Department
for Culture,
Media & Sport

Assessment of Impacts: The removal of Channel 4 Television Corporation (C4C)'s publisher-broadcaster restriction and accompanying mitigations

November 2023

Contents

1. Summary of proposal **3**
2. Background **3**
Market context 3
The government's approach 5
3. Strategic Case for Proposed Regulation **6**
Problem under consideration 6
What evidence is there to support the government's position? 7
3. Policy objectives **12**
4. Policy options considered **12**
5. Long list of policy options **17**
6. Preferred option **24**
Assessment of options against the key objectives 24
Preferred option 26
7. Costs and benefits of chosen option **26**
Impact on C4C's sustainability 26
Impact on the production sector 27
Regulatory impact 29
8. Wider impacts **30**
Effects on Small and Micro Businesses 30
Equality impacts 31
Trade and investment implications 32
Competition 32
9. Monitoring and evaluation plan **32**

1. Summary of proposal

This is an assessment of the impact of options to support the Channel Four Television Corporation's (C4C's) long term sustainability, in particular by enabling it to generate revenue from a wider range of sources by removing its publisher-broadcaster restriction. Options are assessed against whether they meet the government's key objectives: ensuring the reform measures provide sufficient revenue potential for C4C to compensate for the forecast long-term decline in television advertising revenue; protecting the high levels of competition and plurality in the television production market; and that any intervention does not cause significant shocks to the independent production sector. This assessment explores a range of options to achieve this, and having considered the evidence, recommends the option of removing C4C's publisher-broadcaster restriction, introducing measures to ensure fair and open access to C4C commissions, and increasing C4C's qualifying independent production quota. This option meets the government's key objectives outlined above.

2. Background

The Channel Four Television Corporation (C4C) is a self-financing public corporation which is publicly owned but commercially funded, predominantly by advertising. It is part of the UK's vibrant public service broadcasting (PSB) system, and has played a valuable role economically, socially and culturally since its inception over 40 years ago. While the TV ecosystem, and C4C's role within it, has clearly evolved in that time, the corporation's value to the public has been enduring and significant.

Market context

Film, TV, radio and photography as a sector contributed to 1.1% of the UK's Gross Value Added in the UK in 2020, and brought in £18.2 billion to the UK economy that year[1]. This is the second highest sub-sector of the Creative Industries in the UK.

C4C continues to play an important role supporting the government's wider strategic aims for the creative economy. One of C4C's founding purposes was to support the UK's then fledgling independent production sector. That role has continued to this day, with a recent focus on support for producers in the nations and regions of the UK in particular. This support comes primarily from C4C's original content spend, which was £570 million in 2022, the highest in the broadcaster's history[2]. Forty percent of that budget (£228 million) was spent on programmes made outside of London[3]. In 2022 C4C worked with 319 content suppliers – of which 170 were independent producers[4]. Support also includes contributions from C4C's other business activities, including Film4, its Indie Growth Fund, and 4Skills, its training and placement programme for young people. C4C's physical footprint out of London helps it to build strong partnerships with industry across the breadth of the UK. In 2021 it opened its national HQ in Leeds, as well as creative hubs in Glasgow and Bristol. In January

---

[1] DCMS and Digital Economic Estimates: Monthly GVA (to June 2023), GOV.UK.
[2] C4C Annual Report and Accounts, 2022
[3] C4C Annual Report and Accounts, 2022
[4] C4C Annual Report and Accounts, 2022

2023 C4C announced it would double its investment in 4Skills from £5 million to £10 million, and roles based outside London from 300 to 600, by 2025[5].

As a result of these and other interventions, the independent production sector is now well established and one of the main pillars of the UK's creative economy. Sector revenues have grown from £500 million in 1995 to £3.9 billion in 2022 – the highest levels on record. Meanwhile, the proportional contribution of PSB commissions to sector revenues has been falling. Between 2010 and 2022, the contribution of PSB commissions to sector revenue fell from 58% to 38%. Of the £3.9 billion sector revenues in 2022, PSBs accounted for £1.5 billion, with C4C spending £412 million on external commissions, accounting for 10% of total independent production sector revenue. This is less than the BBC's £609 million and comparable with ITV's £392 million which both also have their own 'in-house' production arms. Revenues to the independent production sector from international commissions grew to over £1.6 billion in 2022[6].

C4C also has a specific focus on producing content for audiences that have historically not been otherwise well-served by other linear broadcasters, including diverse and young audiences. At the time of its inception this primarily meant providing content that was distinctive from that shown on the BBC, and ITV in particular, at a time when there was limited choice for viewers in terms of their TV consumption. In more recent times, C4C has highlighted the importance of maintaining its distinctive channel ethos by championing unheard voices and tackling challenging territories. This is particularly evident in C4C's critically acclaimed coverage of the Paralympics, which has been credited with changing perceptions of disability and helping to develop disabled talent both on and off screen.

However, the broadcasting landscape has evolved radically, and is continuing to do so, with the growth of online streaming platforms, changing viewing habits and increased competition from well-funded global players. Whilst all broadcasters are having to respond to these changes, C4C is more constrained than other linear television broadcasters as a result of its current operating model. Specifically, its ability to diversify its income to improve its resilience is limited due to its publisher-broadcaster restriction. This restriction, which is set in legislation and does not apply to any other broadcaster, effectively stops C4C from making its own content to show on its main channel. While it was necessary at the time to help create a market for independent production in the UK, today that market is well established, with a number of independent producers now very large - with 12% of independent production companies having revenues above £70m in 2022[7]. Other broadcasters, including other PSBs, have implemented successful revenue diversification strategies through growing their production capabilities and generating new intellectual property for subsequent sales worldwide. Without this ability, C4C remains strongly reliant on advertising revenues which are cyclical in nature and, in the case of linear TV advertising, are also in structural decline.

---

[5] https://www.gov.uk/government/news/channel-4-to-remain-publicly-owned-with-reforms-to-boost-its-sustainability-and-commercial-freedom
[6] Pact Census, 2023.
[7] Pact Census, 2023.

The government's approach

The government wants to support C4C to remain financially sustainable over the long term and that its economic and social contribution continues to be significant. The government's policy for C4C is to support the corporation's long term financial sustainability. In line with the findings of our work in recent years considering C4C's future ownership model, a key component of this policy is to provide C4C with new options to pursue greater revenue diversification. At the same time, any intervention needs to facilitate the continued economic contribution of C4C to the UK, and the provision of a broad range of high-quality, diverse programming that demonstrates innovation, experimentation and creativity, is distinctive, educational and appeals to the tastes and interests of a culturally diverse society in the UK for decades to come.

In January 2023 the government announced, in lieu of pursuing a sale of C4C, that it would take forward a package of measures to improve C4C's long term sustainability while remaining in public ownership. These measures included:

- Removing C4C's publisher-broadcaster restriction to open up new options for diversifying its revenues away from advertising, should C4C choose to pursue them,
- Introducing a new statutory duty on the C4C Board to consider the corporation's long term sustainability alongside the delivery of Channel 4's public service remit and the fulfilment of C4C's media content duties,
- An updated memorandum of understanding agreed between DCMS and C4C, including updates to C4C's financial reporting requirements and putting in place new processes for C4C accessing debt capital within its statutory borrowing limit.

This assessment will consider the impact of removing C4C's publisher-broadcaster restriction on both C4C's sustainability and the independent TV production sector. The impact of the statutory sustainability duty on the C4C Board is considered as part of the overarching Media Bill Impact Assessment but is also referenced here.

Following advice from the Better Regulation Executive (BRE) and the Regulatory Policy Committee (RPC), DCMS has not produced a full Regulatory Impact Assessment. The removal of C4C's publisher-broadcaster restriction does not meet the definition of a regulatory provision under the Small Business, Enterprise and Employment Act 2015 and is therefore outside the scope of the Better Regulation Framework's impact assessment requirements. While not a requirement, following advice from the BRE and the RPC, DCMS has nevertheless prepared this document to set out the rationale for intervention driving the decision to pursue a change of operating model, be clear about our basis for the choice of the preferred option and provide an assessment of the potential impacts.

3. Strategic Case for Proposed Regulation

Problem under consideration

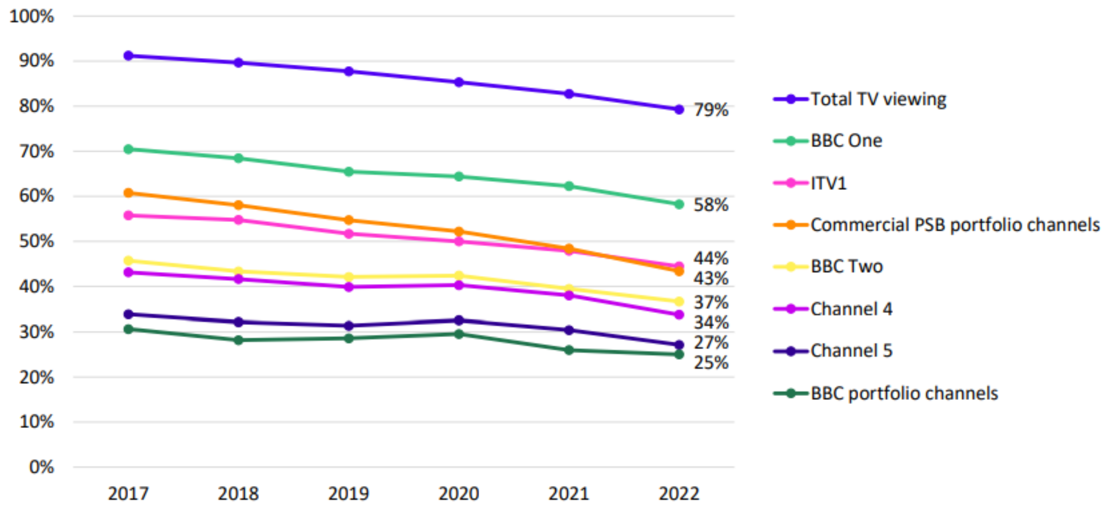
C4C has made good progress in recent years in diversifying its revenues. In 2020 it set targets in its corporate strategy, Future4, to grow the share of its revenues from digital advertising and non-advertising sources to 30% and 10% of total revenues respectively by 2025[8]. C4C is on track to achieve its digital advertising target (22% of total revenues in 2022) and it has already achieved its non-advertising target[9]. However, unlike its competitors, under current legislation C4C has been unable to diversify its revenues further by making and exploiting its own content. It operates as a publisher-broadcaster, meaning that all its shows are commissioned or acquired from third parties – such as independent producers or other broadcasters – who typically retain the underlying rights to those programmes.

