The supply arrangements for the production of the BBC’s television content, radio content and online content and services

June 2015
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**Annex 1:**

The supply arrangements for the production of BBC’s television content, radio content and online content and services: The BBC Trust’s guiding principles
About this review

1.1. Background

1.1.1. The supply arrangements for the production of the BBC’s television and radio content and online content and services are currently subject to a number of formal quotas and targets.

Arrangements for the supply of television content

1.1.2. For television, the Broadcast Act 1990 and the later Communications Act 2003 require the BBC to commission 25% of qualifying original network television and non-network television productions from the independent sector each year.1 In meeting this pan-BBC target, the BBC’s Framework Agreement also requires the BBC to ensure at least 25% of BBC One qualifying programmes and at least 25% of BBC Two qualifying programmes are allocated to independent productions.

1.1.3. The Framework Agreement further requires that 50% of BBC television commissioning is reserved for its own in-house production teams, and that suitable arrangements are in place to provide competitive opportunities for the production of non-network programmes.

1.1.4. The remaining 25% of qualifying network television commissions is set aside for competition between the BBC and independent producers. This is referred to as the Window of Creative Competition (WoCC) and came fully into effect in 2007.

1.1.5. The BBC Trust has also set the BBC a target to ensure that 50% of network television production spend will come from outside London by 2016. Within this, the Trust also expects the BBC to source at least 17% of its network production spend from Scotland, Wales and Northern Ireland by 2016. There are no formal targets for the individual Nations but the Trust monitors delivery of supply from each of the Nations and the English regions.2

Arrangements for the supply of radio content and online content and services

1.1.6. For radio and online, the Trust sets out the requirements it considers appropriate for the BBC to secure a suitable proportion, and a suitable range and diversity, of radio and online content and services from independent producers.

1.1.7. For radio, the Trust expects the BBC to commission at least 10% of its eligible radio hours from independent suppliers. From 2012/13, following the first Trust review of radio supply arrangements, a further 10% of eligible radio hours was opened up across the networks as a WoCC for competition between the BBC and independent radio producers on a voluntary basis.3 Radio 4 has had these arrangements in place since 2007 with a network-specific target to ensure a total of 20% of eligible output is available each year to the independent sector.

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1 Qualifying TV programmes are those commissioned by the BBC including co-productions (as long as the BBC meets more than 25% of the actual production costs). News content, continuity/trails and repeats are excluded.

2 For more details see www.bbc.co.uk/bbctrust/our_work/services/programme_supply/network_tv.html

3 For radio, news, repeats and continuity/trails are not included in the definition of eligible hours. The output of the BBC Nations stations and the five national digital networks is included.
1.1.8. For online, as set out in the BBC’s Online and Red Button Service Licence, the BBC must commission 25% of eligible online spend on content and services from independent suppliers.4

1.1.9. The BBC Executive are responsible for ensuring that all of the BBC’s quotas and targets are delivered each year. Under the Framework Agreement, the Trust is required to review the operation of the arrangements for television content supply at least every two years and, in order to take a view on the most appropriate interventions for radio and online supply, the Trust also undertakes occasional reviews of these arrangements. Our third and most recent review of television supply was published in March 2013; our last review of the supply of online content and services was in January 2011, and our last review of the supply of radio content was in August 2010.5

1.2. Scope of the review

1.2.1. How the BBC secures its content for the future, and how its supply arrangements are regulated to deliver the best results for licence fee payers and for the UK creative sector, will be key issues for the review of the BBC Charter which should commence later this year.

1.2.2. In light of the impending Charter review process, as well as the ideas in this area put forward by the BBC Executive last summer (see section 1.3 below), we have broadened the scope of our scheduled review of the operation of current arrangements for television production to conduct a fuller review of the markets for television, radio and online production. This included the BBC’s current position in those markets, as both a buyer and producer of content, and the options for future changes to the way that the BBC is structured and regulated in this area. We invited views on the potential impact of market changes to the BBC and UK-based producers and to the wider UK creative sector.

1.2.3. To help guide the Trust’s decision-making on proposed options for changes, we sought views on the appropriateness of six high-level principles that we had developed and considered fundamental to any BBC content supply framework set up to serve the interests of licence fee payers over the longer term. We also invited views on how the principles might best be fulfilled over the next ten years, whether by regulatory changes or other means.

1.2.4. In terms of our responsibilities to assess performance against current arrangements, the review considered the following areas;

- Compliance with the quotas and the extent to which the anticipated benefits of the quotas for in-house production and independent production have been realised, including in terms of delivering creativity and value for money.

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4 For online, the quota is calculated as a portion of the spend on eligible activities as there is no meaningful common unit of measure equivalent to the programme hour for BBC Online. Eligible activities are defined as most audience-facing editorial products and the underlying technologies which deliver them. News and sport products are excluded.

5 The previous reports can be found at http://www.bbc.co.uk/bbctrust/our_work/services/programme_supply/
• The performance of the television and radio Windows of Creative Competition (WoCCs), and whether an appropriately wide range and diversity of programmes have been made by different producers across the UK.
• The fairness and transparency of the commissioning processes under the WoCCs.
• The actions taken by the BBC to deliver our recommendations from the previous reviews.
• The performance to date of the BBC’s television network and non-network supply arrangements in Scotland, Wales, Northern Ireland and the English regions.

1.3. The BBC Executive’s proposals

1.3.1. The BBC Executive believe that both the current regulatory framework for content supply, as well as the BBC’s strategy for in-house production, should be reviewed to consider how best to serve the needs of audiences in the long term. In July 2014 the Director-General set out his ambition to deliver broader choice and better ideas for BBC programmes and content across its TV, radio and online services through a strategy entitled ‘compete or compare’.

1.3.2. For television arrangements, the Director-General has proposed that the competition to the BBC should be opened up further by removing the in-house guarantee and enabling BBC producers and independent producers to vie for commissions on equal terms, with News Current Affairs, Sport and Children’s genres excepted. He also proposed that parts of the BBC’s in-house TV production unit should operate commercially as a wholly owned subsidiary of the Corporation, named BBC Studios. The Executive are also developing proposals for how the compete or compare strategy might be applied to BBC Radio and BBC Online.

1.3.3. This review did not test the Executive’s specific ideas as they are still being developed in detail. However, as part of the consultation we invited reactions from interested parties to what the Director-General has already said.

1.3.4. Some aspects of the Executive's proposals, notably the removal of the in-house guarantee and the proposed creation of BBC Studios as a commercial venture would require changes to the Charter and Framework Agreement as well as further scrutiny by the Trust through our specific processes for regulating the BBC’s commercial services or public services depending on the nature of the proposals we receive.

1.3.5. As part of the Charter Review process, the Trust will make a decision as to whether or not to recommend the Executive’s proposals to the Government as the right strategic approach to best serve the interests of licence fee payers over the long term. To help inform this decision, we expect the Executive to publish

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6 The Director-General’s ‘compete or compare’ speech can be found in full at www.bbc.co.uk/mediacentre/speeches/2014/dg-city-university

7 The Director-General announced Current Affairs, Sport and Children’s (as well as news) would also not form part of the proposals in a subsequent speech he made in March 2015 see www.bbc.co.uk/mediacentre/speeches/2015/tony-hall-bbc-internet-era
more detail about their proposals for the future of TV content supply in the coming months. At that point, we would consider the proposals fully and would expect to open them up to further public consultation, building on the views we gained from stakeholders as part of this review and considering the range of evidence we receive against our final principles framework.

1.3.6. We would similarly expect to consult on, and assess, the Executive’s proposals for changes to radio and online supply. However, under the current Framework Agreement, the Trust sets out the requirements it considers appropriate for both radio and online supply. As such we will consider the option of making transitional changes to these arrangements within the current Charter period.

1.3.7. The Trust and the Executive will soon discuss and agree the timetable for deciding whether to approve the Executive’s proposals. As well as taking into account the results of the public consultation, this process will include the application of our regulatory processes for assessing the proposals’ compliance against our approvals framework for the BBC’s public services and commercial services (as appropriate) including compliance with the BBC’s fair trading guidelines, state aid law and competition law.

1.4. **Approach to the review**

1.4.1. The review has considered evidence and data from a range of sources and stakeholders. We publicised the review and consultation within the BBC and externally, and approached independent producers directly to let them know about the review and give them sufficient opportunity to submit their views to us. We are grateful to everyone who gave up their time to share their insights and experiences with us in the course of conducting our review.

1.4.2. The key sources of evidence and input to the review included the following;

- Performance analysis of operational data supplied by the BBC.

- A public consultation that sought views on the performance of current content supply arrangements as well as the principles that the Trust proposed to guide any future changes to the BBC’s content supply arrangements.

- Stakeholder engagement, including with senior BBC staff, representative trade and professional bodies, other broadcasters and independent producers.

- Desk research of relevant published reports and market analyses.
2. Key findings and conclusions

2.1. The cases for change to current supply arrangements

Television

**Conclusion 1**

In light of market developments and the performance of the independent sector in winning contestable commissions, we believe that the television WoCC, as currently constituted, is not sustainable in the long term as it is no longer stimulating wide, creative competition as effectively as it has done in previous years.

In our view, there is a strong case for change to increase competition, by at least reducing or even removing the in-house guarantee.

We will take account of this conclusion when we consider the proposals for change to the regulatory arrangements being developed by the Executive.

Separately, as part of its current review of public service broadcasting, Ofcom is considering whether any change to the statutory independent production quota is warranted as a result of market developments.

2.1.1. In 2007, when the Window of Creative Competition (WoCC) was introduced for BBC network television commissions, the respective quotas to regulate supply – 50% of hours guaranteed to in-house production, 25% to qualifying independent producers and 25% contestable – were judged the appropriate proportions for the market environment at that time. The independent production sector then consisted of a large number of small and medium-sized companies and the BBC’s in-house production was a leading creative force in the industry. However, it is clear that changes in the market since this framework was introduced now necessitate looking again at the system.

2.1.2. The UK’s independent television production sector has grown markedly over the last ten years. It is now widely recognised as a global market leader enjoying television-related revenues of some £2.8 billion and significant growth in export sales. During this time, independent producers have built up a strong track record in winning commissions and making high-quality content for the BBC and other broadcasters across the range of different genres. Growth in demand has been driven by the multi-channel segment, although commissions from the public service broadcasters (PSBs) still account for most of the market. The BBC remains the biggest purchaser, commissioning over a quarter of all new content made by independent producers in the UK.

2.1.3. The success of the independent sector has been accompanied by some major shifts in the underlying structure of market. These changes have been driven by the increasing strategic importance of scale, of control over distribution, and of the long-term value of production rights. In recent years there have been several high-profile mergers and acquisitions resulting in significant market consolidation. Work carried out for the BBC Executive calculated that the annual revenues generated by the UK-based arms of the bigger, consolidated producer groups
currently range from £50 million to £300 million\textsuperscript{8}, which collectively amounts to £1.4 billion representing around 60% of the total in the sector. This analysis forecasts that, within ten years, these groups could account for around 80% of current UK PSB commissioning revenues.

2.1.4. While at present increased consolidation and foreign ownership is not affecting their supply, the Executive as well as other PSBs we spoke with contend that this changing market structure will impact on their supply strategies over the long term. In particular, they perceive a gradual shift in the balance of power, away from broadcasters and towards the bigger global producers. Over time, the Executive argue that these market shifts could affect the ability of PSBs to secure the range of programming that UK audiences expect at a fair price if the supply behaviours of the consolidated producer groups change, for example, if these companies focus on supplying parent companies to the detriment of PSBs. This concern is reflected in the Executive’s response to Ofcom’s PSB review consultation.

2.1.5. While the structural changes taking place in the television production market are not in dispute, the assessment of the potential consequences is. The trade association for independent television producers, Pact, contend that the buying power of the PSBs is still the dominant characteristic of the market and is set to remain so. In addition, Pact argue that global investment brings considerable benefits to the UK creative sector by allowing producers to take greater creative risks and secure creative talent.

2.1.6. What is clear is that the BBC’s current framework of quotas needs to be reconsidered to ensure the Corporation retains the ability to secure high-quality and creative content on behalf of the licence fee payer.

2.1.7. From a performance perspective, external producers have been winning the majority of contestable commissions over several years, particularly in certain genres such as Drama and Entertainment. Given this performance, the independent sector contends that a WoCC set at a maximum of 25% of network programme hours could limit the commissioners’ ability to source the best ideas on merit.

2.1.8. Market consolidation also creates a regulatory difficulty. Producers owned by groups with UK broadcast interests become non-qualifying independent production companies (NQIs) for the purposes of regulation\textsuperscript{9}, which means that any commissions NQIs win from the BBC or the other PSBs cannot be counted within the statutory independent production quota or the individual channel

\textsuperscript{8} If international arms are taken into account, the largest of these groups individually generate global revenues of over £1 billion, with the UK acting as a key driver of the generation of IP for international exploitation.

\textsuperscript{9} Non-qualifying independent production companies (NQIs) are defined by Ofcom as those production companies who are employees of a broadcaster, or who have a shareholding greater than 25% in a broadcaster, or who are the subject of a shareholding by a single UK broadcaster of more than 25% (or by several UK broadcasters of more than 50%), or who are required by the production contract to use the production facilities of the broadcaster or not to use the production facilities of some other broadcaster.
quotas for BBC One and BBC Two. For the BBC, there has been a significant increase in the proportion of network hours commissioned from NQIs in recent years, now accounting for 9% of the total compared with 2% in 2007-08. The only place these hours can be accounted for is in the WoCC. This means that a space intended to promote creative competition from a wide range of suppliers is increasingly taken up by commissions, including long-running returning series, from a few big producers.

2.1.9. The Executive have further highlighted the risk that the growth of NQIs could mean that, over time, a narrower pool of smaller qualifying independents are left competing for the remaining 25% of BBC commissions in the independent quota. If this risk materialises, the Executive believe that the BBC may gradually find it harder to fulfil the quota and commissioners may come under pressure to make choices that are not on the basis of the best ideas or representing value for licence fee payers. We have not seen any clear evidence of an overall narrowing of the independent supply base used by the BBC as yet, which has remained stable at around some 200 suppliers per year over the past five years.

Radio

### Conclusion 2

While the principles of competition and openness should similarly apply to the BBC’s radio supply arrangements as they should for television, we recognise that the scale and dynamics of the respective markets are clearly different, as are the nature and maturity of the respective regulatory interventions affecting the BBC’s supply.

However, as part of the BBC Executive’s review of its arrangements for content supply, we think that it is the right time to consider whether changes to both the radio WoCC and independent radio quota might better meet the needs of licence fee payers and help develop the wider market.

Establishing the optimum size of the WoCC, the level and role of the independent quota, and the most appropriate scale of in-house provision under any new arrangements requires further detailed analysis. The Executive are undertaking this as part of their work under the ‘compete or compare’ strategy.

As with television, we will take account of this conclusion when we consider the proposals for changes being developed by the Executive.

2.1.10. In 2010, when the Trust last reviewed the BBC’s independent radio supply, we concluded that continuing with a 10% independent quota as well as introducing an additional 10% WoCC (effective from 2012/13) were the most appropriate interventions at that time to protect licence fee payer interests in terms of quality and value for money and to secure a suitable range and diversity of supply. Key

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10 A programme will still qualify even when a production company has itself become non-qualifying provided the programme was commissioned at a point when the company was still qualifying and delivers within 2 years of commission. If such a production is recommissioned when the company has become an NQI it will be counted as such.
factors in our decision-making were the state of the radio supply market and the importance of retaining a strong and stable in-house production capability to deliver public value.

2.1.11. Unlike television, the independent radio production market has not undergone significant change since our previous review. The size of the total commissioned programme market (some £38 million) has remained broadly flat over the five years, and it continues to be a fragmented industry. According to figures supplied to us by the trade association RIG (Radio Independents Group), the five independent radio companies of scale account for over two-thirds of the sector’s turnover, with the average radio programme turnover still less than £50,000 for the 150 or so smaller suppliers active in the market. Many of these suppliers tend to produce only occasional commissions.

2.1.12. The BBC remains the key driver behind the commissioned radio programme market, with the commercial radio sector continuing to produce almost all of its content in-house. While the sector, and the larger producers in particular, are increasingly looking to diversify their businesses into related digital and audio markets there has been no trend similar to television in terms of international sales due to the limited trade in secondary and intellectual property (IP) rights for radio content.

2.1.13. Therefore rather than as a response to any market imperative, the Trust’s consideration of options for changing radio arrangements would be primarily based on the potential benefits to licence fee payers of opening up the BBC’s supply to more competition. The radio WoCC is only in its third year so to reach firm conclusions on its success now would be premature. However, it is clear that independent producers have enjoyed considerable success in winning the contestable commissions to date. In 2013-14, independents produced 75% of the hours available in the WoCC and in 2012/13 produced 80%.

