

**Question 1: Which factors have, since the guidance was introduced in 2004, had the biggest impact (positive or negative) on the TV production sector in the nations and regions and why? Are these different to the factors affecting London-based productions?**

Confidential? –N

In 2007 specific targets were introduced by the BBC for productions from the Nations, largely in response to the political pressure from the Broadcasting Commission for Scotland which had recently been announced. For political reasons, in order to have stats to demonstrate effort, the BBC moved to implement the targets ahead of the planned date by Lifting and Shifting some productions. Some of these were in house, others required London companies to set up bases in the Nations and offered guarantees of production in return. Some of these, eg Weakest Link, may or may not have fulfilled their intention and persuaded commissioners that Scotland was capable of delivering in a new genre other than its traditional expertise in specialist factual. Subsequent quiz shows made by Special Purpose Vehicle branch offices of London companies have created sustainability for BBC Resources (the studio in PQ) while seeming in statistical returns to be benefiting the indie sector. Others, eg Waterloo Road, may have sustained a drama infrastructure for a couple of years but then came to an end leaving no lasting footprint whatsoever. Yet others, eg Homes Under the Hammer, have in fact delivered an infrastructure in which careers could be developed, progressing from researcher through to producer, thus developing confidence in commissioning.

There were several problems, however, with this strategy.

1. It neglected to include building of relationships with companies like ours, which had previously invested heavily in resources to build confidence and relationships with commissioning and had had some success, winning series which delivered for the BBC. The evidence is clear. As boxes were suddenly ticked with Lift and Shift, so our numbers dropped. It became not easier to win commissions in the Nations, but harder. Our continued investment in the belief that there would be a strategy to engage was largely wasted.

2. The steady drift of Nations production towards branch offices of London companies has been paralleled by a slight decline in the sector size in Scotland. This is because branch offices merely 'hoover up' nations quota, generally at the expense of indies based in Nations, whereas locally based indies generate sustainability by delivering production from PSBs and non PSBs, London companies do their non PSB work not in N&R but in London. Thus local N&R companies, benefiting less from the margins on PSB quota which have mostly been taken by branch offices, have fewer resources to invest in winning wider work.

In 2015 Channel 4's licence was renewed. Following advice from Ofcom's Scottish advisory committee which sought to avoid Channel 4 making what was now perceived to be the same mistake by delivering volume quickly via Lift and Shift, the increase from 3% to 9% from Nations was smaller. In Tern's experience the net result has been a significant increase in orders from Channel 4, with consequent ability to invest in development and grow turnover and employee numbers, as well as ensuring a significant proportion of what is seen on network is representative of our Nations.

<p><b>Question 2: What impact, if any, has the BBC's move to Salford had on the sector, and on regional production specifically?</b></p>	<p>Confidential? – Y/N</p>
<p><b>Question 3: Do the opportunities for nations' and regions' producers vary by genre? If so in which genres is it easiest and hardest to get commissions?</b></p>	<p>Confidential? – Y/N</p>
<p><b>Question 4: What are stakeholders' views on the impact anticipated future structural changes in the industry might have on the production sector in the nations and regions?</b></p>	<p>Confidential? –N  New opportunities with international commissioning are unlikely to happen with companies below a certain size. If Nations and Regions have not reached that size, which will only happen when they win more PSB commissions, they will be unable to deliver internationally. Thus the London/rest of UK gap will continue to grow.</p>

**Question 5: In your experience does the definition of a substantive base work well in practice? If not, how could it be improved?**

Confidential? – N

There has been much debate about what constitutes a senior executive who wins, as well as manages, the work done in the substantive base. In our view it is clear the intent of the definition was to rebalance representation, on which audiences have consistently commented, by having ideas pitched from within the diverse cultures of the UK. We do not believe that two people renting desks in Pacific Quay in order to justify counting snooker OBs in Sheffield and London as Scottish constitutes a delivery of the intention of the definition. Nor is pitching from London HQs of London companies then handing it over to branch offices to make.