At the same time, the government acknowledges that C4C, in large part by virtue of its publisher-broadcaster model, has played a central role in developing the UK's independent production sector over the last 40 years, which is now worth nearly £4 billion[10]. The government continues to consider the television production sector an essential element of our thriving broadcasting ecology and the wider economy. Therefore, the government wishes to balance giving C4C more commercial flexibility to allow it to make more of its own content should it wish to do so, while ensuring that C4C continues to play its key role in incubating and supporting the independent production sector, which often includes new and highly-innovative companies.

[8] C4C Future4 Strategy, 2020
[9] C4C Annual Report and Accounts, 2022
[10] Pact Census, 2023

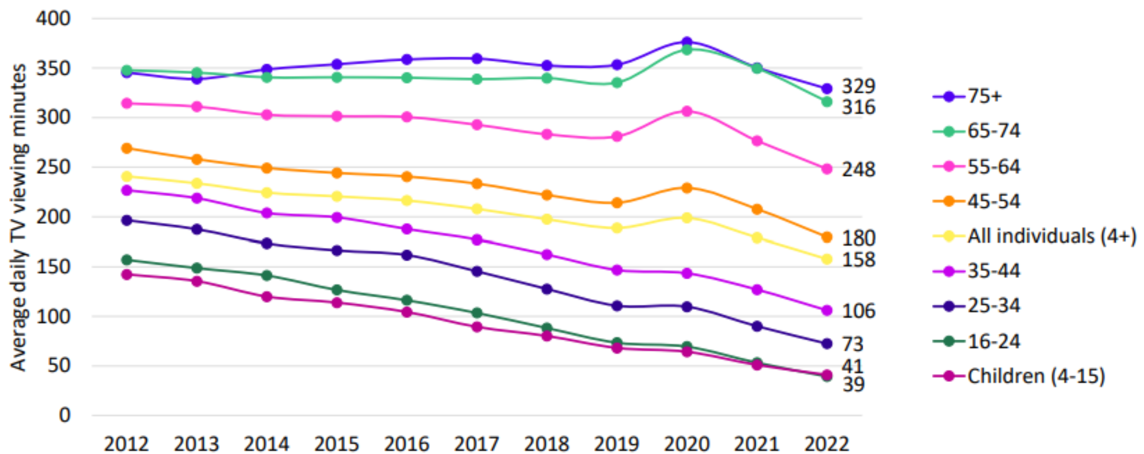
What evidence is there to support the government's position?

Audiences continue to turn away from live broadcast TV



Source: Barb 28-day consolidated, all individuals (4+), TV sets only. Weekly reach is defined as the percentage of all individuals aged 4+ watching 15 consecutive minutes or more in an average week.

Figure 1: weekly reach, by TV channel: 2017-2022 (Media Nations 2023)



Source: Barb 28-day consolidated, TV sets only.

Figure 2: Average daily minutes of broadcast TV viewing, by age group: 2012-2022 (Media Nations 2023)

Like other PSBs' live TV channels, Channel 4's weekly reach (average daily minutes of broadcast TV viewing) on TV sets has continued to decline since 2017 (aside from a small rise in 2020, due to increased viewership during the Covid-19 pandemic). This decline is most dramatic amongst younger viewers compared to the oldest age groups. C4C has historically focused its content on what appeals to those younger audiences, and focuses its portfolio of share of commercial impact (SOCI) on 16-34 year olds as well as those from a higher socioeconomic background. However, as shown in figure 2, average daily viewing of live broadcast TV has continued to decline since 2012 across all age groups (once again aside from an increase in 2020 which can be explained by the Covid-19 pandemic). This

suggests that this change is broad-based and sustained, and therefore means it would not be possible for C4C to offset this decline by changing their target demographic.

There has also been a marked shift in the way that people consume TV over the last decade, driven by advances in technology. Audiences are increasingly likely to consume content on non-linear platforms such as video-on-demand (VoD) services, and are doing so on non-traditional 'second-screens' with more than half of all adults (53%) saying they consider video-on-demand services to be their main way of watching programmes and films[11].

Decreasing linear ad revenues

As audiences turn away from watching linear TV year on year, over the ten years prior to 2022 the overall sums that advertisers spent on linear TV fell in real terms, even while total advertising spend has been increasing (figure 3). 2021 was an outlier in this trend, with TV advertising revenue up by 24% to £5.4bn, with a post-Covid-19 rebound in advertising boosted by the return of major live sporting events like Euro 2020. It is unclear at this stage whether this can be sustained, but data from 2022 suggests this is unlikely, with TV ad spend falling by £77m from 2021.

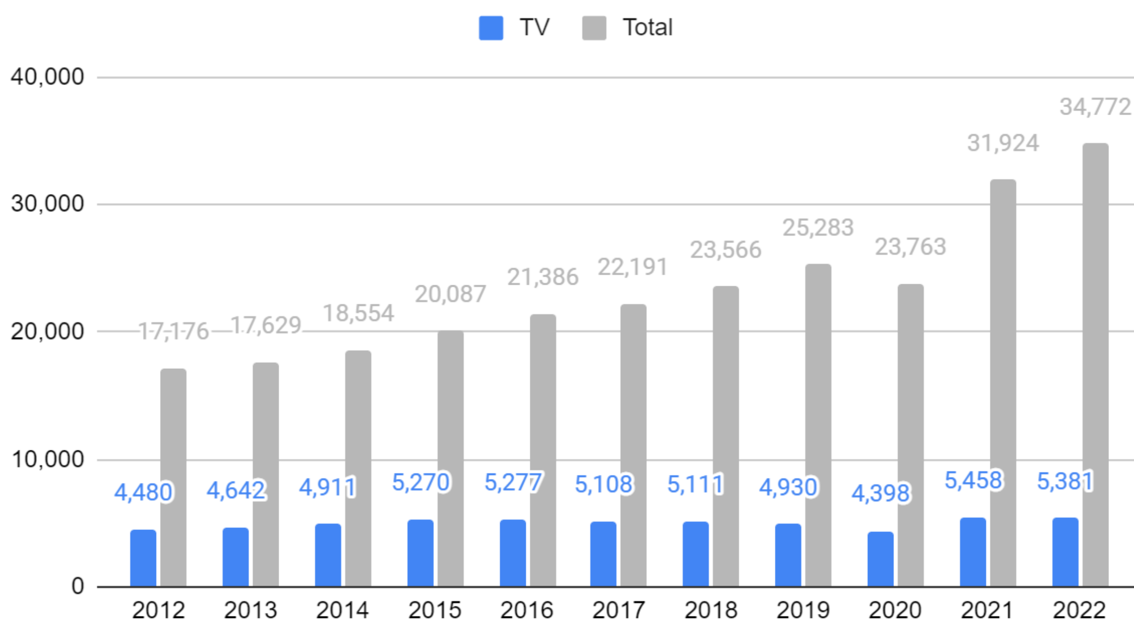


Figure 3: UK Advertising spend, TV (including Broadcaster VOD) and total (£m), 2012 - 2022.[12]

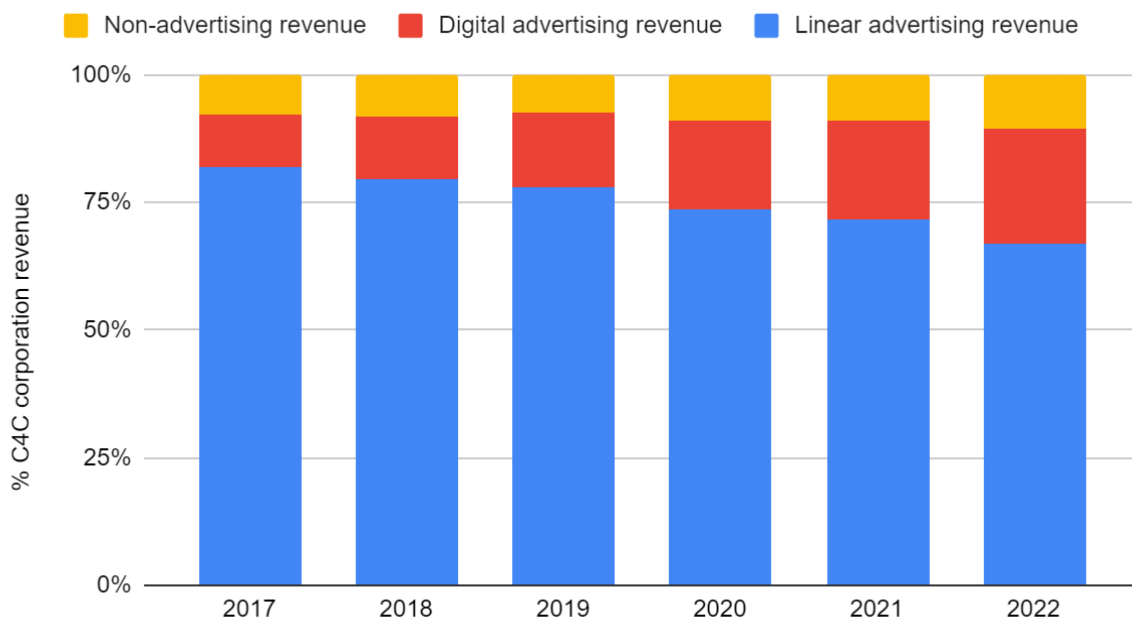
Figure 3 above demonstrates the fall in TV advertising spend as a proportion of total UK advertising spend. From 2012 to 2022, total TV advertising spend increased by £901m (20.1%) from 2012 (£4,480m) to 2022 (£5,381m), whilst total advertising spend increased by £17,596m (102.4%) over the same period. In the last 5 years, this growth in TV advertising spend has been even slower, increasing by just £363m (5.34%) from 2017 (£5,108m) to

