q2109 Baroness Bonham-Carter of Yarnbury: Of course, going back a bit, there is not an over-supply—using your term—of skilled post-production people. Indeed, I know of a post-production house which has hired 60 people since July, half of which have come from abroad, which, as Lord Fowler was saying earlier, seems a ludicrous state of affairs, at the moment. Can I go back to what you were saying about getting the industry involved? I was not actually there, but Lord Fowler visited Aardman and in the notes that we got they said they tried to set up an academy themselves, in partnership with local universities, to try and plug the skills gap. But the nature of higher education funding meant that it would not have made financial sense for them to do so. What should we do to address something as ridiculous as that?

Ms O'Connor: We are trying to address exactly that. I know about Aardman’s attempts and they tried for a long time and fought very hard to set up an academy in Bristol, but they found that the way that higher education funding is routed through universities and the whole system would not lend to the high-quality, small numbers-type approach that I talked about. We are now talking about working with five or six courses scattered around the UK, not just in one region, and actually trying to work with them to get the same outcome.

Q2110 Baroness Bonham-Carter of Yarnbury: It does seem extraordinary, particularly as Bristol is a centre of excellence.

Ms O'Connor: Absolutely, absolutely; I could not agree with you more. I think it was very frustrating for Aardman, who searched long and hard for sources of public funding to help them do what they wanted to do and what they wanted to match, in terms of industry engagement funding support. It was a shame that that animation academy idea did not happen because I think it would have been a world-class centre of excellence, truly, on the back of Aardman and their worldwide reputation.

Q2111 Chairman: The frustration is, who do we go to? Who do we actually press to change policy? Who is in the driving seat on this?

Mr Dale: I think there is a real need to address the problem of higher-level skills. I think government is very minded to look at low-level skills, new entrant skills, but I think the problem occurs when you try to address the issue of how you train people, particularly in terms of leadership, management and higher-level entrepreneurial skills in production companies in this country; there is very little resource for that. The Council that I chair
administers a Freelance Fund which has been reduced in its funding by about 50 per cent (it is voluntary contributions from broadcasters and independent producers), and that now amounts to about £750,000, which we try and spread across a number of areas. However, there are massive calls on that money—writing, for example, and new entrants’ money. We have decided over the last 12 months to be very specific with that money because it is not very much and we are focusing on two things: one is the training of multiplatform skills across all areas of training, and to spend the other part of the money on higher-level entrepreneurial skills. I believe, and the Council believes, that if small to medium enterprises are able to exploit their intellectual property more widely and more successfully the sector will be richer and would be prepared to put more money into training. At the moment, a lot of SMEs are not making very much money and, therefore, trying very hard to reduce their training budgets. Being blunt about it, I think the industry needs to be more aware of how it can work with higher education to develop these skills early on, and, second, government should look at making more money available to train at higher level.

Ms O’Connor: Can I add to that because I think Peter is absolutely spot on. The skills system in the UK tends to focus on lower-level skills, in terms of budget priorities in government, and the money that is spent on higher-level skills is channelled through higher education, through HEFCE and the other bodies around the UK. Skillset, obviously, does not have any funding, apart from the freelance training fund that Peter has mentioned, to make these things happen. Our influence on higher education is not easy to achieve quickly because every university is its own autonomous university and degree-awarding power and has a highly protected and respected position in our higher education system. So all higher education spend, all higher-skills spend, goes through higher education, and Skillset, doing our job of trying to represent the views of the industry and make things happen to develop high-level skills has to, therefore, work with universities, either collectively (which is what we have done by branding them academies and working with them) or individually to try to talk to them about the kind of needs that industry has. So, I think, structurally, there is a real problem in terms of employers and industry influencing what happens in higher education with the high-level skills spend. I do think that the responsibility of that rests with the new government department, BIS, and I do think that there is some potential to this being currently discussed in terms of the industry having, maybe, more of a role to play in shaping the kind of programmes needed.

Q2112 Chairman: Would the responsibility lie with the business department or does it lie with the education department?
Ms O’Connor: It is the new combined department. So it is all under that one department.

Lord Maxton: Are we so much worse than other countries in this area, in terms of training and so on? The implication in what you are saying is that other countries are doing a lot better than us.

Q2113 Lord MacDonald of Tradeston: America is—we are either best or second best.
Mr Dale: If I may, given our lead globally in creating this kind of content, and the expertise that resides in this country, I think it is under-resourced, certainly.

Q2114 Lord Maxton: We have talked about workers coming from France to work in our industries. Presumably, we, also, have a fair outflow of trained people who go to other countries.
Ms O’Connor: We do.
Chairman: Is that meant to be good or bad?

Q2115 Lord Maxton: It is not a good thing. What I am saying is it is not a one-way process.
Ms O’Connor: That is absolutely right; it is not.
Chairman: We will stop interviewing each other and we are going to concentrate on you.

Q2116 Lord Ingelwood: This is a rather more clearly defined question which relates to your expenditure. The figures that you have shown us for 2007-08 suggest that you spend about just over £1 million a year on television and £8 million on film. Is there any particular reason for this split? Is it one that is consistent?
Ms O’Connor: Yes, it is consistent. The money we have to spend on film comes from film. It comes from two sources: one from the Film Council, so annually, up until this year, the Film Council have given Skillset a fund of £6.5 million to spend on training for the film industry.

Q2117 Lord Ingelwood: You have no choice about that?
Ms O’Connor: No, it is absolutely specific to the film industry. We also collect a levy in the film industry. Again, that money is collected from film producers and it is ploughed back into developing the skills for the film industry. So it is quite simple: we spend the money we spend from the industry on the skills they need. Television, on the other hand, contributes (Peter said it has gone down this year but there was about £1.5 million) to training for freelancers. That has to be spent on freelancers who primarily work in television. That is why the money is uneven.
Q2118 Lord Ingelwood: Do you think it is a desirable split—forget about the quantity for the moment—or is it skewed unhappily, but by chance?
Ms O’Connor: It is not skewed by chance because the funding that we get from film is based on analysis of what the film industry think they need to spend, and we think that is an appropriate level.

Q2119 Lord Ingelwood: So it is television which is out of sync?
Ms O’Connor: We think the needs outstrip the funds that we have in television, yes.

Q2120 Lord Macdonald of Tradeston: In terms of outcomes, could you show that that extra spend in film was producing better trained people for film than television?
Ms O’Connor: Yes, much more targeted focused training. We can spend film money on programmes like the academies, for example, and we contribute to the National Film and Television School or the London Film School at Bournemouth. We actually can fund those institutions to do more work, whereas with television we do not have those kinds of funds; we just have to influence what higher education does so it informs the more content platform-neutral skills.

Q2121 Lord Ingelwood: So it is a bit frustrating from your point of view?
Mr Dale: It is.

Q2122 Chairman: Would it be possible for BIS, the Department, to divert some of the Higher Education Funding Council money into a particular fund for high-level training, which could be accessed by Skillset? Would that be a possible way forward?
Ms O’Connor: It would certainly be a desirable way forward, yes.

Q2123 Chairman: Have you proposed this before?
Ms O’Connor: We have set out the case for needing targeted spend against specialist provision in higher education. We have not suggested how that might happen within the government spending arrangements. Yes, I think that would be a desirable outcome.

Q2124 Chairman: What has been the response?
Ms O’Connor: The response has been to applaud the work we are doing on behalf of the industry to work with higher education but there has not been any direct funding response, apart from—which I should say very quickly—HEFCE in England, HEFCW in Wales (because it is a different funding arrangements across the UK) and the Scottish Funding Council have all contributed small amounts of money to support our academy network and help us develop some of the programmes we need. In fact, Scotland is not so small because they have contributed £5.5 million to the network in Scotland.

Q2125 Baroness McIntosh of Hudnall: If I may follow that up, if we are talking about highly specialist and specialised skills, you have got an overall employment figure in the industry, as a whole, of 100,000, you are saying, in film and television together (give or take). What numbers are we talking about to whom very particular targeted funding would need to be applied in order to counterbalance the effect of the sort of work that is being done now in France and elsewhere that is giving them the advantage, when it comes to employment in this country? How many people?
Ms O’Connor: Not many in terms of the scale of funding required, is the short answer to that. For example, if you take the visual special effects post-production animation context, we could be talking about 300 individuals over a period of time. We have set those kinds of targets. So we are not talking about thousands of individuals; we are talking about hundreds.

Q2126 Baroness McIntosh of Hudnall: Is that 300 people a year?
Ms O’Connor: Yes, certainly in the next two to three years to actually fill what is quite an acute skills gap and shortage in the VFX industry. That is one area, obviously. If you are talking about the wider issue of content development, I think that is harder to predict, in terms of numbers; that kind of supply and demand calibration is quite difficult to be scientific about, particularly if that is going to be a sector of the economy that grows over the years—to go back to one of the very early questions.

Q2127 Baroness Bonham-Carter of Yarnbury: Can I just clarify one thing you and Lord Maxton were discussing? The skilled labour leaving the country is, presumably, older, is it? The problem is with young people coming through.
Ms O’Connor: Yes, exactly so.

Q2128 Baroness Bonham-Carter of Yarnbury: I want to turn to the independent production sector, which has obviously grown a lot. Do you think it is making an appropriate contribution to training?
Mr Dale: I think it is very difficult to quantify this because a lot of these companies are small. The Independent Training Fund, which raises money and partly contributes to the Skillset fund, has a real problem on its hands because running a small production company on margins of 5-10 per cent, possibly less, in some cases—as John Harvey Jones once remarked: “This is a lifestyle business; not a proper commercial business”—and being asked to
stump up, perhaps, the profit margin from one of your half-a-dozen commissions a year to train a body of freelancers, many of whom will never, ever walk through your door, is a big ask. Coupled with that, the larger companies—there are ten or so very large companies—have now started to set up their own training schemes, so they are training their own people; Endemol are sponsoring people through higher education, they are doing a directors’ scheme, a new-entrants’ scheme, and they are also contributing to the Independent Training Fund. Is that sustainable? I am not sure. I do not know whether it is, and it is concerning.

Q2129 Baroness Bonham-Carter of Yarnbury: I worked for independent production companies, and one of the things you do notice, despite Pact’s good attempts, is foot-in-the-door work experience, often unpaid, which means there is an inevitable preponderance, if I can put it, of more middle-class people entering the business because, frankly, they can afford to take unpaid work. I do not know if you have any views about how to handle this particular issue.

Mr Dale: I think this goes back to the earlier questions about education and access to courses, because, clearly, if you turn out with the right skills that is more qualifiable than having your father know someone who runs a television company. I think unpaid work is endemic; it is undesirable, but I think the figures speak for themselves. A very, very large proportion of freelancers will have undertaken unpaid work at some point, and companies with their backs against the wall trying to make a programme on a reduced budget will be even more tempted to take those people on.

Q2130 Baroness Bonham-Carter of Yarnbury: And people trying to get into the industry.

Mr Dale: Exactly.

Q2131 Lord MacDonald of Tradeston: Is it legal to have people work for nothing?

Mr Dale: Two weeks.

Q2132 Baroness Bonham-Carter of Yarnbury: Three weeks.

Ms O’Connor: We have done lots of research in this area and it does vary, that percentage of people who have undertaken unpaid work experience from broadcasters to indies, and you are much more likely to have done an unpaid stint in the independent sector, and mostly at the beginning of your career. Sixty per cent is quite a staggering figure. It definitely is an issue. It is an issue the industry, I think, is now quite keen to tackle. We have just recently finalised a code of conduct for what are called graduate internships, because this is the area that seems to be most confusing—what constitutes work experience, legitimately unpaid, and what constitutes working for nothing to get a foot in the door to get that first range of contacts. So Skillset has come up with a code of conduct now for graduate internships which really spells out the law, and says if someone is being employed and they are expected to do anything that contributes to a business, even turning up at a certain time, etc, that is work, and minimum pay is the absolute minimum requirement. We are certainly keen that this code of conduct gets used if there is any funding from government to support subsidised graduate internships, which there has been talk of. So if employers are to receive any subsidy for taking on graduates and giving them that first, vital period of experience, we definitely think this code of conduct should be a minimum sign-up because it is a huge issue. We have got, obviously, students coming out with their increasingly relevant degrees, we hope, from our media academies and still with quite significant debt and then, in some areas—e.g. journalism—postgraduate qualifications are the norm so they would carry on and take the postgraduate qualification, again self-funded, followed by a stint of unpaid working—again, drawing on debt. So it is totally skewing the kind of workforce that we have, and it is something that we need to take very seriously indeed.

Mr Dale: I think it is a bit of an iceberg, actually. I do not think we really know.

Q2133 Lord Maxton: Can I just look at your relationship with the television industry? I know it is a smaller part than film. What is your relationship with the BBC, for instance? They are not part of your structure, are they?

Ms O’Connor: They are; they are very much part of it. In fact, they are the largest contributor—Peter mentioned the Freelance Fund we have in television, and the BBC pay the largest slab of that funding and they match that in terms of Skillset’s core fund.

Q2134 Lord Maxton: They also do a lot of their own training.

Ms O’Connor: They do.

Q2135 Lord Maxton: Have you quantified that in terms of the total amount of money spent on training between commercial and freelance training, and the BBC’s training? What does that add up to? Do you know?

Mr Dale: It is very difficult to quantify what BBC training reaches freelancers. Do they keep figures on it?

Ms O’Connor: I have not seen figures on that. I suspect they could provide a breakdown of how many freelancers access their provision. That is certainly something that they want to increase. Their
training budget is a very significant training budget, and their intention is to make that training available to not just BBC employees but freelancers generally.

Q2136 Lord Maxton: Presumably, some of the people they train then go on to be freelance.
Ms O'Connor: Yes.
Mr Dale: Or they happen to be in the BBC as a freelancer at that point, and are lucky enough to get some training.

Q2137 Lord Maxton: Yes, or people who trained with the BBC—
Mr Dale: Leave.

Q2138 Lord Maxton: And become freelance.
Mr Dale: Yes. One of the things that struck me when I started to chair this Council a year ago was how fragmented it all is. The impression I want to give you is that this is—with the best will in the world, despite the efforts of Skillset and the Independent Training Fund and organisations like the BBC and Channel 4—very insecure; it is very fragile and it depends a lot on voluntary goodwill; it depends a lot on knocking nicely at the door of higher education and saying: “Can we come in and help you provide the kind of skills”, and it all feels quite fragile, to me. One of the things we are really trying to do is to ensure that organisations that have substantial training capacity, like the BBC, can make that more available. Of course, it is in the BBC’s interests to spread its public service contribution as widely as it can. So we are in very good dialogue with the BBC about using its training for freelancers and repurposing it for people who do not belong to the BBC. It is a huge resource and it costs the BBC nothing to do that.

Q2139 Lord Maxton: Do you spend time trying to identify, if you like, the new skills that will be required in television?
Mr Dale: Definitely.

Q2140 Lord Maxton: Do you get any contribution from what I would term the new media, in terms of your training? Do you get anything from Google or Yahoo, or anything like that?
Mr Dale: No.
Ms O’Connor: No. In answer to your first question, yes, we do analyse the skills needs of the industry, not just now, not looking to tomorrow but—

Q2141 Lord Maxton: You are looking at 3D coming.
Ms O’Connor: And we do do that in conjunction with interactive and digital media companies as well as the broadcasters. Have we got input from all major players across the piece? Not yet, but that is something that we are definitely—

Q2142 Lord Maxton: Looking at.
Ms O’Connor: Yes.

Q2143 Baroness McIntosh of Hudnall: Going on from that, one of the things which comes out of your evidence and which we have heard from other witnesses is that the willingness of the commercial broadcasters to go on funding training, either through their own initiatives or putting money towards what you are doing, is rapidly diminishing.
Mr Dale: Systemically.

Q2144 Baroness McIntosh of Hudnall: Given what you have just said (I am playing this back to you and you may not accept it), it feels to me as though you feel permanently in a rather supplicant mode when it comes to trying to get your schemes and your initiatives going. For example how much impact has the recent withdrawal by ITV from the quantity of funding that they were giving to you had, and what view do you take in the medium to long term about the likelihood that they will come back into the fold? What can you do?
Ms O’Connor: ITV withdrew funding from Skillset this year, totally from our freelance training fund and, substantially, from our core fund (because they paid contributions to both our core activities as well as the Freelance Fund) and indicated that this would be reviewed in the future. That is the situation as we know it. We also have had cuts—not on the same scale at all but cuts, nonetheless—from Channel 4 this year and predicted for next year. In terms of the independents (it is a very complicated system—I agree with Peter), the independent production companies pay a separate organisation called the Independent Training Fund and they collect that money and then they give Skillset a contribution. That contribution has gone down hugely this year.

Q2145 Baroness McIntosh of Hudnall: However, as Peter said earlier, the independent sector, if you are talking about the actual production company, is made up, mostly, of lots and lots of very small enterprises who are mostly scratching around to keep themselves afloat. Is that not so?
Ms O’Connor: Yes.

Q2146 Baroness McIntosh of Hudnall: With the exception, obviously, of one or two big names. However, there are aspects of the business—for example, the Pay TV channel, Cable and Satellite, who do potentially have money. Is there any intro that you can get with them that might deliver some funds? Is there any role for the regulator, where there is a public service issue, in insisting that people—
Ms O’Connor: Cable & Satellite do, also, contribute to the fund. I should have mentioned that earlier. In fact, their contribution has gone up slightly this year.
Baroness McIntosh of Hudnall: Reasons to be cheerful.

Q2147 Lord MacDonald of Tradeston: Channel 5—do they contribute?
Ms O’Connor: Yes, they do, and they have maintained their contribution this year as well—so more reasons to be cheerful—and Sky has maintained its contribution as well. So that is the fund. It does concern us that, overall, however, we have now 50% per cent of the fund that we had last year, with a growing list of skill requirements and a real need to prepare for the future upturn, hopefully, of content development and the skills associated with that. Peter has described very well Skillset’s role, which is to encourage, persuade and convince that it is important to invest in training, and particularly in freelance training. We do not have any powers of enforcement to make that happen; obviously, we are not that kind of organisation. In terms of regulation, Ofcom does have, obviously, the powers to regulate their training within the TV and radio industry, which covers the broadcasters as well as CABSAT companies, but their current regulation covers arrangements to monitor what companies do for their staff and their freelancers that they directly employ; it does not cover wider support for the wider skills issues or the pool of freelancers that we all draw on. That is something Ofcom are re-examining and re-looking at—we have just very recently heard that that will be taken back to the Ofcom Content Board to re-look at that role and remit under the current Act. That is where we stand at the moment. In terms of employers such as ITV withdrawing its funding from Skillset and, indeed, to NFTS, that is not covered by any direct regulatory enforcement.

Q2148 Baroness McIntosh of Hudnall: But you would like it to be?
Ms O’Connor: I think we need to look at, perhaps, the meaning of regulation and what that means and the responsibilities that companies have to the wider freelance workforce and wider industry-wide initiatives—e.g. the media academies. These are things that we think should be looked at, perhaps, in terms of regulation. I think it is absolutely critical that the definition of public sector broadcasting includes very explicitly a role for supporting training for the industry at large, and I think that would be a very useful, explicit recommendation in any future definition.

Q2149 Chairman: It seems to be that this is anything but an ideal situation (I do not think anyone is claiming that the training position is ideal). It is characteristic, I think, to us—Mr Dale used the word “fragmented” and it seems to be extraordinarily fragmented, and at times one is rather searching for levers to be able to pull which actually make it any better.
Mr Dale: You share the feeling I had when I started chairing the Council a year ago, because I found it very difficult to find firm ground and to establish where the main lines of supply and demand were. However, what we are also looking at is an environment in which the old models of television content creation and film content creation are changing, and the overlaps between gaming and internet content and broadcasting, radio and film are all merging at a helter-skelter rate. What we are struggling to find is a system which will help support those skills in the future. That is the real problem. It is two things happening at once. I think searching for that structure is the feeling that you have, and it is a difficult one; it is in a dark room with everything painted black.

Q2150 Chairman: The aims are not that difficult to set out.
Mr Dale: No, they are not.

Q2151 Chairman: How you actually achieve them is entirely different. I suppose the other thing that we must be aware of is that whatever happens, whoever wins the election, we are going to be going into a kind of rather bleak period of public spending, as far as we can see, and in the past training has not escaped the axe, as far as that is concerned.
Mr Dale: If I could just give you one suggestion for why it may not be completely gloomy, it is that having spent a long time in the broadcast industry I have been a beneficiary of fantastic training. My time at the BBC gave me an extraordinary experience of being trained. I was trained to the hilt, literally and became a researcher; Mark became the editor of the Nine O’clock News instead. Putting that aside, we both benefited hugely from this, but this was when television owned it all; television owned everything, and now it does not and it will increasingly own less. However, at the same time, lots of other organisations have perceived the wisdom of owning content—telling stories to people—and building relationships with viewers through the content that they originate, in the way that television has done. So lots of organisations—and this is the model for the future, I think—will be starting to own content and produce content of their own. That makes it more difficult in a way to systematise this, but we have to recognise that it will not just simply be ITV and the BBC in the future;
it is going to be a myriad form of content creators all wanting people with skills.

Q2152 Lord Maxton: Is not the problem, however, that owning is fine; it is selling that is the problem? It is getting the reward in a multiplatform, multimedia world; getting people to actually pay for what you own.

Mr Dale: Yes, in general. I do not think it is necessarily the old model of equity investment. Quite a lot of content owners are prepared to put money in because it suits their purposes to own that content. They are not necessarily looking for a financial reward; they are looking for a message.

Lord Maxton: I understand that.

Q2153 Chairman: You have been very patient and given some very interesting and valuable evidence. I am not totally sure that we are absolutely encouraged by everything you have said, but I am very grateful for the detail and the frankness with which you have given your evidence. We hope, in some small way, we may even be able to help. Thank you very much indeed.

Ms O'Connor: Thank you for your patience.

Mr Dale: Thank you.
WEDNESDAY 4 NOVEMBER 2009

Memorandum by Channel 4

SUMMARY

1. The creative economy is one of the most vibrant and fast-growing sectors in the UK: currently generating around £60 Billion per annum in gross value added and employing around two million people across the UK. These high-profile industries also make vital cultural contributions—telling stories about Britain to each other and the rest of the world.

2. Within this, Channel 4 makes a substantial contribution across television, film and digital media. Channel 4 works with over 300 independent production companies every year, contributes an estimated £2bn a year of Gross Value Added (GVA) and is responsible for an estimated 22,000 jobs across the creative industries of the UK. At the same time, Channel 4 has achieved considerable critical success across all its genres—in 2008 Channel 4 was named Channel of the Year at the Broadcast Awards, and has won more BAFTA TV Awards and RTS Programme Awards than any other individual channel—most recently with eight RTS wins in genres including drama, news, history, comedy, and factual entertainment.

3. Channel 4 is also one of the most significant supporters of film in the UK—and has financed many of the defining British films of the last 25 years (see Appendix 1). The most recent slate of films—including Hunger, Happy-Go-Lucky, In Bruges and Slumdog Millionaire—has led to another successful year for Channel 4’s in-house film arm Film4, with awards from the Cannes Film Festival, the British Independent Film Awards, the Golden Globes and most recently eight Oscars for Slumdog Millionaire—giving Channel 4 13 Academy Award wins in the last five years. Few, if any, of these films—which stretch from comedy capers to hard-hitting drama, would have been made without the unique involvement of Film4—which is dedicated to funding cutting-edge, innovative British films and developing the very best of British creative talent.

4. While the rapid take-up of new digital technologies has created exciting new opportunities for the consumption and distribution of British content, the transition to digital is also presenting significant, structural challenges to the traditional business models of commercially funded broadcasters. As television increasingly competes with new forms of digital media for audiences, television advertising revenues are declining and subsequently all commercially funded PSBs are facing considerable financial pressures that are restricting their ability to invest in high-quality PSB content.

5. Recent reports from both Government and Ofcom have recognised the profound structural challenges facing the commercial broadcasting sector—and in particular the instability of Channel 4’s current business model, which funds public service content from the revenues gained from its commercial activities. The Government’s recent Digital Britain interim report has recommended that a new PSB institution be established to compete with the BBC, with Channel 4 at its heart but with sufficient scale to ensure it can compete in a “multi-media, multi-platform world”. As a publicly-owned institution with a 26 year history of using commercial returns to provide public and economic value, it is essential that Channel 4 is at the heart of any new institution. Channel 4 is currently in discussions with the Government over the best way of creating a second organisation with the remit, scale and experience needed to be an effective provider of PSB plurality in the digital age.

6. Audiences clearly value and enjoy British content and stories that are relevant to their own sense of history and culture. The Committee’s inquiry is a timely opportunity to examine the challenges facing future investment in television and film, and to help create the right conditions that support investment in high-quality British content across television, film and digital media, and particularly the kinds of innovative, risk-taking content for which Britain is internationally renowned.

1 DCMS Creative Industries Economic Estimates 2009.
2 The impact of Channel 4 on the UK independent sector, creative industries and the economy, PWC report, 2006.
3 “Putting Viewers First”, Ofcom’s 2nd PSB Review, 2009.
What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

7. The UK’s creative economy is the largest creative sector in the EU, responsible for around two million jobs across the UK and generating around £60 billion per annum in GVA. In recent years the creative industries have grown faster than the rest of the economy, and as traditional manufacturing industries and services decline, these industries should be seen as a priority area for the growth of the British economy as a whole.

8. The UK content industries make particularly strong contributions to this economy—with radio and TV generating an estimated £5.1bn of GVA to the UK economy in 2006 and employing nearly 110,000 people. Similarly, in 2006 the core UK film industry (film production plus distribution and exhibition of UK films) contributed £1.5bn directly to GDP, and employed nearly 39,000 people. Channel 4’s own contribution to the creative economy is significant—as a publisher-broadcaster all of its investments help to stimulate the wider creative industries, and it is estimated that this value is worth up to £2.2bn in GVA, responsible for up to 22,000 jobs a year.

9. TV and film are also a core part of the fabric of British cultural life. Ofcom’s four purposes of public service broadcasting—“increasing our understanding of the world through news and analysis, stimulating knowledge and learning, reflecting UK cultural identity and making us aware of different cultures and alternative viewpoints”, reflect the cultural significance of television and film and their essential role in reflecting the lives of UK citizens to each other and to the rest of the world.

10. Channel 4 was launched in 1982 as a publicly-owned, not for profit broadcaster with a clear mission to provide an alternative public service offering to the BBC and a specific remit largely focused on innovation, creativity and diversity. It has always been commercially self-sustaining through its cross-subsidy model, which invests the profits made from more commercial programming into less profitable genres—such as news and current affairs. Channel 4 was established as a publisher-broadcaster with no in-house production capacity, and therefore has a unique role in finding and developing creative talent from across the UK. It has helped to break and develop the careers of some of the UK’s brightest stars—from comedian Peter Kay and newcomer Andrew Garfield, to directors including Danny Boyle, Stephen Frears, Shane Meadows and Kevin MacDonald and writers such as Peter Morgan and Simon Beaufoy. Channel 4 also makes significant investments in industry training schemes and development initiatives to help find the next generation of talent.

11. Since its launch Channel 4 has played an essential role in promoting the production and distribution of high-quality, distinctive UK-produced content across television, film and digital media, and recent highlights include high-quality drama (The Devil’s Whore, Red Riding), current affairs programmes (Dispatches, Unreported World), new comedy (Free Agents, The Inbetweeners), major series on arts and religion (Big Art Project, Christianity: A History), innovative educational content (Battlefront) and award-winning films (Hunger, Slumdog Millionaire). This diverse contribution to high-quality content has been recognised by audiences and critics alike—in 2008 Channel 4 won more awards than ever before, at the Royal Television Society, the BAFTAs, the Golden Globes and the Oscars, and 2008 peak-time share was at an all-time record.

12. In 2008 Channel 4 set out four core public purposes, which build on its statutory remit to capture in greater detail the value of its activities. These are to:

— nurture new talent and original ideas;
— champion alternative voices and fresh perspectives;
— challenge people to see the world differently; and
— inspire change in people’s lives.

These core values are at the heart of all Channel 4 commissioning—across television, digital media and film.

13. Film4 is fully funded from Channel 4’s core programming budget and has been an integral part of the Channel 4 network since launch. Film4’s brief has always been to help sustain the British independent film sector, and focuses on working with writers, producers and directors to develop innovative projects that resonate with UK audiences, as well as breaking new talent and providing British film-makers with...
Film4 has invested in some of the UK’s most important domestic stories—from My \textit{Beautiful Laundrette} in 1985, about a relationship between a Pakistani man and a member of the National Front, to last year’s \textit{Hunger}, exploring the IRA’s hunger strikes of the 1980s, and has developed projects from \textit{Slumdog Millionaire}—where Film4 optioned the novel and commissioned writer Simon Beaufoy to travel to India to research the script, to \textit{This is England}, which was borne out of a routine meeting between Film4 executives and director Shane Meadows.

14. Film4’s location within Channel 4, with Tessa Ross heading both Film4 and the television drama department, also creates greater opportunities to nurture talent and develop creative ideas across the board. This set-up provides the flexibility for film-makers to screen projects as single dramas on the core channel, as well as giving opportunities to TV talent that may have aspirations to work in film. For example, the Bafta-winning \textit{Touching the Void} was initially conceived as a TV documentary, but was subsequently given an increased budget and theatrical release when spotted by Film4, and \textit{Hunger}—which in 2008 won the Camera D’or at Cannes, was the result of a long-standing relationship between Channel 4’s arts commissioner Jan Younghusband and Turner-prize winning artist Steve McQueen.

15. Channel 4 has made significant cultural and economic contributions across television, film and digital media for the last 26 years, and in 2008 achieved considerable commercial and critical success. Unlike some other more purely commercially driven broadcasters, Channel 4 remains committed to its remit as a public service broadcaster, and 2008’s \textit{Next on 4} blueprint outlined its intentions to continue playing a key role as the main source of UK-wide plurality in PSB content alongside the BBC—and to enhance its original remit through digital media, regional production, new talent, documentaries and children’s content. These proposals sought to provide a wide range of UK-produced content that serves the broadest possible range of audiences.

16. However, as outlined below, the commercially funded broadcasting sector is currently facing dramatic structural challenges that are undermining its ability to make the revenues from television advertising needed to invest in high-quality PSB content. A new structural solution is needed urgently if PSB investment is to be maintained or even enhanced.

\textit{How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?}

17. Due to their ability to drive subsequent distribution in media such as DVD and television, theatrical distribution arrangements are fundamental in determining the commercial success of a film, and can often be the key to getting a film made at all. Channel 4 is concerned that the current UK arrangements for distribution make it difficult for British films to get the kinds of widespread releases or make the kinds of returns necessary to support a strong, profitable indigenous British film industry.

18. For example, theatrical exhibition space in the UK is dominated by major studio films—just 10% of all UK cinema screens are available to independent films. Often studios use access to premium “blockbuster” films to make distributors and exhibitors show less popular studio films—through a process of “blockbooking”. (Pay TV slots are similarly dominated—making it harder for independent film-makers and independent distributors to benefit from this additional revenue stream.) As a result, independent British films—which do not have the same kind of leverage, are often forced into having smaller distribution releases and shorter release windows—even if there is considerable audience demand for that film. For example, Film4’s \textit{This is England} was a profitable box-office film that could have had an extended cinema run, but many cinemas had to replace it with less profitable studio films due to these block-booking arrangements.

19. The emergence of digital film, which is significantly cheaper and easier to print and distribute than celluloid, has created an opportunity for independent films to challenge this studio dominance. While inevitably the sheer financial muscle of studios will always guarantee it marketing clout with which to influence audiences and buy exhibition capacity, the cost savings and logistical advantages of a UK-wide digital cinema network properly harnessed might have the effect of lessening the studios stranglehold. However, it is important to be aware that in order to harness this opportunity and create greater opportunities to showcase independent films, the initial investment in the digital infrastructure needs to be followed up by significant support and sustained investment in the marketing of independent films.

20. The UK’s theatrical terms with the exhibitors are also particularly tough on independent film-makers—with the majority of box-office returns going to the cinemas and distributors that bring the film to market rather than the film’s producers (the UK has one of the highest exhibitor shares in the world—allocating up
to 75% of a film’s box office revenue to cinema owners). The distributors that bring the film to the market use
the remainder to recoup their marketing costs. This means that even when films are successful in the cinemas—
such as This is England or Last King of Scotland, Film4 often does not recoup its investment until the DVD
and video-on-demand cycle, if at all. Film4 for instance, estimates that it will only generate limited revenues from Slumdog Millionaire, despite it being a global box office hit. Commercial equity investors are therefore
highly unlikely to take risks on film investments due to the difficulty in getting profitable returns—making
Film4’s early risk investment in films even more essential in raising the finances needed to get distinctive British
films made.

21. It is therefore difficult for a UK film company to make significant profits unless it is a major distribution
house or if it is the majority financier of a large slate of films. Film4 does not have the necessary resources for
either of these strategies, and as part of a public service organisation with a remit to offer distinctive content
and champion alternative voices, Film4’s strategy has therefore focused on developing new creative talent and
stories that have resonance to a British audience.

22. The theatrical terms and release arrangements outlined above, combined with the size of the domestic
market, highlight the current challenges for growing a financially sustainable independent British film
industry. Other countries have made specific efforts to support domestic film in response to the dominance of
the US market—for example in France box office revenues are taxed to create a fund specifically for
French-language films, and even in the US the kinds of block-booking arrangements outlined would be
deemed anti-competitive. However, while promoting film production through the introduction of the British
tax credit and establishing a dedicated film agency, the UK has previously been reluctant to address these kinds
of distribution issues. This has had the unintended consequence of limiting opportunities for indigenous
British films that do not have the financial backing of major studios, making it more difficult to build a
sustainable British film industry that can nurture home-grown talent and make long-term contributions to the
UK’s economic and cultural life.

Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible
effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit
appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

23. Channel 4 believes the current tax credit system, including the Britishness test, works well for producers
and has brought significant benefits to the UK film industry. It has attracted substantial inward investment
from US producers—for example, some of 2008’s biggest box office hits, including Quantum of Solace and The
Dark Knight, were shot in the UK due to the favorable financial environment, and this has created significant
employment opportunities for British crew-members and contributed to the UK’s economy as a whole.

24. The above notwithstanding, Channel 4 would note three areas of concern. Firstly, that the cash-flowing
of the tax credit is still problematic, with banks seemingly reluctant to recognize the low risk nature of the loan.
Secondly, that since development funding plays such a crucial role in the making of every successful film,
Channel 4 would like to see these costs become allowable costs in the calculation of the tax credit going
forward. And finally, it is worth noting that the current UK tax credit is becoming increasingly rivalled by other
international incentives—particularly in Eastern European countries. This highlights the problem of being too
dependent on inward investment to sustain the UK film industry, as inevitably international productions will
go wherever the best financial deal is offered. Channel 4 would therefore emphasise the importance of growing
a significant and sustainable indigenous production base that is able to make long-term contributions to the
creative economy and give British stories international prominence.

Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do
more to assist the UK film industry’s contribution to the UK economy?

25. Film4 enjoys a close relationship with UKFC and has successfully worked in partnership on several
development slates and short film schemes, including the Cinema Extreme and the Digital Shorts programmes.
Film4 has also invested alongside UKFC on many of the films coming out of the New Cinema Fund, which
seeks to invest in cutting-edge, innovative film-makers. These initiatives have already sourced a generation of
new talent—investing in Red Road director Andrea Arnold, who directed the Oscar-winning short film Wasp
as part of Film4’s short films programme, and Cinema Extreme graduate Duane Hopkins, who recently
developed his first feature film Better Things with investment from Film4 and the New Cinema Fund.
Film4 has also worked with UKFC and other partners to invest in Warp X, the UK’s first fully-integrated
digital feature virtual studio which has the capacity to develop, fully finance and distribute ten digital feature
films over five years.
In addition to these collaborations, Channel 4 welcomes UKFC’s substantial investment in the Digital Screen Network, which provides cinemas across the UK with digital technology. As previously outlined, digital cinema has the potential to provide greater audience choice by making it cheaper for cinemas to offer widespread releases, but this technology is initially very costly. UKFC’s investment is therefore extremely valuable, and has put the UK ahead of other countries in terms of digital innovation. Channel 4 believes that UKFC should continue to drive forward innovation in this area.

These investments in digital innovation and new talent are critical to the sector, and Channel 4 strongly supports a robust, securely funded Film Council that is committed to supporting the UK film industry. Going forward, we would encourage UKFC to continue its commitments in these key areas, as well as ensuring that it is clear and transparent in its engagement with industry.

Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

Channel 4 recognises the importance to the creative industries of a supportive business environment, which encourages and rewards innovation and creativity. Channel 4 particularly values a vibrant and innovative independent sector, given its unique business model of sourcing all its content from third party producers, and is committed to providing fair rights deals to all the producers that it works with—across television, digital media and film. Each of these industries has its own unique production and distribution arrangements, and therefore inevitably rights deals vary accordingly.

In television, where a small number of broadcasters are responsible for nearly all spending on new content, Terms of Trade introduced under the Communications Act 2003 provided protection to independent producers and the space necessary for the sector to grow into sustainable businesses able to invest themselves in creative development. Many of these are now able to bring investment into the UK from their successful exploitation of rights overseas. Channel 4 enjoys a good and constructive relationship with independent producers, and will continue to develop this relationship in mutually beneficial ways—including developing the Terms of Trade in television to reflect the rapidly changing ways in which markets are developing, and exploring ways in which it can grow the size of the pie in which both broadcasters and content producers can share.

The nature of film production in this country means that there is already a multiplicity of funders all with their own rights terms, and as Channel 4 invests further in small-scale new media companies through the 4iP initiative, it is innovating with many new business models that recognize the collaborative and more long-term nature of digital content. Channel 4 would therefore highlight the importance of flexible business deals, ensuring that the UK content industries can respond to market developments, maintain ongoing investment and provide a fair deal to suppliers.

As digital technology lowers barriers to entry for all content-producers, not everyone will understand the complexities of these types of rights arrangements—or even more common practices such as developing business plans or marketing strategies. There is therefore an important role for institutions in providing new talent with the appropriate skills and business acumen needed to further develop their careers and build sustainable businesses. This is a particularly important role for Channel 4, which does more than any other broadcaster to nurture new talent and take risks on emerging voices. Through its in-house marketing, legal and business affairs expertise, and investment in a range of training initiatives and mentoring programmes that provide emerging talent with technical and strategic skills, Channel 4 therefore works hard to ensure that the next generation is fully equipped to maximise the opportunities of the digital age.

How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

The current regulatory system—which contains a publicly funded BBC, a publicly owned Channel 4 and PSB commitments for the other terrestrial commercial broadcasters—has been responsible for the creation of a television industry that has been the envy of the world.

However, while the transition to digital has opened up a range of opportunities for consumers and citizens to access content however and whenever they want, these same structural changes have also undermined the foundations of the current broadcasting system. As competition for audiences increase and advertising
revenues move away from television to online media, commercial broadcasters are facing increasing financial pressure—there is now a significant gap between the fortunes of the BBC, which in 2009 has a guaranteed income of around £3.6 billion, and the combined UK TV advertising market, which is forecast to be up to £1 billion less than licence fee income this year.\(^9\) This has made it difficult for commercial broadcasters to justify investment in less profitable PSB programming, creating the risk that the BBC becomes the sole provider of PSB content in the UK.

34. This financial pressure has already led to a decline in provision of some key PSB genres, such as children’s programming. In 2006 ITV stopped commissioning new children’s content and replaced the children’s slot on the main ITV1 channel with more profitable repeats of Inspector Morse and Midsomer Murders. Five has limited its provision to younger audiences, and while Channel 4 has announced commitments to increase children’s provision and has already commissioned a children’s history series, it has had to postpone transmission of this series due to the severe pressures of the current economic climate.

35. The rapid increase in new distribution platforms has not significantly increased investment in PSB content—despite nearly 20 years of satellite television, investment in UK-produced original programming (excluding film and sports rights) by digital channels not operated by PSBs is estimated by Ofcom to be only £200 million per annum—less than 8% of total investment in UK origination.\(^10\) While Channel 4 would welcome any further encouragement of non-PSBs to invest in public service content, these channels are not freely available to all UK audiences, and most do not achieve the same levels of reach and impact as the core PSB channels.

36. Channel 4 would also highlight that examining the possibility for small-scale incentives for some television channels are an insufficient way to address the scale of the problem affecting the current UK PSB system—bold structural change is needed. The Government has recognized that high-quality UK PSB content is highly valued by audiences, and the Digital Britain report is currently exploring ways to secure this content through the establishment of a second PSB institution, which has Channel 4 at its heart but which has sufficient scale to be able to sustain itself and compete effectively in a multi-platform world.

37. Channel 4 welcomes the Government’s recognition of the importance of UK content and the structural challenges underpinning the sector, as well as the vital role of Channel 4. As the main current provider of public service plurality alongside the BBC, and its 26 year history of delivering public and economic value, Channel 4 must be at the heart of any new PSB organisation.

38. The Government are currently exploring the viability of partnerships, joint ventures and mergers as the best means of creating a second organisation with the necessary scale. Channel 4 agrees with both Ofcom and the Government that these explorations should begin with publicly owned organisations: Channel 4 and BBC Worldwide. These organisations are closely aligned in terms of their goals and internal cultures, and Channel 4 believes that a combination of the two would provide the greatest value to audiences, and comes closest to the Government’s vision of an organisation with sufficient scale and expertise to make substantial and sustainable investments in the widest range of high-quality PSB content.

**How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?**

39. The broadband revolution has transformed the communications sector, creating new ways of creating, distributing and consuming public service content.

40. Channel 4 is a forward-looking organization that has embraced the potential of the digital age, and in Next on 4 announced its ambitions to transform into an integrated public service network, delivering compelling public service content across TV, film, web, mobile and games. This approach has sought to develop cross-platform projects that cover the range of issues traditionally covered by television—such as arts, education, history, health, and sport, but that also maximise the potential of the unique characteristics of digital media: tools that are inherently more participative and collaborative.

41. Channel 4’s digital strategy includes a new £50 million innovation fund for public service digital media, 4iP, which will be investing in socially valuable tools and sites, as well as moving the majority of its Education budget online to ensure young people are targeted in the most effective and relevant ways. Channel 4 was also the first commercial broadcaster in the world to make its full commissioned schedule available on-demand.

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\(^9\) UK TV NAR forecasts 2009.

\(^10\) Ofcom’s Second PSB Review, Phs 1.
with 4oD, serving a quarter of a billion pieces of long-form content in just over two years. Film4 has also driven digital innovation, investing in the digital studio Warp X, supporting investment in digital cinema, and developing projects such as the forthcoming *All Tomorrow’s Parties*, which includes both a feature film and an online archive of the history of the music festival.

42. However, despite these considerable opportunities, it is clear that digital media is also presenting structural, and irreversible, challenges to the commercial broadcasting market. Charles Leadbeater, a renowned technology thinker, recently stated that Government’s plans to increase broadband take-up “puts political leaders in a painful bind they are keen to overlook”, as “accelerating the spread of broadband will not save these industries but make their predicaments more difficult”. Digital media is fundamentally undermining commercial media’s ability to invest in high-quality PSB content, and these investments are not being replaced by other providers—the web is currently dominated by non-UK brands such as Google, Facebook and AOL that make no investment in UK content, and most UK sites do not have the brand recognition needed to compete with these providers and achieve high levels of audience impact. (This highlights the importance of institutions in attracting large audiences—for example, the strength of Channel 4’s brand, its distribution expertise and cross-platform approach has enabled it to deliver compelling online content to wider audiences.)

43. While the digital age clearly presents significant opportunities, it is therefore vital that any future communications regulation recognizes the profound structural challenges it is posing to traditional commercial media, and creates a robust regulatory system that protects investment in high-quality UK content across the board—in television, film and digital media. Without bold, structural intervention of this kind, the UK risks losing the kinds of innovative content and creative talent that has made it the envy of the world.

**FILM4: 1982–2008**

Film4 completed films by year of production

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Examination of Witnesses

Witnesses: Mr Andy Duncan, Chief Executive, Mr Nick Toon, Director of Corporate Relations, and Mr Glyn Isherwood, Group Finance Controller, Channel 4, examined.

Q2154 Chairman: Good morning and welcome. Thank you very much for coming. Thank you also for the written evidence which you have given, which I thought was extremely good and very clear. We may come back to you on some of the figures that have been used. Really they are DCMS figures, but I thought £60 billion per annum in gross value added and employing two million people for the whole of the creative economy does depend largely on how you define the creative economy. It is bigger than any figure that I have so far used, but that is probably more an issue for DCMS than for you. You seem to be in a period of change at the moment at Channel 4. Everyone is going. I read from the Guardian that a new Chairman is going to be appointed this week. Is that right?

Mr Duncan: It is certainly true to say that there is some change at Channel 4. Of the 700-odd people who are employed there, 700-odd are still going to be there after Christmas, but the Chairman Luke Johnson finishes by rotation in early January next year after six years in the role, and I announced my resignation a couple of months ago and will step down myself this side of Christmas. In terms of the new Chairman’s appointment, that is entirely a matter for Ofcom. It has to be also agreed with the Secretary of State, Mr Bradshaw. My understanding is that a decision is imminent, but that could easily be in the next couple of weeks as opposed to the next couple of days. I would be surprised if there is not some form of announcement this month regarding who the new Chair will be. That, in turn, will allow for the new person to get involved in the process to recruit my successor. While existing non executive directors have got that process started, quite clearly it needs to be the new Chair who is in the lead on that process. That will take some time. We have announced that Anne Bulford, our Group Finance Director, will act as an interim Chief Executive during any period after I have gone and before the new Chief Executive is in place, should that be necessary.

Q2155 Chairman: Can you tell us who the new Chairman is going to be?

Mr Duncan: I do not know. You will have to talk to the Ofcom people who are involved in that. It is genuinely not in any way, shape or form a decision for me.

Q2156 Chairman: Why are you going?

Mr Duncan: A number of reasons. I have been there for coming up to five and a half years. I guess, at its very heart, the job I came to Channel 4 to do I have substantially done. When I joined it was still very much a single channel, rather analogue focused organisation, stuck in what I call the traditional role that telly had grown up in. The job I had said I wanted to do when I came there, which was to transition the organisation for the digital world, to a very large extent we have now done. We have a very successful suite of television channels. We are developing, in particular, the online proposition in a very strong way, both in terms of video on demand, where we have been pioneering, and also educational activities online and in a number of other areas. In terms of the organisation’s future-proof and facing the future, it is in a very good position. It is one of those things where it just feels like the right time to move on. With a new Chair coming in as well, it felt like there was the opportunity to have a new leadership team take the organisation on to the next stage.

Q2157 Chairman: At the beginning of next year we are going to have a new Chairman and a new Chief Executive.

Mr Duncan: I do not know how long it will take, but at some point in the first few months of next year I would expect the new Chief Executive to be up and running alongside a new Chairman.

Q2158 Chairman: As you are going, you can give us your really frank view.

Mr Duncan: I always give my frank view, I would like to think.

Q2159 Chairman: At the moment you are a public service broadcaster. You provide both news, current affairs, Channel 4 News, but you also invest in British films as well. You have a very wide remit as a public service broadcaster. In the cinema you did Slumdog Millionaire. Did you ever make any money out of that?

Mr Duncan: Yes. I know that our Film4 team addressed the Committee earlier in the year, but Slumdog Millionaire I would say is probably the most successful film Channel 4 has had in its entire 22 years of investing in film. It was, unusually, a huge creative success. We have never had a film that has won eight Oscars before, although we have won other Oscars, and it will also be a commercial success. I think Tessa Ross and her colleague explained to the Committee the economics of that particular film. We will make probably a few million pounds in terms of total revenue back, and that obviously helps go into the pot of funds for the first place. We have had some other films. The Last King of Scotland would be another example where it achieved both critical acclaim and some commercial success, albeit more modest than Slumdog Millionaire.
Mr Duncan: The key point is that we try to keep a balance over time. It is not a commercial activity; it is ultimately a creative activity. It is about creative endeavour to invest in outstanding film ideas that might otherwise not be made. Crucially, Channel 4 has, if you like, first right to show those films on Channel 4 itself and, in addition, now that we offer a free film channel across the UK, many more opportunities for people to see those films. That is essentially why we make that investment. My colleagues explained very clearly to the Committee that that has a huge knock-on benefit into the wider British film ecology that is wholly helpful. Film4's investment over 26 years now has been extremely good but there are many films that either do not succeed because they have been a creative risk-taking opportunity and just have not worked, or succeed creatively but nonetheless do not make any money. As a whole, we would continue to see it as an investment. There was a period where Channel 4 tried to upscale activities substantially—it was before my time, but ten years ago or so—and that ended up losing a lot of money. It even tried to set up a big British film studio to compete with the American studios, but I have to say it was a financial disaster.

Mr Duncan: Yes.

Mr Isherwood: The total programme budget for 2009 is about £530 million, which is £100 million less than the previous year, so there is substantial pressure on that programme budget. We have been quite successful in making a series of programme efficiencies through that. We set ourselves an internal target of making five per cent efficiencies each year. We have exceeded in that every year for the last three years, and we get efficiencies of between eight and 11 per cent, but there is considerable pressure on our budget this year. That is across the core channel budget and additional channels budget which we have reduced in line.

Mr Isherwood: That is correct.

Q2164 Chairman: What is going to happen for the next year and the following year? Have you done that?

Mr Isherwood: Like this year, it largely depends on what happens in the advertising market. We are principally funded through advertising. Every one percentage drop in the advertising market impacts our revenue to some £7 million. This year, whilst the advertising market has been down 13/14 per cent, we have had a significant drop in our revenue. If next year we have a scale of drop in the ad market of four or five per cent, then we are going to lose revenue of some £30/£35 million. Because of that, we will have to re-look at our cost base and look at making more efficiencies, and inevitably, regrettably, we would have to look at the programme budget again.

Mr Duncan: We will hit the quota this year. We are currently in a dialogue with Ofcom about what might happen next year and beyond. With the level of reduction in the market, although we have managed to grow our share, the absolute income has come down. There are two things. One is prioritising spend so that we can earn that money commercially to sustain the following year. Obviously it is very important that if Channel 4 is spending £530 million in content it is being spent in such a way that we are going to earn enough back commercially to keep

£150 million less than we were investing a couple of years ago, so the so-called gap that we talked about some years ago has arrived in the form of reducing investment in content.
investing that the following year again. Second, in terms of public impact we have, in particular, prioritised peak. We have taken the decision that with limited resources it is more important to keep the quality of the schedule and distinctive programming when most people are watching. Inevitably, the fringes of peak and off-peak have taken more of the brunt of the cuts (for example, breakfast, sometimes during the day, late at night), where some of the more interesting stuff that Channel 4 used to do has simply now disappeared. But that has enabled us to keep going with Channel 4 News every night at seven o'clock; Dispatches in terms of peak, one-hour current affairs every week on a Monday; Unreported World; investment in film; investment in drama and so on and so forth.

Q2166 Chairman: There is obviously a gap. That is what you are saying. If you are going to remain a public service broadcaster in the way that we have known you, there is a gap in what you can achieve at the moment in your own finances.
Mr Duncan: Yes. You have to look at it from two perspectives. On the one hand, even with the negative resource that Channel 4 has, if you look at the schedule we have had this year, we have had a fantastic array of award-winning programming of a fantastic breadth and range and diversity, backing new talent, investigating areas like international issues in a way that other broadcasters are not and so on and so forth. So there is still a huge amount of high quality broadcasting on Channel 4. If you look at the system as a whole, first of all, we are clearly spending less than we were a couple of years ago, and, second, the likes of ITV and Five in particular—especially ITV—are doing a lot less than they used to do. Essentially, beyond the bits they are required to do still—regional news being obviously a very controversial example—they are largely doing just what they can get a commercial return on now. One of the clear points to come out of the Ofcom review and the Government's Ofcom is that Channel 4's role as the key alternative to the BBC is vital, and in the system as a whole as the BBC's income has gone up clearly the commercial broadcasting income has come down and that is not being replaced by investment from anybody else.

Q2167 Baroness Bonham-Carter of Yarnbury: Picking up on what you have said about being a key alternative to the BBC, should what Mr Isherwood just referred to as programme efficiencies include cutting such publicly valuable content as the News at Noon, More4 News? Are you not undermining your PSB qualifications by doing these things?
Mr Duncan: It is a very good question. Any of the cuts we have made, particularly where it has been in the publicly valuable programming content, are taken with great reluctance—and it comes back to prioritisation. In the case of the news, we have absolutely prioritised the seven o'clock peak news programme which is the one that has the biggest audience (typically well over one million, whereas for the lunchtime news it is only 100,000). Within that programme of an hour, the ability to go in-depth and analyse, whether it is political issues, economic issues or international issues, has been the real priority. The other thing we said is that, if it came to a choice, developing that proposition rather more online, dealing with issues of journalism and democracy in terms of online, is a real priority, particularly with our ability to connect with younger audiences. When it comes down to hard choices, that is what we have prioritised. The alternative would have been to dilute the quality, perhaps the number of journalists, and the ability to have the breadth and range of the seven o'clock programme. I think that would have been a real mistake.

Q2168 Baroness Bonham-Carter of Yarnbury: Is there not an overlap?
Mr Duncan: There is an overlap. But there was a clear additional cost in the contract related to that programme. As it happens, More4 News is a slightly different model. When we first introduced More4 News—which I think was a good thing to have done—it was before we launched Channel 4 +1. When we subsequently had Channel 4 +1 on air, you had the whole of the original channel news running at eight o'clock on the +1 channel as well as at seven o'clock, and therefore More4 News was rather redundant, so that was just a straightforward overlap point.

Q2169 Baroness Bonham-Carter of Yarnbury: What are your current projections for the funding gap identified by Ofcom?
Mr Duncan: We are there, if you like. What we predicted three or four years ago is now there. The over £100 million reduction this year compared to last year—which by next year is likely to be closer to £150 million—that is it. Because of the principle I explained earlier on about making sure that we break even and do not spend more than we have, by definition we have cut as we have gone along and so we are never going to arrive when suddenly the organisation has a £150 million hole. We have already arrived at the option where we have had to cut content to that level where revenue has come down. Going forward, it is quite hard to predict what will happen. Most people think the TV market will decline a bit more again next year. Very few people think it will decline anywhere near as much as this year, but forecasts would vary between perhaps optimistically minus three and pessimistically minus seven, and we will certainly be planning for a further
Mr Andy Duncan, Mr Nick Toon and Mr Glyn Isherwood

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revenue reduction next year. My own personal view is that there will not be a bounce back to the levels of a year or two years ago. There is a new level at which, at best, things might plateau or, at worst, with continued structural change—

Q2170 Baroness Bonham-Carter of Yarnbury: Is there a point at which you are likely to go into deficit? Mr Duncan: Unless the new Chairman and Chief Executive or the board have a change of policy where they say they are going to deficit fund and spend, the only way to do that would be to eat into the reserves—which would be a foolish policy. If we had done that this year, we would have spent over half the entire organisation’s reserves, saved up over 26 years, to hold a level of programme spend which we could not sustain for more than a year or two. If after 18 months that has gone and something serious happens, you would not have any reserves. I would very much doubt the board, even with a new Chairman and Chief Executive, would think it wise to spend more than the organisation is earning.

Q2171 Baroness Bonham-Carter of Yarnbury: Even to save things like News at Noon? Mr Duncan: We are not at a point of desperation. If you knew that in 2012, let us say, the licence fee was going to be shared and that was agreed policy position, then the board might well decide they would use some of the reserves to sustain higher funding over the next couple of years. But in the absence of any certainty or clarity as to what new forms of income might come in in three years’ time, the board has no choice but to cut according to revenue.

Q2172 Baroness Bonham-Carter of Yarnbury: But with greater clarity you might suggest a different approach. Mr Duncan: That is certainly an approach that we might have taken and which the new Chairman and Chief Executive might decide to take if there was clarity. Mr Toon: The decision about lunchtime news had obviously been forced by the financial circumstances. But there is a broader philosophical question to be asked about whether that is the most appropriate way to spend money on news and provide it. We do have a website which has been revamped, the Channel 4 News website. John Snow and Krishnan are very good at blogging and tweeting and using other forms of technology. The idea of not spending money on that but simply having a 12 o’clock bulletin when a lot of people are at work and unable to see that, is probably in the circumstances the right choice to be made. Even without the difficult financial circumstances, that is a journey that we as Channel 4, as an innovator and experimenter, really ought to be on, perhaps a bit faster.

Q2173 Chairman: There is £150 million gap, which is where you are, you say, at moment. You are not going to go out of business. Mr Duncan: No.

Q2174 Chairman: You are saying that unless you have a replacement £150 million then you cannot continue to deliver your existing remit. Is that the point? Mr Duncan: First of all, the remit is on the verge of being updated. With the Digital Economy Bill, assuming all that goes ahead, we are expecting that both the acknowledgement of the multimedia way that Channel 4 delivers its public value, and the purposes that we clarified and codified around the time of Next on 4, and the public value framework that we introduced with the annual report this year, would all be updated in the legislation, which would be wholly helpful. We are debating here the level and the impact with which Channel 4 is able to play its role. I would say there is no scenario in which Channel 4 is going bust. In the foreseeable future Channel 4 will be there as a very valuable competitor to the BBC, even if nothing else happens. The current assumption is that nothing else is likely to happen, certainly quickly, and therefore Channel 4 has cut its cloth and prioritised its resources accordingly. Bear in mind that that is despite the fact that we have outperformed the competition commercially: we have done much better than ITV and Five; we have grown our share of the ad market 21 to 25 per cent; we have been more innovative in terms of new income online. I guess the choice that the UK faces or Britain faces if you get a few years down the line—to the point where ITV will be doing even less than it does today, and Five arguably the same, and we already know after 20 years of multichannel development what Sky and Virgin and those sorts of companies will invest in (which is sport, film rights and technology development)—and you want the value of competition to the BBC—because the BBC is there with more money than ever—so if you want current affairs competition, if you want news competition, if you want other people to invest in comedy talent, then it really now is only Channel 4. If you want investment in British film, it really now is only Channel 4. The policy question has not gone away: Has Channel 4 enough resources to do that to the level that you would like it to be doing it? More importantly, people today value what Channel 4 still does, and if nothing happened over, let us say, another three years, we might get to a point where people think, “Do you know what, Channel 4 is not that different from what you get from the rest of the market, why not just privatise it?” and then you have set off a chain of events which leaves you with a monopoly dominant BBC and the almost inevitable conclusion that it has too much resources. So you
would have to start hacking at that and before you know it the whole public service broadcasting balance that we have in this country, where intervention and market forces work rather brilliantly together, that balance might be lost completely over a five or ten year period and you end up with a diminished small BBC and that is about it. That for me would be the worry.

**Q2175 Lord Maxton:** Not without resistance from the BBC.

**Mr Duncan:** Yes, that is true.

**Q2176 Lord Gordon of Strathblane:** One of the ways of building a second PSB organisation which you spoke very warmly of in your evidence to us, was in support of the Government’s idea of some partnerships. You thought that the idea of yourselves and BBC Worldwide would be a rather good fit. There are all kinds of rumours about the state of that deal. Are you able to say anything?

**Mr Duncan:** Discussions continue and I would be cautiously optimistic that eventually they will lead somewhere. The one thing that is clear is that the very big scale partnership that was being talked about, certainly in the early part of this year, is not going to happen.

**Q2177 Chairman:** That is dead, is it?

**Mr Duncan:** I would say so; where you were talking about very substantial resources of Channel 4 and very substantial resources in Worldwide coming together in the form of a very big JV. We are still in discussions around partnership of channels. That is related to the Virgin Media-owned UKTV asset, so you have a commercial third party there. Those discussions continue. There is still collaboration in areas like DVDs that could still happen, and one or two other areas like online. We are certainly in discussions with Worldwide about potential advertising sales activities. I would say a series of smaller partnerships is still possible.

**Q2178 Lord Gordon of Strathblane:** But the biggie is off.

**Mr Duncan:** The very big scale partnership, I would say, has gone.

**Q2179 Lord Macdonald of Tradeston:** Mark Thompson told us last week that the BBC was not holding negotiations back, but I suspect you must be disappointed in the lack of progress, given that you had hoped for a merger or a very significant partnership.

**Mr Duncan:** Yes. I read Mark’s comments with interest. It is an accurate statement of the way things are now that the timetable to a very large extent is being set by Virgin Media, who own 50 per cent of UKTV and are looking to dispose of UKTV and their other Virgin channel assets. It is a commercial process for them and they have a number of timetables that have changed as the year has gone on. I would say that particular aspect is outside the BBC’s direct control, although they can influence it. Had the BBC wanted to, in the first half of this year, they could have moved a lot quicker than they did. They kept their options open and it has been frustrating trying to get the partnership nailed down with them.

**Q2180 Lord Macdonald of Tradeston:** There has always been a sceptical view that the BBC would negotiate a long game and not give very much away. Is that indeed what you feel has happened?

