



Submission to Culture, Media & Sport Committee – pre-legislative scrutiny of the Draft Media Bill

May 2023

About AudioUK

1. AudioUK is the trade body for the audio-led production sector. AudioUK has four core priorities: Business; Representation; Community; and Excellence – and has around 140 member companies based across the whole of the UK, representing around 95% of sector turnover.
2. AudioUK runs the Audiotrain skills programme, which since 2014 has provided over 4,500 learner days. We also run the Audio Production Awards, an annual celebration of the craft skills of audio production. AudioUK, along with Radiocentre, oversaw the administration of the Audio Content Fund, which distributed a grant from the UK government to fund public service content on commercial and community radio and, having concluded its pilot stage, is now looking for alternative funding. We successfully applied for Government Business Readiness Funding in 2019 and, as a member of the DCMS Broadcasting, Film and Production Working Group (which operated in 2020-21), AudioUK produced guidelines for safe working in audio production during the coronavirus pandemic.

Context of this response

3. AudioUK is positioned to answer a small number of selected questions put by the Committee in its call for views and we have correspondingly restricted our comments below to those key areas.

Overall comments on the Media Bill

4. On a general level we welcome in particular is the updating of the key legislation on the media industry.
5. One measure we welcome is the new power for the Secretary of State to give financial assistance to radio (Draft Media Bill Clause 39).
6. AudioUK co-oversaw, with Radiocentre, the Audio Content Fund from 2019-2023. The fund was a contestable fund which financed independent public service productions on commercial and community radio at a cost of around £3.4m over three years, the ACF funded 165 projects made 91 independent producers and broadcast on 350 radio stations. There was an additional round during the Coronavirus lockdowns in 2020, using additional funding of £400,000, to lift the national mood. There was also in 2021 a specific Loneliness Round funded at a level of £300,000 by the Office for Civil Society, demonstrating the Fund's utility in providing a new way to reach different audiences with public service content.

7. We therefore hope that this new power for the Secretary of State will help to facilitate further finance for the ACF in the future.

General issues

Q: Are there any issues missing from the draft Bill within the scope of public service broadcasting, video-on-demand or radio?

Q: Do you have any recommendations for additional or amended drafting to the draft Bill?

8. There is the need for the Media Bill to update in some areas the legislation on independent production, in recognition of the development over the last 20 years of a vibrant UK audio production sector. The sector is comprised of over 200 creative SMEs, based across the UK, making high-quality podcasts, radio, and audiobooks and other audio-led content.
9. These companies make content for a range of platforms, brands and broadcasters, and therefore can choose where to take their content in the market. Their intellectual property now has greater value in terms of exploitation from events, merchandise, TV rights, books and so on.
10. This means there is now a comparable situation as there was in television 20 years ago, when producers were developing valuable IP which could be exploited in different ways in primary, secondary and international TV markets. When the Communications Act 2003 introduced very important measures to protect independent TV producers' IP, via the introduction of regulated Terms of Trade. It also continued with the independent television production quota. Those measures enabled the UK TV production industry to grow into the highly successful industry it is today.
11. While the other UK PSBs are currently mainly involved in commissioning audio-visual content, we are now seeing them also commission podcast content. For example ITV's podcast *Love Island: the Morning After*, initially produced by AudioUK member Folder Media and which accompanies ITV's successful *Love Island* TV series, regularly tops the podcast charts while the series is screening. Channel 4 is producing podcasts such as *Ways to Change the World* and *Fourcast*.
12. Podcasting trends in the US have spread to the UK, with monthly audiences in the UK now matching that of the US¹. AudioUK is currently arguing for an Audio Production Tax Relief to maximise the amount of international investment which the UK can attract².

Issue A) Protection for Terms of Trade between PSB TV companies and independent audio production companies

13. We welcome the retention of the legislation which protects independent television producers' intellectual property rights in the context of their negotiations with the UK PSBs and extends this legislation to include PSBs' on-demand services. The regulated Terms of Trade between independent producers and the UK PSBs have been crucial in

¹ [Infinite Dial UK, 2021. Edison Research, December 2021](#)

² See: <https://www.audiouk.org.uk/new-audiouk-report-shows-an-audio-production-tax-relief-would-attract-increased-investment-and-benefit-the-uk-economy/>. Accessed 15 May 2023

enabling the UK independent production sector to be globally successful. Extending the Terms of Trade provisions will help to ensure this continues to be the case for TV producers.

14. However the provisions above do not apply to audio commissioning for any of the UK PSBs including the BBC, which commissions widely for its radio and online services, including all network radio stations plus BBC Sounds.

15. The Media White Paper, published last year, recognised the growth of the UK's audio production sector, stating:

“UK audio production continues to diversify away from radio as demand for podcast content continues to grow. Around 10 million adults listen to podcasts weekly and UK podcast advertising revenue is expected to double to £75 million per year by 2024.”³

16. The independent audio production sector, once almost entirely dependent on the BBC for content commissions, now operates in a market in which a range of platforms, broadcasters and brands are investing in audio content. Hence producers' IP now has a real value and ought to be subject to similar protections as exists for TV producers commissioned by the UK PSBs.