2.1.14. When considering the possibility of introducing more competition for radio supply, we recognise that the nature of radio as a medium necessitates a different approach to television. BBC Radio commissions relatively few one-off programmes and short series compared to the long-running strands; as such, the schedules of the network stations do not change markedly from year to year.
Online

Conclusion 3

Our last consideration of the merits of making changes to the BBC’s supply arrangements for online content and services, including the potential introduction of an online WoCC, was relatively recent, and there are particular market dynamics affecting online production, including the interplay between technical and editorial activity.

However, the production of online content will only increase in importance for the BBC over the next decade as it considers its public service remit in a progressively digital environment. Therefore, we also think it is timely to re-consider the BBC’s long-term approach to the supply of online content in ways that might better meet the needs of licence fee payers and help develop the wider market.

As with television and radio, we will take account of this conclusion when we consider the proposals for changes to online supply arrangements being developed by the Executive.

2.1.15. The 25% quota for the proportion of BBC eligible online spend that must be provided by independent suppliers originated from the Graf report, an evaluation of the BBC’s online supply by the Department for Culture, Media and Sport, published in 2004. Our first review of online supply in 2011 asked fundamental questions on whether this quota was still fit for purpose given the degree of change in the UK’s creative online market since the government report.

2.1.16. We recommended that the Executive consulted with industry on the strategic goals of an online quota system for the BBC before we took a view on whether the quota needed to change to better meet the interests of licence fee payers. As part of this, we asked the Executive to seek views on whether the introduction of competition could bring comparable benefits to those then delivered in television.

2.1.17. The Executive completed this market consultation at the start of 2013. Based on the range of views received, they concluded that the quota had provided surety to the market and the operational complexity of an online WoCC would outweigh the audience benefits, due to the diverse nature of what is commissioned in what was still an evolving and fragmented market. We agreed with this assessment and decided to retain the status quo of the BBC’s online supply arrangements for the time being.

2.1.18. Defining the exact size of the UK online production market continues to be a challenging task. Compared with television or radio, there is a much broader range of participants on both the demand and supply side and the products and services offered are wide and ever-evolving. We consider the estimate of overall spending in our last review - £450 million for online public service content (£790 million when incorporating all the UK’s digital-related activities, public and private) - remains broadly accurate. With some £20 million in annual external spend, the BBC does not have the same impact in the online and digital market as it does in television or radio, and it is not a critical customer for all but the smallest external suppliers.
2.1.19. Nevertheless, some stakeholders have felt that the BBC has a disproportionate impact in some online market segments (such as production activity in the devolved Nations) and, looking to the future, digital content is seen by many producers as a key area of growth for the UK economy. In their consultation submission, Pact reported that new media revenues (for example from commissions for websites, apps and additional content for online services) for producers in the UK and the sale of digital rights overseas are increasing significantly albeit from a low base.

2.1.20. Additionally, as internet protocol-based distribution grows and audience consumption behaviours change, more and more content will be delivered over the internet. The BBC’s approach to commissioning will result in an increasing emphasis on the production of this type of content as can be seen in the BBC Executive’s proposals to close BBC Three as a broadcast channel and continue it as an online-only offer. As such, there are calls from industry for the BBC to be much more ambitious in its approach to digital (online-only) commissioning and supply and to act as a catalyst for the market.

2.2. The Trust’s principles to guide future changes to supply arrangements

2.2.1. This review has sought to establish the key principles to which we will refer to guide the Trust’s decision-making when we receive the specific proposals from the Executive in relation to changes to the supply arrangements.

2.2.2. The six draft principles we sought views on were the following.

- Principle one: securing high-quality and creative content across all genres.
- Principle two: providing value for money to licence fee payers.
- Principle three: using a wide range and diversity of supply across all genres and from across the UK.
- Principle four: securing a sustainable production supply in terms of skills and capacity
- Principle five: retaining sufficient value and control over the BBC’s IP and content rights beyond the public service window to secure a fair return on investment for licence fee payers.
- Principle six: maintaining appropriate separation between publicly funded BBC activity and its commercial services.

2.2.3. There was broad support for the principles from those who contributed to this review. Most respondents judged them the right framework for the Trust to assess any future changes to the BBC’s supply arrangements across television, radio and online. Principle five attracted some comment and concern from the industry (discussed below).

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11 The Trust is currently undertaking a public value test (PVT) on these proposals, for further details see www.bbc.co.uk/bbctrust/news/press_releases/2015/bbc_three_proposals
2.2.4. A number of respondents, primarily BBC’s in-house production staff and trade unions, thought that we should be clearer about the specific measures we will use to judge whether the principles are being successfully delivered, particularly value for money. They also argued that, in some areas, the principles inappropriately prejudged the importance of competition in securing high-quality content and providing value for money. Based on our periodic reviews of the operation of the television and radio WoCCs as well as our regular performance monitoring of BBC services (including online services), we believe that the weight of evidence demonstrates that the promotion of competition in supply is the best means to deliver the content licence fee payers expect.

2.2.5. A number of respondents, both in-house staff and from the industry more widely, also wanted more clarity on how the principles would be prioritised in the event that their application should lead to conflicting conclusions. As with any set of principles, their application will necessarily involve taking decisions on where the right balance should lie, but we will always prioritise what is in the best interests of licence fee payers. As such, securing high-quality and creative content across all genres and providing value for money will be the paramount concerns for the Trust.

2.2.6. A number of industry respondents highlighted the importance of ensuring that the BBC’s commissioning processes are fair and open, and they wanted this to be taken into account in principle three. We have amended the principle to reflect this point.

2.2.7. Industry respondents had particular concerns on the inclusion of principle five. They considered that value for money (principle two) should be the leading consideration when determining the approach to intellectual property (IP) and content rights. They also stated that the principle presupposed that the BBC must own or control IP to secure a fair return on investment and deliver value for the licence fee payer. They believed there was no evidence to demonstrate that this should be the case.

2.2.8. In our discussions with the BBC Executive, they made the case that retaining its own intellectual property is a growing necessity for the BBC, and that a strong BBC production unit is a key way to deliver that. The Executive argue that losing its own production capability and therefore the ability to create their own IP would undermine the BBC’s ability to generate value for licence fee payers, since the Corporation would become much more reliant on negotiations with external suppliers to secure content and rights, and have a more limited ability to generate secondary value via BBC Worldwide. The Executive also stated that in-house production currently delivers important benefits beyond value for money. In terms of production rights specifically, they asserted that generating wholly-owned IP gives the BBC a greater ability to launch new digital and global propositions.

2.2.9. We consider that getting a fair balance between commissioners and suppliers when it comes to exploiting the rights to BBC content is fundamental to supporting a healthy supply market in the future and to ensure the continued provision of services and content that licence fee payers expect. However, we accept that the higher-level concerns when considering this area are the quality of content and the delivery of long-term value for money to licence fee payers. As such, we have removed principle five from the final framework and subsumed
exploitation of IP and content rights as matters for consideration under principles one and two.

**Conclusion 4**

*We have reflected on all the comments we have received to our draft principles. Where we have judged appropriate we have taken account of the responses we received in the final principles framework attached as Annex 1.*

### 2.3. Views on how the principles can best be fulfilled over the next ten years

#### 2.3.1. We invited views from BBC in-house producers, independent producers and other stakeholders, including those representing audiences and the wider creative sector, on both the degree and nature of change that they felt were required in the BBC’s supply arrangements to fulfil the principles.

#### 2.3.2. Many respondents wanted to make the overall point that a well-funded BBC, with the ability to maintain a strong level of investment in content production, is vital for the sustainability of the UK’s creative industries. Some stated that, as part of this, BBC in-house production must continue to be protected through a guarantee so that the UK’s content production base can withstand any downturn in investment by other broadcasters or producers. Others believed the market was sufficiently robust to be able to compete fully for the BBC’s investment over the long term.

#### 2.3.3. Reflecting these general points, the views we received on how best to deliver the principles broadly split into two camps. On the one hand were respondents - primarily BBC in-house production staff who expressed a view and the trade unions - who argued that the current mix of guaranteed in-house production, contestable commissions, and independent production, was still the right balance for the foreseeable future. On the other were respondents - primarily from the independent sector - who contended that the principles would best be delivered if the BBC opened itself up much more to competition. In some cases, respondents argued that the BBC should cease to have an in-house production capacity at all. The Executive are clear that they believe the retention of a strong production capability within the BBC is essential to delivering the range and quality of programming that audiences expect, and that a publisher-broadcaster model would be very detrimental to the organisation, leaving it with less control over its supply of content.

#### 2.3.4. In terms of principles one and two, a number of respondents commented that future arrangements should build on the achievements of the current arrangements, particularly the TV WoCC, in supporting the best ideas and delivering high-quality content and value for money. In terms of value for money, the Executive told us that greater competition as a means of driving further cost savings is at the heart of their compete or compare strategy, and it is for this reason that they are proposing the removal of the in-house guarantee for all genres which they would like to move into a commercial BBC Productions entity.

#### 2.3.5. On principle three, the prevailing view from those who contributed was that regulatory intervention in the form of quotas and targets for network television
supply from the Nations and English regions would continue to be necessary to protect the range and diversity of supply across the UK.

2.3.6. Respondents who had a view on principle four stressed the central importance of the BBC’s continued investment in training and skills development for the wider creative economy. The industry skills body, Creative Skillset, also stressed the importance of considering this principle in the context of rapid technological change and innovation in the industry, which necessitated a suitably trained workforce.

2.3.7. On principle five, industry respondents who commented did not see any call for changes to the current model used in television and radio under which the BBC, other UK broadcasters and the trade associations negotiate the licensing of rights between them within primary and subsequent windows. They stated this model has delivered significant benefits to the BBC, to licence fee payers and to producers over the past decade, and would continue to do so in future. There were calls from within the industry to introduce a similar model for online supply.

2.3.8. On principle six, industry respondents commented that the relationship between the BBC’s public services and its commercial activities needs to become more transparent. Under this principle, we also received a range of views on the Executive’s proposals to commercialise parts of BBC in-house TV production. Some respondents stated that, to fulfil this principle, the whole of BBC content production must remain within the public service and further argued that a move to a commercial model would jeopardise the imperative to make public service content. Others highlighted a number of competition and state aid implications associated with any move, and stressed the importance of these implications being subject to a full regulatory review and analysis.

2.3.9. We also received a range of views on whether certain programme genres, or types of content, should be considered differently when it came to how the Trust should apply the principles. In relation to its own ideas to move to a commercial production entity, the Executive have proposed that News, Current Affairs, Sport and Children’s would remain in the Public Service with an in-house guarantee. For the production of news content, there was universal acceptance that it should remain completely as part of BBC in-house production. For other genres, in-house respondents, trade unions as well as audience groups believed that a significant proportion of Current Affairs, Children’s, Drama, Comedy and Entertainment should continue to be made in-house as these were regarded as key ‘BBC’ genres. However, some industry respondents argued that that no genres (other than News) should be treated differently under any new arrangements.

2.4. **The BBC’s performance in complying with its current requirements**

2.4.1. In our previous reviews, we have drawn conclusions and identified associated actions for the BBC to improve the effectiveness of its supply arrangements. However, given that the Executive are currently developing proposals for changes for Trust consideration, in most cases we have limited ourselves to reporting on factual outcomes and summarising stakeholder views on the BBC’s performance to date.
Television performance

Compliance with quotas

2.4.2. Overall, the BBC continues to successfully comply with its regulatory commitments to commission the required proportions of network television programming from independent producers.

2.4.3. Against the statutory requirement to source at least 25% of its original television programming from qualifying independent producers, the BBC commissioned 36% of eligible hours from these producers in 2013, the same proportion as in 2012. Separately, BBC One and BBC Two met their individual quota requirements. These hours consist of commissions under the independent production quota and the WoCC. The BBC has also met the requirement set out in the Framework Agreement to produce 50% of its television production in-house, producing 55% of all television hours in 2013/14 and 56% in 2012/13.

2.4.4. We also consider that the BBC has effectively met its commitment to ensure there are appropriate opportunities for competition between in-house and external producers for the provision of non-network programmes. In 2013/14, the BBC commissioned 34% of its not-network programming from independent producers and 31% in 2012/13. 27% of this programming came from independent producers based in Northern Ireland, Scotland and Wales, rising from 24% in 2012/13, with the remainder coming from England.

Operation of the Window of Creative Competition (WoCC)

2.4.5. The BBC has continued to meet its commitment to open up the required proportion of network television commissioning opportunities under the WoCC to competition over the two years since our previous review.

2.4.6. The industry consensus is that, since its introduction in 2007, the WoCC has been a very important intervention to promote creative competition within the BBC. Our overall assessment reaffirms the findings of our previous review: that the principle of choosing the best ideas regardless of source extends beyond the WoCC and is firmly embedded in the BBC’s commissioning culture. It is clear that the arrangements have had a positive impact on the BBC’s ability to deliver a range of high-quality television content for licence fee payers.

Securing an appropriately wide range and diversity

2.4.7. The BBC has successfully ensured that an appropriately wide range and diversity of television programming has been made under current arrangements. In 2013/14, the BBC worked with 217 independent producers to help it deliver its network output slightly fewer than the 230 it worked with in 2012/13. Of these producers, 15% were new to the BBC in 2013/14 (17% in 2012/13), indicating that the BBC is still effectively managing to work with a good proportion of new suppliers in a market that is becoming more consolidated.

2.4.8. The BBC has also achieved a reasonable spread of outcomes in terms of both the supply of network commissions from across the Nations and regions and by the different types of producers based in these locations. The total number of network hours originating in London has reduced significantly year on year, from 65% in 2009 to 41% in 2013.
**Network Television Supply in the Nations and Regions**

2.4.9. The BBC’s network supply strategy and the Trust’s targets pursuant to this (50% of network television production spend from outside London by 2016 and, within this, at least 17% of its network production spend from Scotland, Wales and Northern Ireland) have been very important interventions. The BBC has already exceeded its target for 2016 by commissioning 52% of TV content outside of London, with 20% coming from the Nations. The vast majority of respondents who provided us with their views on this subject commented that the interventions have made effective contributions to an increasing plurality of supply to the BBC and other broadcasters as well as to the growth of production skills outside London.

2.4.10. As part of the network supply strategy, the BBC moved some long-running series from London to support the redistribution of production around the UK. As well as being a first step towards achieving sustainable supply in the Nations and regions, it also aimed to be a move towards providing content that more accurately represents the whole UK. While recognising that the decision to move these series has resulted in increased investment, many industry respondents commented that they felt the balance between this approach and the alternative approach of investing in indigenous production was weighted too much towards the former, creating something of an artificial market. Some respondents also commented that the lack of returning-series commissions from outside of London remained an issue.

2.4.11. If the outputs of productions from the Nations and regions are to be successful in reflecting those audiences as well as ensuring sustainable local production, a number of respondents made the further point that this also depends on the BBC’s approach to commissioning. There was some strength of feeling that BBC Commissioning needed to take on greater responsibility for delivering the BBC’s network supply objectives, and any strategic approach should envisage a greater role for independent producers based in the Nations and regions.

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**Conclusion 5**

Network supply in the Nations and English regions needs active intervention by the BBC which goes beyond the requirements of meeting quotas and towards the achievement of sustainable outcomes.

On the balance of evidence, we believe the BBC’s approach to redistribution of certain series across production centres in the UK has helped increase economic investment across the Nations and regions. However, long term sustainability of supply, as well as the provision of output that represents the whole of the UK, remain challenges. Therefore, some recalibration in the overall approach is required.

The Executive are currently developing their proposed strategy for sourcing network production across the UK. The Trust will want to ensure that the BBC has developed considered, clear-sighted plans that set out what the right commissioning mix is across the Nations and regions. The Trust will also want to see how the BBC’s production centres across the UK intend to work more effectively together with the independent sector based in different parts of the UK to develop
creative, sustainable, local ecologies.

Fairness and transparency in the commissioning processes

2.4.12. The BBC has made good progress in improving the television commissioning processes in line with the recommendations in our previous review. It has taken concerted action to improve communications with suppliers and disseminate information about commissioning opportunities. It has also introduced a number of initiatives designed to build greater confidence in an open and fair commissioning process. There was some feeling from independent producers based in the Nations, however, that the BBC could pursue a more effective approach to working in partnership when looking to source ideas outside London and across the UK.

