

Ofcom's consultation on the renewal of the Channel 4 licence: Out of England Quota.

This response has been cleared by the Rt. Hon Carwyn Jones AM, the First Minister of Wales.

The Welsh Government welcomes this opportunity to respond to Ofcom's consultation on the renewal of the Channel 4 licence, specifically on the 'out of England' (UK nations) TV production quota. We responded to Ofcom's first consultation on Channel 4 licence renewal in October 2013; the main point of discussion in our first response was the proposal to amend the current 'out of England' quota, from 3% as currently specified to a minimum of 9% by 2020.

The Welsh Government does not agree with Ofcom that its "proposed quota of 9% from 2020 appropriately balances the costs and benefits of the out of England production quota for stakeholders".

For ease of reference our previous response is attached in full at Annex 1, below. The main points, which we wish to reiterate, are:

- 9% would be an appropriate Nations ('out of England') quota for C4, but the defined target date for this should be 2016.
- There should be a further review of the C4 Nations quota in 2016.
- The C4 Nations quota should not be reviewed in isolation. It should be considered in the context of BBC quotas and (in Wales) the continuing investment by S4C.
- C4 should be encouraged to increase its investment in initiatives (such as the Alpha Fund) to assist producers in the Nations to offer programme ideas that are suitable for C4.

It is disappointing to note that Ofcom appears to have set aside the arguments we set out in support of the above points. We would ask Ofcom to reconsider those arguments before making a final decision.

Ofcom states that achieving a given quota sooner would not alter its likely effects - however it acknowledges that an earlier implementation date may bring forward the benefits. Ofcom goes on to argue that trying to achieve the quota more rapidly could reduce C4C's flexibility, increasing commercial risks and some costs. It states that C4C would need to relocate commissions into the Nations, possibly leading to a reduction in the potential benefit for viewers as the range of producers and programmes for Channel 4 may not increase, but additional direct costs may apply. Therefore Ofcom states that a gradual adjustment to a higher quota would give Channel 4 and producers time to adapt, delivering benefits to viewers with less adverse impact.

However, this argument ignores the fact that C4 is already well on target to achieve the 9% target sooner than 2020, without any apparent impact on its

ability to operate commercially and flexibly. Ofcom data shows that C4's Nations production increased from 2.7% (value) and 3.6% (hours) in 2009 to 5.4% (value) and 7.0% (hours) in 2012. This represents a doubling of output by value and hours over a 4 year period. The starting point was a low base in 2009 and we should not expect a further doubling over the next 4 years. Nevertheless, if the same average incremental increase were achieved over the next following 4 years (2013-2016) we could expect 8.1% (value) and 10.4% (hours) by the end of 2016.

This suggests that C4's 9% is a realistic target that can and should be achieved by the end of 2016, not 2020.

We previously noted that the independent sector in Wales benefits from its relationship with S4C and has a number of players with scale, several of which have already worked for C4, achieving critical and ratings success. There is capacity and expertise in Wales that could deliver more, so we do not accept that relocation of existing commissions would be the only option for C4 to commission more work in Wales within the next 4 years. Efforts are needed to maintain and grow the contribution made by Welsh Indies to the C4 network (e.g. by further investment in projects such as the Alpha Fund).

As just one example, Ofcom points out that Factual / Specialist Factual content comprises 960 hours (29%) of C4's first-run output, compared with 153 hours (5%) of drama and Factual Entertainment. There should be opportunities for Factual and Specialist Factual producers based in the Wales and the other Nations, especially those with an existing network track record.

Ofcom should not agree to a Nations quota fixed until 2020, for two important reasons. First, we have yet to see the full impact of the BBC's move of production to the nations and regions and BBC quotas are due to be reviewed from 2016. There should be a complementary relationship between BBC and C4 quotas and their review. Secondly, we do not know how the outcome of Scotland's Independence Referendum in 2014 may affect Scotland's relationships with UK broadcasters and their regulators, nor indeed whether a single Nations quota would continue to be appropriate.

There has been an independent production presence in Scotland since the start of C4, so at the outset it may have been logical for C4 to locate its 'nations and regions' office in Glasgow. However, C4 activity alone would not sustain a cluster of Indies in Scotland, nor companies of scale as in Wales. BBC quotas and policies have been equally significant in the development of independent production; not just in Scotland but in the other regions and Nations, including Wales. C4 should now develop a stronger presence – and a national office - in Wales and the other Nations, driven by a growing relationship with our independent producers.

As we noted in our first response, the Welsh Government has developed good relationships with the BBC and S4C. We would welcome a closer relationship with C4 and would be very interested in working with them for the benefit of independent producers in Wales.

Annex 1 - October 2013 consultation response, in full.

Ofcom's consultation on the renewal of the Channel 4 licence.

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The Welsh Government welcomes this opportunity to respond to Ofcom's consultation on the renewal of the Channel 4 licence.

The main point of interest for the Welsh Government is the proposal to amend the current 'out of England' (UK nations) TV production quota, which is specified as a licence condition and is currently 3%. C4C has proposed that the quota could increase incrementally, to a minimum of 9% by 2020.