The detailed nature of the definitions anticipates the reluctance of broadcasters to change from the status quo, which was in the 1990s and early 2000s a steady drift of production to London. Experience has shown that there has been a mindset, in part at least, of ticking boxes rather than of willingness to implement the spirit of the definitions, as is evidenced by the clearly contentious nature of some of what has been claimed to qualify. It may be that no amount of refinement of definitions will move closer to achieving their intention so long as the box ticking mindset remains. However the recent focus on the possibility of refining detail does seem to have rekindled interest in the purpose of the definitions, which is to make television more representative of all the UK. In the end this will only be achieved by producers who are part of all the UK's cultures pitching their experience and perspective. So it should be clear that the substantive base should include not just senior management of production, but pitching resources, and control of those resources, being permanently located in the nation/region, ie domicile for tax purposes. This becomes even more important as tax is now a devolved issue in Scotland, and an industry which reports revenue which does not reside in the place where it reports will distort economic measurement.

<p><b>Question 6: Does the criterion currently contribute to the objective to strengthen regional production? If so how, if not why not?</b></p>	<p>Confidential? –N</p> <p>The permanent base criterion was intended in 2004 to restrict the then practice of broadcasters of delivering out of London quotas by ‘bussing’ productions out to Nations and Regions. The main beneficiaries of this were hotels, trains and planes. Had this been allowed to continue there would have been no stability in the production infrastructure outside London and commissioners would have faced an endless process of searching for productions which could be pushed out of London made by travelling talent. Where the requirement of a permanent base has been effectively implemented it has promoted the development of teams which work out their own strategy for stability by pitching and delivering to a range of broadcasters.</p> <p>Nations and Regions producers should not be restricted to producing parochial programmes entirely from within their own nation. For economic reasons, eg making programmes which have international value, they will sometimes produce outside their own area. Where this happens there is a reasonable chance they will fail the 70/50 criteria. Hence an additional need for permanent base criterion, which thus allows companies with ambition and scale to develop.</p>
<p><b>Question 7: Are there any circumstances in which an office designated as the usual place of employment of senior or executive personnel should not be considered a substantive base? If yes, please provide further explanation.</b></p>	<p>Confidential? – N</p> <p>An office which is merely an SPV for managing a single production is unlikely to achieve success in terms of building sector stability no matter how senior the executives running the production as its footprint will disappear when, as inevitably happens some time, the production comes to an end. Think Waterloo Road. The senior personnel need to be engaged in development and pitching, not just production.</p>
<p><b>Question 8: Does this criterion currently create any unintended consequences?</b></p>	<p>Confidential? – Y/N</p>

<p><b>Question 9: We would welcome any information/examples from production companies on the range and roles of staff in production offices outside of London.</b></p>	<p>Confidential? – N</p> <p>When Tern began to produce for BBC network in 1998 there were very few producers and directors recognised as trusted. In the last two decades as increased work has allowed career progression and the development of relationships of trust, there are now clear examples of successful delivery by all grades, from researchers to series producers and execs. Ten years ago a commissioner said in a public meeting that there were only three decent editors in Scotland. (One facilities company at the time reported they had 80 freelancers on their books). Nobody could possibly say that now.</p> <p>Tern’s offices in Glasgow and Aberdeen include permanent production management, technical support (Glasgow only) and development staff, many of whom have been recruited through a relationship with academic institutions which includes partnership in developing and delivering appropriate courses. It is an indication of failure of communication and strategic partnership that in a recent speech a BBC executive urged N&amp;R indies to do this when we have been doing for years.</p> <p>Tern’s offices also include permanent accounts staff and permanent senior management involved in pitching, production and executive production. In Belfast there are development, exec and production management permanent staff. All offices employ freelance production staff.</p>
<p><b>Question 10: Do producers tend to share space in the nations and regions in order to expand and contract in line with their commissioning slate and thus to help with costs/efficiencies?</b></p>	<p>Confidential? – N We have hired extra short term space in off site offices when we are full.</p>
<p><b>Question 11: Is the production budget criterion set at the right level?</b></p>	<p>Confidential? – Y [X]</p>