**Mr Duncan:** There is an element of truth to that, yes. It was quite interesting because if we go back on a kind of timeline, the BBC announced—and it was a big thing at the time, with both their Chairman and the Director General—the power of partnership as a big new initiative in the summer of last year. They had forgotten to consult any of the potential partners at that stage, so it then disappeared for a few months while they went and talked to some of the partners and then they unveiled it again last autumn with an even more big show, saying the power of partnership with the BBC was going to be the answer to everything. When you look a year on, you have to say it is very disappointing. The big regional news partnership with ITV has not happened and the regional news issue remains a hot issue. The Worldwide partnership with us at least has not got anywhere yet. It might, but certainly the big partnership that at one stage was a possibility has gone. A number of other things have gone. Marquee, which was the big iPlayer partnership, has been ruled out now. One or two other areas of collaboration which were never really going to be very valuable have not really been forthcoming. The one project that is still on the list, Project Canvas, remains a good project. It is an important strategic project—it is a next generation Freeview—but bear in mind that it is a strategic project of benefit to the British public, but for anyone who joins that project it is costing them money rather than giving them money. If we were to join Canvas, for example, we would have to pay a number of millions of pounds every year to be part of it. It should not be positioned as a project that helps other partners financially. I think the BBC has missed an opportunity—I really do—because when you look at their income, which is in its own right in absolute terms very high, and in relative terms unbelievable now compared to the £1 billion gap that has opened up between the licence fee and the TV advertising market, for example, I really think it is disappointing they have not managed to develop some of those partnerships more successfully than other
organisations. They genuinely struggle. I was on the board there for three years. It is a self-sufficient organisation that likes to control things and be in charge of things. It has the resources to do things. I am a massive fan of the BBC. I am passionate about the importance of the BBC going forward. I would hate to see in any way the role of the BBC diminished, but, unfortunately, there are now conversations about how should the BBC be cut down to size, and I fear that the BBC will ultimately have its resources cut, which will further diminish the system as opposed to using some of those resources to partner productively with others in the industry. That would have kept more resources as a whole within the system, which would be good creatively and democratically and socially, but also economically.

Q2181 Lord Macdonald of Tradeston: What will the consequences be? Perhaps Mr Isherwood could tell us. Do you have to scale down on the financial side because of the rather poor prospects ahead for this deal?
Mr Isherwood: We are doing a range of things. It will depend on how the advertising market is next year, but we are looking at all areas in terms of cost reduction and commercial partnership where we can raise additional revenues from other places. This year we have had quite a successful cost reduction programme.

Q2182 Lord Macdonald of Tradeston: Did you ever put a figure on how much you might get from the partnership and therefore how much is now lost to you?
Mr Isherwood: It was substantial, some tens of millions, depending on the size of the scale of the partnership we had and how broad it was. We bring certain benefits in terms of advertising expertise if we sell advertising, so there are potential cost savings there. There were revenue synergies and cost synergies, but it is in the tens of millions.
Mr Duncan: It might be worth highlighting the contrast between those discussions and the discussions Channel 4 has on a regular basis with other commercial organisations. Channel 4 at its heart is a partnership organisation. Our best kept secret is that we can do nothing by ourselves. Everything we do, most importantly the programming and films, is done in partnership. Culturally, having worked in both, it is very interesting to note that the core and the DNA of Channel 4 is being able to partner. The Digital Britain Report encouraged us to be looking for more commercial partnerships as well, and we have found that we are very good at that. The big Google YouTube deal that we have announced, for example, which is pioneering and commercially very attractive for us, was a complicated deal but we have been able to do it relatively quickly. It is done, it is announced, it is signed,

Chairman: We will come on to YouTube.

Q2183 Baroness McIntosh of Hudnall: Going back to the partnership that you now regard as dead in the water, obviously there is a lot of speculation about why that might be but can you tell us why you think that deal is now irretrievable? Or, perhaps, to put it more positively, is there anything even at this late stage by way of intervention, either from government or from Ofcom—or maybe even from this Committee, who knows—that could help to revive the prospects for that originally conceived partnership between BBC Worldwide and Channel 4?
Mr Duncan: I think that is very difficult to see. One of the reasons that a very big partnership was possible was because of political pressure. There was a positive context, if you like, of the BBC needing to get out of its comfort zone and pull off some bigger partnerships than it had ever previously managed to do, in a way. For all sorts of reasons, it is very difficult to get back to that moment. While the debate over the licence fee continues, I genuinely think their propensity to do significant activity in that area in partnership was influenced partly by the debate that was going on around the licence fee and the switchover money and the regional news issue. Certainly, internally, they did connect those issues. Because they were having a battle over here, there was a limit to how far they were going to move over there. Legitimately they were concerned about value for the licence-fee payer and they wanted to make sure the deal was going to be creating extra value, but that was always our ambition. It was quite a complex deal. It was talking about our advertising sales—how some of our channels together with their channels' business and DVD business, and the fact that there was a third party, Virgin, involved made it quite complicated. I do think that if it was going to get anywhere it needed to be on a more specific focus, narrowed down area by area.

Q2184 Chairman: Following on from Lady McIntosh’s point and Lord Macdonald’s point, the BBC come to us very regularly—and they probably think they come to us far too regularly—but they always talk about partnerships and how good partnerships are, putting partnerships to music, and yet you come along and say they do not seem to work very well. Where is the breakdown? Why is it that not only you but others say partnership with the BBC is so difficult?
Mr Duncan: The BBC is a very complicated organisation. We have had three lots of people to be discussing with. We have been talking to Worldwide themselves and there are the balances and tensions between Worldwide as commercial arm of the BBC
and the BBC public service as run by the Director General, and then you also have BBC Trust on top of that. You think you have made some progress with one part of the BBC, only to find that another part of the BBC is not in agreement and suddenly it goes backwards. Getting unified progress where it is supported through every part of the BBC is part of the problem, I would say.

Q2185 Chairman: Does the BBC Trust have to come in to all this as well?
Mr Duncan: Rightly, with a very significant commercial deal, the Trust would need to be comfortable with it and oversee it. It is a big complexity. I am very clear in my mind that they did connect it with other things going on. We did not. We saw it as a straightforward opportunity: either a deal was to be done or not to be done. They saw it as an option, and they were either warm or cold depending on what was going on elsewhere in the forest politically. That made it unhelpful. Ultimately, they decided they would stick it out. It was unfortunate, if I am honest, that there is a sense of perhaps looking towards an election coming up and thinking, “Let’s bide our time. Who knows what’s going to happen, but we will live to fight another day”. That is where it felt they ended up.

Q2186 Baroness McIntosh of Hudnall: Leaving aside the political context—and I know it is difficult to do that—just in terms of the potential that that deal had to deliver benefit both for Channel 4 and BBC, despite all its complexities, is it still your view that a deal like that in its own terms would have been a good one?
Mr Duncan: It definitely would have been a good thing to have done. If you look at the three options: (i) do nothing, so that you end up with a steady state diminish ing contribution from the alternative public service broadcaster that you have; (ii) deliver value and create additional value by working together commercially—which was the preferred route we had; or (iii) start to delve into redirecting some of the licence fee, for example, which clearly remained an option. We absolutely set our sights on the second as the best option. There might be some limited partnerships that come through there, but effectively where we are corporately is option one at the moment. That is disappointing. I would say that there have been many good things that I leave Channel 4 with after five and a half years but that would be the biggest frustration, the biggest piece of unfinished business.

Q2187 Chairman: Partnership between your organisation and the BBC is not dead as a consequence.

Mr Duncan: No.

Q2188 Chairman: It is simply not making a great deal of progress.
Mr Duncan: There are other areas. We are already joint partners on Freeview. We may at some point decide to join Canvas. Where you tend to find working with the BBC easier is where you have strategic alignment: they want something, you can help them achieve what they want, it is quite helpful for them to have you as a partner. Those sorts of partnerships tend to work fine. Partnerships about working together to create more value for both partners, where they are not necessarily fully in control, are the ones that tend to be more of a problem I would say.

Q2189 Baroness Howe of Idlicote: Could we go back a little bit to the cuts and children’s programmes. I have always regarded you as pioneers of this field, particularly with the older age group, and then things did not go so well. You say in your evidence that you have already commissioned a series of children’s programme, history programmes, but somehow or other that is now put on hold. When do you intend to do that? In the priorities of the cuts and the decisions you have to make in what I totally accept is a very difficult situation, where do you see this whole business of programming for children? I have always thought that you see this as a means of recruiting viewers to you permanently, as it were—which always seemed to be a very sensible approach to these things. How do you prioritise these cuts and where do children come in in all of this and which range of children?
Mr Duncan: First, in Next on 4 in the spring last year, we said that we would be very happy and willing to take on additional responsibilities towards the older children’s group in particular. Channel 4, by a long, long way, has the strongest connection with younger audiences—much more so than the BBC or, indeed, some of the commercial providers like Sky or ITV—and the way we are able to do that so effectively is a real strength. But that was subject to some form of additional funding coming through from the various permutations and combinations of things being considered, and in the absence of anything having happened up to now, there is not, if you like, additional money to do that. Having said that, the updated remit and legislation that we are optimistic we will get agreed over the coming months by both Houses, does refer to and enshrine Channel 4’s responsibility to do something very much some of the time, but in particular making more of an interconnection with its younger audiences and older children. I think that is a wholly good thing. In particular, as well as some of the television
programmes that do that, we have a rather future-facing view on that. Rather than going back to a children’s teatime schedule on television—which even on the BBC they are not watching in anywhere near the numbers they used to—Channel 4 can make a real difference online with some of the education and youth-focused content that we can do online. We have this connection which in many ways is stronger than that which the BBC are able to do. Let me give you two examples of that. Up until a couple of years ago we still played out our educational activity during school hours in the morning—rather a nonsense because the target market was at school. It had been some decades since the teacher wheeled the television set into the classroom and turned the telly on. It received quite modest audiences, mainly the sick or people who were sitting at home with not much to do—not the target market at all. We switched that entire spend to online and we have been very, very successful in targeting particularly the ten to 15 year old age group with some of this educational type activity. One very good example is 1066. We did a one-off history programme on the main channel. It got about 1.5 million viewers, typically a slightly older audience. But we did a 1066 game to accompany it, which went online, 20 minutes roughly to take part in the game, and we had had staggering success with that. In total it has had two million unique users, using it an average of three times each. Two-thirds of those users were outside the UK, but nonetheless that is getting audiences disproportionately. Channel 4 corporately remains enthusiastic about this and, with either platform money and the 4iP money, such that we will be looking to spend 50 per cent more than we spent this year.

Mr Duncan: Trying to be more specific, it was an ambition subject to getting more money. In the sense that there was not more money, it was an ambition that then did not happen. We could not cut it because it was not there in the first place, but the investment of online activity, particularly with this youth connection, is a high priority. If you look at next year’s budget, for example, we are looking, albeit from a modest level, to increase significantly the amount of investment in pioneering some of this publicly valuable content online, both through cross-platform money and the 4iP money, such that we will be looking to spend £100,000, and in some cases you can do them as cheaply as £10,000.

Journey through the use of modern technology and engaging people. Another example would be what we were doing with the 4iP fund. We are investing a lot of that money online, some of it in gaming and some of it in other ways, and finding that you get to younger audiences disproportionately. Channel 4 corporately remains enthusiastic about this and, with either online activity or online activity backing the television activity, it is beginning to do some really interesting things.

Q2190 Baroness Howe of Idlicote: I would have thought a partnership there would at least be as profitable. You have given one example. On holidays and half terms it could presumably be rather more on television. You have not quite answered my question on where in the priority of cuts it is, and where the other areas where you are going to be able to make cuts are.

Mr Duncan: Trying to be more specific, it was an ambition subject to getting more money. In the sense that there was not more money, it was an ambition that then did not happen. We could not cut it because it was not there in the first place, but the investment of online activity, particularly with this youth connection, is a high priority. If you look at next year’s budget, for example, we are looking, albeit from a modest level, to increase significantly the amount of investment in pioneering some of this publicly valuable content online, both through cross-platform money and the 4iP money, such that we will be looking to spend 50 per cent more than we spent this year.

Q2191 Baroness Eccles of Moulton: When you are producing something like the 1066 game for online, how does that compare with producing a television programme of an equivalent informative content for children?

Mr Duncan: Typically it is a lot cheaper, but rather like television programmes it can vary enormously. In television, a high-end drama might be up to £1 million an hour, right through to something that you could do for just £50,000 or £100,000, and a good quality history programme might cost you £300,000, maybe £400,000 for an hour. If we did a game at the very top end—and I do not know exactly on 1066, but we could check that for you—you would be spending a lot if you spent £100,000, and in some cases you can do them as cheaply as £10,000.

Q2192 Baroness Eccles of Moulton: What would you think would be the equivalent educational value for a child either watching a television programme or playing a game?

Mr Duncan: It is a very interesting question. If you were to take 1066 as an example and, first of all, target audience. I would say that the vast majority of people playing the game online were target audience. A relatively small percentage of people watching the television programme were target market, if you are thinking about that history programme for younger audiences. If they are playing that game on average three times, the quality of the interaction and what they are learning from it may well be as high, if not higher, than that which they might gain from watching one programme. We have not measured, because it is quite hard to measure, the quality of the educational experience of one versus the other. I guess it is at its most powerful if you do both: watch a programme and do something online as well.
Q2193 **Bishop of Manchester:** Lady Howe was asking about programme cuts in other areas. During your time as Chief Executive, there have been some very good religious programmes on Channel 4. I wonder if you could advise me what the situation is in terms of potential cuts for the future or whether you can be very reassuring on that and talk of expansion.

**Mr Duncan:** Glyn might be able to give you some figures, but I would say that, despite the economic difficulties, we have obtained a good level of investment in the specialist factual and factual areas—so not just religion but science, history, art and so on. Last year we still had 100 hours spread across those different genres in peak compared to ITV, who do very little of that now, for example. On the specific numbers for next year, they are still being debated, so we have not made final decisions, and the budget process will not be concluded, I think, until December.

**Mr Isherwood:** This year we spent in the range of £3 million to £4 million on religious programmes specifically. If you extend that across multiculturalism and the arts programme, it is significantly more than that.

**Mr Duncan:** I would say it is regarded as an important area. Channel 4, as you say, has a very good track record of doing a range of very interesting religious programmes—experimenting with different approaches and different styles and covering a very wide range of perspectives and views. I am sure Channel 4 will carry on doing it.

Q2194 **Chairman:** Which of the areas are most at risk if the funding gap continues? Children’s programmes we think are where you may have to make economies. Which programmes in broad terms?

**Mr Duncan:** We had a long series of discussions at the board earlier this year. We debated it better for Channel 4 with less resources to pull out of some areas altogether and focus on others where you can carry on doing them at an adequate level, or do you have to reluctantly cut your cloth in every area. Thus far, we have done more of the latter than the former. Having said that, there is a hierarchy. Notwithstanding the earlier comments about news, I would say that things would have to get very bad indeed for Channel 4 to contemplate cutting any further the news spend and certainly diminishing in any way the quality of the seven o’clock peak news programme. Current affairs remains a very important area for us and it would be very disappointing to see that further cut back. We have made bigger cutbacks in drama, for example. Two or three years ago we were doing very regularly a very wide range of interesting, quite often one-off dramas, tackling tough issues: terrorism, paedophilia and so on and so forth—quite dark in some cases but rather important in what they had to say. Some of those have unfortunately disappeared from the screen. Comedy, funnily enough, we have done very well in recently. We have had a very good track record of hits to new series, which is unusual. We remain incredibly important in backing new talent. That is another area where commercially it is hard to justify, and investment can get cut back if we are not careful. Probably this Committee will welcome the fact that we announced that we are cutting Big Brother. Post next year, which will be the last year, there is a rather exciting creative renewal opportunity. Notwithstanding the broader points that we have been debating, from within the existing monies the organisation is rather excited about the prospect of creative renewal for the 17/18 weeks of the year that Big Brother was on. That is an exciting opportunity to be investing back into some of the existing genres and in some cases pioneering new different ways of doing things, including online. Whoever takes over from me has a very exciting opportunity, in planning for 2011, to have a really big creative renewal programme for the whole of Channel 4.

Q2195 **Chairman:** Drama sounds like a big casualty.

**Mr Duncan:** Drama has definitely been cut back very, very aggressively. The plan will definitely be to try to increase that a bit come 2011, with redeployment of the Big Brother money. We have already announced that we are increasing comedy investment with some of that money in 2011 as well, although, as always, Big Brother, even now, still performs for us commercially. Of the programming that replaces Big Brother in 2011, enough has to work commercially to make sure there is enough money for the following year as well. There is a balance to be struck between the commercial and the creative.

Q2196 **Lord Gordon of Strathblane:** Is Big Brother not your biggest earner, in fact?

**Mr Duncan:** At its peak it was by a long, long way. Even now, it makes a commercial return for us. It is questionable whether it would be our biggest commercial earner this year. Next year it will make money for us, but part of the decision we took was that creatively it is not as exciting as it was when it first came along and commercially it is less compelling than it was, and therefore we bit the bullet and thought, “It’s time to move on.”

Q2197 **Lord Maxton:** I am not quite clear on making money on it. Do you mean you get more advertising revenue around it?

**Mr Duncan:** Yes, it makes a profit.

Q2198 **Lord Maxton:** And you can sell it on.

**Mr Duncan:** The cost of making the programme is less than we can make in the advertising. In many cases, current affairs or news costs us more than we are able to make back from the commercial revenue.
Baroness McIntosh of Hudnall: Endemol make *Big Brother*, as I recall.

Mr Duncan: Yes.

Baroness McIntosh of Hudnall: They own the rights and they sell the format on and it now appears around the world in various disguised forms. How long do you anticipate that *Big Brother*, even when you have stopped broadcasting it yourselves, will go on producing some revenue for Channel 4?

Mr Duncan: We would stop straight away.

Baroness McIntosh of Hudnall: There is no tail.

Mr Duncan: No.

Mr Isherwood: We have no share in the rights going forward.

Baroness McIntosh of Hudnall: None at all.

Mr Duncan: No.

Lord Maxton: Do your digital channels, E4, More4 and Film4, contribute to your revenue stream? Do you get advertisers specifically for them?

Mr Duncan: Yes. Basically the digital channels have been a big success story for us. If we go back five or six years, Channel 4 was struggling on digital—behind where BBC and ITV and others had got to. E4 was a pay channel and Film4 was a pay channel, and in total they were losing money and had lost money. Since they have been taken free-to-air and we have launched More4 and bought some music channels and have 4Music now, there have been two benefits. One is that the public can benefit from the programming—everyone can get those channels free as opposed only a few people who are paying—but, also, they are now making good money for us. They made over £30 million last year and we anticipate more this year.

Mr Isherwood: In terms of total revenue in our annual report this year, the digital channels generated some £170 million of revenue and £40 million profit. That was ploughed straight back into core public service remit and supporting core Channel 4. Although this year we have had a difficult advertising market, we expect them still to do very well, because while the core channel has the structural disbenefit as we move to digital switchover of less people watching it, the converse is true for digital channels; people who digitally switchover now see E4, Film4 and More4 for the first time and there is a natural uplift. Despite the advertising market, their revenues may well grow this year and their services will grow.

Lord Maxton: Does that money for those digital channels go back into making programmes?

Mr Isherwood: Essentially.

Lord Maxton: Not entirely. Do you cross-subsidise?

Mr Isherwood: The core channel, as it is under that structural pressure, has increased its loss this year because the cross-subsidy model is under pressure. It is only through the profits and surpluses that we make from the digital channels that we are able to get to financial breakeven for the corporation as a whole.

Lord Maxton: It seems to me that one area you lose out on in terms of these digital channels is EPG. If I go down the list on the EPG, the BBC Three and Four are always high up the list, then you come maybe to the three or four ITV channels, and you are not automatically up there, are you?

Mr Duncan: No. It is a fair point. Going back to what I said earlier on, Channel 4 was a bit of a slow mover in this area ten years ago, and the BBC got very good slots and did a deal where they got very good slots and Channel 4 had much worse slots. We have improved them somewhat. We bought a company called Life and re-jigged our EPG positions around, so we managed to get ourselves back up slightly higher and they are in a block. It is not as good a position as ITV or the BBC enjoy, but despite that we have had incredibly good success. Our digital channels, if you add them together, are roughly four per cent of the TV market, which is the same as the BBC’s. Despite having much less resources, much less marketing clout, and in their case BBC One and Two being much bigger as a base to promote from than Channel 4, we have done disproportionately very well in this space. As Glyn says, they now make very substantial money which is offsetting the core channel which now loses money.

Lord Maxton: You are cross-subsidising costs?

Mr Duncan: A few years ago when the core channel was in profit, you could see that it was going to get to a point where it would be making a loss and so we used that period to invest in the digital channels—which are now making very good profits—to help offset the losses on the core channel. To a large extent, that is what we are also doing online. We are investing online and we are now beginning to see some profits come back, but it is at much smaller—

Lord Maxton: Where do those two things merge, the online and the different channels, so that you will be able to watch your online on television?

Mr Toon: It is also important to note that as well as those channels cross-subsidising the core channel, it is important to refresh the original investment in those channels themselves. We are struggling with that balance of programmes like *Skins* and...
In *Betweeners*, which have been very successful—and I would argue largely because they started their lives on E4 and with a natural E4 audience and they are now also doing a job for Channel 4—and having the ability to have enough money available for original content. Those channels do not survive simply as strong brands on their own. Young people will not continue to watch E4 in growing numbers over the coming years by us simply repeating the same programmes. We will need an investment structure for those channels as well. Whilst they are not public service channels and therefore do not have any EPG benefits or anything else, it is another consideration that we have to make in the investment decisions.

**Q2209 Bishop of Manchester:** Could we explore further the issue of the balance of channels and investment across the board which you were touching on earlier. I was interested in your written submission in paragraph 36. In that you note that “The rapid increase in new distribution platforms has not significantly increased investment in PSB content” and in fact go on to talk about how, over nearly 20 years of satellite television, UK-produced original programming, in terms of £200 million per annum, has been “less than 8% of the total investment in UK origination.” Has there been any increase over those 20 years or is the eight per cent at a pretty plateau level?

**Mr Duncan:** I think it is at a pretty plateau level. It might pop up and down by one or two percentage points but it will not substantially change. Structurally what drives the pay platforms is, first and foremost, sport—sport rights. The more money that Sky have put in, for example, the more they are paid for football and, more importantly, they keep the football. Film rights is their next biggest. A lot of that money goes to the American studios. Both Sky and Virgin and some of the other platforms quite rightly invest substantially in technology and platform development. A large part of Sky’s success is because of the quality of their technology innovation, and they make a lot of profit. What gets invested in original UK content is pretty limited. *Sky News* is very good and high quality, and it has been a good addition to the mix, and their sport production is outstanding, incredibly good, but beyond that there is not a lot that comes from Sky or Virgin or anyone else for that matter. If you look at the content that is on most digital channels, it is recycled from the main five public service channels. The BBC invest in some original content in BBC Three and Four and the children’s channel; we do what we can with E4 and More4—although, with constrained resources, that is limited; ITV do a bit. For the most part, UKTV is repeats of BBC content. Discovery and UKTV buy repeats from us once we have finished with them on E4, More4 and Film4. One of the worries I have for the British system as a whole is the engine of content investment has historically come from the licence fee and from the TV advertising income that ITV, Channel 4 and to a lesser extent Five—but really ITV and Channel 4—have earned, where the majority of that money has been reinvested back into content, and in Channel 4’s case all of it has been reinvested back into content. The model that is now growing up is one where if you are a digital channel business you buy other people’s used content to repeat and/or you acquire from the States, and in the case of the online companies, as I have said to this Committee before, most of that money goes out of the UK and off to the States. The level of content investment in Britain is a worry whether you are looking at it from a cultural/social public value perspective or from a creative economy hardnosed business perspective. On both fronts it is a worry.

**Q2210 Bishop of Manchester:** In a sense that is a fairly gloomy answer. I think I am hearing you say that as things stand at the moment you do not really see any way forward to increase that 80 per cent to something much more significant.

**Mr Duncan:** I do not see that changing. As the Committee know, we had conversations with RTL and Five earlier this year. One of the quite shocking things that came to light to us during that period of time—and forget the BBC for a minute as a special case—was that if you look at the content investment that the likes of ITV and Channel 4 make, it was substantially higher than the equivalent number two and number three organisations in Germany or France or Italy. It is hard to find other countries around Europe which have indigenous drama in the peak slots in the evening. More often than not it is American content. One of the rather good things in the UK is that if you look at eight o’clock or nine o’clock in the schedules, typically it is British drama and British programming that dominates the schedules—and occasionally you have an American acquisition, more likely later in the evening. There is no magic reason why Britain should continue to have content investment that is much above other countries of our economic size. The default position that may well emerge in a few years’ time is there is less being invested in quality content in Britain. That is very, very likely.

**Mr Toon:** Probably the two best indicators of that over the last five years would be children’s and film. There is no shortage of channels for children to watch. ITV have withdrawn their major investment in original children’s British content over the last three to four years. There has not been a rush into that market from those pre-existing children’s channels because they do not need to; they can get audiences with acquired programming. It is not intended as a criticism of them: that is a good
Baroness McIntosh of Hudnall: Channel 4 has historically been associated with film. Throughout its life, I would say, a very strong element of the success of your brand has been your commitment to film over a long time, albeit there have been moments when that commitment has taken you into some quite troubled waters. Given what you have just said, Mr Toon, about the importance of Channel 4 investment in UK film, it certainly looks as though the scale of that investment is quite small—£10 million is £10 million, but it is not a huge amount. Can you not find a bit more, given how successful Film4 productions have been? If you cannot, can you explain to us why? Second, relating again to the point that Mr Toon has just made about the commercial efficiency of buying stuff in, can you tell us what you spend in a year acquiring film and television material, in particular from the USA, but also from anywhere else that you want to mention? How does that sum relate to the sum that you are prepared to invest at the moment in UK film? Third, given the public service importance that again Mr Toon mentioned of Film4 and the impact it has, would you welcome in the development of your new remit an explicit public service related requirement upon you to continue to invest in film? Would that help you to put a bit more into it?

Mr Duncan: To start with the acquisitions point and then deal with the film point, we announced on Next on 4 an intention of reducing our acquisition spend over time but it remains important commercially for us. Though it is much more competitive than it was, the profits are much less than they used to be. It is still, nonetheless, an overall profitable area for us and makes money that we can invest back into British content. Particularly given that we are competing in the open market-place in advertising, it is something that is an important part of our proposition to advertisers as well. Having said that, we have cut down reasonably substantially.

Mr I sherwood: In 2007 we committed to making more than 20 per cent reduction. We achieved that earlier than we expected, so we are now spending some 20/25 per cent less than we were in 2007. The numbers are less than £100 million in total, but that is an important part of the cross-subsidy. Films, as they are shown, drive revenue that then can be invested into content in other areas.

Mr Duncan: For the first 20 years of Channel 4, the vast majority of profits made came from acquisitions. At a time pre Five, and even in the first few years of Five, Channel 4 to some extent had the market to itself. Friends, Frazier, some of the great comedies that drove the channel, were extremely profitable and a lot of that profit was then used to reinvest back into British content. Now it has almost exclusively a commercial role to play. Having said that, the film thing is also quite interesting—and I will come on to the other parts of your question. I am a passionate fan of Film4 activity, that we did investment in British film. Now that we have a high quality free-to-air film channel, Film4, by mixing the American-acquired film which gets shown on both the core channel and is repeated many times on the film channel alongside British and European content (about 40 per cent of Film4), we are getting impact and reach with all of our films on the Film4 channel. The American film is an important part of that film channel working and being a showcase for the British film as well.

Q2212 Chairman: I am not clear on the answer, the figure.

Mr Duncan: About £95 million to £100 million, which has come down from—

Mr I sherwood: £130 million in 2007.

Q2213 Lord Macdonald of Tradeston: That would be, let us say, £100 million of the £530 million.

Mr Duncan: Correct.

Q2214 Chairman: Is that film and television?

Mr Duncan: Yes.
Q2215 Lord Macdonald of Tradeston: How is that proportionate to ITV’s spend on American acquisition or BBC’s spend in terms of percentages. You are doing 20 per cent. What are they doing?

Mr Isherwood: I am not sure we have those figures.

Mr Duncan: I do not think ITV publish that split. The BBC spent about £100 million year, certainly on the last numbers that I hear from them. I am on record as saying that I think it is questionable why they spend any money on American film, because they do not have any commercial imperative and all of that content would find its way on to other British TV channels in some way, shape or form. There might be the odd exception. For example, BBC Three outbid E4 on a programme that we could not justify bidding any more money for commercially earlier this year. That is the BBC. As a proportion it is obviously a lot lower than it is for us, but the absolute money—

Q2216 Lord Macdonald of Tradeston: Have we not heard your competitors complaining that you spent £1 million an episode on Desperate Housewives, which they thought was quite disproportionate.

Mr Duncan: First, we bid for Desperate Housewives what we had to bid to get it, because we were in a competitive situation with Sky who bid the same amount of money. Second, at the time we believed we could make money on that at that price still.

Q2217 Baroness McIntosh of Hudnall: You were going to go on to the question of investment in British film.

Mr Duncan: To deal with your last point, I have been very keen that the formal investment in British film is enshrined in some way, shape or form, and I am hoping and expecting that will be part of the Digital Economy Bill update of Film4’s overall remit and role. It will be very good, as well as including things like multimedia, also to enshrine film for the first time. There is no formal requirement for us to do investment in film. One of the scenarios we considered earlier this year was cutting certain areas. Is that one that we might have to consider, albeit reluctantly?

Q2218 Chairman: That you expect to be in the bill, do you?

Mr Duncan: I would hope very much so, yes. That it would be enshrined as part of Channel 4’s role going forward would be a very good thing. In terms of the level of investment, it is a straight trade-off that investing more in British film would be good if we could but that the money has to come from somewhere else, and we have to be careful that we are not either taking money from somewhere else that in turn would commercially damage Channel 4 and reduce the income we could earn on that other programme or damage the public impact Channel 4 is making in other areas. Film4 has taken a little bit of a hit—not much, but a bit of a hit—proportionate to the wider content cuts we had to make. We protected it disproportionately compared to some other areas. Looking ahead to next year, off the back of some of the success that we have had, the intention is to try to put a bit more back in again if we can.

Q2219 Baroness McIntosh of Hudnall: Do you mean in real terms?

Mr Duncan: In real terms. There are two things that go on with Film4. One is the investment in films. As Tessa Ross and colleagues explained earlier in the year, we always are a part investor in films. We are the catalyst that gets the process started and other people invest, and quite rightly the strategy is to spread that money reasonably thinly—let us say ten projects, rather than put it all into one. The other thing is then showing those films on the channel. Slumdog Millionaire would be an honourable exception, but quite often when we show those films they rate lower than the average slot level might do for that part of the schedule because they might be quite niche and rather interesting but, nonetheless, quite a specific audience. There is sometimes a second commercial trade-off. Hunger is a very good example of this, the award-winning film, a fantastic film. When we showed it, it got quite a low audience. We were not disappointed about that because, for the audience that watched it, it was still a brilliant film to see, but it is a good example of the cost of investing in that film was not just the upfront cost. It was then, when we subsequently showed it, the opportunity cost of what you could have been showing in that slot instead. To have a sustainable level of investment that you can keep going over time—which we have done for 26 years—is probably more important than having boom or bust, where you go and put a whole load of money in in one year and, suddenly, a year or two later you are compensating it and having to cut right back.

Q2220 Baroness McIntosh of Hudnall: It did not cross my mind to imagine that you might be suddenly going to double your investment in Film4 on any model, but, incrementally, quite small additional amounts of investment on your own admission create a significant benefit because it lever in four times, five times, sometimes more times that amount in terms of other investment. How do you view now Film4 productions in terms of the overall strength of the Channel 4 brand? Because that clearly may not have a direct bottom line value to you but, in terms of your ability to continue to sustain Channel 4 as a viable public service broadcaster, presumably the overall strength
of the brand is important. Where does Film4 sit in that?

*Mr Duncan:* It is very important. It is very important as a longstanding part of what Channel 4 has always done. The investment in the sorts of British films that Channel 4 has done has had a real cultural and social value as well as an economic benefit to the British film industry. Ever since we have had the film channel widely available free-to-air as opposed to very narrowly available, where we only had a few hundred thousand subscribers, it has been an additional plus in terms of the impact that those films can have. In balancing it over time, although sometimes commercially it is a cost, certainly Tessa and the team have done a very good job recently so that there are more successes than failures, and that has meant that we have had some money coming back the other way. Certainly I would hope, as I said earlier, that (i) it is enshrined in the legislation—that would be a good thing—and (ii) there will be the opportunity when the final budgets are decided to put a bit more in next year rather than less.

**Q2221 Chairman:** You point out in your written evidence the disadvantage to the UK film industry of the distribution system. Do you have any solution for that? Do you have any proposal which will improve the position?

*Mr Toon:* I do not think we have anything to add to what Paul and Tessa said when they came before you. As Paul Grindey alluded to, the arrival of digital may provide an opportunity completely to rethink the model. It is probably not going to be driven by Channel 4 and Film4 alone, but there is an opportunity now. In the way it is currently structured, we have experimented in that space, but some years ago. But as Andy said, we are just not scaleable enough to do it justice.

**Q2222 Chairman:** That was not part of your ambitions with BBC Worldwide?

*Mr Duncan:* No. Film was not included at all.

*Mr Toon:* Perhaps I could emphasise on Lady McIntosh’s point that the reason Film4 has such a strong brand is that it particularly derives from its connection to Channel 4’s core purposes. The two things go hand-in-hand. It has always been very successful at delivering those core purposes of challenging people to see the world differently and inspiring change in their lives. We hope and anticipate that those purposes will also be incorporated in the Digital Economy Bill. Whilst that will not solve the financial problems in lots of different genres, sending out a very clear signal in the bill that the Channel 4 corporation should give investment in British film as a core element of what it is there to do will be a very powerful and helpful signal, not only for the people in Film4 but for the corporation as a whole.

**Q2223 Baroness Eccles of Moulton:** Could we turn briefly to terms of trade with independent producers, referring both to broadcast terms of trade, which have existed since the Communications Act 2003, and also film terms of trade, which I understand do not exist yet but are being worked on. Could you briefly comment on broadcast terms of trade and whether you think they are effective for both sides of the deal, as it were, as they currently stand.

*Mr Duncan:* Broadcast terms of trade have been incredibly helpful for the independent sector and many companies have benefited enormously from that. They came from a time when the broadcasters were in a much more dominant position than arguably they are today. The Channel 4 position is broadly supportive, that they should sustain at least for the foreseeable future. My own personal view—and how Channel 4 takes this on in the months and years ahead remains to be seen—is that when you take a step back now it is rather bizarre that the four or five big super indie groups who now represent some 70 per cent of the market, and some bigger than Channel 4, have intervention to help them. When we go to have negotiation with Endemol or whoever it might be, we have one and a half hands tied behind our back, and when quite clearly we are not getting enough money back from the original showing on the core linear channel, and it is only through all the multiple ways that we show and get revenue online that you can earn enough to invest in the programme in the first place, there must come a time when it moves to a more of a free market—and certainly with the bigger companies. I still would see and argue probably for a role to protect some of the small independents in that context from an ITV or a BBC or a Channel 4 abusing their position, but it does seem to be a bit bizarre with the very big groups. That is not Channel 4’s corporate line, I have to say, that is just a personal view.

**Q2224 Baroness Eccles of Moulton:** It is obviously extremely important for the small independent producers that there are terms of trade continuing to exist which will help them rather than do away with the whole lot.

*Mr Duncan:* That is my view. I also think that in most cases the smaller indies want to work with us to exploit those rights and genuinely it is a very good partnership, productive partnership, on the rights of exploitation. In the case of film, I do not think there is a case for any equivalent. You do not have anything like the same dominance that you have in the television market, with a few broadcasters spending the majority of the money and in most cases with part funding or a catalyst to get the project started. As we
discussed earlier, we barely make enough money back to justify that investment in the first place, even when you do have a breakout hit. Yes, our biggest ever windfall in 26 years will make a few million, but normally even a commercially successful film barely makes anything. The case for any intervention in film is just not there.

Q2225 Baroness Eccles of Moulton: Which the indies would not necessarily agree with.
Mr Duncan: They may not as a group, but I think they have to be careful. If they were not careful, they might create a system that encouraged less investment rather than more investment.
Mr Toon: It is important to understand the differences in those two models. The terms of trade were introduced into television to address the fact that the dominance of the broadcasters meant that when negotiating the broadcasters just took all the rights and there was no negotiation about that. In film, as you discussed with colleagues from Film4, all of those rights are bundled up at the start of the process just to get the distributor and other people in to get the film marketed and get it out to the audience. If you do not give those rights away, you are not going to get the film even made. It is not a comparable experience.

Q2226 Lord Gordon of Strathblane: Last week Michael Grade told the Committee that he thought that Americans would take the lion’s share of the internet value of our content very soon. In retrospect, will you feel proud to have led the way?
Mr Duncan: I have three remarks. It is absolutely clearly the case that the online space is dominated by American companies: Google, in particular, but to a lesser extent Apple, Microsoft and so on and so forth. If you look at the advertising market, for example, the £3 billion plus that is now spent on internet advertising, most of it leaves these shores and goes back to the banks that own those American companies and it is not re-invested back in content. You have a macro problem. Has Britain got a strong share of the internet of our content very soon. In retrospect, will you feel proud to have led the way?

Q2227 Lord Gordon of Strathblane: In terms of the longevity of the programmes, I understand you have also put in 3,000 hours of archive material.
Mr Duncan: That is correct.

Q2228 Lord Gordon of Strathblane: Is the current material time-limited as it is in BBC iPlayer?
Mr Duncan: Yes. We negotiated a 30-day catch-up window. The most valuable part of what we have done is the 30-day catch-up, where programmes from the last 30 days can be seen. We have also included in the deal—although this will be a smaller amount of the volume of watching—3,000 hours of archive, but that is more niche in terms of who wants to go back and watch Father Ted repeats, for example.

Q2229 Lord Gordon of Strathblane: Is this available only in YouTube UK or is it YouTube worldwide?
Mr Duncan: It is a UK deal.

Q2230 Lord Maxton: That surprises me slightly. BBC iPlayer and ITV online and Sky online, you can only get in this country. If I go abroad, I cannot get them—in fact, I cannot get them on Virgin trains either, but that is another matter. You are saying yours will be exactly the same: if I go abroad I will not be able to get your content on YouTube?
Mr Duncan: Correct. We do not own the rights for international exploitation; back to the terms of trade. The rights are owned by the independent production companies, some of whom want to develop that with us, some of whom do not. We have kept the door open in the deal with Google to broaden it out into more of an international relationship. With some cases, some of the indies would want to do that with us and some would not. We do not have any of the money from the international exploitation. The lion’s share of the money goes to the indies.

Q2231 Baroness Eccles of Moulton: I am intrigued by your 1066 game. Who creates the game? I am talking about content. Is this something you have created? Does it bring in revenue to you? Is there a future in this?
Mr Duncan: I am not sure about 1066, but most of these things are developed with external digital production companies: in some cases arms of
television production companies, in many cases digital start-up companies that just specialise in that. There is a big future in it. The biggest future is in its public value and the 4iP Fund. We have not talked much about that this morning, but that is something that should be expanded and extended going forward. Genuinely it is really hard to get money back.

**Q2232 Lord Gordon of Strathblane:** In the 1066 game, do the Normans always win?

**Mr Duncan:** I would encourage you to go to Google and try it for yourself.

**Lord Gordon of Strathblane:** Do I get to shoot arrows?

**Chairman:** I think we might call it a day. Thank you very much for coming today. Thank you particularly, Mr Duncan. This is presumably the last time we will see you as the chief executive of Channel 4. You have given evidence to us before, so thank you very much for today and thank you very much for the past. May we wish you the best of luck in the future.
WEDNESDAY 11 NOVEMBER 2009

Examination of Witnesses

Witnesses: Mr Peter Phillips, Partner for Strategy and Market Developments, and Mr Stewart Purvis, Partner for Content and Standards, Ofcom, examined.

Q2233 Chairman: Good morning. Thank you very much for coming. Just to say one word, at 11 o’clock we will be observing the two-minute silence, so we will obviously have to cut into your evidence. Mr Purvis or Mr Phillips, does one of you want to say something to begin with?
Mr Phillips: Yes, if you are happy for me to, my Lord Chairman.

Q2234 Chairman: Yes, as long as it is not too long. Mr Phillips: No, absolutely. It is literally a minute’s worth of introduction which we thought might be helpful. In a number of the areas that the Committee has been interested in in its inquiry Ofcom has a very clear role which is established by statute. We are given a remit by Parliament to ensure a plurality of high-quality television and to have a wide appeal, and we have a specific statutory duty to assess and make recommendations about how to maintain and improve public service broadcasting. The most recent report we have published, which was in January of this year, describes that there have been some very clear trends. Public sector broadcasters face greater competition than they have ever had before, ad revenues have stalled as investment has moved to the internet. The old deals through which broadcasters were given privileged access to the airwaves in exchange for public service programming obligations no longer deliver all that audiences want in addition to what they get from the BBC. Our analysis was that those trends represent an irreversible structural change to the broadcasting market. There is also, laid on top of that, a cyclical trend which is exacerbating some of those developments. What we have seen is that the main public service broadcasters have trimmed their spending on first-run originations from about £3.1 billion in 2003 to £2.6 billion in 2008, and, given that together their broadcasts represent around 90 per cent of all investment in UK-originated programming other than in sport, that is clearly a very major development. We have also seen over that period public service broadcasters’ share of viewing fall from just over three-quarters of viewing to less than two-thirds in the last five years. Nonetheless, despite all of that TV, remains an important industry for the UK and its scale is comparable to that of the domestic gas industry or the domestic electricity industry. It is clearly an important part of the economy. I think it is also worth saying that the level of content originated in the UK on television is very high by international standards but will continue to face, in our view, increasing pressure, and in a number of key areas the market alone, while extremely important, will not fully deliver against what audiences are telling us are their expectations. Clearly, in conclusion, it is for Government and for Parliament to decide if and when interventions are required. Our role in this clearly is about providing evidence and options and analysis.

Q2235 Chairman: Thank you very much. Let us get us focused. Let me take that last point. Is Ofcom essentially a regulator, an information gatherer or a policy maker?
Mr Phillips: We have a number of duties from Parliament, some of which are about providing evidence and analysis to government and Parliament. We also have some direct regulatory responsibilities around the setting of quotas for broadcasters and the enforcement of those quotas. In terms of policy, our role is primarily one of advice to government. We do not form broadcasting policy other than in those limited specific areas where we have direct regulatory responsibility.

Q2236 Chairman: What would they be?
Mr Phillips: The setting and enforcement of broadcasting quotas. There is another set of responsibilities, obviously, around the Broadcasting Code which Stewart may want to speak about.

Q2237 Chairman: Let me put a case in point. At the moment you are looking at pay TV.
Mr Phillips: Yes.
Q2238 Chairman: And you are looking at issues like whether the public are, to put it bluntly, paying too much for their sport and for their movies. Do you have the power to say that they are and that these measures should be taken as a result of that to correct that?

Mr Phillips: Our work in the area of pay TV relates to our competition powers. We have a set of competition powers, concurrent with those of the Office of Fair Trading and the Competition Commission, as part of the range of things we are responsible for, and our investigation in that area was in response to a complaint by four parties who alleged a number of anti-competitive points about the way in which Sky was acting in the market. We have been thorough and are still in a detailed process of analysis and consultation but we published a consultation a few months ago which essentially set out a number of areas of competitive concern. We have, over the last couple of months, received extremely detailed and voluminous submissions from all the parties and are in the process of considering all of those submissions.

Q2239 Chairman: What I am really getting at is, and we obviously do not know what the outcome is going to be because you have not got to the outcome stage, will the outcome be determined by you, by Ofcom, or will it be determined by government ministers?

Mr Phillips: The outcome on pay TV is a competition matter for which we are the independent competition authority, concurrent with those other public competition authorities that I mentioned, so our competition decision will be one for Ofcom rather than one for Government. Clearly, there is also a process of appeal which parties of any kind may wish to go through and which will very clearly go to other bodies if they disagree with our conclusions.

Q2240 Chairman: Can the Government intervene? Could the Government say, “We hear what you say but we do not agree with”?

Mr Phillips: If the Government were to intervene it would be through a changing of the competition legislation rather than in any other area.

Q2241 Lord Maxton: Can I just clarify that? BT are one of the organisations greatly concerned about the fact that Sky use their network to sell their broadband and yet at the same time, of course, BT have not got access on their BT Vision service to the sports channels that Sky have. Could you instruct them to do so?

Mr Phillips: The proposals which we put out in our consultation were that there could be a requirement on Sky to provide wholesale access to its premium channels for other providers, and so if that were to happen then clearly other organisations such as BT could be allowed, under those provisions, access to Sky’s premium channels.

Q2242 Chairman: The point I was trying to get at, which Lord Maxton has extended, is that you do actually have quite a lot of power in this respect.

Mr Phillips: As a competition authority?

Q2243 Chairman: Yes.

Mr Phillips: Absolutely, but it is within the policy framework which has been set out for competition by Government and by Parliament.

Q2244 Chairman: Why does the Competition Commission not do this?

Mr Phillips: It was a complaint which was brought to us and which we have a responsibility for dealing with. One of the considerations which we have been looking at is what the appropriate route is. Parliament gave us powers under the Communications Act to ensure fair and effective competition in broadcasting, and the way in which that is set out is that it is a responsibility for Ofcom to deal with that rather than the Competition Commission.

Q2245 Chairman: Who decides?

Mr Phillips: There is a set of tests which needs to be satisfied in order for that to happen. One of the routes which we have set out through our consultations is that it is possible under the Enterprise Act, for example, that Ofcom could make a reference to the Competition Commission about these matters. What we are going through is a set of tests that are required in order to confirm what the appropriate competition statute is to follow.

Q2246 Lord Macdonald of Tradeston: There have been suggestions reported that the Conservative Party wants to curb your power should they form the next Government. Are you aware which areas they might try to divest from Ofcom if they tried to take away this particular power?

Mr Phillips: I think it is worth saying a couple of things in response to that. The first is that all the powers that we have and all of the duties that we have are given to us by Parliament. Clearly, it is for legislators to decide whether they continue to feel those powers and duties that were given us are appropriate. It is a perfectly fair debate for parliamentarians to have and we welcome that.

Q2247 Lord Macdonald of Tradeston: I am sure that is the case. I am just asking you have you any indication of where they might be dissatisfied with
the powers that you have and wish to take them away?

Mr Phillips: Clearly we have a very wide range of powers. In some of those areas, for example, in much of telecoms and in spectrum, there are requirements through European law for the UK to have an independent regulator and for every other member of the European Union to have an independent regulator to exercise the European framework which covers those areas. In other areas, like in the Broadcasting Code, which is another set of responsibilities Parliament has given us, there are clearly requirements for independence around some of those questions, like the issues around impartiality on political matters, so there is a wide range. In the public debate the issues have concentrated around broadcasting, but it is not for us to drive those discussions; it is ultimately for Parliament and the Government of the day to make those decisions.

Q2248 Chairman: Let us turn to the broadcasting part that we are most concerned with in this inquiry. In January you gave estimates for the decline in investment in original UK content by 2015 which ranged from £150 million to £360 million. Do you have any clearer idea now as to which figure would be most likely?

Mr Phillips: What is very clear is that there remains a high degree of uncertainty over the way in which the broadcasting market will develop, particularly in the longer term. The basis of that work was some work by the consultants Oliver and Ohlbaum commissioned for the Public Service Broadcasting Review. In the work they did, looking at scenarios for the television industry, they pulled out a number of key points which they thought were common to all of the scenarios they looked at because they felt there was a wide range of possible outcomes, but the common themes were that the audience share of public service broadcasting is likely to continue to decline, that the pressure on commercial free-to-air broadcast revenues is likely to remain, that total investment in original UK content, particularly that which reflects the purposes and characteristics of public service broadcasting, is likely to decline in real terms, and that, while the viewing of non-public service broadcasting channels and new services may increase, they are unlikely to make up the gap in those declines that are projected in their work for the public service broadcasters. In terms of precise numbers, I think there are too many variables and too many uncertainties to come up with narrow ranges. I think the critical thing for us in the advice that we provided to Government was that there are important underlying trends rather than specific narrow quantified figures for what might happen in a few years’ time.

Q2249 Baroness Howe of Idlicote: Thinking away for a moment from figures to areas, and, given that, albeit the decline in viewing of public service broadcasting is down from three-quarters to two-thirds, it is still a pretty high percentage of viewing. If you look at regional news and children’s programmes, factual programmes and drama, these are areas that people are very concerned about. Government is proposing for certain things to be done as far as regional news is concerned. What other areas should be prioritised and in what specific order?

Mr Phillips: What we said in the Public Service Broadcasting Review was that we felt that news programming should be the highest priority given the feedback that we had from audiences about what mattered to them and, in particular, concerns around plurality. The next set of priorities that we set out in addition to that were around children’s programming, where we have seen very significant changes in the amount of UK-originated children’s programming, particularly for older, school age children, and particularly in the areas of drama and factual programming for those children. The final one that we highlighted within the review was in the area of broader programming outside news for the devolved nations of the UK.

Q2250 Baroness Howe of Idlicote: Thinking about what powers you actually have, PACT told us that you did not have any powers to do anything, for example, about children’s programming. Do you really think that Ofcom should be given power to insist on minimal original content?

Mr Phillips: It would not be right for Ofcom to come to Parliament and tell you what power you should give us. What I would say is that when Parliament passed the Communications Act it made children’s programming what is called a tier three obligation. In effect, a tier three obligation is one where broadcasters have to hear what our advice is but where they can take their own decisions about what level of that programming they choose to put in place. That was a conscious decision that Parliament took, but clearly if you and your colleagues in Parliament took a different view then, obviously, we would give effect to that.

Q2251 Baroness Howe of Idlicote: But, given the fact that you clearly have not got the powers to do that because the legislation did not give them, should there not be some organisation with the power to do that, given the importance of this whole area?

Mr Phillips: The point that we made through our work was that the economic incentives for broadcasters outside the BBC to make UK-originated children’s programming in those particular areas we highlighted—drama and factual programming for older children—are extremely
weak, and what we have seen also is that the way in which broadcasters have taken on public service obligations in the past has been through the value of privileged access to the airwaves. That has come down very significantly and therefore, if those kinds of things are seen by Parliament to be important, then new kinds of intervention would be needed and we highlighted the fact that funding is likely to be the most powerful tool rather than the kinds of regulatory approaches that have been taken in the past.

**Q2252 Baroness McIntosh of Hudnall:** Can we talk a bit about Channel 4, who were before us last week, as I have no doubt you know. Given that there is clearly a problem for public service broadcasting, as we have just been discussing, and, given that ITV to some extent has retreated from some public service commitments that it originally undertook, Channel 4 is, I think it would not be hard to agree, a pretty important player in providing diversity in public service broadcasting in general and in the provision of UK content which it has historically been in the forefront of providing. There have been a number of kites flown about how additional resources might be found for Channel 4 in the context of you having said that the current model that they operate is unsustainable, but none of those opportunities seems yet to have taken flight. In view of all that, what is your perspective on the likely future for Channel 4?

**Mr Phillips:** I think it is important to distinguish between two things in answering your question. The first is the financial viability of Channel 4. What we have not said is that Channel 4 is financially unviable. It clearly has a relatively strong balance sheet; it has done relatively well in advertising markets compared to a number of other broadcasters, and there are no reasons to doubt its financial health. The point that we were trying to highlight was that what it will not have is the financial capacity to invest in the level of public service broadcasting that it has done historically, and that is a different point.

**Q2253 Baroness McIntosh of Hudnall:** With respect, Mr Phillips, it may be a different point but it is a related point.

**Mr Phillips:** Absolutely.

**Q2254 Baroness McIntosh of Hudnall:** To say that it is currently financially healthy but that the financial model it is operating does not show any prospect of being sustainable over the medium term suggests that its role is likely to become significantly affected by that.

**Mr Phillips:** Absolutely, and that was the point that I was coming on to make, which is that I was trying to distinguish between does the organisation have the financial wherewithal to continue to exist, and my point is that it does. The critical question is around what should its responsibilities around public sector broadcasting be. When we put forward our recommendations for the Public Service Broadcasting Review one of our four key recommendations was about the critical importance of the role that Channel 4 plays within UK public service broadcasting. It is extremely clear from audiences that they give very high importance to the provision of public service broadcasting, not just from the BBC but from other players as well. What our economic analysis shows is that purely commercial organisations will increasingly have fewer and fewer incentives to invest in a number of areas of that kind, some of the ones which Lady Howe touched on but also potentially in the longer term some other areas as well. What we had set out was that there were a number of ways in which that role could be protected if Channel 4 were to maintain its public service contribution at the kind of level that it has historically, and those included the potential for partnerships and joint ventures with other organisations. It also potentially included the possibility of direct funding. What we have seen from the Government’s response in Digital Britain is that it favoured a response that was based around partnerships. Clearly, there have been discussions going on between a number of parties around those partnerships but as yet they have not come to any clear conclusions.

**Q2255 Baroness McIntosh of Hudnall:** I think it is a bit worse than that, is it not, certainly in relation to what Channel 4 said to us last week? Their view is that the particular potential partnership with BBC Worldwide is absolutely dead in the water. That being the case, if it is the case, it is quite hard to see where else at the moment Channel 4 can look for a partnership with the potential to deliver similar value, and so I think my question arising from what you have said is what capacity does Ofcom have, if any, to encourage that partnership to be re-investigated and revived because it seems very counter-productive for it to be allowed to fall away when there is at the moment no other option?

**Mr Phillips:** The partnerships that have been under discussion have been commercial partnerships between BBC Worldwide and Channel 4. Those have been done as commercial negotiations.

**Q2256 Baroness McIntosh of Hudnall:** But with a public service benefit in prospect as a result.

**Mr Phillips:** Absolutely, but as purely commercial negotiations it is not at all obvious to me what the locus is for Ofcom within those commercial negotiations.
**Q2257** Chairman: Mr Purvis, you are sitting there very politely and quietly. Do feel free at any stage to come in and say something.

Mr Purvis: I have certain specialist areas which the Committee expressed an interest in earlier on which I am briefed to speak to. We thought it easiest to have a conversation with one of us at one time.

Mr Phillips: You can on the Channel 4 point.

**Mr Purvis:** What I would like to say on Channel 4 is that we have just appointed a new chairman of Channel 4, there is going to be a new chief executive, there may well be a new team as a result of that. The Digital Economy Bill will address the remit of Channel 4, so there is an opportunity now to look ahead as well as to look back at some of the things which did not turn out after all. I think within the channel they talk of creative renewal. That may be optimistic but I think there is cause for optimism in the sense of having a new look at the creative brief of Channel 4 and taking it forward.

**Q2258** Baroness Bonham Carter of Yarnbury: I wanted to ask you about spectrum charging or what, according to my notes, I am afraid you find the need to call “administered incentive pricing”. I hear yet another acronym coming on. Anyway, are you still planning to charge public service broadcasters for the use of spectrum, because you in your own report say that this may “reduce the ability of the main broadcasters to fund public service content”. For the commercial PSBs will not an extra charge have a detrimental effect on their ability to invest in what we want them to invest in, which is good PSB British content?

Mr Phillips: It is worth giving a bit of context as to where we are on that issue. One of the primary duties that we have as an organisation in the Communications Act is about ensuring the effective use of the electromagnetic spectrum, which is clearly a very important underpinning of a significant part of UK GDP. In the summer of 2006, we consulted on proposals to put in place these kinds of charges on the spectrum and the reason for that was that we feel that it is one of the best ways of ensuring that the opportunity cost of using spectrum is fully and accurately taken into account by decision makers when they are choosing uses for that. We have seen over the last few years the introduction of these kinds of charges in areas like the emergency services’ use of spectrum, in defence and so on. On broadcasting, what we said in the summer of 2006 was that it is right that broadcasting use of spectrum should be subject to appropriate charges in the future in the same way that almost all other areas already are. The right time to introduce that spectrum for digital broadcasting would not be until the end of 2014, which is when commercial broadcasters’ current licences come to an end. Before introducing any charges we will carefully consider any potential effects on broadcasting output and the right options to address or mitigate them.

**Q2259** Baroness Bonham Carter of Yarnbury: So things have moved on, really?

Mr Phillips: Before we introduce any charges we will make sure that we carefully consider those kinds of effects. One other thing that has happened, clearly, is that within the Public Service Broadcasting Review we highlighted the fact that one possible source of funding for public service broadcasting in the future, to address the kinds of problems we have been talking about, was through the proceeds of those kinds of charges. Clearly, it is now for Government to think about all of that, but one thing worth noting is that, from the way that those mechanisms work, any proceeds from that kind of spectrum charging would go to the Treasury and then it would be for Government to decide what it wanted to do.

**Q2260** Baroness Bonham Carter of Yarnbury: Picking up on that, as you will know, the BBC Trust are floating an idea that any spectrum charge that the BBC is asked for could be used to ring-fence public service broadcasting content on other channels, not the BBC, rather than it going back to the Treasury, which, to use Lord Puttnam’s phrase, seems like “double-dipping”. What is Ofcom’s reaction to that?

Mr Phillips: As I was saying, it is one of the options. Chairman: I think I am going to interrupt, if I may, because we have got a minute to go before 11 o’clock and I am going to ask if the Committee and its audience as well will observe the two-minute silence at 11 o’clock.

(There followed a two-minute silence)

**Q2261** Chairman: Lady Bonham Carter, you had finished your question.

Mr Phillips: The option which the BBC have been recently discussing is one of the funding options for the future of public service broadcasting, which is set out in the Public Service Broadcasting Review. In terms of the mechanism, our understanding is that that funding would go back to the Treasury and therefore—

**Q2262** Baroness Bonham Carter of Yarnbury: Get lost?

Mr Phillips: And therefore it would be for the Government to decide whether it wanted to hypothecate that money. That is not something the Treasury have always been very keen on.

Lord Maxton: Quite right too.

**Q2263** Baroness Bonham Carter of Yarnbury: So the Treasury owns the spectrum, so money that would be charged would go straight to the Treasury?
Mr Phillips: If there were spectrum charges introduced our understanding is that that money would go to the Treasury.

Q2264 Baroness Bonham Carter of Yarnbury: It just does not seem a very constructive way of ensuring that we have public service content produced.

Mr Phillips: Clearly, any issue about hypothecating public funding is one for Government rather than for us. I am merely commenting on how the mechanism works.

Q2265 Baroness Bonham Carter of Yarnbury: And it is true that in the case of the BBC the licence fee money is going back to the Treasury, is it not?

Mr Phillips: In the case of the BBC?

Q2266 Baroness Bonham Carter of Yarnbury: Yes, in the case of the BBC.

Mr Phillips: That is right.

Chairman: In a few moments we will have the opportunity of asking the Secretary of State what the policy is rather than asking you what the policy should be.

Q2267 Baroness Scott of Needham Market: I would like to come back to the question of partnerships if I may because it seems to me that, whilst on the one hand, you in your review say that you regard partnerships with the BBC and the other PSB providers as a way forward, the evidence that we have heard and the experience that we see is that these partnerships are very difficult to achieve in practice, either for commercial reasons, as you have just discussed, or sometimes for regulatory reasons, or sometimes for cultural reasons. You, in your reply to Lady McIntosh, said that this is a commercial issue and nothing to do with Ofcom, but is it not always going to be a commercial issue? How are these partnerships to be encouraged and achieved in order to continue to ensure that somebody other than the BBC is providing public service broadcasting?

Mr Phillips: More broadly, we looked at the issue of BBC partnerships in our review. What we said was that they could make a contribution to supporting investment in public content but were unlikely to be a complete solution. In the short term there may be financial benefits and other kinds of efficiencies available to other public service broadcasters, and I note that some of the partnership initiatives that the BBC proposed at the time, like the one called Project Canvas, are still areas where there is significant support and effort ongoing with a number of other organisations. We highlighted in the review the fact that we thought that the partnerships being discussed at the time would probably deliver smaller benefits than those which the BBC was suggesting they might and that in the longer term partnerships were not going to be the magic solution to the way in which public service broadcasting could be funded. You touched on the other regulatory issues. It is clear that the competitive implications of any kind of deal need careful consideration and in particular they need to be done in a way which does not prevent other organisations from entering the market, and I think any commercial partnership between the BBC and other organisations must make sure that the benefits and the competition issues are taken into account and that the public benefits outweigh the potential impact on competition.

Q2268 Baroness McIntosh of Hudnall: Is not the problem here in respect of the kind of content that we are concerned with, not that people are being excluded from the market in prospect by partnerships of this kind, but that not enough people want to come into the market? I ask the question in all humility; perhaps that is not how you see it, but it appears to me that there is an issue about overall provision, not an issue about competition.

