

Leading the Field: A Review of the Creative Industries

An independent review of policy options
for the UK's creative industries

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INTRODUCTION

This independent Review of policy options for the UK's creative industries was commissioned by the Labour Party ahead of the May 2015 General Election. The report aims to inform Labour policy and it does not reflect Labour Party views.

The objective was to map out a policy agenda and a set of clear proposals to help an incoming Labour Government to start making practical improvements to the environment for UK creative businesses.

The rise of the creative industries in the UK over the last 20 years has been an extraordinary success story and with the benefit of hindsight, the initial (and at the time radical) recognition of this sector by the last Labour Government, followed by the rapid development and implementation of successful policies to fuel growth has proved to be one of the lasting achievements of the Blair and Brown administrations.

Today the UK's overall creative industries contribute 5% of UK GVA and employ 1.7 million people. Our creative industries are now widely acknowledged as world leaders in terms of innovation and creativity. From theatre to film to video-gaming to TV programming, the UK has risen to become the pre-eminent global hub and talent magnet for investors seeking creativity, innovation, world-class skills and cutting-edge engagement with the new digitally-led creative economy.

That said, there are some very real challenges now facing the UK's creative industries. These range from the globalisation of the new internet markets, where British creative businesses increasingly work within parameters set by multinational companies which do not necessarily have a stake in the UK's national or commercial interests; through to the failure of the current Government to look meaningfully beyond our great capital city to the reservoir of under-utilised creativity that exists throughout the rest of the UK.

Even so, the thesis of this report is that the UK's creative industries are in good shape – even though much remains to be done. As it is, the Coalition has retained many of the previous government's policies for the creative industries whilst adopting most of its forward plans – including those for new tax incentives for specific creative industry business sectors.

However, there have also been failures of nerve over the past four years where previous achievements have come undone. In other areas, market developments, or a lack of policy development, have created new challenges that require attention. For example, the recent public spending cuts to arts bodies and to regional economic support structures now risk eroding the national DNA that originally propelled the UK to the top of the global creativity league. Another example would be the refusal until 2014 to acknowledge that previous Labour policies for promoting cultural diversity in the tightly networked creative industries should not have been abandoned as they were in 2010. Another example might be the failure to grapple properly with emerging regulatory issues, often most noticeable when constructive dialogue with Europe has been required. This is particularly important for the creative industries since, many of the key regulatory challenges facing the sector fall under the purview of the European Union.

But this Review is intended to look to the future and it offers recommendations in six main policy areas:

- Competition and regulation
- Public and private finance
- People, skills and talent
- Intellectual property and copyright
- Personal data and privacy
- Public service content

My aim was to focus on this tight group of subject areas where action by government could make a real difference to the following six creative industries sectors:

- Film
- Music
- Publishing
- Theatre
- Premium TV-like content
- Video games

I remain unapologetic that the Review largely ignores infrastructure issues (such as broadband roll-out) and also avoids the quagmire of debate about classification and definitions of the creative industries. Much good work on this issue has been done elsewhere - in particular by Nesta, which I commend to you.

The report concludes with a set of proposals addressing the way in which Whitehall is organised to assist the creative industries, the so-called 'machinery of government'.

I hope that the specific recommendations speak for themselves but in terms of broad themes I can offer some over-arching observations based on discussion and correspondence with stakeholder groups and individuals across the course of the Review process.

- The people of the UK have a long history of enjoying and consuming culture as well as creating it. Over the past 40 years a combination of natural talent, education, training, and crucially, the provision of state-funded access to a broad range of cultural activity, have all contributed to the UK becoming a global powerhouse for the creative industries. As a result, the creative industries now comprise one of the most important assets that the UK possesses. This is a business sector that is now set to grow steadily over the next decade and it attracts some of our best entrepreneurs who are successfully and regularly generating wealth and new jobs. Due to the size of the opportunity, it is imperative for the creative industries to be treated as a priority across government and, therefore, the sector should receive a disproportionate amount of government policy time, energy and resource. Perhaps the most fundamental recommendation of this report is that the next Labour Government should commit loudly and unequivocally to champion the creative industries; to work hard to remove barriers to growth; and to maintain an environment attractive to entrepreneurs and to investors.
- There is a need to recognise more clearly in policy-making that the UK creative industries are so successful largely because they are now part of a much bigger global sector, enabled by internet technology. Policymakers need to take into account more than a new long-term strategic approach is required to promote and protect UK commercial interests in the face of

opportunities and challenges that increasingly will come from outside the UK and not from within.

- It is the UK's diverse and lively population that provides the human capital for our creative industries. Traditionally, British creative talent has been nurtured from an early age through access to publicly-funded art and culture and a wide range of informal learning opportunities, before moving into more formal education and skills training. At one level, the provision of culture via state subsidised organisations and their activities (ranging from public libraries to the BBC's output, to free museum access, to great national institutions such as the Royal Opera House and the Tate), plays a valuable role in building and sustaining the engaged, civilised and cohesive society we live in. However, there is also a strong and largely unacknowledged connection between this complex network of public funding for cultural activity and the sustained commercial success of our creative industries. Going forward this link needs to be better recognised in policy-making.

The current Government's policies have diminished publicly-funded cultural activity (e.g. cuts to the BBC, DCMS grant-funding, public library budgets). The current fiscal situation means that the next Government will not have the same spending choices as they have in the past. But over time there should be a clear commitment to sustain and reinforce the state support of the 'cultural offer'. This is partly an issue of equality of opportunity and social justice, but it is also about securing the human capital that underpins the success of the UK's creative industries. As a relatively wealthy society the UK should in any event be committed to subsidising the arts. That this approach also helps provide the bedrock upon which our industrial success is built, only serves to reinforce the argument for publicly funded culture. Care must be taken to ensure that publicly funded activity does not interfere with, or compete with, private sector creative businesses but it is worth reminding ourselves more regularly that it is the public sector (e.g. Channel 4, the National Theatre, the British Film Institute) that continues to promote new talent and voices, and encourages creative risk-taking to a degree that the private sector often finds impossible.

- There was a unanimous view from stakeholders that there should be no further review of the UK's intellectual property or copyright regime in the term of the next Parliament. Nor is there any need for change to the European copyright framework. In the wake of a decade of successive reviews and consultations, the creative industries are now broadly satisfied with the intellectual property regime and although there are still significant issues to be addressed, for example regarding online protection of rights, there is a strongly held view that the current IP framework is fit for purpose and should be left alone for the foreseeable future.
- The pace of technological change and the speed at which business models evolve is becoming ever-faster whilst at the same time the international competition facing UK creative businesses is intensifying. Accordingly, it is crucial that the UK retains the competitive advantage derived from a workforce with world-class cutting-edge skills. Therefore, sustained investment in education and skills training will remain absolutely vital over the coming years. Given the unusually high concentration of freelance workers in the UK creative industries, there is also a particular requirement for a more centralised and coordinated approach to skills training in this sector.
- One unintended consequence of the recent growth in the UK creative industries has been a growing concentration of capital and talent in London to the detriment of the rest of the UK and

England. The Review heard at length about how the magnetic pull towards London as the epicenter of the creative industries has made it increasingly challenging to attract significant investment into new creative businesses outside the London super-cluster. The situation has been further exacerbated by the damage caused to regional strategies and funding structures in England through the abolition of Regional Development Agencies and the painfully slow evolution of any new and fit-for-purpose regional organisations.

As a matter of urgency, there now needs to be a radical improvement in current strategies and incentives to develop creative industry clusters and businesses outside London. In this respect, the Review wholeheartedly backs the proposals for the substantial devolution of regional strategy, decision-making and funding away from Whitehall and into the English regions, set out in the recent series of reports for Labour by Lord Adonis.

- Along similar lines, a consistent refrain from respondents to the Review related to the lack of perceived expertise on the part of those key decision-makers who control investment for business support from the centre, often without any real commercial experience or understanding of the particularities of different regions and different business sectors. Subject to adequate checks and balances it must be preferable, wherever possible, for the people who locally run creative businesses to help formulate sector specific strategies for the best use of public funds. Given the unusually strong network of trade associations that represent interests within the creative industries, there is a particularly strong argument for the devolution of creative industries strategy and investment/funding decisions away from Whitehall departments and towards specialised sector networks and Non-Departmental Public Bodies (NDPBs). This process (which is also consistent with the recent Adonis Reports to the Labour Party) should increasingly leave central government with a clear remit to lead on 'Big Picture' strategy and on funding issues (advised by industry), but with a day-to-day focus on promoting the UK's wider creative industry interests at the centre of government, in Europe, and in the increasingly important global market.

The team met with more than 200 individuals or organisations who were forthright in their views throughout this process.

In concluding, I would like to thank the small but committed team who have worked with me throughout the Review. I have been fortunate to benefit from the insight and intellectual rigour of two expert creative industry strategists, Jonathan Simon and Neil Watson, and I am immensely grateful to them. Our senior researcher, Viktor Pawlikowski, also worked tirelessly and his clarity of thought and attention to detail have been invaluable.

Finally, I also want to extend my gratitude and thanks here to the Advisory Board which provided very valuable input to the Review team on an individual basis throughout the process. Many of the good ideas contained in the Review originated from these thoughtful and dedicated individuals and I am extremely grateful to them for their time. That said, the final text, all of the recommendations – and therefore any unhappiness that may arise – remain entirely my own responsibility.

John Woodward
27 March 2015

UK CREATIVE INDUSTRIES HEADLINES

- In 2013, the Gross Value Added (GVA) of the creative industries amounted to £76.9 billion, accounting for 5% of the UK economy. This represents a 9.9% growth since 2012, making the creative industries the UK's fastest-growing blue-book sector. Since 2008, the creative industries grew by 25.8% compared to 11.4% for the UK economy as a whole.
- In 2013 the UK creative industries employed 1.71 million people, a 1.4% increase on the previous year.
- In 2012, the value of services exported by the UK creative industries was £17.3 billion. Between 2011 and 2012, exports of services by the UK creative industries increased by 11.3%. Exports of services from the UK as a whole grew by 2.8% over the same period.

Film

- In 2012, the UK film industry generated turnover of £7.295 billion, contributing £2.87 billion to the UK economy. In the same year, the UK film industry generated a trade surplus of £789 million and supported 66,000 jobs.
- Investment in film production in the UK grew by 35% to £1.47 billion in 2014, £1.23 billion of which being accounted for by inward investment films.
- UK films accounted for 11% of the global box office in 2013.

Television

- The UK's television industry generated revenues worth £12.9 billion in 2013, with spend on content by all UK TV channels growing by 4% on the previous year to reach £5.8 billion.
- The independent television sector's total revenues amounted to £3.015 billion in 2013, an 8.1% increase since 2012, with international revenues growing by 12% to £939 million in the same year.
- Estimated total revenue from the international sale of UK television programmes and associated activities was £1,284 million in 2013, a 5% increase on the previous year. The UK's total television sales to markets such as the USA, China and Indonesia grew by 10%, 40% and 15% respectively in the same period, consolidating the UK's position as the world's second largest exporter of television content after the US.

Music

- In 2012, British artists secured five of the world's top ten best-selling albums in 2012 and accounted for 8% of global music revenues.
- In 2013, the core UK music industry accounted for £3.8 billion GVA, a 9% increase on the previous year, while supporting 110,000 jobs.

- With UK music exports being valued at £2.2 billion in 2013, the UK continues to be one of the very few countries in the world that are net exporters of music, with royalties from abroad outweighing payments sent outside of the country.

Publishing

- The UK's book publishing industry contributed £4.3 billion to the UK economy in 2013, accounting for 27,000 jobs. When combined with magazine and newspaper publishing, the sector's economic contribution to the UK economy in 2013 grows to around £10 billion.
- Total book sales increased by 6% (net invoiced value) between 2009 and 2013, driven by a staggering 305.5% growth of digital book sales in the same period.
- The UK's book publishing industry recorded a 3.6% growth in total exports between 2009 and 2013.

Video games

- Investment by games studios rose to £458 million in 2013, a 7% increase on the previous year.
- The number of creative staff working in studios grew from 9,224 to 9,896 during the same period, with the number of jobs indirectly supported by studios rising from 16,864 to 18,093.
- The sector's contribution to UK GDP also grew in 2012-13, rising from £947 million to £1.02 billion, while the combined direct and indirect tax revenues generated by the sector for the Treasury increased from £390 million to £419 million.

Theatre

- Between 2008 and 2012, the economic contribution of the performing arts to the UK economy grew from £1.013 billion to £1.515 billion.
- In the same period, employment in the performing arts grew from 42,000 to 45,000, representing a growth of 7.1%.
- Overall theatre attendances at SOLT venues increased by 4% to 14,587,276 in 2012-13. In the same period, gross sales rose by 11% to £585,506,455 generating VAT receipts worth £97,584,409 to the Treasury.

EXECUTIVE SUMMARY

General points

1. The creative industries should be clearly identified and treated as a priority sector across government.
2. Government should strongly champion the intrinsic value of the arts, and the importance of public funding for the arts, as well recognising their contribution to the creative industries.
3. Government policy and effort needs to take more account of the fact that the UK's creative industries are now part of a much bigger European and global business sector.
4. The welcome emergence of London as possibly the leading creative industry hub in the world has disguised the lack of equivalent growth outside London, and this situation should be addressed by Government as a priority, not least through the devolution of decision making and funding away from Whitehall and into the English regions.

Competition and regulation

1. UK competition authorities should be required to take greater account of likely changes in markets in the medium to long term.
2. Ofcom should produce an annual 'horizon scan' of online media markets. Ofcom's remit for this horizon scan should be extended to cover all creative industry sectors that involve digital distribution to consumers of music, TV, film, video games and e-books. The process for doing this should be decided on following consultation with Ofcom and other relevant stakeholders.
3. In all major media merger investigations in sectors covered by Ofcom's horizon scans, the Competition and Markets Authority (CMA) should have a formal duty to consult with Ofcom.
4. The existing media 'public interest' test should be expanded to introduce a new public policy objective of 'promoting the creation and dissemination of UK-originated content' in those sectors covered by the public interest test.
5. The timescale for regulatory and competition appeals should be shortened.
6. There should be much more proactive engagement with the European Commission on competition and regulatory issues from the UK Government, Ofcom and the competition authorities.

Public and private finance

1. HM Treasury (HMT), the Department for Business, Innovation & Skills (BIS) and the Department for Culture, Media & Sport (DCMS) should commission a joint review of financing options for UK creative industry businesses and set out a comprehensive new package of financial support initiatives designed specifically for the creative industries.
2. All the existing creative sector tax reliefs should be kept in place and the pending reliefs for children's television programmes and for orchestras should be implemented as planned.
3. For the next five years, the value of the sector-specific tax reliefs outside London and the South East should be increased by 5%. The additional relief should be netted off from the BIS budget settlement. The Government should adopt the key recommendations of the Adonis Reports to promote regional growth in England through a radical devolution of strategy and funding.

4. There should be no further cuts to the budget for the Department for Culture, Media & Sport (DCMS) in the lifetime of the next Parliament, and no further Grant-in-Aid cuts to arts and cultural funding bodies including Arts Council England (ACE) and the British Film Institute (BFI).
5. Nesta should be asked to work directly with government, other public organisations and industry to provide policy advice and data about the creative industries.
6. The DCMS should review the National Lottery funding 'shares' formula with a view to increasing the level of funding for the arts (including film).
7. The DCMS should lead an audit with ACE to determine how the balance of arts funding is allocated between London and the rest of England and implement any changes required.
8. The Government should identify ways to encourage further long-term collaborations between major inward investment film financiers and UK independent production companies.
9. UK television rights to theatrical films co-financed by public service broadcasters (PSBs) should automatically revert to the originating film production company after a period of three years.

Public service content

1. The public sector broadcasters (the BBC, Channel 4 and S4C) and other key building blocks of the PSB system should be supported without significant structural change throughout the next Parliament.
2. The licence fee should be retained as the principal funding source for the BBC, with adjustments to address anomalies around new digital services. Licence fee funds may be deployed to support further BBC initiatives or partnerships linked to its sixth purpose (delivering to the public the benefit of emerging communications, technologies and services). However there should be no new top-slicing of the licence fee.
3. Channel 4 should remain in public ownership and continue to take big creative risks and provide a distinctly different voice to the BBC and other commercially-funded broadcasters. Channel 4 should set out a path to recast its remit for the post-broadcasting world. Its role in assisting the evolution of the UK production sector should also be made more explicit in its public remit.
4. S4C's editorial independence should be guaranteed and the channel should be funded at an adequate level under the existing mechanism over the term of the next BBC Charter and Agreement.
5. The Government should support the BBC's proposals to abolish guarantees for in-house production and create a new arms-length production unit.
6. The BBC should ensure a minimum of 25% of its radio commissions go to the independent sector, with a further 25% contestable.
7. There should be a full review of the rules governing commercial local radio station formats by Ofcom, followed by a significant process of deregulation to stimulate new investment in this sector.
8. The principle of ensuring prominence of PSB content should be maintained as viewers migrate to new platforms and forms of viewing.

People, talent and skills

1. Skills training for the creative industries should be coordinated on a UK-wide basis by one joined-up Sector Skills Council (SSC). To this end, the two existing SSCs (Creative Skillset and Creative & Cultural Skills) should be merged into one entity charged with delivering improved efficiency and value for money.
2. The allocation of public money for specific activities should be driven by employer demand. The current matched public funding commitment for Creative Skillset's Skills Investment Funds should be renewed for a further three years after March 2015 rather than the just announced two year extension, as part of the industrial skills agreement with the industry – in return for further developing plans to boost training in their sectors and supply chains..
3. A modest element of core funding for the new SSC should be reintroduced from existing Department for Education (DfE) budgets to allow research, quality of marking and qualifications development work.
4. Arts should be integrated into STEM (science, technology, engineering and mathematics) subjects in schools in England, and there should be support for the professional development of teachers across STEAM (science, technology, engineering, arts and mathematics) subjects to develop fusion skills.
5. The Government should ensure that schools in England deliver more effectively on all curriculum obligations regarding computer science and coding.
6. Where industries enjoy sector specific tax reliefs, they should be expected to make skills training contributions in return.
7. All public sector broadcasters and relevant publicly-funded organisations should be obliged to publish an annual audit of their work on diversity. All significant government funding agreements with private sector organisations should include clear and measurable goals to promote inclusiveness.
8. By 2020, the governing boards of all creative industry organisations in the public sector should have a 50/50 gender balance, with at least 15% of board members being BAME. Targets should also be developed to ensure that disability is more properly represented.
9. Existing laws preventing illegal unpaid internships in the creative industries should be properly enforced. However, care should be taken to preserve the ability of employers to provide legitimate work experience opportunities.

Intellectual property and copyright

1. There should be no substantive review of the UK copyright regime in the lifetime of the next Parliament.
2. The Government should ensure that IP rights holders are able to continue geo-blocking copyright material online within the EU.
3. The Government should support the Creative Content UK anti-piracy initiative but also retain specific anti-piracy clauses (3-16) of the Digital Economy Act as a back-stop solution in case a voluntary approach fails.
4. The Government should continue to support the emerging Copyright Hub.

5. A voluntary agreement should be sought between ISPs and advertisers to ensure that search engines get better at removing links to infringing sites from search results. However, the Government should make an up-front commitment that if no voluntary agreement is reached within 12 months then it will legislate to protect the UK creative industries.
6. A modified form of legal deposit should be introduced for all UK-originated films and television content.

Personal data and privacy

1. Detailed policy should be developed by the Government, industry and the Information Commissioner's Office (ICO), that more clearly defines the controls and consents to which citizens should be entitled for different categories of personal data.
2. The Government and industry should develop a more robust framework for the use of personal data. Industry should then implement a voluntary Code of Conduct to give users more meaningful control over personal data.
3. The ICO should be reformed with a view to substantially strengthening its powers of enforcement.
4. The range of circumstances in which representative legal actions may be brought in England and Wales should be revised to make the process of collective legal redress easier.
5. The UK Government should engage much more actively at EU level to influence the development of the draft European General Data Protection Regulation and other relevant EU regulations.

Machinery of Government

1. The DCMS should remain the lead department for culture and the creative industries but its leadership role should be strengthened.
2. A key function of the DCMS Secretary of State should be to ensure effective working with Scotland, Wales, Northern Ireland and the English Regions, as well as across Whitehall departments including HMT, BIS, DfE and the FCO (Foreign & Commonwealth Office).
3. The DCMS should lead on UK-wide policy, sector representation at EU and international level, and in overseeing funded and arms-length public bodies.
4. The industry-led Creative Industries Council (CIC) should receive modest core funding from existing DCMS and BIS budgets in order to provide a united voice to government on key issues.
5. BIS should reform UKTI (UK Trade and Investment) with a view to radically improving strategy and funding decisions around export promotion for the creative industries.

CHAPTER 1: COMPETITION AND REGULATION

1. UK competition authorities should be required to take greater account of likely changes in markets in the medium to long term.
2. Ofcom should produce an annual 'horizon scan' of online media markets. Ofcom's remit for this horizon scan should be extended to cover all creative industry sectors that involve digital distribution to consumers of music, TV, film, video games and e-books. The process for doing this should be decided on following consultation with Ofcom and other relevant stakeholders.
3. In all major media merger investigations in sectors covered by Ofcom's horizon scans, the Competition and Markets Authority (CMA) should have a formal duty to consult with Ofcom.
4. The existing media 'public interest' test should be expanded to introduce a new public policy objective of 'promoting the creation and dissemination of UK-originated content' in those sectors covered by the public interest test.
5. The timescale for regulatory and competition appeals should be shortened.
6. There should be much more proactive engagement with the European Commission on competition and regulatory issues from the UK Government, Ofcom and the competition authorities.

Introduction

1. The Terms of Reference for this Review posed the question of whether the web will evolve as a benign enabler of a new creative economy occupied by a healthy mix of new entrants and SMEs alongside established major players; or, conversely, whether current incumbents, practices and behaviours will combine to lock in an increasing inequality of opportunity, that excludes new players from the market. It is widely agreed that locking out innovation would be particularly detrimental to the health of the UK's creative industries, whose cultural and economic vitality is underpinned by a constant process of creative innovation. This line of questioning brought the Review to a key policy objective: how to ensure a regulatory and competition regime that removes unnecessary barriers to growth wherever possible, while also dealing effectively with market distortion wherever it arises.
2. While the existing competition framework is designed to work across all sectors of the UK economy, there is good reason to examine its particular application to the creative industries, given that the boundaries between devices, platforms and services offering different types of media experience are becoming increasingly blurred; and the returns derived from the exploitation of content by distributors, platform operators and service providers on the one hand, and content owners, makers and marketers on the other hand, are becoming increasingly contested.

The Review also heard from organisations and individuals who were concerned by potential concentrations of power, network effects and economic bottlenecks, whereby a small number of players may possibly be able to constrain or control access by new entrants, or limit business growth, or otherwise unduly influence the activities of other businesses or users in ways that suppress or harm innovation and creativity over the medium to long term.

3. Given that this is a complex and highly technical area, our analysis focused on seeking to identify crucial enhancements to the overall framework that might help create the optimal environment to stimulate competition and growth in the creative industries. Here it is important to acknowledge that in many areas, particularly in relation to markets in which large global digital media companies operate, competence lies at the EU rather than national level. Nonetheless, there are ways in which changes to the UK framework can bring about improvements to the application of competition rules and the regulatory framework. In addition, there is more to be done to engage with relevant bodies in the European Commission to help secure outcomes that are favourable to the UK.
4. The Review benefited from the perspectives of a range of companies that have provided views on the strategic implications of the current regulatory and competition environment and how it needs to evolve, as well as from the key UK regulators and competition authorities; Ofcom (which, as well as being the regulator for the communications sector, has sectoral competition powers); and the new unified competition body, the Competition and Markets Authority (CMA).

