



Submission to
Ofcom Review of the TV Production Sector

1. RIG represents the independent UK audio-led production sector - this sector is comprised of around 150 SMEs based around the UK, which produce a wide range of audio-led content. Annex 1, which contains results of our 2014-15 Business Census, provides an illustration of this wide-ranging activity. RIG provides: representation; business affairs support; events; and training via our RIGtrain initiative, including a diversity mentoring scheme¹.
2. Whilst this review concerns the TV production sector, we wanted Ofcom to be aware of the possible ramifications for our own sector if alterations were made to the requirements for the protection of TV producers' IP as set out in Section 285 of the 2003 Communications Act. As Ofcom is aware these protections ensure that the TV Terms of Trade drawn up by producers and public service broadcasters allow independent producers to retain their intellectual property rights, whilst being flexible enough of allow a share in the profits to be negotiated from the exploitation of those rights.
3. RIG was established by the independent audio-led production sector in 2004, in order to negotiate similar Terms of Trade with BBC Radio. We were successful in doing so and the Communications Act was indirectly vital in achieving that; while radio had been excluded from the Act, the BBC was motivated, perhaps to avoid more statutory regulation of their Terms of Trade, to agree a voluntary deal which effectively gave us the same protections of intellectual property as TV suppliers. Bearing in mind the previous lack of action on the matter, we have no reason to think that without the Communications Act the BBC would have improved at all on the 'all rights' terms that were imposed on indie radio suppliers prior to that Act.
4. The radio content sector has managed to continue to grow its range of activity specifically in radio production terms growth has not happened as quickly as TV in percentage terms². There are several reasons for this: firstly not all radio and audio content is made up of self-contained sellable programmes and formats - almost all commercial radio, and some BBC radio, is made up of presenter-led music formats.
5. Secondly, regarding the more 'programme'-type content on Radio 4 and some other BBC services where there is documentary and drama content, up

¹ www.rigtrain.co.uk/

² It is not appropriate to compare the two sectors in pure monetary terms as the overall monetary value of TV is intrinsically much greater

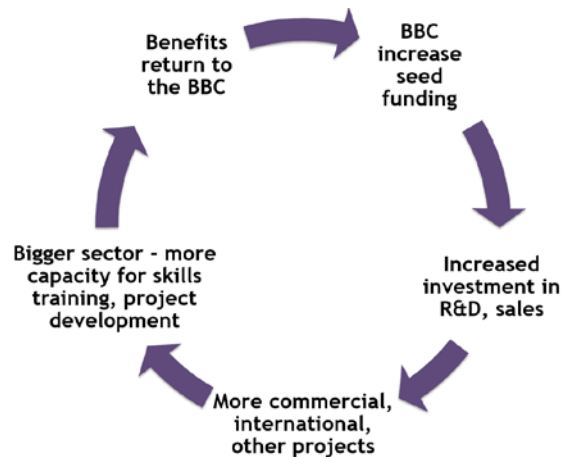
until recently secondary sales have not been easily monetised. Digital audio platforms are beginning to change this however, and we are seeing an increasing number of players entering the market, such as Audible and Acast.

6. Already there are some examples of producers being able to sell programmes and formats around the world. For example Folded Wing's *Jamie Cullum Show* for BBC Radio 2 is syndicated in many countries, as is Somethin' Else's *Ronnie Wood Show* for Absolute Radio.
7. Third, the opportunities to make marketable audio content have been far less than in TV. There has been little commissioning of such content outside the BBC, with Absolute Radio being the most notable commissioner.
8. The BBC has made much less use of indies in radio than it has in TV. This is due to the radio independent production quota being a voluntary 10%, as opposed to the statutory 25% level for TV. Similarly the Window of Creative Competition for radio is only 10%, as opposed again to 25% for TV. The TV WoCC began around 2007, whereas the radio WoCC began in 2012.
9. And furthermore, BBC radio budgets have been falling, to the extent that the BBC Trust has sounded a warning note over the need to ensure there is adequate budget available for unique genres such as Radio 4 comedy and drama:

