Ofcom Children's Content Review
Response from Viacom International Media Networks, 31st January 2018

Viacom welcomes this opportunity to respond to Ofcom's Children's Content Review. We are one of the UK's leading providers of children's television content through the daily *Milkshake!* block on Channel 5 and Nickelodeon, the UK's most popular commercial children's network.

We are committed to working with policymakers closely and have listened carefully to the concerns expressed in Parliament and elsewhere in relation to investment in original UK children's content. We agree with Ofcom that there is '*a complex mix of economic, technological and policy factors*' at play which continues to impact investment in children's content. Commercial broadcasters, including PSBs, are facing unprecedented competition for children's time and attention across a diverse range of well-funded digital content platforms and services. Children and young people have a wider choice of content available to them than at any time before.

These factors must be taken into account when weighing the costs and benefits of any further intervention in the market. We do not believe that any additional obligations for Channel 5 would be justified or effective at this time given our existing contribution and the challenges presented by a rapidly changing media landscape.

Delivering Channel 5's PSB remit

As one of the UK's three commercial public service broadcasters, Channel 5 already has a number of substantial programming responsibilities which it is required to deliver as part of its licence agreement. These cover news and current affairs, original, independent and regional productions, and access services. When Viacom bought Channel 5 in 2014 it was subject also to a Change of Control review by Ofcom which led to an increase in the news and original production quotas, and agreed to a request from the Government to commit to broadcasting at least 600 hours of UK-originated children's content on its main channel at least until the end of the licence period in 2024.

These responsibilities reflect an equitable balance between PSB costs and benefits (notably prominence and access to DTT spectrum) which have been identified by and agreed with Ofcom. It would be disproportionate therefore to impose additional obligations in relation to children's programming at this time, especially in the light of the very substantial level of provision that exists on our free and pay channels on a voluntary, commercial basis.

Since 2014 Viacom has increased spend on original UK content for the Channel 5 family by more than a quarter (27%), and is budgeting a further 5% increase in original content spend in Financial Year ending 30th September 2018. UK origination now comprises an estimated 70% of the Channel 5 schedule compared to just 50% in 2013. This investment has funded the creative reinvention of Channel 5 under our Director of Programming Ben Frow, allowing it to display greater range and ambition in its commissioning. No other UK broadcaster has undergone such a transformation over the same period, with just seven shows remaining from the pre-Viacom era.

It is important to recall that under previous owners Channel 5 struggled for consistent profitability, with cycles of profit in 2011 and 2013, and loss in 2010, 2012 and 2014. Since Viacom's purchase in 2014 however it has achieved sustainable profitability for the first time, most recently with an operating profit of [REDACTED] in 2017.

Placing additional obligations on Channel 5 risks undermining the on-going renaissance of the channel as an important and valued UK PSB, driven by a policy of increased investment in high quality, UK-originated programming across a wide range of genres, including children's content. An obligation to invest in and broadcast specific types of public service content may reduce investment in equally worthwhile content elsewhere, and impact the overall strategic vision for the channel.

These achievements are all the more noteworthy when considering that Channel 5 continues to generate a much more limited revenue stream than the UK's other commercial PSB broadcasters. In 2016 Channel 5 had a total programming budget of £240m, while ITV generated over £3Bn revenues with a programme budget of around £1bn, and Channel 4 £1Bn revenues with a programme budget of £700m.

<u>Viacom's commitment to children's programming</u>

Channel 5 is the only commercial PSB to offer a dedicated, branded block of programming for children on its primary linear channel. *Milkshake!* airs from 6am every day of the year, until 9.15am on weekdays and 10am on weekends. It is also available on Channel 5's free-to-air digital channel 5Star on weekdays between 9.15am and 11am. With 21.5 million viewers tuning in during 2017 it is the brand-leader for pre-school television in the UK. In 2017 it reached 66% of all children age 4-9, 50% of all children age 4-15, and 32% of all individuals across total measured TV. Content is also made available to a wider audience via My5, with 11.6 million views in 2017.

Milkshake! offers a wide range of high quality programming including documentaries, wildlife, music-based entertainment and animation, and is behind some of the UK's most popular pre-school shows including *Peppa Pig*, *Thomas and Friends*, *Bob the Builder* and *Ben and Holly's Little Kingdom*. New animated series *Shane the Chef* aims to introduce a young audience to the concept of healthy eating, while the popular mixed media title *Floogals* provides an entertaining 'window-on-the-world' using soft-learning techniques. Live action strands cover wild-life, pets, social and religious festivals, as well as reading initiatives, music, dance and hobbies.