<p><b>Question 12: What challenges do producers face in meeting this criterion? Do these differ dependent on the substantive base of the production?</b></p>	<p>Confidential? – N An overseas production, or even one out of Scotland or Northern Ireland, can be challenging for 70%, but with a staff based in the Nations we can deliver to the other two criteria, including substantive base, easily.</p>
<p><b>Question 13: Does this criterion currently create any unintended consequences?</b></p>	<p>Confidential? –N A company with what is currently considered a permanent base in a Nation which does most of its work outside London but not within that Nation still counts as production from that Nation. Hence snooker and Question Time counting as Scottish.</p>
<p><b>Question 14: We welcome any evidence/data of how production budgets for nations' and regions' productions work in practice.</b></p>	<p>Confidential? –N For a Nations producer working on a programme classified as N&amp;R they work in exactly the same way as a London producer delivering a production which does not qualify as N&amp;R</p>
<p><b>Question 15: Is the off-screen talent criteria set at the right level?</b></p>	<p>Confidential? –N</p>

<p><b>Question 16: How easy or difficult is it for programme makers to fulfil the current criterion?</b></p>	<p>Confidential? – N It is easier where commissioning accepts the staff we have proposed.</p>
<p><b>Question 17: Is there a representative spread of nations' and regions' talent at all levels available to hire? Are there certain roles where it is not possible to fill roles from the nations and regions alone? If yes, which roles and what impact does this have on production budgets?</b></p>	<p>Confidential? – N  We have recruited series producers and directors from outside our Nations' largely to satisfy the concerns of commissioning. This costs, either company or producer or director, travel and accommodation. Some have enjoyed the environment and relocated permanently. Others have passed on their skills to local staff who now fulfil their roles. We now only rarely import staff. With experience commissioners are learning to trust us and our choices.</p>
<p><b>Question 18: Do broadcasters give producers the flexibility to employ the staff they want regardless of location?</b></p>	<p>Confidential? – N In our experience mostly yes.</p>
<p><b>Question 19: Which roles, if any, are most often prescribed by the broadcaster? Does this vary by genre?</b></p>	<p>Confidential? – N Directors and Series Producers.</p>
<p><b>Question 20: Does this criterion currently create any perverse incentives?</b></p>	<p>Confidential? – Y/N</p>

<p><b>Question 21: We welcome any evidence to suggest whether the distribution of off-screen talent and the range of skills available has changed since this level was set in 2004.</b></p>	<p>Confidential? – N</p>
<p><b>Question 22: Are the three criteria used to define a regional production for the purposes of the quotas the correct ones or are there other factors that should now be included instead/ as well?</b></p>	<p>Confidential? – N It would help if SPVs were excluded.</p>
<p><b>Question 23: How well do the criteria collectively contribute towards the sustainability of the production sector outside of the M25?</b></p>	<p>Confidential? – N  The requirement placed on PSB broadcasters to commission outside London is a substantial element of delivery of growth. However, there are broadcasters other than PSBs, and companies located in the Nations and Regions can enhance growth and sustainability prospects by pitching to them. Branch office SPVs, however, will not deliver this added value as their non PSB pitching is done at head office in London. Hence the importance of a definition which requires senior staff to be pitching as well as managing productions.</p>
<p><b>Question 24: Are there any unintended consequences of the criteria or guidance more widely that undermine the sustainability of the sector beyond the M25?</b></p>	<p>Confidential? – N The 2016 Ekos report on production in Scotland shows a slight but steady drift towards production by branch offices of London companies. At the same time there has also been a slight decrease in the overall size of the sector. This is an unintended consequence, the reasons for which see answer 23 above.</p>



<b>Question 25: Are the criteria too narrow? For example, are there cases of nations' and regions' productions that fail ultimately to qualify towards the regional production quota?</b>	Confidential? – N Not in our experience.
<b>Question 26: Is the criteria-based approach the best for regulation in this area, or are other models that might work better?</b>	Confidential? – N See above answers. There will always be those who will try to subvert regulation. Policing subversion is hard, involving logging end credits and checking against LinkedIn then comparing with the Out of London register. But by the time the register is published it can be eighteen months after the event, by which time the precedent may have been set and the damage done. So swifter publication would be helpful.
<b>Question 27: In your experience how big a role does London play in nations' and regions' productions and in what way?</b>	Confidential? – N When Tern tendered for Question Time we noted that the entire pitch team bar one of one company tendering flew up from London to Glasgow to make their pitch.

