

UK Film Council

**Response to
Digital Britain: The Interim Report**

12 March 2009

1. Executive summary

- The UK Film Council strongly supports the vision of a Digital Economy which “can drive the upgrading of our digital networks, significantly enhance our national competitive position in these critical markets, secure competition for choice and quality in content, connect with the interests of the rising, digital generation and improve access, affordability and inclusion for all.”¹
- New infrastructure is the prerequisite to facilitating access, but ultimately it is compelling, attractive and diverse content which is the key to getting citizens to engage with Digital Britain and to building economic and cultural value. Therefore the final report needs to rebalance the “pipes/poetry” paradigm in a way that places more emphasis on protecting and enabling new content and IP generation throughout the transition to the fully digital world. In policy terms there should be no acceptable collateral damage to the content sector in order to hasten the roll-out of fast broadband.
- It is vital for the content industries, including film, to develop new business models for the digital age. But it is equally imperative that a much more effective deterrence scheme, (based on a graduated response), is put in place quickly to ensure that higher broadband speeds do not lead to a colossal increase in illegal file-sharing and copyright theft which would fatally undermine the economic viability of the UK’s digital content business sectors.
- The creation of a new Rights Agency, working with Ofcom, should, *inter alia*, provide a mechanism by which a graduated response system is overseen as well as a forum where issues relating to new legal online services are explored. This Agency should also take the lead in clearing away barriers to the exploitation of “orphan works” which would greatly benefit public access to the UK’s content archives.
- The UK Film Council strongly endorses the creation of a second public service organisation drawing in part on Channel 4’s assets and a re-cast remit. The UK Film Council firmly endorses the proposal that film should be an integral part of this organisation’s

¹ http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf p.2.

remit, investing in new British films and using the Film4 channel/platform to make UK and specialised film more readily available to the public.

- This second public service organization should also be designed to benefit significantly from the resources and knowledge and expertise that already exists within existing publicly-funded cultural organisations which already generate new public service content. These organisations should provide a set of partnerships with the new public service entity which transforms the way in which cultural content in the UK is presented to audiences.
- The UK Film Council welcomes the opportunity for film to participate in the discussions around Terms of Trade. As platforms converge, and the analogue economics of film production change, it is clear that film terms of trade will become increasingly important to the ability of UK film makers to create value from content across the creative economy.
- As founder members of the Media Literacy Task Force, the UK Film Council believes that the current proposed focus on Media Literacy is too narrowly focussed on protection and safety issues. Much more emphasis needs to be placed on the creative opportunities that digital world has to offer us all.
- The final report needs to address the potential of the UK's national and regional archives to contribute to the development of Digital Britain. These archives are publicly owned assets which contain a wealth of material which, once made available, will deliver significant benefits to citizens and consumers. Therefore an archive policy line should form an integral part of the final report.
- The role of cinemas in helping to build Digital Britain must be properly considered. As public spaces, cinemas, stand to play an important role in delivering a range of benefits deriving from Digital Britain . This is particularly important in remote and rural areas and thought should be given to how public policy could assist this aspect of “digital switchover”.
- The UK's skillsbase requires continuing and effective levels of investment if the UK is to maximise the competitive advantages

arising out of the digital revolution. The report should place even more investment on the importance of investment in digital skills.

2. Introduction

The UK Film Council is the Government-backed lead agency for film in the UK. Our goal is to help make the UK a global hub for film in the digital age, with the world's most imaginative, diverse and vibrant film culture, underpinned by a flourishing, competitive film industry.

The UK Film Council welcomes the opportunity to comment on the Digital Britain Interim Report.

The vision of Digital Britain laid out in the Report is consistent with the aims of the UK Film Council and its partners which are to help ensure a flourishing film and moving image industry which benefits the creative economy and to deliver enhanced choice and access to audiences at home and abroad. We would especially underline the importance of a plurality of attractive content as a means of helping to fulfil such a vision.

We recognise that the advent of a fully digital era is bringing very significant opportunities and challenges for the UK's film and moving image sectors, and the creative economy as a whole.

The UK Film Council recognises that film and moving image sectors, like other parts of the media, are increasingly being challenged by digital innovation and change, and that strategic leadership from the Government and public bodies is required to help those sectors respond intelligently and cohesively to such change. As the report states "industrial activism from government will be critical to ensuring that the UK gets the most out of the digital economy."²

The pace of change is dramatic. As Lord Carter put it in his evidence to the Business and Enterprise Committee on March 10 2009:

"Six years in the digital sector are the equivalent of 20 years in the energy sector."³

One of the greatest advantages of digital technology is the ability to increase audience access to films, moving images and digital content of every kind. For films and moving images this increased access is achieved by using new online distribution platforms such as the BBC iPlayer, VoD platforms operated by companies such as BSkyB and Virgin Media, iTunes, Xbox LIVE, mobile devices and, of course, digital projectors in cinemas.

However, such increased accessibility can be very challenging for the traditional business models by which content owners obtain value from their work. The examples of the music and publishing industries demonstrate that this is the most challenging economic issue in the transition from an analogue world to a digital one.

As the Interim Report puts it:

² Ibid. p.4.

