

# BBC Window of Creative Competition

Report for the BBC Trust

July 2008



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# 1 Executive summary

## 1.1 Context and our role

The BBC is required to commission 25 percent of qualifying television output<sup>1</sup> from qualifying independent production companies under the terms of the 2003 Communications Act and the 1996 Agreement with the Department of Culture, Media and Sport (DCMS)<sup>2</sup>. The 2006 BBC Agreement (the Agreement) introduced an additional opportunity for independent television production companies to compete with in-house BBC production teams, called the Window of Creative Competition (WOCC). At the same time, the BBC introduced an in-house guarantee (IHG) of 50 percent of BBC commissions for BBC production; in effect, the IHG capped the level of independent production commissions from the BBC.

Ultimately, the WOCC must help the BBC to deliver the six Public Purposes set out in the Agreement. Of these, perhaps the most relevant to this study is the third Purpose “Stimulating creativity and cultural excellence by using the licence fee as venture capital for creativity”. The DCMS White Paper “A public service for all: the BBC in the digital age” stated that:

*“We believe that encouraging competition in television production through the introduction of a “window of creative competition”, combined with a strong and sustained BBC in-house capacity, is the best way of ensuring that the best programmes reach the screen.”<sup>3</sup>*

We were told by those within the BBC that the WOCC was introduced to the BBC in order to maximise the quality of on-screen programming by creating a meritocracy for ideas, and that it was intended to be “a public statement that the BBC is as open as possible to the best ideas whatever the source”.

Clause 57 of the Agreement specified that the BBC Trust (Trust) should review the operation of the WOCC at least every two years. The Trust engaged PricewaterhouseCoopers LLP (PwC) to provide analysis to support the Trust’s first review of the WOCC. We have taken the IHG as a given in our analysis as it is outside our terms of reference. A number of recent or ongoing reviews have examined the BBC’s commissioning process. These include the BBC’s Content Supply Review, Ofcom’s ongoing public service broadcasting review, and Deloitte’s review of BBC Independent Television Commissioning. As far as we are aware, no other review has examined the operation of the WOCC.

## 1.2 Conclusions

We draw three main conclusions from our study of the operation of the WOCC:

- 1 We conclude that the BBC has met the terms of the Agreement that apply to the WOCC in most respects, based upon our interpretation of the terms. The BBC has made positive steps towards encouraging competition between independent and in-house producers in selecting the best ideas. In most material respects the BBC appears to be making significant efforts to stimulate competition, showing a significant degree of openness towards independent producers.

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<sup>1</sup> In summary, acquisitions, repeats and news are excluded from the commissions against which the 25 percent is measured. For more detail see Section 3.1.

<sup>2</sup> An independent producer is one which is not an employee of a broadcaster nor has a significance ownership in, nor is significantly owned by a broadcaster. See Section 3.1 for more detail.

<sup>3</sup> Department for Culture, Media and Sport, “A public service for all: the BBC in the digital age”, March 2006.

- 2 The BBC has allowed independents to compete for a wide range and diversity of programmes across most of its output with a few notable exceptions; we have some concerns that the 'spirit of the WOCC' has not been fully taken on board in all areas of the BBC. We note, for example, that there is no WOCC in Sport (in the sense that there is no competition between independent and in-house producers for commissions).
- 3 The implementation of the WOCC could be communicated more clearly to producers (both in-house and independent). There appears to be a lack of clarity over the proportion and value of commissions available for competition in each genre. There also appears to be confusion about which commissions are considered to be part of the WOCC, and how this affects the commissioning process.

The statutory requirements of the WOCC apply only in aggregate, and the BBC is free to change the planned IHG and independent guarantees<sup>4</sup> applied to each genre. However we note that at some point in the future, the continued growth in independent production may be capped by the IHG set at the individual genre and sub-genre level. There is a risk that changes to the IHG at these levels may not be consistent with the principle of ideas being commissioned on merit, whatever the source.

More detailed findings and conclusions are presented below:

- Overall FY2007/08, 57 percent of BBC commissioned hours were produced in-house, 41 percent by qualifying independent producers, and 2 percent by non-qualifying independents<sup>5</sup> (NQIs) (see Figure 1). These percentages varied widely across the genres – 69 percent of Drama was commissioned in-house, compared to 44 percent of Comedy and 47 percent of Entertainment. Qualifying independent producers accounted for 29 percent of commissioned hours in Drama and 35 percent in Sport.
- Independent producers won a higher share of BBC commissioned hours in FY2007/08 than in any previous year.
- On average, in-house productions have attracted larger audiences than independent productions in FY2007/08. This seems to arise from a lower share of independent commissions on BBC1 than BBC2, and the position of in-house production in sub-genres which attract high audiences.
- Across all genres, 37 percent of Network hours were commissioned from outside of London. The largest shares of commissions from outside London were in Drama and Knowledge (48 percent and 43 percent respectively), the lowest was in Entertainment (21 percent).
- The share of commissioned hours won by independent producers was lower for non-Network commissions in the Nations than it was for Network commissions. In each of the Nations, the share of commissions to qualifying independents exceeded the BBC's 25 percent internal target for each Nation. Overall, non-Network commissions in the English Regions also exceeded the 25 percent target, although in a large number of individual English Regions the independent share did not reach 25 percent. Independent producers accounted for a much

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<sup>4</sup> We refer to the overall statutory target as the independent quota, but the planned minimum independent commissions in each genre or sub-genre as the 'independent guarantee' for that genre.

<sup>5</sup> Commissions from certain independent production companies can count as part of the independent quota. Others, in particular those from a production company linked with a broadcaster, do not. See Section 3.1 for further explanation.

lower share of costs (15 percent) than of commissioned hours (29 percent) in the English Regions.

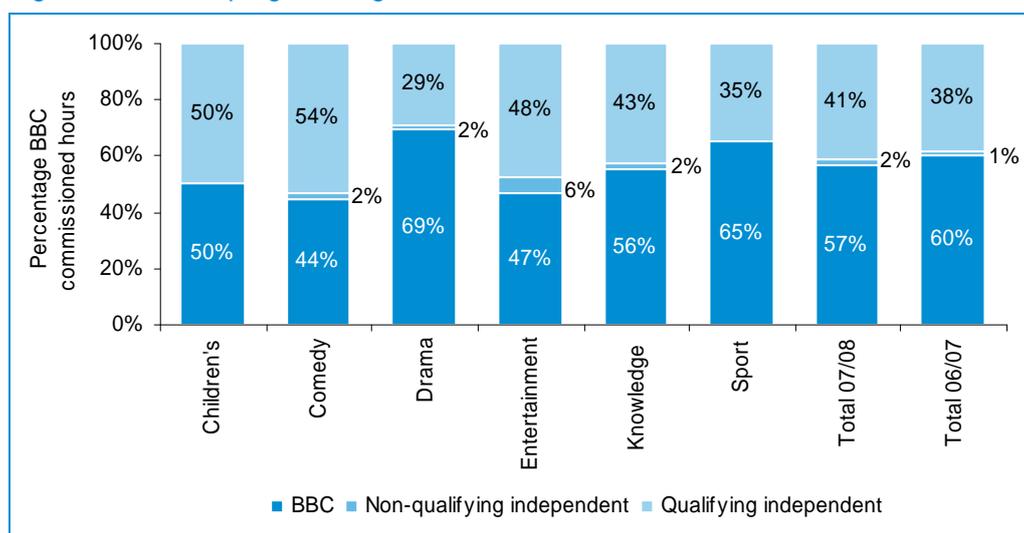
- In most genres commissioners select ideas from proposals submitted to them, whether from in-house or independent producers. These commissions fill up the IHG and the independent quota. Once these are full, subsequent commissions fall notionally into the WOCC; however, there is no difference in the commissioning process in the WOCC. As such, the WOCC is defined only by the level of the IHG and the independent production quota applied by the BBC.
- For most genres the commissioning processes and structures in place provide in-house and independent producers with a genuine opportunity to bid for the right to make the programme on a fair and transparent basis; proposals are evaluated on a fair basis. Commissioners have clear incentives to pick the best ideas, no matter where they came from and seem motivated to do so. In general we detected no bias towards accepting ideas from in-house producers over ideas from independent producers (whether qualifying or non-qualifying). Commissioners told us that the value of secondary rights was not a factor in their decision-making. It was not within our scope to assess whether this was the case for specific commissioning decisions.
- The introduction of the WOCC should be seen more as an evolution of the BBC's policy towards independent producers rather than a revolution in commissioning spending or structures. The share of in-house commissions was falling prior to the introduction of the WOCC, indeed this trend may have been expected to continue without the WOCC. We were told that several genres had, in effect, operated a WOCC for some time prior to its introduction.
- In-house producers and larger independents seem to secure better access to senior commissioners than smaller independents. We felt that it would be difficult to avoid some degree of inequality in this respect. This is because key suppliers will communicate on an ongoing basis with commissioners about existing projects, and have established relationships with commissioners.
- There are significant differences in the commissioning process across genres:
  - In the Children's genre, ideas are compared directly against one another in formal commissioning rounds. We recognise that translating this model to other genres might not be possible where there large volumes of ideas are submitted and the nature of the creative process differs.
  - The new process in BBC Knowledge will mean that ideas in the WOCC will be identified, and subject to a different process than other ideas. This structure has been devised in order to deal with the volume of ideas submitted in Knowledge, but it is too early to judge its success (the new structure was put in place in December 2007).
  - Even though Sport is defined qualifying programming for the purposes of the Agreement, the WOCC has not been introduced in Sport, in the sense that there are no commissions for which either an independent or an in-house producer might be chosen. We were told by the Sport department that the BBC Content Supply Review had endorsed Sport's position on the WOCC, and that this position was acknowledged at the time that the independent targets were signed off.

We recognise that there are differences in the nature of commissioning in Sport and other genres. In particular, Sport programming requires the acquisition of rights as opposed to the submission of programme ideas. The role of acquisitions may seem to facilitate more use of tenders to allow direct competition in production. Tenders have been used to choose between independent producers for sports events which the BBC has decided not to produce in-house; they have not been used to allow independent producers to compete with in-house production teams. We were told by the BBC that certain sports had to be produced in-house in order to protect the BBC's brand and reputation.

- The BBC goes to some effort to keep its supplier base informed about development opportunities, in most genres carrying out regular briefings and publishing information online. Commissioners also maintain regular contact with key suppliers. (This communication relates to the communication of opportunities and discussion of ideas, rather than communication of how the introduction of the WOCC has affected the commissioning process or the volume of commissions available.)

Figure 1 presents the outcome of the BBC's commissioning process for FY2007/08. The final column illustrates the outcome for FY2006/07, showing that hours commissioned from independent producers increased by three percentage points year on year. The independent guarantee for each genre and the overall independent quota are shown by a black dashed line. The difference between the black dashed and the red lines represents the notional WOCC at the genre level. This varied from [X] in Sport to [X] percent in Comedy in FY2007/08.

Figure 1: Network programming hours delivered FY2007/08



Source: BBC, PwC analysis.

Prior to the introduction of the WOCC and the IHG, independent producers were assured a minimum 25 percent of qualifying programmes, and could compete up to a theoretical maximum of 100 percent of the hours within a genre. In contrast, in-house producers were subject to a minimum of zero hours and a maximum of 75 percent of hours.

The introduction of the WOCC and the IHG has increased the minimum quota for in-house production to 50 percent and therefore reduced the theoretical maximum for independent producers to 50 percent. Taken at face value, therefore, the introduction of the WOCC and the associated IHG would appear to have reduced the potential opportunities for independent producers. We appreciate that the theoretical minima and maxima ignore the practicalities and the growth of independent production over time prior to the introduction of the WOCC.

### 1.3 Recommendations

Based on the findings set out above, we propose the following recommendations:

#### 1 **Ensure equality of information regarding implementation of the IHG and the independent quota**

As described above, we were told by commissioners that their incentive was always to commission the best ideas, regardless of where they have come from. We have no reason to suppose that this is not the case. However, rightly or wrongly, the nature of the process will inevitably lead external parties to question whether decisions have been made based on merit. The information on the level of the 'independent guarantee' and IHG for each genre condition the potential business available to independent producers. At present, independent producers lack this information. We consider that an increased level of transparency in this area is important to ensure there is fair and open competition in the operation of WOCC. There should be the same level of transparency about how competition for non-Network Nations and Regions commissions will be implemented.

One possible approach would be for the BBC to publish the levels of the IHG and the independent quota at the sub-genre, channel and, where relevant, strand level, in as much detail as they are communicated within the BBC. In deciding how to respond to this recommendation, if adopted by the BBC Trust, we recognise that the BBC will need to balance the need for openness and transparency against the need to protect information that may be commercially sensitive.

We also believe that the Trust should be provided with the information to monitor changes in the IHG at genre and sub-genre level to ensure that such changes are consistent with obtaining "the best ideas whatever the source". We note that the targets set at the sub-genre level are not binding requirements, and we would not suggest that they become so (in fact we would counsel against the imposition of any further targets or requirements given the significant complexity of regulations that exist at present). Nor do we question the level at which the IHG and independent guarantees have been set in any genre.

#### 2 **Use tendering in circumstances when the commissioners originate the 'idea'**

In some genres, commissioners come up with the idea and format for programmes. In such cases it may be appropriate for the BBC to explore the idea of using tenders more often than at present. Where appropriate, key talent (for example writers) could be involved in the tender decision to ensure they are comfortable with the production team selected.

We recognise that the nature of the commissioning process in general does not lend itself to the use of tenders. In general, this is because ideas for programmes are typically tied to the particular producers who come forward with them.

In Sport, the process is different, and tenders can be carried out once rights have been bought. At present, tendering is used in Sport, but only to decide which independent producer might produce certain coverage, and not to decide between in-house and independent producers. We were told that individual commissioning decisions are based upon a concern to uphold the brand and reputation of the BBC and to meet the requirements of the sports rights holders. We see no specific reason why independent producers would not be able to produce high quality, reliable sports coverage to match that of in-house productions in the long run. We would expect that independent capacity to produce Sports events would develop over time as independents won more opportunities to compete for production opportunities. It may be the case that independent capacity is currently limited, making it unlikely that independent production companies would win tenders for complex sports coverage.

We consider that the tender would include an assessment of quality, which would ensure that the incentives of the BBC, independent production team and the rights holders are aligned.

### **3 Deploy best practice commissioning across genres**

We believe that there may be features of the structure or process in some genres which could be translated into other genres. For example, other genres could consider whether it would be appropriate to create a role for a specific commissioning executive who encourages output from outside of London, as used in Comedy.

The use of commissioning rounds creates a clearer sense of direct competition between in-house and independent producers. We recognise that it might not be appropriate or possible to implement them in genres where they are not already used and we do not recommend doing so in any specific genre.

In most genres regular briefings are already held to keep in-house and independent suppliers up-to-date on the latest opportunities. This approach should be adopted across all genres.

We recognise that differences between the commissioning processes and structures in different genres are driven largely by differences in the nature of commissioning for different genres (for example the volume of ideas submitted to different genres).

### **4 Simplify the complaints process**

Responsibility for handling formal complaints from independent production companies lies with the Independents Executive, who reports to the Managing Editor, Commissioning, who is responsible for the commissioning process in BBC Vision. Levels 1 to 3 of the complaint involve members of BBC commissioning and hence there is no formal separation between the complaints handler and the individuals responsible for commissioning. Level 4 of the complaints process involves an independent team from BBC Fair Trading, which is outside of BBC Vision.

We recommend that this process be simplified, to include fewer levels. This would mean that fewer steps would be involved before a complaint was heard by an independent party in an area that was formally separate from BBC Vision commissioning.

We also suggest that the same complaints channel be open to in-house producers as is open to independent producers.

## **5 Log informal complaints**

In each genre there should be some mechanism for logging informal complaints from producers, as far as they relate to the commissioning process itself.

## **6 Limit additional constraints on commissioning**

We consider that the Trust should take into account the number of constraints applying to the commissioning process before implementing any further requirements. The current number of internal and externally imposed targets and requirements may be detrimental to commissioners' ability to choose between ideas on the basis of merit. These constraints have grown over time from different sources, including legislation and BBC internal policy, for example the Tier 2 Quotas and the targets for Network commissions from the Nations and Regions. Any opportunities that arise to rationalise existing quotas and targets should be taken.

In some areas commissioning is 'lumpy' – large blocks of programming are commissioned at once – in this context it would be appropriate for guarantees to be considered over a longer time-scale, for example over two years.

## **7 Ensure equality of usage of e-Commissioning between in-house and independent producers**

In-house producers, independent producers with an established relationship with the BBC, and other independent producers should submit ideas to the e-Commissioning system at the same stage in the commissioning process. This will facilitate comparative tracking of ideas.

## **8 Communicate the use of e-Commissioning more clearly**

In our view the e-Commissioning could be more fairly represented on the BBC's commissioning web pages. This system is largely used as a tool for logging and tracking ideas, rather than as it is presented, as a mechanism for filtering ideas. We recognise that suppliers familiar with the BBC already understand the way in which this system would be used, but we suggest that it would be helpful to those with less experience for the purpose of the system to be more clearly set out.

Variations in the usage of the system between genres should also be explained more clearly.

## **9 Functionality of e-Commissioning**

The BBC might wish to give further consideration to how variation in the e-Commissioning system might be possible in order to better meet the needs of high volume areas such as Knowledge, where some ideas may be rejected purely on the basis of the information provided in an e-Commissioning submission. We recognise that technical system constraints limit the ability of the e-Commissioning system to provide scope for extensive creativity in submissions, but that it is possible to submit supporting material by email.

## **10 Ensure more equal access to audience information**

We recognise that the BBC may need to protect some of the information in the Audiences Online database from use by competitors and may also face contractual limitations in sharing with data it has purchased with independent producers. Limitations in the BBC firewall also limit potential access. However, this leads to a

degree of inequality between in-house producers, who have full access to the system, and independent producers, who do not have direct access but are reliant upon commissioners to provide them with information. We believe this is an area that the Trust and the BBC should explore in an effort to achieve equality in this respect for all potential producers.

#### **11 Develop common procedure for submission of similar ideas**

We were told by some commissioners that a common area of complaints related to when similar ideas were submitted. This suggests that the BBC should give some thought to adopting a common (and public) procedure for dealing with such situations where they arise in a comparable time-frame.

## 2 Introduction

### 2.1 Context

The WOCC was implemented to provide a window within which independent television producers and BBC in-house production teams could compete on equal terms for commissions. This formed part of the BBC's Agreement. The Agreement also specified that the operation of the WOCC be reviewed at least every two years.

The BBC Trust's Workplan for 2007/08 set out that:

*"For a number of years 25 percent of the BBC's production has been reserved for independent production. The BBC changed the way it deals with the independent production sector in 2006, opening up an additional 25 percent of its network production to competition between the independent sector and in-house commissioning with the aim of driving competition for creative ideas and better programming for the public. Under the terms of the new Charter, the Trust is required to conduct a review of the operation of the WOCC every two years. The Trust will commission its first review later this year following discussion with the independent producers' trade body, Pact, about the scope and conduct of the review."*

This report is an input into the BBC Trust's first review of the WOCC.

Specifically, the Agreement requires that the Trust must investigate thoroughly the BBC's compliance with clauses 54 – 56 and consider whether any aspect of the BBC's arrangements for complying with them ought to be modified. Amongst other things, the Trust is required to look at:

- 1 Whether an appropriately wide range and diversity of programmes have been made through the WOCC; and
- 2 Whether the geographical location and size of external producers who made bids to make programmes through the WOCC suggests that the process of competition has been fair and transparent.

The BBC is an important player in the market for original content. This market is currently going through a period of transition. The commissioning budgets of commercial broadcasters are falling due to declining advertising revenue. In some areas commissioning opportunities have decline more than elsewhere. In particular, outside of the BBC, restrictions on advertising have meant that funding for children's commissions has declined significantly.<sup>6</sup>

#### 2.1.1 Other reviews

A number of other reviews have also recently reviewed the BBC's commissioning processes:

- **Deloitte Review of BBC Independent Television Commissioning:** In September 2006, the BBC Board of Governors published a report on value for money in the BBC television commissioning conducted by Deloitte. This review focussed on whether the BBC was achieving the best possible value for licence fee payers, and whether the independent commissioning process made the best possible contribution to the organisation's effectiveness. This was review was carried out before the WOCC was implemented at the BBC.

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<sup>6</sup> Broadcast Indies 2007 – The annual survey of the UK's independent TV producers.

- **Ofcom TV Production Sector Review:** This review was concluded in October 2006, and covered aspects of the television production sector, including programme-making activity both within the main broadcasters (in-house production) and externally. Ofcom’s focus was on the key production quotas, the operation of the commissioning system between producers and broadcasters, and the Codes of Practice. Again, this review was conducted before the implementation of the WOCC.
- **BBC Content Supply Review:** The Content Supply Review was carried out by the BBC Executive in order to set out the BBC’s future strategy for content supply. The main recommendation of the review, completed in 2004, was the implementation of the IHG and the WOCC.

None of the reviews outlined above focused on how the commissioning process at the BBC allows for competition between the BBC’s supply bases, and most pre-date the full implementation of the WOCC. While the Deloitte report focused on value for money for the BBC and for the licence payer, this review will focus on whether the WOCC has created competition between in-house and independent producers, and the results of the commissioning process. This review will feed into Ofcom’s ongoing public service broadcasting review (launched on 10 April 2008).

## 2.2 Objectives and scope

This report is intended to feed into and support the Review carried out by the Trust. The Trust will prepare a further report which will draw on this report, along with evidence provided by Larkhill Consultancy and submissions from the BBC Executive and Pact.

In particular, this report answers the following questions set by the Trust:

Area of review	Questions
Impact on commissioning process	How has the BBC implemented the requirements of clauses 54-56 of the Agreement and what effect has the implementation had on the BBC’s commissioning arrangements?  What evidence is there that the process of competition has been fair and transparent?
Effects on outputs	What are the early outcomes (i.e. from the inception of the WOCC to date) in terms of the volume and range of programmes made by independent and in-house producers?  Have the arrangements led to a reasonable spread of commissioning between in-house and independent sectors, across genres and in terms of geographic location of producers?
Complaints	How are complaints handled by the BBC?  How effective have the complaint handling arrangements proved to be, and what lessons have been learned from complaints made?
Communication	The extent to which a common understanding exists both within and outside the BBC about how the WOCC and the independent quota are measured in aggregate and by genre.  How opportunities are communicated to producers and whether this creates a level playing field.
Options and recommendations	Are there ways in which the BBC’s operation of the WOCC, the IHG or creation of competitive opportunities for the production of non-network programmes should change, either to deliver better quality or value for licence fee payers or to stimulate more creative competition?

## 2.3 Our role and approach

### 2.3.1 PwC role and relationship with Larkhill Consultancy

PwC's role is to provide an independent and objective review of the processes and outputs which have resulted from the implementation of the WOCC at the BBC.

During the process of this review PwC has worked alongside Larkhill Consultancy. PwC and Larkhill Consultancy conducted many of their interviews together. PwC was responsible for research and analysis in respect of the commissioning process and outcomes, whilst Larkhill Consultancy led on the response of producers to the WOCC.

### 2.3.2 Approach

We gathered the evidence presented in this report from four main sources:

- 1 **Interviews:** PwC carried out 28 interviews with BBC staff. Interviewees included staff from Vision Commissioning, genre commissioners, heads of genre management and business affairs, and staff from the Nations & Regions teams.
- 2 **Data:** We have relied extensively on data from the BBC's Programme Database (PRDB) system. This comprised detailed information for all transmissions commissioned by the BBC and delivered in FY2007/08. Detail on transmissions included duration, cost, channel and genre. We also received similar, but less detailed information relating to non-Network Nations & Regions programming, as required for the analysis carried out.
- 3 **Supplementary data and information from genre teams, and Vision Commissioning:** This included commissioning process overviews and organisation diagrams for specific genres, information on the timing of commissions, and responses to other ad-hoc requests.
- 4 **Publicly available information on the BBC's commissioning processes:** This included information provided on the BBC's commissioning website and publicly available reports.

For more detail on interviews conducted see Appendix I.

Larkhill Consultancy was also present at most of the interviews conducted. PwC produced meeting notes for each of the meetings. These notes were then put back to the participants for amendments and additions. Where evidence from the meetings has been used in this report, extracts have been put back to the relevant people to ensure that they have been accurately quoted. The interviews were used to gather information about the commissioning process in general at the BBC, and how the WOCC has been implemented in practice by different genre teams.

The data from the BBC's PRDB system was used to undertake the analysis presented in Section 6. The data was supplemented with additional fields supplied by the Business Information team, some of which were collated manually. We maintained communication with the BBC during the analysis of the data, in order to ensure that the data was used and interpreted appropriately. Data received for Nations and Regions non-Network programming is presented in Section 7.

Other information was provided on an ad-hoc basis by the BBC, and we used this to feed into other sections of the report. For example we were supplied with information

relating to the number of formal complaints received by the BBC, which is incorporated in Section 9 below.

We are grateful to all of those who participated or assisted in arranging the interviews we conducted and to the Business Information team for providing us with large volumes of data with which we conducted our analysis. We would like to thank all those within the BBC who participated in this review for their full cooperation and the very helpful way in which they dealt with our questions and requests.

In assessing the implementation of the WOCC we have tried, wherever possible, to lay out clearly what our expectations of a fair and transparent WOCC would be. We compare the actual processes with those expectations. However we do not consider that it would be appropriate set specific benchmarks against which to judge the outcomes of the WOCC. Although we would be surprised if the introduction of the WOCC did not coincide with an increase in commissions from independent producers, we recognise that by its nature, the WOCC is intended to create a competition in which the best ideas will be commissioned, and not to achieve some specific outcome.

## 2.4 Structure of the report

The remainder of the report is structured as follows:

- Section 3 (The commissioning process at the BBC) describes the commissioning process at the BBC. This includes an overview of the targets and quotas to which the BBC is subject, as well as providing some background on the IHG and the independent quota. This provides context for later sections which look specifically at the functioning of the WOCC.
- Section 4 (The WOCC) describes the processes by which the WOCC has been put into operation within the BBC, including how producers compete for commissions in each genre.
- Section 5 (Communication) outlines how the workings of the WOCC have been communicated to producers. It also describes the nature of ongoing communications with producers about opportunities for commissions.
- Section 6 (Effects of the WOCC on outputs) analyses the outcomes of the WOCC in terms of Network outputs.
- Section 7 (Nations and Regions) looks at the outcomes of the commissioning process in the Nations and Regions for non-Network programming.
- Section 8 (Data) briefly describes the systems and processes in place within the BBC to gather data on the WOCC.
- Section 9 (Complaints) describes the complaints processes put in place for producers competing in the WOCC.

## 3 The commissioning process at the BBC

This section describes the commissioning process at the BBC and includes an overview of the targets and quotas to which the BBC is subject, as well as providing some background on the IHG and the independent quota. This section provides context for later sections which look specifically at the functioning of the WOCC.

### 3.1 The operation of the WOCC in the commissioning process

As its name suggests, the WOCC is a 'window' in between the independent quota and the IHG. Across the BBC's commissioned output, there is a commitment to deliver 50 percent of hours from in-house producers (the IHG), and 25 percent from independent producers (the independent quota). The remaining 25 percent of hours commissioned constitutes the WOCC (although, as will be discussed later in the report, in practice the WOCC is not distinct from other commissioning).

#### The IHG

The introduction of the IHG of 50 percent across the BBC meant that for the first time in-house producers were guaranteed a particular share of production (although in practice their overall share of production had never fallen below that level in the past). The level of the IHG was based on an internal analysis carried out as part of the BBC's Content Supply Review in 2004/05. The BBC considered production in each sub-genre<sup>7</sup> to assess: a) to what extent in-house production was uniquely capable of delivering certain aspects of the BBC's remit; b) to what extent it was necessary to commission from in-house producers in order to manage costs; and c) to what extent it was necessary to commission in-house in order to protect future supply from in-house production. This analysis is known as the 'Tipping Point Analysis'.

The analysis set out a range of specific criteria such as the BBC's unique ability to deliver endangered forms of output, its unique production capabilities, BBC provision of training where it would not otherwise be provided, need to commission from the BBC to control long-term programme cost inflation, strategic value of rights held, and the BBC's ability to deliver regional diversity. The analysis also took into account the strength of market supply in each area, and the BBC's editorial strategy in each area.

In 2004/05 the BBC's position was that if in-house production fell below 50 percent across all genres:

- Production units in certain regions and/or genre would become unviable.
- BBC in-house production could not deliver the benefits that it currently does (to audiences and to the wider industry).
- The BBC could not deliver its overall remit.

Specific levels were set out for each individual sub-genre, ranging from [30] percent in long-running drama to [50] percent in daytime factual.

Consideration of the approach adopted in the Tipping Point Analysis and the level of the IHG set within each genre is outside of our terms of reference, however it has clear implications for the volume of commissions for which independent producers compete in each genre/sub-genre.

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<sup>7</sup> BBC commissioning is broadly divided in several genres – Drama, Comedy, Knowledge, Entertainment, Children's and Sport. Each of these can be further broken down into sub-genres, for example 'factual entertainment' or 'daytime drama'.

## The Independent Quota

Schedule 12 of the Communications Act 2003 states that:

*“It shall be the duty of the BBC to secure that, in each year, not less than 25 per cent of the total amount of time allocated to the broadcasting of qualifying programmes included in the television broadcasting services provided by the BBC is allocated to the broadcasting of a range and diversity of independent productions.”<sup>8</sup>*

In order to qualify for this quota, a production company cannot:

- a Be an employee of a broadcaster;
- b Have a shareholding greater than 25 percent in a broadcaster (unless the producer is based in the EEA and the broadcaster in which it has a shareholding is outside the EEA);
- c Be the subject of a shareholding by a single UK broadcaster of more than 25 percent or by several UK broadcasters of more than 50 percent; or
- d Be required by the contract to use the production facilities of the broadcaster or not to use the production facilities of some other broadcaster.

