

Comments:

The UK Film Council is the Government-backed lead agency for film in the UK ensuring that the economic, cultural and educational aspects of film are effectively represented at home and abroad.

We welcome the opportunity to respond to Ofcom's consultation on its Draft Annual Plan 2009/10. In particular, we have drawn attention to the need to ensure that the development of a new three year strategic framework by Ofcom should take account of the Government's Digital Britain report.

Question 1: What are your views on the continued relevance of Ofcom's three-year strategic framework for the proposed work programme in 2009/10?:

We believe that the principles enshrined in Ofcom's strategic framework remain relevant to its proposed work programme for 2009/10.

We note with particular interest the statement that:

"For the first time since its creation, this year Ofcom plans its activities in a time when the economic climate is characterised by uncertainty and volatility. We are aware that this could increase the risk of harm to consumers and citizens. Consistent with our regulatory principles, we will act firmly and quickly where needed. The implications of economic pressure will also be a common consideration throughout all of our policy work in 2009/10, as we seek to promote a sustainable level of competition in all the markets we regulate, to deliver the needs of citizens and consumers." [paragraph 3.3]

The UK Film Council shares the view that Ofcom needs to be aware of the increased risk of harm to citizens and consumers at this time of very significant economic upheaval. However, we also believe that this changed climate puts into question Ofcom's continuing reliance (outlined in the Chapter on Ofcom's approach to regulation) on a "bias against intervention" which "aims to ensure that we regulate only where absolutely necessary" [paragraph 2.7] The UK Film Council has never understood the statutory basis for Ofcom's "bias against intervention." It seems to us like an ideological preference, and as such the expression of an ideology which appears increasingly untenable in the light of recent events in the broader economy, and in particular in the sphere of public service broadcasting and content origination.

Ofcom also states that "We are committed to evidence-based decision-making." It seems to us that Ofcom's statutory duties to citizens and consumers, most especially in an uncertain and volatile economic climate will be more effectively addressed if it adheres to an evidence-based approach rather than a bias against (or towards) intervention.

Ofcom notes that:

"As we move towards effective deployment and transition to new fibre networks, it is important for Ofcom to set a regulatory framework to ensure that consumers can

continue to enjoy the benefits of competition, innovation and choice.? [paragraph 3.19]

The UK Film Council agrees but would also underline that citizens, as well as consumers, should be able to enjoy these benefits, in particular those of innovation and choice since they are not exclusively economic benefits but relate to the wider public good. For example, in the sphere of film and moving image content super-fast broadband has the potential to enable new and archive content to reach citizens and consumers in innovative ways, and the erosion of traditional barriers to distribution could massively enhance choice.

Similarly, while we support the statement preceding paragraph 3.29 that 'Consumer empowerment and compliance are as important as ever in times of severe economic conditions' we believe that citizens should be added here as the assertion is just as valid in relation to their interests.

We strongly support Ofcom's desire to tackle the 'challenges relating to the availability of new platforms, such as super-fast broadband technologies, which will be far from universal in the short term, and achieving a sustainable future for USO.' [paragraph 3.27].

As founding members of the Media Literacy Task Force, the UK Film Council notes with interest the statement that:

'We recognise that improvements in digital inclusion benefit individuals and society as a whole. During 2009/2010 we plan to tackle the problems of geographic availability and take-up, and promote effective use of services and technologies by improving media literacy.' [paragraph 3.28] as well as the recognition that Ofcom needs to 'sharpen our focus on media literacy.' [paragraph 3.31]

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In the light of Action 22 of the 'Digital Britain' interim report the UK Film Council, through its representation on the Media Literacy Task Force, looks forward to working closely with Ofcom as it develops a National Media Literacy Plan. It urges Ofcom to ensure that this National Plan advances a critical and cultural approach to media literacy in the UK.

In particular the UK Film Council hopes that the importance of creative content such as film and moving image material will be recognised in the plan both as a way of encouraging the desire of citizens to become more media literate and as a pleasurable

end in itself which repays closer and more diverse engagement.

The UK Film Council therefore suggests, in the light of both these initiatives, that if Ofcom is to 'sharpen' its focus on media literacy effectively, this will inevitably mean extensive development of collaborative working with those public and private agencies and organisations whose expertise and scope is at the sharp end of content creation.

Question 2: What are your views on Ofcom's proposed policy work programme and top priority areas for 2009/10?:

We support the top priority areas outlined at 1.14 and discussed in more detail in Chapter 5. We have already made specific submissions to Ofcom consultations on a number of these areas, namely; releasing spectrum, including the digital dividend, promoting competition in pay TV, enabling clear regulation for next generation access and core networks, preparing for the future of public service broadcasting.

In addition, we have had an active dialogue with Ofcom around the priority areas of media literacy and promoting access and inclusion.

With respect to all these priorities, the UK Film Council believes that very important matters relating to the interests of citizens and consumers are at stake.

The UK Film Council particularly welcomes Ofcom's statement that it is 'currently reviewing [its] approach to tackling barriers to digital inclusion.' [paragraph 5.26]. It is critical to the further development of a democratic and equitable society that all citizens are able to reap the benefits of the transition to a digital economy.

Likewise, we are very supportive of the work that Ofcom is doing to support discussions on ways to tackle illegal peer-to-peer file-sharing as referenced at paragraph 5.58. We share the view expressed in the Digital Britain report believe that online copyright infringements need to be tackled if the UK's content industries, including film, are to prosper in a digital age. We believe that this needs to be done as a matter of urgency

Question 3: What are your views on the elements which should be contained within Ofcom's new strategic framework?:

Like Ofcom we believe that the Government's final Digital Britain report will contain important policy recommendations on many of these areas, and we look forward to contributing to the debate which the Government's report will stimulate.

We believe that Ofcom should build its new strategic framework around many of the themes that have emerged in the Government's Digital Britain report. While some of these issues - such as a digital Universal Service Commitment for 2Mps for broadband and digital media literacy - are flagged in the interim report, we believe that it would be prudent for Ofcom to await the final Digital Britain report before drawing up its new strategic framework.