[11] Ofcom, Media Nations report, 2023
[12] https://www.iabuk.com/news-article/aawarc-total-uk-ad-spend-88-2022-ps348bn

2022 (£5,381m)[13]. Furthermore, prior to the Covid-19 pandemic, market analysts Enders analysis concluded that “Linear advertising…has been declining across the market at a compound annual growth rate (CAGR) of 2.5% since 2015."[14] The significant increase seen in 2021 could, therefore, be an outlier and attributed to pandemic factors. To support this, there is forecast to be a further 2% year-on-year decline in TV advertising revenue in 2023 spurred by the current economic downturn, showing that the rise in 2021 is unlikely to be one that is sustained[15]. More recent reports suggest the level of decline could be even greater than this. If we assumed, therefore, that the 2021-2022 rise was an outlier caused by the Covid-19 pandemic, looking at the 2012-2020 period could be more reliable for our analysis of the trend in revenue. Over this period, total TV advertising revenue fell from £4,480m to £4,398m in nominal terms, with this fall representing a 1.83% decrease over a period where the average yearly inflation rate from 2012-2020 was 1.7%, presenting an even greater decrease in total advertising revenue in real terms.

Similarly, Ofcom’s latest Media Nations report states that although television advertising spend currently remains higher than its pre-2021 peak, its share of display advertising (TV, online, and print/ out of home) has fallen to 28%, having been consistently falling since peaking at 45% in 2013[16]. This is primarily a reflection of the continued growth of online advertising – including video and other forms of online display, such as banner advertising – in contrast to smaller year-to-year fluctuations in advertising spend on TV over the past decade.

Impact on C4C



[13] AA/WARC: Total UK ad spend up 8.8% in 2022 to £34.8bn, iab.uk
[14] Enders Analysis (2020). *Channel 4: 2019, 2020 and beyond*
[15] AA/WARC: Total UK ad spend up 8.8% in 2022 to £34.8bn, iab.uk
[16] Ofcom, Media Nations report, 2023

Figure 4: C4C revenues by source, 2017-2022.

In 2022, 89% of C4C's revenues were from advertising, with 67% from linear advertising[17]. This shows that despite the positive progress C4C has made in recent years to diversify its income away from linear television advertising it is still highly dependent on advertising revenues, leaving it vulnerable to wider competition in the advertising market. In comparison, ITV, which operates the UK's largest commercial production business (ITV Studios) generated 48% of its revenue from advertising in 2022[18]. ITV has a strategy to continue to grow the proportion of its revenues which come from production, and reports suggest it estimates that revenues from ITV Studios will contribute ~55% of total revenues by 2026[19].

Market wide, the reduction in linear TV advertising revenue has somewhat been compensated by digital TV advertising, which includes revenues from advertising on video-on-demand, as well as on video-sharing platforms such as YouTube. C4C's revenues have followed those broad trends, but with digital advertising revenue not fully compensating for the decline in linear TV. As shown in figure 4, since 2017, the proportion of C4C's revenue that comes from linear advertising has decreased, while the proportion derived from digital advertising has continued to increase - reaching 22% in 2022. While this trend is positive, as with other broadcasters, digital advertising revenues are not growing fast enough to compensate for the reduction in traditional linear advertising revenues. Figure 5 below demonstrates that after the post-Covid-19 rebound of C4C's revenue from advertising, revenue from this source has started to decline once again. If we were to assume the 2021-2022 data points are outliers caused by the Covid-19 pandemic, the trend of falling advertising revenue for C4C would have been likely to continue, posing a potential threat to C4C's ability to sustain the level of its future operations. The assumption that 2021 was an outlier is further supported by the fall in 2022 showing revenue beginning to return to the same downward trend as was seen pre-pandemic.

[17] C4C, Annual Report and Accounts, 2022
[18] ITV plc Annual Report and Accounts for the year ended 31 December 2022
[19] Enders Analysis: ITV FY 2022 results: ITVX underway and growing

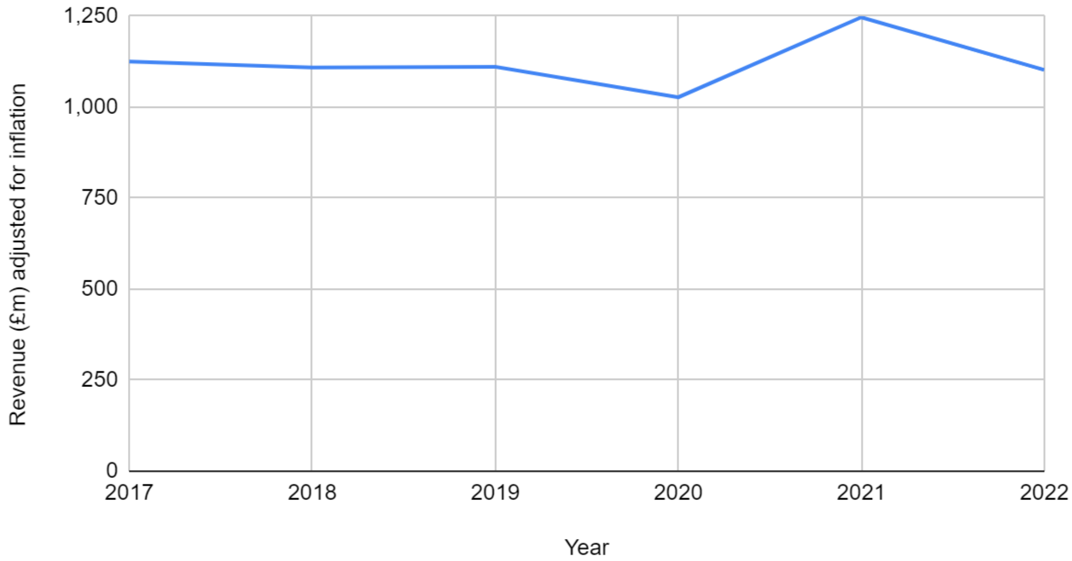


Figure 5. C4C total advertising revenue, adjusted for inflation, 2017-2022.

The increasing competition in the ad market for TV is also seen to be a growing issue. Advertising funded VoD services (AVoD) and new FAST (Free Ad-Supported TV) services are increasing in popularity, particularly in the UK when compared to other western European countries. These are online streaming services which allow consumers to watch TV for free, paid for by adverts. This competitive market further showcases a need for C4C to not become over reliant on income from advertising. Removing C4C's publisher-broadcaster restriction will give C4C more options for diversifying its revenues away from advertising.

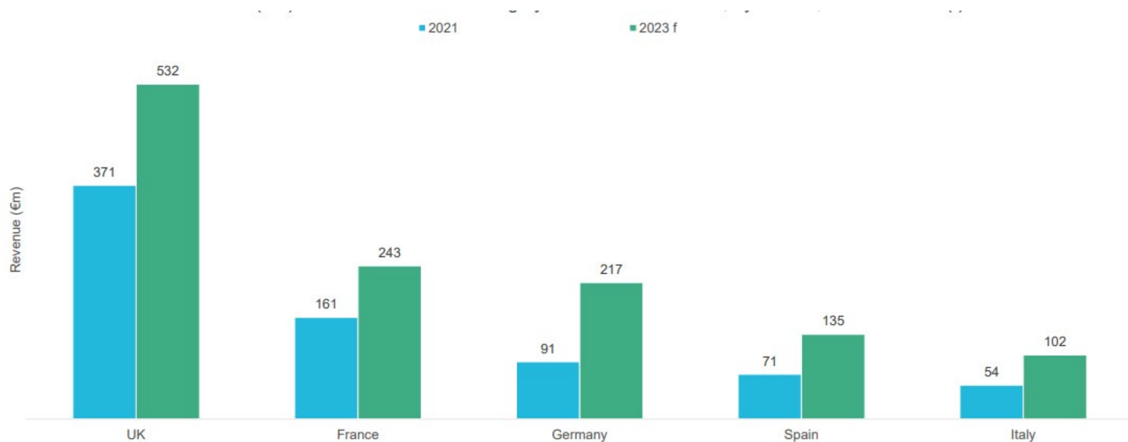


Figure 6. Annual revenue (€m) of online video advertising by AVoD/BVoD services, by market, 2021 vs 2023 (f)[20]

Looking to the future, revenue streams from advertising look increasingly uncertain. Broadcaster VoD (BVoD) services are seeking to attract viewers who are also likely to be

[20] Ampere Analysis, Analysing the rise of AVoD in Western Europe: September 2023

users of subscription VoD (SVoD) services like Netflix and ad supported video-sharing platforms like YouTube. This competition is intensifying further; several SVoD services are moving, or have moved, into ad-supported tiers, meaning that advertisers will have even more options for reaching TV and video audiences.

Ability of C4C to mitigate against these trends

As discussed above, C4C has made progress in recent years in diversifying its revenues away from advertising. This has included, for example, driving revenues from subscriptions to the ad-free tier of its BVoD service, as well as income from C4C's media for equity fund, 4Ventures, and their film studio, Film4. As a result of these efforts non-advertising income now makes up around 10% of C4C's total revenues.