³ Audio stream at: <http://www.parliamentlive.tv/Main/VideoPlayer.aspx?meetingId=3627&rel=ok>

“New business models need to evolve for that environment. The role for regulation or intervention is not to prevent the emergence of new business models or to preserve old and unsustainable ones. It is to contribute constructively to the transition.”⁴

But the challenges are very large and if we do not respond effectively to them this is likely to signal, within the space of a few years, the end of the UK’s international position as a leading creator and distributor of film and moving image content. As the report puts it:

“the very ease with which digital content can be distributed and copied also dramatically increases the scope for unlicensed and illegal copying and distribution. At the same time, new technological forms of piracy are being manifested at an increasing pace.”⁵

The UK Film Council believes that a mix of different interventions – educative, technological and legislative – are required to very substantially reduce unlicensed and illegal copying and distribution. Such illegal activity represents a clear and present danger to the economic viability of the film sector in the UK particularly as broadband speeds increase. This is because it is revenues from the distribution of content which supports investment in content, and illegal file-sharing deprives rightsholders of all their revenues.

Lord Carter speaks in his introduction of “the prize on offer” in regard to Digital Britain and it is a very substantial one – for the people of the UK, for its creative economy and for UK plc more generally.⁶

If we are to fulfil the vision of Digital Britain set out in this report we must respond quickly, firmly and effectively to the challenges – most particularly those posed by copyright theft and infringement – while also seizing the opportunities to deliver films and moving images to wider and more diverse audiences than ever before by grasping the potential of digital media.

The British Film Institute, which delivers cultural and educational objectives for the UK Film Council, has made its own submission to this consultation. The two submissions share common principles and are intended to be complementary. Other UK Film Council partners including the Media Literacy Task Force, the Regional Screen Agencies and Skillset have also made their own submissions to this consultation.

⁴ Ibid., p.37

⁵ Ibid., p.38

⁶ Ibid. p.2

Comments on specific Action points

If an action point is not referenced, we have chosen not to comment on it.

ACTION 1

We will establish a Government-led strategy group to assess the necessary demand-side, supply-side and regulatory measures to underpin existing market-led investment plans, and to remove barriers to the timely rollout, beyond those declared plans, to maximise market-led coverage of Next Generation broadband. This Strategy Group will, by the time of the final Digital Britain Report, assess the case for how far market-led investment by Virgin Media, BT Group plc and new network enterprises will take the UK in terms of roll-out and likely take-up; and whether any contingency measures, as recommended by the Caio review, are necessary.

We believe that very significant benefits will be delivered to both citizens and consumers by the development of next generation broadband. For this reason, the UK Film Council is clear that the Government must help to facilitate the introduction next generation broadband as rapidly as possible.

We welcome the initiatives such as Virgin Media's roll-out of a 50 Mb/s service and BT's plans for to invest £1.5 billion in a fibre-optic network which was recently given the go-ahead by Ofcom.⁷

We believe that in a digital age the development of next generation broadband services is one of the keys to helping to advance a number of our policy priorities including:

- Encouraging the development and take-up of legal online film services, offering new and archive films and moving images, and therefore significantly stemming copyright theft and infringement
- Improving public access to British and specialised films via those legal services
- Helping to develop a media literate UK
- Promoting social inclusion and diversity especially via services to rural and remote communities and the disabled.

However, there are significant dangers that next generation broadband networks will accentuate copyright infringement by means of file-sharing - a subject which we address in our response to Action Points 10, 11,12 and 13 below.

The advent of such legal services will also have cultural and educational benefits for UK citizens since with the development of super-fast broadband such services should become more economic and therefore help to broaden the availability of films on offer, including the availability of archive content. For example, online video rental services, such as LOVEFiLM which are not constrained by very limited shelf space are able to offer a much wider range of titles (65,000+) than traditional video retail

⁷ http://www.ofcom.org.uk/consult/condocs/nga_future_broadband/statement/statement.pdf

stores on the high street.⁸ Once storage and delivery of film titles is fully digital, the ability to offer titles is limited only by the number of films available.

As a founding member of the Media Literacy Task Force, the UK Film Council believes that such broadband services will also enhance the development of Media Literacy by enabling citizens to develop their creative and critical skills as well as their cultural understanding, generally help deliver on the principles of the Charter for Media Literacy.⁹ Teaching and learning will be greatly enhanced by the legal downloading of film and media content.

This will enable engagement with a very wide range of culturally valuable films and moving images for study purposes, both within formal and informal education, and ensure over time that being literate means being media literate. Such engagement is one of the preconditions to the full development of a knowledge economy in the UK.

At the outset of the Digital Britain process, Lord Carter said in Parliament that ‘our ambition should be for the broadband system of the nation to be the engine of the nation’s mind’.¹⁰ This is an ambition which we wholly endorse and which we think should be reflected in the Government’s approach to maximising the benefits of next generation broadband.

ACTION 4

We will, by the time of the final Digital Britain Report, have considered the value for money case for whether public incentives have a part to play in enabling further next generation broadband deployment, beyond current market-led initiatives.

We believe that the acute economic downturn means that the private sector may not be able to deliver next generation networks to the degree required.