Key issues: impact of convergence and globalisation

5. Continuing technological advance and globalisation are leading to significant and accelerating changes in the structure and composition of media markets. The creative industries have experienced massive disruption over the last decade due to the internet and this trend looks set to continue, creating opportunities as well as challenges for the sector. Take the music industry, which was primarily structured around the fortunes of major record labels and high-street retail stores. Successive waves of development have upended business models and transformed the ways in which music is distributed and consumed, beginning with the sale of CDs by online stores such as Amazon, through the development of the iPod and other digital music players, followed by the launch of music download services such as iTunes and Google Play, through to today's burgeoning streaming services such as Spotify and Deezer.

Digital revenues now account for more than 50% of UK record industry sales

6. There has been corresponding disruption in other creative industry sectors. In publishing, Amazon has been the greatest source of digital disruption, first by selling books online, and then by developing an e-books market through the launch of the Kindle. By 2013, e-books represented 15% of total book sales in the UK.
7. There have also been several waves of disruption in the broadcast and TV content production sectors. The industry has been in a state of flux since the early 1990s, as the traditional 'linear' analogue terrestrial free-to-air TV model offering just four to five channels has given way to a digital multi-platform model, in which digital terrestrial television (DTT), cable and satellite platforms compete to offer a range of free and pay-TV services with hundreds of digital TV channels, increasingly available in HD (and also 3D). As well as giving viewers additional choice, TV providers also now offer greater viewer control and flexibility, for example by

incorporating personal video recorders (PVRs) in set-top boxes so viewers can play back programmes whenever they want.

With this step-change from analogue to digital transmission now complete, the next wave of transformation – from linear to on-demand or ‘non-linear’ TV services – is well underway and looks set to be more dramatic still. The TV set is simply no longer the key device used to watch premium content (TV programmes). Viewers are increasingly consuming content on computers and mobile devices, as well as using broadcasters’ own on-demand services (such as BBC iPlayer) and fast-growing new streaming services from the likes of Netflix, Amazon Instant Video, BT TV and Wuaki.tv. These on-demand services in turn are increasingly becoming available on TV sets, whether through smart TVs, internet-connected set-top boxes, video games consoles such as Xbox, or devices such as Apple TV, Google Chromecast or Amazon Fire TV – all of which are competing to become content gatekeepers for consumers.

The BBC reported 227 million iPlayer requests in December 2014 (excluding those on Sky and Virgin Media), 25% up on December 2013

8. In this new world, economies of scale and scope are becoming ever more important for publishers, broadcasters, distributors and other platforms, as they compete to attract audiences’ attention, to negotiate favourable deals with content suppliers, and to generate advertising and subscription revenues. It is also important to appreciate that many of the biggest and most disruptive new entrants over the past decade operate globally. While content IP rights largely continue to be distributed on a national basis, these international companies have established advantages by creating global brands and establishing their services (whether iTunes, Kindle or Netflix) on internet-connected devices and platforms that are available around the world through smartphones, tablets and proprietary devices, as well as in the home.

The iTunes Store now offers more than 43 million songs; by the middle of 2014 Apple had reported more than 35 billion songs were sold worldwide

9. The benefits of scale also create incentives for these companies to become more horizontally and vertically integrated, and to increase their control over the value chain – Google bought YouTube, whilst social media platform Facebook acquired Instagram. This structural shift is, in turn, propelling other strategic moves in other parts of the creative industries, not least in UK broadcasting. A recent wave of mergers and acquisitions has seen Viacom’s acquisition of Channel 5; ITV’s purchase of Lefffield Entertainment (making ITV Studios America the biggest non-scripted producer in the US); Discovery and Liberty Global’s purchase of All3Media; and the 21st Century Fox-Apollo Global Management joint venture to house Endemol, Shine Group and Core Media (dubbed the world’s first ‘mega indie’). We have also seen platform operators

(such as Sky) and video-on-demand streaming companies (such as Netflix and Amazon Instant Video) commission more original premium content themselves, in order to differentiate their own services and give them more IP to leverage their brand in the marketplace.

10. One result of these changes is that the creative industries are now seeing the emergence of a new generation of gatekeepers that offers premium content including films, TV programmes, music, games, books and other kinds of digital data on a range of seamlessly connected internet-enabled devices, from smart TVs in the living room, through home computers, to mobile phones and tablets.
11. We are also witnessing a wave of consolidation in the communications sector more broadly, with fixed and wireless telecoms companies and pay-TV platforms joining forces to offer quad-play packages combining landline, mobile phone, broadband and television services. In the UK, there have been reports recently of deals or potential partnerships involving all the main pay-TV platforms. Tie-ups of this nature bring consumer benefits but they also raise new kinds of potential competition issues that can have consequences for businesses and consumers in the longer term.

Evidence gathered: implications for competition and regulatory framework

12. These changes described to the Review by practitioners in different parts of the creative industries raise some important challenges for the UK competition regime, which are then exacerbated by a number of specific aspects of competition in digital markets. In particular, network effects and scale economies can and do often lead to 'winner takes all' outcomes. To give one commonly cited example, the core value of a social media platform such as Facebook to its users is that 'everyone' else is on it, so 'you' need to be on it too. With 'you' on it, the platform becomes bigger. The bigger the platform becomes, the more it is valued and the more it is used by 'everyone else'. This kind of positive externality means that over time the biggest companies in a market segment can build an inherent competitive advantage in that they can remain more attractive to new users than smaller operations or new entrants. They are, therefore, potentially able to keep growing their market share by virtue of their existing primacy.

The Organisation for Economic Co-operation and Development (OECD) usefully characterises competition in digital markets as follows:

"Competition in major digital markets often takes on a rather distinctive form. First, competition between business models or platforms tends to be more important than competition within a business model because platform competition often leads to a 'winner takes all' outcome. In other words, dominance – or even monopoly – can be the virtually inevitable outcome of success. Second, digital markets are often characterised by strong network effects and economies of scale, which reinforce this competition-to-dominance trait. Third, many digital markets are two-sided, so that two or more user groups benefit from use of the digital platform. For example, search engines are used both by individuals to access information on the internet and by advertisers to access viewers." OECD, *The Digital Economy*, February 2013

13. Based on what the Review heard, it seems highly probable that many of the media markets which creative companies rely upon to generate revenues will increasingly be characterised by the presence of a very small number of large players with dominant positions. Accordingly, it is

essential that the UK competition authorities are able to identify, and deal with, any abuses of market power that might arise in these markets in the future. Even during the period of this Review, a number of high-profile disputes have been reported in the media involving some of the largest global media players, which led some parties to allege anti-competitive behaviour. These include publisher Hachette's dispute with Amazon over e-book pricing, and, separately, the group of independent music labels that have challenged the terms YouTube offered them for a planned subscription music service. In both cases, the suppliers allegedly found that their content risked being dropped from, or demoted within, the platform. To be clear, these well-publicised examples are presented here solely to illustrate a growing trend of battles between players of unequal size in different parts of the value chain. In time this trend will almost certainly trigger investigations from competition bodies, and there is an imperative to ensure that when that time does come, the UK competition regime is properly equipped and empowered to distinguish between behaviour in the new digital economy that is anti-competitive, as opposed to legitimate, robust negotiation in a well-functioning market.

14. Those people who most forcefully emphasised to the Review the need for a more fit-for-purpose competition framework for the creative industries were primarily concerned about the inevitability of serious problems in the future rather than the present, and emphasise the need for Government to 'fix the regulatory roof whilst the sun is still shining'. The point made was that the current regulatory and competition regime is ill-equipped to deal with the new landscape that has been created by the digital revolution. However, with regards to network effects and market power, it was also pointed out that the presence of just one or two distributors in a market is neither automatically anti-competitive (competition can be intense between just two players in some markets), nor necessarily a new phenomenon – one video games producer noted that there have always been two dominant distributors in their particular market.
15. A connected concern that was highlighted to the Review centred on the need for UK competition authorities to be able to keep up to date and up to speed with the nature and pace of change in converging media markets. Stakeholders also emphasised the importance of all parties being able to draw on reliable and up-to-date market expertise to inform their investigations and arguments. Some stated that in competition cases in recent years, competition authorities have not always recognised the extent to which market boundaries are shifting. This is in part because competition investigations take relatively short-term views of the market and are traditionally cautious about attempting to anticipate future change. This can lead competition authorities to underestimate the impact of changes in the markets in which creative industries operate. In such fast-moving markets, it can also become more difficult to make accurate market forecasts to reliably inform competition decisions.
16. Several organisations suggested that this has led in some cases to competition authorities taking decisions in recent years which proved to be detrimental to the UK's creative industries. One example given was the online content distribution joint venture by the main public service broadcasters (known as Kangaroo), which was intended to address the expected competition from major US TV content aggregators, and which was blocked by the Competition Commission in 2009. The broadcasters' projections from that period which pointed to increased competition from global players turned out to be accurate, and it could be argued that in policy terms the killing of Kangaroo was a lost opportunity for the UK, as it prevented the development of a UK-led service to compete with the likes of Netflix and Amazon Instant Video, an outcome which might well have benefited the UK content production sector too.

17. The difficulties facing competition authorities in media markets is further complicated by the two-sided nature of these markets (one of the distinctive features highlighted by the OECD), which means that gatekeepers often potentially have both monopoly power in the retail market (i.e. a dominant position in the sale of content to consumers), and monopsony power with respect to the suppliers of that content (i.e. a dominant position in the wholesale purchase of rights to content to be offered on their platform). Whereas in theory the same principles should apply to examinations of potential abuse of market power in either type of market, in practice competition authorities seem to find it harder to properly evaluate and pass judgement upon abuses of power by monopsonists, as the true picture can often be obscured by more immediate short-term benefits to consumers, usually in the form of lower retail prices. Harm may nevertheless come from a negative impact on innovation and plurality of supply in the longer term. It is notable that there have been very few instances in which competition bodies in the UK (or US) have made significant rulings against monopsonists – typically consumer-facing platforms have been able to argue successfully that they are pushing retail prices down at the time of inspection and benefitting consumers. Thus it has been hard for competition authorities or complainants to establish any longer-term detrimental impact upon the content supplier base and the diversity of content available to consumers.
18. Within the broad base of respondents who acknowledged this problem to the Review, ITV argued that a more dynamic forward-looking approach is needed for media markets, while Channel 4 stressed the need for the competition regime to have sufficient flexibility to meet the speed and nature of change. In order to better draw on market expertise, Nesta proposed an early warning system, suggesting Ofcom be empowered to conduct market reviews to advise the Government and competition authorities. Acknowledging these concerns, the CMA pointed to its '2014-2017 Strategic Steer', a Ministerial statement of the Government's strategic priorities. This document currently states *inter alia* that the CMA should take more account of longer-term dynamic competition, that it should address emerging competition problems early, and that it should be willing to consider potential competition concerns in business-to-business markets, including the effects of differences in bargaining power between firms in a supply chain. These principles contained in the Strategic Steer are welcome, and should help the CMA to deal with some of the distinctive issues in the creative industries, including the fast-changing nature of media markets and the two-sided nature of markets in which organisations may potentially have monopoly or monopsony power.
19. The Review also heard concerns about the appeals process for competition and regulatory decisions, suggesting that it is not as fair and proportionate as it should be. Appeals procedures have often taken longer to process and adjudicate upon than the original decision-making process being appealed. This often imposes substantial costs on the participants, including the publicly-funded competition and regulatory bodies themselves. It was also pointed out that the communications sector represents a disproportionate number of cases reviewed by the Competition Appeal Tribunal (CAT). In a 2013 consultation on streamlining regulatory and competition appeals, the Government expressed particular concern about appeals in the communications sector, stating that they "may sometimes be seen as a one-way bet, and a chance to re-open regulatory decisions, encouraging lengthy and expensive litigation and holding back decision-making". Ofcom also argued that the current regime provides incentives for well-resourced companies to appeal to seek outcomes that better meet their commercial objectives. As a result, Ofcom argued to the Review, it devotes excessive time and resources dealing with appeals.

20. Another significant competition-related issue was raised in relation to the media public interest test (set out in section 58(2C) of the Enterprise Act 2002). This promotes plurality in relation to “relevant merger situations” (which cover changes in control of a company following mergers, acquisitions, etc.) involving newspaper or broadcasting enterprises. Setting aside the newspaper-specific public interest considerations (which lie outside the scope of this Review), the broadcasting and cross-media public interest considerations, specify the need for a “sufficient plurality of persons with control of the media enterprises”, and the need for “the availability throughout the United Kingdom of a wide range of broadcasting which (taken as a whole) is both of high quality and calculated to appeal to a wide variety of tastes and interests.” There is also a clause requiring that the broadcasting standards set out in the Communications Act be upheld. The current public interest test provides a means for a proposed media merger that might otherwise be cleared by competition authorities, to be blocked by the Secretary of State if it is found that it would reduce plurality in the market and lead to undue concentration in ownership.
21. Clearly, media plurality – in terms of the ownership of media enterprises – remains a vital public policy objective for any democracy and should be defended vigorously. But there are two concerns about the formulation of the current public interest test.

First, in a converging world in which content is increasingly being delivered through non-linear services alongside traditional linear platforms, it is important to ensure that the scope of the test covers not only traditional broadcasters but also new kinds of non-linear distributors offering TV-like content.

Second, if the creative industries are to be treated as a priority sector, then there must be an argument that the public interest test should now be amended to recognise that the creation and dissemination of UK content is a key public policy objective to be pursued and promoted alongside plurality, in order to support cultural diversity. Under such an approach, which would be subject to EU state aid approval, the two components – plurality and investment in UK content – would carry equal weight and would be assessed in parallel. It is clear that scale is becoming an increasingly important factor in media markets, leading to greater consolidation between companies. So there is likely to be increasing tension between these two proposed objectives. A regulatory framework that allows this tension between two important public policy objectives to be explicitly addressed is preferable to one that does not take into account the benefits of investment in UK content. It is possible that application of the current public interest test could lead to outcomes whereby a proposed merger is blocked due to the detrimental impact on plurality, even if there are benefits to consumers and the creative industries resulting from increased investment in UK content that outweigh the negative impact on plurality. It is also conceivable that a proposed media merger might have a minimal impact on plurality but result in a significant diminution in the amount of UK content produced, and so there may be a public interest in blocking a merger for this reason.

These are all complex but possible scenarios that may arise over the next few years, and which could be addressed if a new public interest test is introduced. Also, it is worth noting that whilst the current test allows for intervention in cases that would reduce the overall diversity of content available, this criterion is drawn too loosely to be of any value since it refers to all content rather than specifically UK-originated content.

22. The current strength of the UK's creative industries is due in part to the historical robustness and effectiveness of its regulatory system, which this Review looked at alongside the challenges to the competition regime. Changes resulting from technological developments and globalisation also have important implications for the complex system of public interventions that currently support the production, distribution and promotion of content in the UK, including policies that underpin public service broadcasting. Convergence means that the boundaries between sectors that were formerly distinct, and regulated in very different ways, are now becoming increasingly blurred. This can lead to serious anomalies. For example, competing services on converged devices, such as tablets or smart TVs, are now subject to different regulatory regimes; rules relating to taste and decency, or advertising, depend upon whether the medium is linear TV, TV-like on-demand services, or other media content. This regulatory 'gap' has the potential to distort markets because the regulatory playing field is not level, as well as causing significant consumer confusion.
23. In the medium to long term, it will be necessary to address these anomalies. However, the evidence the Review heard did not point to any urgent need for a major overhaul of the existing regulatory apparatus, which it was argued is generally well understood and well managed by Ofcom and other regulatory bodies. There was little appetite for radical change to the regulatory framework; a commonly held view is that gradual change should be made over time. There were a number of specific areas, such as the rules governing prominence of PSB content, where it was argued that current regulations should be extended, in an appropriate manner, to new platforms (see Chapter 6). Conversely, in some instances, such as the 'Country of Origin' principle in the European Audiovisual Media Services Directive (AVMS), there was overwhelming support for preserving the current regime, which was seen to be working well and providing tangible benefits to the UK's creative industries.

Recommendations

Competition framework

24. There should be a fundamental shift in approach and thinking on the part of ministers and regulators that enables judgements to be made that properly reflect longer-term dynamics in the UK creative industries, in order to address instances in which short-term benefits to consumers (currently the central focus of competition policy) are outweighed by greater detriment over longer periods of time (which are not sufficiently recognised). Given the fast-changing nature of media markets, the market intelligence available to competition authorities should be improved and enhanced.

The competition authorities should be explicitly empowered and authorised to take greater account of changes occurring over the medium to long term.

25. Ofcom should be required to produce an annual 'horizon scan' of online media markets, which would highlight areas where market dominance might be a potential concern, or where bottlenecks are being created that could potentially be harmful to consumers.

This market intelligence report should cover all the creative industries that involve digital distribution to consumers, including music, TV, film, video games and e-books. Accordingly, Ofcom's remit should be expanded where necessary to take account of these new areas of responsibility within the creative industries. This is not a radical expansion of Ofcom's scope,

given that digital content is already covered to some degree in its Communications Market Reports, and Media Use and Attitudes Reports.

26. In instances of media merger investigations in sectors covered by Ofcom's horizon scans, the CMA should have a new duty to consult with Ofcom, which would draw on its market intelligence to provide relevant advice, particularly with regard to medium-term dynamic effects. This represents an extension of the formal procedures that currently apply to local media assessments, and which also informally apply more generally. The effectiveness of this new duty should be reviewed periodically to ensure the scale of resources deployed by Ofcom to provide advice, drawing on its market intelligence, is proportionate to the value of its contribution to merger investigations.
27. The CMA's Strategic Steer which states that the CMA should identify markets where competition is not working well and tackle the constraints on competition in these cases – should be amended to explicitly recognise the creative industries as being amongst the specific sectors which the CMA should assess regularly, so that enhanced competition might contribute to faster growth. (The current formulation in the Steer refers to 'knowledge intensive sectors' more generally.)
28. As part of the annual reporting under its Performance Management Framework, the CMA should include specific assessments of the degree to which it has followed the recommendations set out in the Strategic Steer relating to the creative industries. In this context, the CMA should take more account of longer-term dynamic competition and be more ready to address emerging competition problems early. The CMA should also be willing to consider potential competition concerns in business-to-business markets, including the effects of differences in bargaining power between creative industries' businesses in a supply chain.
29. The process for regulatory and competition appeals – which disproportionately impacts the communications sector – should be streamlined along the lines proposed in the Government's 2013 consultation, to ensure they are fair and proportionate. The rules should be redrawn to be much more tightly focused on instances in which regulators or competition authorities have made material errors or have acted unreasonably. The aim should be to prevent companies from re-opening decisions simply because they have nothing to lose except the cost of fees to their lawyers and advisors. New and tougher measures to restrict the overall time taken to hear an appeals procedure should be introduced with the aim that no appeal should ever take longer than the timescale within which the original decision was made.
30. The existing media public interest test – which allows proposed media mergers to be blocked on plurality grounds – should be modified (subject to EU state aid approval) to introduce a new and specific public policy objective of 'promoting the creation and dissemination of UK-originated content', in order to support cultural diversity.

The current definition of 'media enterprises' used in the public interest test should be broadened to cover not only traditional broadcasting but also enterprises involved in the non-linear distribution of TV-like content.

In instances when a public interest test is triggered, Ofcom should be required to include assessments of the risks and opportunities relating to the provision of UK-originated content, in the advice it provides to the Secretary of State.

Regulatory framework

31. Whilst it is crucial for the regulatory framework for media and communications services to adapt and to recognise the current and profound changes in technology and audience behaviour, there is no need for new overarching legislation at this time. Nor is there any need to radically overhaul the current Communications Act at this point. (Specific changes needed to update the regulation of public service broadcasting are set out in Chapter 3.)
32. Given the extent to which regulatory issues and competition cases concerning the creative industries rely upon the jurisdiction and competence of the European Commission, there should be much more systematic and proactive engagement by the UK Government, Ofcom and the competition authorities with their counterparts in the European Commission, including around the provision of market intelligence. The current reference in the CMA's Strategic Steer to maintain and enhance an international leadership position should be reinforced.
33. The Country of Origin (COO) principle in the AVMS Directive underpins the ability of companies to base themselves in the UK and obtain licences to broadcast in other member states. Any alternative approach would undermine the UK's status as a key European broadcasting hub and aggregator. The specific and current COO principle should therefore be strongly defended in all UK discussions relating to the AVMS Directive.

CHAPTER 2: PRIVATE AND PUBLIC FINANCE

1. HM Treasury (HMT) and the Department for Business, Innovation & Skills (BIS) should commission a joint review of financing options for UK creative industry businesses and set out a comprehensive new package of financial support initiatives designed specifically for the creative industries.
2. All the existing creative sector tax reliefs should be kept in place and the pending reliefs for children's television programmes and orchestras should be implemented as planned.

For the next five years, the value of the sector-specific tax reliefs outside London and the South East should be increased by 5%. The additional reliefs should be netted off from the BIS budget settlement. The Government should adopt the key recommendations of the Adonis Reports to promote regional growth in England through a radical devolution of strategy and funding.

3. The Government should adopt the key recommendations of the Adonis Reports to promote regional growth in England through a radical devolution of strategy and funding.
4. There should be no further cuts to the budget for the Department for Culture, Media & Sport (DCMS) in the lifetime of the next Parliament, and no further grant-in-aid-cuts to arts and cultural funding bodies including Arts Council England (ACE) and the British Film Institute (BFI).
5. Nesta should be asked to work directly with government, other public organisations and industry to provide policy advice and data about the creative industries.
6. The DCMS should review the National Lottery funding 'shares' formula with a view to increasing the level of funding for the arts (including film).
7. The DCMS should lead an audit with ACE to determine how the balance of arts funding is allocated between London and the rest of England and implement any changes required.
8. Government should identify ways to encourage further long-term collaborations between major inward investment film financiers and UK independent production companies.
9. UK television rights to theatrical films co-financed by public service broadcasters (PSBs) should automatically revert to the originating film production company after a period of three years.

Introduction

1. One defining characteristic of creative industries across the world is the high level of business risk involved in the creation of premium content where the likely value of the asset at the point of creation is often totally unknown. Accordingly, economies seeking the rewards that derive from commercial success in this sector have developed systems of intervention and subsidy to reduce investor risk and unlock the core private sector investment that drives growth.
2. Even so, the Review's work in this area starts from the premise that the provision of finance to establish and grow UK creative businesses is fundamentally a matter for entrepreneurs and investors working alongside the banking and financial services sectors.

Accordingly the policy and funding role of government should be limited to intervening in this sector only when:

- There is market failure in the provision of finance for creative UK businesses, or a clear 'public good' argument (e.g. libraries, archives, etc);
 - The potential exists to stimulate high growth businesses which can deliver wider benefits to the UK economy or UK society;
 - Funding is required to deliver specific activities or outputs that are not commercial but contribute to a wider public good (e.g. public service broadcasting).
3. On this last point above, it is important to acknowledge the public institutions in UK civil society whose work contributes significantly to the development of the creative industries as well as to the public good as a whole. On the one hand, these organisations enable citizens to engage with creativity and culture from an early age. This helps mould the creative and entrepreneurial talent that subsequently drives the UK's success in this sector. On the other hand, these public bodies also dispense significant sums of soft money, either to broaden public access to culture, or to address an identified market failure - or both. This interplay between more generalised cultural provision and specific industrial incentives and subsidies has contributed significantly to creating today's investor friendly environment.
4. Much credit is due to the private sector and the UK's creative talent pool for the value created inside UK creative businesses over the past two decades. But it is also perhaps worth reminding ourselves that the UK's current successes in the creative industries has been built to a significant degree on confident public policy and funding interventions led by public sector organisations backed up with UK taxpayers' money. In other words, there is a case for acknowledging more clearly the importance of the public realm in the success story of the UK's creative industries.