However, C4C does not derive significant revenues from production, which is a revenue source that other broadcasters, including other PSBs, have used to diversify their revenues in a meaningful way. Production income can be in the form of payment for making a programme (known as "commissioning revenues"), which typically includes the rights for the first showing of that programme, as well as "secondary rights" income which includes payments for using the programme rights that are not contained in the primary rights package (e.g. sale and distribution of the programme outside of the UK). C4C's current reliance on advertising revenues, and on linear advertising revenue in particular, presents a risk to its ability to continue delivering the same high quality content in the future without further intervention. Both the BBC and ITV have their own production divisions, with ITV Studios accounting for 48% of ITV Group's revenue in 2022 and BBC Studios accounting for 25% of the BBC's total income in 2020/21[21].

Whilst C4C could arguably reduce content spend to manage any short term revenue decline, as they did when preemptively cutting content spend by £138 million in 2020 in response to the Covid-19 pandemic, this is not a credible long term solution without risking losing audience share and/or the quality of content being negatively impacted. Enders Analysis described C4C cutting content spending by 21% as 'in no way sustainable' given the increased competition from SVoDs in particular[22].

Clearly, in-house production offers a potential way to further diversify C4C's income and support it to continue to deliver high quality content for many years to come. Removing C4C's publisher-broadcaster restriction would create a level playing field for C4C, allowing it the ability to establish its own production division, should it wish to, facilitating a new revenue stream, and reducing reliance on the TV advertising market, in particular linear TV advertising.

---

[21] BBC Group Annual Report and Accounts 2022/23

[22] Communications and Digital Committee inquiry into the future of Channel 4: Enders Analysis—written evidence (FCF0050)

3. Policy objectives

Based on the considerations outlined in the strategic case, the key objectives for this policy were defined as:

- **Objective 1:** That there is sufficient revenue potential and/or cost efficiencies for C4C to compensate for the decline in revenue from advertising,
- **Objective 2:** That we protect the high levels of competition and plurality in the television production market,
- **Objective 3:** That any intervention does not cause significant shock or confusion for the independent production sector.

4. Policy options considered

When the government announced in January 2023 that it intended to remove C4C's publisher-broadcaster restriction as part of a package of measures to support C4C's long term sustainability, it also committed to work closely with the production sector to consider the necessary steps to ensure that C4C's important role driving into the sector is safeguarded. A number of policy ideas (referred to in this assessment as 'mitigations') were considered, informed by the industry Call for Input DCMS held between March and April this year (2023), as well as other engagement with the sector. Each idea was considered against how well it met the policy objectives in section 3 which formed a long list of policy options. Further evidence on to what extent each policy option met the policy objectives was then used to form a short list.

The list of policy ideas for mitigations to accompany the removal of C4C's publisher-broadcaster mitigations that were considered was:

- Changes to the level of C4C's independent production quota
- Changes to C4C's regional programme making quotas
- Specific protections for small and medium-sized enterprise (SME) producers
- Measures to ensure fair and open access to C4C commissions
- Introducing a cap on C4C 'in-house' production
- Not allowing C4C to make content for third parties

C4C is editorially and operationally independent of government. It is therefore able to take forward other actions to diversify its revenue sources and improve its resilience that do not require regulatory intervention, and indeed has done so, particularly since the adoption of its latest corporate strategy (Future4) in 2020. Some of these actions are discussed in this analysis but they are not considered as government policy options in their own right.

Changes to the level of C4C's independent quota

Currently, C4C's publisher-broadcaster status means that they commission all their programming from external producers, which are categorised as either: qualifying independent (QI) producers, non-qualifying independent producers (NQIs) or broadcaster in-house studios. A QI production company is one which is not tied to a UK broadcaster through significant common ownership, meaning it is: (i) not employed by a broadcaster; (ii)

does not have a shareholding greater than 25% in a UK broadcaster; or (iii) in which no single UK broadcaster has a shareholding greater than 25% or any two or more UK broadcasters have an aggregate shareholding greater than 50%. An NQI is a producer which *is* tied to a UK broadcaster through significant common ownership (e.g. one that is more than 25% owned by a UK broadcaster). An example is Ricochet which is owned by Warner Brothers Discovery. Examples of broadcaster in-house studios include ITV Studios and Sky Studios.

All PSBs are subject to an independent production quota, requiring them to commission a minimum proportion of their programmes from QI producers. The quota is set at 25% of qualifying programmes for all PSBs, creating a guaranteed market for independent producers. Alongside the 'Terms of Trade' regime this guaranteed market has been credited with driving much of the growth in the independent production sector, which in 2022 was worth nearly £4 billion to the UK economy[23]. Unlike other PSB quotas, the level of PSBs' independent production quota is set out in legislation, with powers for the DCMS Secretary of State to amend the level by order.

When announcing its intention to remove C4C's publisher-broadcaster restriction in January 2023, the government committed that it would also increase the level of C4C's independent production quota. This would ensure that C4C continued to commission a significant amount of content from QI producers, many of which are small and medium sized businesses who benefit most from intervention in the market. Responses to DCMS's Call for Input were strongly supportive of this change, although there was significant variation in the proposed level of the revised quota. In general, QI producers supported the largest increases (some suggested as high as 75% of qualifying programmes), and other producers (particularly NQIs) supported smaller increases, or no increase. For these reasons DCMS intends to implement this change, which was taken forward to the short list once assessed against the three policy objectives.

Changes to C4C's regional programme making quotas

Some industry stakeholders, particularly those based outside of London and in areas where C4C do not already have a physical presence, raised concerns that C4C might not maintain their commitment to production outside of London if it was instead focused on growing an 'in-house' production business. To address these concerns, respondents to the Call for Input called for "strengthened" requirements around C4C's regional programme making quotas. These are quotas which all PSBs are subject to and require them to make a proportion of their programmes outside London, and for a proportion their expenditure to be on making programmes outside London. Some respondents wanted to see C4C's voluntary commitment to over-deliver against their "Out of London" quota reflected in their broadcasting licence (moving from 35% to 50%), and others wanted C4C to be subject to specific nations quotas, as already exist for the BBC[24].

---

[23] The 'Terms of Trade' is the name given to the regulatory regime which requires PSBs to maintain Codes of Practice setting out their approach to commissioning from independent producers, in line with Ofcom guidance. In particular, this arrangement ensures that, in most instances, independent producers retain the Intellectual Property (IP) rights for their programmes.

[24] The BBC is subject to individual quotas for making programmes in each nation of the UK, as well as a quota for making programmes outside of London.

In contrast to PSBs' independent production quotas which can be amended by secondary legislation, the level of PSBs' regional programme making quotas is set by Ofcom. Ofcom have used their powers in the Communications Act to ensure that production of C4C content takes place in a "suitable range of production centres", introducing an "Out of England" quota for C4C in 2010 alongside their "Out of London" quota. C4C's "Out of England quotas" was tripled (from 3% to 9%) in 2020. Ofcom have told DCMS that they will consider whether changes to C4C's regional programme making quotas are required through their consultation on the terms of the next C4C licence which will begin later in 2023 (the current C4C licence expires on 31 December 2024). If the government were to make changes to the level of C4C's quotas in this area, this would require primary legislation that would cut across Ofcom's powers, potentially raising questions about the quota regime more broadly.

As discussed elsewhere in this assessment, the impact of removing the publisher-broadcaster restriction on C4C's support for production in the nations and regions will depend on how C4C decides to make use of its new freedoms. For example, C4C's contribution to production outside London could be significantly bolstered if they were to start a production business outside of London. DCMS's view is that the most appropriate way forward is to keep C4C's support for regional production under review, which is best done under Ofcom's existing powers. DCMS therefore decided not to take this option forward to the long list.

Specific protections for SME producers

A number of responses to DCMS's industry Call for Input suggested that the government should introduce specific protections for 'small' independent producers. This is because Channel 4 has a specific remit to commission diverse and innovative programmes, resulting in a commissioning strategy which has traditionally seen C4C commission from a high proportion of small producers. There is no singular definition of a small producer, but for the purpose of this assessment we are defining it as a QI producer with a turnover of under £10m. Some industry stakeholders suggested that commissions from the smallest producers, which tend to be lower value commissions, would be the easiest for C4C to replace in their schedule if they were looking to make room for in-house productions, and therefore protections against this would be necessary.

Two responses to the Call for Input called for a quota on C4C to commission from independent producers who were also SMEs. This might be a subset of C4C's existing independent production quota, or a new quota entirely. However, DCMS's view is that there is no clear evidence that smaller producers specifically are likely to be disproportionately affected by this change (further evidence to support DCMS's position is presented later in this analysis). Channel 4's remit to commission innovative and distinctive content will be maintained, and DCMS notes that C4C has recently committed to a new transparency measure to report on the number of commissions they make from producers of under a certain size (defined by turnover), as part of their annual Statement of Media Content Policy. Further, the consensus view from our engagement with independent producers themselves were that measures which targeted small companies specifically (e.g. under a certain turnover threshold) were anti-competitive, were at risk of being gamed, and would increase

monitoring and compliance costs for Ofcom in its role as the independent regulator. Therefore DCMS decided not to proceed with this option.

Measures to ensure fair and open access to C4C commissions

The vast majority of respondents to the Call for Input said they supported measures which would ensure fair and open access to C4C's commissions, in the event they did decide to operate their own 'in-house' production business. Under this approach a C4C production business would be required to compete fairly, alongside external producers, for any commissions it sought to win from C4C. A C4C production business would also not benefit from any form of 'in-house guarantee'; an arrangement that the BBC's 'in-house' production company, BBC Studios, benefitted from until 2017[25]. Some respondents suggested replicating the arrangements that exist for the BBC, which include high level obligations placed on it through its Charter and Framework Agreement, and also more detailed 'trading and separation requirements', both of which are overseen by Ofcom.

DCMS agrees that ensuring C4C treats all producers fairly and that programmes are commissioned on merit is important for preserving competition and plurality in the TV production sector. It is also important for C4C to ensure they commission the best shows. This will mean striking the right balance between delivering commercial success and fulfilling their public service remit and other statutory duties – a balance that is required of all the UK's commercial PSBs. However, DCMS's view is that simply replicating the requirements on the BBC for C4C would not be appropriate. This is particularly the case as some of the BBC's 'trading and separation requirements' (for example, those related to generating commercial rates of return and fair pricing) arise from the BBC's status as a publicly funded broadcaster.