Programmes which qualify for the independent quota (and the WOCC) are laid out in full in the Broadcasting (Independent Production) Orders 1991, amended in 1995 and 2003.<sup>9</sup> These set out that in order to qualify a programme must have been produced or commissioned by a relevant broadcaster, must not be a repeat of a programme previously shown on television, and must not consist wholly or mainly of news. In particular qualifying programmes include those which:

*“...has been made either by the relevant broadcaster or by a person commissioned by him...*

*...has been made by the relevant broadcaster together with any other person or by a person commissioned by the relevant broadcaster together with any other person, provided that not less than 25 per cent of the actual cost of the production of the programme has been borne or provided by the relevant broadcaster...*

*...has been provided by a person other than the relevant broadcaster or a person commissioned by him where:*

- i The images or images and sounds so provided consist of live coverage of an event;*
- ii They do not exceed 75 per cent of the duration of the programme, and*
- iii The remainder of the programme (including any sound commentary added to those images or images and sounds) has been made by the relevant broadcaster or a person commissioned by him.”*

Some Sports programming is therefore excluded from qualifying programming (where live feed from another broadcaster makes up more than 75 percent of the duration of a programme). Live feed is often provided by a host broadcaster in the case of major sports events held in another country. However we were told that in practice even for such events, analysis around the live feed usually exceeds 25 percent of the duration. This means that it is very rare for a Sports programme not to constitute ‘qualifying

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<sup>8</sup> Communications Act 2003, [http://www.opsi.gov.uk/acts/acts2003/ukpga\\_20030021\\_en\\_50#sch12](http://www.opsi.gov.uk/acts/acts2003/ukpga_20030021_en_50#sch12),

<sup>9</sup> [http://www.opsi.gov.uk/si/si1991/Uksi\\_19911408\\_en\\_1.htm](http://www.opsi.gov.uk/si/si1991/Uksi_19911408_en_1.htm), <http://www.opsi.gov.uk/si/si2003/20031672.htm>, <http://www.opsi.gov.uk/si/si2003/20031672.htm>

programming'. For example in FY2007/08 there were approximately 16 hours of non-qualifying Sports programming (compared to 1369 hours of qualifying Sport). In 2006/07 there were approximately 85 hours of non-qualifying Sports programming (compared to 1386 hours of qualifying Sport).

A programme is excluded from 'qualifying programming' if it:

*"...falls within any of the following descriptions, namely:*

- a A programme which has previously been shown in substantially the same form on the relevant television broadcasting service;*
- b A programme which consists, wholly or mainly, of news;*
- c A programme constituting part of a series of programmes which:
  - i Consist, wholly or mainly, of news or items relevant to news,*
  - ii Are presented live, and*
  - iii Are usually shown on at least four days in each of the weeks when they are shown;**
- d A programme provided by or on behalf of the Open University or Open College; and*
- e A broadcast on behalf of a political party or any statement by a Minister of the Crown within the meaning of the Ministers of the Crown Act 1975."*

Ofcom is responsible for monitoring the BBC's compliance with this quota on annual basis (per calendar year).

As part of its annual planning process, the BBC identifies a percentage independent guarantee in each sub-genre. In FY2007/08 this percentage ranged from [ $\times$ ] percent in 'events' (for example coverage of the Chelsea Flower Show) to [ $\times$ ] percent in daytime factual.

## The WOCC

The WOCC accounts for the remaining share of hours in any genre. Table 1 sets out the independent quota, the target IHG and the planned in-house commissions for each sub-genre as per the planning model FY2007/08. It also shows the amount of commissions remaining as 'the WOCC' in each sub-genre.

Table 1: IHG, independent guarantee and WOCC by sub-genre

Genre	Sub-genre	IHG %	In-house planned %	Independent planned %	WOCC %
Drama	Long running drama	[<]	[<]	[<]	[<]
	Drama other	[<]	[<]	[<]	[<]
Entertainment	Entertainment	[<]	[<]	[<]	[<]
Comedy	Comedy	[<]	[<]	[<]	[<]
Knowledge	Specialist factual	[<]	[<]	[<]	[<]
	Religion	[<]	[<]	[<]	[<]
	Arts	[<]	[<]	[<]	[<]
	Performance music	[<]	[<]	[<]	[<]
	Events	[<]	[<]	[<]	[<]
	Documentaries	[<]	[<]	[<]	[<]
	Contemporary factual	[<]	[<]	[<]	[<]
	Daytime factual	[<]	[<]	[<]	[<]
	Current affairs	[<]	[<]	[<]	[<]
	Sport	Sport	[<]	[<]	[<]
Children's	Children's	[<] <sup>10</sup>	[<]	[<]	[<]
<b>Overall</b>		<b>50%</b>	<b>49.8%</b>	<b>25.5%</b>	<b>24.7%</b>

In most genres it is not possible to identify specifically which programmes have been commissioned through the WOCC. This is because in most cases the same process applies for all programmes.

Commissioners commission programmes on the basis of the quality of the ideas submitted; these programmes count towards the IHG and the independent quota as long as there is sufficient room within those guarantees (subject to the characteristics of the programme being suitable). Any programme which is commissioned from an in-house production team once the IHG has been filled, or an independent producer once the independent guarantee has been filled can be considered to have been commissioned in the WOCC. However, in practice, it would not necessarily be recorded in PRDB as such. Any programme commissioned from an independent producer who did not qualify for the independent quota (a non-qualifying independent – NQI) would always be commissioned as part of the WOCC.

<sup>10</sup> [<]

We were told that tenders very rarely take place. This is because it is rare for a situation to occur where the commissioning arm of the BBC has a specific need which could be met by a range of suppliers. Usually suppliers approach the BBC with their own ideas. Those few examples of tender which we identified involved putting a long-running programme format out to tender, and sometimes but not always involved head-to-head competition between in-house and independent producers. In some cases we were told that a programming idea can be formulated into a specific tender document.

The WOCC is that proportion of commissioned hours which is available to all producers. Ideas chosen producers that fill the WOCC are chosen on the same basis as those for the IHG or the independent quota. In most genres it is wrong to think of the WOCC as a direct competition of ideas for commissioning.

### 3.2 Targets and quotas

The BBC is subject to a range of internal and externally imposed targets, as set out in Table 2.

Table 2: Overview of BBC production quotas and targets 2007/08

Quota / target	Details
IHG	Fifty percent of hours commissioned overall by the BBC to be reserved for in-house producers. Explained in more detail above.
Independent quota	Twenty-five percent of broadcasting on the BBC to be allocated to independent productions. Explained in more detail above.
Tier 2 quotas	<p>These quotas relate to the levels of: news and current affairs; levels of original production; the level of regional production and levels of regional programming. These quotas are agreed with Ofcom each year. Tier 2 quotas which constrain the choice of supplier for programme commissions are:</p> <ul style="list-style-type: none"> <li>• A specified level of News programming must be shown on BBC1, and a specified level of News and Current Affairs programming must be shown on BBC1 and BBC2 (the levels are set each year by the Trust, in consultation with the BBC Executive Board and Ofcom). News programming must be broadcast at intervals throughout BBC1 services, and News and Current Affairs programming must be split in what the Trust considers to be ‘an appropriate manner’ between peak and other viewing times (Clause 47 of the Agreement).</li> <li>• A suitable proportion of Network programming must be made in the United Kingdom outside the M25. This must reflect a suitable range of programming, a suitable share of expenditure, and a suitable range of production centres. A suitable level must be “a significant proportion of the programmes or expenditure in question” (Clause 51 of the Agreement).</li> <li>• A suitable amount of time must be given over to programmes of regional interest (as set by the Trust). This includes regional news on BBC1. A number of criteria for this programming are set out, including that the amount of regional programming should not fall below the levels in 2002 (Clause 50 of the Agreement).</li> </ul>
Non-network creative opportunities	The Trust has to ensure that “suitable arrangements are in place to provide appropriate opportunities for competition between in-house and external producers for the provision of programmes which are not intended to be “network programmes”” (Clause 54 of the Agreement).

Quota / target	Details
Internal minimum targets for Network programmes from the English regions	The BBC has set itself internal minimum targets for network programmes from the regions of England (i.e. including production in Bristol, Birmingham and Manchester) and from the Nations (i.e. production in Scotland, Wales and Northern Ireland). These commitments can be met by in-house or independent programmes. <sup>11</sup>
Audiovisual Media Services Directive	<p>The Communications Act 2003 and the European Union Council Directive set requirements regarding the level of European programming:</p> <ol style="list-style-type: none"> <li>Where practical the majority of programmes shown must be European (including UK productions).</li> <li>At least 10 percent must be independent European works.</li> <li>At least 50 percent of the independent productions must be “recent” (made within the last five years).</li> </ol> <p>These quotas apply to the BBC’s Network services as a whole, and not to individual channels (89/552/EEC (Articles 4 and 5) amended by Directive 2007/65/EC).</p>
Service Licences/BBC Statements of Programme Policy	<p>These set out in broad terms the BBC’s plans for its UK public services for the year ahead to ensure they contribute to fulfilling its public service remit. The statements are submitted to the Trust for approval. They set out conditions on the type of content to be transmitted on particular channels for example:</p> <ul style="list-style-type: none"> <li>• Music and Arts: BBC1 45 hrs; BBC2 200 hrs; BBC3 50 hrs</li> <li>• Current Affairs: BBC1 146.5 hrs; BBC2 240 hrs; BBC3 15 hrs</li> <li>• Religion: BBC 180hrs; BBC220hrs; BBC1 &amp; 2 112hrs</li> <li>• Factual: BBC1 650hrs, BBC2500hrs</li> <li>• Knowledge building programmes: BBC3 50hrs</li> <li>• Current Affairs, News, Education, M&amp;A: BBC3 15 percent total transmission hours</li> <li>• World Documentaries: BBC4 30 new programmes</li> </ul> <p>The Statements of Programme Policy also specify in some cases whether programming should be commissions, acquisitions or repeats.</p>

Table 2 illustrates the range and complexity of constraints on BBC commissioning. We explore how these constraints manifest themselves in later sections of this report, and consider the extent to which they influence competition in the WOCC.

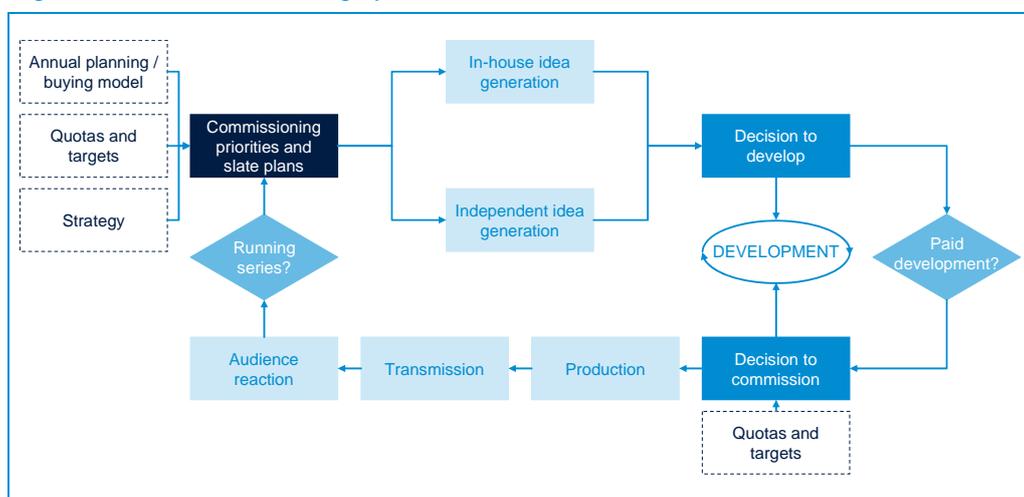
### 3.3 Overview of commissioning process at the BBC

Commissioning at the BBC is an ongoing process. The BBC constantly seeks to fill its schedules with a range of high quality programming.

The commissioning cycle set out in Figure 2 applies across the BBC irrespective of whether there are specific commissioning rounds. Even in genres where commissioning is not carried out in rounds the process follows the cycle laid out in Figure 2 (with the exception of Sport, where commissioning is based around the acquisition of rights). More detail on the commissioning process in specific genres, and how the WOCC has been implemented, is provided in Section 4.

<sup>11</sup> See <http://www.bbc.co.uk/commissioning/questions/quotas.shtml>

Figure 2: The commissioning cycle at the BBC



The first stage in each cycle is the annual planning process and the development of the 'buying model'. During this process considerations such as the efficiency agenda (need to control costs), Network supply targets and quotas, regional quotas, and audience trends are taken into account in drawing up a fairly detailed plan of what programmes should be commissioned from which supply base. This buying model includes a planned 'shape' (range of characteristics) for programmes to be commissioned in-house and from independent producers. For example it might indicate that a new Drama series for a weekday evening could be commissioned from an independent producer outside of London, or that a one-off event will be produced in-house in London. We were told that this model provides guidance in managing the programming slates, but that there is a lot of flexibility for commissioners to deviate from the specifics set out in the buying model, as long as commitments to range and diversity are met.

Genre teams will also consider the strategy that they wish to pursue over the next year. This centres on what types of programming the BBC wishes to focus on, for example whether there are any particular sub-genres which might be strengthened in order to best meet the BBC's public service objectives. As part of the strategy development the 'shape' of the IHG would be considered. Channel controllers and genre commissioners are involved in this process. The strategy and planning feed into commissioning priorities, which are then issued publicly to in-house and independent producers.

In-house and independent producers submit ideas to the BBC in the light of the published commissioning priorities, and based on their own creative processes. All ideas to be considered for development/commissioning must be submitted through the e-Commissioning system.<sup>12</sup> In practice producers will often discuss ideas with commissioners to ascertain whether they are likely to be successful before submitting them to the e-Commissioning system. Both independent and in-house producers must submit ideas through the system, but any idea submitted from an in-house producer is recorded as having already received an 'expression of interest'.<sup>13</sup>

<sup>12</sup> Discussed in more detail in Section 4.7.

<sup>13</sup> We were told that this was to reflect the fact that in-house producers would always have discussed their ideas with commissioners before submitting them. As noted however, this would also be the case for many independents.

These ideas are assessed, and a decision is taken as to whether the idea might be developed into a commissionable programme. In some cases, an independent producer might be paid to develop an idea. In this case the BBC acquires the right to commission the idea with priority over any other broadcaster for a set (usually six month) period.

At the end of the development process a decision is taken whether to make a commission. Typically the authority to take this decision rests with one or two people in each genre team, and is taken in consultation with the channel controllers. We were told that key criteria on which the decision to commission is taken are:

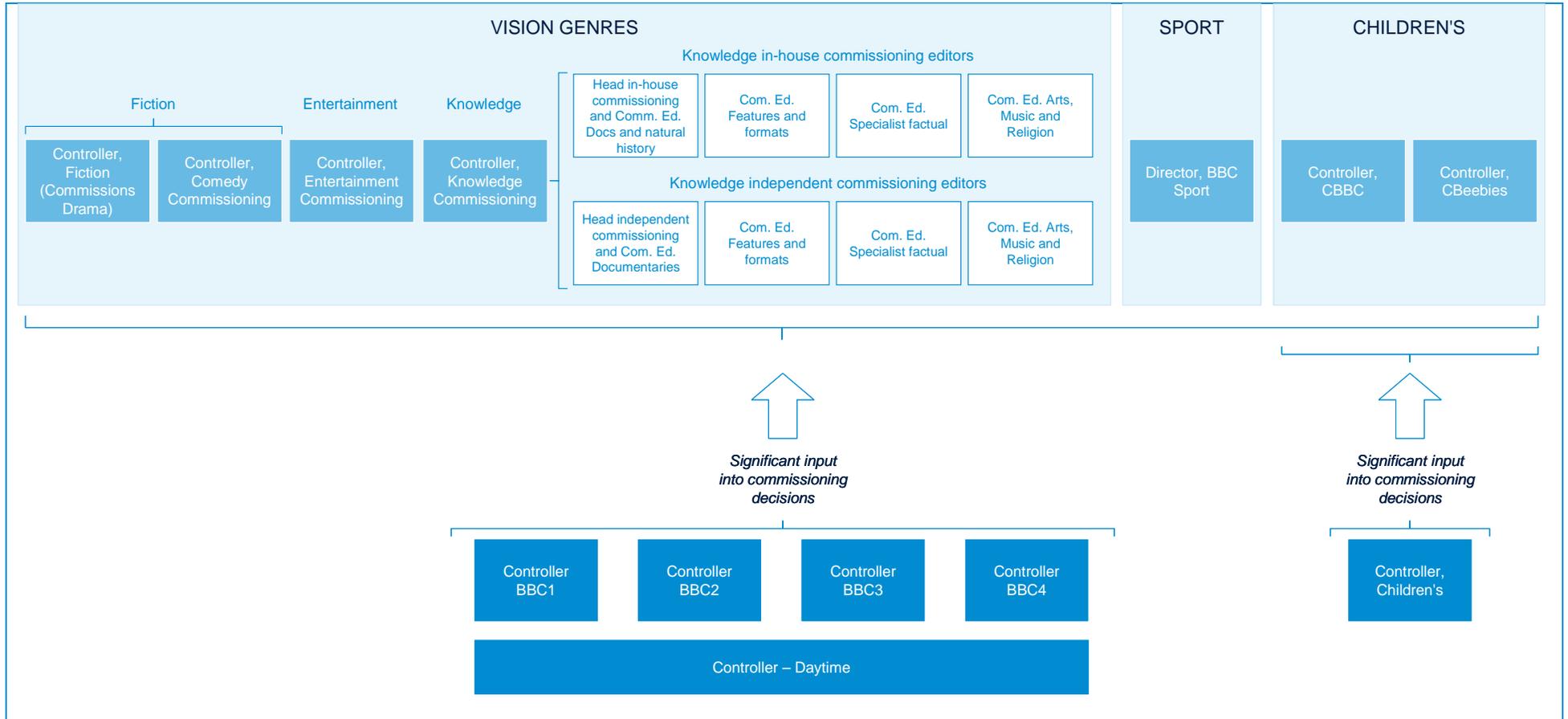
- Commissioning high quality programming;
- The strategic objectives;
- Maximising audience value;
- Commissioning a diverse range of programme types within a genre;
- Meeting the efficiency agenda (budgetary considerations);
- Attracting the best size and shape of audience for the channel; and
- Meeting targets and quotas.

The importance of these criteria varied across genres. No commissioner told us that the value of secondary rights retained when a programme was produced internally was a factor in their decision.

After production and transmission of the programme, audience (and critical) reaction will be assessed, and a decision taken as to whether the programme will return for a future season. Returning series will take their place in the slates early in the planning process within the IHG or the independent guarantees.

Figure 3 presents the structure of the BBC's commissioning decision-making. The commissioners have formal decision-making power in each genre, although we were told that in practice a commission would never be made without the go-ahead of the relevant channel controller.

Figure 3: BBC Commissioning organisation diagram



Note: In Knowledge, Natural History falls under Specialist Factual in independent commissioning, but is a separate category for in-house commissioning.

### 3.4 Summary

- The WOCC is not a clearly identifiable set of opportunities for independent and in-house producers to pitch against one another. Instead, it could be said to constitute those programmes which are commissioned once the IHG and the independent quota are full.
- The BBC is subject to a large number and range of quotas and targets, both regulatory and internal. These affect the supply base from which programmes can be commissioned, as well as the type of programming broadcast on the BBC.
- The commissioning decision is based on a range of factors, including the need to broadcast high quality programming, meeting strategic objectives, meeting the efficiency agenda and the need to broadcasting a diversity of programmes.

## 4 The WOCC

In this section we first consider what an effective WOCC should look like. We focus on the features we would expect to see in a fair and transparent process.

We then describe the processes by which the WOCC has been put into operation within the BBC, including how producers compete for commissions in each genre.

We go on to explore other specific aspects of the implementation of the WOCC, including tariff structures, commissioning in the Nations and Regions, and the e-Commissioning system.

### 4.1 Aims and objectives of the WOCC

Ultimately every activity undertaken by the BBC must aim to meet one or more of the six purposes laid out in the Royal Charter:

- 1 Sustaining citizenship and civil society;
- 2 Promoting education and learning;
- 3 Stimulating creativity and cultural excellence by using the licence fee as venture capital for creativity;
- 4 Representing the UK, its Nations and Regions;
- 5 Bringing the UK to the world and the world to the UK;
- 6 Building digital Britain.

The DCMS White Paper “A public service for all: the BBC in the digital age” set out a vision for the WOCC in particular:

*“We believe that encouraging competition in television production through the introduction of a “window of creative competition”, combined with a strong and sustained BBC in-house capacity, is the best way of ensuring that the best programmes reach the screen.”<sup>14</sup>*

This suggests that the WOCC should help to ensure that the best programmes reach the BBC’s audiences. The same document gives some guidance as to how this might be achieved.

*“The Trust will ensure that there is proper separation between the commissioning and production functions of the Executive and that there is equal access to the commissioning structures, and fair treatment in the process, for in-house, independent and other producers.”*

We were told in our interviews that the WOCC was introduced to the BBC in order to maximise the quality of on-screen programming by creating a meritocracy for ideas. The WOCC was also intended to create “a public statement that the BBC is as open as possible to the best ideas whatever the source”.

We were told by BBC interviewees that previously in some genres there had been a sense that programming should be commissioned internally where possible. However in Entertainment and Comedy a larger share of commissions already originated from the independent sector, and there was a sense that in-house producers had to compete on quality with independent producers. This resulted partly from the fact that key talent had left the BBC some time ago in order to set up independent production

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<sup>14</sup> DCMS, White Paper: ‘A public service for all: the BBC in the digital age’, March 2006.

companies. It was felt that in-house production had responded to competition from independent producers by improving the quality of its own output, and that it would be desirable to roll this model out across other genres.

Supporting the commissioning process is the WOCC Fair Trading Procedures, which was introduced in July 1 2007. This requires a process *“that deals fairly and effectively with complaints from suppliers and feeds in learnings to future process development”* by setting out a number of requirements:

- The reporting requirements on the operation of the WOCC.
- The need for a communications strategy to ensure that programming needs are communicated effectively and fairly across producers, on a regular basis.
- That equal opportunities exist for all suppliers to pitch ideas within the WOCC.
- A fair and effective system for dealing with complaints exists, which informs the development of the commissioning process.
- A system to ensure that feedback from producers is acted upon.

## 4.2 What would an effective WOCC look like?

Fair and effective processes are necessary in order for the outputs of the WOCC to reflect the competitive strength rather than the identity of suppliers. In this sub-section we identify a number of criteria by which we can assess the effectiveness of the WOCC in delivering a meritocratic commissioning system. We focus here on the processes and structures for making commissions:

- There should be no preference for filling the IHG faster than the independent quota.
- There should be no difference in the “quality” of programming and slots available to independent producers.
- Differences in commissioning processes between genres should be justified by differences in conditions between genres. These differences should not put either in-house or independent producers at an unfair advantage.
- There should be equality in the communication of opportunities.
- There should be equality in access to information required to generate a proposal (for example audience information).
- There should be no difference in the seniority of staff who deal with independent and in-house producers.
- The system should allow the merits of the idea to be more important than the strength of the contacts of the person putting the idea forward.
- Proposals should be treated equally.
- There should be no difference in timescales which independent and in-house producers have to work up ideas.
- There should be no differences in response times to ideas submitted.

If all of these conditions have been met, we consider that it would be fair to say that the BBC has created a meritocracy for ideas. This would represent a significant statement about the BBC’s openness to external producers. Table 3 to Table 8 in Section 4.3 set out key features of the WOCC as operated in each genre. This goes

some way to showing whether the operation of the WOCC meets the expectations set out above at the genre level.

Some of these areas are covered in more detail in later sections (see in particular Section 5 on communications, and Section 9 on the complaints system).

### 4.3 Description of the WOCC in different genres

In this sub-section we provide details of how the WOCC has been implemented in each genre. For each genre we present key aspects of competition for commissions. We then describe how the WOCC manifests itself in that genre. We summarise the information gathered in interviews and supplementary information provided. The information presented here and in the following sections is drawn together to assess the process and structures by which the WOCC is operated in 4.10 below.

#### 4.3.1 Children's

Children's programming on the BBC is transmitted at specific times of day on BBC1 and BBC2 and on two dedicated channels, CBBC and CBeebies (the channels broadcast between 7am and 7pm daily). CBBC broadcasts programming for children aged six to 14 and CBeebies shows programming for children under six years old.

In FY2007/08 £[redacted]m was spent on commissioned content for BBC Children's programming.

Table 3 sets out key features of how the WOCC has been implemented in Children's.

Table 3: Commissioning and the WOCC in Children's

Aspect of competition	Details
Volume of ideas	Number of ideas submitted to e-Commissioning: 697 <sup>15</sup> Number of commissions: 71 <sup>16</sup> "...there are lots of ideas coming in and [the commissioners] have to pick a few of them."
Briefings	Two per year. Once a year a briefing is held in London, followed by briefings in three regions. The second briefing is online only. In-house and independent producers attend the same sessions.
IHG percentage hours	[redacted]
Independent guarantee percentage hours	[redacted]
WOCC percentage hours	[redacted]
Authority to commission	CBBC Controller commissions for CBBC programming on BBC1, BBC2 and the CBBC channel. CBeebies Controller commissions for CBeebies programming on BBC2 and the CBeebies channel.
Separation of commissioning from production	Commissioners have no responsibility for in-house production, but the Controller of BBC Children's is responsible for commissioning and production.
Rolling or fixed point commissioning	Fixed point commissioning: two rounds per year. CBBC and CBeebies at major round. CBBC only at minor round.

<sup>15</sup> BBC estimated annual total based on April 1 to 31 December 2007, includes in-house and independent submissions.

<sup>16</sup> Number of separate series in PRDB data, plus number of individual programmes produced by independents under strands.

The introduction of the WOCC coincided with a period in which the commissioning process in Children's was undergoing significant changes. A new controller for BBC Children's arrived, and we were told that more structure was imposed on the way that commissioning was carried out. This included introducing separate commissioners for CBBC and CBeebies. The guarantees set out above are applied separately for CBBC and CBeebies, and for Children's overall (this is a decision taken by the BBC, rather than a response to a statutory requirement).

The commissioning process in Children's allows head-to-head competition between ideas, as part of commissioning rounds. In practice it appears to be the case that all ideas compete to be commissioned with all other ideas, as the WOCC is not commissioned separately to the IHG or the independent guarantee.

The commissioners told us that they found the rounds were a useful way to compare ideas from different sources and that to commission something outside of these rounds *"wouldn't be consistent with the idea of a level playing field that [the Children's commissioners] are trying to promote"*.

We were told that it was not impossible for an idea to be commissioned outside the commissioning rounds but there would need to be some compelling topicality or need for early delivery or perhaps a change in circumstances which brought a previously rejected idea back into the frame. These conditions would be quite unusual but the possibility exists.

The BBC has become an increasingly important commissioner of children's programming as other broadcasters have reduced their demand for original commissions. Ofcom's 2007 review of children's programming found that *"Investment in first-run original programming by the commercial public service broadcasters – ITV1, GMTV, Channel 4 and Five – has halved in real terms since 1998."*<sup>17</sup> This may make commissioning in two annual rounds more feasible than it otherwise would be, as independent producers have little possibility of taking their ideas elsewhere in between rounds. We were told that:

*"It may be more possible in Children's to make independent producers to submit their ideas in rounds since they have less alternative buyers than producers in other genres. They are not likely to take their ideas to other buyers in between rounds. (There is a decreasing demand for children's programming on other channels.)"*

We were told that in Children's very tight budget constraints mean that co-production money often has to be sought. For example we were told that the budget for one landmark series for CBeebies would usually be approximately equal to the year's entire commissioning budget. We were told that due to its strong reputation, the BBC is often able to get significant co-production funding from abroad, while retaining significant control over the production of a programme.

#### 4.3.2 Comedy

Comedy was part of Entertainment until three years ago. More recently it has been brought under Fiction (alongside Drama), but commissioning is carried out under a separate process.

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<sup>17</sup> Ofcom, "The future of children's television programming", 3 October 2007  
<http://www.ofcom.org.uk/consult/condocs/kidstv/kidstv.pdf>

Comedy is commissioned for BBC1, BBC2, BBC3 and BBC4. Comedy includes sketches, studio audience sitcoms, single camera narrative, pre- and post- watershed material and comedy drama.

In FY2007/08 £[redacted]m was spent by the BBC on commissioned content for Comedy programming.

Table 4 sets out key features of how the WOCC has been implemented in Comedy.

Table 4: Commissioning and the WOCC in Comedy

Aspect of competition	Details
Volume of ideas	Number of ideas submitted to e-Commissioning: 227 Number of commissions: 63
Briefings	Comedy does an annual briefing of all its suppliers. <i>“the need for big supplier events is less frequent/appropriate because 1) the volume of suppliers makes direct access easier and 2) the significance of writers/talent in these genres”.</i>
IHG percentage hours	[redacted]
Independent guarantee percentage hours	[redacted]
WOCC percentage hours	[redacted]
Authority to commission	Controller, Comedy commissioning. Commissioning carried out in consultation with channel controllers.
Separation of commissioning from production	Separation between commissioning and production.
Rolling or fixed point commissioning	Rolling commissioning.

The Comedy commissioning team grew from what was once the Independent Commissioning Group (ICG). This was a separate unit which commissioned material from independent producers. There is a long history of commissioning from independent producers in Comedy. We were told that the introduction of the WOCC had not changed the way that commissioning worked in Comedy: *“In reality the WOCC has existed for years in Comedy”*

Talent is fundamental to Comedy commissioning. We were told that an important part of competition in the Comedy production market takes place when production companies compete for talent, long before competition for specific commission takes place. We were told that *“access to talent creates an absolute source of competitive advantage”*. This includes script writers and performers.

There are three fixed points for the assessment of ideas per year in Comedy. During these rounds, ideas from independents and in-house producers are compared directly with one another. At this point commissioners see a snapshot of what is in development with in-house and independent producers.

Occasionally ideas will come in which do not fit into the commissioning cycle, for example a pilot which has already been made. In such cases a commission might be made before the next round.

We were told that in Comedy the IHG was raised to [§<] percent for 2008/09 from [§<] percent in 2007/08. The BBC told us that “*the tipping point analysis had recommended a higher IHG for Comedy than was applied at the time. This was later revised when in-house met strategic targets*”. Independent producers would not have been aware of this change.

While an idea is in development one to three scripts would usually be commissioned. These would be read through with actors, and sometimes a pilot episode would be produced. Occasionally an idea would be commissioned after a much shorter development process, for example if key talent was only available for a short space of time, or if the producer and script writer were well know to the commissioning team.

In Comedy, there is a specific ‘Executive Editor for Out of London’ assigned to sourcing Network commissions from outside London. This role is based in Manchester and provides a point of contact for in-house and independent producers across all of the Nations and Regions. Ideas are developed ready for submission in the commissioning rounds along with all other ideas submitted for Network broadcast. Producers are not required to use this channel and could use the same channels as those in London.

### 4.3.3 Drama

Drama falls under Fiction. Drama is commissioned for BBC1, BBC2, BBC3 and BBC4.

In FY2007/08 £[§<]m was spent by the BBC on commissioned content for Drama programming.

Table 5 sets out key features of how the WOCC has been implemented in Drama.

Table 5: Commissioning and the WOCC in Drama

Aspect of competition	Details
Volume of ideas	Number of ideas submitted to e-Commissioning: 956 Number of commissions: 81 <i>“There are not as many decisions to be made in drama as in other genres.”</i>
Briefings	The size of supply base in Drama means briefings are conducted on a one-to-one basis rather than in large groups. <i>“the need for big supplier events is less frequent/appropriate because 1) the volume of suppliers makes direct access easier and 2) the significance of writers/talent in these genres”</i> . <i>“Drama have plans for [a briefing] for emerging suppliers in September [2008] ...If successful it will be repeated annually”</i> .
IHG percentage hours	[§<]
Independent guarantee percentage hours	[§<]
WOCC percentage hours	[§<]
Authority to commission	Controller, Fiction Commissioning. Commissioning decision taken in conjunction with channel controllers.
Separation of commissioning from production	Separation between commissioner and in-house production in London. Some roles in Nations involve commissioning from independents as well as in-house production.
Rolling or fixed point commissioning	Rolling commissioning. Commissioning process generally longer than in other genres due to long script development process.

