



## Renewal of the Channel 4 licence

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## Section 1

# Executive Summary

- 1.1 The licence for the Channel 4 public television broadcasting service (“Channel 4”) expires at the end of 2014. It is held, and can only be held, by Channel 4 Television Corporation (“C4C”). Ofcom has the power to renew the licence, and in doing so must set the licence conditions that it considers appropriate and determine the duration of the renewed licence. This statement sets out Ofcom’s decision on the conditions and duration of the renewed licence.
- 1.2 Ofcom published a consultation on renewal of the Channel 4 licence on 25<sup>th</sup> July 2013 (“the July consultation”).<sup>1</sup> We proposed that the licence conditions should remain unchanged, with the exception of the out of England (UK Nations) production quota, which we proposed might increase. We also asked for views on how best Channel 4 may deliver its remit for education. We proposed that the licence should be renewed for a 10 year period.
- 1.3 There were 37 responses to the July consultation, nearly all focusing on the proposal to increase the out of England quota. Respondents advanced a number of different proposals for the level of the quota, suggesting an increase from the current level of 3% to 9%, 12%, 15% or 17%. Respondents also made proposals for sub-quotas for each Nation, and on the date of implementation of the quota.
- 1.4 We considered each of the proposals put forward in these responses and their likely impact on different stakeholders. We considered that viewers would potentially benefit from increased production in the UK Nations by Channel 4, underpinned by an increase in the quota. We considered an increase in the quota to 9% of production would secure a suitable range of production centres, and achieve the aims of the intervention, with least adverse impact. We acknowledged C4C’s intention to meet an increase in the quota through developing sustainable, indigenous production, and that setting the increased quota to apply earlier than C4C’s proposed date of 2020, or setting binding interim targets to the quota, would tend to act against this intention. We proposed that a quota of 9% by volume and spend from 2020 would be appropriate for the Channel 4 licence. Ofcom published a consultation on this proposal on 7<sup>th</sup> January 2014 (“the January consultation”).<sup>2</sup>
- 1.5 There were 12 responses to the January consultation. These commented on the proposed level of the out of England quota, the case for sub-quotas for each Nation, our impact assessment and evidence of the costs and benefits to each of the major stakeholder groups, and the need for interim targets and a review of the quota in the licence period.
- 1.6 We have considered the responses to the July consultation, and the responses to the January consultation. Our analysis of these is set out in this statement. In summary, we remain of the view that a quota level of 9% from 2020 is appropriate, taking into account the costs and benefits of an increase in the quota.
- 1.7 **We are therefore setting the out of England production quota at 9% by volume and spend in 2020 in the renewed licence for Channel 4.** It will remain at 3% until 1<sup>st</sup> January 2020.

<sup>1</sup> <http://stakeholders.ofcom.org.uk/consultations/renewal-c4-licence/summary>

<sup>2</sup> <http://stakeholders.ofcom.org.uk/consultations/renewal-c4-licence-out-of-england-quota/>

- 1.8 We consider that 9% of production from 2020 is a proportionate and achievable requirement. It will increase the existing minimum quota level, and will require Channel 4 to increase the proportion of its production spend in the UK Nations<sup>3</sup> by at least an estimated 60% by spend and 30% by volume from current levels.
- 1.9 We recognise the concerns of some stakeholders that Channel 4 should make progress in increasing production towards the level required by 2020 over the period from 2015, and commission in each of the Nations.
- 1.10 C4C has confirmed to us its intention to increase commissioning from the Nations on a broadly steady level between the outset of the licence period in 2015 and 2020, and its aspiration to commission in each of the Nations. Whilst we do not propose to be prescriptive as to progress through the imposition of interim targets, the condition we propose to include in Channel 4's renewed licence will require that in each annual period from 2020 production spend must be referable to production centres in each of Scotland, Wales and Northern Ireland. We will monitor Channel 4's progress in increasing production in its annual returns that are published by Ofcom.
- 1.11 In addition, we welcome C4C's voluntary commitments to:
- see the 9% as a base minimum and aspire to exceed this quota where possible;
  - develop partnerships with broadcasters and other partners to develop skills and genre expertise in the independent production sector;
  - report on production for Channel 4 by spend and hours in each UK Nation in its annual statement of media content policy;
  - hold annual formal senior level engagement with stakeholders in each UK Nation to report on progress.<sup>4</sup>
- 1.12 We have also considered responses to both consultations on Channel 4's reflection of the cultures and communities of the Nations, including the proposal of some respondents that its public service remit to appeal to the tastes and interests of a culturally diverse society be amended to refer to the cultures of the UK Nations.
- 1.13 The statutory requirement is for a licence condition setting quotas for a proportion of production. Productions made in the Nations, or any other geographic location, may not necessarily reflect the place in which they are made; nor should Nations producers be limited to making such programming. However programmes that meet the out of England quota may be more likely than those that are not to reflect the lives and concerns of the different communities and cultural interests and traditions in the UK Nations.
- 1.14 Channel 4's public service remit is to provide programming which, among other things, appeals to the tastes and interests of a culturally diverse society. While this includes the diversity of different geographic areas it also covers other aspects, such as disability or ethnicity. The public service remit is set by legislation: any amendment to specify cultural diversity of a particular area, or another aspect of cultural diversity, would be for Parliament to consider.

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<sup>3 4</sup> UK Nations refers to Scotland, Wales and Northern Ireland.

- 1.15 We consider Channel 4's contribution to the Public Service Broadcasting (PSB) objective of reflecting the lives and concerns of different communities and cultural interests and traditions within the UK, and locally in different parts of the UK, should be distinct from that of the other PSBs and in keeping with its remit in relation to all aspects of cultural diversity. C4C reports on its delivery of Channel 4's public service remit as part of its annual statement of programme policy (SMCP)<sup>5</sup> We have discussed with C4C how this should include reflecting communities and cultures across the nations and regions of the UK<sup>6</sup>, and we will continue to engage with C4C on developing appropriate metrics for this.