DCMS has worked with C4C on robust fair access measures that C4C would implement in the event they start a production business. This includes a commitment that a C4C production business would be established as a separate company wholly owned by C4C, with appropriate governance arrangements such as a separate board and financial reporting requirements, and a new, independent dispute resolution process that external producers would have access to. The Media Bill also introduces a duty on C4C to put in place and adhere to procedures that facilitate fair competition for their commissions. C4C will be required to report to Ofcom on how these arrangements are operating; and Ofcom would have broad powers to intervene if they determined this was appropriate. DCMS's view is that these measures are extremely important for achieving its objectives for this work and so has taken this option forward to the longlist.

Introducing a cap on C4C 'in-house' production

Some respondents to the Call for Input proposed a cap on the amount of content that C4C should be allowed to make 'in-house', set at a certain proportion of programme hours and spend. Suggestions for the level of the cap varied between 10 and 15%, building up incrementally over a period of three to five years. The rationale for such a measure was

---

[25] Under previous arrangements, the BBC Framework Agreement required 50% of qualifying programmes to be reserved for the BBC's in-house production teams. The current Framework Agreement requires the BBC to contest 100% of relevant TV commissions by the end of 2027.

twofold. First, it would help preserve the high levels of competition and plurality in the TV production sector by ensuring that C4C continues to commission a significant majority of their content from external producers; and also to ensure that C4C built up its production capabilities over time, in a way that would avoid short term market shocks.

DCMS's view is that the measures to ensure fair and open access to C4C's commissions (as discussed above) are the best way of preserving high levels of competition in the production sector. Similarly, DCMS thinks there are existing constraints, and checks and balances, to limit the pace of growth of a C4C production business. These include management capacity to establish a new business area while fulfilling remit delivery; the requirements to demonstrate to its Board and government that C4C is acting in a financially sustainable manner; the availability of suitable acquisition targets and/or experienced staff and infrastructure; and C4C's statutory borrowing limit (currently set by Parliament at £200 million).

However, a cap would offer additional reassurance to the sector by setting clear parameters on the proportion of C4C's commissions that would be awarded to external producers. This would be particularly welcomed by NQI producers, many of whom also provide valuable public service content and support production in the nations and regions of the UK, but would not benefit from an increase to C4C's independent production quota. As set out above, a cap would also provide an additional safeguard against the potential of market shocks. For these reasons DCMS decided to take this option forward to long listing.

Not allowing C4C to make content for third parties

Some industry stakeholders suggested that C4C should not be allowed to produce content for third parties (i.e. the content its production business made would only be allowed to be shown on C4C's own services). This would prevent the loss of further commissioning opportunities for other producers and therefore limit distortive effects on the production market.

DCMS decided not to take this option forward to longlisting as it would run counter to policy objective 1, i.e. to give C4C further options to meaningfully diversify their revenues away from advertising. If C4C's 'in-house' production business were only able to win commissions from C4C this would severely curtail its ability to generate profits. This is because it would only ever be able to pitch for a limited pool of commissions, reducing opportunities for growth. Industry stakeholders have also expressed a risk it could create incentives for C4C to award commissions to its 'in-house' business rather than commissioning the best content based on merit, if internal commissions were the only business it would win.

5. Long list of policy options

DCMS considered a number of options made up of the different mitigations that we decided to take forward following our initial consideration. The long-listed options, including a 'do nothing' option (option 0), are outlined and discussed below. As we will only be considering a total of four options in this assessment, our analysis below will fully consider each in depth and explore what interventions they involve. For the purpose of the discussion, each option will be assessed against the policy objectives set out above to test their validity. Due to data

limitations, this assessment primarily uses qualitative analysis to do this. This analysis and the comparison of the options considered is then summarised in section 6. Whilst the following analysis is not entirely green book compliant due to this assessment of impact being outside the better regulation process, we still believe it to be comprehensive in assessing each option.

Option 0: do nothing - do not remove C4C's publisher-broadcaster restriction.

Objective 1

As outlined in the strategic case, under the do nothing option there is a risk to C4C's long term financial sustainability. Requiring C4C to continue to operate as a 'publisher-broadcaster' would deny them the opportunity to further diversify their revenues at a time where a consistent income from linear advertising is becoming increasingly uncertain. Other PSBs diversify their revenue streams in this way, avoiding over-reliance on advertising revenue: both the BBC and ITV have their own production division, with ITV Studios accounting for 48% of ITV Group's revenue in 2022 and BBC Studios accounting for 25% of the BBC's total income in 2020/21.[26] [27]

As discussed above, C4C have made progress in diversifying their income away from advertising, including via investments in production companies via their Indie Growth Fund, a subscription tier for their BVoD service, and returns from their film production company, Film4. However, these have not been sufficient to fill the funding gap resulting from the structural decline in the linear advertising market.

Under this option C4C would still be subject to a new duty requiring the Board to consider the corporation's long term sustainability alongside delivery of its public service remit. However if the publisher-broadcaster restriction was still in place, C4C would have fewer options open to it to help it to meet the duty.

Therefore, under this option C4C is at increased risk of continued real term declines in their overall revenues, posing a threat to their financial resilience. Because of this, the first key objective is not met through the do nothing option.

Objective 2

Doing nothing could cause C4C's content budget to decline alongside their linear advertising revenue, putting their long term support for the TV production sector at risk. The withdrawal of C4C commissioned programmes from the production market would cause the competition and plurality of the sector to worsen as a result. While the policy objective may be met in the short term, as C4C would continue to be required to commission all of its programmes from external sources, the longer term risks to the production sector associated with not giving C4C more flexibility to increase its revenue potential and improve its resilience means that our assessment is that objective 2 is not met by the do nothing option.

---

[26] ITV, Annual Report and Accounts, 2022
[27] BBC, Annual Report and Accounts, 2022

Objective 3

As this option does not involve the government taking any action, it is unlikely that there would be any significant shocks to the independent production sector. However, it is worth noting that not increasing the independent production quota could allow there to be a greater risk to the independent production sector in the future compared to a scenario in which the independent production quota was increased. Despite this, there is still unlikely to be a significant shock, at least in the short-term, from no intervention, and therefore the third objective is fully met under option 0.

Overall, given the outlook of the TV advertising market, C4C's reliance on income from this market, and the limited scope that C4C has to diversify its income away from advertising at present, we do not think it is viable to take this option forward.

Option 1: remove C4C's publisher-broadcaster restriction with no mitigations beyond fair and open access measures and a statutory sustainability duty

Objective 1

As outlined above, removing C4C's publisher-broadcaster restriction will enable the corporation to diversify its revenue streams, if they wish, by producing and exploiting their own content. Not introducing any mitigations to protect C4C's support for the wider sector would give C4C the maximum possible flexibility to generate revenues from a production business, which could be beneficial for improving its long term financial sustainability and meeting its new sustainability duty. As this option enables full flexibility in doing this, it fully meets the first objective.

Objective 2

As this option does not introduce any new mitigations beyond fair and open access, this could pose a risk to the competition and plurality within the video production market. Under option 1, C4C could shift a large proportion of their productions 'in-house', reducing the commissions open to independent producers in the sector and possibly putting them at risk. This could impact the level of competition within the sector, as C4C could in principle offer significantly fewer commissions to independent producers if they find it more beneficial to produce those programmes 'in-house'. Therefore, whilst option 1 does allow for C4C to continue to be competitive, there is a risk that, despite the fair access measures that would be put in place, C4C could commission significantly fewer programmes from independent producers, harming competition and plurality within the production sector. Thus, option 1 only partially meets objective 2.

Objective 3

As also set out above, the government acknowledges that C4C plays an important role supporting the UK's independent production sector, particularly by commissioning programmes from SMEs and new entrants. Although that role has changed as commissioning budgets from other broadcasters and streaming services have increased, C4C commissioning still amounts to an estimated 10% of sector revenues, providing

investment directly into the UK independent production sector[28]. Removing C4C's publisher-broadcaster restriction represents a material change in one of the most well established public policy interventions in the broadcasting and production sectors. Even with measures to ensure fair and open access to C4C commissions, this could create significant uncertainty within the TV production sector as C4C could, in theory, significantly decrease their support for independent producers and instead pivot their focus to growing their 'in-house' production capabilities. This might include commissioning substantially fewer programmes from independent producers.

DCMS thinks this is unlikely for a number of reasons. In particular, C4C's public service remit and media content duties would be unaffected, and any sizable 'in-house' production ambitions would be capped by the factors including the capacity of C4C management to establish a new business area while fulfilling remit delivery and C4C's borrowing limit of £200m. Additionally, the new sustainability duty will require C4C to remain securely in a position to meet its costs, which is unlikely to be compatible with a rapid and dramatic scaling up of their production capabilities in the immediate term.

However, we appreciate that the sector would benefit from additional reassurances that the removal of C4C's publisher-broadcaster restriction will not result in immediate and dramatic changes in C4C's commissioning behaviour. This is particularly the case as, due to the long lead times inherent in the commissioning cycle, businesses require more visibility of the medium and long term sector landscape to create investment conditions conducive to maintaining a thriving production sector. The lack of mitigations beyond fair and open access measures and the introduction of statutory sustainability duty under option 1, alongside the significant change of removing the publisher-broadcaster restriction, means that the third key objective is not met.

Option 2: remove C4C's publisher-broadcaster restriction, introduce fair and open access measures and a statutory sustainability duty, and increase the level of C4C's independent production quota

Objective 1

As with option 1, in option 2 the publisher-broadcaster restriction is removed, giving C4C more flexibility to diversify its revenue streams and offset the falling revenue they currently rely on from advertising by producing their own content in-house. Though an increase in C4C's independent production quota gives less flexibility to C4C than option 1, DCMS's view is that it still offers enough freedom so that C4C can ensure it has access to diverse revenue streams to support their financial resilience. As a result, Option 2 fully meets the first objective.

