

| Question | Your response |
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| <p>1) Do you agree with our proposed change to articulate the intention of the regional production obligations at the start of the Guidance? (See wording at Annex 7).</p> | <p>Confidential? – N</p> <p>Yes. Regulations are at present often treated as irritations to be worked around on individual productions in order to tick a box rather than the means of delivering a broader strategic purpose. We need to move to a time when the strategic context is understood by all commissioning departments and no commissioner will ever say to a non domiciled company ‘that’s a commission but can you do it in Scotland’</p> |
| <p>2) Do you agree with our proposed changes to the substantive base criterion (see wording at Annex 7)? If not, please explain why, providing appropriate supporting evidence where possible.</p> | <p>Confidential? –N</p> <p>No.</p> <p>In the past the BBC and C4 have both allowed producers to declare a “substantive base” simply because a development producer (Avalon, Man Down for C4) or production manager (IMG Sports Media Scotland, multiple Snooker and other sports commissions for the BBC) was located at a desk in Scotland. “Rent-a-desk” operations should never qualify as a substantive base but they still could under this revised test.</p> <p>And under the proposed revised wording Ofcom is still relying on the good-faith of the commissioning broadcasters (who often rent out those very same desks) to ensure the newly stated aim is achieved.</p> <p>We agree with the proposed changes but believe lack of clear guidance as to what constitutes seniority in the context of this text is a mistake and that these changes will not prevent “lift and shift” from continuing to be the PSB’s tactic of choice. As achieving “substantive base” status unlocks 100% attribution of a project’s budget against the relevant quotas this seems, at best, inadequate.</p> <p>On the same basis the lack of guidance on what constitutes “usual place of employment” seems similarly lacking in clarity and purposefulness.</p> <p>As the attached recent job advert for 999: <i>What’s Your Emergency</i> from popular recruitment site The Talent Manager (https://www.thetalentmanager.com/tv-jobs/26740/regional-edit-producers-999-whats-your-emergency) shows, the methods producers will</p> |

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| | use to qualify and meet the requirements of commissioning broadcasters are many and varied. |
| 3) Do you agree with the suggested explanatory notes for the substantive base criterion (see wording at Annex 7)? If not, please explain why, providing appropriate supporting evidence where possible. | Confidential? – N Yes |
| 4) Do you agree with our proposed changes to the production budget criterion (see wording at Annex 7)? If not, please explain why, providing appropriate supporting evidence where possible. | Confidential? – N No This proposed change benefits companies without an OOL substantive base seeking to make programmes in nations and regions who want to retain in London the production fee, which is the key resource for development of long term production infrastructure and makes ‘you can have the commission if you do it in Scotland’ more likely. It also makes perpetuation of the ‘75% being made by London companies’ more likely. At the same time it seriously disadvantages companies based in the Nations and Regions who aspire to produce more ambitious national or international projects where the cash spend may thus be away from base. The production fee in such cases nevertheless makes a contribution to sustaining infrastructure in the nation or region, and this will be lost if this change is implemented. A number of our productions have fallen into this category. |
| 5) Do you agree with the suggested explanatory notes for the production budget criterion (see wording at Annex 7)? If not, please explain why, providing appropriate supporting evidence where possible. | Confidential? – N Yes |
| 6) Do you agree that the off-screen talent criterion should remain the same? If not, please explain why, providing appropriate supporting evidence where possible. | Confidential? – N Yes. However there could be a more careful definition of usual place of employment. In Scotland with a different tax regime and where government intervention to encourage production in Scotland has recently been introduced, place of paying tax would be a better definition as government intervention need to be delivering return in order to be justified. |
| 7) Do you agree with the suggested explanatory notes for the off-screen talent criterion (see wording at Annex 7)? If not, please explain why, providing appropriate supporting evidence where possible. | Confidential? – N Yes but see above. |
| 8) Do you agree with our proposed change to | Confidential? – N |

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| <p>exclude self-promotional content from the calculations? If not, please explain why, providing appropriate supporting evidence where possible.</p> | <p>Yes</p> |
| <p>9) Do you agree with our proposed changes to the allocation categories (see wording at Annex 7)? If not, please explain why, providing appropriate supporting evidence where possible.</p> | <p>Confidential? N This depends on effective interpretation of permanent base, which needs to be robust in order to avoid abuse.</p> |
| <p>10) While we are not obliged to consult on our internal processes, we would welcome stakeholders' views on any adverse consequences we have not identified that may occur as a result of our planned changes in relation to our compliance and enforcement processes, namely:</p> <ul style="list-style-type: none"> a) data gathering and reporting by the broadcasters; b) more comprehensive data publications; c) proactive monitoring by Ofcom; and d) a clear articulation of the complaints process. | <p>Confidential? – N Complaints about what is allocated as N&R are often triggered by the report on the year's commissions which is published in late summer of the following year. Our experience is that questioning the N&R allocations of commissions can result in internal discussions in Ofcom followed by back and fore discussions with broadcasters who may be trying to justify decisions, which discussions require input from producers on the ground in order that Ofcom is fully informed. Thus a complaint may not be resolved until well over a year after the event, by which time the commission may have been recommissioned, perhaps for more than a year, thus the damage becomes embedded. Data gathering and reporting should be swifter.</p> |
| <p>11) Do you agree with our proposal for the new Guidance and majority of changes to take effect from January 2020?</p> | <p>Confidential? – N Yes, subject to the above modifications and in the hope that the efficacy or otherwise of the changes will be reviewed in due course.</p> |