Mr Phillips: Clearly, the competition issues depend on the specific thing that is under consideration. For example, in the proposals which ITV and the BBC discussed around the sharing of regional news facilities it is not obvious to me that there are any obvious competition issues that were raised, but clearly, in the Kangaroo joint venture that was proposed by the broadcasters, that as a joint venture was referred by the Office of Fair Trading to the Competition Commission.

Q2269 Chairman: That is a question I was going to ask. My first question was about pay TV and that has gone to you. Why did Kangaroo go to the Competition Commission?

Mr Phillips: Issues of mergers and joint ventures are dealt with by the Office of Fair Trading and the Competition Commission, who can ask for our specialist advice in their work, but the merger regime in this country is handled through the Office of Fair Trading and through the Competition Commission as the second stage authority.

Q2270 Lord Macdonald of Tradeston: Can I ask very quickly, Mr Purvis, on the basis of your huge experience running ITN, when Michael Grade came before us he was pretty dismissive about the way the BBC had approached the whole business of sharing its facilities for regional news. Do you think that is a practical proposition, to have two competing news organisations trying to share the same facilities?

Mr Purvis: Based on my experience, it is not unknown for broadcasters to share certain technical facilities. For instance, it is widely asked why there are so many camera crews at the same events. Sometimes there is pooling, where broadcasters agree
Lord Gordon of Strathblane: Coming to other potential means of meeting the shortfall on funding, your second PSB review found that industry levies were quite popular with consumers, and, indeed, the evidence we have taken is that they have been popular with other sectors of the industry who were not actually paying the levy. How do you look at things like retransmission levies, levies on search engines or mobile phones or recording devices? What evidence do you have of how much each of them would raise, are they workable and do you favour one or the other, or indeed any of them?

Mr Phillips: On the specific question about how much the levies would raise, we have not published any work in that specific area.

Chairman: You say you have not published. Have you done some work?

Mr Phillips: There is no detailed work that we have done to establish what the value of levies of that kind would be. Other work during the course of that debate has been published by other bodies and other people. The focus of our discussion through the consultation process was on the principle of those levies. We received quite a wide range of responses on that, some from people who were very enthusiastic about it, and those people were particularly enthusiastic about levies on newer forms of distribution, particularly around internet-type distribution, because those kinds of organisations typically invest very little in original UK content. However, we also received quite a lot of responses from people saying that a levy on those new kinds of distribution might create an unattractive set of incentives for the development of new services. There is clearly a tension here. The imposition of levies is one potential solution but clearly they create some difficulties as well as some opportunities, and I think that was what we highlighted in our advice to Parliament. It is not a straightforward thing to do.
have to say have never yet infringed the UK as a Member State over any failure to observe Article 4, against our duty to try to create content across a number of channels. That is what we are trying to do in the best way we can.

Q2275 Lord Macdonald of Tradeston: Would it be possible in that very broad sweep to isolate the big players with the big budgets and the big audiences and try to insist that they conform rather than allow the average to emerge through these hundreds of other channels that you are talking about?
Mr Purvis: I am not sure that the European framework allows that, but there could be a UK framework which addressed that issue. Certainly that has not been on the table before, and I think in our Public Service Broadcasting Review and there were those looking to organisations like Sky to contribute more—and I think Sky would argue that they are contributing through a whole series of areas—and they were looking more to the retransmission area of levies than they were in a sense for production quotas.

Q2276 Lord Inglewood: In this context what is a channel? Is that a problem?
Mr Purvis: No. We are about to go into a very interesting moment. On 19 December all the Articles of the European Audiovisual Media Services Directive come into effect and for the first time the UK and other Member States are being asked to regard TV-type or TV-like services on the internet as falling within the scope of the Directive. That is a significant moment. It has not had wide attention other than specialist interest, but it does mean, for instance, that for the first time Ofcom has a responsibility for regulating video on demand online. In other words, the watching of films on channels, or on what we now have to call channels that traditionally have been websites, where you could watch either stream or download long-form content. That now falls within the scope of the Directive. We have chosen, with the support and agreement of the Government, to co-regulate that and create a body of which industry is a major part and they are working with us to work out how that system would apply. It is going to be very interesting to see how this develops. I think the wider issue which arises from it is, what is the direction of travel here in terms of regulation? If there is going to be, and there is going to be, a lighter touch regime for video on demand, whether it be on websites or whether it be on certain other platforms. Should we see a system where broadcast regulation moves more towards that lighter touch, or is there an opposite direction to come in which we say maybe that lighter touch regulation should be applied back across broadcasting? Certainly it is not an issue for Ofcom but I think it is going to become a wider public debate as to what is the right kind of regulatory regime in a converged world.

Q2277 Lord Maxton: Does that include portable devices?
Mr Purvis: Portable devices go into this as well. We have not interpreted it so far as the kinds of video clips that you might see on a portable device as a TV-like or TV-type service.

Q2278 Lord Maxton: I have got two major films on my iPod.
Mr Purvis: I have to say that in terms of what is a platform, what is a device, the Xbox is now providing video on demand in some ways. This concentration process is under way. There are certainly regulations that have to be put before Parliament on this. I think it is going to be an interesting area for debate.

Q2279 Lord Inglewood: In terms of content, sport you have touched on, but it is meaningless in one sense to distinguish between football between two teams in Australia and two teams in Europe, so presumably you could load limitless quantities of obscure sports onto them in the middle of the night, and what about pornography, for instance? Does that count as content?
Mr Purvis: That is why I am sure that when the European framework was drawn up these phrases like “where practicable” and “by appropriate means” were put in, to try to allow for some flexibility in that area. Does the Champions League count as European but the World Cup does not? Where would you go with that kind of decision?

Q2280 Baroness McIntosh of Hudnall: Mr Purvis, you referred to this as an interesting area, which is a nicely neutral way of describing it. In terms of Ofcom’s own capacity to deliver against the regulatory burden that it is now going to have to undertake, what do you and your colleagues feel about this, this upcoming onslaught?
Mr Purvis: We are approaching it in, I hope, the professional way you would expect of us. We are talking to two co-regulatory bodies, one would be the Advertising Standards Authority, which is already our co-regulator on broadcast advertising content, about what we call the regulation of video on demand advertising content, and we are hopeful that that will come to a successful agreement. We are also talking to a body which has previously been known as ATVOD, the Association for Television On-Demand, about becoming the co-regulator, with appropriate changes to their constitution, so that they can help us regulate this interesting area of video on demand content. All the work has been done and Parliament will see all the detail in due course, but I think the significance is that it is the first time it has
been extended beyond pure broadcasting to the online world in a very specific area.

Q2281 Baroness Eccles of Moulton: Throughout this inquiry the question of training has been discussed pretty thoroughly. We understand that commercial PSBs have withdrawn quite a lot of funding from Skillset and the National Film and Television School. Do you have a view about that and is it possible for Ofcom to oblige the PSBs to not only cease withdrawing funding from training but also to increase it again?

Mr Purvis: The situation is that the Communications Act put on Ofcom two duties. One was to encourage training with broadcasters with the staff they employ and the other was a rather more general duty about encouraging training of a broader sweep of people. I have to say that in the conversations there have been in the past with Government and also with parliamentarians about being more interventionist, about requiring specific funding from specific broadcasters for the training, for instance, of freelancers, there has not always been agreement on that and we have not necessarily always agreed with Skillset’s interpretation of our options. We decided at Ofcom to set up a co-regulator, BTSR, the Broadcast Training and Skills Regulator, to carry out on our behalf and with our co-operation our regulatory responsibilities. Skillset has a different role. It has a strategic brief. It is in a sense always encouraging broadcasters to contribute to training schemes which it and its partners carry out. We find therefore that we need to try and find a way through this with BTSR and Skillset, and I have created a conversation among the three of us to try to find our way forward, but as yet we have not thought it one of our regulatory duties to insist that broadcasters contribute to, for instance, freelance training. It is very difficult at a time when they are reducing their headcount and their staff and the number of people they employ, and I have to say I pay tribute to the work that BTSR has done with the broadcasters and to the broadcasters to improve training of the people they employ, to say that they should take other money and spend it on people who in truth they may never employ. I know that is a difficult moment because we recognise in the industry that there is a casualisation going on in the sense that broadcasters are seeking to employ freelancers, but if you stretch this too far there will be an expectation for people who would like to work for broadcasters that broadcasters should be forced to fund their training, and we find that a difficult step to take. That is what we are trying to find our way through.

Q2282 Baroness Eccles of Moulton: Are Skillset becoming more comfortable with the combined body to help this?

Mr Purvis: Skillset will speak for themselves, but the process which I began with Skillset and BTSR does show some signs of progress, and I would really like to get to a position where we have satisfied both Skillset and the BTSR, and, of course, the Committee in terms of what is the right way to handle this area.

Q2283 Baroness Eccles of Moulton: The difficulty of reducing funding on skill training is that it can be a very short-term decision where there are financial problems but on the other hand it is penalising the future of the industry quite severely if training is not continuing to the extent that it should.

Mr Purvis: There are issues, and I know Digital Britain and the Government referred to the issue, about keeping training going during a recession because in a sense when you come out of a recession you need people trained. Against that you have to balance the financial impact on the companies which are going through that recession and their ability to fund projects which may not achieve immediate benefits. In there lies the issues.

Q2284 Chairman: So it is a question of money?

Mr Purvis: It is money.

Q2285 Baroness Scott of Needham Market: Colleagues and I were interested to receive a letter from Peter Block in which he begins, “It has come to my attention you are conducting an inquiry . . .”, and then goes on to talk about training. We have been conducting this inquiry for quite some time—I was quite young when we started—but we are a bit surprised that he has only just realised that this is going on and he is offering to give us evidence at the point where we are closing the inquiry, so I am just interested in what your relationship is, how it works and how, as we have said, he has just realised that we are doing this.

Mr Purvis: I should explain that Peter Block is the Executive Director of the BTSR and I am sure he is aware that Skillset have made representations to you, and I am sure he is trying to make sure that you hear the voice of BTSR as well.

Q2286 Baroness Scott of Needham Market: But it is very late in the day.

Mr Purvis: Peter can speak for himself and it may be that he is responding to what he has heard Skillset say to you.

Chairman: I do not think we will continue with this.

Q2287 Lord Inglewood: In the 2003 Communications Act, terms of trade provisions were included and we have heard evidence from different people saying that these terms should be reopened. Some have mentioned that they should be loosened,
the British film and television industries—decline or opportunity: evidence

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Mr Peter Phillips and Mr Stewart Purvis

others that they should be tightened. Do you have a view or do you think it is about right?  
Mr Purvis: It is interesting that Digital Britain, which was a wide-ranging review of a whole series of areas, did specifically look at this area more recently than our most recent review, for instance, and came to the conclusion that there was not a case for reopening the terms of trade. Terms of trade are freely entered into by broadcasters and by producers. We sometimes get complaints about them but we have not received a formal request from anybody to initiate the process for a reopening of them. I am aware that people grumble about them, I am aware that sometimes people are unhappy about specific cases they have been through, but certainly Digital Britain decided it did not wish to promote a reopening of it and that is the position we have taken so far. But, of course, if the situation changed and there was, shall we say, a substantial body of opinion within the two sides that it should be reopened, then it is something we would reconsider.

Q2288 Lord Inglewood: So basically you are saying you have not seen a case made for reopening it?  
Mr Purvis: We have not seen a substantial case made by a substantial number of parties.  
Chairman: Thank you very much. You have been very patient. Thank you very much for coming to give your evidence; we are very grateful for that, because we bring Ofcom back quite a lot to this Committee. If there are any other points we can pursue them by letter.

Supplementary memorandum by Ofcom

Audio Visual Media Services Directive

Since 1979, European legislation (previously the Television without Frontiers Directive, now the renamed the Audio Visual Media Services Directive) has required Member States to ensure that broadcasters under their jurisdiction “where practicable and by appropriate means” include a majority of European content in their transmissions. This excludes transmissions for news, sports events, games, advertising, teletext services and teleshopping.

In 2003, DCMS asked Ofcom to give effect to this provision. Accordingly, a condition of each broadcast licence granted by Ofcom requires licensees to include a majority of European content where practicable and by appropriate means. Member States must report on compliance by broadcasters with this provision every two years, and Ofcom collects data for this purpose on behalf of DCMS.

From 19 December 2009, the AVMS Directive also requires Member States to ensure that video-on-demand (VOD) service providers promote, where practicable and by appropriate means, production of and access to European works. Examples of such services include the BBC iPlayer, 4OD, ITV Player, SkyPlayer and Demand Five. These are available through Virgin Media, Sky and BT Vision as well as through the internet.

The Government has tabled legislation that will give Ofcom the overall responsibility for regulating these services. It has also suggested that Ofcom should designate an industry-funded co-regulator to carry out this function. We consulted on this proposal and on 19 December the Government will give the overall duty to regulate these services to Ofcom. We have announced our intention to designate certain powers and functions to co-regulatory partners.

Reporting Requirements

Broadcasting Services

Ofcom requires broadcasting licensees to report annually on the proportion of European content included in their transmissions, and if this is less than a majority, to explain why it was not practicable for them to achieve this. We consider the reasons advanced, and seek clarification where necessary. The information is then collated in a form suitable for DCMS to submit to the European Commission on a bi-annual basis.

In deciding whether it is practicable for broadcasters to comply, we must consider our duties towards consumers and citizens under the Communications Act, to secure a wide range of television services, provided by a plurality of broadcasters. Since the Directive was first enacted in 1979, the number of channels available to viewers in the UK has grown from four to around 600. This has led to an enormous increase in choice, and significant growth in the amount of programming commissioned and shown in the UK.

Some of these channels are able to source and pay for relevant European content, though they tend to prefer original commissions over acquired European programmes. For others this is impracticable, for a variety of reasons, including the cost and availability of suitable content. We do not think that it is in the interests of
consumers to impose impracticable burdens upon otherwise viable channels, even if they only serve minority audiences.

As the number of UK licensed channels has increased, the proportion of European content has fallen, though it is likely that the total amount of available European content (including British programming) has increased significantly. There are a number of both supply and demand factors that account for this. There is a wide range of English language content available from outside the UK, notably from the US and Australia. While there is also a wide range of non-English programming available from other parts of the European Union, this is comparatively expensive (since it has to be dubbed or subtitled to be accessible to a mass audience), and there is little evidence of demand from viewers to see dubbed content.

**Video-on-demand services**

We expect the means by which this duty is discharged to be the subject of discussion with VOD service providers, and to take account of the views of the European Commission on reporting methods. We understand that the European Commission is considering whether to issue guidance on these to Member States and, if it does so, we expect that it will be taken into account in monitoring and reporting on compliance by service providers within the jurisdiction of the United Kingdom.

**Note on Promotion of Broadcast Training by Ofcom**

**Genesis of the Current System**

Until 2003, there were no statutory requirements in relation to broadcast training, although the then Independent Television Commission did ask public service broadcasters to report annually on their training arrangements.

In section 27 of the Communications Act 2003, Parliament charged Ofcom with the promotion of training by employers of people employed on or in connection with the provision on television and radio services. In section 337 of the same Act, Ofcom was required to ensure that licences for large and medium-sized broadcasters required them to put in place training arrangements for people that they employ, and report on these each year.1

Pursuant to section 6 of the Act, Ofcom decided that these duties were likely to be furthered more effectively through co-regulation. To this end, after taking into account the report of a working group of broadcasters and others chaired by Skillset (the sector skill council for the creative industries), Ofcom established the Broadcasting Training and Skills Regulator (BTSR) in 2005.

**Structure of the Co-regulatory System**

A framework for the co-regulatory system was set out in a non-binding Memorandum of Understanding (MOU) between Ofcom, Skillset and broadcasters. A copy of the MOU can be found at http://www.ofcom.org.uk/tv/ifi/mou/. The objectives of the system are described as being to ensure an industry-led method of planning, organising, facilitating and measuring the delivery of training and retraining in UK television and radio which is both cost-effective and fulfils the statutory obligations for training. In the process the aim is to ensure that high quality training and retraining is provided in television and radio which is relevant to the industry’s needs and appropriate for sustaining the quality of the services which viewers and listeners receive.

The MOU sets out the roles of each of the parties in delivering these objectives. Among other things, these provide for:

(a) Ofcom to establish BTSR to take the lead role in implementing its duties, to use its back-stop powers to support BTSR if necessary, and to keep the system under review (see “Reviews” below);

(b) Skillset to provide support to the TV Sector Skills Committee (now the TV Skills Council) in agreeing and reviewing high level objectives for the industry, and to carry out periodic research into skills gaps and training needs;

(c) BTSR to work with broadcasters on reporting arrangements, to receive and analyse reports and to audit a sample, and to advise broadcasters on how to improve their training arrangements. It was also to commission research as required from Skillset, and to work with the television sector to establish arrangements for the collective funding of freelance training; and

1 Ofcom was not given powers to require broadcasters to make arrangements or contribute to the funding of training for people that are not employed in or in connection with their television and radio services. This means, for example, that Ofcom does not have powers to direct broadcasters to contribute to the costs of freelance training or to tertiary education, though broadcasters are at liberty to do so.
(d) broadcasters to participate in devising industry training objectives, to produce and implement annual plans for their own organisations, and to contribute to the costs of freelance training, and to the costs of BTSR.

In summary, BTSR focuses on company-level training arrangements (though not the specific content of training), while Skillset generates a sector-level view of training needs and provision, advised by the broadcaster-led TV Skills Council.

**Broadcast Training and Skills Regulator**

BTSR is led by a board comprising a majority of independent members, and including TV and radio industry representatives. The chair is selected by the independent members from amongst their number, in consultation with Ofcom. Industry members include representatives of the radio industry, the public service television broadcasters, and cable and satellite television broadcasters. Although the BTSR’s formal status is as a company limited by guarantee owned by Ofcom, it operates at arms-length from the regulator. The Board’s minutes can be found at http://www.btsr.org.uk/reports.php.

**Self evaluation**

Relevant broadcasters report each year to the BTSR, evaluating their progress against a framework devised by BTSR on advice from independent training and development specialists and broadcasters. The framework was designed to encourage and assist broadcasters to consider what training arrangements they could devise that would be appropriate to their business needs, and to the scale and complexity of their operations. A detailed description of this framework can be found in the online guide book at http://ldinbroadcasting.co.uk/gb/.

Both Ofcom and BTSR consider that helping broadcasters to formulate their own training arrangements considerably improves the prospects that these will be (and will be seen to be) relevant, and will thus become embedded in their organisations. The nature of the framework also allows broadcasters to see how they can make incremental improvements, rather than presenting them with a one-size fits all “best practice” model, which may not be appropriate for everyone from multi-national broadcasters to local radio stations.

**Annual assessments**

BTSR treats the annual reports that broadcasters must make as confidential, but the results are aggregated in an annual assessment of the state of training in the broadcast sector. The most recent assessment, published in Autumn 2009 (Training and Skills Report 2008) can be found at http://www.btsr.org.uk/reports.php. Using the framework referred to above, BTSR was able to draw conclusions about the progress of the broadcasting sector as a whole compared to previous years, as well as changes at the sub-sector level (eg smaller television broadcasters).

**Independent validation**

While the annual reports submitted by broadcasters to BTSR are confidential, BTSR uses independent assessors to validate the reports through a cycle of visits to each broadcaster. While over time each broadcaster has been visited, particular attention is paid to broadcasters who report a significant change in their performance (whether an improvement or a deterioration). The assessors work with the broadcasters to check the accuracy of their responses, and to provide advice about how to make progress through incremental changes. Ofcom welcomes the validation process, as it serves to promote confidence in the integrity of the reporting system, as well as providing an opportunity to discuss with broadcasters ideas for improving their performance.

**Reviews**

In accordance with the MOU, Ofcom carried out a review of co-regulation after three years had elapsed. The review (http://www.ofcom.org.uk/tv/ifi/review_coregulatory/), published in September 2008, considered how co-regulation was performing against the principles and functions set out in the MOU. While noting that the system remained at a relatively early stage, the review concluded that co-regulation was already delivering more than direct regulation had achieved in the past, in terms of:

- improved feedback and analysis for broadcasters of training needs and a clearer sense that the information they provide is serving a useful purpose;
- greater clarity for broadcasters on how they can improve their performance;
— better quality of information received, focussing on broadcasters’ individual training plans and activities, rather than level of spend;
— a clearer picture of the level of training provision, both at an industry-wide level and in terms of different sectors and company sizes; and
— more open and constructive dialogue with broadcasters, and improved buy-in from all parts of the industry.

Nonetheless, Ofcom, Skillset and BTSR have recognised that the framework for co-regulation set out in the MOU needs to be revisited in the light of experience, and against the background of greater strains stemming from the impact of the recession on broadcasters. Ofcom has put proposals to both BTSR and Skillset for rationalising the current framework and developing co-operation in information collection and will be working with both organisations on the way forward by early in the New Year.

December 2009

Memorandum by the Department for Culture, Media and Sport (DCMS)

1. Introduction

1.1. We would like to begin by congratulating the House of Lords Select Committee for selecting this subject for inquiry. The success and quality of British film and television are often taken for granted and it is important to have the opportunity to discuss some of the complicated issues and mechanisms that sit behind the public layer of awards and recognition. It is a particularly good time for additional Parliamentary scrutiny as these industries are in the middle of a period of extreme flux. This inquiry is addressing issues that cut across some key Government programmes of policy work and we welcome the opportunity to discuss these.

1.2. The Committee will be aware that just over a year has passed since the launch of Creative Britain: New Talents for a New Economy. This was a landmark publication in its recognition of the value the creative industries and in seeking for the first time to bring these industries into the mainstream of the UK economy. The 13 creative industries accounted for 6.4% of Gross Value Added (GVA) in 2006 and grew by an average of 4% per annum between 1997 and 2006, faster than the 3% average growth rate for the whole economy. In addition, exports of services by the creative industries totalled £16 billion in 2006.

1.3. Looking specifically at film and television, the ONS sic codes group them into the following categories: Video, Film and Photography; and Radio and TV. The table below sets out some key figures for these sectors.

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<th>Video, Film and Photography</th>
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<td>GVA (2006)</td>
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<td>Exports of services (2006)</td>
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<td>Employment (2007)</td>
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<td>Number of businesses (2008)</td>
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1.4. More recently, the Digital Britain review published an interim report focusing on several key areas relating to both national infrastructure and, in particular, on addressing the challenges facing the provision of high quality, professional, UK originated audiovisual content. New digital and broadband technologies have fuelled a quiet revolution over the last decade, increasing the amount of content at our disposal, whether via an increased number of digital television channels or from user generated content on new media platforms. However, these changes have added to the challenges faced by the business models which have traditionally funded UK content production.

1.5. The Digital Britain Review is focused on ensuring that we have the right frameworks in place in order to support investment in UK content, whether for traditional broadcast models, new media or film. This will include consideration of whether there are barriers to the development of successful business models for content creation in the UK resulting from our policy and regulatory framework, and whether there are gaps that need to be filled to ensure we take advantage of all the opportunities and innovations on offer for our creative industries.

1.6. Overall, the Government sees these industries as being a key element of our future economy and is developing policy to reflect that. New media technologies are challenging the traditional notions we have of film and television. A good example of this is the shift to Digital Cinema which we are beginning to see in the UK. This will enable the flexibility of the production, distribution and exhibition of cinema to increase enormously and business models will have to adapt to accommodate the change. In the same way these new opportunities bring great challenges to the media community from the protection of IP to the protection of
minors. The regulatory framework of the future must be set up in such a way to enable creativity and innovation whilst offering suitable levels of protection. And the general population needs to be empowered to use these new technologies and understand the opportunities and pitfalls so they can confidently make the best use of them and support their children to do the same.

1.7. This paper will go on to address the remaining questions raised by the committee.

2. How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry?

2.1. Distribution and exhibition are critical to securing commercial success. Although most films do not make a profit from exhibition, a wide cinematic release gives film makers more access to the audience and therefore greater opportunities to generate revenue. It also acts as a shop window, giving an opportunity to raise the profile of their films which leads to greater opportunities for profits in the home entertainment market.

2.2. Film distribution in the UK is dominated by a number of British subsidiaries of US companies, such as Warner Bros. and Buena Vista International. The largest British distributor is Optimum Releasing which in 2005 had a 0.6% share of the market according to the European Audiovisual Observatory. Distribution and marketing can be an expensive exercise and, as with most sectors, the general rule is that bigger the budget, the more cinema screens a film will be shown in and the greater the return on investment can be achieved. As a consequence, a big budget film, such as Watchmen, is more likely to be distributed more widely in the UK than a small, independent film such as Control. Similarly, most exhibitors are more likely to accept “blockbuster” releases which have the greatest market demand in order to attract the largest possible audience. 2007 figures show that there were 3,596 cinema screens in the UK, at 775 sites. Of these, 2,584 screens were available in multiplexes at 258 sites—71.9% of the screens in 33.3% of the sites, which gives the large chains a huge amount of influence over what films gain access to an audience. This is borne out in a comparison of the number of screens mainstream films are available on compared with independent films. For example The Dark Knight was released in 502 cinemas on its opening weekend in July 2008 which included every multiplex in the UK, while Man on Wire opened the following weekend in just 41 sites, mostly in non-multiplex and small-chain cinemas.

2.3. This means that in order to achieve our public policy goals of widening the audience for cultural film and for increasing the sustainability of British film we need to find ways of helping independent film makers maximize the opportunities available to find a market.

2.4. In order to try to achieve this, the UK Film Council—the Government’s strategic agency for film—has promoted non-mainstream films through the £4 million per year Prints and Advertising Fund to help British distributors. Also, the £12 million Digital Screen Network helped to fund the conversion of 240 independent cinema screens across the UK in order to support non-mainstream exhibition.

2.5. The UK Film Council supported Hunger, the story of IRA hunger-strikers in the early 1980s enabling it to be shown in 73 screens across the UK. Although this is a relatively limited release in comparison with the large blockbusters, it was a significant contribution and the film took £781,000.

3. How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade?

3.1. The most significant projected change to the film industry and one which is already happening is the transition from the current predominantly 35mm celluloid technology to digital cinema. This transition seems to have slowed recently due to the wider economic landscape but we believe that this is temporary and will pick up.

3.2. Digital cinema offers opportunities to all aspects of the film supply chain from production to exhibition. The ability to make films more cheaply combined with greater opportunities to reach existing and new markets could increase the variety of films being made and improve the choice to the consumer.

3.3. New technologies are driving demand and the recent resurgence and success of 3D technology seen in films like Beowulf and Bolt mean a significant shift to developing this further. Next year major film makers such as Stephen Spielberg and James Cameron are releasing 3D films and audience demand is likely to push the exhibition sector to keep up. In addition to 3D technology, the programming opportunities for cinemas will be able to expand significantly as they can hold many more films—expanding the range of alternative content from archive film material, opera and music concerts to lectures and theatre.

3.4. This is a global shift and we are working to ensure that the UK stays ahead of the game. According to the European Audiovisual Observatory, in 2007 the UK had 284 digital screens in 220 sites. This represented 31.6% of all digital screens in Europe and was significantly ahead of the next country, Germany (151 screens
in 72 sites). The bulk of the UK digital sites are made up of the 238 screens installed as part of the UK Film Council-financed Digital Screen Network, spread across large chains such as Odeon, Cineworld and Vue, as well as smaller independents such as the Tyneside Film Theatre. North America is slightly ahead of us with 5,000 digital screens, 10% of the total number of cinema screens.

3.5. According to the Cinema Exhibitors’ Association (CEA), the costs of conversion to digital projection will remain “prohibitively expensive” for some time to come. The key issue therefore is how to drive forward the conversion and prevent a digital divide opening up between large and small operators. The solution has to be driven by the market to ensure that the business models underpinning digital projection are sound and sustainable. This might raise specific challenges for smaller chains and independent cinemas who will need to develop the business models to support the shift to digital in order to avoid being left behind. The CEA is working with the UK Film Council to establish a programme of information-sharing events on digital cinema, and is exploring the potential for collective negotiation with the studios on behalf of the exhibition sector to achieve a fair cost sharing plan.

3.6. The development of digital and broadband technologies around the world means that film exports are facing serious opportunities and challenges. Intellectual Property (IP) theft will become an even bigger threat as download speeds in developed and developing nations increase and access to content becomes easier. However, this situation will also afford many opportunities for wider marketing and distribution across the globe. In time, films that previously would have to be physically shipped around the world over the course of days and weeks could be transmitted in seconds and minutes to anywhere on Earth. As a result of these, existing business models and rights protection systems are becoming increasingly obsolete and will need to adapt to a rapidly globalising world. It is imperative that the industry find a way effectively to monetise online content internationally, in order to prevent a repeat of what has happened to the music industry with the decline in CD sales. Most of the film industry’s money is currently made from DVD sales.

4. To what extent is the raising of finance an inhibiting factor in UK film projects?

4.1. Filmmaking is an inherently risky business and it has been historically difficult to secure finance for films, especially for more challenging and independent productions. This situation is being compounded by the current economic downturn, and producers worldwide are experiencing difficulties. In the UK, the market alone cannot support a strong film industry due to a combination of factors including the dominance of the US market, the lack of available finance and the cost of production. There are strong public policy arguments for ensuring that we do have a strong film industry in the UK, both for economic and cultural reasons.

4.2. This need to support the production of British films forms the basis of the rationale for Government intervention in film. The principle form of Government support comes from the Film Tax Relief administered directly by HM Revenue and Customs. This gave out £104 million to British film in 2007–08. Oxford Economics has reported that without the Film Tax Relief, “UK film production would fall by 75%”. Public Service Broadcasters also provide a key contribution through BBC Films and Film4. Both of these organisations have helped to develop important and successful projects, including Slumdog Millionaire (BBC Films) and The Duchess (BBC Films).

4.3. Support for film in the UK is also provided through Lottery funding which is delivered via three UK Film Council funds: the Development Fund (£4 million per year); the Premiere Fund (£5 million per year); and the New Cinema Fund (£8 million per year). These three funds distribute £17 million annually. These contribute both economically and culturally to the film landscape because as well as directly supporting cultural films that would struggle to attract private sector investment, their support can be used by film makers to lever in support from the private sector.

— The Development Fund is intended to broaden the quality, range and ambition of British film projects and talent being developed through targeted development initiatives.

— The Premiere Fund is directed at more commercial films with a wider audience appeal, with a creative and business role from the development of projects through to marketing and distribution. This funding is not directed at overtly commercial films, such as the Bond or Batman franchises, but those with the potential for more commercial appeal such as The Constant Gardner. This film achieved both box office success and critical acclaim, winning many awards including a Best Supporting Actress Oscar for Rachel Weisz.

— The New Cinema Fund is aimed at original and dynamic work in any style or genre. The Film Council expects to recoup any money given to a film from any profits the production makes, and this is used to help support other films in the future.

5. Have the 2006 changes to the tax credit system been of benefit to the UK film industry?

5.1. The 2006 changes have benefited the UK film industry and film makers in particular, but it is too soon to evaluate conclusively its impact. It is still a relatively new scheme. The current tax relief system with the new method for assessing whether a film passed the Cultural Test for British films was introduced on 1 January 2007.

5.2. In order to address this question fully, it is necessary to briefly explain how the current film tax relief system works. As a notified State aid, the scheme is designed to conform with European Commission guidelines ensuring that the aid granted does not affect competition and trading conditions to an extent contrary to the common interest. There are two qualification stages: obtaining British certification either by passing the Cultural Test or under an agreed co-production treaty; and satisfying HMRC’s tax relief criteria.

5.3. The UK Film Council administers the first step of the process though ultimate responsibility for determining whether a film is culturally British or not rests with the Secretary of State for Culture, Media and Sport. There are a series of other conditions set by HMRC including a minimum spend in the UK of 25% and the intention to secure a cinematic release for the film. Once HMRC is satisfied that all the conditions have been met, it pays tax relief on the qualifying film production expenditure.

5.4. Prior to this, relief was available to film-makers on the total cost of making a film. However, the common practice was that financial institutions and partnerships of wealthy individuals claimed relief on buying a completed film at cost-of-production price. The value of the relief was therefore reduced to film-makers because it was accessed indirectly through financial intermediaries, while creating significant opportunities for tax avoidance.

5.5. The value of the relief is now related to the cost, rather than the commerciality of a film. It is also provided only on goods and services used or consumed in the UK, rather than on the basis of worldwide expenditure. This has eliminated the opportunities for tax avoidance prevalent under the old system and allows the tax relief to go directly to the filmmaker and not the financiers.

5.6. Work commissioned by the UKFC demonstrated that film producers are benefiting from a significant increase in the speed and efficiency of the new system. They are also highly appreciative of the opportunity to claim interim payments in which can help the cash flow of productions. Film producers therefore spend far less on legal and accounting advice.

6. Have they had a perceptible effect on UK film production? Are any types of film or types of commercial arrangement unreasonably excluded?

6.1. £104 million was paid out by HMRC between 1 Jan 2007 and 31 March 2008 and we are confident that this relief has helped the UK attract significant inward investment productions as well as contributing to the increase in domestic productions. 2008, a tough year for film production, saw a drop in both the number of films produced and the total UK expenditure. This was largely attributed to the strong pound against the dollar and the effects of the writers strike, although we must keep an eye on developments to ensure this does not develop into a trend.

6.2. UK Film Council figures indicate that less British films are filming outside the UK. In addition, the numbers of co-productions, films produced under the terms of an international co-production agreement have, following an increase in the early 2000’s, reduced by 64% since 2006, in a time where it is becoming increasingly necessary to secure a wider audience, beyond the UK, to reach a profit. It has been suggested that this decline is due to the change in tax relief criteria, which states that tax relief can only be claimed on goods and services used or consumed in the UK. We are looking into this, but a conclusive case has yet to be made. We are therefore continuing to work with the UK Film Council to determine and demonstrate the reason for the decline and work on potential solutions as appropriate.

7. Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate?

7.1. Yes. We worked closely with the Commission to determine the criteria for the Cultural Test and are content that the four categories: Cultural Content (setting, characters, story, language); Cultural Contribution (creativity, heritage, diversity); Cultural hubs (filming, post production); and Cultural Practitioners (actors, crew) provide the framework for ensuring that a good range of films can qualify while retaining the robustness required to target the relief at appropriately British films.
7.2. The new cultural test for British films replaced the previous labour costs and production expenditure tests in Schedule 1 to the Films Act 1985. The cultural test therefore provides a more effective way to identify a culturally British film, allowing film makers the flexibility to do some of their work outside of the UK yet still be recognised as “British”. Tax relief can also be claimed during the production process, through submitting an application for interim certification, which is of benefit to films with longer production schedules.

8. Is the UK Film Council meeting its objectives of giving support to production and export of British films?

8.1. Since its inception in 2000 the UK Film Council has provided support for the production of films in the UK through a mixture of Lottery and direct Grant-in-Aid funding. This is in pursuit of UKFC’s key aims and objectives as outlined by the Government: To develop a competitive and sustainable film industry, built on creativity and skills; to stimulate greater choice for audiences; to encourage participation and opportunities for learning; and; to promote the UK in the wider world. In that time, UK film production reached a peak in 2003 of 171 films produced for a total UK spend of £1.140 billion. Between 1997 and 2007 the number of film production companies grew by 277% to 6,575. In 2006-07, UKFC received £25.25 million in Grant-in-Aid and £26.30 million in Lottery funding. In that year it spent £67.2 million, including £35.3 million direct to film issues (22.9% of total net public spending on film). UKFC has also worked with VisitBritain to promote “film tourism”—40% of potential visitors to the UK said that they were “very likely” to visit places from films, and the industry expects the appearance of British locations to help encourage many more visitors.

8.2. The UK Film Council works with key partners to deliver its remit. UKFC helps to fund the nine Regional Screen Agencies in England and the three National Screen Agencies in Wales, Scotland and Northern Ireland to promote and support film across the country. In addition, other national bodies such as the British Film Institute (which is funded from the UKFC’s allocation from DCMS) and Skillset play a pivotal role by working closely with UKFC on a variety of programmes. The effect of this is to create networks of support at national and regional levels for film.

8.3. UK Film Council has developed a Film Export Strategy for 2007–10 that seeks to address the market failure for UK independent film exports through market research and development activities. This is directed at existing markets in Europe, North America and Oceania, emerging markets in Asia and new markets in South America and Africa. This is supported by an annual budget of around £230,000.

9. Could it do more to assist the UK film industry’s contribution to the UK economy?

9.1. Film production is one of the country’s leading creative industries and all filmmaking activity contributes more than £3 billion to Gross Domestic Product every year, directly and indirectly. Arguably, more could be done to assist the industry, but we are constrained partly by the realities of public spending and also the need to avoid making the industry entirely—and irrevocably—dependent on public funds. The UK Film Council is examining other schemes to try to make the industry more competitive, but such activity must conform to European Union regulations governing State Aid and remain within the available funding envelope.

10. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

10.1. The Government remains committed to making the UK the best place in the world to start and grow a business. The UK business environment is recognised as amongst the best in the world:

— The Organisation for Economic Cooperation and Development (OECD) says UK has the lowest barriers to entrepreneurship of all OECD countries

— The World Bank ranks the UK second in Europe, and puts the UK in the top ten globally (out of 181 countries) in terms of ease of doing business

10.2. There are several Government activities which help to achieve this:

— Solutions for Business, the Government’s streamlined portfolio of publicly-funded business support products and services, delivered via Business Link, provides comprehensive assistance to help companies start, grow and succeed. This makes the environment ripe for the emergence of entrepreneurial talent.

— The Government’s enterprise education strategy is also helping all young people to be creative and innovative in developing business and entrepreneurial skills. It is teaching them to take and manage risks, and to do so with determination and drive—giving them confidence to be the innovative employees, successful business people and social entrepreneurs of tomorrow.
10.3. One of the challenges is how to make these successes relevant in the creative industries. A commitment in Creative Britain was to look at how Business Link works with creative industries and to give proactive advice at a national and regional level on how these could be improved. The RDAs will produce a framework by the end of April 2009 for evaluation of future work with creative industries allowing individual Business Links to monitor their performance.

10.4. Creative Britain also champions the development and expansion of the Skillset Film and Media Academy networks. The networks of nine film academies and 19 media academies bring together partnerships of universities, colleges and industry to ensure that graduates are equipped with the right skills for the industry. The Skillset Academy network offers both technical and business skills development for new entrants and Continuous Professional Development for film, TV and interactive media professionals.

10.5. In addition to the academies monitoring arrangements with HEFCE/LSC, monitoring, evaluation and review arrangements exist within the Skillset Screen Academies. Since September 2005, the following are some of the impacts they have had on business skills and in encouraging entrepreneurial activity:

- A Film Business Academy was established at Cass Business School and the first ever MSc in Management with Film started in Autumn 2006. 16 students enrolled in the first intake and 11 students in the second intake which began in Autumn 2007. A new two year, part-time Modular Executive MBA-specialised in Film Business has also been developed and began delivery in May 2007 with 25 students. A further intake of 14 students began the MBA in May 2008

- Inside Pictures, an established film industry development programme for Producers and Executives, was delivered in partnership with Cass in 2008 with 15 participants. In 2007 Skillset commissioned a review of Inside Pictures that tracked former participants and found that many had gone on to hold key roles on successful films including Brokeback Mountain, This is England, Lost in Translation, Eternal Sunshine of a Spotless Mind and The Edge of Love.

10.6. In 2007 Skillset commissioned a review of the business skills training in the Screen Academies which examined what business skills training was already present in the Academies and then made recommendations as to how that provision could be enhanced and improved.

10.7. In addition, DCMS has commissioned research through the Art Design and Media Higher Education Academy (ADM HEA) to look at how higher education and employer engagement enhances the learning environment. Academic managers in art, design and media departments cite the employment of teacher-practitioners as a significant means of gaining and maintaining up-to-date, industry-based knowledge within the curriculum. The research, to be published this summer, will help us to demonstrate ways industry can support and enhance the student experience of studying art, design and media subjects in higher education.

11. How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

The questions have been grouped for clarity’s sake.

11.1. According to Ofcom data, around £3 billion was spent on originated UK TV content in 2007, including news but excluding sport. Total spend on TV programming in that year reached around £5 billion (total UK TV spend on TV programmes including news, sport and movies).

11.2. The framework that supports UK TV content mainly consists of:

- specific obligations on public service broadcasters to invest significantly in original production—the four public service broadcasters (BBC, ITV, Five and Channel 4) account for around 90% spend on UK originations (excl. sports and films);

- regulatory breakthroughs to support the independent production sector;

- specific provisions to support skills and training in the television and radio broadcasting industries.
11.3. This framework has proved very successful: audiences have enjoyed access to high quality content across all genres, with programmes such as Who do you think you are, Doctor Who and the X Factor, that offer a timely reminder of TV’s vital social role—the ability to unite the generations in shared moments that, in time, become reference points in British culture.

11.4. Economically, a 2006 O&O report for Pact showed that the UK television content sector is the largest in Europe and the largest relative to GDP in the world. The UK is also by far the largest single source of export of TV show formats. According to the Television Research Partnership report of July 2008, the UK accounted for 13.1% of total TV content exports (finished programmes and formats) in 2007, measured in hours. The US accounted for 67.3% of exports, and Germany (third in world ranking) for only 3.9%.

11.5. This success is currently challenged by a combination of structural and cyclical evolutions in particular the dwindling of the advertising pound in its historic role as underpinning finance for much content creation.

11.6. The TV content industry is affected by a mix of structural and cyclical changes. Structurally, viewers are increasingly fragmenting across multiple platforms and changing the way they consume media. Digital TV is now accessible on almost nine in 10 primary television sets. Younger generations now spend more time using the Internet than watching linear TV. 26% of those aged 15–24 claimed to use the Internet for “watching TV programmes” in 2008, an increase of 16% in 12 months. 51% claimed they used it for “watching video clips/webcasts”, also up by 16% from 2007. 16–24 year olds are spending less time viewing broadcast content, because they are dividing their time between an expanding range of media consumption opportunities (for example, using social networking sites, downloading music or video clips and playing video games). As a result, they watched nearly an hour less TV each week in 2007 than they did in 2002 (down from 18.8 hours to 17.6 hours a week).

11.7. Increasing fragmentation has made it difficult to retain audiences, reducing the value of advertising slots, while increasing numbers of platforms and channels has increased the supply of advertising slots. This is exacerbated by current economic conditions:. Net advertising revenue has been in slow decline since 2004, and is now forecast to decline by a further c.10% in 2009. Since 2004, ITV has lost c.10% share of NAR while multi-channels have gained c.11%.

11.8. In television, the decline in advertising spend is particularly affecting commercial public service broadcasters. This in turn impacts their ability to invest in UK content—Ofcom estimate that there has been a drop in UK content spend from 2004-08 of £314 million pa, and Ofcom forecasts a further reduction of up to £375 million pa by 2012. ITV and Channel 4 for instance have all announced recently significant cuts in their programming budgets.

11.9. Part of this reduction might be offset by the continued commitment to the BBC and increased provision by the wider market (including beyond traditional TV). However, Ofcom’s analysis as part of the Public Service Broadcasting review shows that there is a risk that the level of provision in some risky genres, such as news or less profitable UK origination, may drop significantly in the next few years, though they play a critical role in reflecting our culture, fostering our creativity and informing our democratic process. This question is at the core of Ofcom’s PSB review and the work of the Digital Britain Review in relation to public service content.

11.10. This does not, however, mean that the situation is irreversible. Clearly, some of the technological developments outlined above are offsetting some of the problems.

11.11. Audiences now have access to the world’s best content, both on digital and terrestrial television platforms and online. However, while this international content is entertaining and has an important place in our media environment, people still place a premium on UK originated content that reflects their lives and values. They see this content as essential to maintaining our cultural identity, and it is the public service broadcasters (the BBC, ITV, Channel Four and Five) who account for over 90% of the investment in new UK-originated content.

11.12. The Internet is also fuelling the creative process and helping to uncover new talent by lowering the barriers to new providers. Broadband is giving people the chance to create their own content and offering consumers the opportunity to access a vast array of online content for news, information, personal interest, entertainment and communication.

11.13. Digital platforms are providing new opportunities for media content. Ecommerce is experiencing rapid growth, with online retail likely to reach 20% of total retail spend by 2012. Traditional media content is moving online, and users are responding with positive take-up. New Media and Web 2.0 services are growing in popularity, offering greater interactivity and user participation. The Internet presents an attractive commercial opportunity for content providers, who are able to reach mass audiences quickly with low distribution costs.
11.14. Yet the New Media sector is still in its infancy, and no one really knows what the future will hold. Aside from a few search engines and retailers, online businesses have not yet achieved the scale and impact necessary for a sustainable future, and many content providers are still experimenting with different business models. (Note the recent problems of Facebook in trying to explore various advertising and rights distribution strategies).

11.15. While offering great potential, it appears that content providers are currently struggling to monetise online platforms. 10–15% of UK Internet time is spent streaming video content, of which only 10–20% is from UK broadcasters (the majority of which is the BBC iPlayer). YouTube achieves 71% of all UK video streaming, but it only generates $11 per thousand viewing hours compared to c.$100 for US TV networks. It remains unclear in the short term whether revenues from online content will offset structural shifts in traditional media, particularly in linear TV.

11.16. The BBC is playing a critical role in providing the public with a wide range of high quality content and is innovating successfully in new forms of content for today’s multi-media age. We have made clear in the Digital Britain interim report, published in January 2009, that we were committed to a strong BBC at the core of public service content delivery. We also believe that a range of creative sources, commissioners and perspectives is vital for healthy levels of innovation and to ensure that we are developing the talents and voices of all diverse communities.

11.17. We are considering a range of options to address the challenges highlighted above. Several mechanisms, including regulatory assets, industry or equipment levies and contestable funding for content production that meets public purposes, are deployed in varying degrees in other countries and could be reproduced. Their merits should however be assessed against their impact on the wider market and their ability to deliver value for money.

11.18. We are currently in the process of working up policy recommendations that will be presented in the final Digital Britain report, drawing on advice from industry experts and stakeholders.

12. Conclusion

12.1 The Television and Film industries make a strong contribution to national life not only to the economy but to the cultural landscape. We are leading the way in developing policies to ensure that the UK remains a world leader both in terms of high quality content production, but also in the infrastructure and regulatory mechanisms to enable growth and innovation. There is much still to be done, but through strategies such as Creative Britain and Digital Britain we are ensuring the future for these industries.

23 March 2009

Examination of Witnesses

Witnesses: Rt Hon Ben Bradshaw, MP, Secretary of State for Culture, Media and Sport, and Mr Jon Zeff, Director of Media, Department for Culture, Media and Sport, gave evidence.

Q2289 Chairman: Secretary of State, welcome. Thank you very much indeed for coming and to your colleague. You enjoyed the jazz, did you, on Monday evening?
Mr Bradshaw: Very much.

Q2290 Chairman: In your new capacity you presumably get quite a lot of these invitations, do you not?
Mr Bradshaw: The way everything is at the moment, yes, but I cannot honour them very much because we are kept here till all hours, but hopefully that will change in the new year.

Q2291 Chairman: You are the third Secretary of State for the DCMS since June 2007. Does this lead to consistency of policy making?
Mr Bradshaw: I am sorry I have been the third in quick succession but when I came into the Department I tried to maintain the continuity. I did not come in and tear up our core objectives or our strategic priorities, either short term or long term, because (a) I thought the existing policies and strategy were pretty much right, and (b) I did not want to cause upheaval and turmoil—just a few months into a general election—that was unnecessary. While at the same time I tried to focus on some of the immediate priorities to get those in, to get the Digital Economy Bill in in the next session, which we hope it will be, and to look at one or two areas that you may want to ask me about, like product placement, where I have taken a different view from my predecessor but without rocking the boat too much.

Q2292 Chairman: I tell you why I ask that question. It is because as our predecessor committee, which was the Committee on the BBC Charter, we warned and warned again that the creation of the BBC Trust and the division at the top of the BBC was the wrong
way to go, and we were told by ministers time and
time again that this was a unique solution for a
unique organisation, or words to that effect. I see
from your speech in September to, I think the Royal
Television Society, that you said, “I don’t think it is a
sustainable model in the long term. I know of no
other area of public life where, as is the case with the
Trust, the same body is both regulator and
cheerleader”. That was our case. Why did it take you
so long to come to that conclusion?
Mr Bradshaw: It did not take me that long; I had only
been in the job a couple of months when I made that
speech. I took a look at the issues, and I am not going
to criticise the decisions that were made three years
ago and there are distinguished media commentators
who have also changed their minds who argued at the
time that they thought the Trust model was the most
appropriate. I note the view that your Committee
took. I do not know whether, if I had been in this job
then, I might have paid greater heed to it, but looking
in from the outside and given that there was already
quite a lively debate about the Trust and its
performance—to be fair to the Trust, it has done a
better job than its predecessor. I just took the view
that, as far as the public were concerned, it is quite
difficult for the public to understand when you have
the same organisation on the one hand that is
supposed to be holding the BBC management to
account while on the other hand appearing to be a
cheerleader for the BBC. I think the public expects a
clearer definition between those two roles, as it has,
for example, in the NHS with the Healthcare
Commission, now the Care Quality Commission,
which I had dealings with as the Health Minister, and
I just have sympathy with that view. I am not
proposing that we tear up the BBC Charter, unlike
indications given by some other people. I think it is
inevitable that this will be discussed in the context of
the next review and I expect that your Committee
would put forward proposals at that time as well.

Q2293 Chairman: So you regard it as unsatisfactory
but you have not got any proposals currently to put
in its place?
Mr Bradshaw: No. I do not want to pre-empt the
discussions that will take place in the context of the
review. What I went on to say in that RTS speech is
that it is very important that we have a proper
national discussion about this. This is not an issue
that is simply within the narrow confines of my
department and Government and the BBC
management. I have also said that it is the wrong way
round, if you like, to try to define what the future
regulatory landscape should look like before we
know what the future broadcasting landscape will
look like. It seems much more sensible to me to work
out what we want the broadcasting landscape to look
like in five or so years’ time and then to decide what
we think would be the best regulatory framework to
put in place.

Q2294 Chairman: But would it be fair to say that in
an ideal world you would like the BBC organised like
any other corporation, with a chief executive, a
board, a chairman, rather than this divided top that
we have at the moment?
Mr Bradshaw: I am not sure I would want the BBC to
be like any other organisation because I still think the
BBC is a unique organisation and, indeed, its
governance with the Royal Charter and so forth
illustrates that. I would rather have an organisation
where I felt the BBC management was a better
defender of the BBC than I think it sometimes has
been, and as a former BBC journalist and, as a friend
of many current BBC journalists, I feel that the BBC
could have done a better job of defending itself in
some instances recently. It has a lot of enemies out
there but at the same time I would rather have a more
effective regulator as well. How one creates that
structure I think will depend on the public service
broadcasting landscape that emerges over the next
few years.

Q2295 Chairman: But is the Trust dead?
Mr Bradshaw: I think the Trust will still seek to
defend itself and its role and there are still a small
number of people who are prepared to defend the
current structure publicly, not many in this House.

Q2296 Chairman: Notably the Chairman of the
Trust.
Mr Bradshaw: Indeed. To be fair, one would expect
him to do so, but at the same time there has to be a
recognition, and it would be unrealistic for there not
to be a recognition, in the Trust itself that this is an
issue that will be discussed and debated in the context
of the next Charter review.

Q2297 Chairman: In our inquiry we have heard a
great deal of evidence about file sharing, about
piracy, which obviously you know a great deal about
and which you have done work on. There has been
great concern, which has been raised by the film
industry, broadcasters, the music industry and a
whole range of other people as well. When your
predecessor, Andy Burnham, published Creative
Britain commitment number 15 was: “We will consult
on legislation that would require internet service
providers and rights holders to co-operate in taking
action on illegal file sharing with a view to
implementing legislation by April 2009.” That was a
commitment; that was not an aspiration. What
happened?
Mr Bradshaw: You will have to forgive me, my Lord
Chairman. I do not know what happened before I
arrived at the Department. When I arrived at the
Department we published the Digital Britain White Paper and we are committed to legislating in the next parliamentary session, so if that means we may be nine months or so behind that timetable I apologise for that. Jon may have a clearer view as to why we did not legislate last year rather than this year.

Mr Zeff: There were lots of discussions with both the ISPs and the rights holders and the Committee may recall that there was a memorandum of understanding that was signed towards the end of last year, so there was significant progress on the issue before Digital Britain, but it is right that Digital Britain is the point at which—

Q2298 Chairman: Okay. We are expecting a Bill very shortly?
Mr Bradshaw: I am very hopeful that Her Majesty may announce it next week, Chairman.

Q2299 Chairman: And that is not just the intention of the Bill; you have a Bill actually ready to introduce?
Mr Bradshaw: We do. It is not a draft Bill and with a fair wind in this place and the other place I am quite confident that we will get it on the statute book.

Q2300 Chairman: We can expect that Bill to be published then in the next two or three weeks?
Mr Zeff: If it is in the Queen’s Speech, it will be published shortly after.
Mr Bradshaw: On the day of the Queen’s Speech or very shortly afterwards, with introduction we hope in December.

Q2301 Chairman: Do I understand that it will be introduced in the House of Lords?
Mr Bradshaw: Assuming that this is all confirmed by Her Majesty next week, the proposed House of introduction is the House of Lords, yes.

Q2302 Chairman: Lord Mandelson will be presumably taking it through, will he?
Mr Bradshaw: I very much hope so. Whether he will be taking it all through I do not know but I very much hope that he will be playing a role.

Q2303 Chairman: You are confident, are you, that you can get this legislation through before the general election?
Mr Bradshaw: Given the so far publicly professed cross-party support for the main elements of the Bill, yes, I am confident and I look forward to receiving the support of a number of Members of your Committee in doing so.

Q2304 Chairman: There are some who have their doubts about the Bill. We have had a lot of evidence, as I have mentioned, from the industry. How seriously do you yourself take the issue of piracy?
Mr Bradshaw: I think this is an incredibly serious issue. Given that as a country our creative industries are bigger as a proportion of our GDP than any other country in the world, we are number one in the world. However, there is a massive haemorrhaging underway at the moment. The music industry alone loses £200 million a year through illegal file sharing and it is already posing a very serious threat to the value and the prospects of our creative sector. If we do not do anything about it very quickly, I think that will become extremely dangerous. That is why this legislation is so important. The eyes of the world are upon us. With the exception of France, we will be the country that has taken these first steps to try to create a legislative framework which is acceptable to people and does the business. That is why I hope we will get plenty of support for it as it goes through the House.

Q2305 Lord Maxton: In the music industry there is some evidence—there was a piece of research published I think just last week—that says that those who illegally download are more likely to go out and buy music than those who do not illegally download. Mr Bradshaw: It is logical that if somebody is interested in music they are going to be bigger consumers of music, however they access it, but I do not think that is an excuse for what amounts to theft. What we are trying to do in this legislation is not just penalise people. We hope that the legislation will act as a deterrent so that we do not need to use the ultimate sanctions that we propose, but there are two other legs to our policy. One is education. There is a huge job of education to be done, particularly for the younger generation. I was very heartened at the recent C&binet conference we held on this issue. Just by the prospect of legislation, there are already ISPs and creative industry getting together to devise new commercial models of legal downloading. That has to be the way forward. I hope in future the people that you quote from that survey will continue to access material via the internet but will do so legally and will pay for it.

Q2306 Lord Maxton: I accept a lot of what you are saying but one of the problems is where do you draw lines on this. In other words, my son buys a CD of a piece of music he likes. He then copies it onto a blank CD and gives it to his friends. They may then copy it again and give it to other friends. Is that illegal? In a sense it is but where do you draw the lines on it? Are the friends and he going to be prosecuted or stopped from doing it?
Mr Bradshaw: Jon will clarify as to whether your son and his friends are breaking the law by doing that.
Q2307 Lord Gordon of Strathblane: I blame the parents.

Mr Bradshaw: There are clearly degrees of infringement and what we are trying to prevent and deter in this legislation is the most serious infringement, the serial, often commercially motivated infringement, not the teenager who is using his or her parents' internet access to do this. The evidence does suggest that simply by sending out warning letters you will go a very, very long way indeed in deterring the practice.

Mr Zeff: Clearly there is a difference between somebody downloading a piece of music or a track illegally and somebody shifting copies between different devices that they own which is, in many cases, still technically illegal. The Intellectual Property Office has published a copyright strategy which David Lammy launched at the C&binet Forum, which recognises that there is an issue here and that there is some confusion, particularly around the position on format shifting. Potentially there is scope, particularly at European level, to address that.

Lord Maxton: Of course on copyright different countries have different timescales. For instance, in the United States, copyright is shorter I gather than our own and therefore you can download something from an American website, a piece of music, which actually may still be in copyright in this country.

Q2308 Chairman: Are you also going to take action on another piece of evidence that has come to us on camcorders and upon the abuse that takes place there?

Mr Zeff: Again, this is an issue that we have been discussing with the exhibitors for some time. We believe that there are existing powers in legislation that allow action on camcording to take place.

Q2309 Chairman: What are those existing powers?

Mr Zeff: There is a proposal under the Fraud Act, I believe, to develop a test case to test that out and that is something the Cinema Exhibitors' Association have been working closely with us on to develop.

Q2310 Chairman: That has been going on for some time now. We have been talking about a test case. This is a very deliberate fraud. There is nothing like the kind of issues that Lord Maxton was raising. You do not think that this deserves a high priority?

Mr Zeff: The Government's view is that the Fraud Act should be fit for purpose. The Government has given support to the industry and enforcement agencies. I understand there is currently now a potential test case in the south of England that is close to being brought through.

Q2311 Lord Inglewood: Is not the problem that the evidence we have had is that the Fraud Act was not fit for purpose?

Mr Bradshaw: Can I write to the Committee about this?

Chairman: By all means. A statement of policy on that would be very valuable.

Q2312 Baroness McIntosh of Hudnall: I just wanted to ask the Secretary of State about implementation. You said there is a Bill that you are ready to bring forward if the Queen’s Speech allows. How much work have you done and how much will be in the Bill on mechanisms for implementing any new sanctions that you intend to apply in relation to illegal downloading? Not so much the camcorder issue; that is a different one, but this question about illegal file sharing and the role of the internet service providers in monitoring the scale of that once it becomes clear, as I assume it will, that it is a criminal offence. What structures do you envisage needing to be in place in order for that to be effective?

Mr Zeff: In the first place, there will need to be a code of practice that Ofcom will oversee, so Ofcom will have a regulatory function in relation to ensuring that there is a code of practice for delivering the new arrangements that are set out in the Act.

Q2313 Baroness McIntosh of Hudnall: I am actually talking about pursuing the people who you need to pursue, because that needs the ISPs to co-operate, does it not?

Mr Zeff: Yes.

Q2314 Baroness McIntosh of Hudnall: It needs a regime that is relatively easy to implement. Otherwise it is just going to take up an enormous amount of time and possibly deliver very little. I am just asking you how much detail is likely to be in the Bill that will demonstrate what mechanisms are going to be needed to make implementation effective.

Mr Zeff: The Bill will set out the framework. I believe there is a response due to be published shortly to the consultation that there has been on exactly what the measures should be and what they should consist of. The principle is that there will be a requirement on ISPs to write letters to persistent offenders who are identified through a mechanism whereby the data—not the personal data—the IP addresses of offenders are passed from the rights holders. There is then a series of letters and there is a point at which the effectiveness of these measures is monitored, along with the other limbs that the Secretary of State has referred to around development of new business models and the education campaign side of it, to ensure that there is awareness around copyright. The proposal that was consulted on is that there should then be a power for the Secretary of State to require
the introduction of technical measures against the most serious repeat infringers.

**Q2315 Baroness McIntosh of Hudnall:** All the issues about data protection and confidentiality which underlie that, about which there is a considerable amount of concern, will be open to discussion as the Bill progresses, will they?

**Mr Zeff:** Clearly the data protection issues around this as the legislation goes through will be issues certainly for debate and discussion in the House. Under the proposals as set out, there is no personal information that the rights holders collect. The ISPs are the ones who will make contact with their subscribers, on whom they hold information.

**Q2316 Baroness Howe of Idlicote:** Could we move on to the decline in investment in UK content? Ofcom reports that the UK first run originated output on the five main networks has fallen from £3.1 billion in 2003 to £2.6 billion last year and that is a decline of £500 million, 15 per cent, in five years. There is a further decline which looks even worse than that of between £200 million and £350 million over the next three years. Given that the BBC and the public service broadcasters account for some 90 per cent of this UK investment, are you as a Government and you particularly as the new Secretary of State concerned about this? If so, what sort of remedial action are you thinking of taking?

**Mr Bradshaw:** Yes, we are of course concerned about it. It has to be said it is a symptom of the cyclical and structural challenges facing particularly the commercial broadcasters, with a falling off of advertising revenue because of its migration to other platforms. It is worth saying however that the UK remains number one in Europe for content and, as a proportion of our GDP, number one in the world. A number of the measures that we announced in the *Digital Britain* White Paper are specifically designed to try to help to arrest this decline. There are other things that one might be able to do in the context of the next licence fee renewal discussions with the BBC as well, as to how the BBC’s commitment to investment in content can be maintained at a high level. There are things that one can do but at the same time I do not think one should minimise the impact that the structural changes and the advertising fall off have had in this regard.