Objective 2

As set out above, all PSBs are subject to a 25% quota on qualifying hours commissioned from QI producers. C4C consistently exceeds its quota. In 2022, C4C commissioned 54.9%

[28] Pact Census, 2023.

of qualifying hours from qualifying independent producers[29]. BBC, ITV and Channel 5 also exceed the quota, but are consistently lower than C4C in percentage terms.

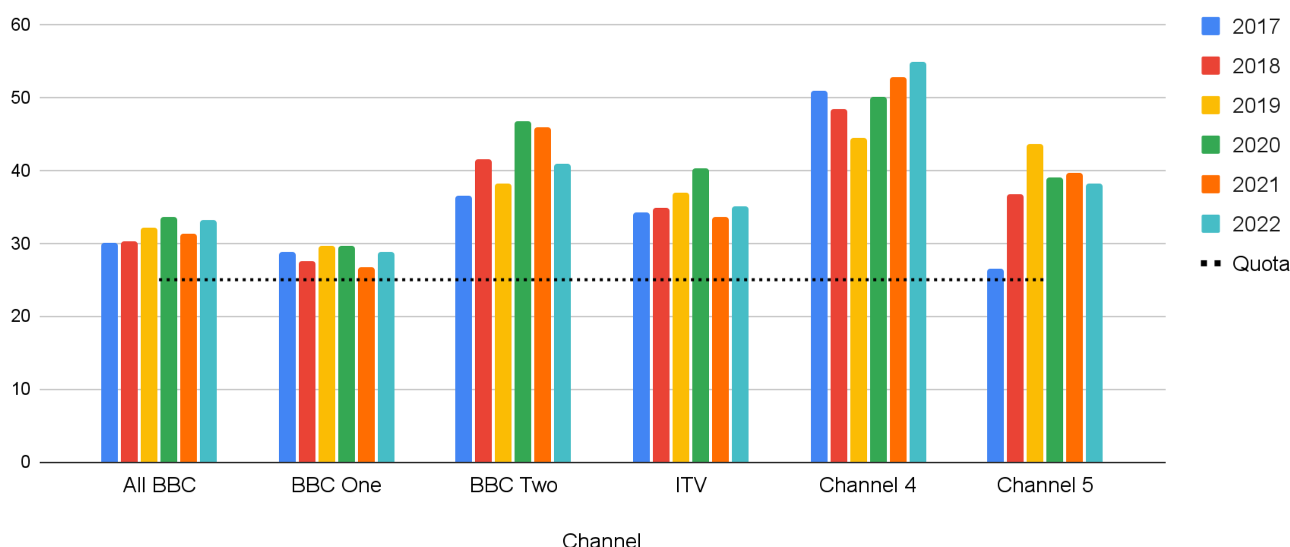


Figure 8: PSB's performance against the qualifying independent quota, 2017-2022[30].

Increasing the level of C4C's independent production quota would provide reassurance to the sector that C4C will continue to commission a significant amount of content from QI producers, even if the broadcaster does choose to commission some programmes 'in-house' in the future. It would provide a backstop against any dramatic shifts in the level of C4C's commissioning from those producers.

In this context, DCMS considered a number of different levels to raise C4C's independent production quota to:

A. Increase C4C's independent production quota to 30%
B. Increase C4C's independent production quota to 35%
C. Increase C4C's independent production quota to 50%

DCMS considers that option A (increase to 30%) has the advantage, of the three options, of leaving C4C with the maximum flexibility in its commissioning strategy to commission the best shows based on merit, and that which will contribute towards its public service remit, regardless of producer status. However, there is a risk that increasing the quota by just five percentage points does not provide an effective backstop against dramatic changes in C4C's commissioning approach. In addition, QI producers may not feel reassured by the steps the government is taking to protect their interests, which may undermine business confidence.

Option C (increase to 50%) was suggested by some respondents to the Call for Input on the basis that C4C's performance against their independent production quota has been approximately 50% in 2021 and 2022. While an increase to this level would provide

---

[29] Ofcom, Public service broadcasting annual report: 2023
[30] https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/psb/annual-report-2023

significant reassurance to QI producers, this approach also risks squeezing out NQI producers and broadcasters' in-house studios, many of whom provide content which serves an important role to C4C from a commercial and/or public service perspective.

DCMS also notes that while the level of C4C's delivery against their independent production quota has been stable at around 50% in recent years, there is not clear evidence that delivery at this level is sustainable in the long term. In 2018 and 2019 C4C's performance against the quota was 48.5% and 44.5% respectively[31]. This could increase compliance risks for C4C, particularly as PSBs' delivery against their independent production quotas can vary between years as a result of producers moving in and out of QI status following changes of ownership. In general these changes are outside of the control of the PSBs themselves.

DCMS considers that option B strikes the best balance between these options. Increasing the level of the quota by 40% (from 25% to 35%) represents a material increase that should provide reassurance to QI producers, but at the same time leaves sufficient space in C4C's commissioning for NQIs, broadcaster in-house studios, and potentially in the future C4C in-house producers, to compete for commissions.

Increasing the independent production quota to 35%, alongside measures to ensure fair and open access to C4C's commissions, provides greater assurance for the level of competition and plurality in the TV production market whilst still allowing C4C to have greater flexibility to access more revenue streams. Thus option 2 fully meets objective 2 as it goes above and beyond what is currently being done to ensure competitiveness and plurality within the market.

Objective 3

As previously discussed, increasing the level of C4C's independent production quota provides greater protection to QI producers against shocks in addition to the checks and balances described above, and positively signals to independent producers that their interests have been considered. Although increasing C4C's independent production quota to an even higher level could further reduce the risk of a shock to the independent production sector, doing so would limit the flexibility of C4C to diversify its revenue streams. Therefore, whilst having the quota at 35% means that objective 3 is only partially met (as there is still a risk of a shock to the independent production sector from the removal of publisher-broadcaster restrictions), increasing the quota further would put meeting objective 1at risk.

[31] PSB Compliance Report, Ofcom 2022

Option 3: remove C4C's publisher-broadcaster restriction, introduce fair and open access measures and a statutory sustainability duty, increase the level of C4C's independent production quota and introduce a cap on C4C's 'in-house' productions

Objective 1

Option 3 does provide C4C with greater flexibility by removing the publisher-broadcaster restriction that would otherwise remain in place. This would allow C4C to produce more of their content 'in-house' which they can then use to access revenue streams that were previously unavailable to them. However, as set out below, the inclusion of a cap on C4C's 'in-house' production also limits the extent to which they could produce their own content, and could become a new regulatory burden for them. Option 3, therefore, only partially meets objective 1.

Objective 2

Industry stakeholders put forward a suggestion through the Call for Input that the government should put restrictions on the amount of content that C4C would be allowed to make 'in-house', in the form of a cap, in addition to increasing the level of its independent production quota. There were different suggestions from stakeholders as to what level the cap should be set, which ranged between 10 and 15% of programme hours and spend. The rationale behind the proposal for a cap was to preserve competition and plurality in the production sector by guaranteeing that external (i.e. not C4C 'in-house') producers would be able to win a minimum amount of commissions from C4C, and provide further protection against the risk of a market shock.

DCMS agrees that a cap on the amount of content C4C would be allowed to make 'in-house' would provide the wider production sector with certainty about the minimum proportion of commissions that C4C would continue to award to external producers. This is likely to be most reassuring to NQIs (and broadcaster in-house studios) whose commissions do not count against C4C's independent production quota. However DCMS does not agree that a cap is required to preserve the high levels of competition and plurality in the production sector. Competition is best maintained by ensuring that there are measures in place to ensure fair competition for C4C commissions in the event that C4C does start a production business, such as those described above.

DCMS does not think there is clear evidence to suggest that allowing C4C to start a production business will have a significant impact on plurality in the sector. The overall TV production sector in the UK is worth nearly £7bn[32]. A C4C production business would not benefit from any guaranteed business due to the fair access measures that will be in place, and so would have to compete fairly with other producers to win commissions, whether from C4C or externally. Although C4C are an established presence within the broadcasting sector with longstanding links to producers, they would nevertheless need to build and scale any new production capabilities from scratch within the confines described elsewhere in this

[32] Understanding the UK's TV Production Sector, Ofcom 2023

assessment (e.g. their statutory borrowing limit/ continued delivery against their public service remit and other statutory obligations).

A cap would also be a new regulatory burden on C4C which the broadcaster would need to account for alongside the existing quotas and requirements which apply to its commissioning. As well as an independent production quota this includes quotas for programmes made outside of London, programmes made outside of England and original productions. A cap therefore risks limiting C4C's ability to scale a production company that is capable of delivering sufficient revenues to make up for the shortfall in C4C's revenues from linear television advertising, particularly one at the level proposed by sector stakeholders. 10-15% of C4C's content spend would represent revenues of between £50-75m, equating to 4.4 - 6.6% of C4C's total revenue in 2022. Furthermore, if C4C is unable to successfully diversify their revenues there is a risk that C4C's content budget will be negatively affected. This would make a cap based on a proportion of C4C's content budget more restrictive.

DCMS did consider whether a cap higher than the level suggested by industry would be appropriate. However, given the variables involved, DCMS does not consider it has enough information to be confident in setting a level of cap that would not unduly impact C4C's ability to diversify its revenues through production. DCMS also took into account the views of some stakeholders who suggested a cap which was too high would only offer limited reassurance to the sector, and might even be negatively received by producers who were concerned C4C might see the cap as a target. Therefore, whilst option 3 does fully meet the second objective, so too does option 2 which does not present the unnecessary regulatory burden and risk to revenue diversification that option 3 presents.

