

# **The Finance and Production of Independent Film and Television in the UK: A Critical Introduction**

**Steve Presence, UWE Bristol**

## Vital Statistics

### General

Population: 64.5m  
Size in.: 241.9 km sq  
GDP: £1.9tr (€2.4tr)

### Film

Market share of UK independent films in 2014: 10.5%  
How many films were produced in 2014: 223  
Average visits to cinema per person per year: 2.7  
Production spend per year: £1.4m (€1.9)

### TV:

Audience share of the main publicly-funded PSB (BBC): 72%  
Production spend by PSBs: £2.5bn (€3.2bn)  
Production spend by commercial channels: £3.5m (€4.5m)  
Hours of TV watching per day: 193 minutes (3hrs 13 minutes)

## **Introduction**

This chapter provides an overview of independent film and television production in the UK. Despite the unprecedented levels of convergence that continue to take place across the media spectrum in the digital era, the UK film and television industries remain distinct on a number of counts. The film industry is small and fragmented, divided across the two opposing sources of support on which it depends: large but uncontrollable levels of inward-investment from the US, and inadequately low levels of public subsidy. By comparison, the television industry is large and diverse, its relative stability underpinned by a long-standing infrastructure of public service broadcasters (PSBs). The much-noted convergence of film and television in recent years is therefore, in the production sector, a one-way street: film companies are scrambling to make television drama, but few television companies have ambitions to produce feature films.

The publicly-funded nature of much UK television production derives from a policy framework which has historically acknowledged broadcasters' social and cultural power (Scannel and Cardiff 1991; Ward 2008). Because of this, both public and commercial broadcasters are bound by law to fulfil certain public service obligations, and the BBC, as the flagship PSB, is funded with a substantial amount of public money – £3.7bn in 2015, of which £1.8bn was spent on television production (BBC 2015, 7-13) – to provide exclusive and wide-ranging public service content across a range of media, including film. However, since the early 1990s broadcasting has been steadily relaxed, and ownership controls lifted. As a result, the so-called 'independent' television production sector is now largely foreign-owned, and is polarised between 'superindies', conglomerates of companies ultimately controlled by European or US-based multinationals; and 'trueindies', an ever-decreasing number of smaller, genuinely independent producers. Furthermore, the cornerstones of the entire PSB system – the BBC and Channel 4 – are currently under serious threat by the current Conservative government, which in the process of commercialising all BBC production, increasing government involvement in its management and debating the wholesale privatisation of Channel 4 (DCMS 2016; Communications Committee 2016).

By contrast, film policy has traditionally approached filmmaking as a predominantly commercial endeavour that is, for the most part, unworthy of public subsidy. This general trend continues today, as is evident from the disparity in levels of public funding afforded to the film and television industries. Compared to the BBC's £3.7bn, the total public funding for film in 2013/14 was just £390m, of which £284m was spent on production (BFI 2015a, 3). This relatively minuscule level of subsidy for film has played a large role in enabling Hollywood's domination of the production and distribution sectors of the industry. UK film production is almost entirely dependent on Hollywood finance: in 2014, 84 per cent of the total production spend was associated with big budget, inward investment films such as *Avengers: Age of Ultron* and *Spectre* (BFI 2015b, 3). In the distribution sector, the top ten companies, of which all but one are European (StudioCanal) or US/Canada-based multinationals, enjoy 96 per cent market share (BFI 2015c, 3). Although Hollywood has little

direct control over the UK exhibition sector, its control of distribution effectively extends to exhibition, in which a handful of companies also own the vast majority of cinemas.<sup>1</sup>

Because of these differences between the UK film and television industries, the chapter consists of two sections that focus on each industry separately. Each section consists of two parts that focus respectively on the principal sources of finance on which each industry depends, and the constellation of production companies those sources sustain. As well as providing an account of contemporary film and television finance and production, I also explore how and why each industry developed as it did, as well as the causes and consequences of these developments for the industries and those that work in them.