Evidence gathered: Private sector investment

5. In common with other industrial sectors, UK creative industry businesses are able to access a variety of types of finance in the marketplace at different stages in their evolution according to their financial performance and their underlying strength.

Typical financial instruments utilised by creative businesses include:

- Friends and family investment
 - Positive cash flows derived from favourable terms of trade with customers and suppliers
 - Crowdfunding
 - Peer-to-peer lending
 - Debt funding from traditional banks through business or private loans
 - Business 'angels'
 - Venture capital
 - Private equity
 - Stock market listing
6. Finance is typically sought for:
- Start-ups
 - Working capital

- Capital expenditure
- Business development and growth

A key point here is that at different points in the evolution of successful creative businesses, different types of finance are required.

7. Strongly differing opinions exist about the realities of accessing finance for growing UK businesses - in particular within the SME sector, which includes the vast majority of UK creative industry businesses. It was not within the scope of the Review to offer a view as to whether or not the existing banking and financial services sectors and capital markets deal optimally with UK businesses. However, the Review process did raise a number of sector-specific issues that are worth considering carefully.
8. Venture Capital (VC) is by far the most prevalent form of growth finance for young businesses including the media and creative businesses. However, the Review heard that the business growth cycle for a successful creative industry company is usually significantly longer than it is, for instance, within the tech sector. In addition, it is important to bear in mind the five-to-seven year life of typical VC funds. Potentially, this means that the traditional VC drive towards exit from Year 5 makes this type of entrepreneurial financing quite unsuitable for the majority of creative industry sectors covered by this Review.
9. The Review heard that there is a strong emphasis on start-ups in current business support and funding programmes in the UK and at an EU level. Whilst this is, to an extent, understandable given the massive growth in technology, software and app-based business opportunities over the past decade, it was argued that many of the resulting initiatives and support structures are simply not much use to the creative industries. Respondents argued that the initial financial barriers to entry into music or TV production for instance, are still remarkably low for talented creators and entrepreneurs. Instead, it was suggested that within the creative industries the most significant finance bottleneck facing successful small businesses is access to growth funding on acceptable terms. It was suggested that for publicly-funded support for the creative industries to be more effective, it needs to be focused more heavily on businesses that have been successfully established for three-to-five years, and are preparing to move into a high-growth phase on a timescale more in keeping with the longer overall business development cycle of this sector.
10. The Review process itself reaffirmed that many creative industry businesses are owned by passionate and relatively uncompromising individuals. It was also a commonly held view that these two character traits are prerequisites to success in a sector that understands that rewards only come through innovation and the application of new ideas that initially appear very risky and therefore sit outside the comfort zone of investors. Many creative industry businesses are started by mavericks whose creativity, lifestyles and business ambitions are totally entwined and these entrepreneurs are often particularly reluctant to take in VC investment because it immediately dilutes their ownership as well as their vision and creative control over their business.
11. Separately it was also suggested that VCs can sometimes force even the best entrepreneurs to sell-out early or close down prematurely; either because the VC lacks the appetite to keep supporting unfulfilled ambition/potential, or because VCs sometimes fail to secure their own funding and cannot therefore participate in crucial follow-on investment when needed. Or, if

follow-on investment is deployed before the business is proven, it often comes at a price that is too heavy for the entrepreneur. This is a complex debate about risk and reward, and the cost of capital, and the Review simply notes the strong feelings involved. This issue was also explored in some detail in the context of high-growth firms in the recent *Scale-Up Report on Economic UK Growth* by Sherry Coutu for HM Treasury.

12. However, given the strong opinions expressed, and with the potential for many UK creative businesses to become high-growth enterprises, it makes sense for policy makers to investigate further and accept there may be an obstacle here which is constraining economic growth. If so, then some alternative routes to small business growth funding may be needed.

Government financial support to stimulate private sector growth

13. The Review noted the emergence of the government-funded Business Growth Fund (BGF) which was established in 2011. The BGF's mission statement is to "unlock the potential of fast-growing UK businesses that need long-term capital to drive their future success"; the explicit aim is to remedy an acknowledged gap in sources of long-term capital for SMEs with high-growth potential. The BGF is backed by Barclays, HSBC, Lloyds, RBS and Standard Chartered and operates as an independent company regulated by the Financial Conduct Authority (FCA). It has up to £2.5 billion available to make long-term equity investments and provides capital of between £2 million-£10 million in exchange for minority stakes in businesses.
14. The Review noted the emergence of the British Business Bank (BBB) which was established in 2012 with £4 billion of funding which was intended to leverage other money and release a total of £10 billion in finance for British business. The mission of the BBB is to intervene in order to change the behaviour of existing finance markets in ways that are favourable to selected SMEs. The BBB does not provide funding directly to businesses but works in conjunction with a range of private sector partners. The strategy is to enable SMEs to access finance from a wide pool of providers able to offer a wide range of products. Several of the BBB's specific growth funds have many of the characteristics of venture capital. It runs the Enterprise Capital Funds (ECF) scheme that brings together private and public funds to make equity investments in high-growth businesses. It also runs the Enterprise Finance Guarantee scheme, set up by the last Labour Government, which seeks to enable loans for SMEs to meet working capital requirements by offering partial guarantees to third party lending institutions. This scheme is targeted at businesses with revenues of a maximum of £41 million a year and with maximum borrowing needs of £1.2 million for up to ten years.
15. The Review noted that, in generic terms, these various schemes had a mixed record of success. For example, the Funding for Lending Scheme (FLS), also run by the Bank of England and HM Treasury, had failed to increase net lending to SMEs, despite lenders drawing nearly £48 million from the scheme. Figures from the Bank of England showed that in the three months to September 2014, lenders using the scheme cut net credit to small businesses by £128 million, with lending having fallen by £700 million and £435 million respectively in the first two quarters of the year. As a consequence, in the 2014 Autumn Statement the Government announced a package of measures designed to boost such lending, including an extra £500 million for the Enterprise Finance Guarantee Scheme and an additional £400 million for the ECF. The Government also specified that banks could only use the FLS to lend to SMEs and extended the scheme's duration for a year, so it will now expire in January 2016.

Existing small businesses contribute 34% of new jobs created, whilst new business start-ups contribute 33%.

16. Public bodies such as Innovate UK (formerly the Technology Strategy Board) and the Knowledge Transfer Network, as well as the Catapult Centres, are also supporting important work.
17. The Review noted Labour's plans to create a British Investment Bank (BIB), informed by the recommendations in Nick Tott's report which put forward detailed proposals for this new institution. The BIB will have a specific focus on SMEs which the Review strongly welcomes. It will also support the growth of a network of private-sector regional investment banks – learning from the German system of Sparkassen banks – which will have a core purpose to help drive investment in the nations and regions.
18. The Review noted that the EU's European Investment Bank (EIB) and the European Investment Fund, which is supported by the EIB, appear to have had little or no impact on the creative industries in the UK.
19. As it is, the day-to-day priority of the vast majority of creative businesses remains (as with all other SME heavy sectors) access to debt funding on acceptable terms in order to ease short-term cash flow problems. Here the creative industries seemed to share the well-rehearsed views of the rest of British business; namely that traditional banks remain largely unresponsive to their needs and that loan finance should be more readily available than it is in the market, with less collateral required and at lower cost. The Review noted this was an issue that the Government-backed Enterprise Finance Guarantee might be able to address. In this sphere, some respondents cited the rapid evolution of peer-to-peer lending services as a viable alternative within the next year or two. Separately, the Review noted a recent Nesta Report that pointed to the ingenuity of public sector interventions in this area in Scotland and Northern Ireland via the Scottish Loan Fund (SLF) and the Northern Ireland Growth Loan Fund (NILGF) which both seek to offer alternative and attractively priced debt finance on a selective basis to businesses with identified growth potential.
20. The majority of successful creative industry business exits occur as private trade sales to existing creative or media companies. This often results in substantial proceeds for the sellers but the process is usually accompanied by a total loss of control and an end of the particular vision and drive for innovation by the entrepreneur who originally built the business. It is also true that a substantial number of recent exits have been to buyers based outside the UK – often large multinational media businesses – with the effect that both the 'controlling mind' as well as the strategic direction of the business moves to owners headquartered in other countries, who have fewer long-term ties or commitment to the UK. These circumstances are the natural outcome of a combination of globalisation and the commercial success of UK creative industry businesses. The Review applauds the UK's openness as an international trading partner and our willingness to deal with global capital. This approach has been a major contributory factor in the growth of the UK's creative industries over recent years. Even so, there may well be merit in

developing policy options that offer a viable alternative to private trade sales as an exit path for UK creative industry entrepreneurs to take, if they so desire.

21. In this respect, enabling stock market listings to become more attractive by stimulating investor interest in that sector (particularly in the AIM market) may offer one way forward. The recent changes introduced by the Government to permit AIM stocks to be included in Individual Savings Accounts (ISAs) point to a possible direction of travel. But arguably a lot more would need to be done to shift investor attitudes and appetites sufficiently to make AIM listing a viable option for creative industry entrepreneurs seeking an exit or just looking to take some of their money off the table.
22. Geography is a crucial factor in raising finance for creative businesses - and indeed for UK businesses more generally. For example, more than 40% of all AIM-listed companies are based in London or the South East of England. With regard to the creative industries, particular importance is attached by investors to the pre-existence of localised and sector specific business clusters as evidence of existing and potential success. In this respect, the Review heard from across the English regions that closer links need to be built between sources of private sector finance and regional creative industry clusters. It was argued that this process of 'joining up' is crucial to the development of regional creative industry clusters. Following the abolition of the Regional Development Agencies, the Local Enterprise Partnerships (LEPs) have a crucial role to play in connecting local businesses to sources of both private and public sector finance, as well as co-ordinating business development activity in their regions. However, the LEPs are variable in their effectiveness at present and many require more rigorous governance arrangements.

The Regional Growth Fund (RGF) should be an important enabler, although the distribution of funds has lacked strategy to date. Operating across England (2011-2017), the RGF is a competitive £3.2 billion fund designed to create jobs into the mid-2020s by providing grants, loans and loan guarantees. Projects must attract private funding to match the public funding provided, and those supported must also include investment from private sources. The RGF's value to the creative industries seems to have been limited to date.

24. The Review heard that the UK Government currently spends approximately £238 billion a year on public procurement contracts and allows suppliers to exploit the IP which is created. If the Government was to ensure easier access by smaller, less 'blue chip' businesses (in other words SMEs), it was argued that this process would provide a significant boost to smaller UK media businesses.
25. The Review found that beyond a few big (usually listed) creative industry businesses there is surprisingly little reliable data available about finance trends within the creative industries – there are a lot of strong opinions but not much of an evidence base. Recently, public policy has focused significantly on capturing data which aids analysis of existing support policies, many of which are focused more generically on start-ups, tech businesses and high growth opportunities.
26. The Review heard evidence from the music sector that the Standard Industrial Classification (SIC) code and the Standard Occupational Classification (SOC) code are organised in way that completely fails to capture important activity in parts of the creative industries. This poses significant problems in measuring the contribution of the sector to the broader economy, and

capturing growth and Gross Value Added (GVA). This in turn fuels a widely-held view that policy decisions are currently being made on the basis of inaccurate data.

Grant-in-Aid funding, the National Lottery and the role of the public bodies

27. Direct public funding through Grant-in-Aid (GIA) and National Lottery funding is one of the cornerstones of support for the UK's creative industries. For public bodies which support culture and the creative industries, such as ACE and the BFI, GIA funding is likely to remain extremely limited for at least the next four years. However, the Review also heard there is a discernible downward trend in National Lottery ticket sales, due to both the increase in ticket prices and the development of private lotteries which distribute their own 'good cause' funding.
28. ACE is the principal arts funding body in England. In 2013, ACE deployed £615 million, comprising Grant-in-Aid (£443 million) and Lottery funding (£172 million). For all of its power, ACE traditionally occupies an invidious and exposed position. Its effectiveness is routinely judged on the political skills of the Chair, the strategy and management skills of the CEO and the popularity of recent funding decisions - many of which are of national importance. As a funding body, ACE cannot point to its own direct achievements in the arts although evidence received by the Review suggests that ACE is currently working effectively whilst enjoying strong relationships with the key creative organisations it funds.

Despite an austere funding climate, only two areas of real concern came to the attention of the Review. First, there is dissent around the balance of arts spending as between London and the English regions. Whether ACE has got this balance right has been the subject of fierce debate recently, notably since the publication of *Rebalancing Our Cultural Capital*, an independent report published in 2013. Essentially, the report argues there is a significant geographical bias towards London in public funding of the arts which should be corrected given that ACE funding is provided by taxpayers and National Lottery players from across England. ACE subsequently published its own paper rebutting the conclusions of the original report. Nevertheless, the issue remains unresolved in the minds of a significant number of regionally-based arts stakeholders. This, together with deep cuts to Local Authority arts budgets – in places as disparate as Birmingham, Newcastle and Somerset – has produced a sense of crisis beyond London and the South-East. Second, views were expressed that whilst theatre is thriving in London, the picture in the English regions is possibly less attractive with a diminution in new writing and cultural leadership in some centres of excellence. In short, the charge is that despite some extraordinary work still being produced, overall much of the historical energy of regional English theatre is somehow seeping away. The Review also heard real enthusiasm for the recently introduced theatre tax relief which is widely seen as likely to have beneficial outcomes for the English regions, particularly because it contains an uplift in value for touring productions.

However, the concerns reflected by stakeholders suggest that further investigation would be useful. The long-term health of regional theatre is an important guarantor of regional and cultural diversity and historically, the English regions have been a seedbed for the development of a remarkable array of British writing, directing and acting talent including Danny Boyle, Nicolas Hytner and Julie Walters, who have triumphed at the highest levels in theatre and then gone on to further artistic and commercial success in film and television.

29. The UK film industry has undergone an extraordinary renaissance over the past 15 years. The credit for this economic and creative re-birth belongs to the skills and talent contained within the

film industry, but to a degree this success was also founded on the introduction of a sweeping new system of interventions from 2000 onwards which were planned and implemented by the UK Film Council, a public sector body. The UK Film Council was abolished in 2010 in a decision made in haste and without any succession planning. Inevitably it fell to the BFI, which hitherto had been solely a cultural and educational body, to take on the UK Film Council's duties. A subsequent review of the BFI in its new role by Lord Smith of Finsbury in 2013 noted that whilst the BFI's new film funding activity had transitioned smoothly from the UK Film Council, the BFI had not yet got to grips with its new industrial remit. This Review heard differing opinions about the organisation's effectiveness as a strategic leader of the British film industry. That said, there was also a widely held view that any further structural upheaval around the public administrator of £100 million per annum of film funding would be extremely unwelcome. There was also a strong consensus that the BFI remains a hugely valuable, world-class cultural body whose own cultural activities – including the BFI National Archive and BFI Southbank – more than justify significant public funding when it does not compete with the activities of the commercial industry that the BFI is now charged with promoting.

30. Like archives, libraries are a vital part of the cultural fabric of the UK. The Independent Library Report for England commissioned by the DCMS from William Sieghart and published in December 2014, concluded that libraries could and should have a cultural, social and educational role extended far beyond the lending out of books. For example, libraries could have a far more central role in developing literacy – including digital literacy – and providing online access for those who do not have it, as well as acting as a community hub which brings citizens together to acquire knowledge. In England over a third of the population visits a local library, rising to more than 50% in the poorest areas. Yet the potential of libraries within communities is not being realised – for example, some libraries still lack basic WiFi. The Sieghart Review put forward a number of sensible proposals for addressing these issues.
31. The Review also heard that informal education around the arts and culture is of variable quality at present. While organisations such as Into Film are viewed as doing excellent work, the Music Education Hubs established by the Coalition in 2010, for example, have been widely criticised, including by Ofsted which alleged that overall the initiative had largely failed in its mission to improve music education for all.

Taxation policy

32. Because the creative industries are characterised by high levels of investment risk – no two records, games, films or plays are exactly alike and it exceptionally hard to predict financial returns – public interventions in the form of tax reliefs are now a feature of almost every successful creative industries sector in the world, including the USA.
33. The previous Labour Government was a pioneer in this respect. In 2007 Labour introduced new tax reliefs for the production of culturally British films in the form of Film Tax Reliefs – one for films with a total core expenditure of £20 million or less and one for films where the core expenditure exceeded £20 million. These reliefs were designed to prevent the kinds of tax avoidance which had often been apparent in the use of the old Section 42 and Section 48 tax reliefs for film, which involved highly geared sale and leaseback structures. In 2013, the Coalition Government implemented proposals for a High-End TV Tax Relief for UK television productions with a minimum cost of £1 million per broadcast hour. Further and similar tax reliefs were then introduced for TV animation production (feature film animation productions being

able to access the Film Tax Relief), and for video games. The Government is introducing in April 2015 a new tax relief for children's television programmes. As with film, and to meet European Union State Aid requirements, all these productions must pass a 'cultural test' to qualify for these reliefs. In September 2014, a tax relief for theatre production also came into effect, with a higher rate of relief available for touring productions. A tax relief for orchestras is planned for introduction in 2016 and proposals are also under consideration to provide a new mechanism to drive growth in the UK's music industry.

The UK film industry has become a magnet for inward investment since the introduction of the Film Tax Relief in 2007. Investment in film production in the UK grew by 35% to £1.47 billion in 2014, with £1.23 billion of this being generated by international films using the UK as a production base

34. The Review heard that there may be scope for adjusting the terms of trade between creative businesses and public sector funders in ways that improve the asset value of creative businesses. Specifically, it was proposed that public service broadcasters in their dealings with independent film production companies could reassign certain IP rights after a specified period of time to go onto the balance sheet of the production company. The Review heard that this process would improve the ability of film producers to raise loan finance.
35. The Review found strong support for each of the sector-specific tax reliefs. They are making a real contribution to stimulating investment in the production of indigenous films, High-End television programmes, animation, video games and plays while also ensuring that the UK is a destination of choice for significant levels of inward investment, not least from the US. The Review heard evidence, however, that the current film tax reliefs are not working as well as they could for films and television programmes made as official co-productions with other countries.
36. In turn, these reliefs are also ensuring that a much wider range of British material is distributed and retailed to audiences at home and abroad than would otherwise be the case. Evidence received also demonstrated that the structure of these creative sector reliefs is far more robust than the old Section 42 and Section 48 (Finance Act) measures for film and there had been extremely low-levels of misuse. Even so, there remains a need for government to ensure over time that these tax reliefs remain fit for purpose and resistant to abuse.
37. Separately the Review heard evidence of relatively low take-up across the creative industries of more generic tax reliefs, such as the Enterprise Investment Scheme (EIS) and the Seed Enterprise Investment Scheme (SEIS). The received wisdom is that the more generalist pool of tax efficient investors who typically make use of these instruments are deterred by the high levels of risk involved in the creative industries when compared to making investments in other asset classes offering lower potential returns but also lower risk levels.

38. The Review also examined the potential for expanding the Patent Box, a mechanism implemented by the Coalition to offer lower rates of UK Corporation Tax in exchange for companies anchoring their patents (and then hopefully their wider business activities) in the UK. However, after strong criticism from the European Commission and others it was announced in 2014 that the Patent Box was to be phased out. The Creative Industries Council had previously proposed, quite sensibly, that an analysis be conducted of the impact of including creative IP within the Patent Box, but this proposal is no longer feasible with the phasing out of the scheme.
39. The Review heard no other proposals for adjusting the Corporation Tax system for the creative industries to drive corporate growth. Separately, it was proposed that Capital Gains Tax and Entrepreneurs' Relief for investors in SMEs in the creative industries should be zero-rated to encourage further investment in UK creative businesses. However, the Review was unpersuaded by this proposal given that Entrepreneurs' Relief is already in place and working effectively.
40. Levels of inward investment in 'tentpole' and blockbuster films are exceptionally high at present and a small number of domestic companies have succeeded in forging successful long-term relationships with US majors which have been beneficial including Working Title (Universal), Heyday (Warner Bros) and The Imaginarium (20th Fox). There may be scope to encourage further partnerships along these lines.

The European dimension

41. Sector-specific tax reliefs are classified as State Aid and, therefore, require clearance from the EU Commission, except where specific exemptions exist, (for example under the General Block Exemption). EU approval rests largely on the cultural value created by the application of the tax incentive in question. The EU's State Aid regime has been through a number of changes in recent years, including amendments to rules covering cinema and general notifications. It is not anticipated that there will be any further significant modifications to the regime in the foreseeable future, although this always remains a possibility and therefore a potential risk to our creative sectors.
42. European public funding for the creative industries remains an important source of finance for both project and business development, notably through the Creative Europe programme which has a total budget of €1.46 billion from 2014 until 2020, and supports UK creative businesses through a number of different initiatives. A Creative Europe Desk in the UK is led by the British Council and the BFI, in partnership with others including ACE, and is highly regarded as a practical business support mechanism for UK applicants. Current levels of European financial support are likely to be boosted by the introduction in 2016 of a financial guarantee facility of up to €750 million in bank loans for small businesses active in the creative and cultural sectors.
43. The Review also heard that the UK is not yet benefiting adequately from other EU programmes such as Horizon 2020 which are designed to help to support innovation in the creative and technological sectors.
44. The EU is currently negotiating the Transatlantic Trade and Investment Partnership (TTIP) with the USA. After strong pressure from a number of member states led by France, audiovisual services were excluded from the negotiating mandate in 2013 although the UK Government fiercely resisted this exclusion until the last minute. Had audiovisual services been included in

the mandate there would have been very significant risks to the UK's support mechanisms for the sector.

The regional dimension

45. Setting aside for a moment the particular case for accelerating the growth of the creative industries in the English regions, the Review heard that the film, television and TV animation tax reliefs are now making demands on the production infrastructure and skills base in London and the South East that cannot always be met. Apparently, studio space for audiovisual production was periodically in short supply during 2014 and sometimes totally unavailable. Demand is expected to remain very strong for the foreseeable future. Pinewood Shepperton plc has opened a new film and TV studio facility in South Wales, with backing from the Welsh Government, and a feasibility study for Scottish Enterprise and Creative Scotland strongly supported the creation of a studio in Scotland. It was also pointed out to the Review that because the UK film infrastructure is often working at full capacity, there is a risk of labour cost inflation. However, the Review also heard that despite this developing situation the English regions currently remain insufficiently developed to capitalise on the opportunity because they lack the right skills mix and the right infrastructure.
46. Beyond warm words about the regions it is hard not to conclude that current creative industries policy in England has been focused almost entirely on London. With decision-making in Scotland, Wales and Northern Ireland largely devolved, the only publicly-funded regional organisation dedicated to this sector outside London is Creative England. The Review team met with entrepreneurs and creative business leaders across England and the point was made consistently that, in this sector at least, policy remains stubbornly unresponsive to the needs of the English regions. It was argued that if emerging local creative industry strategies could be driven more locally from city regions and county regions, with Exchequer funding attached and with sectoral priorities and strategies decided through local structures, this would enable the regions to build on their specific strengths and help to ensure that the creative industries flourished across England.

