

# TV PRODUCTION, INTERNATIONAL TRADE AND PRESSURES TO CONSOLIDATE

IMPLICATIONS FOR CONTENT  
AND POLICY

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CREATE

# TV Production, International Trade and Pressures to Consolidate – Implications for Content and Policy\*

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## Abstract

Television production is recognised as one of Britain’s key creative export sectors. But the sector has undergone major re-structurings in ownership over recent years. In this Paper, Gillian Doyle assesses how the ownership configuration of TV production companies effects their performance and considers the implications for UK public policy.

Expansion in digital distribution platforms, increasingly globalized trade in television, and growth of subscription video on demand (SVoD) services have created unprecedented opportunities for exploitation of the value in television intellectual property rights (IPRs). This has altered the corporate configurations that conduce to economic success in the television industry, encouraging takeovers and consolidation of ownership across the production sector. Examples of deals just in 2022 include Sony Pictures Television’s acquisition of Bad Wolf (*His Dark Materials, Industry*) and Industrial Media (*American Idol, 90 Day Fiancé*), Fremantle’s acquisition of 72 Films (*The Elon Musk Show*) and Silvio Productions (*Shtisel*) and ITV’s acquisition of natural history producer Plimsoll Productions. Gillian Doyle, Professor of Media Economics at University of Glasgow and PI of the ESRC-funded (ES/N015258/1) study *Television in Transition:*

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*Independence, Scale and Sustainability* draws on the project's findings to examine the forces underlying consolidation and what this means for creative decision-making, content and UK public policies.

## **Television Production in Transition**

The UK television production sector stands out as an exemplar of how, if we want our creative industries to flourish, policy can make a huge difference.

Making television programmes in the UK was initially an activity carried out by broadcasters in their own in-house production departments. But, with UK public policy playing a major part, an external or 'independent' sector – a sector populated by firms that are not cross-owned by broadcasters – gradually developed from the 1980s onwards (Doyle and Paterson, 2008). Key policy measures included the setting up of C4 as a publisher-broadcaster' in the early 1980s which meant it became an important customer for independent producers and, from the 1990 Broadcasting Act onwards, compulsory access quotas for 'indies' on the main PSB channels. The *pièce de résistance* was a measure in the Communications Act 2003 – the so-called 'Terms of Trade' – that mandated broadcasters to adopt Codes of Practice in their negotiations with producers such that, when programmes are commissioned by UK PSBs, indies are able to retain a sizeable share of ownership of the IPRs. Helped along by these interventions, the UK independent sector has been transformed from a 'cottage industry' back in the 1990s to, nowadays, a powerhouse of global television production generating significant levels of income from international sales every year (PACT, 3Vision, 2022).

However alongside this success the UK sector has been through a period of sustained consolidation with numerous takeovers, often by US media conglomerates, raising consternation about why it is countries such as Britain appear unable to nurture the development of creative businesses that achieve scale but, at the same time, remain indigenous and independent (Create UK, 2014: 6).

The *Television in Transition: Independence, Scale and Sustainability* project<sup>1</sup> carried out in Glasgow from 2017 to 2020 examined a range of production companies of different shapes and sizes (some drama makers, some entertainment and some mixed) to find out how the 'corporate configuration' adopted by a firm (i.e. its scale, whether it operates as a stand-alone independent or a subsidiary of a larger conglomerate, the vertical structure of the parent organization, and

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<sup>1</sup> Project website available at: <https://www.gla.ac.uk/schools/cca/research/ccpr/researchinccpr/televisionproductionintransitionindependencescaleandsustainability/>

whether its activities are domestic or international) affects, first, its economic health and, second, the sort of content it makes. We also examined implications for policy.

### **How Ownership effects Business Performance**

Our findings, published in full elsewhere, show how the corporate ownership configuration of a production company exerts a very major influence over its business performance (Doyle, Paterson and Barr, 2021).

Scale creates several valuable advantages that enhance the business. Larger firms and consolidated 'super-indies' benefit from economies of scale within the production process – having returners and long-running series, as opposed to one-offs, is key to profitability. Another advantage is access to finance. The security of having a well-resourced parent usually means that a production company can fund programme development and make more ambitious content. Larger production firms can spread their risks. A production entity with several subsidiaries or 'labels' (e.g. All3media has 40 production subsidiaries and Banijay has 120+) can operate a portfolio strategy which helps in an industry characterized by uncertainty. Being part of a large-scale multi-territory company also brings advantages in terms of knowledge sharing.

