

BECTU Regional Production Division response to Ofcom's Call for Evidence: Review of Regional TV Production and Programme Guidance, 2018

Introduction

BECTU welcomes Ofcom's review of Regional TV Production and Programme Guidance. The Union's Regional Production Division (RPD) represents members working in TV production outside London. These include full-time employees and freelancers. Because of this, the BECTU RPD is uniquely placed to offer insight to this review.

We believe Ofcom already recognises the value our insight, and thank the review team for already having met representatives of the RPD. In this initial stage of the consultation, the BECTU RPD aim to provide a broad sweep of evidence. We welcome the opportunity to follow this up later in the consultation with further evidence.

In line with both the general scope of the review, and our members' expertise, we will limit our evidence to the subject of regional production rather than regional programming. Where possible we will attempt to directly address questions provided by Ofcom in the Call for Evidence document (*and indicate this where relevant*). However, despite the usefulness of using the questions as a framing device, our evidence will overlap questions, and at times expand beyond the particular scope of these questions. We believe the evidence we provide, even when not in direct response to one of the 42 questions, remains within the general scope of the review.

The evidence we provide is drawn from a number of sources. On all occasions references to these sources are given. Where it has been necessary to provide confidentiality to sources, this has been made clear in the evidence document.

The Television Workforce: Inside and outside London

With regard to **questions 17 and 21** from the Call for Evidence, we believe that there does exist a representative spread of production talent in the nations and regions; BECTU RPD members cover all grades of television production, and we have branches across the UK. The RPD fully supports the views of other stakeholders that the availability of production talent outside of London is at a significant level and of a high quality. Along with other stakeholders therefore, we agree that there is an extremely strong case for raising the current 50% qualifying threshold for production talent. Along with other stakeholders, we would argue that;

'this would enable the nations and regions to develop and retain expertise at all levels and build a more sustainable talent base and employment market outside of the M25.' (Ofcom, section 4.14, 2018).

The feeling exists amongst RPD members that regional production talent has been hanging on in spite of, rather than because of the implementation of the Made Outside London (MOL) regional production quotas introduced in 2004. There exists huge frustration amongst RPD members regarding the amount of regional production work they receive, the necessity they often feel in having to accept work in London, and the bemusement they face when television crews filming in the regions often use crew members from London in the place of expert local talent.

Regional production talent exists and is yearning for greater opportunity. However, the functioning of the MOL regional production quota has not done enough in geographically rebalancing the UK television sector. It remains the case that individuals living outside London/South East England are significantly less likely to establish and maintain a career in UK television production (CAMEo, 2018).

Recent reports (Randle et al. 2015. Bernick et al. 2017) show how disproportionately creative businesses in the UK are clustered in the South East of England, particularly in London. The television sector is a prominent example of this geographic imbalance, resulting in a chronic imbalance in the spread of television workers. Amongst full-time television employees 65% are employed in London (Pact, 2017). However, full-time employees make up only part of the picture. The vast majority of crew jobs (i.e. television production jobs) are designated as freelance, and figures for this section of the workforce are harder to come by. However surveys show that amongst the entire UK television workforce, over half (57%) have their base in London (Creative Skillset, 2012).

Living outside London and the South East of England can make access to screen work substantially more difficult, especially for freelancers:

'you've got to be in the nub, you've always got to be networking and keep yourself known to get those offers of work, and I just couldn't be in the nub because I didn't live in London' (film researcher cited in Wing-Fai et al., 2015).

This issue appears to persist despite prominent initiatives such as the BBC's move of a substantive share of its production to Salford (Randle et al., 2015) or the potential for certain work such as screen writing to be undertaken relatively independently of location (Wreyford, 2015). Conversely, in geographies with a smaller, more focused creative industries footprint such as Birmingham, industry networks can be easier to navigate and thus provide more viable entry routes for newcomers, including international migrants (Brown, 2015).