## The other licence conditions will remain unchanged

- 1.16 Few responses to the July consultation argued for changes to other licence conditions. Several suggested that Channel 4's remit for education could be strengthened further to secure educational content, outside of the school syllabus, for older children and younger adults – particularly in digital media. C4C sets out its strategy for education in its SMCP. Ofcom has engaged with C4C on its delivery of Channel 4's remit to provide educational programming, and its duty to make media content that appeals to older children and young adults across its services, and will continue to do so.
- 1.17 We note that none of the responses argued that the schools programming quota in the Channel 4 licence, or a change to this, was an effective means of delivering Channel 4's remit for education. We therefore will leave the current quota level unchanged.
- 1.18 There were a number of other points made in responses on aspects of C4C's commercial and contractual arrangements, and the diversity of those involved in making its programmes. The licence conditions that are relevant to these points will remain in the renewed licence.
- 1.19 We confirm that all other conditions in the renewed licence will remain unchanged.**

## We will renew the licence for a ten year period

- 1.20 In the January consultation, we noted that few respondents had commented on the proposed licence duration: those who had generally supported a ten year licence period, and no respondent disagreed that a 10 year licence period was appropriate or proposed an alternative duration.
- 1.21 We set out our intention to renew the licence for a 10 year period, but noted that in the event that we were to impose a significantly higher quota for out of England production than the proposed 9%, it might be appropriate to consider this position.
- 1.22 As we are setting the out of England quota at 9% from 2020, which C4C has submitted is a sustainable level, and the other licence conditions are unchanged, we remain of the view that a 10 year licence period is appropriate.
- 1.23 We will renew the licence for a ten year period commencing on 1<sup>st</sup> January 2015.**

<sup>5</sup> C4C's SMCP, published in its Annual Report, includes Channel 4's statement of programme policy.

<sup>6</sup> Ofcom letter of 12 June 2013 to C4C. <http://stakeholders.ofcom.org.uk/broadcasting/tv/c4/>

## Section 2

# Introduction

## Ofcom's July consultation on the renewal of the Channel 4 licence

- 2.1 The Digital Replacement Licence for Channel 4 expires at the end of 2014. Under section 231 of the Communications Act 2003 ("the Act"), Ofcom has the power to renew the Channel 4 licence for a further period. In doing so, Ofcom must:
- set the licence conditions that Ofcom "consider appropriate"; and
  - determine the length of the renewed licence, which may run "for such period as Ofcom may think fit".
- 2.2 On 25 July 2013 Ofcom published a consultation<sup>7</sup> on renewal of the Channel 4 licence. In the consultation we summarised the history of Channel 4, its current statutory framework and licence conditions, and C4C's extended remit introduced by the Digital Economy Act 2010 ("the DEA").<sup>8</sup>
- 2.3 The July consultation put forward the following proposals for the renewed Channel 4 licence:
- We asked for views on whether to increase the out of England (UK Nations) production quota, and if so what the appropriate rate of increase and level of the quota should be. One of the options put forward was C4C's proposal to increase the quota from 3% to 9% by 2020.
  - C4C had suggested that the current licence condition for Schools programming could be removed altogether in future legislation. We proposed no amendment to the current quota of 30 minutes per year and asked for views on how best Channel 4 may deliver its remit for education and whether the existing licence conditions are appropriate.
  - We proposed that licence conditions on independent production, out of London production, original productions, UK News and Current Affairs, and conditions related to Channel 4's public service remit remain unchanged.
  - We proposed that the licence should be renewed for a 10 year period, in line with the other commercial PSBs.
- 2.4 We asked the following questions:

*Consultation question 1: Do you agree with Ofcom's view that the current licence conditions remain largely appropriate to securing Channel 4's obligations?*

*Consultation question 2: Do you consider it would be appropriate to increase the out of England quota on the Channel 4 service? If so, please set out the reasons for setting a particular level for the quota and for the rate of increase to this level?*

<sup>7</sup> <http://stakeholders.ofcom.org.uk/binaries/consultations/renewal-c4-licence/summary/c4.pdf>

<sup>8</sup> For details, see Section 2 of the July consultation.

*Consultation question 3: Do you agree with our proposal to leave the existing licence condition for schools programming unchanged? What role do you consider the main Channel 4 service should play in delivery of its education remit? Are the existing licence conditions appropriate to this?*

*Consultation question 4: Do you agree with the assessment set out of the market changes and future challenges for C4C in sustaining delivery of Channel 4 and its licence conditions?*

*Consultation question 5: Do you agree with our view that the Channel 4 licence should be renewed for a ten year period? If not, please set out an alternative duration and reasons for it?*

- 2.5 The consultation period closed on 10 October 2013. Ofcom received 37 responses to the July consultation: the non-confidential responses have been published on our website.<sup>9</sup>
- 2.6 We also conducted stakeholder events in Scotland, Wales and Northern Ireland in the consultation period, attended by independent producers, C4C, representatives of Ofcom's Nations Advisory Committees and other stakeholders. A number of attendees also submitted responses to the consultation. The responses, and discussion at the stakeholder events, focused almost entirely on the proposal to increase the out of England (UK Nations) production quota. Respondents advanced a number of different proposals for the level of the quota, suggesting an increase from the current level of 3% to 9%, 12%, 15% or 17%. Respondents also made proposals for sub-quotas for each Nation, and commented on the date of implementation of the quota.
- 2.7 We considered each of the proposals put forward in these responses and their likely impact on different stakeholders. We proposed that a quota of 9% by volume and spend from 2020 was appropriate and published a consultation on this proposal on 7<sup>th</sup> January 2014 ("the January consultation").<sup>10</sup>
- 2.8 The January consultation period closed on 4 February 2014 and we received 12 responses. We have published the non-confidential responses on our website.<sup>11</sup>
- 2.9 The remainder of this document is structured as follows:
- Section 3 sets out the background to the out of England quota, a summary of responses to the July and January consultations, Ofcom's view on the arguments put forward in responses, and Ofcom's decision on the out of England quota.
  - Section 4 covers the remaining areas of the July consultation: the other licence conditions and duration of the licence, and our decisions on these. It also sets out comments on other issues that were raised in response to the July consultation.

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<sup>9</sup> <http://stakeholders.ofcom.org.uk/consultations/renewal-c4-licence/?showResponses=true>

<sup>10</sup> <http://stakeholders.ofcom.org.uk/binaries/consultations/renewal-c4-licence-out-of-england-quota/summary/condoc.pdf>

<sup>11</sup> <http://stakeholders.ofcom.org.uk/consultations/renewal-c4-licence-out-of-england-quota/?showResponses=true>



## Section 3

# Out of England (UK Nations) Quota

## Background

- 3.1 Section 288 of the Communications Act 2003 states that the Channel 4 licence must include conditions for securing:

*“(a) that what appears to OFCOM to be a suitable proportion of programmes made in the United Kingdom for viewing on Channel 4 are programmes made in the United Kingdom outside the M25 area;*

*(b) that the programmes for such viewing that are made in the United Kingdom outside the M25 area (taken together) constitute what appears to OFCOM to be a suitable range of programmes;*

*(c) that what appears to OFCOM to be a suitable proportion of the expenditure of C4C on programmes made in the United Kingdom for viewing on Channel 4 is referable to programme production at different production centres outside the M25 area; and*

*(d) that the different programme production centres to which that expenditure is referable constitute what appears to OFCOM to be a suitable range of such production centres.”*

- 3.2 Section 264 of the Act provides that the public service broadcasters, taken together, should:

*“include what appears to OFCOM to be a sufficient quantity of programmes that reflect the lives and concerns of different communities and cultural interests and traditions within the United Kingdom, and locally in different parts of the United Kingdom.”*

- 3.3 Channel 4’s public service remit, as set out in section 265 of the Act, is the provision of a broad range of high quality and diverse programming which, in particular and among other things, “appeals to the tastes and interests of a culturally diverse society.”