The Review also heard that in specific skills areas, training strategies needed to be driven largely from the centre, although close partnership with the LEPs and others would be crucial to ensure that regional and national skills strategies are joined up and take account of the needs of freelancer workers as well as businesses. As it is, the heavy reliance of the creative industries on a largely freelance workforce working for micro businesses and SMEs means there is a powerful need for co-ordination and strategy at national level.

47. Alongside this, and consistent with the wider recommendations of the Adonis Review, the Review also heard about the desire by the major cities of England – including Birmingham, Manchester, Newcastle and Sheffield – for much greater local control over the way in which policy for the creative industries is formulated and delivered. Cities as diverse as Brighton, Bristol, Liverpool and York, along with others, are staking out roles for their cities to contribute to the creative industries by building on the specific strengths and clusters that already exist. The crucial point here, as articulated both by Lord Adonis and by local businesses, is that growth must be driven from the bottom up. Rather than allowing central government to identify potential clusters for support, the impetus needs to come from the city or county region itself.
48. The Review also heard that new UK-wide measures to encourage creative industries production to move outside London and the South East would also strengthen existing clusters,

e.g. video games businesses in Leamington Spa and Abertay; independent television production in Manchester; and feature film production in Belfast. The announcement in March 2015 of a new £4 million fund to support a video game prototype fund across the UK is welcome and should be supported by a Labour Government.

49. The BBC and Channel 4, the two main publicly-owned public service broadcasters, have in recent years committed to more ambitious production quotas from the nations and regions. In 2008, following commitments made as part of the last Charter review process, the BBC Trust approved plans requiring the BBC to spend at least 50% of network budgets outside London, and to spend at least 17% of network budgets in the UK nations, by 2016. As part of its licence renewal in 2014, Channel 4 agreed to new quotas that require it to commission 9% of its programmes by both volume and spend from the nations from 2020 (up from the current level of 3%), alongside its existing requirement for at least 35% of programming, by both hours and spend, to be made outside London.
50. The Review received evidence that despite the success of the sector-specific tax reliefs for contract production, the UK has so far failed to build indigenous companies of size in some sectors (e.g. film). The significant exception is in independent television production and publishing. As a consequence of regulated terms of trade between buyers and sellers, entrepreneurs have been able to build companies of scale with significant balance sheets. These businesses generate significant revenues from the domestic market, as well as overseas.

With UK music exports in 2012 being valued at £1.4 billion, the UK continues to be one of the very few countries in the world that are net exporters of music, with royalties from abroad outweighing payments sent outside of the country

51. As the UK's creative industries have grown in strength, so exports have become an increasingly important driver of revenues for the sector. Yet, the Review received evidence that export support for the creative industries is not well targeted. For example, the Review heard that UK Trade & Investment (UKTI) has recently shifted a substantial amount of support for companies attending overseas trade fairs and markets away from SMEs and towards larger corporates. This is particularly unhelpful at a time when UK creative businesses, e.g. independent television production companies, are working hard to capitalise upon their domestic success by exporting IP rights. The Review also heard widespread concern about recent cuts to UKTI's Trade Show Access Programme (TAPs) system of grants. TAP allocated funding for 2014/15 was originally set at £11.8 million, but was reduced by £1 million as a consequence of an immediate in year cut announced by the Government out of the blue in October 2014. TAP funding has already been reduced from £16 million in 2013/14. TAP grants are seen as being particularly effective because they fund micro and small businesses which would otherwise find it extremely difficult to get high level access to the international sales market. There has been a repeated focus on exports to the BRIC countries (Brazil, Russia, India and China) by the current Government, including for the creative industries. Nonetheless,

for the UK industry as a whole these countries still accounted for only 6% of total UK exports in 2014, suggesting that this policy has not yet delivered results.

52. Elsewhere, government policy on export and inward investment seems confusing. A recommendation in Lord Smith's 2013 Review of film policy for the Coalition, *It's Still About the Audience*, suggested that the British Film Commission (BFC), currently housed at Film London, could be bought under the financing umbrella of UKTI and that the BFC's remit be formally extended to TV animation and video games. While a more joined-up approach to inward investment and export promotion is clearly desirable, no roadmap has yet been published. Certainly there is a job to be done here since the BFC already actively seeks to attract foreign companies to produce projects in the UK using the creative sector tax reliefs, which in turn involves buying goods and services from UK businesses. Thus the BFC uses its specialist knowledge of film and television to attract inward investment. This effort is distinct from the Foreign Direct Investment (FDI) work that UKTI undertakes, which is principally focused on encouraging investment in companies and infrastructure. The Review also heard evidence that the BFC would need to be adequately resourced to undertake any additional work across the screen industries, otherwise its ability to undertake its existing work effectively would be jeopardised.

The administration of the Universal Credit

53. The Review received evidence from a number of organisations, including Equity which represents professional performers and creative practitioners, that there are potential problems with the Universal Credit, with regard to those working in the entertainment industry. The Universal Credit introduces a test of 'gainful self-employment' (GSE). Whether or not a claimant is gainfully self-employed is determined by a combination of factors. Employment patterns in acting and other performance work are highly unpredictable and even well-established performers have fallow periods. On the face of it, the guidance provides for some flexibility on the part of decision-makers in that there is an acceptance that business profitability may vary – however, many of the factors cited have little relevance to the entertainment sector.

A second problem arises with regard to the application of the Minimum Income Floor (MIF). The MIF will be applied to those who meet the GSE test and it represents an assumed minimum income from self-employment, irrespective of whether a person's actual income is below the assumed figure. A third area of major concern relates to people who are found not to be in GSE – they will be subject to the full conditionality regime unless they fall within one of those categories with reduced work search requirements (such as the responsible parent of a young child or the disabled). This means performers may be under immediate pressure to look for any kind of work and to show evidence that they have spent 35 hours a week on job searching through the DWP's JobMatch website.

Recommendations

54. BIS and HMT should jointly commission a full review of financing options for UK creative industry businesses containing recommendations designed to encourage business growth. The project should be overseen by the Creative Industries Council and supported by Nesta. The review should also, engage with both the Business Growth Fund and the British Business Bank, as well as with ministers and officials driving Labour's plans for a British Investment Bank, with a view to ensuring the funding needs of the creative industries are both understood and

properly met by these bodies. The review should also look at how best to unlock support from the European Investment Bank and/or the European Investment Fund for British creative businesses.

55. This BIS/HMT review should also specifically address the lack of short and medium term debt funding for creative industries SMEs and micro businesses, including an examination of the possible effectiveness of the Enterprise Finance Guarantee in this regard, as well as looking to other models like Labour's proposed British Investment Bank, the Scottish Growth Fund and the Northern Ireland Growth Loan Fund.
56. BIS and HMT should subsequently set out a comprehensive new package of financial support initiatives designed specifically for the creative industries. These measures should involve a strong emphasis on securing growth funding for established creative industry businesses moving into a high growth phase, as well as measures to improve access to debt finance for SMEs and micro businesses.
57. The Government should reform the SIC and SOC codes to more accurately capture the value of all activity across the creative industries. The proposals put forward in *Classifying and measuring the Creative Industries* published by Creative Skillset in February 2013 and supported by others including Nesta, should be adopted.
58. The Government should adopt the proposals of the recent series of Adonis Reports on regional growth in England. Regional industrial development strategies for the creative industries should be developed by local partnerships led by reformed Combined Authorities, reformed Local Enterprise Partnerships and by Sector Skills Councils. Significant funding from the BIS Regional Growth Fund should be earmarked for creative businesses outside London to be matched with local funding and strategy.
59. There is a clear need to drive growth and create more private sector jobs in the creative industries outside London and the South East and to relieve pressures on the national infrastructure and skills base. As a consequence, for a period of five years, the value of each of the existing and planned sector-specific tax reliefs should be increased by 5% where the value of the qualifying expenditure outside the London and the South East exceeds 75% of total qualifying expenditure. The additional cost to the HMT of this fiscal incentive – which our calculations suggest is likely to be less than £10 million per annum – should be netted off existing BIS allocated funding.
60. The Government should ensure better access for smaller UK creative businesses to public procurement contracts and allow contracted suppliers to exploit the intellectual property they create.
61. There should be no further cuts to the DCMS budget for the life of the next Parliament and no further Grant-in-Aid cuts to key arts and cultural funding bodies including ACE and the BFI.
62. Nesta, an innovative Labour initiative when it was created in 1998, continues to deliver outstanding research and analysis of the creative economy and public money should continue to support this function. Nesta should be asked to work as an expert creative industries policy and data resource for government and industry, addressing gaps wherever they exist. In

particular, where data is not already collected by organisations such as Ofcom and the BFI, Nesta's role should be to collect and publish data on a regular basis to inform government and strategic agencies (including the Creative Industries Council) and business decision makers.

63. The Government should more clearly champion the value of strategic arms-length bodies (ALBs) across the creative and cultural sectors and utilise their knowledge of stakeholder needs to help develop new policies. The current system of Triennial Reviews should be replaced with a single comprehensive review every five years. In this way ALBs can plan strategy and funding interventions on a longer-term basis.
64. The DCMS should undertake a full review of the current National Lottery funding 'share' formula between the different 'Good Causes' with a view to increasing the share for the arts including film.
65. The DCMS should lead an audit process to determine how the balance of arts funding is allocated between London and the rest of England and then work with ACE to implement any changes required.
66. ACE should lead a full review of the outputs and current levels of support for English regional theatre and make recommendations for any changes that may be needed to re-energise this important sphere of activity.
67. An audit of informal education should be undertaken by the DCMS and the Department for Education (DfE) with a view to ensuring the quality of provision across all sectors.
68. The Government should adopt the major recommendations of the Sieghart Review which will aim to turn libraries into community hubs providing full and fair access to the digital world. These recommendations are:
 - The provision of a national digital resource for libraries to be delivered in partnership with local authorities;
 - The setting up of a 'task and finish' force to create an English library network, led by local government and in partnership with other bodies involved in the library sector;
 - Working closely with local authorities to help them improve, revitalise and, if necessary, change their local library service, while encouraging increased community involvement appropriate to each library.
69. The existing creative sector tax reliefs are all working effectively and generating significant additional economic activity. The planned tax reliefs for children's television and orchestras are also welcome. The Government should commit to keeping all these tax reliefs in place for the life of the next Parliament. However, they should be subject to periodic review (from 2020) to ensure they remain fit for purpose.
70. Film and television programmes that qualify for tax relief via an official government co-production treaty should receive at least the same amount of relief as if they qualified via the cultural test.
71. To protect the public purse and to safeguard legitimate investors' confidence in the UK creative industries, HMRC should continue to take a firm position against creative industry focused 'tax

efficient' investment schemes based on general accounting principles where the primary aim is to reduce the personal tax burden of investors.

72. The Government and the BFI should identify mechanisms to encourage long-term collaboration between the US majors and selected UK independent film production companies.
73. As part of a step change in engagement with major EU institutions, the Government should work hard to ensure that any future proposed changes relating to State Aid (or to any other EU regulations or laws) do not threaten the effectiveness of the creative sector tax reliefs.
74. The Government should ensure that UK television rights to any theatrical films co-financed by PSBs should revert to the relevant production company after a period of three years.
75. BIS should radically reform UKTI's export strategy for supporting the creative industries and the way in which funding decisions are made, with a view to ensuring that more support is available for creative industries businesses and that support is better targeted. To achieve this, UKTI should work much more closely with trade associations and strategic arms-length bodies to create strategies that enjoy the full support of industry
76. The British Film Commission should be given formal responsibility for promoting inward investment for TV animation and video games, in addition to its current role in film and high-end television. Delivery of this new activity should be funded appropriately from existing BIS resources.
77. The Government should support and encourage the use of the financial guarantee facility to be introduced in 2016 by the Creative Europe initiative.
78. The Government should put in a place a plan to promote the opportunities which exist for the UK's creative and digital sectors via EU funding schemes such as Horizon 2020 and also to ensure adequate business support and advice for applicants is available.
79. The Government should strongly resist any attempts to dilute, in any way, the complete exclusion of audiovisual services from the Transatlantic Trade and Investment Partnership.
80. The Government should ensure that the Universal Credit does not penalise performers working in the entertainment industry by ensuring that flexibility is built into the way that the Gainful Self-Employment test is applied, and by ensuring that the Minimum Income Floor and the 'work search' tests are applied in ways that take into account the employment patterns in the entertainment industry. Specific guidance should be developed by DWP for the entertainment industry and for use by Jobcentre staff and outsourced providers.

CHAPTER 3: PUBLIC SERVICE CONTENT

1. The public sector broadcasters (the BBC, Channel 4 and S4C) and other key building blocks of the PSB system should be supported without significant structural change throughout the next Parliament.
2. The licence fee should be retained as the principal funding source for the BBC, with adjustments to address anomalies around new digital services. Licence fee funds may be deployed to support further BBC initiatives or partnerships linked to its sixth purpose (delivering to the public the benefit of emerging communications, technologies and services). However there should be no new top-slicing of the licence fee.
3. Channel 4 should remain in public ownership and continue to take big creative risks and provide a distinctly different voice to the BBC and other commercially-funded broadcasters. Channel 4 should set out a path to recast its remit for the post-broadcasting world. Its role in assisting the evolution of the UK production sector should also be made more explicit in its public remit.
4. S4C's editorial independence should be guaranteed and the channel should be funded at an adequate level under the existing mechanism over the term of the next BBC Charter and Agreement.
5. The Government should support the BBC's proposals to abolish guarantees for in-house production and create a new arms-length production unit.
6. The BBC should ensure a minimum of 25% of its radio commissions go to the independent sector, with a further 25% contestable.
7. There should be a full review of the rules governing commercial local radio station formats by Ofcom, followed by a significant process of deregulation to stimulate new investment in this sector.
8. The principle of ensuring prominence of PSB content should be maintained as viewers migrate to new platforms and forms of viewing.

Introduction

1. This chapter focuses on the provision of public service content by the UK's television and radio broadcasters. It covers the output of the licensed public service broadcasters (the BBC, ITV, Channel 4, Channel 5 and S4C) on their traditional linear TV and radio platforms, along with their on-demand and other digital services. It also covers original content offered by commercial broadcasters which lie outside the formal public service broadcasting (PSB) framework, but which contribute to the PSB purposes articulated by Ofcom by "informing our understanding of the world, stimulating knowledge and learning, reflecting UK cultural identity, and representing diversity and alternative viewpoints". While content from all over the world can potentially deliver elements of these public purposes, it is content made by UK creative talent that delivers the most public value for UK audiences. Seen in this light, the objectives of serving the interests of UK citizens and supporting the UK's creative industries are closely aligned. It was for this reason the terms of reference identified a key objective for our Review in this area as being

how to ensure a diverse range of high-quality content is easily available to UK citizens that reflects the intrinsic value of culture and creativity to British society, whilst also recognising the substantial contribution that is made by the creative industries to the UK economy.

2. The UK is starting from a position of great strength. We have one of the strongest broadcasting sectors in the world, thanks to a complex system of public service interventions which are intertwined with a dynamic private sector and underpinned by the inherent creativity that is a defining national characteristic and drives demand for UK content and ideas around the world.

The UK television industry's total revenues were almost £13 billion in 2013 (3.4% up year-on-year) according to Ofcom, while Pact data shows that the independent production sector generated revenues of more than £3 billion (up 8.1%), almost one-third of which came from overseas. Spend on content across all UK television channels was almost £6 billion (3.7% up on 2012).

The UK is the world's second largest exporter of TV content after the US

3. These statistics paint a healthy and vibrant picture of the UK's broadcasting sector. But the UK cannot afford to be complacent. Competition is intensifying, both between traditional broadcasters and also from new digital services such as Netflix and Amazon. In addition, as Chapter 1 posits, access to new content increasingly relies on new kinds of gatekeepers, with 'controlling minds' outside the UK, who may not choose to invest in, or distribute UK content, let alone champion it. With this challenge facing the UK, there is a need to focus on ways to reinforce and build upon the UK broadcasting sector's strengths, particularly in the light of the deep structural change now occurring as a result of technological convergence and globalisation.
4. It is also important to consider how the PSB system should adapt to the profound changes in audience behaviour resulting from the proliferation of new kinds of digital internet-enabled devices, platforms and services. While viewing of traditional TV channels has proven surprisingly resilient, we now need to prepare for a 'post-broadcasting' world in which TV viewing becomes increasingly detached from the linear schedules.

Key principles underpinning intervention

5. A crucial point relates not only to broadcasting but to all the creative industries. The output of the UK's creative industries has an enormous intrinsic value in cultural terms, as distinct from economic value. Yet current policy for the creative industries – and to a very large extent for the arts – has increasingly focused on economic arguments for intervention. This insistence has been unhelpful. By not providing space to recognise adequately the cultural value of the content produced by the creative industries, public policy decisions risk becoming distorted, and they also risk disincentivising the creative risk-taking that drives the innovation needed to regularly refresh the UK's creative offer to audiences at home and around the world. Meanwhile, bodies that rely on public funds have been increasingly forced to frame their arguments for subsidy by

promising to deliver short-term economic benefits rather than focusing on the longer-term cultural and economic benefits their output delivers. Of course, short-term benefits remain important to a degree, particularly in a period of austerity, and the rigour imposed by economic-based evaluations imposes an important discipline on the process of distributing public money. However, to largely ignore the longer-term benefits of subsidised culture is wrong. A more sensible response would be to develop a coherent framework that can measure intrinsic cultural value alongside economic value and encourage creative risk-taking on that basis.

6. Turning back to broadcasting, the most significant public intervention is the BBC licence fee, which raised £3.7 billion in 2013/14 (according to BBC accounts). The other main interventions in the sector include the public remits of Channel 4 and S4C, which are both publicly-owned public service broadcasters; the PSB obligations imposed on ITV and Channel 5; rules governing the distribution and promotion of PSB content, (e.g. prominence on electronic programme guides); and more recently, fiscal incentives to support high-end TV drama, TV animation and premium content for children. These interventions, taken together with non-PSB commercial operations including Sky, Virgin Media and BT, combine to create a complex ecology of public and private sector companies, funded by three strong and complementary revenue streams – advertising, consumer subscriptions and the licence fee. In this way, the UK's premium content platforms and providers all offer quality to consumers, through significant levels of investment in new UK originated programming.
7. The Review believes this delicate ecology is enormously valuable and should be reinforced through interventions that ensure that a wide range of high-quality UK programming remains available from a plurality of sources. The analysis in this chapter has been guided by three key principles.
8. The first principle is the social importance of the PSB system itself: that is the provision of high quality UK-originated content made predominantly by the public service broadcasters which is both universally available and enjoyed by mass-market as well as niche audiences. It is important to state this view clearly given the arguments that are bound to be aired once more during the 2015/16 PSB Review and Charter Renewal processes. The usual claims will be made that existing PSB interventions are no longer needed when there are hundreds of digital TV channels available and potentially unlimited amounts of content online.

The Review believes that not only is the concept of PSB (suitably redefined to include public service content delivered across new platforms) as relevant as ever, but also that the proliferation of new services and sources of content does not in any way undermine the rationale for supporting the UK's public service broadcasters through a compact that shelters them from the uncertainties of the market (in the BBC's case) or provides benefits (such as EPG prominence or access to spectrum, for all the public service broadcasters) in exchange for taking higher levels of creative risk and providing quality content to UK citizens. Put another way, funding public service broadcasting remains important in the same way that funding the NHS remains important regardless of the development of a private retail market for health care.

9. The second principle is the importance of competition as a driver of creativity, growth and innovation in public service content. The Review believes strongly in the benefits of competition in this area. This belief extends to competition between in-house and external production companies for the supply of content to the public service broadcasters, and it includes competition for audiences between public and private broadcasters. The growing investment in

premium UK originated content by Sky and other non-public service broadcasters is hugely welcome, as is the competition between the main TV platforms, offering different combinations of free TV, pay-TV and increasingly non-linear on-demand services. Competition in the sector has also recently intensified with the emergence of new subscription-VOD services. These different forms of competition are currently encouraging all players to raise their game creatively and it therefore remains important to ensure that public interventions which support PSB do not damage the wider competitive ecology of UK content production and distribution.

Broadcasters, other than the PSBs, invested almost £600 million in new first-run UK television production in 2013

10. The third principle is the need to safeguard the availability and also the prominence of public service content on offer to British audiences. Technological changes and the emergence of new platforms and services for accessing content raise important questions about how public service content is delivered and made available to audiences. Issues of promotion and prominence are becoming more important than ever in a fragmented and cluttered digital screen world and cannot be ignored.

Evidence gathered

11. The evidence gathered over the course of the Review covers a wide range of public policy interventions and regulations which have been grouped according to the three principles set out above.

Reinforcing the provision of public service content

12. As the UK's largest public service broadcaster, much of the evidence inevitably focused on the BBC. In terms of timings, this Review comes at the early stage of the debates around the upcoming Charter Review, and the observations that were made to us were generally framed around the changes that should be reflected in the new Charter. Issues relating to the BBC's governance are outside the scope of this Review.
13. Starting with the licence fee, the BBC emphasised that it represents extremely good value for money. At just £0.40 per household per day, the BBC provides access to eight network TV channels, 10 national radio services, and online services. The BBC presented compelling evidence that public support for the licence fee is at the highest level in the last ten years. At around £12 per month, the licence fee costs much less than many households typically pay for access to movies or sport on satellite and cable. The Review heard no convincing arguments that any alternative model to funding the BBC, including subscriptions or advertising, would be preferable, with other UK broadcasters stressing the importance of maintaining the three main complementary revenue streams in broadcasting which underpin the strength of the overall system.

UK households spend more than six hours every day on average using BBC services

14. In particular, it was argued that alternative funding models for the BBC would fundamentally change its nature, forcing it to adopt more similar incentives in its editorial and programming policies to other subscription or advertising-funded broadcasters. This would make the overall broadcasting ecology less distinctive in creative terms. For subscription specifically, it is hard to see how a BBC whose services were only available to those who chose to pay for them could remain a true public service broadcaster, given that ‘universality’ is a central part of the definition of PSB. Any developments along these lines would also almost certainly impact negatively on the funding of the other main UK broadcasters, leading to a reduction in overall TV revenues, which would in turn likely lead to reductions in investment in original programming across the board. The net effect would be to reduce the public value delivered to UK audiences and diminish the scale of the UK television production sector. However, the Review recognises the arguments made that the rules governing eligibility for the licence fee now need to be modernised to address the anomaly that downloading or streaming content on iPlayer does not currently require a TV licence.
15. As for using the licence fee to fund activities or services beyond the BBC, ITV argued the case for making some of the licence fee currently spent on news available to the market to encourage and sustain plurality in news provision. Channel 4 argued that it is worth exploring whether the BBC could play a greater role in terms of sharing technology and R&D that would support public service broadcasting more generally, for example related to the back-end development of the iPlayer which is widely regarded as a best-in-class VOD platform. Based on settlements reached during previous licence fee negotiations, the Review has much sympathy with the BBC’s stated concern that the licence fee should not be used as a general ‘sinking fund’ for politicians to raid in order to fund disparate projects with little connection to the BBC’s core purposes or mission. The BBC also made the obvious point that any new top-slices that were not explicitly funded through an increase in the licence fee would, by definition, negatively affect the BBC’s ability to deliver its existing services to some extent.
16. There is more merit in the use of the licence fee to deliver to the public the benefit of emerging communications technologies and services (the sixth of the BBC’s public purposes).

First, there may be ways in which BBC-developed technology could be shared with broadcasters or other public bodies in ways that have little or no detrimental market impact (e.g. the technology underpinning the iPlayer).