There are no formal commissioning rounds in Drama. There are fewer commissions than in most other genres, and ideas tend to spend longer in development. Major commissioning decisions may be taken two years ahead of transmission. We were told that in Drama ideas are not presented fully formed, and there is a long process of discussion and development with producers. We were also told that in Drama (and also in Comedy) an idea *“may well come from the Commissioners themselves who would then talk to the producers they felt best able to move the idea forward”*. In such cases we were told that it would not necessarily be appropriate to put an idea out to tender, because the writer involved might not be happy with this process.

If something was required in order to meet a quota, a specific independent producer might be approached, for example in Scotland. Alternatively an idea might be put out to tender to a small number of producers, for example both independent producers in Manchester, and in-house production in Scotland.

We were told that *“one classic adaptation or period drama per year tends to fall in the IHG due to the expertise and long-standing reputation and experience in-house has within that genre.”* Contemporary returning drama series tend to be produced by independents.

As in other genres, for Drama, executive producers in the Nations also act as a contact for independent producers in the Nations wishing to make submissions for Network commissions.<sup>18</sup> Wales has been a particularly active centre of production, with in-house commissions Doctor Who, Torchwood and the Sarah Jane Adventures coming from Wales. Major independent commissions have also come through this route, for example Life on Mars and Ashes to Ashes.

#### 4.3.4 Entertainment

Entertainment commissioning includes a range of programmes including peak-time shows such as Strictly Come Dancing, Factual Entertainment such as The Apprentice, and quiz shows such as QI.

In FY2007/08 £[redacted]m was spent by the BBC on commissioned content for Entertainment programming.

Table 6 sets out key features of how the WOCC has been implemented in Entertainment.

Table 6: Commissioning and the WOCC in Entertainment

Aspect of competition	Details
Volume of ideas	Number of ideas submitted to e-Commissioning: 1029 Number of commissions: 207
Briefings	Two per year. In-house and independent producers attend the same sessions.
IHG percentage hours	[redacted]
Independent guarantee percentage hours	[redacted]
WOCC percentage hours	[redacted]

<sup>18</sup> The heads of departments in the Nations all run in-house production teams, and tend also to act as an optional route for independents wishing to take ideas to the Network. Independents can also go directly to London.

Aspect of competition	Details
Authority to commission	Controller, Entertainment Commissioning. Decisions made in consultation with channel controllers.
Separation of commissioning from production	Commissioner has no responsibility for in-house production.
Rolling or fixed point commissioning	Rolling commissioning.

We were told that returning series for in-house and independent producers filled the guarantees for those suppliers in Entertainment (including programmes which follow the format from previous years, such as talent contests based around trying to win a role in a musical). This means that all proposals submitted for new commissions would effectively be part of the WOCC.

We were told that three times each year there is a 'super strategy' meeting where the Entertainment Business and Editorial teams meet with the channel heads and audience research to review performance and the commissioning strategy. With budgets falling year on year, we were also told that the 'efficiency agenda' is becoming an increasingly important part of the planning process.

Entertainment has a rolling commissioning process, and as such particular ideas do not usually compete head-to-head with one another. We were told that although lots of ideas were put forward in Entertainment it could be difficult to find ideas suitable for certain slots, for example major Saturday night programmes. However for channels other than BBC1 there are sometimes occasions when more than one idea could realistically be picked for a particular slot, and ideas can therefore be compared directly.

There have been no formal tenders for programmes in the Entertainment genre, but there have been a small number of invitations to pitch. For example in one case proposals were invited for a BBC3 entertainment show, and "The Wall" was the successful commission from Endemol. We were told that *"It is envisaged that Entertainment will make more use of tenders in future"*. At the moment some sort of informal tender might take place once each year.

We were told that Lottery strands more-or-less automatically fall into the WOCC and are often made by independent producers.

Access to talent is crucial to the success of Entertainment programmes. We were told that there had been certain long term deals in the past where talent had been signed up and then commissioners would have to find output for them. However *"wherever possible now when long term deals are considered, programming will be associated with the fee commitments so it is clear how talent will be used during the term of the deal. There may be certain areas where commitments are still t.b.a. [to be announced], for example if the talent wants to move into a different editorial area, but wherever possible the prices for the programming are agreed at the same time as the talent deal."*

We were told that a lot of ideas are developed and piloted in Entertainment. The controller of Entertainment commissioning signs off all but the most basic development.

### 4.3.5 Knowledge

Knowledge encompasses all factual programming, including some current affairs programmes. Most news programming is not subject to the independent quota or the WOCC, and is commissioned under a separate structure.

In FY2007/08 £[redacted]m was spent by the BBC on commissioned content for Knowledge programming.

Table 7 sets out key features of how the WOCC has been implemented in Knowledge.

Table 7: Commissioning and the WOCC in Knowledge

Aspect of competition	Details
Volume of ideas	<p>Number of ideas submitted to e-Commissioning: 3989</p> <p>Number of commissions: 651</p> <p><i>"In Knowledge there is a greater oversupply of ideas than in other areas."</i></p>
Briefings	Two per year. In-house and independent producers attend parallel sessions.
IHG percentage hours	[redacted]
Independent guarantee percentage hours	[redacted]
WOCC percentage hours	[redacted]
Authority to commission	<p>Controller, Knowledge Commissioning for WOCC.</p> <p>Four sub-genre commissioners for IHG led by head of in-house commissioning.</p> <p>Four sub-genre commissioners for independent guarantee led by head of independent commissioning.</p> <p>Individual programmes for strands, e.g. Horizon, commissioned by editorial teams.</p> <p>Decisions taken in consultation with channel commissioners.</p>
Separation of commissioning from production	In-house commissioners have responsibility for developing that supply base (independent commissioners have a parallel role). All commissioners physically separated from producers.
Rolling or fixed point commissioning	Rolling commissioning.

Knowledge is characterised by the high volume of ideas submitted to the BBC and the wide and diverse supply base in the independent sector.

We were told that in Knowledge there are currently more returning series commissioned in-house than from independent producers. We were told that many of these series have been running for many years and originated before the emergence of the independent sector. At that time the television marketplace was less crowded and it was easier to build audience loyalty.

During the first three quarters of the WOCC's operation Knowledge operated a rolling commissioning system similar to that in other genres, where a particular commissioner would commission programmes for the IHG, the independent quota, and the WOCC. However in December 2007 a new structure was put in place. In the new structure there are more commissioners, and each has responsibility for commissioning programmes in a particular sub-genre either from in-house or independent producers,

but not from both. Another key difference with other genres is that the sub-genre commissioners have authority to commission within their own areas (we were told that this would always be done in consultation with channel controllers).

The independent and in-house commissioners are also charged with strengthening the supply base that they are responsible for. This seemed to lead to a more strategic angle to commissioning than that in other genres, for example we were told that *“the new structure allows both sets of commissioners to focus on developing the health of the sector they oversee”* and that *“many independent producers, especially the smaller and medium-sized companies operate on quite small margins, especially those with a public service focus, and it is important for [the head of independent commissioning, Knowledge] to take into account how to ensure this supply base has sufficient work to be stable”*. However the commissioners do not have specific objectives in this area as the effect on the supply base cannot be easily measured.

Once the quotas have been filled by the respective sub-genre commissioners all additional commissions are made in the WOCC and are signed off by the Controller for Knowledge commissioning, in consultation with the channel controllers. As such, this is the only genre where commissions made through the WOCC can be easily identified. We were told that the Knowledge controller *“is more interested in content strategy than supply strategy compared to the in-house and independent heads, who are more interested in nurturing specific suppliers”*.

Commissions will only be made in the WOCC if the programme could not be commissioned under the IHG or the independent guarantee planned for that genre. This would be the case if those quotas were completely full, or if the space in the quotas was earmarked for a programme of a different ‘shape’ (for example if space in the IHG or independent guarantee was planned for a programme of a different sub-genre, or to fill a particular slot in the schedule). We were told that up to April 2008 no commissions had been made in the WOCC under the new process.

For ‘strands’, such as Horizon and Panorama, individual programmes are commissioned from different suppliers, both in-house and independent. For these, commissioning is undertaken by the editorial teams for those programmes. Each strand is subject to its own set of quotas and targets, including an IHG, an independent quota, and regional quotas.

We were told that the changes made in Knowledge were a response to feedback from suppliers which suggested:

- A lack of transparency about the WOCC.
- Confusion over what the WOCC is and how it operates.
- Frustration about lack of access to Commissioners, who were overworked.
- A lack of strategic focus on the health of the individual supply bases.

We were told by the BBC that in Knowledge it feels as though *“there is genuine competition for commissions now, except for the very big natural history landmarks”*. We were told that this type of programme tended to be commissioned in-house due to the long-term nature of the investments and planning, and that it would be difficult for a commercial producer to get funding for such a programme due to the uncertain returns. Additionally we were told that *“independents do make landmark natural history programming but there are very few of them”*

### 4.3.6 Sport

The Sport department is completely separate from Vision, which includes Fiction, Knowledge and Entertainment. Sport covers live sports and highlights, but not usually documentaries, which are commissioned through Vision.

Table 8 sets out key features of how the WOCC has been implemented in Sport.

Table 8: Commissioning and the WOCC in Sport

Aspect of competition	Details
Volume of ideas	Number of ideas submitted to e-Commissioning: 12 Number of commissions: 8
Briefings	No formal briefing sessions.
IHG percentage hours	[X]
Independent guarantee percentage hours	[X]
WOCC percentage hours	[X]
Authority to commission	Director, BBC Sport.
Separation of commissioning from production	Director of BBC Sport responsible for commissioning and production.
Rolling or fixed point commissioning	Rolling

The Director of BBC Sport is responsible for both commissioning and production. We were told that this position, which encompasses both commissioning and production is not unique within the BBC, for example the Director of BBC Vision has responsibility for both.

We were told that Sport is very important to the BBC's brand and reputation. Along with the need to maintain sufficient resources to cope with peaks in sports production (at the time of major sports events) this has meant that it was necessary to maintain a [X] percent IHG in Sport. There is also an internal target of [X] percent of broadcast hours in Sport to be commissioned from independent production companies. These targets cover sports events which occur annually, and do not include events such as the Olympics, and the Football World Cup, which tend to be covered by in-house production teams. While Sports programming is qualifying programming for the purposes of the Agreement, there are no commissions for which in-house and independent producers could both compete. As such, it seems to us that in Sport the WOCC has not been implemented. We were told that "The WOCC applies differently to Sport because of the peculiarities of the genre". We were told by the Sport department that the Content Supply Review had endorsed the division's position on the WOCC and this was acknowledged at the time the independent targets were signed off.

The commissioning of Sport is closely tied to the acquisition of rights to broadcast specific sports events, and we were told that sometimes the choice of producer can play a key part in the decision (of the rights owner) to award the rights to the BBC in the first place. The commissioning of Sport is closely tied to the acquisition of rights to broadcast specific sports events. We were told that this meant that Sport could not

operate a WOCC as other genres might. Instead, production is divided between independent and in-house production teams, largely by sport. For example all tennis, all golf, and all athletics are produced in-house, along with most football. All darts, snooker, and horse-racing is produced by independent producers.

We were told that scale, complexity and profile of an event (whether it was reputation-defining) were among the factors in the choice of producer. We were told that only in-house producers would have sufficient expertise for some sports. We were told that rights holders have a say over the way in which their events are covered, and that some might object if the production of an event was not done in-house. Some sports have been produced by in-house teams for a long time, for example Wimbledon has been covered by the BBC for 80 years, and for 71 years on television.

If it is decided that a new productions will be done externally, it will be allocated to external producers by competitive tender. The independent supply base is very narrow in Sport compared to other genres. The BBC mainly works with two independent production companies. There are also a number of suppliers who do a small amount of work with the BBC on an ad-hoc basis. We were told that the concentration in the supply base is a result of the very high barriers to entry for Sports production because *“it is not possible to steer producers to the type of new programming [Sport] is looking for, because it is entirely dependent on the acquisition of rights”*.

#### 4.4 Network commissioning from the Nations and Regions

The BBC has stated that it aims to commission 17 percent of programming from the Nations by 2016. This is to be measured using the definitions applied by Ofcom, which is more strict than the definition previously used within the BBC; using the BBC definition 15.9 percent of commissions were already sourced from the Nations, whereas under the new Ofcom definition only 7.7 percent meet the criteria. The Trust has stated that *“Although there will not be formal targets for individual nations within the overall 17 percent goal, the Trust will monitor production from Scotland, Wales and Northern Ireland carefully to ensure that the BBC is helping to build strong and sustainable network production in all three nations and also look at production in the English regions.”*<sup>19</sup>

We understand that through initiatives already in train and more planned, it is hoped Nations and Regions targets will be achieved through the quality of the people and ideas in the Nations. The outcome should be that commissioners would chose to commission this amount of programming from the Nations regardless of the target.

One way in which this target will be achieved is by continuing to build in-house ‘centres of excellence’ for certain genres in the Nations:

[§<]We were told that the idea behind the centres of excellence was that *“sustainable centres of production can be established which will produce high quality programming in a particular area. This will also mean that the Nations in-house departments won’t be in competition with each other as much to attract the same people.”*

We were told that these centres of excellence were being chosen in line with existing capabilities, for example in Wales there was already a strong base in Drama, in which Doctor Who and related series were produced in-house.

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<sup>19</sup> See [http://www.bbc.co.uk/bbctrust/news/press\\_releases/2008/network\\_nations.html](http://www.bbc.co.uk/bbctrust/news/press_releases/2008/network_nations.html)

We were told that: “Centres of excellence are in-house and that the BBC would not suggest that indies specialise in particular genres in particular nations as that is their business, though we do try to give steers as to where opportunities might be and it would help sustainability if we see “talent clusters” emerging across in-house, indies and the freelance market.”

In some genres there are people assigned specifically to encouraging commissions from the Nations and Regions. This is the case in Comedy, as well as Drama (where in-house producers in the Nations act as executive producers on independent productions). Locally-based commissioning staff can and do set up meetings for producers with commissioners in London.

We were told that it can be difficult for new producers based in the Nations and Regions to break through into Network programming, the key is generally whether they can involve any known talent.

## 4.5 Tariffs

The BBC’s code of practice states that “The BBC will publish a tariff of indicative prices for a particular programme genre or category within that genre.” These tariffs set out the range within which the BBC would expect individual prices paid to independent producers in a particular genre or category to fall.

The tariff ranges for Network programming on different genres are set out below:

Table 9: Tariff ranges<sup>20</sup>

Genre	Tariff range per hour	Description
Children’s	£40k-£550k	Tariff ranges specify nine separate categories within this range.
Comedy	£110k-£600k	There are three specific categories within this range.
Drama	£50k-£900k+	Broken down into seven categories for different types of programme.
Entertainment	£20k-£285k	There are four bands within this range.
Knowledge	£10k-£350k	Includes nine separate categories for different types of Knowledge programming.

The tariff ranges are reviewed every two years, and are fixed by the Director and Finance Director of BBC Vision.

A number of more specific tariff ranges are set out in each genre. Against each tariff range one is a description of the type of programme that would fall within that genre, for example the ‘Drama 6’ category ranges from £800k-£900k. This tariff range would apply to productions involving a combination of multiple locations, period setting, large/expensive cast and short runs in serials and event singles. Computer generated imagery and effects might also be used. At the other end of the spectrum, Daytime Factual programmes might fall into the £10k-£40k range. These programmes might be high volume studio shows, or compilation programmes including originated and archive footage.

<sup>20</sup> <http://www.bbc.co.uk/commissioning/tv/business/tariffs.shtml>

The online briefs published by the genre teams often specify where in a tariff range programmes the BBC is currently looking for might fall.<sup>21</sup>

The BBC is obliged to provide a detailed report to Ofcom, setting out and explaining exceptions to the agreed tariff ranges. This report is comprehensive and we do not reproduce the analysis set out in it here.

## 4.6 Development funding

The BBC provides two types of development funding: seed corn funding, which is used to contribute to producer overheads; and secondary development funding, which is used to assist with the development of specific ideas.

### 4.6.1 Seed corn funding

Seed corn funding is primarily used to contribute to the overheads of in-house production teams, allowing them to dedicate resources to working up ideas. This type of funding originates in part from the licence fee, and in part from BBC Worldwide dividends. This funding is not allocated from commissioning budgets.

There is also a seed corn fund that is used to support independent producers outside of London. This 'Regional Independent's Development Fund' (RIDF) is explained in Section 4.7.

### 4.6.2 Secondary development funding

Some programmes benefit from funded development. This means that the BBC contributes to the development costs of developing an idea, without making a commitment to commission it. In some cases sizeable expenditures are needed in order that a decision can be taken over whether to make a commission. For example, secondary development funding may be used to pay for a pilot episode or a script.

If an idea from an independent producer moves into funded development the BBC acquires exclusive rights to commission the programme for a specified period (normally six months).

Table 10: Secondary development spend by genre (£'000)

	In-house	Independent	Total
Children's	[X]	[X]	[X]
Comedy	[X]	[X]	[X]
Drama	[X]	[X]	[X]
Entertainment	[X]	[X]	[X]
Knowledge	[X]	[X]	[X]

Table 10 sets out the development spend with each supply base by genre. In all genres except Children's the amount invested with independent producers exceeded that spent with in-house productions.

<sup>21</sup> See for example [http://www.bbc.co.uk/commissioning/tv/network/genres/entertainment\\_detail.shtml#bbc1](http://www.bbc.co.uk/commissioning/tv/network/genres/entertainment_detail.shtml#bbc1)

## 4.7 Nations and Regions – local programming

There is no formal requirement for the BBC to operate a WOCC for programming commissioned for broadcast locally in the Nations and Regions. Instead, the Agreement sets out that:

*“The Trust shall ensure that suitable arrangements are in place to provide appropriate opportunities for competition between in-house and external producers for the provision of programmes which are not intended to be “network programmes” within the meaning of clause 54.”<sup>22</sup>*

However the BBC has created a framework for how commissions will be allocated. In each of the three Nations:

- Independents will deliver at least 25 percent of the qualifying output. This will be monitored to protect the range and diversity of programming.
- Independents will compete within a further 15 percent. Most of this will be targeted exclusively for competition among independent producers (current growth targets are projected to deliver around 10 percent as exclusively independent output). Again, range and diversity will be protected.
- In-house will have a guarantee of 60 percent.

The English Regions have a news-dominated genre and thus a limited range for local programming and a very low number of qualifying hours, split between producers as follows:

- Independents will deliver at least 25 percent of the qualifying output.
- The remainder will be delivered by in-house.

This structure was not agreed until late 2006 and therefore 2007 has been viewed as a transition year within the BBC. We were told that during the transition, in practice five percent of programming was available for competition between in-house and independent producers in the Nations and Regions.

The Nations produce programmes in all genres in local programming, despite the focus on particular genres for Network programming (there is some overlap between production staff who work on local and Network programmes).

We were told that in the Nations the BBC conducts a lot of training compared to the independent sector, so most people tend to pass through the BBC at some point in their careers.

The Nations and Regions uses a separate set of tariff ranges, which are generally lower than those available for Network commissions.

There is a separate development fund (allocated by the genre commissioners) for independent producers outside of the M25 all over the UK. This is known as the RIDF, and is allocated by the Independent Executive. We were told that *“Indies who are selected for the fund receive a share of the £900k available annually (typically £35-£50k per independent producer), as well as ‘hidden help’ such as meetings with commissioners or executive producers to discuss ideas. Funding is in the form of “Seed corn funding” to encourage the growth of ideas. [The BBC] does not invest in infrastructure other than as a contribution to a development post, that would require*

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<sup>22</sup> Clause 55 of the Agreement.

*co-funding by the independent or other public agencies. The BBC looks for companies that it wants to work with in the future and helps to develop them.”*

## 4.8 e-Commissioning

### 4.8.1 Description of e-Commissioning

At the same time that the WOCC was introduced, the BBC implemented a new electronic system for monitoring ideas submitted to the commissioning process. The e-Commissioning system is described on the BBC’s website as follows:

*“The BBC has updated its commissioning process by introducing an online system for submitting proposals. e-Commissioning enables the BBC to handle the huge volume of proposals it receives faster and more effectively so producers submitting proposals to BBC Vision will find they have a quicker response.*

*Rather than replacing any of the creative conversations BBC Commissioning teams have with producers, the system is designed simply to make the process of filtering and comparing ideas much easier. As a result, creating more time for creative discussion around the best of those ideas.”<sup>23</sup>*

The system allows registered users to submit a proposal to the BBC electronically. Users complete an online form, detailing specific aspects of the idea they are presenting to the BBC. Users can specify which commissioner they would like to see an idea, and can attach one file up to 3MB in size.

Commissioners can see all ideas submitted to them (ideas which do not specify a particular commissioner are allocated by someone within the genre). Ideas go through various stages (for example, ‘proposal acknowledged’, ‘under discussion’, and ‘in contractual negotiation’ before being commissioned or rejected (or withdrawn).

The system is currently for Network commissions only.

### 4.8.2 The system in practice

Our interviews suggested that the e-Commissioning system is mainly used as a tool for tracking ideas, and to help with reporting (for example reporting on response times to Ofcom).

In most genres we were told that most ideas submitted to commissioners originated first from conversations with producers, and that they would be entered into the e-commissioning system after someone at the BBC had expressed interest in the idea (although we were told that occasionally a commissioner might see an idea in e-Commissioning before receiving an email or call about it).

However, in Knowledge and Children’s genres we were told that due to the large volume of ideas submitted, some commissioners use the e-Commissioning system as a filtering system; in other words they may make decisions about whether to reject an idea at the first stage based only what can be seen in the system. Commissioners who, due to the volume of ideas they received, were in this position, were more likely to find the system constraining. For example one commissioner suggested that it would be helpful if producers had more control over the appearance of submissions made in the e-Commissioning system. The system is not conducive to creativity and:

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<sup>23</sup> <http://www.bbc.co.uk/commissioning/tv/ecommm/index.shtml>

*“People should be able to put something on there that looks however they want it to.”*  
The BBC might wish to consider whether some variation in the e-Commissioning system might be possible in order to meet the needs of high volume areas such as Knowledge.

Children’s was the only genre which told us of ideas that were first submitted through e-Commissioning without prior conversations that then went on to be commissioned. We were told that ideas for Planet Ajay, Hot Rods and Escape from Scorpion Island had all been submitted in this way, along with many others. As far as we are aware this did not occur in any other genres.

In-house producers use the e-Commissioning system, although we were told that they tend to put ideas in the system after initially floating the idea with a Commissioner, and that as a result their ideas are recorded as though they were received after an initial expression of interest and therefore reported as coming in at the equivalent of KPI 2 stage for independents .

More generally we are aware of initial technical problems with the e-Commissioning website. Following discussions with the staff responsible within the BBC we were told such problems have now been solved.

## 4.9 Constraints

The BBC’s commissioning process is subject to a range of constraints, as laid out in Section 3.2. Some commissioners told us that they were able to operate largely without thinking about the targets and quotas:

*“[The CBBC commissioner] looks at the quotas right at the end of the process and checks whether they have been met. She feels that she could always make a good commissioning decision that fitted with the quotas. To date no commissioning decision has specifically been made to meet a quota”.*

*“[The Head of Comedy commissioning] has never felt that she had to take something that she didn’t really want just to meet a regional quota. She thinks this is because [the Executive Editor, Out of London] has made sure that Comedy development in the N&R has had the network in its sights.”*

*“Having parameters in place plus a degree of flexibility has improved the quality of programming.”*

However others told us that they did affect the ability to take decisions based on the quality of ideas:

*“Budgetary constraints are increasingly an issue in the choice of programme.”*

*“The implementation of the WOCC has been very challenging. This is because of all of the other pressures which already exist to manage the supply base, for example in terms of the regions and commissioning from out of London.”*

In general we were told that the Nations and Regions targets were the hardest to meet. No commissioner told us that this led to lower quality ideas being commissioned, but we were told that significant time and effort was expended developing ideas from the Nations and Regions. We were told that *“[t]here have been occasions (Coast) in the past where productions have had to be split between Nations and Birmingham due to quota constraints. This would seem to be a very inefficient way of producing; however the BBC seems to have been left little choice when trying to adhere to the set quotas”.*

## 4.10 Assessment of WOCC processes against expectations

Table 11 sets out an assessment of the WOCC process against each of the key criteria set out in Section 4.2.

Table 11: Assessment of the WOCC

Criteria	Comments
Proposals should be treated equally.	<p>In general the procedures and structures in place suggest that ideas from independents and in-house commissioners are treated equally. Commissioners have clear incentives to pick the best ideas, no matter where they came from. In general we detected no obvious bias towards accepting in-house ideas over independent ones or vice-versa.</p> <p>Commissioners told us that the value of secondary rights was not a factor in their decision-making. It was not within our scope to assess whether this was the case for specific commissioning decisions.</p>
No difference in seniority of staff who deal with independent and in-house producers.	In-house producers and larger independents (key suppliers) seem to secure better access to senior commissioners than smaller independents. We felt that it would be difficult to avoid some degree of inequality in this respect and that it was a natural outcome due to communication about ideas already further along the commissioning process.
The system should allow the merits of the idea to be more important than the strength of the contacts of the person putting the idea forward.	Commissioning teams at the BBC have been separated from production teams (with some exceptions) in both physical and separate terms. We recognise this important step towards creating a level playing field between independent and in-house suppliers. However, we consider that in-house producers will inevitably have more contact with commissioners than independents. While it might be possible to introduce systems that would prevent this, we consider that this would impose a large burden on the BBC, and would have detrimental effects on the creative process, of which regular communication between commissioners and their main suppliers is an important part.
There should be no preference for filling the IHG faster than the independent quota.	We found no evidence to suggest that commissioners wished to fill the IHG before the independent quota.
There should be no difference in the “quality” of programming and slots available to independent producers.	We were told by commissioners that some in-house teams have an advantage over independents in producing programmes of particular types, for example natural history, where long-term investment and planning is required, and within certain areas of Drama where due to the long-standing reputation and experience of the in-house team, one classic adaptation or period drama tends to fall in the IHG each year. We would expect that as the commissioning process opens up, independents would develop the necessary skills and experience over time across a broader range of areas.
There should be no difference in timescales which independent and in-house producers have to work up ideas.	This would be important for tenders where independent and in-house producers compete directly with one another. The evidence we collected suggests that such tenders are very rare in the BBC’s commissioning process. We were told that in the tenders which did take place independent and in-house bidders were treated in the same way.
There should be no differences in response times to ideas submitted.	There are formal regulatory requirements relating to the BBC’s response times for independent submissions. These are carefully monitored and reported to Ofcom. Since in-house submissions are not subject to these requirements there is potential for them to be treated differently. We were told that in-house teams use the e-Commissioning system differently to independent producers, which would make comparison of response times difficult.

Criteria	Comments
<p>Differences in commissioning processes between genres should be justified by differences in conditions between genres. These differences should not put either in-house or independent producers at an unfair advantage.</p>	<p>There are significant differences in the commissioning process across genres.</p> <p>In some genres (Comedy and Children's) ideas are compared directly against one another in formal commissioning rounds. In our view this facilitates competition, but we recognise that it might not be possible to implement formal rounds in all genres due to the volume of ideas submitted or the nature of the creative process.</p> <p>The new process in Knowledge will mean that ideas in the WOCC will be identified, and subject to a different process than other ideas. This structure has been devised in order to deal with the volume of ideas submitted in Knowledge, but it is too early to judge its success.</p> <p>In Sport the WOCC has not been implemented. There are clearly difference between commissioning in Sport and other genres, for example whereas in other genres producers submit ideas for programmes, Sports content is tied to the acquisition of rights. This would seem to facilitate direct competition in tenders. Whilst tenders have been used to choose between independent producers (for sports events which the BBC has decided not to produce in-house), they have not been used to allow independent producers to compete with in-house production teams. We were told that certain Sports had to be produced in-house in order to protect the BBC's brand and reputation. We are not in a position to judge whether this is the case.</p>

#### 4.11 Summary

- There is considerable variation in the commissioning process and structure between genres, and this is reflected in the different ways in which the WOCC has been implemented.
- In most genres commissioning and production are physically and structurally separate.
- In most genres it is not possible to clearly identify commissions that were made under the WOCC. The exception is Knowledge, where under the new structure a different process is followed for commissions in the WOCC.
- In Sport, the WOCC has not been implemented, in the sense that independent and in-house producers do not compete with one another for commissions.

## 5 Communication

In this section we first consider what effective communication may look like. This provides a baseline against which to assess the effectiveness of communication of the WOCC.

### 5.1 Expectations

We have identified the following criteria which we suggest would be necessary for a fair and effective communications:

- The way in which the WOCC has been implemented across the BBC should be transparent, including the processes in each genre.
- Independent and in-house should be treated equally in terms of when they are made aware of programming opportunities and in terms of the detail they are provided about such opportunities.
- In-house producers should have no advantage in terms of audience and other information they have available.
- Since much of the commissioning process is conducted as a dialogue between producers and commissioners (in which ideas are pitched, evolve and modified) it is important that independents have: (a) equal access to commissioners; and (b) are not discriminated in terms of the seniority of the commissioners they regularly deal with.
- There should be clarity for all producers with respect to how e-Commissioning is used. There should not be differences in the procedures for submitting ideas for in-house and independent producers.

The WOCC Fair Trading Procedures foresees that that WOCC commissioning is supported by *“a communications strategy to ensure that it communicates programme needs effectively and fairly to producers across the UK on a regular basis.”*<sup>24</sup>

The expectations of independent producers are conditioned by the BBC’s published Code of Practice for dealing with independent producers and by statements on the BBC Commissioning website.

The BBC Code of Practice states that *“the BBC’s objectives throughout the commissioning process are to specify its requirements in a transparent manner”* (Clause 1.2) and that *“communication of the BBC Television’s programme strategy and major commissioning objectives to the independent production sector will take place at least on a four-monthly basis for Entertainment and Factual. Other genres, whose programme information changes less frequently will update their commissioning information every 6 months”*. (Clause 2a) It is not clear if the frequency of communication outlined relates specifically to the website or more generally to the briefing meetings that the BBC hold.

In Clause 2b it states that *“clear, up-to-date information on the management/ organisational structure of BBC Television – the site will explain the programme genres, and will list named individuals who have special responsibility for commissioning independents as well as those executives responsible for contractual negotiations.”*

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<sup>24</sup> Fair Trading Procedure: Window of Creative Competition (WOCC), p3.