A vertically integrated structure also offers numerous benefits. Being cross-owned by a broadcaster may well potentially result in an increase in commissions. However, the evidence of our project suggests that one of the most important advantages of being part of an enlarged TV conglomerate, particularly one that has a well-developed in-house distribution arm, is potential for wider access to markets, especially international markets. Symbiosis between production and distribution is a major source of advantage for many production firms that are taken over and this has been a major driver of industrial restructuring over recent years.

So being taken over can help the business in various ways. But how does it affect content?

### **Effects on Content**

It is often assumed that consolidation and takeovers, especially, by foreign multinationals, are *detrimental* to content – for example, by stifling creativity (Croteau and Hoynes, 2014; McChesney 2008). But drawing on very extensive content analysis and testimony, a major finding of *our* study was that most takeovers have few if any immediate or significant adverse effects on the creative processes or the content made by television production companies (Doyle, Paterson and Barr, 2021). For many UK producers, changes in ownership are generally *not* seen as detrimental to content-making for the following reasons.

First, in an industrial sector where demand is governed by what US economist Richard Caves refers to as the law of ‘nobody knows’, the main reason why a production company will be of interest to investors is because it has *already* managed to achieve a sustained track record of making content that is commercially successful. So any interference risks spoiling a winning formula and that would make no sense. Second, similarly, in a highly uncertain market environment many (although by no means not all) independent producers *actively seek* takeover because they know it offers advantages for the business that are not available to indies, such as financial stability, wider distribution and information, and because it brings windfalls for founders. So production companies that become attractive targets for investment usually do so because they are already embarked on content strategies that are commercially orientated. Finally, this is a ‘people business’ in which individual talents and capabilities are key to sustaining the value of the enterprise. As others have highlighted, for creative leaders, autonomy is vital (Holt and Lapenta, 2010). Consequently, acquisition deals are often deliberately structured in such a way as ensures retention of creative leaders and therefore continuity of creative leadership militates against disruption to content.

While it’s possible that a longer time frame might bring different results, we found little evidence that takeovers impact adversely, in any immediate way, on creative freedom or on what sort of programmes production companies generally make.

### **Policy Implications**

If content is relatively unaffected by changes in ownership, then an obvious question in relation to UK public policy would be: do we really need indies?

In the UK, the notion that it is desirable to have producers who are ‘independent’ – i.e. not cross-owned by a UK broadcaster – has long been predicated on the perceived need for cultural diversity (letting ‘1000 flowers bloom’) and to prevent monopolization by stimulating the growth of SMEs while curbing vertically integrated broadcasters (DCMS, 2014). These objectives are still pertinent in the digital era. And, even though it transpires that takeover is not synonymous with deteriorating standards nor loss of creative freedom, our findings suggest that the presence of indies does add positively to diversity of voice. The independent sector is widely recognized as a breeding ground for creativity and experimentation while, at the same time, indies are generally cost-effective and so their presence is seen as promoting competition and efficiency within programme supply.

So it still makes sense to have indies. But, given how the television landscape has transformed over recent years, is the current definition of an ‘independent producer’ fit for purpose? In view

of the growing prevalence of very large consolidated indies and of 'super-indies' who are transnational, the efficacy of the current UK legal definition, with its emphasis solely on deterring vertical cross-ownership, looks increasingly questionable. The snag is that, while constraining levels of cross-ownership between UK broadcasters and indies, it simultaneously ignores foreign ownership and fails to take account of issues of scale amongst indies. Ofcom considered tightening up the definition at its last review of the independent production sector in 2015 and concluded that this wasn't warranted at the time.<sup>2</sup> But, in an era when some production companies are bigger-sized players than major UK broadcasters, the view that amendments are needed to ensure that supports for indies are targeted at smaller companies (HoL, 2021) is gaining ground.

However a counter-argument would be that, despite the advantages enjoyed by large indies, levels of new market entry in this sector remain high and the UK production sector continues to renew itself constantly (O&O/ PACT, 2022: 17). The current regulatory approach is, in fact, effective in sustaining small as well as large producers and in promoting new entrants who bring energy, experimentation and renewal.

So, a number of features of UK sector and its transformation into a global powerhouse over recent years look like a remarkable success story. Underpinning this success and the sector's capacity for self-renewal is public policy. And our research suggests that two measures have been particularly important in sustaining growth and renewal (Doyle, Paterson and Barr, 2021).