Second, rather than ring-fence licence fee funds to support broadband infrastructure roll-out (as is the case under the current Charter), there is a more compelling case for the BBC to play a role in the broader public policy objective of getting the entire UK population online, including the 10% of people who currently believe that they do not need to use the internet. There are also significant societal benefits to reaching 100% digital penetration. As well as ensuring no citizen is disenfranchised from the 21st century online world, this outcome would also enable a raft of government services to move to ‘online only’. The BBC’s role could include helping to

drive digital literacy and promote initiatives to help get people online for the first time, using BBC TV and radio services to target the hardest-to-reach demographics.

Third, the Review heard that there is scope for the BBC to do more in the 'on-demand' space to create hubs that gather, distribute and promote public service content from a range of bodies, building on initiatives it has been developing in partnership with other organisations around digital public spaces (e.g. with ACE). For example, the planned recommendation engine within the iPlayer could point to relevant material held by other public bodies. The strategy could also include new ways of providing public access to the BBC's vast archive, which comprise not just TV shows but also other related material. Despite being a hugely important part of the UK's cultural heritage, and a potential source of inspiration for programme makers and creative individuals, the BBC's archives still remain largely untapped.

17. Turning to Channel 4, the organisation's 'hybrid' status means that it is a publicly-owned public service broadcaster that is funded in the marketplace. Channel 4 is financially self-sufficient, and its independence rests in part on not receiving any significant form of direct public subsidy. In commercial terms, Channel 4 has sought to broaden its sources of income, with its sales house now selling advertising for third-party broadcasters. Channel 4 also aims to find new ways to generate income through an innovative data strategy, which has led to more than 10 million viewers registering online for its services, including more than half of all 16-24 year olds in the UK. Most importantly Ofcom's licence renewal in 2014 indicated that the current Channel 4 business model is commercially viable for the next 10 years; other evidence presented to the Review by business analysts supports this view.
18. In creative terms, Channel 4 has focused in recent years on a process of 'creative renewal' that has involved investment in hundreds of new programmes following the end of the *Big Brother* bonanza in 2010. As an indicator of the success of this strategy, Channel 4 pointed to the fact that new commissions accounted for 74% of its top 50 programmes in 2012. While some independent producers suggested to the Review that Channel 4 is not taking as many risks as it should, others supported the view that its creative renewal is bearing fruit, for example by pointing to the disproportionate number of awards won by its programmes. Ofcom's review of Channel 4's delivery of its media content duties between 2010 and 2013 (undertaken as part of its third PSB Review) showed that the broadcaster has continued to make a substantial investment in a wide range of high quality content, and that this generated strong improvements in viewer perceptions of the main channel's output.
19. In terms of Channel 4's role going forward, three key questions arose in the course of the Review.

First of all, is it possible for Channel 4 to remain distinctive and different in a world of difference? Some argued that, while Channel 4 may be less different than it once was, given the explosion of choice in terms of TV channels and other new services, it is still visibly more distinctive than the other main UK TV channels. There is some evidence to support this view through recent audience perception surveys and in the quantity of major peer group awards given by the wider TV industry (e.g. BAFTA, RTS) to Channel 4 commissioned programmes and feature films. The Review believes that Channel 4 remains an extremely important part of the PSB ecology, providing an alternative both to the BBC and to private broadcasters. While the profusion of voices online – from bedroom vloggers to high-end content from the likes of Netflix – means that Channel 4 is no longer the only place to seek out previously unheard

perspectives, it still offers a more radical take on diversity than other mainstream broadcasters (as its Paralympics coverage demonstrated), along with a reach and scale that sets it apart from any online services.

The second key question facing Channel 4 relates to the significant structural changes taking place in the TV industry. With Channel 4's own competitors and programme suppliers both consolidating, the broadcaster is currently structurally constrained in its ability to respond. This raised the question of whether it risks eventually becoming sub-scale, leading to an inevitable decline in its ability to reach its key audiences. This is an important issue that requires further and deeper analysis, and the Review welcomes the fact that Ofcom has highlighted this matter as a key strand in its PSB Review.

The third question relates to Channel 4's relationship with the independent production sector. One of the key roles that Channel 4 played when it was set-up was to create, and actively develop, a diverse and energetic UK independent production sector. The independent production sector has now evolved beyond the small cadre of lifestyle businesses created in the 1980s to become the UK's strongest commercial force in content production and IP exploitation. Indeed the UK now contains a number of production companies that are significantly bigger businesses than Channel 4. The size and success of the independent sector today is in large part due to Channel 4's support over the last few decades, and indeed from a so-called 'industry economic' perspective, this can be seen as Channel 4's greatest achievement. However, following several waves of consolidation leading to the formation of 'super-indies' that are part of even bigger global media companies, one argument put to the Review was that it is possible in 2015 for Channel 4 to legitimately say 'job done'.

In 2013 Channel 4 sourced its content from 367 companies across TV, film and digital media

20. Countering this argument, Channel 4 argues that its content investment through hundreds of TV production companies means that it continues to play a disproportionate role in driving innovation and growth in the programme supply sector. And there is potentially a more important role still for Channel 4 to play. The Review heard concerns regarding the recent consolidation of the mass of the independent production companies into a mature, highly corporatised and increasingly multinational elite. This may begin to jeopardise creative innovation in content production as corporate and investor pressures force reduced levels of creative risk-taking. At the same time, the Review heard views that, despite the increasing technological convergence of different media, many content businesses in the UK still operate mainly in 'media silos' despite the fact that audiences continue to want to break down the traditional barriers that distinguish TV, online and other forms of content consumption. In this respect, the Review was particularly interested in the new Channel 4 Growth Fund which currently has a remit to take minority stakes in new content businesses, utilising a small investment fund of £20 million.
21. Underpinning all three of these questions is a common thread, namely the need for a re-casting of Channel 4's existing remit to better fit the internet age. A refashioning of Channel 4's mission

would see it increasingly delivering its remit across a wider range of platforms. Channel 4 already commissions content across its digital channel portfolio and online (none of which counts towards its PSB licence obligations). It has been genuinely innovative in its approach to integrated cross-platform commissions (such as *Cucumber, Banana and Tofu*). And later this year, it is set to replace 4oD with All4, a new online destination which will present all of its linear channels, digital content and services in one place for the first time. But the Review believes that Channel 4 needs to move more quickly to redefine its role and to secure the necessary regulatory and legislative changes that would enable this to happen. This is especially urgent given that its target audience comprises the younger generation of digital natives who are the most voracious consumers of content on new platforms. With a renewed emphasis on its support for the production community, this approach could allow Channel 4 to lead the world with next-generation business models that can drive creative and commercial innovation in the content sector. It would ensure that Channel 4 continues to add value to the wider UK creative economy, and continues to take creative risks so that its output remains relevant to audiences into the future.

22. The Review also received evidence relating to S4C, the Welsh public service broadcaster. Responsibility for funding S4C passed to the BBC in 2013. TAC, the trade association which represents production companies in Wales, highlighted S4C's role as the bedrock of creative activity in Wales, which needs to be preserved. While S4C's Operating Agreement with the BBC protects its editorial independence, it has less security over its funding. In the light of the broad structural changes anticipated at the BBC, S4C's independence and funding will therefore need to be safeguarded in the medium to long term.

Competition as a driver of creativity

23. The Review heard strong views from independent production companies that the current BBC programme commissioning model distorts competition between external companies and the BBC's in-house production division, as independents increasingly account for the large majority of the commissions available under the WOCC (Window of Creative Competition), currently comprising 25% of the BBC's commissioning slate. The BBC emphasised to the Review that there are benefits to maintaining in-house production capabilities at scale, for example to retain rights that can be exploited by BBC Worldwide, while convincing arguments were made by the production sector that the ceiling imposed by the WOCC is preventing the most creative ideas being commissioned. Subsequently, in July 2014, the BBC announced radical proposals to open up competition in TV production (excluding a small number of key public service genres such as news and current affairs), removing the WOCC and allowing independent companies to compete on a level playing field with a new arms-length BBC production unit. A report published by Pact in August went further, arguing that the BBC's in-house production capability should be not only separated from the BBC but effectively broken up, with some production departments wound down where there exists sufficient external supply.
24. The BBC argued that its own proposals would address the concerns about competition expressed by the independent production sector without destroying the production value existing inside the BBC. The preservation of a significant in-house BBC production capacity at scale seems particularly important at a time when the UK independent production sector is consolidating in ways which may not prove to be totally helpful to the long-term interests of the UK creative industries. Many of the most successful UK independent production companies have now been acquired by large broadcasters and conglomerates. This development was

cited by a number of respondents as a source of concern. It is a matter of fact that the appetite for creative risk-taking inside many of the UK's top production companies is ultimately controlled by non-UK entities. Whilst there is no acceptable policy solution to this facet of globalisation, it may make it important for the UK not to easily give up the benefits of a major TV studio producing public service content at scale that remains UK-owned. Rather than dismantling BBC in-house production, the Review believes that BBC in-house production should remain intact to preserve its scale and the benefits of vertical integration.

Appropriate safeguards would need to be put in place in BBC commissioning processes to ensure transparency of operations and fair competition with external suppliers. In order to remain distinctive, governance of the new BBC production unit should require that all production (regardless of the commissioning broadcaster) is aligned with the BBC's values and purposes.

25. The Review also heard from the Radio Independents Group that a similar opening up of competition would benefit the independent radio production sector. It was argued that the current radio WOCC, under which independent radio companies are guaranteed 10% of commissions with a further 10% being contestable, provides too little space for an independent radio sector to develop and flourish. Independent radio productions regularly win major industry awards, and account for 80% of radio WOCC commissions. Opening up radio commissioning to the same extent as TV, with 25% of commissions guaranteed to independent production companies and another 25% contested, would further stimulate growth and innovation in the sector.
26. From the perspective of commercial radio, the BBC's services account for more than 50% of all viewing, according to RAJAR data. It was put to the Review that the regulatory framework for commercial radio – which seeks to ensure consumers have access to a range and diversity of local radio services – is woefully out of date and now makes it harder for commercial local radio broadcasters to compete. In effect, there is an unsatisfactory trade-off between the amount of local content required on commercial channels and their ability to grow brands of sufficient scale to compete with each other and with the BBC's services.

Ofcom recently launched a consultation offering various options to partially relax the current regulatory model, under which radio stations agree a format that stipulates the kinds of music they can play and the amounts of local content they must offer. It was put to the Review that the current music formats are so vaguely worded for many radio stations that they fail to ensure any real diversity of output. Removing the system of formats completely would encourage a process of consolidation that would create strong new quasi-national commercial radio brands with the ability and flexibility to respond to changes in audiences' tastes, for the benefit of both listeners and the radio industry itself. Full relaxation of the music-format regulations would arguably lead to greater investment in commercial radio, and could reasonably be expected to provide a greater range of high-quality services across a range of music genres. However, rules should remain in place to safeguard the provision of a minimum level of local content such as news and travel (given that technology now enables tailored local content to be seamlessly and easily inserted into syndicated programmes).

Availability and prominence of public service content

27. Both the public service broadcasters and Digital UK highlighted the future of the Digital Terrestrial Television (DTT) platform, expressing concerns about the platform being weakened if DTT spectrum were sold off to mobile platforms. In this context, it is important to note that Ofcom's recent announcement of its intention to release further significant spectrum to boost mobile broadband capacity would reduce the airwaves available for television by approximately one-third. DTT remains a hugely important platform that provides free-to-air TV to the entire country through rooftop aerials and without the need for subscription charges. As one of the three biggest linear TV platforms, and with internet protocol networks unlikely to deliver a universal service in the foreseeable future, DTT is important in itself as the main point of access to free-to-air content and as the major source of platform competition to satellite and cable. DTT is also disproportionately relied upon by older and less well-off households. It is therefore important that the DTT platform be safeguarded over the medium to long-term by government and Ofcom.
28. However, citizens are also increasingly accessing TV content in new ways, in particular via on-demand services on smart TVs and other connected devices. Current rules on EPG prominence ensure that the main PSB channels, which account for the majority of investment in UK-originated television content, can be found at the top of the electronic programme guides (EPGs) on the main linear TV platforms. But as viewing migrates to new platforms, listings-focused EPGs are no longer the only way of selecting and discovering content. This raises the question of whether the PSB prominence regime needs to be extended to the on-demand world. There is no particular reason why new platforms should seek or want to give corresponding prominence to the main UK public service broadcasters or their output. The DCMS invited views on this issue in 2012, but has not since progressed any work in this area. In a response to a Lords Inquiry on Media Convergence in 2012, Ofcom argued that "*it could be necessary to adapt the current regime, possibly by extending it to the various different ways of discovering content increasingly available within EPGs, and to content made available on-demand.*" In its recent PSB Review consultation document, Ofcom asked whether universal availability and the easy discoverability of public service content remain important, and how it might be secured in the future.

This Review believes that PSB prominence is an important part of the PSB ecology, and to ensure that PSB continues to remain strong in the converging world, both the principle and the practice of PSB prominence need to remain intact. Potential amendments might involve, for example, applying prominence rules to content gateways of significant size whose main purpose is the curation of premium and long-form content. This approach was proposed in a report commissioned by the BBC in 2012, that also noted the importance of ensuring that any new regulations should be proportionate and targeted, so as not to disincentivise innovation in new platforms.

29. The issue of retransmission fees, and the payments between the public service broadcasters and TV platforms more broadly, was raised with the Review by the commercial public service broadcasters and the largest platform operators (Sky and Virgin Media). These payments are impacted by a tangle of different platform regulations – including the technical platform services regime, must-carry and must-offer provisions in the Communications Act, and section 73 of the Copyright, Designs and Patents Act – that were enacted piecemeal over a period of time, and in some cases to address market issues that are no longer relevant (such as the former fragmentation of cable companies). The net effect has been that the PSB channels have

historically been carried on cable and satellite at no cost to them. Sky is able to charge cost recovery fees linked to the platform services provided to channels (such as EPG listings, regionalisation and access to interactive functionality), but it recently committed to reducing these charges to zero for the BBC and ITV. Even so, the commercial public service broadcasters (but not so far the BBC) have argued that they should be recompensed, to accurately reflect the value to the commercial platforms accruing from the carriage of PSB channels – just as is the case in the US, where platform operators pay significant fees to the main TV networks. It was argued that the additional revenue that would accrue will enable the PSBs to sustain and/or increase investment in original content. For their part, the platform operators argue that it is reasonable that they carry the PSB channels for free, in order to help the public service broadcasters deliver their fundamental ‘universality’ obligations. Sky emphasised that it already foregoes cost recovery fees which it is entitled to charge for and that imbalances between the current regulations would distort a genuine commercial negotiation. Sky and Virgin Media also pointed to the consumer harm that would result if any public service broadcaster were to withdraw their channels from a platform due to a failure to negotiate terms, noting the frequency of (and citizen unpopularity with) TV channel black-outs in the US.

30. There seems to be a need to clarify the current system of platform regulations, and the Review welcomes its inclusion within the scope of Ofcom’s PSB Review. At the most basic level, broadcasters ought to be remunerated when their content creates value for others, and any redundant regulations that prevent this from happening should be removed. At the same time, adequate regulation should ensure that the PSB channels are always available on all the main UK TV platforms to enable the PSBs to meet their universality obligations. Therefore it should be the role of government and Ofcom to ensure that black-outs are not available as a negotiating tactic in the way that they are in the US. To ensure the prospect of fair commercial negotiations, a combination of (modified) must-offer and must-carry rules are needed that would then create the space for broadcasters and platform operators to negotiate terms on a level playing field. However, common sense dictates that an arbitration process under Ofcom would also be needed in the event of a failure to agree terms.

Recommendations

31. UK cultural and audiovisual policy should shift to better recognise the intrinsic value of culture alongside economic value.

The Government, all major public funding bodies and public service broadcasters should develop better frameworks to measure the longer term intrinsic value of arts and cultural creation as well as economic outputs and values. A framework that explicitly recognises the value of culture and creativity should be used to encourage arts, broadcasting and other cultural bodies to step up their levels of creative risk-taking in order to drive more innovation for the benefit of audiences and the broader creative industries. Under its new role proposed in Chapter 2, Nesta should be tasked with taking a lead in this area.

Reinforcing the provision of public service content

32. The main publicly-owned PSB institutions (the BBC, Channel 4 and S4C) and other building blocks of the PSB framework (such as the licence obligations imposed on the privately-owned public service broadcasters) each play a valuable role in contributing to the success of PSB in the UK, and should be supported in the next Parliament and beyond.

33. The licence fee should be retained as the principal funding source for the BBC, with adjustments to address anomalies around new digital services (e.g. a TV licence is not currently required for downloading or streaming BBC content on iPlayer). The licence fee is one of the three complementary revenue streams that underpins the success of the UK television sector, helping to ensure a wide range of high-quality programming from a plurality of sources.
34. Licence fee funds should be available to support further BBC initiatives or partnerships linked to its sixth purpose, “delivering to the public the benefit of emerging communications, technologies and services”, as part of the overall Charter Agreement. However, there should be no new ‘top slicing’ of the licence fee.

The BBC should be required to publish an action plan to share technology solutions with other public bodies, in order to reduce costs and avoid duplication of investment of public funds. This process would need to be carefully structured so as to avoid negative market impact.

The BBC should play its part in getting the entire UK population online by helping to drive digital literacy.

The BBC should be required to do more to encourage ‘discoverability’ of public service content from other public bodies and organisations and the general public.

The BBC’s vast archive should be used to inspire new forms of engagement. Given the costs and challenges associated with clearing rights, the BBC should be required to create partnerships with other public organisations through which to open up unexploited parts of its archive – including TV and radio programmes, stills, documents, etc – to the public as a free resource to encourage active engagement with the material.

35. Channel 4 remains a vital part of the UK’s creative ecology and it must remain in public ownership.

Channel 4’s public service remit remains important, and the organisation must continue to take risks and innovate, and to provide an alternative voice and attitude to that of the BBC and other commercially-funded broadcasters.

Ofcom’s focus, as part of its current PSB Review on the longer-term strategic challenges facing Channel 4, is welcome. The PSB Review terms of reference ask if there are ways that Channel 4 could be strengthened in order to support the delivery of its public service obligations as viewing patterns change. This should be the starting point of a process by Channel 4 to recast its obligations and its remit for the post-broadcasting world. The broadcaster should set out a path to redefine its editorial mission and approach to generating innovative public service content for audiences across different forms of media and platforms. The Government and Ofcom will need to examine the regulatory and legislative changes that would be needed to enable Channel 4 to deliver its public service role in the most effective way in the future.

Channel 4’s important role in helping to support and drive growth in the UK content production sector should be more explicitly recognised and strengthened in its remit. Reflecting the need to recast its remit for a multiplatform world, Channel 4 should develop a clear strategy designed to assist the evolutionary development of the next phase of independent production in the UK. As

part of this, it should be encouraged to look at expanding its incubation and investment activities through its Growth Fund, to play a leading role in creating a cadre of new content businesses led by digitally native entrepreneurs and creators that are able to focus on the growing cross-media and cross platform opportunities.

36. A commitment should be given to safeguard S4C's editorial independence and to support it at an adequate minimum level of funding for at least the term of the next BBC Charter, to enable S4C to continue to deliver its public obligations and to support the creative economy in Wales.

Competition as a driver of creativity

37. The BBC's proposals to remove the TV WOCC (so that all commissioning hours outside the indie quota are fully contestable), move its production departments into a new arms-length BBC production unit and open up competition in TV production should be implemented as part of the next Charter Agreement, with appropriate safeguards to ensure transparency and fair competition with other suppliers. The new BBC production unit should remain intact to preserve its scale, and to secure the benefits of scale and vertical integration. This will ensure that there will be a major UK-owned TV production studio focused on delivering public service content to a wide range of buyers beyond the BBC itself.
38. Competition should be opened up further in BBC radio; the BBC should guarantee that a minimum of 25% of its radio commissions go to the independent sector, with a further 25% contestable. This change, which mirrors the current rules for the BBC TV WOCC, should reasonably be expected to drive creativity and innovation in radio production as it has done in the past for BBC TV production. After three years, the BBC should review progress with a view to further expanding the independent radio production quota subject to a successful outcome of this initiative.
39. There should be a 'first principles' review of the current rules governing commercial local radio station formats, which goes further than recent Ofcom consultations in this area, with a view to a significant new process of deregulation designed to stimulate new investment in commercial radio and allow brands to develop that would be better able to compete with each other and with the BBC. The envisaged outcome is that local radio licences would be auctioned off to the highest bidders, with no music format requirements. Specific but limited local output requirements should remain, e.g. for local news and travel.

Availability and prominence of public service content

40. To safeguard the future of universally-available free-to-air broadcasting, the TV and broadcasting industry should be given certainty as soon as possible regarding the availability of spectrum to enable the sector to plan properly for the platform's future and make any necessary investment.
41. Prominence of public service content needs to be maintained as viewers move to platforms and new forms of viewing. Proportionate and targeted regulations should be developed and applied to content platforms and services above a minimum size that curate premium or long-form TV-like content.

As a matter of public policy the development and application of regulations on prominence should remain separate from any commercial negotiations relating to carriage payments (see below).

42. Platform regulation, including the rules that underpin carriage of PSB channels on TV platforms, should be updated to meet two key objectives:
- Ensuring the PSB channels are available on all the main linear TV platforms;
 - Allowing for a flow of payments between platforms and the public service broadcasters that fairly reflect the value to broadcasters of the platform services that are provided, and the value to platforms of carrying some of the most-viewed UK TV channels.

Modified must-offer and must-carry rules are needed to allow broadcasters and platform operators to negotiate terms on a level playing field, whilst preventing channel black-outs. Other regulations should be removed where they are no longer needed – in particular, s73 of the Copyright Designs and Patents Act (CDPA) (recommended in Chapter 5).

Ofcom should be required to play an arbitration role, governed by clear and transparent guidelines, should platforms and broadcasters fail to reach agreement.

CHAPTER 4: PEOPLE, TALENT AND SKILLS

1. Skills training for the creative industries should be coordinated on a UK-wide basis by one joined-up Sector Skills Council (SSC). To this end, the two existing SSCs (Creative Skillset and Creative & Cultural Skills) should be merged into one entity charged with delivering improved efficiency and value for money.
2. An element of core funding for the new SSC should be reintroduced from existing DfE budgets to allow research, quality of marking and qualifications development work.
3. The allocation of public money for specific activities should be driven by employer demand. The current matched public funding commitment for Creative Skillset's Skills Investment Funds should be renewed for a further three years, rather than the just announced extension over two years after March 2015, as part of the industrial skills agreement with the industry.
4. Arts should be integrated into STEM (science, technology, engineering and mathematics) subjects in schools in England, and there should be support for the professional development of teachers across STEAM (science, technology, engineering, arts and mathematics) subjects to develop fusion skills.
5. The Government should ensure that schools in England deliver more effectively on all curriculum obligations regarding computer science and coding.
6. Where industries enjoy sector specific tax reliefs, skills training contributions should be made a statutory obligation.
7. All publicly-funded organisations should be obliged to publish an annual audit of their work on diversity and should be given a legal duty to promote a more inclusive workforce.
8. By 2020, the governing boards of all creative industry organisations in the public sector should have a 50/50 gender balance, with at least 15% of board members being BAME. Targets should also be developed to ensure that disability is more properly represented.
9. Existing laws preventing illegal unpaid internships in the creative industries should be properly enforced. However, care should be taken to preserve the ability of employers to provide legitimate work experience opportunities.