2.4.13. The independent sector also argued that the BBC needs to be more open in disclosing the programme costs for BBC in-house production. The Executive pointed out that all commissions including those from in-house production are subject to a tariff regime and wider sharing of cost data would be commercially sensitive. Confidential data released to the Trust as part of this review showed in-house production benchmarking well against independent production prices.

Radio performance

Compliance with quotas

2.4.14. For radio supply, the BBC is complying fully with its regulatory requirements to source at least 10% of network programming from independent producers. Following our previous review, it has also successfully introduced a radio WoCC to promote competition between in-house producers and independent producers for an additional 10% of network programming effective from 2012/13. In that year the BBC commissioned 20% of the total eligible network radio hours from independent producers increasing to 22% in 2013/14.

Operation of the Window of Creative Competition (WoCC)

2.4.15. With only two years of data to report on, it is too early for us to draw firm conclusions on effectiveness of the WoCC. However, the evidence to date shows that the individual BBC Radio networks are sourcing varying volumes of content from independent producers. Such variations may in part be explained by the different nature of output across the networks, the quality of competing submissions across different genres and networks, and by the varying rates of programme refreshment between networks. While further work is required to better understand these variations in performance, it may be preferable to focus on WoCC performance at a BBC Radio group level in future, rather than on a network by network basis.

2.4.16. It is clear from the data that Radio 2 purchases a relatively high proportion of its programming from independent producers and the station makes a significant contribution to meeting the quotas. Popular music therefore predominates as the external commissioning genre of choice. Much of this output tends to be high volume and relatively low cost although independent producers are also gaining commissions for a range of content across the schedule, both lower and higher value work, including sports, documentaries and drama programming.
Securing a suitable range and diversity

2.4.17. The evidence shows that the network radio commissions from the independent sector come from a good number and range of different companies. The BBC has also commissioned a reasonable proportion of suppliers from outside London. In 2013-14, 32% of network radio content was commissioned from independent producers based in the Nations and regions (33% in 2012-13). The independent sector, however, feels that BBC Radio commissioning is still too London-centric.

Fairness and transparency in the commissioning processes

2.4.18. Our previous review found that the BBC’s relationship with the independent sector could be strained. As the BBC is the predominant purchaser of radio programmes, we recommended improvements in its approach particularly around industry engagement. In the intervening period, the BBC has taken positive action to improve its commissioning practices, and this has led to a more open approach and significantly improved relations with the sector. However, independent producers would still like to see a greater separation between commissioners and in-house production, as well as more opportunities for producers outside London to interact with commissioners directly.

2.4.19. The independent sector also still has concerns over a perceived lack of openness in how costs are measured and accounted for in respect of in-house production compared with independent productions. The Executive state that full financial transparency would be difficult due to commercial sensitivities and also contend that it is difficult to apportion and present central costs in a way that would make comparisons between in-house and independent production meaningful. However, the Executive have recently undertaken some detailed benchmarking in partnership with independent producers who chose to participate with the aim of identifying opportunities to increase productive efficiency.

Online performance

Compliance with quotas

2.4.20. For online supply, the BBC continues to commission at least 25% of its eligible online spend from independent suppliers in line with its regulatory commitment. In 2013/14, the BBC’s qualifying spend from independent suppliers was £19.5 million; or 30.4% of the eligible base of £64.2 million. Since our last review in 2011, the value of the spend has remained near constant in real terms despite year on year changes to the eligible base in line with changing BBC requirements.

Securing a suitable range and diversity of supply

2.4.21. We consider that the BBC has commissioned online content of a suitable range and diversity, with commissions from across each of the BBC’s online divisions and for different project types. In line with the BBC’s strategy to improve the quality of its online products by investing in the underlying infrastructure, in recent years Future Media has contributed the most spending to the quota in real terms, primarily on technology procurements, although Children’s and Radio & Music services achieved the most in terms of actual external spend as a proportion of the eligible base for each division.
2.4.22. Geographically, the data shows that the BBC’s online supplier base outside London continues to grow. In 2013/14, 66% of their suppliers were based outside London rising from 44% in 2010/11. This increase coincides with the relocation to Salford of several BBC Online and Future Media functions.

**Fairness and transparency in the commissioning processes**

2.4.23. In response to our last review of online supply arrangements, the BBC has made a number of changes to its commissioning processes to improve the openness in its dealings with online suppliers and to make the system work better generally in the interests of audiences.

2.4.24. These improvements include making changes to how the online quota is constructed. The Trust supported these changes, which have resulted in several benefits including increasing the amount of spend that is now considered eligible through the quota, a greater focus on audience-facing services, and simpler definitions to aid transparency.

2.4.25. Following our last review, the Executive have also introduced framework agreements with its roster of online suppliers. These agreements, which are regularly reviewed, have increased opportunities for competition as it has enabled the BBC to put larger online projects out to market.
3. The case for change

3.1. Introduction

3.1.1. Our consultation document set out the respective scale of the markets for television, radio and online production, and the BBC’s position in these markets. We also outlined the developments that have taken place since 2007, when the BBC’s current regulatory arrangements were put in place.

3.1.2. Below, we consider the impact these market developments are having on the BBC’s supply arrangements and reflect on what the BBC Executive, industry and other stakeholders have told us about what this could mean for the Corporation’s supply strategies in future years.

3.2. Television developments

3.2.1. In 2007, when the WoCC was introduced for BBC network television commissions, the respective quotas to regulate supply – 50% of hours guaranteed to in-house production, 25% to qualifying independent producers and 25% contestable – were judged the appropriate proportions for the market environment at that time. The independent production sector then consisted of a large number of small and medium-sized companies and the BBC’s in-house production was a leading creative force in the industry. However, it is clear that major changes in the market since this framework was introduced now necessitate looking again at the system.

3.2.2. As we set out in our consultation, the UK television independent production market has grown markedly over the last ten years and is now widely recognised as a global market. In 2013, the overall television-related revenues of independent producers amounted to nearly £2.8 billion and the sector enjoyed significant and growing export sales. While revenue from primary UK commissions remains very important, in 2013 this accounted for around 60% of total television-related revenue compared with 75% in 2008. One third of the revenue generated by independent producers now comes from international activities, compared with 15% in 2004. 12

3.2.3. Despite overall growth, the independent production sector has not grown significantly as a proportion of all PSB spend on first-run commissions since 2008. According to Ofcom, the independent sector accounted for 49% of investment in new first-run original programmes in 2013, compared to 48% in 2008. 13

3.2.4. The PSBs continue to contribute the bulk of investment in television content, accounting for around 80%-85% 14 of the total spend on original UK content,

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12 Pact industry census, 2014. Revenue from international activities includes revenue from companies’ overseas operations and any primary commissions received from non-UK broadcasters as well as international sales of UK finished programmes (sales of first run UK programming sold as finished product abroad).


14 The precise figure depends on the methodology used, in particular whether sports production is included (giving 80% PSB investment, COBA) or excluded (giving 85% PSB investment, Ofcom). Sports rights are excluded in both approaches.
although growth in demand is being driven by the multi-channel segment. In this context, a number of respondents to our consultation stressed the continued importance of the BBC to the overall health of the sector. The BBC remains the biggest commissioner of original television content in the UK, accounting for around 40% of total investment in UK original content in 2013. According to Pact, 27% of all the UK commissions made by independent producers are from the BBC.

3.2.5. Our consultation highlighted some significant shifts in the structure of the television market over the last decade primarily through acquisition and consolidation activity. This activity has led to the emergence of several ‘super-indies’: large groups that have grown to a sufficient scale internationally to enable them to manage a portfolio of different commissions, to co-fund IP development and to develop ancillary functions such as programme sales and rights management. There has also been an associated trend towards the vertical integration of content production and distribution businesses. Three of the four UK super-indies have now been taken over by international broadcaster groups (mostly from the USA) who have UK broadcast interests and, at the next level down, there are some sizeable independent UK companies similarly becoming part of bigger groups. The only remaining super-indies whose new commissions will qualify as independent productions under the legislation are Tinopolis, Zodiak, Fremantle and IMG Sports Media.

3.2.6. Work carried out for the BBC Executive calculated that the annual revenues generated by the UK-based arms of the bigger, consolidated producer groups currently range from £50 million to £300 million, which collectively amounts to £1.4 billion representing around 60% of the total in the sector. This analysis forecasts that, within ten years, these groups could account for around 80% of current UK PSB commissioning revenues.  

3.2.7. In our discussions with the Executive and other PSBs, they stressed the importance and value of the bigger producer groups and noted that, at present, increased consolidation and foreign ownership is not affecting their supply. However, they contended that this changing market structure will impact on their supply strategies in the long term. In particular they perceived a gradual shift in the balance of power away from broadcasters and towards the global producers. Over time, the Executive told us that the market shifts could affect their ability to secure the range of programming that UK audiences expect if the supply behaviours of these bigger producer groups change, for example, if these companies focus on supplying their parent companies to the detriment of UK

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15 BBC Executive’s submission to Ofcom’s Third Review of Public Service Broadcasting, Public Service Content in a Connected Society, February 2015
16 In 2014, Shed Media was acquired by Warner Brothers International TV, All3Media by Discovery Networks and Liberty Global, and the Shine Group – acquired by News Corp in 2011 – merged with Endemol under the 21st Century Fox group. Channel 5 was also acquired by Viacom and, in late 2014, Tinopolis (the largest remaining UK-owned independent producer) was put up for sale.
17 If international arms are taken into account, the largest of these groups individually generate global revenues of over £1 billion, with the UK acting as a key driver of the generation of IP for international exploitation
18 BBC Executive’s submission to Ofcom’s Third Review of Public Service Broadcasting, Public Service Content in a Connected Society, February 2015
PSBs. This concern is also reflected in the Executive’s response to Ofcom’s PSB review consultation.

3.2.8. The Executive also told us that, within the BBC, there are indications that certain genres such as Drama, Entertainment and Popular Factual are becoming a greater focus for consolidated groups and both BBC in-house production and smaller independents are losing share in these genres. As more buyers enter a structurally mature UK market, the Executive highlighted that there will be more competition internationally for the best ideas in the most commercially attractive genres. While not giving rise to systemic problems in supply to date, the Executive contend there is a risk that, longer term, this could lead to price inflation or under supply in some key genres.

3.2.9. In its response to our consultation, while not disputing the structural changes in the market, Pact argued against the broadcasters’ assessment of the potential consequences, stating it is not supported by market evidence. They believe that the buying power of PSBs is still the dominant characteristic of the market and is set to remain so. Pact noted that currently no single independent producer has a share of PSB commissioned hours greater than 15%, and the entry barriers to the market are still relatively low, allowing a large number of small and medium-sized companies to continue to develop and grow. In its own consultation to inform its current review of public service broadcasting, Ofcom notes that, despite the trend of consolidation in the market, medium-sized independent producers (those with annual turnover between £25 million and £70 million) have increased their market share the most in recent years.19

3.2.10. Pact also contended that an increasingly global market is beneficial to the UK creative sector, highlighting that the UK is the second largest exporter of TV content in the world, and that foreign investment has allowed producers to take greater creative risks, secure talent and invest in diversity and training. Pact further stated that international owners of production companies are in many cases bringing greater financial strength through co-production, pre-sales and deficit finance arrangements that collectively benefit UK PSBs.

3.2.11. While the impact of the changes in the market on the BBC’s supply strategy is disputed, what is clear is that the BBC’s current framework of quotas needs to be reconsidered to ensure the Corporation retains the ability to secure high-quality and creative content on behalf of the licence fee payer.

3.2.12. From a performance perspective, external producers have been winning the majority of contestable commissions over several years, particularly in genres such as Drama and Entertainment. For example, in the last two years, independent producers won 78% and 74% respectively of available hours in the WoCC. Given their success, the independent sector contends that a WoCC limited to 25% of network programming could be limiting the ability of BBC commissioners to source the best ideas on merit.

3.2.13. Market consolidation also creates a regulatory difficulty. Producers owned by groups with UK broadcast interests become non-qualifying independent

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19 Ofcom, December 2014
production companies (NQIs) for the purposes of regulation. This means that any commissions NQIs win from the BBC or the other PSBs cannot be counted within the 25% independent production quota nor, as far as the BBC is concerned, within the individual channel quotas for BBC One and BBC Two. This is because these quotas are calculated on the basis of commissions from qualifying independents only. As Figure 1 shows, in recent years, there has been a significant increase in the proportion of network hours commissioned by the BBC from NQIs.

Figure 1: Proportion of BBC network commissioned hours by year and supply type

<table>
<thead>
<tr>
<th>Year</th>
<th>IND</th>
<th>NQI</th>
<th>BBC</th>
</tr>
</thead>
<tbody>
<tr>
<td>07-08</td>
<td>57%</td>
<td>3%</td>
<td>36%</td>
</tr>
<tr>
<td>08-09</td>
<td>57%</td>
<td>3%</td>
<td>36%</td>
</tr>
<tr>
<td>09-10</td>
<td>58%</td>
<td>3%</td>
<td>36%</td>
</tr>
<tr>
<td>10-11</td>
<td>57%</td>
<td>3%</td>
<td>36%</td>
</tr>
<tr>
<td>11-12</td>
<td>54%</td>
<td>7%</td>
<td>39%</td>
</tr>
<tr>
<td>12-13</td>
<td>56%</td>
<td>8%</td>
<td>39%</td>
</tr>
<tr>
<td>13-14</td>
<td>55%</td>
<td>9%</td>
<td>36%</td>
</tr>
</tbody>
</table>

3.2.14. The impact of this increase in the number of NQIs winning BBC commissions has been to gradually reduce the number of hours available for competition in the television WoCC for qualifying independent producers and the BBC’s in-house production (Figure 2). To take one example as an illustration, the production company Endemol currently produces the large volume and long-running BBC One series Pointless. As a result of recent merger activity Endemol has become a NQI. As such, if the BBC re-commissioned Pointless in the future then the series would have to move into the WoCC as it can no longer be counted as part of the independent quota. This means that a space intended to promote creative competition from a wide range of suppliers is increasingly taken up by a few big producers as well as returning commissions.

20 Non-qualifying independent producers (NQIs) are defined by Ofcom as those production companies who are employees of a broadcaster, or who have a shareholding greater than 25% in a broadcaster, or who are the subject of a shareholding by a single UK broadcaster of more than 25% (or by several UK broadcasters of more than 50%), or who are required by the production contract to use the production facilities of the broadcaster or not to use the production facilities of some other broadcaster.

21 A programme will still qualify even when a production company has itself become non-qualifying provided the programme was commissioned at a point when the company was still qualifying and delivers within 2 years of commission.
3.2.15. The Executive have further highlighted the risk that the growth of NQIs could mean that, over time, a narrower pool of smaller qualifying independents are left competing for the remaining 25% of BBC commissions in the statutory independent quota. If this risk materialises, the Executive believe that the BBC may gradually find it harder to fulfil the quota and commissioners may come under pressure to make choices that are not on the basis of the best ideas or do not represent value for licence fee payers.  

3.2.16. We have not seen any clear evidence of this narrowing of supply to the BBC occurring as yet; the overall number of producers winning BBC commissions each year remains stable, at around 200. Analysis from the Executive, however, indicates that the revenues of smaller independent companies, which are not part of bigger groups, have reduced over the last decade and they are producing fewer of the most popular programmes shown on the BBC than they did ten years ago. In 2014, these independent producers made 22 of the 100 BBC shows with the highest audiences compared with 34 in 2003.

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22 BBC Executive’s submission to Ofcom’s Third Review of Public Service Broadcasting, February 2015

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Figure 2: Impact of market changes on the proportions of in-house production, QualifyingIndependents and Non-Qualifying Independents in the Television Window of Creative Competition, 2011-12 – 2013-14*

<table>
<thead>
<tr>
<th></th>
<th>2011/12 - ACTUAL</th>
<th>2013/14 - 'IF TODAY'</th>
</tr>
</thead>
<tbody>
<tr>
<td>In-house or Qualifying indies</td>
<td>64%</td>
<td>41%</td>
</tr>
<tr>
<td>NQI</td>
<td>36%</td>
<td>59%</td>
</tr>
</tbody>
</table>

Note: *‘If today’ figure means ‘as if BBC had to count all NQI programmes as non-qualifying today’, so discounting two year grace period for commissions from companies that subsequently become NQIs
Conclusion 1

In light of market developments and the performance of the independent sector in winning contestable commissions, we believe that the television WoCC, as currently constituted, is not sustainable in the long term as it is no longer stimulating wide, creative competition as effectively as it has done in previous years.

In our view, there is a strong case for change to increase competition, by at least reducing or even removing the in-house guarantee.

We will take account of this conclusion when we consider the proposals for change to the regulatory arrangements being developed by the Executive.

