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Celebrating 20 Years of Terms of Trade

A report for Pact
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O&O

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Key findings

Terms of Trade (ToT) have seen the UK production sector change beyond recognition, unleashing the entrepreneurialism of independent producers to change the narrative – from a cottage industry undermined by market failure to a jewel in the crown of the UK's creative sector.

The Terms of Trade are a set of regulations introduced following the Communications Act 2003 which set out the principles that each of the UK's PSBs will apply when agreeing terms for the commissioning of independent productions for their licensed PSB channels.

Prior to 2003 the sector suffered from market failure and indies were being squeezed

- Prior to the Terms of Trade, the UK PSBs accounted for approximately 90 per cent of all commissioning spending; this buyer concentration meant indies were not well placed to negotiate terms
- The differentiated positioning of the PSBs meant that programme pitches were specific to the commissioner, meaning that indies could not easily repurpose ideas, further strengthening the power of the buyers
- The existence of the BBC's and ITV's large in-house production capabilities meant they were not incentivised to use indies beyond the level mandated by the 25 per cent independent production quota
- As a result, the UK production sector was highly fragmented and relatively unprofitable. Indie revenues declined by 10 per cent between 1998 and 2001, with the profitability of the sector also declining
- Indies were being squeezed and were typically unable to share in the risks and rewards of their productions; without healthy margins or back-end rights they had no foundation to attract investment and grow

Under ToT indies have achieved growth in sector revenues of 150 per cent

- Under Terms of Trade, PSBs reached a negotiated minimum position with UK indies on how programme rights would be shared – Terms of Trade rebalanced negotiating power, correcting the market failure
- Indies seized the opportunity, and between 2004 and 2022 domestic revenues grew by 77 per cent, reaching £2.2 billion in 2022, having bounced back following a downturn due to the COVID-19 pandemic
- Prior to Terms of Trade, UK TV exports were on a small scale and growth was relatively slow; indies seized the opportunity, heralding a new era of UK programme formats which were sold around the world
- The success of the indies helped establish the UK as a global content hub, taking UK content to the world and attracting inward investment from those serving UK audiences and accessing worldclass talent and facilities
- This has seen international revenues increase by 649 per cent between 2004 and 2022 – across inward investment commissions, programme and format exports, pre-production and other TV-related revenue

Indies have continued to thrive under ToT as the sector has evolved

- Indies contribute to funding original UK content through deficit finance, pre-sale agreements and co-productions made possible by producers having more control over back-end and international rights – this reduces the cost of programming to UK commissioners giving the public high quality content on-screen
- This 'deficit finance' from indies has enabled UK PSBs to offer audiences high quality content which they could not otherwise afford. In doing so, they have been better able to compete with global SVOD services, whose spending has shifted audience expectations, while reflecting the daily lives of communities across the UK.

- The possibility of growth through monetising IP has seen international businesses emerge through acquisition. They now form part of a delicately balanced cycle of 'creative renewal', with production entrepreneurs motivated to set up new companies and pursue growth, with in some cases, the hope of being acquired by a larger player
- Through this, the number of producers in the sector has grown steadily – from 391 in 2013 to 479 in 2021 – adding to the competition and diversity of the sector
- Recent years have seen strong development in production outside of London, with production hubs across the Nations and Regions, and 47 per cent of commissioning spending out of London in 2022, up from 34 per cent in 2016
- This helps broadcasters to fulfil their regulatory requirements and ambitions to increase the share of made out of London programming and reflect the daily lives of audiences from across the UK
- Terms of Trade remains key to supporting a healthy production sector, particularly given the continued strength of PSBs as commissioners of content. It is a flexible regime, which has been adapted to reflect the emerging role of BVOD, and can further evolve as required to continue to support the sector

The outlook for the sector is positive and ToT will continue to play a key role

- While the sector will face some challenges in the coming years, the outlook is positive and demand for UK content is likely to be high – Terms of Trade will be key to sustaining the health of the sector
- Commissions from UK PSBs remain significant for UK indies, accounting for 46 per cent of all commissioning revenues earnt in 2022, underlining the important role that Terms of Trade plays in supporting UK indies
- It remains a flexible regime that has already supported negotiations between PSBs and Pact on their detailed Terms of Trade to reflect the changing role that PSB BVOD services play in commissioning and distribution
- The Media Bill will bring further updates to extend independent production quotas and the commissioning Codes of Practice to PSB BVOD in legislation; it will also be important to ensure a fair, reasonable and consistent approach to IP terms and tariffs across a PSB's services
- Sustaining a robust and up to date Terms of Trade regime empowers the UK independent production sector to drive innovation and growth; showcasing content that reflects UK culture and daily life to audiences both in the UK and around the world, playing its part in the wider success of the UK creative industries

1 Introduction

July 2023 marks the twentieth anniversary of the requirement by regulator to develop agreed trading principles governing how the UK PSBs commission programmes from independent producers. These principles – the Terms of Trade (ToT) – paved the way for the transformation of the UK independent production sector from a cottage industry into a 'jewel in the crown' of the UK's creative industries. In this report, we set out the journey that the sector has been on and celebrate the ToT.

1.1 The scope of this report

This report covers the impact of the ToT on the UK production sector by looking at the sector's success and growth since their introduction in 2004. In particular we cover:

- The context for the introduction of the ToT
- How the sector has evolved in the last 20 years, since the introduction of the ToT
- How the wider AV landscape has evolved over the same period
- The outlook for the UK production sector

Ultimately, it is clear that the introduction of the ToT heralded a period of sustained growth for the UK independent production sector, and despite a rapidly changing landscape, the ToT remain as relevant and important as ever. With a supportive regulatory approach, we expect the UK independent sector to continue to thrive and drive economic and cultural benefits across the UK.

1.2 About the authors

O&O is a leading independent advisor to the media, entertainment, and sport sectors, with complementary practice areas across policy, strategy, investment, and commercial advisory. We have an in-depth understanding of the competitive dynamics of the UK's TV and film industries, and have been a specialist advisor on the production sector for over two decades. As part of this, O&O has worked on buy and sell side transactions, competition assessments, market sizing and value chain analysis, production and commissioning strategies, and public policy around fiscal incentives, territoriality of rights, and production regulation including the Terms of Trade. In doing so, O&O has worked for major broadcaster and VOD commissioners, Pact, independent producers, investors, trade associations, Ofcom, DCMS and the European Commission. O&O maintains its own in-house *Producer Database* and has carried out an annual Census of the UK production sector on behalf of Pact for over ten years.

Prior to the Terms of Trade, the independent production sector was hampered by market failure

2 In 2003 the sector was a missed opportunity

Prior to Terms of Trade, the sector represented a missed opportunity for the UK. In this part we look at the factors which led to the introduction of Terms of Trade.

2.1 The UK independent production sector was restricted by market failure

Prior to 2003, the UK market opportunity for independent production companies looked very different to today. Companies within the sector were highly dependent on the main PSB network groups which – prior to Channel 5's launch in 1997 – meant there were only three main commissioning bodies (as ITV's schedule was largely controlled from its corporate centre). Even after the launch of Channel 5, over 90 per cent of UK commissioning spend was coming via the four main PSB groups.

This level of buyer concentration in the market for UK original programming meant that producers had very little scope to negotiate on production fees or take strong positions in back end (i.e. post primary transmission) rights. Compounding the squeeze on the independent sector at this time was the fact that the two largest commissioning broadcasters in the market – the BBC and ITV – both retained large in-house production divisions, and production companies tied to other broadcast groups were also taking a significant share of the market.