Introduction

1. The creative industries have thrived over the past two decades due largely to the strength of UK creativity and skills. At a time of rapid technological change and accelerating globalisation, maintaining and strengthening investment in skills and talent remains a prerequisite to securing our economic base, as well as refreshing our human and cultural capital.
2. Skills investment also helps to ensure that audiences in the UK and overseas enjoy a wide variety of UK works.
3. It is the consistency of talent from actors, directors, musicians and writers to technicians, coders, electricians and recording engineers which has fuelled growth in the sector. Alongside the creators sits a school of successful British entrepreneurs, as well as expert financial and legal service providers.
4. The strength of this talent pool is directly attributable to the investment that both employers and government have made over the years by supporting education, training and career

development. Government agencies and the public service broadcasters have been particularly important in a sector where the majority of people are working in SMEs and as freelancers, and therefore do not benefit from the systematic training and professional development schemes typically available to permanent employees.

5. Even so, it is clear that the UK's creative industries are still drawing from only a relatively small strata of the population. This narrowness of approach is commercially sub-optimal but as importantly, it represents a failure of social policy because employment opportunities are denied to a significant proportion of the UK's population.
6. If the UK is to win through in this sector it needs to do more to deliver a wider and deeper stream of talented and skilled workers. All the evidence received suggests that the UK's reservoir of creative talent and its skillsbase is strong, but could be stronger still if employers were prepared to draw on all the talent available.
7. As it is, the success of the UK tax reliefs for film and high-end TV production are possibly beginning to drive demand for labour faster than the skills and talent base can sustain, and the Review heard concerns about possible threats of skills gaps in the future.
8. Continuing professional development is also needed to address rapid changes in digital technology as well as to ensure that the current UK workforce and future generations remain properly equipped to seize the opportunities for growth on offer from around the world.

The creative industries accounted for 1.68 million jobs in 2012, 5% of the total number of jobs in the UK

Employment in the creative industries increased by 8.6% between 2011 and 2012, higher than the overall increase of 0.7% for the UK economy as a whole

The policy environment

9. Over the last few years the UK Commission on Employment and Skills (UKCES) has run a set of pilots to examine how to improve employer 'ownership' of skills, building on policies developed by the last Government, and based on integrating skills into sector specific industrial strategies with co-investment focused on priorities supported by industry. That was the objective of the groundbreaking New Industries New Jobs initiative in 2009.
10. Industry-led initiatives in fragmented and highly mobile industries such as the creative industries have successfully started to address historic market failures and catalyse practical action. For example, there are now 4,500 apprentices working in the creative industries starting

from a base of zero in 2008. There is also a successful system of voluntary training levies for some key sectors of the creative industries.

11. This approach enjoys wide support from industry and the Review believes that government should build on this success. At the same time, there is a powerful need to ensure that strong connections and investments are made at regional level in order to fully satisfy the needs of local employers.
12. The Review started from the basis of support for the recommendations of Labour's Skills Taskforce led by Chris Husbands. This means that the UK skills training system should be based on existing institutions while reformed Sector Skills Councils (SSCs) should have a revised remit to increase skills demand and utilisation in their sectors and supply chains. This will involve supporting collaborative industrial skills plans with industry/government co-investment, working in partnership with local agencies and institutions in place wherever there are significant creative industry clusters.

Evidence gathered

Schools education careers guidance and the impact on diversity

13. The Review heard evidence that significant challenges remain in respect of identifying and encouraging the brightest and best people into the sector. There is some evidence that this problem begins with schools and is then reflected across the creative industries as a whole.
14. The report entitled *Elitist Britain*, published by the Government's Social Mobility and Child Poverty Commission in 2014, found that 44% of the wealthiest 100 UK-born people in the television, film and music industries attended independent schools. This is more than six times the proportion overall of the general public who attended such schools. Only in the music business was there some indication of a better balance, with 72% of identified 'stars' in the survey having attended a comprehensive school, compared with 88% of the population as a whole.
15. There was a strong consensus from respondents that the creative industries still fail to reflect the make-up of the UK population as a whole and the Review heard that this situation must change if the sector is to remain strong in the face of increasing global competition.
16. To a significant degree, this problem appears to relate to socio-economic circumstances. Those from poorer backgrounds are most under-represented in the creative industries, especially in senior leadership and decision-making roles. Statistically, this has particularly negative implications for BAME groups, for those educated in the state sector, and for those from disadvantaged or excluded sections of society.
17. Over the past four years, the provision of careers Information, Advice and Guidance (IAG) in England has declined. As the House of Commons Education Select Committee noted, the decision to abolish the Connexions careers service and to delegate responsibility for IAG in England to schools means there is now a wide disparity in the quality of advice available, and much of it appears to be second rate. The Review heard that many employers want to see a radically improved IAG in England in order to help them fulfill their business objectives.

18. In the 2014 Autumn Statement, the Government announced the creation of a new careers and enterprise company to improve the provision of careers education and advice for young people by helping them consider “all the options available” when they leave school. This company, backed by employers, is a good start but it has much work to do in order to recover the ground lost over the past four years.
19. The impact of poor IAG is particularly acute for the creative industries because many of the job opportunities that exist are less visible to the population as a whole and others are also less credible as career options than jobs in more traditional industries. The Review received evidence that many young people think that the only job opportunities that exist in the creative industries are public-facing and on-screen.
20. It was also argued that developing creativity in young people has demonstrable benefits for wider learning abilities, examination attainment, social development and confidence, as well as generating harder skills that subsequently support entry into the creative industries.
21. To meet the growing demand from sectors such as gaming, young people now need to study a combination of creative, technical, scientific and entrepreneurial subjects – ‘fusion’ skills. The Next Gen Skills Campaign (teaching children computer science and coding) successfully established computer science as a core science subject in England and this was overdue.
22. However, the wider aspiration of the campaign was to promote a more equal emphasis on science, technology, and creativity and to locate some of that learning in a business context. The development of STEM subjects (science, technology, engineering and mathematics) is a necessary but insufficient addition to the school curriculum and more needs to be done to meet the needs of employers in this particular area.
23. The arts also need to play a strong role across the school environment and it is important that all schools teach creative subjects. Research by the Cultural Learning Alliance suggests that participation in structured arts activities improves children’s cognitive abilities test scores by 16%-19%, and also increases attainment in mathematics and literacy. Particularly striking results have been achieved by children from low income families.
24. The Review was also impressed by initiatives provided by the voluntary sector to drive interest in software and coding through programmes including Code Club, Apps 4 Good and Decoded.
25. Involvement in the arts by young people also seems to improve employability. The DCMS Culture and Sport Evidence (CASE) programme showed that structured arts activity leads to a 10%-17% improvement in learned transferable skills. All this points to the need to ensure that the STEAM approach is more firmly embedded in the curriculum within England.
26. The Review also heard evidence from a range of stakeholders in England who were convinced of the benefits of also teaching the basics of Intellectual Property awareness, digital and media literacy, computing and enterprise/ business skills within the school curriculum.

Progression, Further Education and apprenticeships

27. Based on recommendations by the Husbands Taskforce, the Labour Party has set out reforms to introduce a new gold standard Technical Baccalaureate for 16 to 18 year olds, including a

level 3 vocational qualification accredited by employers and a high quality work placement. Under Labour's proposals, all students will do a common core of academic subjects including English and mathematics, to the age of 18 years. A Technical Baccalaureate should benefit both learners and the creative industries. It is essential that any new qualifications are rigorous across the full range of creative subjects.

28. The Husbands Review also recommended the reform of further education colleges into new Institutes of Technical Education with a core mission to provide 'gold standard' delivery of Labour's proposed Technical Baccalaureate and the off-the job training component of Apprenticeships. The current proposal is for these institutes to be validated through a licensing system.
29. The Review noted that the Creative Skillset 'Tick', industry validation scheme may possibly be introduced to Further Education colleges and that the Creative and Cultural Skills National Academy has been awarded National College status. These are models for industry-recognised excellence in technical education for these sectors; it is essential that any new licensing arrangements for colleges also integrate these approaches for creative industries activity.
30. Together, taken as a whole these various measures could help boost take-up of apprenticeships, which the evidence suggests still remains relatively low across the creative industries.

Higher Education

31. The Review heard evidence from many parts of the creative industries that there is still too wide a gap between the learning outcomes delivered by Higher Education (HE) and the needs of creative industries employers. Addressing this issue requires closer collaboration between creative industry employers and universities; the Review heard evidence that links are still weak overall with some exceptions. As a consequence, there is still scepticism among many employers in the sector about the practical, workplace value of the education delivered by universities. However, initiatives such as the Music Academic Partnership (MAP), a partnership between a group of educational institutions, including various universities and the trade association UK Music, offer a valuable model. MAP is designed to maximise the employability of students across the music sector by ensuring students have the right mix of experience and taught skills. This kind of partnership model between academia and industry can help to address the gaps identified by the Review and it would be valuable to develop in other creative sectors.
32. The Review recognises that the value of an HE course cannot and should not be judged by a vocational dimension alone, a point well made by a number of respondents. Study at degree level should aid significant personal development which should include a broader appreciation of the centrality of culture to society.
33. The proposed introduction by Labour of technical degrees, delivered in partnership with business and universities, should also be of significant value to the creative industries. This initiative should include courses that cover STEAM, computing and design subjects, as well as practice-based courses. The Review also heard evidence from across the sector that the best way to ensure effective industry validation would be through Creative Skillset's 'Tick' accreditation scheme.

Sector Skills Councils

34. In recent years, the UK Commission for Employment and Skills (UKCES) has sought to promote investment in skills through a series of employer ownership pilots. In the creative industries this has been led principally by Creative Skillset, the Sector Skills Council (SSC) which covers many, but not all, of the creative industries sub-sectors. UKCES has provided some public funding to support these strategies – usually on a co-investment basis. Creative & Cultural Skills, the SSC which currently covers theatre and music among other areas, has also done much useful work to deliver apprenticeships and paid internships.
35. However, the Review heard evidence from across all sectors of the creative industries that the existence of two SSCs, each responsible for different parts of the creative industries, is confusing and inefficient and results in a lack of strategic coherence.

The case for strengthening co-investment

36. Both the previous Labour Government and the Coalition have embraced the crucial importance of co-investment in skills as the key to ensuring that the skillsbase remains capable of dealing with rapid technological change, and also as a means of preventing skills gaps by helping to drive a flow of entrants into the sector.
37. The Review received evidence that Creative Skillset's overall Skills Investment Fund is working well but that it requires sustained support from government over the medium-term to ensure that skills gaps and shortages continue to be addressed. There is already concern about possible skills gaps because of increased demand for UK workers driven by the creative sector tax reliefs. This is apparently particularly prevalent in the areas of film, high-end television production and animation.

Under the stewardship of Creative Skillset, voluntary levies which are charged as a small percentage of the costs of production for film, high-end television and animation are matched by public money. The proceeds are invested in highly targeted training designed to deliver maximum impact for the benefit of those sectors which pay levies.

However, there is evidence that some companies, especially smaller ones, do not contribute. Finding a way to address this, through mandatory payment would help to increase the money available for skills support at a time when there are increasing shortages, especially in some technical grades.

38. The theatre sector is now eligible for tax reliefs to offset some of the costs of production but, as yet, there is no comparable mechanism in place to support investment in training and skills development. Unless this is addressed, it is possible that the theatre sector will also face upward pressures on labour costs. The proposed introduction of a tax relief for children's television production planned in April 2015, and the proposed orchestra relief for introduction in 2016, also logically require adequate mechanisms for skills development to be put in place.
39. The creative industries are unusually and heavily dependent on a freelance workforce. The nature of freelance working makes it particularly important that large employers especially those with a public remit (notably the BBC and Channel 4), play their full part in supporting investment in the skills and talent upon which they depend. The large independent companies which have now become a dominating feature of the UK television production landscape also

need to become more involved in securing skills investment in the workforce that generates the IP which supports their businesses.

40. Such investment is set to become even more critical if the BBC's proposed abolition of its Window of Creative Competition (WOCC) results in an even greater dependence on freelance labour servicing an expanded independent television production sector.
41. Given the prevalence of freelancers within the creative industries overall, it is also vital that the skills strategies for the sector continue to be driven on a UK-wide basis whilst being closely linked to local strategies that reflect local needs. Local Enterprise Partnerships (LEPs) will have a crucial role to play here, particularly where significant creative industry clusters exist.

Diversity and inclusion in the workforce

42. The lack of diversity and inclusion remains strikingly apparent across the overall creative industry workforce. Actor and comedian Lenny Henry deserves much credit for raising ethnic diversity in particular as an issue that needs to be addressed. The evidence is damning. In his BAFTA Lecture in March 2014 Henry cited a Creative Skillset census which showed that black, Asian and minority ethnic (BAME) representation in the creative industries in 2012 was just 5.4% – the lowest point since that census began.
43. Diversity and inclusion is an issue that goes well beyond BAME representation and includes age, gender, sexuality and disability. Thus, there are a number of challenges to be addressed.
44. For example, a Directors UK study of UK television production published in 2014 found that just 13% of drama episodes in its sample were directed by women in 2011/12. There are also particular issues around the lack of on-screen representation of older women on UK television. Disabled people are also significantly under-represented both on-screen and behind the camera.
45. From 1997 until 2010, the Labour Government consistently made strides on all aspects of diversity for people and communities including BAME; Lesbian, Gay, Bisexual and Transgender (LGBT); disability; as well as on age discrimination. Under the Equalities Act 2010, public bodies were given clear obligations to promote equality. Yet, under the present Government, Ofcom was stripped of its duty to promote equality of opportunity. Similarly Government support promoting diversity within film at the UK Film Council was not carried across to the British Film Institute after the abolition of the UK Film Council in 2010. The Review found that recent hard data from the public sector on diversity performance is woefully thin on the ground, and it is perhaps noteworthy that Art Council England's analysis of BAME applicants for Lottery-funded grants between 2008-2010 and 2010–2013 suggests a decline of 2% in applications from BAME organisations and individuals.

Creative Skillset data indicates a decline in BAME representation in the workforce from 12,250 in 2009 to 10,300 in 2012; 7.4% of the total workforce in 2006, 6.7% in 2009 and 5.4% in 2012

The lack of useful statistics in this area seems to speak eloquently to the lack of importance attached to diversity as a policy issue by the Coalition Government until very recently. However, recent discussions instigated by the Government with stakeholders do look set to improve the situation and this is a process to be welcomed. Tailored diversity strategies from the key broadcasters are now being developed for example, and these are likely to be much more ambitious and comprehensive than anything seen to date.

In 2014 Sky committed itself to 20% BAME representation in all new non-returning programmes, 20% BAME writers on all team-written shows and at least one senior role to be filled by someone from a BAME background by the end of 2015.

Channel 4's strategy was published in January 2015 and aims to ensure that the top 120 employees will reflect the national average profile across BAME (15%), gender (50:50), disability (6%) and LGBT (6%). The broader Channel 4 workforce will adopt the same targets with a higher target for BAME representation (20%) to reflect the greater ethnic diversity of the workforce in London where Channel 4 is headquartered.

The Review also welcomes Project Diamond, the new cross-industry diversity monitoring scheme supported by the BBC, ITV, Channel 4 and Sky, which aims to address the need for comprehensive diversity statistics in the broadcasting sector. The key now is for the Government to ensure that the broadcasters deliver on these strategies in a meaningful way.

46. Leadership and governance of public institutions are also extremely effective methods of driving change in this area and ensuring that the creative industries better reflect the make-up of the UK population. The composition of the senior management and boards, in both public and private organisations across the creative industries, also seem remarkably homogenous. This situation needs to be addressed.

Creative Skillset reports that 1% of the workforce in the creative industries is disabled in self-reporting surveys, compared with 5.6% of the population at large, as defined by the Disability Discrimination Act

47. The Review heard evidence that unpaid internships are particularly widespread in the creative industries and are often considered standard business practice to contain labour costs. It was argued that unpaid internships are a major contribution to the lack of diversity in the creative industries because by definition unpaid employment favours those with higher levels of family income or financial independence and the informal networks that lead to unadvertised job opportunities. This overall pattern currently inhibits social mobility.

HMRC's definition of employment status as a barrier to training investment

48. The Review received evidence that the HM Revenue & Customs (HMRC) definition of training unduly penalises certain creative occupations from taking advantage of training opportunities (e.g. actors) because those people are then classed as employees and this creates additional costs for those companies which are undertaking the training.
49. A similar issue has also been identified in the recent *Still In Tune* report by the Skills Commission, which includes parliamentarians from all the main parties.

Freelancing is highest in production or content creation – there were 46,650 freelance workers in 2012

50. The Skills Commission also noted that, “providing training can be used by HMRC as ‘employment status’ evidence which may have further cost implications for companies that contract individuals on a freelance basis. This creates a disincentive for employers intending to include freelance and self-employed workers on training schemes, and can be used as an excuse for not training. With the UK’s labour market becoming more flexible such barriers to the training of self-employed workers must be dismantled.” This approach potentially harms the development of creative talent because it acts as a powerful disincentive for employers to include freelancers/self-employed people on any company-run training schemes.

Recommendations

51. People, talent and skills need to be seen as a key driver of jobs and growth and an integral part of industrial strategy and co-investment from the industries and government should deliver to an industry skills plan and agreement.
52. Serious damage to the Careers Service in schools over the past four years has exacerbated skills shortages and a lack of inclusiveness in the creative industries. The Review supports the findings of the Chris Huhns Labour Skills Taskforce which proposes that careers information and guidance should be delivered in partnership with employers. At a local level, this activity should be co-ordinated by Local Enterprise Partnerships (LEPs) which are best-placed to articulate the needs of businesses at a city, regional and county level. The Review also recommends that the current partnership structure should be widened to include national and local agencies, as well as employers.
53. Labour should develop an All Age Careers service with IAG for the creative industries. Creative Skillset should be responsible for making sector-specific, industry-validated materials accessible and ensuring that they are linked to employers at a local level.
54. As part of Labour’s universal entitlement for all pupils to be able to engage with creativity, arts should be integrated into STEM subjects in England. There should also be support for professional development available for the professional development of teachers across STEAM subjects to help them develop fusion skills.

55. Government should ensure that schools in England deliver effectively on all their curriculum obligations regarding computer science and coding.
56. The Government should ensure a merger of the two existing SSC licences. In this way Creative Skillset and Creative & Cultural Skills can finally be brought together to deliver one strategic skills body for the creative industries charged with delivering improved efficiency and value for money.
57. The recommendations from the Husbands taskforce regarding Further Education are all relevant to the creative industries. Creative Skillset should be charged with helping to implement them, in particular by helping to raise standards in vocational teaching and pedagogy in FE, giving FE colleges a new role to provide Labour's proposed gold-standard vocational qualifications, and by strengthening links between colleges and local employers. Underpinned by careful industry validation, the Creative Skillset 'Tick' scheme should be extended to cover other creative industry sectors (including music and theatre), so that employers have a clearer idea of which HE courses are relevant to their needs. The Creative Skillset 'Tick' scheme should also be extended to relevant FE courses and be extended to cover other industry sectors. Partnerships with providers and the LEPs will be important in helping to raise vocational teaching standards.
58. This Review also supports the recommendations of the Husbands Review proposing that skills delivery should be based on existing institutions such as reformed SSCs, with a revised remit to increase skills demand and utilisation. Labour has said that these reformed sector bodies would be given more control over skills funding and standards, in return for developing plans to increase the amount of training and apprenticeships in their sectors and supply chains. The reformed sector bodies should identify the regional clusters where the sectors they cover are most active.
59. Too much board and management time is currently wasted within SSCs preparing bids to government for money. A modest element of core funding for SSCs should be reintroduced in order to carry out research, quality marking and qualifications development work, with a focus on delivering optimal value. However, contestable investment should remain the source of the majority of SSC funding.
60. The allocation of public money for specific activities should be driven by employer need, in line with broader Labour policy, and should utilise the model of Creative Skillset's (SIF). The current matched public funding commitment for the SIF should be renewed for a further three years rather than the just announced two year extension after March 2015, as part of the industrial skills agreement with the industry. This agreement should cover all segments of the creative industries.
61. Where industries enjoy sector specific tax reliefs, contributions to skills training should be made a statutory obligation. However, the precise mechanism for contributing should be appropriate to the employment structures and patterns of each sector.
62. Contractual commitments to skills training and talent development should be made a condition of all programme commissions and major procurement initiatives for all the PSBs so that such commitments are embedded in their supply chain. New, specific public obligations to skills development for the BBC should be embedded in the next BBC Charter and Agreement.

63. Specific commitments to skills training should also be offered by the so-called 'mega indie' TV production companies, some of which are now significantly larger than their network broadcaster clients. In the first instance, these companies should be supported by Creative Skillset to devise and publish training plans.
64. All PSBs, relevant publicly-funded bodies and second tier government organisations should be obliged to publish an annual audit of their work on diversity and on the make-up of their own workforces. All significant government funding agreements with private sector organisations should include clear and measurable goals to promote inclusiveness.
65. All public service broadcasters and all DCMS-sponsored bodies in the creative and cultural sectors, should be given specific duties as part of their funding agreements to ensure that all direct funding decisions promote a more inclusive workforce. In this regard, the BFI's 'Three Ticks' scheme to promote diversity among recipients of Lottery funding for film production is a useful model; public bodies dispensing Lottery and public investments and grants across the creative and cultural sectors should develop and adopt schemes appropriate to the support they provide.
66. By 2020, the boards of all creative industry organisations in the public sector should have an overall 50/50 gender balance, with at least 15% of board members representative of BAME groups. There should also be tougher targets developed to ensure that disability is properly represented.
67. Fixed term contracts should be introduced for the chief executives of all public bodies in the creative and cultural sectors and CEOs should not serve longer than ten years in post. This practice would align with current policy for public sector board members whose tenure is limited to a specific duration. The Equalities and Human Rights Commission should be charged with developing and reviewing these commitments.
68. Legislation which bans unpaid internships should be effectively enforced while taking care to preserve the ability of employers to provide legitimate work experience opportunities.
69. HMRC should remove 'training' from the basket of measures that help determine taxable employment status in the creative and digital sectors so that self-employed workers in the creative industries do not lose out in terms of training opportunities.

CHAPTER 5: INTELLECTUAL PROPERTY AND COPYRIGHT

1. There should be no substantive review of the UK copyright regime in the life of the next Parliament.
2. The Government should ensure that IP rights holders are able to continue to geo-block copyright material online within the EU and strongly resist any wholesale reforms of the copyright framework in Europe.
3. The Government should support the Creative Content UK anti-piracy initiative but also retain specific anti-piracy clauses (3-16) of the Digital Economy Act as a back-stop solution in case the voluntary approach fails.

4. The Government should continue to support the emerging Copyright Hub.
5. A voluntary agreement should continue to be sought between ISPs and advertisers to ensure that search engines get better at removing links to infringing sites from search results. However, the Government should make an up-front commitment that if no voluntary agreement is reached within 12 months then it will legislate to protect the UK creative industries.
6. A modified form of legal deposit should be introduced for all British originated films, television and content.

Introduction

1. Protection of intellectual property (IP) is the foundation upon which the UK creative industries are built. To generate revenues, the public needs effective, legal access to IP. Without effective IP protection the creative industries are unable to capture the full economic value of the assets they create and will fail to realise their full potential.
2. The policy issues around IP protection become even more important in the digital world, where the ability to create, share and access IP is enhanced and where the costs of distributing content across the globe can be close to zero.
3. Meanwhile, the incentives and tools available for people to create and/or share creative material are also hugely increased, and whilst this brings significant benefits in terms of innovation, there are also particular challenges arising from the ease with which stolen premium material can be circulated online.
4. As a consequence, the tensions in the legislative framework has become more acute between the need to enhance legal public access to copyright material and the need to ensure that IP rights are adequately protected.
5. This Review has focused on copyright and not designs, patents and trademarks. Although many of the businesses in the sectors under review use other forms of IP, it is copyright that remains the key driver of growth and innovation for the creative industries. The use of copyright material in the UK is governed by a complex mix of UK, EU and international legislation and agreements including the UK's Copyright, Designs and Patents Act, the EU's Information Society Directive, the Berne Convention, and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Policy context

6. Since 2005, there have been two major independent reviews of intellectual property by government – the first was the review commissioned by the Labour Government, undertaken by Andrew Gowers, and published in 2006. The second was the review commissioned by the Coalition Government, led by Ian Hargreaves, and published in 2011.
7. Both these reviews usefully informed changes to the copyright regime, including, for example, sections 3-18 of the Digital Economy Act (DEA) put on the statute book in 2010 by the Labour Government, and a variety of new and amended copyright exceptions, relating to matters such as private copying, education and quotation, were put in place through a series of statutory instruments by the Coalition Government in 2014.