Objective 3

Introducing a cap on the proportion of content C4C could produce 'in-house' in addition to increasing the level of C4C's independent production quota would provide further reassurance to the independent production sector against shocks caused by a rapid roll out of C4C 'in-house' production. However, as set out above, there are a number of other checks and balances, both regulatory and non-regulatory, that mean this is unlikely. Therefore DCMS's view is that the addition of a cap would not make a significant difference to the risk of a shock to the independent production sector versus its assessment of option 2. As such DCMS's view is that option 3 also partially meets objective 3.

6. Preferred option

The previous section has considered each option and assessed how each of the options meet our key objectives for this intervention, which are:

- **Objective 1:** That there is sufficient revenue potential and/or cost efficiencies for C4C to compensate for the decline in revenue from advertising,
- **Objective 2:** That we protect the high levels of competition and plurality in the television production market,
- **Objective 3:** That any intervention does not cause significant shock or confusion for the independent production sector.

Below is a summary of our findings from the previous section, with a summary following the table detailing our judgments in respect of each option.

Assessment of options against the key objectives

Figure 9: Assessment of long-listed options against the key objectives

	Objective 1	Objective 2	Objective 3
Option 0 - do nothing	**Not met**	**Not met**	**Fully met**
Option 1 - remove the publisher-broadcaster restriction and no mitigations beyond fair and open access measures and introducing a statutory sustainability duty	**Fully met**	**Partially met**	**Not met**
Option 2 - remove the publisher-broadcaster restriction, introduce fair and open access measures and a statutory sustainability duty, and increase C4C's independent production quota	**Fully met**	**Fully met**	**Partially met**
Option 3 - remove the publisher-broadcaster restriction, introduce fair and open access measures and a statutory sustainability duty, increase C4C's independent production quota and add a cap on C4C's in-house productions	**Partially met**	**Fully met**	**Partially met**

Option 0: Do nothing - do not remove C4C's public-broadcaster restriction (not recommended)

As previously stated, this option would involve the government taking no action in relation to either C4C's publisher-broadcaster restriction or C4C's independent production quota. Doing nothing leaves open the possibility that C4C's long term financial performance is put at risk from not allowing C4C the opportunity to further diversify their revenue streams by moving into production. This could present risks to the operations of C4C, which are more likely to continue to be dependent on shrinking linear advertising income, and put C4C's long term support for the TV production sector at risk. Therefore, only objective 3 is met as a shock is unlikely under the do nothing option, making option 0 an unviable approach.

Option 1: Remove C4C's publisher-broadcaster restriction with no mitigations beyond fair and open access measures and introducing a statutory sustainability duty (not recommended)

Option 1 provides the most flexibility to C4C to access new revenue streams through removing its publisher-broadcaster restriction. However, the lack of mitigations, beyond measures to ensure fair and open access measures, could pose a risk of shock to the independent production sector and also could negatively affect the competitiveness of independent producers and the plurality of the sector as a whole. Therefore, only objective 1 is fully met making option 1 not a viable approach.

Option 2: Remove publisher-broadcaster restrictions, introduce fair and open access measures and a statutory sustainability duty, and increase C4C's independent production quota to 35% (preferred option)

Similar to option 1, this option also provides greater flexibility to C4C by allowing them to access new revenue streams. However, raising the level of C4C's independent production quota also provides reassurance to QI producers, and will help to preserve competition and plurality within the TV production sector. Raising the level of this quota also helps mitigate the risk of shocks experienced by independent producers through the removal of the publisher-broadcaster restriction. As a result, objective 1 and 2 are both met and objective 3 is partially met, making this the most viable option considered.

Option 3: Remove publisher-broadcaster restrictions, introduce fair and open access measures and a statutory sustainability duty, increase C4C's independent production quota and add a cap on C4C's 'in-house' productions (not recommended)

Option 3 further adds to option 2 by also including a cap on the amount of content C4C would be able to produce 'in-house'. Whilst it would provide greater certainty to the wider production sector, a cap at the level proposed by the sector would limit the amount of flexibility given to C4C. As a result, whilst objective 2 would be fully met, objective 1 would only be partially met due to restricted flexibility and, similar to option 2, would only partially meet objective 3 as a shock to the independent production sector could still occur, even if DCMS thinks this is unlikely.

Preferred option

The analysis above has shown the following: that option 2 is the only option considered that fully meets two of the key objectives and partially meets the third, with options 0 and 1 failing to meet at least one objective. While option 3 does fully meet objective 2, the cap is assessed to pose a disproportionate risk to objective 1 by presenting C4C with a new regulatory burden, meaning objectives 1 and 3 are only partially met. Based on this, option 2 (remove the publisher-broadcaster restriction, introduce fair and open access measures and a statutory sustainability duty, and increase C4C's independent production quota to 35%) has been chosen as the preferred option with options 1 and 3 being less able to meet the key objectives. The do nothing option will also be brought forward as the counterfactual scenario within the costs and benefits analysis.

7. Costs and benefits of chosen option

The following costs and benefits analysis compares the impact of the preferred option (option 2) against the do nothing option which is being brought forward as the counterfactual scenario.

Impact on C4C's sustainability

By removing the publisher broadcaster restriction and giving C4C the option to start and scale a production business – and therefore generate revenues by making content for third parties and exploiting the underlying intellectual property (IP) – this could facilitate greater revenue diversification, and hence increase C4C's financial resilience. As set out above, other broadcasters, including other PSBs, have successfully incorporated production into their business planning as part of similar strategies.

New opportunities for C4C to grow and diversify its revenue base and achieve potential efficiency savings could help C4C to compete more effectively for talent, content and audiences with well-funded global players than it can under its existing operating model. As such, C4C will be better positioned to adapt to changes in the dynamic broadcasting market, which is likely to benefit its long term sustainability. The do nothing option does not deliver any of these potential benefits to C4C's financial sustainability.

Impact on the production sector

The independent production sector has expressed concern at the removal of C4C's publisher-broadcaster restriction, with the potential for content spending to be lost to an 'in-house' production arm. DCMS does not think it is possible to accurately estimate the impact on C4C's future spending with external production companies which will depend on the decisions of C4C's management team as well as numerous external factors. While DCMS does not endorse these estimates, Pact, working with Oliver and Ohlbaum (O&O), have estimated that if C4C's publisher-broadcaster restriction was removed without putting in place any mitigating measures, an estimated £65-130 million of content spending would be lost from QI producers to a new C4C production business in the first three years, as programmes are brought 'in-house'[33]. DCMS would further point out that these estimates do not take into account the mitigations that the government is introducing alongside the removal of the publisher-broadcaster restriction. Under the do nothing option there would be no spend lost by external producers to C4C, as C4C's publisher-broadcaster restriction would still be in place.

However, given the strong demand for independent production, and the now relatively small proportion of total spend represented by C4C commissions, the government believes that the independent production sector can continue to thrive without the publisher-broadcaster restriction in place. Additionally, the Terms of Trade will be preserved, which ensure that independent producers regularly retain the underlying copyright and intellectual property rights to their content when working with PSBs, which they can sell internationally. Any move

[33] Pact/ O&O analysis submitted as part of Pact's response to DCMS's Call for Input

from C4C towards ‘in-house’ production is likely to take time to develop given commissioning spend is allocated multiple years ahead, giving the sector time to adjust.

The independent production sector have cautioned that the record revenues generated in 2022 are unlikely to be repeated in 2023, due primarily to the slowdown in commissioning caused by the current contraction in the TV advertising market and international commissioners, such as streamers, pivoting their strategies away from unprecedented levels of spending on original content. In other words, the fortunes of the TV production sector are intrinsically linked with that of the companies commissioning content from them. DCMS’s view is that this adds further weight to the arguments in favour of giving C4C new freedoms to diversify their income. Depending on its future strategic direction, a more diversified, growing C4C has the potential to increase investment in independent productions in absolute terms, with those that continue to receive investment from C4C potentially seeing an increase in average revenue from C4C commissions in the future.

The government expects C4C will continue to recognise and value the strong local relationships it has with the independent production sector, and therefore is likely to wish to maintain and nurture these as a key driver of growth and differentiation. There may be some individual firms that lose out if C4C narrows the pool of producers it works with, but those continuing to receive investment may benefit if C4C increases its investment in absolute terms. Some concern has been raised that C4C could have less of an incentive to continue to invest in the nations and regions. We see no reason or evidence that this will be the case, indeed there will still be strong commercial and public service incentives for C4C to continue to work with producers from across the UK. Taking a broader view, demand for the independent production sector is predicted to remain strong, and many existing producers find they are capacity – not demand – constrained (with per-hour prices for key genres like drama and natural history rising, and high budgets for programmes with international investment).

It is difficult to accurately monetise the impact of the increase in C4C’s independent production quota. PSBs’ independent production quotas are calculated based on the proportion of qualifying programmes shown on their main linear channel[34]. Unlike other PSB quotas the independent production quota does not have a spend component. The value of the additional commissions guaranteed by the increase in the level of C4C’s independent production quota will therefore depend on the value of those commissions. However, based on the average cost of C4C programme hours, DCMS considers a 10 percentage point increase in C4C’s independent production quota could “lock in” commissions for QI producers worth approximately £40 million per annum. This calculation is shown below:

C4C spend on qualifying indies in 2021: £205m[35]

C4C hours produced overall in 2021: 2000

% of hours produced from qualifying indies in 2021: 52%

C4C programming hours produced from qualifying indies in 2021: 1040

[34] The Media Bill will change this so they are based on hours of content made available on qualifying services.

[35] C4C, Annual Report and Accounts, 2021

Cost to C4C of one production hour for a qualifying indie: £205m/1040 = £197,115

Increase in qualifying hours needed to increase from 25% - 35% of C4C's total programming: 200

Therefore, the value of the extra hours of qualifying indie programming needed to meet the threshold: £197,115 x 200 = **£39,423,000.**

Under the do nothing option the level of C4C's independent production quota would not be increased and so this benefit would not accrue to QI producers.