'Radio 4's content costs are higher than other BBC radio stations due to the volume of short programmes with relatively high production costs ... It is important that future budget plans do not affect the quality of Radio 4's output, particularly in new drama and comedy, where it has a unique role on UK radio'.³
10. So the audio-led indie sector has had much less opportunity to make marketable audio content. But this is about to change, with the 'Compete or Compare' process introduced by the BBC. BBC Radio has set as a firm target achieving 60% of eligible radio hours open to competition by around the middle of the next Charter period.
11. RIG believes the benefits to the licence fee payer from a greater partnership between the BBC and the independent production sector are clear. The following illustration seeks to demonstrate that the more the BBC invests in the creative production sector, the greater the returns to the Corporation in the form of revenues and the best ideas for future programmes and formats with which to inform, educate and entertain the licence fee payer. The existence of multiple sources of commissions means that it is possible for the indie sector to grow and have the capacity to deliver the type of content the BBC provides across its own audio services.
12. The following illustration shows how the greater investment by the BBC could lead to a strengthening of the sector which in turn is able to feed ever

³ Review of BBC Radios 4, 4 Extra, 5Live, 5Live Sports Extra. BBC Trust, August 15, p4

more significantly into the BBC's creative commissioning process, as well as growing skills and training activity and other activities which benefit the UK creative sector overall.



Circle of Creative Investment (RIG 2015)

13. So providing there is a level playing field in the commissioning process for the WOCC, both in terms of in-house and indies and companies within and outside the M25, our sector would hope to exponentially grow the amount of marketable catalogue it has. This could herald an exciting new time for one of the UK's creative industries.
14. Of course no extra indie commissioning is guaranteed as a result of a much larger WoCC, however based on the sector's track record so far RIG has strong reason to believe raising the competitive element to 60% of eligible hours will indeed result in a much greater level of indie commissioning by BBC Radio.
15. There are two main reasons for reaching this conclusion: firstly, that indies have performed very well in the existing WoCC. For the three years recorded so far, indies won on average around 75% of contested hours ⁴.
16. And secondly whilst some genres are more marketable than others, the level of critical acclaim for indies programmes suggests that indicates in quality terms, indie-produced is capable of raising greater revenue from overseas programme and in some cases format sales. This critical acclaim is demonstrated by this year's New York International Radio Festival Awards⁵, which gave the 'International Production Company of the Year' award to a UK company, and the UK took a large number of other awards and finalists places.