- 3.4 The policy objective of section 288 (and of similar requirements on Channels 3 and 5 and the BBC) is to buttress and strengthen regional production in the UK. We consider that the production sector needs a plurality and diversity of supply in order to deliver on viewers’ interests in terms of quality, innovation and range and diversity of content and perspectives. The out of London and out of England quotas we impose under section 288 are likely to benefit regional creative economies, with the ultimate aim of securing these benefits for viewers.

- 3.5 In the PSB Review 2009<sup>12</sup>, Ofcom identified that the production of programmes by the public service broadcasters in the UK Nations, which would contribute to the objective of reflecting different communities and cultural interests and traditions in the UK, was limited and should increase. Ofcom therefore proposed the introduction of an out of England target for production, noting that it believed “such an obligation is more appropriate to the BBC and Channel 4, with whose public objectives it is more closely aligned.”

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<sup>12</sup> [http://stakeholders.ofcom.org.uk/binaries/consultations/psb2\\_phase2/statement/shortterm.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/psb2_phase2/statement/shortterm.pdf)

- 3.6 The BBC had already announced a number of spend and production targets for out of England production. It had set an interim target that 12% of network spend would come from the UK Nations by 2012, with a target of 17% by 2016. It had committed to ensuring that the proportion of network spend made in Scotland would be equivalent to its share of UK population, with a comparable approach in Wales and Northern Ireland.<sup>13</sup>
- 3.7 Ofcom considered that the range of production centres that Channel 4 use out of London would be improved by introducing a requirement in the Channel 4 licence for a volume and spend of production to be made out of England (from Scotland, Wales and Northern Ireland), to apply from 2010. At 3%, the out of England quota was recognised to be a low minimum requirement which would be subject to review. It was imposed in addition to an increased out of London quota, to which production in the UK Nations would continue to contribute.
- 3.8 Since the PSB Review 2009, Channel 4's production out of London has increased, from 37% to 41% in 2012 by spend, and from 45% to 48% by volume. Channel 4's production out of England has increased from 4.5% to 5.4% in 2012 by spend, and from 5.7% to 7% by volume.

## The July consultation

- 3.9 In our July consultation<sup>14</sup> we set out our view that the rationale for the introduction of Channel 4's out of England quota remains relevant. We considered that a higher quota level, set above Channel 4's current level of production, might further enhance its range of production centres and programmes. We considered that this would be likely to benefit Channel 4 viewers across the UK by increasing the diversity of programming on Channel 4, some of which may reflect the communities and cultures of the areas in which it was made. However, we were mindful of commercial implications for C4C and the effect on delivery of Channel 4's other licence conditions, and the potential impact on other stakeholders, particularly the independent producers from whom Channel 4 commissions programmes, of a significant increase in the quota.
- 3.10 We therefore set out options for the quota: to increase it to 9% by 2020, as proposed by C4C; to increase it to a different level, or over a different time period; or to leave it unchanged. We posed the following consultation question:

*Consultation question 2: Do you consider it would be appropriate to increase the out of England quota on the Channel 4 service? If so, please set out the reasons for setting a particular level for the quota and for the rate of increase to this level?*

- 3.11 There were broadly three proposals put forward in the responses:
- i) increase the quota to 17%, being proportionate to distribution of population in the Nations and the target adopted by the BBC;
  - ii) increase the quota to 12% or 15%, suggested as a mid-point between current delivery and the BBC's target, reflecting the particular constraints for Channel 4;
  - iii) increase the quota to 9% by 2020, a proposal made by C4C.

<sup>13</sup> [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)

<sup>14</sup> See paragraphs 3.77 to 3.115 of the July consultation for discussion of the out of England quota.

3.12 In addition, some responses proposed that Ofcom should:

- i) introduce sub-quotas for each Nation, proportionate to population, again being the targets adopted by the BBC; and
- ii) set a date other than 2020 for the quota to apply, and/or set interim targets.

## The January consultation

3.13 We considered each of the responses and the likely impact of the different proposals on stakeholders. We used the following sources of data:

- viewer data collected by BARB, and Ofcom's PSB Tracker;
- broadcaster returns data for Channel 4 and other PSBs collected by Ofcom;
- data on the production sector, published by PACT and other sources;
- data provided by C4C. Following receipt of its response to the July consultation, we asked C4C to clarify aspects of the response and provide evidence of the impact various proposals for the level of the out of England quota would have on the areas it had identified: its costs, programming and delivery of its other obligations. C4C's response was published as an Appendix to the January consultation.

3.14 We set out our provisional view on the out of England quota. In summary:

- We considered a higher out of England quota would lead to Channel 4 commissioning more programmes, from more producers, in more genres in the UK Nations. UK viewers would be likely to benefit from an increase in the range of production centres and programmes produced in them, and therefore in the diversity of programmes broadcast on Channel 4. These programmes may contribute to the reflection of different communities and cultures in the UK, and appeal to a culturally diverse society in line with Channel 4's public service remit.
- We did not consider that, as production in the Nations is increased, the benefits for viewers and other citizens would increase in equal proportion, or that production needs to be proportionate to the population in the Nations, either at the aggregate level of 17% or at the individual Nations' levels, in order to deliver benefits at an appropriate level. We did not agree that the BBC's approach in this respect would be appropriate for Channel 4.
- An increase in the quota above 9%, to the levels of 12% or 17% proposed by other respondents, may impose higher direct costs on Channel 4, and commercial and competitive constraints on its commissioning choices, that may detract from its resources for production in other areas, and for delivery of its other licence obligations and other areas of its public service remit.
- An increase from current production levels would also benefit UK Nations producers, in terms of increased commissioning spend. At a higher level, there may be an effect on producers in the English regions.
- The difference between the costs and benefits, and the constraints on commissioning on merit, are likely to be increased by sub-quotas: for this reason we did not consider it appropriate to impose sub-quotas.