Separately, as part of its current review of public service broadcasting, Ofcom is considering whether any change to the statutory independent production quota is warranted as a result of market developments.

3.3. Radio developments

3.3.1. In 2010, when the Trust last reviewed the BBC’s independent radio supply, we concluded that continuing with a 10% independent quota as well as introducing an additional 10% WoCC (effective from 2012/13) were the most appropriate interventions at that time to secure a suitable range and diversity of supply. Key factors in our decision-making were the state of the radio supply market and the importance of retaining a strong and stable in-house production capability to deliver value for money to licence fee payers and the quality of content they expected. For example, the BBC’s strong buying position in the radio industry had helped it deliver significant cost savings in programme budgets, some BBC output was reliant on investment of a scale only the BBC could provide including in terms of specialist skills and equipment, and the scale of in-house production supported a high-quality training infrastructure of benefit to the wider sector.

3.3.2. Estimating the current total value of the independent radio production market is difficult due to the nature of the market and the limited financial information publicly available. However, in our consultation document we noted that the BBC Executive has previously estimated the total BBC and commercial radio spend on independent radio productions to be some £38 million, and judged the size of the market to have been broadly flat over the last ten years. In their consultation submission, the trade association for independent radio producers, RIG (Radio Independents Group), commented that they still thought this a reasonable estimate of the size of the market based on their own survey data.

3.3.3. The radio production market covers two main areas: the ‘traditional’ programme commissioning market, estimated to be worth around £18 million each year; and a wider external programme supply market (covering news, weather, traffic,

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23 Most independent radio producers’ revenues are below £1 million and so there is no statutory requirement to report annual turnover.
entertainment news and sponsored programming) worth around £20 million each year. The former is almost entirely made up of commissions from the BBC, with independent supply to the commercial sector limited to the occasional programme in the schedule. The latter consists mainly of a small number of contracts with the commercial sector.

3.3.4. Our consultation noted that, at the time of our last review of radio supply in 2010, low barriers to entry meant the UK radio supply market was fragmented. The estimate of the number of producers active across the UK remains broadly the same today, at around 150 to 175, and there does not appear to be any significant consolidation activity in the sector. Many radio producers are small organisations which produce occasional commissions and do not have the capacity to take on large programming strands but there are a small number of companies of significant scale. Evidence from the survey data that RIG provided as part of its consultation submission indicates that the larger five producers account for 67% of the sector’s production turnover, with the average radio programme turnover less than £50,000 for the smaller producers.

3.3.5. At the time of our last review, we noted that the larger producers were increasingly diversifying their businesses into related digital markets, in part to manage some of the revenue risk inherent to the commissions market. RIG stated that the sector more generally now appears to be exploiting other revenue opportunities but there has been no significant shift similar to television. This is in part because there is still very limited trade in secondary and IP rights for radio content. For example, music-based formats, which dominate radio, do not lend themselves well to IP ownership, and other formats are very dependent on national tastes.

3.3.6. Rather than as a response to any market imperative, the Trust’s consideration of options for changing radio arrangements would be, therefore, primarily based on the potential benefits to licence fee payers of opening up the BBC’s supply to more competition.

3.3.7. The radio WoCC is only in its third year so to reach firm conclusions on its success now would be premature. However, it is clear that the independent production sector has enjoyed considerable success to date. In 2013/14, independent companies produced 75% of the hours available in the WoCC and 80% in 2012/13.

3.3.8. When considering the possibility of introducing more competition for radio supply, we recognise that the nature of radio as a medium necessitates a different approach to television. In line with audience expectations, BBC Radio commissions relatively few one-off programmes and short series compared to the long-running strands. Therefore the schedules of the networks do not change markedly from year to year. The Executive estimate that around 10% of the titles change each year across the network stations.

**Conclusion 2**

While the principles of competition and openness should similarly apply to the BBC’s radio supply arrangements as they should for television, we recognise that the scale and dynamics of the respective markets are clearly different, as are the nature and maturity of the respective regulatory interventions affecting the BBC’s supply.
However, as part of the BBC Executive’s review of the regulatory framework for content supply, we think that it is the right time to consider whether changes to both the radio WoCC and independent radio quota might better meet the needs of licence fee payers and help develop the wider market.

Establishing the optimum size of the WoCC, the level and role of the independent quota, and the most appropriate scale of in-house provision under any new arrangements requires further detailed analysis. The Executive are undertaking this as part of their work under the ‘compete or compare’ strategy.

As with television, we will take account of this conclusion when we consider the proposals for changes being developed by the Executive.

### 3.4. Online developments

**3.4.1.** The 25% quota for the proportion of BBC eligible online spend that must be provided by independent suppliers originated from the Graf report, an evaluation of the BBC’s online services by the Department for Culture, Media and Sport, published in 2004.  

Our first review of online supply in 2011 asked fundamental questions on whether this quota was still fit for purpose given the degree of change in the UK’s creative online market since the DCMS report.

**3.4.2.** We recommended that the Executive consulted with industry on the strategic goals of an online quota system for the BBC before we took a view on whether the quota needed to change to better meet the interests of licence fee payers. As part of this, we asked the Executive to seek views on whether the introduction of competition could bring comparable benefits to those then delivered in television.

**3.4.3.** The Executive completed this market consultation at the start of 2013. Based on the range of views received, they concluded that quota had provided surety to the market and the operational complexity of an online WoCC would outweigh the audience benefits, due to the diverse nature of what is commissioned in what is a fragmented market. The Executive further highlighted that, given the distinctive nature of online as a medium, it would not be possible to employ a direct read-across of the benefits of competition to the television and radio markets. For example, there is lack of an equivalent unit of comparison in online commissioning to the programme hour, and technical online projects are also subject to EU procurement guidelines, unlike in television and radio where the broadcast exemption applies. The Trust decided to retain the status quo of online supply arrangements but with a commitment to review their efficacy on a rolling basis.

**3.4.4.** The online production market is much harder to define and estimate the size of than the television and radio markets. It has a much broader range of participants on both the demand and supply side and the products and services offered are wide and ever-evolving. This can be seen in the diverse nature of

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24 Philip Graf’s independent review of the BBC’s online service, July 2014.
what is commissioned digitally, which ranges from pure content commissions to technology-only projects, as well as hybrid developments based on a blend of technology and editorial input (e.g. the BBC’s iPlayer and Connected Red Button). We consider that the estimate in our last review of £450 million for online public service content (£790 million when incorporating all the UK’s digital related activities, public and private) remains broadly accurate.25 Central Government, the not-for-profit sector and broader corporates are the main buyers of digital marketing and technology services. With some £20 million in annual external spend, BBC Online does not have the same impact in this market as it does in television or radio broadcasting, and it is not a critical customer for all but the smallest external suppliers.

3.4.5. Nevertheless, some stakeholders have felt that the BBC has a disproportionate impact in some online market segments, such as production in the devolved Nations and, in looking to the future, digital content is seen by many producers as a key area of growth for the UK creative economy. In their submission to the consultation, Pact reported its latest census results, which showed that new media revenues for producers in the UK (for example from commissions for websites, apps and additional content for online services) has increased by more than 200% in 2013 compared to the previous year, from £33 million to £100 million. Pact also referenced the UK Television Exports Survey for 2013/14, which found that the sale of digital rights overseas increased by 72% from the previous year, from £29 million to £49 million.26

3.4.6. Additionally, as internet protocol-based distribution grows and audience consumption behaviours change, more and more content will be delivered over the internet. The BBC’s approach to commissioning will therefore result in an increasing emphasis on the production of this type of content as can be seen in the BBC Executive’s proposals to close BBC Three as a broadcast channel and continue it as an online-only offer.27 There are calls from the industry for the BBC to be much more ambitious in its approach to online and digital commissioning and supply, and act as a catalyst for the market.

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25 Deloitte LLP, The Online Quota : BBC Trust’s first review of online independent supply (a report for the BBC Trust), January 2010.
26 Income from digital rights is that derived from the sale or licensing of UK TV properties (film or tv programmes) owned by distributors for DTO (Download to Own), DTR (Download to Rent), VOD, streaming, IPTV, EST (Electronic Sell Through) and mobile usage.
27 The Trust is currently undertaking a public value test (PVT) on these proposals, for further details see www.bbc.co.uk/bbctrust/news/press_releases/2015/bbc_three_proposals
Conclusion 3

Our last consideration of the merits of making changes to the BBC’s supply arrangements for online content and services, including the potential introduction of an online WoCC, was relatively recent, and there are particular market dynamics affecting online production including the interplay between technical and editorial activity.

However, the production of online content will only increase in importance for the BBC over the next decade as it considers its public service remit in a progressively digital environment. Therefore, we also think it is timely to re-consider the BBC’s long-term approach to the supply of online content in ways that that might better meet the needs of licence fee payers and help develop the wider market.

As with television and radio, we will take account of this conclusion when we consider the proposals for changes to online supply arrangements being developed by the Executive.
4. Consultation on the Trust’s principles

4.1. Introduction

4.1.1. In January 2015, we published our consultation on content supply arrangements. We invited views on six high-level principles that we had developed and considered fundamental to any BBC content supply framework set up to serve the interests of licence fee payers over the long term.

4.1.2. We re-set out these draft purposes and supporting descriptions below (Figure 3Figure 3). They align with the BBC’s public purposes28 and are applicable to television, radio and online production, although the relative importance of each will reflect the different market conditions of the respective sectors.

Figure 3: The BBC Trust’s six draft principles

<table>
<thead>
<tr>
<th>Principle one: Securing high-quality and creative content across all genres</th>
</tr>
</thead>
<tbody>
<tr>
<td>The public expects a very high standard of content from the BBC. As such, the Trust expects the BBC to make the most creative and distinctive high-quality output available on screen, on air and online.</td>
</tr>
<tr>
<td>To meet these expectations the BBC needs access to the best ideas, whatever their source. Its content supply arrangements should therefore be open to a wide range of sources, including the BBC’s own producers and independent producers, and promote creative competition between them. This should foster an environment where the best programme and content ideas are available to the BBC’s commissioners.</td>
</tr>
<tr>
<td>The BBC’s ability to secure high-quality and creative content on behalf of the licence fee payer also needs to be considered in the context of changes within the supply market and to digital delivery.</td>
</tr>
<tr>
<td>We would also expect that any proposed changes to arrangements should maintain the emphasis on the supply of high-quality ideas, across all genres, and with a strong focus on UK public service broadcasting values.</td>
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<thead>
<tr>
<th>Principle two: Providing value for money to licence fee payers</th>
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<tbody>
<tr>
<td>As guardian of the licence fee, the Trust expects the BBC to strive to improve value for money through simpler, more efficient, and more open ways of working, including through the promotion of fair and transparent competition.</td>
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</tbody>
</table>

28 As defined in the current BBC Charter, the six public purposes are: Sustaining citizenship and civil society; Promoting education and learning; Stimulating creativity and cultural excellence; Representing the UK, its nations, regions and communities; Bringing the UK to the world and the world to the UK; In promoting its other purposes, helping to deliver to the public the benefit of emerging communications technologies and services.
Since the BBC spends a significant part of the licence fee on content, its content supply arrangements should act as important drivers in the delivery of value for money. Any proposed changes to supply arrangements should support an appropriate balance between delivering content of the high quality, creativity and range that audiences expect of the BBC and keeping costs to licence fee payers down.

In fulfilling this requirement, the BBC should consider not just the price paid for content but other factors, such as opportunities to secure investment from others through co-production financing and generate revenue from sources other than the licence fee, including optimising the potential for commercial income.

<table>
<thead>
<tr>
<th>Principle three: Using a wide range and diversity of supply across all genres and from across the UK</th>
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<tbody>
<tr>
<td>To secure high-quality, creative output and value for money for audiences, the BBC needs to commission content from a wide range of producers, with a flow of new entrants bringing fresh ideas within a well-balanced and sustainable production ecology.</td>
</tr>
<tr>
<td>To reflect different social, cultural and geographic perspectives from across the UK the Trust expects range and diversity in the inputs as well as the outputs in the production of content across all genres.</td>
</tr>
<tr>
<td>Securing the supply of high-quality content means having arrangements for television that can help to build strong and sustainable network production in Scotland, Wales and Northern Ireland and the English regions.</td>
</tr>
<tr>
<td>While the BBC’s supply arrangements should function in such a way as to support access to a wide range and diversity of supply, this needs to be balanced with licence fee payers’ interests in the overall quality of content and value for money.</td>
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<tr>
<th>Principle four: Securing a sustainable production supply in terms of skills and capacity</th>
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</thead>
<tbody>
<tr>
<td>The Trust recognises the BBC’s central role in training and the development of production skills, and its importance within the wider creative economy.</td>
</tr>
<tr>
<td>Under this principle any proposed changes to arrangements should ensure that, over the longer-term, the BBC continues to have access to the necessary capacity, skills and talent to create content from across the UK in a sustainable way and support a healthy production sector.</td>
</tr>
<tr>
<td>The BBC’s content supply arrangements must also be capable of delivering content that may require significant infrastructure investment (such as large-scale events and cross-media productions that audiences now expect).</td>
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<table>
<thead>
<tr>
<th>Principle five: Retaining sufficient value and control over the BBC’s IP and content rights beyond the public service window to secure a fair return on investment for licence fee payers</th>
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</table>
The balance between intellectual property rights held by the BBC, as commissioner and broadcaster, and the producer, whether BBC or external, is crucial to secure a fair return for licence fee payers and deliver value for money. The current model allows the BBC to retain the full value of rights on content made in-house, but only a small proportion of the value of rights where content is commissioned from independent producers.

Since the introduction of the Window of Creative Competition (WoCC) in 2007, the proportion of BBC commissioned content supplied by independent producers has increased significantly, resulting in a reduction in the value to the BBC of secondary rights.

Any new arrangements should ensure that both the BBC and the creators of the content receive a fair share of the commercial value of content commissioned by the BBC.

- **Principle six: Maintaining appropriate separation between publicly funded BBC activity and its commercial services**

The Trust has clear controls in place to ensure that the public service and commercial activities of the BBC operate separately and that no subsidy or unfair advantage is gained by the commercial arm of the BBC through its relationship with the public service part of the Corporation. We have recently clarified these controls further through the introduction of a new framework covering the BBC’s commercial services.

While the BBC’s in-house production is at present a public service activity funded by the licence fee, we are aware that the BBC Executive’s proposals may include plans for one or more new commercial entities. Any proposed changes to the way in-house production operates by putting its activities, in whole or in part, on a commercial footing will be subject to Trust approval and will need to comply with the Trust’s fair trading policy, with state aid requirements and with the Trust’s new commercial framework.

Any new commercial subsidiary of the BBC would also need to fit with the BBC’s public purpose activities and not jeopardise the good reputation of the BBC or the value of the BBC brand.

4.1.9. With an eye to potential changes to the BBC’s content supply arrangements under any new Charter, we asked for views on the following:

- The appropriateness of the principles to guide any future changes.
- Taking each of the principles as they stand, how far the current content supply arrangements have delivered on them and whether that is likely to change in the future given the market developments in recent years.
- How the principles can best be fulfilled over the next ten years whether by regulatory changes or other means.
- Whether there were genres of programming or types of content that justify a different approach.
• And specifically in relation to principle six, the relationship between the BBC’s public services and its commercial activities in its content supply arrangements, and how the necessary separation can best be maintained in the future.

4.1.10. Our consultation questions were aimed primarily at industry stakeholders although we welcomed responses from all interested parties including individual production staff (both BBC staff and independent production staff) and members of the public. Due to the self-selecting nature of consultation exercises, individual views we received will not necessarily be representative.

4.1.11. We received a good range of responses from media trade unions and trade associations; organisations representing the wider creative community; Government bodies; other broadcasters, the Audience Councils in Wales, Scotland and Northern Ireland (the BBC Trust’s advisory bodies in the devolved Nations); organisations representing audiences as well as BBC in-house production staff, independent production companies in different parts of the UK and members of the public. Some of these responses were submitted to us on a confidential basis but, where we have the responding organisation’s permission, we are publishing their submissions alongside this report. We also received around 140 identical emails from individuals.

4.1.12. The next section of the report sets out the issues raised during the consultation process under each of the question topics outlined above. In relation to responses on the performance of current arrangements in delivering the principles, these are considered in the next section (section 5). Where we have accepted points and reflected them, this is explained. Where we have considered but not accepted comments made, this is also explained.

4.2. The appropriateness of the principles to guide future changes

Overview

4.2.1. Overall, there was broad support for the principles from those who contributed to this review. Most respondents judged them the right framework for the Trust to assess any future changes to the BBC’s supply arrangements across television, radio and online. Several respondents also stressed the mutually reinforcing nature of the principles, for example that the best way of achieving principles one and two is by ensuring principles three and four are met. Principle five attracted some specific comment and concern from industry (discussed below).