The BBC's commissioning website sets out the Television Statement of Operation which states that *"clear development priorities, where appropriate, will be communicated for the in-house production guarantee, the WOCC and the independent production quota. These priorities along with commissioning processes and structures will be set out for all suppliers on our commissioning website at <http://www.bbc.co.uk/commissioning>".* It expands upon the Code of Conduct by noting that *"all suppliers will be given fair access to information by ensuring that programme needs are communicated effectively to producers across the UK on a regular basis via the BBC's commissioning website, genre briefings and briefings out of London".*

In respect of BBC Nations and Regions *"[the BBC] will ensure that local commissioning processes in the Nations continue to be well-publicised and well-understood by both in-house and independent suppliers. Regular briefings will continue to be held to inform producers of available opportunities and information is made public on the BBC's commissioning website <http://www.bbc.co.uk/commissioning>".*

*"In the English Regions, ad hoc opportunities for independents are communicated locally and a significant proportion of the independent output is subject to a tender process, usually where the format is one which is replicated across all the regions."*<sup>25</sup>

## 5.2 Communication in practice

### 5.2.1 Communication of the WOCC

The BBC Commissioning website explains the concept of the WOCC and its relationship with the independent and IHGs. It explains that the WOCC is that part of the commissioning slate that is open to all suppliers. Further, it goes on to say *"any supplier (independent or in-house) can pitch for slots in the WOCC. This includes independent companies who do not qualify for the independent quota. All WOCC commissions will be won only on the strength of the submitted ideas (and not on the order they are submitted). To ensure the system is fair, there will be a wide range of programming available in the WOCC across each genre, at a wide range of prices. In order to meet our overall targets for programming from the Nations and Regions, we will need to plan for some of the WOCC to be commissioned from producers outside London – but these could either be from regionally based independents or from regional BBC production centres."*

In our view this description of 'pitching for slots' in the WOCC does not match the reality of the commissioning process and appears confusing to independents. In Sections 3 and 4 above we describe the commissioning process and it is clear that the BBC do not in general think in terms of commissioning for the WOCC. Ideas are received and chosen on their merits. The guarantee and quota are filled in order as ideas are accepted. When each guarantee is filled ideas then are "placed" in the WOCC on merit. The only exceptions to this would be ideas accepted from non-qualifying independents, which would have to be placed in the WOCC, or formal tenders. We found no evidence to suggest commissioning was not a meritocracy, and the process described above does not mean that ideas are not ultimately competing with one another. However it is important that producers not familiar with the process are presented with clear and accurate information about the functioning of the WOCC.

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<sup>25</sup> Television Statement of Operations clauses 3.8, 3.12, 3.23 and 3.24

Producers might find it useful for commissioners to label commissions as falling under the IHG, the WOCC or the independent guarantee as they are made. This would also allow a more definitive analysis of the outcomes of the WOCC than is currently possible. However, while the commissioning process fails to distinguish between the three sets of opportunities, this may be something of an empty gesture. For example, it would be possible to select commissions as WOCC or IHG so that it appeared that a wide range of opportunities fell within the WOCC, even if in practice those commissions were no different to the other commissions. In some genres it would be possible to label WOCC commissions, for example Knowledge under the new structure, and possibly Entertainment, where the size of the WOCC more or less coincides with the share of commissions which are not 'returners'.

To our knowledge, independent producers are not aware of the volume of ideas within the WOCC and the independent guarantee in each genre, and are not aware when changes are made to the planned IHG.

### 5.2.2 Ongoing communication

The BBC update the development opportunities commissioning website every four months. This update follows on from bilateral meetings between channel controllers and genre commissioning heads, at which overall progress in filling the slate is reviewed and gaps identified. Material on the website is made available to both in-house and independent producers at the same point in time.

The briefings organised by the BBC at which development opportunities are discussed and specific needs identified are open to both independent and in-house producers. These briefings are held both in and out of London. Aside from Knowledge, in which concurrent but separate briefings are held for in-house and independent, all producers would be present at the same briefing. We were told that in Fiction briefings were conducted on a one-to-one basis due to the size of the supply base and *"the need for big supplier events is less frequent/appropriate because 1) the volume of suppliers makes direct access easier and 2) the significance of writers/talent in these genres"*. Comedy does one annual briefing and Drama has plans to hold a briefing for "emerging suppliers" in September 2008. Appendix III sets out the Vision briefings held between November 2006 and March 2008.

In Sport we were told that *"[t]here are no formal briefing sessions like those that are held by BBC Vision or Children's. This is because there is no need to steer producers on the type of programming [Sport is] looking for."*

Elsewhere, development priorities are also published online. We were told that *"[t]he priorities are updated following channel/genre review meetings, every three to four months (February, June, and October). In some genres, such as Drama, the opportunities available won't change significantly between updates."*

Independent and in-house producers did not appear to have equal access to audience information. In-house producers have full access to the Audiences Online database, whereas independents secure access to information on a selective basis through executive producers.

We were told that the Audiences Online database is replicated for independents, with information taken out for sensitive strategic or contractual reasons (e.g. viewing figures from BARB). Executive producers and commissioners have been given guidance on what can be passed onto independents, who do not access the database directly. An independent producer needs to approach an executive producer or

commissioner with an idea before information is passed to them. Independent producers will receive viewer feedback and Audience Appreciation Index. We understand that technical security issues prevent independent producers have direct access to the database because of limitations in the BBC firewall.

This is clearly a difficult area for the BBC. Its Audience Online database is potentially valuable for competitors (broadcasters) and opening up access to this to all independent producers gives rise to risks as well as contractual difficulties in passing on information it has purchased from others. However, independents do seem at a disadvantage in their ability to search the database at the pre-ideas stage of the commissioning process.

Some commissioners we spoke to were of the opinion that it was in their interests (in terms of obtaining the best ideas) that equal access to audience data was available. For example for Children's television we were told that *"everyone has access to the same information from Audiences Online. This information is conveyed through meetings and briefings. All producers have access to the same information."*

It did not seem to us that this approach was followed across all genres. It may be appropriate for the BBC to consider how it might provide limited but equal access for all producers to the audience database in ways that protect its intellectual property in this area.

Face-to-face meetings typically operate in parallel to formal briefings; however, some genres do not conduct formal briefings. We have no evidence that this disadvantages any group of producers, though a reliance on face-to-face meetings may lead to a perception that commissioning is driven by the strength of contacts, rather than the quality of ideas.

In some areas the BBC was considering proactively how communication with independents could be improved. We were told that *"Children's are in the process of asking for feedback from independent producers regarding how they would like the BBC to communicate with them. There is also research being commissioned (in the form of an anonymous survey) to find out whether the independent producers are happy with communications and with the commissioning process more generally. In general Children's would like to be more open to independents, and to share more information about what works and what doesn't, in particular exploring the use of a secure site to share audience data."*

More generally the BBC told us that it conducts a survey in which it asks "independent and in-house producers their views on our processes once a year and evolve them according to feedback".

In general it was recognised that it is more difficult to maintain communication with producers outside London, whether in-house or independent, given the position of the majority of network commissioning in London. For example we were told that *"the biggest disadvantage is to producers who are not based in London. While independent producers and in-house could both bump into a network commissioner in the canteen (for example), a producer in Scotland wouldn't."* In Comedy, the existence of a commissioning editor for out of London seems to have helped with this: *"Now [the commissioning editor for out of London] has moved to Manchester she is able to have meetings with people not based in London much more easily. Before this there had been a feeling that it was unfair to always expect people to go to London. ... From her position she gets a sense of things that people feel disenfranchised about."*

Whilst 'separated' from commissioners, in-house producers have greater opportunities for access to commissioners by virtue of their proximity. It is common for the commissioners to meet regularly with in-house producers to discuss potential and ongoing projects. Equally we observe that the day to day work of commissioners is to meet and discuss with producers both in-house and independent. It seems inevitable that in-house producers and independents already supplying a number of commissions will have greater access to commissioners, but we observe that most of the commissioning teams are actively seeking out potential new suppliers from the independent sector.

### 5.2.3 The BBC commissioning website

The BBC's commissioning website <http://www.bbc.co.uk/commissioning/> provides a wide range of detailed information regarding the BBC's commissioning process. This includes:

- Genre-by-genre information on BBC Vision genre development priorities and across channels (Comedy, Drama, Entertainment and Knowledge), and an explanation of the process for submitting ideas;
- Details of the CBBC and CBeebies development priorities are also presented, along with a description of the commissioning rounds, and the current status of the rounds;
- Service strategies for each BBC channel;
- Information on how to submit ideas to the BBC, including an explanation of the e-Commissioning system (discussed in 5.2.4);
- An explanation of the WOCC (discussed in 5.2.1);
- Information on the Terms of Trade, and the Code of Practice; and
- A 'starter pack' for independents, which provides detailed guidance on making programmes for the BBC.

In general, the BBC's commissioning website provides detailed relevant information for producers.

### 5.2.4 Communicating e-Commissioning

Our interviews suggested that the e-Commissioning system is mainly used as a tool for tracking ideas, and to help with reporting (for example reporting on response times to Ofcom). (See Section 4.7).

Given this it would seem that some independent producers may be misled (by the website) into thinking that e-Commissioning is a first hurdle filtering of ideas. We are only aware of it working in this way within Knowledge due to the sheer volume of ideas submitted, and in Children's where ideas in the commissioning rounds are submitted through the e-Commissioning system.

The BBC told us that producers know how the system works in practice and that even if an idea was sent in via e-Commissioning it would be followed up by a phone call or an email from the producer. The wording of the website does not seem a significant issue in practice.

### 5.3 Assessment of the communication of the WOCC against expectations

In general, communication of opportunities seems to work well, with commissioners making a significant effort to reach out to their suppliers, whether in-house or independent. However, there may be room for improvement in the communication of how the WOCC has been implemented in practice.

Producers familiar with the commissioning process at the BBC seem to have a clear idea of the process; e-Commissioning has provided greater transparency in the commissioning procedure. However independent producers do not seem to be aware of how the WOCC has been applied across genres, in particular the share of commissions open to competition in each genre or sub-genre.

Commissioners do not identify which commissions have been made as part of the WOCC. It would provide greater clarity for them to do so. However this would not necessarily be meaningful, unless particular opportunities were labelled as IHG, WOCC or independent guarantee from the start of the process and treated differently during the commissioning process. This would create complications, as commissioners would no longer have the flexibility to (for example) commission good quality ideas from independent producers if they fitted into slots that had been provisionally allocated to the IHG.

Independent producers may be at a slight disadvantage in terms of access to audience data. This issue is complicated by the BBC's need to protect access to certain information from competitors. In some areas efforts are being made to allow independents better access subject to technical security issues.

In practice in-house producers and large independents are likely to have more contact with senior commissioners, as they discuss ongoing projects. While this may place smaller players at a disadvantage we do not see an easy way to resolve this issue without stifling the creative dialogue between the BBC and its key suppliers.

There seems to be lack of clarity over the way that the e-Commissioning system is explained on the BBC commissioning website. It is not clear that in most genres the system is used as a practical tool for tracking ideas, rather than a filter. In practice this is only likely to affect producers with little experience of the BBC's commissioning processes.

### 5.4 Summary

- In general, commissioners make an effort to communicate effectively with producers across the supply base. However there will inevitably be differences in the amount of contact commissioners have with key suppliers (in-house and independent) and smaller independents.
- In most genres regular briefings are used to provide producers with information about the type of programming the BBC is looking for.
- Some aspects of commissioning opportunities have not been clearly conveyed to producers, for example the size of the independent guarantee and the WOCC in each genre or sub-genre.
- The BBC's website does not clearly express the way in which the e-Commissioning system is used in practice.

## 6 Effects of the WOCC on outputs

In this section we first set out the outcomes we might expect from a fair and transparent WOCC. We then analyse the actual outcomes, and explore as far as possible the impact of the WOCC on competition for commissions has meant for in-house and independent producers.

### 6.1 Expected outcomes

In order to have met its regulatory requirements with regards to the WOCC, at an overall level the BBC should have commissioned somewhere between 25 and 50 percent of hours from independent producers during FY2007/08 (at least 25 percent<sup>26</sup> of which is required to have been commissioned from qualifying independents). This would show that the BBC had met its targets and quotas.

Beyond this it is very difficult to set out any specific expectations regarding the share of commissions that should have been won by in-house and independent producers. In a competitive environment the outcome would depend on the quality of ideas submitted in that year, and without being able to measure this objectively there is no clear benchmark against which the outcomes presented below can be measured. In this context it would not be appropriate for the BBC itself to set targets or expectations for the outcomes of the WOCC. In fact, it might reduce the extent to which ideas were considered purely on merit.

Ultimately it is easier to assess whether the process for the WOCC has been fair and transparent, than to make judgements based on outcomes.

However, it is possible to look at the outcomes on a more detailed level in order to assess whether they are consistent with a process of fair and transparent process having been conducted. For example we can consider:

- Have independent producers won a higher share of commissions than in previous years? If the share of commissions won by independent producers had fallen, it might suggest that the commissioning process does not allow greater opportunities for independent producers to compete on merit than in the past.
- What is the composition of outcomes? Do independent producers appear to have access to the same 'quality' of commissions as in-house producers (for example in terms of position in the schedule, channel, and type of programming, which would affect the potential audience and the profile of the programmes commissioned)? Can differences in outcomes between genres be explained by objective factors?
- Does spend reflect hours commissioned? This may provide information about the type of programmes commissioned, as well as how effectively the commissioning process delivers value for money.
- How do outcomes compare with planned outcomes in each genre? If planned outcomes (IHG and independent guarantees) already reflect the strength of the supply bases in a particular genre, we might expect to see the independent and in-house bases winning approximately half of the WOCC.
- What are the trends over time? We might expect to see either a move towards some equilibrium share of commissions based on relative competitive strengths in each genre, or cycles, as competitive pressures lead each part of the supply base

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<sup>26</sup> The independent quota has to be met on a calendar year basis, and not during a particular financial year.

to respond by strengthening its own competitive offering. If one part of the supply base appeared to be in decline, we might question why.

In general, given that it is not possible to set out clear expectations about what the WOCC should deliver, we note that caution should be taken in drawing conclusions about the success of the WOCC from our findings.

## 6.2 Analysis of data – Network programming

In this section we present the results of our analysis of the output of the commissioning process for Network programming.<sup>27</sup>

### 6.2.1 Context

Table 12 sets out some descriptive information relating to each genre. The hours of original commissioned programming in FY2007/08 is shown for each genre. Knowledge has the highest number of original hours (2,766), followed by Sport (1,369) and Entertainment (995). Comedy is the smallest genre in terms of hours (130). Knowledge is also the largest area in terms of spend, with £[<]m expenditure on original commissions. Drama is the next largest genre in terms of spend, with £[<]m. Entertainment spend was £[<]m in FY2007/08, and in Children’s and Comedy £[<]m and £[<]m was spent respectively.

Table 12: Genre profiles FY2007/08

	Hours of commissioned programming	Cost for commissioned programming (£ million)
Children's	601	[<]
Comedy	130	[<]
Drama	544	[<]
Entertainment	995	[<]
Knowledge	2,766	[<]
Sport	1,369	[<] <sup>28</sup>

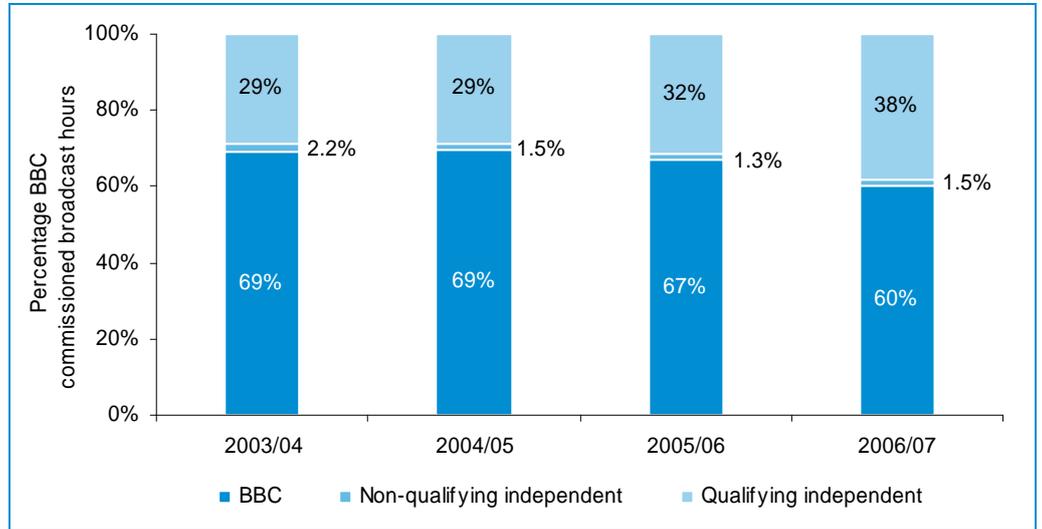
Source: BBC, PwC analysis.

Figure 4 shows the share of commissioned hours of programming historically by in-house and independent producers. Over time, the share of commissions won in-house producers has been falling, and the share going to qualifying independent producers has been increasing. The small share won by non-qualifying independents has remained fairly stable.

<sup>27</sup> The analysis in this section excludes a small amount of qualifying programming shown on the News 24 channel for which data was not available from the PRDB system. For FY 07/08 this constituted approximately 18 hours, compared to 6405 hours on other channels.

<sup>28</sup> Sport spend for calendar year 2007.

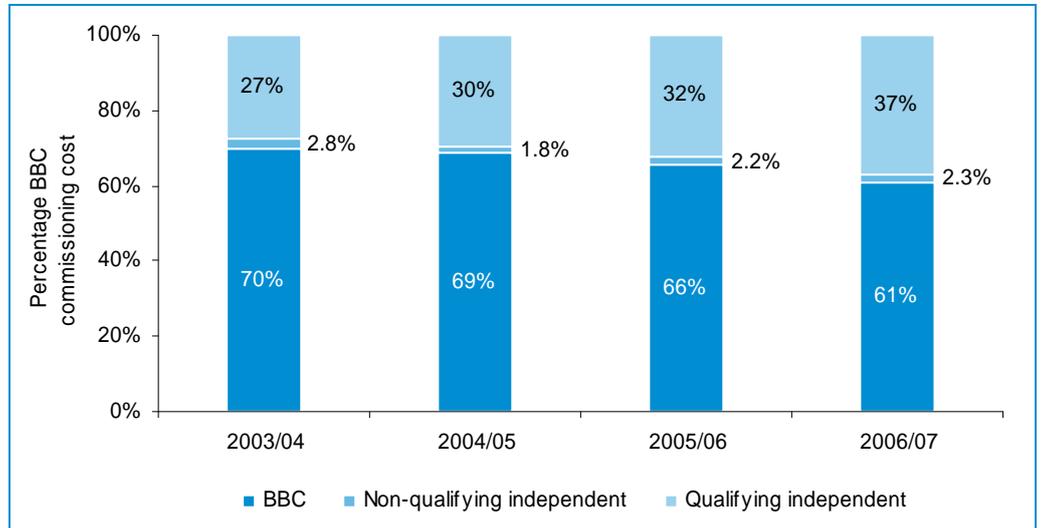
Figure 4: Supplier shares of commissioned hours historic



Source: BBC, PwC analysis

Figure 5 shows the share of commissions over time by cost. This follows the same pattern as the commissioned hours, with the in-house share falling and the share of qualifying independents increasing.

Figure 5: Supplier shares of commissioning cost historic

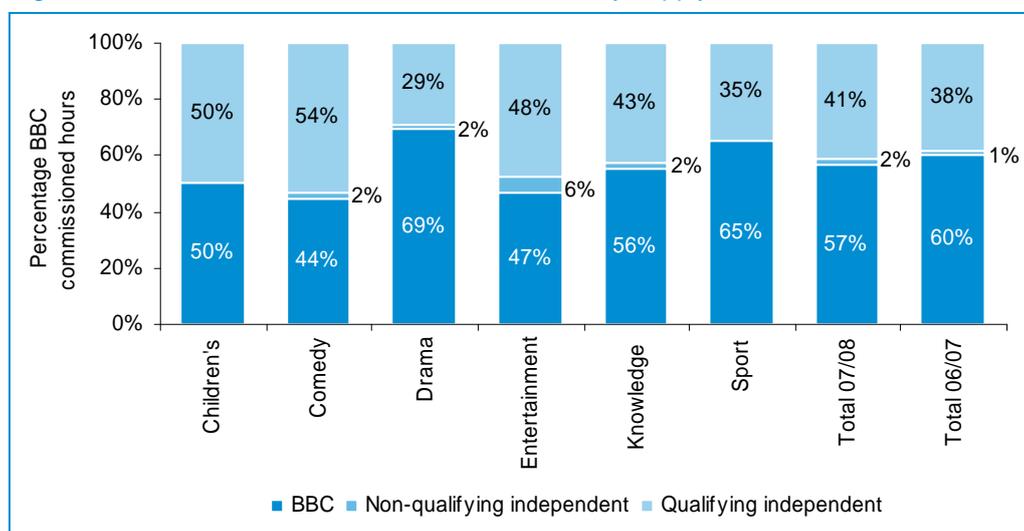


Source: BBC, PwC analysis

### 6.2.2 Shares of Network programming – hours

Overall FY2007/08, 57 percent of BBC broadcast hours were produced in-house, 41 percent by qualifying independents, and 2 percent by NQIs (see Figure 6). These percentages varied widely across genres, 69 percent of Drama commissioned in-house, whereas only 44 percent of Comedy was commissioned in-house, and 47 percent of Entertainment.

Figure 6: Network commissioned hours delivered by supply base FY2007/08



Source: BBC, PwC analysis

Figure 6 shows that independent producers won a higher share of commissions in FY2007/08 than in any previous year. This is consistent with the view that the introduction of the WOCC has opened the BBC's commissioning process up to ideas from independent producers, and supports the view that fair and transparent processes are in place.

However the share of in-house commissions was already falling prior to this year, and one might have expected this trend to continue, even absent the WOCC. This suggests that rather than representing a sudden and significant change in the BBC's approach to commissioning, the introduction of the WOCC has been part of an ongoing trend towards the BBC becoming more open to independent suppliers. In fact the increase in the share won by all independents increased by more between FY2005/06 and FY2006/07 (seven percent) than it did between FY2006/07 and FY2007/08 (three percent). This is consistent with what we were told about the way that competition for commissions has changed. Most interviewees felt that the BBC had become more open to competition from independent suppliers in the run-up to the WOCC, and some told us that several genres had, in effect operated a WOCC for some time.

Table 13 shows the share of the WOCC won in each genre by in-house and independent suppliers (based on the volume of hours won for the share of commissions in each genre that were not earmarked as the IHG or the independent guarantee).

Table 13: Share of WOCC hours won in each genre FY2007/08

	Independent guarantee	IHG	BBC share WOCC	Independents (all) share WOCC
Children's	[X]	[X]	0%	100%
Comedy	[X]	[X]	38%	62%
Drama	[X]	[X]	55%	45%
Entertainment	[X]	[X]	36%	64%
Knowledge	[X]	[X]	34%	66%
Sport	[X]	[X]	No WOCC	No WOCC
<b>Total FY2007/08</b>	<b>25%</b>	<b>50%</b>	<b>26%</b>	<b>74%</b>

Source: BBC, PwC analysis

There were a range of outcomes, from Children's where independent producers won all of the WOCC, to Drama, where in-house producers won 55 percent of the WOCC. Overall, independent producers won more than half of the WOCC in almost every genre, and 74 percent of the WOCC overall.<sup>29</sup>

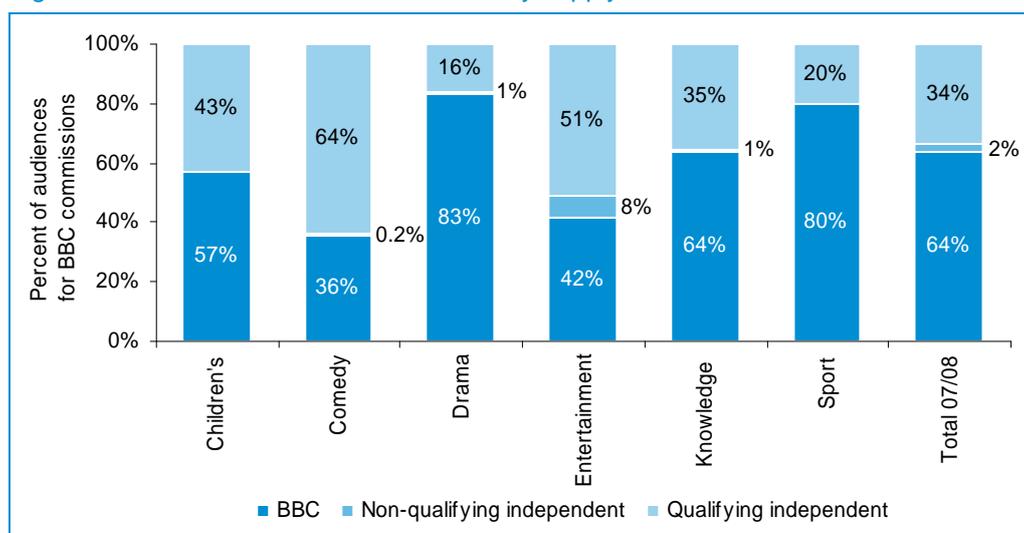
For more detail on the shares of in-house and independent producers in individual sub-genres, see Appendix IV.

### 6.2.3 Shares of Network programming – audience

Figure 6 shows the share of audiences for commissioned programmes for each supply base.<sup>30</sup> Overall, independent productions attract a lower share of BBC viewers than of broadcast hours. This is also true for every individual genre except Entertainment. For example, in Drama, while in-house productions account for 69 percent of broadcast hours, they account for 83 percent of audiences. For this genre, the top four titles, which account for 74 percent of viewing, are all produced by the BBC (EastEnders, Doctors, Casualty and Holby City), though the fifth, Waterloo Road, is an independent production. Drama accounts for 25 percent of BBC viewing.

The data presented is the share of total BBC audiences (sum of viewers for each programme). For example qualifying independents had a 43 percent audience share for Children's. This means that 43 percent of viewers who watched a BBC Children's programme were watching a programme produced by a qualifying independent producer. Note that the audience for a ten minute programme attracting 10m viewers would be counted the same as a one hour programme attracting the same number of viewers. This measure reflects the impact and profile of the programmes commissioned. However it does not reflect the duration. An alternative would be to use 'viewer hours' (hours for each programme multiplied by the duration). This picks up duration, but does not capture the impact of programmes in the same way. Shares based on viewer hours are presented in Figure 13.

Figure 7: Network commissions audience by supply base FY2007/08



Source: BBC, PwC analysis

<sup>29</sup> Note that these shares are determined by the levels at which the IHG and independent guarantees are set in each genre and that the apparent outcomes expressed in this way could be changed by reshuffling those levels without any change in the hours commissioned from different supply bases.

<sup>30</sup> The measure of audience used is the average number of viewers over the duration of a programme.

In Children's, in-house production attracts a larger share of audiences than of hours, this is partly explained by the fact that Blue Peter is produced in-house. This programme alone accounts for 17 percent of Children's audiences (audiences for this programme as a percent of the total of the audience for each programme).

Knowledge programmes accounted for 35 percent of audiences (total audiences for Knowledge programmes as a percentage of total of the sum of the audiences for all programmes). In this genre in-house productions accounted for a slightly higher share of audiences (64 percent) than of hours (56 percent). Knowledge consists of a much larger number of commissions than other genres (651 compared to 207 for Entertainment, 81 for Drama, and 71 for Children's). However the top three individual titles accounted for 20 percent of viewing. Of these, two were produced by the BBC (The One Show and The Antiques Roadshow) and one by a qualifying independent (Cash in the Attic).

As explained in Section 4.3 production of Sports programming is broadly divided by sport. Football programming, which is always produced in-house, accounts for much of BBC viewing in this genre. In terms of audience, one out of the five top titles over the year was an independent production (the Snooker World Championship).

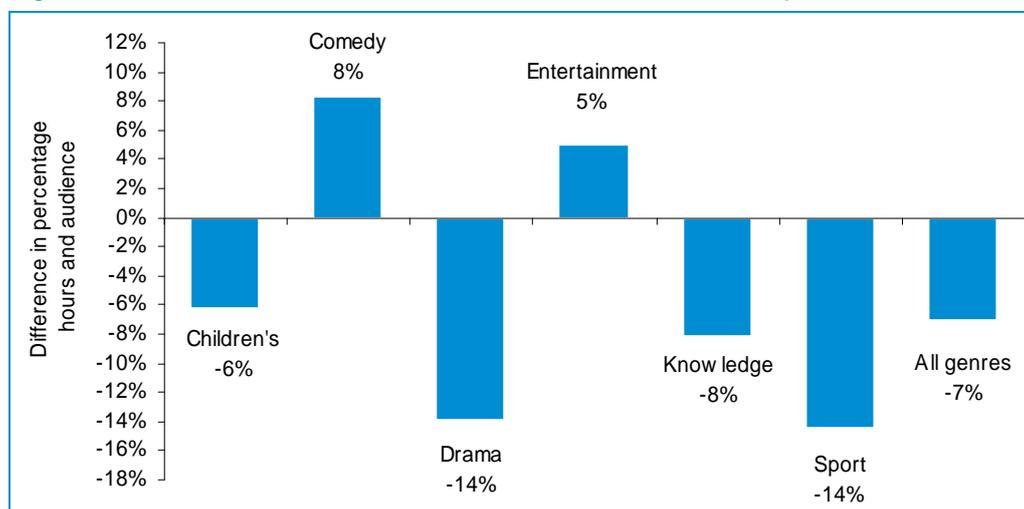
For Entertainment, while 48 percent of broadcast hours were produced by qualifying independents, these accounted for 51 percent of Entertainment viewing. Similarly, NQIs account for six percent of broadcast hours, but eight percent of viewing. In Entertainment independents have produced some high profile programmes such as the National Lottery Draw, Eggheads, and Friday Night with Jonathan Ross.

#### 6.2.4 Comparison of hours and audience

Figure 8 shows the difference between the share of hours accounted for by independent producers (including both qualifying independents and NQIs) in each genre, and the share of audience. For example in Comedy, independents account for a share of audiences that is eight percentage points higher than their share of hours, whereas in Drama, they account for a share of audiences that is fourteen percentage points lower than their share of hours.

Overall, the share of audiences was seven percentage points lower than the share of hours for independent producers (qualifying and non-qualifying independents together).

Figure 8: Difference between hours and audience shares, all independents FY2007/08



Source: BBC, PwC analysis

There are a number of possible explanations for these discrepancies:

- **Channels:** Programmes produced by independent producers might be shown disproportionately on channels with higher or lower audiences than in-house productions in particular genres.
- **Scheduling:** Depending on the genre, programmes produced by independent producers might tend to be shown at peak times, or off-peak.
- **Competition:** Programmes might be screened at times when particularly popular programmes are on air on other channels, or might compete with programmes with lower viewing.
- **Quality/appeal:** Programmes might attract higher or lower viewing because of their quality and appeal.
- **Nature of programmes:** It is possible that independents and in-house producers provide programming of a different nature to the BBC. For example they may produce programmes in different sub-genres. This may reflect strategic decisions by the BBC, which are reflected in the level of the IHG by genre or sub-genre.
- **Duration:** Many short programmes with high audiences would lead to a higher share in overall audiences than a few long programmes with high audiences (as the percentage is calculated over the total of audiences for each programme).