- We considered an increase in the quota to 9% of production would secure a suitable range of production centres, and achieve the aims of the intervention, with least adverse impact.
  - We considered that the benefits of increasing the out of England quota would be more likely to be delivered by sustainably increasing the production base in the UK Nations, and acknowledged C4C's intention to meet an increase in the quota through developing sustainable, indigenous production, and that this will mean developing new producers in order to grow the production base and volume in the UK Nations. We considered that setting an increased quota to apply earlier than C4C's proposed date of 2020, or setting binding interim targets to the quota, would be likely to act counter to this intention.
- 3.15 On this basis, we proposed that a quota of 9% by volume and spend from 2020 was appropriate. Ofcom published a further consultation on 7<sup>th</sup> January 2014, with the following consultation question:

*Consultation question: Do you agree that our proposed quota of 9% from 2020 appropriately balances the costs and benefits of the out of England production quota for stakeholders? Please provide reasons for your view and any supporting evidence you may have.*

- 3.16 There were 12 responses to the January consultation. There were 8 responses from respondents in Northern Ireland, including Ofcom's Advisory Committee for Northern Ireland, the Northern Ireland Executive and Northern Ireland Assembly Culture, Arts and Leisure Committee. There were also further responses from the Scottish Government and the Welsh Government. The non-confidential responses are published on our website.<sup>15</sup>

## Ofcom's consideration of responses to the consultations

- 3.17 Ofcom has considered carefully the responses it received to both the July and January consultations. In the following section we summarise the responses to both consultations by theme and set out Ofcom's view. We then set out Ofcom's decision on the out of England quota.

### Ofcom's consideration of responses, impact assessment and evidence

- 3.18 Some respondents to the January consultation considered that Ofcom had disregarded responses to the July consultation, and that Ofcom's definition of stakeholders did not take into account the "devolved nations" as stakeholders in their own right, particularly in the context of devolution. Some respondents also considered that Ofcom did not have sufficient evidence of the costs to C4C, nor had it appropriately evidenced the benefits or disbenefits to viewers of an increase or reduction in production from the UK Nations.
- 3.19 The Department for Enterprise, Trade and Investment (DETI) and Northern Ireland Screen (NI Screen) both reflected on the number of responses promoting a quota above 9%, with the latter stating "it is difficult to see how the consultation process has been integrated into Ofcom's decision making process". Another respondent stated that we were "ignoring the views" of stakeholders in the Nations.

<sup>15</sup> <http://stakeholders.ofcom.org.uk/consultations/renewal-c4-licence-out-of-england-quota/?showResponses=true>

- 3.20 Two respondents made comments regarding our definition of stakeholders. DoubleBand Films argued our decision could not be seen as a fair balance of the costs and benefits because we had not ascribed “key stakeholder status to the Nations”. NI Screen challenged why Ofcom had not considered the Nations and their citizens as a distinct stakeholder in their own right.
- 3.21 The Ofcom Advisory Committee for Northern Ireland (ACNI) acknowledged the additional evidence in the January consultation, but believed Ofcom should have required further evidence of the financial costs from Channel 4 and other sources, and that there was no significant viewer evidence provided that indicated any benefits or disbenefits of more or less provision from the Nations.
- 3.22 Ofcom has taken full account of the views of all respondents in developing proposals around the appropriate level of the out of England quota. We have considered each proposal carefully and assessed the likely costs and benefits of those proposals in order to reach a desirable and proportionate outcome. While we recognise that certain stakeholders may be disappointed with the conclusions we have reached, we have sought to meet our statutory duties through careful consideration of all options.
- 3.23 The purpose of the impact assessment in the January consultation was to identify the stakeholders likely to be impacted by a decision and to assess the costs and benefits of the options to them. In both the July and January consultations we identified these stakeholders to be Channel 4 viewers, C4C and producers. These stakeholder groupings include, and take into account the interests of, constituents in the Nations. It is in that context that the interests of the Nations as stakeholders have been considered in the impact assessment. We have, however, considered the interests of the Nations more broadly in deciding upon the appropriate policy outcomes of the intervention.
- 3.24 In reaching our view, we have taken account of the best evidence available to us. We stated in the January consultation that we recognised that the available evidence of viewer benefits was limited - to BARB viewing data, Ofcom’s PSB Tracker and C4C’s own research - and therefore we had not attempted to quantify these but considered what the evidence suggested in terms of the likely benefits. We recognised the limitations of the available evidence and took this into account in reaching our preliminary view. However, we are not aware of additional evidence of viewer benefits, and note that no further sources have been provided, or proposed, by respondents.

Similarly, in assessing costs to stakeholders, we have taken into account the evidence provided by Channel 4 and consider as the statutory public body responsible for the service it is well placed to make an assessment of this. However, Ofcom has conducted its own analysis drawing on the evidence from stakeholders and independent sources such as the PACT survey. We are not aware of additional evidence of costs, and note that no further sources have been provided, or proposed, by respondents.

### **Production capacity in the UK Nations**

- 3.25 A number of respondents queried whether C4C’s submission regarding a lack of production capacity in the Nations and the timescales outlined for developing new producers were an accurate reflection of the existing conditions. On this basis some respondents challenged the commercial costs and risks outlined in the impact assessment for C4C and producers, arguing that there was already sufficient

production capacity in the UK Nations to increase production at a quicker rate than proposed.

- 3.26 One confidential respondent suggested that production capacity in Northern Ireland has been reduced because of an unwillingness by Channel 4 (and the BBC) to engage with independent producers. Another argued that producers, as SME's, are much more flexible than large businesses and could cope with any change to market conditions should an increase in production occur. NI Screen and DETI stated that they were able to identify "at least 6 indigenous companies" in Northern Ireland capable of delivering to Channel 4 and saw no identifiable impediments to new production companies setting up in the country. Both of these respondents commented on the strength of the animation sector in Northern Ireland, production by which they considered "would easily surpass any regional quota placed on C4C". They noted that production in this genre is driven by international sales rather than UK commissions. One additional respondent considered that more is produced in Northern Ireland for "America than for London" and considered this an "absurd state of affairs". NI Screen and DETI queried the assertion that Northern Ireland does not have the necessary skills base to produce programming in the drama genre. HBO's 'Game of Thrones' was noted as a high profile example of a successful drama series.
- 3.27 DETI questioned the perceived commercial risks to C4C should the quota be in excess of 9%. It considered that independent producers in Northern Ireland have the experience and skill base to produce commercially viable programming that is diverse and innovative, and stated that "C4C acknowledges very clearly that there is no evidence that companies in the devolved nations are less capable of producing programmes of creative quality or commercial performance for the organisation". It provided a number of examples of producers and programmes it considered illustrated this point.
- 3.28 The Scottish Government noted the achievements of Raise the Roof productions, who "were able to supply four network series to C4 in the first year of start-up", and the track record of Matchlight, who have supplied high quality programming to a range of broadcasters. C4C's comments about production capacity were also challenged by the Welsh Government.
- 3.29 In the January consultation we stated that the higher quota levels of 12% or 17% proposed by respondents would require Channel 4 to double or triple its proportion of production spend in the UK Nations from the current level and that our analysis suggested this extent and rate of increase may impose higher direct costs on Channel 4, and commercial and competitive constraints on its commissioning choices. We stated that where producers in the UK Nations are strong in genres, particularly features, specialist factual and daytime, they already represent a relatively high share of commissioning in that genre. We also stated that higher quota levels may detract from Channel 4's resources for production in other areas, and delivery of its other licence obligations and public service remit.
- 3.30 On the available evidence, we consider that our analysis of the costs and commercial risks of higher quota levels is reasonable. In particular, we consider that the available evidence, including that from respondents, suggests that the rate at which the capacity of independent producers in the UK Nations could increase to accommodate such increases in production is highly uncertain:
- The proportion of total network spend by the PSBs which was spent in the UK Nations increased from 4.2% to 8.7% from 2007 to 2012. This includes BBC in-house production, but excludes production spend by non-PSBs, which we are

unable to quantify but which the examples in the responses suggest is increasingly significant. In the same period, the PACT censuses of 2006 and 2012 suggest that the proportion of its membership based in the Nations has remained broadly stable: 14% in 2006<sup>16</sup>, and 15% in 2013<sup>17</sup>.