The chapter draws on a wide range of sources, including scholarly literature, government reports, legislation, trade press and a range of statistical information from different bodies. Statistical data on the film and television industries is published regularly in the UK, both by the British Film Institute's Research and Statistics Unit and by the trade publications such as *Broadcast* and *Television*. These sources are invaluable, but must also be treated with caution. The BFI's statistics, for example, are skewed by the definition of what counts as a British film. This definition is inevitably loose enough to include effectively American films because the definition is used to assess films' eligibility for the tax relief, which was designed to attract inward investment from the US. Trade journals, meanwhile, inevitably present the views of the production communities they represent over those of their audiences or license fee payers, and their statistics are drawn from their own surveys which are not comprehensive. Furthermore, industry data – such as that regarding the numbers of active production companies, for example – often varies according to source. I draw on these sources critically and highlight ambiguity where it exists.

## **Section I: Film**

### **Film finance: tax relief**

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<sup>1</sup> 74 per cent of UK screens are in multiplex cinema chains owned by just five companies. These cinemas overwhelmingly exhibit the mainstream Hollywood films distributed by the top ten distributors, and together they took 81 per cent of the total box office in 2014 (BFI 2015d, 11).

Independent feature films in the UK are typically financed by a patchwork of public and private sources. Private finance can come from a range of places, such as investment banks or private equity firms, but will also typically includes pre-sales fees from distributors and sales agents. Almost 60 per cent of public production finance is derived from tax relief; the rest comes from the National Lottery, central government, and the two main public service broadcasters, BBC and Channel 4.

Tax relief for film production was first introduced in the UK in 1992 as part of a raft of measures designed to reverse the effects of Margaret Thatcher's decision to remove all forms of government support for the industry in 1984. Dismantling what she referred to as the 'paraphernalia of Government intervention' brought the industry to the brink of collapse: investment in production fell from £270.1 million in 1986 to £49.6 million in 1989, in which just thirty films were made (Hill 1996a, 103-4).<sup>2</sup> As well as tax relief, the government also established the British Film Commission in 1991 (to attract inward investment to the UK); joined Eurimages, the European fund for production, distribution and exhibition, in 1993;<sup>3</sup> and in 1995 established the London Film Commission (to attract inward investment to the capital) and introduced National Lottery funding for film (Caterer 2011). Despite several revisions to the tax incentives (Magor and Schlesinger 2009) and dramatic changes to the institutional infrastructures that administer these policies (Doyle et al 2015; Doyle 2014), their introduction marks the beginning of the current epoch of film policy in which the economic foundation of the industry is based upon inward investment via tax relief, while comparatively miniscule levels of Lottery funding supports low- medium-budget, indigenous, culturally British film.

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<sup>2</sup> Until 1984 UK film policy was based on three main support mechanisms: a quota, introduced by the 1927 Cinematograph Act, which ensured a minimum number of British films were produced, distributed and exhibited; a national film finance bank, the National Film Finance Corporation (NFFC), established in 1948; and a levy (known as the Eady Levy), introduced in 1950 before becoming law in 1957, that transferred a percentage of box office to film production (Dickinson and Street 1984, pp). The quota and levy were terminated, and the NFFC was replaced by a new organisation, British Screen Finance, which provided film finance on a commercial basis with a view to making a return on its investments (Spicer 2014, 78-82). As John Hill has argued (1996a, 103), neither the quota nor the levy were working particularly well: the quota was not enforced and many exhibitors were struggling to meet it, and the levy – because it was allocated to producers on the basis of the box office success of their films – ended up supporting those least in need of it, and was seen to unfairly penalise exhibitors at a time when cinema admissions were declining and many films were viewed on home video. Thus it was the failure to replace these measures with more effective policies that caused such damage to the industry, not their removal *per se*.

<sup>3</sup> The UK withdrew its membership from Eurimages in 1996 despite it generating an estimated £40 million in film activity in return for the £5.5 membership fee, a decision which reflects the extent to which UK film policy was, and remains, highly Eurosceptic and geared towards attracting inward investment from the US (Jäckel 2003, 79; Higson 2015, 130).