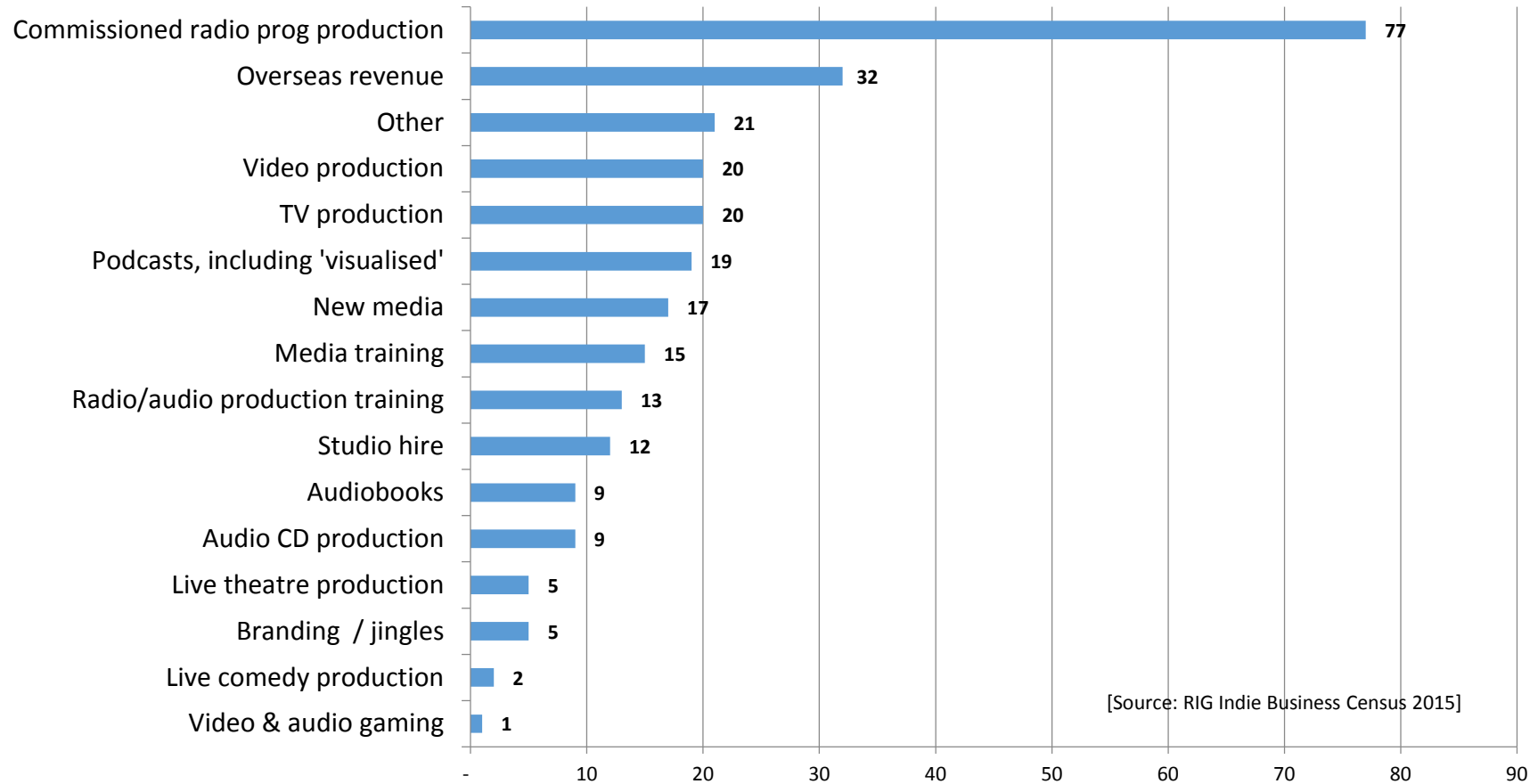
⁴ See Annex 2 for more detail

⁵ See Annex 3 for full indie results in the 2015 NYF Radio Awards

17. So like the indie TV sector, we are greatly concerned that the Terms of Trade could be altered to weaken the protection of producers' intellectual property. This would definitely have ramifications for those of our producers who already make TV content, but could also affect our future ability to hold onto IP for audio content commissioned by the BBC.
18. Equally, we would like to see the principle of the 25% quota upheld across separate BBC TV channels. Again while our quota is smaller it is vital for new entrants and smaller companies to be able to gain first commissions on the major TV channels. And this will also ensure that the BBC's overall content mix is diverse and vibrant, indeed with the removal of the 50% in-house guarantee for TV, and the effectively 80% guarantee for radio, we should be looking forward to an exciting new era of diversity in BBC content. Any change to the Terms of Trade will threaten that and we therefore hope and expect Ofcom to continue with the view, as expressed in its very recent Public Service Broadcasting Review, that there is no reason to weaken the protection for producers' IP in the Terms of Trade.
19. Rather we would like Ofcom, if possible within its terms of reference, to recommend that the stipulations in Section 285 of the Communications Act 2003 be extended to PSB radio commission where applicable a PSB is engaged in providing radio or other audio-led services. Equally we would like the 10% independent radio production quota to be written into the BBC Charter and Agreement.

ANNEX 1 - breakdown of activity for audio - led production companies - RIG Business Census 2014-15

Number of companies involved in each revenue generating area



[Source: RIG Indie Business Census 2015]

[Data analysed by Enders Analysis]

Annex 2 - BBC Performance Against Public Commitments - Indie Commissions

Radio - Quota ('indie guaranteed') and Window of Creative Competition ⁶

	Indie Quota hours	Indie WoCC	In-House WoCC	Total WoCC (as a %ge of total eligible radio hours)
2012-13	12	8	2	10
2013-14	13	9	3	12
2014-15	13	7	4	10

⁶Figures compiled by RIG from those supplied by in BBC Performance against Public Commitments 2013-14 (p24) and BBC Performance Against Public Commitments 2014-15 (p24)

Annex 3 - UK Independent Radio Production Companies - Awards and Finalists - NY International Radio Festival 2015