- We noted in the consultation that c.10% of active independent producers of scale are currently based in the UK Nations, but not all of these producers would be active or available to C4C at a given time. C4C has informed us that in the years 2011, 2012 and 2013 an average of 13% of the producers commissioned were based outside England. C4C's analysis of the production base in the Nations suggests that over 80% of the producers it considers have the potential to produce scalable, network ideas for Channel 4 have already been suppliers to Channel 4, including the companies mentioned in responses.
- In the consultation C4C stated that where producers in the UK Nations are strong in genres, particularly features, specialist factual and daytime, they already represent a relatively high share of commissioning in that genre. We note that the examples provided in responses of drama and animation productions are for productions for international broadcasters: Channel 4 commissions are relatively limited in these genres.

3.31 Therefore in the event that, following the introduction of a higher quota level, the total number of producers remained constant or did not increase at a similar rate to Channel 4's commissioning, or their capacity in the range of genres commissioned by Channel 4 did not increase, the higher quota levels would be a constraint on commissioning choice and reduce the competition between programme suppliers to Channel 4. This could lead to the type of effects set out in the January consultation (paragraph 2.59 to 2.64).

3.32 We recognise that this situation may change over time. If increased commissions from Channel 4 and other broadcasters led to more producers in a wider range of genres, this would support C4C's intention to increase commissions to indigenous producers without incurring the costs it identifies. This may cause C4C and others to consider further increases in Nations production: a quota of 9% would not preclude this. However, as this is uncertain, we consider it is a risk to Channel 4 commercially and in terms of delivery of its public service remit, and a relevant consideration in setting the minimum level for the quota.

### **Set the level of the out of England quota at 17%**

3.33 There were broadly three proposals put forward in the responses to the July consultation: increase the quota to 17%, being proportionate to the distribution of population in the Nations; increase the quota to 12% or 15%, suggested as a mid-point between current delivery and the BBC's target; or increase the quota to 9% by 2020, a proposal made by C4C.

3.34 In response to the January consultation, the Scottish Government, one individual and one confidential respondent argued for a 17% quota as proportionate to the population distribution in the Nations. The Scottish Government queried our view that a higher quota level may cause a redistribution of production away from other geographic areas. They stated that a 17% quota "would still leave over 80% of

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<sup>16</sup> Ofcom Review of the Television Production Sector. Figure 4.26: External production – 2004 reported turnover by location of company's main office.

<sup>17</sup> PACT report: Estimating the economic impact of production outside of London May 2013

programming available for commissioning in England” and that “the concentration of some 95% of commissioning from England and particularly the south east does seem excessive.”

- 3.35 The Northern Ireland Assembly Culture, Arts and Leisure Committee and DETI both asserted that they were still in favour of a 17% quota.
- 3.36 In the January consultation (paragraph 2.90 to 2.94) we set out why we do not consider Channel 4’s production out of England needs to be proportionate to the population in the UK Nations, either at the aggregate level of 17% or at the individual Nations’ levels, in order for Channel 4 to deliver benefits at an appropriate level. We also set out that a higher quota level of 17% would impose higher direct costs on C4C, and commercial and competitive constraints on commissioning choice. It would be likely to benefit producers in the UK Nations, but C4C have submitted this would be at the expense of producers based in England. The responses to the January consultation did not put forward any additional argument or evidence which has caused us to revise our view in this respect. Considering the costs and benefits associated with a quota level of 17%, we do not consider this to be a proportionate level for the out of England production obligation.

### **Set sub-quotas for each UK Nation**

- 3.37 Some responses to the July consultation proposed that Ofcom should introduce sub-quotas for each Nation to ensure an appropriate distribution of production, potentially proportionate to population.
- 3.38 In response to the January consultation, the Scottish Government proposed that Channel 4 “should have a mandatory target for production from Scotland of 8.6% in line with its share of UK population”. It contested Ofcom’s view that sub-quotas would reduce the diversity of programmes available to viewers. One individual echoed these arguments, calling for a 9% sub-quota in Scotland, as part of a 17% overall quota, to ensure “appropriate cultural investments in diversity and plurality of supply”.
- 3.39 Other respondents - NI Screen, DoubleBand Films, one individual and two confidential respondents - called for Ofcom to adopt sub-quotas in order to guarantee a specific level of production in Northern Ireland. These respondents considered that there was a “market failure” in production in Northern Ireland due to “flawed commissioning procedures”, and that this had “precipitated a crisis in the sector”. These respondents considered that under Ofcom’s proposal there was likely to be an unequal distribution of production to Scotland, and that Channel 4 should work with Northern Ireland stakeholders to ensure 1.5-2% of production was in Northern Ireland by 2020. DoubleBand Films stated that sub-quotas were a “logical intervention” and would not result in a reduction of diversity for Channel 4 viewers or constrain commissioning on merit. NI Screen contended that, without a sub-quota, it may only be Scotland’s “voice” that is strengthened by an increase in production. Respondents also argued that a sub-quota would not be a significant additional burden for C4C.
- 3.40 PACT stated that the “9% quota should be reasonably distributed across the Nations” but did not provide any proposals for the production level in each Nation.
- 3.41 As set out in January consultation (paragraph 2.90 to 2.94), we do not consider that setting a quota level proportionate to population is an appropriate licence condition for Channel 4.