Nickelodeon's pay-TV channels form the No.1 children's network in satellite and cable homes, catering to all age groups between 2 and 15. UK commissions are a vital part of Nickelodeon's programme line-up, including *Peppa Pig*, *Puffin Rock*, *Digby the Dragon*, *Lily's Driftwood Bay* and *Nella the Princess Knight*. Between 2015 and 2017 Nickelodeon spent £20.5m on original UK productions, including nearly [REDACTED] on *Nella the Princess Knight* in 2017 alone. As well as the UK, this content is broadcast on Nickelodeon's channels around the world.

Even before Viacom's purchase of Channel 5 there was a long tradition of joint commissioning with Nickelodeon, creating valuable economies of scale which allowed the production of more ambitious and expensive programming for both pay and then free-to-air audiences in the UK. *Peppa Pig* and *Ben and Holly's Little* Kingdom are two such examples, along with the more recently introduced *Digby Dragon* and *Nella the Princess Knight*. It is important that Ofcom takes these joint investments into account in its review, rather than focusing on UK original productions from UK free-to-air broadcasters alone.

Regulatory risk

As Ofcom notes in its consultation document, there have been a number of regulatory interventions in recent years which cumulatively have served to make children's programming a more difficult place to invest. Nickelodeon and Channel 5 have lost many millions of £s as a result of these interventions, notably to restrictions on food and drink advertising to children. The Government itself recognised this serious negative impact in its recent announcement of a £60m contestable fund for new, innovative children's content, finding that the amount spent on new children's programmes has fallen as a result of '*a number of advertising restrictions which limit the ability to generate advertising revenue*'.

More worryingly, there continues to be the threat of further regulatory intervention in this area, including a ban on all advertising of HFSS products before 9pm. For example, in a recent Westminster Hall debate on Tuesday 16th January 2018, there were continued calls from policymakers for further HFSS restrictions. These proposals, in particular a 9pm watershed, add uncertainty to the advertising market and, if implemented, would undermine the commercial case for investment in children's television content.

Competition and market change

In evaluating the need to impose new obligations on PSB commercial channels, it is right that Ofcom considers the UK children's content market in its broadest form given the huge amount of children's content available in various pay and free-to-air platforms. While children's television in the 1970s and 1980s is often recalled with fondness, broadcasters are no longer operating in a pre-broadband world with just a handful of television channels, while the tastes and viewing habits of younger generations continue to evolve.

While viewing of PSB children's content by children remains high (12 hours of broadcast TV each week across 4-15 age group), there is growing competition in the market for their attention, especially within older age groups where viewing tends to broaden out to programming intended for older teenagers and young adults. Households with children are increasingly likely to have access to pay-TV and other OTT services, such as Netflix and YouTube, and this makes the economics of children's content production even more challenging for UK PSB broadcasters. Quotas requiring investment in a specific, fixed type of content aimed at a narrow segment of the audience are by definition prescriptive, and may therefore deter broadcasters from investing in innovative new programmes with wider viewing appeal.

We estimate that across Sky Go, Now TV, Netflix, and Amazon Prime more than 20,000 VoD episodes of children's content are available to view (including duplication), in addition to the plethora of BBC, FTA commercial and pay channels catering specifically to children. In addition, YouTube has emerged as arguably the strongest competitor to all of these.

Ofcom's 2015 Third Review of Public Service Broadcasting highlighted this trend more than two years ago ('*PSB in the internet age*'), noting that:

> '*while live television remains hugely important, catch-up TV watched over the internet, and programming and content premiered on the internet are becoming increasingly important to audiences, especially younger audiences…the emergence of new competitors such as Netflix and Amazon Prime, providing services directly over the internet, is giving consumers greater choice and making the landscape more competitive*'. [1]

In this context, there are diminishing returns to the imposition of additional requirements on commercial PSBs in areas where they are already facing strong competition and reductions in

[1] Paragraph 1.3

audience, while also striving to deliver in a number of other important genres such as news, current affairs and original drama. Ofcom itself acknowledges this point in its 2015 Review:

> *'Many respondents to our consultation called on Ofcom to require the commercial PSBs to deliver such outcomes, often suggesting the introduction (or reintroduction) of quotas. But it is clear to us that increased provision in any of these areas, whether as a result of voluntary changes by the PSBs or some form of quota system, is likely to come at the expense of investment in other forms of content, because…the regulatory assets supporting PSB delivery (predominantly EPG prominence and access to spectrum) have only limited value in the digital environment…'*.[2]

Given this changing environment, we do not believe that additional obligations on PSBs to increase investment in children's content will have the desired outcomes. We also encourage Ofcom to give further consideration as to how the content that children now watch online and other OTT services could be produced and distributed on an equal regulatory footing with traditional linear TV services. This will ensure that all the content accessible to children is produced to the same high standard as UK-licensed broadcasters are currently held to.

[2] Paragraph 6.3