The film tax relief is ostensibly designed to benefit indigenous producers, and to the extent that all films which qualify can claim back 25 per cent of the first £20m spent and 20 per cent of any subsequent spend, it does. However, because tax relief is proportionate to production spend, levels of subsidy for big-budget films far exceeds anything available to indigenous filmmakers, because the latter make films with so much smaller budgets. Although a Cultural Test was introduced in 2007 to prevent overseas companies from exploiting the scheme and ensure that only ‘culturally British’ films or official co-productions could qualify,<sup>4</sup> this test is sufficiently weak that Hollywood films made in the UK, such as *Gravity* (2013) or *Fast and Furious 6* (2013), pass as culturally British and thus benefit from the scheme. The tax credit enjoys widespread support across the industry and its success has resulted in a suite of tax reliefs for designated creative industries sectors, including high-end television, videogames and animation.

Supporters of tax incentives rightly argue that the investment stimulated by the tax relief has helped create the world-leading facilities, talent and crew that have made the UK one of the top destinations for in the world for Hollywood’s offshore productions. However, enticing Hollywood investment with tax relief is expensive (Chakraborty 2014), and creates a race to the bottom in which nation states compete with one another – and with states within the US – to surrender the most taxation in return for investment (Dickinson and Harvey, 2005, 427). If Hollywood scales back its investment or another territory creates a more favourable tax regime, the UK’s film industry would quickly find itself in crisis, as occurred in the late 1960s and early 1970s (Murphy 2000; Newland 2013). Tax relief is also, as Jack Newsinger has argued, a particularly ‘market-oriented’ form of subsidy because it places intervention beyond government control (2012, 136). Furthermore, successive periods of short-term inward investment have resulted in the ‘massive destabilisation’ of cultural workers (Hesmondhalgh 2015, 108; Pratt and Gornostaeva 2009; Blair et al 2001; Ursell 2000). This is especially the case in film production, in which 90 per cent of employees are now freelance (Skillset 2014). Moreover, these highly skilled (albeit precarious) crews and world-leading

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<sup>4</sup> The UK currently has twelve bi-lateral agreements with other countries: Australia; Brazil; Canada; China; France; India; Israel; Jamaica; Morocco; New Zealand; Occupied Palestinian Territories; and South Africa. The UK has also ratified the European Convention on Cinematographic Co-production, and films accorded co-production status under this agreement also qualify for tax relief. Created in 1992, the convention aims to encourage European co-production by allowing three or more companies from different European countries to benefit from tax relief on a single production.

facilities are contracted out to big budget productions for most of the year, and thus unavailable to the majority of independent producers. Without the backing of major studios, these producers depend on the relatively paltry sums of the BFI, Film 4 and BBC Films to make their films.

### **Lottery funding, the BFI, Film 4 and BBC Films**

The leading public investors in film are the BFI and the film production arms of the BBC and Channel 4: BBC Films and Film 4. Four agencies in each country of the UK – Creative England; Film Cymru Wales (Film Agency Wales), Creative Scotland, and Northern Ireland Screen – also provide a range of smaller funding and development opportunities relating to their areas, as does Film London, the screen agency for the UK's filmmaking capital. These agencies are financed with a mixture of government funds and, via the BFI, money from the National Lottery, and award production funds between £200,000 and £800,000 (up to a limit of 50 per cent of the total budget).<sup>5</sup> Although they are autonomous from one another and the BFI, they also collaborate via the BFI's inter-agency talent development project, NET.WORK.

The BFI, Film 4 and BBC Films co-finance all their productions because the financial risk of single-source funding feature films is too great. Producers thus typically use the backing of one of these public funders to secure further finance, so the majority of independent companies therefore depend on the support of at least one of these organisations to get their films made. The BFI has the largest budget by far – £26m in 2015 – but its single fund, the Film Fund, supports development, production, completion, distribution and sales. The Film Fund makes approximately twenty-five major feature film awards each year, and provides development support for around 100 more. By contrast, Film 4 currently consists of a £15m budget and aims to make between ten and twelve films per year, while the BBC aims to produce eight films per year with an £11m budget. Although the BFI is not bound by the same public service obligations as BBC Films and Film 4, lottery film funding is still public money and must be spent in the public interest. The BFI's executives thus try to prioritise the

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<sup>5</sup> Creative England, Scotland and Film Agency Wales award up to £200,000, while Northern Ireland Screen awards up to £800,000 to projects that have 65% of the budget already in place. Film London awards up to £100,000, and also provides awards of up to £40,000 for artists' film and video via its FLAMIN scheme, which is funded by Arts Council England. Each agency also supports short film production as part of its talent development activities.