**Q2317 Baroness Howe of Idlicote:** Also, *Digital Britain* of course identified a certain market failure in regional news and children’s programmes. Perhaps I should say I am particularly interested in what is happening on children’s programmes. I know you have prioritised regional news above the other areas but surely things like children’s programmes, particularly for older children, are hugely important in helping not least to open the rising generation’s mind to future careers and things like that?

**Mr Bradshaw:** Indeed. We are very concerned about that and that is one of the reasons that in Channel 4’s new remit we specifically included a requirement to produce programming for older children. I think Channel 5 as well is committed to 500 or 600 hours a year of original children’s content production. One of the reasons that we specifically left open the door in the *Digital Britain* White Paper to using the contained, contestable element of the licence fee, which I think was one of your Committee’s original recommendations, was not just for regional news—“not exclusively” I think was the language that we used—but it was a recognition that there may well be justified calls on that support from other public service and public valued areas like children’s programming. The reason that we are prioritising regional news however is because we believe that the economics there are really very urgent and that, if we do not do something quite rapidly, the future of a plural provision of high-quality regional news would come under threat. I think that would be something that would be very bad for our democracy.

**Q2318 Baroness Howe of Idlicote:** You are really saying that, under whatever methods you are going to find the finance for this, children’s programmes and some of these other areas will have a pretty high priority?

**Mr Bradshaw:** Certainly, yes. It is an area we are very concerned about. What we put in *Digital Britain* I hope will be seen as recognition of that.

**Q2319 Baroness Bonham-Carter of Yarnbury:** You have just referred to it but your proposal for dealing with the funding gap where regional news is concerned is to use the money taken from the BBC and ring-fenced for the digital switchover help scheme. I have two questions on that. How is it possible for you to take that money before digital switchover is completed, which is not until 2012 and which, as you know, ends with London and that might throw up all kinds of problems that have not been experienced elsewhere?

**Mr Bradshaw:** It is not, strictly speaking, taking money from the BBC, is it, because this was a top-up of 3.5 per cent on top of the licence fee as part of the last licence fee agreement signed up to by the BBC? This is a pot of money, if you like, that was never available to the BBC for the programmes. That is the pot that will help fund the pilots over the next two or three years, but you are right. After 2012 when digital switchover is expected to be complete, we came to the view—and it is still our view—that the most transparent and sustainable source of funding in future would be to retain that level of top-up to the
licence fee. I do not see why there is a problem in terms of timing.

Q2320 Baroness Bonham-Carter of Yarnbury: Are you only going to start putting the money into regional news from 2012, into the regional news services?
Mr Bradshaw: The proposal is to roll out the pilots nationally from 2012 or 2011.

Q2321 Baroness Bonham-Carter of Yarnbury: Is it from 2012?
Mr Zeff: Yes.

Q2322 Baroness Bonham-Carter of Yarnbury: That is my misunderstanding. You do not start using the money until digital switchover is completed. When do the pilots start?
Mr Bradshaw: The pilots will start next year.

Q2323 Baroness Bonham-Carter of Yarnbury: Where are you getting the money for those pilots?
Mr Bradshaw: That is coming from the current underspend on the digital switchover.

Baroness Bonham-Carter of Yarnbury: As digital switchover is not completed until 2012, how can you have access to that money? How do you know what you are not going to need to use, if you see what I am getting at?

Q2324 Lord Maxton: Is it allocated by region, in other words?
Mr Bradshaw: We have access to the money because it is there and it is not spent. The BBC have agreed to give us access to it.

Q2325 Baroness Bonham-Carter of Yarnbury: How do you know it is not going to be spent as digital switchover is not completed?
Mr Bradshaw: I now understand. The current experience and all of the projections are for a very substantial underspend on digital switchover. We think it is too early to say exactly how much we are talking about but the recent NAO Report predicted a £250 million underspend. Given that the cost of ITV providing regional news is around £60 million, we confidently expect that there will be more than enough money left over in the digital switchover scheme to help fund the pilots.

Q2326 Baroness Bonham-Carter of Yarnbury: When it was agreed that this money was going to be removed from the licence fee to fund the digital—
Mr Bradshaw: Added to it.

Q2327 Baroness Bonham-Carter of Yarnbury: added to it to fund this, it was for a specific reason and you are now changing what its function is. The argument that you could interfere in the use of the licence fee in any way you wish to in the future and that this is a slippery slope is quite strong, is it not?
Mr Bradshaw: I do not accept that because of course all of this is subject to negotiation with the BBC. We are not suggesting, as some others appear to be, tearing up the licence fee agreement midway through the multi-annual settlement. What we are saying is this pot of money was there; it was agreed to by the BBC. It is for a specific purpose but, given that it has not been needed for that purpose, we think it is sensible to use it for other purposes, not just incidentally helping to fund the pilots but also helping to fund the roll out of digital broadband to two megabytes by 2012, which we think is a very important public good.

Q2328 Chairman: Lady Bonham-Carter’s point is correct, is it not? It was money that was raised through the licence fee?
Mr Bradshaw: Yes.

Q2329 Chairman: What you are saying is that that 3.5 per cent or whatever that portion is was in some way extra. The point is it was raised through the licence fee. It was not actually raised through taxation.
Mr Bradshaw: No.

Q2330 Chairman: You actually used the licence fee for digital switchover. That must be right.
Mr Bradshaw: We used the licence fee to help fund the help scheme for digital switchover, yes, or part of it but not nearly as much as we thought we would need.

Q2331 Chairman: I understand that point. The general principle is that you used the licence fee for digital switchover purposes.
Mr Bradshaw: Yes. As your Committee’s own report said, we think it is also the most sensible, transparent and sustainable way of funding potential future public service content need.
Chairman: As our report has also said, we were not very happy with the way that it was done and thought that it might be more appropriate to raise that through social security spending rather than through the licence fee. Let us go on to Channel 4 and BBC Worldwide.

Q2332 Baroness McIntosh of Hudnall: Digital Britain makes it clear that Channel 4 is a pretty important player in the broadcasting and particularly public service broadcasting environment, but it is also pretty clear that it has some problems in terms of its operating model and its financial health going forward, notwithstanding the fact that it is not about to fall over today as we have just been reminded by Ofcom. Could you tell us a bit about what you see as
the potential ways forward for Channel 4, given that the much discussed partnership that was envisaged between Channel 4 and BBC Worldwide seems not to be coming to fruition? There seem to be relatively few other options on the table. Can you just tell us, in the light of that, why in your view it would not be a sensible idea just to privatise Channel 4 and let it become a wholly commercial enterprise?

**Mr Bradshaw:** In answer to the last part of the question, because we think it is really important to retain a plurality in public service broadcasting. It is easy to be too gloomy about Channel 4. If you look at how Channel 4 has performed over the last year compared with a lot of the sector, it has done pretty well. It has increased its market share. Its revenue has only declined by four per cent which, compared with other commercial broadcasters, is relatively little. It still spends half a billion pounds a year on content. I think it is possible to be too gloomy about Channel 4. It is also I think possible to be too gloomy about a potential partnership deal with BBC Worldwide. I do not think that is off the table yet.

**Q2333 Baroness McIntosh of Hudnall:** Channel 4 gave us a pretty clear indication last week that they think it is off the table, in the person of their current chief executive who of course is not going to be there for very much longer. It is precisely because they did give us a very gloomy picture that it is interesting to know whether you and your colleagues view that partnership as still capable of revival and what pressure you can bring to bear to ensure that it does get revived.

**Mr Bradshaw:** Forgive me. I do not know exactly what the outgoing chief executive said to you but, if he was talking about the original proposal, he is right. Certainly what Channel 4 and BBC Worldwide have said to me the last time we had discussions about this is that they are still very keen to pursue a more modest partnership agreement.

**Q2334 Baroness McIntosh of Hudnall:** To be fair to him, he did say that but the quantum of potential benefit that it can deliver is very, very much more modest than what was envisaged in the way the partnership was being discussed initially. Although it would be fair to say that it is not off the table in those terms, it is off the table in terms of it seriously addressing the long-term funding gap that Channel 4 appears to be facing.

**Mr Bradshaw:** Certainly in terms of its size and ambition, I suspect any outcome if it happens, as I hope it will, will be more modest, but I do not think it will be insignificant and we are certainly keen to continue to encourage both Channel 4 and the BBC to work constructively on such an agreement.

**Q2335 Lord Macdonald of Tradeston:** I just wanted to pick up again on BBC Worldwide. I notice Digital Britain said that there was a case for greater financial and operational separation between BBC Worldwide and the BBC. It has been said in our Committee hearings that BBC Worldwide may be our only opportunity of having a national champion in global markets and even then, with this £1 billion turnover, it is pretty much a minnow against the big Americans and others who have emerged. What do you have in mind that would give Worldwide the ability to grow, fight and resist the inevitable temptations of politicians of all parties to interfere with its commercial operations?

**Mr Bradshaw:** As we outlined in the Digital Britain White Paper, we would like the BBC Trust to explore different business models, including the possibility of partial sale and a more arm’s length relationship to free BBC Worldwide up to compete.

**Mr Zeff:** That is exactly the position. The thinking behind Digital Britain is that there is potential. BBC Worldwide clearly has grown quite a bit as a subsidiary of the BBC and there may be potential for it to grow further, with bringing in other partners as one possible option.

**Q2336 Lord Macdonald of Tradeston:** My anticipation is that, if you want to get the Digital Britain Bill through before an election, it will be pretty non-controversial. Would you include your suggestions for Worldwide in it therefore?

**Mr Bradshaw:** I do not think we need to legislate, do we?

**Q2337 Chairman:** No.

**Mr Bradshaw:** We do not need to legislate to do that. We can do it anyway or encourage the BBC Trust to do it anyway. We are very keen on any other suggestions as to how we might make Digital Britain less contentious before we get it on the statute book.

**Q2338 Chairman:** Suggestions on BBC Worldwide I hope also?

**Mr Bradshaw:** They would be very welcome, yes.

**Q2339 Lord Inglewood:** We all know one of the ideas that has been floated to deal with the problems facing the creation of public service content in the non-BBC broadcasters has been the establishment of some sort of fund. In response to that idea the BBC Trust commissioned the Human Capital consultancy to look into the whole issue of spectrum pricing as a means for raising money. What is the Government’s attitude to using spectrum pricing as an alternative to top-slicing the BBC licence fee? If the BBC is going to have to pay something for its spectrum and it comes out of the licence, perhaps it is just a mirage anyway.
Mr Bradshaw: Of course we will study all of the suggestions that have been made in the context of our consultation very carefully, but I think there are a number of potential problems with spectrum pricing. One is that, if you accept that the whole point of a spectrum tax is to encourage efficient use of the spectrum, the consequence of that is that it raises less and less revenue as that spectrum is used more efficiently. The second problem is that it is a tax. It does not belong to us. It belongs to the Treasury. We already have a major intervention in the market in the form of £3.5 billion, which is the licence fee. It is the biggest intervention in the market anywhere in Europe. If we start from a position where it is quite difficult to justify even an extra intervention in the market, it would apply to commercial broadcasters as well as to the BBC at a time when commercial broadcasters are going through a very difficult time. In terms of timing, it does not begin soon enough in order to resolve and address the problem of regional news, which needs to happen earlier than that, as I said earlier, from 2012. Those are a few of the arguments that make us slightly sceptical about the idea, but we are always open to constructive suggestions as to how this gap may be filled and we will continue to be open minded on it.

Q2340 Lord Inglewood: I do not think I am putting words in your mouth when I say that what you are really saying is you are not very enthusiastic.
Mr Bradshaw: Not terribly enthusiastic, no, but I think it would be proper for us to give the Government’s response formally to the responses to our consultation. I have given you some indication as to some of the reasons why we think a spectrum tax is probably not the most transparent, fairest or potentially long-term sustainable solution.

Q2341 Baroness Bonham-Carter of Yarnbury: You are talking about a spectrum tax across the board. You are talking about charging commercial channels. You are not keen on that either?
Mr Bradshaw: I think that is what the spectrum tax does, is it not?
Mr Zeff: Yes. The administrative incentive pricing regime, as you know, is expected to come in for public service broadcasters from 2014 on the digital/terrestrial spectrum.

Q2342 Baroness Bonham-Carter of Yarnbury: It was just interesting that the Secretary of State was not just responding to Lord Inglewood’s question about the BBC; he was saying the spectrum charging across the board is something that he is not very—
Mr Bradshaw: That is because everybody would have to pay.

Q2343 Lord Maxton: Is not the real problem the lack of revenue? By 2014, which I think is the time of coming in, you are going to have the roll-out of high-quality broadband, much more than two megabytes by the way, and you are also going to have increasing compression techniques which are going to make spectrum less and less valuable.
Mr Bradshaw: Yes.

Q2344 Lord Gordon of Strathblane: Another suggestion has been made to us for meeting the shortfall in funding for public service broadcasting and that is levies on various sectors of the industry, whether it is retransmission, search engines, mobile phones or recording devices. Have you done any work on how much such levies could raise, how workable they are and do you favour any of them?
Mr Bradshaw: We have done work on such levies. If you go back to Digital Britain, what we said about retransmission levies is that we did not think they would generate sufficient resource in practice. However, we have left the door open to reuse fees in future. We have asked Ofcom to keep this under review, but we felt that the current time with the state of the market was not the time to think about introducing them now. It is certainly not something that we would rule out in the future. However, I would go back to the point I made earlier. A lot of people who look at other models in other countries and suggest levies sometimes ignore the fact, as I said earlier, that we already have the biggest intervention in the market of any country in Europe through the licence fee. I think the onus should be on people who are recommending an alternative to that to justify a further intervention in the market, rather than us to justify why we think that the current intervention in the market should be used for public service content.

Q2345 Lord Gordon of Strathblane: You are not against levies in principle? After all, you are introducing one for BT to help broadband.
Mr Bradshaw: No, we are certainly not against levies in principle. Where they could be justified in terms of providing and delivering a public good and where they would be effective and successful, we are perfectly prepared to have a look at them. I can go into the technical details of why we thought the retransmission levies were not a very good idea, but I suspect you would not want me to do that in this context. I will happily write to you with that technical explanation.

Q2346 Baroness Scott of Needham Market: The Committee has been given an extract from the widely read European Audio Visual Observatory, which is the statistics and information gathering part of the EU. They put the licence fee in the UK squarely in the middle in terms of investment. I am intrigued as to
Baroness Scott of Needham Market: significant extra public intervention. The proposals that we have made for a contestable, structural and cyclical challenges that it faces.

Mr Bradshaw: We have said that we envisage a public service content. They would have to be ones which currently benefit from some intervention in the market-place; or would you envisage some parts of the market-place which currently benefit from some intervention losing it?

Q2347 Lord Inglewood: I am just interested in the way you are looking at these issues because you talk about the scale of the intervention in the market and you express an unwillingness, which I am not dissenting from. You find the prospect of extending the intervention unwellcome and yet the problem appears to be, from the evidence we have had given to us, that the existing arrangements based on the market-place are probably not going to deliver the amount of domestic/public service broadcasting within the domestic industry that we would like to see. That being the case, it seems to me that the only possible way forward logically must be an extension of some sort of intervention in the market-place; or would you envisage some parts of the market-place which currently benefit from some intervention losing it?

Mr Bradshaw: We have said that we envisage a gradual liberalisation of the public service requirements on Channel 3 and Channel 5. Yes, in answer to the last bit of your question, but I think we are always open to suggestions as to where there could be new interventions in the market to provide public service content. They would have to be ones that were effective, delivered value for money and did not put, in my view, extra burdens on a commercial sector which is really struggling at the moment, given the structural and cyclical challenges that it faces. The proposals that we have made for a contestable, contained element of the licence fee would not be an insignificant extra public intervention because it would be separate from the settlement of the licence fee that goes to the BBC and that in itself I think is a significant extra public intervention.

Q2348 Baroness Scott of Needham Market: The recent figures Ofcom has published have shown that subscription revenue for cable and satellite is still rising steadily and it now accounts for around 40 per cent of television revenue. At the same time, it is accounting for somewhat less than ten per cent of investment in UK original content. I wonder if you have a view about that, whether you regard this as an entirely commercial decision or whether, in this new, changed landscape, you think that maybe there is a case for some kind of intervention or incentive?

Mr Bradshaw: I would be interested in knowing what sort of intervention or incentive would be practicable. I think I would like to see those channels invest more. Indeed, they are investing more. If you look at some of the stuff that Sky Arts is doing for example, it is of very high quality and I would certainly encourage them to do more of that. I think that you will see them doing more of that in future, but whether there are regulatory incentives that we could introduce—Jon, do you have a view?

Mr Zeff: Yes, I think that is right. There are EU quotas around original production, independent production. Many channels, including Sky Arts, have gone significantly ahead of those. I guess there is a difference with the commercial market. We have always had a mixed economy and the public service broadcasters use public assets such as spectrum. In the past, the commercial public service broadcasters have delivered public service obligations, including high levels of investment in original content, in return for those assets that they have had a privileged use of.

Lord Maxton: Original content does not include sport, by the way, which Sky invest very massively in and some of us think is a very important contribution to the general welfare and health of the country.

Q2349 Baroness Scott of Needham Market: As far as the EU Directive goes, can you tell us something about how you see that being brought into UK law, a date by which we could reasonably expect to see the provisions of 50 per cent of UK content brought in? Can you say something about the regulatory regime because, whilst Sky Arts may be doing sterling work, Sky generally I would suggest is nothing like 50 per cent. How can we ensure that we do not have a regulatory regime which chases after the small broadcasters who do not have much resource to fight back and that we actually do look very carefully at the larger providers like Sky?

Mr Zeff: The provisions around production quotas are not new in European law. These are in the existing Television Without Frontiers Directive or the previous Television Without Frontiers Directive. Under the Communications Act, Ofcom has responsibility for policing and implementing those requirements. The quotas are set around percentages, as you have outlined, as far as is practicable, which recognises that for some there is a very long tail of multi-channel, commercial channels for some of whom, for all sorts of reasons, whether economic or to do with the kind of content that they produce, it is not practicable for them to meet the quotas. Certainly Sky 1 has improved its performance recently. Ofcom, with our encouragement, continues to encourage broadcasters to improve their...
performance and, where they are not meeting the quotas, to meet the quotas. They do seek explanations from those that do not to ensure that there are reasonable explanations for that, but it is something that they monitor.

Q2350 Baroness Eccles of Moulton: Secretary of State, could we turn please to the possible merger between the UK Film Council and the British Film Institute? We understand that there is a project board that is holding discussions with the two bodies equally represented. The question I suppose is: what benefit could derive from such a merger, not only financial—and there is of course the threat that the BFI which receives some of its funding through charitable donations and maybe the donors would not be quite so enthusiastic—but also their two funding streams come from different sources. The UK Film Council is funded entirely through government grant and the Lottery and their function is to receive applications for support and then distribute it as they think fit, but some of it goes to the British Film Institute. The Institute, on the other hand, does incidentally have a Royal Charter. Its remit is to provide facilities for the public to understand more about the film industry. It has a very important archival role. It has a theatre. It has a library, et cetera. It would seem that the two organisations are so different that it is very hard to understand what case can be made out for saying that the sum of the whole would be more than the parts rather than less.

Mr Bradshaw: I do not think it is inevitable that, if one encourages the coming together of two organisations, you necessarily lose the strengths of both organisations in the new one. We would be very keen to avoid that. We would want to ensure that we could maintain the economic role played by the Film Council and the cultural role played by the BFI. We would also have to be very careful about retaining within the new organisation the charitable status of the BFI, but we do think that, in the current climate particularly, it is always worth looking at how organisations can work in a more streamlined way, to free up resources that may currently be being duplicated, to help support front-line production and front-line cultural goods, if you like, in this case. We are very well aware of the sensitivities of the BFI in particular, but we hope that we will be able to come up with a model that can preserve the qualities of both organisations and at the same time release money which is not, let us be honest, going to be in plentiful supply in the years to come to maximise the cultural benefits these organisations can bring. If one speaks to people who work day-to-day in the film industry, they often do not quite understand why we need to have these two separate organisations. I think it would be remiss of us not to look at the potential for these working better together in a single organisation, which is what we are doing.

Q2351 Baroness Eccles of Moulton: The jury is still out as to what the outcome of the deliberations will be?

Mr Bradshaw: Yes, absolutely. We have communicated our desire to merge and we want to work constructively with both organisations on that process but at the same time we want to make sure that we satisfy and meet the concerns that both organisations have over the issues that we have just discussed.

Q2352 Chairman: If there is no agreement between the two organisations, would you be prepared to force the issue?

Mr Bradshaw: I am not quite sure how one would do that, given that the BFI is a charitable organisation. We would hope to encourage them and we would hope to point out that in future, when funding is going to be tighter than it has been in recent years, they would be better off potentially, in terms of their funding together in an organisation with the Film Council, than they would be on their own, in terms of our funding potential as well as other organisations’ funding potential.

Q2353 Chairman: Just one thing arising from what Lady Eccles was saying about Lottery funds. The amount of Lottery funds going to the UK Film Council is going to be cut over the next two or three years by almost £5 million a year because of the Olympic Games. Does that mean that any time there is another sporting event which takes place the UK Film Council’s grant goes down as well? It seems a very odd way of dealing with an important industry, which you have actually said is an important industry, a world leader and the rest.

Mr Bradshaw: No. There is no question of that. I think the Olympics are unique. It is of course not just the UK Film Council’s Lottery funding but many other organisations’ on a strictly time-limited basis and against a context of very significant increases in funding in recent years for the UK Film Council and for film in general.

Q2354 Baroness McIntosh of Hudnall: Given that it is time limited, does the figure that the UK Film Council and indeed the other organisations affected wind up with in year three represent the new baseline from which all subsequent consideration of their funding will be derived, or will it be restored?

Mr Bradshaw: Whether or not it will be restored I suspect will depend on who is in government but, no, it will not represent the new baseline. This is a sum that has been taken in percentage terms off many organisations to help with the Olympics and there is...
no reason, in my view, why it should not be restored afterwards but that will depend obviously on the economic circumstances and on the Government’s policy at the time.

Q2355 Chairman: Given that your help for the UK Film Council is not fantastically generous in any event—you say the budget has gone up but the budget is not exactly a very generous budget if you compare it with Germany for example, where a number of us have been—£5 million, £4.89 million, is big money for the Film Council but it is not big money for the government, is it?
Mr Bradshaw: That would have been an argument for exempting the Film Council from the impacts of the Olympics that every other organisation has had to take. If it is seen in the round of the government’s support through the tax credit scheme and other initiatives for our film industry and given that the performance of our film industry is far stronger, both domestically and internationally, than the German film industry, I think it would have been difficult for us to make a case to uniquely exempt the UK Film Council from taking its share of the burden of the Olympics.

Q2356 Lord Macdonald of Tradeston: Secretary of State, as you know, the British broadcasters were cooperating to make their programmes available on the internet through a project called Kangaroo, which was referred to the Competition Commission which then ruled that it was anti-competitive. Under their statutory obligations they cannot apply a public interest test, but ITV and Channel 4 have both been before the Committee saying that this decision on Kangaroo means that money will pour out of the United Kingdom and into the pockets of big American groups like Google or Hulu, backed by Disney and others. Is there any work that you have done or perhaps Mr Zeff has done to assess the impact of the Competition Commission’s decision in Kangaroo? What can the government be doing, if you cannot overturn or challenge that in any way, to ensure that more online value for the UK content is gathered into our broadcasters and reinvested in the UK rather than leaking off to the Americans?
Mr Bradshaw: I think that is a huge and one of the most significant challenges that we face, but I do not think anyone has yet come up with the answer as to how we do it in practice. We are always looking for ways of doing so. I think it would be wrong for us to comment on the decision by the Competition Commission. It was a Competition Commission decision and we are very well aware of the distress that it caused at ITV and Channel 4, but I do not think it would be right for government to comment on that further, except that we are very acutely aware of the need to try to monetise creative content on the internet, including from IS providers like Google.

Q2357 Lord Macdonald of Tradeston: If it is such a devastating blow, as ITV and Channel 4 make out, should you not do something more than just reflect a passive acceptance of the Competition Commission? Is there not a demand from your department for a more general debate or government action of some kind on this?
Mr Zeff: I think clearly, as the Secretary of State has said, it is a competition decision and that is a matter for the competition authorities in this specific case. For Channel 4 and ITV and for the partners in that venture, that means that the revenue they were hoping to get from that venture they now will not get. I do not think it is for us to look at the specific impacts of individual competition decisions. The broad issue, as the Secretary of State has outlined, of investment in UK content and how one can sustain, develop and encourage that is certainly an issue that we are very concerned about and focus on very heavily.

Q2358 Lord King of Bridgwater: May I just be clear about that because, as I understand your response, you do not disagree with what Michael Grade said about the impact of the Competition Commission decision. Do I understand then from what you said that you did not make serious representations and make the views clearly known to the Competition Commission that this would be very damaging to the national interest? Did you?
Mr Zeff: The Competition Commission is a competition authority and acts under competition law. It acts independently.

Q2359 Lord King of Bridgwater: You did not provide them with any evidence or any representations at all?
Mr Zeff: I would need to check.

Q2360 Lord King of Bridgwater: You would have been the person responsible for making the representations, would you not?
Mr Zeff: The most that we would do in any case is provide factual information if we were asked for it. I am not sure whether we were asked for factual information by the Competition Commission.

Q2361 Lord King of Bridgwater: Let me start again. Do you agree with Michael Grade?
Mr Zeff: Michael Grade has a view clearly on the impact of that decision for his organisation.

Q2362 Lord King of Bridgwater: He goes much wider than that, as Lord Macdonald has made clear. He says it was going to be extremely damaging and that it will flood out of the UK and be a bonanza for
the organisations we know in the US who will profit from it. I do not want to be unkind, but listening to your evidence I get the impression that you feel, “Well, we cannot possibly get involved in that”.

Mr Bradshaw: It is not the role of government to interfere in an independent investigation by the Competition Commission.

Q2363 Lord King of Bridgewater: You are perfectly able to make representations to them.

Mr Bradshaw: I do not have very much experience in this, but I would need to check with our lawyers. I am happy to write you chapter and verse as to what the general practice is of governments making representations to Competition Commission investigations.

Q2364 Lord King of Bridgewater: I do not want to put words into your mouth but it seems pretty clear you did not actually think it was necessary or proper to make representations. You did not make them.

Mr Bradshaw: I think factual evidence was provided by us, but if you are suggesting that we should have come down on one side of the argument or another I am not sure that would be the right course for any government to take in an independent—

Lord King of Bridgewater: I think the Competition Commission would be interested if the government did not feel it proper to give them any advice or any view. The Competition Commission can take their final decision—

Q2365 Chairman: Can the government overrule at the end of the day? I just ask this factually, theoretically. Can the government actually say, “We hear what the Competition Commission says but we do not agree”? 

Mr Zeff: I am not an expert in competition law. That is for a different department.

Q2366 Lord Gordon of Strathblane: The Lloyds HBOS merger the government overruled.

Mr Zeff: There certainly are circumstances—

Q2367 Lord Gordon of Strathblane: To avoid putting words into your mouth, many people in the media feel that the Competition Commission lives on a different planet. It has refused mergers in radio and local newspapers which just flew in the face of reality. It might be worthwhile looking at what powers you might have in an emergency to strong arm them a bit more.

Mr Bradshaw: I will have to go away and have a look at that. On the issue of local newspapers, I think they have changed their position in the light of Digital Britain.

Chairman: We would be interested in having a response to this, as you have volunteered.

Q2368 Lord Macdonald of Tradeston: If this is beyond challenge—let us assume it is beyond challenge—would the immediate alternative not be to look at Google, which seems to be draining money out in a way that is destabilising the business models of commercial television, Channel 4, ITV and others, and say, “What do we do about Google because it does not pay its taxes in the UK and the money is going straight out of the country?”? Do you have any contingency plans or any early thoughts on that?

Mr Bradshaw: We are looking all the time at ways of ensuring that digital content can be valued and can be monetised. One of the things that we have launched as part of Digital Britain are these new digital test beds to test new models of monetisation of such online content. There is also work going on by Ofcom. So far, nobody has come up with an effective and successful model of doing this and I think if they had we would leap at it.

Q2369 Lord Inglewood: Thinking about this, the problems of competition legislation related to the Kangaroo proposal. Currently there is the Canvas proposal, which is under consideration by the parties, together with others I understand, who were negotiating the Kangaroo deal. I think there was a question of monopoly. Surely the important thing here is to make sure that the question of competition policy ought to be at the forefront of their minds so that they can produce a variation on an earlier theme which would more or less enable us to achieve what seems to be common ground as something which is desirable and in the national interest.

Mr Bradshaw: Yes. I agree with that. I do not know whether you ever have the Competition Commission before your Committee but it sounds as if they would be good people to call in.

Chairman: I look forward to the interchange between the Competition Commission and Lord Gordon.

Q2370 Baroness Bonham-Carter of Yarnbury: The Committee has heard from many that we have a skills shortage, particularly in the area of high end skills of post production and animation and so on. In both Creative Britain and Digital Britain you have trumpeted the cause of creative apprenticeships and I was just wondering where the funding for these apprenticeships was coming from, if it is coming from government or if you are expecting it to come from the industry.

Mr Bradshaw: Some of it comes from government. Some of it comes from the industry. There is Skillset, the sector skills council for the creative media. The National Film and Television School is of course funded significantly by us. The Higher Education
Funding Council will also contribute. Part of the extra money that the government announced for the future jobs fund will also go towards creating apprenticeships and jobs in the creative sector. I think we are committed to 10,000 new jobs or apprenticeships in the creative sector under the government’s future jobs fund, so altogether there is quite a lot going on in terms of trying to help create apprenticeships in this sector.

Q2371 Baroness Bonham-Carter of Yarnbury: What we seem to have picked up is that it is all rather, to coin a phrase, “unjoined up”. For instance, the Chairman visited Aardman, the animations people, and they tried to set up an academy in partnership with the local university to try and plug the skills gap. The nature of the higher education funding meant that it did not make financial sense for Aardman. You just gave us a lot of people who are obviously keen for the skills gap to be plugged, but they do not seem to be working together to do so.

Mr Bradshaw: I visited Aardman myself personally a couple of weeks ago and they raised exactly this issue with me. The problem as they communicated it to me was not that there was a shortage of graduates coming on stream in animation, but that they had not done the right sort of training and the right sort of courses. They did not raise with me a lack of government support in terms of funding for such apprenticeships and such courses, but they were critical of the structure and the nature of some of the courses at our higher education institutions. That is something that I think Skillset are looking at.

Q2372 Chairman: In one of your papers on Creative Britain, you gave a pledge that there would be something like 5,000 creative apprenticeships by the year 2013. Are we on target for that?

Mr Bradshaw: I am confident that we will get there.

Chairman: Okay. We will hold you to that.

Q2373 Baroness McIntosh of Hudnall: Can I just pick up on the point that Lady Bonham-Carter was raising about the issue that came up through your contact with Aardman? When we talked to Skillset recently, what they were pointing to was the fact that there probably is really quite a small number of people who would benefit from a very specialised kind of training which could be delivered within an academy setting or possibly within universities as they are currently constituted. The main difficulty seems to be that the higher education funding regime is too inflexible to allow that kind of very specialised training to be delivered. I fully appreciate that this is not your department’s business but the outcomes of training of that sort would be your department’s business and I wonder whether you might consider thinking with your colleagues about how that very particular and quite small—in terms of numbers and therefore funding—issue might be developed?

Mr Bradshaw: Yes. I am happy to take that away and discuss that with colleagues in the relevant departments.

Chairman: Thank you very much. You have been very patient. Thank you very much indeed for coming. You are the last, I think, oral witness in this inquiry. There are a number of points that need to be followed up but perhaps we can do that by post and internet. Thank you very much.

Supplementary letter from Rt Hon Ben Bradshaw MP, Secretary of State, Department for Culture, Media and Sport

When I gave evidence to your Committee last week, I said would write to you with further information on three issues. I trust this letter answers those points in full.

CAMCORDING IN CINEMAS

The Whitehall policy lead on unlawful camcording rests with the Intellectual Property Office (IPO), but my Department is, of course, working closely with the IP0 to address this issue. The film industry is looking for specific new legislation to make camcording in cinemas a criminal offence (currently, rights holders can take legal action against infringers under civil powers contained in the 1988 Copyright, Designs and Patents Act). However, before introducing any new criminal offence, we need to be sure that the problem cannot already be addressed satisfactorily under existing legislation and that any new measure is proportionate to the problem.

The legal advice received by the IP0 is that it should be possible for successful prosecutions to be brought against camcorders under the 2006 Fraud Act. The Government has therefore been liaising with the police, the Federation Against Copyright Theft and the Crown Prosecution Service for some time now to identify a suitable test case. One has now been found and is coming before the courts imminently. However, irrespective of the outcome of that case, we will also need to take into account the incidence of this activity and the degree to which new legislation would be proportionate.
The British Film and Television Industries—Decline or Opportunity: Evidence

Retransmission Levies

We discussed various funding sources for public service content, in particular news in the Nations, locally and in the regions. I said I would write to explain in more detail why Government is unconvinced that retransmission fees would generate incremental value for the UK public service content industry.

This proposal to use retransmission fees for public service content was considered as part of the work carried out ahead of the publication of the Digital Britain White Paper. Currently Section 73 of the Copyright, Designs and Patents Act 1988 exempts cable broadcasters from paying a copyright fee for the retransmission of certain wireless broadcasts from public service broadcaster (PSB) channels within a limited geographical area providing both the following conditions are met:

— Broadcasts are received wirelessly and immediately retransmitted by cable; and
— Broadcasts are retransmitted in the area for reception of the original broadcast.

The exemption was originally considered necessary as a matter of public policy to allow re-diffusion services to relay broadcasts as a way of ensuring that the PSB channels were available to all television viewers.

Some stakeholders have asked for this exemption to be lifted to allow broadcasters to charge cable operators for retransmission of PSB content and to use the revenue generated to reinvest in content creation.

However, no such exemption exists for satellite. A commercial negotiation between the platform operator and public service broadcasters determine what is due by the former to PSBs for the retransmission of copyright material, and in return what the latter must pay to the satellite operator for the carriage of the PSB channels on the satellite.

The work we did during the preparation of the White Paper showed that the current arrangements on satellite transfer no value to PSBs, because the retransmission fees are offset by the carriage fee. This might be different from other European countries. Yet in the UK, we have not been provided with evidence that a similar situation to the one observed on satellite would not arise on cable if the section 73 exemption was repealed, generating no additional revenue for the UK content industry.

Project Kangaroo

The Committee asked whether my department had made representations to the Competition Commission ahead of their decision on project Kangaroo.

As I explained, the merger regime, as it operates in the UK, requires competition analysis to be undertaken by the Competition Commission (CC) and the Office of Fair Trading (OFT), as the independent, specialist competition authorities. It is the responsibility of the Competition Commission and the OFT to assess competition factors and take decisions on merger proposals.

The Secretary of State may make representations to the CC during an investigation; however, the CC would not give those representations any more weight than the representations submitted by any other person or body. This is to safeguard against the possibility of the Secretary of State trying to influence the CC. In this case, the CC asked for a factual meeting with officials, which took place on 20 January 2009.

The Communications Act 2003 also amended section 42 of the Enterprise Act to provide a mechanism for the Secretary of State to intervene where he considers there may be public interest issues relating to media ownership, which includes newspapers, broadcasting and cross-media mergers. Where, in particular, the OFT has not made a decision as to whether to make a referral or not under section 33 of the Enterprise Act, the Secretary of State can intervene in mergers in order to:

— ensure a sufficient plurality of media ownership;
— to protect the availability of a wide range of high quality broadcasting; and
— ensure that those with control of media enterprises have a genuine commitment to the broadcasting standards objectives set out in the Communications Act 2003.

Although I acknowledge the importance of the project for the organisations involved, and although the provision of engaging public service content of quality and range is one of the key priorities of the Digital Britain White Paper, it was judged at the time that there was no evidence that the projected joint venture would give rise to serious public interest concerns in relation to any of the three criteria above.

The projected merger was subsequently referred to the CC by the OFT on competition grounds. It is not within the powers of the Secretary of State to overrule a decision by the CC on the grounds of competition, even if an intervention notice has been served under section 42 of the Enterprise Act.

23 November 2009
Further supplementary letter from Rt Hon Ben Bradshaw MP, Secretary of State, Department for Culture, Media and Sport

Thank you for following up our discussion about the relative significance of the UK’s public intervention in public service content compared to that of other European countries during my appearance before your Committee on 11 November.

Baroness Scott mentioned—and your clerk subsequently sent to me—the chart from the 2008 Yearbook published by the European Audiovisual Observatory (EAO) which shows that the level of the licence fee in the UK is the seventh highest in Europe.

I don’t think this contradicts my statement that the UK has one of the largest, if not the largest, interventions in the market in favour of public service content in Europe. I was referring to the overall amount of public money invested in public service content. In this respect, the UK contribution per inhabitant to the public financing of PSB was very nearly the largest in Europe, only marginally behind Germany, as shown in a presentation by Andre Lange, from the EAO. I attach the relevant slide from the presentation he gave last year to a conference on public service broadcasting in Strasbourg; the full presentation can be found via the following link:

http://www.obs.coe.int/online_publication/expert/comparative_analysis_financing_public_av_sector.pdf.en

I tend to use this indicator, rather than the level of the licence fee, as the former takes account of all the kinds of public funding devoted to public service broadcasting (for instance, the grant-in-aid to the BBC World Service), as well as of the relative size of each country’s market. It also focuses on the public funding that is paid to public service broadcasters regardless of other considerations (eg whether or not there are exemptions to the payment of the licence fee, whether or not those are compensated, whether or not all the licence fee is paid to public service broadcasters or funds other entities or policy objectives like other cultural or telecoms activities). According to this presentation, the UK intervention in favour of public service content is one of the most dynamic in Europe.

Finally, it’s worth noting that exchange rate variations over the last couple of years affect comparisons with other European countries. For example, the chart you provided shows that while the licence fee grew between 2007 and 2008 in the UK, the level converted in euros appeared to diminish over this same period.

I hope this clarifies my view that the amount currently invested by the UK in public service content is very significant, both in relative and absolute terms.

CONTRIBUTION BY INHABITANT TO THE PUBLIC FINANCING OF THE PSB (2006) IN EUR

15 December 2009
Written Evidence

Memorandum by Artists Studio

1. What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?
   No comments to add.

2. How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?
   Artists Studio: The weakened pound and tax credit regime in theory help to make the UK an attractive location for filming—as seen in the report by the British Film Commissioner last autumn; however, there is a divide between studio-funded films (and here we must include Working Title as part of the Universal Group) and “independent” films. The latter are now virtually unfundable without either substantial risk equity, or soft money (and here we would include BBC Film/Film Four, Film Council Lottery funding and/or regional support funding/MEDIA grants). In reality, there is a high likelihood that the film will not be economically viable in real terms.

   At the time of the most recent film tax credit reform there was a view that television production companies did not bear any real “risk” as the production costs were largely covered by the broadcast licence. This view takes no account of the development activity carried out by television producers (ie funded but unproduced scripts).

3. Have the 2006 change to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?
   Artists Studio: There is an artificial distinction in terms of filmed scripted drama between television and film— such that a film made for TV will not generally qualify for tax relief. This has the disadvantage that much of what is produced is “dumbed down” for television in terms of its creative ambition, and hence becomes unsaleable for theatric potential release. In other words, there is a vicious circle by which the content becomes unsuitable for non-TV distribution.

   In terms of the “Britishness” test this has reduced the likelihood of co-productions being brought to the UK since no benefit is derived from UK talent working outside of the UK in a corresponding co-producing territory. For instance with a territory like Canada Canadian crew will qualify for Canadian tax credits even if they work within the UK. If British crew were able to access some level of UK tax credit for work undertaken abroad it is likely that more international co-production work would be brought to the UK, since reciprocal work in each of the co-producing territories is customary.

4. Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?
   Artists Studio: The Film Council and its regional equivalents, along with Film Four and BBC Film, suffer from too much of an attempt to identify and nurture “talent” that is in fact identified by one or two individuals. The application of their funding efforts and the access to funding should be made more equitable.

5. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?
   Artists Studio: The film industry has always, second only perhaps to pornography, attracted entrepreneurial spirits—by its very nature, each film is a supreme challenge financially, creatively, managerially and practically. However, the industry does not work and is not structured to support continuity of management and skills— with some honourable exceptions.
The current market will ironically put even greater pressure on those companies that do exist as they are forced to slash margins and cut overhead in order to continue to compete in a time of ever more limited resource.

In the television industry, the gold rush of independent companies which capitalised on the Broadcasting Act of 2003 has resulted in the accumulation of debt finance and listed companies that must support a business overhead that can only take value off-screen.

6. How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible & effective?

Artists Studio: Consideration should be given to a cinema levy to fund increased investment in those centres of excellence that have traditionally existed in the UK (eg drama) but where the initiative is now being lost to the US and others.

7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these changes irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

Artists Studio: The reductions in programming revenues, and hence budgets and tighter margins will bankrupt some independent production companies, and will force others to dramatically restructure. The Artists Studio model is to cut out much of the infrastructure of a traditional production company by working more directly with the creators of IP rather than funding “development”, and by rewarding them in return with a larger share of the revenues generated by their work.

23 March 2009

Memorandum by Barzo Productions

When considering the range of topics being covered by the inquiry of The House of Lords Select Committee on Communications into the state of the UK film and television industries, I thought it useful to examine the comparable situation in other countries.

I am giving evidence from the point of view of a filmmaker of over 30 years experience. I have worked in Hollywood, Australia, New Zealand, Canada, Mexico, Europe and the UK making theatrical feature films as well as films for television (see Appendix 1). Due to my early films for the Children’s Film Foundation (now the Children’s Film and Television Foundation, an organization which I understand has also submitted evidence to this committee) and the fact that the CFTF financed the development of my most recent film An Angel For May, which garnered many awards, I am sometimes seen as a specialist in making family films, though my output has actually been quite catholic, and have been invited to participate on a number of panels discussing the future of European films for families, teens and children. As such I will focus my evidence on your Question 6, regarding the area of special backing needed for films and television programme for children and teens.

A UK resident of long standing I was born and raised in the United State and can perhaps give you a more detached perspective.

A Comparison

Fundamentally the dilemma in the film and television industry in the UK is that it seems to have suffered from more than benefited from sharing a language with the free market American system.

And while British product is often successful in America, the flow of material is largely one way. The consequence of this, particularly in television, is that when unprotected, indigenous work is often out-competed by the relative low sale price and aggressive marketing of existing American productions. It is much easier and less risky for a channel controller to acquire a ready made American film or series that has already had world-wide publicity generated by the hyperactive market on the other side of the Atlantic than it is to encourage the local creative industries.

The effect of this is that having so much English language content available unbalances the UK market and as a consequence the smaller UK industry winds up suffering from having a common language and much of the same culture as America. Compare this situation to a European context where there is generally hefty support and incentives to make culturally specific programmes and films to protect and reflect the local culture.
in the local language. No other country is going to make film and television programmes in the Danish language so the Danes have to support their own output. Recognizing the cultural significance of maintaining a Danish film and television industry, the Danish Film Institute has mandated that 25% of every year’s production funding be ring-fence for films for children and teens. If they didn’t the television schedules and cinemas would be filled to saturation point by largely American product. While films aimed at this market get little specific support from UK funders it is interesting to note that in America the teen market is considered the “prime demographic”, and that many of the very successful films of each year are for children, family or teen markets.

To maintain a viable stream of films and programmes that reflect their culture and supports their indigenous industry most European countries have specific and generous support for productions aimed at children and teens.

The creative industries in the UK are at a precarious point. A situation that had been made even more critical by the cutbacks in funding caused by the worldwide recession.

If we don’t support our film and broadcasting industries, our output would invariably contract and we would lose many opportunities to promoted UK culture and talent in a worldwide market place that is hungry for family films and teen films. We can’t sell to the market the films and programmes that we don’t make for lack of funds.

**AN EXAMPLE OF THE STRUGGLE**

Perhaps it would be instructive if I relayed the story just how difficult it is to set up such a film and of how the EU and in particular the enlightened citizens of Sweden saved a British project.

After making the film *An Angel for May* based on the outstanding, Carnegie Medal nominated book by Melvin Burgess, which went on to win prizes at festivals around the world, was declared the European family film of the year at the European Film Festival, was chosen as one of the best British films of the year at Dinard, and was nominated for an international Emmy for best family film, I expected that things might be a little easier in setting up my next project, which was to be a film based on another Melvin Burgess book, *The Baby and Fly Pie* and was to be scripted by the same screenwriter, Peter Milligan. And I would be working again with Colin Pons, who had been one of the producers on *Angel*.

After the shower of praised heaped on *Angel* I hadn’t expected the five year struggle just to raise the development finance, nor for the endless frustrations of trying to set up a film for young people/teens in the UK and the labyrinthine nature of the funding situation here in Britain.

During the production of *Angel* in 2001–02 we had made three separate approaches to the Film Council seeking a relatively modest amount of support, one after the film was finished to cover print costs. In each case our application had been turned down for no apparently reason. It was frustrating to be thwarted at trying to receive some pennies when at the same time many hundred thousands of pounds were being lavished on dubious projects like “The Sex Live of the Potato Men” and “Rancid Aluminium”. And the next year when seeking development finance for *Baby* I was told that the project was “too much like one they already had in development. This baffled me because ours was a Dickensian tale of teenagers struggle for a better life set in a near-future dystopian Britain and apparently the other project was a love story set in a future India across caste lines. It didn’t sound too similar to me but as that was their view and they held the chequebook.

I then approached about every regional fund in the UK for development funding, only to find that each region was only interested in backing writers from their region, down to which postal code they resided in. This was the case even though I was prepared to film the UK part of the film in the region that supported the development of the production. London, where both Peter Milligan and I live, had no development funding as Film London was pouring all of its funding in their Microwave scheme.

The years went by and while Peter and I continue to work on the treatment, the script remained unwritten.

In 2007 having teamed up with Lennart Strom, a producer from Sweden who had been the head of BUFF, the children’s film festival in Malmo, I was invited to pitch at their new Financing Forum where filmmakers could pitch their projects to largely backers from Northern Europe.

The pitch for *The Baby and Fly Pie* went down very well and generated a lot of interest. A German company would have liked to finance the script, but it would have had to be written in German. The Swedish Film Institute was interested in the project, but they had never backed an English writer before. Luckily Film i Skane, the regional fund that supports production in the south of Sweden, were prepared to put up half of the cost for the first draft on the understanding that some of the production would shoot in their region, a commitment I was happy to make.
That gave me half of what I needed, and later that year in Cannes Colin Pons and I met with Screen Yorkshire to see if we could raise the matching funding we needed. Happily, seeing the support we had in Germany and Sweden, Screen Yorkshire filled the gap and we could finally have Peter start the first draft.

Just as the first draft was getting a good response the bank crisis intervened and our Swedish backers could not finance further drafts of the script and Screen Yorkshire was similarly strapped for cash.

We approached The Film Council again and were turned down again; they told us that they thought the script was strong enough to take to the market and try to raise production finance. Which, after the months we’d spent going over the script in detail and making notes for a new draft, we knew was not the case. We knew the new draft was going to be much stronger. And we also knew that in this extremely competitive environment “you only get one shoot” at a backer, as they say. And here they were telling us our script was too good to make better.

With apparently no other UK options available we applied to the Media Programme. We had the support of several groups both in the UK and Sweden who saw the potential of the script, including Nordisk, the Swedish distributor and sales agent, who wanted to acquire the Nordic rights. And in April of this year we heard that we were to be awarded a grant for further script development.

I am happy we are finally moving on, but I can help but wonder why, yet again, it was the Europeans who both understood and appreciated the material and had the resources to back this very British project, based on British novel, written by a British screenwriter, set in a future Britain, with a British-based director and a British production company.

How many more British projects wither on the vine because of the narrow focus of the funders or their lack of resources to expand their encouragement?

Possible Solutions

There are ways of dealing with this funding gap, and again one only has to look at what other countries do.

1. Cinema ticket revenue

In France a portion of every cinema ticket sold goes to a fund for French production. We had a similar scheme in the UK called the Eady Fund, which for many year supported UK production and in particular children’s films, until it was killed off in the mid-80s for no particular reason. This is a highly efficient and nearly painless way to support areas of the UK film and television that are in urgent need of funding.

2. Tax Credit schemes

The changes to the Treasury’s support for the film industry, while it was to deal with perceived abuses, had the unwanted effect of making the UK uncompetitive in the world of international co-productions. Australia will reimburse producers 40% or more for every dollar spent there. New Zealand has a similar scheme. In the EU many countries are offering a rebate of 20% or more. In Ireland, unlike the UK, the rebate is applicable to film for television. The UK can clearly fine tune its Tax Credit scheme and focus it better to support indigenous production, make the UK competitive for international co-productions, and support areas of special culture interest and films for children and teens.

3. Ring Fencing

Where there is dedicated provision, such as the funding for the Film Council, we could follow the example of some of the Nordic countries and ring-fence a certain amount for the same areas of special support as mentioned in 2 above.

Conclusion

I hope it is evident from my submission above that, though we are facing a difficult time throughout the economy and in particular in the film and television industry, it is still possible to continue to support the cultural and commercial excellence that distinguishes the UK in the film and television industries. Long may it continue.
Harley Cokeliss is an award-winning director with a wealth of experience in film and television. Renowned for his work in the areas of suspense, thrillers, science fiction, fantasy and action/adventure, he has worked widely in Europe, North American and Australasia.

After producing and directing many films for the BBC and ITV, including Chicago Streets, which won the Silver Pearl for Best Documentary at the Milan Television Film Festival, he made two award-winning children’s films. The Battle of Billy’s Pond was chosen to be the Royal Premiere Children’s Film of its year and went on to win prizes at film festivals around the world, including the First Prize at the Belgrade Film Festival. The Glitterball, which followed the next year, also received a Royal Premiere. It won many international awards, such as the Ruby Slipper Prize at the Los Angeles Children’s Film Festival and the Silver Prize for Children’s Films at the Moscow Film Festival. It was also chosen for the XVI Festival Internazionale Del Film D’Fantascienza in Trieste, the Berlin Kinder-Film Festival, the Prize Winners’ Festival, Paris, and the Fantasporto Festival in Portugal, where it received a Best Film nomination.

He made his first feature film, That Summer! for Columbia Pictures (UK). The well-received coming of age story starred Ray Winstone in his first screen appearance.

He was Second Unit Director on The Empire Strikes Back for producer George Lucas, and was responsible for many of the stunt and special effect sequences. Afterwards, he went to New Zealand to make the science-fiction adventure Battletruck, which won the Special Jury Prize at the Avoriaz Festival du Film Fantastique.

In Hollywood, he made Black Moon Rising, starring Tommy Lee Jones, and Linda Hamilton for New World Pictures. The film received a Best Film nomination at “MystFest”, the International Mystery Film Festival at Cattolica in Italy. Malone, starring Burt Reynolds, Cliff Robertson and Lauren Hutton, followed the next year for Orion Pictures.

Returning to London, he made the surreal horror thriller, Dream Demon for Palace Pictures. The film was chosen for festivals in London, Avoriaz, Edinburgh, Dublin, and Rio. Stars Jemma Redgrave and Kathleen Wilhoite shared the Best Actress Prize at the Paris Festival of Science-Fiction and Fantasy Films in 1990 for their work in the audacious and technically advanced film, which also received a Best Film nomination at the Fantasporto Festival.

Harley returned to New Zealand to make Hercules and the Lost Kingdom for Sam Raimi and Rob Tapert’s Renaissance Pictures and Universal Television. The two-hour film became the pilot for the successful television series. Later Harley directed episodes of both the Hercules series and it’s spin-off, Xena, Warrior Princess.

In 1996 Harley directed The Ruby Ring for Hallmark Productions and Producer Don Reynolds. Shot in Scotland, the film starred Rutger Hauer, Judy Parfitt, Samantha Bond and introduced Emily Hamilton as a time-traveling teenager. The film was chosen as the Thanksgiving Day Special for the Showtime Channel in November 1997.

Harley shot his next film, Pilgrim, in the strange desert landscape around the port of San Felipe in Baja California, Mexico in the summer of 1999. The suspense thriller, from a script that he developed with screenwriter Peter Milligan, starred Ray Liotta, Armin Mueller-Stahl and Gloria Reuben. The film was selected for the Brussels International Thriller Festival and the Rome Film Festival.

Working again with screenwriter Peter Milligan, Harley developed An Angel for May, based on the award winning book by Melvin Burgess. The film was shot in Yorkshire and stars Tom Wilkinson, Geraldine James, Anna Massey, Hugo Speer and two remarkable young actors, Matthew Beard and Charlotte Wakefield. The film has won many prizes at festivals around the world from Tokyo to Antwerp and received an International Emmy Nomination for Best Family Film of 2003. The prizes won are: First Prize, the Vienna Children’s Film Festival 2004, the Grand Prix at the Tokyo Kinder Film Festival, 2003; the First Prize at the European Youth Film Festival where it was named “European Youth Film of the Year”, Antwerp, 2003; the Jury Prize at the Montreal International Children’s Film Festival, 2003; the Grand Prix at the Oulu Film Festival, Finland, 2003; the Youth Jury’s Best Picture Prize as well as the Best Film Prize from the Professional Jury at the Reel to Real Festival, Vancouver, 2003, the Jury Prize for Best Feature Film at the Freeze Frame International Festival of Films, Winnipeg, 2003, the Jury Prize for Best Picture at the International Film Festival for Kids of All Ages, Brandon, 2003, the UNICEF Prize at the Flicks Festival, Canada, 2003, the Best Feature Prize at The Cinemagic Festival, Belfast, 2002, “The Campagnia Medal” at the Giffoni International Film Festival. 2002. The film was also chosen as “one of the Outstanding British Films of the Year” at the Dinard Festival du Film Britannique, 2002 and uniquely was invited back to screen at the festival again in 2003.
An Angel for May was chosen for special screenings at the National Museum in Washington DC in 2005 and the Museum of Film and Television in Bradford in 2007. Among its many festival presentations, the film most recently was selected for the Leeds Young People’s Film Festival in March 2008.

Beside filmmaking, Harley enjoys sharing his knowledge and experience with students. Recently he gave a seminar on “Film Story” at the Huston School of Film at the Irish National University, Galway, and lectured on “Fairy Tales and Film” for the UK Arts Council. Previously he has lectured on film at Bournemouth College, the University of Kent, the Chicago Art Institute and the London Film School, where he is a regular member of the Script Panel that helps select which student films are made. He was the Directing Mentor at the Pygmalion residential workshops on Children’s Film and Television (part of the EU’s MEDIA programme) held in the UK and Germany.

Harley has also been a member of many juries such as the BAFTA jury for Best Family Film 2008 and 2006; the International Emmy jury for Best Children’s Film 2004, the “FABU” Film Festival jury in Sandness, Norway 2002.

Additionally he has been invited to sit on several Expert Panels. In June of 2009 he will be a panel member at The Future of European Children’s Film—1st KIDS Regio Forum in Erfurt, Germany. Previously he had been a panel member at the CineKids Festival in November 2008 to discuss the future of the financing and distribution of European family films, and the panel on Children’s Film and Television at the Showcommotion Festival, Sheffield, in 2003.

Harley Cokeliss is a member of the Directors Guild of America and Directors UK and is represented by IPGLM in Los Angeles.

30 April 2009

**Memorandum by the British Entertainment Industry Radio Group (BEIRG)**

**Executive Summary**

The British film and television industries depend on wireless technologies such as radio microphones, in-ear monitors and talkback for the production of live and recorded content. Demand for these wireless devices is high and continues to grow. For example, major television shows such as “The X-Factor” and “Big Brother” as well as films and sporting events such as The British Open Golf and the Cheltenham Festival require multiple channels of these largely unseen technologies for a wide range of purposes including voice amplification, recording, directing and multiple location audio coverage. These technologies, like any radiocommunications applications, need interference-free radio frequencies or “spectrum” in which to operate. The more devices that are needed for production, the greater the spectrum requirement. If insufficient spectrum is available for the production of content in the UK, then it is highly likely that in the future content producers will take their productions abroad. This will have a negative impact on UK PLC—lost employment opportunities aligned with a reduction of inward investment.

As a consequence of Ofcom’s policy of “spectrum liberalisation”, more specifically the proposed sell-off of the “digital dividend” spectrum being released by the transition from analogue to digital terrestrial television broadcasting, the quality and quantity of spectrum that will be available for the wireless technologies essential to programme making and special events will be dramatically reduced.

Once the digital switchover (DSO) is complete and the spectrum being “freed-up” by the transition is sold (by 2012), there will be much less radio spectrum available for wireless microphones than there is now and it will be much more fragmented. As a consequence:

- the availability of spectrum is likely to become a limiting factor in the ability to produce certain content or programmes in the UK, particularly in the worst-hit locations;

- the vast majority of wireless microphones held and intended for UK-use will be rendered redundant or require expensive modification, costing the industry tens of millions of pounds to replace; and

- PMSE equipment costs will be much higher after DSO.

1 As they are meant to be.
Perhaps more worryingly, under Ofcom’s current plans, wireless microphones may not be able to be used at all after 2018 when protected spectrum access for these essential technologies will cease.

We believe that Ofcom’s policies do not do enough to ensure the PMSE sector’s security of access to spectrum that is demonstrably interference-free and sufficient in terms of quality, bandwidth and continuity at reasonable prices. We hope the Committee agrees that securing the future of the Programme Making and Special Events (PMSE) sector is a matter of public policy and that it is for Parliament and Government to address.

Ensuring spectrum access for technologies that are essential for film and television content production

1. The British film and television industries require radio microphones and other wireless technologies in order to produce their content. Spectacular modern production standards owe a great deal to developments in and the application of wireless technology. These wireless technologies are invaluable, not only on stage and in the public eye but also back stage and on set where they ensure greater safety and efficiency for those working in hostile production environments.

2. To ensure that production standards are maintained to their current high levels and can continue to improve, sufficient quality and quantity of spectrum must be reserved for the use of wireless microphones and other short-range wireless technologies.

3. Historically, wireless microphones have been deployed in the “spare” frequencies in-between analogue and digital television transmissions. This is known as the “interleaved” spectrum or “whitespace”. The PMSE sector is also the primary user of “channel 69”, the only UHF channel available to PMSE on a UK-wide basis.

4. The UK is currently undergoing the transition from analogue to digital broadcasting. As digital terrestrial transmissions utilise less bandwidth than analogue, some frequencies previously used for terrestrial TV broadcasting will no longer be needed for broadcasting. Ofcom refers to this as “cleared spectrum” and looks set to sell most of this via auctions. This spectrum is referred to as the “Digital Dividend”.

5. In its original DDR plan, Ofcom proposed to sell all of the spectrum currently used by wireless microphones and other short-range devices. BEIRG opposed this because the PMSE sector is a disparate and diverse community that could neither afford nor coordinate a bid against powerful multinational corporations (who could hoard spectrum even if they have no immediate use for it).

6. Recognising that the PMSE sector would be faced with market failure if it was forced to compete for its spectrum via auctions, Ofcom decided to award most of the interleaved spectrum between the new digital broadcasts and channel 69 to a “band manager” with obligations to licence this spectrum for the use of wireless microphones and other short-range PMSE devices.

7. Whilst we welcome this decision in principle, we are extremely concerned that the “package” of spectrum that Ofcom have agreed to award to the band manager will not be sufficient. Based on the spectrum availability data that Ofcom published in January 2008, we proved that there will not be enough bandwidth available at many locations across the UK to allow large-scale productions to continue to take place. We also proved that the increased fragmentation of the available spectrum will dramatically increase equipment costs.

8. In autumn last year, Ofcom informed us that they would revise the technical parameters for digital television broadcasting and that the spectrum available to PMSE would increase as a consequence. This data is yet to be published and, due to subsequent developments, is not likely to be published for some time.

9. Several European states are preparing to release the same band of frequencies—790MHz to 862MHz—so that they can be used for the new services, potentially mobile broadband. This is referred to as the “pan-European harmonisation of the 800 MHz band”. It is said that this will bring benefits to citizens and consumers because, amongst other things, they and the mobile companies will benefit from economies of scale.

10. In order for the UK to align with other European states, digital TV transmissions need to be moved out of UHF (ultra-high frequency) channels 61 and 62 and wireless microphone users need to be moved out of channel 69. This will change the availability of spectrum for PMSE (again) and alter the “frequency map”, including inevitable reductions in useable interleaved spectrum.