While the issue of what public interventions, if any, are required to incentivize the roll-out of next generation networks is complex we believe that the current financial climate requires the Government to conduct a detailed examination of the potential role of financial incentives and not to assume that the capital and debt markets alone will provide. This will also help to ensure universal access to such networks since it may not be viable on economic grounds alone to make such networks available to some areas of the UK, particularly in sparsely-populated rural locations.

ACTION 10

In the final report we will examine measures needed to address the challenges for digital content in more detail, including opportunities for providing further support to foster UK creative ambition and alternative funding mechanisms to advertising revenues.

The independent film sector in the UK, like other areas of the digital content industries, is facing some particular challenges in financing content as we enter a fully

⁸ <http://www.lovefilm.com/welcome/home.html>

⁹ <http://www.medialiteracy.org.uk/usr/downloads/charterformedialiteracy.pdf>

¹⁰ <http://www.publications.parliament.uk/pa/ld200708/ldhansrd/text/81105-0015.htm>

digital age.

The acute economic downturn which has resulted in a severe shortage of liquidity across all industrial sectors, including film. However, there are also challenges which are more systemic and relate to the transition to a digital world. These challenges include:

- The impact on revenues of copyright theft and infringement, including illicit peer-to-peer file-sharing. A recent report by Oxford Economics estimates that an effective response to stem illicit file-sharing of films in the UK would create an additional £142m in value for the UK film industry.¹¹
- The declining value of the DVD market in key territories of the world mainly as a consequence of heavy price discounting, For example, in the UK although total DVD unit sales (all genres) actually increased slightly in the UK in 2008 to £252.9 million, in real terms, retail DVD film revenues in the UK have fallen from £1.98 billion in 2004 to £1.62 billion in 2007.¹²
- The declining prices paid by the terrestrial television and pay-TV broadcasters worldwide. This is the consequence of the growth in the DVD market which has reduced the attractiveness of films in subsequent windows and on subsequent platforms to audiences, and in part due to the fragmentation of TV audiences which has reduced revenues for television platforms across the globe. In real terms the total television revenues associated with film on TV have fallen from £1.26 billion in 2003 to £914 million in 2007.¹³
- The failure to date of online revenues to provide any meaningful substitute to either the decline in DVD revenues or online film priorities. In particular, the download-to-own (DTO) market remains extremely small, while the market for download to rent (DTR) or stream although larger generates a much smaller amount of gross revenue. According to Screen Digest, the UK online movie market was worth £6.2 million in 2008. It also estimates the TV-based VoD and nVoD market for film (via e.g. Virgin Media and Sky) was worth £106 million. Therefore, the UK online movie market is still small but has experienced a nine-fold increase in value since 2007 (when the market was estimated at £700,000) – driven by the introduction of movies on iTunes in June 2008 and Xbox Live Marketplace.¹⁴

Because of these challenges the UK Film Council strongly welcomes the proposals made in Action 10 for a detailed examination by Government of “opportunities for providing further support to foster UK creative ambition and alternative funding mechanisms to advertising revenues.” The UK Film Council looks forward to contributing further to the debate around these issues.

¹¹ *Great Expectations; A report on the economic opportunities for the UK film sector*, published by Oxford Economics and commissioned by Respect for Film.

http://www.bva.org.uk/files/images/AV_Piracy_Final_Report_-_FINAL.pdf p.30.

¹² Source: UK Film Council Statistical Yearbook 2008

¹³ Source: Ibid. [?]

¹⁴ Source: Screen Digest

ACTION 11

By the time the final Digital Britain Report is published the Government will have explored with interested parties the potential for a Rights Agency to bring industry together to agree how to provide incentives for legal use of copyright material; work together to prevent unlawful use by consumers which infringes civil copyright law; and enable technical copyright-support solutions that work for both consumers and content creators. The Government also welcomes other suggestions on how these objectives should be achieved.

ACTION 12

Before the final Digital Britain Report is published we will explore with both distributors and rights-holders their willingness to fund, through a modest and proportionate contribution, such a new approach to civil enforcement of copyright (within the legal frameworks applying to electronic commerce, copyright, data protection and privacy) to facilitate and co-ordinate an industry response to this challenge. It will be important to ensure that this approach covers the need for innovative legitimate services to meet consumer demand, and education and information activity to educate consumers in fair and appropriate uses of copyrighted material as well as enforcement and prevention work.

ACTION 13

Our response to the consultation on peer-to-peer file sharing sets out our intention to legislate, requiring ISPs to notify alleged infringers of rights (subject to reasonable levels of proof from rights-holders) that their conduct is unlawful. We also intend to require ISPs to collect anonymised information on serious repeat infringers (derived from their notification activities), to be made available to rights-holders together with personal details on receipt of a court order. We intend to consult on this approach shortly, setting out our proposals in detail.

As stated in our response to Action 1, the UK Film Council strongly welcomes the Government's desire to accelerate the development of high-speed broadband in the UK.

This will give very significant boost to the development of legal online services, based on new business models, offering a greatly increased range of films and moving images to the benefit of citizens and consumers throughout the UK.

However, as broadband speeds increase, illegal sharing of films through peer to peer networks will increase exponentially representing a massive threat to the sustainability of the film industry and other digital content industries in the UK – unless urgent measures are taken to introduce a sensible, proportionate and credible policy to deter persistent infringers of copyrights.