‘risky end of the commercial spectrum’ (Roberts 2015) and projects are meant to be assessed on their ‘cultural value’ as much as their sales potential (BFI 2016, 12).

The BFI also funds a handful of schemes to support production companies. The Vision Awards (2013-15) provided twenty companies with various sums of up to £200,000 to enable them to ‘develop an exciting slate ... grow their business and bolster their company profile’ (BFI 2014). Creative England and Film Cymru Wales both run similar, albeit smaller, company support schemes, and companies can also apply to the more general schemes of Creative Scotland and Northern Ireland Screen. It is too early to judge the impact of these schemes, but they are notable responses to industry lobbying to ‘think company, not project’ (Olsberg SPI 2012, 35), in recognition of the fact that – as Audun Engelstad’s chapter shows in this section – sustainable film companies make their living from slates of projects in development, not the profit those individual projects may or may not generate at the box-office.

### **Film production companies**

Film production in the UK is heavily concentrated in London and the South East, and polarised between a large number of small, independent companies and a small number of bigger companies with established ties to Hollywood. The smaller companies make the low-to medium-budget (£500,000 to £10m) films that comprise the majority of features produced in the UK each year, while the larger companies make a handful of big-budget (£10m+) films with Hollywood finance. Although these big-budget productions represent the vast majority of the overall UK production spend, they actually account for just a small fraction of the total films produced. In 2014, for example, 223 films were made in the UK, yet just seventeen big-budget films accounted for 89 per cent of the total production spend. The median budget for these inward-investment films was £17.3m; for domestic UK films, the median was just £430,000 year (BFI, 2015b, 2-8).<sup>6</sup>

Identifying the handful of companies that make Hollywood-backed films is relatively straightforward: the most prominent is Working Title (*Everest* [2015]), which between 2012 and 2014 produced fourteen films with an estimated combined budget of £289m (BFI, 2015e,

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<sup>6</sup> It should also be noted that the median budget for UK independent films is likely to be revised even lower because of the delay in acquiring data about low- and micro-budget productions.

8). Although Working Title is the biggest, ten or fifteen other companies also occupy this elite tier, including Blueprint Pictures (*Seven Psychopaths* [2012]), Heyday Films (*Paddington* [2014]), Pinewood Pictures (*Belle* [2013]), Scott Free Films (*Gladiator* [2000]), Recorded Picture Company (*High-Rise* [2015]), and Vertigo Films (*Horrid Henry: The Movie* [2011]). These companies stand-out for consistently producing inward-investment feature films and typically have established relationships with Hollywood studios or other major international media corporations: Working Title is a subsidiary of Universal Pictures; Heyday Films has a first-look deal with Warner Bros., with which it produced all eight films in the Harry Potter franchise; Scott Free Films, Ridley Scott's company, is run by former Columbia Pictures exec, Michael Costigan, and is part of Scott's wider content creation company, RSA Films, which has offices in LA, Hong Kong and Shanghai. However, while intimate relationships with Hollywood are typical of this elite top tier of UK production companies, they are not, of course, representative of UK film production companies generally: as noted, most are small, independent, and make films with low- to medium-sized budgets.

### **The independent sector**

Examining these smaller, more independent companies is difficult because there are so many: 6,090 film companies were registered in the UK in 2014.<sup>7</sup> Given that the UK produces between 250 and 350 films per year, the majority of these companies are inactive, with many set-up as Special Purpose Vehicles (SPVs)<sup>8</sup> and not used again. Nevertheless, UK film production is dispersed across a large number of companies: indeed, aside from those companies making inward investment films, which can produce as many as fifteen films per year, most companies are involved with just one film per year. Since 2009, the number of production companies associated with films produced in the UK has ranged between 213 and 420 (BFI Yearbooks 2010-15). Again, some of these are likely to be SPVs, and this also includes those relatively few larger companies producing big-budget studio-backed films.