Finally, given the differentiated market positioning and associated content requirements of the commissioning broadcasters, UK indies' pitches were typically tailored to meet the specific requirements of a given broadcaster. This meant that, in reality, there was effectively only one buyer, and it was costly, time consuming, or impossible for indies to repurpose pitches and ideas for other broadcasters. This dynamic essentially created a cost to indies of not accepting the terms offered by the broadcaster, seriously hindering their ability to negotiate reasonable terms.

2.2 The incentives for producer broadcasters meant indies would remain squeezed

The strategies of the integrated producer / broadcasters at this time were relatively clear. For the BBC, there was a strong incentive to retain and defend the scale of its in-house production activities, with plans to reinvigorate the capabilities of its inhouse production teams[1]. As a result, its use of the independent sector was designed to meet the regulated quota for qualifying programming (which was set at 25 per cent of qualifying hours) but not to substantially exceed it. In fact, prior to the introduction of Terms of Trade, the BBC missed the 25 per cent quota for qualifying hours two years running[2]. For ITV there was potentially a dual motivation, as retaining a large in-house production division also benefited it in picking up 3rd party commissions from other UK broadcasters.

This combination of incentives meant that independent producers would remain limited in their market share, had few opportunities to grow commissioning hours beyond the independent production quota, and found it difficult to grow production margins. Effectively, although the UK market for original content was growing strongly – main network spending increased by 5.9 per cent per year between 1998 and 2001 as competition from pay TV and DTT channels increased – independent producers were being squeezed.

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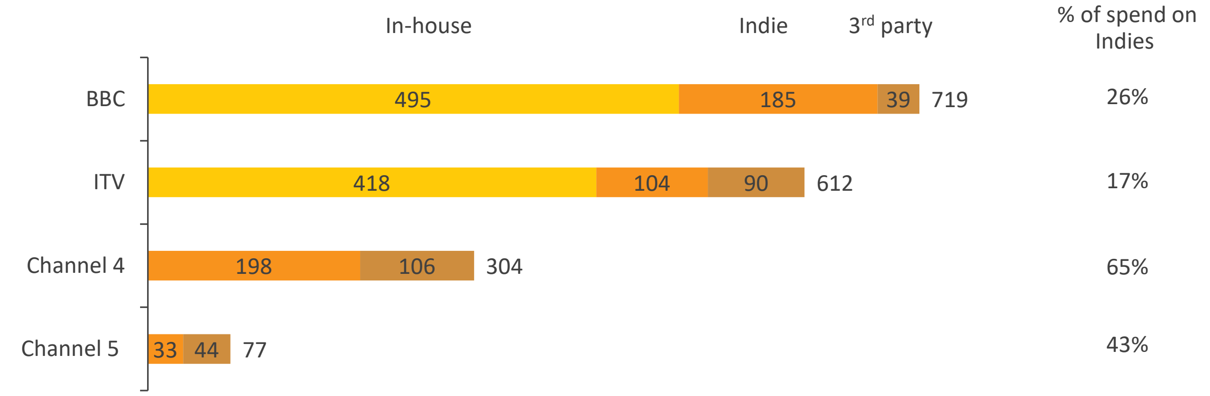
[1] BBC Annual Report 2000/21, p42, set out plans for the coming years which involved spending millions more on in-house production

[2] https://www.theguardian.com/media/2003/mar/16/broadcasting.bbc. Note that the BBC argued it missed the target due to changes in the status of some indies; nevertheless, this highlights the BBC's intention at the time was to meet but not exceed the quota – it had no margin for error

Figure 1 shows indies' share of the market in terms of revenues in 2001. Across the BBC and ITV, indies accounted for just 22 per cent of spending, with the broadcasters' in-house production capabilities accounting for 69 per cent of spending. These PSBs kept spending in-house to a large extent, and indies did not have the opportunity to grow.

Figure 1: Indie share of main network qualifying output spend, 2001 (£m)



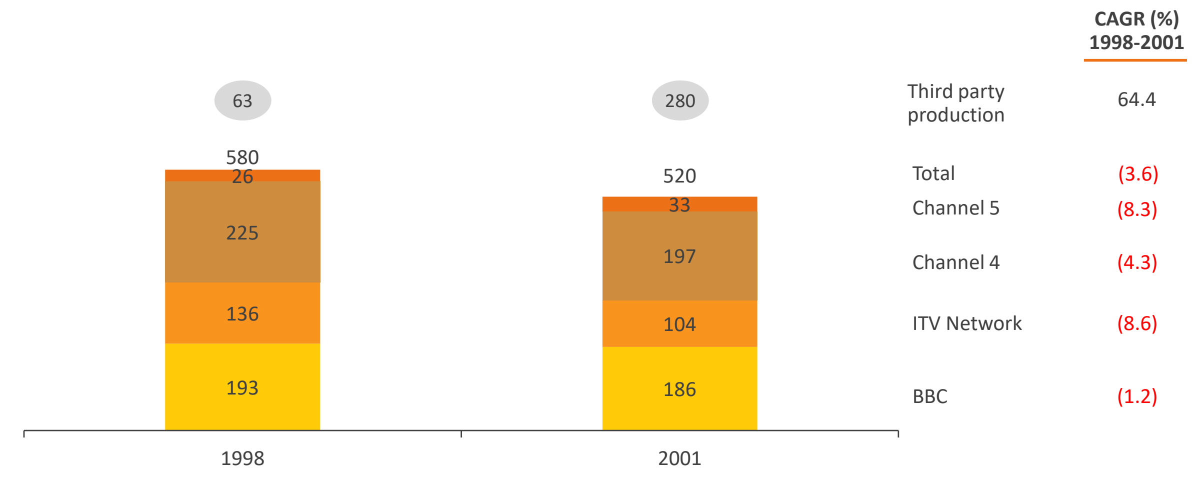
Source: ITC, Channel 4, BBC, Oliver & Ohlbaum analysis

2.3 The indie market was relatively unprofitable and it was shrinking

At the start of the 2000s, the Independent Television Commission's (ITC, a forerunner of Ofcom) undertook a review of the Programme Supply Market (published in 2002 as part of the evidence for regulatory change), prompted by lobbying efforts from Pact, which the review found to be correct. The review observed that the long-term growth of the UK independent sector had reversed between 1998 and 2001. It found that the combined profits of the top 50 independent producers in the market had declined from £8.2 million in 1998 to £3.5 million in 2001. This shows that even the largest independent producers at that time suffered from a lack of bargaining power with commissioners and that – as a result – the sector remained highly fragmented, was generating only a small annual surplus, and hence had only a very limited capability to reinvest in development and production.

As shown in **Figure 2**, despite quotas to ensure PSBs used the independent sector for 25 per cent of qualifying hours, the size of the UK independent production sector shrank by 10 per cent between 1998 and 2001, while third party production by broadcaster owned studios grew strongly – up by around 64 per cent. It was clear that while PSB quotas and ownership-based definitions of qualifying companies helped, they were not sufficient on their own to create the market conditions under which the UK independent production sector could grow and – through that growth – be able to contribute more directly to content investment.

Figure 2: Indie producers' main network commissioning revenue, 1998 and 2001 (£m)



Source: ITC, BBC, Oliver & Ohlbaum analysis

2.4 The value of successful programmes was not being fully realised

The PSBs, apart from ITV, high share of the UK commissioning market and roles in production meant that independent producers did not typically retain any of the rights to their productions. They were essentially operating as production for hire, working on behalf of the commissioners – which retained all rights and, at the same time, could use their market position to keep upfront commissioning payments low. Yet broadcasters were failing to fully exploit these rights overseas, with the UK export market remaining small – as we explore in Part 3. It was only with *Who wants to be a Millionaire?* in 1998 that it became apparent there was a global market for UK programmes and formats, with Celador owning the rights and revenues. This was followed by the success of *Pop Idol* in 2001, but the PSBs lacked the incentives and entrepreneurial spirit to fully capitalise on these opportunities. So, the growth of the independent sector was essentially stifled while the PSBs failed to fully capture the value held in the IP they retained.