Specifically with regard to the BBC's creation of Media City in Salford, although the intention behind it is very welcome, there are serious concerns from RPD members about the opportunities for work it has actually created;

'I expected to be getting work at Salford. We had planned to rent an office at Salford but it soon became apparent that it was usual suspects from the South who would be involved. Children's & Sport seem to be the few departments that have some form of regional local commissioning; but they are still not utilising the existing Northern craft based talent pool. A Massive disappointment indeed.' (Anonymous BECTU freelancer)

'I recall being invited, as were many fellow freelancers, to Salford when it was being opened, and being reassured that the BBC was thrilled to "discover" (Peter Salmon's words, if I recall correctly) that there was talent outside London. There would undoubtedly be plenty of work opportunities for us once Media City was up and running. Well, speaking as an experienced cameraman and Technical Operator (and originally a BBC Engineer), living about an hour away, I'm still waiting. I am given to understand anecdotally, that it is still crewed by London based crew. I understand that some have now moved north with generous relocation packages. What is unarguable is that this expensive project has not brought the promised benefits to many Northern freelancers.' (Anonymous BECTU freelancer)

'Since Media City opened I have worked in London (lots), Liverpool, Glasgow, Dublin and Bristol, but never Media City. I don't understand it. I live an hour away.' (Anonymous BECTU freelancer)

Beyond physical accessibility, studies found links between location and young people's ambitions for a career in the creative industries. In locations that are economically less prosperous or have fewer creative industries employers, young people are less likely to think of a creative career as a viable option for two reasons;

- 1) Limited local creative industries activity and thus exposure to this particular type of economic production leads to perceptions of careers in these areas as not providing secure enough employment. Perceptions of career prospects both in the respective hometown and in locations with established creative industries were influenced in this way (Allen & Hollingsworth, 2015).
- 2) Young people and experienced workers from creative industries cold spots feel they have a credibility problem trying to establish and sustain a creative career elsewhere:

'If I said I was from my little town, they would be like "what experience do you have"?' (A young female cited in Noonan, 2015).

'You're considered to be a second class citizen unless you have London on your CV' (freelance worker cited in Taberer, 2015).

Research is emerging to support the claim that there is a link between location and workforce diversity, and the evidence base points in particular towards a clear link with socioeconomic background and class on this issue.

As we know, the cost of living is more expensive in London than the rest of the UK. You don't *have* to be privileged to work in London, where the bulk of television jobs are located, but it is clearly an important characteristic of those able to get in and get on. Studies have found a distinct class bias in those able to work within London (Oakley et al. 2017) with over a third (34.8%) of the creative workforce in London coming from professional and higher managerial origins. This is in contrast to the rest of the UK, where this figure is significantly lower (23%).

As we have pointed out, the vast majority of television crews are employed as freelancers. The informal nature of freelancing means that establishing and sustaining a career is very dependent on accessing the informal networks described above. Because of this the life of a freelancer is tough, but in the regions it is even tougher. A recent survey (Taberer, 2015) shows that nearly half (45%) of freelancers based in the regions are in paid work for 6 months of the year or less. Over half (54%) travel in excess of 30 miles to find work for half of the year or more. Freelancers in the regions have little desire to move to London (74% wish to stay in the regions), yet many report feeling bound to migrate to London for work and for credibility.

The intention of the Made Outside London regional production quota is to "stimulate jobs, attract talent, and contribute significantly to an area's creative economy" (Ofcom, section 1.1, 2018). However it is clear from the studies referred to above and from the experience of RPD members that the way the quota is currently implemented fails to make enough television work available enough of the time to the RPD members who depend on it.

The MOL Regional Production Quota

All broadcasters met or exceeded their MOL production quotas as set by section 286 and 288 of the 2003 Communications Act, or in the case of the BBC by the BBC Trust. These quotas were met or exceeded both in terms of value and volume. One question that immediately arises therefore is that given the ease by which broadcasters appear to be fulfilling their quota requirements, why is the outlook for television workers in the regions so difficult, and why does the imbalance between television workers within London and the rest of the UK remain so pronounced?

One of the reasons for this goes to **question 15** from the Call for Evidence, i.e. the level of the off-screen production talent criteria. The existing quota requirement allows for 50% of the production talent on a qualifying production to come from London. This greatly dilutes the employment opportunities of regional television workers. It also offers little incentive for the industry as a whole to develop and sustain the regional workforce. Given this failing, Ofcom should look seriously at the inadequacy of the 50% threshold. The current threshold of 50% was established in 2004. At the time the reason given for this figure was;

‘to take account of the fact that a significant proportion of experienced production talent at that time was based within the M25, and that it would take time for that position to change.’ (Ofcom, 2004)

We are now 14 years on from this point. We would argue that this represents sufficient time to see how the policy is working. Given the optimism regarding the level and skills of the regional television workforce, and the difficulties faced by RPD members in obtaining enough regional production work, we would strongly argue that this threshold needs to be significantly raised.