As noted above, the Oxford Economics report estimated that an effective response to stem illicit file-sharing of films in the UK would create an additional £142m in value for the UK film industry.¹⁵ The report found that the audio-visual sector currently

¹⁵ *Great Expectations; A report on the economic opportunities for the UK film sector*, published by Oxford Economics and commissioned by Respect for Film.
http://www.bva.org.uk/files/images/AV_Piracy_Final_Report_-_FINAL.pdf p.30.

loses about £531m in the UK each year from the direct impact of cannibalisation of revenues due to copyright theft and infringement in all their forms equating to a total economic loss to the economy of £1.2 billion.¹⁶

The industry has not been idle in attempting to increase public awareness on the issue of online infringement. The all-industry group for communicating IP messages to the public is the Industry Trust for IP Awareness¹⁷. The approach adopted in 2007 continued in 2008; it aims to stigmatise the unauthorised downloading of films as an undesirable activity in society. This is branded as the ‘Knock Off Nigel’ campaign.

Research results into the 2008 campaign were encouraging with 66% of the target market (16-34 aged males) who have seen the campaign were more likely to agree there was nothing to be proud of with regard to illegal downloading.

The UK Film Council’s position is that an effective deterrence policy needs to be based on a blend of educative, technological and legislative interventions – with the latter firmly enforced. This policy should be accompanied by detailed exploration by all parties of the potential of watermarking and other technologies to facilitate identification of illegal activity.

The July 2008 Memorandum of Understanding (MoU) signed by Government, the ISPs, and rights holders was founded upon sound and sensible principles and a credible target of achieving a “significant reduction in the number of people file-sharing over participating ISPs’ services over the next two to three years, i.e. a cut of up to 80%”.¹⁸

However, we are very firmly of the belief that the draft proposals set out in Digital Britain Interim Report would not act as a sufficient deterrent on their own; the combination of educational initiatives and legal remedies instigated by rightsholders is necessary but not sufficient.

We support a graduated response in which a series of letters are sent to infringers. This graduated response would be comprised of three stages:

1. Infringers are sent an information message by their ISP, using automated technology, explaining to them that they are in breach of copyright law.
2. Those who continue to infringe are informed by their ISPs that they will be subject to network management controls such as “bandwidth throttling” which will significantly reduce the speed of their internet connections, and therefore make it much harder to download content of any kind.
3. Those who continue to infringe despite the imposition of network management controls are subject to the sanction of a temporary “browser suspension”. This would make it extremely difficult for those infringers to engage in illicit file-sharing, but would allow them to continue to use certain forms of email and voice communication, to receive security updates for their computers and therefore stops short of denying access to broadband services in their entirety.

¹⁶ Ibid., p.2.

¹⁷ The Industry Trust membership includes the BVA, FDA, CEA, AIM and company representatives from the distribution, exhibition and retail sectors. The Trust raises approximately £2.0m per annum to fund its activities

¹⁸ <http://www.berr.gov.uk/files/file47139.pdf> Annex D. p.47

Such a graduated response is based upon the application of technological measures as the primary form of deterrence. The UK Film Council would like to see the Government legislate for such a graduated response at the earliest possible opportunity.

Rights holders should be empowered to be able to identify and to take legal action against particularly egregious infringers, in the appropriate circumstances.

The UK Film Council wants Government to investigate the powers required so that rights holders do not need court orders to access repeat infringer identities from ISPs (in particular especially as this might preclude small content owner companies from accessing this information on the grounds). There needs to be an unambiguous and simplistic method for accessing information to take speedy action against repeat infringers. We understand, for example, that the Federation Against Copyright Theft (FACT), has developed an automated solution which would enabling interaction between rights holders and ISPs, identifying Internet users sharing copyright material.

The Government should have the power to take action to block sites which facilitate online copyright theft and infringement.

The discussions and work overseen by Ofcom in relation to the MoU were starting to produce a useful evidence base. We believe that Ofcom has a valuable role to play in the future with regard to oversight of such a graduated response.

Alongside this, the creation of a Rights Agency, in conjunction with Ofcom, should provide a mechanism by which such a graduated response system is overseen. It should also play a positive role in relation to the development of new legal online services

In particular, we endorse the observation in the report that:

“Counter-piracy measures and effective rights enforcement are an important element, but only one element and insufficient on their own: new methods of legitimate access, based on new business models and incentive structures will be crucial.”¹⁹

The UK Film Council thinks that such an Agency should play an powerful enabling role in helping to identify and push forward ways in which barriers to access could be overcome. It should help to explore, for example, ways in which legislative and other potential solutions could be implemented to enable the exploitation of orphan works. According to a 2007 survey carried out by Association des Cinémathèques Européennes (ACE), approximately 50,000 of the surveyed works in archives across Europe were considered as orphan although this is likely to significantly understate the real scale of the problem as many archives simply do not know how many works are in their collections are orphan in nature.²⁰

¹⁹ Digital Britain, Op.cit., p.38

²⁰ http://ec.europa.eu/information_society/activities/digital_libraries/doc/seminar_14_september_2007/ace_perspective.ppt

The legal barriers to the exploitation of orphan works were identified by the Gowers Review and have been the subject of detailed discussion under the aegis of the European Commission.²¹ However, no solution has yet been implemented which enables them to be made legally available. This is a particular problem both for the UK's archives – for example the BFI National Archive and the archives which are members of the Film Archive Forum.²² It prevents works being made available which may have both significant cultural, educational and commercial value.