With low producer fees coupled with a limited possibility of retaining any of the rights, producers could not share in the risk and rewards associated with the performance of their programmes. As such, they were not able to attract investment capital and grow beyond the confines of their position in the vertically integrated UK commissioning market – to do so, they needed to be able to participate more in rights ownership and trading.

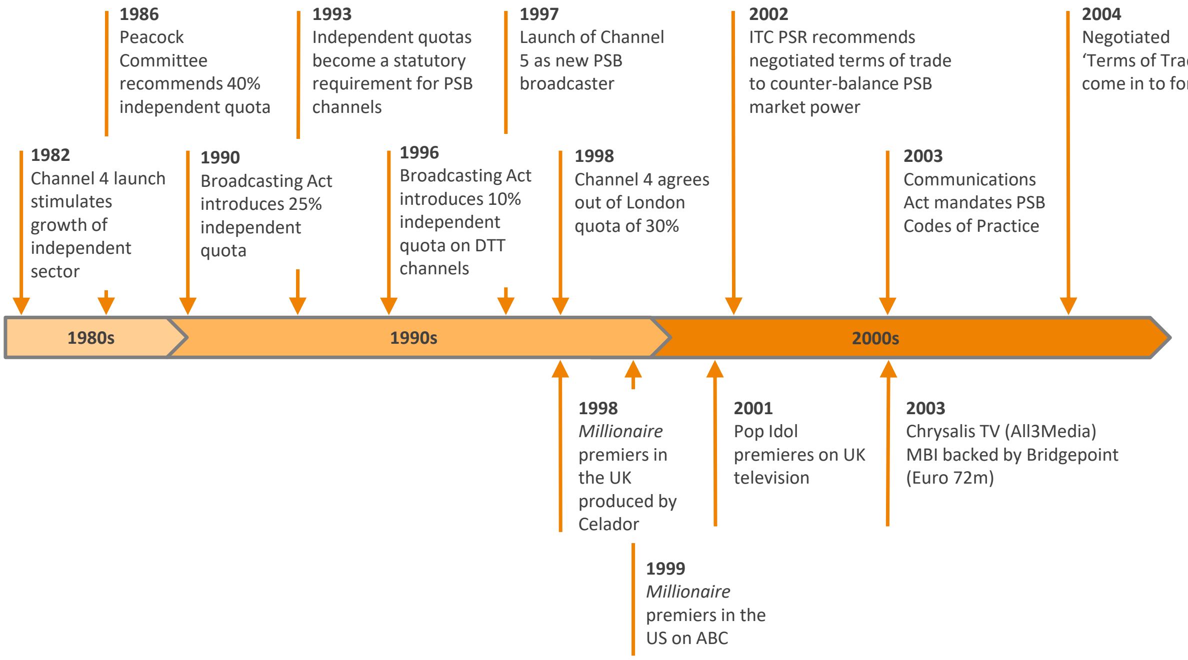
2.5 Intervention would be required to unleash the potential of the UK independent production sector

There was no sustainable platform for the evolution of the sector from small UK focused companies to international leaders in creative development, innovation, and IP exploitation. Intervention would give them the chance to share in the risks and rewards of their work, and thus raise the funds necessary to capitalise on a liberalised global market for programme IP and formats. Independent producers needed three market conditions to change:

- Limits to PSBs' dominance in rights and their incentives to warehouse them – providing indies with the opportunity to own their creative assets in the long-term
- A greater opportunity to compete for PSB commissioning hours over and above the minimum independent production quota
- The opening up of supply relationships in other countries driven by PSB sharing of risk with indies, which had the commercial incentives to maximise exports

Figure 3 sets out the timeline of events leading up to the introduction of the ToT, and immediately following it. As we have seen, the independent production quotas introduced in the 1990s were insufficient in themselves to allow producers to grow as genuinely 'independent' businesses. The sector still lacked the capacity to invest, both in funding expansion and in recycling funds back into the development of new content. It is this market issue that the UK Terms of Trade directly address.

Figure 3: Timeline of events preceding the negotiation of Terms of Trade in 2004



2.6 Terms of Trade were introduced to enable sector growth

The Terms of Trade delivers for the UK independent production sector a set of standard commercial templates for revenue sharing with broadcasters and the opportunity to retain ownership of commissioned IP in the long-term. Producing such Codes is a condition of each PSB licence and must be agreed with Ofcom, in line with Ofcom guidance. In particular, Ofcom guidance establishes the principle that the rights to a programme belong to the producer unless explicitly sold to the PSB. The Codes then specify the minimum primary rights to which the PSB acquires a licence as part of a commission and indicative tariffs for those rights. Any other rights are subject to commercial agreement.

The overall effect is that the PSB negotiating power in production contacts was lowered, and transparency and legal certainty were increased. In addition, as asset-owning companies, qualifying indies were better able to attract 3rd party funding for expansion and investment. ToT set the foundations for independent producers to innovate and grow and – in some cases – become global leaders in their field.

The ToT originally related specifically to the main PSB channels (BBC1, ITV1, Channel 4 and Channel 5) and to the portfolio channels of the BBC and Channel 4. They were subsequently extended to include the PSB broadcasters' video on demand services (VOD), in acknowledgment of broadcasters increasingly commissioning content which might be seen as 'online first'.

To access the terms of trade, producers must be 'qualifying' independents, meaning that they are not wholly or partly owned (to a 25 per cent threshold) by a broadcaster operating in the UK market. Despite the focus on PSB services and qualifying indies, the ToT have influenced wider market expectations, meaning that producers of all types, working on commissions from all broadcasters, have a stronger starting point for negotiations.

Indies have seized the opportunity created by Terms of Trade and sector revenues have grown by 150 per cent

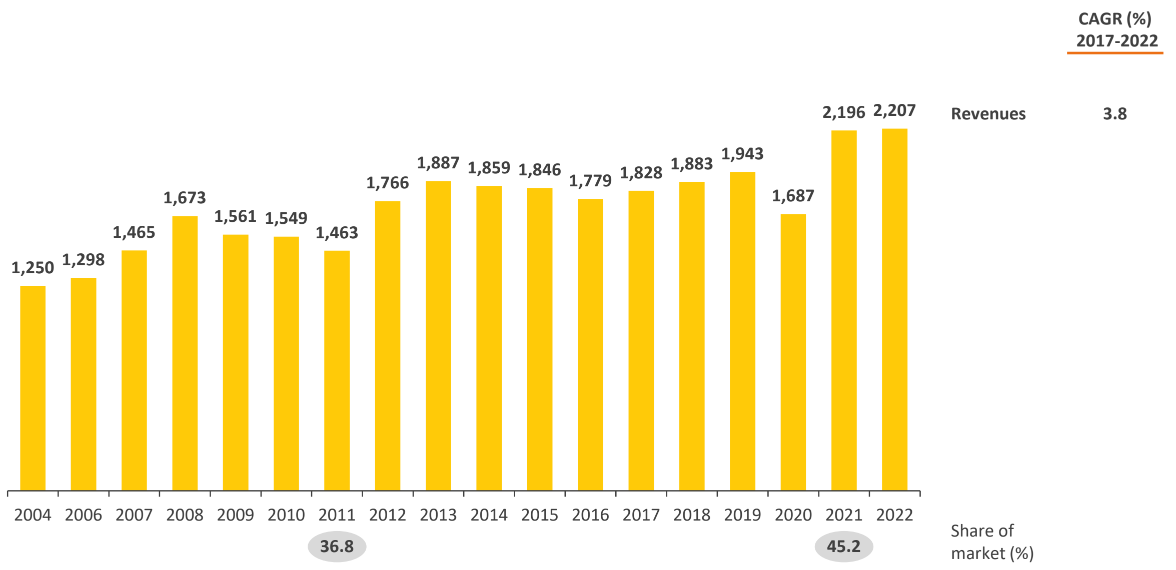
3 Under ToT the sector has grown significantly

Terms of Trade are now 20 years old, and the indies have changed the sector beyond recognition, achieving strong growth both domestically and internationally, while putting UK creativity on the world stage.