Looking at **questions 27 and 30** from the Call for Evidence, RPD members have raised the particular problem of Post-Production. Post-Production houses (the finishing houses of television programme making) are geographically fixed due to this being a very equipment-heavy part of the television production process. Because of the fixed nature of Post-Production houses they become an important driver in establishing the kind of creative industries hot spots that help encourage economic growth within a particular area. One only need look at the Soho area of London to see how this operates. The current MOL qualifying criteria for at least 70% of a programme’s production budget being spent outside the M25, can result in a situation in which much of the remaining 30% is spent in Post-Production Houses in London. The common model as reported by BECTU members is one in which programmes are filmed outside London, and then brought back to London for finishing. One of the reasons behind this is down to the fact that it remains the case that many senior members of a regional production are based in London. The production talent threshold makes no mention of the seniority of staff on a production, with the result that it is still the case that Producers, Directors, Series Producers, Executive Producers, and Programme Commissioners are, in very many cases, based in London. The concentration of these senior figures incentivises the finishing of programs close to their base, and the result of this in the industry is a concentration of Post-Production facilities within London. Given the importance of the location of Post-Production houses in establishing creative hot spots, Ofcom should review how the existing MOL quota requirements might be adapted to encourage Post-Production outside of London.

The RPD would encourage Ofcom to undertake a review of regional production budget spending, and find out how much of the production budgets of qualifying programmes are spent on Post-Production within London. If the result of this reveals a preponderance of spending within London, Ofcom should consider ways it may change this. Ofcom could add an additional criteria to the 70%

spend in which a proportion of the 70% must be spent on Post-Production facilities outside of London. With regard to **question 11** from the Call for Evidence, we are not necessarily suggesting therefore a change to the qualifying production budget level. However, we do suggest that the criteria needs to be looked at, and amended in order to encourage a greater spend on Post-Production in the nations and regions.

Looking at the way the MOL quotas have been met, a number of questions arise. The MOL quotas as set out in the 2003 Communications Act match Volume requirements with Value requirements. However, the BBC Trust's quota requirement is for a Value of 30%, and a Volume of 25%. Now that Ofcom has taken over responsibilities from the BBC Trust, we welcome its decision to increase the Value and Volume quota to 50%. The RPD would ask however for an explanation as to why 50% is deemed suitable for the BBC, but significantly lower percentages exist for the other broadcasters?

In the latest set of figures, all broadcasters except Channel 5 have achieved higher MOL Volume figures than Value figures (e.g. Channel 4 has 41% Value against 55% Volume). In total, Ofcom's latest figures show that;

'in 2016, the Public Service Broadcasters collectively used 43% of their eligible programming spend on programmes that were counted towards the regional TV production quotas, equating to 51% of overall hours.'
(Ofcom, section 2.6, 2018)

The discrepancy between value and volume means there are important questions Ofcom must ask itself with regard to;

'understanding the extent to which regional productions are made in a way that helps to deliver the intention of the quotas: to support and strengthen the creative economies in the UK's nations and regions.' (Ofcom, section 1.6c, 2018)

With regard to **question 3** from the Call for Evidence, one conclusion that may be drawn from the mismatch between production spend and broadcast hours is that broadcasters are filling the MOL production quota with programmes that are less expensive to make when compared to programmes made within the M25? What are the reasons for this? It may be argued that production costs outside the M25 are cheaper, and that this is therefore reflected in the Value to Volume ratio? However, it may also be the case that the types of programmes made under the regional production quotas are significantly different? This is something that is reported by RPD members;

'From personal observation, regional production budgets are substantially lower than London ones. The first thing that suffers is crewing. In many cases all skilled grades - camera, sound, lighting, editing are completely eliminated and programmes are made with self-shooting producer/directors and put together by edit producers...My experience is that these production methods make un-watchable programmes.'
(Anonymous BECTU freelancer)

One way of determining if programme-type is an issue would be to compare the proportions of specific programme genres made within and without the MOL quota. If there exists an imbalance in the type of programmes made, and this imbalance reveals that less expensive genres are over represented in the MOL register, Ofcom must ask itself if the functioning of the regional production quota is acting in an optimal way with regard to supporting and strengthening the creative

economies in the UK's nations and regions. Of particular interest to the RPD is what this means with regard to the pay and conditions of regional television workers?