4.2.2. Responses we received from BBC in-house production staff and trade unions in particular thought that more precision was required in the definitions of "high-quality and creative content", "value for money" and "wide range and diversity" and we should be clearer about the specific measures we will use to judge whether the principles are being successfully delivered, particularly value for money. They also believed that, in some areas, the principles inappropriately prejudged how the best to secure high-quality content and provide value for money in particular by promoting competition. Based on our periodic reviews of the operation of the television and radio WoCCs as well as our regular performance monitoring of BBC services including online services, we believe that the weight of evidence demonstrates that the promotion of competition in supply is the best means to deliver the content licence fee payers expect.
4.2.3. A number of respondents, both in-house staff and industry, also wanted more clarity on how the principles would be prioritised in the event that their application should lead to conflicting conclusions, and how the Trust would reconcile an apparent tension between the ‘interventionist’ principles (three, four and five) and the ‘market-based principles’ (one and two). As with any set of principles, their application will necessarily involve taking decisions on where the right balance should lie, but we will always prioritise what is in the best interests of licence fee payers. As such, securing high-quality and creative content across all genres and providing value for money will be the paramount concerns for the Trust.

4.2.4. A number of industry respondents highlighted the importance of ensuring the BBC’s commissioning processes are fair and transparent and wanted this to be taken into account in the principles framework. We have amended the draft to reflect this point.

4.2.5. We summarise the consultation feedback we received on each of these proposed principles below and provide comment where relevant.

Views on principles

**Principle one: Securing high-quality and creative content across all genres**

4.2.6. There was general endorsement of this principle, with a range of respondents, including in-house staff, members of the industry and groups representing audiences and the wider creative sector, stressing the BBC’s pivotal role at the heart of the UK’s creative industries. They also expressed their expectation that the BBC should make and show the most distinctive, high-quality output available across its platforms. We have amended the principle to better reflect this view.

**Principle two: Providing value for money to licence fee payers**

4.2.7. There was general endorsement of this principle, although, as discussed below, we have decided to subsume the exploitation of IP and content rights as matters for consideration under this principle and principle one instead of within principle five, which we have removed in our final framework.

**Principle three: Using a wide range and diversity of supply across all genres and from across the UK**

4.2.8. There was general endorsement of this principle with many respondents emphasising that a diverse supply base, made up of different kinds and sizes of producers, is vital to sustain a plurality of ideas across different genres.

4.2.9. Some respondents suggested areas that they think particularly important for the Trust to take into account when considering what supply arrangements would best deliver on this principle. The Audience Councils and producers based in the Nations and regions emphasised the importance to audiences around the UK of accurate representation and portrayal when making BBC content. We also received the view that the Trust must ensure that the distribution of the population in the Nations and the English regions is duly taken into account in commissioning decisions.

4.2.10. Whatever the future arrangements are, Pact and individual independent producers stressed the importance of ensuring that the BBC’s commissioning
processes are fair and transparent in this context and wanted this to be reflected in the principle. To address this point more explicitly, we have amended the principle to: “using a wide range and diversity of supply with fair access across all genres and from across the UK.”

4.2.11. Specifically in relation to the BBC Executive’s proposals to separate parts of BBC in-house production into a commercial entity, industry respondents stressed that the Trust would need to gain sufficient assurances that this principle would not be undermined as part of any approvals process.

**Principle four: Securing a sustainable production supply in terms of skills and capacity**

4.2.12. The respondents who provided views on this principle, regarded it as a very important tenet. Creative Skillset referenced a range of evidence to underline their point that, for the BBC to fulfil its commitment to quality content that delivers the best service to its audiences, it needs to ensure it continues to support the skills and talent development of its people and of the wider industry. The industry skills body highlighted evidence from their most recent workforce survey that specialised craft and technology-related skills, needed to secure high-quality content, are the most commonly reported as needed by producers. They emphasised that having the right skills within the BBC, as well as in its supply chain and potential talent pool will be fundamental to delivering all of the principles.

4.2.13. Creative Skillset also stressed the importance of considering this principle in the context of rapid technological change and innovation in the industry, which necessitated a workforce suitably trained, and with the requisite skills, to work in an increasingly digital and multiplatform environment. In relation to the Executive’s plans to separate parts of BBC in-house production into a commercial entity they also made the point that, in considering any proposal, the Trust would need to gain assurances that the workforce can adapt from working within a public service model to a commercial model.

4.2.14. One respondent commented that they would like to see the role of creative talent explicitly referenced in this principle. In the supporting description we make specific reference to the need for the BBC to continue to access talent to create content.

**Principle five: Retaining sufficient value and control over the BBC’s IP and content rights beyond the public service window to secure a fair return on investment for licence fee payers**

4.2.15. While there was some support of this principle, the majority of industry respondents who provided comments on it queried the rationale for its inclusion as a specific principle given the broad imperative to deliver value for money expressed in principle two. This principle was generally regarded as a better and more logical place to consider these issues.

4.2.16. Pact and other individual industry respondents argued strongly that principle five should not be included as a high-level principle at all and commented that, as drafted, it presupposed that the BBC must own or control intellectual property and/or content rights to secure a fair return on investment and deliver value for the licence fee payer. They believed there was no evidence to show that there was any inherent reason why this should be the case.
4.2.17. These respondents considered that, by proposing this principle, the Trust at least implicitly was supporting a reconsideration of the current Terms of Trade. They asserted that it was commonly accepted that these Terms had helped deliver significant benefits to the BBC and to licence fee payers, as well as to producers, over the past decade. As such, they contended that the Trust should not be seeking to advocate steps (or give this impression) which could be detrimental to the working of the overall supply market without very strong evidence to justify doing so.

4.2.18. In our discussions with the BBC Executive as part of this review, they made the case that retaining its own intellectual property is a growing necessity for the BBC, and that a strong BBC production unit is a key way to deliver that. They noted that the BBC’s supply strategy is founded on the continuation of a mixed supply model, which they contend delivers the best creative outcomes for audiences and the best value for money. The Executive argue that losing its own production capability and therefore the ability to create their own IP would undermine the BBC’s ability to generate value for licence fee payers, since the Corporation would become much more reliant on negotiations with external suppliers to secure content and rights, and have a more limited ability to generate secondary value via BBC Worldwide, the commercial arm of the BBC.

4.2.19. The Executive also stated that in-house production currently delivers important benefits beyond value for money. They asserted it allows for greater control over output and better enables the BBC to deliver critical content such as major national events; it provides a forum for strategic and experimental research and development in production to further PSB aims; and, by generating wholly-owned IP, gives the BBC a greater ability to launch new digital and global propositions.

4.2.20. When it comes to exploiting the rights to BBC content, we consider that getting a fair balance between commissioners and suppliers is fundamental to supporting a healthy supply market in the future and to ensure the continued provision of services and content that licence fee payers expect. However, we accept that the higher-level concerns when considering this area are the quality of content and the delivery of long-term value for money to licence fee payers. As such we have removed principle five from the final framework and subsumed exploitation of the IP and content rights as matters for consideration under principle one and two.

Principle six: Maintaining appropriate separation between publicly funded BBC activity and its commercial services

4.2.21. There was a general endorsement of this principle from those respondents who provided views on it. Some industry respondents wanted the Trust to go further and explicitly set out appropriate safeguards to ensure that BBC supply arrangements in the future do not impact negatively on the performance of other creative industries across the UK, potentially suggesting an additional principle to this effect which would also make reference to the BBC’s Fair Trading Guidelines.

29 The Communications Act 2003 requires UK broadcasters and Pact to negotiate codes of practice, known as ‘terms of trade’, setting out the licensing of rights between broadcasters and producers within primary and subsequent windows and the communications regulator Ofcom oversees this process. These agreements first came into force in 2004 and allow independent companies to retain rights in their productions following the primary rights licence. Separately, the BBC and the Radio Independents Group negotiate terms of trade for the commissioning of independent radio production.
There was also a view that the word 'appropriate' should not be included in the principle, as it suggested an attempt to minimise separation, and that it should include additional references to there being 'demonstrably no cross subsidy from the licence fee' and to 'minimal market impact'.

4.2.22. We think the principle's supporting description provides enough assurances that the Trust has the necessary controls in place, including in respect of fair trading and will employ them as required to ensure that, under any future proposal, the public service and commercial activities of the BBC operate separately and do not result in market distortion.

**Recommendations for additional principles**

4.2.23. Some respondents proposed additional principles. We consider each of these in turn.

4.2.24. We received some views that there is a need for additional, prevailing principles to demonstrate that the Trust is committed to content supply arrangements that ensure the promotion of the BBC’s Public Purposes and that secure a sustainable future for the BBC as a public sector broadcaster free from state or commercial influence. In drafting the principles, we sought to ensure they were strongly aligned with, and reinforced, the Purposes where they were relevant to supply arrangements.

4.2.25. One respondent representing civic and community groups suggested a new principle that recognised the role that the wider public, and under-represented groups in particular, could play as both contributors and creators of BBC content. We believe that principles three and four, as drafted, would recognise and support this wider public contribution to the BBC’s supply arrangements.

4.2.26. Responses from trade unions proposed two additional principles to cover employment practices under any supply arrangement the BBC enters into. We feel matters relating to conditions of employment are more appropriately covered elsewhere in the BBC’s operational procedures.

**Conclusion 4**

We have reflected on all the comments we have received on our draft principles and, where we have judged appropriate, have taken account of the responses we received in the final principles framework, attached as Annex 1.

**4.3. How the principles can best be fulfilled over the next ten years**

**Overview**

4.3.1. We received a wide range of responses on both the degree and nature of change that was felt required in supply arrangements for television and radio content as well as online services.

4.3.2. Many respondents wanted to make the overall point that a well-funded BBC, with the ability to maintain a strong level of investment in content production, is vital for the sustainability of the UK’s creative industries. Some stated that, as part of
this, BBC in-house production must continue to be protected through a guarantee, so that the UK's content production base can withstand any downturn in investment by other broadcasters or producers. Others believed the market was sufficiently robust to be able to compete fully for the BBC's investment over the long term.

4.3.3. Reflecting these general points, the views we received on how best to deliver the principles broadly split into two camps. On the one hand were respondents - primarily BBC in-house production staff who expressed a view and the trade unions - who argued that the current mix of guaranteed in-house production, contestable commissions, and independent production was still the right balance for the foreseeable future. On the other hand were respondents - primarily from the wider industry - who contended that the principles would best be delivered if the BBC opened itself up much more to competition through significant extensions of the TV and radio WoCCs, as well as by making commissions for online content and services more contestable. In some cases, these respondents argued that the BBC should cease to have an in-house production capacity at all. The Executive are clear that they believe the retention of a strong production capability within the BBC is essential to fulfil the principles.

4.3.4. In terms of principles one and two, a number of respondents commented that future arrangements should build on the achievements of the current arrangements - particularly the TV WoCC - in supporting the principle of choosing the best ideas in the BBC's commissioning culture and delivering high-quality content and value for money for licence fee payers.

4.3.5. On principle three, the prevailing view from those who contributed was that regulator y intervention in the form of quotas and targets for network television supply from the Nations and English regions would continue to be necessary to protect the range and diversity of supply across the UK.

4.3.6. Respondents who had a view on principle four stressed the central importance of the BBC's continued investment in training and skills development for the wider creative economy. The industry skills body, Creative Skillset, also stressed the importance of considering this principle in the context of rapid technological change and innovation in the industry, which necessitated a suitably trained workforce.

4.3.7. On principle five, industry respondents who commented did not see any call for changes to the current model used in television and radio under which the BBC, other UK broadcasters and the trade associations negotiate the licensing of rights between them within primary and subsequent windows. They stated that this model has delivered significant benefits to the BBC, licence fee payers and to producers over the past decade and would continue to do so in future. There were calls from some in the industry to introduce a similar model for online supply.

4.3.8. For principle six, we invited general views on how the necessary separation between the BBC's public services and commercial activities in its content supply arrangements can best be maintained in the future. Industry respondents commented that the relationship between the BBC's public services and its commercial activities needs to become more transparent. We also received a range of views under this principle on the Executive's proposals to commercialise parts of BBC in-house TV production. Some respondents stated that to fulfil this
principle the whole of BBC content production must remain within the public service and further argued that a move to a commercial model would jeopardise the imperative to make public service content. Others highlighted a number of competition and state aid implications associated with any move, and stressed the importance of these implications being subject to a full regulatory review and analysis.

4.3.9. We also received a range of views on whether certain programme genres, or types of content, should be considered differently when it came to how the Trust should apply the principles. In relation to its own ideas to move to a commercial production entity, the Executive have proposed that News, Current Affairs, Sport and Children's would remain in the Public Service with in-house guarantees and independent supply arrangements continuing as they do today. The Executive contend that there are particular factors affecting the commissioning and production of these genres which are not easily replicated in a more commercial environment. For the production of news content, there was universal acceptance that it should remain completely as part of BBC in-house production. For other genres, in-house respondents, trade unions as well as audience groups believed that a significant proportion of Current Affairs, Children's, Drama, Comedy and Entertainment should continue to be made in-house as these were regarded as key BBC genres. However industry respondents tended to think that no genres (apart from News) should be treated differently under any new arrangements.

4.3.10. In the following paragraphs, we summarise the responses of those in favour of maintaining current arrangements and then those in favour of more competition under each of the principles.

Views in support of current arrangements

Principle one: Securing high-quality and creative content across all genres

4.3.11. Respondents who favoured the continuation of current arrangements - primarily in-house staff and trade unions, but also some groups representing audiences and the wider creative sector - did not think the case had been sufficiently made for how a move to more competition and a removal of the existing in-house guarantee can better deliver high-quality and creative content while at the same time also maintaining a strong focus on UK public service broadcasting values. Rather, they argued that such a move could lead to market pressures challenging such values. They contended that, in such a scenario, there would be fewer opportunities to win commissions for more creatively risky programming, as commissioners would inevitably be tempted to play safe with programme ideas that did not initially look capable of generating large audiences, and the BBC's range of specialist and experimental programming would suffer as a result.

4.3.12. In relation to the BBC Executive's proposal to move to a commercial BBC subsidiary, UK Screen, the trade association representing service companies to the screen industries, questioned whether such a move, if approved, would affect the BBC's ability to fulfil this principle. In particular, they queried whether the move would necessitate the BBC negotiating some form of volume deal with a new entity to manage the risks of losing the in-house guarantee and inheriting the liabilities relating to staff transfer. If such a deal was negotiated, they argued that this could reduce the range of sources available to BBC commissioners and potentially reduce quality.
4.3.13. As an alternative to the reform proposed by the Executive for television production, some respondents believed there was scope to improve current commissioning processes, including by exploring better ways of supporting BBC production staff to pursue their ideas and work more creatively.

**Principle two: Providing value for money to licence fee payers**

4.3.14. Some respondents, primarily in-house staff and the trade unions, questioned how increased competition in production would better satisfy this principle. Rather than efficiency gains, they predicted a rise in aggregate commissioning costs if the proportion of commissions going to independent production increased significantly. They believed it unlikely that independent producers could take a given production, find cost-savings (that have not already been implemented by the BBC), add on their profit and still end up with a lower price. They also argued costs would inevitably escalate further if a wholly-owned BBC production subsidiary ended up in the private sector, with shareholder demands for commercial levels of profit.

4.3.15. These respondents also highlighted the pressures they perceived were being put on BBC commissioning budgets as a result of the current licence fee settlement, and argued these pressures could be exacerbated by changes to television content supply, which may be biased against investment in risk-taking and the production of more challenging content.

4.3.16. On the BBC Executive’s proposals, a range of respondents - including in-house staff, trade unions and groups representing audiences - argued that if BBC production is put on a more competitive footing, more resources would likely be directed towards formats that attract large audiences and have potentially global appeal. They noted that this would particularly be the case if the BBC is seeking to compete for more work from other broadcasters. They believed this could lead audiences to question what the purpose of the licence fee is if it was no longer primarily focused on delivering a range of high-quality content for BBC channels.

4.3.17. In terms of supply arrangements for radio content specifically, we received some views that contended there was no value for money justification for increasing competition. As the BBC is the predominant purchaser of radio content in a fragmented market, it was argued that the transactional costs to the BBC in dealing with so many providers, and the in-house cost of operating an expanded commissioning process, would outweigh any value to the licence fee payer of an increase in the radio production quotas.