1. Summary of the Welsh Government's response

- 9% would be an appropriate Nations ('Out of England') quota for C4, but the defined target date for this should be 2016.
- There should be a further review of the C4 Nations quota in 2016.
- The C4 Nations quota should not be reviewed in isolation. It should be considered in the context of BBC quotas and (in Wales) the continuing investment by S4C.
- C4 should be encouraged to increase its investment in initiatives (such as the Alpha Fund) to assist producers in the Nations to offer programme ideas that are suitable for C4.

2. C4 and the UK Nations

C4 launched in 1982 as a commercial service supported by advertising, with a remit to be different from ITV/BBC and to support independent production. It was created as a London-based UK network service. Unlike S4C in Wales C4 did not pursue a core strategy of developing independents outside its immediate metropolitan/urban base. C4 had no formal 'Out of London' obligations until Section 288 of the Communications Act 2003 introduced the concept of 'Regional programme-making for Channel 4' emphasising the need to develop production talent outside the M25.

Scotland and **Northern Ireland** are individual macro-regions for C4 airtime sales purposes. In both of these Nations, viewer loyalty to C4 has been traditionally above the UK average (Source: BARB).

There has been an independent production presence in **Scotland** since the start of C4. It was a logical development for C4 to locate its 'nations and regions' office in Glasgow, especially as a senior commissioning executive

(Stuart Cosgrove) was already based there, but C4 activity alone would not sustain a cluster of Indies in Scotland, nor companies of scale as in Wales. BBC quotas and policies have been equally significant in the development of independent production in Scotland.

In **Wales**, S4C occupies the 'number 4' PSB TV slot. S4C analogue carried most of C4's output but C4 derived no direct commercial benefit from Wales. C4 services have been available in Wales from 1982 on satellite and on overlap signals from transmitters in England, and since 1998 on the digital terrestrial platform, but from C4's commercial perspective Wales is part of the English 'South' macro-region for airtime sales and has no separate identity. In terms of its statutory remit, **C4 had no PSB obligations in Wales until digital switchover in March 2010** when C4 became a UK-wide network for the first time.

S4C's early decision to develop independent production in Wales supported a substantial industry but most Welsh Indies were content to work in the Welsh language and/or to take advantage of the increasing volume of work from BBC Wales, and did not seek a relationship with C4. **There are opportunities for Welsh Indies who can offer programme ideas that work for C4.** A few have already done so, achieving critical and ratings success.

3. The 'Out of London' and 'Nations' quotas

Section 288 makes no reference to 'Nations'. Ofcom implemented the statutory provision initially by imposing a 30% 'Out of London' quota. Following the PSB Review 2009 this was increased from 2010 to 35%, including a 3% 'Nations' or 'Out of England' quota. The quotas apply to **hours and to programme spend**.

In setting each of these quotas Ofcom appears to have accepted proposals put forward by C4. Ofcom in its consultation document acknowledges that the original 3% Nations quota was a small figure compared to population, but notes that in 2009 there was debate as to the future direction of C4, the BBC was still developing its plans for out of London production and the development of production clusters in the Nations would take time. By 2013 these uncertainties have been resolved and a review of the 'Out of London' and Nations quota seems to be overdue.

4. Rationale for the BBC Nations Quota is not appropriate for C4

The BBC has adopted a Nations target of 17% of programme spend by 2016. This reflects the number of licensable TV households in the three National Regions. There are further internal targets for each Nation.

The BBC model is not an appropriate starting point for C4 for the following reasons:

- The BBC has significant regional /national regional obligations with supporting infrastructure, whereas C4's programme service is a single UK Network
- The BBC has significant in-house production capability across several regional centres which provide a solid base for meeting regional targets. C4 relies on external suppliers whose locations are not normally driven by PSB geographical criteria.
- The BBC is funded by the licence fee, set by Government at the same level throughout the UK. C4 is funded principally by advertising based on 6 'macro-regions', and market forces apply. The three Nations are priced at very different levels within C4's commercial advertising market, and do not contribute to C4 pro-rata to household numbers. London is by far the most important region for C4. It accounts for c.25% of UK TV Households and advertising in the London region delivers almost double the UK average price.

5. C4 performance against quotas

Measured against either quota, C4 has performed well.

- Ofcom data tells us that average 'Out of London' production in the 3 years 2010-2012 amounted to 36.0% of spend and 41.3% of hours. Average 'Nations' production in the same period was 4.7% of spend and 6.0% of hours.
- High figures of 5.4% of spend and 7.0% of hours for 'Nations' in 2012 may have been influenced by Paralympics output, and perhaps the three year average is a better indication of progress.
- In any event, the results are good. Aggregating the two elements of the 35% 'Out of London' quota, C4 has passed its target at 40.7% of spend and 47.3% of hours (average 2010-2012).

The rational conclusion is that the existing quotas are too low, and that C4 can support higher levels of 'Out of London' and 'Nations' production.

6. 'Out of London' Programme Spend

The BBC is the main driver of 'Out of London' production, but the BBC effort is based on significant in-house activity. This also applies to ITV. In 2011 the 'Out of London' spend by the BBC was £425m, and ITV £224m.