<p><b>Question 28: What benefits/disbenefits do you consider 'Lift and Shift' production brings to the nations and regions? We would welcome case studies/examples of 'Lift and Shift' productions.</b></p>	<p>Confidential? – N Lift and Shift Homes Under the Hammer has almost matched location Location Location in providing a career path for production staff. And it has been argued that Weakest Link played a part in persuading commissioners that it was possible to deliver quizzes from the BBC's Glasgow studio. However the significant number of London productions moved up has absorbed targets, thus removing the incentive for commissioners to build relationships with producers based in the nations and regions. Tern had around £1.3m of regular network work from the BBC prior to the 2007 nations targets. We now do less than half that.</p>
<p><b>Question 29: Does 'Lift and Shift' help or hinder the sustainability of production in the locality of a production and in the nations and regions more widely?</b></p>	<p>Confidential? – N See above</p>
<p><b>Question 30: Are there different parts of the production process which are more likely to happen in/out of London?</b></p>	<p>Confidential? – N Directors shipped in from London are likely to prefer to edit back home.</p>
<p><b>Question 31: We would be interested in receiving evidence or case studies from stakeholders which could develop our understanding of the contribution that regional productions currently make to representation and portrayal of the nations and regions in order to gain a sense of the scale of this consequential benefit.</b></p>	<p>Confidential? – Y [X]</p>

<p><b>Question 32: Does the process by which productions are allocated to a nation or macro-region work well in practice, or are there any other approaches you think we should consider instead? E.g. allocating proportions of one title to the different areas in which it was made.</b></p>	<p>Confidential? – N Allocation to nation/region by actual spend would clearly give a more accurate measure of the actual economic benefit to the nation/region, but could require complex reporting.</p>
<p><b>Question 33: Where a production has met the three criteria in different nations/ macro-regions the allocation defaults to the substantive base. Is this the right approach or does it deliver unintended consequences?</b></p>	<p>Confidential? – N See above. This allocation may distort perception of the success or otherwise of a nation/region, but alternatives may be difficult.</p>
<p><b>Question 34: Is there anything else we need to take into consideration here? E.g. are the current nations and macro-regions the right areas to use for allocations?</b></p>	<p>Confidential? – Y/N</p>
<p><b>Question 35: Are the on-screen criteria used to judge regionality appropriate, or are there other factors that should now be included instead/ as well?</b></p>	<p>Confidential? – Y/N</p>

<p><b>Question 36: Are the three criteria used to determine whether a regional programme was made in the area for which the service is provided appropriate, or are there other factors that should now be included instead/ as well?</b></p>	<p>Confidential? –N  The system should work, provided it is implemented in spirit as well as in letter, and recognising the intention of the regulation is to improve much sought after cultural diversity by developing sustainable production infrastructure in the nations and regions. Box ticking was never the purpose of the exercise.</p>
<p><b>Question 37: Are there any other aspects of the regional programming section of the guidance which require more detailed review?</b></p>	<p>Confidential? – Y/N</p>
<p><b>Question 38: What is useful about the current 'Made outside London programme titles register' and why?</b></p>	<p>Confidential? – Y/N</p>
<p><b>Question 39: Are there ways in which the Register could be improved? If yes, how?</b></p>	<p>Confidential? –N It would be helpful if the process of publication could be speeded up. In order to check the authenticity of the published returns we may be examining photos of end captions and comparing with LinkedIn addresses well over a year after the programme has screened. If we are to halt abuse of the definitions we need to respond quickly before bad practice becomes the norm.</p>

<p><b>Question 40: Is there additional information which could be included in the Register to aid transparency?</b></p>	<p>Confidential? – N          Whilst value may be commercial in confidence, it would be helpful to know how many episodes/hours are included.</p>
<p><b>Question 41: Are there any other ways in which we could improve the transparency of our reporting?</b></p>	<p>Confidential? –N See above. By publishing the out of London register more promptly.</p>
<p><b>Question 42: Are there other issues stemming from the guidance that are not addressed in this Call for Evidence? If yes, please set out what they are.</b></p>	<p>Confidential? – Y/N</p>

**Please complete this form in full and return via email to**

**[madeoutsidelondonreview@ofcom.org.uk](mailto:madeoutsidelondonreview@ofcom.org.uk) or by post to:**

Made Outside London Review Team  
 Ofcom  
 Riverside House  
 2A Southwark Bridge Road  
 London SE1 9HA