One example of the effect that specific programme genres have on the functioning of the production quotas is the role of Sports Event broadcasting. Once rights acquisitions are removed, it is likely that the costs of producing an hour of a Sports Event programme is appreciably cheaper than an hour of other genres. In addition, by its nature Sports Events is a genre that lends itself to regional production. It is possible that Sports Events have a disproportionate effect in helping to fill the MOL quota. We have listed the Sports Events programmes from the 2016 MOL register below (see Annex). Ofcom should compare the amount and volume of these Sports Events programmes with the amount of Sports Events programmes made within London, and determine if the proportions in each case are equivalent? It is possible that Sports Events are skewing the figures, and that when these programmes are removed the current meeting of the MOL quota is not as good as it appears. If this is the case, Ofcom should consider separating off Sports Events programming and treating it as a special category in which the percentage used to meet the MOL quota does not exceed the equivalent percentage of Sports Events programmes made within London. In as much as Sports Events programming is relatively cost effective with regard to production costs, failure to treat it as a special case may have a detrimental effect on regional television production by squeezing out other more craft and labour intensive genres?

Enforcement

The current system of meeting the MOL quota is one of self-declaration. Broadcasters and the independent production companies they commission provide Ofcom with the data to prove they have met two of the three qualifying criteria. With regard to **questions 38 to 41** from the Call for Evidence, we welcome the fact that the list of qualifying programmes is published annually. In its review, Ofcom should look at the enforcement procedures it has in place to ensure the data they receive is accurate. It is right that Ofcom publish the list of qualifying programmes. However, Ofcom should say what procedures they have for scrutinising individual programmes on the list.

The intention in publishing the list is to provide transparency. We welcome this, as it opens up the possibility of the public being able to question the validity of individual programmes on the list. In practice, however, what this requires is for workers on specific programmes to come forward with information that may invalidate one of the three criteria. There are serious questions we in the RPD have regarding the functioning of this reporting strategy. There is an understandable reluctance on the part of workers to report any suspected wrongdoing. This is especially the case with regard to the large number of freelancers who work in regional television production. Freelancers are a cohort of workers with no job security, and few of the protections available to full-time employees. Freelance workers have a justifiable fear of causing problems for an employer, as there is no protection should that employer decide not to hire them again. Because of this, a reliance on workers providing evidence is problematic.

In order to improve this situation, Ofcom should consider setting up its own reporting department to which workers can report any dubious practices with regard to meeting the MOL qualifying criteria. Workers providing any such information to Ofcom must be assured of their anonymity. Ofcom should use any information provided to investigate whether a breach of the qualifying criteria has taken place. Ofcom should also, as a matter of course (if it does not already do so), investigate a random sample of programmes from each year's list. As well as being good practice in itself, such a sampling process would also ensure that the broadcaster/production company does not know whether the investigation is the result of information from a worker complaint or because of

random sampling. By doing this Ofcom will help protect freelance workers, and in the process encourage greater reporting.

With regard to **questions 5, 6, and 7** from the Call for Evidence, the RPD has serious misgivings regarding the criteria of a 'substantive base'. One of the common areas of concern amongst regional television workers is what is often called 'brass-plating'. This is a situation where so-called 'production offices' based in the nations and regions in effect house little more than a production manager, with the executives and senior personnel on the production remaining in London.

'I think many of us know of some London based production company that believes renting a small business unit equipped with a desk, potted palm & some reception seating from Viking direct, constitutes having an office in the North.' (Anonymous BECTU freelancer)

'A London production company called me to work for a day on a network show shooting outside London. It was quite a challenging job in many ways. When it was over I called the London number I had been dealing with to get the invoice address, and was given the name and address of a production company I had never heard of. The address of this production company was 50 miles outside London, and thus the invoice address – the de facto production address - was outside the M25.' (Anonymous BECTU freelancer)

'I did some occasional work for a well-known production company, via their "Northern" based office, just outside the M25. I was told they didn't have any forthcoming work for me as all current projects were "using our London crews". As blatant a disrespect for the spirit of the rules as I can imagine, whilst possibly still being within the rules.' (Anonymous BECTU freelancer)

Reporting from RPD members appears to suggest that 'brass-plating' and other similar practices are widespread in MOL qualifying programmes. This has even been found to occur with the collusion of some at the BBC.

'In Scotland we have a practice that we call "Captions of Convenience". This is a process whereby a production made by a production company based in London has someone on it who has an office in BBC Scotland. As if by magic, this London-made BBC production now becomes a BBC Scotland production, and part of the nations and regions production quota.' (Anonymous BECTU freelancer)

Ofcom must review the way that it satisfies itself that the substantive business and production bases reported to it are indeed what they claim to be.