First is the role of domestic PSB broadcasters - BBC, ITV, C4 and C5 - in commissioning content. Although broadcasters are facing more competitive challenges these days, they are still the largest customers for original content made by UK independent production companies. And they focus a lot of their spend on smaller producers which is important for revitalisation. The BBC focuses more of its external spend on smaller producers than other PSBs.<sup>3</sup>

Second is the Terms of Trade. Part of the reason why we still have many start-ups in the UK is because, since 2003-4, measures have been in place that help indies retain ownership of the rights to programmes that they make, in turn enabling producers to exploit these globally. This

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<sup>2</sup> 'Review of the TV Production Sector' (Ofcom, 23 December 2015) <<https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/reviews-investigations/tv-production-sector-review>> accessed 10 February 2023.

<sup>3</sup> UK Television Production Survey. Financial Census 2022 (Olivier & Ohlbaum, 2022) <<https://www.pact.co.uk/static/00da7757-3bd0-4baa-ba3ff0288e822126/Pact-Census-2022.pdf>> accessed 10 February 2023.

has helped trigger takeovers, but it also continues to incentivize new entrants to come into the market and rights ownership is a key driver of business growth.

But it is concerning to note that the two key measures – pillars that have underpinned the success of the UK content-making sector and that support renewal – are both under threat at the moment. The Terms of Trade intervention is under threat because SVoDs such as Netflix have become more important as buyers of new content and generally they expect to buy out all global rights. And the other vital measure – the commissioning strategies of PSBs – is also looking somewhat precarious at the moment. PSB is under attack from a UK Government that has flirted seriously with the idea of selling off C4<sup>4</sup> and that wants to do away with the BBC licence fee at the next review.<sup>5</sup>

## Conclusions

One very clear lesson from examining the experience of the UK television production sector is that, despite globalization, national policy-making can exert a major influence – the domestic policy environment *can* make a substantial difference in setting the framework for creative industries firms to thrive. Related to this, another point is the importance of ownership of rights and of ensuring that indigenous creative producers, writers and publishers retain control over their own IPRs. One indicator of the UK's success is trade data which confirms that, following a brief pandemic-induced dip, total exports on the part of the UK television production sector returned to growth and reached £1.5bn in 2021/22 (PACT, 3Vision, 2022: 3).

However, just because the way UK policy is framed has been effective in supporting a booming production sector in the past is no guarantee that it will remain so in the future. The idea that the current policy regime could usefully be re-weighted towards such objectives as promoting C4's financial sustainability (HoL, 2021:4) is echoed in another PEC blog where Barr and Kretschmer argue that C4's publisher-broadcaster model should now be relaxed.<sup>6</sup> But the snag is that, as Chivers and Allan argue, C4 is and remains 'a cultural and economic dynamo' for the indie sector.<sup>7</sup> While such a change in policy would enable C4 to diversify its revenues and strengthen its finances, it is also fair to say that, historically, the publisher-broadcaster model has served C4

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<sup>4</sup> Kenny Barr and Martin Kretschmer, 'Channel 4: Streaming on the world stage? Competing in the Changing Media Landscape' (PEC, 12 May 2022) <<https://pec.ac.uk/blog/can-channel-4-compete-on-the-world-stage>> accessed 10 February 2023.

<sup>5</sup> Max Goldbart, 'BBC License Fee "Impossible" To Sustain, Says New UK Culture Secretary Michelle Donelan' (Deadline Hollywood, 6 December 2022) <<https://deadline.com/2022/12/nadine-dorries-mantle-michelle-donelan-bbc-license-fee-1235190725/>> accessed 10 February 2023.

<sup>6</sup> Kenny Barr and Martin Kretschmer (n4).

<sup>7</sup> Tom Chivers and Stuart Allan, 'Privatising Channel 4: The evidence behind the debate' (PEC, 12 April 2022) <<https://pec.ac.uk/blog/privatising-channel-4>> accessed 10 February 2023.

remarkably well in fulfilling its remit 'to be innovative, to inspire change, to nurture talent and to offer a platform for alternative views'.<sup>8</sup> From the perspective of producers, abandoning the publisher-broadcaster model would be extremely problematic because C4's role as a commissioner of external suppliers continues to play a vital role in supporting the development, replenishment and economic health of the UK indie sector, especially in areas outside of London (EY, 2021: 36).

While the success of the UK production sector currently stands as an exemplar of how policy can catalyse economic growth, policy-makers face an unending challenge in constantly weighing up complex competing interests and policy alternatives that characterise the evolving television environment where, in the words of one producer, national success stories 'could be squashed quite easily with a few accidental levers pulled in the wrong direction' (Manners, cited in Doyle, Paterson and Barr 2021: 219).

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