Analysis of the data will allow us to test some of the propositions above, which are discussed in turn below.

### Channels

Figure 9 shows that the amount of programming commissioned from in-house and external suppliers varied widely across channels. On BBC1 and BBC4 the share of in-house production was much higher than the share overall. On BBC1 64 percent of hours commissioned were produced in-house, compared to 57 percent overall. BBC1 accounts for 42 percent of original hours commissioned for the BBC (hours commissioned are presented along with average audiences along the top of Figure 9). On BBC4 70 percent of programming was commissioned in-house.<sup>31</sup> This channel accounts for only six percent of original programming (by hours).

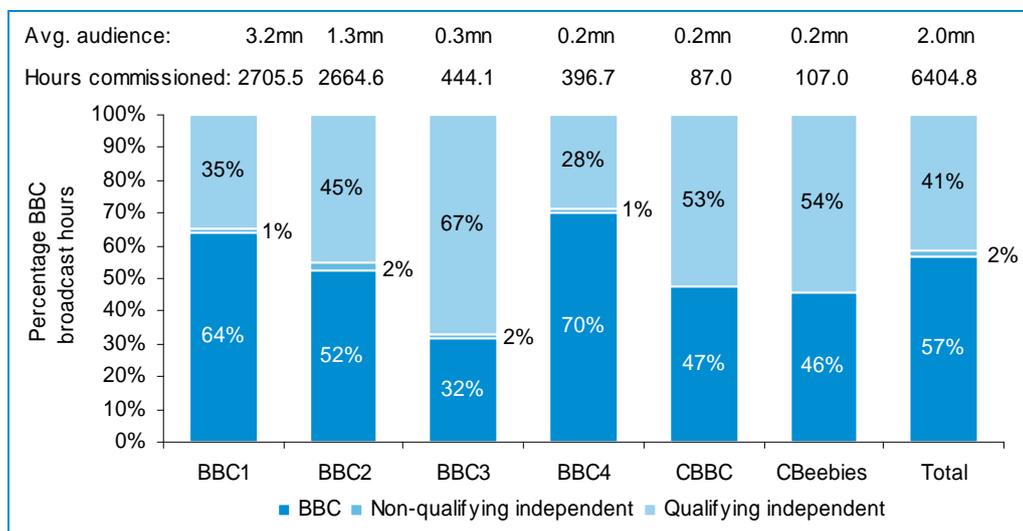
On all other channels in-house productions accounted for a lower share of hours than the overall share. Independents appear to have been particularly successful on BBC3, where in-house productions accounted for only 32 percent of hours (well below the 50 percent IHG). However this channel only accounted for seven percent of commissioned hours. On BBC2 (which accounted for 42 percent of hours commissioned) in-house productions accounted for 52 percent of hours, compared to 45 percent for qualifying independents and 2 percent for NQIs.

BBC1 and BBC2 together account for 84 percent of the total hours commissioned for the BBC.

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<sup>31</sup> Most commissions for BBC4 were for Arts programmes, which are predominantly supplied by in-house production teams.

Figure 9: Network commissions hours by supply base and channel FY2007/08



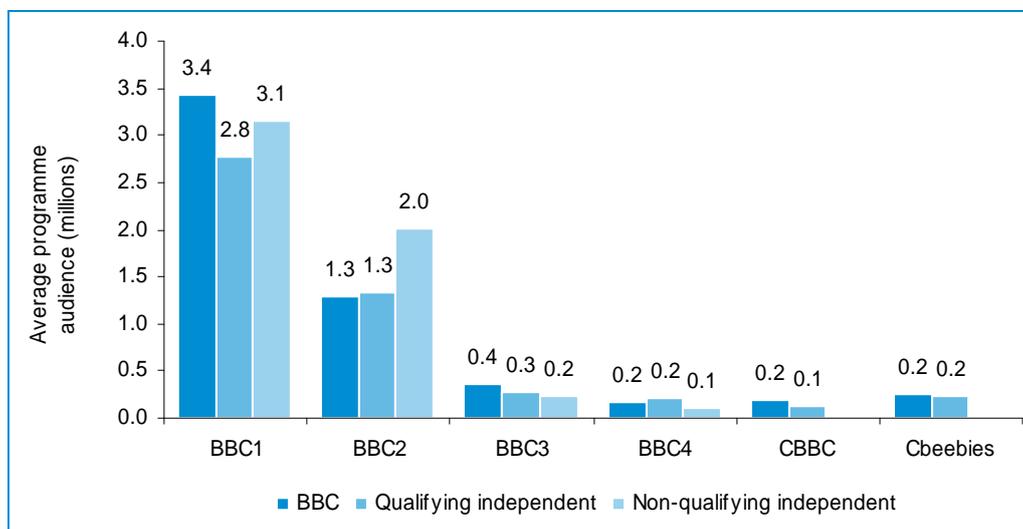
Source: BBC, PwC analysis

BBC1 has the highest average audience per programme with 3.2 million viewers watching the first screening of a commissioned programme. BBC2 follows with 1.3 million viewers. The digital-only channels have average viewing figures of between 0.2 and 0.3 million.

The target IHG was initially set at [30] percent for both BBC1 and BBC2, however the more detailed FY2007/08 planned 'buying model' suggested that [30] percent of hours would be allocated to in-house producers on BBC1, compared to [30] percent on BBC2.

Figure 10 shows the average audience per programme for different BBC channels by supplier. On BBC1 in-house produced programmes attracted an average of 3.4 million viewers, whereas qualifying independent programmes attracted 2.8 million. Programmes produced by non-qualifying independents on average fell in between these two figures, with audiences of 3.1 million.

Figure 10: Average programme audience by channel and supplier FY2007/08



Source: BBC, PwC analysis

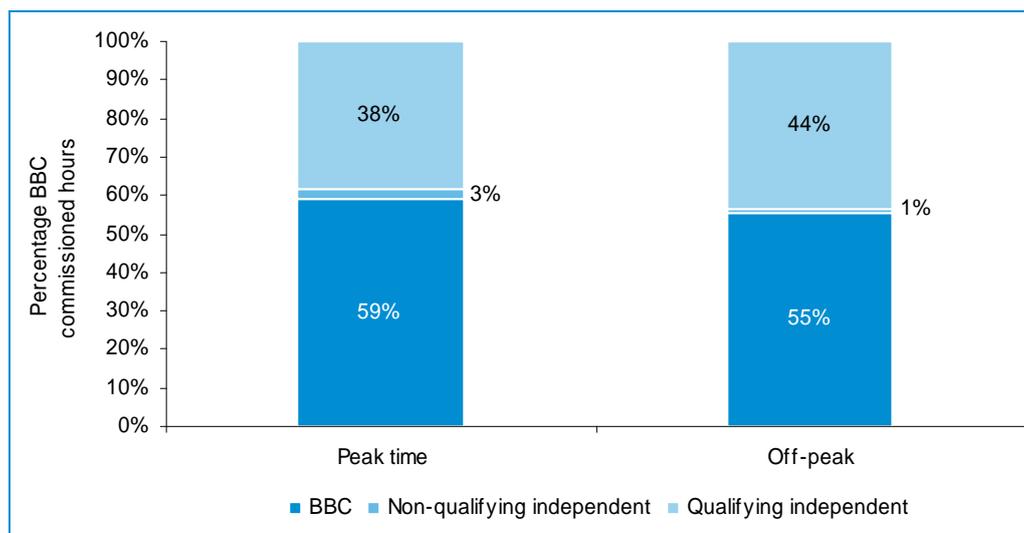
Since independent productions account for a relatively low share of programming on BBC1, this explains, in part, why their share of audiences is lower than their share of hours broadcast. However, independent programmes commissioned from independent producers attract, on average, a lower audience than programmes commissioned internally. This shows that the distribution of programmes across channels does not account entirely for the difference in audiences.

### Scheduling

Figure 11 shows the split of commissioned hours for peak and off-peak programming.<sup>32</sup> The data shows that qualifying independent producers account for 44 percent of original programmed hours during off-peak times, and 38 percent during peak times. In-house producers account for a larger share of peak-time hours than of off-peak hours (59 percent compared to 55 percent). NQIs also account for a larger share of peak hours than of off-peak hours, although they account for a very low share overall (three percent and one percent respectively).

In each case the overall independent quota level of 25 percent is easily exceeded.

Figure 11: Network commissions by supply base and peak and off-peak hours FY2007/08



Source: BBC, PwC analysis

The average audience for a peak time original commission was 3.1m, whereas the average audience outside these hours was 1.1m. As such, the fact that independent producers won a lower share of commissions in the peak than during off-peak hours may account for some of the discrepancy between the share of commissioned hours and share of audience. However the difference between shares at peak and off-peak is not large.

<sup>32</sup> Using Ofcom's definition of peak time as the period during which: "a television station broadcasts its early and mid-evening schedule, typically used by Ofcom to refer to the period between 18:00 and 22:30 each day (including weekends)". Includes all programmes which start during this period.

## Competition

Without access to audience data for competing programmes it is difficult for us to assess the popularity of programmes on competing channels. Audience shares<sup>33</sup> may shed some light on this question.

Table 14: Average audience share of commissions by supply base FY2007/08

Supplier	Average audience share
BBC	14.6
Qualifying independents	12.2
Non-qualifying independents	12.5
Overall	13.6

Source: BBC, PwC analysis.

Table 14 shows that the average audience share for a BBC produced commission is around 2.5 percentage points higher than that of a commission from a qualifying independent. This is consistent with the proposition that independent commissions are more likely to be scheduled at times when there are popular programmes on competing channels, however it is not possible to distinguish between this hypothesis and the hypothesis that programmes produced in-house are higher quality or have greater appeal than those produced by independent producers.

## Quality/appeal

The quality and appeal of a programme will affect viewing figures for a programme whatever its position in the schedule. It is possible that programmes commissioned in-house are systematically more appealing to viewers than those commissioned externally.

This would be consistent with the picture presented in Table 14, although it is not possible to distinguish between quality and competition effects using the data at our disposal.

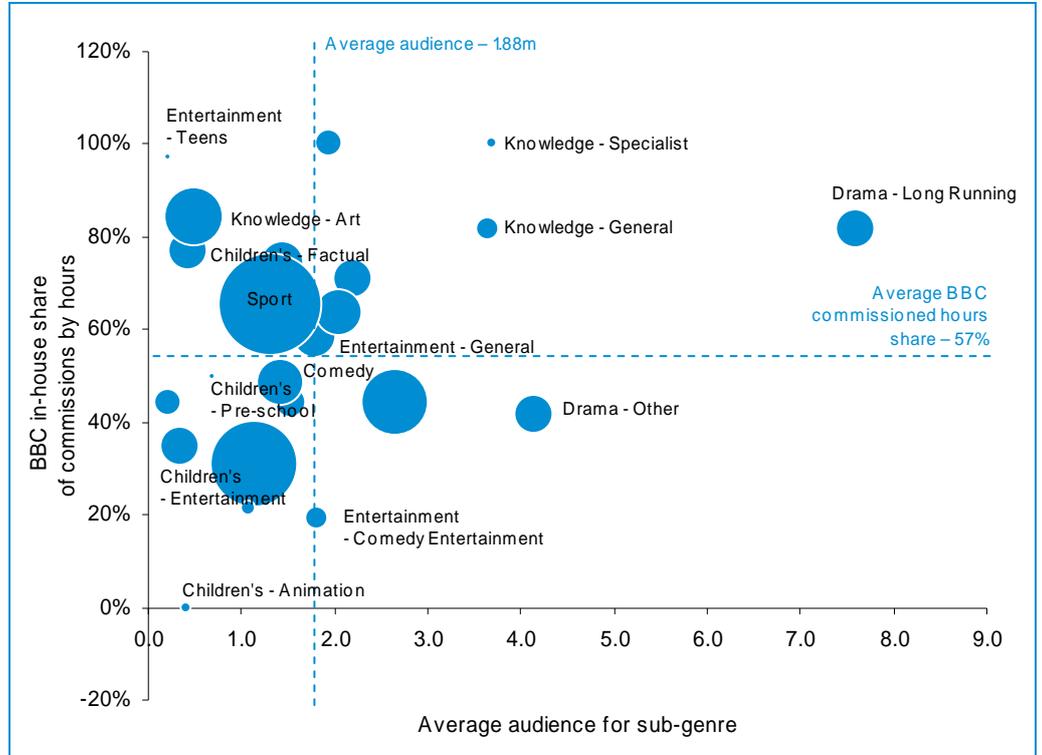
## Nature of programmes

Figure 12 plots the average audience of a sub-genre (sum of the audience for each programme in that sub-genre) against the share of in-house commissions (by hours). The size of the bubble indicates the number of hours commissioned in that sub-genre.

The chart shows that for genres with lower than average audiences there is wide variation in the share of commissions from in-house producers. There are a large number of sub-genres with low average audiences (10), in which in-house producers have a lower than average share of commissioned hours (Table 15 presents the number of sub-genres in each quadrant). There are also a large number of sub-genres where in-house has a higher than average share of hours, but the audiences are lower than average (for example Children's – factual). These are in the top left corner of the chart. This includes some genres with a large amount of programming (for example Sport).

<sup>33</sup> Audience share represents the number of viewers watching a programme as a percentage of all television viewers at that time (averaged over the duration of the programme).

Figure 12: Average audience and share of commissions by sub-genre and hours FY2007/08



Source: BBC, PwC analysis

Genres with above average viewing figures tend to be smaller in terms of the number of hours commissioned. Of these, only two have a higher share of independent production than in-house. Six have a higher share of in-house, including long-running drama, which has the highest average viewing figures. This suggests that in-house producers have been particularly successful in winning commissions in genres with high average audiences.

Table 15: Averages audiences and in-house shares for sub-genres

	Below average in-house share	Above average in-house share
Below average audience	10	2
Above average audience	7	6

Source: BBC, PwC analysis.

This pattern is could be explained in several ways:

- Historical accident means that in-house production teams are stronger than independent producers in sub-genres where audiences tend to be high.
- In-house productions are more popular, and attract higher audiences.
- There is a bias towards allocating a higher share of commissions in-house in sub-genres which are more popular with audiences.

The BBC has pointed out that the overall discrepancy between shares by audience and by hours is largely driven by long-running Drama, in which three major returning

series attract very high audiences. We understand that in long-running drama there is less opportunity for competition for commissions to move between supply bases due to the nature of the programmes. Programmes which are long-running are naturally replaced less often. Table 16 shows that overall, independent producers won over half of commissioned hours for new commissions (qualifying independents winning 49.3 percent). However for returning series independents won only 43 percent of commissioned hours (including 40 percent from qualifying independents).

**Table 16: Shares of returning and new commissions**

	Percentage commissioned hours:			Average audience
	BBC	Qualifying independents	Non-qualifying independents	
Returners <sup>34</sup>	57.0%	40.0%	3.0%	2.5
New commissions	49.6%	49.3%	1.1%	1.1
Sport	65.5%	34.5%	0.0%	1.4
<b>Overall</b>	<b>56.9%</b>	<b>41.2%</b>	<b>1.8%</b>	<b>2.0</b>

Source: BBC, PwC analysis.

Again there is more than one explanation for this pattern. Since BBC in-house producers had a higher share of commissions in the past, they are more likely to have an existing commission which might come back as a returner. Alternatively, in-house producers might be more likely to be offered the type of programme which would be brought back for another series.

If this discrepancy is explained by historical accident, then over time, we would expect to see independent series winning a higher share of returning series.

Although we do not have data which breaks down Sport programming by sport, the way in which this genre is commissioned also seems likely to lead to a higher share of audiences for BBC in-house Sports programming than of hours. This is because production of Sport programming is divided between in-house producers and independents by sport. Sport produced in-house includes football, which is particularly popular. The average audience for a Sport programme produced in-house was 1.7m, while the average audience for an independently produced Sport programme was 0.8m.

### Duration

If in-house commissions were composed of a large number of short programmes, and independent commissions were, on average, much longer, this would reduce the share of audiences for independent producers compared to a situation where the programmes were all the same length. This is because the audience figure for each supply base is arrived at by totalling the audience for every programme commissioned. If a particular supply base had many short programmes the total would be over a larger number of programmes. Table 17 shows that at an overall level this is not the case.

<sup>34</sup> Returning series include strands, such as Panorama, although in practice individual episodes are separate new commissions.

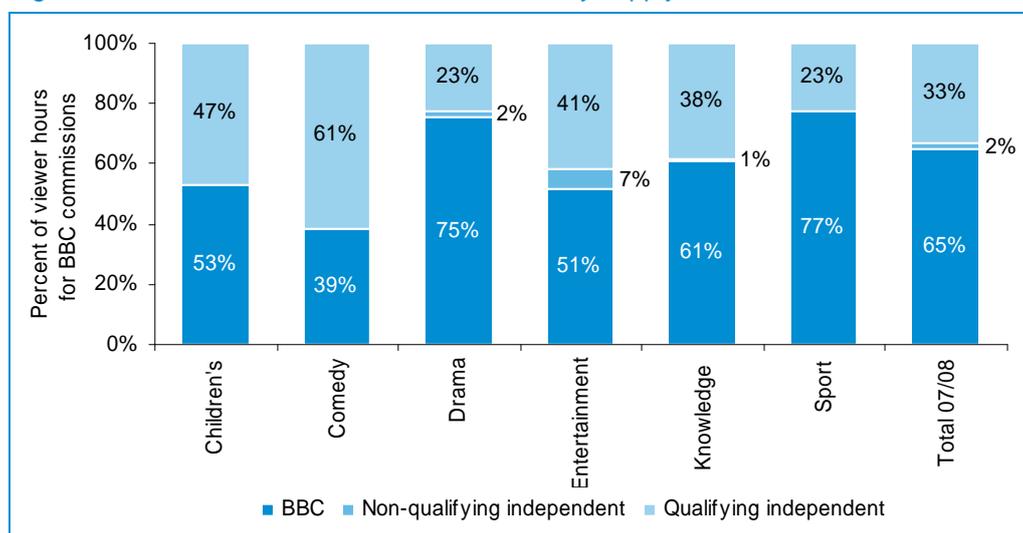
Table 17: Average duration of commissions FY2007/08

Supplier	Average duration (minutes)
BBC	43.7
Qualifying independents	44.5
Non-qualifying independents	35.9
<b>Overall</b>	<b>43.9</b>

Source: BBC, PwC analysis.

Figure 13 shows the shares of ‘viewer hours’<sup>35</sup> in each genre. This takes into account differences in duration for programmes, but does not fully pick up the ‘impact’ of different programmes, in terms of the actual level of audiences watching. The share overall is similar to that for total audiences, reflecting the fact that, on average, independent and in-house programmes were of similar lengths. However there are some differences within genres. For example in Drama, while in-house programmes had 83 percent of audiences they only had 75 percent of viewer hours (compared to 69 percent of hours). This shows that in-house productions had more viewers per hour than independent producers in that sub-genre. On the other hand in Comedy and Entertainment, in-house had only 36 and 42 percent of audiences respectively, but 39 and 51 percent of viewer hours (associated with 44 and 47 percent of hours). This shows that in those sub-genres, independent productions achieved higher audiences per hour than in-house productions.

Figure 13: Network commissions viewer hours by supply base FY2007/08



Source: BBC, PwC analysis

### 6.2.5 Shares of Network programming – cost

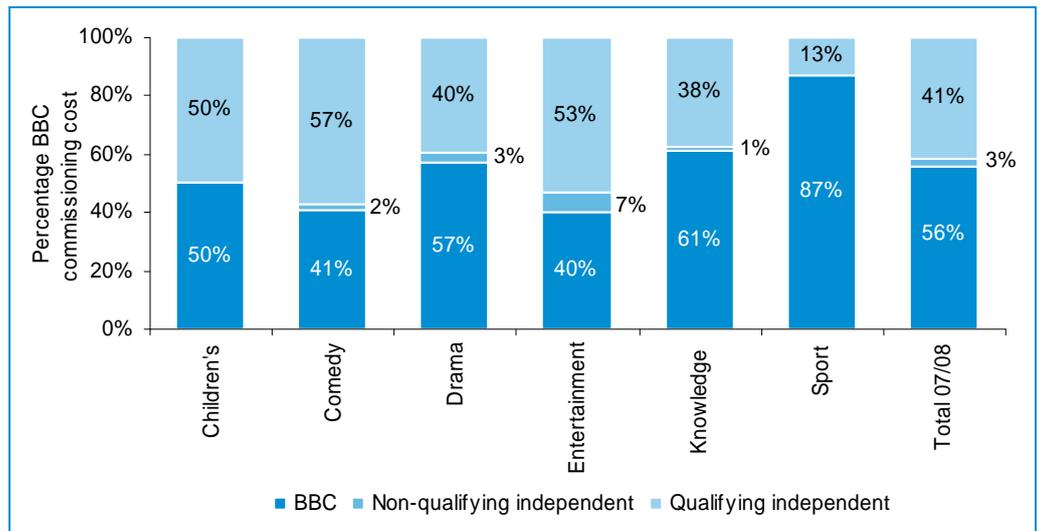
The cost data provided to us by the BBC came from the PRDB system, and is composed of two elements for both in-house and independent producers: the price paid to the producer for the commission; and a contribution towards overheads. Both

<sup>35</sup> Number of viewers multiplied by the duration of the programmes.

of these elements are covered by the commissioning budget of the genre making a commission. For more explanation of the cost data see Appendix V.

Figure 14 shows Network programming supply by cost. Overall, independent producers accounted for 44 percent of programming costs (qualifying independents accounted for 41 percent, and NQIs three percent). In-house producers accounted for 56 percent.

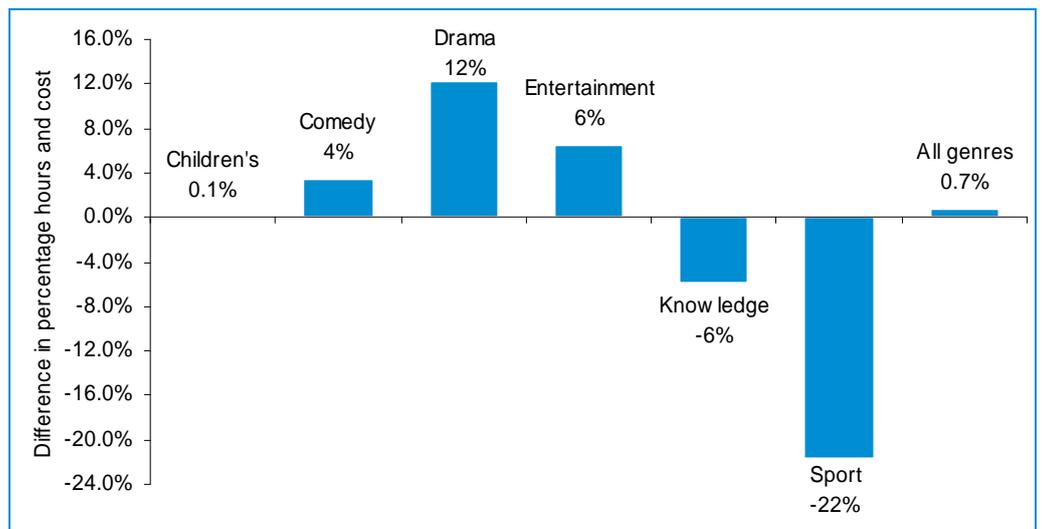
Figure 14: Network commissions cost by supply base FY2007/08<sup>36</sup>



Source: BBC, PwC analysis

Figure 15 shows the discrepancy by genre between the share of all independent producers in hours broadcast and the share in cost.

Figure 15: Difference between hours and cost share, all independents



Source: BBC, PwC analysis

<sup>36</sup> Cost data for Sport was not available by financial year. Cost for the calendar year 2007 is presented here.

In Children’s the share of cost almost exactly reflects the share of broadcast hours. This reflects the fact that the cost per hour for in-house and independent productions was very similar. In Knowledge the share of costs for independents was lower than the share of hours. Independents accounted for six percentage points less of costs than they did of broadcast hours. The same held for Sport, where independent commissions accounted for only 13 percent of commissioning costs, but 35 percent of hours commissioned, a difference of 22 percentage points. This reflects the much lower cost per hour for independent producers, of [£], compared to [£] for in-house Sport productions.<sup>37</sup>

In Drama and Entertainment independents’ share of cost was higher than their share of broadcast time. On average, a qualifying independent drama cost [£] per hour, whereas in-house productions cost [£] (see Figure 16). However in-house production teams were responsible for producing four of the top five, and seven of the top 10 titles in terms of total cost. These include a number of long-running series with relatively low cost per hour:

Table 18: Top ten Drama commissions by total cost

	Title	Producer	Total cost	Cost per hour
1	EastEnders	BBC	[£]	[£]
2	Casualty	BBC	[£]	[£]
3	Holby City	BBC	[£]	[£]
4	Doctors	BBC	[£]	[£]
5	Waterloo Road	IND	[£]	[£]
6	Spooks	IND	[£]	[£]
7	Robin Hood	IND	[£]	[£]
8	Silent Witness	BBC	[£]	[£]
9	Doctor Who	BBC	[£]	[£]
10	Lark Rise to Candleford	BBC	[£]	[£]

Source: BBC, PwC analysis.

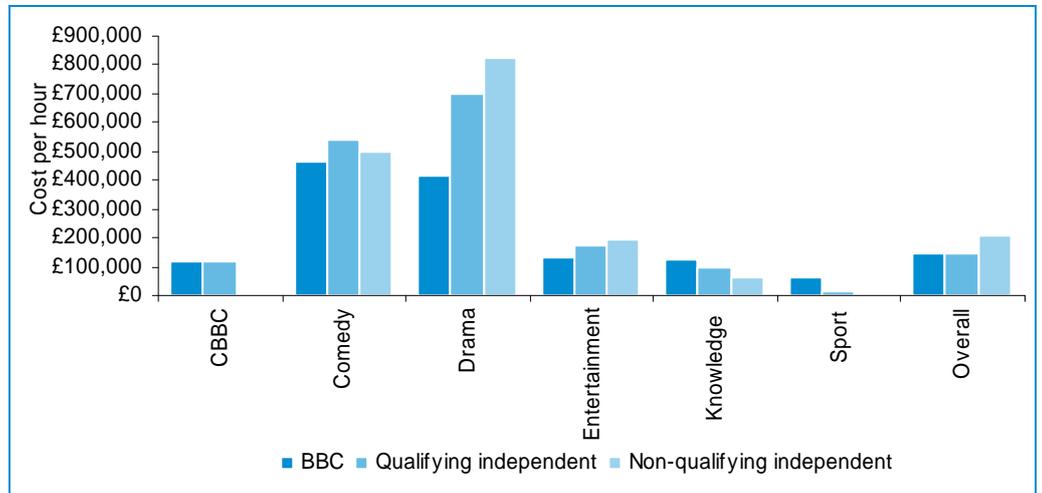
### 6.2.6 Cost and value for money

Figure 16 shows the average cost per hour of programmes produced in each genre by different suppliers.<sup>38</sup> Overall the cost per hour is very similar for qualifying independents and in-house producers. Non-qualifying independents have a higher average cost per hour. There are however differences across and within genres.

<sup>37</sup> Note that that the cost data for Sport covers the 2007 financial year, while the commissioned hours cover FY07/08.

<sup>38</sup> Based on actual duration of programmes.

Figure 16: Cost per hour by genre and supplier



Source: BBC, PwC analysis

In absolute terms, the largest discrepancy is in Drama, where the cost per hour for independent producers is much higher as shown in Figure 17. However, when this is broken down by sub-genre, it is clear that there is less difference within sub-genre, with in-house productions slightly more expensive per hour than independent productions. All daytime Drama is produced in-house, and this has a very low cost per hour. In-house produce 82 percent of long-running Drama, at an average cost that is quite a lot lower than that of independent productions; however, this consists of some very long-running series such as EastEnders and Casualty, which have a very low cost per hour.

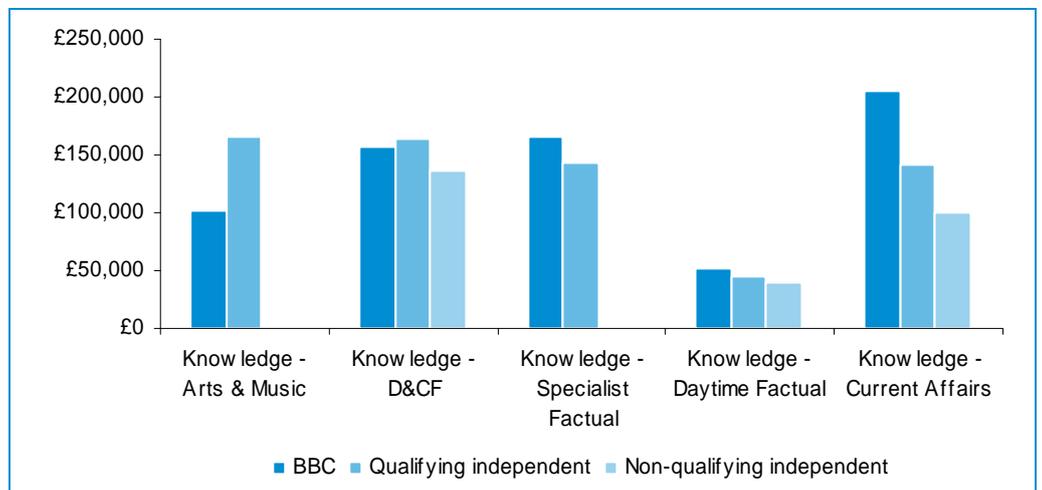
Figure 17: Cost per hour Drama sub-genres

[X]

Source: BBC, PwC analysis.

There is significant variation between sub-genres in Knowledge as shown in Figure 18.