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<sup>7</sup> Every company in the UK must register with the national company registrar, Companies House, and is allocated one or more Standard Industrial Classification (SIC) code according to the type of activity in which it is engaged. Separate codes exist for film ('motion picture'), video and television production, as well as for post-production, distribution and exhibition ('projection'). Although this keeps the data clean in terms of kind of activity in which the companies are engaged, dormant companies are not automatically removed unless formally closed by the owners, hence the inflated numbers.

<sup>8</sup> SPVs are companies set-up for individual productions (usually as a safety measure to protect the interests of the parent company) and not used for any subsequent projects.



Including that elite tier, there are perhaps as many as 200 companies regularly involved with feature film production in the UK.

As with all firms in the creative industries, those involved in independent film production are unique, with different personalities leading them, different areas of specialism and different networks of relationships with talent, commissioners and other industry agents. This makes profiling the independent sector difficult, but there are nevertheless some distinguishing features that many companies share (as well as a handful of more atypical companies)<sup>9</sup> that make navigating the sector easier. For example, small companies are often be structured around partnerships between producers and one or more key directors. As the following chapters show, this characterises Warp Film's (*This is England* [2006]) relationship with Shane Meadows and Aardman's (*Chicken Run* [2000]) relationship with Nick Park, but also distinguishes companies such as Cloud Eight (Christian Colson and Danny Boyle, *127 Hours* [2010]), Liberty Films (Stuart Fenegan and Duncan Jones, *Moon* [2009]) and Revolution Films (Andrew Eaton and Michael Winterbottom, *Rush* [2013]).

Other companies are built around the reputation of a single producer, such as Damian Jones' DJ Films (*The Iron Lady* [2011]), Duncan Kenworthy's Toledo (*The Eagle* [2011]) and James Wilson's JW Films (*20,000 Days on Earth* [2014]). These 'star' producers will often have developed strong relationships across the industry as commissioners or executives within a broadcaster or related institution before setting up as an independent. James Wilson had a successful career as an executive at Fox Searchlight (*The Full Monty* [1997]) and FilmFour (*Shaun of the Dead* [2004]) before founding JW Films, for example and, as Engelstad notes, Origin Pictures (*Mandela: Long Walk to Freedom* [2013]) was established on the reputation of the former Head of BBC Films, David Thompson. It is also common for companies to be built around partnerships between senior producers or executives from other sectors of the industry, in order to combine complementary skillsets, experience and relationships. Andrea Calderwood's Slate Films (*Last King of Scotland* [2006]) joined forces with Gail Egan's Potboiler Productions (*A Most Wanted Man* [2014]) in 2009; See-Saw (*The*

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<sup>9</sup> Atypical companies include, for example, Altitude Films, Ealing Studios, Eon and Recorded Picture Company. Altitude works across production, finance, international sales and UK distribution and as such is one of the few vertically integrated companies in the UK; Ealing Studios is the only UK facilities provider that also produces films; eon makes the James bond franchise; and Jeremy Thomas' Recorded Picture Company – and his associated sales company, Hanway Films – is built on Thomas' long-standing reputation as one of the most enduring figures working in the UK industry.

*King's Speech* [2010]) was set-up in 2008 as an Anglo-Australian partnership between Iain Canning and Emile Sherman;<sup>10</sup> and Trademark Films (*Shakespeare in Love* [1998]) is a partnership between producer David Parfitt and financier Ivan McTaggart.

Producers' attempts to form increasingly strategic relationships contribute to the high level of company churn in a notoriously unstable industry (Chanan 2003). As producers try out new partnerships, often in an effort to forge closer relationships with Hollywood, smaller companies are often either absorbed into larger ones – as with All3Media's purchase of Sam Mendes and Pippa Harris' company, Neal Street (*Jarhead* [2005]), in 2015 – or closed down as new companies started up. For example, Ruby Films, a company established in 1999 to produce both medium-budget independent films such as *Jane Eyre* (2014) and studio-backed films such as Disney's *Saving Mr Banks* (2013), ceased trading 2014 when Alison Owen and Paul Trijbits, its founder and senior producer, parted ways to form two new companies: Monumental Pictures and FilmWave. Monumental is a partnership between Owen and Deborah Hayward, a former Working Title executive, and Trijbits formed FilmWave with Christian Grass, a former executive at Universal and 20th Century Fox. Increasingly, new companies are based on partnerships designed to maximise both film and television in order to take advantage of the comparatively more stable nature of television finance.