Company	Title	Award	Brand	Category	Country	City
Alfi Media	Mad About The Mustang	Bronze	None	Culture & The Arts	UK	London
Alfi Media and Fresh Air Production	Learning To Walk Again	Silver	BBC Radio 5 Live	Health/Medical	UK	London
Athena Media	Vocal Chords: In Conversation with Peter Gabriel	Silver	BAI/RTE Lyric fm	Best Music Special	Ireland	Manchester/Dublin
B7 Productions Limited	The Martian Chronicles	Silver	BBC Radio 4	Best Drama Special	UK	London
Bafflegab Productions	The Brenda and Effie Mysteries: Bat Out of Hull	Gold	Bafflegab Productions	Best Audio Book - Fiction	UK	Faversham
BlokMedia Ltd	Linard's Travels	Finalist	BBC	Best Editing	UK	London
		Silver	BBC	Travel & Tourism	UK	London
	The Soul of Ireland	Silver	BBC	Culture & The Arts	UK	London
	Three Continents, Three Generations	Bronze	BBC	Profiles/Community Portraits	UK	London
Brook Lapping Productions	The Map That Made Manhattan	Gold	BBC Radio 4	History	UK	London
	The Wood Pushers	Finalist	BBC Radio 4	Profiles/Community Portraits	UK	London
Campbell Davison Media	The Danny Baker Show	Bronze	BBC Radio 5 Live	Best Radio Personality: Network/Syndicated	UK	London
		Silver	BBC Radio 5 Live	Best Regularly Scheduled Talk Program	UK	London
Fresh Air Production & BBC Radio Cross Trails	Eastenders - Who Killed Lucy?	Silver	BBC One	Entertainment Program Promotion	UK	Swindon
Kirrin Productions	Damn The Torpedoes Xmas Special	Bronze	BFBS	Best Comedy Special	UK	Chalfont-St-Peter

Loftus Media	Where Are You Going?	Gold	BBC World Service	Human Relations	UK	London
	Zola in Norwood	Finalist	BBC Radio 3	Culture & The Arts	UK	London
Made in Manchester	The Benjamin Broadcasts	Finalist	BBC Radio 4	History	UK	Manchester
Overtone Productions Ltd	Archive On 4: Malcolm X In Oxford	Bronze	BBC Radio 4	History	UK	Oxford
Pozzitive Television Ltd	Cabin Pressure	Gold	BBC Radio 4	Best Regularly Scheduled Comedy	UK	London
	My First Planet	Finalist	BBC Radio 4	Best Regularly Scheduled Comedy	UK	London
	The Brig Society	Silver	BBC Radio 4	Best Regularly Scheduled Comedy	UK	London
Quidem Productions Ltd	Big Band, Big Man - The Billy Cotton Story	Silver	BBC Radio 2	Profiles/Community Portraits	UK	London
Ruth Evans Productions Ltd	Love Your Wife Day	Finalist	BBC World Service	Human Relations	UK	Oxford
Spiteful Puppet Entertainment	HOOD: The Scribe Of Sherwood	Bronze	Spiteful Puppet	Best Audio Book - Fiction	UK	Berkshire
		Bronze	Spiteful Puppet	Best Drama Special	UK	Berkshire
TBI Media with Snappin' Turtle Productions	D-Day: 70 Years On	Gold	BBC Radio 2	Best Drama Special	UK	London
		Gold	BBC Radio 2	Best Innovation	UK	London
		Gold	BBC Radio 2	Best Live Sound	UK	London
		Gold	BBC Radio 2	Best Music Special	UK	London
		Gold	BBC Radio 2	Best Special Event	UK	London
		Gold	BBC Radio 2	Best Writing	UK	London
		Gold	BBC Radio 2	History	UK	London
		Grand Award	BBC Radio 2	Best Special Event	UK	London

TBI Media	Delivering The King's Speech	Silver	BBC World Service	History	UK	London
	Elvis: That's All Right 60 Years On	Finalist	BBC Radio 2	Best Music Special	UK	London
	Keep The Home Fires Burning	Silver	BBC Radio 2	History	UK	London
Ten Alps Radio	Scotty Moore and the Guitar that Changed the World	Bronze	BBC Radio 2	Best Music Special	UK	London
Trevor Dann's Company	Surfin Cymru	Finalist	BBC Radio Wales	Profiles/Community Portraits	UK	Cambridge
White Pebble Media	The Langley School Music Project	Silver	BBC Radio 4	Best Music Special	UK	London
Wise Buddah	Meet the Wainwrights	Silver	A Wise Buddah Production for BBC Radio 4	Best Music Special	UK	London
Wise Buddah Jingles and Music Imaging LTD	Magic Jingle Package 2015	Bronze	Wise Buddah Jingles and Music Imaging LTD	Station ID	UK	London