Many thousands of films are locked into a 'copyright purgatory', comprised of failed distribution and sales companies, production companies that no longer exist, bankruptcies, rights reversions, or unresolved creative rights that have resulted in a lack of audience access to these films.

There are also often challenging issues relating to rights in relation to works where rights holders can be identified yet the original licensing terms did not anticipate in any way the advent of digital media. For example, the UK Film Council itself, is the owner of rights to a number of British films from earlier decades which cannot be exploited for this reason.

The recently launched initiative Find Any Film (FAF), which is supported and funded by the UK Film Council, has highlighted some of the challenges.²³ It is intended that it will become UK's most comprehensive search engine for film, and is a tool enabling to help users who are seeking to watch, buy, download or films via legal means.

The site has for the very first time generated statistics on audience demand and film availability in the UK across different formats. Approximately 30% of the 30,000 films in the database aren't available on any format – even on DVD, the cheapest, easiest and most ubiquitous of all digital supply technologies.

These unavailable films are not limited to the more obscure titles. Many independent films have rights issues that have, over time, led to their disappearance from the market.

By playing an enabling role in helping to resolve, on a collective basis, some of these rights issues, a Rights Agency should help ensure all consumption of films takes place within a legal environment in which both access and value are maximised, to the ultimate benefit of both audiences and rights-holders.

If enforcement measures are effective in protecting their copyright, we understand that rights owners would be open to participating in a funding mechanism to power the work of a Rights Agency. With this in place, content owners can start investing with confidence in their new services.

²¹ See: http://www.hm-treasury.gov.uk/d/pbr06_gowers_report_755.pdf p.69 and also the paper by the British Screen Advisory Council (BSAC) developed at the request of Gowers: <http://www.bsac.uk.com/reports/orphanworkspaper.pdf>

For the European Commission's work in this area see:

http://ec.europa.eu/information_society/activities/digital_libraries/doc/hleg/reports/copyright/copyright_subgroup_final_report_26508-clean171.pdf

²² <http://www.bufvc.ac.uk/faf/members.htm>

²³ <http://www.findanyfilm.com/search>

Any new Agency should not duplicate existing functions and should help to cut “red-tape” rather than add to it.

We welcome the publication of the Government’s paper on the proposed Rights Agency. Once we have considered that paper we will provide further comment.

Finally, there is a statement at p.43 that

“Automated Content Access Protocol is one example of a technical solution. Digital Rights Management (DRM), properly applied, also has a role (i.e. where it allows users to access content on any device that they own, rather than being device limited – which is the paradigm that the film industry has encouraged and one that, in music, Apple’s iTunes has now embraced, in a welcome recent co-operation between rights-owners and a device/ distributor).”²⁴

If we have understood the meaning of this paragraph correctly, it does not seem to us to be correct in relation to the way that the film industry uses DRMs. In fact, DRMs have been used to ensure that illicit copying and format shifting – of DVDs for example - is not possible and in this sense the model is very different to the one recently embraced by iTunes and others.

ACTION 15

The existing Terms of Trade between the independent producers and broadcasters have worked well. In light of new entrants to the market, new business models and new distribution channels, it makes sense to have a forward look at how the relationship between independent producers and those who commission their ideas could evolve. This review will focus on the appropriate rights holding agreements and definitions required for a multi-platform digital future, on the overall health of the sector and on continuing to ensure that viewers, listeners and users get the best and most innovative content and programming.

Film was excluded from the scope of the Review of the Programme Supply Market commissioned by the Secretary of State at the Department for Culture, Media and Sport and conducted by the Independent Television Commission in 2002. It was also excluded from the Review of the Television Production Sector undertaken by Ofcom in 2006/7.²⁵

However, while noting the success of basic shape of the terms of trade between independent film producers and distributors on the one hand, and broadcasters on the other, it is the case that they have remained relatively unchanged for many years. In a converged world, in which a free-to-air broadcast can make a film not just via a single terrestrial but also via a number of other platforms the Terms of Trade become ever more important in determining value. We therefore believe that it is important to include film in the latest review of Terms of Trade to ensure that in the future such Terms are optimized to the benefit of film producers and distributors and to the wider

²⁴ Op. cit. p.43

²⁵ <http://www.ofcom.org.uk/consult/condocs/tpsr/tpsr.pdf> p.1. footnote 2.

creative economy.

We welcome therefore the Government's decision to invite representatives from film to participate in this latest review.

ACTION 16

In the final Digital Britain Report, we will establish whether a long-term and sustainable second public service organisation providing competition for quality to the BBC can be defined and designed, drawing in part on Channel 4's assets and a re-cast remit. It would be a body with public service at its heart, but one which is able to develop flexible and innovative partnerships with the wider private and public sector. While it makes sense to begin by looking at public sector bodies- Channel 4 and BBC Worldwide- the Government is currently evaluating a range of options and organisational solutions for achieving such an outcome.