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2 http://www.ofcom.org.uk/consult/condocs/ddr/ddrmain.pdf
11. Despite the fact that Ofcom have still not proven that the package of spectrum to be reserved for the use of wireless technologies will be sufficient in terms of bandwidth, continuity and quality, they are planning to sell all of the cleared spectrum regardless. By pursuing this course of action, Ofcom will seriously limit their ability to address any capacity or fragmentation issues arising from DSO/DDR before they understand how severe these problems might be. Premature sell-off will risk compromising the UK’s ability to produce content.

12. Under current proposals, all protections that wireless microphone users have for continued use of the spectrum that they operate in will be removed in 2018.

13. What Ofcom must do:

13.1. Provide sufficient spectrum for use of wireless microphones and other short range PMSE wireless devices—this should account for current levels of demand and projected increases in demand.

13.2. Demonstrate that the spectrum allocation for PMSE is sufficient before they allow all of the cleared channels to be sold.

13.3. Make sure that a replacement for channel 69, with all its benefits to content producers, is announced and available nationally as soon as possible.

Provide the PMSE sector with security of spectrum access. An end-point to protection without evidence that protection will no longer be needed is unacceptable.

23 March 2009

Memorandum by the British Screen Advisory Council

INTRODUCTION

The British Screen Advisory Council (BSAC) is an independent sector body which serves as a unique forum for identifying new business trends and provides advice to government, policy makers and the audiovisual industries. Its Members comprise the widest range of UK interests, knowledge and contacts in the audiovisual industries.

1. What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

Film and television are at the centre of the creative industries. As Will Hutton’s report for government, Staying Ahead, showed, other parts of the creative industries may generate greater turnover and employment, and other economic sectors are more important than the creative industries in terms of basic economic indicators, but we do not have to scratch very deep in our analysis before we come across evidence to show the extent to which film and television inform our perceptions of, and promote and support the other creative industries—for example fashion, publishing, videogames and music—and contribute to our sense of the world in which we live (just imagine trying to discuss food without reference to Jamie Oliver or the environment without being able to refer to David Attenborough …)

But to enhance film and TV’s contribution, we need better to understand the undoubtedly positive spill-over effects between creative industries, and from creative industries into the wider economy: they are an essential part of the creative/business mulch. If we understood them better, however, we could be more focused and efficient when developing policy.

BSAC would warmly endorse the evidence submitted by Scottish Screen, both for drawing attention to the specific opportunities and challenges to be encountered by the nations, and for its very clear exposition of the economic benefits that can be attributed to the UK film and television sector. But we judge that, alongside the direct and evident economic contribution of the sectors—for example, in terms of employment, exports, attracting tourists, and enhancing the skills base, the environment and the infrastructure, there is the benefit in terms of the quality of life: enriching cultural life and celebrating Britain’s cultural heritage. Indeed, the considerable public support that flows into the sector, through the BBC licence fee, Channel 4, the national lottery, the tax credit, regional development etc., is justifiable not only on an economic basis but in terms of the difficult-to-quantify aspects of the quality of life, notably social inclusion and diversity.
2. How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?

The nimbleness and adaptability of the film and television sector is demonstrated by the way in which the theatrical exhibition sector, though the oldest part of the sector and the most rooted in the fabric of our towns and cities, has adapted and continues to adapt to technological, economic and cultural change.

The impact of current UK arrangements for distribution and exhibition of films on the commercial success of the film industry is felt in the difficulty of access for independent films. Current conditions might change given the plethora of new services springing up, the impact of the digitisation of cinemas, improved access to content via online, new approaches to licensing and distribution. But we have to ask ourselves whether the ultimate impact of this change might be that the incumbents become even more entrenched.

Over the last 10 years, more and more jurisdictions have begun to compete to attract inward investment into their film industries. They are also seeking to make more impact on the global market place with their product. Markets that were relatively self-contained, such as the Indian or Chinese markets, are now becoming active both as a target for companies from the developed world and as investors in the developed world’s markets. As we seek to understand the source of the UK’s competitive advantage and how tax incentives help to strengthen that competitive advantage, we must not overlook the extent to which the exchange rate, specifically the strength of sterling relative to the US dollar, affects the viability of both the production and the distribution sectors in the UK.

Regarding our export potential, we look to more and more opportunities for audiences abroad to enjoy UK-made content. The value and ubiquity of the English language is increasing, albeit that the UK is continuing to surrender its hegemony over the English language. The “UK” label may mean less and less: Slumdog Millionaire may owe its existence to a UK-devised TV game show, and it is the fruit of the art and imagination of UK talent, but it is about, and a function of, a global, not a specific UK culture. Moreover, we are not confident that the trends which are having such an effect on the shape of the audiovisual business necessarily lead to incremental revenue streams for UK content makers. The business models which have been successful until now for film and television are facing a number of challenges. If we consider just one facet of those business models—the sale of airtime to advertisers to generate revenue for broadcasters with which to buy rights and to invest in originated content—we observe that, the economic crisis aside, this model is being eroded by the flight of advertising from television to the internet, and flowing to players like Google rather than to content creators, and, at the same time, audiences are taking advantage of new platforms and technologies both to avoid spot advertising and to avoid having to pay for the content they watch. We also see that the revenues from DVDs are declining.

These trends were the subject of a report produced by BSAC in 2008.7

We think the questions posed regarding the trends in international film production and distribution, and its export potential, should also be posed in relation to television production and distribution.

Turning to the raising of finance, we consider that this issue also needs to be raised not only in relation to film but also in relation to all content being seen by the public on the screen. Raising finance has always been difficult: Will Hutton, in Staying Ahead, emphasised just how much risk was involved in content creation. But the tax credit deters co-productions in a way which is at odds with government policy to increase the number of territories with which the UK has co-production treaties. Co-production is a useful way of spreading risk and of finding investment (not least from public funding bodies in other countries). The problems of funding are spreading to television production which is becoming more like feature film in terms of the shortage of finance and the need to pull together increasingly complex financing deals.

It is the collapse of the old business models and the slow emergence of the new business models which represent the most important inhibitors in the raising of finance for film. However, we recognise that, both for film and television, production budgets will need to be reduced to reflect restricted access to finance and question marks over anticipated returns.

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7 Report by the BSAC Blue Skies Group, 2 October 2008: http://www.parliament.uk/documents/upload/BSACBlueSkies.doc
3. Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

BSAC participated in the Treasury working group which developed the tax credit. We see the tax credit as vital if we are to continue to produce UK independent films and in order to attract mobile productions without which the UK film infrastructure and therefore our own capacity to make films would suffer. The 2006 changes to the tax credit system have produced the benefits of stability, predictability and simplicity. The unwanted access to UK tax finance for films of no UK interest (either in terms of their production or their consumption) has been successfully restricted. But the changes have had two effects that run counter to the objectives of UK film policy:

— They have curtailed the attractiveness of UK producers as co-production partners

— They have inhibited the ability of UK filmmakers to make global films and reduced the attractiveness of using British talent when working abroad.

Both of these problems have been exacerbated by the imposition of the 80% cap in relation to the amount of the UK contribution to a co-production in respect of which the tax credit can be claimed.

Of course, the changes in the tax system have not made raising finance any easier and, as Scottish Screen describes in its submission, the issue of how much of the financial benefit of the tax credit flows into the productions themselves, has not been completely resolved.

4. Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry's contribution to the UK economy?

The UK Film Council is meeting these objectives as far as it can. It could do more to assist the UK film industry’s contribution to the UK economy but this would require an increase in the resources at its disposal. On the contrary, we face the prospect of the UK Film Council’s resources declining, a function of an effort to reduce departmental spending in response to declining Exchequer receipts, to pay for bailing out the banks and to cover the costs of the 2012 Olympics, precisely at a time when other funding for film is also declining.

Also the UK Film Council’s contribution to UK culture (and education) could be enhanced; one thinks immediately of the opportunities beyond of our grasp in relation to the UK film and television archives.

There are several areas where the UK Film Council has identified needs for which resources, both financial and human, have yet to be allocated. One is to improve the transparency of the film market by making available data about broadcasting, DVD and Video-on-Demand markets that would enable policy-makers and industry to understand much better than they currently do how the market is operating and what are the effects of digitisation—for example, in terms of what is consumed and how it is consumed. Another is a relatively simple measure—to have unique identifiers for films (using the ISAN system)—without which proper analysis of the film market is impossible—which will require human resources over and above what is currently available to inform industry and to build up its commitment.

We think it should also be recognised that the UK Film Council is charged with achieving economic objectives—such as attracting inward investment and increasing the levels of skills in the workforce—as well as cultural ones, and it would benefit from a closer integration with those parts of government that were focused on these economic objectives. Likewise, its educational functions would be enhanced were it more actively engaging with the parts of government responsible for education.

Separately, the UK Film Council has been less successful in delivering on diversity.

5. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

A few world-class companies have emerged in the UK, such as Working Title, Shine and Aardman Animations, showing that it can be done. But the small size of the vast majority of UK companies involved in film and in TV production makes it unusual to find top-class managerial skills in the sector. Moreover, there is a sense in which film and TV have not benefited from a greater focus among young people on entrepreneurial achievements rather than on big and ambitious social and cultural agendas. The importance of investing in skills and talent to ensure our competitiveness and a diverse workforce is clear. We need better to understand
how the significant investment that has been made through Skillset is paying off in terms of both the creative and the business talent pool. It may also be that more work needs to be done to identify how we build the business skills necessary in order to capitalize on digital innovation—a task to which NESTA, notably, is very committed.

In addition, absence of clear entry and progression rates into the industry often means that people working cannot be supported properly by organizational structures (ie, HR) for their development. For the large number of freelancers operating in television and film when not working they are actively looking for work; therefore training is usually seen as a double expense of both time and money. Technological convergence and globalization are two key drivers of change that will continue to have an impact on the skills challenges faced by the film and television sectors.

6. How successful has the regulatory system been in supporting the UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

The regulatory system has been very successful in supporting UK content in television. However, today the regulatory system is less successful and some aspects of regulation may be preventing the industry from responding as quickly as it should to the massive changes we are seeing, with damaging results for the creation of UK content, for example by forbidding product placement.

We are not persuaded by the need for incentives, except where there is clear market failure which may prevent the industry from delivering types of content which is for the public/cultural good.

7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

The advertising financed model is declining although it should not be written off completely: it may no longer be a licence to print money but it should support good services, especially services that are able to seize digital opportunities. The recent decision not to permit product placement failed to recognize that this was possibly the only new revenue stream available at a time when new business models have yet to be developed and that prohibiting product placement has reduced UK competitiveness given that the practice is widely-used in US programming.

The effects that we are currently experiencing, in terms of a slump in investment in content creation, are likely to be permanent. Some genres such as children’s programming may suffer market failure. However, political will can have important impacts. For example, it was the political will that led to the creation of television and film content outside of metropolitan London in places like Bristol and Nottingham. The BBC intends that Manchester will become a powerhouse much as Birmingham and Leeds used to be. Indeed Nottingham, through East Midlands Media, and Norwich, through a similar scheme involving its regional screen agency, Screen East, have created a venture capital model involving public-private partnership, regional development and UK Film Council resources, along with broadcaster investment.

Scotland would have its programme and film sectors being more vital and higher profile. The fact that ITV is no longer the vehicle for this political will is important but not determinant.

It is not a question of the changes affecting the film and TV sectors being offset by changes elsewhere: the creative industries sector will be stronger or weaker depending on the vitality of film and TV; games, non-linear services, music etc. No single part of the creative industries can flourish if it is disconnected from the rest. It will not attract the talent, the business skills or the finance.

Digital switchover has to be factored in. It changes the business models. It probably means that people will pay less or that revenues will be spread more thinly. The likelihood is that paid-for content will have to compete increasingly fiercely—for people’s attention—with “free” (or “free at the time of use”) content. We say “free” because no content is free: all content has to be paid for, if not by the consumer then by the tax payer or the citizen.

30 March 2009
Memorandum by the Children’s Film and Television Foundation (CFTF)

The CFTF is an organisation which supports the development and production of quality indigenous narrative drama on television and in film in the UK.

For a brief history of the organisation see Appendix 1.

1. The Issue

The CFTF believes that despite the undoubted commercial success of franchises such as Harry Potter there is a real failure in the provision of a full and varied range of films for children especially those which are indigenous and culturally relevant.

Figures from the UK Film Council’s Research and Statistics department show that the 37 films aimed at children in the UK in 2008 were predominately from US studios even if they were made or partially made in the UK.

The breakdown was: 23 from the US; seven from the UK; six from Europe and one ROW.

UK Children’s Film Festivals eg The London children’s Film festival; Showcomotion in Sheffield; Cinemagic in Belfast etc find it hard to find UK films to programme.

This is a huge cultural and educational failure.

2. Finance

It is extremely hard to finance smaller scale UK productions which do not have the potential for world wide distribution or huge merchandising profits although it is worth noting that films of this nature do have an ongoing life on DVD and could have real relevance in the new on line/interactive world. Disney exploits it’s films in this way.

The UKFC’s support in this area has been limited, tending to be market driven and prioritising inward investment, or focusing very strongly on user generated content First Light etc.

And although this is important it cannot replace professionally made long form narrative.

It is worth noting that in Sweden 25% of government film subsidy is ring fenced for children’s production and there are similar subsidies in other European countries.

The Broadcasters provide little help. Children’s TV particularly long form drama is under great pressure (See the submission from Save Kid’s TV to this inquiry).

There has never been a proper partnership between BBC films and the BBC’s Children’s department although there should be real potential there.

Sky’s recent production of Skellig was welcome but was a rare event.

Skellig is based on a UK novel by David Almond which is on the National curriculum and has an all UK cast and crew.

There is also an issue about exhibition. There are relatively few slots available to screen children’s films; school holidays, half terms etc and they go to the blockbusters . . .

Angel For May a film co produced by the CFTF which has won 13 prizes at International festivals has never had a UK cinema release.

There are still Saturday morning and after school clubs, which would like to have more UK content if it were made. But there is insufficient throughput for distributors and cinemas to be able to operate an effective marketing and scheduling policy for children’s films.

3. The Solution?

We believe that the fact that the funding provided from the Eady Levy (see Appendix 1) has never been replaced has resulted in a serious gap in the provision for children which cannot be filled by the market.

We would advocate that a sum of money is set aside from the UKFC’s annual budget and ring fenced for the development and production of UK films for children. The CFTF would be only too willing to administer such a fund.
APPENDIX 1

BRIEF HISTORY OF THE CHILDREN’S FILM & TV FOUNDATION

The Children’s Film Foundation as it was originally called was set up in 1951 with the backing of Lord Rank and the blessing of the industry.

It was funded on a regular annual basis by a grant from the Eady Levy (the tax on cinema admissions) and with support in kind ie reduced rates etc from the industry.

Between 1952 and 1985 the Foundation made 166 features plus serials and series which were shown in cinemas on Saturday mornings.

The film industry believed in growing the audience of the future and that the young audience deserved the best: technicians writers directors and actors gave huge support.

Powell and Pressburger made a CFF film *The Boy who turned Yellow*.

Child actors who were to become stars cut their teeth on CFF films; Michael Crawford; Francesca Anis; Dennis Waterman; Keith Chegwin; Linda Robson and many many others.

The adult casts read like an actors Who’s Who of the time.

These films were hugely popular, won many international prizes and are still fondly remembered.

However in 1985 the Eady Levy disappeared and with it the Foundation’s regular funding. At the same time the growing popularity of Saturday morning television for children was reducing the demand for Saturday morning cinema.

Dependent on the income from its existing catalogue the Foundation diversified into television and became the CFTF working in conjunction with both the BBC and ITV. However there was insufficient funding to continue in production and the board decided to concentrate the remaining funds in script development on a loan basis.

There was some success here but the strike rate was not high enough to maintain a viable capital fund.

In 2002 the CFTF approached the UK Film Council to try to set up a new fund to support UK children’s film production. This was eventually set up as a three way development fund with the BBC (children’s TV department) as the third partner.

Despite some good projects, some of which are still “live” the fund was wound up before the end of it’s third year term.

As a result the CFTF is virtually dormant lacking sufficient capital to invest although one long term project seems to be on the brink of green lighting.

Given new funding the organisation has the potential to revive an enterprise which is as relevant today as it was in 1951.

APPENDIX 2

CFTF BOARD OF DIRECTORS

Linda James (Chair)
Simon Relph CBE
Simon George
Iain Smith
Vicky Ligorish
Grainne Marmion
Anna Home OBE (Chief Executive)

29 April 2009

Letter from the City of London Corporation

This letter responds to the Committee’s call for evidence as part of the inquiry into the British film and television industries. Although the City of London Corporation is not in a position to respond to all areas of the inquiry, it welcomes the opportunity to highlight some of the work being done to promote the City as a key location for the production of film and television.
The Corporation believes that the increase in filming in the City reflects the continuing growth in both the British audio–visual industry and the success of its efforts to position the City as one of London’s most accessible and efficiently managed locations. The dedicated City of London Film Office has been running for 11 years and ensures that there is a single point of contact to obtain permission to film on the street. It liaises with the City Police, Highways, Parking, Environmental Health, Parks and Gardens and Cleansing Departments to arrange suitable parking locations and permits for facility and technical vehicles, meter suspensions, police supervision, licences and indemnities for equipments, road cleansing and rubbish collection facilities. The Film Office also interacts with other organisations such as London Buses, Transport for London, Port of London Authority and neighbouring boroughs.

In 2008 the Corporation’s Film Office facilitated 1,634 shoots in the City. Last year the City was the backdrop for some of the country’s most popular television programmes (Spooks, The Bill, Hustle), a number of high profile feature films (Dorian Gray, Sherlock Holmes) and documentaries (Who do you think you are?, Panorama, The Money Programme), as well as a large number of music videos, small corporate shoots and TV commercials. Despite its small geographical area, the diverse range of locations on offer has meant that the City has continued to be the second or third busiest London locality as compared with the London boroughs for filming for over a decade with the number of shoots increasing dramatically year on year since 1997.

The Film Office primarily deals with Film London (originally the London Film Commission), which was set up in 2003 under the aegis of the UK Film Council and the London Development Agency. At its inception the City Corporation was one of the first organisations to offer support to Film London, providing a series of donations amounting to £240,000. Beyond this, the City Corporation has been involved in a number of initiatives to support London as a prime location for filming and to promote the use of best practice for those involved in either the film or television industry in the capital. To this end the Corporation has hosted a number of networking events for representatives of the film industry, City venues and London Organisations and in 2008 Tower Bridge was provided as a venue for a reception for the London Production Finance Market.

In 2004–05 Film London set up an Executive Task Force comprising of key stakeholders from the film industry and the public sector with the principal aim of fostering high standards for the organisation and delivery of production filming in London. The Task Force addressed key issues such as traffic management, a common approach to permission and fees and comprehensive data collection. The City Corporation has always had a presence on the Task Force, initially through the membership of the former Chairman of Policy and Resources Committee, Sir Michael Snyder, and currently through the representation of the Town Clerk. The City Corporation also provides input into two of the Task Force’s Advisory Committees—Organisations and Agencies and London Boroughs. In 2005 the Executive Task Force launched the “London Filming Partnership” which encouraged a more coherent and collaborative approach towards issues such as the policing of film sets, the fee structures for filming across London and the outlawing of local authority location fees for students and low budget film makers. The City Corporation was among the earliest to become a Partner.

The City of London Film Office sits on the majority of all the working parties set up by Film London and has recently been involved in the drawing up of a comprehensive and practical Code of Practice designed to make London a more film–friendly city. The Code provides a clear, simple checklist of the issues that may arise in relation to filming in London and goes some way to ensuring that the process of filming does not create difficulties for local residents or businesses. Although it is a voluntary Code, it incorporates references to statutory obligations to which all those engaged in filming must adhere. Other working parties the Corporation have been involved in include Parking Costs and Facilities, Filming in Parks and Open Spaces, Highway Legislation—Road Closures for Filming, the Cost of Filming in London (in public areas) and Filming in Private Venues and Historic Buildings.

It is anticipated that the number of shoots accommodated in the City will continue to rise in the coming years. The Corporation’s Film Office is dedicated to promoting and supporting the production of British film and television, both through its work as a central point of contact for those looking to film in the City and as a purveyor of best practice.

11 May 2009
Memorandum by Ealing Studios

INTRODUCTION

Ealing Studios is unique in the UK as the only independent film studio that produces and distributes films as well as having the facilities to make them. Ealing Studios is the oldest continuously operating film studio in the world. Film and television production has taken place on the site since 1902. The current owners took over the Studio in 2000 and it now operates as a production and sales outfit that makes three to four films a year and also rents out stage and office space to third party productions. Since 2000 Ealing has invested over £20,000,000 in upgrading the studio site.

In 2008 Ealing Studios’ turnover was just over £12,000,000 and it produced and distributed films with total budgets of £31,000,000. It employs 25 permanent staff and up to 400 in any one year on its productions and has been responsible for four of the top 12 highest grossing UK independent films (ST TRINIAN’S, SPICEWORLD, KEVIN & PERRY, VALIANT).

Recent productions include ST TRINIAN’S (starring Rupert Everett, Colin Firth, Russell Brand and Stephen Fry, the film grossed over £12.4 million in the UK), EASY VIRTUE (an adaptation of the classic Noel Coward play starring Jessica Biel, Colin Firth, Kristin Scott Thomas and Ben Barnes), DORIAN GRAY (an adaptation of Oscar Wilde’s classic novel starring Ben Barnes, Colin Firth and Rebecca Hall) and FROM TIME TO TIME (Written and Directed by Academy Award Winner, Julian Fellowes (GOSFORD PARK) starring Maggie Smith, Timothy Spall, Hugh Bonneville and Carice Van Houten).

1. What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

There is no doubt that British film and television makes a huge contribution to the UK economy and British culture. It is an industry that attracts investment from overseas, most of which is ploughed directly into the economy during the course of making a film, and, in success, is a great export business, earning revenues worldwide that, if the films are financed in the UK, come back to this country.

On a cultural level, it is through film that we see ourselves and, internationally, it is the most powerful medium by which the world sees us. Films, both contemporary and period, reinforce and create the sense of Britishness that keeps this relatively small island nation so prominent in international culture.

We are blessed with a fantastic talent base, a tradition of excellence that is epitomised annually at the Oscars where the British continually win a disproportionate number of awards for acting, directing, producing and in all the craft sections. It is an industry which consistently over performs both commercially and critically. It is still the most pre-eminent art form in the 21st century and needs to be nurtured and encouraged. It not only provides commercial and cultural benefits directly, but also is the most powerful advert for our tourist industry.

The ecology of the Film industry is constantly changing. We need to continue to promote all the skills, particularly writing since that is where every project starts, but we also need to be constantly mindful of the ever changing financial climate.

2. How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?

Film financing is a challenging business at the best of times. We need access to debt financing, we need to encourage equity investment, and we need to find ways of shoring up distribution both in this country and abroad in a market where presales are becoming the exception rather than the norm (by this we mean pre-selling distribution rights around the world—a series of advances that can then be discounted by a bank and provide a significant proportion of the budget for a film. Increasingly distributors are holding back from doing this, preferring to buy when they have seen a completed film).

If the British film business is to grow from a cottage industry to something more substantial, it needs to encourage the growth of larger companies like Ealing, that not only provide employment on their own productions but also can finance and distribute third party films.
Development

Development money, that which is used to finance the writing of the screenplay and the acquisition of any underlying rights (a book, a play), is the hardest and most important money to find. It is inevitably high risk since the ratio of projects developed to those produced is small.

It is the R & D money of the film business, and its life blood. There are very few places you can find this—UKFC, BBC, FilmFour—and often when you do, you are giving away many of the rights and the upside in a project before you have even begun.

At Ealing, we spend in the region of £600,000 a year on the development. For the last three years we had the benefit of a slate deal with the UKFC (rather than them funding single projects). This gave us £200,000 a year which we matched either from our own resources or through third party investors. It enabled us to build a slate of development projects, including ST TRINIAN’S, EASY VIRTUE and DORIAN GRAY; to build the company with confidence and plan our productions accordingly. It also enabled us to hold onto the valuable rights in those pictures that mean we directly benefit from their success. This slate deal has now come to an end, and has left a huge hole in our resources, the UKFC having chosen to discontinue this form of funding. We had put in place arrangements with an American financier but the current economic conditions have meant that this will not continue.

We desperately need development finance. It is the single most valuable contribution the UKFC makes to the infrastructure of the industry, and we would encourage them and yourselves to focus on ways in which this funding can be found. We believe larger companies like ourselves can only continue to flourish if we have access to this important money in a structured way (that is, knowing what our development budget is for the next three years so we can plan for the future). We also need financial incentives to encourage individuals to invest in this activity that recognises the nature of the risk. This does not need to be on a charitable basis, our slate arrangement with UKFC has meant that on films such as ST TRINIAN’S, DORIAN GRAY and EASY VIRTUE we have already paid back 150% of the monies advanced by the UKFC and will pay to it a further share of the profits of each film.

Film Financing

For films made in the independent sector, funding usually comes from a number of sources. Presales (distributors guarantee to advance a certain amount of money on delivery of the film for the right to distribute in their territory. These contracts are then discounted by a bank or other financial institution), equity (usually money raised against sales estimates of the value of the unsold territories), the UKFC, the BBC, FilmFour, and the tax credit.

Presales—The credit crunch has adversely affected our ability to discount contracts, even from very reliable distributors. This could stop otherwise very solid and commercial films from being made. As an industry, we need access to this kind of relatively straightforward banking at a reasonable price.

Equity—We need to incentivise investors to invest in film. It can provide a reasonable rate of return, but is clearly very high risk, and the length of time it takes to make and distribute a film means that, at the very least, it will take three years for you to see your money back. This needs to be reflected in their tax position, and none of the traditional incentives—EIS, VCT—really fit the film financing model. This is vital.

UKFC, BBC, FilmFour—All these organisations provide valuable funds for British films, but collectively they do not have very much money (approximately £32 million between them). They need their budgets increased, particularly as the decline in presales is felt most by films aimed primarily at a UK audience. We also need to address the kind of deals made with the broadcasters who generally look to take UK broadcast rights for long periods and historically even in perpetuity from producers. These rights are the most valuable long term, and should provide producers with a significant residual income upon which to build properly capitalised companies.

Distribution

On the whole, the UK is well served by a number of independent and major studio distributors, who do a great job getting the films out into the market. Obviously, digital distribution offers huge opportunities for expanding the market for independent UK film, and it is vital we invest in the necessary infrastructure and security to make this a reality. It also provides the opportunity for companies like ourselves to self distribute our films since it significantly lowers the price of entry into the distribution business.
Exhibition—Again, the UK is generally well served in the more populated areas in terms of cinemas. The new digital technology provides an opportunity to take cinemas into rural areas which are not so well served. Investment in this infrastructure would pay dividends. One significant iniquity that has historically existed in the UK is the split of revenue between the distributor and the exhibitor (generally, the distributor only receives approximately 25–30% of the box office revenue rather than the 40–50% in other countries). This massively impacts the revenue the film makes back during its theatrical release, and particularly makes local pictures less viable than they would be otherwise.

Piracy
The number one threat to the film business in the UK is piracy, both DVD and online. It is vital that the authorities see it as the theft that it is, and proper penalties are put in place to deter it. We also need to continue to develop the necessary security technology to prevent it, and educate viewers as to its consequences.

3. Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the Britishness test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

The Tax Credit—this has been a success but should now be increased to 25% of the budget. It has certainly helped indigenous films and encouraged international production to come to the UK rather than Eastern Europe or other parts of the world. It has created significant revenue to flow not only into the sector but throughout the UK as films bring investment to associated industries (such as hotels, transport, catering and the like).

We would endorse the comments made by PACT in its representations with regard to the specifics of the qualifying conditions.

4. Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

On the whole, the UK Film Council does an excellent job. Since its inception it has had a very positive impact on the industry, providing good support and representation of the industry’s needs to government. The funds it provides for production and, particularly, development are very important, and the work it has done in exhibition and supporting artier product in distribution is significant.

In order for the industry to expand in the UK, we need to encourage the establishment of more larger production/distribution entities like Ealing that can provide a hub for the many individual producers here. We would encourage the UKFC to look at ways of providing development and production support on a more corporate level to give us a more reliable base from which to work. This will also greatly encourage employment and outside investment.

We refer to the comments made at point 2 above. Whilst development financing had always been hard to secure, the recent global financial crisis has led to a market failure in this area that threatens the lifeblood of film producers—the ability to independently develop product. We would urge more activity in this area.

5. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

Film is still undercapitalised in the UK and the majority of opportunities for skilled managers lie with UK/European offices of the Hollywood Studios or with Broadcasters and a limited number of “Super Indies” (larger independent production and in certain cases distribution companies) in the television sector. We need to provide the incentives (otherwise described in this document) in order to promote the growth of “Super Indies” in the film sector or spanning both film and television.

Skillset and the UKFC have provided significant training incentives to the film industry in order to grow managerial and technical skills, however, it is scaled up companies that will produce the real platform for skilled professionals and encourage entrepreneurs to create their own entities.
6. **How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?**

Television needs to be encouraged and incentivised to support the UK Film Industry. You only have to look at the impact that the BBC and FilmFour have had with very limited funds and at the impact of European Broadcasters on their film industries. We would advocate a minimum annual spend for UK broadcasters, including Sky, on purchasing British films much like the independent quota system for television programming. In order for local films to flourish, they need to be able to access the television money that is currently mainly going to Hollywood Studio films.

7. **How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?**

We would support the comments made by PACT in its submission

23 March 2009

**Memorandum by Film Agency for Wales**

Corporate Evidence for and behalf of Film Agency For Wales, a publicly funded strategic agency with a remit to ensure that the economic, cultural and educational aspects of film are effectively represented in and of Wales. Established in July 2006, the Film Agency aims to facilitate the emergence of a viable and sustainable Welsh film industry and to promote a vibrant and dynamic film culture. The Film Agency is funded by the Arts Council of Wales, Welsh Assembly Govt. (through the Dept. of Economy and Transport) and the UK Film Council.

1. **What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?**

1.1 The UK film and television industries are substantial and growing contributors to both the UK economy and its cultural life. Detailed research by way of a UK overview can be found at:

http://www.ukfilmcouncil.org.uk/media/pdf/5/8/FilmCouncilreport190707.pdf
http://www.ukfilmcouncil.org.uk/12384

1.2 In Wales, the Welsh Assembly Govt has emphasised the economic and cultural importance of the Creative Industries since its “Creative Industries Strategy 2004”, when it was recognised that this sector was growing 2% faster than the UK economy as a whole.

1.3 Production spend (Film and Television, plus commercials and stills shoots) in Wales:

<table>
<thead>
<tr>
<th>Year</th>
<th>Spend</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003–04</td>
<td>£8,011,840</td>
</tr>
<tr>
<td>2004–05</td>
<td>£16,751,897</td>
</tr>
<tr>
<td>2005–06</td>
<td>£18,191,444</td>
</tr>
<tr>
<td>2006–07</td>
<td>£32,753,614</td>
</tr>
<tr>
<td>2007–08</td>
<td>£31,973,821</td>
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<tr>
<td>2008–09</td>
<td>£19,862,430</td>
</tr>
</tbody>
</table>

1.4 One of the potential short-comings of focusing principally on UK spend benefits of film is that this can overly emphasise inward investment to the potential disadvantage of support for indigenous key talent (especially writers, directors and producers) who may often have films that are not intended to shoot in the UK, but are important for the following reasons: (i) cultural democracy—recognising that British citizens (including filmmakers!) have interests far and wide, and beyond the boundaries of the UK, which can in turn mean that their stories and location requirements often encompass non-UK spend; (ii) investment into key talent is investment into medium to long term infrastructure for the industry, with talent that will often contribute to several films, across an array of terrain over the life of their careers; (iii) branding benefits of supporting key British talent with cultural skills, notwithstanding projects that are not necessarily UK based—

8 Figure does not include March stats and reflects combined factors including negative impact of recession and lack of “Dr Who” filming in that year (previously worth circa £7-8m in Welsh spend).
2. How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?

2.1 Clearly the UK, as with most international territories, is heavily influenced by the vertical integration that US companies have—such that studios control the mainstay of UK exhibition and distribution outlets. Consequently, the bulk of UK projects (as supported by the UK Film Council, National and Regional Screen Agencies, BBC Films and Film 4) will largely sit outside of the studio system and be dependent on limited independent and more specialist film distribution (including Pathe, Optimum Releasing, Momentum)—notably the more heavy-weight of these have multi-territory outlets (Pathe and Optimum—UK and France; Momentum—UK, Spain, Australia). This creates a “pinch-point”—with few UK distribution outlets as compared to the significant number of features produced in the UK annually.

2.2 As the international market often looks to the success of the “home territory” as an indicator of market appetite for a project, the relative lack of UK distribution opportunities for UK films is a limiting factor.

2.3 It has become notably harder to finance films over the last five years, despite the relative ease and clarity of the workings of the UK tax credit. These difficulties can be attributed to a number of factors: (i) a decreasing appetite by distributors to pre-buy films (ie acquire distribution rights ahead of delivery, such that their advance can be used to part fund production); (ii) a reduction in the availability of private finance for films (understandably, and quite rightly, there was a significant reduction in funds when the Government closed GAAP loop holes and other mechanisms open to tax abuse—which arguably resulted in too many films being indiscriminately financed)—in particular we note that the recession appears to have significantly reduced the availability of private cash via Enterprise Investment Schemes or Venture Capital vehicles—additionally, with the reduction in pre-sales, there is less evidence of market appetite, which is often a factor that private investors look for prior to committing their own funds; (iii) when international co-productions are contemplated these have become harder to finance in relation to the reduced value in the UK tax credit when non-UK based filming/post is anticipated (with expenditure on British citizens and services provided outside of the UK not qualifying for tax credit purposes).

3. Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

3.1 Broadly, we welcome and applaud the UK tax credit as a clear and easily operated fiscal incentive, that has a quick processing turnover.

3.2 As noted above, the restrictions on “Britishness” such that UK elements are not counted as British spend when such elements are working/deployed outside of the UK does place us at a competitive disadvantage to other countries when it comes to international co-productions. Additionally, we would wish to see a reconsideration of the current exemption on development costs and financing costs—allowing them, but subject to a test of reasonableness—as their exemption reduces the value of the tax credit further, and reasonable costs in this area are entirely legitimate.

3.3 We note that whilst the Treasury originally signalled that they intended the UK tax credit to be capable of being directly cashflowed to the production without the need for a “middleman”—that is, by utilising the ability of the producer to make interim claims during production/post—the credit does not appear to be being used in this way as yet—and middlemen are still being used (though to a lesser extent than with sale and leaseback), reducing some of the potential fiscal benefit to the producer.

4. Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

4.1 The UK Film Council is one of the Film Agency’s funders—so we must declare an interest. That said, we consider that the UK Film Council has had a significant and positive impact on the UK film industry. In particular we note their partnership work with Govt to address and provide clarity to the UK tax regime for film (comments within notwithstanding); addressing piracy issues; reviewing the co-production treaties; and their significant in-house and tendered resource for considering a range of on-going strategic matters (including State Aid, stimulation of exports, etc) has had wide-spread positive impact.
4.2 With regard to what else the UK Film Council could do to assist, we believe that the time is right to consider an increased emphasis on supporting the consumer/audience end of the business, perhaps directing production support via distribution advances and/or sales agent minimum guarantees—that is, taking a much more active role in working with distributors and sales agent (with their focus on exhibitors, the audience and the wider market) in determining what to invest in, and potentially how to invest. This could potentially start to reverse the current trend towards fewer pre-sales and less private equity (as previously noted). We would welcome far reaching debate in this area, led by the UK Film Council.

4.3 Additionally, in terms of assisting the UK-wide remit of the UK Film Council, we would welcome the instigation of sophisticated tracking of their awards (to reflect regional and national spread). Related to this, we note:

- whilst the UK Film Council makes a contribution of £8m directly to the Nations and Regions, only £160,000 of this is directed to Wales, exclusively for exhibition and education related activity;
- the “Barnett Formula” does not appear to be applied as it relates to film either via ring-fenced spend for film (within Culture) for Welsh Assembly Govt; or directly through its application by the UK Film Council (as a body with a UK-wide remit). For example, we note (from analysis of the UK Film Council Awards Database, their being no systematic tracking of award expenditure by Nation/Region) a total of £1,750,840 to Welsh projects since the UK Film Council’s inception across both of their production funds and the development fund—equivalent to just 1% of the UK Film Council’s production and development funding since its inception. This question of UK-spread goes beyond production and development, as for example when considering the UK Film Council funded film education body, First Light, who received central govt funds to instigate their £6 million Mediabox initiative for disadvantaged 13–19 year olds—this initiative was ring-fenced for England only.

5. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

5.1 There are some excellent initiatives to help identify and nurture skills in this area, including “Inside Pictures” and European (MEDIA) supported training opportunities, such as EAVE and ACE (producer focused), combined with freelance (but not company) bursaries via Skillset. That said, given the prevalence of start ups, SPV’s and dispersed companies, combined with the specific skills-base around film, it may be worth considering more support for on-the-job, apprenticeship-style opportunities for learning (particularly across legal, business affairs and producer skills).

6. How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

6.1 As a film agency, we will not comment specifically on broadcast related issues. However, to the extent that Broadcasters impact on film: we note that Film Four and BBC Films are cornerstones of the industry that need to be supported (we would endorse Film Four’s request for the public service remit to be extended to include Film). Additionally, consideration should be given to broadcaster support of the Nations and Regions, given that few regional broadcasters engage directly in film and are largely disconnected from their London centres (e.g., there is no direct working relationship as between BBC Films and BBC Wales; ITV Wales have withdrawn from the drama market; and S4C have a limited remit for film). We note BBC Films have co-financed three Welsh films in the last eight years, whilst Film Four have co-financed one in the same period. Consideration of a UK-wide remit within these bodies would be welcomed, as below.

6.2 As it is accepted that these broadcasters have a limited number of films that they can support in any given year; it is probably not feasible (or desirable—given a need to respond to quality of project, market demand, etc first and foremost) to instigate a quota system for nations and regions in terms of numbers of films supported by Region/Nation—however, a levy/top slicing of revenue that could be more fairly apportioned across the UK would be worth considering.

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9 A Way of Life, Feet in the Clouds, Nightwatching, Restraint of Beasts, Library Van, Zoo, Snowcake, Canteen Culture, Hunky Dory and Greenland Time.
10 The Edge of Love, Snowcake and Happy Now.
11 Very Annie Mary.
7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? …

7.1 With increasing commercial pressures facing all broadcasters, which are likely to be accentuated with digital switchover and the diversification of content distributors (via broadband and otherwise), those more expensive cultural products—especially film and television drama—are likely to become increasingly difficult to fund and sustain without appropriate public support (as previously noted in 6.1).

23 March 2009

Letter and memorandum by Film and Music Entertainment Ltd

Please find enclosed written evidence for the House of Lords Select Committee on Communications and its call for evidence for the British film and television industries.

I am also attaching as evidence the Film and Music Entertainment catalogue of feature films which it now owns in as the result of its co-production activity prior to the introduction of the tax credit scheme.

It is interesting to note that, as one of the most prolific and successful producers in the UK (according to the UK Film Council Official Handbook for 2009) this is the first time we have ever been requested to present information or have been consulted on this subject.

We hope that in future my partners Samantha Taylor and Stephen Daldry will be consulted and be considered to give oral evidence in public at Westminster.

23 March 2009

Film and Music Entertainment Company Structure

Dubbed the “second most prolific production company in the UK after Working Title” by Screen Digest, Film and Music Entertainment had, in the eighth year of its existence consolidated its position as a key player in the UK production arena, with more cross border European activity than any other production house in the country.

Initially launched in 2000 as part of a public offering on the Frankfurt Neuer Markt, F&ME was the subject of a management buy out by its principals Sam Taylor and Mike Downey in 2003, and its chairman Stephen Daldry, and as an independent entity has kept to its annual production targets of producing two in house films and between four and six co-productions a year in the £1.5–£5 million budget range. Up until the introduction of the tax credit and the end of section 48/42.

The first six years of the companies existence saw it entering into production on 25 international productions and co-productions with a total budget of Euros 75 million involving 71 production companies from all over Europe.

It now has a catalogue of rights in over 35 features including Academy Award Nominee and Venice Golden Lion winner Before the Rain, box office horror hit Deathwatch; Cannes Directors’ Fortnight opener Princess; Sundance South African hit Son of Man; and the award winning Jason Biggs starrer GUY X. Our films have won over 50 international awards and 20 of the 35 have premiered at international “A” Class festivals.

The company remains fully owned, managed and funded by Mike Downey (Board member of the European Film Academy and BAFTA) and Sam Taylor (member of the Board of PACT) backed by its advisory board consisting of Billy Elliot/The Hours director Stephen Daldry (Chairman), ex-Creative Artists Agency talent agent Johanna Baldwin, former Chief Executive of the Guardian Group, James Markwick, and Artistic Director of the Young Vic Theatre, David Lan.

The main goal of the company is to produce high quality feature films for the international marketplace, maintain rights therein and ensure their domestic and international exploitation.

The UK Film Council’s own statistics in their annual report for last year, noted that Film and Music Entertainment was between 2005 and 2007 in the top three genuine production companies operating in the UK.

With the arrival of the new tax credit scheme, Film and Music Entertainment has seen a reduction in annual revenue by over 50%, has had to lay off half its and has had to restructure on the basis that a mixed production portfolio of indigenous in house films mixed with third party co-productions is no longer a viable business model.

The death of the co-production business has meant the death of the UK independent film industry. Please see the enclosed catalogue of our films made in the last eight years, which we hold rights in.
Responses to the House of Lords Select Committee on Communications

1. What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

The UK film and television industries contribute hugely to British Culture and the UK economy. But not as much as it could do. The current tax credits scheme is clearly skewed to support the major studios like Pinewood and Shepperton, in their efforts to entice American productions to the UK. Pinewood as a publicly owned company is therefore being subsidised to subsidise American production and this therefore does nothing to enhance British culture. Tax schemes in Ireland and Hungary and cheap facilities in Romania and New Zealand will always compete massively with the tax credit in the UK and so it is no guarantor of economic success.

The UK independent film sector is not being helped by the tax credits because the UK independent sector needs to co-produce with its natural co-production partner if it is to survive.

The UK pays massively into the EU and therefore supports the MEDIA Programme the basic precept of the MEDIA programme is collaborating with Europe. On the one hand therefore we are engaged in setting up and spending massively on partnering with Europe, but when it comes down to it the UK tax credit is almost unworkable with Europe.

The contribution could be enhanced by adjusting the UK tax credit to make it much more compatible and competitive with dealing with Europe—we could therefore achieve cultural and economic success.

At present the tax credit merely saps funds away to the US—and ultimately British companies have no stake in the success of those films as they are owned by the US majors. So the global success of blockbusters is never returned to UK companies because we act merely as service entities via publicly owned companies, whose shareholders needs must be first served with little interest for British Culture.

2. How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?

The number of films produced in the UK that are officially of British origin has reduced drastically since the introduction of the tax credit. The tax credit has failed to encourage the production of UK film and failed to stimulated the film making community into making more British films about British subjects and in the English language. The lack of variety of British films and ownership by British companies of minority stakes in European co-productions has affected the number for British qualifying films in the cinemas over the last 12 months—again, the numbers have reduced drastically.

As for equity finance linking itself to the tax credit scheme to enhance it—the appetite in the investment community was completely decimated with the withdrawal of Section 48/42 and the subsequent attacks by HMRC on the investment community. Outside the limited and actually fairly useless EIS schemes, there are no real interesting equity finance opportunities in the film world. The so-called “middle men” have been scared off by the perceived witch hunt by HMRC and the UKFC.

3. Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

These questions have been partially answered elsewhere. The 2006 changes to the tax credit system and indeed the system itself have been of very little use to the broad industry. A small country such as ours, and with a cosmopolitan history such as ours, has always tended to reach out in narrative terms and creatively beyond our own shores. There is no such thing as indigenous 100% local production anymore. Production IS co-production and the UK tax credits make that awfully difficult to make valuable and relevant in a minority stake holding.

Co-operation with Europe was always the way of having ones in house British films supported—if that could be reciprocated. Now we suffer from the problem that we can’t make the tax credit work for our partners so we lose any hope for reciprocal investment from Europe. This means that the number of productions and specifically European co-productions are mostly excluded from the possibilities of their tax credit.

The effect on UK production has been hugely perceptible. European productions coming to shoot in the UK or use our facilities has simply ground to a halt causing massive hardship, closures and redundancies.
4. Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

The UK Film Council does not meet its objectives in this area. Ironically, having decimated the possibilities of co-production by the introduction of the tax credit the UK Film council has suddenly become very active in promoting co-productions and collaboration with Europe most notably with Japan, Russia and India to which trade delegations have been sent, and we have participated in. The great irony is that the tools simply aren’t there in the tax credit to co-produce with these countries realistically and on equal terms.

This works or rather doesn’t work in two ways. The production funds run by the UKFC are very reluctant to participate meaningfully in foreign co-productions, and the tax credit is unworkable for projects which shoot outside of the UK. To combat this rather awkward situation, we simply see trade delegations being organized, panels and seminars being set up by the UKFC to encourage co-production.

This has left those of us in the independent production community baffled, confused and lacking in confidence in the UK Film council and their ability to represent British film makers especially in the international arena.

The British film industry widely perceives the UK Film Council to be an organization that has a massive overhead compared to the money it has to administer and the results that it achieves. It is interesting that the two major Academy Award winning movies, both of which were international in their perspectives and outlook, Danny Boyle’s *Slumdog Millionaire* and Stephen Daldry’s *The Reader*, had no UK film Council support involved.

5. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

Whilst it remains impossible for independent talent to build and develop a mixed portfolio of productions, and therefore sustainable profitable businesses the managerial and technical skills that could have been attracted by the film industries will go elsewhere. The creative industries in the UK are not attractive to entrepreneurs because there are too few gatekeepers to the major sources of state funding: the UKFC, the BBC, Channel Four and the tax credit. Previously a combination of bank + equity + distribution advances when added to the UKFC and Channel Four could provide a structure. Now banks and equity have gone. Channel Four is in disarray. The UKFC is highly selective and the tax credits are only useful for films conceived as British in their entirety and can shoot in Britain.

We are in bad shape in this area.

6. How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

This is not my area of expertise—and so do not feel qualified to respond.

7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

This is not my area of expertise—and so do not feel qualified to respond.

In conclusion there is a general understanding in the UK independent production sector, that the introduction of the tax credit has been a failure. It does not produce more movies it produces fewer. It does not enhance British culture, it reduces its impact. It has not created jobs in the media sector -it has drastically reduced them, as the closures of production companies, sound post production houses and service companies has witnessed over the last year.

The Tax Credit needs to be looked at very seriously as it is having little or no effect in the stimulation of film making in this country.

This is a corporate submission on behalf of Film and Music Entertainment and its group of companies.
Memorandum by Film London

SUMMARY

Film London is the capital’s film and media agency, tasked by the UK Film Council (UKFC) and the London Development Agency (LDA) to stimulate and develop all the London film and media industries. Set up in 2003, Film London champions the city as a major international film-making and film-cultural capital, promoting London as a globally competitive filming destination and film to Londoners. We assist and encourage film, TV and commercials production, fund a range of innovative production schemes, provide training and business development activities and support festival and cinema projects.

Film London welcomes the opportunity to contribute to the inquiry into UK originated content in film and television, and as the London region dominates the film and TV industry, we offer an important and unique perspective on some of the issues being addressed by this inquiry. As well as providing evidence about the economic impact of film and TV industries, Film London is providing evidence on the following areas:

— Impact and importance of the UK film tax credit: Film London believes the continuation of the UK film tax credit is vital if we are to continue to enhance the economic contribution that film brings to the UK economy, but would welcome further investigation about how the current regime is supporting UK co-productions.

— Introducing a levy for the TV industry to encourage commissioning and creation of original UK content: Film London has significant anecdotal evidence that a levy or other financial incentive for the TV industry could be beneficial to the UK economy, particularly in terms of attracting inward investment from international producers of high end TV drama. Whilst we would prioritise further development of the UK film tax credit, we would encourage some further research to establish whether there is a serious market failure that might be addressed by the introduction of such a levy or other financial incentive.

— UKFC support to production and export of British films: Film London believes the UKFC is doing a very effective job in this area and believes the support they provide is vital to enhancing the UK film industry’s contribution to the UK economy. The role of Public Service Broadcasters (PSBs) is also vital in this regard.

— Skills development and support for entrepreneurial talent: Film London believes that Skillset has done much to address the skills and development challenges facing the industry and has strong evidence that public sector investment in grassroots production, such as Film London’s groundbreaking Microwave scheme, is essential to developing entrepreneurial talent of the future.

1. THE ECONOMIC CONTRIBUTION OF THE FILM AND TV INDUSTRIES

1.1 The UK film, television and commercials industries form a vital part of the UK’s cultural and creative sector. With an unrivalled reputation for the quality of its skills, talent and facilities, these industries bring significant economic and cultural benefits to the UK and make a major contribution to London’s global competitiveness.

1.2 A report published in 2005 estimated\(^\text{12}\) that the London screen industries (film, TV, corporate video and advertising):

— account for two-thirds of the UK industry’s annual “sales to industry”, namely £8.7 billion, equivalent to £1,900 per person employed in the capital;
— purchase £6.5 billion of goods and services in London;
— has an income of £13.6 billion, making £3.2 billion earnings; and
— has 71,500 permanent jobs in London as well as 2.4 million freelancer days, making an estimated total of 90,000 jobs.

London and film

1.3 The London region dominates the UK film industry and therefore its success affects the industry and UK economy as a whole. All aspects of the industry are in the capital, including major film studios, location filming and other facilities, especially post production and visual effects. The capital’s box office, which boasts over 500 screens, also makes a major contribution to London’s economy; the sales, distribution and exhibition sector also represents one of the main employers in the film industry.

\(^{12}\text{Source: Cambridge Econometrics, Economic Impact of the UK Screen Industries (2005).}\)
Inward investment

1.5 London is the third largest production centre in the world, attracting investment from North America and increasingly from emerging economies like India. In 2008 Film London facilitated over 1,100 productions and recorded 13,129 shooting days.

1.6 Large budget international feature and TV projects support the UK film and TV industries, together with smaller budget British films and domestic high end TV drama, generating significant expenditure across the creative economy.

1.7 A recent impact evaluation by the London Development Agency\(^\text{13}\) of Film London’s activities suggests that the gross turnover associated with features filming in London over the last five years is £207m (£60m in GVA) and the gross turnover associated with other filming is £436m (£126m in GVA).

Film tourism

1.8 Additionally, economic benefits arise in the form of tourism spend attracted by productions supported by Film London. Numerous major feature films and TV dramas (\textit{Bourne Ultimatum}, \textit{The Young Victoria}, Hustle, Spooks, Law & Order UK) help promote an image of London as an exciting, vibrant city around the world, influencing tourists, businesses and students alike. It is estimated that up to £1.8 billion of spending by overseas visitors in the UK occurs as a direct result of people seeing images of the UK on film.\(^\text{14}\)

1.9 There are several London case histories of films and television programmes attracting both local and overseas tourists.\(^\text{15}\) For example:

- Location fees paid by \textit{The Da Vinci Code} allowed Temple Church to open an extra day a week to accommodate tourists;
- \textit{Notting Hill} gave international prominence to an area of London relatively unknown outside the city, with the film provoking a huge and lasting influx of tourists searching for the famous “blue door” and the travel bookshop, and also brought new visitors to the grounds of Kenwood House in Hampstead;
- James Bond film \textit{The World is not Enough} has inspired several special tours such as the London Taxi Tour which goes past the MI6 Building. There are several location initiatives on a more general Bond theme including an Original London Walk named Spies and Spycatchers; and
- The National Portrait Gallery Café received requests from customers to sit at the table where Julia Roberts and Clive Owen sat in the film \textit{Closer} and additionally created a special drink.

1.10 Building on the growing trend in film tourism, Visit London and Film London have produced a range of marketing campaigns targeting UK and overseas tourists using films as collateral. These campaigns have included the production of movie maps highlighting key hotspots and lesser-know locations from recent London-hit films, as well as general maps covering Bollywood and other London-shot productions.

Cultural contribution

1.11 Of course film-making’s importance is cultural as well as economic. As has been demonstrated recently by the critical and commercial success of \textit{Slumdog Millionaire}, and the way in which British and creative talent is dominating films made in other countries, cinema is one of the UK’s greatest cultural assets.

1.12 As well as being a major production base for the international and domestic screen industries, London is a massive cultural centre for film and television, which boast assets such as the BFI Southbank and over 500 cinema screens.

1.13 The stories of London told in films and TV programmes not only help promote our city to the world, but enable its diverse local communities to express their own identities. As one of the most popular forms of entertainment, it offers a universal and unifying way of promoting the capital’s unique cultural vibrancy.

1.14 With RIFE Lottery funding awarded by the UK Film Council, Film London works closely with and invests in a wide range of minor and major festivals (over 70 festivals ranging from The Times BFI London Film Festival that celebrates the best of world cinema to the Rainbow Film Festival that brings Asian cinema to all communities in the East End of London), cultural and educational events to allow Londoners across all of London’s 33 boroughs to engage with a rich diet of film culture that reflects the vibrancy of the city.

1.15 The Digital Archive Fund is a UKFC lottery fund set up to increase public access to regional screen heritage. Unlike other regions, London currently has no publicly funded audiovisual archive focusing specifically on the history of our city and its communities. Instead, fascinating material is held across a range

13 \textit{Source: Impact Evaluation of Film London by Adroit Economics (2009).}

14 \textit{Source: Oxford Economics, Economic Contribution of the UK Film Industry (2007).}

15 \textit{Source: Stately Attraction – How Film and Television Programmes Promote Tourism in the UK (2007).}
of museums, libraries, archives, colleges, businesses and community groups and much resides in the major national collections of film and video that are based in the capital.

1.16 Film London facilitates London’s Screen Archives (LSA), a regional network for organisations that collect and preserve moving image in all its forms. Its aim is to become a “virtual archive” which helps researchers and the general public locate and enjoy our city’s wonderfully evocative screen heritage and to support the preservation of this rich, but fragile resource.

1.17 The Digital Archive Fund provides an exciting opportunity to strengthen the LSA network, and open up its riches to the public by funding large ambitious projects that seek to inspire the broadest possible engagement with this content, from education projects working with specific target groups to large-scale screening programmes for general audiences.

1.18 The first project supported by the fund brought two nights of rare and striking films celebrating London to Trafalgar Square as part of the London Film Festival last year. Over 8,000 people attended “London Loves” with audiences drawn from 28 London boroughs and attracting a sizeable number of visitors to the city (15% overseas and visitors from elsewhere in the UK) demonstrating the huge appetite and interest in this material and its power to connect people with the past and find a sense of place, time and their shared humanity.

2. IMPACT AND IMPORTANCE OF UK TAX CREDIT

2.1 Film London welcomed the Treasury’s reform of film tax incentives in the UK in 2006 and was a strong advocate for the changes. Film London considers that the new system is generally performing well, reflected by a 21.5% increase in indigenous feature film production between 2007 and 2008. These include a number of London shot films, such as *Green Zone*, the *Boat that Rocked* and *Dorian Gray*.

2.2 Equally, the new tax incentives appear to be working well as an incentive for investment from inward investment features. Whilst there was a drop in the number of features produced between 2007 and 2008, they still brought in £338m into the British economy, with the largest percentage being spent in London.

2.3 In 2009, the climate for inward investment looks encouraging and is buoyed by the upturn in the exchange rate. The major Fox production *Gulliver’s Travels* is due to start shooting in April, plus *Harry Potter and the Deathly Hallows* and *Nottingham* will also be filmed in the UK this year. All of these titles will be shooting extensively in London.

2.4 Yet, whilst the new tax credit is clearly working in key areas, Film London echoes UKFC and wider industry concerns about the negative impact that the new tax arrangements appear to be having upon the level of UK co-production activity. In 2008 the UK was involved in 20 co-productions, compared to 28 in 2007.

2.5 It is perhaps too early to judge the success of the new tax incentives, and the downturn in co-productions may be partly due to lack of expertise, practice and a wrong perception that the cultural test is a major hurdle.

2.6 However, whilst accepting the constraints of “bedding down” these new arrangements, it is clear from Film London’s business-to-business conversations with European and UK producers alike that there is far less ability to raise finance for co-productions under these new arrangements.

2.7 UK Film Producers who work with Film London have reported that they feel disadvantaged that they have nothing at their disposal to incentivise international investors.

2.8 There are particular concerns related to the “minimum 25% UK spend” clause. For example, 25% is 5% higher than the minimum share a co-producer has to come up with in many bilateral treaties as well as in the European convention (and even 15% higher if three co-producers are involved). This is especially an issue if the UK is the minority producer and the shooting is done in a different country.

2.9 Another issue is that the definition of eligible costs only involves costs which are incurred by goods or services “used and consumed” in the UK, which does not provide for situations in which UK cast and crew are taken outside the UK to shoot.

2.10 Film London would therefore welcome some further consideration of how the new tax credit can better support co-productions in the Committee’s investigation, as this will benefit UK producers and enhance the significant economic and cultural benefits that film brings to the UK. This is a view that is shared by the UK Film Council and other key industry bodies.

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16 Source: UKFC Statistical Unit (2008).
3. **Extending Levies to TV Industry to Encourage Commissioning and Creation of Original UK Content**

3.1 Whilst Film London would prioritise further development of the tax incentives for film, our industry insights suggest that there is a genuine appetite from international producers of high end TV drama, such as NBC Universal and HBO, to commission content produced in the UK and with a UK theme.  

3.2 Conversations with these major players suggest that London is losing out in attracting investment from these companies because it can’t compete with the tax incentives in North America that offer incentives for TV as well as film.  

3.3 Clearly the very serious economic challenges facing UK Public Service Broadcasters exacerbates the problem as it further closes avenues for international TV companies to find financing partners in the UK.  

3.4 Film London would welcome further research to establish whether there is a genuine market failure that might be addressed by extending a financial incentive or levy to TV and non PSB broadcasters.

4. **UKFC Support to Production and Export of British Films**

4.1 The UK film industry’s clean sweep at every level of film-making at this year’s Oscar awards demonstrates how public support for the production and export of British films that is administered through the UKFC can deliver on a global scale.  

4.2 Film London is the London-based partner for the UKFC’s Digital Shorts and Digital Nation short film production scheme, which is supporting a new generation of film-makers capable of both technological and creative innovation.  

4.3 As well as enjoying considerable success at key international film festivals (Berlin International Film Festival, Sundance Film Festival) and receiving award nominations, London-based beneficiaries of Digital Shorts from this fund have gone on to progress in the industry.

**Film London Production Finance Market**

4.4 Additionally, and with UKFC, LDA, UK Trade and Investment and MEDIA Programme support, Film London’s Production Finance Market (PFM) is a dedicated platform that provides London-based and UK producers with access to new and existing sources of finance. Over two days approximately 60 producers and 60 financiers engage in over 1,000 tabled meetings to discuss the financing of slates, companies and individual projects. Taking place during The Times BFI London Film Festival, last year’s event attracted a total production slate of US£850m.  

4.5 It is still the case that the majority of finance for UK films comes from the US and the PFM seeks to challenge this and open up new sources of private rather than public finance. The event is still in its early stages, and given the life-cycle for production it could take up to three to five years before the full impact of this event is experienced, but even in this climate there is a strong appetite amongst leading financiers to invest in quality product and attend the third edition of this event in 2009.

**London UK Film Focus**

4.6 The UKFC also provides extensive support for the export of British films both through its showcasing activities at key markets and through events such as the London UK Film Focus (LUFF). Now a yearly fixture in the film calendar, LUFF is a three-day sales and export event to celebrate and promote British film and talent to an international audience. LUFF has gone from strength to strength since its inception in 2004. In excess of 160 international buyers and festival representatives usually attend the three-day event at London’s BFI Southbank, screening over 50 British films and concluding sales in the region of US $3 million.  

4.7 As the commercial and critical success of Film4 backed *Slumdog Millionaire* reminds us, there is an important role that PSBs play alongside the UKFC as key players in the UK film industry.

**Film London Microwave**

4.8 BBC Films is Film London’s partner in Microwave, a ground-breaking scheme that seeks to attract first time feature film-makers. Microwave plugs a gap not offered by other production schemes in the UK and is vital if the UK is to continue to produce the entrepreneurial film-makers of the future. There are a plethora of production schemes to support short film-making projects, but Microwave is unique in providing opportunities first-time feature film-makers.  

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19 Source: Film London tracking.
4.9 With an intensive approach to film-making, an emphasis on tightly focused scripts and short production schedules, Microwave provides film-makers with up to £75,000 to make a film, with the option of raising additional cash and in-kind support taking the budget to a maximum of £100,000.

4.10 Since its launch in 2006 the scheme has now greenlit seven projects including Mum & Dad and Shifty which have both enjoyed great success since their completion last year. Indeed, Mum & Dad received some excellent reviews on its multi-platform release. Shifty received five BIFA (British Independent Film Awards) nominations following its world premiere at The Times BFI 52nd London Film Festival and will be released on 24 April 2009 across 50 screens. The scheme demonstrates how a small amount of public money can produce commercially viable product.