8. The new and amended copyright exceptions implemented in 2014, for example in relation to research and private study and helping disabled people, have helped to make the UK copyright regime more fit for purpose in a digital age. For the most part, there is a broad consensus that these changes go with the grain of consumer behaviour, and will help to drive innovation and the development of knowledge whilst also providing proportionate protection for IP right holders.

Evidence gathered

9. The Review heard evidence, notably from the music sector, that compensation should be paid to right holders because of losses they envisage from the private copying exception. Others argued that such losses will be minimal, and that the Government position that there should be no compensation is the correct one, especially as users are increasingly streaming material on a subscription or rental basis, rather than downloading it permanently. The exception does not apply to streaming.
10. Both the Gowers and Hargreaves reviews also helped inform the licensing scheme for orphan works and the voluntary extended collective licensing (ECL) scheme which came into force in 2014.

The total number of 'orphan works' in the UK is unknown but is estimated to be in the low millions.

10% of materials in the BFI's National Archive are orphaned including video and sound recordings; more than 2 million archive photos in the Imperial War Museums are orphaned; up to 40% of the content or approximately 150 miles of shelved documents in The National Archives and National Records of Scotland is suspected orphan and

11. The policy intentions behind these licensing schemes represent a sensible updating of the copyright regime and should deliver significant cultural and educational benefits. In the case of orphan works, the scheme provides a potentially valuable complement to the Directive, adopted by the European Union in 2012, under which Europe's libraries, archives, film heritage institutions, public broadcasters and other organisations (acting in the public interest) can make available orphan works in their collections on a cross-border basis for non-commercial purposes.
12. That said, care must be taken in implementing the UK's Orphan Works Licensing Scheme and its Extended Collective Licensing Scheme (ECL) to ensure that they deliver real benefits to the public and do not become weighed down by cost and bureaucracy. The Review heard evidence

that the Orphan Works Licensing Scheme in particular may have been constructed in an unhelpful and cumbersome way. If so, any issues should be addressed later in 2015 in review planned to take place after one full year of operation

13. The Copyright Hub, an idea originally developed by Richard Hooper, following a recommendation in the Hargreaves Review, is a valuable initiative to ease the process of licensing, protect metadata and secure permissions for the use of copyright material. It is a world-first and an excellent example of UK thought leadership with regard to IP licensing. It is supported by industry and the Government's Connected Digital Catapult, and provides an important complement to the existing exceptions and licensing schemes embedded in statute.
14. The Copyright Hub has three main aims: to help people, (whether they be creators, creative businesses or consumers), find their way through the complexity of copyright rules and provide help with navigation, signposting and education; to help people discover who owns what rights to specific works, e.g. novels, short films, videos, photos or songs; and to help people clear rights in a simple and low cost way and with necessary permission.

Through the online Copyright Hub, a person (or a computer) should be able to find – with a single click or enquiry – where to obtain permission to use an item of content in the way that they want. An automated response that says 'Yes', 'No' or 'Yes, if the following conditions are met', should be possible, especially for low value, high volume rights requests.

15. The scope of the Gowers and Hargreaves reviews, together with a series of consultations on copyright conducted by the European Union, have induced a widespread sense of copyright review fatigue within the creative industries. Industry stakeholders are unanimously opposed to the idea of any future government opening up the copyright framework for broad review. This view appears justified because the Review did not receive any meaningful evidence suggesting that the copyright framework as it now exists in the UK is, in any significant way, unfit for purpose.
16. For similar reasons, the vast majority of stakeholders oppose the idea of the EU opening up for review the Information Society Directive which is a control mechanism for elements of the UK's copyright regime. The Commission asked for views on potential issues relating to the Directive, most particularly as a consequence of the impact of digital technologies, in a consultation which closed in March 2014. The Commission has also published a number of impact assessments. But despite all this activity, there is no clear evidence that a reopening of the Directive is either necessary or desirable.
17. Even so, the President of the Commission, Jean-Claude Juncker, has made copyright reform one of his top ten policy priorities for his term, with draft legislative proposals expected later in 2015. In addition, since taking office in November 2014, Andrus Ansip, the Vice-President for the Digital Single Market in the Commission, has repeatedly expressed a desire for reform and specifically a wish to stop right holders from "geographically-blocking" (geo-blocking) the delivery of online material within specified areas inside the EU. Similar comments have also been made recently by Günther Oettinger, the Commissioner for Digital Economy and Society.
18. Any such proposals to prevent geo-blocking would create very serious problems for UK IP right holders, most especially in the audiovisual sector, because the financing of, for example, television programmes and independent feature films is largely based on the ability to sell rights

territory by territory. The release patterns of premium content are also determined on a territorial basis to take account of a variety of national factors (e.g. differences in school holiday dates), so as to maximise audience reach and thus revenues. So if geo-blocking were to be abolished, it would be possible for a film to be available online across the EU via one member state whilst it was still playing in its exclusive cinema window in another EU territory. In this way the abolition of geo-blocking would seriously undermine current UK business models for a variety of other rights-based media.

19. Furthermore UK broadcasters, whether supported by a licence fee, by advertising or by subscription, would also be affected adversely if they became unable to geo-block their online transmissions. For example, the BBC licence fee which entitles viewers in the UK to watch live television is paid only by those resident in the UK and yet, in theory, anyone across the EU would be able to watch BBC television online without paying for it.
20. For advertisers on commercial services, it would no longer be possible to effectively target online advertising at member state level in ways which reflect the specific tastes of member states, thus potentially reducing the advertising revenues accruing to broadcasters.
21. Likewise, subscription services such as Sky license online rights to sports and other programming on a territorial basis and then make them available as part of subscription packages which are sold on a territorial basis. Abolition of geo-blocking would also undermine that revenue model.
22. The Review noted economic studies produced at the request of the Commission – for example, *Economic Analysis of the Territoriality of the Making Available Right in the EU*, a 2014 study by Charles Rivers Associates which pointed to the danger of “superficial reasoning” in this area and to the high risks attached to any outright abolition of geo-blocking. The Review also noted that the report identified possible detrimental welfare effects inside the EU.
23. It remains unclear at present what else the Commission may propose in respect of copyright reform but currently there is a clear danger that substantive reforms in this area, unsupported by a strong evidence base, could diminish cultural diversity rather than improving it, whilst also destabilising the UK content industries.
24. The use of virtual private networks is arguably making geo-blocking less effective and this issue may well present a significant new challenge to policymakers over time.
25. Yet, in a paper published in January 2015 setting out its vision for the Digital Single Market, the Government appeared to support the Commission’s initial thinking on copyright issues in a way that could completely undermine territorial licensing and the current business models for parts of the creative industries, notably the screen industries and music. This represents an example of the way that the Government has failed to defend the interests of the UK’s creative industries in Europe.
26. More positively, the Commission is also currently looking at ways in which the EU might help strengthen the enforcement of intellectual property rights, a development to be welcomed.
27. In the UK, the clauses of the Digital Economy Act (DEA) which relate to online copyright infringement have not yet come into force having been subject to a series of external

complications. Those provisions were the subject of an appeal for a judicial review, originally sought by BT and TalkTalk in July 2010. The Government won the judicial review in the Court of Appeal in March 2012.

A 2013 Ofcom survey indicated that one in six UK internet users above the age of 12 –17% or 7.4 million people – accessed at least one item of content illegally. A quarter of these (4%) exclusively consumed illegal content

28. In the meantime, in June 2012 the Government had announced its intention to repeal sections 17 and 18 of the DEA which contained reserve powers to allow courts to order that access to websites dedicated to copyright infringement be blocked, after Ofcom concluded the specific measures in the Act would not work in practice.
29. Sections 3-16 of the DEA have yet to be implemented because of difficulties concerning government accounting principles in relation to the draft statutory instrument on cost-sharing.
30. Alongside these developments, representatives from the UK's creative industries and major ISPs have come together to launch Creative Content UK, a new partnership to boost consumer awareness of the wide array of legitimate online content services with the aim of reducing online copyright infringement.
31. The education component of Creative Content UK launches in 2015 supported by £3.5 million of public funding. It will be accompanied by a scheme under which participating ISPs will advise subscribers when their accounts are believed to have been used to infringe copyright. Account holders will then receive an alert from their ISP, advising them unlawful file-sharing may have taken place on their connection and offering advice on where to find legitimate sources of entertainment content.
32. The Review heard widespread support for the Creative Content UK initiative, as it brings together right holders and ISPs to tackle the serious problem of copyright infringement and it is important, therefore, that the Government continues to support this initiative. Even so, the Review believes that it is necessary for the provisions of the DEA which relate to copyright infringement to be maintained in law for the foreseeable future to serve as backstop powers to be implemented if necessary, possibly in an updated form. This approach would provide an incentive to all sides for Creative Content UK to succeed.
33. Section 73 of the Copyright, Designs and Patents Act (CDPA) has been used as a defence against copyright infringement in a case which is currently the subject of legal proceedings in the UK courts. This clause in the CDPA was originally designed to allow the UK's fledgling cable services to retransmit public service broadcasting services, without infringing copyright in order to help those cable companies build an initial customer base.

34. The Review heard that it was never the intention of Parliament to provide a loophole which protects copyright infringement. Whatever the outcome of the current legal proceedings, it was argued that Section 73 should be repealed as its original rationale has long since evaporated in the light of a mature and consolidated cable industry.
35. Among the other initiatives which eventually emerged from the Gowers Review to help the battle against intellectual property infringement and theft was the creation of the Police Intellectual Property Crime Unit (PIPCU) which is being funded by BIS and run by the City of London Police, with a special focus on offences committed online. The Review heard strong support for the work of the PIPCU, in particular for the creation of its Infringing Website List which involves acting on intelligence from the creative industries to disrupt advertising revenues and uses other means to curb infringement. In essence, this is a version of the 'Follow the Money' approach which is becoming increasingly popular around the world in addressing criminally-based, large scale theft or infringement of IP.
36. The current BIS funding to support the work of the PIPCU has recently been renewed with a further £3 million available over the two years to 2017. However, there is no commitment to fund PIPCU beyond that point.
37. The Review heard strong arguments that insufficient progress has been made by search engines in removing links to infringing sites from search results. Discussions brokered by government have not yet resulted in any agreement and despite some changes to the way in which search engines such as Google deal with ranking search results, it is still too easy to find and access pirate sites. Even so, the Review also heard that the aspiration should still be to achieve a voluntary agreement between the ISPs and the advertisers.
38. In May 2014, Mike Weatherly MP, published a discussion paper entitled *Search Engines and Piracy*, which contained valuable ideas about how rights holders and search engines could work together to tackle infringement and theft, and is widely viewed by stakeholders as a useful agenda for change.

Ofcom research indicates that 44% of all internet users aged 12 years-plus claimed to be either 'not particularly confident' or 'not at all' confident in terms of what is legal and what isn't online. Confidence was lower amongst females (51%) and C2DEs (48%). Although the proportion increased with age, 12-15 year-olds (42%) claimed lower confidence than within all other age groups up to the age of 44

39. Safeguarding archival access to copyright material is crucial. However, materials first need to be preserved in order to be made readily available. A legal deposit system for print publications has existed in English law since 1662, but there is no comparable system for audiovisual materials or radio programmes.
40. As a result some important films, television and radio programmes have become permanently lost to audiences and academia because they have been destroyed. A preservation scheme which enables such materials to be retained as part of our cultural heritage is needed to address this problem. But the Review heard that given the sheer volume of output of films, and television and radio material, a plan is needed to ensure the British Film Institute (BFI) for film and television, and the British Library (BL) for radio, are able to consider the deposit of every relevant production without adding any additional costs to rights holders or any significant costs to the BFI and BL.
41. It was also argued that putting such a scheme on the statute book would, over time, also help ensure the existence of a networked 'Library of Record' for UK film, television and radio material and this is an ambition to be nurtured.

Review recommendations

42. In the wake of two major government reviews – Gowers and Hargreaves – the UK copyright system is now broadly fit for purpose. This Review welcomes the additional copyright exceptions which became law in 2014 which bring benefits to cultural and educational institutions, as well as the Orphan Works Licensing Scheme and the Extended Collective Licensing Scheme. Accordingly, there should be no further substantive reviews of copyright in the foreseeable future. However, ways should be found to simplify the current and still unwieldy 'orphan works' scheme as part of the orphan works review already scheduled for autumn 2015.
43. The Government should ensure that EU regulation as a whole develops in a way that supports and does not undermine the development of the commercial business models being developed by the UK's strong creative industries.
44. The Government should forcefully resist attempts by the European Commission to make any significant changes to the copyright framework as set out in the Information Society Directive.
45. In particular, it is essential that the Government supports the needs of right holders to be able to geo-block copyright material online, on a territory by territory basis within the EU, as their businesses see fit.
46. Discussions between right holders and Internet Service Providers (ISPs) have now resulted in participation in the Creative Content UK initiative, and the Government should confirm its support for this programme. The Review supports a voluntary approach in this area, but also recommends retaining the specific anti-piracy clauses (3-16) of the Digital Economy Act as a back-stop solution in case this current voluntary approach fails.
47. Government support for the Copyright Hub via the Connected Economy Digital Catapult has been vital in helping the Hub to launch and it is important that the next Government ensures that the Hub is sustained.

48. Insufficient progress has been made by search engines in removing links to infringing sites from search results. The aim should still be to achieve a voluntary agreement between the ISPs and rights holders. As a first step, Ofcom should be asked to publish an evidence-based report on the current issues regarding search engines and copyright infringement and theft. Alongside this, government should lead discussions to progress the recommendations in Mike Weatherly's report on search engines so that illegal sites are made much less prominent in returned results. The Government should commit up-front that if no voluntary agreement is reached within 12 months, then legislation will be introduced to protect the interests of the UK creative industries.
49. Section 73 of the Copyright, Designs and Patents Act is still being invoked by certain online sites as a technical defence against copyright infringement in ways that are entirely contrary to Parliament's intentions when the Act was passed. Section 73 should therefore be repealed.
50. Government funding for the PIPCU should be extended for the period of the next Spending Review and then reviewed.
51. A statutory form of legal deposit should be introduced for all British films which receive a British Board of Film Classification (BBFC) rating and for television programmes accessing UK tax incentives and/or being transmitted (or otherwise distributed on non-linear services) by the BBC and other licensed UK broadcasters. This objective should be achieved by amending the Legal Deposit Libraries Act to UK film, television and radio designating the BFI National Archive as a Legal Deposit Library for the moving image and the British Library as a Legal Deposit Library for radio. The provisions for film, television and radio should differ from the existing provisions for books by giving the BFI and the BL the right to request qualifying material as they see fit, instead of obliging right holders to deposit a copy of every work.

CHAPTER 6: PERSONAL DATA AND PRIVACY

1. Detailed policy should be developed by the Government, industry and the Information Commissioner's Office (ICO) that more clearly defines the controls and consents to which citizens should be entitled for different categories of personal data.
2. The Government and industry should develop a more robust framework for the use of personal data. Industry should then implement a voluntary Code of Conduct to give users more meaningful control over personal data.
3. The ICO should be reformed with a view to substantially strengthening its powers of enforcement.
4. The range of circumstances in which representative legal actions may be brought in England and Wales should be revised to make the process of collective legal redress easier.
5. The UK Government should engage much more actively at EU level to influence the development of the draft European General Data Protection Regulation and other relevant EU regulations.

Introduction

1. Personal data plays a central role in the UK's digital economy. The voluntary provision of personal information is now a prerequisite for citizens to engage usefully with most forms of online retail, social media and other services, whilst data about personal preferences enables businesses to better tailor services to their customers' needs. It is unarguable that these services, and the associated functionality that relies heavily on access to personal data, also provide clear benefits to consumers.
2. At the same time it is this access to 'user data' which underpins the business models of many online companies and service providers. The provision of personal data is, in effect, the price consumers pay for access to many digital services, particularly those which are offered to consumers free of any direct charges. These services' revenue models are typically advertising-based and advertiser-focused. By collecting user information, operators of digital services can offer specific demographic groups to advertisers, enabling them to target their campaigns more precisely. This model potentially benefits everyone: advertisers can spend their campaign budgets more efficiently, service providers generate higher revenues, and citizens/consumers receive more relevant and useful forms of advertising. This process in turn facilitates the development of new kinds of digital services, and this helps stimulates further investment and innovation in the digital advertising space.
3. A key question, therefore, is whether the nature of the contract between customer and supplier in this space is genuinely visible, recognised, understood and willingly entered into. In practice, the Review found a range of concerns about how many organisations capture, use and share personal data. These include instances that involve companies collecting personal data involuntarily or without users' knowledge. The Review also heard evidence about personal data being used for reasons other than those stated at the time consent was given. In addition, concerns were expressed about the sharing of personal information with third parties against users' wishes. It was also a commonly-held view that while companies usually promise to give

customers transparency and control over their data, the tools they provide to do so can be so complicated, or buried so deep within screen sub-menus, that they are often ineffective in practical terms.

4. Clearly these are issues that span the whole of the digital economy. Given the scope of this Review, the focus here is limited to digital services offered by creative companies. Accordingly, the Review focused on the following question: how to ensure that UK citizens' privacy and their individual data sets and online identities are effectively protected from unwanted and unreasonable exploitation, or intrusion by businesses in the creative economy? This objective was examined in the context of the wholly legitimate needs of UK businesses to use personal data to create better customer services and develop ever more viable commercial applications. It is a 'given', therefore, that the UK must not create a framework that prevents our digital businesses from innovating or competing in global markets. Rather, the ambition should be to build high levels of trust between citizens and UK businesses running or developing online services. These issues are particularly relevant to the UK's online advertising industry, which is an important part of the creative economy in its own right, as well as a key source of revenue for creative digital companies in other sectors of the creative industries.

Regulatory context

5. In fact, a surprisingly wide set of protections for personal data already exist in legislation. The 1998 Data Protection Act embodies a number of principles, including the following:
 - Consent is required to use personal data.
 - Personal data should be collected and used only for specified purposes.
 - Only the minimum amount of personal data should be collected that is needed for the purposes specified.
 - Stored personal data should be accurate and kept up-to-date.
 - Personal data should not be kept for longer than needed to fulfil the specified purposes.
 - Adequate measures should be taken to prevent unauthorised use of personal data or accidental loss, destruction or damage to it.
 - Users have a right to see what personal data is being held and how it is being used.
6. The Information Commissioner's Office (ICO) is an independent public authority set up, under the Ministry of Justice, to uphold information rights in the public interest, with the aim of promoting openness by public bodies and data privacy for individuals. It is the UK body responsible for enforcing and overseeing the use of personal data under the Data Protection Act. It also enforces the Privacy and Electronic Communications Regulations 2003, which deals with electronic marketing messages, cookies, and electronic communications services provided to the public, as well as the Freedom of Information Act 2000, the Environmental Information Regulations 2004, and the INSPIRE Regulations 2009 which cover spatial data sets (such as map data).
7. It is also important to appreciate that much of the legal competence in the area of personal data and privacy lies with the EU rather than at the national level. In 2012, the European Commission began to reform the EU legal framework on the protection of personal data, with the aim of strengthening individual rights. The draft European General Data Protection Regulation is intended to supersede the 1995 Data Protection Directive (which was transposed into UK law as the 1998 Data Protection Act). This new regulation seeks to introduce additional principles, or enhance existing ones, for example, relating to rights to access, rectify and erase

personal data. However, after more than two years of debate, there currently remains a lack of agreement on key points between the European Commission, the European Parliament and the EU Council, all of which are involved in the process. It is not currently clear when, or how, this process will be concluded.

Evidence gathered

8. The debate on personal data and privacy is loud and tends to be acrimonious and highly polarised. The Review was careful to seek a broad range of views spanning what (for shorthand purposes only) we are calling here the ‘pro-citizen’ and ‘pro-industry’ tendencies, including the online advertising industry.
9. The obvious starting point for the pro-industry representatives was that there is nothing intrinsically wrong with using personal data, including targeted advertising based on data, nor are the incentives between citizens and companies inherently misaligned. It was stressed that businesses have a powerful interest in getting the right products to the right people at the right time, and the use of personal data helps achieve this aim.
10. Industry representatives argued that their approach to personal data was, and shall always be, underpinned by openness and transparency, and that users should be given control over how their data is used – and that this outcome would be best delivered through self-regulatory schemes. To that end, the online advertising sector has introduced services such as YourOnlineChoices.com and Your AdChoices, which provide users with control of their internet-based advertising experience.
11. While many thought that existing industry ‘custom and practice’ was sufficient, some argued for greater transparency, and stronger regulation of how data is used by commercial entities. Some also argued that more resources should be committed to pan-industry promotional campaigns to raise awareness of the tools already available to give users control over the use of their personal data.
12. The single greatest concern expressed by industry representatives related to the draft European legislation. At a general level, there was a strong view expressed that the proposed legislation will not be fit-for-purpose and risks being out of date by the time it comes into force. A particular concern is that the effective definition of ‘personal data’ is too broad, and the requirement to obtain explicit consent for processing personal data is not the most consumer-friendly approach. These measures would impose disproportionately high costs of compliance on the industry, which in turn would be detrimental to growth and innovation in the digital sector. For its part, the ICO appeared to share some of the UK industry’s concerns, particularly over the prescriptive nature of the proposals, which it has argued may be too restrictive to encourage business growth.
13. Conversely, the pro-citizen groups were highly critical of the current data protection regime in the UK. They raised a range of concerns about the gathering and use of personal data by both private companies and public bodies, and argued the need for more effective enforcement of existing rules to protect citizens. Their view was that most of the needed citizen protections already exist in legislation but they are not properly enforced, and this is primarily a failing by government and regulators. It was argued that the ICO is not fit-for-purpose in this area, that it is under-resourced and insufficiently proactive, and that the fines the ICO is able to levy are set

too low to act as a meaningful deterrent to those willing to act irresponsibly. These stakeholders suggested that the ICO should be better-resourced and given a more robust mandate. It was also argued that a broader range of data offences than is currently the case should be made criminal, rather than civil, which would act as a greater deterrent to abuses of personal data regulation – a view also supported by a number of people in the pro-industry camp.