17. In recognition of this, the Media White Paper discussed extending the Terms of Trade regime:

“We will also consider whether there is a need to extend aspects of this regime to radio and audio producers that produce programming for the BBC.”⁴

18. We believe the Media Bill process can be used to extend this proposal to all of the UK public service broadcasters. Introducing regulated terms of Trade for all PSBs' audio commissions would be an additional way to ensure the UK audio production industry could maximise the return on its ideas, and be internationally competitive.

19. Away from the BBC, while the other PSBs' podcast commissioning is still at a relatively low level, we believe it will grow in the future, in accordance with the need to diversify their content offering and be wherever their audiences are.

20. Podcasts are increasingly been seen as a way of extending a TV brand and deepening its audiences' experience. A podcast can also be used to trial an idea which if successful might be transferred to TV.

21. Several podcasts have already made this transition, including the BBC's *Newscast* for example. There have been many examples of this happening in the US, where the podcasting boom first arose, with podcasts such as *Homecoming*, *Song Exploder*, *The Thing About Pam*, *The Bodega Boys*, *The Shrink Next Door*, *We Crashed*, *The Dropout* and *Slow Burn* all being adapted for television.

22. The Committee will be aware that there has been a 20-year gap between the legislation that originally introduced the Terms of Trade protections for TV producers. The Media Bill now presents the opportunity to update this and future-proof protections for the UK's audio producers, who like their counterparts in TV are working hard to grow their business and extend their work internationally.

³ [Up Next: The Government's vision for the broadcasting sector. DCMS, April 2022, p29](#)

⁴ [Up Next: The Government's vision for the broadcasting sector. DCMS, April 2022, p29](#)

23. Therefore it is important to introduce protections for audio producers in their future negotiations now, to future-proof the sector going forward and establish clear ground on which PSBs can negotiate with audio producers. This will allow audio producers to maximize the potential of their IP in the global market.

Issue B) Competition for PSB audio commissions

24. If, as we believe the number of audio output from the PSBs overall increases, there should be the same requirements for there to be a certain level of independent production.
25. Currently the PSBs, including the BBC, are required to commission 25% of non-news TV output from qualifying independent television production companies – the current Draft Media Bill will alter this to an amount of hours to be decided by the Secretary of State.
26. While, again, there are currently a relatively small number of podcasts, the signs are that this will grow and therefore we would like the Media Bill to be future-proofed by building in protections now.
27. We would therefore like the Committee to recommend that the Government considers adding requirements around competition for non-BBC PSB audio commissions from independent production companies.

Issue 3) relating these matters to the BBC

28. In 2021-22 the BBC commissioned 28% of its non-news network radio hours from independent production companies. It is therefore by some way the biggest commissioner of independent producers in the audio space.
29. Therefore to have the best positive impact on the growth of the sector, the Government needs to ensure the BBC has in place similar protections to those for independent TV producers.
30. Up until now there has not been a statutory quota for the BBC to commission a certain amount of independent production.
31. We fully acknowledge that many of the BBC's obligations are covered by the Charter and Agreement, rather than in Parliamentary Legislation. However there are examples of where new obligations on the PSBs covered by legislation have been simultaneously added to the BBC Agreement.
32. One of the most pertinent examples of this is that, at the time of the provisions on Terms of Trade being passed in the Communications Act 2003, they were also added to the BBC Agreement.
33. There is therefore clear precedent to apply protections for independent producers' negotiation with the BBC relating to Terms of Trade, as well as protection for production, to be added at the same time as they are introduced into the Media Bill for the other PSBs.
34. On the point concerning production, the BBC was required to make 60% of its audio commissions available to be competed for by the end of 2022. At the time it was agreed, the intention was that this would continue until the end of the Charter, however Ofcom's

interpretation of the wording means that this no longer needs to be met, therefore there is an urgent need for the BBC Agreement to be updated to extend this protection until the end of the Charter.

35. Furthermore the BBC is considering moving part or all of its speech audio production into BBC Studios.
36. There is a real opportunity for the UK audio production sector to build its international reputation as a maker of first-class audio content and therefore attract more investment from partners such as podcast platforms, brands and national and international broadcasters. The BBC's continued investment in our sector can and does support this in line with its public purposes regarding supporting the creative industries. Our members remain very active in providing public service content to the Licence Fee Payer via the BBC's Radio and BBC Sounds services. The BBC's involvement in the sector contributes to production companies' ability to build sustainable businesses, invest in more ideas, generate further growth and deliver value back to the UK economy.
37. However if the BBC moves to compete more directly with the sector in the wider audio market this will be a serious impacts which the Government must compensate for by creating the provisions now for opening up the BBC's radio and audio commissioning to further competition from external producers.
38. Previously, the move of BBC TV production into BBC Studios was accompanied by a Charter requirement for the BBC to move in most cases to 100% competition for independent producers. This was done in order to counterbalance the effect of BBC Studios competing against independent producers in the wider television market.
39. In order to be consistent, in the event of BBC speech radio/audio production moving to Studios, there does therefore need to be further competition for independent producers to make BBC radio-audio content.
40. Again, in the context of the Media Bill, this requirement could be introduced as a companion to steps to encourage the commissioning by the other PSBs of independently-produced audio content.

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