3.1 ToT levelled the playing field and indies seized the chance for domestic success

The effect of the Terms of Trade was to correct the market failure which had held the independent production sector back. The agreed rights position meant UK indies could take on more risk in exchange for the opportunity to share in any success of their programmes commissioned by the PSBs. UK independent producers have seen domestic revenues grow steadily from 2004 onwards, reaching £2.2 billion in 2022. The independent share of the total UK domestic production market has also increased, from 37 per cent in 2011 to 45 per cent in 2021.

Figure 4: UK indie sector domestic revenues, 2004 - 2022 (£m, % of total domestic production market)



Note: Data for the independent share of the total UK domestic production market is unavailable pre 2011 and in 2022
Source: Pact UK Television Production Census 2023, Ampere Analysis, Broadcast Indie Survey, O&O Programme Database, Pact, Oliver & Ohlbaum analysis

Of course, indies' success in the UK comes hand in hand with their success in exploiting content rights overseas – these international revenues are recycled into R&D which enables them to offer UK broadcasters innovative programming, growing their domestic revenues.

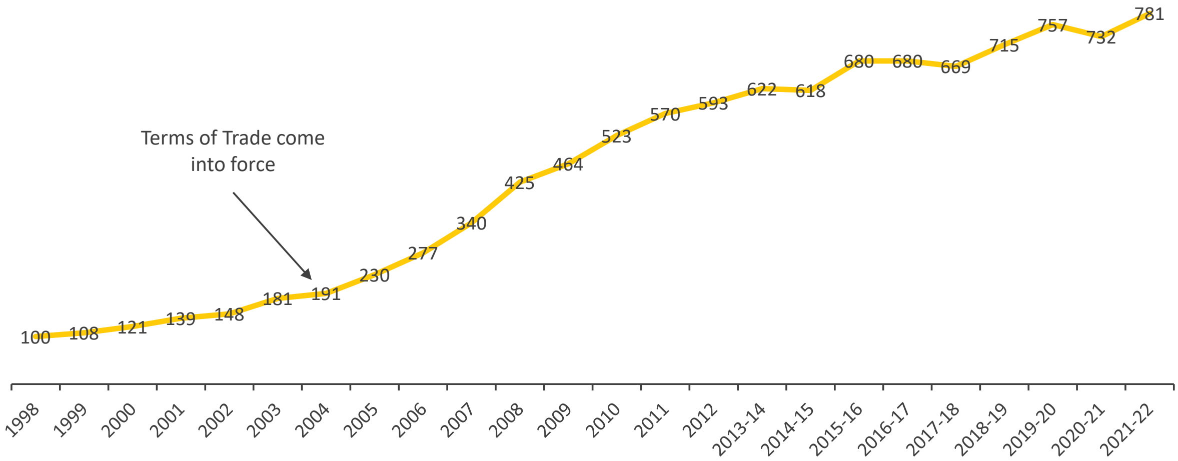
3.2 Indies have created an international market which benefits the UK

By supporting indies in the UK market, ToT also laid the foundations for international success, enabling them to diversify revenues. Under ToT, indies retain secondary domestic and international rights to their PSB-commissioned productions and can license these commercially, meaning that while their programme's initial success may be on the PSB in the UK, much of the commercial opportunity lies in monetising the rights overseas. This may be through the sale of finished programmes, or via format sales – where the programme idea is reproduced for local markets. Having built an international reputation, the other opportunity, of course, is commissions from overseas broadcasters and VOD services – this is now the main source of international income.

3.2.1 UK indies have taken UK creativity to the world

Figure 5 shows that international exports of UK TV programme rights and programmes, across all producer types, grew steadily but weakly between 1998 and 2003. The growth accelerated following the introduction of the Terms of Trade, kick-starting a sustained period of strong growth. Indeed, Terms of Trade heralded a new era of international programme formats leading to the likes of *Great British Bake Off*, *Gogglebox*, and *MasterChef* being sold all over the world. This growth in exports enabled production companies to generate stable income from their IP and supported them in building successful businesses of scale.

Figure 5: Growth in UK TV programme rights & production exports, 1998 – 2020 (£m / indexed 1998 = 100)



Note: The reported periods in the source data changed from calendar to financial years after 2012 – the growth rate between 2012 and 2013-14 is therefore based on the restated 2012-2013 equivalent. A change in methodology in 2016-17 used by
Source: BTDA / TRP / UKTI / PACT, Oliver & Ohlbaum analysis

3.2.2 International success has seen the UK establish itself as a global production hub

The growth in programme exports coincided with UK independent producers establishing a reputation for creating high quality content. The UK is now a major production hub, with international activity contributing to growth in the creative sector and the UK economy more broadly. Indeed, indies have played a key role in the UK becoming an attractive destination for creative talent, supporting employment opportunities within the sector, as well as generating broader benefits for the economy.

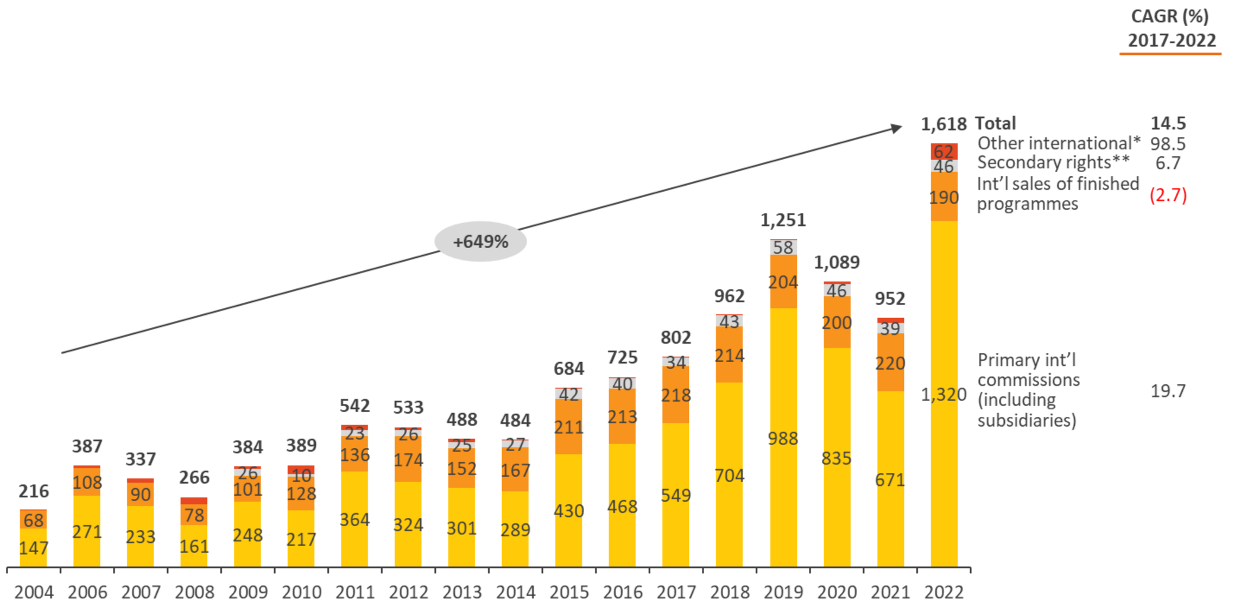
Game of Thrones is a major example of this. While it was an HBO commission, UK producers were involved, and it made extensive use of UK talent; British fashion designers, makeup artists, and other behind the camera talent also received acclaim. For example, Michele Clapton won five Emmys for her costume design work on *Game of Thrones*, while Barrie Gower won three Emmys for his prosthetics work and has gone on to win further awards on *The Last of Us* and *Stranger* Things. In 2021, Tourism NI reported that the series had generated an estimated £251 million for the Northern Ireland economy and in 2018 alone it helped attract around 350,000 visitors, spending over £50 million.