Figure 18: Cost per hour Knowledge sub-genres

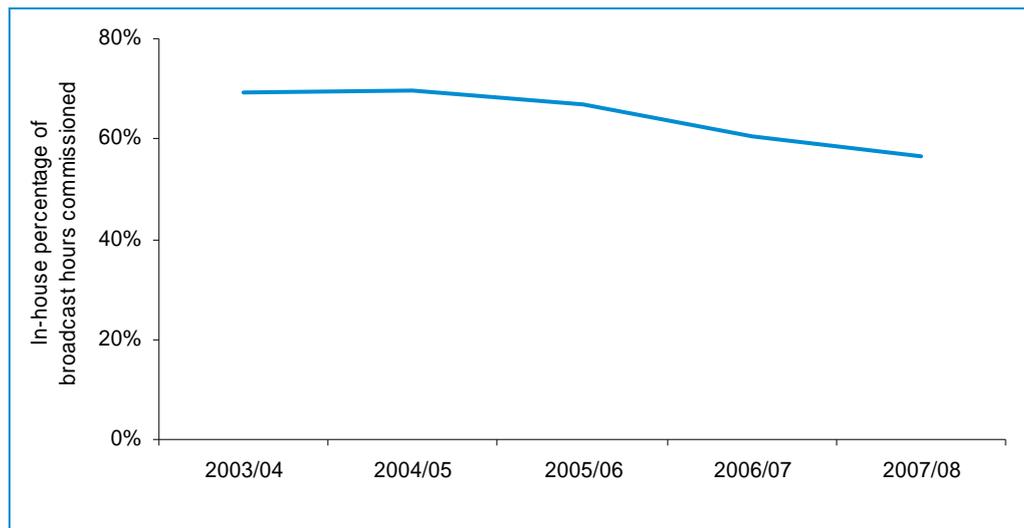


Source: BBC, PwC analysis

## 6.2.7 Trends

Figure 19 shows the share of original commissioned from in-house producers by hours over time. The in-house share has fallen from 69 percent in 2003/04 and 2004/05 to 54 percent in 2007/08.<sup>39</sup>

Figure 19: Share of in-house productions in hours (2003/04 – 2007/08)



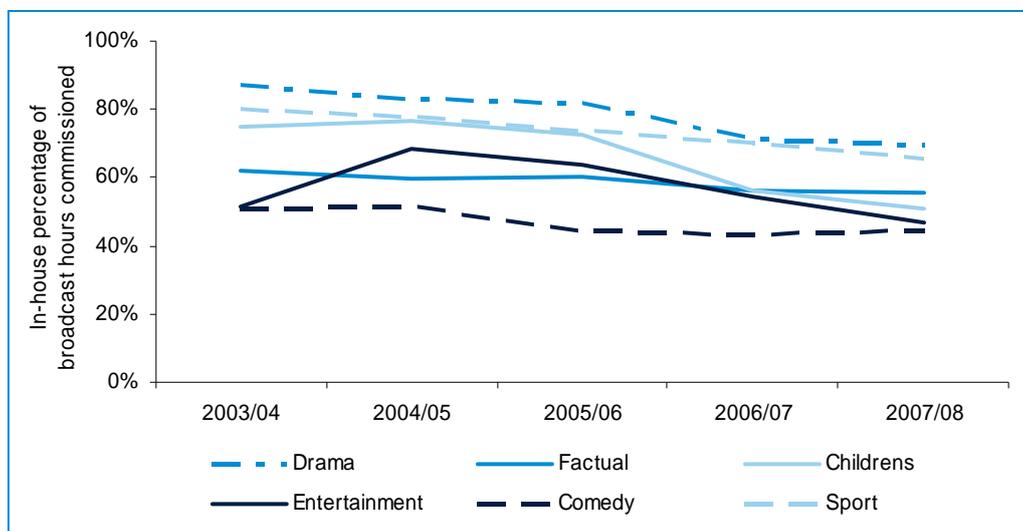
Source: BBC, PwC analysis

This pattern has loosely been reflected in each genre,<sup>40</sup> albeit from different initial shares. In Drama the share of in-house has fallen fairly evenly over the period. In Entertainment, the share of in-house increased sharply between 2003/04 and 2004/05, before falling away to below the original level. In Knowledge there has been a gradual decline in the share of in-house, with a small increase in one year. In Comedy, the in-house share declined from 52 percent in 2004/05 to 44 percent in 2005/06. It has remained stable since then. Children's saw the largest overall decline in the in-house share, from 75 percent, to 51 percent.

<sup>39</sup> This data is based on slot durations for programmes, as opposed to actual durations used above. This allows us to compare the data over time and explains the slight discrepancy with Figure 6.

<sup>40</sup> Genres presented here reflect the BBC's historic categorisation, as this is the basis on which data was available on a comparable basis over time.

Figure 20: Share of in-house productions in hours by genre – trends



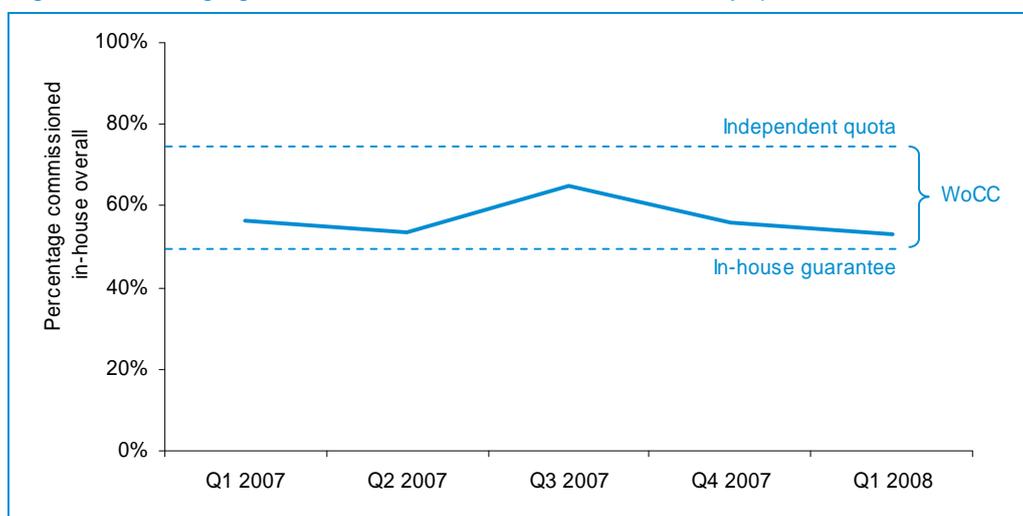
Source: BBC, PwC analysis

The implementation of the WOCC has not created a visible break in the trends presented above. One explanation for this is that the share of in-house productions has been declining over time for several years. Some interviewees suggested that a sense of competition had already been present in many genres, and that there was no change in ethos specifically as the WOCC was introduced.

### 6.2.8 Commissions over time since the introduction of the WOCC

The WOCC is measured annually but we have been asked to look at emerging trends. Figure 21 to Figure 27 present the pattern of commissions over time (by delivery date) since the quarter before the WOCC. The overall share of commissions did not fluctuate substantially and there was no obvious trend. In every quarter (including the quarter before the WOCC was first implemented) the share of commissions delivered fell in between the overall IHG and independent quota levels.

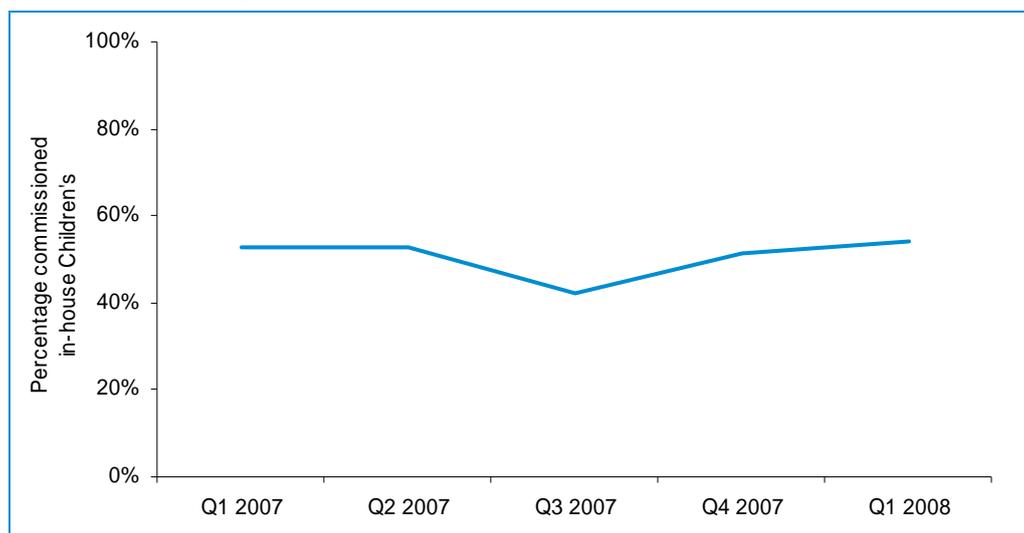
Figure 21: Emerging trends – overall share hours delivered by quarter



Source: BBC, PwC analysis

There is no obvious trend over the five quarters for which we have data for any of the genres. Some genres show more fluctuation over time, with the shares in Comedy and Entertainment moving around significantly.

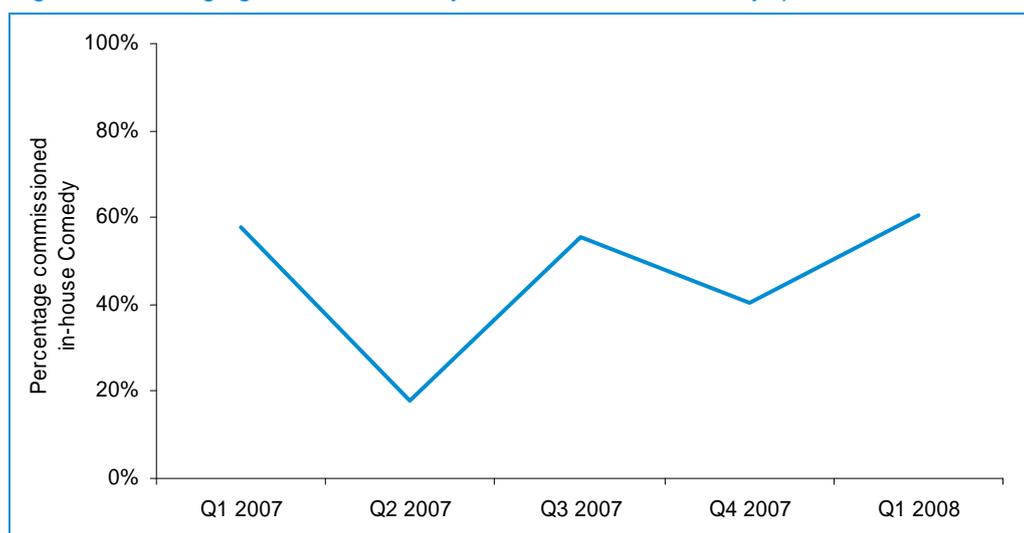
Figure 22: Emerging trends – Children’s share hours delivered by quarter



Source: BBC, PwC analysis

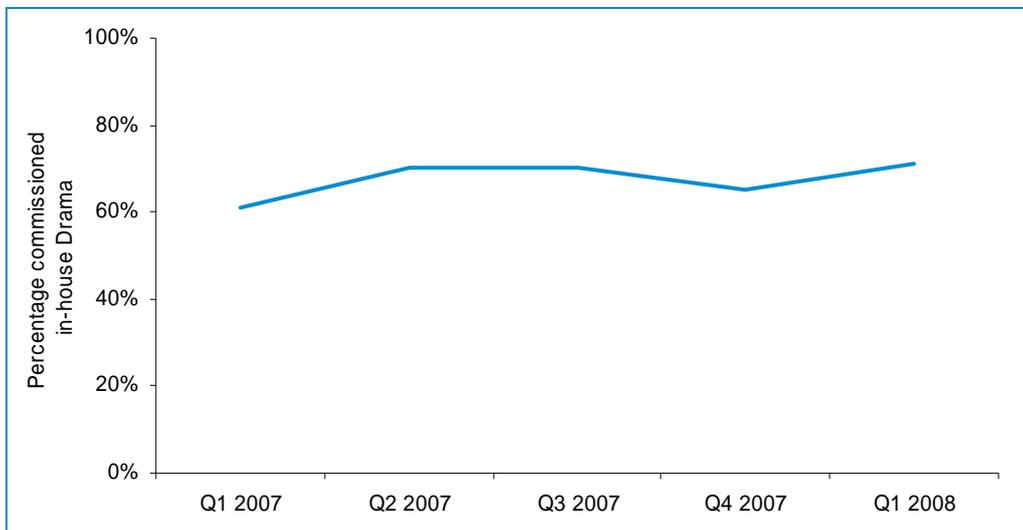
In Children’s, the percentage hours commissioned from in-house producers fell below the planned IHG level in each quarter.

Figure 23: Emerging trends – Comedy share hours delivered by quarter



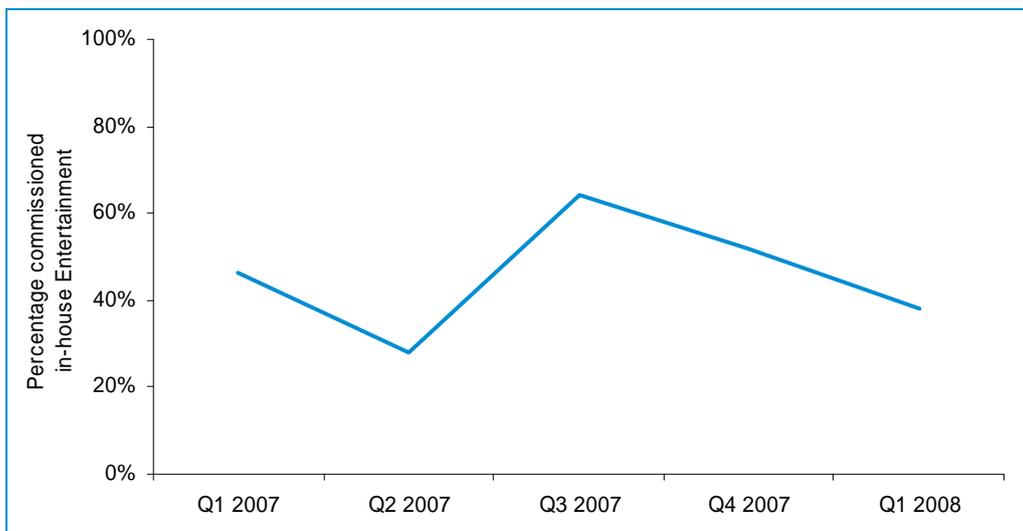
Source: BBC, PwC analysis

Figure 24: Emerging trends – Drama share hours delivered by quarter



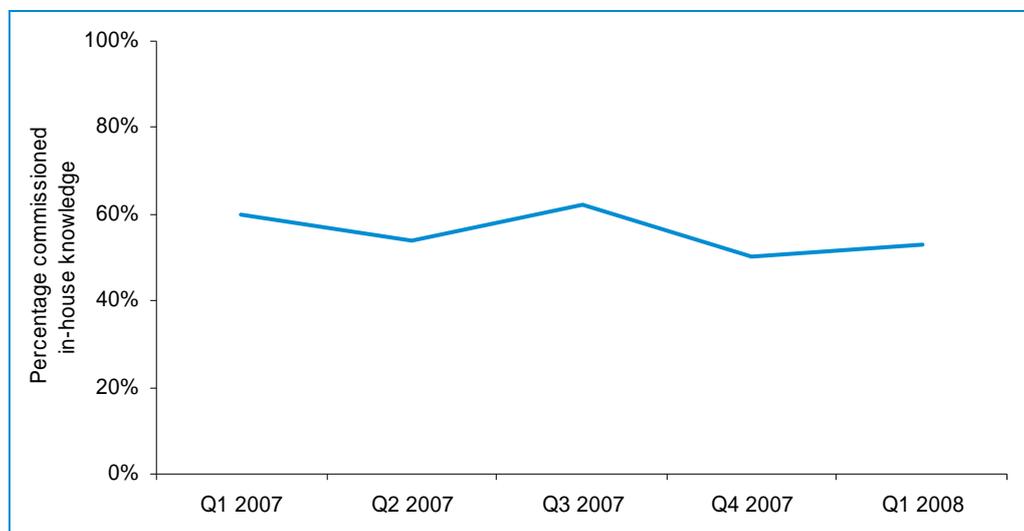
Source: BBC, PwC analysis

Figure 25: Emerging trends – Entertainment share hours delivered by quarter



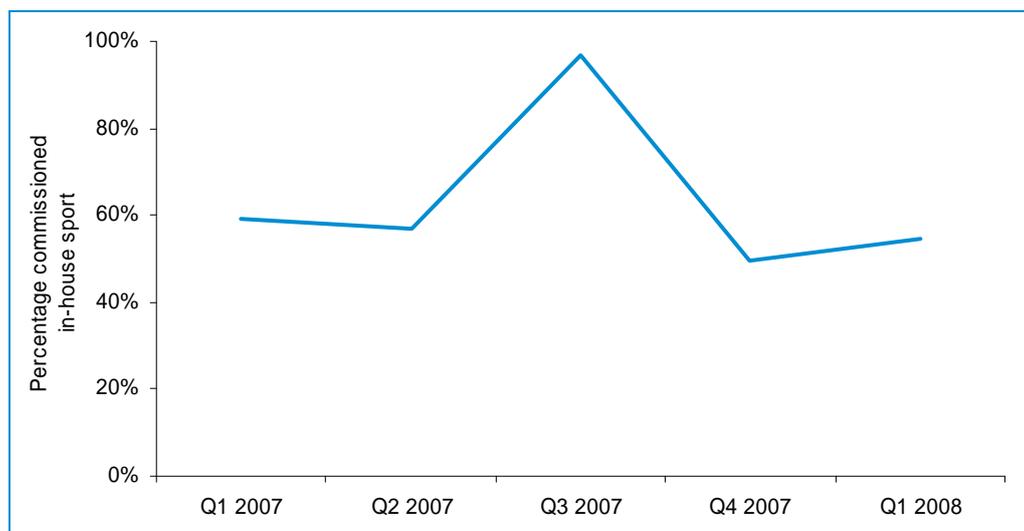
Source: BBC, PwC analysis

Figure 26: Emerging trends – Knowledge share hours delivered by quarter



Source: BBC, PwC analysis

Figure 27: Emerging trends – Sport share hours transmitted by quarter<sup>41</sup>



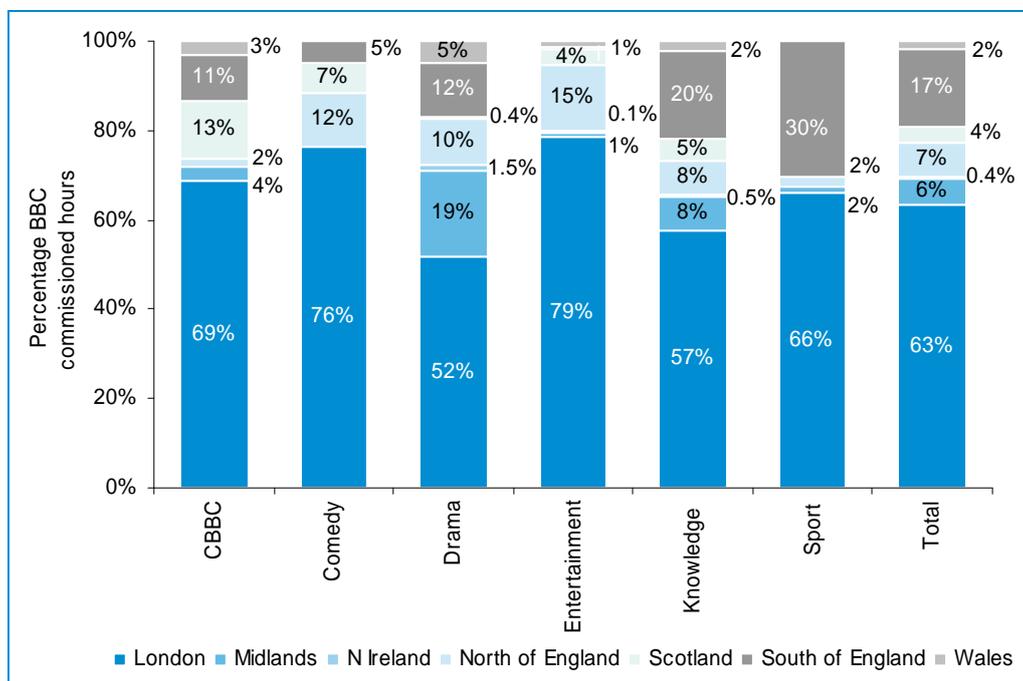
Source: BBC, PwC analysis

### 6.3 Network commissioning from the Nations and Regions

The Agreement states that the Trust must review whether “*the geographical location and size of external producers who made bids to make programmes through the WOCC suggests that the process of competition has been fair and transparent*” (Clause 57). Figure 28 shows the share of commissioned hours by region. Overall 37 percent of Network hours were commissioned from outside of London. In Drama and Knowledge a large share of commissions came from outside London (48 percent and 43 percent respectively). Entertainment was the genre with the lowest share of commissions coming from outside London (21 percent).

<sup>41</sup> Reliable delivery data was not available for Sport, so this chart shows commissions by quarter transmitted.

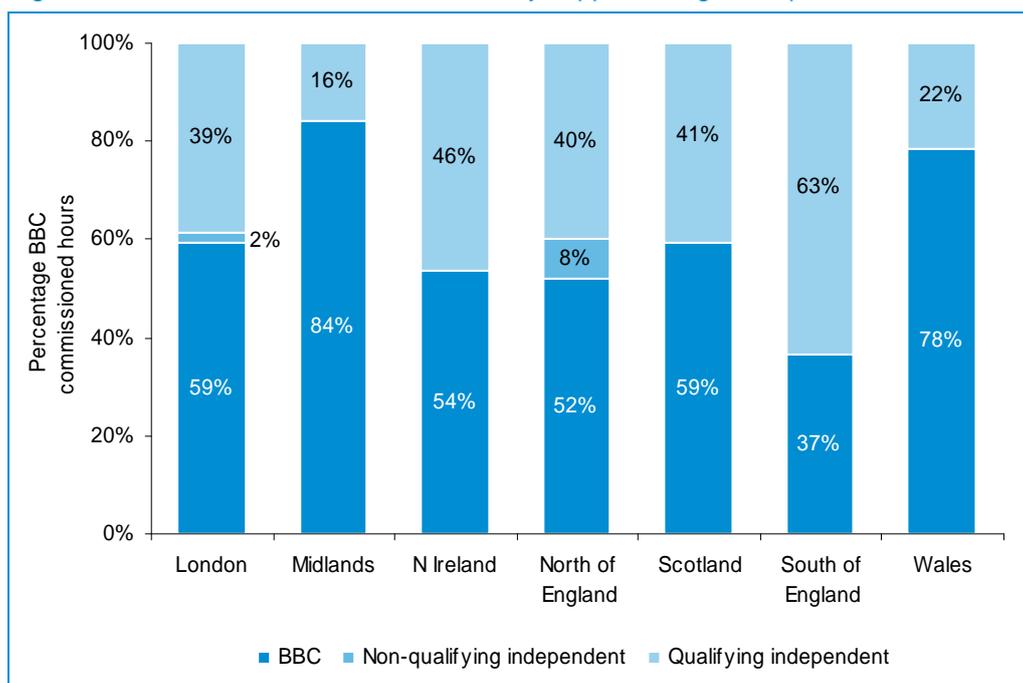
Figure 28: Share of commissioned hours by region



Source: BBC, PwC analysis

Figure 29 shows the share of commissions in each region by supplier type. There is considerable variation across regions, with independent producers strongest in the South of England, where they won 63 percent of commissioned hours.

Figure 29: Share of Network commissions by supplier – regional split FY2007/08



Source: BBC, PwC analysis

## 6.4 Characteristics of independents competing for the WOCC

Table 19 presents the number of commissions from independent production companies who had not previously dealt with the BBC for 2007 and the two preceding years. 2007 had the highest percentage of new independents of the three years (28 percent), and also the highest number of new independents supplying the BBC (59).

Table 19: New independents commissioned in 2005-2007

Calendar year	Total independent producers commissioned on Network	New independents commissioned on Network	Percentage new independents
2005	191	48	25%
2006	175	39	22%
2007	211	59	28%

Source: BBC, PwC analysis.

This data is consistent with the view that the WOCC has led to a more open commissioning process, however we do not regard this information to be particularly helpful in assessing whether the process of competition has been fair and transparent. This is because a new production company does not necessarily represent a producer who is unknown to the BBC. We were told that independent production companies were often set up by key figures from other companies, or by people who have recently left the BBC. As such, these production companies might already have established personal relationships with commissioners.

Table 20 shows the geographical distribution of in-house and independent producers. Overall, approximately a third of independent and in-house producers were based in the Nations and Regions.

Table 20: Geographical distribution of producers 2007

% spend	BBC	Indies	Total
London	67.4%	67.4%	67.4%
Scotland	3.2%	3.4%	3.3%
Wales	3.8%	1.1%	2.6%
N. Ireland	0.4%	0.5%	0.4%
<b>Total Nations</b>	<b>7.4%</b>	<b>5.0%</b>	<b>6.4%</b>
Midlands	6.4%	1.0%	4.1%
North of England	6.8%	14.8%	10.2%
South of England	12.1%	11.8%	11.9%
<b>Total Regions</b>	<b>25.3%</b>	<b>27.6%</b>	<b>26.2%</b>
<b>Total Nations and Regions</b>	<b>32.6%</b>	<b>32.6%</b>	<b>32.6%</b>
<b>Grand total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

Source: BBC – 2007 transmission data as submitted to Ofcom for regional production quota and independent production quota.

Table 21 presents the number of independent producers supplying the BBC<sup>42</sup> by size. There has been no noticeable change in the nature of the supply base since the introduction of the WOCC.

Table 21: Size of independent suppliers 2005-2007

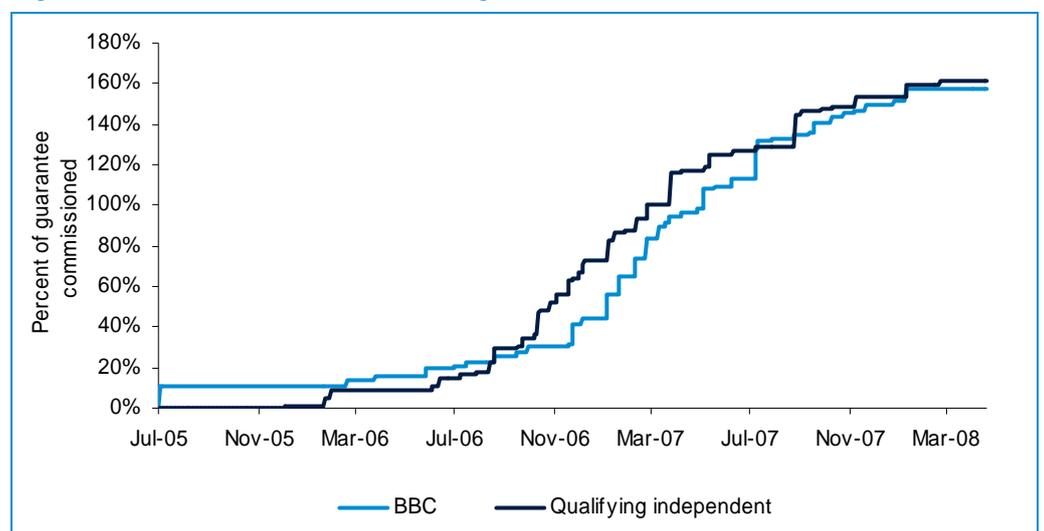
Indie turnover	2005	2006	2007
>£50m	15	20	19
£20 – £50m	9	17	13
£12 – £20m	8	3	7
<£12m	242	234	240
<b>Total</b>	<b>274</b>	<b>274</b>	<b>279</b>

Source: BBC – transmission data as submitted to Ofcom and matched to independent turnover figures as provided in Broadcast’s annual indie survey.

## 6.5 Commissioning decisions

Figure 30 shows qualifying independent and IHG commissions<sup>43</sup> over time as a percentage of the respective guarantees in Entertainment. This data was pulled together manually, and was not readily available for all genres.

Figure 30: Entertainment commissioning decisions over time FY2007/08 deliveries



Source: BBC, PwC analysis

Independent commissions reached their guarantee percentage (8 March 2007) before in-house commissions (17 May 2007). As in-house producers exceeded the IHG in the genre, and independent producers exceeded their independent guarantee, both shares eventually exceeded 100 percent. Overall for Entertainment there is no

<sup>42</sup> This data includes independent production companies supplying non-Network Nations & Regions programming.

<sup>43</sup> Commission decision based on date Project Finance Committee acceptance.

evidence that commissioners favoured either group, in terms of making commissions earlier than for the other supply base.

Table 22 shows the number of commissions made that have been tracked through the e-Commissioning system in each genre. It then shows these commissions as a percentage of submissions for which an 'expression of interest' was sent to the producer. This is the only possible comparison, since in-house ideas are entered at the stage where an expression of ideas is assumed to have been made.

Table 22: Percentage e-Commissioning submissions commissioned by genre FY2007/08

	Commissions in e-Commissioning			Ratio: Commissions / 'expressions of interest'		
	In-house	Qualifying independent	NQI	In-house	Qualifying independent	NQI
Children's	22	11	0	17.2%	17.5%	–
Comedy	8	6	2	25.0%	10.9%	66.7%
Daytime	2	0	0	13.3%	0.0%	–
Drama	0	2	0	0.0%	3.3%	0.0%
Entertainment	7	13	2	10.1%	7.8%	25.0%
Knowledge	54	50	0	12.7%	5.9%	0.0%
Sport	0	0	0	–	–	–
Overall	93	82	4	12.6%	6.8%	11.1%

Source: BBC, PwC analysis.

Overall, 6.8 percent of expressions of interest in ideas developed from qualifying independents were commissioned, compared to 12.6 percent and 11.1 percent for in-house producers and NQIs respectively. This pattern may be influenced by the fact that the qualifying independents are a much broader supply base than the other two, and some of these producers have a much less well-established relationship with the BBC.

In some genres the discrepancy was lower, for example in Children's the ratio was almost exactly equal. The widest discrepancies were in Comedy and Knowledge. In Comedy a much lower ratio of ideas from qualifying independent producers which received an expression of interest were commissioned (10.9 percent) than for in-house producers (25.0 percent). For non-qualifying producers in Comedy 66.7 percent of ideas which received an expression of interest were commissioned (although it should be noted that only three ideas received an expression of interest in the year). We are unclear whether this represents differences in the use of e-Commissioning, systematic bias or other factors.<sup>44</sup>

<sup>44</sup> We note that 30 out of 55 qualifying independent ideas which received an expression of interest were still in progress, whereas 16 out of the 32 ideas submitted by in-house producers were in progress.

## 6.6 Progress for FY2008/09

Figure 31 presents the planning assumptions for FY2008/09. In each genre we show the percentage hours allocated to in-house and independent producers at the time of the annual planning. WOCC/unplanned hours include planned or potential programming from NQIs.

In most genres it is not yet possible to tell how the outcomes might change between FY2007/08 and FY2008/09 (there is a large amount of unplanned programming). However Sport the planned level of hours already exceeds that which was commissioned from in-house producers last year. In Sport, in-house would gain an additional five percent of commissioned programming (this is associated with specific events which will take place in that year, including the Olympics and the European Football Championships). Since there is no WOCC in Sport, this effectively reflects a decrease in the independent guarantee.

Figure 31: Planned hours commissioned for FY2008/09

[✕]

Source: BBC, PwC analysis.

## 6.7 Summary

- The outcomes for the 2007/08 financial year confirm that the BBC has met its regulatory requirements, satisfying the IHG and the independent quota.<sup>45</sup>
- There is considerable variation in the results of the WOCC across genre. This has been partly driven by planned differences in the IHG and independent guarantee.
- Independent producers won a higher share of commissions in FY2007/08 than in any previous year. However the share of in-house commissions was already falling prior to this year, and one might have expected this trend to continue, even absent the WOCC. This suggests that rather than representing a sudden and significant change in the BBC's approach to commissioning, the introduction of the WOCC has been part of an ongoing trend towards the BBC becoming more open to independent suppliers.
- Overall independent producers account for a lower share of audiences and of viewer hours than of hours commissioned.