4.3.18. In terms of supply arrangements for online content, we received some views that contended that an increase in the quota or a move to more competition through the introduction of an online WoCC would not provide value for money. It was stated that the BBC’s online activities are based on the practice of its principal comparator web publishers and the majority of these publishers tend to operate on a vertically-integrated basis. It was suggested that this model was a more commercially and economically efficient way of delivering online content, and delivered better quality to the licence fee payer than opening up supply further to a greater mix of subcontractors.
Principle three: Using a wide range and diversity of supply across all genres and from across the UK

4.3.19. A wide range of respondents believed strongly that the current regulatory intervention both in terms of the quotas for independent production and the quotas and targets for Nations and regions production would still be necessary to support this principle and to protect smaller independent producers in what was described as an unbalanced market.

4.3.20. Some respondents, including creative organisations based in the Nations and some out of London producers, said it was unclear how increased competition would provide a better basis for increased investment in the UK’s Nations and regions. They noted that the BBC has been a major contributor to a geographic rebalancing in the sector, but this had not been the result of competition but was rather due to the BBC being able to direct resources to areas outside London and the South East and meet the quotas. Northern Ireland Screen, for example, commented that there was no evidence that the quality of content production is reduced by this forced distribution model, not least because they stated production companies are mobile and will gravitate to where opportunities arise.

4.3.21. While acknowledging that the independent sector does operate in the Nations and regions, a trade union respondent cited that the vast majority of the biggest companies by turnover have headquarters in London, as do many smaller companies. They argued that this demonstrated that, given the choice, independent producers will often gravitate to London and the South East, taking advantage of the production infrastructure in the region and the proximity of the overlapping feature film industry, which is predominantly based there. They contended that an increase in competition could therefore lead to the opposite intention of this principle: reducing the diversity and range of supply from across the UK; any commercial BBC production entity would also find it impossible to ignore these geographic effects.

4.3.22. In terms of other ways to support this principle that could be achieved under current arrangements, a number of industry respondents believed that the BBC could facilitate greater opportunities for independent producers around the country to interact with commissioners and pitch programme ideas to them directly. One individual respondent commented that the BBC could make better use of its regional and national production centres by moving away from ‘budget-driven devolution’ to a more determined effort that connects production resources to ideas created locally.

Principle four: Securing a sustainable production supply in terms of skills and capacity

4.3.23. Under this principle, respondents who favoured maintaining the current arrangements voiced concern that increased competition would risk forcing the BBC’s production unit to cut costs by reducing the permanently employed staff base and/or by investing less in skills development and training. In this regard, some trade unions cited previous examples of the BBC introducing competition and incorporating BBC departments as limited companies. They were of the opinion that one of the first public service obligations to be reduced, once departments began working to commercial expectations, was training.
4.3.24. Respondents in favour of maintaining current arrangements commented that few broadcasters provided training on the scale of the BBC and were unlikely to do so in the future. Therefore, they contended that any reduction of BBC provision as a result of the need to be more competitive would adversely affect the wider TV and film sector. A trade union respondent noted that this outcome would arrive at a time of significant increases in high-end TV production, but also when there was a gradual reduction in an ageing workforce nearing retirement; they felt producers are struggling to replace this workforce.

4.3.25. Creative Skillset and UK Screen noted in this context that BBC investment in training through the BBC Academy has been declining in recent years as a result of the BBC's Delivering Quality First savings programme and queried the implications for the Academy's training provision in the future if it no longer served as large an in-house customer. While not in principle opposed to the Executive's proposals to open up BBC supply to more competition and the potential establishment of commercial BBC Productions entity, Creative Skillset pointed out that such a move would bring greater challenges if it led to a fragmentation of the BBC's critical mass in production as well as a greater reliance on freelancing staff.

4.3.26. Some trade union respondents also stated that a more competitive environment could lead to a reduction in terms and conditions offered to production staff, performers and other creative workers, which they argued would not be conducive to maintaining the capability and capacity of the workforce or in encouraging diversity.

**Principle five: Retaining sufficient value and control over the BBC’s IP and content rights beyond the public service window to secure a fair return on investment for licence fee payers**

4.3.27. In fulfilling this principle, responses that we received from independent producers and the trade associations were strongly opposed to any changes to current arrangements for both television and radio supply that would result in widening the windows or hold backs available to broadcasters. These respondents believed the current Terms of Trade model, under which the BBC, other UK broadcasters and the trade associations negotiated the licensing of rights between them within primary and subsequent windows, has delivered significant benefits to the BBC and licence fee payers, as well as to producers, over the past decade. They argued that retaining their IP at current proportions meant independent producers were able to grow their businesses and exploit their content rights in secondary and international markets. This in turn generated revenues that could be reinvested in programme production and research and development.

4.3.28. Pact also stated that the BBC benefits from current arrangements as it receives the exclusive UK broadcast and video-on-demand rights to the content it commissions for the licence fee period and also receives a payment in perpetuity from independent producers from secondary and international sales.

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30 As a result of its Delivering Quality First savings programme: the BBC Academy was required to meet an efficiency target of 35% over three years to March 2013 and absorb a 45% reduction in London based training accommodation.
4.3.29. It was pointed out by several respondents that it was open to the BBC to pursue different arrangements with non-qualifying independent producers (NQIs) who weren’t covered by the Terms of Trade.

Views in support of changes to arrangements and increased competition

Principle one: Securing high-quality and creative content across all genres

Television

4.3.30. Pact have made their position clear in respect of what changes to the BBC’s supply arrangements for television they feel would best deliver the principles in the future. They believe that the BBC should transition to an eventual publisher-broadcaster model, without an in-house production capacity except for news production. In Pact’s response to our consultation they state that they recognise the process of transitioning BBC production out to the market would take a number of years. Pact consider that a reasonable interim step would be for the TV WoCC to be extended to 50% of BBC output, with a 25% in-house guarantee and the 25% independent production guarantee remaining in place.

4.3.31. A number of respondents also stated that the success of the TV WoCC in delivering strong content to licence fee payers has demonstrated that more of the BBC’s output should be exposed to creative competition.

4.3.32. In our discussions with the Executive, they agreed that the WoCC has delivered strong outcomes for audiences over the last few years, and stated that the intervention continues to support a mixed supply model for the BBC with competition to drive quality. However, the Executive argued that retaining a strong production capability within the BBC is essential to delivering the range and quality of programming that audiences expect, and that a publisher-broadcaster model would be very detrimental to the organisation, leaving it with less control over its supply of content. As a result, the Executive stated they are focusing their attention on the creation of BBC Studios as a commercial venture that is able to compete with the independent sector on a level playing field.

Radio

4.3.33. RIG believe that only a major increase in competitive commissioning will be sufficient to move BBC Radio’s content to a level where it can meet the ‘best ideas regardless of source’ requirement. They argued that the first step towards this would be to immediately make the WoCC and independent radio quota measurable by financial value as well as hours. RIG contended this change would both increase the level of BBC spend with independent producers and the amount of high-quality and creative output on BBC Radio.

Online

4.3.34. We received two specific proposals on how the BBC’s arrangements for the supply of BBC’s online content and services should change in the future.

4.3.35. Pact asserted that the BBC needs to be much more ambitious in the area of digital commissioning and, to this end, it should commission more original digital
content externally by introducing a digital WoCC set at 50% of the BBC’s digital content spend.31

4.3.36. Another individual respondent suggested that the BBC’s online supply arrangements should better reflect wider changes in the way content is both created and commissioned. For example, they asserted that the BBC should follow the approach of companies such as YouTube, Amazon Studios and Kickstarter in exploring more radical ideas for democratising production and demand. They believed that the BBC should explore opportunities for commissioning through crowd-sourcing, which they thought would help the BBC secure its public service remit in a progressively digital landscape.

**Principle two: Providing value for money to licence fee payers**

4.3.37. Pact believe that if the BBC were to transition towards a publisher-broadcaster model it would lead to significant cost savings. In their consultation response, they included initial analysis based on their own calculations to suggest that, if the BBC were to transition towards a publisher-broadcaster model, it could lead to a £30 million a year financial benefit to licence fee payers by 2017.

4.3.38. In respect of online supply, Pact posited that the BBC could deliver more value for money to the licence fee payer and support growth in the digital sector by adopting the television terms of trade model when commissioning online content and services. They stated this would allow digital content providers to retain control of their IP rights in the same manner as television producers and they would be able to exploit these rights overseas.

4.3.39. In furtherance of this principle under any future scenario, both Pact and RIG argued that the BBC should publish more cost information comparing in-house and independent commissions.

4.3.40. The Executive support greater competition as a means of driving further cost savings and stated to us that this is at the heart of their ‘compete or compare’ strategy, contending that it for this reason that they are proposing the removal of the in-house guarantee for all genres which they would like to move into a commercial BBC Productions entity. The Executive also asserted that the ownership of IP is an essential component of value for money since owning the rights to programmes created in-house enables it to return their full commercial value to the licence fee payer to invest in new programmes.

**Principle three: Using a wide range and diversity of supply across all genres and from across the UK.**

4.3.41. Pact supported the continuation of the BBC’s network supply quotas and targets in the Nations and regions, but stated that to secure the long-term sustainability of production outside of London, and to fulfil this principle, the BBC should consider commissioning long-running strands from companies based outside of London. They also suggested the Trust consider the introduction of regional quotas for online supply.

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31 Pact states in its submission that all the points made in its discussion of changes to the supply of online content and services should be considered within the context of the development of a wider BBC digital strategy over the next few years.
4.3.42. In relation to better supporting radio supply under this principle, as well as an increase in the radio WoCC, RIG favour an accompanying but smaller rise in the independent production quota. They stated that this would allow a critical mass of commissioning to go to independent producers and suggested phasing in such an increase over an agreed period to minimise any concerns that the sector would not be able to fulfil any increase across all genres and networks.

4.3.43. RIG further wanted each BBC Radio network station to develop a plan setting out how they intend to reflect properly the UK's Nations, regions and communities through increasing the use of independent companies across the UK. They proposed that each network's plan should set out arrangements for out of London commissioning, and this should include consideration of establishing Network commissioning editors in the Nations and regions.

4.3.44. RIG also emphasised that ‘range’ should mean a range of programmes or material in terms of cost of acquisition, as well as in terms of the types of programmes or material involved.

4.3.45. In any future scenario for content supply arrangements, a number of industry respondents mentioned that a change in BBC commissioning behaviours would particularly help deliver this principle. They contended that the BBC currently pursued a commissioning strategy that didn’t sufficiently prioritise the ambition of obtaining more production from the Nations and regions. To help facilitate this, some respondents still felt there was a need for commissioners to be more accessible and to better engage with suppliers across the UK. The approach by S4C in Wales was cited by a respondent as a good example of commissioners, producers and public agencies working together. Some respondents also commented that the BBC has still some way to go before its approach to commissioning can be said to offer a genuinely balanced reflection of all the UK’s cultures and which gave audiences appropriate access to a wider and more diverse range of talent and perspectives.

Principle four: Securing a sustainable production supply in terms of skills and capacity

4.3.46. While recognising the BBC’s importance as a training provider, Pact stated that other broadcasters, as well as independent producers, were also investing in training and skills and supporting developing talent as well as undertaking diversity initiatives. To allay concerns that increased competition and a potential shift of the BBC to a more publisher-broadcaster role would lead to reduced investment in training, Pact recommended that the BBC could offer targeted training bursaries to specific production companies and individuals within these companies. They also suggested that the BBC could make its own Academy more widely available to the production community.

4.3.47. RIG was of the view that the independent radio sector can make a significant contribution to training and radio skills development alongside the BBC’s efforts. In this context, they highlighted their involvement in a training programme in partnership with Government that was launched in autumn 2014.

4.3.48. Creative Skills set commented that, should the market be opened up more to independent producers and also include a commercial BBC Productions entity, then the BBC and other broadcasters should work in partnership with Pact and independent producers to agree standards and expectations on what they expect commissioned companies to deliver in terms of training and skills development.
Creative Skillset’s consultation submission, published alongside this report, sets out a number of examples in this regard and they note that the training commitment should be proportional to company size. They also stated that it was vital that the BBC’s specific commitments to training should continue, or be strengthened, in any new Charter and Framework Agreement.

4.3.49. The BBC Executive highlighted to us that the BBC is the biggest media industry trainer in Europe, delivering significant value to the BBC’s own staff and to the wider industry. Figures we received from the BBC showed that, in 2014, the BBC Academy trained 13,500 BBC staff members and 8,000 others from across the industry. The Executive stressed that it is committed to continuing its role in training, believing that maintaining a wholly-owned production unit will be an important part of that.

**Principle five: Retaining sufficient value and control over the BBC’s IP and content rights beyond the public service window to secure a fair return on investment for licence fee payers**

4.3.50. An in-house respondent contended that the BBC is currently struggling to make use of its archive content for the benefit of the licence fee payers because of rights restrictions.

**4.4. Genres of programming or types of content that justify a different approach**

4.4.1. There was a range of views on whether certain programme genres, or types of content, should be considered differently when it came to how the Trust should apply the principles and whether, in these instances, we should depart from the suggested ‘norm’ of how the BBC should approach its content supply arrangements.

4.4.2. In terms of the Executive’s proposals for a move to a BBC commercial entity, the Executive themselves have set out that they would wish certain genres to be retained within the Public Service and with an in-house guarantee. As well as News (which is currently made only by BBC in-house production and not subject to current supply arrangements including the WoCC) they propose Current Affairs, Sport and Children’s should remain within the Public Service. Their rationale for wishing to retain Current Affairs is two-fold: to protect sensitive, long-running investigations, and because of the close editorial relationship with News. For Sport, they contended that the production model is critically dependent on sports rights (and relationships with rights-holders) rather than original IP and there is a need for the BBC to ensure a critical mass of sports production activity to best serve audiences. For Children’s, the Executive assert that this genre has a different commissioning and production model to other departments - and serves a specific audience - so it too should remain in the public service at least initially under any plans.

4.4.3. In relation to the views we received from other interested parties, for one genre, News, there was universal acceptance that it should remain completely as part of BBC in-house production, whatever happened to the rest of BBC programme-making. For other genres, in-house staff and trade unions as well as some groups representing audiences and creative organisations believed that a significant proportion of Current Affairs, Children’s, Drama, Comedy and Entertainment should continue to be made by the BBC, as these were regarded
as key BBC genres that needed to be appropriately safeguarded from market forces. However, it was also stressed that there should continue to be enough room for alternative voices and opinions to be heard in these genres, and independent producers performed an important role in this respect.

4.4.4. The British Film Institute stressed that, while not necessarily making the content, the BBC should be recognised for its continued investment in the production of British films. It contended that this role was becoming ever more critical, as accessing other sources of finance to support British film production was becoming more challenging, particularly in the light of the decline of the value of DVDs. The BFI also asserted that the BBC’s future content supply arrangements needed to ensure sufficient protection was given to the production of Drama, Children’s and formal education programming.

4.4.5. Pact did not consider that there were any genres (apart from News) that should be treated differently. They made the point that the principles on which the Trust assess the merits of BBC supply arrangements should apply equally to all BBC content and services, whether produced in-house or externally.

4.5. Views on the relationship between the BBC’s public services and its commercial activities, and how the necessary separation can best be maintained

4.5.1. As the concluding question in our consultation, we invited general views on how, under principle six, the necessary separation between the BBC’s public services and its commercial activities in its content supply arrangements can best be maintained in the future.

4.5.2. Several respondents commented that the relationship between the BBC’s public services and its commercial activities could be more transparent. In its consultation submission, published alongside this report, Pact set out a number of specific measures that it believed the BBC should adopt to fulfil the principle in the future.

4.5.3. Specifically on the BBC Executive’s proposals for separating parts of the BBC’s in-house TV production unit from the Public Service and into a commercial entity, our consultation made clear that, when the Trust receives the Executive’s detailed plans, they will be subject to Trust approval and will need to comply with the Trust’s fair trading policy, with state aid requirements and with the Trust’s commercial framework. At this stage in the process we stated that we would be happy to receive reactions on what the Executive have proposed so far. Most respondents who gave views on this subject expressed concerns.

4.5.4. The trade unions and in-house respondents believed that to fulfil this principle the whole of BBC content production must remain within the public service and further argued a move to a commercial model would jeopardise the BBC’s imperative to make public service content. The trade unions also thought there was a significant risk that any subsidiary would become unsuccessful commercially. In such a scenario, they assumed that the subsidiary would have to be wound-up or eventually sold, making the BBC solely reliant on the market for content provision, which they did not think would be in the interests of licence fee payers.