BECTU RPD Recommendations

In light of the evidence we have provided for the MOL review, we suggest that Ofcom look carefully at implementing the following recommendations.

- 1) Increase the qualifying threshold for production talent from the current 50%. Given our estimation of the current spread of and capability of production talent in the nations and regions we believe an increase to 80% is realistic.
- 2) Recognise the importance of Post-Production in building creative hot spots and driving economic activity in the nations and regions. Conduct an analysis of production budget spending for qualifying MOL programmes to determine how much is spent on Post-Production within London. In the light of this analysis, consider making it a requirement that part of the 70% MOL spend is earmarked for Post-Production.
- 3) Conduct a genre analysis of programmes made as part of the MOL production quota against a similar analysis of programmes made within London to determine if the functioning of the MOL production quota is being effected by the types of programmes made.
- 4) Analyse the relative amount of Sports Events programmes made as part of the MOL production quota against those made within London, and determine whether Sports Events programmes should be treated as a special category in fulfilling the MOL quota.
- 5) Implement a reporting procedure so that potential breaches in the MOL rules can be reported anonymously.
- 6) Establish an investigative arm to randomly sample and investigate programmes on the MOL register, and also to act on information received via the reporting scheme.
- 7) Pressure broadcasters to visit the substantive business and production bases of MOL programmes to ensure the practice of 'brass-plating' is not taking place.

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Annex

Sports Events Programmes: Live and Highlights Sports Programmes identified by the BECTU RPD on the 'Made Outside London' programme titles register 2016

Rio Paralympics 2016

Cricket On 5

Athletics: Birmingham Grand Prix

Athletics: British Championships

Athletics: Diamond League Highlights

Athletics: European Cross Country Championships

Athletics: Glasgow Indoor Grand Prix 2016

Athletics: Gotzis Highlights

Athletics: Great Manchester Games

Athletics: Great Manchester Run

Athletics: Great Manchester Run Highlights

Athletics: Great North City Games

Athletics: Great North Run

Athletics: Great North Run Highlights

Athletics: London Anniversary Games

Athletics: World Indoor Championships 2016

Boxing: Women's World Championships

Cycling: BMX World Championships

Golf: The Masters 2015 Review

Golf: The Masters 2016

Golf: The Masters 2016 Highlights

Golf: The Masters 2016 Preview

Golf: The Masters Highlights

London Marathon

London Marathon Highlights

MOTD Live

NFL Live Northern England

Olympics 2016

Olympics 2016: Closing Ceremony
BBC Olympics 2016: Countdown to Rio
Olympics 2016: Opening Ceremony
Olympics: Rio Highlights 2016
Rugby League Challenge Cup Final
Rugby League Challenge Cup
Rugby League Four Nations Final: Australia v New Zealand
Rugby League Four Nations Highlights
Rugby League
Rugby Union
Six Nations Rugby Special
Six Nations
Ski Sunday
Tennis: Queens 2016
The Super League Show - World Club Series Special
Today at Wimbledon
Wimbledon 2016
Wimbledon: Ladies Final
Wimbledon: Men's Final
Wimbledon: Men's Final Build Up
Wimbledon: Wheelchair Final
Winter Youth Olympic Games 2016
World Half Marathon Championships
World of Sport Wrestling
Channel 4 racing production 2013-2016
Irish Road Racing
Bowls: World Championships 2016
Bowls: World Championships 2016 Highlights
Football: Women's Euro 2017 Qualifier
Golf: PGA Championship Highlights
Golf: Ryder Cup 2016 Highlights

Golf: Scottish Open Highlights

Golf: Women's British Open 2016

Masters Snooker

Snooker World Championships

Snooker World Championships 2016 Highlights

Snooker World Championships Extra

Snooker: Classic Matches

Snooker: Masters Extra Scotland

Snooker: Masters Highlights

Snooker: UK Championship

Snooker: UK Championship Extra

Snooker: UK Championships Highlights

Women's FA Cup Final: Arsenal v Chelsea

Women's Football: England v Serbia Euro 2017 Qualifier

Scotland World Snooker: Crucible Classics

World Cup 2018 Qualifier

Cricket On 5

Darts: World Championships

Darts: World Championships Extra

Darts: World Championships Highlights

PDC Darts Champions League

Anniversary Games 2016

IPC Athletics European Championships: Grosseto 2016

IPC Swimming European Championships: Funchal 2016

Cricket on 5

Live Boxing 2016

(85 Total)