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<sup>45</sup> Although the latter is measured by calendar year.

## 7 Nations and Regions non-network programming

This section sets out the results of the commissioning process for non-Network Nations and Regions programming at the BBC.

### 7.1 Context

Table 23 sets out the scale of commissioning for Nations & Regions non-Network programming, as compared with Network programming.

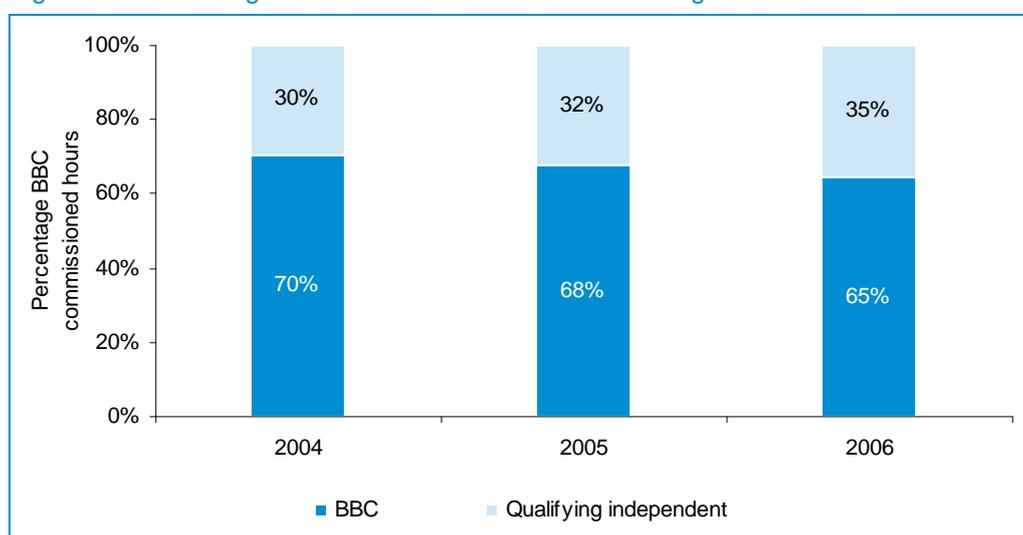
Table 23: Nations & Regions commissioning

	Hours	Cost
Network	6,405	£933,097,302
Nations	1,063	£55,264,652
English Regions	259	£13,537,840
Nations & Regions as % Network	20.6%	6.1%

Source: BBC, PwC analysis

Figure 32 presents the historic share of Nations & Regions commissions won by independent and in-house producers. The share of commissioned from in-house producers has been falling over time.

Figure 32: Percentage hours commission Nations and Regions 2004-2006<sup>46</sup>



Source: BBC, PwC analysis

In each of these years the share of independent commissions in the English Nations was lower than the share for each of the Nations (ranging from 25 to 28 percent compared to 28 to 41 percent).

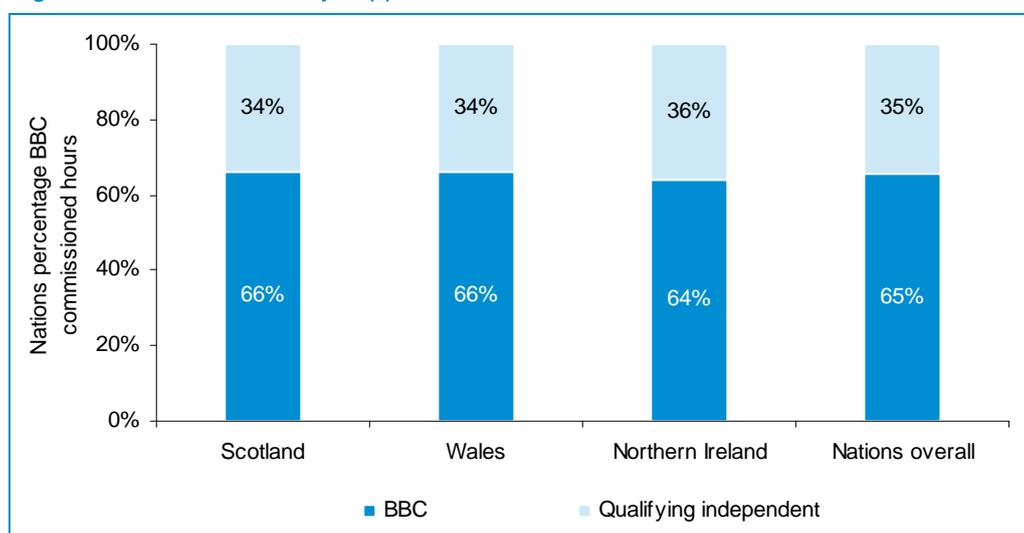
<sup>46</sup> By calendar year.

## 7.2 Nations & Regions non-Network outcomes

### 7.2.1 Nations & Regions commissioned hours

Figure 33 shows the share of commissions won by independent and in-house commissioners in the Nations. The share of commissioned hours won by independent producers was lower for the Nations than it was for Network commissions. In each of the Nations, the share of commissions to qualifying independents exceeded the BBC's 25 percent internal target for each Nation.

Figure 33: Commissions by supplier hours – Nations, FY2007/08

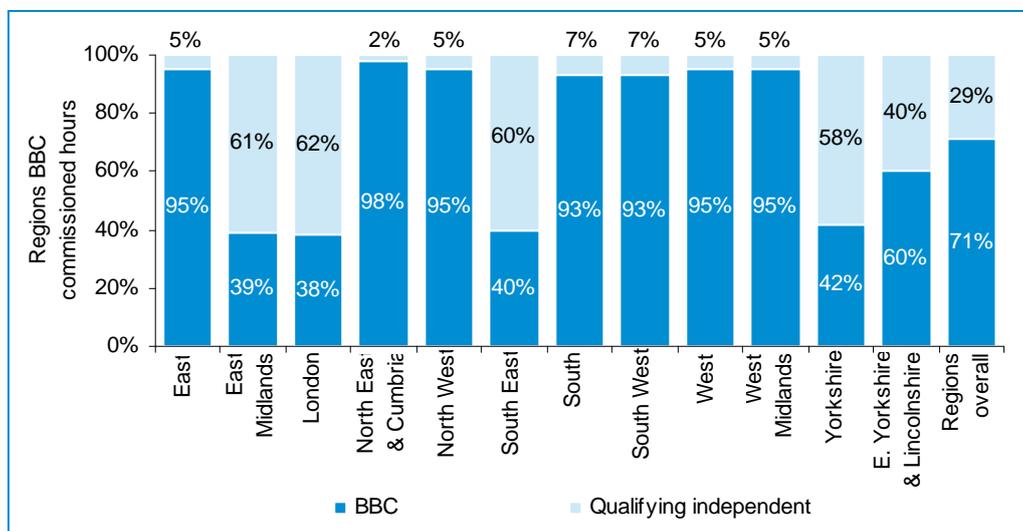


Source: BBC, PwC analysis

Figure 34 shows the share of commissioned hours by supplier for the English Regions.<sup>47</sup> There is wide variation across regions, with the overall independent share lower than that for the Nations, at 29 percent. This means that overall the English Regions met the BBC's 25 percent internal target for the Regions, which applies across the Regions rather than in each individual Region. In a large number of individual Regions the independent share did not reach 25 percent. There was wide disparity in outcomes across regions, with many commissioning less than 10 percent of hours from independent producers, but others commissioning over 50 percent from independents.

<sup>47</sup> This refers to commissions for local programming to be transmitted in each Region.

Figure 34: Commissions by supplier hours – English Regions, FY2007/08

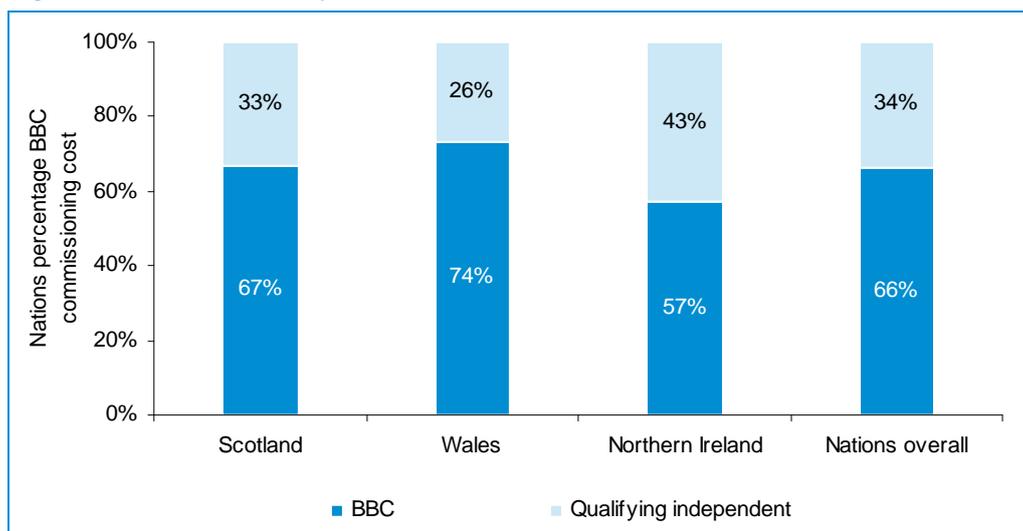


Source: BBC, PwC analysis

### 7.2.2 Nations & Regions commissioning cost

Figure 35 shows the share of commissions for each supply base by cost. Overall independents accounted for a lower share of costs (34 percent) than of commissioned hours (35 percent). The only individual Nation where this was not also the case was Northern Ireland, where independents accounted for 43 percent of costs, but only 36 percent of hours.

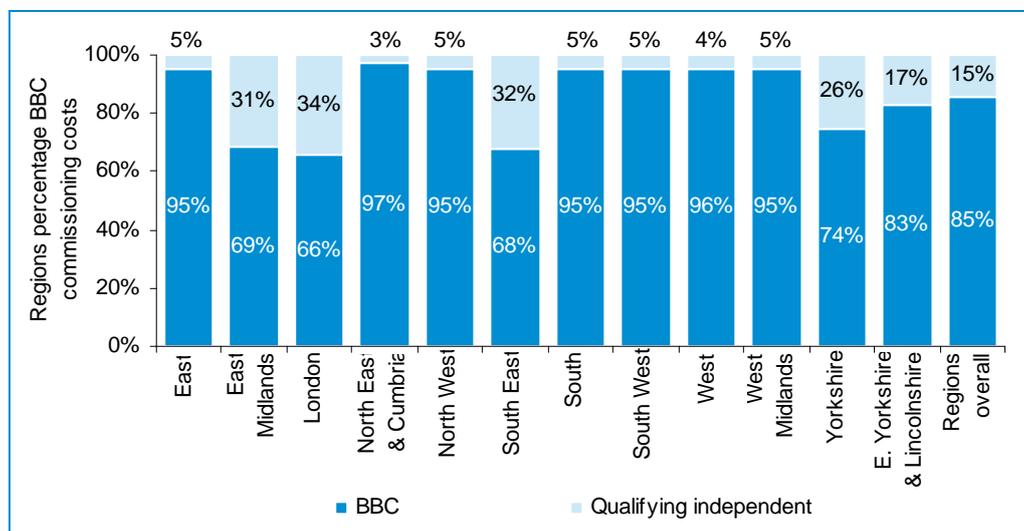
Figure 35: Commissions by cost – Nations, FY2007/08



Source: BBC, PwC analysis

In the English regions, independent producers accounted for a much lower share of costs (15 percent) than of commissioned hours (29 percent). In those English Regions where independents had a share of commissioned hours above 50 percent, the share of commissioned cost was consistently below 40 percent.

Figure 36: Commissions by cost – English Regions, FY2007/08



Source: BBC, PwC analysis

### 7.3 Summary

- Overall the share won by independents in the Nations and Regions was lower than for Network programming.
- In the English regions, the share of commissioned cost of independent producers was much lower than the share of commissioned hours.

## 8 Data

In this section we briefly describe the systems and processes in place within the BBC to gather data on the WOCC.

### 8.1 Data collection and systems

Most of the data used in this report was taken from the PRDB system, which is a transmission-based database containing detailed information relating to individual programmes screened by the BBC. The database contains information including: transmission time and date, delivery date (currently based on date of payment), channel, slot duration, actual duration, commissioning genre, sub-subgenre (various categorisations), cost, supplier (BBC, qualifying independent or non-qualifying independent), name of the independent production company, region of supplier, programmes audience and audience share. At the moment the system does not hold data on whether a series was a returning series, or when programmes were physically delivered to the BBC and became available for broadcast.<sup>48</sup>

The PRDB system holds data relating to programmes from the point of commission through to transmission. Information relating to programmes in development or prior to commission is held in the e-Commissioning system, described in more detail in Section 4.6.

The PRDB system is a live system, which changes continuously to reflect new commissioning information and data that becomes available after transmission. The system is used for a range of purposes:

- Formal reporting and accounts, including the BBC's annual report and Ofcom reporting.
- Used by genre teams to manage slates.
- Used by channels to manage schedules.
- Used by finance to manage budgets.

When planning begins for a new year, the channel teams will come up with an initial rough plan of how money will be spent in line with the BBC's strategy. This is developed offline from the PRDB system in consultation with the genre teams. After this a line-by-line plan for the genre commissioning requirements is entered into PRDB by the genre teams. In this plan, there will be some programmes which have already been commissioned, for example returners, or landmark series that have been commissioned far in advance of transmission. Other lines would be 'to be announced' (t.b.a.), but would have some shape e.g. they might be suggested for the IHG, or there might be some assumptions about price, or the region from which they would come. These act as a guide to commissioners as they fill up the slates, although there can be significant deviation from this plan based on the quality and provenance of ideas that come in.

The data in the system is updated as commissions are made. Genre teams update the systems as they get more information about the ideas to be commissioned. Genre slate managers input the data for their area, and channel teams enter transmission information as the schedules develop.

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<sup>48</sup> Data in PRDB referred to as delivery date in previous sections relates to the financial settlement date i.e. the date the BBC made the payment for that particular programme.

Some of the data used in this report was provided after a manual data collection exercise. We were provided with information collected manually regarding: the terms of trade for independent commissions, whether a programme was part of a strand, and whether a transmission was part of a strand.

We note that data from the Nations & Regions is not fully integrated with data for the Network. In particular the data for the English Regions is not collated in the same manner as that in the PRDB system. This led to some difficulties in arriving at a definitive data set with which to perform our analysis for the English Regions. In addition, the PRDB database does not hold Sport costs.

### 8.1.1 Checks in place

The Business Information team runs weekly 'mismatch analysis' on the data in the PRDB system to verify that the data has been correctly entered. This includes checking for overlap between the timing of different programmes, and checking for consistency between fields. Data in the system is also checked against 'compliance forms' which specify how a commission meets the BBC's targets, such as those for independent commissions, and regional commissions. At this point it is verified that a programme qualifies for the quotas and targets, for example confirming that it is not mainly composed of a live feed from another broadcaster. Data in the PRDB system would be amended in case of any inaccuracies.

For the 2007/08 year-end three audits have been carried out of the PRDB data. This includes two internal audits, and an external audit by the BBC's auditors, KPMG. We were told that ensuring the data in the PRDB system is reliable is a priority for the BBC since it drives all of the BBC's regulatory reporting and provides much of the information presented in the annual reports.

Although PRDB is a live system, there are periodic downloads of the data so that, for example, a record is kept of the data in the system at the time that the Annual Report was produced.

## 8.2 Future developments

The BBC will shortly move over to a new database, called 'On Air'. This system will perform broadly the same functions as the PRDB database, with some additional functions. It will enable improved management of programmes transmitted across different channels and, in the near future, across different multi-platform services (for example on demand content). The new database will also contain additional data, for example the data when a commission becomes 'available to schedule' (is delivered by a supplier). Data that was provided to us manually will be available from the On Air system.

The On Air system is intended to be linked up to the e-Commissioning system at some point in the future (there is no definite timetable yet, and we were told that the system was unlikely to be up and running within the next 12 months). This will allow the BBC to track the progress of commissions from submission of initial ideas all of the way through to transmission. This would be a welcome development, which would allow a more thorough analysis of the process and timing for handling ideas and commissions than is currently possible.

### 8.2.1 Summary

- The BBC currently collects a large volume of data which is necessary in order to analyse the results of the WOCC.
- Some data required for this report was collected manually.
- New systems will soon be in place which will allow better monitoring of the timing and progress of commissions. Eventually it will be possible to track ideas through from the date of first submission to the BBC to transmission.

## 9 Complaints

In this section we set out our expectations for what could constitute an effective complaints system. We then outline how complaints received from producers are handled at the BBC.

### 9.1 Expectations

We have identified the following criteria which we suggest would be necessary for a fair and effective complaints process:

- The processes for dealing with complaints should be transparent.
- Complaints should be handled by parties that are independent to the decisions and processes about which a complaint might be made.
- There should be parallel processes for in-house and independent producers to ensure a level playing field. Potential in-house complainants should have access to equivalent procedures.

### 9.2 Reporting requirements

At the end of every quarter (at 30 June, 30 September, 31 December and 31 March), BBC Vision is required to report on the operation of the WOCC, and compliance with the Fair Trading Guidelines, Fair Trading Procedures and WOCC Procedures.

The quarterly return for the WOCC is prepared by the WOCC Fair Trading Representative, approved by the Group Fair Trading Representative prior to signature by the Group Director. The return consists of a declaration detailing that:

- Processes supporting the WOCC have been operating effectively and efficiently over the quarter.
- Changes to processes supporting the WOCC have been communicated to the Controller, Fair Trading.
- Fair Trading items, as they relate to the WOCC, have been communicated on a timely basis to the Vision Group's Fair Trading Adviser.
- Complaints have been reviewed on a timely basis and all those that have a Fair Trading aspect to them have been communicated to the Controller, Fair Trading.

Every six months, the quarterly return includes an analysis of the:

- Number of Fair Trading complaints received.
- Number of tenders issued and their status.

The quarterly return must be submitted to the Fair Trading department within one month of the quarter end date in order that its data can be incorporated into reports presented to the BBC's Executive Fair Trading Committee and the Trust's Fair Trading Policy and Appeals Committee.

At least quarterly the WOCC Fair Trading Representative will meet with the Fair Trading team to discuss the quarterly return, progress on audit issues, major issues and any other matters arising. The Fair Trading Adviser will record any action points and report progress against them in the next Quarterly Return.

Additionally the BBC under the Code of Practice for dealing with independent producers (Section 13.1) provides Ofcom with details of the number of complaints (concerning the commissioning process) and how they have been resolved.

### 9.2.1 The internal returns

Three quarterly returns were submitted from July 2007. These returns showed no new complaints. (We note that the Q2 and Q3 returns did not meet the deadline for reporting within one month of the quarter end date).

However the annual return to Ofcom shows five complaints during the period January to December 2007, four of which arose from July onwards.<sup>49</sup>

We were told that *“if a WOCC transaction has a complaint made against it, this will initially be picked up by the Independents Executive and if it has reached Stage 2 then it will be discussed with Fair Trading to determine whether it should go via the Fair Trading complaints process if it is of a Fair Trading nature, for example, a WOCC complainant may refer to competitive impact. If it is shown that a WOCC complaint is of a fair trading nature then it will move over to the Fair Trading Department and be treated via the Fair Trading Complaints process. The information contained in Section 1 of the Quarterly Return relates specifically to WOCC complaints that have a fair trading nature to them.”* The quarterly returns are thus very limited in scope.

## 9.3 The complaints process in practice

The complaints process is set out in the Fair Trading Procedure and in similar terms on the BBC website.<sup>50</sup> The Independents Executive manages the commissioning complaints process, and reports to the Managing Editor, Commissioning. More broadly, the Independents Executive manages relations between BBC and independent production companies, including with Pact.

The Independents Executive told us that he saw the role *“as being independent, and more on the programme-makers side than on the side of commissioners. [The Independents Executive’s] role is to be the voice of independent producer in the BBC, though not to blindly support them.”*

The current process was developed in late 2006 and has operated since April 2007. BBC Vision have introduced a system for dealing with complaints from independent producers.

### 9.3.1 Stages in the complaints process

The complaints system has four levels:

- **Level 1:** Informal complaint – The BBC attempt to resolve at the level of the complainant and their point of contact, either with business affairs the commissioning representative within the BBC. The Independents Executive is sometimes involved at this stage. Informal complaints are not logged, but significant ones may be flagged. Business heads will have regular meetings and discuss recurring issues. BBC Vision will endeavour to resolve the issue within 6 weeks.

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<sup>49</sup> There is a discrepancy between the number of complaints reported to Ofcom (five), which relates to the calendar year, and the number recorded over the financial year, shown below (six).

<sup>50</sup> <http://www.bbc.co.uk/commissioning/tv/business/complaints.shtml>

- **Level 2:** Formal complaint – If the complainant is not satisfied the complaint then needs to be put in writing to the Independents Executive for investigation. After discussion with the complainant and the relevant commissioning/business affairs teams, the independents Executive will give a written response. In certain cases other senior executives within Vision will become involved to seek a resolution. This stage will take from 4 to 8 weeks.
- **Level 3:** If no resolution exists the complainant may appeal to the quarterly Complaints Panel in Vision Group, which includes the Director of BBC Vision, the Director of BBC Vision Operations and Rights, and the Portfolio Services Manager. The panel draws upon information from the executives previously involved, and lessons learned are fed into the editorial and managerial processes. Complaints unresolved for 16 weeks automatically go to the Panel. Since Q2 2006 no complaint had reached this stage. The role of the controller of multiplatform and portfolio services on the Panel is to provide an independent view point.
- **Level 4:** Cases still unresolved after Level 3 which relate to the fairness of the commissioning system can then be appealed outside of BBC Vision to the Controller, Fair Trading and investigated by the Compliance team. A request to appeal should be made to the Independents Executive within a month of receipt of the decision of the Complaints Panel.

### 9.3.2 Complaints received

We were told that in the year 2007/08 there were six formal complaints (progressing to level two above). The Independents Executive told us that he “*probably got involved in about a dozen complaints at Level 1*”. No formal log exists for complaints at Level 1, and no formal process exists by which the Independents Executive would find out about complaints at Level 1. We were told that Business heads meet every two weeks to discuss matters and it would be expected that some mention would be made about what complaints had arisen (resolved) at Level 1. Most complaints would be resolved without the Independents Executive having any involvement. The Independents Executive feeds back learning from complaints at Level 2 to commissioners with the aim of improving practice.

The Independents Executive provided us with a copy of the complaints received between March 2007 and February 2008. It is outside our role to examine the validity of the individual complaints.

Table 24: BBC Vision complaints

	2006			2007				2008
	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1
Complaints received	0	4	2	1	1	2	2	1
No. complaints managed within timescale	0	2	2	1	1	0	2	1
No. complaints exceeding timescale	0	2	0	0	0	2	0	0
Complaints upheld	0	0	0	0	0	0	0	0
Appeals to VCP	0	0	0	0	0	0	0	0
Appeals to Commissioning Compliance	0	0	0	0	0	0	0	0

## 9.4 Informal complaints

The first stage of the complaints process is an informal complaint. We were told by the Independents Executive that he would not necessarily be involved in or aware of complaints raised at the commissioning level. We asked commissioners what their experience of complaints was during the first year of the WOCC. We were consistently told that there were few informal complaints, although no-one could support this with quantitative evidence.

We were told that any informal complaints received most often related to:

- Duplication of ideas – which led people to believe that their ideas had been copied. We were told that it was quite common for a number of similar ideas to be received at the same time, sometimes in response to a specific prompt, such as an article on a particular topic in a newspaper.
- Issues around payment – for example when a production company has overspent, or disagreements over the tariff level.
- Minor complaints about delays in the decision or development process.

In general we were told that it can be difficult to distinguish between complaints, and producers who express their frustration when an idea is not commissioned.

There was a general recognition that it can be awkward for independents to make complaints to commissioners, when their relationship with independents is so important to winning future commissions.

## 9.5 How well does the complaints process meet expectations?

We recognise that the outcome of commissioning decisions – i.e. rejection or acceptance – can lead to dissatisfaction. This can only be mitigated by personal contact and good communication of the reasons for the rejection. All rejections are sent electronically via e-Commissioning although some commissioners choose to supplement this with one to one contact or feedback.

More fundamentally our expectation for a fair complaint system is that it should be operated by independent parties. In this respect we note that the Independents Executive reports to the Managing Editor, Commissioning, and is part of the BBC Vision department. Further, the procedures, certainly in terms of levels 2 and 3 would involve complainants essentially putting their case directly to what is potentially their largest buyer. In such circumstances the incentive to pursue a genuine complaint would be less than in a system where all complaints were handled by an independent group. While we have no evidence to suggest that this would alter the outcomes, it would affect how independent producers perceived the fairness and transparency of the system.

We were told by some commissioners that a common area of complaints related to when similar ideas were submitted. This suggests that the BBC should give some thought to adopting a common (and public) procedure for dealing with such situations. It may be appropriate for the BBC to consider this point and make a proposal to the Trust.

Informal complaints should be logged – if only to identify trends within and across genres. It is obviously difficult to draw the line between someone who reasonably might question a rejection and a 'complainant'. It would be most important to record

issues which arise concerning the nature of the process itself, rather than decisions made within that process. We think it may be appropriate for the BBC to consider how to define a complaint and to introduce a system to identify such issues at Level 1 that does not impose an excessive burden upon commissioners.

## 9.6 Summary

- The BBC has implemented a four stage process to deal with complaints from independent producers.
- Six formal complaints were received during the first year of the WOCC.
- Commissioners report that few informal complaints were received during the year.
- There is no formal logging system in place to register informal complaints.
- Complaints are most often related to duplication of ideas from different producers and financial payments.
- The complaints process is managed by the Independents Executive, who reports to the Managing Editor, Commissioning, responsible for the Vision commissioning process.

## Appendix I – List of interviews

The following interviews were conducted by PwC:

BBC staff present	Topics covered	Date
Managing Editor, Commissioning; Head of Planning and Business, BBC Vision; Head of Ops. and Business Affairs, Knowledge; Head of Ops. and Business Affairs, Fiction	Planning and business management process	23 January 2008
Managing Editor, Commissioning; Head of Planning and Business, BBC Vision	Programme data	30 January 2008
Head of Business Management, Network Development, BBC Nations and Regions	Introduction to Nations and Regions non-Network commissioning	31 January 2008
Pact	Independent producer views of the WOCC	11 February 2008
Senior Investment Business Manager, Fiction; Senior Commissions Manager, Drama; Managing Editor, commissioning; Head of Planning and Business, BBC Vision; Strategy Manager, Public Policy; Slate Manager, Drama	Slate management	12 February 2008
Head of Planning and Business, BBC Vision	Programme data	20 February 2008
Head of Business Management, Network Development, BBC Nations and Regions; Roles & Authorisations Consultant, Nations and Regions	Nations and Regions non-Network commissioning and data	25 February 2008
Independents Executive; Managing Editor, Commissioning	Complaints procedures	26 March 2008
Controller, Children's; Head of Operations, Children's; Head of Business Communication and Planning, Children's; Managing Editor, Commissioning	Children's BBC business affairs and planning	26 March 2008
Head of Ops. and Business Affairs, Fiction	Business affairs Fiction and overall	26 March 2008
Head of Ops. and Business Affairs, Knowledge; Head of Ops. and Business Affairs, Fiction	Business affairs Knowledge	26 March 2008
Head of Ops. and Business Affairs, Entertainment	Entertainment business affairs	1 April 2008
Director, BBC Sport; Finance Partner, BBC Sport; Managing Editor, Commissioning	Sport commissioning	2 April 2008
Ofcom	Ofcom data / input	7 April 2008
Head of Production Strategy In-house; Strategy Manager, Public Policy	In-house production strategy	8 April 2008
Head of Business Management, Network Development, BBC Nations and Regions; Controller, Network Production; Strategy Manager, Public Policy	Nations and Regions Network production	8 April 2008
Controller, Fiction Commissioning; Head of Ops. and Business Affairs, Fiction	Drama commissioning	9 April 2008
Head of Drama/Fiction BBC Wales; Senior Investment Business Manager, Fiction	Drama Wales	21 April 2008
Controller, Knowledge commissioning; Head of Ops. and Business Affairs, Knowledge	Knowledge commissioning	21 April 2008
Controller, Comedy commissioning; Head of Ops. and Business Affairs, Fiction	Comedy commissioning	22 April 2008
Head of Independent Commissioning, Knowledge; Head of Ops. and Business Affairs, Knowledge	Knowledge – independent commissioning	22 April 2008
Controller, CBBC Channel; Controller, CBeebies; Production Executive Independents & Events, CBBC	Children's commissioning	23 April 2008
Executive Editor, Comedy; Senior Investment Business Manager, Fiction	Comedy – Nations & Regions commissioning	23 April 2008
Head of In-house Commissioning, Knowledge; Head of Ops. and Business Affairs, Knowledge	Knowledge – in-house commissioning	24 April 2008
Controller, Entertainment commissioning; Senior Investment Business Manager, Entertainment	Entertainment commissioning and business affairs	24 April 2008
Commissioning manager, BBC Vision; Business Executive, BBC Vision; Managing Editor, Commissioning	Overview of e-Commissioning system	7 May 2008
Senior Adviser, Compliance	Communication to establish Fair Trading complaints procedure.	20 May 2008
Finance Director, Vision	Meeting to check understanding of cost data	21 May 2008
Managing Editor, Commissioning; Research Project Manager, MC&A	Audience Online Database for Independents	12 June 2008

## Appendix II – Clauses 54 to 57 of the Agreement

### **54. The Window of Creative Competition (WOCC)**

- (1) The BBC must use its best endeavours to ensure that 50% of Total Relevant Air Time in any year is allocated to the broadcasting of a range and diversity of programmes which were made either—
- (a) as independent productions as a result of having been reserved for making as independent productions, or
  - (b) through the Window of Creative Competition (“the WOCC”).
- (2) A programme is made through the WOCC if, regardless of who actually makes the programme, the BBC—
- (a) gave its own in-house production facility and external producers (whether independent producers or not), a genuine opportunity to bid on a fair and transparent basis for the right to make the programme, and
  - (b) evaluated any such bids on a fair and transparent basis.
- (3) The requirement in paragraph (2)(a) can be met even if the precise details of the programme were not necessarily fixed at the time the opportunity was given (for example, where the opportunity related to meeting a requirement for a particular type of programme, which left bidders with some flexibility in deciding what programmes to propose).
- (4) In this clause—
- “network programme” means programmes to be made with a view to their being broadcast throughout the UK;
- “range” means a range of programmes in terms of cost of acquisition as well as in terms of the types of programme involved;
- “Relevant Programmes”, in relation to the UK Public Television Services, means network programmes which are “qualifying programmes” in relation to those services for the purposes of paragraph 1 of Schedule 12 to the Communications Act 2003 (quotas for independent productions); and
- “Total Relevant Air Time” means the total amount of time allocated to the broadcasting of Relevant Programmes on the UK Public Television Services taken together.