- 3.42 We recognise that the volume and value of network production in Northern Ireland for the public service broadcasters overall, and on Channel 4, has historically been lower than in the other two Nations. However, we do not consider that there is evidence that the production sector in Northern Ireland has “lost out” to other Nations or suffered “failure”, as out of England production has increased in recent years. Total PSB production by spend in Northern Ireland increased from 0.4% to 0.8% between 2010 and 2012, with production for Channel 4 increasing from 0.2% to 0.4%<sup>18</sup>. In the same period production spend fell in Scotland but increased in Wales. Again, these figures exclude the examples of non-PSB production in Northern Ireland cited by some respondents.
- 3.43 We recognise the concern of respondents that, given the relative scale of the production sector in the different Nations, an increase in production by Channel 4 may not be evenly distributed or be at the same rate in the different Nations, and that producers in Northern Ireland or viewers of their programming may not benefit to the same degree as those in the other Nations. However we remain of the view that sub-quotas for Channel 4 are not an appropriate intervention: they would benefit the relevant producers and production sector, but would represent a more substantial constraint than a general out of England quota upon commissioning on merit and competition and diversity of suppliers. We consider that, taken as a whole, any benefits of sub-quotas are likely to be outweighed by these constraints and costs.
- 3.44 There is also the issue of how an appropriate sub-quota could be set. Respondents to the January consultation argued either for a sub-quota proportionate to population or a “guarantee of 1.5% to 2% of production” for Northern Ireland. If Ofcom’s proposal for a 9% quota were to be pro-rata’d by population in the Nations, the proportion for Northern Ireland would be 1.5%. This level would triple the share of Channel 4 spend in Northern Ireland, compared to an estimated 60% increase in share of spend in the Nations overall under Ofcom’s proposals. We consider it would be difficult to set a sub-quota guaranteeing a certain level of production for one Nation and not the other Nations without further constraining commissioning choice and competition between producers.
- 3.45 We therefore remain of the view that it would be inappropriate to introduce a sub-quota for any particular Nation or region. However, we note the suggestion by some respondents that Nations production should be “reasonably distributed”. We consider that Channel 4 should ensure it uses a range of production centres in the UK Nations. The condition we propose to include in Channel 4’s renewed licence will therefore require that in each annual period from 2020 production spend in the UK Nations must be referable to production centres in each of Scotland, Wales and Northern Ireland.

### **The effective quota date, interim targets and review of the quota level within the licence period**

- 3.46 In the July consultation, some respondents suggested Ofcom set a date other than 2020 for the quota to apply, and/or set interim targets.
- 3.47 A number of respondents to the January consultation – NI Screen, DETI and one confidential respondent - argued that, if we set the effective quota date in 2020, there was a risk that Channel 4 would not increase production in the Nations until this point

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<sup>18</sup> PACT report: Estimating the economic impact of production outside of London May 2013. The survey suggests that 70% of production in Northern Ireland is to independent producers, a higher proportion than in Scotland or Wales.

and suggested setting annual interim targets to ensure that Channel 4 increased production from the outset of the licence period. NI Screen argued to bring the 9% quota forward to 2019, and suggested interim targets of 6% for 2017, 7% for 2017 and 8% for 2018. It stressed that leaving the quota at 3% until 2020 would act as a disincentive to C4C to increase production, and would not provide adequate signalling for suppliers to prepare, nor incremental growth to allow infrastructure to develop sustainably. The same arguments were made by DETI.

- 3.48 In its response, the Welsh Government set out that Channel 4 should continue to increase its investment in initiatives to assist producers in the Nations. As in its response to the July consultation, it argued that the quota of 9% should be brought forward to 2016 on the basis that Channel 4 share of production in the Nations doubled between 2009 and 2012, and “if the same average incremental increase were achieved...we could expect 8.1% (value) and 10.4% (hours)” of productions by 2016. The Welsh Government called for the out of England quota to be set at 9% in 2016, at which point there should be a further review. It submitted that Ofcom should not set a quota fixed until 2020 because the BBC quotas are due to be reviewed from 2016 and we do not know how the outcome of Scotland’s Independence Referendum may affect Scotland’s relationships with UK broadcasters and their regulators. The Welsh Government also considered that the Nations quota “should not be reviewed in isolation...but considered in the context of BBC quotas and (in Wales) the continuing investment by S4C”.
- 3.49 The ACNI encouraged Ofcom to review the licence conditions regularly during the licence period. They stated that they felt Ofcom’s proposal to be “behind the curve of devolution”.
- 3.50 In the January consultation we stated that it would be undesirable to require or incentivise Channel 4 to relocate existing productions, which may do less to further the aims and potential viewer benefits of the intervention. We considered that setting an increased quota to apply earlier than C4C’s proposed date of 2020, or setting binding interim targets to the quota, would tend to have this effect.
- 3.51 While we recognise the possibility that no further increase in production might be made until 2020, we do not think this is supported by recent evidence:
- Since the introduction of the out of England quota in 2010, Channel 4 has doubled the share of production in the UK Nations from a relatively low starting point of 2.7% to 5.4%, which is above the quota level of 3%.
  - Increases in production have not been linear, either in total or between the Nations: this is the case across the public service broadcasters, reflecting variation in particular programme commissions year to year.
  - Channel 4 has exceeded the out of England quota since its introduction, and C4C has stated that it will aspire where possible to do so in respect of a 9% quota from 2020.
- 3.52 We do not consider that the rate of increase in production since the introduction of the quota in 2010 necessarily indicates that a similar rate of increase can be sustained, or made in a linear fashion, due to the constraints identified in paragraph 2.97 of the January consultation. Similarly, we also do not consider it would be feasible, and could be of high commercial risk, for Channel 4 to persist with existing production levels and only increase out of England production by the 60% (by spend) required shortly before 2020, as some respondents claim it may attempt.

- 3.53 We consider that setting annual interim targets in the licence condition, which would be legally enforceable and unique among the PSBs, may incentivise Channel 4 to migrate existing productions or limit their development of new producers in order to meet a particular target. Interim targets may therefore not deliver some of the potential benefits to viewers, and are likely to increase the risks and costs to Channel 4. We therefore do not intend to prescribe these.
- 3.54 C4C has confirmed to us its intention to increase commissioning from the Nations on a broadly steady level between the outset of the licence period in 2015 and 2020, and its aspiration to commission in each of the Nations.
- 3.55 We will monitor Channel 4's progress in increasing qualifying hours and spend for Channel 4 in the Nations in its annual returns that are published by Ofcom.

### **C4C's voluntary commitments and engagement with stakeholders**

- 3.56 A number of respondents expressed views on the voluntary commitments offered in C4C's submission. PACT called for C4C to publish a strategy for Wales, Northern Ireland and the English Regions in line with the BBC and Channel 4 strategy for engaging with independent companies in Scotland. In addition, PACT reiterated that it wishes to see greater transparency through the publication of Channel 4's annual spend on production for each of the devolved nations, and the introduction of annual progress review meetings, as well as "C4C developing partnerships with broadcasters and others to develop skills and genre expertise".
- 3.57 The Scottish Government called for C4C to publish a strategic plan on how it plans to promote producer talent in the Nations, and for C4C to commit to holding formal annual discussions with stakeholders.
- 3.58 We recognise the points made by respondents that clear strategy, progress and engagement toward increasing production from the Nations for Channel 4 is important for stakeholders, particularly producers.
- 3.59 We welcome C4C's voluntary commitments to:
- see the 9% as a base minimum and aspire to exceed this quota where possible;
  - develop partnerships with broadcasters and other partners to develop skills and genre expertise in the independent production sector;
  - report on production for Channel 4 by spend and hours in each UK Nation in its annual statement of media content policy ("SMCP");
  - hold annual formal senior level engagement with stakeholders in each UK Nation to report on progress.