5. SKILLS DEVELOPMENT AND SUPPORT FOR ENTREPRENEURIAL TALENT

5.1 Continuous and up-to-date training is a vital ingredient if we are to enhance the long term global competitiveness of the film and TV industries. Investment in new talent will also help these industries achieve a workforce that is more representative of the communities it serves, especially in London which is one of the most diverse cities in the world.

5.2 However, the small size of companies and the pattern of casual and freelance work in the industry tends to limit training opportunities and resources. Skillset, the Sector Skills Council for the sector, has done much to address these challenges with the publication of "A Bigger Future", the first national strategy for training in the film and TV industries.

5.3 With support from Skillset, Film London is nurturing talent from across London’s communities, and assisting and developing new training and business development programmes in areas primarily without existing development support. This includes the UK’s first-ever Location Managers’ Training Course, and Marketplace, a new programme to train the next generation of sales agents.

5.4 As previously discussed, Film London’s Microwave scheme has an important role to play in supporting entrepreneurial talent. Skillset invests in Microschool, the schemes intensive developmental programme. This four-day programme provides burgeoning film-makers with practical advice from leading industry professionals on getting projects from page to screen. Many graduates from Microschool who have not been selected for production funding have gone on to progress in the industry as a result of the development they have received.

5.5 In order to share the benefits of Microwave with an even wider audience, Skillset and Film London have developed an accompanying Microwave website which gives practical advice on all aspects of micro-budget film-making.

5.6 Skills development remains a priority for Film London in the future and is vital if we are to enhance the economic and cultural contribution of the UK film and TV industries. Film London welcomes the Government’s Creative Britain agenda and the focus it places on skills and business development.

5.7 Film London is aware of the wider central government agenda to rationalise the delivery of all business support through the Business Service Simplification Programme that attempts to route business support through Business Link. Film London is working with Business Link in London to work through these challenges in order to support the specialist training and development needs required by the film and TV industries in London.

23 March 2009

Memorandum by Future Films

3. Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

BACKGROUND TO FUTURE FILMS

Future Film Group is a horizontally integrated film finance and production company that invests and hands-on manages feature film and broader audio/visual content for the consumer marketplace.

It is divided into five divisions:

— Finance.
— Future Films USA (operating across finance, production and fund raising).
— Production.
— Post Production (editing, sound, visual and digital special effects).
— Distribution (Theatrical, DVD and electronic sell-through).

Future Films has provided finance in the last 12 months to five films—12 in the last two years.

The company’s post production facilities are one of the most technologically advanced in Central London. It post-produces about 50% of all high-end TV drama plus a growing number of films.

In the last 12 months, Future Films has also created a business specializing in the production and distribution of content for digital platforms, with the production of digital programming and the creation of IPTV stations; a joint venture for the UK distribution of feature films and DVDs; and a soon to be launched Internet-based platform for the purchase/rental of films, called “Projector”.

The company now employs 20 people in finance, production and distribution plus a further 50 people in post-production.

THE UK TAX CREDITS

It is Future Films’ view that the 2006 Tax Credits have been of great benefit to the UK film industry.

The introduction of the Film Tax Credit has provided consistency and rebuilt confidence in the UK as a hub for filmmaking, both for indigenous productions and international films coming to shoot here, but they actually overlook two important factors:

— the production of film (in many instances) is a totally “transportable production process” so apart from the need for certain topographical creative needs (eg mountains, certain cities etc.)—a studio is a studio wherever it is; the same for post production—so producers will go where they think they can get the best deals, be it incentives, exchange rates, cost of labour etc.

— the financial model for the production of independent films (ever more so given the current financial climate) is based on the co-production model ie producers from different countries working together and accessing their respective incentive programmes.

The difficulty with the UK tax credit programme as implemented is that it doesn’t favour co-productions.

As the legislation currently stands, a UK tax payer working abroad counts as UK in terms of the co-production treaty spend, but not in terms of the tax credit.

Co-productions are therefore not readily able to take advantage of the tax credit structure—they become inconsistent with the treaty status. The minimum spend of 25% is prohibiting a lot of production and post-production from coming into the UK.

An example here is that if Tom Cruise comes to the UK to make a film, the production receives a tax credit based on his salary and work here, but if Jude Law goes to Spain to make a film—the production receives nothing. This also applies to crew and technicians; so there is no incentive for foreign producers to look to work with UK production companies.

The effects of a downturn in the number of co-productions is a worrying decrease in job creation (most individuals who work in the industry are freelancers), and a drop in the impact of the economic multiplier effect achieved from the film production process—spend on taxis, catering and other ancillary and support services.

Therefore it is suggested that:

(a) The qualifications needed to benefit from tax credits should be amended to enable and give incentive to international producers to again work with and in the UK. The qualifications should be in line with the co-production treaties.

(b) The qualifying spend for the UK tax credit should extend to British tax payers working abroad (on a qualifying British Film). There should be no overall loss to the Revenue because the tax credit is applying to a UK tax paying individual and his income would be repatriated and taxed in the UK.

Such changes would increase the chance of better quality films that have the opportunity to be released in the UK and foreign markets.

The UK is renowned for its talent and technological base and now has the current added advantage of a favourable exchange rate to international producers. Such a change in the government’s policy toward film tax credits would, in our opinion, make a significantly positive difference.

It would not just provide more regular jobs; it would also provide trainees the opportunity to gain valuable practical experience and thereby increase their ability to find more work.
Other Infrastructural Considerations

As well as there being this discrepancy with the way in which the UK tax credits currently work, there are also some other factors that are currently working against the development of the UK film industry.

1. The majority of the media banks (ie those financial institutions that lend to the independent audio-visual sector) have left the market place as a result of either poor experiences and/or the current financial climate. This means that European producers have very few doors to knock on to be able to cash-flow their productions.

To this end Future Films has conceived a structure that is aimed at putting the UK back at the heart of European film finance.

At the moment, if one is doing a UK/German/Spanish co-production, there is not one central place one can go to cash-flow all the subsidies, pre-sales and VAT. Future Films has therefore created the Taurus Media Finance Company to create a single lending source that will provide cash-flow to independent producers throughout Europe.

There have been in-depth discussions with the European Investment Bank (EIB), which has agreed in principle (subject to due diligence) to provide a line of debt funding to help Taurus get started. EIB sees this as a grass roots infrastructural project to help the European Audio-Visual sector.

The creation of Taurus will establish the UK as being at the centre of audio/visual finance in Europe (as nobody else is doing this). It will also create jobs and facilitate the re-energising of the UK film industry. It will create inward investment and profitability in an area of industry that is currently completely stifled.

It has the support of the UK Film Council.

2. One other point to consider is that the audio/visual sector is entering a new era. The old definitions of a film made for theatrical release no longer holds true. Many films are now released as films in certain territories and high-end TV drama in others (BBC dramas such as Five Minutes of Heaven or Channel 4 projects such as Boy A and Death of a President are successful examples of this cross-platform product).

Distribution has to adapt to change with the advent of the new digital platforms. It has been well documented how the business models of TV stations currently like ITV are undergoing change.

The future is going to be the demise of DVD and the distribution of film either by cinemas or internet direct to the TV in the home, as video on demand. Advertisers are already having to adapt to this change. One only has to look at the music industry and what has happened there in relation to distribution, demise of the high street stores and the growth of internet distribution to see where film will follow. This requires UK producers to also reconsider their economic models if they are to remain competitive in the international marketplace.

There are television productions, like the recent three part drama Red Riding financed by Channel 4, that have the same quality, talent and finance that any independent feature film has; and which in fact is also being released as a feature film elsewhere in the world.

Productions like these use the same crews and production techniques as for film; however they don’t qualify for any incentive.

With the difficulties that the broadcasters are facing going forward, there should be some very carefully worded definition that includes high-end TV drama into the tax credit structure. Producers are making the same “product” with all the same technical and creative attributes—all that is different is the method of delivery to the consumer. The alternative at the moment is for the TV stations to be buying cheap foreign programming which frankly does nothing for the economy.

Taurus is certainly planning to include TV within its structure as most European tax credits are also utilised for high-end TV drama eg The Tudors being produced in Eire.

On the basis that the United Kingdom wants to encourage the growth and strength of its world-class audio/visual industry then it is our strong suggestion that there should be a change in definitions as to what would qualify for an incentive such as the tax credit.

23 March 2009
Memorandum by Mr Jonathan Gems

I am a screenwriter, film producer and film director. My best known films are: George Orwell’s *1984*—starring Richard Burton and John Hurt; *White Mischief*—starring Charles Dance and Greta Scacchi, and *Mars Attacks!*—starring Jack Nicholson and Pierce Brosnan.

I, like most people in the profession, have been profoundly depressed about the British Film Industry for many decades. As your Lordships must be aware, there used to be a thing called “British Cinema”. Like the French, Germans, Spanish, Italians and Scandinavians, we had our own indigenous Cinema. This was immensely important not only to the British economy but also to our culture and our sense of who we are.


Basil Deardon, a British film director, directed 44 movies. Charles Crichton directed 35 movies.

Throughout history there have always been one or two major media through which the nation spoke to itself. In the eighteenth century poetry and theatre were the dominant media. In the nineteenth century they were novels and theatre. For the past century, the dominant medium has been cinema. We in Britain are the only country in Europe that does not have its own indigenous Cinema.

At present, 95% of the theatrical motion picture market is controlled by the Hollywood cartel—the remainder by Pathé (French) and a few other foreign studios.

Britain does not have a film studio.

Confusion about this sometimes arises because production houses such as Pinewood and Shepperton are referred to as ‘studios.’ These are not film studios; they are film production studios.

At present, the UK Film Council’s main job is to subsidise Hollywood movies with British taxpayer’s money. If you are, say, Warner Bros. (a major Hollywood movie studio) and you have a film project the production of which is not assigned, you will be offered what is, in essence, a bribe of several million dollars to make the film at a British production studio. Current regulations attach conditions to this grant. These conditions include the guarantee of a minimum number of British residents to be employed in the making of the film.

Depending on the exchange rate, the size of the grant, and the availability of other studio facilities, the Warner Bros. executives will decide whether or not to make their movie in Britain.

Certain people, for whom it is advantageous, flagrantly deceive the British public by describing these American movies as ‘British’. I once saw Tony Blair, in the House of Commons, as part of an exercise in back-slapping, extol the successes of his policies in aiding the British Film Industry, by quoting *Harry Potter* as a British film. *Harry Potter* is not a British film. It was-and is-owned in perpetuity, throughout the world, by Warner Bros., a major American studio.

The success of the *Harry Potter* series is a disaster for Britain. The *Harry Potter* series has earned over two billion dollars so far in revenues for Warner Bros. The author of the books, J.K. Rowling, did not wish to sell the film rights to a foreign company but she had no choice because there are no British film studios. If we still had the Rank Organisation or British Lion or ABPC, one of these studios could have made films out of the *Harry Potter* books and the vast revenues generated by them could have benefited Britain.

Another recent disaster for Britain—on a much smaller scale but no less painful because of it—is *Slumdog Millionaire*, a film originated by a department of Channel 4 Television. This film, like other successful films produced by Channel 4 in the past, is a failure for the people who made it because they have no choice but to give up their rights to a foreign studio. The income that will be generated by *Slumdog Millionaire*—an entirely British enterprise—will go into the coffers of the French movie studio Pathé.

Why don’t we have our own film studios? Every other developed nation has its own film studios, why not us? Finland, for example, has three!
It may interest The House to know that the first story-based motion picture ever made (and shown to a paying public) was by an Englishman. His name was William Friese-Green and his film was shown in 1890 in Hyde Park as a fairground attraction. (This was several years before the Lumiere Brothers who are sometimes, mistakenly, cited as the inventors of cinema.) I’m sure your Lorships will agree with me that it is especially humiliating that we, who invented the cinema, are the only developed nation in the world to no longer have its own Cinema.

How did this happen?

Very simple.

Every European country protects its cinema on cultural grounds. In France, 12% of all the films shown in French cinemas must be, by statute, French. The Spanish government recently increased its protected share of the market to 30%. This means 30% of all the films shown in Spain must, by law, be Spanish films. Germany protects its cinema by reserving 10% of its market for German films.

We do not protect British films, which is why there are no British film studios. Protections were removed from the British film industry in 1970. In 1970 and 1971, the Rank Organisation and British Lion (Britain’s two great major film studios) went bust. Since 1970 Britain had not had its own cinema.

In 1983, I wrote the shooting script for George Orwell’s *1984*. This was a film project financed by Sir Richard Branson through a company called Virgin Films. Sir Richard Branson’s aspiration was to revive British Cinema by establishing a British film studio. This, if this had been successful, would have been the first British movie studio to exist since 1971.

1984, the movie, cost £6 million to make. This was a lot in 1983. The only British films being made at that time were the television films made by Channel 4 whose budgets were about £200,000 per film. 1984 was a British film by a famous British author, George Orwell, adapted by British screenwriters, produced and directed by British citizens, shot, edited, designed and so on by British people; starring a cast of British actors.

When the film was finished, we could only release it in one cinema in Britain. The American studios (who control our cinema chains) were determined not to allow Sir Richard’s enterprise to succeed.

Norman St. John Stevas, Arts Minister, under Margaret Thatcher, urged on by the British film community including people like Sean Connery, Sir Michael Caine and Sir Richard Attenborough, lobbied the Prime Minister to restore protections to the British film industry. This was denied on the grounds that it was inimical to Free Trade. This is nonsense because for Free Trade to mean free trade it must be reciprocal. The US domestic film market is 100% protected. No non-American movies can be released in America to the general public unless they are “pick-ups”—that is, films like *Slumdog Millionaire* that are picked up cheap from foreign producers who have nowhere else to go. Hollywood can set the purchase price because the Hollywood cartel controls the market.

There is a great deal of rhetoric about Free Trade from Washington. If, however, you look at the reality on the ground, you will find that America is and always has been, protectionist in its trade policies. This applies to movies as much as it applies to US steel or US agriculture. It is simply not reasonable to deny a modicum of protection for British Cinema on the grounds that this would violate Free Trade agreements if the Free Trade agreement gives full access to American companies in British markets but no access to British companies in American markets.

I can give examples of attempts, over the years, by European filmmakers to release their films in America and the obstructions they encountered. But in the interests of keeping this letter short, I suggest—if you need confirmation—you speak to British film producers. No British or European film producer would dream of trying to release a film in the US. It simply can’t be done. The Americans, however, are free to release as many films as they want in our country. The key point here is: if you are unable to release a film, whether in your own country or in foreign countries, you cannot make any money which means you cannot have a film industry.

The statutory 30% protection of the film market in Spain has resulted, as you would expect, in a boom in Spanish Cinema. The Hollywood studios have not made good any of their threats. In fact, they are seeking to do coproductions with the new Spanish film studios. The recent Woody Allen movie *Vicky, Cristina, Barcelona* is a case in point.

If we protected our cinema by only 10%, we would not upset the Americans very much. After all, they would still control 85% of our domestic market. However, we would *revive* British Cinema. It’s humiliating that a tiny country like Denmark, with a population of only five million, can release 25 Danish films a year and we, in the UK, release—in small theatres, with short runs—less than a half a dozen.
I urge your Lordships to advocate measures to protect British Cinema by reserving a minimum of 10% of the theatrical market for indigenous British films. This can be done with the stroke of a pen and would greatly improve our economic situation. The Hollywood movie industry is the second largest earner of foreign income in the US. We in Britain have a special advantage because our language—English—is understood pretty well throughout all the 65 majority film markets in the world. We are also renowned for our talent in writing, acting, cinematography, editing and design. Instead of the fruits of our talented citizens going to America (and some to France), we could divert 10% of this wealth back to our own country.

It’s well known that the most popular further education course in the UK is media studies. We are churning out tens of thousands of aspirant filmmakers each year—and have been for the past 20 years. At present, these media graduates must go to Los Angeles if they want to make films. This is not a happy situation.

In conclusion I would like to suggest that, once the protections are in place, some of the grant-aid currently given to Hollywood movie studios by the UK Film Council be diverted to support British films.

Thank you for your time and attention.

23 March 2009

Memorandum by the Guild of Television Cameramen

1. **What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?**

At their best, British film and television productions are still seen as leading the world. This reputation has been particularly enhanced by the recent successes at both the BAFTA and American Academy awards.

Nevertheless, both industries feel themselves under threat, as investment falls, and in television, falls of both advertising income (in the case of ITV, Channel 4 and Channel 5) and the freeze on the license fee (in the case of the BBC) will inevitably lead to a reduction in both programme budgets and employment within the industry.

It has to be understood that the latter is not only important to those directly involved. We face the risk of losing the very talent, experience and skills that have built the reputation of the industry. These simply cannot be replaced by new entrants, coming into the industry without the essential training and experience that makes for excellence in television production.

It has already been recognized that film and television productions which include British culture make a huge contribution to the economy but directly in overseas sales and indirectly in tourism and the sale of British goods.

The overall shelf-life of such productions is huge (think of the Bond franchise as an example).

2. **How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?**

Digital Cinema is likely to see a lowering of distribution costs, and this is important for lower-budget productions. Having said that, it does not preclude the necessity to actually raise sensible budgets in the first place.

5. **Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?**

No. This is particularly noticeable in Television where, because the industry is now becoming more and more casualised, programme producers and broadcasters are no longer training staff.

True, there are media courses at university level, but these rarely offer the necessary training for professional skills. Again, the lowering of programme budgets has sometimes led to the employment of relatively inexperienced staff at senior levels. Programme makers can no longer afford the investment in proper staff training and the broadcasters are loath to take on this responsibility.

The rapid changes in technology now mean that these is even more need to ongoing training and career development—difficult when the vast majority of people working in the industry are now freelance.

True, there are initiatives, such as Skillset, but there is a need for a more structured approach within the television industry.
7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

The changeover from Analogue to Digital transmission may well have had a deleterious effect in that broadcasters were encouraged to transmit more content, rather than taking advantage of the potential enhanced technical standards.

This affects programme makers and viewers in two ways. Firstly, the need to fill more screen time (even if only repeats) means that there is less actual money to be spent on new content. This is exacerbated by the need to also produce content for alternative distribution streams such as broadband and VOD. This, in turn, has led to an overall fall in programme quality.

Much new technology, such as compact and inexpensive digital cameras and edit systems has not contributed to quality. Indeed, because of the perception that there is less need for the very skills that built the British film and television industries (anyone can point a camera), quality has, in fact dropped.

The competition for radio spectrum has also led to a fall in technical quality and more and more drastic methods of compression need to be used. This is especially noticeable in HDTV, where the need for compression places severe limitations on the methods used to produce programmes (such as the use of Super16 film).

19 March 2009

Memorandum by The International Broadcasting Trust

SUMMARY

1. The International Broadcasting Trust (IBT) believes that digital broadcasting has unlimited potential to encourage understanding of the world around us.

2. If we do not support certain areas of broadcast content which are commercially unviable, it is IBT’s view that we will lose a very precious national commodity.

3. In the UK we are connected to the rest of the world in an inter-dependent way because of Globalisation which means we will need to adapt in order to survive—economically, socially and culturally. Public Service Broadcasting can promote understanding of global issues and help us integrate better in the world; it can provide social cohesion and can help us understand multi-cultural Britain better.

4. IBT’s research\(^{20}\) provides evidence that traditional broadcasting isn’t providing as much programming about the wider world as it used to and isn’t engaging viewers with innovative content through which they can learn about the world around them, even though television is still the primary means by which most people find out about the wider world.

5. IBT believes that in order for the UK citizens of the future to be able to flourish in a globalised society, they need to be, as the Secretary of State, Andy Burnham, described in January this year, the “best informed citizens in the world”\(^{21}\). IBT believes we should use this as a moment of opportunity to put in place the means to achieve this admirable ambition.

6. It is clear that UK citizens need to be well-informed about what is going on internationally in order for them to play a full role as global citizens, yet there is evidence that the UK public’s awareness of the wider world is very low.

7. IBT believes the contribution by the UK film and television industries to UK culture is potentially huge. In light of the impacts of Globalisation, IBT’s argument is that the UK Film and TV industries should contribute more than ever to our culture by inspiring us to understand how the UK fits into the wider world, culturally, socially and economically.

8. Drama especially can engage audiences with events in the wider world, such as the recent film *Slumdog Millionaire*. IBT questions why television doesn’t follow the lead of this and other successful films in recent years by presenting the wider world imaginatively and engagingly on our screens.

9. The contribution of the UK’s film and TV industries would be enhanced if broadcasters and film-makers were able to take greater risks and be more innovative. In order for them to do this, there need to be incentives other than advertising revenue or success measured by ratings.

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\(^{20}\) Screening the World, IBT, 2008.

\(^{21}\) Andy Burnham, Speech made to Oxford Media Convention, January 2009.
10. It is IBT’s view that in an increasingly competitive marketplace all programmes which are deemed valuable by the public but are considered commercially unviable by broadcasters should be supported if possible. IBT believes that programming which explains what is going on in the wider world falls into this category. We are particularly concerned about programming for children and young people because they will be the next generation of British Global Citizens and are currently seriously underserved in programming which engages them with the wider world.

11. IBT believes the “Tier 3” (non-news) commitments in the Communications Act 2003, which included general programmes about “matters of international significance”, are unenforceable. We would like to see some of the key “Tier 3” commitments become compulsory for the commercial Public Service Broadcasters in return for discounted spectrum or other incentives, such as tax rebates in order for the Public Service Broadcasting ecology not to be undermined by the pressures of commercialisation.

12. With reference to regulation, IBT urges Ofcom to reassess its criteria for measuring whether Public Service Content about the wider world is being adequately delivered. IBT research demonstrates that it is not being properly delivered. This directly contradicts Ofcom’s PSB Annual Report in 2008.

13. IBT believes that structural changes due to the digital revolution are already significantly impacting on the production and scheduling of UK-made original programming about the wider world.

14. The most significant of these changes thus far are the movement of programming about the wider world onto niche channels, a reduction in the number of programmes made about the wider world due to budgetary pressure, reduced risk-taking and innovation in programming about the wider world, the impact of the loss of serendipity because of the proliferation of channels.

15. These effects of the digital revolution are to a certain degree being offset by online content but there is less trust in online content; also its discoverability is controlled by commercial mechanisms rather than by regulation which uses criteria other than commercial gain as its measures of success.

16. In conclusion, the implications for television content creation in the “digital future” are that programming which is more expensive and attracts fewer viewers will become increasingly scarce.

17. IBT believes that an institutional solution is required to solve this problem. If there were an institutional framework in place which allowed a second Public Service Broadcaster, for example, to measure success not only in terms of ratings and advertising revenue, then vulnerable areas of Public Service Content would be more secure.

18. We urge the House of Lords Communications Committee to take very seriously the threat to those genres of programming which could successfully tell us about the wider world in an engaging way—namely children’s and young people’s programming, drama, specialist factual and comedy. There is currently underprovision of content about the wider world in these areas and this trend is only likely to increase in the future digital age.

**CONTENT ABOUT THE WIDER WORLD AND PSB IN A DIGITAL AGE**

19. The International Broadcasting Trust (IBT) believes that television, the internet and other digital platforms including radio have unlimited potential to encourage understanding of the world around us and influence public perception. We believe that if this power is effectively harnessed Public Service Content on UK television and online can be entertaining and engaging as well as informative which will help the UK flourish in the increasingly Globalised world.

20. The challenges we face in the current economic downturn are being faced by a multitude of other countries around the world. Because of Globalisation we in the UK are connected to the rest of the world in an inter-dependent way which means we will need to adapt in order to survive—economically, socially and culturally. We will need to be able to communicate, respect and interact with people from all around the world in future in order to be able to do business on a global scale. Without an understanding of the wider world, how will we do this?

21. IBT believes that there is a significant opportunity in the current debate of the future of Public Service Broadcasting to reframe our content provision with all that the digital age offers us. If we do not successfully support certain areas of broadcasting which are under threat because they are not viewed as commercially viable, it is IBT’s view that we will lose a very precious national commodity—broadcasting which serves the public through entertaining, engaging, educative content and which enables the public to be well-informed active Global Citizens.
22. One of the commonest reactions to Globalisation is to become more insular because this reinforces local cultural identity, providing a greater sense of personal security based on national identity. It is IBT’s view that people in the UK can’t afford to be inward-looking because this is likely to isolate us and lead to greater economic and social problems. We believe this trend towards isolationism is only likely to continue unless policy-makers address it and it is IBT’s belief that Public Service Broadcasting Content can provide a solution to this problem if the right institutional framework is put in place.

23. IBT’s 2008 research provides evidence that traditional broadcasting isn’t tapping into the potential to engage and enable viewers by providing them with innovative, engaging content through which they can learn about the world around them, the world outside the UK. Television is still the primary means by which people access public service content. This research aligns with other recent research about television still being the public’s primary source of information about the world outside the UK. 68% of people say that television news is still their main source of information for finding out about the world which contrasts strongly with only 6% who say the internet is their main source of information on the wider world.

24. Where is the new programming which reflects the shift that has taken place over the past 10 years which is so apparent on the net? Already the net has been hugely enabling as a platform for citizens—providing access to information, services and social networking which we didn’t imagine in the last century. Why has broadcasting not followed this example?

25. IBT believes there is huge potential through broadcasting to provide people with the inspiration to adapt and engage in a globalised world, but there is equally the potential, if policymakers ignore this call, to ensure current trends continue which will lead to greater isolationism and insularity. We can cosset the population with predictable, comforting programmes which reinforce stereotypes, reassuring them that the UK is still the centre of the world and that the “world outside” is a long way away and no threat.

26. IBT believes that in order for the UK citizens of the future to be able to flourish in a globalised society, they need to be, as the Secretary of State, Andy Burnham, described in January this year, the “best informed citizens in the world”. IBT believes we should use this as a moment of opportunity to put in place the means to achieve this admirable ambition.

27. In this submission we address questions 1, 6 and 7 in the Call for Evidence which focus on content provision because this is where IBT’s expertise lies.

28. **Question 1**: What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

29. IBT believes the contribution by the UK film and television industries to UK culture is potentially huge. Film and TV are vehicles through which content can engage audiences in order to foster greater interest among the public in the world around us.

30. It is clear from recent events—whether they be the terrorist attacks in Mumbai or the events which led up to the current economic crisis—that UK citizens need to be well-informed about what is going on internationally in order for them to play a full role as global citizens. Yet there is evidence that the UK public’s awareness of the wider world is very low:

   When asked to name countries currently experiencing conflict, while 69% and 65% of those questioned identified Iraq and Afghanistan respectively, less than 1% of respondents were able to identify other countries including Sudan, Somalia, and Central African Republic. Almost one in five (18%) were unable to name five countries in the world in conflict.

31. There is also evidence that greater understanding of the wider world leads to increased social cohesion within the UK. Children questioned in a 2008 MORI poll showed a greater respect for their neighbours and for the multi-cultural nature of UK society when they had been exposed to information about the wider world. The value of this type of social cohesion is clear as we are increasingly faced with the impacts of globalisation and a more fragmented society.

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22 Screening the World, IBT, 2008.
23 Ofcom’s Second Public Service Broadcasting Review, Phase 2, para 1.2.
24 OfcomPSB Review survey: Q12: 2,260 interviews 16+, October-December 2007, results for TV on main channels and TV on digital channels combined under TV.
26 Poll of 2072 people across the UK, conducted by ICM on behalf of the British Red Cross, 2008.
32. In light of the impacts of Globalisation, IBT’s argument is that the UK Film and TV industries should contribute more than ever to our culture by inspiring us to understand how the UK fits into the wider world, culturally, socially and economically. They should do this in order to not only help us understand our own multi-cultural society, but also in order for us to relate better to people in countries outside the UK.

33. We would argue that this potential in Film and TV to connect us to the wider world is exemplified by the film *Slumdog Millionaire*, which has been enjoyed by millions across the country and proved a box office success. We believe this one film has done more to raise public awareness of everyday life in India than any content has ever done on television and question why it is that television cannot achieve the same impact.

34. It is IBT’s view that the UK’s TV and Film industries’ contribution to the culture and economy of the UK would be enhanced if broadcasters and film-makers felt able to take more risks. This would require the introduction of a new set of criteria for Public Service Broadcasting which measure impact and success without relying upon ratings so heavily. We would also like to see indirect financial support, such as tax-breaks, for those areas of programming which are considered commercially unviable but valuable in terms of their contribution to the nation’s understanding of the wider world.

35. *Question 6: How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?*

36. It is IBT’s view that in an increasingly competitive marketplace brought about by a proliferation of channels, all programmes which are deemed valuable by the public but are considered commercially unviable by broadcasters should be supported if possible. Ofcom’s research in 2008 showed two elements that IBT considers essential to public service broadcasting are also valued highly by viewers: “statements relating to informing us” emerged as the most important of all. “Its news programmes are trustworthy” and “Helps me understand what’s going on in the world” were the statements rated as most important by audiences.28

37. From this evidence, IBT believes that the public wants programmes which explain what is going on in the wider world. This content is under threat because it appears to get lower ratings than domestic programming, and thus is less commercially viable.

38. With reference to regulation, while IBT welcomed the inclusion of “Tier 3” (non-news) commitments in the Communications Act 2003, which included general programmes about “matters of international significance”, it is clear from the demise of children’s television on ITV1 that the Tier 3 commitments cannot be enforced, therefore they are in practice worthless. We would like to see some of the key “Tier 3” commitments become compulsory for the commercial Public Service Broadcasters in return for discounted spectrum or other incentives, such as tax rebates.

39. The “Tier 3” commitments which are under threat, as defined by Ofcom, but are crucial in order for adequate public service to be delivered are the following: children’s and young people’s programming (para 264.6.h);29 matters of international significance (264.6.f), cultural activity in the UK and its diversity. . .[across] drama, comedy and music (264.6.b); current affairs. . . from around the world (264.6.c); religion (264.6.g); programming that reflects the “lives and concerns of different communities and cultural interests and traditions within the UK” (264.6.i).

40. With reference specifically to programmes about non-news “matters of international significance”, IBT’s 2008 research clearly demonstrates that the Communications Act 2003 has failed to ensure delivery of programming of this type. There is no quantitative evidence that matters of international significance are being covered by commercial public service broadcasters. From IBT’s recent research it is clear that there has been a reduction in the amount of “Tier 3” programming about the wider world outside news and current affairs. This represents an erosion of a key element of PSB which was explicitly spelled out in the 2003 Communications Act.

41. Additionally, *Screening the World (IBT, 2008)* shows that the information we receive on television about the world outside the UK is oversimplified and reinforces stereotypes, rather than increasing our understanding. If current trends continue in mainstream television, instead of broadening understanding,

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television is likely to limit people’s horizons. It is doing this by increasingly reinforcing stereotypes about other countries and moving programmes about international affairs onto niche channels which attract far fewer viewers and smaller budgets:

“The longitudinal element of this research reveals some striking trends. International factual programming on the four main terrestrial channels has now reached its lowest overall level since 1989–90. The increasing levels of output on BBC3, BBC4 and More4 point to the migration of international factual content to digital channels. And the collapse in recorded programme hours of international and developing country factual programming on ITV1 is striking”.30

And

“Africa receives relatively little coverage and is dominated by wildlife programming whereas the Middle East is dominated by conflict and disaster programming. Europe and North America together make up 47% of all international factual output and are characterised by high levels of travel and crime programming respectively”.31

42. IBT is very concerned that areas of “Tier 3” programming which are under threat should be supported in the Digital Age in order for the UK’s Public Service Broadcasting ecology not to be undermined by the pressures of commercialisation.

43. Additionally, with reference to regulation, IBT would like to see Ofcom reassess its criteria for measuring whether public service broadcasting content is being properly delivered. IBT has identified a failure in the method of measuring the delivery of the public service purposes as defined by Ofcom. Our 2008 research (Screening the World) presents evidence which contradicts that in Ofcom’s PSB Annual Report 2008.

44. Ofcom defines the genres which should deliver Purpose 1, “informing our understanding of the world” as news and current affairs.32 IBT argues that Purpose 1 should be delivered across all genres, attracting a wider audience than that which is engaged by news and current affairs. The very nature of news and current affairs reporting tends to focus on disasters and extraordinary events rather than the everyday life of people in other countries. This content about daily life may appear more mundane than “disaster” news but in order to have a balanced understanding of the world, the public needs to be presented with engaging content which tells the other side of the story—across all genres of programming which should include children’s, drama, specialist factual, and even entertainment.

45. Therefore IBT urges Ofcom to review its methods of measurement of the delivery of the PSB Purposes in order to better establish whether there is adequate provision of varied, high quality programming which tells us about the world outside the UK.

46. With reference to the BBC, IBT was delighted that the Global purpose, “To Bring the UK to the World and the World to the UK”, was instituted in the BBC Charter as one of the six purpose remits in 2006. While we do not believe the BBC is adequately delivering on this purpose across all genres and channels, we welcome the work done up until now in the BBC Trust’s Service Reviews. In the recent Review into Children’s Programming we welcome the recommendation made by the BBC Trust that CBeebies should “contribute to the BBC’s Global Purpose”, one of IBT’s key recommendations to the Trust in the Review.

47. Question 7: How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

48. IBT believes that structural changes due to the digital revolution will significantly impact on the production and scheduling of UK-made original programming about the wider world.

49. The most significant of these changes thus far:

- the movement of programming onto niche channels;
- a reduction in the number of programmes due to budgetary pressure;
- reduced risk-taking and innovation; and
- the impact of the loss of serendipity.

30 Screening the World, IBT, 2008.
31 Screening the World, IBT, 2008.
32 Ofcom’s Second Public Service Broadcasting Review, Phase 2, para 2.17.
50. **Movement of Programming about the wider world onto Niche Channels**

As can be seen from IBT’s 2008 research (Screening the World) there is a trend for programming about the wider world to be moved off mainstream, popular channels such as BBC1 onto niche channels such as More 4 and BBC4 where it receives a smaller budget and fewer viewers.

51. This migration is due to broadcasters believing that it is only certain, niche audiences which are interested in programming about the wider world. While this may be true for some programmes we would argue it isn’t necessarily the case when innovation and creativity are employed and broadcasters are prepared to take a risk. We believe that when broadcasters are creative, programmes about the wider world can attract much larger audiences. *No 1 Ladies Detective Agency* on BBC1 as a good example of a drama which focuses on Africa but following the transmission of a successful pilot has now been placed very much in the mainstream Sunday night schedule. In our opinion, unless broadcasters are imaginative and innovative and prepared to take risks, this trend of moving programmes about the wider world away from popular channels will only continue.

52. **Budgetary pressures**

There is also a perception that foreign filming is more expensive than domestic filming, so with increasing budgetary pressures, broadcasters are shying away from foreign filming. IBT would argue that with new technology (lighter cameras etc) crewing costs and filming costs have gone down significantly and in-country costs, especially in the developing world, tend to be less which can potentially outweigh any travel costs in getting there.

53. **Reduced Risk-Taking and Lack of innovation**

Due to the proliferation of channels and increased competition for viewers’ attention, IBT believes that there is a growing tendency among broadcasters to play safe and avoid risk, thus reducing innovation at the commercial PSBs but also at the BBC. IBT’s definition of original programming is that which is different and therefore it takes a risk. Without this type of innovation we will end up with homogenous programming and little diversity on our screens.

54. **Loss of Serendipity**

IBT strongly agrees with Ofcom that up until now “serendipity” has been an important “feature of television” and welcomes the point made by respondents in Ofcom’s research for the Second Phase of the recent PSB Review, that people “felt that when using the internet the likelihood of having their views challenged or their knowledge expanded by chance was minimal”.33 With reference to programmes about the wider world, it is IBT’s view that serendipity is an essential indirect motivator: where viewers may not proactively choose to watch a programme about the wider world, once watching there is the potential that they may become engaged and really enjoy it.

55. The question is, how can policy ensure serendipity? It is IBT’s view that in order to support this element of serendipity in broadcasting, we need a content provider which has reach and ambition, has a duty to take risks and surprise us with programming we don’t anticipate or expect. We need a broadcaster which is prepared to market programming which is on its first run or is “out of the ordinary”, to give that output a chance of being discovered. No broadcaster will do this in a commercially competitive marketplace unless an institutional framework is in place whereby measures of success do not focus solely on ratings.

56. IBT believes all these effects will be irreversible unless action is taken by the Government to support the Public Service Broadcasting system in the future. We believe that the creation of a new Public Service Broadcaster which is being considered currently by the Digital Britain Team to provide plurality to the BBC could address many of the structural and content challenges we face but it will need an institutional framework and constitution which will guarantee the provision of those areas of programming which are currently most at risk.

57. These effects of the digital revolution are to a certain degree being offset by the proliferation of material which is available online but there is little regulation of this material and therefore less trust in online content; also its discoverability is controlled by commercial mechanisms (preferential positioning in search engine results etc) rather than by any regulation which uses criteria other than commercial gain as its measures of success.

58. In conclusion, the implications for television content creation in the “digital future” are that programming which is more expensive and attracts fewer viewers will become increasingly scarce. Our programming diet will become increasingly limited and schedules more homogenous. Even for Public Service Broadcasters like the BBC the need to justify the licence fee places huge pressure on commissioners to attract large audiences, leading to less risk-taking and innovation. IBT views this threat to public service content as real and already apparent. For example, *Screening The World* (IBT 2008) showed a deplorable lack of programming for

33 Ofcom’s Second Public Service Broadcasting Review, Phase 2, para 3.100.
younger people and children about the wider world and virtually no drama. This trend is only likely to increase as commercial pressures increase.

59. In tough economic times it is more tempting than ever for content providers to cut back on programming which is perceived to attract lower ratings, such as international programming, in an effort to maintain income from advertising. IBT believes it is apparent that an institutional solution is required to solve this problem. If there were an institutional framework in place which allowed a second Public Service Broadcaster, for example, to measure success not only in terms of ratings and advertising revenue, then vulnerable areas of Public Service Content would be more secure. Additionally, this would put a greater onus on the content provider to originate innovative and engaging solutions to the problem of how to attract an audience to such areas of programming instead of simply dropping them.

60. We urge the House of Lords Communications Committee to take very seriously the threat to those genres of programming which could successfully tell us about the wider world in an engaging way—namely children’s programming, drama, specialist factual and comedy. There is currently underprovision of content about the wider world in these areas and this trend is only likely to increase in the future digital age.

BACKGROUND: IBT
61. The International Broadcasting Trust (IBT) is an amalgamation of two sister organisations: the former Third World and Environment Broadcasting Project (3WE) and former International Broadcasting Trust (IBT). The new IBT is a charity which seeks to promote high quality television and new media coverage of matters of international significance. In the past, 3WE has been active in this area and this submission fully reflects 3WE’s long history of campaigning on these issues and arguing that international coverage on television is a necessary tool in informing us all, as global citizens.

62. IBT represents a coalition of international charities. Its members include: ActionAid, Amnesty International, British Red Cross, CAFOD, Care UK, Christian Aid, Comic Relief, Concern UK, Friends of the Earth, Merlin, Oxfam, Plan UK, Practical Action, Progressio, RSPB, Save the Children, Sightsavers International, Skillshare International, Tearfund, TVE, UNA UK, UNICEF UK, VSO, the World Association for Christian Communication and World Vision. IBT is a registered charity, number 326150.

63. The views in this submission reflect the concerns of IBT’s member agencies regarding adequate common understanding of the world in which we live. These concerns are shared by millions of UK supporters of our organisations. IBT’s members, being intimately and operationally concerned with the effects of “globalisation” on communities and environments around the world, and with communicating across the world, welcome the advent of the global information society.

64. IBT’s argument, reflected in all our policy work since 1997, is that television coverage of the developing world should not just focus on images of suffering which is more often than not what is presented in news coverage. It is IBT’s view that an international dimension should be an integral part of all programming.

This submission was written by Sophie Chalk, Director of Campaigns, on behalf of the International Broadcasting Trust. It is a corporate submission.

23 March 2009

Memorandum by the Isle of Man Government

BACKGROUND

The Isle of Man is a self-governing and self funding British Crown Dependency with its own ancient parliament (Tynwald), government and laws. As the Head of State, the Queen is represented on the Island by the Lieutenant-Governor but the Isle of Man has never been part of the UK nor the European Union (“EU”) and receives no funding from either. It is not represented at Westminster or in Brussels. The Island has a limited relationship with the EU set out in Protocol 3 to the UK’s 1972 Act of Accession, allowing for free trade in agricultural and manufactured products between the Isle of Man and EU members. Apart from matters relating to this Protocol, which includes customs, the Island is not bound by EU legislation.

The Island has used its legislative and fiscal freedom to build a strong, stable and diverse economy for the benefit of its citizens. The foundations of this have been laid in business grants and support, the competitive tax system, the investment in education, security and health—just some of the examples of how the right environment has been created to allow our Island to flourish. Business is attracted by the competitive tax regime, professional expertise, supportive government, world-class telecommunications infrastructure and sound financial regulation. Whilst traditional sectors like farming, fishing and tourism (including the famous Tourist Trophy motorcycle races) are still important, new growth areas include financial services, e-commerce,
the film industry, international shipping, aviation, e-gaming and space and satellite business have been
couraged and developed to support the Isle of Man Government’s aim of economic prosperity from a
diverse economy whilst safeguarding the Island’s quality of life.

ISLE OF MAN FILM

Isle of Man Film, formerly known as the Isle of Man Film Commission, was first set up in 1995 as part of this
economic diversification policy. Isle of Man Film, a division of the Isle of Man Government’s Department of
Trade & Industry facilitates investment, acts as an equity investor in film and television productions shooting
on the Isle of Man. Investment in film is through the Isle of Man Treasury’s Media Development Fund (MDF),
in partnership with CinemaNX Limited

The Media Development Fund offers a broad range of film investment including: http://www.gov.im/dti/
ionfilm/mediadevfund.xml—top#top

— Advances against specific territories
— Discounting of tax credits and other “soft” money
— Provision of contract discounting and “gap” financing

CinemaNX does not have any upper or lower limit on its individual investments and is able to offer from 10%
to 100% of a film’s budget. Decisions to invest are made on a case by case basis. To be considered for
investment, the project should normally:

— Be able to be filmed wholly or in part on the Isle of Man (at least 50% of all principal photography
to take place on the Island)
— Be capable of spending at least the equivalent of 20% of the below the line budget34 with local service
providers
— Be capable of being completion bonded35

Isle of Man Film assists with the logistics of production on the Island. Since 1995 it has acquired practical
media experience and assists with organising film crew accommodation, production supplies, crew and
facilities and locations.

In 2002 Island Studios, an 11,200 square foot soundstage was created in the north of the Island which has
expanded the range of films the island can accommodate.

Between 1995 and 2006, 82 films were shot on the Isle of Man, including a mix of feature films, TV dramas
and one animation project. Several have been screened at international film gatherings, including the
Cannes festival.

SPECIFIC QUESTIONS FROM THE HOUSE OF LORDS COMMITTEE:

1. What has been the annual amount spent on film production on the Isle of Man over the last five years? On
average, how many films are being shot on the Isle of Man each year? How much does this fluctuate from year
to year?

Since 1 April 2004 the total amount spent on investment in film by the Media Development Fund was
£78,922,281. Investment totals vary from year to year and number of films varies from eight films in 2005 to
four films in 2008. 26 projects have been completed since January 2005 although it should be noted that
production is less frequent of late due to the general downturn in the industry and throughout the global
financial markets.

2. How many people are employed in the Isle of Man film industry? What is the direct contribution of the film
industry to the Isle of Man’s GDP?

The number of local people involved in the industry depends on the number of productions taking place and
so varies greatly from year to year. Please refer to the crew and facilities section of our website—
www.isleofmanfilm.com for further details of services and facilities that can be sourced locally. The majority
of all senior crew and technical crew are usually British. The direct contribution of the film industry to the Isle
of Man’s GDP is not measured. This would involve a detailed study of all the companies which could be
considered to be part of the industry, fully or partially. For example a joiner working on a film set would be

34 Below-the-line costs include the salaries of the non-starring cast members and the technical crew, as well as use of the film studio and
its technical equipment, travel, location, and catering costs, etc. In contrast to above the line costs, the below-the-line budget is
usually fixed.

35 A completion bond is a written contract that guarantees a motion picture will be finished and delivered on schedule and within budget.
It is often used on independently financed films.
classed under construction for GDP purposes. The importance of the industry to the Island’s economy is by virtue of its purchasing power of local goods and services during the making of films.

3. What has been the total amount spent on investment in films by the Media Development Fund (MDF), in partnership with the Isle of Man Treasury and their investment partners CinemaNX? How does the partnership work in practice? Who makes the decisions about the films to be invested in? How does the funding structure work for Isle of Man Film?

Since 1 April 2004 the total amount spent on investment in film by the Media Development Fund was £78,922,281. The partnership arrangement between Isle of Man Treasury and CinemaNX Ltd is set out in an agreement for the provision of services. Amongst other things, the agreement sets out the procedure for the approval of investments by the Treasury. The funding structure works by CinemaNX Limited drawing down the approved investment amount from the MDF. Recoupment of the investment and profits are repaid by CinemaNX Limited into the MDF.

4. What is the difference between the equity investment and an incentive scheme? Do you expect a profit on your investments? Where does the money for the incentive/equity come from?

An incentive scheme is no longer the method of investment by Isle of Man Government in film. As described in the website: www.gov.im/dti/iomfilm/mediadevfund, a broad range of investment is offered including equity investments. A profit on the investment is expected. The money for the equity investment comes from the Media Development Fund which was transferred to external managers, CinemaNX Limited, in August 2007.

5. What is the average proportion of a film’s budget that CinemaNX invests in? What has been the effect of the economic downturn on the number of films being invested in by CinemaNX?

Traditionally 25% although since the inception of CinemaNX in 2007 there is greater flexibility attached to levels of investment which now can be as much as 100% of the film’s budget. Production is less frequent of late due to the general downturn in the industry and throughout the global financial markets.

6. What are the costs and benefits to the Isle of Man of investment in films?

Costs are: Investments, Isle of Man Film administration costs and associated PR, marketing and occasional legal charges.

Benefits are: Financial advantage, increased exchequer benefit, additional training (mandatory on every production) and employment opportunities for local people, extensive global exposure and positive publicity for the Isle of Man in general.

7. Has film production on the island led to indirect benefits, such as an increase in tourism?

The film industry itself is considered to be a form of industrial tourism, so far generating in the region of 220,000 film-related bed-nights throughout the Island’s accommodation sector since 1995. It is believed that there has indeed been an increase in tourist figures—“set-jetters” as such people are called—inspired by a particular Isle of Man made film eg: Waking Ned, Thomas and the Magic Railroad although evidence of this tends to be anecdotal rather than scientific.

8. How large are the two studios on the island? Who owns them? How are they funded? How profitable are they?

There is, in fact, one purpose built studio/sound-stage on the Island—Island Studios which is 11,200 square feet and over 40ft to the eaves. The Isle of Man has many other clear-span warehouse properties which are occasionally used as weather-cover and second line studio spaces. All such properties, including Island Studios, are privately owned therefore we are unable to pass on any financial information.

9. Do you have an indigenous film production skills base? If so, in which areas?

The number of local individuals involved in the film industry fluctuates from year to year depending on the number of productions taking place. The indigenous skill-base tends to embrace the non-skilled elements of the crew—runners, production assistants, drivers and caterers, with a handful of key roles such as location managers, unit managers, third assistant directors also being sourced locally. Please once again refer to our website’s Crew and Facilities Database (www.isleofmanfilm.com) for further information.

July 2009
Memorandum by MG ALBA

ABOUT MG ALBA

1. MG ALBA is the operating name of Seirbheis nam Meadhanan Gàidhlig (Gaelic Media Service). MG ALBA has formed a partnership with the BBC to deliver a digital service comprising the new television channel BBC ALBA, the established Gaelic radio station BBC Radio nan Gaidheal, and online services including www.bbcalba.co.uk and “watch again” facilities on the BBC iPlayer. BBC ALBA was launched in September 2008.

2. BBC ALBA is available on Sky 168 and Freesat 110. Its carriage on Virgin Media cable is currently being negotiated, and a decision on its carriage on Freeview will be made following a review of the service by the BBC Trust later in 2009.

3. MG ALBA was originally established (as the Gaelic Television Committee) under the Broadcasting Act 1990, and its current remit under the Communications Act 2003 is to secure that a wide and diverse range of high quality programmes in Gaelic is made available to persons in Scotland. MG ALBA is funded by the Scottish Government and regulated by Ofcom.


RESPONSE TO INQUIRY QUESTIONS

We shall confine our response to the questions most relevant to MG ALBA’s operations.

5. What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced? (Question 1)

6. MG ALBA receives an annual Treasury grant known as the Gaelic Broadcasting Fund. Since 1999 this funding has come from the Scottish Government, although broadcasting policy and legislation remain a matters reserved to the UK Government. In 2008–09, the fund was £12.4 million.

7. During the 18 years since its establishment, the Gaelic Broadcasting Fund has enabled the creation and development of a thriving independent production sector for Gaelic television programmes. The majority of companies involved in Gaelic content production are based in Scotland and provide employment and economic benefit, particularly in economically fragile areas such as the Western Isles.

8. In addition to the programmes commissioned from the production arms of BBC Scotland and STV, MG ALBA also commissioned content from 23 independent companies during 2008–09. A new model of long-term commissioning deals has been established with four companies (three indies and the BBC), ensuring content supply for BBC ALBA and creating stability in the sector that allows for forward planning for training and skills development.

9. The existence of the Gaelic Broadcasting Fund has enabled the production of high quality, UK-produced and culturally distinctive programmes, which appeal both to a core audience of Gaelic speakers and more widely to a Scottish and UK audience.

10. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries? (Question 5)

11. MG ALBA’s remit includes training for people involved in Gaelic television production. The seven-fold increase in hours of Gaelic content broadcast each week since the launch of BBC ALBA places great demands on the existing pool of skilled professionals in the production sector, and MG ALBA recognises the need to create partnerships across industry and academe to ensure that Gaelic broadcasting has a workforce ready to meet this demand. For example, MG ALBA sponsors a place on the new Caledonian Business School course for screenwriting, run in collaboration with Shed Productions.

12. MG ALBA enjoys a good relationship with Highlands and Islands Enterprise, which recognises the contribution that the Gaelic production sector makes to employment and the economy in its area, and this has given rise to a number of collaborative projects to build capacity for the creative industries and for training, notably the new studio facilities at Sabhal Mòr Ostaig in the Isle of Skye, which are used by trainees on the diploma course for Gaelic media and are also available for commercial hire.
13. Our experience shows that the Gaelic Broadcasting Fund has also created opportunities for entrepreneurs in Gaelic television production, and has led to the emergence of a vibrant sector that did not exist 20 years ago. The challenge for MG ALBA and for independent producers in the years ahead is to develop skills, discover new talent and continue to produce high-quality, compelling programmes.

14. How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective? (Question 6)

15. MG ALBA receives its powers and funding under the Broadcasting Acts of 1990 and 1996 and the Communications Act 2003. During the past 18 years, the organisation’s remit and powers have been amended with each act, and we will look to any new communications or broadcasting bill to secure the future of Gaelic broadcasting, its funding and its access to digital terrestrial television spectrum and carriage on other emerging platforms.

16. Drama is an expensive genre, but one that BBC ALBA viewers strongly value, and MG ALBA would like to be able to commission more drama. We are examining ways in which funding and support can be sought from a number of sources to produce a long-running drama that would also bring community benefit to the area in which it is filmed, as well as providing compelling stories for viewers.

17. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability? (Question 7)

18. MG ALBA commissions almost all of its original content from Scottish-based companies. Other content is sourced through acquisition and versioning, particularly of children’s animation and of international documentaries. Given the current situation in the Gaelic production sector, we expect that UK-originated content will continue to predominate in the BBC ALBA schedule. However, the Gaelic production sector does not exist in isolation, and we recognise the importance of having a vibrant and robust production sector in Scotland and the UK for all kinds of audiovisual content.

19. We welcome any improvements in broadband connectivity that will allow the distribution of Gaelic audiovisual content, but we are aware that many areas of Scotland, particularly in the Highlands and Islands, are unlikely to achieve the fastest connection speeds without intervention and considerable investment. Although uptake of broadband continues apace, our audience research indicates that most BBC ALBA viewers continue to expect and enjoy a linear broadcasting service, and MG ALBA and the BBC remain committed to securing the distribution of BBC ALBA on all available digital platforms.

30 April 2009

Memorandum by Nicol Wistreich, Head, Netribution Ltd

Note to the committee—having just finished a major project at the end of last week I have been unable to dedicate myself to this call for submissions as much as I would like (including the time to proof and footnote/reference this submission). Nevertheless I include as many thoughts and pointers as I can and I apologies in advance for any shortfalls in detail.

What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

Britain’s film & TV industries are blessed with two strengths. They are highly respected in the US, the world’s largest TV & film market, and are both regarded and used as a regular provider of talent, formats, ideas and content. More significantly, in a world where the revenue models for new media are uncertain, and advertising revenues in general are falling, the BBC’s constant and dependable income allows it to invest billions annually in content within the remit of “inspire, inform, entertain” as opposed to the commercial agenda of advertisers.

As a global brand for news, nature footage and a few formats, the BBC has barely flirted with its full potential on the world stage. The ability to distribute a huge archive of content globally at a time when those who are producing and giving away content for free are the most successful would let a globally focused BBC rise to world leadership. While most commercial “free” content online has been crudely ad supported, often appealing to the lowest denominator of sex and shock, the BBC can freely distribute targeted high quality documentaries, dramas, comedy, news and lifestyle in a way which extends the BBC’s brand and further
promotes British talent overseas. Putting management of these assets in an unfettered, global-facing, agile and lightweight sister organization could let the BBC rebrand itself as vital a global player as YouTube and MySpace. It could, for instance, structure this content offering around a social network and invite users to remix its content and source files and upload it—legally—to the service (as countless bedroom creatives already do on YouTube). In the course of this it may form links and bridges with creative organizations and talent around the world who in turn would sign up to the BBC’s foundling and driving cultural mission.

With all other TV majors tied overwhelmingly to advertising, such a global BBC could pick up considerable momentum and drive new revenues that can eventually subsidise the license fee. Offering subscription access to iPlayer for non-UK residents could raise considerable sums, even more if (and when) iPlayer offers full archive access.

How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?

Distribution and exhibition in the UK has long been weighted against non-US films, making it prohibitive for all but the biggest Working Title/BBC Films/Film Four projects. A classic example would be FilmFour Lab’s Jump Tomorrow—a quirky, intelligent, feelgood and funny feature, as accessible as US indies such as Being John Malkovich or Little Miss Sunshine, yet which vanished without a trace upon release. However, the question of whether the blame for this lies with the cinemas, distributors, marketers, filmmakers or simply a lack of British pride is moot in the face of the current shake-up within the film industry.

While cinema revenues are rising in the economic downturn as expected, aspects of multi-party finance are massively in trouble:

— Banking and gap finance has become much more difficult during the credit crunch
— Pre-sales from distributors are harder than ever to sell as uncertainty over online revenues make territorial pre-sales illogical (ie if you want your film on iTunes, then pre-selling UK rights to company A and French rights to company B is meaningless as the online rights may turn out to be the most valuable, yet cannot be tied to one company).
— Private equity. The downturn has of course effected the number of investors looking to back films.
— Public finance. Other than the 100% backing of schemes such as Film London’s microwave, public funds are rarely more than 30% of the total budget (50% including tax breaks). As other sources of funding fall through, the public investment becomes less valuable.
— Most mini-majors—small independent divisions of the studio—have shut down in the last 12 months, taking away the majority of US wealthy indie acquisition and production houses from the marketplace.

The British and independent industry is ever adaptive—with an increased prevalence of deferred payments and profit share for production team, cheaper production techniques and micro-presales (aka “crowdsourcing”/“crowdfunding”) for fundraising. Franny Armstrong’s Age of Stupid is a perfect example of a film which raised its £400,000 budget through small, micro-investors, and continued to mobilize the community of supporters through production (asking for help and volunteers) through to a major and well publicized cinema release on 70 screens.

But overall, with such continued uncertainty in the marketplace about the revenue models future film business plans can be built on, Britain is left almost beholden to the US as it waits to see what agreements are made between the major content owners and the major digital marketplaces (iTunes, Amazon, etc). It is, for instance, at present very difficult for an indie producer to get their film listed on iTunes—which strengthens the other major competitor after free and user-generated content—piracy. With the launch of Spotify, the music industry has finally caught up with the pirates and, effectively, out-competed them at their own product—easy access to all the music you could hope for. Sadly the film and TV world is many years behind, giving the pirates a further head start.

Instead of this, a proactive British creative sector could make a few smart moves now and position itself ready for the coming changes, rather than playing catch up with the US. The real sea-shift at present is less about technology, and more about changes to the financing, and costs of producing, distributing and marketing content.

Inevitably some of the loudest voices advising about these changes come from those with the most to lose if their own skills base is made redundant by a new way of working. However, so seismic are the shifts that it is inevitable that old business models will be replaced, and with them will fall the companies which cling most tightly onto redundant models.
But amidst the hyperbole it is important to remember that the shifts don’t mean the end of a financially sound model for content creation, just a rewriting of the rulebook as the walls surrounding the production centres of LA, Mumbai, Hong Kong and London crumble. It must also be remembered that the technological solutions bring with them challenges in equal measure, not least with regards civil liberties, the potential for censorship (not just from governments, but from foreign companies) and the surrender of human and civil autonomy and expression to automated computer processes.

Have the 2006 changes to the tax credit system been of benefit to the UK film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

This question demands an essay for an answer—for the moment I can simply say that the legislation is too complex—it is perhaps the most complex film tax rebate legislation in the world (we studied over 30 systems for the Film Finance Handbook) and makes entry prohibitive to those not wishing to spend too much money on legal services.

Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

The Film Council’s biggest problem, besides its size, is a view of the UK’s film and video products with the lenses of the 20th century. A focus on features, and short films as an entry point to making features, disregards the vast quantity of British film and video talent that exists outside of this space. One of its fund heads openly admits to hating short films.

Live audiovisual, interactive narrative, VJ, web viral, mashup, audience responsive, machinima and “vusic” using video games technology are all major new areas of film culture, many of which are far less threatened by piracy because of the nature of their technology or delivery. Britain could be a world leader in these areas, giving its high technical and artistic skillbase. However I’m not sure how many of these terms are even on the radar of the UK Film Council, let alone eligible for funding.

As moving image as an economic asset continues to evolve, this disconnect risks leaving the UK wasting investment on aging models. Beyond the structure of cinema as a two hour story with beginning middle and end, moving image is now un fettered from the temporal constraints of TV or cinema schedules. Snakes on a Plane might have bombed but the creative assets—video clips of Samuel L Jackson, and the logo—were used, watched, shared and engaged with more than a conventionally successful film would be.

In an environment were copyright owners are earning from only the advertising revenue associated with their free online streams, remix and reuse is as valuable as the original product. Remixes to German arthouse film Downfall are a good example of this—the remixes have been seen an estimated 100 million times, which in conventional terms is blockbuster status. A wiser indie film sector backed by public agencies would be able to get rapid P&A funding in the event of a web viral sensation so they could cash in on such success. At the moment they are more likely to phone their lawyers and see if there is a way the remix can be stopped (which is technically impossible).

If a British filmmaker pulled in 10 million viewers for one of her films on YouTube the UKFC’s likely suggestion would be to apply to a short film scheme and work her way up the industry. A regional agency may offer more targeted support, but a fully wired organization would be ready to advise her how to transform her audience into a supportive crowd of fans who could fund, promote, co-produce and help distribute her follow up films.

Similarly web projects, such as MyFilms.com, have shared qualities with the worst of government web investment—being over-expensive, using outdated software (usually Microsoft based), out of touch, slow to adapt, and largely devoid of users. The UKFC have been slow to engage with the UK’s leading film web organizations and have been, in short, badly advised—choosing established agencies and organizations over the young blood who may not know how to work the corridors of power, but at least understand the web and its audience.

Other than this the UKFC is a driver for a wide range of smart investments and good projects—and is a vital part of the British film provision. It is, however, excessively bureaucratic—for example last year I submitted a one page application for £15,000 from the Technology Strategy Board and a 35 page application for £20,000 from the UKFC (of which around £5,000 of the spend was required just to meet the criteria for getting the money). I heard back successfully from the TSB within three weeks—from the UKFC after over two months, and I ultimately turned down the UKFC investment as it came with such an intimidating contract. Ultimately the TSB’s light touch better supported the innovation and flexibility that my business demanded,
and led to an increase of in-kind investment in the project from £5,000 to over £25,000 during its six month period. The UKFC required everything fixed in great detail before the project had even begun, which may be a consequence of either too much demand for funds, or fear of public attack in the event of a bad investment.

Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

Unfortunately, resolutely not. As an entrepreneur who has tried long and hard with the UK’s institutions for support over nearly 10 years since setting up a web film business (with shifts in attitude only coming in the last 14 months), I have long been tempted to move to the US where almost every meeting, email and phone call is met with a positive, helpful and can-do approach. I have come to live with the UK’s “can’t do” attitude towards entrepreneurs (at least those who do not have a socially excluded background), but am increasingly frustrated with the lack of understanding of the needs of the IT infrastructure for creatives which the US is continuing to lead—and hence dominate.

Media conglomerates ultimately offer infrastructure and finance. The finance is falling apart, and the infrastructure is beginning to replace with open access tools. In short—the independent producer today—be they a book publisher, designer, musician or filmmaker—is beginning to have at their disposal on the web much of the infrastructure which connects people, products and services that was previously the preserve of major international conglomerates.

As finance and revenues models change, structures best suited to the new order will survive and grow. The current studio system is expensive, slow to respond to change, frequently disconnected from its audience, and for the most part culturally monotone, lacking the diversity which is central to much of the British government’s position on culture. In short if it fails to adapt in time will become little more than a licensing and rights house, maximising income from existing creative works, and for as long as the British infrastructure models itself on this studio system, it will fail to benefit from the emerging culture.

**Evolution of Infrastructure**

Like all art forms, Film and TV is built, primarily on talent. The skills of the writers, technicians, directors and marketers—of which Britain is bountifully blessed with—are the bedrock on which any successful entertainment or artistic product is built on. The infrastructure holding together these people through production and distribution has been formed in response to a number of factors:

- the cost of production—traditionally film is the highest of all artforms, with the cost of 35mm prohibitively expensive for the majority of producers
- high skills requirement—while anyone can pick up a paint brush or guitar, until recently the challenge of filming, editing and doing sound to a professional level has created a limited skills base, which in turn is centered around nexus of academic excellence, such as London, Pune, LA, etc.
- required gatekeepers of distribution—in all parts of the film and TV distribution marketplace, in broadcast, cinema, Blockbuster, DVD retail—a limited shelf space, screen space has both limited access and encouraged a culture averse to commercial risk, regularly choosing films of questionable quality over great films for financial security.

In the current environment, these three “walls” have crumbled:

- the cost of production—consumer HiDef video cameras and desktop video editing have put Hollywood quality production within the budgetary grasp of anyone with the talent.
- high skills requirement—the tools have become easier to use and the web has made the sharing of knowledge and skills instantaneous, and far more up to date and relevant than many academic institutions, given the pace of change. The developments of the AV/live visual community, for instance, are progressing so rapidly that few at any agency or academic institute have begun to keep up. They are not simply teaching old software—they aren’t even aware such software exists.
- the gatekeepers of distribution—as the walls have fallen the gatekeepers protect an ever smaller and less vital window—iTunes is limited in its success as a film download service by its shortage of content from indie producers. Over 50% of content viewed online is “user generated” according Screen Digest—giving the content majors a cut in market share of nearly 50%. The number of clubs, bars and public venues with high quality video projection facilities, coupled with the success of forum such as Brave New Theaters and MovieMobz in Brazil, suggest the final gate—exhibition—will soon open fully.
As exhibition opens up, following the “democratisation” of production with digital in the 90s, and of distribution, with the web in the 00s, we believe that the revolution of the film, video and TV industry will be complete, leaving those savvy enough to pre-adapt standing amidst a brave new world.

As filmmakers across the world join the global conversation on an equal footing with producers in LA and London, Netribution firmly believes that through this more open, equal and level communication, the cultures of the world will be able to begin to better understand each other’s problems and needs. Again this could be supported by the BBC taking a position of cultural leadership to counter balance the vast quantities of pornography and inflammatory material that will otherwise drive broadband uptake in the developing world.

**Evolution of Copyright.**

The challenge for legislators is to balance the need to protect existing copyright owners while not preventing the innovation which drives the next generation of content producers. From Picasso and Pulp Fiction to Harry Potter and HipHop—allusion, remix and re-use has been a major part of the creative worlds, with ours the first generation that can actually prevent such new works ever being viewed through purely technical controls on distribution. As copyright law evolves it needs to take account of several areas:

— Non-commercial use. The fair use principle supports a wide range of US innovation in media. The rapid uptake of Creative Commons shows the value and hunger for works that can be used for non-commercial (ie personal, educational, charity, research) purpose and have fueled a big increase in innovation which, as with the Open Source industry, is supporting a wide range of profitable activity.

— Relativist usage. If three actors are each offered a 5% share in revenues from a feature film, and a clip where one actor turns a remarkable performance gets remixed and reused, earning the producers £100,000 over a year, the possibility to assign a greater proportion of income to that actor will doubtless be attractive in future negotiations, especially with the use of celebrity cameos, or songs (ie why clear all 20 songs on the soundtrack for unlimited web use, when only the one scene featuring a Bob Dylan song is going to end up being heavily shared online).

— Copyright Markup Language. There is a strong argument for supporting an XML datatype for copyright which can recognise and track authors and owners through a remix process. So Producer A releases film B onto the web, and Creative C remixes it and puts it on his blog. Curator D places it in his popular forum, where it gets one million views, and earns D £5,000. A system such as Open Digital Rights Language (ODRL), rather than DRM, would let D instantly calculate how much money should be repaid to A and C, who both are cultural authors. Likewise, if the clip in questions includes just actor E, it could recognise that A needs to share his royalty with actor E by a pre-agreed proportion.

If the UK were to spearhead the adoption of such a language on an open, opt-in, basis, in full consultation with creatives, media companies and users, it could provide a seamless system to insure that revenues are shared on any profitable clip, and allow a creative to progress from non-commercial level use, which should have no restrictions, to a system where all the correct parties get paid, as pre-agreed and encoded in the ODRL in the event of a success.

7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

Civil society is built so firmly on the idea of shared and common resources—be it parks, museums, roads, hospitals, public libraries or schools—that it is unfortunate that the discussion has only recently extended to the digital domain with the governments reappraised support of open source software.

In a digital environment, the possibilities for making a one-off investment which supports an unlimited number of small and creative businesses or individuals are many. At a simple level, the UK Film Council’s FilmFileEurope and Scottish Arts Council free download list of Scottish arts journalists, illustrate the concept—that government support for the creative industries can come in many forms other than cash.

Extending this idea further, spend once/return many investments could include:

— Building a Creative Commons digital repository of creative artefacts. Film footage, photos and scans of public owned artworks and photos, audio recordings, archive materials and even films where the public owns the rights because it funded the content in the first place (ie BBC). The BBC’s Creative Archive, spearheaded by Greg Dyke, but sadly abandoned under Mark Thompson was a brilliant step in the right direction. Opening up such a rich collection of content would be of indescribable
benefit to creative businesses, students and individuals in the UK. The bandwidth costs could be removed by using a closed, monitored, legal only P2P network—which in turn might discourage some users from exploring pirate trading networks.

As remix and “clip hop” culture continues to dominate YouTube, a legal source pool of copyright free clips will also remove the current incentive to use easily found copyrighted content beyond standard fair use provisions (which vary between six seconds and 30 seconds depending on which country your video is hosted in!)

— Open sourcing web investments. If, for example, Northern Film & Media invest in a video sharing website with YouTube functionality, there is no logical reason why they shouldn’t stipulate that the software is developed and released under an open source license so that other regional screen agencies could adapt it for their own video sharing site. It is unlikely to add much to the cost—and these services regular use many open source tools in their construction. Furthermore, if the “video sharing network” software is a freely downloadable public-funded GPL-licensed tool, it will attract other volunteer coders and investment. If another screen network, for instance, decided they wanted to have more social network features, or better rights management, they can spend the money they would have spent rebuilding the software from scratch on making the software do more. If the starting point is an already open source project, such an injection of public cash will double as investment in the UK’s technical infrastructure and know-how for that project (be it Joomla, Drupal, WordPress, Eclipse, Apache, PHP, MySQL, Wiki, or whatever framework is being used.)

— Intranet and company management tools. The main reason small and creative businesses make mistakes with tax, employment law, health and safety and equal opportunities is because of a shortage of time and knowledge. As with online filing of tax info, web tools can make aspects of the process far easier.

Netribution has begun to use open source tools to build an extranet/social network for company management, and has found a huge increase in productivity, information sharing and speed of response. There is no reasons such software couldn’t be released into the public domain for creative, SME and non-profit organisations, as simply bundling together a wiki, blog, social network and video sharing site has made aspects of management far more streamlined, especially over long distances.

— Shared data. With so many aspects of running a business or marketing a service replicated across public bodies, the keeping and maintenance of certain data centrally is a simple and cheap way of increasing the efficiency and bottom line of many small businesses. For example an up to date press mailing list that could be sorted by region and genre, and included the main bloggers—would be great for companies who cannot afford PRs or commercial databases.

RSS feeds of new funds as standard on all public funders’ websites would make access to information more effortless than ever, and allow other sites to aggregate relevant data.

In short the rate of change at present is so rapid and massive that it is tempting to stand back and wait for the dust to settle five years from now before restructuring the way we finance, produce and distribute content. At the moment, for once, British producers have as much an advantage in this space as those in the US—or indeed anywhere, and with the powerhouse of the BBC and screen agencies financing content, arguably far ahead of the rest. However without beginning an urgent dialogue with the UK’s web and IT entrepreneurs (and resident pioneers such as Cory Doctorow), this advantage will be wasted. A few simple investments—an Open Source Software Agency for creative/social and small business which could make targeted investments—would make a drastic difference, while the UK Film Council can no longer justify ignoring the Internet—a platform which is already the number one leisure activity of 28% of all UK adults.

Nicol Wistreich is co-founder and head of Netribution Ltd, a film industry web magazine, research consultants, print publisher and web developers since 1999. Co-author and editor of Netribution’s How to Fund Your Film, the Film Finance Handbook (currently 4th edition, over 10,000 copies sold to date in Europe and North America), and regular speaker/writer on new media implications for the film industry (including Film London, New York Film Academy, The Times, BBC Online) as well as author of the first executive report in Europe on managing rights in the multi-platform, multi-channel world (Digital Asset Management, Informa Media, 2001).

A six month research and feasibility study, funded by the Technology Strategy Board, “A Living Cinema” has just concluded where Netribution, in partnership with companies and organisations across the UK, researched and produced an original live event where short films, food and a big brass band were mixed with live interactive 3D graphics, produced using video games technology, which responded to interaction and audio
from audience and musicians—in a deprived south London community. The research set out to explore new ways exhibition may evolve in the next decade.

He is a web consultant and developer for clients including the Satyajit Ray Foundation, Contemporary Films (UK’s longest running indie film distributor), Friends to the Stars (new music industry venture from music industry heads, including Warner Chappell’s head of business affairs Jane Dyball), ArtsBeyond.org (a blogging & new media skills for parent and child education pilot from Creative Partnerships London). Since directing the world premiere of Simon Armitage’s first play in Harrogate aged 17, taking the play to the Edinburgh Fringe in the summer of 1997, Nicol has been drawn to live and social events, building a cinema in a transformed underground car park for the launch of Publicis’s Hype campaign for Hewlett Packard, which went on to win several gold lions at Cannes, as well as other events at ResFest, Bradford International Film Festival and David Hall, South Petherton.

25 March 2009

Memorandum by English Regional Screen Agencies: Northern Film and Media, Screen South, Screen West Midlands and South West Screen

About the Regional Screen Agencies

The RSAs exist to promote and build a vibrant and sustainable moving image industry in the English Regions, which is rooted in an accessible and diverse screen culture, maximises the opportunities for the development of regional talent, celebrates cultural identity, encourages the sector’s growing importance to a regional economy and promotes world-class creativity within it. The RSAs are embedded in regional economic and cultural strategies. They provide a cohesive voice for the media sectors in the regions and have become an important regional resource.

We welcome the Lords review as timely and crucial.

We have confined our response to questions of particular interest to the regions.

What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

Film

1. In 2007 the UK share of global cinema takings was 12% or $3.3 billion. UK film production spend was £747 million and UK cinema admissions were up 4% to 162.4 million with box office receipts up 8% to £821 million.36

2. The partnership between the UKFC and regional film funding been very successful in generating production and promoting regional voices and telling regional stories. In 2007 the partnership supported production of 22 feature films and 84 short films.

3. The Regional Investment Fund for England (RIFE) has allowed diverse regional talent to become involved in a wide range of film activity from feature film to animation to shorts to community film. 10.5% of supported RSA applications were from people with a declared disability, 57.5% were for work with young people, ethnic minority groups or people with a disability.

4. RIFE funding has allowed a diverse range of regional people to access films and moving image material that would not be accessible without RIFE intervention, eg touring cinema kits, support for venues, education and outreach work and work with regional archives.

5. Screen Agencies have been adept at leveraging European funding to develop media infrastructure. There is a very real danger that as ERDF funding for the UK declines so will the models for regional film funding. According to UKFC figures, in 2006–07 there were 11 films supported with public investment from the national and regional screen agencies. In 2007–08 this more than trebled to 36. It would be a tragedy if this shrank back alongside the European money that supports it. Without ERDF money supporting regional production it is likely that film production will migrate back to London.

6. The film industry still remains relatively homogenous and predominantly based in the South. The UKFC could play a significant role in helping to export talent to the regions through diversifying funding and working in closer partnership with the regions to develop regional talent and talent interested in building a base outside London. GVA from film could increase significantly in the long term if the whole country was included in development and production resourcing in a more strategic manner. Though clustering of some large facilities

36 UKFC Statistical Yearbook 2008
around London makes sense, the development of talent, skills, ideas and companies should be better resourced across the country.

7. Whilst London, or LA, may be the intended destination of much talent it is not necessarily the starting point. Lynne Ramsay, Simon Beaufoy, Danny Boyle, Lee Hall and Shane Meadows are all examples of international talent who began their film careers outside London.

8. Film is a powerful creative tool and should be better available to the whole country.

### Television

9. PACT’s 2nd Annual Production Trend report showed that in 2007 London was still the centre for most network television production with 64% of programming being produced within the M25. The report also showed that production in the English Regions had dropped, with much of what is being produced there being low cost high volume sports and quiz shows. The East of England faced a 45% decrease in locally produced network programme hours, and there is currently no network television produced in the North East of England. This can be set against a 115% increase in programme hours from the North West.

10. The BBC plays a powerful role in providing high quality programme for the nation. It has the ability to engage, inform, transfix, move and excite audiences across the country.

11. The BBC plays a significant economic role across the country though value generated depends on the level of network production embedded in a particular region or nation. In many regions this is now in tragic and rapid decline. There is a concern that the BBC’s “Out of London” strategy could become an exercise in box ticking rather than the creation of better value for the licence-fee payer. There is a danger that instead of real value being created through embedding appropriate production in a region, value is shifted from one part of the UK to another as productions are shifted from region to nation or visa versa.

12. The BBC could play a much bigger role in helping to develop the creative economies of the regions and nations, particularly through better resourcing of local BBC. This would also allow local BBC to better engage with the cultural, political and economic life of the regions.

13. Channel 4 has a rich history of diverse, challenging and different programming. It is alone amongst the broadcasters in pioneering social media content creation which could play such a vital role in Digital Britain.

14. With its history of commissioning from the independent sector Channel 4 offers real opportunity to reinvigorate regional media economies and help producers evolve to working on new platforms servicing new communities. Channel 4 has real expertise in creative partnership working and we are seeing this put to vital use in the new partnerships formed in the Midlands and Yorkshire between RSAs and 4IP. These positive, inclusive, open and supportive partnerships offer a different approach to working alongside regional talent. We would like to see Channel 4 better resourced to expand on this more intimate commissioning methodology.

Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

15. The UKFC covers a complex and fast changing sector that spreads across the country in varying density. It works with government from cabinet level down to regional offices. It engages with talent at both the world class and the new and emerging level. It works for both practitioners and the public producing economic, social and community impact across the UK. This is an immensely challenging role to play and it’s our opinion that the UKFC carries out the role well.

16. Technology for production and distribution has evolved rapidly. This should allow for lower budget approaches to film production and distribution, which should enable more content to be created by a wider range of film makers and shown to a wider range of audiences. It is our opinion that the UKFC could be better resourced to support a broader range of production at a lower cost and to push harder to evolve traditional distribution and exhibition models.

17. The UKFC represents the industry well. However it still operates with a traditional definition of film as narrative fiction aimed at international markets. We feel the UKFC could be resourced to take a wider view of film production in the UK. Public understanding of what “film” represents is broad, encapsulating anything which involves a sense of story and moving image in some form. It is present on our computers, phones, TV and games consoles. Film has the potential to deliver increased value and play a greater public service. For example, film makers have been embedded in local authorities to tell the stories of the hard to reach groups in different ways. Homeless people and rough sleepers have been given a different platform for their stories to be heard through film. Disparate and marginalized communities have been given a voice to speak to each other and other communities like themselves through film. In order to capture the full potential value of film, more
support needs to be directed at the supporting eco-system, as well as the broad brush national interventions such as the film tax credit.

18. The UKFC could be resourced to operate a 4IP model for film, encouraging a range of production from a much deeper vein of the UK public. Without these systems in place it is hard to see the demographic of film makers changing much or the technologies they are using to produce films and the platforms they are using to show films shifting as radically as may be required in the new Digital Britain.

**How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?**

19. Traditionally ITV has played an important role in providing regional audiences with local programming. Though OFCOM research suggested this programming was not valued highly by local audiences, local research exposed flaws in OFCOM’s methodology.

20. The rapid downsizing of ITV has left many regional practitioners with no job and with skills that are difficult to adapt to the new media economy.

21. In some regions the shrinking of ITV and its regional output has coincided with the end of network commissions from the BBC, leaving little television work at all. This will result rapidly in the disappearance of television economies in some regions as crew and facilities move in search of work. This will leave holes in representation and engagement that will be hard to fill.

22. The regional infrastructure set up by separate ITV companies should have been a real advantage for ITV, sadly this infrastructure appears to be in terminal decline. The economic impact of this will have a massive and long term economic impact as regional crew and facilities relocate. Already in the North East the number of local crew and facilities has dropped by a third in 18 months. There are many millions of pounds being stripped from the value of regional media economies and hundreds of jobs being lost.

23. With each household contributing to the income of the BBC it is important that the BBC takes seriously the needs of all the people and their desire to see something of their own lives reflected to them from their screens.

24. The BBC should be far more radical in how it develops talent and from where. The BBC’s out of London strategy sets a bold direction but increasingly appears to be focussed on Salford and the Nations. There is no hope of retaining media economies across the country if they are trying to build on the crumbs of poorly resourced factual programming.

25. Investment decisions are increasingly centralised and the development of strong creative clusters in the nations and regions is therefore being compromised. This does not just apply to television and film production—regional press and regional news face similar pressures, with negative implications for local representation and democratic engagement. Regional and local engagement can only be empowered if investment is also held regionally.

26. As staffing levels in regional newspapers and broadcasters decline the resource allocated to investigative journalism shrinks. Plurality is vital in news coverage and this is in danger of disappearing. At the same time regional audiences are not being well served as only national stories get in depth coverage. News reporting should remain well resourced to ensure that regional audiences benefit from a much higher level of journalistic debate and engagement.

27. As regional production bases shrink and broadband speeds and take up increase, it is likely that content creation will increasingly take place from the centres in London and the Nations. Without a robust regional infrastructure for content creation there is a very real danger that the revolution of Digital Britain will be brought to the nation by the BBC from Wood Lane.

28. In Digital Britain, a fully broadband-enabled country, talent should be able to produce, contribute and participate regardless of location. In the past, local broadcasters created opportunities for new talent to make their first films/programmes in a professional environment. The ITV franchises all provided a platform for new voices accompanied by training and development support; the BBC and Channel 4 also had dedicated strands.

29. Significant names came through these access points—Saul Dibb, Director of The Duchess; Oscar winner Andrea Arnold, International EMMY winner Patrick Collerton all produced their first work in this way. These slots no longer exist and as broadcasters move further away from the regions of the UK, talent has little choice but to move to one or two core cities if it wants to sustain a career. As the industrial model disappears, existing
businesses struggle to trade. In some regions of the UK the supply chain is already becoming fragmentary and unsustainable.

30. Smaller, diverse creative industry companies have been able to grow up in the footprint of significant regional commissions. The loss of the BBC and ITV to the regions will impact significantly on the smaller, innovative, creative regional businesses that have benefitted from properly resourced regional production.

31. The North East now has no network television production at all. This means the region becomes invisible to the rest of the country, no new production companies will be set up, existing crew, facilities and creative producers will migrate to London, Scotland and Manchester, there will be no opportunities for regional media graduates and no training opportunities for young people wishing to stay in the North East to follow media careers. With no professional companies to interact with it is unlikely that regional media courses will survive in regions without media economies.

32. The changing structure of the television industry makes it virtually impossible for indigenous independent production companies to grow. Regional media economies have been built up over the last 20 years, they are being destroyed overnight and will be hard to rebuild.

33. Regional Creative Industry strategies vary widely in their approach and delivery. Some regions have fully developed strategies and strategic lead agencies that have been resourced to build the commercial creative sectors. Other regions fund the commercial creative industries via a dozen other public agencies with no strategic lead and no strategy. The biographies and networks of many of the regional creative industry support agencies and personnel are very thin and there is little chance of developing these industries properly without a much more robust approach.

20 March 2009

Memorandum by Northwest Vision and Media—appendix to the submission by “Screen England”

Northwest Vision and Media welcomes the Lords review into UK-originated content in film and television. Northwest Vision and Media has provided its thoughts through the response submitted from the body representing the Regional Screen Agencies, “Screen England.”

We do feel it is important to submit some additional points as there are some issues raised within the Screen England response that we have concerns about and would like to put forward a Northwest view.

1. We welcome the BBC North move. We feel this will not only benefit the Salford and Manchester areas but the entire region and the wider North. The opportunities have already been recognised by the three northern screen agencies and we are collaborating in three significant areas;

   (a) Northern Net—a project to help build and facilitate the production base across the North.

   (b) Northern Exposure—a database for crew, facilities and locations to promote and encourage production across the northern regions.

   (c) Skills provision—providing skills training and development to freelancers, new entrants and employers across the north.

2. We understand the need for the BBC, ITV and C4 to spread their activity across the regions and we believe the MediaCityUK will be a vital production hub in the North. In addition in this increasingly globalised world, we believe MediaCityUK provides international opportunity and will be an attractor for not only the North but the whole of the UK.

3. We feel it is important that the Committee is aware of the wider role that Northwest Vision and Media has taken on. As of April 2009, Northwest Vision and Media will become the organisation in the region that is responsible for promoting and supporting all the digital and creative industries. This role has been championed by the Northwest Regional Development Agency and crucially has the support of our other key funder, the UK Film Council. This role allows us to co-ordinate activity across the region and encourage true innovation and convergence with all our industries. We believe this is the model for the future to help grow and develop the creative and digital economies in the regions.

24 March 2009
Memorandum by Olswang

About Olswang

Olswang is the premier UK law firm in the media communications and technology sectors. Over a quarter of the firm is dedicated to work in these sectors and our partners include many recognised experts in the field. We pride ourselves both on the depth of our understanding of these industries and the ability this gives us to add real value in our work for clients who are active in these sectors. This industry expertise has been at the heart of Olswang since its inception.

In particular, we are heavily involved in industry bodies that are critical to film production in the UK. One of our partners, for example, sits on the Board of the UK Film Council, is a deputy Chair of the British Screen Advisory Council and is on the Advisory Board of the Film Business Academy; another is a Director on the Board of Film London, is on the Advisory Panel of the NFTS Producer Course and is involved with the British Screen Advisory Council working group on the UK film tax credit, both prior to and following its implementation. We represent many film production companies, from major studios financing films made in the United Kingdom through British independent producers entering into multi-party financing deals and distribution deals. We frequently advise in connection with the structuring of these films and believe we are well placed, both at an industry level and from individual experience, to comment on certain aspects of the tax credit legislation.

Introduction

We are conscious the Committee will receive a number of submissions so have decided to focus in our submission on two particular points arising out of section 3 in the Committee’s Call for Evidence. The section raises the following questions:

Have the 2006 changes to the tax credit system been of benefit to the UK film industry?

Have they had a perceptible effect on UK film production?

Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate?

Are any types of film or types of commercial arrangement unreasonably excluded?

Our overall view is that the UK film tax credit regime as currently stands has been broadly successful in acting as an incentive to inward investment and in focussing the benefit of the tax relief on producers. However, there are two areas in which we feel the tax credit regime is failing the local UK production industry in particular.

1. Amount of Tax Credit Available for Co-Productions

As the regime currently stands, the provisions of the UK tax credit act as a disincentive to coproductions. The problem arises because of the 80% cap on a UK co-producer’s UK qualifying spend in respect of which the relief can be claimed. In a 100% UK production produced solely by a UK film production company, this means the tax credit will apply to 80% of the budget. However, if a film’s budget is spent 50% in the UK by a UK co-producer and 50% elsewhere by its non-UK co-producing partner under one of our co-production treaties or under the European Co-Production Convention, only 40% of the total spend (which will be unlikely in a co-production scenario) incurred by the UK co-producer will count towards the tax credit.

This outcome stands in contrast to Germany. Like the UK tax credit as applied to higher budget films the German Federal Film Fund (Deutscher Filmfoerderfonds “DFFF”) grant is calculated at 20% of qualifying production spend. Also like the UK tax credit, the DFFF rules impose a cap of 80% of the total production costs against which the subsidy can be claimed. However, unlike the UK tax credit there is no provision that only costs incurred by the German film production company count toward the “total production costs” for the purpose of the 80% cap. As a result, co-productions are able to benefit from the 20% subsidy in relation to all German qualifying spend incurred by the German co-producer (provided it is not more than 80% of the total spend (which will be unlikely in a co-production scenario)).

One of the effects of the negative impact of this lacuna in the UK tax credit on co-productions is demonstrated by the statistics. In 2006 the number of UK co-productions stood at 52. This figure fell to 28 co-productions in 2007 and 20 in 2008. The total UK co-production spend of £48 million for 2008 was a 34% decrease on 2007’s figure of £72 million and less than half 2006’s £108.3 million.
In order to address this issue, we would suggest that schedule 5 paragraph 4 (1) (b) Finance Act 2006 is amended to read as follows:

“If less, 80% of the total qualifying expenditure or in the case of a qualifying co-production 100% of the qualifying expenditure”.

Further, the definition of E in schedule 5 paragraph 4 (2) (b) Finance Act 2006 would need to be amended to read:

“If less, 80% of the total amount of qualifying expenditure incurred to date or in the case of a qualifying co-production 100% of the qualifying expenditure incurred to date”.

2. **SHOOTING ABROAD**

Our second concern in relation to the UK tax credit as currently implemented is with the lack of tax relief for the expenditure on cast and crews shooting a British qualifying film outside the United Kingdom but who are liable to pay UK tax on their earnings (“UK Personnel”). At present, if expenditure on the UK Personnel is not used or consumed in the UK, it does not count toward the amount of spend for the purposes of calculating the UK tax credit. This puts the UK industry at a significant disadvantage as compared with other European countries and also makes UK producers less attractive as co-producing partners.

We would suggest that section 35 (1) Finance Act 2006 is amended to ensure that expenditure on engaging the services of UK tax resident or ordinarily resident individuals who would be subject to UK income tax and national insurance contributions in respect of the fees or salary received for qualifying expenditure counts as UK expenditure. Section 35 (1) Finance Act 2006 could be amended as follows:

“‘UK expenditure’ in relation to a film means expenditure on (a) goods or services that are used or consumed in the United Kingdom and (b) without limitation to the foregoing engaging the services of UK tax resident or ordinarily resident individuals in connection with the principal photography of the film outside the United Kingdom where such individuals would be subject to UK income tax and national insurance contributions upon the fees or salary received in respect of principal photography of the film in that jurisdiction”.

We would further recommend the guidance to this section be amended to make clear that payments to the UK Personnel’s loan out companies (if any) are included in this definition where the ultimate beneficiary of that payment is a UK tax resident or an ordinarily resident individual.

3. **EXAMPLES**

We suggest that both our proposals above need to be implemented to address the current shortcomings in the tax credit regime.

The issue can be illustrated by three theoretical UK/New Zealand co-productions made under the relevant Treaty, each of which is being funded 50% by the New Zealand co-producer and 50% by the UK co-producer with appropriate technical, artistic and creative contributions from each co-producing country.

(a) In our first example, under current rules, all of the UK co-producer’s 50% contribution is spent on qualifying UK expenditure. The UK co-producer would only be entitled to the tax credit on 80% of this amount—40% of the total qualifying spend.

(b) In the second example, the UK co-producer again contributes 50% of the core expenditure, but 20% of its contribution (10% of the total) is expended on UK Personnel filming in New Zealand. Even if the law changes to allow tax credit on the costs of the UK Personnel, without the cap of 80% on the UK co-producers spend being lifted, the UK co-producer will only be entitled to tax relief in relation to 40% of the budget, ie 80% of its 50% spend. It is therefore no better advantaged than under the present rules, and it remains worse off than a UK producer which has not entered into a co-production agreement.

(c) In the third example, the facts remain the same as in the second example, but the law has been changed to allow both the costs of the UK Personnel filming in New Zealand as well as, in this case, to lift the cap of 80% on the UK co-producer’s spend. In this example, because the total UK expenditure (including the costs of the UK Personnel filming abroad) is less than 80% of the core expenditure, the UK co-producer would be entitled to tax credit on its total contribution of 50% of the core expenditure, putting him in the same position as a UK producer which has not entered into a co-production agreement.
4. **Conclusion**

We would advocate that these suggested changes to the current law as embodied in Finance Act 2006 are made for the following reasons:

1. They will stimulate co-production activity in line with stated Government policy. In recent times, the UK has signed up to new bilateral treaties with India, Jamaica and South Africa in addition to its bi-lateral treaties with Australia, Canada, France and New Zealand. In addition, it is a signatory, together with 37 other countries, to the European Convention on Cinematographic Co-Production. Moreover, negotiations are under way to establish new bi-lateral treaties with China and Morocco. The appetite for co-producing with producers located in other countries, which is appropriate for films which aim to tell universal stories, is being thwarted by the artificial impediments imposed by Finance Act 2006. Thus, despite the many opportunities for a UK film production company to co-produce under these bi-lateral treaties and the European Convention, the harsh realities of financing films, and in particular the UK independent sector’s reliance on the tax credit to complete its financing plans, risks the industry becoming insular and parochial as it is incentivised by the very nature of the present tax credit to confine its film within the United Kingdom.

2. Whether or not the film is structured as a co-production, the United Kingdom does not always offer suitable locations for all stories to be told authentically. Using British talent abroad, in the form of cast and crews, in films such as *The Constant Gardener*, should enhance the chances of success for the UK film industry.

3. If the incentive was extended (but limited) to the costs of those liable to pay tax in the United Kingdom then it would not only encourage the use of UK talent but also have a directly beneficial effect for the Treasury. (We note that the German subsidy goes even further than this in allowing the grant to extend to a proportion of the costs of shooting certain key scenes of the film abroad if there are “compelling dramaturgical requirements” in the script—we are not asking that the tax credit be extended to this extent so as to keep it simple and allow for the minimum of changes to the current legislation.)

4. These changes are of primary importance to the UK independent production sector. Not only would it assist it in building sustainable businesses, the original purpose of the introduction of the tax credit, but it is also our understanding that they should not impose a significant additional burden on the Treasury.

23 March 2009

**Memorandum by the Pinewood Studios Group**

**Summary**

1. The response set out below is submitted by the Pinewood Studios Group (“Pinewood”).

2. Pinewood believes that the film tax credit is critical to the future health of the UK industry.

3. Pinewood believes that a stronger film community will benefit domestic and international film producers of all sizes, and consequentially the UK creative industry as a whole.

4. Pinewood rejects the broadening of the “used and consumed” definition element of the tax credit, but sees scope for the reintroduction of the cultural hubs qualification.

5. Pinewood foresees a skills gap developing in the coming years and believes promoting creative talent is essential to the success of the creative industries.

6. Pinewood believes that Ofcom’s decision to reduce ITV’s out-of-London production quota was wrong.

**Introduction**

7. The Pinewood Studios Group, comprising Pinewood, Shepperton and Teddington Studios, is the cornerstone of British film and television infrastructure and is now a leading studio infrastructure group within the EU. The studios provide facilities for major national and international film production, filmed television, studio television recording, the filming of commercials and post-production sound services.

8. Recent films produced at Pinewood and Shepperton include *Harry Potter and the Half Blood Prince, Mamma Mia!, The Boat That Rocked, The Wolfman* and *Quantum of Solace*. Current television productions include *The Weakest Link, Gladiators, After You’ve Gone, Little Dorrit, Cranford* and *My Family* amongst others.
9. Pinewood is currently developing plans for Project Pinewood, the first purpose-built living and working community for film, television and the creative industries, linked to and interacting with Pinewood Studios. This will ensure Pinewood’s continued presence at the forefront of the creative industries, and help to maintain the UK’s global lead in this sector, providing immense opportunities for more creative, cost effective and sustainable film and television production in the UK.

10. Pinewood and Shepperton Studios were recently awarded joint BAFTA awards for their outstanding British contribution to cinema. The studios have a heritage dating back nearly 75 years, with more than 1,500 films made between both landmark studios.

**THIS SUBMISSION**

11. Pinewood is submitting these comments in response to the Call for Evidence issued by the Committee on 9 February 2009. Given the history of the studios, our response will consider all aspects of the film and television industry, building on the benefits of our 75 year history and position as a premiere creative hub for the UK.

**FILM AND TELEVISION’S CONTRIBUTION TO THE UK ECONOMY AND BRITISH CULTURE**

12. Pinewood believes that the film and television industries are vitally important to the UK economy, and campaigned on evidence based grounds for the film tax credit introduced by the Government in 2005 for this reason.

13. Pinewood, in conjunction with the UK Film Council, commissioned Oxford Economics to investigate the economic impact of the film industry in 2005, and updated this in 2007. In its 2007 report, Oxford Economics (OE) found that the UK film industry contributed over £4.3 billion to UK GDP in 2006, taking into account its multiplier impacts, and over £1.1 billion to the Exchequer (gross of tax relief and other fiscal support). The industry directly employed 33,500 people, and indirectly supported 95,000 jobs.

14. In cultural terms, the study further highlighted the importance of UK film as an expression of British culture, evidenced by the increased box office revenues for indigenous films, estimated to be as much as 30% over non-indigenous films.

15. The report also highlights the ability of film to attract tourists to the UK, with films responsible for attracting one-in-ten tourists, and addressing social issues faced by the country including drug addiction, prejudice and race relations.

16. Given the pressures on commercial broadcasters in the current climate, high end drama will inevitably suffer, as evidenced by the recent announcement by ITV. This coupled with the anecdotal evidence to suggest that the UK is losing out on large TV series, for example, Working Title and its partners benefited from basing the production of The Tudors TV series at Ardmore Studios in Ireland from the Irish tax credit. Consideration might be given to extending the film tax credit to high end television drama. Countries, such as France, Canada and a number of US states provide fiscal incentives for television drama similar in size and costs to film.

17. Pinewood also acknowledges that smaller budget films and television productions will suffer in the current economic climate. To help in this situation, we would suggest establishing a fund for such productions to draw upon. The fund could promote talent that would otherwise be unable to gain financial support. We would welcome further exploration of this proposal by the Committee.

**BENEFITS OF THE TAX CREDIT SYSTEM TO THE UK FILM INDUSTRY**

18. Pinewood believes that the tax relief for the film industry which became operational in 2006 is of critical importance to the success of the UK film industry. It has introduced a period of stability to the industry and enabled it to remain an attractive location for national and international film producers.

19. We agree with the view of the Financial Secretary to the Treasury, who said in October 2008 that film tax relief has been a success. The extent of tax relief, totalling £104 million in 2007 was set out in a statement by the Financial Secretary at that time.

20. Pinewood believes that without such relief, the UK film industry would suffer considerably. Where tax relief doesn’t work or is uncompetitive, evidence shows that the film industry suffers. The experience of the Irish Republic is a case in point. Their Section 481 tax relief was introduced in the 1970s but had become uncompetitive by December 2004, especially in comparison to similar yet more generous film tax packages introduced internationally, within EU Member States and the UK. By 2007, film production value in Ireland
was €195.7 million, a drop of almost a third on 2006.40 Incoming productions suffered by an even larger amount, falling by 77% from 2006 to 2007. This has led the Irish Government to improve the Section 481 to encourage greater investment in the film industry.

21. The positive effects of the UK tax credit can be illustrated by the increased spend on indigenous British film in 2008, which was 21% higher than 2007 at £192 million.41 This is indicative of the new period of stability found in the film industry since the tax relief was introduced. The uncertainty surrounding the industry when devising the system has now gone away.

22. However, at the same time it must be noted that inward investment and co-production films declined in 2008 by 35% and 34% respectively. Such a drop in inward investment can be explained by the strength of the pound which had made UK a less attractive place to invest internationally, a situation that is likely to change following the reversal in the exchange rate. It must also be recognised that co-productions take place in a highly competitive market, a fact that the industry is going to have to adapt to.

23. Co-productions, by their very nature, subsidise film production overseas. Whilst much discussion has been had on the number of co-productions, no analysis has been conducted on the amount of money that they make and their financial or cultural contribution to the UK. It would be interesting to see if co-productions were net contributors to the creative industries in earlier years.

24. It is important to remember that inward investment cannot be seen in isolation from other aspects of film investment. The same people build the sets and make up the casts and crews on a James Bond film as on Slumdog Millionaire. Central to the issue of a successful UK film industry is making films in the UK, irrespective of whether a film is financed domestically or internationally. Ensuring a strong film community with a range of large and small domestic and international films is critical to the success of the industry, and will benefit indigenous, small budget productions.

25. Pinewood believes that the current qualifying conditions for the film tax credit are broadly appropriate, and that they should be reviewed as part of the proposed review of the European 2001 Cinema Communications.

26. Should the Government seek to revise the cultural test then, Pinewood believes that the six qualifying points outlined in section B, “cultural hubs”, of the original draft test42 should be reinstated. This is based on the fact that the UK was one of the first EU member states to have its cultural test approved. As a result subsequent tests developed by other member states, for example Hungary, are more relaxed and easier to pass.

27. Some within the industry are advocating that the current film tax credit should be amended to broaden the “used or consumed” definition. The prospect of UK tax payers funding fiscal incentives on productions filmed overseas will result in overseas studios, especially in Eastern Europe, being given a considerable competitive advantage over their UK studio counterparts. According to the OE 2007 report, the cost of producing a film in the Czech Republic will be 7% lower than in the UK by 2010. Broadening the “Used and consumed” definition would enhance that advantage. We would suggest that film policy needs to be considered in a broader context.

28. If a broadened “used or consumed” definition were approved by HM Treasury it would reduce the competitiveness of UK film infrastructure. This would be compounded by the more advantageous cultural test introduced by other Member States. Such a policy would militate against long term investment in infrastructure. Without investment in state-of-the-art stages and physical and digital infrastructure the prospect of growth, employment and meaningful numbers of apprentices for the future seems unlikely.

29. Training and skills leakage would also occur if producers were encouraged to film outside the UK. Pinewood would urge DCMS to reject calls to broaden “used or consumed”.

The UK Film Council

30. Pinewood fully supports the work of the UK Film Council (UKFC). The UKFC has provided structure to a wide, diverse industry and has acted as a one-stop-shop in terms of advising government of the issues facing the film industry. Of critical importance is the role of the UK Film Commissioner’s office, which is essential in attracting large inward investment films. This role is crucial for an infrastructure company such as us. The UKFC has served the interest of the UK film industry well and should be commended.

40 Irish Business and Employer’s Confederation Audiovisual Federation, 11 December 2008, Film and Television Annual Review 2008
41 UK Film Council press release, 21 January 2009, Quantum of Solace, Mamma Mia! and The Dark Knight push UK Box Office to record high, but 2008 figures show a downturn in film production
42 Published by DCMS on 5 December 2005
UK BUSINESS INFRASTRUCTURE AND SKILLS

31. Pinewood is working to enhance the creative industries training infrastructure in the UK, as we foresee a skills gap developing in the next decade, particularly in the area of craft skills. Promoting creative talent is essential to the success of the creative industries. Current efforts to improve the facilities and career progression routes are welcome, most especially the current focus on vocational skills.

32. Since last year Pinewood, as part of Project Pinewood, and the National Film and Television School (NFTS) have been working together to establish the opportunity for a Screen Craft Academy (SCA), specifically for future generations to be taught the skills, crafts and expertise that the creative industries require. The target would be 20 foundation courses for around 120 students per annum in disciplines such as carpentry, painting, prop making, drapes and costume. The SCA will, according to the NFTS, be the first of its kind in Europe and they believe the world.

33. Pinewood is also fully supportive of the development of apprenticeships, and welcomed the Government’s commitment to help the creative industries “expand significantly apprenticeships to 5,000 a year by 2013 right across the country”. Pinewood is working in conjunction with DCMS to establish a Pinewood Group Apprenticeship Scheme for the studios and the 310 tenant companies.

34. In December, 2008 Pinewood launched The Skills Partnership, a joint initiative with Skillset, the Skillset Screen Academy and the Ealing Institute of Media (EIM) as part of the commitment to tackle skills gaps in UK film. The Skillset Screen Academy’s new office on site at Pinewood will act as a base for the delivery of advanced training schemes, supporting the wider vision for Pinewood Shepperton as an all encompassing community for the creative industries.

35. However, we believe that more work must be done on this to ensure that a skills gap does not occur in the film and television industries, or indeed the creative industries as a whole. Given the significance of the creative industries to the economy, especially in light of the recent recession, Pinewood believes that skill development is of vital importance to the industry, and its potential role as part of the engine for economic recovery.

UK TELEVISION CONTENT AND THE REGULATORY SYSTEM

36. Michael Grade, Executive Chairman of ITV and Chairman of Pinewood Shepperton Plc, has not participated in the drafting or final approval of this submission.

37. Pinewood is broadly supportive of Ofcom’s current plans for the future of the television content regulatory system as set out in the second public sector broadcasting review published in January.

38. However, Pinewood has concerns about the effect of reductions in out-of-London production targets for ITV. Ofcom has recognised that TV production remains very “London-centric” and Pinewood accepts that there is some inevitability to this. However, we believe reducing the requirement for ITV to produce 50% of its production outside of the M25 to 35% will unfairly penalise regional production centres such as Pinewood Studios.

39. Pinewood accepts that ITV is under many pressures, and continuation of the quota could hasten ITV giving up its public sector broadcasting responsibilities. However, Pinewood believes that it is important to maintain a plurality to production location. Given the increased pressure on ITV to reduce drama budgets and location shooting at a time when economic conditions mean more people will be watching TV, regional production centres can help ITV to meet its commitments in a more efficient and cost effective way which bring additional benefits to ITV shareholders in cost reductions.

40. We recognise that Ofcom intends to offset this reduction by increasing the Channel 4 quote from 30% to 35%. However, we believe that this will be insufficient to offset the loss of non-London production by ITV, especially as the Channel 4 quota does not come into effect until 2010 and is dependent on the settling of funding arrangements for Channel 4 in the ensuing period.

24 March 2009

Letter and memorandum by the Radio Independents Group

I am happy to enclose the submission from the Radio Independents Group to the Committee’s inquiry on Film and Television.

You will see we have sought to provide information from our own perspective on the UK audiovisual content industries, and some of the steps which might be taken to further their development.

43 DCMS, Creative Britain: New Talents for the New Economy
Our response aims to demonstrate the independent radio sector’s willingness to play a part in the formulation of wider communications policy.

We hope you find it of interest, and would be happy to discuss it further with you and the committee either at a formal evidence session or other such meeting.

23 March 2009

INTRODUCTION
The Radio Independents Group was formed in 2004 as the trade association for independent radio production companies in the UK, supplying finished programmes to BBC Radio national and digital networks, BBC World Service and a variety of commercial broadcasters. Our 90 members also create audio advertising for commercial stations, podcasts for online use, audiobooks for the retail market and a host of other audio-related goods and services. They range in size from large companies with a global reach to sole traders, who make full use of modern technology to create world-class products on the slimmest of budgets. RIG represents these companies in negotiating Terms of Trade with the BBC and other customers, and provides help and support to members, including in particular our Legal Services and Insurance schemes.

We fully recognise that the Committee is focussing on the film and TV industries, and this paper is therefore submitted to better inform that discussion by using our own experiences as a UK creative industry producing broadcast content.

RIG also recognises that the Committee will have received many submissions and therefore have kept our responses brief and addressed only the questions that best reflect our ability to offer an informed view.

We would of course welcome the opportunity to expand on these views to the Committee in person.

1. What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

As representatives of a UK creative industry we do of course welcome that fact that there are existing mechanisms to help British films get made and UK original production, particularly independent production, get commissioned by national PSB networks.

Our opinion is that the UK creative industries can grow larger if they are all allowed to grow together. There is a history of radio plays and shows being adapted for other platforms, also vice versa, for example Big Finish Productions recently produced some Dr Who radio plays. In addition, production, writing and acting talent is often discovered and developed in one medium before moving to another.

Television production has proved that the more access independent producers are given to commission, the more high-quality diverse innovative programming is produced.

Allowing a similar situation to arise in radio would increase opportunities not only for a rise in the innovative and diversity of radio content but consequently it would also allow more cross-fertilisation of ideas and characters to TV and film, which would enhance the overall UK creative audio and audiovisual industries further.

Bearing in mind the possibilities for international and audiobook sales, the economic benefits of a stronger independent radio sector could be significant. RIG recently commissioned an independent survey of our members to quantify the total revenue of the independent audio production sector and this showed in excess of £25 million pounds per annum, of which £17.25 million is derived from radio production. While these are not large sums in comparison with the TV and film sectors, they are significant amounts and of course it is not entirely a matter of money. BBC radio programmes have a reputation and influence around the world that is out of proportion to their modest production budgets and independent producers make an important contribution to that, and thus to Britain’s standing in the world. This again has a positive spin-off effect in terms of creating interest in UK creative content per se.

At present this potential is not being realised, mainly due to the lack of commissions being made available to independent producers by the UK’s only significant commissioner of radio programmes, the BBC. While producers make the best possible use opportunity of the 10% of “eligible output” that the BBC voluntarily aims to commission from our sector, the remaining 90% is ring-fenced for the BBC’s in-house departments. This is a severe constraint on the growth of our sector and nearly all our members report a surfeit of ideas and the capacity to produce a great deal more than is currently commissioned.
5. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

For some years after the BBC started commissioning independent radio production in the early 90s, there was a perception that it was a “cottage” industry with small teams working predominantly from home and using BBC studios and technical staff when needed. While this was never true of the larger companies, it probably was the case that the professionalism of the programmes produced by some of the smaller independent producers was not always matched by their management and administration.

RIG has made strenuous efforts over the last five years to encourage and facilitate professional working practices throughout our sector, by commissioning and promoting industry-standard contracts for bought-in talent, enabling specialist media legal services at an affordable price, sourcing tailored insurance packages, engaging fully with the BBC in its Terms of Trade and Compliance regimes, and much more.

Regarding the emergence of entrepreneurial talent, this has characterised our sector from the beginning, as it was relatively easy for one or two gifted producers to start a small company, win some business making programmes and build a reputation that led to more work. In some cases these people would be former BBC staff, who were better able to explore their creativity outside the structure of the Corporation.

7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

RIG welcomes the opportunities created by new technology and in particular digital and online broadcasting. RIG members were at the forefront of persuading the BBC to develop new digital networks. However we have become concerned recently that the policy discussion on new technological platforms and networks often seems to concentrate rather too heavily on the mechanics of distribution, even to the extent that resources are diverted from programme-making to the development of new distribution methods. This was a problem in the early stages of the policy process that later became the Communications Act 2003, and it appears that processes such as Digital Britain have fallen foul of the same lack of focus on some key content issues.

Taking radio as an example, while it is beneficial for the listener to be able to access 100 stations on a DAB radio or 11,000 on an internet radio, these stations need to be able to supply quality content to drive listening. It is also important to note that for the short to medium term, most people will continue to listen to at most a handful of favourite stations, not least the BBC, and maintaining the quality of these stations’ output must be the prime objective.

Memorandum by Scottish Screen

Executive Summary

Scottish Screen is the national government-backed agency responsible for developing all aspects of screen industry and culture across Scotland, focusing on the following five priority objectives:

1. Education—to ensure that people of all ages and backgrounds are inspired and equipped to analyse, appreciate, explore, create and share screen media;
2. Enterprise and Skills—to ensure that there are appropriate levels of skilled individuals and viable companies to sustain all aspects of the screen industries across Scotland;
3. Inward Investment—to promote Scotland as a dynamic, competitive and successful screen production hub;
4. Market Development—to ensure that the widest range of screen product reaches and is appreciated by a diversity of audiences;
5. Talent and Creativity—to identify nurture, develop, support and progress Scotland’s screen talent and screen production companies.

Scottish Screen welcomes this opportunity to respond to the House of Lords Communications Committee inquiry into British film and television.

We work in partnership with the UK Film Council on its mission to build film across the UK through investment in talent, businesses and film festivals, and are happy to endorse the Council’s own response to this inquiry. In this document, our principal focus is on those issues which are especially pertinent to film and television in Scotland.
The main issues we wish to raise are as follows:

— Scotland’s film and television production sector has a unique and current combination of opportunities to significantly grow and develop over the next three years, but capitalising on these opportunities will require concerted and sustained effort on a number of fronts, including organisations with UK-wide as well as specifically Scottish responsibilities.

— Scottish Screen recognises that the Scottish film industry has benefited from the introduction of the UK tax credit. However, the tax credit system has limitations. These limitations include:
  
  — Other countries have similar incentives on offer but offer benefits such as lower production costs than that in the UK.
  
  — Producers in Scotland are generally unable to access the full benefit of the tax credit as it is cashflowed by “middle men” based outside Scotland who take a cut off the top.
  
  — The tax credit has not eliminated the need for producers to find additional production finance from the private sector which adds cost to production.
  
  — Limited opportunities to enter into co-production arrangements and work outside the UK may compromise the Scottish sector which is heavily reliant on co-production finance.
  
  — Finally, one could argue that the UK tax credit does not allow Scotland to compete globally in its own right. It does not support the telling of Scottish stories, the development of Scottish talent and production companies, or the use of Scottish cast, crew, locations or services over any other nation or region in the UK. It may be possible for Scottish productions to continue to utilise the UK tax credit but to overcome this final point incentives need to be particular to Scotland and have Scotland’s long term interest at heart.

— As noted above, Scottish Screen works in partnership with the UK Film Council. However, we also recognise that the Council faces the twin challenges of addressing the varied needs of component parts of the post-devolutionary UK; and of balancing its own industrial and cultural responsibilities.

— Scottish Screen has a successful track record of supporting initiatives to develop film and television businesses and talent. (Examples are given in Annexes 1 and 2.) However, many of these examples given will not be achievable in the coming years unless fresh resources are made available. This is because of a significant reduction in the distribution of Lottery funds for film, both in Scotland through Scottish Screen and across the UK via the UK Film Council.

— We share the view of the Scottish Broadcasting Commission that the regulatory regime, and Ofcom in particular, give insufficient weight to the importance of the role of the individual nations of the UK in the overall PSB ecology. Although the BBC’s track record of television production for and from Scotland may also be criticised with justification, the BBC deserves credit for facing up to previous deficiencies and making a major commitment to improve matters (although both the Scottish Broadcasting Commission and Scottish Screen would wish to see an acceleration of these changes).

— The digital era intensifies the need to strive for the correct balance between rights holders and rights consumers. This should ideally foster creativity through protection of IP rights, while also ensuring and encouraging sufficient access to screen-based content for consumers and citizens and allow for changing business models. There are two other highly significant implications of digital switchover and “widespread broadband availability” for Scotland:

  — The need to ensure that there continues to be effective PSB competition for the BBC within Scotland, not just at the total UK level; and

  — The need for extreme caution in the use of the phrase “widespread broadband availability.”

— Public intervention will continue to be essential to maintain, indeed to strengthen Public Service Broadcasting (PSB), although the structure of PSB itself will have to change. For example, the ongoing viability of the “for profit” business model of PSB provision is likely to face increasing pressure. However, we do recognise that—at least in the short term—a case may be made for a continuing PSB role for Channel 3. In our response to Ofcom’s consultation on its second PSB Review,44 we made the following key points:

  — Plurality of PSB provision is important and needs to be ensured within Scotland;

  — We fully support the recommendations of the Scottish Broadcasting Commission, including the establishment of a Scottish digital network;

We are attracted by Ofcom’s suggestion of an all-Scotland Channel 3 licence; and
It is essential that BBC ALBA should be available on Freeview across all of Scotland as soon as possible.

1. What do the UK film and television industries currently contribute to the UK economy and British culture and how might this be enhanced?

In July 2007 the UK Film Council, in conjunction with Pinewood Shepperton, published a research paper entitled *The Economic Impact of the UK Film Industry*. This document outlines clearly how important film is to the UK economy. The table below illustrates its impact.

<table>
<thead>
<tr>
<th>Channel of Impact</th>
<th>Total Contribution to UK GDP in 2006</th>
<th>Total contribution to Exchequer revenues in 2006</th>
<th>Employment impact in 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct</td>
<td>£1,510m</td>
<td>£436m</td>
<td>33,500</td>
</tr>
<tr>
<td>Multiplier (indirect and induced plus TV)</td>
<td>£1,625m</td>
<td>£420m</td>
<td>33,500</td>
</tr>
<tr>
<td>British film box office effect</td>
<td>£53m</td>
<td>£8m</td>
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<td>Tourism</td>
<td>£900m</td>
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</tr>
<tr>
<td>Promotion/trade</td>
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<td>700</td>
</tr>
<tr>
<td>Merchandising</td>
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<td>Total</td>
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<td>94,700</td>
</tr>
</tbody>
</table>

The report also demonstrated that there are a number of additional economic “spillovers” which result from the wider role film has. These are defined in the document as; improved skill levels in the UK economy and the promotion of a distinct UK film culture.

In Scotland, the film and television production industry directly employs almost 9,000 people and has a turnover of £240 million each year. Research has also shown that film and television programmes account for 10% of inward tourism in Scotland.

It is necessary to place Scottish film and television in the context of the significant changes taking place across the industry in order to understand how it can increase its economic and cultural contribution to Scotland (and to the UK as a whole). While Scotland is subject to the influence of many of the same factors which are important to the UK film industry, such as the relative strength of the £ against the US Dollar and the Euro (see below), its position differs in a number of important respects, notably a lack of “critical mass” of production activity.

However, Scotland’s film and television production sector has a unique and current combination of opportunities to significantly grow and develop over the next three years. Through specific actions, Scotland can seize those opportunities and increase the volume and value of film and television production from Scotland.

This will generate more jobs, wealth, investment, exports and competitiveness; it will also increase the level of representation of Scotland, its stories and talent to audiences at home and internationally, assisting in defining Scotland’s identity to itself and to the rest of the world.

THE OPPORTUNITIES

International Competitiveness: Film and television production operates at a global level—the ideas, businesses, talent, finance and audiences. These markets continue to grow and present clear opportunities for an ambitious nation to increase its share. Within this, the devaluation of the pound against both the US Dollar and the Euro has increased the UK’s attractiveness for production.

Digital: Technology is transforming the means and costs of film and television production, distribution and consumption, presenting new opportunities for creating content and reaching new markets and at the same time demanding new business models. Scotland is already a world leader in the production of digital screen content and has a clear opportunity to accelerate growth.

Investment in Scottish Production: The BBC has committed itself to increasing the volume and value of network television production from Scotland to at least 9% per annum—a potential additional £50 million investment per annum. The Scottish Broadcasting Commission recommended establishing a new Scottish network, which would attract additional production spend of up to £75 million per annum.

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Priorities: In order to seize these opportunities, Scotland needs to focus on the following objectives:

— To improve Scotland’s competitive position at UK and international levels;
— To build the scale of businesses and skills in Scotland;
— To attract businesses and business activity to Scotland; and
— To build the talent base.

**The Threats**

**Competition:** International and domestic UK competition for attracting “mobile” film and television production is severe, through intense international marketing and the offer of financial incentives.

**Scale:** Scotland’s screen production sector lacks the scale of skills, businesses and business activity—meaning an ongoing drain of talent, skills, businesses and business activity out of the country.

**Access to Finance:** There is a lack of access to working capital for screen enterprises in Scotland—they don’t have sufficient scale to attract equity investment, are unattractive to commercial lenders and are therefore unable to fulfil their growth ambitions.

**Skills:** The pace of change in the sector—particularly the impact of digital technologies—demands continual re-skilling and up-skilling for individuals and businesses.

**Sustainability:** The variability of the flow of film and television production activity—both inward and indigenous—undermines the sustainability of the sector.

**The Necessary Actions**

Establish a “Mobile” Production Fund to attract inward investment of business activity—needs £2 million per annum.

Extend the Indigenous Production Fund to increase the volume and value of indigenous film and television production—needs an additional £1.5 million per annum.

Provide Flexible Working Capital to increase the scale and capacity of businesses in Scotland—needs £1 million per annum.

Establish an Industry Skills Fund to increase and improve the scale and capacity of skills and businesses in Scotland—needs £400,000 per annum.

Increase International Marketing to attract inward investment of business activity—an additional £400,000 per annum.

**The Results**

Through these actions, we would expect to see:

— An increase of 50% in inward investment of businesses and business activity, rising from the 2008 benchmark of £28 million to £42 million per annum within three years;
— An increase of 50% in the scale of indigenous business activity for UK network and international markets, rising from a 2007 benchmark turnover of £51 million to a turnover of £76.5 million per annum within three years; and
— Securing and increasing employment from 5,900 (2008 benchmark) to 6,200 over the next three years.

While the above analysis may appear to be focused on fulfilling the economic potential of Scotland’s film and television and production sector, it is also important to note that the recommended actions are also designed to achieve important cultural benefits. The economic and cultural outcomes need to be viewed as complementary, not alternatives. It will be impossible to achieve the full cultural benefits without a sound and sustainable economic base.

And the cultural contribution of film and television is immense. The power of the moving image is a pervasive feature of our lives, to an extent unmatched by other media. This is undoubtedly the main reason why film and television continue to present an overwhelming case for substantial public sector support, even when subjected to the scrutiny of regulatory bodies such as Ofcom, with its self-proclaimed “bias against intervention.”
The following comments were included in our written evidence to the Scottish Broadcasting Commission on the cultural aspects of Broadcasting and Production in Scotland, in answer to the question of whether Scotland has a requirement for public service broadcasting which is different in scale and scope from other parts of the UK:

— “We support the view expressed by Scotland’s Screen Industries Summit Group (SISG) that the preservation and promotion of Scotland’s distinctive national identity should continue to be a core objective of Public Service Broadcasting (PSB).” Politically, structurally and culturally, Scotland is distinctive to a degree which the current PSB regime falls woefully short of addressing.

— The BBC has much ground to make up in this area. It is surely no coincidence that, in Michael Lyon’s words:

“…the BBC is valued less highly as you move away from London”

— It is increasingly obvious that the Nations and regions have increasingly divergent needs, although the PSBs, regulators—and possibly the legislative background—still have much to do to catch up. (A notable exception was Ofcom’s decision to hold a Conference on Public Service Television in the Nations in Cardiff in June [2007]). The divergence relates to news and current affairs, as well as “cultural” programming.

— The debate about Scottish broadcasting has moved on considerably from the “Scottish Six” debate (although the issues raised by the “Scottish Six” are as relevant as ever). Nevertheless, the irrelevance of much of what is broadcast on the UK “national” news on the PSB channels, for example on health, education and criminal justice, is increasingly unsatisfactory in a post-devolutionary environment. It is sometimes difficult even for viewers with some expertise on particular issues to identify those aspects which are not applicable to Scotland.

— Issues relating to diversity and plurality of programming content have a particular significance in Scotland. The need to provide “competition for quality” for BBC Scotland’s broadcast output is greater than ever, particularly in the context of the decline over a number of years of SMG’s dedicated ‘regional’ programming (although it is hoped that the new strategy will be able to reverse this trend) and the current inability of Channel 4 and Five to provide dedicated programming, combined with the minimal share of UK network programmes currently commissioned from Scotland by the commercial PSBs.”

As noted, there have been some highly encouraging statements, from the BBC in particular, since we made those comments. There is a real opportunity for these “cultural deficits” to be remedied. But it will require concerted and sustained effort on a number of fronts, including organisations with UK-wide as well as specifically Scottish responsibilities.

2. How do the current UK arrangements for raising finance and distributing/exhibiting films affect the commercial success of the UK film industry? How might changes in international film production and distribution affect the UK film industry?

Any assessment of the new tax credit system needs to be viewed against the background of the changing UK and international film production and distribution/exhibition environment. We have therefore addressed these issues below at Section 3.