Furthermore, international success has brought new skills and innovative ideas to the UK, enriching content creation in the country. This, in turn, has facilitated greater investment in domestic UK content, benefiting both UK audiences and broadcasters including the PSBs.

3.2.3 Commissions from overseas make up the vast majority of international revenues

As a result of these developments, the UK independent production sector experienced a major increase in revenues from international clients, as shown in **Figure 6**, reaching more than £1.6 billion in 2022 – growing from around 13 per cent of total sector revenues in 2004 to around 42 per cent in 2022. The recent strong growth in international revenues has primarily been driven by increases in commissioning to compete for UK audiences as well as to serve consumers in international markets; this revenue stream rose by an average of 19.7 per cent per year between 2017 and 2022 – recovering strongly in 2022 following a slowdown which coincided with the COVID-19 pandemic. Within this, international co-production activity has also increased, as UK producers' expertise has seen them develop into attractive production partners.

Figure 6: UK independent production sector international revenues, 2004 - 2022 (£m)



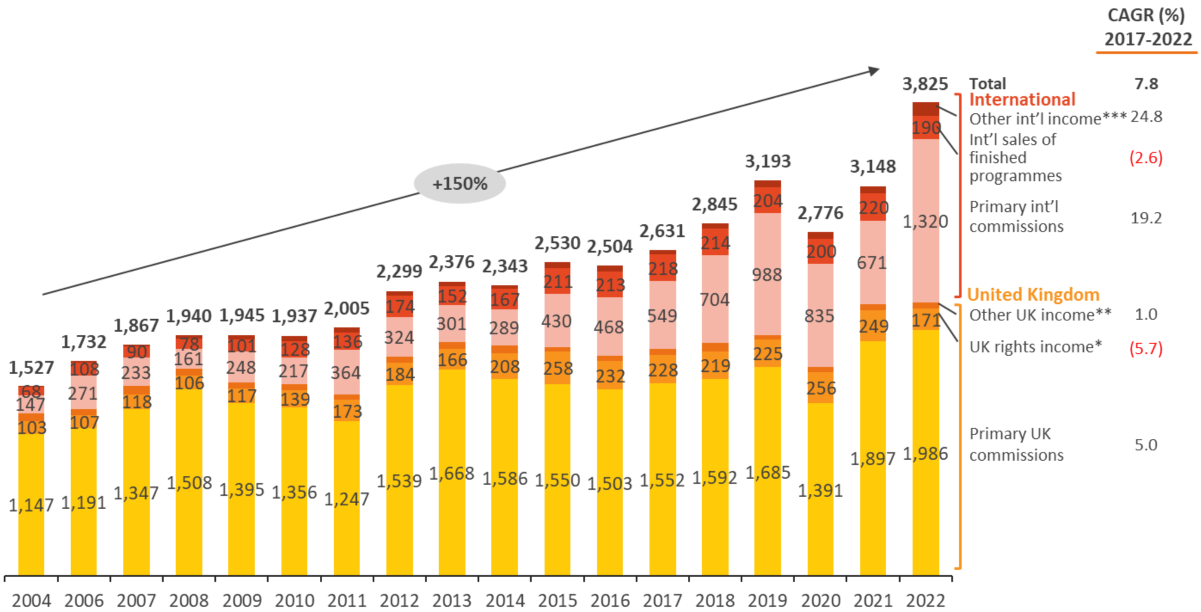
Note: *'Other international' – international TV revenue not attributable to primary rights, secondary rights or distribution
**'Secondary rights' – international secondary rights revenue (excluding sales of finished programmes), this mostly consists of format sales and home entertainment income

Source: Pact UK Television Production Census 2023, Oliver & Ohlbaum analysis

3.3 Indie entrepreneurialism has driven sustained sector growth

After a period of decline prior to the introduction of Terms of Trade, sector revenues have grown strongly since 2004. Since then, the average annual growth rate has been 4.7 per cent, illustrating the change in the sector's fortunes. **Figure 7** shows that while there was a significant decline in 2020, due to the COVID-19 pandemic, and some fluctuations between years, there has been an unambiguously upward trajectory since 2004 – and the sector bounced back strongly in 2021, as filming resumed.

Figure 7: UK independent production sector revenues by type, 2004 – 2022 (£m)



*Note: *'UK rights income' – UK secondary sales, merchandising, formats, home entertainment etc.; **'Other UK income' – pre-production and other TV-related revenue; ***'Other int'l income' – international rights (excl. finished programme sales), pre-production & other TV-related revenue*

Source: Pact UK Television Production Census 2023, Oliver & Ohlbaum analysis

As well as domestic and international production revenues, **Figure 7** shows that indies have successfully diversified their revenues to include other UK income as well as international income from commissions and programme sales, along with merchandising, format sales, and home entertainment.

Indies have successfully navigated changing market conditions, and ToT continue to support the health of the sector

4 Indies are thriving in a changing landscape

Under Terms of Trade, indies have continued to thrive in a rapidly evolving sector. Today a harmonious balance exists within the UK production market, with a process of 'creative renewal' driving innovation.

4.1 The first ten years demonstrated the success of Terms of Trade

As seen in our 2013 report *The importance of terms of trade in sustaining UK content investment and sector economic growth*, and the revenue figures presented in the previous part, ToT enabled independent producers to expand their presence in the UK commissioning market and build international businesses, with many becoming global players across a range of genres. The increase in international projects helped bolster growth in the wider UK creative sector. Ultimately, over the course of the first decade of ToT, the UK emerged as one of the leading global content production hubs, developing a reputation for high quality content, with total UK independent production sector revenues growing by 64 per cent to surpass £2.6 billion in 2013.

4.2 Indies have enabled broadcasters to increase the quality of their content

Improved digital infrastructure fuelled disruption, with new distribution methods including connected TV (CTV), and IPTV, facilitating the wide adoption of VOD services. The emergence of VOD, and of the UK into a highly mature VOD market, has intensified competition for consumers' attention. One of the main outcomes of this has been a rise in content investment from both new and traditional players alike, and an associated increase in consumer expectations around content. This has created new opportunities in the independent production sector and the UK production sector more generally.

The indies have played a key role in enabling UK broadcasters to compete with the big spending global SVOD services. Faced with growing consumer expectations, broadcasters have sought to increase their own spending on content. Of course, their total content budgets are more limited compared to the major global SVOD services, and the need to fill their schedules and provide for a broad audience means they have relied on other ways to increase on-screen value. By deficit financing productions – that is, taking on some of the upfront financial risk and aiming to cover this through the commercial exploitation of the back end and/or international rights – indies have underwritten some of the commissioning risk and in doing so, have supported UK broadcasters in offering their audiences programming they couldn't otherwise afford.