### **Reflection of cultures and communities in the UK Nations**

- 3.60 Some respondents to the July consultation (summarised in the January consultation) expressed concern about Channel 4's reflection of cultures and communities in the UK Nations.
- 3.61 Some responses, including from Ofcom's Nations Advisory Committees, argued that, in addition to any production quota, Channel 4 could do more to represent the diversity of the cultures and communities of the UK Nations on-screen, and that

Channel 4's public service remit to "appeal to the tastes and interests of a culturally diverse society" could be amended to include "in the context of a devolved United Kingdom." The respondents noted that there was not necessarily a direct link between production in the UK Nations and reflection of communities, and that this should not be a limitation on producers in the Nations.

- 3.62 C4C's response reiterated its commitment to portraying diversities in the UK, and said that while it does not have a specific remit or licence obligation to reflect regional identities in the way that the BBC or ITV does, it is committed to reflecting the full diversity of contemporary Britain on-screen, whether its regional diversity or ethnicity, disability or sexuality. C4C stated that it considers that it is already delivering this element of its remit well through its major programme strands.
- 3.63 In its response to the January consultation, the Scottish Government considered that culturally diverse populations are not only found in English cities - between the 2001 and the 2011 census, the ethnic minority population doubled in Scotland and it believes that this should be reflected by the public service broadcasters.
- 3.64 The response from NI Screen to the January consultation considered that without a certain level of production the 'voice' of Northern Ireland would be lost.
- 3.65 We agree with respondents that the licence condition sets a production rather than a portrayal quota. Productions made in the Nations, or any other geographic location, will not necessarily reflect the place in which they are made; nor should producers in the Nations be limited to making such programming. However we do consider that productions that meet the out of England quota are more likely than those that do not to reflect the lives and concerns of the different communities and cultural interests and traditions in the Nations.
- 3.66 The objectives of public service television broadcasting in the UK include ensuring that the public service broadcasters, taken together, broadcast programmes reflecting the lives and concerns of different communities and cultural interests and traditions within the UK, and locally in different parts of the UK. Each broadcaster contributes to this objective in a different way. The BBC, for instance, has a public purpose to represent the UK, its nations, regions and communities, while the Channel 3 licensees are required to provide programmes (including news programmes) of particular interest to persons living within the area for which the service is provided. These purposes and requirements are clearly important in the context of devolution.
- 3.67 Channel 4's public service remit is to provide programming which, among other things, appeals to the tastes and interests of a culturally diverse society. While this includes the diversity of different geographic areas it also covers other aspects, such as disability or ethnicity found in any geographic area. We therefore consider Channel 4's contribution to the public service broadcasting objective, in terms of its reflection of the UK Nations and regions, should be distinct from that of the other PSBs, and in keeping with its remit in relation to all aspects of cultural diversity.
- 3.68 The public service remit is set by legislation: any amendment to specify cultural diversity of a particular area, or another aspect of cultural diversity, would be for Parliament to consider. However, we note the concerns of C4C that to place weight on one aspect of diversity may diminish Channel 4's delivery of others and its value in reflecting the full diversity of the UK.

## Ofcom's decision on the out of England quota

3.69 We have taken into account the different arguments and proposals for the quota in responses to the July consultation and the responses to our proposal and impact assessment in the January consultation. We remain of the view that a quota level of 9% from 2020 would best balance the costs and benefits of an increase in production in the Nations. We do not consider that new evidence or arguments have been advanced by respondents to the January consultation to change this view.

**3.70 We are therefore setting the out of England production quota at 9% by volume and spend in 2020 in the renewed licence for Channel 4.** It will remain at 3% until 1<sup>st</sup> January 2020.

3.71 We consider that 9% of production from 2020 is a proportionate and achievable requirement. It will increase the existing minimum quota level, and will require Channel 4 to increase the proportion of its production spend in the UK Nations by at least an estimated 60% by spend and 30% by volume from current levels.

3.72 C4C has confirmed to us its intention to increase commissioning from the Nations on a broadly steady level between the outset of the licence period in 2015 and 2020, and its aspiration to commission in each of the Nations. Whilst we do not propose to be prescriptive as to progress through the imposition of interim targets, the condition we propose to include in Channel 4's renewed licence will require that in each annual period from 2020 production spend must be referable to production centres in each of Scotland, Wales and Northern Ireland. We will monitor Channel 4's progress in increasing production in its annual returns that are published by Ofcom.

3.73 In addition, we welcome C4C's voluntary commitments to:

- see the 9% as a base minimum and aspire to exceed this quota where possible;
- develop partnerships with broadcasters and other partners to develop skills and genre expertise in the independent production sector;
- report on production for Channel 4 by spend and hours in each UK Nation in its annual statement of media content policy ("SMCP");
- hold annual formal senior level engagement with stakeholders in each UK Nation to report on progress.

3.74 C4C reports on its delivery of Channel 4's public service remit as part of its annual statement of programme policy.<sup>19</sup> We note C4C's view that it is currently delivering its remit for cultural diversity effectively for viewers across the UK. We have discussed with C4C how this should include reflecting communities and cultures across the Nations and regions of the UK<sup>20</sup>, and we will continue to engage with C4C on developing appropriate metrics for this.

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<sup>19</sup> C4C's SMCP, published in its Annual Report, includes Channel 4's statement of programme policy.

<sup>20</sup> Ofcom letter of 12<sup>th</sup> June 2013 to C4C. <http://stakeholders.ofcom.org.uk/broadcasting/tv/c4/>

## Section 4

# Other licence conditions and duration

## Other licence conditions and schools programming

4.1 In the July consultation we set out that we considered the conditions for independent production; out of London production; original productions; UK news and current affairs; and delivery of Channel 4's remit remained appropriate for Channel 4 given its statutory obligations. We proposed to leave these unchanged.

4.2 In considering the schools programming obligation, we noted the changing consumption of educational content across multiple platforms, that C4C's strategy for delivery of education content was still being established, but that it would continue to set this out and report on its delivery in its annual SMCP. We therefore proposed to leave the existing schools programming quota unchanged at half an hour per annum, but asked for views on how best Channel 4 might deliver its remit for education.