We believe that plurality should be a cornerstone of provision of public service content in a digital age. Such plurality is vital to permit a diversity of creative voices to emerge and it acts as an important competitive spur. Plurality in the commissioning and acquisition of theatrical film is as important as plurality in relation to UK-originated drama and other genres such as news and children's programming.

Culturally British films make an important economic and cultural contribution to the UK. A study by Oxford Economics commissioned by the UK Film Council and Pinewood Shepperton Plc calculated that the overall the core UK industry contributed over £4.3 billion to UK GDP in 2006, taking into account its multiplier impacts, and over £1.1 billion to the Exchequer (gross of tax relief and other fiscal support).²⁶

Culturally British films are important to UK audiences. In the same study, Oxford Economics estimates that a film shown in the UK can expect its box office revenue to be up to 30% higher if it is indigenous. On this basis, the report calculates that the existence of UK films boosted the average box office revenues of cinemas by more than £50 million a year over the last decade.²⁷

We therefore strongly welcome the plans to create a second public service organisation which draws in part on Channel 4's assets. Both this organisation and the BBC should expect to enjoy secure and adequate funding to deliver upon their public service objectives in a digital age

The UK Film Council believes that UK public service broadcasters, specifically the BBC and Channel 4, have historically played a very important role in investing in and acquiring UK films and making them available to broad audiences. We believe that their role in respect of film will remain crucial in the digital age, especially if investment in other forms of UK-originated drama declines. The recent Oscar successes of *Slumdog Millionaire*, a film developed and funded by Film4, and *Man on*

²⁶ The Economic Impact of the UK Film Industry. This includes companies and individuals involved in all film production in the UK. But it only includes the activities in the distribution and exhibition sector associated with UK-made films.

<http://www.ukfilmcouncil.org.uk/media/pdf/5/8/FilmCouncilreport190707.pdf>. p.1.

²⁷ Ibid. p.4.

Wire which received investment from both the BBC and the UK Film Council demonstrate the economic and cultural value which can be delivered by broadcaster investment in feature films.

Culturally British films shown on public service broadcasting channels have significant reach – since the key public service broadcasters provide a universally available service – and significant impact. We want this to continue to be the case in the future to the benefit of both UK filmmakers and UK audiences.

We therefore strongly welcome the commitment in the report that film would be at “the heart of...[the]..new remit,” for such a public service content company. This echoes Ofcom’s comments in its final statement in its Second Review of Public Service Broadcasting in which it stated that such a second provider could “make a more explicit commitment to formalise Channel 4’s significant contribution to British film.”²⁸

We would also draw attention to the important role of the Film4 digital channel as a platform for UK and specialised film. If the Film4 digital channel was to be included in any joint venture with an external partner – for example, BBC Worldwide – there is a need to ensure that its potential as a public service platform enhancing the range of films to audiences is not limited to the objective of maximising profits to subsidise other activities.

With regard to both the creation and distribution of cultural content we believe that organisations with a public remit, such as the UK Film Council, Arts Council England and other bodies should facilitate the delivery of public service content which delivers public purposes which have historically been delivered by public service broadcasters.

As the commercial PSBs pull back from delivering on these purposes, there are strong arguments for encouraging publicly-owned organisations to take on the role of delivering these purposes online in a digital age. We have the assets in the area of arts and culture and we have the infrastructure to achieve significant reach and impact and we are already starting to take this role – the BFI channel on YouTube is an example of this.²⁹ The Tate Player is another, and the Royal Opera House’s delivery of performances to cinemas is another.³⁰ In the digital age there is a natural convergence of public service broadcasting policies and public purposes as delivered by such organisations.

Competitive funding has the potential to play a significant role in delivering public benefits to audiences, including in the area around cultural content. In assessing the potential benefits of competitive funding we need to look beyond broadcasting to a world in which broadband is very widely available and very widely used.

²⁸ http://www.ofcom.org.uk/consult/condocs/psb2_phase2/statement/psb2statement.pdf paragraph 7.51

²⁹ <http://www.youtube.com/user/BFIfilms>

³⁰ <http://www.tate.org.uk/tateplayer/>

[http://www.roh.org.uk/uploadedFiles/Press_and_Media/PDFs/Cinema and Deloitte Ignite initiatives_Press_Release%5B1%5D.pdf](http://www.roh.org.uk/uploadedFiles/Press_and_Media/PDFs/Cinema_and_Deloitte_Ignite_initiatives_Press_Release%5B1%5D.pdf)

The advent of broadband provides a "once in generation" opportunity to massively expand public access to culture. Broadband should be used to enable creative talent and publically owned cultural institutions to better connect their existing work with audiences in ways that were simply not possible in the analogue age.

Such funding should be used to build on existing cultural institutions' expertise to expand the range and diversity of cultural content available to the public, as well to meet other specifically identified deficits in public service content.

This funding should specifically target innovative, cultural "R&D" activity (including content, networks and applications) in order to help identify and create new ways of reaching audiences.

We note that the Government states that BBC Partnerships are "are a potentially helpful step but the challenge remains to secure such plurality of output at scale and in the medium term and beyond. Other options must remain on the table, including exploring the value of any surplus in the licence fee pre or post switchover and top-slicing."³¹

We look forward to contributing to further discussion on these specific issues.