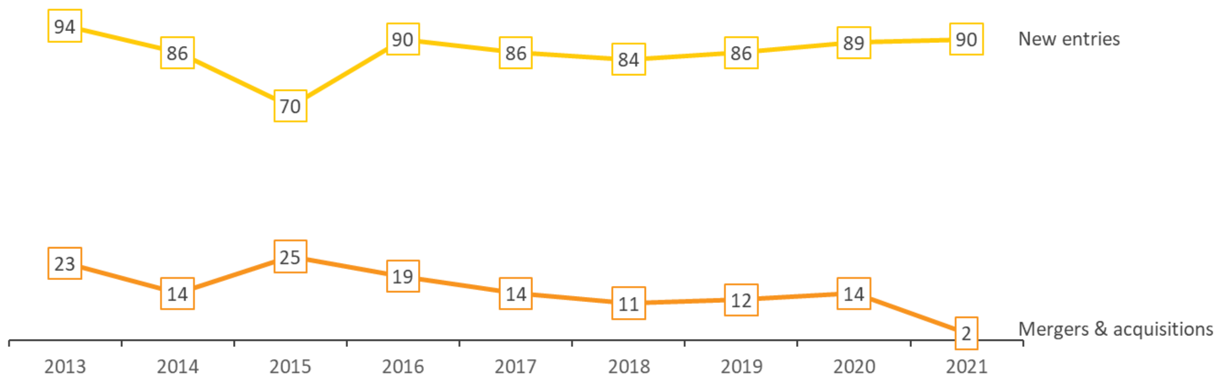
This approach typically applies to higher budget programming with international appeal; this represents the Terms of Trade working as intended, and as the market has evolved the resulting dynamic has become even more important in supporting PSBs' ability to offer their audiences the best content.

4.3 'Creative renewal' is the engine driving innovation and growth

Above all else, Terms of Trade unlocked the indie sector by creating the possibility of growth. With the ability to raise capital and incentives to invest in new ideas, indies had the opportunity to grow into international businesses. The nature of television production as a 'hit or miss' business means that building scale is appealing to diversify risk; this can best be done by acquiring smaller companies, giving access to new talent, ideas, and IP. As such, we have seen a trend for consolidation which is crucial to the health of the sector.

The possibility of being acquired by a larger producer plays an important role in sustaining the health of the sector; it is one of the key drivers of 'creative renewal', which in turn drives innovation and growth in the sector. While there are many motivators for participation in the production sector, for some, the opportunity to build production businesses before selling to a larger player and starting the process again, is important. Other enablers and incentives include the relatively low barriers to entry and the regulatory landscape, including Terms of Trade and the 25 per cent indie quota. The effect of this can be seen in **Figure 8**, which shows that between 70 and 94 new companies entered the sector each year between 2013 to 2021. This high level of SMEs entering the market, alongside the incumbent medium-sized and larger competitors, is the hallmark of the 'creative renewal' cycle.

Figure 8: Number of new UK production companies per year, 2013 - 2021

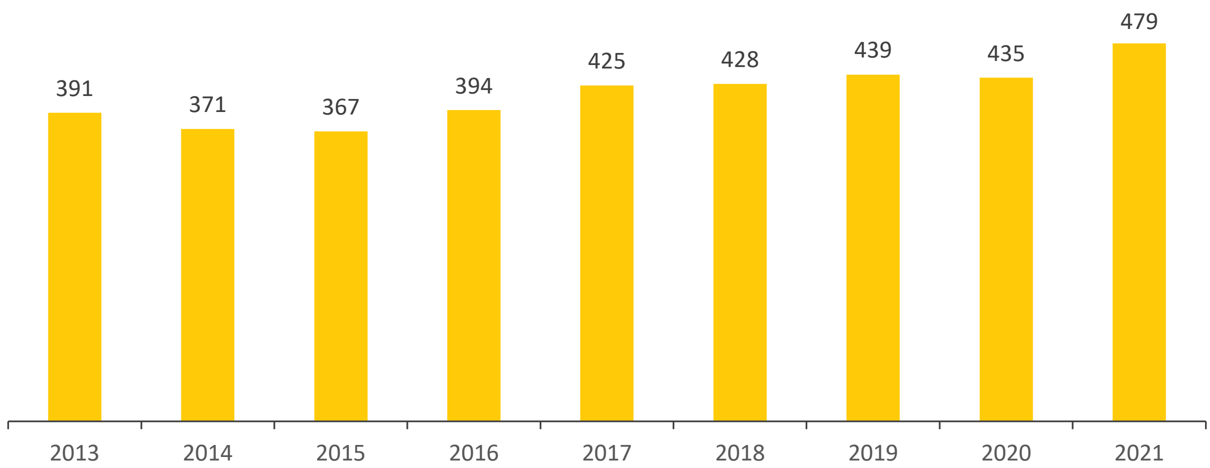


Note: New entries are defined as not previously active in our dataset. New entries for 2011 and 2012 are estimated based on the average for 2013-2021
Source: Ampere Analysis, Broadcast Indie Survey, O&O Programme Database, Pact, Oliver & Ohlbaum analysis

4.4 The number of active producers in the sector is steadily increasing

The result has been a steady increase in the number of companies operating in the sector, demonstrating the sector's health and competitiveness. **Figure 9** shows that the estimated number of independent producers increased by around 23 per cent between 2013 and 2021. This has necessarily brought in new ideas and creativity into the market, increasing diversity and incentivising innovation – the increased competition also gives broadcasters and audiences more choice and, ultimately, better programming.

Figure 9: Estimated total number of qualifying independent producers in the sector, 2013 - 2021

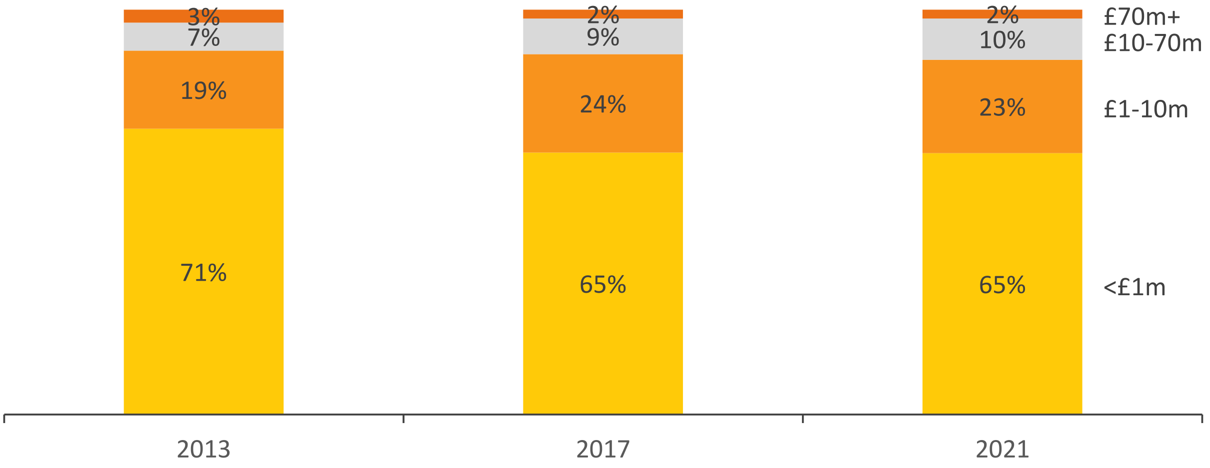


Source: Ampere Analysis, Broadcast Indie Survey, O&O Programme Database, Pact, Oliver & Ohlbaum analysis

4.5 The balanced ecosystem allows companies of all sizes to thrive

The makeup of the sector is very much focused around a large number of small entrepreneurs, and this has remained the case between 2013 and 2021. As demonstrated below in **Figure 10**, following a period of consolidation, the sector is characterised by a small group of larger production companies achieving an annual turnover of more than £70 million, such as All3Media and Banijay, with a sizeable vibrant cohort of smaller independents. The largest cohort of companies are those with a turnover of £1 million or less; they represented 65 per cent of the sector in 2021. The growth cohort, since 2013, has been the mid-sized companies, demonstrating the success of SMEs in growing into larger companies.

