Magnus Brooke
ITV plc
2 Waterhouse Square
140 Holborn
London
EC1N 2AE

[redacted]

Siobhan Walsh,
Ofcom,
Riverside House,
2a Southwark Bridge Road,
London,
SE1 9HA

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Dear Siobhan,

Britbox Materiality Assessment

I am writing in response to Ofcom's consultation on its materiality assessment of the BBC's involvement in Britbox. We welcome Ofcom's provisional conclusion that there is not a significant risk that the BBC's proposed involvement in BritBox will distort the market or create an unfair competitive advantage.

For a service such as Britbox (or any other than has similar characteristics), access to BBC content at 12 months is a fundamentally important part of its distinctiveness and appeal and it has been a key component in our thinking about the viability of the proposition. In a market already dominated by global players (with more set to enter the market) in which US content and content of global appeal has hitherto been the key to success, a UK PSB content focussed service such as BritBox needs USPs which distinguish it from formidable competitors and enable it to attract subscribers. This is particularly the case in relation to an offer of mainly UK PSB content that will already have been available on free TV as well as on free PSB catch up services.

A key part of the distinctiveness of a service such as Britbox, lies in:

- Access to BBC content at a slightly earlier stage than global competitors which do not have the same UK PSB focus to enable BritBox to deliver something different and distinctive to those other services.
- Greater continuity of content availability between the BBC iPlayer and the BritBox service with clarity for consumers that if content isn't still available on the BBC, it may well be on Britbox.
- An overall range and depth of UK focussed content including a number of the most recent releases.

The attribution, branding and prominence of content from the BBC which Britbox will guarantee is important both for the BBC but also for the creation of an authentically UK focussed environment which celebrates and promotes the best of UK PSB content. This will have clear and obvious benefits to the PSB system as a whole -- it will be very clear to viewers whose content they are watching which will help to sustain interest and support in PSB more broadly.

Of course, it is crucial that Britbox content acquisition will support continued original PSB investment too. It is widely recognised that the PSB system is a key reason for the success of the UK's creative sector more broadly. Ofcom figures[1] show that the main PSB channels spent nearly £2.6bn on new UK content in 2018, and nearly £3bn when including commercial portfolio channels from the PSBs. In key genres, notably drama, the

[1] Ofcom, *Media Nations: UK 2019*

independent sector is a major beneficiary of this spend, with Ofcom data showing that, in 2018, 78% of PSB drama spend was with independent producers. But, as noted previously by Ofcom, the PSB system is under increasing pressure due to the rapidly changing market. All this in a context where it appears that the long term demand for secondary UK rights from global SVOD players may be in decline, in favour of original content and US material. A viable and significant new source of demand for the secondary rights for a broad range of UK PSB content will play a role in helping to sustain the upfront investment in original UK PSB content to the ultimate benefit of all BBC viewers as well as producers.

We believe there are a number of other reasons Britbox will prove to be pro-competitive and in the interests of TV programme producers overall:

- ***Britbox will increase the number of buyers for secondary rights:*** whilst the opportunity for producers to achieve earlier release of their content should be welcome, it is important to note that there is no requirement placed on them to do so. They remain free to negotiate sales to other SVOD services for publication on their platforms after 18 months if that represents a more attractive option. This means the potential number of buyers for UK content will increase with the launch of Britbox (and any other services meeting the criteria established in the BBC's programme release policy approved by Ofcom).
- ***Producers will benefit from earlier payment for content:*** The opportunity to sell content for publication at 12 months rather than 18 months, with Britbox paying market rates, will give producers access to funding earlier than under the current system.
- ***Britbox will be a source of new primary commissions:*** As well as supporting continued PSB investment, Britbox will also be a new source of primary commissions in its own right, further increasing the funding available to UK content producers and increasing competition.

The basis on which programmes are made for and rights licensed to the BBC are matters for overall negotiation with the producers/co-producers under the existing regulatory framework. There are clearly a number of models for commissions including co-production where content shown on the BBC is made available (usually to global SVOD players) well ahead of the 12 or 18 months deadlines. In addition, the PSBs are no longer by any means the only source of funding and commissions for independent producers in the UK as the following make clear:

- ***There is evidence that the current growth in the independent sector is driven by increasing international sales and SVOD commissions:*** For instance, the PACT Census states that growth in the independent sector "*...has been driven by international revenue which has doubled over the past eight years to £802 million, from £389 million in 2010. This growth has been bolstered by commissions from overseas companies growing by 13% per year over the past 3 years.*[2]" The PACT Census also documented that "*...revenue from overseas on-demand services (such as Netflix and Amazon Prime) also increased by 19 per cent year-on-year to £150 million and accounted for nearly one third of international commissioning revenue.*"
- ***Multichannel broadcasters are increasing their spend on UK content:*** Over the past 12 months, COBA has noted that its "*...members' spend on UK originated content has grown faster than that of the main PSB channels since 2011*" and that "*Spending with UK external producers has more than doubled since 2011, reaching £447m in 2017.*"
- ***Drama in particular has seen increasing spend as a result not just of sustained PSB investment coupled but also with the growth in SVOD and multichannel investment:*** With much of the focus of Britbox being on drama, it's also worth noting that research published by COBA recently concluded that drama investment in the UK is at "*a record high*" with increasing involvement from non-PSB businesses[3].

[2] http://www.pact.co.uk/news-detail.html?id=tv-production-sector-income-hits-new-high-growth-driven-by-international-revenue
[3] https://www.coba.org.uk/wp-content/uploads/2019/06/UK-drama-COBA-FINAL-2.pptx

In this context it is hard to see how the BBC's participation in Britbox is likely to be anything but positive for UK citizens and consumers, for the PSB system, and for the independent producers who will continue to benefit from high levels of investment in original UK programming as a result.

Yours sincerely,

Magnus

Magnus Brooke

Director of Policy and Regulation