## **Section II: Television**

### **Television finance: public service, deregulation and conglomeration**

The vast majority of television production in the UK is financed by four public service broadcasters (PSBs): the BBC (channels 1 and 2); ITV, or STV in Scotland and UTV in Northern Ireland (channel 3); Channel 4, or S4C in Wales (channel 4); and Channel 5 (channel 5). The two main PSBs are the BBC and Channel 4. The BBC is the oldest PSB in the UK – its radio and television services date from 1922 and 1936 respectively – and is funded mainly by a license fee which every household with a television must pay. The entirety of the BBC's substantial television, radio and online services are therefore subject to a public service remit, and the standards and principles of public service have therefore been a major presence in UK television for some time. Because of the considerable income

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<sup>10</sup> For a discussion of See-Saw's Anglo-Australian partnership and the various advantages derived from it, see Meir (2014).

generated by the license fee, the BBC is also the financial cornerstone of television industry: in 2014 it accounted for just over half (£1.2bn) the total PSB spend on in-house and commissioned original content (£2.5bn). By contrast, the multichannel sector<sup>11</sup> invested an equivalent of around £350m (Ofcom 2015a).

Channel 4, ITV and Channel 5 are referred to as commercial PSBs because, although they are funded predominantly by income from advertising (currently not allowed on BBC services), they also have certain public service obligations, in return for which they receive free access to digital capacity and priority listing on the Electronic Programming Guide. Of these, Channel 4 is unique in that it is both commercially-run but publicly-owned, so all profits are reinvested into the channel, and because, as a ‘publisher broadcaster’, all of its programmes are commissioned, or ‘published’, rather than produced in house. As a consequence of the latter, Channel 4 effectively created the independent production sector when it launched 1982 (Harvey 1994; Brown 2007).

Until the late 1980s UK television comprised four PSB channels: BBC1 and 2, ITV and Channel 4. Channel 5 was launched as a fifth terrestrial channel in 1997, but the era of multichannel television in the UK began in 1990 when Rupert Murdoch’s satellite television service, Sky, entered the market as a subscription broadcaster with an initial offering of four additional channels. In 2002, a BBC-led consortium of PSBs launched a free multi-channel digital terrestrial television service, Freeview, which remains the main competitor to Sky’s subscription service today despite the proliferation of television providers, channels and webcasters such as Netflix and Amazon Prime that has occurred over the last thirty years.

This proliferation of television providers and channels is in step with the process of market deregulation that has taken place across Europe in the same period. Although this may appear to have increased the diversity of programmes available to viewers, deregulating ownership and programming commitments has had the opposite effect on the industry. As Julian Petley has argued, while ‘European viewers may have been able to receive many more television channels than ever before ... this seeming cornucopia was actually being produced by an industry undergoing a process of concentration and conglomerisation’ (2002). In the UK, this

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<sup>11</sup> The multichannel sector includes companies such as Sky, Discovery, Fox, NBC Universal, Turner and Sony, as well as the portfolio channels of the commercial PSBs – such as Mowgore4 and ITV2 – which do not have a public remit.

process was facilitated by two principal pieces of legislation: the 1990 Broadcast Act and the 2003 Communications Act.

The 1990 Act was the first piece of Thatcherite legislation to address the broadcast industry. Previously, Channel 4 had been funded by a levy on the ITV channels which, in return, were allowed to sell Channel 4's advertising time. This removed Channel 4 from the market and enabled it to pursue its radical public service remit to cater for minority audiences and 'experiment in the form and content of programmes' (Hobson 2008, 14). The 1990 Act made Channel 4 sell its own advertising, which forced it to compete with the other channels and thus significantly eroded its ability to achieve these public service objectives (Andrews 2011, 218). The 1990 Act also removed rules on conglomeration in the ITV network; auctioned licenses for ITV franchises to the highest bidder; introduced a new, light-touch regulator, the Independent Television Commission (ITC); and enabled the independent sector to compete for 25 per cent of the BBC's production funds – a scheme known as producer choice (Goodwin 1998).