Figure 10: Share of the number of UK producers by size, 2013 - 2021



Source: Broadcast Indie Survey, O&O Programme Database, Pact, Oliver & Ohlbaum analysis

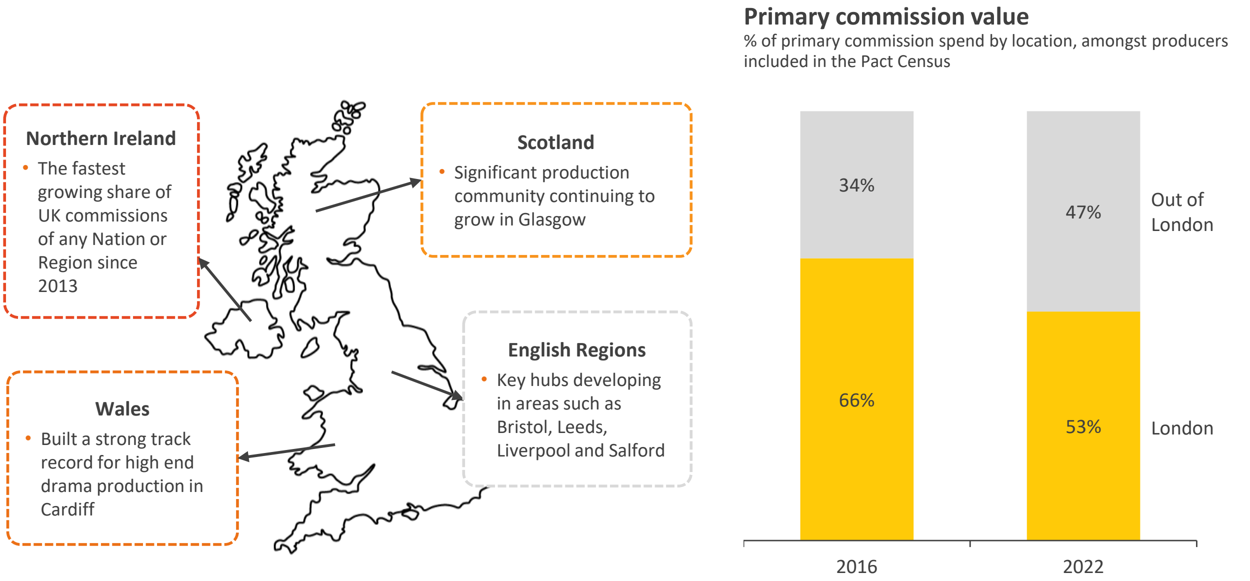
4.6 Production hubs have developed in the Nations and Regions

Over the last decade the production sector has flourished outside of London, with multiple production hubs developing across the Nations and Regions, often supported by the local presence of the PSBs. Although London still accounts for the majority of UK production revenue, there is a significant level of production activity outside of London, as seen in **Figure 11**. In 2022, 47 per cent of production spend with producers included in the Pact census was on projects filmed outside of London – this represents a significant increase since 2016 when just 24 per cent of production spending was outside of London. Thinking about production budget spending – i.e. the cost to producers rather than their revenues – 52 per cent was spent outside of London in 2022, compared to 32 per cent in 2016.

The introduction of policy interventions such as the Made outside London quota (MoL), which ensures each of the UK PSBs meet a set of criteria for broadcasting UK first-run programmes produced outside the M25, have been instrumental in fostering this growth of production communities outside of London. Alongside these policy interventions, each of the UK PSBs have reemphasised their commitment to shifting commissioning to the Nations and Regions. Notably, both the BBC and Channel 4 have set ambitious targets that go beyond their 35 per cent MoL quota. The BBC aims to achieve a 60 per cent commissioning spend in the Nations and Regions by 2027, while

Channel 4 is targeting 50 per cent by 2023. Meanwhile, both ITV and Channel 5 each delivered an average for the period 2017-2021 of around 8-10 per cent above their respective MoL quotas.[3]

Figure 11: Share of UK commissions by producer location, 2022 (%)



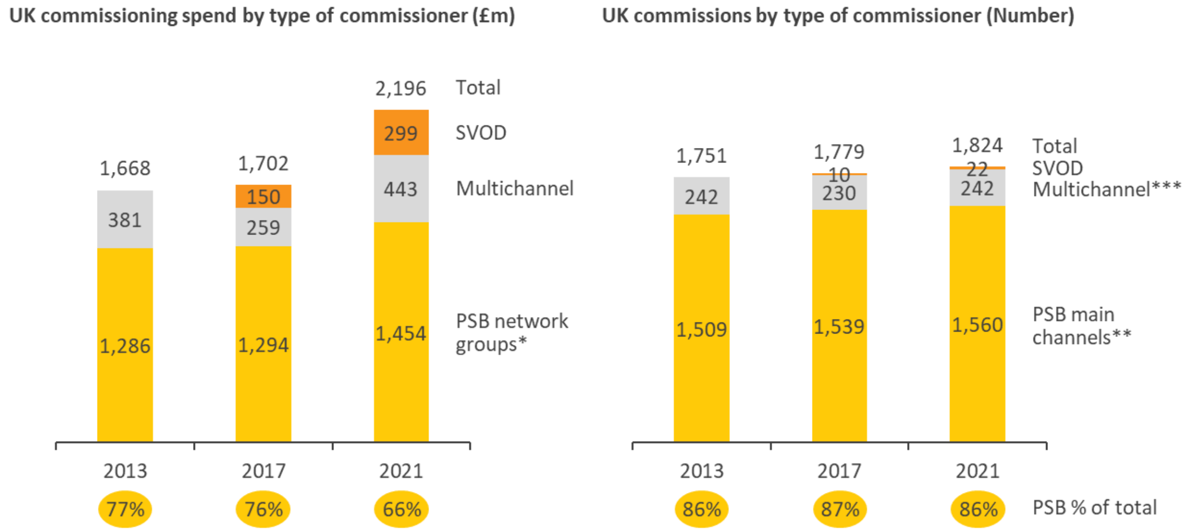
Source: Pact UK Television Production Census 2023, Oliver & Ohlbaum analysis

4.7 The relationship between indies and UK PSBs is vital to the health of both

Over the past decade, UK PSBs have continued to invest a significant proportion of their content budgets each year on original programming from UK independent production companies. As shown in **Figure 12**, UK PSBs have consistently accounted for the vast majority of domestic primary commissions revenue earnt by UK independent production companies since 2013, demonstrating the important role the PSBs have played over the past decade in supporting UK independents. Similarly, when looking at the number of UK commissions by each commissioner type each year, it is clear to see the importance of the PSBs in supporting UK production, with the main five UK PSB channels accounting for 86 per cent of all UK commissions in 2021.