4.5.5. Industry respondents highlighted a number of competition and state aid implications, and stressed the importance of these being subject to a full
regulatory review and analysis. They questioned the ability of a new commercial entity with close ties to a public service broadcaster to operate under market conditions of fair and effective competition. The need for the relationship to be arms-length and fully transparent, in terms of which public assets the Executive planned to transfer and the pricing of key inputs such as the BBC brand and facilities was emphasised in this respect. Otherwise the BBC would be subsidising a commercial service through the licence fee.

4.5.6. One of the most significant areas of concern raised by industry related to what the Executive proposed to retain in the public service and what they proposed to transfer into a new commercial entity. Pact and some individual independent producers commented that they could see no justification as to why some genres (aside from News) might be retained in the public service and subject to different arrangements. Industry respondents also expressed concern over the potential transfer of existing long-running programmes currently produced by in-house teams into a new commercial entity. It was unclear to them how the BBC Executive could achieve this, and be consistent with fair trading and state aid requirements, without full and open tendering to the market.

4.5.7. Notwithstanding these concerns, a range of respondents emphasised that any new commercial supply model should not undermine the BBC’s commitments to the Nations and regions.
5. Current performance

5.1. Introduction

5.1.1. This section of the report assesses the BBC’s performance in delivering its current regulatory requirements for the supply of television and radio content as well as online services.

5.1.2. In our previous reviews, we have drawn conclusions and identified some associated actions for the Executive to improve the effectiveness of these arrangements. However, given that the Executive are currently developing proposals for changes to these arrangements for Trust approval, in most cases we have limited ourselves to reporting on factual outcomes and industry views on performance.

5.2. The performance of supply arrangements for the production of television content

5.2.1. In 2013/14, the BBC invested £878 million in commissioning new network television programmes. Around £451 million (51%) of this total was commissioned from the BBC’s in-house television production teams, and around £427 million (49%) was commissioned from the independent sector.

Compliance with quotas

5.2.2. In line with our previous reviews of television supply arrangements, the BBC has successfully complied with its regulatory commitments to commission the required proportions of network television programming from independent producers and, for non-network television supply, the BBC has provided appropriate opportunities for competition between independent and in-house producers.

5.2.3. Under the independent production quota set by Ofcom in accordance with the Communications Act, the BBC must source not less than 25% of its original television programming from the qualifying independent sector. In 2013, the BBC commissioned 36% of eligible hours from the qualifying independent sector, 36% in 2012 and 39% in 2011 (Figure 1 in section 3 above). Separately BBC One and BBC Two met their individual 25% quota requirements by some distance. In 2013, BBC One commissioned 36% of eligible hours from qualifying independents, 34% in 2012 and 36% in 2011. BBC Two commissioned 42% in 2013, 40% in 2012 and 39% in 2011. These proportions consist of commissions under the independent production quota and the WoCC.

5.2.4. The BBC has also met the requirement set out in the Framework Agreement to produce 50% of its television production in-house, producing 55% of all television hours in 2013/14 and 56% in 2012/13.

5.2.5. Non-qualifying independent producers delivered a further 9% of network television output in 2013 and 8% in 2012, making up a total independent share of network TV commissioned hours of 45% and 44% respectively for the two years since our last review.
Operation of the Window of Creative Competition (WoCC)

5.2.6. The total amount of BBC network commissioned hours fluctuates from year to year, and, in 2013/14, it underwent a decline of around 6% from 2012/13 levels (the lack in major sports events in 2013 explains this in part). However, the BBC continued to meet its commitment to open up the required proportion of network television commissioning opportunities to competition over the two years since our previous review. There was also a reasonable spread of commissions made available across genres in line with what we have seen previously (Figure 4). Relatively few hours continue to be allocated within Sport owing to the rights-based nature of its output.

Figure 4: Proportions of network hours made available to competition by genre

5.2.7. As Figure 5 shows, in the last three years independent producers have consistently won a high proportion of the hours made available in the WoCC. While the proportions in-house and independent producers win in some genres vary from year to year, indicating a healthy competitive market, it is clear that in Drama, Entertainment, and in the last two years especially, Comedy and Knowledge, independent producers do particularly well.

Figure 5: Percentage of WoCC hours won by independent producers by genre

5.2.8. The Appreciation Index (AI) is the main currency inside the BBC for measuring how much the audience appreciates and enjoys BBC programmes. Our analysis
of the long-term trends of AI scores shows that there is little difference in audience perceptions of the quality of in-house produced programmes and independently produced content. This supports the view that the WoCC has helped deliver a range of content through competition that is rated highly by audiences (Figure 6).

**Figure 6: Audience AIs for in-house titles compared with independent titles.**

5.2.9. Analysis on the cost per hour trends of network commissioned programming shows that, whilst in-house and qualifying indie costs per hour have remained relatively stable, the last two years have seen a noticeable increase in the cost per hour of NQI commissioned programming (Figure 7). This may, in part, be because the broader increase in NQI hours and spend has meant a richer mix of content is being commissioned from NQIs, which includes programming in more expensive genres.

**Figure 7: Cost per hour (£000s) of in-house titles compared with independent producers by different status**
5.2.10. Reflecting on the introduction of the WoCC since 2007, the overall consensus from industry and other stakeholders who contributed to this review was that it has been an important and effective regulatory intervention. It has facilitated creative competition between BBC in-house production and independent producers and has helped embed the principle of choosing the best ideas in the BBC’s commissioning culture more generally over the period. Ultimately this benefits licence fee payers.

**Securing an appropriately wide range and diversity**

5.2.11. We judge that an appropriately wide range and diversity of programming has been made under the WoCC as the BBC is required to do under the Framework Agreement. In 2013/14, the BBC has worked with 217 independent producers to help it deliver its network output and 230 in 2012/13. 15% of these producers were new to the BBC in 2013/14 (17% in 2012/13), indicating that the BBC is still effectively managing to work with good proportions of new suppliers in a market that is becoming more consolidated.

5.2.12. Geographically, our analysis of network hours produced across the Nations and English regions by supplier type found a reasonable spread, both in terms of geographical origin and the proportion of hours won by the BBC’s in-house teams and qualifying and non-qualifying independent producers respectively (Figure 8) shows the spread in 2013/14. The total number of network hours originating in London has reduced significantly year on year, from 65% in 2009 to 41% in 2013/14.

**Figure 8: Network transmitted hours by Nation and English Region and supplier type, 2013/14**

![Chart showing network transmitted hours by Nation and English Region and supplier type, 2013/14](chart.png)

Note: due to rounding figures do not always sum to 100%

**Appropriate competition for non-network programmes**

5.2.13. Under the Framework Agreement, the BBC is also required to ensure there are appropriate opportunities for competition between in-house and external producers for the provision of non-network programmes. Our analysis shows an
overall stability in hours of non-network independent commissioning, which is indicative of the BBC’s continuing investment in out of London television production. In 2013/14, the BBC commissioned 34% (405 hours) of its non-network programming from independent producers across Northern Ireland, Scotland, Wales and the English regions, 31% (361 hours) in 2012/13 and 33% (399 hours) in 2011/12.

5.2.14. As Figure 9 shows, most independently produced non-network programming hours outside of London were commissioned in the Current Affairs, Factual and Sport genres. The spread of non-network commissioning across the key genres indicates that the BBC has continued to create appropriate opportunities for competition between in-house and independent producers.

Figure 9: Hours of non-network television programmes commissioned from independent producers in the UK by genre, 2013/14

<table>
<thead>
<tr>
<th>2013/14 Hours</th>
<th>2013/14 Hours</th>
<th>English Regions</th>
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Note: due to rounding figures do not always sum to totals

Network Television Supply in the Nations and Regions

5.2.15. It is clear from the evidence we considered as part of this review that the BBC’s network supply strategy and the Trust’s targets pursuant to this (50% of network television production spend from outside London by 2016 and, within this, at least 17% of its network production spend from Scotland, Wales and Northern Ireland) have been very important interventions. The BBC has already exceeded its target for 2016 by commissioning 52% of TV content outside of London, with 20% coming from the Nations (Figure 10).

5.2.16. The vast majority of respondents who provided us with their views on this area were of the firm view that the interventions have made effective contributions to an increasing plurality of supply to the BBC and other broadcasters as well as to the growth of production skills outside London.
5.2.17. The BBC’s progress in moving a significant amount of production to Wales was praised. The Audience Council for Wales told us that the BBC’s network supply strategy has established the country as a significant production centre and has strengthened the wider creative economy. However, some industry respondents felt that the dominance of the BBC’s in-house presence, and the heavy reliance on long-running series such as *Casualty* to deliver the quota, has limited the breadth and depth of the independent supply base in Wales.

5.2.18. The Audience Council for Scotland similarly commended the increased levels of investment and volume of production in Scotland although noted that there were risks to sustainability most immediately as a result of the decommissioning of the long-running and independently-produced drama series *Waterloo Road*.

5.2.19. The Audience Council for Northern Ireland identified the network supply strategy as being an important driver for growth in the local creative sector although this was from a low base and the volume of network programming hours made there remains at a low level. Other respondents commenting on Northern Irish supply noted that the indigenous supply base remains sub-scale but there was positive endorsement of the BBC Executive’s recently published strategy to better support the television and online industries in Northern Ireland.32

5.2.20. As part of the network supply strategy, the BBC moved some long-running series away from London to support the redistribution of production around the UK and as a first step towards achieving sustainable supply in the Nations and regions, as well as providing content that more accurately represents the whole UK. While recognising that moving these series has resulted in increased investment outside

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London, many industry respondents commented that they believed the balance between this approach and the alternative approach of investing in indigenous production was weighted too much towards the former, creating something of an artificial market, with the main beneficiaries being independent producers with headquarters based in London. Some respondents also commented that the lack of returning-series commissions from outside of London remains an issue.

5.2.21. We also received some views that the BBC’s strategy to concentrate production in seven centres of excellence around the UK limited the range of ideas, perspectives and talent. There was also some industry perception that the Corporation relied heavily on producers with whom they had long-standing relationships, which again limited the range of content shown on the BBC.

5.2.22. If the output of productions from the Nations and regions are to be successful in reflecting those audiences as well as ensuring sustainable local production, a number of respondents made the further point that this also depends on the BBC’s approach to commissioning. They pointed to the BBC’s own research that identifies unmet audience demand for greater representation on-screen and there was a view that, to help address this, BBC commissioners needed to take on greater responsibility for delivering the BBC’s network supply objectives.

5.2.23. Our last review of television supply arrangements recommended the Executive take action to build greater confidence in the commissioning process outside London. In response, the Executive have revisited the approach taken by each commissioning genre in the Nations. For example, Entertainment and Daytime now have commissioners based in the Nations and, in Factual, the role of Nations executive producer was created. Holders of these roles have specific responsibilities to liaise with suppliers in each Nation and act as an access point to other commissioning areas. Evidence from our consultation responses, however, suggests that some producers around the UK have yet to see the full benefits of this new approach and are keen to engage more fully with BBC commissioning teams and work in partnership with them to develop relationships.

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**Conclusion 5**

Network supply in the Nations and English regions needs active intervention by the BBC which goes beyond the requirements of meeting quotas and towards the achievement of sustainable outcomes.

On the balance of evidence, we believe the BBC’s approach to redistribution of certain series across production centres in the UK has helped increase economic investment across the Nations and regions but longer term sustainability of supply as well as the provision of output that accurately represents the whole of the UK remain challenges. Therefore, some recalibration in the overall approach is required.

The Executive are currently developing their proposed strategy for sourcing network production across the UK. The Trust will want to ensure that the BBC has developed considered, clear-sighted plans that set out what the right commissioning mix is across the Nations and regions. The Trust will also want to see how the BBC’s production centres across the UK intend to work more effectively together with the independent sector based in different parts of the UK to develop creative, sustainable local ecologies.

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**Fairness and transparency in the commissioning processes**

5.2.24. Independent producers responding to our last review raised a number of issues in relation to the perceived fairness and transparency of the BBC’s commissioning process. On balance, we concluded that sufficient levels of information and engagement have been provided by the BBC with regards to commissioning opportunities but efforts should continue to achieve consistent and reliable information sharing and greater openness.

5.2.25. In following-up on this area, we found that the Executive have taken concerted action in a number of areas including the following:

- The BBC’s commissioning website was relaunched in March 2015, This is the main platform for providing information to suppliers across television, radio and online, and has been redesigned to make commissioning information easier to find, to give more regular updates about opportunities across all genres, and to provide producers with a more accessible guide to the BBC’s processes.

- BBC Commissioning now broadcasts webinars for up to one hundred participants, and holds regular online briefings to suppliers in the Nations, followed by pitching days for network suppliers approximately every eight weeks.

- Where there is a need for ideas in specific areas, BBC Commissioning has increased the number of ‘invitations to pitch’ opportunities to network suppliers. These opportunities are often targeted either at the Nations or companies with a specific skillset and track record.
• In Factual and Comedy, regular e-newsletters are now sent to key suppliers to update them on commissioning needs.

• The BBC has also invested in a new online proposals system, BBC Pitch, to replace its current e-commissioning system.

• As part of its annual reporting, the BBC now publishes the levels of in-house and independent hours in each genre alongside the share of WoCC figures each year.

5.2.26. In 2013, the BBC’s Director of Television also published a number of editorial commitments designed to improve the BBC’s relationship with independent producers, and outlined what they could expect from the commissioning relationship. These included speeding up the decision-making process on whether to take forward initial ideas from producers and limiting the changes that the BBC asks for on an idea before it goes into production.

5.2.27. Evidence from a recent BBC survey (March 2015) of both independent and in-house suppliers found an overall perception of improvement in the commissioning processes. This perception was higher amongst independent suppliers than in-house. This survey also now regularly tracks progress against the editorial commitments, as well as the BBC’s response times for getting back to suppliers and the experience of working with BBC teams through the commissioning process.

5.2.28. In response to our consultation, the independent sector argued that the BBC needs to be more open in disclosing the programme costs for BBC in-house production. The Executive point out that all commissions including those from in-house production are subject to a tariff regime and wider sharing of cost data would be commercially sensitive. Confidential data released to the Trust as part of this review showed in-house production benchmarking well against independent production prices.

5.3. The performance of supply arrangements for the production of radio content

5.3.1. In 2013/14, the BBC’s direct spend with independent production companies on radio programmes was £15.7 million (£16.5 million in 2012/13).34

5.3.2. This expenditure was predominantly with the top 10 independent radio production companies, where the BBC’s average spends was £845,000, compared to an average expenditure of £90,000 across all of 175 independent production companies used by the BBC in 2013/14.

Compliance with quotas

5.3.3. The Executive are fully complying with their Charter and Agreement requirements for the supply of radio content having commissioned at least 10% of eligible

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34 These amounts reflect the production fee paid to independent companies for radio programmes. It excludes spend with independents on Proms and online areas.
network programming from independent suppliers each year from the commencement of the latest Charter in 2007.

5.3.4. Our previous review of radio supply arrangements recommended that an additional 10% of eligible radio programming across the network stations should be opened up as a radio WoCC to promote increased competition. The Executive successfully introduced the WoCC in 2012/13. As Figure 11 shows, in that year the BBC commissioned 20% of the total eligible network radio hours from independent producers, increasing to 22% in 2013/14. In respect of contestable commissions available in the WoCC, in 2012/13, 80% of the eligible hours available were produced by independents. In 2013/14, independents produced 75% of these hours.

**Figure 11: Proportion of all eligible hours commissioned from independent producers by BBC network radio station and performance of the BBC’s in-house production in the WoCC**

<table>
<thead>
<tr>
<th>Actual % 2013/14</th>
<th>Actual % 2012/13</th>
<th>Actual % 2011/12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indie Guaranteed</td>
<td>Indie WoCC</td>
<td>In-house WoCC</td>
</tr>
<tr>
<td><strong>Radio 1</strong></td>
<td>9</td>
<td>8</td>
</tr>
<tr>
<td><strong>Radio 2</strong></td>
<td>12</td>
<td>24</td>
</tr>
<tr>
<td><strong>Radio 3</strong></td>
<td>13</td>
<td>5</td>
</tr>
<tr>
<td><strong>Radio 4</strong></td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td><strong>5 Live</strong></td>
<td>13</td>
<td>9</td>
</tr>
<tr>
<td><strong>1Xtra</strong></td>
<td>18</td>
<td>0</td>
</tr>
<tr>
<td><strong>6 Music</strong></td>
<td>17</td>
<td>9</td>
</tr>
<tr>
<td><strong>4 Extra</strong></td>
<td>9</td>
<td>7</td>
</tr>
<tr>
<td><strong>Asian Network</strong></td>
<td>12</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>13</strong></td>
<td><strong>9</strong></td>
</tr>
<tr>
<td><strong>Target</strong></td>
<td>10</td>
<td>10</td>
</tr>
</tbody>
</table>

Note: due to rounding figures do not always sum to totals

5.3.5. As the radio WoCC is only in its third year of operation, it is too early for us to draw firm conclusions on its effectiveness. However, the evidence to date shows that the individual BBC Radio networks are sourcing varying volumes of content from independent producers. Such variations may in part be explained by the quality of competing submissions across different genres and networks, and by
the varying rates of programme refreshment between networks. The nature of the output across the networks also clearly differs, for example:

- Radio 4 Extra is primarily an archive service and its level of new commissioning is therefore low.
- Asian Network, given its niche provision, would similarly not be expected to commission a high proportion of hours externally.
- A large proportion of Radio 3’s schedule is taken up by music from the BBC’s own performing groups so opportunities for commissions from independent producers are limited. The station does, however, use independent producers to supply specialist output such as jazz content as well as a daily morning strand.
- Radio 1’s use of independent producers has increased since 2011/12 and looks set to increase further now the network has a dedicated iPlayer service which is looking to source innovative content from a range of suppliers.