ACTION 17

We will develop plans for a digital Universal Service Commitment to be effective by 2012, delivered by a mixture of fixed and mobile, wired and wireless means. Subject to further study of the costs and benefits, we will set out our plans for the level of service which we believe should be universal. We anticipate this consideration will include options up to 2Mb/s.

We strongly support the development of such a Universal Commitment. This is one of the means by which universal access to the benefits of broadband can be delivered.

However, we note Lord Carter's remarks in his evidence to the Business and Enterprise Committee on March 10 in which he said that 85% of the population were already able, if they wished, to receive broadband services at 2Mb/s (although he noted that he would check this figure for certainty).³² In the light of this, and the fact that some operators are rolling out services with a 50Mb/s capability we think that the target of 2Mb/s is too modest, and we urge the Government to raise it significantly.

ACTION 18

We will develop detailed proposals for the design and operation of a new, more broadly-based scheme to fund the Universal Service Commitment for the fully digital age – including who should contribute and its governance and accountability structures.

As with the roll-out of next generation networks, and taking account of the economic climate and the challenges in raising debt and money from the capital markets, we

³¹ Digital Britain, Op.cit., p.52

³² Audio stream at: <http://www.parliamentlive.tv/Main/VideoPlayer.aspx?meetingId=3627&rel=ok>

believe that the Government needs to give detailed consideration to what regulatory and fiscal interventions might help to accelerate the funding and roll-out of a Universal Service Commitment.

ACTION 20

We are inviting the BBC to play a leading role, just as it has in digital broadcast, through marketing, cross-promotion and provision of content to drive interest in taking up broadband. With other public service organisations, the BBC can drive the development of platforms with open standards available to all content providers and device manufacturers alike.

The UK Film Council signed an MoU with the BBC in 2006.³³ We welcome the BBC's stated commitment to partnerships, and in particular the recently signed MoU between the BBC and the British Film Institute plans for increasing public access to their respective audio, film and TV archives.³⁴

The intention is to explore new ways of making archive content and material available to all UK audiences, across the widest possible range of distribution platforms, while developing an industry standard approach to the management, storage and distribution of archive content and related assets.

We believe that the BBC has a valuable role to play in creating such partnerships as part of the broader landscape of Digital Britain.

ACTION 22

The current statutory and specific remit on Media Literacy is contained within s.11 of the Communications Act 2003. As this report makes clear, since 2003 there have been significant market changes in the availability of digital technologies and how they are used. We will ask Ofcom to make an assessment of its current responsibilities in relation to Media Literacy and, working with the BBC and others, to recommend a new definition and ambition for a National Media Literacy Plan.

This Action has already led to the formation of an Ofcom-convened Digital Britain Media Literacy Working Group and the UK Film Council is contributing to this through its membership of the Media Literacy Task Force.

The formation of this Working Group is very much welcomed by the UK Film Council. However, the general thrust of points 5.2 and especially 5.3 in the Interim Report, means that the main concern still remains focussed on protection from harm or competence to deal with inappropriate or offensive content online.

³³ http://www.ukfilmcouncil.org.uk/media/pdf/9/6/BBC-UKFC_MOU_FINAL_SIGNED_COPY.pdf

³⁴ http://www.bbc.co.uk/pressoffice/pressreleases/stories/2009/03_march/09_bfi.shtml

This focus is too narrow and reactive. It is based on the premise that confidence is primarily related to ‘security’ online and on the view that “ a world of universal broadband will require a new approach to online safeguards” (5.3). While these issues remain significant and require a public policy response they inevitably lead to less weight, effort and emphasis being placed on the positive opportunities for a rich cultural, creative and critically aware engagement that digital media offers.

The UK Film Council maintains that Media Literacy needs to be defined and understood more broadly and deeply than currently represented in the report. Media Literacy needs to be as much part of UK culture as the ‘old’ literacy of reading and writing. This is essential if the vision of “a population that is confident and empowered to access, use and create digital media” is to be realised.³⁵

The UK Film Council, like the Media Literacy Task Force, has always maintained that a positive and empowering approach to digital culture will bring immense benefit not only to the creative economy but to society, communities and individuals. For this to happen, Media Literacy – defined as a confident, competent and ‘experimental’ interaction with media communication of all kinds – must be seen as underpinned by creative, critical and cultural skills and not simply as a means of protection from harm, or a restriction of choice, opportunity and action.

The UK Film Council would therefore urge that the final Digital Britain Report should expand its support for “education, skills and Media Literacy programmes” that will “ allow everyone in society to benefit from the digital revolution” (p.5). In addition we would stress that these programmes adopt the widest and most empowering and culturally creative definitions and range of competencies in their formulation and planned outcomes. A purely protective or utilitarian approach will not deliver the vision that the Report desires.

What is needed in the school curriculum, work skills uplift programmes, and in informal education (whether delivered through adult education organisations or by content providers or industry itself) is an informed acceptance that the digital world is a positive and creative medium for interactive engagement, networking and exploration.

³⁵ Digital Britain, Op.cit. p.