Regulatory impact

The primary costs of the intervention on C4C can be broken down into familiarisation and compliance costs.

- **Familiarisation costs:** As the new proposed intervention would remove C4C's publisher-broadcaster restriction and introduce requirements for C4C to ensure fair and open access to their commissions, C4C must get familiar with the new requirements and responsibilities placed on them. Though the familiarisation cost has not been monetised here, this is likely to involve C4C using their legal resources to familiarise themselves with the new regulations and potentially train staff to ensure they can make the necessary adjustments. These are expected to be one-off costs and the staff required to do this will do so as part of their regular workload.
- **Compliance costs:** The costs to C4C are expected to be minimal in relation to the removal of the publisher-broadcaster restriction given that any changes to their commissioning strategy made in response to this removal would be voluntary. There are also unlikely to be significant costs from increasing the level of C4C's independent production quota to 35%, as C4C is currently operating above this minimum threshold and so it does not require any immediate change to the proportion of qualifying programmes they commission from QI producers. Therefore, the primary compliance costs are likely to stem from the introduction of a new statutory duty which will require the C4C board to consider the corporation's long term sustainability alongside fulfilment of Channel 4's public service remit, and the updates to the new requirements on C4C's financial reporting. Whilst data limitations have meant estimates have not been possible to give here, these new requirements are likely to introduce some regulatory burden on C4C and its resources, though it is believed that C4C has the capacity to accommodate these new requirements.

There are also expected to be some increased compliance costs to Ofcom.

- **Compliance costs:** As part of the new intervention, Ofcom is tasked with new monitoring and reporting requirements. This includes Ofcom monitoring and reporting on C4C's implementation of measures to ensure fair access to their commissions in the event C4C starts a production business, and a requirement to review the impact of C4C starting a production company on the fulfilment of the public service remit for television, as set out in the monitoring and evaluation plan below. However, due to data limitations it is not possible to estimate the additional monetised compliance costs this requirement puts on Ofcom in this assessment.

The do nothing approach would have no regulatory impact as it would be a continuation of the regulatory status quo.

8. Wider impacts

Effects on Small and Micro Businesses

Due to the heavy reliance of freelancers in the video production industry we have used revenue figures, rather than employment, to categorise the size of small businesses the preferred option is likely to impact. For the purposes of the following assessment, small businesses will be defined as follows:

- Micro businesses: Revenue = under £1 million per annum
- Small businesses: Revenue = between £1 and £10 million per annum

The above is in line with the EU definitions for small and micro enterprises.

Due to data limitations, obtaining an accurate estimate for the number of micro and small producers that are in scope of the proposed intervention has not been possible. As a result, the overall impact on these businesses have been assessed using analysis we received from Pact as part of their response to our Call for Input, which has looked at the impact on the total qualifying independent producers regardless of their size. For the reasons set out above, DCMS's view is that figures used from Pact's research to estimate the impact on independent producers are likely to be an overestimation (e.g. they do not take into consideration the mitigations discussed throughout this assessment). While these figures are likely to be an overestimate, we still think they are useful as to provide an illustrative example of the possible impact on small and micro independent producers, and to provide DCMS with additional reassurance on this point. As this forecasting was only produced for commissioned spend on QI producers, we only attempt to estimate the impact on small and micro QI producers below.

In 2022, the share of total C4C spend on UK produced primary commissions for producers with an annual turnover between £1m-10m accounted for 8% of the total spend and those with less than £1m accounted for 0%[36]. This means that, as a proportion of C4C's total spend on UK produced commissions, 'small' producers with between £1m-10m in revenue accounted for just 8% of C4C's total commissions and 'micro' producers with under £1m in revenue accounting for 0%.

Analysis by O&O's submitted as part of Pact's response to DCMS's Call for Input suggested QI producers could lose £65m of spend to a C4C 'in-house' production business in its first three years of operation if C4C were to grow their production capabilities "organically" (i.e. not by acquiring established production companies). We could then use the proportion of

[36] Pact Census, 2023.

total spend on C4C UK produced commissions estimated for small (8%) and micro (0%) producers discussed previously, to roughly estimate the proportion of this loss of spend for QIs that would fall on small and micro QI producers[37]. If we assume that, of the total qualifying independent producers, 8% of them were small (turnover between £1m-10m) and 0% were micro (turnover of under £1m), the loss in value of commissions would be £5.2m (£65m*0.08) and £0m (£65m*0) respectively. However, this estimated total loss of £5.2m for small and micro qualifying independent producers across the first three years is still a very low impact relatively.

Mitigating actions have been included under option 2 to ensure that the shock of the intervention on small and micro independent producers is minimised, including by raising the independent production quota from 25% to 35%. This provides more protection than has previously been provided for QI producers by not allowing C4C to move as high a proportion of their commission programmes 'in-house' that would have been allowed were the quota to remain at 25%. With the potential loss in commissions to qualifying small and micro independent producers previously estimated to be £5.2m in the first three years after C4C starts a production business, this impact on small independents is likely to be mitigated further through enforcing this higher quota which Pact did not account for in their forecasts. This makes the loss to small and micro independents less likely to be significant enough, at least in the short-term, to warrant specific intervention. Therefore we judge that it is unlikely that the removal of C4C's 'publisher-broadcaster' restriction would seriously undermine smaller independents.

Other UK PSBs, including those with existing 'in-house' production capabilities, commission a significant proportion of their programmes from small independent producers. For example, according to the Pact census data the BBC commissioned content worth £110m from small independents in 2021.[38] As a proportion, BBC also commissioned a significant amount from these independent studios with 19% of their total commission spent going towards them. This further highlights that there is and will likely continue to be abundant demand for small and micro independent production companies within the market, even if C4C decides to make some of its content 'in-house'.

As the proposed intervention would only apply to C4C, there is no need to exempt small and micro businesses from it.

Equality impacts

As the proposal will only introduce changes that apply solely to C4C, it is unlikely to have any disproportionate effects on protected groups. C4C has made commitments to inclusion and diversity both in their workforce and on screen, indicating that there might be some positive impacts were they to choose to move their productions 'in-house' that adhere to this strategy[39]. By beginning to grow its own 'in-house' production capabilities, C4C could increase opportunities in terms of the number of jobs available and create greater

[37] Pact Census, 2023.
[38] Pact Census, 2023
[39] Channel 4 corporate: Inclusion and Diversity,

opportunities to contribute to skills and training within the industry, building skills pipelines in the sector. However, on balance and based on the evidence available, we judge that the overall impact on those with protected characteristics from this intervention is likely to be negligible.

Trade and investment implications

As the proposed measure only applies to C4C, it is unlikely to have any significant negative impacts on international trade. However, C4C could choose to export programmes and formats created 'in-house'. Total UK TV international exports grew to £1.5bn in 2021/22, with finished programmes sales being the largest contributor to this export revenue (£996m)[40]. Therefore, this could generate significant revenue for C4C through creating 'in-house' programmes which it was previously unable to do. However, due to data limitations in relation to what exact export revenue other UK studios generate, it is difficult to estimate how substantial the export revenue of these programmes could be for C4C.

This intervention does not directly affect C4C's ability to receive third party investment. There could be an indirect effect on investment in independent production businesses if C4C chooses to start a production business. This could be positive if C4C increases their investment into the production sector as a result of increased content spending; or it could be negative if there are, or there are perceived to be, fewer opportunities for independent producers to win commissions in the market. In either case, estimating these changes accurately is not possible.

Competition

The impact of the preferred option on competition within the video production market and independent production sector has been discussed throughout this assessment of impact. Please see sections 4 and 5 for more information.

9. Monitoring and evaluation plan

The economic and social impacts of removing C4C's publisher-broadcaster restriction are likely to be primarily driven by the decisions taken by C4C's management team. The government will continue to monitor the performance of the PSB system as a whole, including C4C, to ensure the system continues to deliver for the British people.

Ofcom, as the independent regulator, will continue to monitor the performance of C4C, alongside that of the UK's other PSBs, through its reporting requirements in relation to the PSB system. Under sections 264 and 264A of the Communications Act 2003, Ofcom must report regularly (at least every 5 years) as to the achievement of the PSB remit in the UK and make such recommendations as it considers appropriate. The most recent report, 'Small Screen: Big Debate' covered the period of 2014-2018, and was published in 2020[41].

---

[40] Pact, UK TV Exports Report, 2022
[41] Ofcom: Small Screen: Big Debate, 2021

The PSB remit will be updated by the Media Bill (as introduced) to include a requirement that the PSBs, taken together, provide an appropriate range and amount of i) independent productions, and ii) programmes made outside of the M25. The Media Bill will introduce a requirement for Ofcom to consider the impact of C4C starting a production business, should they choose to do so, on the fulfilment of the PSB remit, as part of a future review carried under section 264.

Alongside their section 264 reports, Ofcom also publishes a report specifically reviewing how C4C have fulfilled its statutory remit[42]. As part of its specific review of C4C's performance in delivering its media content duties, Ofcom reports on a number of measures which will be relevant measuring our objectives, based on changes which will result from removal of the publisher-broadcaster restriction, and our mitigations. This includes C4C's support for the creative economy, and support for producers in the nations and regions of the UK in particular.

DCMS is not committing to undertake a formal Post Implementation Review (PIR). Ofcom's periodic PSB review aligns closely with the outcome measures we have identified, and its position as the sector regulator leaves it most appropriately placed to lead a review. The decision not to undertake a formal PIR will protect Ofcom's regulatory independence.

DCMS will, however, monitor the implementation and impact of these changes on an ongoing basis through engagement with stakeholders and reference to relevant data sources. The department meets with a wide range of stakeholders, including the PSBs, production sector representatives, and representatives of viewers regularly and will continue to do so throughout the implementation and post-implementation phases.

[42] Ofcom: Channel 4 Corporation's performance in delivering its media content duties 2014 - 2018