C4's 'Out of London' quota directs funding specifically towards independent producers. C4 annual reports confirm that total spend on first-run external commissions was:

2009	2010	2011	2012
£363m	£348m	£370m	£385m

A 3% Nations quota would provide average funding of c.£11m per annum in the period 2010-2012 whereas the actual average annual spend was c.£17.3m (4.7%).

The majority of S4C's content budget (£67.9m in 2012) is spent with independent producers in Wales. This is significant within the UK Nations context and, with the growth of BBC network activity, means that Wales supports a number of network suppliers. Tinopolis and Boom Pictures have both expanded out of Wales and have established a UK presence.

Welsh production for the C4 network in 2012 accounted for 1.8% of C4 spend (c.£6.5m). [Source: C4]

The 2012 figure includes the cost of Boom Pictures' Paralympics coverage as well as Time Team, based in Cardiff, which will end shortly. **Efforts are needed to maintain and grow the contribution made by Welsh Indies to the C4 network. There is capacity in Wales to achieve much more.**

7. C4 Proposal for a higher Nations quota

The proposal to increase the Nations quota to 9% by 2020 has come from C4; Ofcom explains the rationale for the proposal as follows:

- C4 must commission across a range of genres. Half of its output comprises long running series.
- C4 has no in-house production to relocate (unlike the BBC) and there are relatively few Indies of scale based in the Nations.
- Many of the Nations producers are experienced in Factual and Documentary programming, but not Drama, Factual Entertainment, and Comedy series.
- C4 believes that 6 years will be needed to sustain a 6% increase by hours and by value

We would make the following points in response:

- Ofcom points out that new titles comprise 450 hours (25%) of C4 first-run peak hours output. There seems to be scope to accommodate additional hours from the Nations.
- The BBC 'in-house' point is correct, but because of S4C there are Indies of scale based in Wales, some of which have already worked for C4 (e.g. Boomerang, Rondo, Telesgop, Cwmni Da)
- Ofcom points out that Factual / Specialist Factual comprises 960 hours (29%) of C4's first-run output, compared with 153 hours (5%) of drama and Factual Entertainment. There should be opportunities for Factual and

Specialist Factual producers based in the Nations, especially those with an existing network track record.

- Ofcom data shows that C4's Nations production increased from 2.7% (value) and 3.6% (hours) in 2009 to 5.4% (value) and 7.0% (hours) in 2012. This represents a doubling of output by value and hours over a 4 year period, but the starting point was a low base in 2009 and we should not expect a further doubling over the next 4 years. Nevertheless, if the same average incremental increase were achieved over the next following 4 years (2013-2016) we could expect 8.1% (value) and 10.4% (hours) by the end of 2016.

This would suggest that C4's 9% is a realistic target, but that it should be achieved by the end of 2016, not 2020.

8. Effect on English Regions

Ofcom has expressed concern that increasing the C4 Nations quota could have a negative effect on the English regions. This seems unlikely. The BBC is the main driver of 'out of London' production; it is BBC policy that will decide which English regions will benefit, not the C4 quota.

9. The Need for an Interim Review

Ofcom should not agree to a Nations quota fixed until 2020. There are two important reasons why there should be provision for an earlier review of the Nations quota.

- We have yet to see the full impact of the BBC's move of production to the nations and regions, and BBC quotas are due to be reviewed from 2016. It would be helpful if there were a complementary relationship between BBC and C4 quotas. A review of the C4 quota in or round 2016 would be appropriate.
- We do not know how the outcome of Scotland's Independence Referendum in 2014 may affect Scotland's relationships with UK broadcasters and their regulators, nor indeed whether a single Nations quota would continue to be appropriate from a Welsh or Northern Irish perspective.

Ofcom has suggested the option of more frequent reviews through the annual SMCP (Statement of Media Content Policy) mechanism. This might be preferable to a 6 year 'fix', but a 'short term' SMCP approach would not be conducive to effective planning and industry development. A higher Nations quota for a fixed period is no guarantee of work to any producer either, but it is a key statement of intent which should encourage new and established Indies in the Nations.

The possibility of introducing a quota for some of C4's other services (e.g. Film Four) has been raised by both C4 and by Ofcom. This would be a positive step.

10. Industry Development – Alpha Fund

Commissioned programme ideas need to work for C4 editorially. Physical distance from London should not be a barrier for a skilled and experienced production team, provided there is no 'cultural distance' from the broadcaster's aspirations and editorial values. Success in regional, daytime or Welsh language programming will not guarantee access to network commissions from C4.

C4 has already established the Alpha Fund, which is designed to support emerging companies and is worth c.£2 million per year (UK spend). It has received grant support of £100K from Creative Scotland and the Welsh Government contributed £100k for projects in Wales. The fund is managed by a team based in C4's Glasgow office.

This is a worthwhile initiative and C4 should be encouraged to increase its investment in projects such as the Alpha Fund, in order to assist independent producers in the Nations to develop programme ideas that are suitable for C4.

The Welsh Government has developed good relationships with the BBC and with S4C. We would welcome a closer relationship with C4 and would be very interested in working with them for the benefit of independent producers in Wales.