3. Have the 2006 changes to the tax credit system been of benefit to the UK film industry? What effect has it had?

Economic value of the UK film industry

In addition to assessing the economic importance of the UK film industry for the UK Film Council, Oxford Economics also conducted research with regards to the negative impact of losing current film tax incentives. The report findings concluded that without the Film Tax Relief film production would be 75% smaller, at a cost of around £1.3 billion of lost GDP a year and about £350 million lower Exchequer revenues. The report’s conclusions demonstrate, not just how important the film industry is to the economy, but how important film tax relief can be.

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UK Tax Credit—How it Works

The UK government introduced the tax credit in January 2007 with the stated intention to provide tax relief of up to 25% on the core production costs for British films with budgets of £20 million or less and up to 20% relief for British films with budgets in excess of £20 million. Qualification for these credits is dependent upon:

- either (a) passing a points-based cultural test to ensure films have an adequate British (not necessarily Scottish) cultural component or (b) qualifying as an official co-production; and
- a minimum UK spend of 25% of total expenditure.

The UK tax credit is a significant tool in helping support film production in the UK and Scotland and there is no denying that it has helped stabilise an industry which previously relied heavily on finance from investors who were able to exploit tax loopholes which often disappeared with changing government legislation.

In introducing the tax credit the UK government recognised the value of the film industry in the UK and its importance for the UK economy.

Where the UK Tax System Does Not Work For Scotland

There are a number of reasons why Scotland is not benefiting from the UK tax credit as much as it could. The main reasons are given in detail below but in summary, important factors include:

INTERNATIONAL COMPETITION—Scotland is competing to attract production to Scotland within an international arena.

MIDDLE MEN—Most Scottish productions and producers do not gain the full benefit from the tax credit at 20–25% of the production budget.

FUNDING GAP—The tax credit has not alleviated the need to find expensive commercial money in order for Scottish films to move into production.

SCALE Most Scottish production companies have insufficient output to generate revenue that would enable them to cashflow the UK tax credit.

CO-PRODUCTION—Scotland is reliant on co-production opportunities but the introduction of the tax credit has seen a dramatic fall in the number of co-productions.

INTERNATIONAL COMPETITION

The sheer number of tax incentives available for film production throughout the world provides some indication of the competitiveness of the global market. Many of the funds available are in English speaking territories (US, Canada, Australia, Ireland) and it should be noted, in the USA and Canada federal funds as well as regional funds are made available.

In addition to this, many of the countries offering incentives are considered to have significantly cheaper costs than the UK or Scotland.

Furthermore, many countries have Film Agencies that provide additional support to attract production to their shores. To give an example, we can take one of Scotland’s closest competitors, Ireland. As well as the 20% tax break on offer in Ireland the Irish Film Board have approximately €14 million per year to invest in production. With a population of just under 4.4 million people compared to Scotland’s five million and with Scottish Screen having only a reducing pot of National Lottery funds of £1.9 million in 2008–09, it is easy to see why Scotland may need to look at ways in which it can gain a competitive advantage.50

MIDDLE MEN

One of the key aims of the UK government in introducing legislation in January 2007 was to ensure that tax benefits would be paid directly to producers on completion of their films and not to middle men. Unfortunately, there is only one production which Scottish Screen has supported since the new tax credit system was introduced where this has been the case. Rather, the film tax credit has been cash-flowed into the production budget by a third party (based outside of Scotland) in return for either fees or a per cent share of the return. What this means in effect is that the producer does not get the full benefit of the tax credit at 20 or 25% but benefits from around just 15–18% of the total production budget.

50 The Hollywood Reporter has recently reported that “A shake-up in the country’s system of tax incentives late last year already is paying dividends for the Irish filmmaking community”: see Hollywood Reporter, Ireland tax incentives paying off, 16 March 2009, at http://www.hollywoodreporter.com/hr/content_display/world/news/e3i01058b4cfb4333767d8b01899cfec19.
GAP FUNDING
In addition to the above point, it should also be noted that the guaranteed tax credit income has been insufficient in helping films move forward into production. In all but one film which Scottish Screen has supported since January 2007 there has been a gap in the film’s finance which has also been cashflowed by a third party (based outside Scotland) in return for an equity stake in the film, significant fees, interest and a share of profit. In essence, the tax credit system has failed to eliminate the need for producers to call on expensive film funds to get between 10–25% of their production budget and their films made.

PROBLEMS OF SCALE
One of the key reasons Scottish based production companies (as well as many other companies in the UK) cannot access the full value of the tax credit is they do not have sufficient output and income to generate the amounts of money required to cashflow the tax credit themselves.

It is well known that the development and production of a film project is a lengthy process. Only film companies of scale such as Working Title, DNA, Pathe and Focus Features can produce a number of films per year and capitalise on distribution revenues. In recent years, only one Scottish based company has produced more than one film a year. This is Sigma Films who have produced Red Road (2006), Hallam Foe (2007) and Rounding Up Donkeys (2008).

Many companies have recognised the need to diversify and produce other screen content (TV and new media) as well as film. This is why in December 2006 Scottish Screen made available to Scottish based companies a Business Development Loan Fund. This fund was designed specifically to help companies develop aspects of their business which did not currently exist and to explore new markets. Seven companies were awarded loans, totaling just under £400,000 but the demand for assistance was far greater than the finance Scottish Screen had available to spend. Of the seven companies who accessed funds, three were film production companies expanding into television. These included, Synchronicity, La Belle Allee and Slate North, (the company who produced the highly successful feature film The Last King of Scotland).

Similarly, recognising the difficulty of sustained development costs, in summer 2008 Scottish Screen launched a Slate Fund, designed to help companies develop projects strategically over a two year period. £560,000 was invested in five companies, who were all able to attract pound for pound matching finance.

CO-PRODUCTION
Since the tax credit system was introduced in January 2007 there has been a dramatic fall in the number of co-productions. In 2006 there were 52 co-productions in the UK, generating a spend of £108 million. In 2007 this figure fell to just 29 films with a spend of £74 million.51 This is a particularly worrying trend for Scotland. Of all 24 films Scottish Screen have supported or have committed finance to over the last three years 17 have been international co-productions.

Scottish Screen’s maximum investment in any film project with a budget over £300,000 is limited to 25% of the total budget of the film up to a maximum of £500,000. This makes it vitally important for film producers to raise the rest of their money from other sources. There are currently no other sources of funds in Scotland either in the public or private sector for feature film production. This means developing relationships with partners and having access to funds outside Scotland is essential.

An article in The Independent newspaper reflected on some of the concerns the UK film industry has about the future of co-productions, asking why some of the UK’s most prominent filmmakers were working elsewhere. One Producer interviewed was quoted as saying “Where we might be going wrong is in thinking too much of ourselves as an island and not reaching out—collaborating, reciprocating and co-producing that is respectful of other people’s national requirements.”52

The cultural test fails to recognise that the UK has to plug into an international film business and exploit international markets. Limiting producers to telling British stories, shot in the UK, using UK personnel may not help them become successful in an international market in the long term.

51 UK Film Council, Research and Statistics Bulletin, March 2008
52 The Independent Newspaper, The Big Exodus: Is the British Film Industry in Crisis? Article by Geoffrey McNab. 17 June 2008. (Quote from Mike Downey (Producer) of F&ME)
Other ways to improve our competitive advantage and generate revenue for Scotland from our film and screen sector

Despite some shortcomings in current systems it is clear that the film business can be a major source of income for any country. In 2007 £747 million was spent on production in the UK. Of this £747 million, £532 million was spent on inward investment productions. What this figure demonstrates is that the whole of the UK industry is reliant on films coming into the country for long-term sustainability, not just in global terms, but in building and developing an indigenous production sector. It is therefore vitally important to be competitive.

Summary of the Impact of the Current UK Tax Credit System for the Film Industry in Scotland

The current UK tax credit system makes a demonstrable impact on the UK film industry which, in turn, makes a significant impact on the UK economy.

Scottish Screen recognises that the Scottish film industry has benefited from the introduction of the UK tax credit. However, the tax credit system has limitations. These limitations include:

- Other countries have similar incentives on offer but offer benefits such as lower production costs than that in the UK.
- Producers in Scotland are generally unable to access the full benefit of the tax credit as it is cashflowed by “middle men” based outside Scotland who take a cut off the top.
- The tax credit has not eliminated the need for producers to find additional production finance from the private sector which adds cost to production.
- Limited opportunities to enter into co-production arrangements and work outside the UK may compromise the Scottish sector which is heavily reliant on co-production finance.

Finally, one could argue that the UK tax credit does not allow Scotland to compete globally in its own right. It does not support the telling of Scottish stories, the development of Scottish talent and production companies, or the use of Scottish cast, crew, locations or services over any other nation or region in the UK. It may be possible for Scottish productions to continue to utilise the UK tax credit but to overcome this final point incentives need to be particular to Scotland and have Scotland’s long term interest at heart.

4. Is the UK Film Council meeting its objectives of giving support to production and export of British films and could it do more to assist the UK film industry’s contribution to the UK economy?

As we noted above, Scottish Screen works in partnership with the UK Film Council on its mission to build film across the UK through investment in talent, businesses and film festivals, and we are happy to endorse the Council’s own response to this inquiry.

However, we also recognise that the Council faces the twin challenges of addressing the varied needs of component parts of the post-devolutionary UK; and of balancing its own industrial and cultural responsibilities. As we stated in responding to Film in the Digital Age, the UK Film Council’s consultation on its Policy and Funding Priorities for the period from 2007 to 2010:

“The overall policy aims and priorities are ones that we would endorse subject to a greater level of clarity in the following areas:

1. The nature of the United Kingdom is undergoing fundamental changes, with the realities of devolution delivering a significantly different complexion for a UK body like the UK Film Council to deal with. Given the increasing levels of self determination presented through the national parliament in Scotland and assemblies in Wales and Northern Ireland, how does the UK Film Council anticipate embracing the increasingly different, and potentially competing, policy objectives and priorities in this new world?

2. Film in the Digital Age leaves the definition of “film” open to wide interpretation. How far does the UK Film Council see film as, “any kind of ‘story’, told in sound and light, that moves across a screen”, and therefore an industry that embraces theatrical cinema, television and computer games?—or as something else?—and how does the UK Film Council then reconcile that within its overarching strategy?

3. In the last two years Scottish Screen has adopted an approach which looks at the specific objectives of individual areas of policy and operation and then examines how best this can be achieved, including by whom. This has seen us take some bold steps in transferring Scotland’s national film and television archive to the National Library of Scotland, delegate responsibility and resource to Skillset for industry skills development and to contract out the management of individual schemes and initiatives. The UK Film Council has on the whole set out on a similar path, with the establishment
the Regional Screen Agencies and First Light and the delegation of the Film Skills Fund to Skillset. However, there are implicit assumptions made in the consultation document—for example, that only one particular agency or organisation can deliver or take the lead in a particular area. For example:

a. 25% of the UK Film Council’s total budget (50% of its Grant in Aid income) goes to one organisation, and there seems to be no attempt to rigorously analyse how the perfectly laudable objectives of the BFI can best be achieved;

b. The most obvious example of this is with the National Film and Television Archive. There is collective recognition across the sector and the country that the NFTVA is in crisis. There is a need for urgent action, and yet none of the options publicly discussed suggest that even a review of the corporate structure housing the archive is required. Additionally, *Film in the Digital Age* suggests that more investment in film archives across the country could be a future funding priority, yet the crisis affecting the NFTVA is replicated and magnified in each of the regional film archives in England. There seems to be a clear need to approach the issue in a new way.

4. We fully endorse the UK Film Council’s commitment to Public Value. Through First Light, the Digital Screen Network, Digital Shorts and the Regional Screen Agencies, you have demonstrated that you are not just paying lip service to this. No one can argue that the centre of the UK film production sector is in London and the South East and that any industrial intervention is inevitably going to disproportionately benefit that part of the country. It is welcome to see that the UK Film Council sees regional film centres as being of critical importance, however, what is less clear is how the concentration of investment in bfi Southbank and the LFF benefits the whole country.

5. We believe that part of the way of achieving a sensible redistribution of emphasis which would further enhance the UK Film Council’s public value credentials is to significantly increase its support for the EIFF, ahead of other festivals and to support Scotland in its ambition to create a national screen centre.”

Subsequent to these comments above, we are pleased that the UK Film Council has increased its support for the Edinburgh International Film Festival (EIFF), recognising the Festival’s cultural and industrial ambitions and its global reputation.

5. *Is the current business environment in the UK offering the industries opportunities for the emergence of new talent or the acquisition of the managerial and technical skills required by the film and television industries?*

**DEVELOPING BUSINESSES**

With over 100 Scottish-based production companies and more than 300 facilities companies generating a turnover of £1.2 billion (€1.7 billion) per year, production activity in Scotland is the highest in the UK outside London.

Scottish Screen works in partnership with a wide range of organisations such as PACT, Scottish Enterprise and Highlands and Islands Enterprise, to provide opportunities for professional business development.

Currently, Scottish Screen run a Slate Fund offering up to £150,000 to four production companies with a number of projects looking to be developed. The funding comes with support to secure other finance to see the projects to fruition and should boost the level of Scottish production from Scottish companies.

From 2006 to 2008 Scottish Screen delegated £800,000 and additional resource to Skillset Scotland to develop and sustain the skills base in Scotland’s screen industries. This included £100,000 per annum for the Company Development Programme, aimed at developing businesses through an HR audit and tailored training plans for specific companies, which were launched in April 2007.

Scottish Screen launched its Business Development Loan in 2007, which provides access to funding for companies to sustain, develop or grow an aspect of their business for a period of up to two years.

Just under £400,000 of National Lottery investment has been committed through the Business Development Loan since then and the fund is currently closed.

Two case studies exemplifying Scottish Screen’s Business Development activities are given in Annex 1.
Developing Talent
Scotland boasts an incredible range of talent, from award-winning directors and writers to internationally renowned actors.

Indigenous Scottish talent means at least five feature films are produced out of Scotland each year, picking up awards and screening at festivals around the world, including multi-award-winning Summer starring Robert Carlyle, Trouble Sleeping, involving members of the asylum communities, historical comedy drama Stone of Destiny, and documentary feature, The New Ten Commandments.

Over 60 short films are produced in Scotland each year, screening at prestigious international festivals, including Sundance (Ma Bar and Steel Homes), Middle East International Film Festival (Breadmakers), Venice Film Festival (I’m in Away from Here); winning prestigious awards such the BAFTAs (Dog Altogether), the BAFTA Scotland Awards (The World According To and Ma Bar), and Edinburgh International Film Festival Awards (Christmas with Dad); receiving nominations for awards such as the Cartoon d’Or (This is JO3) and the Grierson Awards (Standing Start); or being part of talent initiatives like Trailblazers at the EIFF (The Problem with Pets).

Eight case studies illustrating Scottish Screen’s Talent Development initiatives are described in Annex 2.

However, many of these examples given will not be achievable in the coming years unless fresh resources are made available. This is because of a significant reduction in the distribution of Lottery funds for film, both in Scotland through Scottish Screen and across the UK via the UK Film Council.

6. How successful has the regulatory system been in supporting UK content in television?

Although of hundreds of television channels are now available in the UK’s increasingly digitised broadcasting ecology, UK originated content on television is almost the sole preserve of the four UK PSBs (the BBC, ITV, Channel 4 and Five). And although independent producers are increasingly successful in generating income from international sales of programmes and formats, commissions from the PSBs are absolutely vital to the existence of the UK’s television production industry. This is even more true of production outside London, which is one of the main reasons why Out of London quotas continue to be necessary.

Despite the existence of these quotas, recent trends in Scotland have been extremely worrying, as the Scottish Broadcasting Commission noted in its final report:

“It was also clear that the levels of television production from Scotland had been in steep decline. Figures released annually by the industry regulator Ofcom showed that our share of network commissions from the four UK public service broadcasters (BBC, ITV, Channel 4 and Five) was 2.6% in 2006, half of what it had been a few years earlier. In May of this year, Ofcom published the figures for 2007 which showed Scottish production still stuck at 2.6%.”

The Commission’s view, which is shared by Scottish Screen, is that the regulatory regime, and Ofcom in particular, give insufficient weight to the importance of the role of the individual nations of the UK in the overall PSB ecology:

“With regard to Ofcom, we believe that there should be at least one member of the main Board specifically to represent Scotland’s needs. Understandably, as a UK organisation, Ofcom has been operating on a unitary UK basis as it seeks to develop and implement a regulatory regime that fits all of the UK. However, as devolved arrangements have evolved and matured, that ability to make one size fit all can be challenging. For example, the potential withdrawal by ITV from public service obligations poses a specific risk for Scotland of a lack of plurality and competition for the BBC. We therefore believe that the role of Ofcom Scotland should be strengthened to allow greater flexibility and for decisions to be made in Scotland, as well as greater accountability direct to the Scottish Parliament. The UK Government should consider whether the Communications Act 2003 should be updated to reflect in statute the need for Ofcom to have greater due regard to the role of the individual nations of the UK in the overall PSB ecology.”

The BBC’s track record of television production for and from Scotland may also be criticised with justification. However, the BBC deserves credit for facing up to previous deficiencies and making a major commitment to improve matters (although both the Scottish Broadcasting Commission and Scottish Screen would wish to see an acceleration of these changes). The King Report on BBC network news provision, commissioned by the BBC Trust, highlighted the scale of the deficiencies in this particular area:

“During the four weeks that were monitored during October and November, the Cardiff team identified 136 stories on the BBC network that dealt with education and health: that is, with arguably the two most important policy fields that are largely devolved to Scotland, Wales and Northern Ireland. Of the 136 stories, all 136 dealt with England alone. None dealt with education or health in one of the devolved nations.”

7. What are the implications for television content creation of digital switchover and widespread broadband availability?

There are two highly significant implications of digital switchover and “widespread broadband availability” for Scotland:

1. The need to ensure that there continues to be effective PSB competition for the BBC within Scotland, not just at the total UK level; and
2. The need for extreme caution in the use of the phrase “widespread broadband availability.”

Regarding the first of these implications, Scottish Screen supports the main recommendation of the Scottish Broadcasting Commission (which received all-party support from the Scottish Parliament) that a new PSB digital network for Scotland should be established:

“The Public Service Broadcasting (PSB) review, currently being undertaken by the industry regulator Ofcom, highlights the likely need for new solutions to fill the emerging gap that Scotland will represent in the plurality of the UK’s public service broadcasting system. We accept the analysis and advocate a new public Scottish Network as the most effective, proportionate and ambitious solution. It is a missing piece in the UK’s jigsaw of public service broadcasting. As such, it is clear to the Commission that funding for the network should be found as part of future funding for UK public service broadcasting. This is reinforced by the reality that the deficit in public service broadcasting arises because of policy decisions made at a UK level and which will raise for HM Treasury billions of pounds from the sale of cleared digital spectrum from all parts of the UK.”

We are also concerned that a misguided working assumption of premature “widespread broadband availability” will in practice lead to an exacerbated digital divide. This divide is likely to have both geographic and socioeconomic dimensions.

The advent of the digital era also intensifies the need to strive to maintain an equitable balance between television content rights holders and rights consumers. Scottish Screen’s views on this topic were expressed very recently in comments submitted in response to the Interim report of Lord Carter’s Digital Britain review:

“The correct balance [between rights holders and rights consumers] should ideally foster creativity through protection of IP rights, while also ensuring and encouraging sufficient access to screen-based content for consumers and citizens and allow for changing business models.

Maintaining such a balance is not a straightforward task, as the increasing pace of broader economic and technological change continually shifts the equilibrium point. The potential for unintended consequences is significant. For example, the changes to the Terms of Trade between broadcasters and independent television producers which accompanied the Communications Act 2003 have been beneficial in encouraging increased exploitation of secondary and tertiary rights. However, these changes have also led to a consolidation of the independent production sector and—given that most of the largest indies are London-based—an increase in the already problematic degree of London-centricity in UK broadcasting. This has been damaging for the health of the Scottish indie sector which, already lacking industrial scale, experienced a significant decline in the value of its commissions from broadcasters. By implication, it has also been damaging for the diversity of UK broadcasting.

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58 See, for example, Pact, The Production Trend Report for Out of London, Figure 4, p.22, at http://www.pact.co.uk/uploads/file_bank/asset_3087.pdf .
We note that the Digital Britain team intend to review the terms of trade, in particular for new distributors and new platforms:59

“…The rights question on those newer platforms is less clear.

It’s worth looking at now to see if it requires an extension of the existing terms of trade to new distributors looking to come in and, potentially, to new platforms from traditional operators. We’re not trying to reinvent the existing terms from first principles.”60

Scottish Screen agrees with the view expressed in the Digital Britain interim report that the changes to the terms of trade between broadcasters and independent producers which accompanied the Communications Act 2003 have boosted domestic and international growth and encouraged innovation.61 We should not reverse these beneficial changes. The focus of the proposed review of the terms of trade should rather be on ensuring that the current arrangements are capable of evolving to continue to allow content creators to own and exploit IP as new platforms and services develop in the increasingly digitised future,

Digitisation can facilitate a step change in the ease and scale of copying and distribution of creative content. The potential economic and cultural benefits of this improved access and reach are enormous. However, Digital Britain is correct in its observation that the legal framework to identify rights-holders and acquire legal consent to share will often need radical updating.62

We also note from the Digital Britain Interim Report that the UK Government intends to legislate on the issue of peer-to-peer file sharing, requiring ISPs to notify alleged infringers of rights (subject to reasonable levels of proof from rights-holders) that their conduct is unlawful and also to require ISPs to collect anonymised information on serious repeat infringers.63

Clearly, content creators and/or owners need to have their IP rights protected, but we do have concerns that the resultant regime may prove too harsh, particularly as the vast majority of piracy of screen product is instigated outside the UK—and outside the EU.

Scottish Screen is a member of the British Screen Advisory Council (BSAC) and commends the work of the BSAC on this complex topic, most recently its (preliminary) proposals for the development of a copyright agenda for the 21st Century.64 Scottish Screen shares the BSAC’s view of the importance of remembering that audiovisual products result from the combined efforts of many different types of player, producers and broadcasters for example, as well as authors and performers.”

8. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content?

As noted above, the four UK PSBs account for the vast majority of UK originated content. There is no apparent reason why this feature would change as a result of the structural changes facing the UK television industry. The real danger is that, without remedial action, PSB could end up entirely in the hand of the BBC, an outcome which would be very damaging to the longer term plurality of supply and quality of output of British television.

Public intervention will continue to be essential to maintain, indeed to strengthen PSB, although the structure of PSB itself will have to change. For example, the ongoing viability of the “for profit” business model of PSB provision is likely to face increasing pressure. However, we do recognise that—at least in the short term—a case may be made for a continuing PSB role for Channel 3. In our response to Ofcom’s consultation on its 2nd PSB Review,65 we made the following key points:

— Plurality of PSB provision is important and needs to be ensured within Scotland;

— We fully support the recommendations of the Scottish Broadcasting Commission, including the establishment of a Scottish digital network;

59 ie for non-traditional broadcasting platforms.
64 As part of the BSAC’s response to the UK Intellectual Property Office’s (IPO’s) recent consultation on copyright exceptions.
We are attracted by Ofcom’s suggestion of an all-Scotland Channel 3 licence; and

It is essential that BBC ALBA should be available on Freeview across all of Scotland as soon as possible.

Annex 1

SCOTTISH SCREEN: BUSINESS DEVELOPMENT CASE STUDIES

Case Study 1: Savalas

Scottish Screen investment: £67,500 National Lottery funds over two years from the Business Development Fund

Savalas is the biggest audio post-production facility in Scotland, providing a range of services across the music and screen sectors. It was established 10 years ago and now employs 11 people in a brand new facility at Film City Glasgow. Savalas houses the UK’s first “Dolby Premier” licensed feature film mixing theatre, one of only five in the world.

Scottish Screen’s investment will enable Savalas to employ a sales and marketing specialist for two years to develop and implement a targeted sales and marketing strategy, with the goal of doubling turnover in three years, and expanding their client base across the UK and Europe.

Managing Director Giles Lamb explained: “Savalas is at a turning point in terms of growth; with our expansion into new world class facilities we have increased capacity and have identified a real need to invest in an effective marketing strategy. The Scottish Screen Business Development Loan will help us realise our ambitions to grow the company rapidly over the next few years. We would find it hard to justify this investment without Scottish Screen’s support.”

Case Study 2—MNE Media

Scottish Screen National Lottery Funds: £80,000 Business Development Loan over two years

MNE was set up on Benbecula in 1989 and it has grown in size to become one of the largest independent production companies in Scotland, with a turnover of just under £2 million. Although MNE’s main base is in Glasgow they also have a full time director based on the Isle of Skye. Central to what they do is a connection to Gaelic language and culture, and they produce programmes across a range of genres: from factual to comedy, drama to sport.

MNE are ambitious in their outlook with plans for expansion and diversification. In 2007 they made a successful application to Scottish Screen’s Business Development Loan, securing the maximum amount available. The Loan was set up to allow companies to access finance, which might not otherwise have been easily available, to help them grow and develop.

MNE’s award has been used to fund research and development, exploring new areas for growth and expansion. This has included investigating the potential of new technologies through their prototype multisports web platform, bounce.tv, preparing for the huge opportunities opened up by the imminent Gaelic Digital Channel, and developing links with international partners, all of which underpins MNE’s plans for future business growth.

Annex 2

SCOTTISH SCREEN: TALENT DEVELOPMENT CASE STUDIES

Case Study 1: Summer

Scottish Screen National Lottery investment: £112,751.00 production funding

Summer is a feature film from Sixteen Films, Ken Loach’s production company, directed by Kenny Glenaan (Gas Attack, Yasmin), and starring Robert Carlyle (Trainspotting, Stone of Destiny, The Full Monty) as Shaun.

Shaun and Daz are vibrant kids, wasted by their experience of education. All they have is their friendship and for Shaun his first love Katy. From the moment Shaun steps into our world he is bound to lose. Labelled as a violent bully he destroys himself and takes Daz with him. Shaun has 12 years to reflect on an intense summer of love, sex and loyalty. But Daz’s imminent death forces Shaun to go on a journey to confront his past. This is the story of a man full of intelligence and promise struggling to reclaim his life.
Although the film was shot in location in Derbyshire, where writer Hugh Ellis is from, it creatively involves key Scottish talent, including Executive Producer Rebecca O’Brien, and has a lead Scottish character. The film provided two young unknown Scottish actors the chance to play Shaun at key points in the character’s development. Post-production of the film was carried out in Scotland by Serious Facilities and Savalas.

So far, the film has screened at Branchage Film Festival and Cambridge Film Festival in September 2008 and Edinburgh International Film Festival in June, where Robert Carlyle won the award for Best Performance. Summer recently screened at Rome International Film Festival in October, where it won the main award in the Alice in the City (Alice nella città) category, the festival’s youth section. The film picked up the top film prize at the BAFTA Scotland Awards 2008, where Kenny Glenaan was also recognised with Best Director Award.

CASE STUDY 2: TROUBLE SLEEPING

Scottish Screen National Lottery investment: £75,000 from the New Talent Development Fund and a further £6,250 production funding

Trouble Sleeping was an innovative new talent development initiative run by Theatre Workshop, experienced in community theatre productions, with film production company, Makar Productions, that provided structured mentoring and support, backed up by Screen Academy Scotland, for people outside the film industry, involving participants from the refugee communities in Scotland.

The resulting feature film deals with difficult issues facing asylum seekers as they attempt to make new lives for themselves here in Scotland, whilst coping with painful memories of torture, war and poverty, from their recent pasts, bringing such experiences to the attention of the general public in a compelling, moving and often humorous way.

Theatre Workshop Artistic Director, Robert Rae, said of making the film: “I wanted to tell the story of the experience of refugees in Edinburgh, and I wanted them to be at the heart of the creative process—as actors and writers.”

Scottish Screen invested in the project to involve people who are currently under-represented in the film industry, and to present a picture of a multi-racial, multi-cultural and physically diverse Scotland.

Trouble Sleeping was broadcast on BBC Two Scotland on 25 August 2008. In March 2008, it won a BAFTA Scotland New Talent Award for Best New Work (Fiction), before going on to win Best Narrative Feature at the 2008 Peace on Earth Film Festival; the lead actress, Alia Alzougbi, is nominated for her role at the BAFTA Scotland Awards 2008.

CASE STUDY 3: BRIDGING THE GAP

Scottish Screen National Lottery investment: £75,000 from the Talent Development Fund

Scottish Documentary Institute (SDI) has been given long-standing support from Scottish Screen for Bridging the Gap, the only documentary talent development initiative for the big screen in the UK, offering an intense creative training programme alongside production.

Bridging the Gap is an open competition for seven filmmakers to produce a 10-minute film in a creative and experimental environment. The filmmakers are trained to explore the use of digital technology, pushing the boundaries of short documentaries for cinema. Throughout the competition, SDI offers public documentary masterclasses in Edinburgh.

For Bridging the Gap 6, 12 directors were initially selected and put through a training process. In December 2008, seven projects were commissioned in an industry pitching session and each project provided with a production budget of £16,000.

Listed below are the selected Bridging the Gap 6 projects on the theme “Future” that will be delivered in April 2009:

Matt Lloyd—Best Laid Plans (Edinburgh)
David Graham Scott—Gone With the Wind (Glasgow)
Johanna Wagner—Peter in Radioland (Edinburgh)
Jane McAllister—Mr Scott—Maker of Sporrans (Inverness)
James Newton—The Space You Leave (London)
Richard Simpson—May the Faith be With You (Aberdeen)
Peter Gerard—Tomorrow’s Fairground (Edinburgh)
Previous Bridging the Gap productions have achieved great success in the international festival circuit. *Breadmakers* (Bridging the Gap 4—“White”) was awarded the Black Pearl Award of £46,000 at the Middle East International Film Festival 2008 and *Christmas with Dad* (Bridging the Gap 5—‘Home’) won the Best Short Documentary Award at Edinburgh International Film Festival 2008. Most recently, Eva Weber’s *Steel Homes* (Bridging the Gap 5) screened at Sundance Film Festival (15–25 January 2009).

**Case Study 4: Hallam Foe**

*Scottish Screen National Lottery investment: £500,000 production funding, £42,150 content development, £1,500 markets and festivals funding*

*Hallam Foe* is David Mackenzie’s (Young Adam) fourth feature film, adapted from the Peter Jinks’ novel of the same name. The film stars Jamie Bell and Sophia Myles, and is produced by Gillian Berrie at Sigma Films. Set amid the rooftops of Edinburgh’s Old Town, this is a dark and twisted, romantic comedy.

Scottish Screen has supported *Hallam Foe* since 2002 through development to production. As well as being a Scottish story, investment in the film also meant we could support Glasgow-based production company, Sigma Films, and key creative talent Gillian Berrie and David Mackenzie. Shot on location in Edinburgh and the Scottish Borders, using local crew and facilities, *Hallam Foe* showcases a very contemporary Scotland to an international audience.

The film opened the Edinburgh International Film Festival 2007 and has gone on to charm audiences around the UK and abroad, gaining a number of international awards including, the Silver Bear for Music at Berlin International Film Festival, and the Hitchcock d’Or (Jury Prize) at Dinard British Film Festival in France. Sophia Myles won Best Actress at the BAFTA Scotland Awards 2007, and the film was nominated in six categories at the British Independent Film Awards (BIFAs).

“The Scottish’s Screen’s investment, support and expertise were integral to the development, production and marketing of *Hallam Foe.*”—Gillian Berrie, producer, Sigma Films

**Case Study 5: Seachd—The Inaccessible Pinnacle**

*Scottish Screen investment: £162,500 National Lottery funds for Content Production and a further £9,975 National Lottery funds to pursue sales and distribution opportunities*

*Seachd—The Inaccessible Pinnacle* is a family-friendly feature film about an aged and mystical story-teller (Aonghas Padruig Caimbeul) who helps his three grandchildren, including Angus (Padruig Morrison), face the tragic loss of their parents by taking them on a magical and epic journey through the history of the Gaelic people. The film, directed by Simon Miller (*Foighidinn—The Crimson Snowdrop*) and produced by Chris Young (*Festival, Gregory’s Two Girls, Venus Peter*) was shot on Skye amid the breathtaking Cullin mountains and is unique in that it is the first feature film in the Gaelic language on general release.

Scottish Screen invested in this project as it presents Scotland’s cultural heritage in a contemporary context to modern audiences, helping to promote the Gaelic language. It also allowed the development Scottish talent, providing director Simon Miller with his first feature film, and helping to further develop Skye-based production company, Young Films, employing a Gaelic-speaking cast and crew from across Scotland, but particularly the Highlands and Islands.

*Seachd—The Inaccessible Pinnacle* screened at the Celtic Media Festival on Skye in March 2007 and was selected for Edinburgh International Film Festival in August 2007, competing for the Michael Powell Award for Best British Feature Film. It was also selected for the Vancouver and Rome International Film Festivals. The film was released in the UK in October 2007 by Soda Pictures.

“The funding from Scottish Screen was invaluable to the production of *Seachd*. It was a thoroughly ambitious production and the support from Scottish Screen ensured that we as filmmakers remained loyal to our original vision.”—Chris Young, producer.

**Case Study 6: Bounci.tv**

*Scottish Screen National Lottery Funds: £25,000*

MNE Media is one of Scotland’s largest independent television production companies. In 2007, Scottish Screen made an award from its Future Fund to MNE for the creation of bounci.tv (www.bounci.tv/), a prototype for a complete multi-sport web platform and social networking site for sports fans.
The prototype site, which is live, shows coverage of shinty and football matches, including archive footage from the Scottish Screen Archive; it also hosts a photo gallery, discussion forum and provides listings of matches. It has become a virtual community for the fans with them contributing to discussion groups, uploading images and footage and sharing information, and is growing rapidly in popularity, with over 246 registered users and an average of 6,000 visitors a month from 150 cities worldwide.

The award allowed MNE to develop the site, build links with the sports communities, and explore its future potential, which is huge with the current focus on health and fitness and the Commonwealth Games coming to Glasgow in 2014. MNE also hope to expand the current coverage of shinty and football, to include other non-mainstream sports, which don’t enjoy mass coverage, and to tap into a huge audience of sports fans, hobbyists and spectators.

MNE are currently investigating how to take bounci.tv forward, potentially working in partnership with other organisations. Allan MacDonald, Managing Director said: “It’s an ambitious project and Scottish Screen were absolutely fantastic in sharing our ambitions and allowing us to explore the development of bounci.tv. We’ve been working on it a year and the potential of the site is only now becoming clear.”

CASE STUDY 7: GMAC SHORTCUTS

Scottish Screen investment: £75,000 National Lottery Funds as a New Talent Development Initiative

Glasgow Media Access Centre has supported and developed independent filmmakers and new talent for 25 years. Scottish Screen has worked in partnership with GMAC for the past eight years, and in 2007 awarded funding for Shortcuts, a short film initiative.

Shortcuts is open to anyone with strong, original ideas—it is not necessary to have already made a film—and GMAC is actively seeking applications from previously under-represented talent, providing that first rung on the ladder of progression to a career in the screen industries.

Shortcuts will produce high quality, original, innovative films that promote Scotland’s identity and talent. GMAC has a strong proven track record in this area. Recent successes include: Best Short Film BAFTA Scotland for the past three years including 2006 (Tracks, written and directed: Martin Smith); Berlinale for the past three years including Crystal Bear Winner 2007 (Snakebite, written and directed: Matt Pinder) and Golden Bear Winner 2005 (Milk, written and directed: Peter Mackie Burns) and BBC New Talent Award Runner Up 2005 (Who do you love, written and directed: Jim McRoberts) and 2006 (Mono, written and directed: Richard Smith).

In addition, Shortcuts will raise the overall level of skills and knowledge in the art, craft and business of filmmaking and provide opportunities to build sustainable careers in Scotland.

“This partnership between GMAC and Scottish Screen has played a significant role in the development of talent within the screen industries over the past eight years, with future generations of directors, writers and producers benefiting from this strategic partnership and mutually beneficial relationship.”—Dale Corlett, Chief Executive.

CASE STUDY 8: DOG ALTOGETHER

Scottish Screen investment: £35,000 National Lottery funds through our Short Film Fund

Dog Altogether, the directorial debut for Paddy Considine (My Summer of Love, Hot Fuzz) who also wrote the script, is a co-production between Sigma Film’s Anna Duffield and Warp Film’s Diarmid Scrimshaw, starring Peter Mullan (My Name is Joe, True North) as Joseph. The film is a brutal, yet moving look at a man of violence, fighting to keep his rage under control.

Scottish Screen invested in the production of this short film, which provided Anna Duffield with her second producer credit following the Tartan Short, Trout, and helped to build the relationship between Sigma Films and Warp Films. The film, culturally relevant to Scotland with its central character played by Peter Mullan was shot in Scotland using Scottish crew and key talent, providing an opportunity of working with such high profile talent as Paddy Considine.

Dog Altogether premiered at the Edinburgh International Film Festival 2007, where it was in competition for the Short Film award. It went on to win the top prize, the prestigious Silver Lion for Best Short Film, at the Venice International Film Festival, and also won Best Short Film at the British Independent Film Awards.
2007 (BIFAs). The film also screened at the Times BFI London Film Festival in October, Encounters Short Film Festival in November 2007 and was shown in selected UK cinemas along side the feature film Somers Town in 2008.

19 March 2009

Memorandum by Mr Jonathan Williams

Jonathan Williams is an independent film writer and producer, a retired media academic, and is a regular contributor to MovieScope Magazine.

RE: HOL Communications Committee Call for Submissions, and in particular the following questions

2. How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?

And

4. Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

A. The UK has two completely different film industries.

One provides technical services: post-production, special effects, etc to The American majors, and to a lesser extent French companies such as Pathe. This sector is hailed as being a great success, but it is dependent on keeping American money “sweet” through tax breaks and subsidies from the National Lottery which are channelled to it via the UK Film Council. These subsidies are substantial. For example, with regards to the Film Council’s “Prints and Advertising Fund” which subsidises the distribution of selected films to cinemas, the biggest grants are awarded to such as Momentum Pictures (Canadian), Pathe and Optimum Releasing (both French), Hollywood Majors Warners, Universal and Fox, as well as Lionsgate and the American financed company, ICON which is run by the Film Council’s chairman, Stewart Till and is part of his business empire which is expressly devoted to catering for American interests.

The second is actual filmmaking, but this is also divided into two sectors.

The first is what the Film Council calls “British Studio Films”—a euphemism for mainly US/UK co-productions and in some cases French/UK co-productions. But what that means is films where the money is foreign, ultimate creative control is foreign, the rights and thus the profits are foreign owned, but the talent: writers, most of the cast, usually the director, technicians etc are British. An analogy would be UK-based Japanese car production—it’s just that the Film Council would choose to call a Nissan Micra a British car. On occasion these majors acquire the rights to British films after they have been completed, as in the case of Slum Dog Millionaire, and they thus become foreign property. This is essential for their success as it is only these now foreign films which many to secure a widespread cinema release. At best the actual producers of these films may make a small profit, but the real profits are made by the foreign owners. The Film Council plays an important part in channelling these profits overseas, whilst preferring to mask the fact through placing the emphasis on “inward investment”.

The other is British Independent filmmaking. Regardless of quality these films will never get more than the most limited of cinema releases. Many are made on nothing more than passion; as, if made outside of London, investment or financial support is virtually non-existent—typically 95% of funding is for London, 5% for the rest of the country. Those which do receive funding paradoxically only do so because of the Film Council, as without the UKFC providing much of the budget, these films would never be made. The Film Council simply does nothing to challenge the structures which mean that these films do not get shown and lose money—the talent is there to be wasted and reduced to a state of demoralised despair.

Actual British filmmaking is further disadvantaged by European policies designed to support European filmmaking against the power of the American majors. Large subsidies are available to those who distribute and exhibit “non-national European films”. Hence, as British distributors have no access to the mainstream cinemas, they purely survive by distributing subsidy-carrying foreign films; and it is the same when it comes to the major “arthouse” cinemas.
These subsidies also extend to film festivals and thus, as the Film Council also prides itself on supporting foreign films, there is double the reason for film festivals to concentrate on foreign, rather than British films—something which is quite unique to the UK.

The UK Film Council, and its Regional Screen Agencies, needs to be closed down and replaced by bodies with a commitment to British filmmaking. Its abuse of public money is nothing short of scandalous.

One of its initiatives was to put nearly £13million of Lottery money into the creation of the so-called “Digital Screen Network”. Most of this money was spent installing the latest digital projectors in cinemas owned by the biggest multiplex chains. The UKFC claimed that the purpose of this exercise was to greatly increase the exhibition of foreign (ie sub-titled instead of “American”—95% of films on general release are already “foreign”), classic, documentary, and independent British films. This was nothing more than hogwash. The projectors installed were those required by Hollywood in order to screen its move into 3D! The contract for the work went to one of the Film Council’s directors, Thomas Heogh, CEO of Arts Alliance Media. 3D ups the cost of film production. It will increase Hollywood’s grip by further pricing others out of the market. What’s more small, local and independent cinemas will not be able to afford the conversion costs and, unless they can find some way of reinventing themselves, they will thus be driven out of business.

Foxes in charge of the hen coop. UK politicians are obliged to declare their interests. The Film Council though is nakedly proud of how it is completely dominated, at Board level, by American interests:

UK Film Council—Board Members

Total members: 14 + CEO and Chair

Number of film directors: 1—Beeban Kidron (OK, more of a TV director—see imdb)

Number of film producers: (essentially 1)—Rebecca O’Brien, producer of many Ken Loach films (which would never have been produced if they weren’t French) as well as Mr Bean.

Executive Producers: Pippa Cross—very experienced—see imdb

Greg Dyke—now head of the BFI

Heather Rabbatts CBE is also listed as an “independent film producer”. This is her CV: graduate of the London School of Economics, of which she is now a governor, and London University; masters degree in international relations; qualified barrister; former deputy chief executive of Hammersmith and Fulham Council; chief executive of Merton and Lambeth Councils; founder of the public-sector consultancy iMPOWER; head of education at Channel 4; BBC governor; director of the Bank of England and the UK Film Council; trustee of the British Council. And oh, head of broadcasting for New Moon, the film company whose award-winning video helped London secure the 2012 Olympics. See: http://www.new-moon.co.uk/index.aspx

Mark Devereux. Mark Devereux is a solicitor, specialising in media, and is the Senior Partner and a founder member of the law firm Olswang. Olswang specialises in such as organising co-production deals for US majors seeking to take advantage of UK tax breaks etc. Olswang has a formal alliance with a major US law firm Greenberg Traurig LLP.

Gail Egan. Gail Egan is a qualified barrister and practised commercial law at Lincoln’s Inn before joining Price Waterhouse Corporate Finance.

Nigel Green, joint Managing Director of Entertainment Film Distributors—described by the FC as “the most successful UK film distribution company”. It’s success has been dependent on acquiring distribution rights to such as: The Departed, Million Dollar Baby, Brokeback Mountain and Lord of the Rings; as well other apparently British but actually American films such Run Fat Boy Run and Gosford Park (so, as you can see the description “UK film distribution company” has missing from it “of overwhelmingly US films”).

Stephen Knibbs. Chief Operating Officer at Vue Entertainment (originally Warners, continued in American hands when bought by SBC. But then VUE was formed as the result of a management buyout. Vue is very profit driven and has placed more emphasis on the importance of “concessions” in its revenue stream than any other of the chains. Seeks to “out-American” the Americans.

Barbara Broccoli. Current heir of the American dynasty which has been part of United Artists since 1962. More recently has also developed close links with Colombia Pictures.

Thomas Heogh, CEO of Arts Alliance Media. AAM was the first company in Europe to have deals with five major Hollywood studios (Fox, Universal, Sony, Paramount & Disney) to fund a digital cinema rollout of up to 7,000 screens, under a Virtual Print Fee financing model. Awarded the UKFC’s “Digital Screen Network”
contract which was worth around £13 million of Lottery money. This scheme provided large subsidies towards the initial installation of the digital projectors which Hollywood needs to screen its 3D films. Somehow the Film Council managed to present this scheme as being something which would benefit such as “Classic” and independent foreign and UK films(!).

Amanda Walsh previously Chief Executive of Lowe London—a division of the US advertising and media giant, IPG.

Elisabeth Murdoch, CEO of Shine Limited and second daughter of global media magnate Rupert Murdoch, whose ownerships include the Fox Entertainment Group.

Josh Berger. Recently appointed to the board, Josh has been President and Managing Director of Warner Brothers Entertainment (UK) since 2002.

Stewart Till CBE (Chairman UKFC) appointed as the Chairman of the UK Film Council on 1 August 2004, taking over from Sir Alan Parker CBE. He was previously, from 2000, the Vice-Chair. For most of this period he was also Chairman and CEO of UIP—the cartel formed by the Hollywood majors with the purpose of co-ordinating the distribution of their films in all territories outside of the USA and Canada. In 2006 the UIP cartel began to fall apart.

“The Hollywood star Mel Gibson and his business partner, Bruce Davey, have sold their sales and film distribution businesses in Australia and Britain.

The sale, to the British film executive Stewart Till, has them continuing in film production from Los Angeles and retaining the Dendy cinema chain here.

A former chief executive of PolyGram Filmed Entertainment and United International Pictures, Mr Till aims to build an international distribution network outside the Hollywood studio system.

His company, Stadium Entertainment, picked up the international sales and distribution operations of Icon Group for an undisclosed sum. The deal includes the Majestic film and television library, which includes the Oscar winners *Driving Miss Daisy* and *Dances With Wolves.*" Sydney Morning Herald

Much of the financial backing for Till’s Stadium Entertainment is reported to be from New York billionaire Len Blavatnik.

John Woodward CEO: “Woodward has an extensive track record in heading up other film and television industry organisations. Prior to joining the Film Council he was Director of the British Film Institute (1998–99) working with BFI Chairman Alan Parker and was instrumental in refocusing the BFI as an educational body.

Before that, as Chief Executive of the Producers’ Alliance for Cinema and Television (PACT), Woodward set up and ran the most successful and influential trade association in the UK film and television industry representing the commercial interests of some 1,000 film and television companies. Previously Woodward had run the successful “25% campaign” forcing the BBC and ITV to buy 25% of their programmes from independent producers. Woodward also successfully lobbied for the introduction of tax breaks for film production investment and the introduction of Lottery funding for film.” UK Film Council

So, in the past, Woodward was more than just very much in favour of quotas favouring British independent producers, he was the most active campaigner. But, given the composition of the UKFC’s Board, it is hardly surprising that he has made a 100% volte face.

**AN UNBIASED CONCLUSION**

Some people, such as British filmmakers, would look at the above with utter horror. They see it as a demonstration of Britain’s colonial status—that somehow the foxes have been put in charge of the hen-coop. Others have gone further and described it as putting paedophiles in charge of the children’s home. At the same time many are loath to speak out as, without a large amount of seed money (grant/soft loan) from the UKFC their films will never get into production (still, if they’re not then acquired by the “majors”, virtually no one will see them anyway. They’ll lose money at home and make no impact abroad.)
But, if you see the UK film industry as a set of service industries (ie as not a film industry at all) which competes on the international market to attract inward investment from the (real) Film Industry, it makes perfect sense for this service industry to be controlled by its colonial masters and by those who share their vested interests. On no account must anything be done that could jeopardise this inward investment.

However this is to argue for the continuation of a status quo which has negative implications for the country's balance of payments. US investment and US culture flows in and the profits flow out, and out, and out, and out. We have been reduced to an utterly dependent state.

23 March 2009

Memorandum by World Cinema Alliance

The World Cinema Alliance (WCA) is a world-wide alliance of organisations and individuals which brings together directors, producers, cinematographers, screenwriters, composers, animators, designers, performers, editors and all those engaged in the collaborative art and craft of filmmaking. The overriding objective of the WCA is to cement and celebrate film into the cultural life of nations. We would like to express the views of the WCA regarding this inquiry on British film and television industries.

1. What do the UK film and television industries currently contribute to the UK economy and British culture? In what ways might this contribution be enhanced?

The contribution to UK culture by the British film and television industries is enormous. One must also recognise the huge contribution the UK film and TV industries make to the cultural diversity and creativity of Europe and indeed the world.

The bulk of film seen in cinemas throughout the world today comes from the USA. For many years now the European Audio-visual Observatory (EAO) in its yearbooks and studies has shown how the European and world markets are dominated by American films. Indeed, European Commission studies and recent communications on European film have highlighted this American penetration of the European market and the lack of success of European films internationally. There are many reasons for this imbalance, for example lack of finance, which make it very difficult for European filmmakers to produce a Hollywood style blockbuster, and American interests dominate European distribution channels for film. But what is remarkable is that the UK has succeeded, in spite of speaking a common language with America, to continue to make high quality movies that are seen throughout the EU and the world. This is a tribute to British filmmakers and to their artistic creativity and has helped generate a strong, favourable image of Britain amongst European and international audiences.

British-made dramas and documentaries are a common sight on televisions throughout Europe and are immensely popular—British-made television programmes are more likely to be widely circulated in Europe than television programmes made in any other European country. This is especially noticeable for British-made documentaries. In television, American-made programmes are also dominant. It is all the more remarkable that Britain's far smaller audio-visual industry is so successful in competing with American-made products.

To understand the success of British films and TV programmes, it is important to understand the several reasons why American programmes and films are so widely circulated and popular. American films and TV programmes can be of high quality, though to be fair this is also a factor of finance; America is an enormous and well-protected single market so American producers can spend several millions dollars making a television drama, then be relatively certain of a profit from US and Canadian broadcasts alone. Once a profit has been made thanks to domestic consumption, American producers can afford to aggressively sell their product abroad, for several thousands of dollars instead of the millions spent on production. But to make the same high-quality drama in Europe means spending a relatively similar budget. It is therefore always very tempting to European broadcasters to buy a well-made, tried and tested TV drama from an American producer than to risk spending a very large sum of money to make a similar quality drama. That British television makers and filmmakers have succeeded in competing at all with American product is not only a testimony of their creativity but also to the legal and financial structure of the UK’s film and television industry which encourages broadcasters like the BBC, ITV and Channel 4 to fund quality programmes and films.

66 Check http://www.obs.coe.int/oea_pubb/index.html.en and order and read the Yearbook for 2008, the report on Film Distribution Companies in Europe and the report on World Film Market Trends.
The contribution by British filmmakers and television programme makers can be enhanced in several ways:

— More co-productions with their European colleagues. This would even further increase the audience of British audio-visual products. It could also attract European finance;

— Trust the creative process. British filmmakers and TV programme makers should allow the creators of the audio-visual work more support in developing the film or television programme. The authors of the work (director, screenwriter and composer) should be trusted more in developing the product. In recent years the rise of the American TV channel, HBO is in large part thanks to its policy of trusting their authors to implement their ideas and carry out the project unimpeded.

— More public support to compensate for losses in any advertising revenue. A great deal of advertising is now migrating to the Internet. This means that commercial television is losing revenue and probably business to the mighty Telecommunications companies that control the Internet. The commercial TV channels should be encouraged to compete more on producing quality content which would bring a high return on sales, rather than on selling advertising spots—which is what they have been doing for years. But to make these quality products, soft loans or access to funding programmes is required. The better the content, the more likely viewers are to watch it and this would bring back the advertisers.

— More could be done to ensure that non-linear services serving the UK market (eg, video-on-demand services) include in their catalogues a certain percentage of British films. This could be done by ensuring the proper implementation of the Audio-visual Media Service Directive, especially recital 20 as well as article 4 and 5, which all apply to non-linear services and not just to traditional television. (More on this below).

2. How do the current UK arrangements for distribution and exhibition of films affect the commercial success of the film industry? How might long run changes in international film production and distribution affect the UK film industry and its export potential over the next decade? To what extent is the raising of finance an inhibiting factor in UK film projects?

— Much more can be done to promote British film in Britain, in Europe and internationally. Indeed, like all European countries, Britain does not promote films with the same vigour as Hollywood. The sums allocated for promoting a work in a producers’ budget in Europe are far lower that in America. It would help the British film industry greatly if there was an entity specifically tasked to promote British films at film festivals, television trade fairs and with agents and to aid those companies marketing British product abroad.

— In terms of commercial appeal, British films are already quite successful. The best way to improve this appeal is to encourage the creative process to develop the film. Directors, composers and screenwriters should be encouraged to fulfil their creative potential and to do this they need to be appreciated as authors and to be allowed to retain their rights of authorship.

— During the next decade online services will start to become increasingly popular, with films being downloaded or simply watched using streaming technologies by audiences in their homes on audio-visual systems that integrate their televisions, audio systems and computers. The business models for the future online environment are not yet fully understood; however, though production costs will probably remain stable, distribution costs could be reduced by online technologies (this of course remains to be seen), however, promotional costs will remain, and here British filmmakers are weak as they are throughout Europe; more finance is needed in promoting European film across the board, both inside and outside the EU.

— Regarding finance, the banking sector in Britain is not expert regarding the funding of films. This is also a European problem. To some extent the EU tried to alleviate this problem by providing soft loans through the European Investment Bank (the so called “eye2eye” initiative) and more could be done to provide finance. In the current economic crisis stimulating all the arts, including filmmaking, is vital to the long-term health of nations’ economies.

3. Have the 2006 changes to the tax credit system been of benefit to the film industry? Have they had a perceptible effect on UK film production? Are the qualifying conditions, including the “Britishness” test, for the tax credit appropriate? Are any types of film or types of commercial arrangement unreasonably excluded?

It is still too early to analyse the impact of the 2006 tax credit system, though, the scheme is welcome and there are no voices raised against it. Indeed, in July 2007 the European Commission conducted a year-long consultation examining the various film funding mechanisms used across the EU and came to no unfavourable conclusion regarding the UK tax credit system. The qualifying conditions (eg, “Britishness”) were also examined and were
not deemed unfair, nor were any objections raised by European filmmakers about any possible unfair competition arising from this scheme. This kind of scheme needs to be better understood outside Britain and to possibly be exported.

4. Is the UK Film Council meeting its objectives of giving support to production and export of British films? Could it do more to assist the UK film industry’s contribution to the UK economy?

It is not specifically for the Alliance to comment whether or not the UK Film Council is supporting British filmmakers or if it is encouraging exports of British films. But from a European and from an international point of view, the UK Film Council seems to be efficient and responsive to the needs of filmmakers in giving support to new productions.

Regarding the export of British films, this is a problem confronted by all European filmmakers because the distribution channels to films are not as open as they could be. This is not the fault of the UK Film Council. What the UK Film Council could do is to better promote British films at European and at international festivals and to non-UK broadcasters. Promoting films is a general weakness of the European film industry. Travel grants to attend festivals and funding of promotional material and better advertising of British films would improve their distribution. Internationally, the European Union is now considering the setting up a new programme—Media Mundus. This new funding programme, once established would aim to better promote European cinema. The UK Film Council could seek ways to supplement this new European programme.

5. Is the current business infrastructure in the UK conducive to the acquisition of the managerial and technical skills required by the film and television industries? Is the business environment conducive to the emergence of entrepreneurial talent, which can take advantage of opportunities in the creative industries?

This is a question best answered by the British film industry. From the European and international point of view, British filmmakers are professional and technically skilled. The main challenge for all filmmakers is how to develop a business model to take advantage of online technologies (ie, video on demand). This however, is an issue that is best dealt with at European or even international level, as is the issue of American film distributors near-hegemony on cinema digital distribution and projection.

6. How successful has the regulatory system been in supporting UK content in television? Are there particular types of programming, such as drama, children’s or factual programming, for which more support is needed? Could more be done through regulation or incentives, for example, to encourage non-public service broadcasters to commission original UK content? Might financial measures, such as industry levies, be feasible and effective?

The regulatory system in supporting UK content in television could improve, especially regarding the broadcasting of programmes such as drama, documentaries and children’s programmes. Definitely more can be done to encourage non-public service broadcasters to commission original British content. One way of doing this is to ensure the proper implementation of the recently revised TV without Frontiers Directive, now renamed the European Audio-visual Media Services Directive 2007 (AMS) and by applying the UNESCO Convention on cultural diversity better and more fully.

The AMS indicates in Article 4 that more than half of content broadcast by a television provider should be European content, which includes British content. This content should include qualitative criteria, meaning that the quota should aim at promoting new works, especially new dramas, films, documentaries and children’s programmes. Dramas should be defined as audio-visual works are a work of creation performed by actors, or animation, consisting of characters, dialogues, story or plot reflecting the personal and original point of view of scriptwriter or director. Programmes like reality shows and “Big Brother” should not be considered drama—these programmes do not have a long shelf life, meaning little if any repeat value and even less export value.

The directive mentions that the quota in article 467 should be applied “where applicable and by appropriate means”. When the directive was originally written in 1989, European Community policy was to promote the development of new audio-visual electronic platforms like satellite and cable; these platforms are now mature and should now fulfil the terms of the quota in full. While revising the TV without Frontiers Directive it was noticed in the European Commission’s study68 that nearly all satellite channels were not applying the quota. The Alliance believes this exception should cease.

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67 Audio-visual Media Services Directive (2007/65/EC), Article 4 paragraph 1, “Member States shall ensure where practicable and by appropriate means, that broadcasters reserve for European works […] a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping. This proportion, having regard to the broadcaster’s informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria”.

68 Impact study on the measures (community and national) concerning the promotion of distribution and production of TV programmes provided for under articles 25(a) of the TV without Frontiers Directive—final report (24.05.2005). Study by David Graham et al.
Regarding online television services, these are currently being developed. The AMS supports a “lighter” regulatory framework and does not oblige new so-called “non linear services” from applying the quota, however, in the view of nearly all organisations representing the creative community, this is a mistake. It really does not matter what technological platform is used to broadcast content, the technology is neutral; it should not matter if the technological medium used for broadcasting purposes is terrestrial, satellite, cable or internet, the same rules should apply to all technological platforms. Otherwise, one technological platform would have an unfair advantage over another and consequently Telecommunications Providers that set up new non-linear channels will take advantage of the softer rules governing non-linear broadcasting to the detriment of existing broadcasters who would be bound by the tougher rule governing linear broadcasting. Indeed, the AMS in recital 20\(^{69}\) acknowledges that if and when in doubt, Member states can apply the stricter rules that apply to linear audio-visual media services to non-linear. Furthermore, now that the UN Convention on cultural diversity has been adopted, there is a moral obligation to encourage the broadcasting of British-made content. The Alliance recognises and appreciates the diverse nature of British films and TV programmes and calls for non-linear services networks to apply the UN Convention by implementing the quota in AMS.

There is still a strong case for having industrial levies. Levies have been criticised by the media industry as belonging to the analogue period of the 1960s and not suitable for the digital age of the 21st century. However, this is a false and utterly mistaken view. Levies have been successfully applied to copying equipment throughout the European mainland and have ensured legal certainty and provided income to creators and to rights holders. In Britain, unfortunately, industry has successfully prevented levies from being applied, meaning that industry has profited from the random copying of works or art by selling copying equipment like blank cassettes, blank DVDs and CDs, etc, without compensating authors and rights holders. Ironically, when a British film or TV programme is broadcast in Europe, British authors and rights holders receive some royalty from European industrial levies. Industrial levies on the profits of Internet Service Providers (ISPs) could be an answer to recouping monies from downloading and to streaming online, because they would ensure some compensation to authors and rights holders while bringing legal certainty to consumers.

7. How will the structural changes facing the UK television industry, and particularly the public service broadcasting component, affect UK originated television content? To what extent are these effects irreversible? To what extent are they being offset by changes elsewhere in the creative industries sector? What are the implications for television content creation of digital switchover and widespread broadband availability?

The principal change affecting the British television industry is the slow migration to non-linear services, especially by advertising. The independent commercial television channels (ie ITV) need to re-invent themselves and one way of doing this is to compete on content and not to compete on advertising spots. The rules on advertising have been relaxed by the AMS, but this should not mean that ITV should try to exploit this relaxation solely by trying to attract more advertising with more advertising spots. ITV has to attract more viewers and then the advertising will follow. In the long run, television could migrate almost entirely to non-linear and this is true for the BBC as well as for ITV. To remain competitive—and that means staying popular with the viewers—public sector service broadcasters have to continue to develop exciting and novel television programmes. It also means that public sector broadcasters are allowed to exploit the opportunities offered by online technologies. One should bear in mind that when new technologies like satellite and cable were introduced it was said that public sector broadcasters would become redundant because there would be so much variety and so many more channels, but ironically, public sector broadcasters have grown stronger and are principal innovators in developing new online services. This trend should be allowed to develop and to mature.

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\(^{69}\) Audio-visual Media Services Directive (2007/65/EC) Recital 20—Television broadcasting services, ie linear services, currently include in particular analogue and digital television, live streaming, webcasting and near-video-on-demand, whereas video-on-demand, for example, is an on-demand, ie non-linear service. In general, for linear audio-visual media services or television programmes which are also offered as non-linear services by the same media service provider, the requirements of this Directive are deemed to be met by the fulfillment of the requirements applicable to the linear transmission. However, where different kinds of services are offered in parallel, but are clearly separate services, the Directive will apply to each of the services concerned.