5.3.6. While further work is required to better understand these variations in performance, it may be preferable to focus on WoCC performance in future at a BBC Radio group level, rather than on a network by network basis.

5.3.7. The data does clearly show that Radio 2 makes a major contribution to meeting the quotas. Its proportion of commissioned hours in the WoCC has been almost three times as much as any other station in each of the last two years. The Executive state that this is because of the historically high use of independent companies by Radio 2 over and above the original 10% guarantee.

5.3.8. Our analysis of the type of genres the BBC outsources (Figure 12) shows that independent producers are gaining commissions across a range of programming including sports output, documentaries and drama. However, primarily because of the high use of independent producers by Radio 2, popular music clearly dominates. In 2013/14, such programming accounted for nearly 88% of the total hours won by independents. Much of this output is high volume, typically broadcast on overnight schedules but the Executive have highlighted that Radio 2 has also commissioned high value output from independent producers including documentaries and event programming.
In their consultation response, RIG contend that BBC Radio needs to do more to support the ambition of commissioning the best ideas regardless of source. Based on their own data, they estimate that, since the WoCC was introduced, there has been a sizeable increase in the amount of hours made available to independent producers but only a small increase in overall spend on the Networks. They state that a significant proportion of the hours that some Networks have made available in the WoCC are strands on the fringes of the schedule to which the BBC currently apportions the lowest budgets.

Our analysis of the data on the spread of independently produced commissions across the BBC Radio networks throughout the day indicates that, although the highest number of commissions are awarded in the traditionally lowest-cost late slot, the spread of commissions in other parts of the day is fairly even (Figure 13).

Note: This analysis excludes data for 5 Live Sports Extra. As the service is part time and entirely dependent on the sporting calendar, the levels of commissioning for the station can vary considerably year on year.
5.3.11. Analysis of audience perceptions of quality (as measured by AI scores) is limited by the small number of programmes from which a fair comparison can be made, but we have seen no evidence of a material difference in quality between in-house and independent production for like-for-like programmes. In their submission, RIG presented analysis to show the proportion of industry awards won by independent producers for their content.

Securing a suitable range and diversity

5.3.12. Our analysis shows that the networks’ commissions from the independent sector come from a good number and range of companies.

5.3.13. Figure 14 shows the number of different independent producers commissioned by network station. Radio 4, which has had a network-specific target to ensure 20% of eligible output, is available to the independent sector since 2007, commissions programming from a relatively large number and range of producers. The Executive state that this is due to Radio 4 being the network with the most pre-recorded ‘built’ programming which presents more opportunities for independent producers.

Figure 14: No of different independent radio producers gaining commissions by network station

<table>
<thead>
<tr>
<th></th>
<th>Radio 1</th>
<th>Radio 2</th>
<th>Radio 3</th>
<th>Radio 4</th>
<th>1Xtra</th>
<th>6 Music</th>
<th>4 Extra</th>
<th>Asian Network</th>
<th>5 live</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012/13</td>
<td>13</td>
<td>35</td>
<td>34</td>
<td>77</td>
<td>12</td>
<td>9</td>
<td>14</td>
<td>3</td>
<td>20</td>
</tr>
<tr>
<td>2013/14</td>
<td>19</td>
<td>24</td>
<td>32</td>
<td>79</td>
<td>10</td>
<td>7</td>
<td>19</td>
<td>3</td>
<td>23</td>
</tr>
</tbody>
</table>

5.3.14. The Executive have also commissioned a reasonable proportion of suppliers from outside London. In 2013/14, around 32% of network radio content was commissioned from independent producers based in the Nations and regions; the figure was 33% in 2012/13. Based on the results of their own survey of their members, RIG believe that BBC Radio commissioning is too London centric and argue for more opportunities to supply network content for independent companies based outside the M25.

Fairness and transparency in the commissioning processes

5.3.15. When the Trust last reviewed radio supply arrangements we concluded that the BBC’s relationship with the independent sector can be strained and we recommended changes in the BBC’s commissioning processes to improve communications and engagement with suppliers.

5.3.16. In the intervening period, the BBC Executive have taken a number of positive steps to improve its commissioning practices, which have been welcomed by the independent sector. These improvements include: appointing senior executives specifically to liaise and coordinate action with the sector; commencing online notifications about future plans and commissioning timetables; and introducing regular meetings with RIG, through which a number of issues related to the commission process have been resolved. The Executive and RIG have also
effectively renegotiated the Terms of Trade for radio. However, RIG assert that a level playing field in supply cannot be fully achieved while commissioning is overseen by the same staff responsible for in-house teams.

5.3.17. The introduction by the BBC of a new guide-price system for radio commissions (reducing the need for detailed budgets to be agreed) has also improved relations, but the independent sector continues to be concerned with a perceived lack of transparency in how costs are measured by in-house production. RIG stated that the BBC does not disclose the ‘true’ costs of in-house production including apportioned overheads.

5.3.18. The Executive contend that full financial transparency would be difficult due to commercial sensitivities. They also state it is difficult to apportion and present these central costs in a way that would make comparisons between in-house and independent production meaningful. For example, in addition to the production fee the BBC pays for independent productions, the BBC directly meets the music copyright costs for all recorded music and the vast majority of live performances, the station management costs associated with all independent programming, as well as talent costs in some programme areas.

5.3.19. However, in partnership with independent producers who chose to participate, the Executive have recently undertaken a benchmarking exercise to compare programme costs and resource inputs for a sample of similar programmes with the aim of identifying opportunities to increase productive efficiency.

5.4. The performance of supply arrangements for the production of online content and services

Compliance with quotas

5.4.1. BBC Online must commission 25% of its eligible online spend for content and services from independent suppliers. The BBC is consistently meeting this quota. Its qualifying spend in 2013/14 was £19.5 million; or 30.4% of the eligible base of £64.2 million. Since our last review in 2011, the value of the spend has remained near constant in real terms despite year on year changes to the eligible base in line with the BBC’s changing requirements for online content and services (Figure 15).
Securing a suitable range and diversity

5.4.2. Figure 16 presents an analysis of each of the BBC Online divisions’ contributions to the quota over the last four years. It shows that Future Media contributed the most to the quota in real terms and its spending, primarily on technology procurements, has increased in comparison to most other areas. Children’s and Radio & Music services, however, achieved the most in terms of actual external spend as a proportion of the eligible base for each division whereas the content-commissioning areas in Television including Knowledge and Learning contributed significantly less to the overall quota achievement in 2013/14 compared to 2010/11.

Figure 16: Performance in meeting external spend quota by BBC Online Division

<table>
<thead>
<tr>
<th>Division</th>
<th>2010/11</th>
<th>2011/12</th>
<th>2012/13</th>
<th>2013/14</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Spend £000</td>
<td>Spend £000</td>
<td>Spend £000</td>
<td>Spend £000</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Future Media</td>
<td>5,735</td>
<td>5,786</td>
<td>8,441</td>
<td>8,807</td>
</tr>
<tr>
<td>TV (incl Knowledge and Learning)</td>
<td>7,135</td>
<td>6,684</td>
<td>5,798</td>
<td>3,692</td>
</tr>
<tr>
<td>Children’s</td>
<td>1,988</td>
<td>1,955</td>
<td>2,259</td>
<td>2,974</td>
</tr>
<tr>
<td>Nations &amp; Regions</td>
<td>872</td>
<td>806</td>
<td>1,065</td>
<td>658</td>
</tr>
<tr>
<td>Radio &amp; Music</td>
<td>3,780</td>
<td>4,487</td>
<td>3,293</td>
<td>3,346</td>
</tr>
<tr>
<td>Total external spend</td>
<td>19,510</td>
<td>19,719</td>
<td>20,856</td>
<td>19,477</td>
</tr>
</tbody>
</table>

5.4.3. This trend in spending under the quota in recent years, towards technology and away from digital content, is in line with the BBC’s strategy to improve the quality of its online products by investing in the underlying infrastructure to support
these offers. In future years, the Executive expect spend on digital content to increase as the BBC look to deliver more content online (for example, iPlayer-only content).

5.4.4. Geographically, Figure 17 shows that the BBC’s online supplier base outside London continues to grow. In 2013/14 66% of their suppliers were based outside London rising from 44% in 2010/11. This increase coincides with the relocation to Salford of several BBC Online and Future Media functions including Children’s and Knowledge and Learning. The Executive told us that the majority of quota spend is now commissioned by BBC Divisions based out of London who look to build relationships with local suppliers.

Figure 17: Online suppliers outside Greater London

<table>
<thead>
<tr>
<th>Suppliers (%)</th>
<th>2010/11</th>
<th>2011/12</th>
<th>2012/13</th>
<th>2013/14</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suppliers (%)</td>
<td>44%</td>
<td>46%</td>
<td>52%</td>
<td>66%</td>
</tr>
<tr>
<td>No. of suppliers</td>
<td>104</td>
<td>98</td>
<td>131</td>
<td>170</td>
</tr>
<tr>
<td>No. of commissions</td>
<td>178</td>
<td>166</td>
<td>203</td>
<td>329</td>
</tr>
</tbody>
</table>

Note: this figure includes all suppliers who gain online commissions from the BBC over and above quota spend commissions

5.4.5. Our last review of online supply arrangements identified a number of steps that the Executive should make to improve its dealings with suppliers and to make the online commissioning process generally work better to help promote competition. These improvements included: giving a better explanation to stakeholders of how the online services quota is constructed; clearer communication of opportunities to the market; improving the way the approved suppliers list functions; and reporting outturn data routinely and on a consistent basis.

5.4.6. In responding to the last review, the Executive considered removing the eligible base for the online quota altogether, which some stakeholders had called for. However, in their wider consultation with industry following our review they found a lack of consensus on suitable alternatives. They also identified a risk that external work would drift towards back-end technologies at the expense of the production of audience-facing content. The Executive instead proposed changes to the way they construct and communicate what spend is eligible for the quota. These changes were based on the principle that all BBC Online spend on audience-facing content should be eligible, with the exception of News and Sport for editorial reasons.

5.4.7. In our follow-up assessment in early 2013, the Trust supported these changes and the revised quota definitions. The new eligible base has resulted in several benefits including increasing the amount of spend that is now considered eligible,
a greater focus on audience-facing services, and simpler definitions to aid transparency.\textsuperscript{36}

5.4.8. In terms of making the commissioning system work better, since the last review the Executive have introduced framework agreements with a number of key suppliers. These agreements have increased opportunities for competition as it has enabled the BBC to put larger online projects out to market. The Executive state that these will be regularly re-tendered to encourage bids from new suppliers. The Executive have also introduced the \textit{Connected Studios} programme, a series of structured opportunities, open to both in-house teams and external suppliers which are designed to develop ideas for innovative features and formats and foster creative competition.

5.4.9. In their response to our consultation, Pact contended that there is a lack of clarity about the composition of the 25\% external online quota in particular between what is spent by independent suppliers compared with in-house respectively on content and on online services. They contend that this make it difficult for stakeholders to comment on the effectiveness of arrangements. In response, the Executive told us this split is made clear in its annual outturn reports.\textsuperscript{37}

\textsuperscript{36}More detail on the action taken by the Executive in response to the last review can be found at www.bbc.co.uk/bbctrust/our_work/services/online/other/online_independent_supply.html

\textsuperscript{37}The BBC Executive’s annual reporting on performance against the online external spend quota can be found at www.bbc.co.uk/commissioning/online/articles/bbc-online-future-media
Annex 1: The supply arrangements for the production of the BBC’s television content, radio content and online content and services

Guiding principles

- **Principle one: Securing high-quality and creative content across all genres**

  The BBC must remain a creative, innovative organisation, at the heart of the UK’s creative industries. Both the Trust and the public expect the BBC to make the most distinctive high-quality output available on screen, on air and online.

  To meet these expectations the BBC needs to be organised in a way that allows it to pursue the best ideas, whatever their source. Its content supply arrangements should therefore be open to a wide range of sources, including the BBC’s own producers and independent producers, and promote creative competition between them. This should foster an environment where the best programme and content ideas are available to the BBC’s commissioners.

  The BBC’s ability to secure high-quality and creative content on behalf of the licence fee payer also needs to be considered in the context of changes within the supply market and to digital delivery.

  We would also expect that any proposed changes to arrangements should maintain the emphasis on the supply of high-quality ideas, across all genres, and with a strong focus on UK public service broadcasting values.

- **Principle two: Providing value for money to licence fee payers**

  As guardian of the licence fee, the Trust expects the BBC to strive to improve value for money through simpler, more efficient, and more open ways of working, including through the promotion of fair and transparent competition.

  Since the BBC spends a significant part of the licence fee on content, its supply arrangements for that content should act as important drivers in the delivery of value for money. Any proposed changes to supply arrangements should support an appropriate balance between delivering content of the high-quality, creativity and range that audiences expect of the BBC and keeping costs to licence fee payers down including through maximising competition and securing appropriate diversity in the supply base.

  The ability to exploit the BBC’s intellectual property (IP) and content rights beyond the public service window is crucial in delivering value for money in the long term. The current model allows the BBC to retain the full value of rights on content made in-house, and a proportion of the value of rights where content is commissioned from independent producers. Any new arrangements should ensure that both the BBC and other creators of the content receive a fair share of the commercial value of content commissioned by the BBC.
In fulfilling this principle, the BBC should also consider not just the price paid for content but other factors, such as opportunities to secure investment from others through co-production financing and generate revenue from sources other than the licence fee, including optimising the potential for commercial income.

- **Principle three: Using a wide range and diversity of supply with fair access across all genres and from across the UK**

To secure high-quality, creative output and value for money for audiences, the BBC needs to commission content from a wide range of producers, with a flow of new entrants bringing fresh ideas within a well-balanced and sustainable production ecology.

To reflect different social, cultural and geographic perspectives from across the UK the Trust expects range and diversity in the inputs as well as the outputs in the production of content across all genres.

Securing the supply of high-quality content means having content supply arrangements that can help to build strong and sustainable network production in Scotland, Wales, Northern Ireland and the English regions.

While the BBC’s supply arrangements should function in such a way as to support access to a wide range and diversity of supply, this needs to be balanced with licence fee payers’ interests in the overall quality of content and value for money.

- **Principle four: Securing a sustainable production supply in terms of skills and capacity**

The Trust recognises the BBC’s central role in training and the development of production skills, and its importance within the wider creative economy.

Under this principle any proposed changes to arrangements should ensure that, over the longer-term, the BBC continues to have access to the necessary capacity, skills and talent to create content from across the UK in a sustainable way and support a healthy production sector.

The BBC’s content supply arrangements must also be capable of delivering content that may require significant infrastructure investment (such as large-scale events and cross-media productions, which audiences now expect).

- **Principle five: Maintaining appropriate separation between publicly funded BBC activity and its commercial services**

The Trust has clear controls in place to ensure that the public service and commercial activities of the BBC operate separately and that no subsidy or unfair advantage is gained by the commercial arm of the BBC through its relationship with the public service part of the Corporation. We have clarified these controls further through the introduction of a new framework covering the BBC’s commercial services.

While the BBC’s in-house production is, at present, a public service activity funded by the licence fee, we are aware that the BBC Executive’s proposals may include plans for one or more new commercial entities. Any proposed changes to the way in-house production operates by putting its activities, in whole or in part, on a commercial footing will be subject to Trust approval and will need to comply with the Trust’s fair trading policy, with state aid requirements and with the Trust’s new commercial framework.
Any new commercial subsidiary of the BBC would also need to fit with the BBC’s public purpose activities, and not jeopardise the good reputation of the BBC or the value of the BBC brand.