[3] Ofcom PSB Annual Report 2022

Figure 12: UK independent producers primary commissions revenue by UK broadcaster type, 2013 - 2021 (£m)



*Note: *PSBs include the main and spin-off channels for the BBC, ITV, Channel 4 and Channel 5 network groups. **PSB main networks include BBC One and Two, ITV, Channel 4, Channel 5. ***Multichannel includes PSB portfolios. Commissions include returning series*

Source: Ampere Analysis, Pact UK Television Production Census 2022, O&O Programme Database, Oliver & Ohlbaum analysis

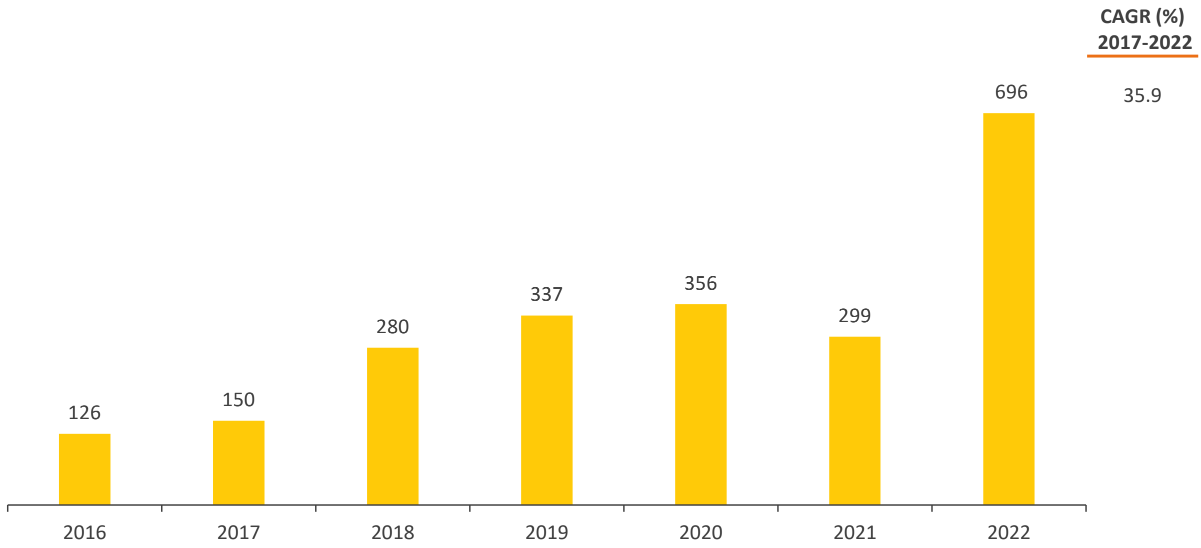
Of course, the value flows both ways, and the UK independent production sector is a vital source of content for PSBs. It offers a wealth of choice, ideas, and financing, enabling broadcasters to offer audiences plurality and diversity of high quality content.

4.8 Indies are finding new opportunities working for global SVOD services

The SVOD commissioning market remains small in terms of the number of commissions, in 2021 SVOD accounted for just 22 commissions from UK producers, compared to 1,802 from UK broadcasters. So, UK broadcasters remain the major buyers of content from independent producers. That said, the maturing SVOD market has created new opportunities for independent producers to win commissions and generate secondary rights sales by licensing finished programmes or formats.

As **Figure 13** shows, SVOD spend on commissions with UK independent producers has increased significantly since 2016, growing to account for just over 18 per cent of the UK independent sector’s total revenues in 2022, at around £700 million. This highlights the increasing demand that global SVODs have developed for independently produced UK original content in recent years. As SVOD spending has increased, their content focus has evolved and they commission a more diverse range of genres; while much of the spend in the earlier years centred on original drama, more recently we have seen a number of high-profile commissions in genres such as specialist factual and comedy.

Figure 13: UK independent producers international VOD commissioning revenues 2016 - 2022 (£m)



Source: Pact UK Television Production Census 2023, Oliver & Ohlbaum analysis

SVOD commissioners and traditional broadcasters serve complementary roles when investing in content and serving UK audiences. FTA broadcasters offer audiences access to quality local programming across a broad range of genres and budgets, including news, live events, and films and TV programmes with culturally specific approaches – pay TV providers also invest in locally relevant genres. Meanwhile, global SVOD services have brought consumers increased choice, providing access to an expansive range of international programmes, especially in high-end drama and factual, in addition to local commissions and library content to engage with UK consumers in a focused set of genres – which now includes more than the original focus on high-end drama, e.g. specialist factual and comedy.

The independent production sector is able to serve both of these groups, with the experience, expertise and reputation that comes with delivering major SVOD commissions, helping to showcase UK creativity and entrepreneurialism across international markets.

While some challenges exist, the outlook for the UK production sector is positive

5 The outlook for the future

As the AV sector continues to evolve at pace, there will be further challenges and opportunities for the UK independent production sector, with ToT helping ensure it remains well placed to thrive.

5.1 The sector faces some challenges

There are signs of a slowdown in growth in content investment from traditional players and VOD services alike. For broadcasters, this is largely due to a steady decline in the core revenue streams of both commercial and public service broadcasters as a result of a long-term decline in the linear advertising market and downward pressure on public funding. In the case of VOD services, the difficult economic conditions have contributed to a change in focus, from subscriber growth to profitability; this has ushered in a period of experimentation with new business models, and new price points, with content investment carefully scrutinised. For all services, the wider economic turbulence is also having an effect.

Beyond these broad trends, the sector continues to face long-term issues present in the sector which have been exacerbated by recent events such as Brexit and the COVID-19 pandemic; these issues include rising production cost inflation and skills/staff shortages, which have led to increased pressure on production budgets and difficulties in finding skilled talent and crew for productions in the UK.

The future of Channel 4, a crucial supporter of the UK independent production sector, has also come under discussion, with suggestions that the broadcaster may open-up to in-house production. Doing so could have a significant impact on UK indies, with the change likely to lead to an erosion of an important segment of their commissioning market, requiring careful consideration of appropriate safeguards if this proceeds.

5.2 Demand for UK originated content is likely to remain high

More than three-quarters of UK households subscribed to an SVOD service in 2022, and 70 per cent of UK adults regularly used BVOD services such as BBC iPlayer and ITVX in 2022. It is expected that the landscape will continue to mature with the popularity of streaming continuing to grow. While linear commissioning from the FTA broadcasters will remain the largest market segment for the independent production sector, VOD services represent an opportunity for UK independent producers to win new commissions and further monetise their catalogue of content in new markets, likely driving further investment in UK production.

Furthermore, given the popularity of UK content among global audiences, and the strong competition for audiences in the wider media landscape, opportunities will likely continue to develop with international commissioners. Particularly as global SVOD services continue to expand their commissioning habits beyond the original focus on premium drama and into areas such as specialist factual, providing opportunities to a wider set of producers. These opportunities could come from international co-productions in new areas and markets, given the UK production sector's established track record, and its experience and expertise making UK independents sought-after partners.

5.3 Developments in regulation could provide necessary further support

Potential shifts in the regulatory landscape could help further support independent producers as the media sector continues to evolve in the future. We have already seen the publication of the draft Media Bill by the UK Government in early 2023, which proposed changes to ToT and the QI quota to extend their current remit to cover the PSB BVOD services. This is in recognition of the changing nature of broadcasters' commissioning behaviour, with digital-first commissions becoming increasingly commonplace.

The draft Media Bill also included a proposal to extend prominence and inclusion rules (currently afforded to PSB linear channels) to the PSB BVOD services. These changes could help secure the position of the UK PSB BVOD services in the changing media environment, ensuring the availability, reach and consumption of these services. This security would support the PSBs to continue to play a key role in commissioning original UK content from UK independent producers.

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