4.3 The relevant consultation questions from the July consultation were:

*Consultation question 1: Do you agree with Ofcom's view that the current licence conditions remain largely appropriate to securing Channel 4's obligations?*

*Consultation question 3: Do you agree with our proposal to leave the existing licence condition for schools programming unchanged? What role do you consider the main Channel 4 service should play in delivery of its education remit? Are the existing licence conditions appropriate to this?*

4.4 With regard to question 1, almost all of the few respondents agreed with Ofcom's view. One respondent noted that there could be an overlap in these licence conditions with the BBC4 remit "to reflect a range of UK and international arts, music and culture".

4.5 In response to question 3, only a few respondents made representations. Three suggested that Channel 4's remit for education content could be strengthened further to secure educational content, outside of the school syllabus, for older children and younger adults – particularly in digital media. PACT questioned the extent to which C4C was meeting its obligations introduced by the DEA to make media content that appeals to older children across its services, noting that its main audience has aged over time and it should focus more on younger audiences. The International Broadcasting Trust (IBT) urged C4C to focus on providing a global perspective to older children and young adults in an educational context. The IBT also stated that benchmarking delivery of education content in C4C's SMCP would be beneficial. The Voice of the Listener and Viewer regretted the loss of a major commitment to schools programming but stated that it looked instead to Channel 4's provision of programmes of an educational nature to meet its remit.

4.6 C4C stated in its response that it is developing its strategy towards the delivery of its education remit, and towards content for the 14-19 year old age group, across TV and other platforms. In this light, C4C considered that it would be appropriate to update the wording of its remit in due course to favour a broader educational remit aimed at young adults across its services.

- 4.7 C4C sets out its strategy for education, and has reported on how this has evolved on Channel 4 and its other services, in its annual SMCP. As part of this process, Ofcom has engaged with C4C on the delivery of Channel 4's public service remit to provide programmes of an educational nature and other programmes of educative value, and of C4C's duty to make media content that appeals to the tastes and interests of older children and young adults across its services. We will continue to do so.<sup>21</sup>
- 4.8 A change to the legislation to remove the schools programming requirement or to specify provision of other educational content by Channel 4, or by C4C on its other services, would be a matter for Parliament.
- 4.9 We note that none of the responses argued that the schools programming quota, or a change to this, was an effective means of delivering Channel 4's remit for education. We therefore will leave the current quota unchanged at half an hour per annum.
- 4.10 **We confirm that, other than the out of England quota, the licence conditions and quota levels will remain unchanged in the renewed licence.**

## Sustainability and duration of the licence

- 4.11 In the July consultation we set out the challenges in the next licence period for the sustainability of the Channel 4 service. We considered the balance between C4C's delivery of its licence obligations and public service remit, and its need to maintain commercial viability through appeal to viewers and advertisers.
- 4.12 We noted the market changes of the current licence period and considered that the next licence period may see as many if not more challenges for C4C and Channel 4. We noted that C4C's main challenge will remain to sustain a cross-subsidy model enabling it to invest in distinctive and attractive content. We considered C4C's financial model to be credible and its submission that the licence obligations could be maintained realistic.
- 4.13 We consulted on the licence duration and proposed that a ten year licence was appropriate. We noted that this would provide continuity and certainty for long-term investments, and would be in line with the Channel 3 and 5 licences.
- 4.14 The relevant consultation questions from the July consultation were:

*Consultation question 4: Do you agree with the assessment set out of the market changes and future challenges for C4C in sustaining delivery of Channel 4 and its licence conditions?*

*Consultation question 5: Do you agree with our view that the Channel 4 licence should be renewed for a ten year period? If not, please set out an alternative duration and reasons for it?*

- 4.15 Several responses to the July consultation considered that while the document had identified the creative and commercial challenges for C4C, we had under-estimated the impact they may have on sustainability of the Channel 4 service. C4C's response asserted that it considered that delivery of the service and its licence conditions would be sustainable for the proposed 10 year period.

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<sup>21</sup> See paragraphs 3.124 to 3.130 of the July consultation.

- 4.16 We remain of the view that, while there is potential for significant change over a ten year period, C4C's submission that the licence obligations can be maintained is credible and realistic. We note the risks that a structural decline in revenue might pose to meeting Channel 4's public service remit and the licence quotas, but also the mitigating actions that C4C has proposed in this event - to first reduce non-programme costs, and then changes to other parts of the schedule, in preference to reducing delivery of its licence conditions.
- 4.17 We do not consider that a shorter licence duration would be beneficial, or more appropriate, to Channel 4 in meeting its obligations. The few respondents commenting on the proposed licence duration generally supported a ten year duration, as it would align the licence period with Channel 3 and 5, and allow for long term investment and commissioning by Channel 4 to meet its obligations. No respondent disagreed that a 10 year licence period was appropriate, or proposed an alternative duration.
- 4.18 In the January consultation we set out our intention to renew the licence for a 10 year period, but noted that in the event that we were to require a significantly higher quota for out of England production than the proposed 9%, it may be appropriate to consider this position. As we are setting the out of England quota at 9% from 2020, which C4C have submitted is a sustainable licence condition, and the other licence conditions will remain unchanged, we consider the 10 year period is appropriate.
- 4.19 We will renew the licence for a ten year period commencing on 1<sup>st</sup> January 2015.**

### Other issues raised in the July consultation responses

- 4.20 There were a number of other points made in responses on aspects of C4C's commercial and contractual arrangements, and the diversity of those involved in making its programmes.
- 4.21 Directors UK expressed concern that the range of directors used by producers commissioned by Channel 4 is not as diverse as it should be. It also suggested that greater accountability of the innovation and originality of programme ideas in Channel 4's commissions to producers was required. Creative England suggested that Channel 4 should give multiple commissions to, and potentially invest in, a number of smaller producers. Equity and the Birmingham Creative City Partnership raised queries about the diversity of cast and crew in productions for Channel 4.
- 4.22 Other respondents commented on Channel 4's role in supporting the UK film industry and its financial support for the National Television Archive. One respondent suggested C4C relocate to the Midlands to boost creative activity in the region. Another respondent suggested C4C give up part of its spectrum by ending broadcast of one of its non-PSB channels.
- 4.23 In relation to the points on diversity, Channel 4 has a licence obligation to promote equal opportunities and training (Condition 36) which will remain in the renewed licence. If stakeholders consider Channel 4 is not meeting this obligation, and if Ofcom were provided with evidence in relation to this, we would consider what action it was appropriate to take.
- 4.24 In terms of contractual relationships with producers, the licence contains requirements for Channel 4 to draw up a code of practice setting out the principles it will apply when agreeing terms for the commissioning of independent productions



(Condition 11). If stakeholders consider Channel 4 is not meeting this obligation, and if Ofcom were provided with evidence in relation to this, we would consider what action it was appropriate to take.

- 4.25 Under the renewed licence, Channel 4 will continue to be obliged to contribute to the National Television Archive. C4C's media content duties specify its contribution to UK Film production, which it reports on in its SMCP.
- 4.26 The distribution of its additional services and location of its offices are a matter for C4C.