14. As well as arguing for greater enforcement of existing laws, some of the pro-citizen respondents also believed that the data protection laws in the UK need to be strengthened, as the proposed European legislation is currently seeking to do. They argued that the fundamental legal starting point should be that ‘your data belongs to you’, and that explicit consent should be required for all use of personal data. Their view was that the current proposed EU legislation represents a sensible middle-ground that puts consumers first.
15. Whilst the views of the pro-citizen and pro-industry camps differed on a range of issues, one view was broadly shared by both groups: namely that there would be significant benefits both to citizens and to the UK economy if a ‘best practice’ regulatory regime for personal data and privacy could be developed and implemented in the UK. It was argued this would then attract more business from overseas, including emerging markets, because citizens and customers would really value the opportunity to engage with a trusted regime and environment that demonstrably protected them from inappropriate use of their personal data.
16. After assessing the evidence, the Review had sympathy with points made on both sides of this argument. There are clearly some substantive problems with the current approach to data protection in the UK. First, there is currently insufficient awareness by citizens and companies alike as to what legal protections currently exist in legislation. Second, there is inadequate enforcement of the current rules which, along with the small size of the fines that can be levied, means that there are few meaningful sanctions for non-compliance by businesses. Third, it is still possible for companies to be entirely compliant with the existing law without providing effective user-friendly solutions that deliver the kinds of control and flexibility that consumers seem to want. Common and dubious practices include hiding ‘consents’ within terms and conditions that were described to the Review as being ‘longer than Shakespeare’s Hamlet and much less frequently read’. Another common complaint is the bundling of consents that effectively forces users to give consent to a very wide range of uses of their data, in order to quickly access simple information. The current approach to industry self-regulation that has been developed by the online advertising sector arguably does not offer a fit-for-purpose model that provides user control tools that enjoy high levels of consumer awareness and are also simple to use.
17. However, the Review is not convinced that the draft European General Data Protection Regulation will strengthen citizens’ rights in the most effective manner. There is significant potential for unintended consequences where citizens could end up worse off. To give one example, the current proposal that consent for use of personal data should always be explicit and time-limited appears at first sight to be very attractive. But implementing such a rule could lead to internet users facing dozens, if not hundreds, of requests for consent every day, including the most basic website functionality (e.g. ensuring that, if you vote in an online poll, you cannot vote a second time). At best, this is likely to be disruptive and vexing for users. Worse, it may further embed the common reflex whereby users habitually tick consent boxes without reading anything simply to minimise the disruption (as many already do in response to cookie consent requests).

18. The Review also heard that, given the number of domestic and internationally-based technology companies operating here, the UK is well-placed to offer a leadership role in this area. Although UK industry and government both need to be more active in influencing debate at the European level, the UK could seek to provide an alternative locus for policy development that strikes the right balance between enabling innovation, and protecting and enshrining citizens' rights regarding the use of their personal data. It was indicated to the Review that many large global tech companies would welcome such an initiative and would be keen to participate. The ambition should be to develop an industry-led, self-regulatory, best-in-class model to give citizens and customers control of their personal data through rules and tools that they can easily understand and use. Given the complexities of the issues and the number of stakeholders involved across the value chain, there is an important role here for government to bring industry together to achieve this outcome.
19. Underpinning the new model should be a practical understanding of consumer expectations around different categories of data. For example, some consumers feel they should not need to give explicit consent for the use of personal data purely to deliver basic functionality in services that they have chosen to access, but do believe explicit consent is needed for their data to be shared with third parties. An initiative along these lines has been developed by major UK-based technology companies such as ARM, working with the Information Economy Council (a forum that brings together leaders from government, business and academia). This grouping has usefully identified five differentiated categories of data:
- Personally identifiable data required to deliver the specific service requested (e.g. sharing a name and address to a supplier and, hence, courier for online book purchase).
 - Personally identified data used or shared with a third party for the purposes of providing information about other products and services the consumer might be interested in, linked to the original contact or reflecting inferences about a consumer's interests (e.g. use of name, address and purchase to infer what other products a user might be interested in).
 - Personally identifiable data used or shared with a third party outside of a specific transaction to build a wider profile of the consumer, or to make predictions about the consumer (e.g. deductions about a consumer's health from an analysis of the products they purchase).
 - Personally identifiable data used or shared with a third party outside of a specific transaction for any other purpose (e.g. information derived from a consumer's lifestyle purchases being shared with employers or insurers).
 - Anonymised and aggregated data shared with third parties or even publicly (e.g. statistics published from the Census).
20. A self-regulatory model could, for example, provide industry-wide tools that enable consumers to set their preferences for defined categories of data and for these preferences to be used as default settings when they first use any new service. Another model might involve a kite-marking scheme whereby digital services provide clear upfront information on the ways they will, and will not, use and share personal data.

Recommendations

21. Government should pledge to UK citizens a new social contract around personal data use and privacy, with a 'Digital Bill of Rights'. This should reaffirm, in simple and clear language, the legal rights and protections that citizens already have in the digital age and pledge to uphold those rights on their behalf.

22. Detailed public policy should be developed by government, working with the industry and with the ICO, that sets out the forms of control and consent to which users should be entitled for different categories of personal data (e.g. agreements to share personal data to deliver specific services, or agreements to share personal data with third parties for targeted advertising, for market research, or for other purposes).
23. The UK is extremely well-placed to offer leadership in the development of a framework for use of personal data that meets the needs of citizens and businesses alike. Industry should be encouraged to develop and implement a self-regulatory Code of Conduct that builds directly upon the principles set out in the Digital Bill of Rights, to give users control over their personal data based on a common recognition of how different categories of personal data ought to be treated.

The Government should take the lead in bringing the key players together to develop a Code of Conduct (ideally working through a revamped ICO) that is both voluntary and effective.

24. The ICO should be reformed with a view to substantially strengthening its powers to enforce the Data Protection Act (and any other future legislation relevant to personal data and privacy), whilst avoiding interference with law enforcement and intelligence matters which are governed by separate legislation.

The ICO should be given back-stop powers so that, if industry fails to develop effective tools that provide users with effective control over the digital services they use, it can impose formal rules on services offered to UK consumers.

The ICO should also be given investigatory powers and the ability to impose substantially larger fines for non-compliance.

Consideration should be given to broadening the range of breaches of the Data Protection Act that are treated as criminal offences. Particular exceptions should be made for the sharing of data between public agencies in cases where there are legitimate public interest considerations.

25. The range of circumstances in which representative actions may be brought in England and Wales under the Civil Procedure Rules (which, under section 19.6 of the CPR, allow for representative actions only under limited circumstances), should be revised with the specific aim of facilitating collective redress more widely. It should also be made possible for civil society organisations to take companies to court on data and privacy issues on behalf of consumers who do not have the means to do so on an individual basis.
26. The UK Government should engage much more actively at EU level to influence the development of the draft European General Data Protection Regulation and other relevant EU regulations.

CHAPTER 7: MACHINERY OF GOVERNMENT

1. The Department for Culture, Media & Sport (DCMS) should remain the lead department for culture and the creative industries but its leadership role should be strengthened.
2. A key function of the DCMS Secretary of State would be to ensure effective working with Scotland, Wales, Northern Ireland and the English regions, as well as across Whitehall departments including HM Treasury, Business, Innovation & Skills, Education and the Foreign & Commonwealth Office (FCO).
3. The DCMS should lead on UK-wide policy, sector representation at EU and international level, and in overseeing funded and arms-length public bodies.
4. The industry-led Creative Industries Council (CIC) should receive modest core funding from existing DCMS and BIS budgets in order to provide a united voice to government on key issues.
5. BIS should reform UK Trade and Investment (UKTI) with a view to radically improving strategy and funding decisions around export promotion for the creative industries.

Introduction

1. This chapter considers how the Government should best organise itself to support the UK's creative industries. The question is an important one because responsibilities for most of the key policy areas where the creative industries require leadership and attention, currently sit across a number of different departments:
 - The DCMS for culture, broadcasting and some digital issues;
 - HM Treasury for public funding and fiscal incentives;
 - BIS for business support and skills and intellectual property;
 - DfE for education;
 - Justice for data protection issues;
 - FCO for trade negotiations and major outward facing initiatives.
2. Separately, there is a connected question about the other mechanisms available to ministers in addition to command and control from Whitehall. These include devolved regional structures and a network of existing 'arms-length' bodies traditionally known as quangos or Non-Departmental Public Bodies (NDPBs).
3. In addition, some policy areas are shared between more than one department. For example, engagement with the EU is split largely between the DCMS and BIS. Also, in the most significant areas, control is held firmly by the two biggest Whitehall departments, the Prime Minister's Office which leads on major trade missions, and the Treasury which trumps all other departments in financial matters.
4. The net effect of this fragmentation is that 'joined-up' policy for the creative industries has often been difficult to achieve. In addition, there are some other relevant and complicating factors to take into account.

Other relevant issues

5. The devolved status of the majority of creative industries policy for Scotland, Wales and Northern Ireland already limits effective policy-making for the creative industries on a UK-wide basis.
6. A new and welcome drive towards devolved decision-making of strategy and funding in the English regions means that the role of Whitehall departments now needs to be radically re-defined.
7. The increasing globalisation of the creative industries means that the effective representation of the UK's interests at European and international level is becoming ever more important as a policy priority.
8. There is no tradition of specialist industry knowledge inside government; rather there is a famously generalist culture whereby ministers and civil servants frequently move jobs. Accordingly, Whitehall has no real knowledge base or institutional memory relating to creative industries policy and this can lead to wasted resource and the repetition of previous policy mistakes. This situation is further exacerbated by the fact that the remit for assisting the creative industries is spread over so many departments.
9. 'Turf wars' remain a feature of Whitehall daily life and cross-departmental cooperation can sometimes be difficult to achieve on the ground even when ministers want to make it work.
10. For the past decade the British civil service has been shrinking and there is now a lack of resource at the centre of government. This is particularly true of the DCMS, which was decimated, in the Government's last spending round. The current state of the public finances means this situation is unlikely to be reversed within the next five years.
11. Even allowing for the development of a corporate responsibility culture, the wider societal or macro-economic concerns that need be taken into account by ministers on a daily basis, remain largely irrelevant to commercial businesses and their trade bodies whose primary aim is to build shareholder value. So, paradoxically there is a powerful need for government to make policy that fits the needs of the commercial sector that drives economic growth, whilst the fact remains that the voice of the lobbyist rarely represents a balanced or complete picture for any under-resourced but accountable minister to completely rely upon.
12. Over the past 20 years, for better or for worse, specialist public, or publicly supported agencies have increasingly filled some of this knowledge and policy gap – often making complex funding decisions, as well as providing specialised sectoral advice to government. At their best, these organisations effectively represent the needs of particular industry sectors, usually through the composition of their boards and the credentials of the management, whilst simultaneously taking account of the 'bigger picture' needs of government. Current bodies in this category include the Creative Industries Council, ACE, the BFI, Creative Skillset, Film London/British Film Commission, Regional Screen Agencies, Creative England and Nesta.
13. The default policy forum inside government for the creative industries is inside the DCMS, which has few other distractions. In fact, this role was built out over time by the DCMS as an extension of its core purpose as Whitehall's standard bearer for culture and, as such, the DCMS remains the most junior ministry in Whitehall with the least political clout. Whilst

advocacy for culture inside government rests exclusively within the DCMS silo, the critical mass of business support for the creative industries sits within BIS. However, it is also true that over the past few years, the DCMS has worked effectively to deliver its own broader objectives for the creative industries by making common cause with the bigger and much better resourced BIS, which has both the funding and the formal policy remit to provide game-changing support for creative businesses.

14. A connected point here relates to the quality of leadership on offer by ministers. Due to its relatively low status within the Whitehall pecking order, the role of the DCMS Secretary of State has, since 2000, been viewed largely as a temporary perch for ambitious politicians who are either on the way up, or on the way out. It was noticeable, throughout this Review process that most creative industry stakeholders had little, or no, sense of engagement with the three Secretaries of State who have passed through the doors of the DCMS in the lifetime of the current Government. However, there was also a widespread feeling that the enthusiasm and continuity of service from the Culture Minister Ed Vaizey had been an effective voice for the creative industries inside government.

Recommendations

15. The current division of roles and responsibilities for the creative industries between a number of different government departments is the least worst option because, although centralising all creative industries policy inside one small (by Whitehall standards) department would be tidy, it would also likely reduce the level of effective advocacy for the sector inside government. Equally, the abolition of the DCMS and the transfer of its responsibilities to another department or departments – BIS or DfE were both mooted by creative industry stakeholders as options – would likely mean that support for both pure ‘culture’ and for creative industries policy would become lesser priorities inside large government departments with significant responsibilities in other areas.
16. Therefore, the DCMS should be retained but its leadership role for the creative industries should be strengthened.
17. One of the key functions of the DCMS Secretary of State should be to promote effective joint working with Scotland, Wales, Northern Ireland and the English regions as well as with all relevant Whitehall departments including HMT, BIS, DfE and the FCO.
18. With regard to the creative industries, the DCMS should take the lead on:
 - ‘Big picture’ UK-wide policy development.
 - Representation at EU policy level.
 - Representation at international level.
 - Overseeing relevant legislation and regulation.
 - Governance and budget allocations for arms-length bodies.
 - Performance oversight of arms-length bodies (strategic, regulatory, institutional and funding).
19. Decision-making on regional strategy and investment funding for the creative industries in England should be devolved from BIS to local regions, local authorities and cities, in line with the recommendations of the recent Adonis reports.

20. English regional strategies and publicly-funded investment for business development should be driven on a 'bottom up' basis where the needs of local private sector clusters/sectors/businesses drive the policies of the local public sector organisations through genuinely responsive local networks, e.g. Local Enterprise Partnerships.
21. The Creative industries Council (CIC) has proved to be a valuable organisation, bringing together all the key commercial stakeholder groups in the UK's creative industries to present a united view to government on key issues. The CIC should receive core funding from existing DCMS and BIS budgets to sustain a small secretariat, and should develop a work plan with the DCMS and BIS to provide a united sectoral voice to government on key issues of common concern. However, it should not be the role of the CIC to seek to displace sector specific trade bodies' individual relationships with government departments.
22. Nesta's role in data and research should be enhanced and formalised. The Review found that the quality and calibre of Nesta's contribution to creative industries thinking and policy-making was unmatched, even though it currently sits outside of any formal advisory structures to government. Given the current lack of adequate data on the creative industries to assist policy makers, Nesta should be given a central role as an expert policy, research, statistics and strategic advisory resource for the DCMS, BIS, the Creative Industries Council, Ofcom, the CMA, and other agencies as needed.
24. BIS should ensure the merger of the two sector skills councils, Creative Skillset and Creative & Cultural Skills, to enable more coherent skills-related policy-making and to reduce costs.
25. BIS should reform UKTI with a view to radically improving the provision of strategic support and subsidy for export promotion. Sector specific strategy and key funding decisions relating to the creative industries should require the support and involvement of the specialist organisations (trade associations, specialist public sector agencies, and appropriate regional and national bodies), that have the clearest picture of the priorities and needs of their stakeholders.
26. The Department for Justice should lead a review process of the Information Commissioner's Office (ICO) with a view to strengthening its powers to enforce the Data Protection Act. This process should include giving the ICO backstop powers to impose new data privacy rules on UK services, if industry fails to develop and offer effective user-control tools, as well as investigatory powers and the ability to impose substantially larger fines for non-compliance. The review should also consider broadening the range of breaches of the Data Protection Act that are treated as criminal offences (recognising the need for exceptions for the sharing of data between public agencies where there are legitimate public interest considerations).

APPENDICES

Appendix 1: Creative Industries Review Advisory Board

1. **Andrew Eaton:** co-founded Revolution Films, one of the UK's most successful and prolific film and TV production companies. He has received eight BAFTA nominations and won two awards. Most recently Andrew produced *Rush*, one of the largest independently financed films ever made in Europe.
2. **Harvey Elliott:** CEO of Marmalade technologies Ltd, a company which enables developers to release games across all mobile, tablet, Smart TV and connected platforms. Harvey's career spans 20 years in video games and includes creating world renowned games franchises including Harry Potter titles, various Hasbro properties and titles such as *Crazy Taxi*, *Burnout*, *SimCity* and many more. Harvey is on BAFTA's Board of Trustees and chairs the BAFTA Games Committee and Children's Committee.
3. **Mary FitzPatrick:** Diversity Leader at GE Capital EMEA. She was formerly Head of Diversity at the UK Film Council and before that at the BBC. Prior to joining the BBC she was editorial manager of diversity at Channel 4. She began her career as a director and producer at the BBC where she worked on award-winning series such as *Horizon* and *Inside Story*.
4. **Alex Graham:** independent producer and the founder and former CEO of Wall to Wall Media, one of the UK's most successful TV production companies. He is Chair of the Sheffield International Documentary Festival, a trustee of New Deal of the Mind and the Scott Trust, a board member of Hampstead Theatre, visiting professor of television at Lincoln University and a member of the advisory board for the National Film and Television School's Entrepreneurial Producing Course.
5. **Jeremy Hertzog:** Head of Mishcon de Reya's Intellectual Property Department. Jeremy specialises in all aspects of IP protection and enforcement. Jeremy has significant experience in advising on contractual disputes, often with a multi-jurisdictional element. Jeremy is a member of the International Trademark Association (INTA) and sits on INTA's Internet Committee. He is also a member of the Anti-Counterfeiting Group (ACG).
6. **Nick Hytner:** currently Director of the National Theatre.
7. **Stephen Page:** Chief Executive and Publisher of Faber and Faber Ltd. Before that he was Managing Director of Fourth Estate. He was appointed president of the Publishers Association and is an active member of the Publishers Association Council, the Trade Publishers Council and the Publishers Association/Booksellers Association Liaison Group.
8. **Emma Pike:** senior and music industry executive.
9. **Lucy Prebble:** a writer for theatre, film, television and video games and a technology columnist for The Observer. Her hit play, *ENRON*, transferred to the West End and Broadway in 2010 after sell-out runs at both the Royal Court and Chichester Festival Theatre. It went on to win the award for Best New Play at the TMA Theatre Awards. Lucy created the TV series *Secret Diary of a Call Girl*, starring Billie Piper, which was shown on ITV2 and Showtime in the US. Her latest play, *The Effect*, set during a drug trial for anti-depressants, was performed at the

National Theatre and won best new play at the Critics' Circle Awards. She is currently working on a new play, a musical and a video game.

10. **MT (Mary Teresa) Rainey:** Executive Chairman of the fast growing digital agency Th_nk, which recently topped Marketing Week's Reputation Survey and has launched Pottermore for JK Rowling. She was founder and CEO of top UK advertising agency Rainey Kelly Campbell Roalfe/Y&R. MT sits on the board of Channel 4 television as a non-executive director, is Vice Chair of Creative Skillset, the Sector Skills Council for the creative industries and sits on the Business Advisory Board of NCVO.
11. **Feargal Sharkey:** a singer and was the lead vocalist of pop punk band The Undertones. Feargal moved into the business side of the music industry, initially as A&R for Polydor Records, and then as managing director of EXP Ltd. He was a member of the Radio Authority and chairman of the UK Government taskforce the 'Live Music Forum' and then CEO of British Music Rights. From October 2008-2011, he was Head of UK Music, an umbrella organisation representing the collective interests of the UK's commercial music industry.
12. **Nicola Shindler:** is the founder of Red Productions, one of Britain's foremost independent TV production companies. Based in Manchester, the output of Red productions has included the multi-award-winning *Queer as Folk*, *Clocking Off*, *Scott and Bailey* and *Last Tango in Halifax*. Nicola has received numerous awards from BAFTA and the Royal Television Society.

About the Review Team

Senior strategy advisor - Neil Watson

Neil is a specialist in public policy for film and the screen industries and has worked for a wide range of public and private sector clients in this sphere over the last 25 years.

Senior strategy advisor - Jonathan Simon

Jonathan is a consultant specialising in broadcasting and media strategy and regulation, having previously worked at Channel 4, Ofcom and the British Screen Advisory Council.

Senior researcher - Viktor Pawlikowski

Viktor Pawlikowski is a graduate of University College London and is currently training in the legal profession.

Preliminary Researcher - Alice Figes

Alice is an Oxford history graduate now working for Festival Scope, an independent film festival organisation

Publication and communications support for the Review was kindly provided by Mike Elrick

Appendix 2: Contributing individuals

David Abraham	Kate Buxton	Thomas Gault
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Laura Baines	Lavinia Carey	Hayes
Hasan Bakhshi	Emma Carr	James Heath
Dayo Balogun	Laura Carstensen	Graham Hitchen
Ian Barber	Sam Chapman	Charlotte Holloway
Ed Barratt	Caroline Cooper-Charles	Toby Hyam
Dan Bates	Hugo Cortez	Lesley Jackson
Sir Peter Bazalgette	Anne Curtis	Peter Jones
Max Beckman	Alan Davey	Ian Jones
Graham Benson	Jo Dipple	John Kampfner
Theo Bertram	Maureen Duffy	Liz Kantar
Anita Bhala	Noel Dunne	Sean Kelly
Joanna Birch	Nicola Dykes	Lee Kemp
Julian Bird	Deborah Egan	Tom Kiehl
Fiona Birkbeck	Clare Enders	Jim Killock
Bethan Bishop	Mary Fagan	Adam Kinsley
Johanna Bolhoven	David Fares	John Kirkpatrick
Frank Boyd	Jim Farmery	Catherine Large
Daniel Bradley	Matthew Fell	Paul Latham
Stephen Bristow	Anna Fielder	Callum Lee
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John McVay	Drew Roper	Alex Osborne
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Seamus Mulvihill	Martin Spence	Gareth Williams
Amanda Nevill	Lee Strafford	James Wilson
Caroline Norbury	Joe Stevens	Susie Winter
David Parfitt	Will Straw	Adrian Wootton
Stephen Pattison	Nick Stringer	Andrew Yeates
Giles Poyner	Andy Sumner	
Lara Ratnaraja	Jo Thornton	

Appendix 3: Contributing organisations

104 Films
21st Century Fox
A+E Networks
Advertising Association
Alliance for Intellectual Property
ARM
Arts Council England
Audience Science
Authors Licensing and Collecting Society (ALCS)
BBC
Big Brother Watch
Birmingham Hippodrome
Birmingham University
BSkyB
British Academy of Songwriters Composers and Authors (BASCA)
British Council
British Equity Collecting Society
British Film Institute (BFI)
British Phonographic Industry (BPI)
British Video Association
Broadcasting, Entertainment, Cinematograph and Theatre Union (BECTU)
Carbon Digital
Channel 4
Chinese Channel
Coacher

Competition and Markets Authority
Confederation for British Industry
Creative Alliance
Creative City Partnership
Creative Cultural Skills
Creative England
Creative industries Federation
Creative Skillset
Creative Space Management
Discovery Networks
Directional Thinking
Droplet Media
Enders Analysis
Equity
European Creative Business Network
Facebook
Federation Against Copyright Theft
Film Hub Wales
Flowify
Fox International Channels
Generator
Goldfish Systems
Google
Holman Group
Hook Films
Institute for Public Policy Research (IPPR)
Internet Advertising Bureau UK
Into Film
ITV
Knowledge Transfer Network
Lexington Communications
Logsit
Maverick TV
Microsoft
Multiminded
Musicians' Union
NBC Universal
Nesta
Northern Film and Media
North Star Ventures
Nosebleed Interactive
Ofcom
OMG
Open Rights Group
Orderick
Policy Network
Privacy International
Producers Alliance for Cinema and Television (PACT)

Professional Publishers Association
Publishers Association
QVC
Radio Independents Group (RIG)
Rubrum
S4C
Samsung
Scripps Networks International
Sheffield City Region Local Partnership Enterprise
Sheffield Council
Sheffield Theatres
Shoo fly Publishing
Society of London Theatres
Solayo
Sony Pictures Television
Sumners Media
Tata Consulting Services
techUK
Telegraph Media Group
The Floow
The Premier League
TL Multimedia
Turner Broadcasting Systems
UK Music
UK Theatre Association
Vermillion Films
Viacom
VirginMedia
Walt Disney Company – Europe, Middle East & Africa
Welsh Producers Association (TAC)
What Next
Whispering Gibbon
Yahoo!
Yamination Studios