### **55. Competitive opportunities for the production of non-network programmes**

The Trust shall ensure that suitable arrangements are in place to provide appropriate opportunities for competition between in-house and external producers for the provision of programmes which are not intended to be “network programmes” within the meaning of clause 54 (see clause 54(4)).

### **56. Programmes to be reserved for in-house production**

- (1) The BBC must use its best endeavours to ensure that 50% of Total Relevant Air Time in any year is allocated to the broadcasting of a range and diversity of programmes which were made by the BBC through its in-house production facility as a result of having been reserved for making through that facility.
- (2) In paragraph (1), “range” and “Total Relevant Air Time” have the same meanings as in clause 54 (see clause 54(4)).

### **57. Duty to review the operation of clauses 54, 55 and 56**

- (1) The Trust must, at least every two years, review the operation of clauses 54, 55 and 56.
- (2) In conducting such a review, the Trust must investigate thoroughly the BBC’s compliance with those clauses and consider whether any aspect of the BBC’s arrangements for complying with them ought to be modified. Amongst other things, the Trust should look at—
- (a) whether an appropriately wide range and diversity of programmes have been made through the WOCC; and
  - (b) whether the geographical location and size of external producers who made bids to make programmes through the WOCC suggests that the process of competition has been fair and transparent.

Programmes which qualify for the independent quota (and the WOCC) are laid out in full in the Broadcasting (Independent Production) Orders 1991, amended in 1995 and 2003.<sup>51</sup>

<sup>51</sup> [http://www.opsi.gov.uk/si/si1991/Uksi\\_19911408\\_en\\_1.htm](http://www.opsi.gov.uk/si/si1991/Uksi_19911408_en_1.htm), <http://www.opsi.gov.uk/si/si2003/20031672.htm>, <http://www.opsi.gov.uk/si/si2003/20031672.htm>

## Appendix III – Briefings

Genre	London	Out of London	Adhoc
Knowledge	5	23	4
<i>Documentaries, Features &amp; Factual Formats, Specialist Factual, Daytime, Current Affairs &amp; Religion, Arts Music &amp; Performance (RAMP)</i>	Pan-Knowledge Briefing 02/11/2006 (SF, Docs, RAMP, CA, FFE)	Sheffield Docs Festival 03/11/2006 (Docs)	BBC 1 Landmarks 31/10/2006 (Docs)
	Pan-Knowledge Briefing 20/03/2006 (SF, Docs, RAMP, FFE)	Birmingham 07/11/2006 (FFE, Docs)	BBC3 Features 29/01/2007 (FFE)
	Televisual Conf 23/05/2007 (Docs)	Manchester 08/11/2006 (RAMP, Daytime)	BBC 3 15/03/2007 (Docs)
	Multiplatform Briefing 26/09/2007 <sup>#</sup> (Docs, FFF, SF, RAMP, Daytime, C.Affs)	Belfast 14/11/2006 (CA, Docs,)	BBC1 Formats 10/05/2007 (FFE)
	Pan-Knowledge Briefing 04/12/2007 (SF, Docs, RAMP, CA, FFE)	Bristol 20/11/2006 (Docs, SF, FFE, RAMP)	
		Cardiff 20/11/2006 (Docs, SF, FFE, RAMP)	
		Glasgow 20/11/2006 (SF, Docs)	
		Manchester Broadcasting Conf 23/11/2006 (Docs)	
		Glasgow 26/03/2007 (FFF, Docs, SF)	
		Manchester 29/03/2007 (FFF, Daytime, CA)	
		Bristol 02/05/2007 (Docs)	
		Cardiff 14/05/2007 (Docs, RAMP, FFE, SF)	
		Dublin – Broadcasting Commission of Ireland Conference 09/08/2007 (Docs)	
		Glasgow 24/09/2007 (Docs)	
		Belfast 26/10/2007 (FF&F)	
		Bristol 06/11/07 (Docs, RAMP, FF&F, SF, Daytime)	
		Sheffield Docs Festival 09/11/2007 (Docs & FF&F)	
		Birmingham 14/11/2007 (FFE, Docs, CA, Daytime)	
		Belfast 21/ 11/07 (Docs, CA)	
		Broadcast Commissioning Conference 22/11/2007 (FFE))	
	Manchester 07/12/2007 (CA)		
	Glasgow 26/02/2008 (FF&F)		
	Bristol 26/03/2008 (FF&F)		
Knowledge	3	8	/
No briefing in Nov 06 due to change of Controller	Pan-Ents Briefing 22/03/2007	Manchester 08/11/2006	
	Multiplatform Briefing 26/09/2007 <sup>#</sup> (Ents)	Belfast 14/11/2006	
	Pan-Ents Briefing 07/011/2007	Glasgow 20/11/2006	
		Glasgow 26/03/2007	
		Manchester 29/03/2007	
		Bristol 06/11/07	
	Birmingham 14/11/2007		

Genre	London	Out of London	Adhoc
Fiction	2	11	
<i>Drama &amp; Comedy</i>	Multiplatform Briefing 26/09/2007 <sup>#</sup> (Drama & Comedy)	Manchester 08/11/2006 (Drama & Comedy)	
<i>Size of supply base in Fiction means briefings are conducted on on-to-one basis rather than in large groups</i>	Pan Comedy Briefing 19/02/2008 (Comedy)	Cardiff 20/11/2006 (Drama)	
		Glasgow 20/11/2006 (Comedy)	
		Glasgow 26/03/2007 (Comedy)	
		Manchester 29/03/2007 (Drama & Comedy)	
		Cardiff 14/05/2007 (Drama)	
		Irish Screenwriters Conference 19/07/2007 (Drama)	
		Belfast 21/ 11/07 (Drama)	
		Birmingham 14/11/2007 (Comedy)	
		Broadcast Commissioning Conference 22/11/2007 (Drama)	
		TV from the Nations and Regions Conference 22/01/2008 (Drama)	
Children's	5	1	/
<i>CBBC &amp; CBeebies</i>	New Commissioning Round 24/11/2006 CBBC	Glasgow 20/11/2006 (CBeebies & CBBC)	
	New Commissioning Round (Indies) 23/05/2007 CBBC & CBeebies		
	New Commissioning Round (In-Hse) 23/05/2007 CBBC & CBeebies		
	Multiplatform Briefing 26/09/2007 <sup>#</sup> CBBC & CBeebies		
	New Commissioning Round (In-Hse & Indies) 28/09/2007 CBBC		
	New Commissioning Round (In-Hse & Indies) 20/03/2008 CBBC & CBeebies		

Note: <sup>#</sup>Multiplatform commissioning in BBC Vision commenced on 26th Sept

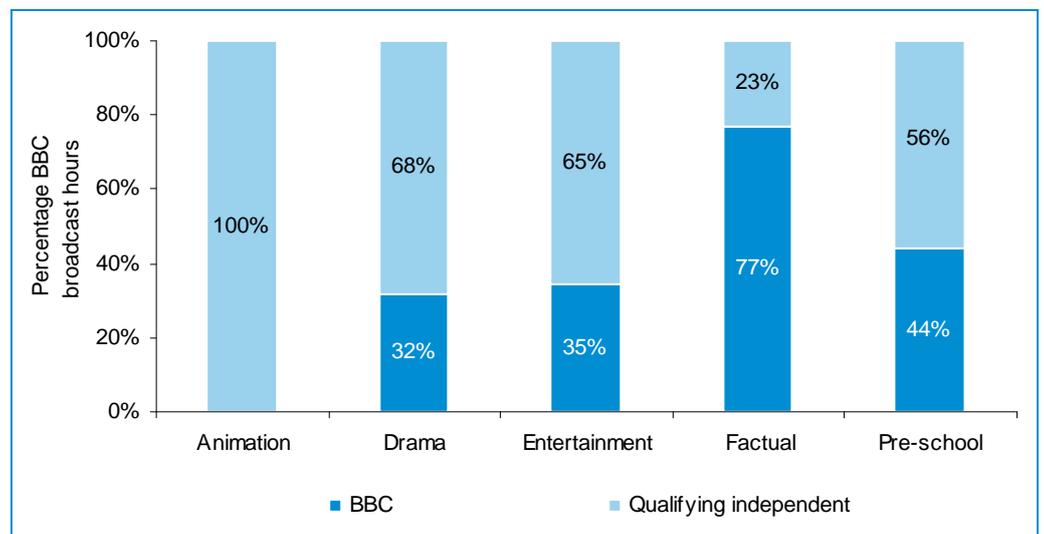
## Appendix IV – Detailed results

This appendix includes more detailed analysis of the output of the commissioning process.

### Network commissions by sub-genre

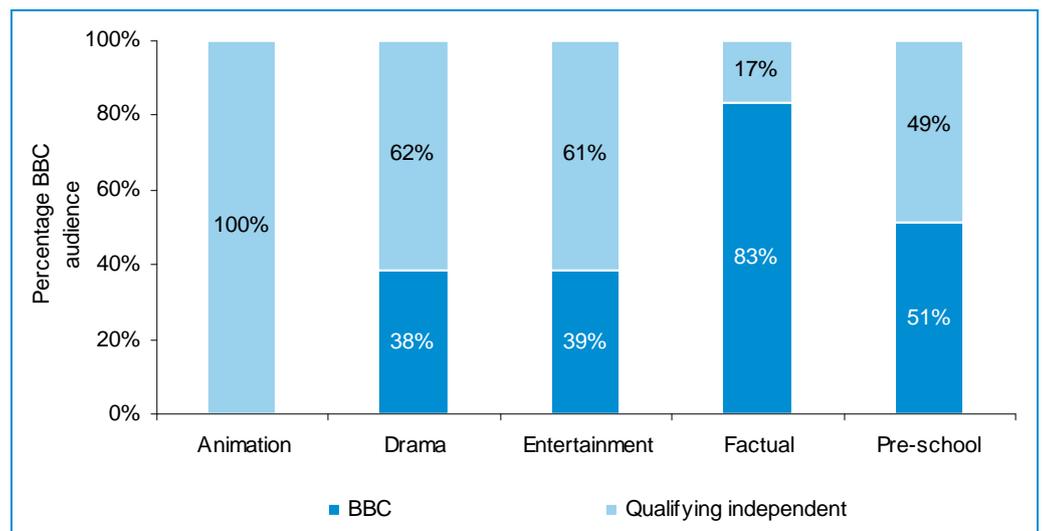
#### Children's Network programming

Figure 37: Children's Network commissioned hours delivered by supply base FY2007/08



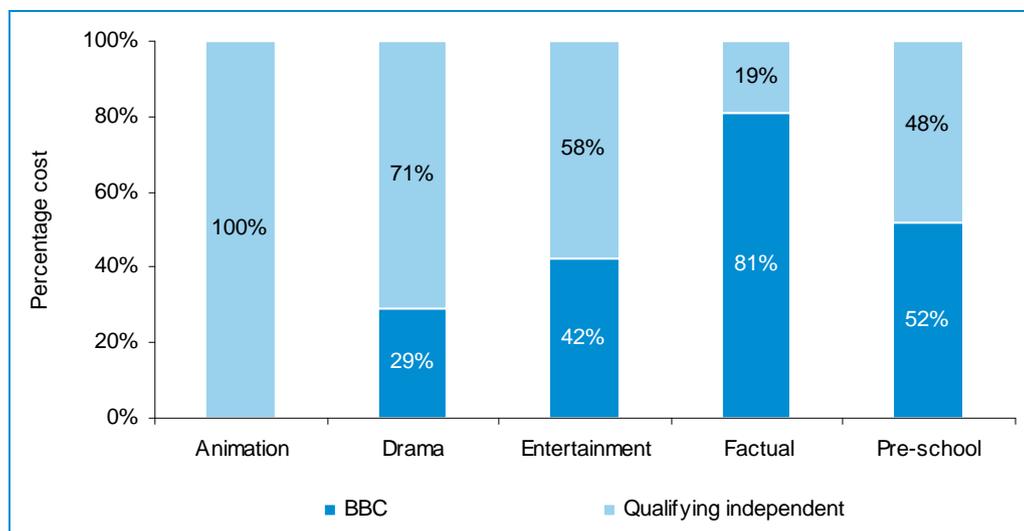
Source: BBC, PwC analysis

Figure 38: Children's Network audience by supply base FY2007/08



Source: BBC, PwC analysis

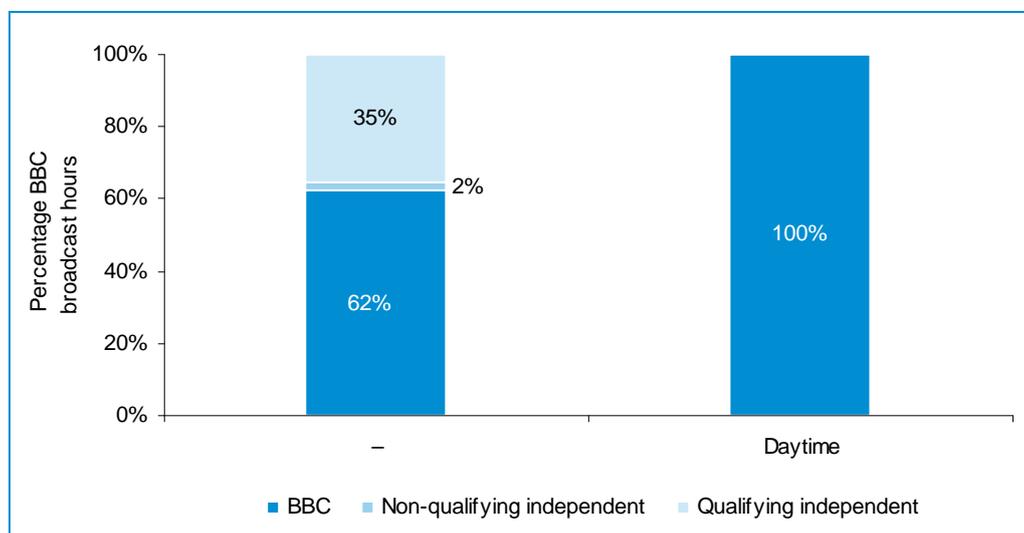
Figure 39: Children's Network commissioning cost by supply base FY2007/08



Source: BBC, PwC analysis

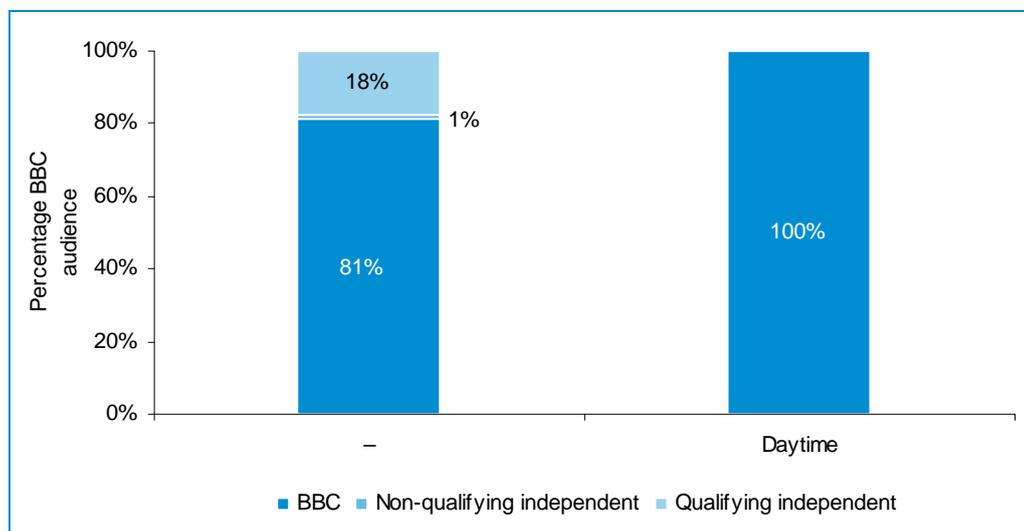
### Drama Network programming

Figure 40: Drama Network commissioned hours delivered by supply base FY2007/08



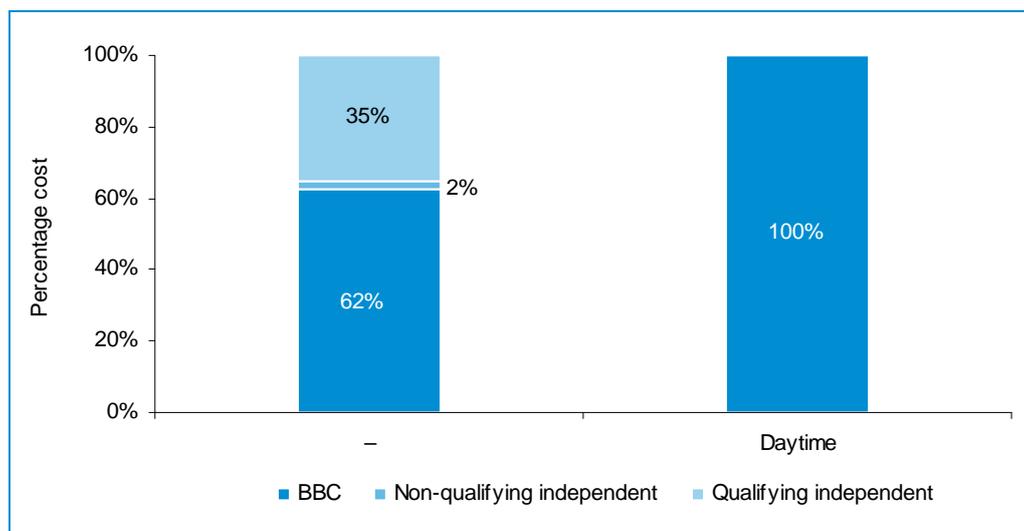
Source: BBC, PwC analysis

Figure 41: Drama Network audience by supply base FY2007/08



Source: BBC, PwC analysis

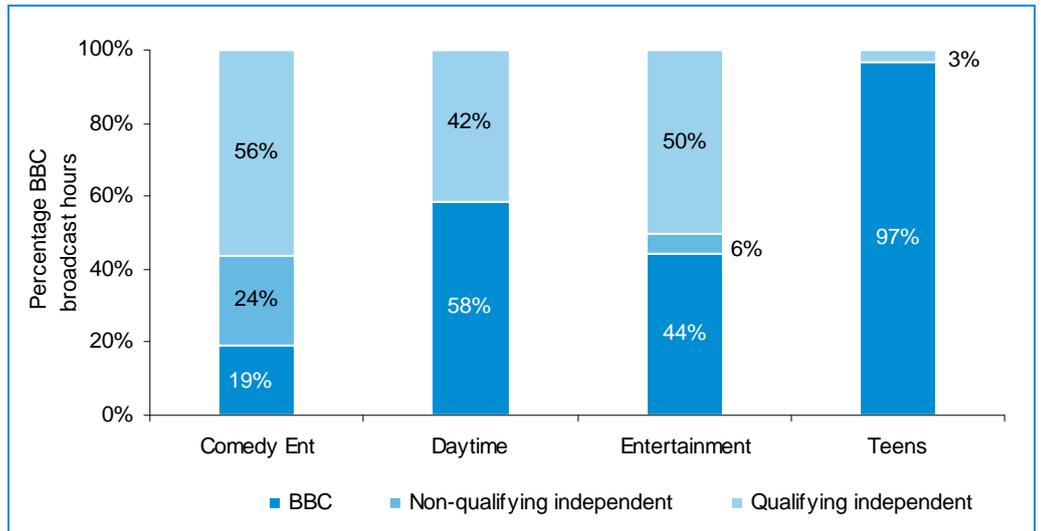
Figure 42: Drama Network commissioning cost by supply base FY2007/08



Source: BBC, PwC analysis

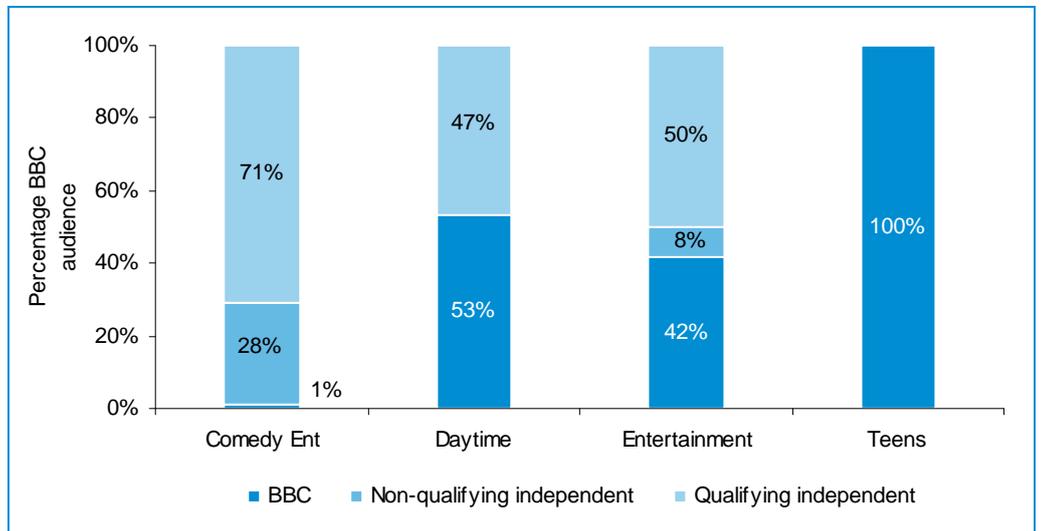
Entertainment Network programming

Figure 43: Entertainment Network commissioned hours delivered by supply base Y2007/08



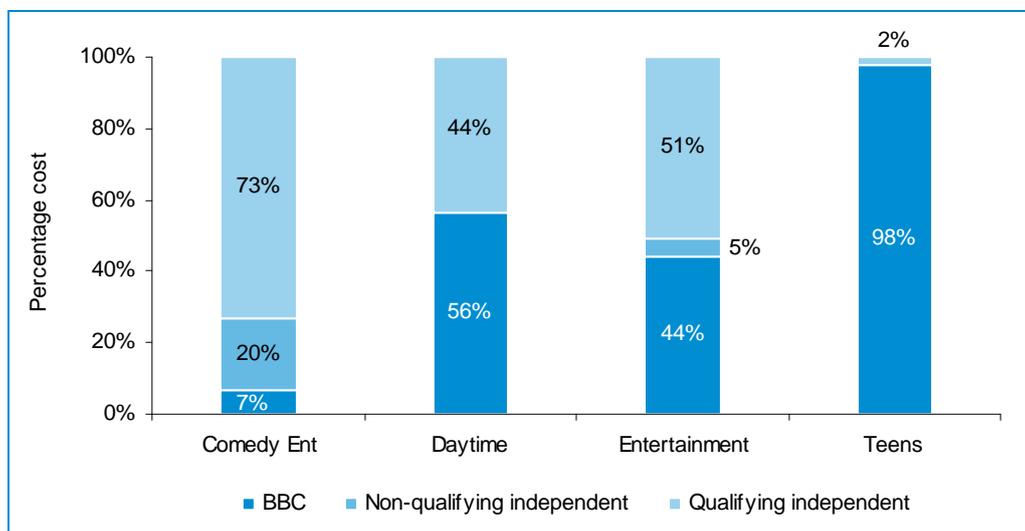
Source: BBC, PwC analysis

Figure 44: Entertainment Network audience by supply base FY2007/08



Source: BBC, PwC analysis

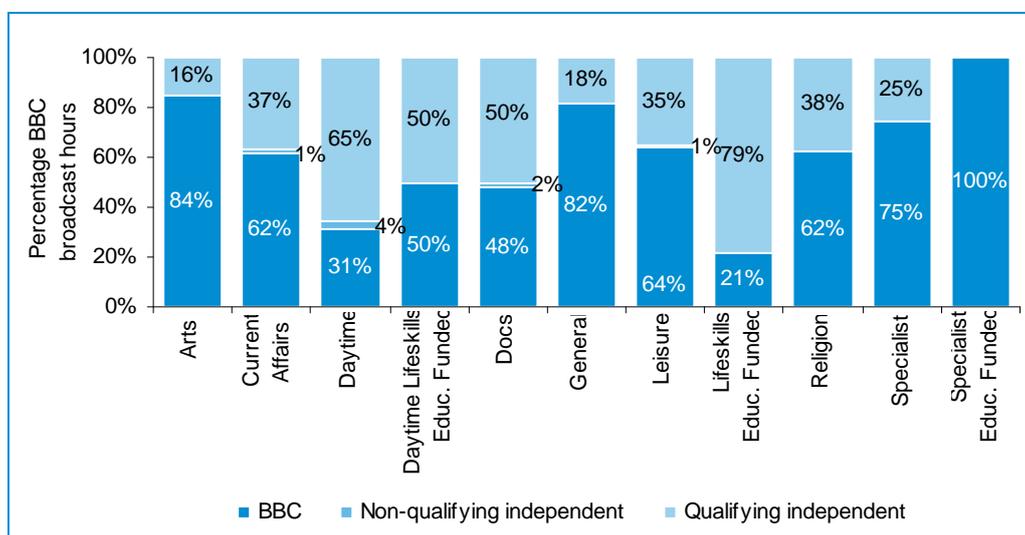
Figure 45: Entertainment Network commissioning cost by supply base FY2007/08



Source: BBC, PwC analysis

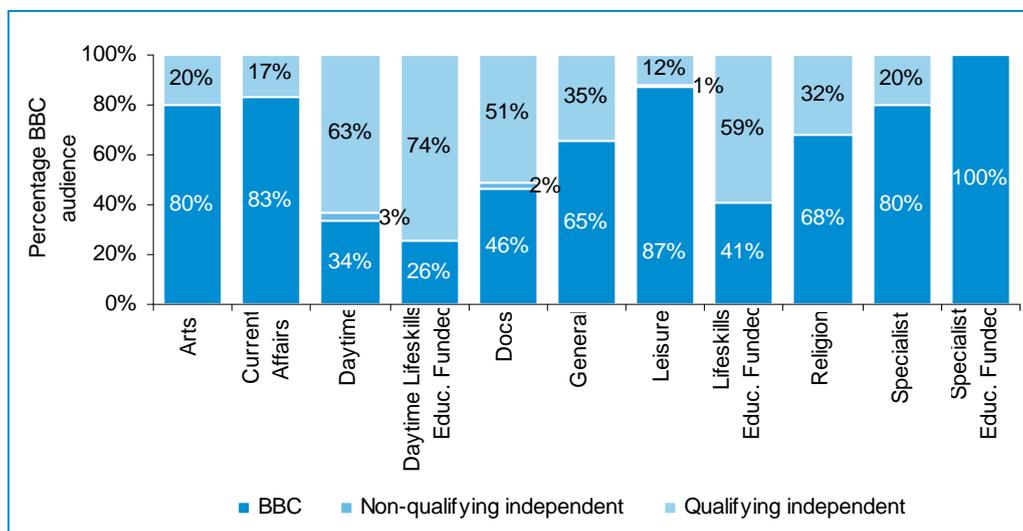
### Knowledge Network programming

Figure 46: Knowledge Network commissioned hours delivered by supply base FY2007/08



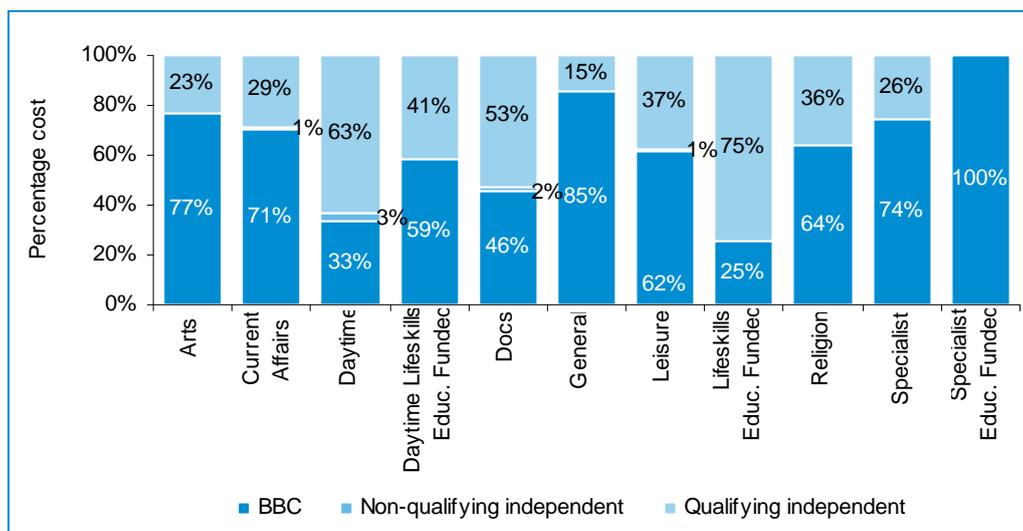
Source: BBC, PwC analysis

Figure 47: Knowledge Network audience by supply base FY2007/08



Source: BBC, PwC analysis

Figure 48: Knowledge Network commissioning cost by supply base FY2007/08



Source: BBC, PwC analysis

## Appendix V – Cost data

The cost data provided to us by the BBC came from the PRDB system, and is composed of two elements for both in-house and independent producers: the price paid to the producer for the commission; and a contribution towards overheads. Both of these elements are covered by the commissioning budget of the genre making a commission.

For in-house productions, the accounting structure at the BBC means that some overhead costs associated with the in-house production departments are centralised, for example the cost of property and the cost of training. There are also content-related costs that are divisionally controlled, such as the costs associated with heads of production and heads of departments. These costs are referred to as the 'contribution' or 'overhead recovery rate', and are incorporated in the cost data with which we were presented, along with the direct cost (the price paid to the production department for a commission). The contribution is usually [X] percent, and varies by genre.

For independent productions, the cost data with which we were provided was composed of these elements:

- Direct costs – the price paid to the production company for the commission.
- Overheads – this includes two types of costs: a) costs which would not be incurred if the BBC did not deal with independent producers, for example lawyers and business affairs staff needed for negotiation and contracting with external producers (this does not include those staff who would be present anyway to deal with talent management); and b) costs that would be included in the price of an in-house production, but would have to be incurred within the BBC for independent production. This includes compliance costs, for example content produced in-house already complies with editorial and technical standards, but independent content has to be managed by the BBC. It also includes the cost of the executive producers who sit within the BBC and manage projects through to delivery. For in-house productions, this role would be carried out by someone in the production department.

The independent overhead was set at [X] percent during FY2007/08, but has recently been reviewed to reflect cost efficiencies, and the increased volume of independent commissions over which costs can be spread.

We were told that the data in PRDB is intended to provide a comparable measure of cost for in-house and independent productions, although the two measures of total cost may not be perfectly comparable. We have not carried out a detailed analysis of this cost apportionment method, and have used the data as it was provided to us.