4. Other Issues

Archives

There is no mention of archives at all in the Interim Report. We believe this is a very significant omission. The UK has some of the richest and most diverse archives in the world. For example:

- The BFI National Archive is the world's largest collection of screen heritage, with some 60,000 fiction films, 120,000 non fiction films and over 675,000 television programmes – well over half a million hours of material. Supporting materials include 46,000 books, 5,000 periodicals, 25,000 scripts, press books, posters, set designs and extensive collections of personal papers from filmmakers;
- Eight Regional Film Archives hold a further 260,000 items of regional importance, mainly in the fields of non fiction and television, which record and illustrate the social, political and economic history of their areas;
- Broadcasters including the BBC and ITN hold vast and important archives of their own output dating from 1926 and 1955 respectively. The BBC Information and Archives is one of the largest in the UK and includes an archival audiovisual collection comprising over 1.5 million television and film titles. ITN holds over 750,000 hours of its own material, Reuters' Archive and the digital version of British Pathe's newsreels;

Given this, archives thus have a very important role to play in achieving the interim report's vision of "universal participation in the broadband world".³⁶ In particular, they should help to drive take-up of digital services among older people.

The Government is already devoting resources to making archives available. In October 2007 the DCMS announced a £25 million grant to the UK Film Council in support of a Strategy for UK Screen Heritage. The Strategy was drawn up by the UK Film Heritage Group in consultation with a wide group of stakeholders including the BBC and the regional film archives around the UK. It is now being taken forward as a programme of projects under the title 'Screen Heritage UK'.³⁷

The vision for this £25m initiative is that:

"The public are entitled to access, learn about and enjoy their rich screen heritage wherever they live and wherever the materials are held."

The business case for this strategy identifies a preferred way forward for the programme constituting investment in the following four strands:

³⁶ Digital Britain, Op.cit.

³⁷ http://www.bfi.org.uk/about/policy/pdf/shuk_programme_overview_09.pdf

1. **Securing the National Collection:** Capital works to extend and improve BFI storage facilities with appropriate conditions to safeguard the collection.
2. **Revitalising the Regions:** Nomination of key collections in the English Regions, leading to improved plans for their preservation and access.
3. **Delivering Digital Access:** Extending online access to the Nation's screen heritage, through collection cross-searching and digitisation.
4. **Demonstrating Educational Value:** Identifying, developing and evaluating effective use of screen heritage material within learning environments.

The Digitisation of Cinemas

The digitisation of cinemas has the potential to deliver very significant benefits to audiences and communities as regards range, choice and flexibility of programming. It also delivers efficiencies to distributors since it reduces costs significantly.

The UK Film Council's Digital Screen Network (DSN) has been a world leader in this field. It has supplied around 240 screens (approximately 8% of all UK screens) and 211 cinemas (around 30% of all UK cinemas) with digital projection equipment. The equipment delivers the best possible image of digital material on to the big screen of the cinema and makes possible more flexible programming of cinemas, allowing a wider range of films and alternative content to be made available to audiences.

The UK Film Council has also supplied a multimedia box as part of the equipment which essentially serves as a mixer allowing any kind of digital play-out device such as a computer or a DVD to go through the projection equipment. Leaving aside the primary aim of the scheme - a wider range of films being on offer to audiences - the existence of the DSN has meant that the UK is the world leader in examining early signs as to how digital equipment might change the shape of the cinema.

However, the digital equipment is not cheap and it is beyond the means of many independent cinemas. Depending on the standards required and the type of venue the cost will be as much as £80,000 for full 3D digital equipment in a traditional cinema building.

While the major commercial chains are investing and planning to collaborate with distributors to create the mechanism of a virtual print fee for sharing the costs of digitisation, many independent cinemas across the UK cannot afford to participate in this process and are in danger of being left on the wrong side of the digital divide. In fact, using digital technologies they ought to be making an enhanced contribution to the life of the communities they serve – especially in remote and rural areas. The Government needs to consider how a public policy intervention might assist such independent cinemas in making the transition to a digital world and thereby delivering benefit to communities throughout the UK

Skills

The UK Film Council believes that the development of skills which are fit for purpose in a digital world is essential if we are to capitalise on the full benefits of Digital Britain.

We would underline the importance of investment from both the public and private sectors to ensure that the skills base is constantly refreshed. In particular, we would underline the important strategic role played by the Sector Skills Councils (SSCs) and notably Skillset, the SSC for Creative Media.

The Digital Dividend

We note the statement in the interim report that:

“The Government will support proposals from Ofcom to play a key role in a pan-European alignment of the Digital Dividend Review Spectrum (the so-called Channel 61-69 band), being released by the progressive switchover from analogue to digital broadcasting, pioneered by the UK. This will free up radio spectrum particularly valuable for next generation mobile services.”

In response to Ofcom consultations, the UK Film Council has set out its concerns in relation to the challenges for film production around the digital dividend.³⁸ We will be responding to Ofcom’s latest consultation on this issue and raising a number of concerns, notably that the proposed transition to Channel 38 is managed effectively and without disruption to the production sector.³⁹

³⁸ <http://www.ofcom.org.uk/consult/condocs/ddr/responses/uz/UKFilmCouncil.pdf>

³⁹ <http://www.ofcom.org.uk/consult/condocs/800mhz/>