The 2003 Act furthered this process of commercialisation. The ITC was replaced by Ofcom, a 'deregulatory' regulator for communications industries as a whole, and obligations on PSBs to commission quotas of less profitable genres were removed (Hardy 2010, 529). Regulations that prevented cross-media ownership and single-ownership of the ITV network were lifted (Carlton and Granada merged the following year), and foreign-ownership of UK media companies was also permitted for the first time (Harvey 2006). Commercial quotas for the BBC were also increased, with an additional 25 per cent reserved for competition between independents and the BBC's in-house producers (known as the Window of Creative Competition [WoCC]).

The 2003 Act also introduced the Terms of Trade agreement. Previously, broadcasters would own the rights to the programmes they commissioned, and would pay producers fees of around 5-10 per cent plus a contribution to overheads. Producers argued that this made it difficult to invest and grow their companies (Oliver and Ohlbaum 2013). The new Terms of Trade prevented broadcasters from taking automatic ownership of the programme produced; instead, broadcasters purchased a license that permitted a certain number of broadcasts over a set time-frame (typically five years). After this period, all rights returned to the producer. By enabling producers to retain the rights to their work and sell to overseas broadcasters after the

commissioner's license expired, the new Terms of Trade massively expanded the market for independent companies and television exports doubled in the five years after the agreement (Bennett et al 2012, 38).

This favourable rights environment was good news for independent producers, many of whom made a lot of money. Combined with the new rules allowing conglomeration and foreign ownership, the UK television industry was extremely attractive to overseas investors and sparked the 'frenzy' of mergers and acquisitions which, aside from a lull following the 2008 recession, continues apace today (Televisual 2012, 9). This is often cited as an indicator of the industry's success: continued investment is driving growth, owners of independent companies can sell their companies for millions of pounds, and the industry makes a significant contribution to the UK's creative economy and export revenues as a result (Oliver and Ohlbaum 2013; DCMS 2016). Furthermore, this was bolstered by a new tax relief for high-end television, which enables producers to recoup 25 per cent of the production costs of scripted programmes with a minimum expenditure of £1m per broadcast hour. Introduced in 2013, this has since boosted production by a massive 87 per cent from 2012/3 levels (Olsperg SPI 2015, 72).

However, these economic benefits have significant downsides. There is an inherent tension between the desire to make public service content – to stimulate knowledge and learning, represent diverse interests, to take risks and innovate – and the desire to make profit. By reducing the public service obligations of commissioners and incentivising producers to make work that will sell to overseas broadcasters with no interest in public service content, deregulation has discouraged public service production. Furthermore, stimulating overseas investment and conglomeration has transformed the independent production sector, which now more closely resembles the film industry with an ever-decreasing number of smaller producers struggling to survive in an industry dominated by 'independents' that are in fact subsidiaries of major multinational corporations.

The future of the BBC and Channel 4 is also uncertain in this context, especially when faced with a hostile Conservative government during a Charter renewal period (the Charter is the constitutional basis of the BBC and is renewed every ten years). Although the government pays lip-service to the BBC as a 'revered' institution that is 'at the heart of our public service broadcast system' (Whittingdale 2016, 18), its actions reveal a different attitude. The license

fee was immediately frozen (a real terms cut of 16 per cent) following the Conservatives' election in 2010 and the BBC's budget was cut, with no consultation, by a further 20 per cent in 2015 (Harvey 2015).<sup>12</sup> The government's White Paper on Charter renewal was published as this chapter was being written. Although its proposals are not as damaging as some feared – senior Conservatives had called for the scrapping of the license fee altogether (Rahman 2014) – one of its more alarming recommendations is an overhaul of the governance structure to a single board, of which the majority of members will be appointed by government (DCMS 2016, 49-50). Should this happen, the BBC would effectively be a state broadcaster run by government; not a public one independent of government.

Finally, in a move that will conclude the commercialisation of BBC production that began in 1990s, the Charter will eradicate all in-house production at the BBC, except for news and current affairs, and open the entirety of its production spend to 'full competition' from the independents (DCMS 2016, 77). Its in-house production services will be transformed into a commercial subsidiary, BBC Studios, which will be able to compete for commissions from the BBC and other broadcasters like any other independent. This is bad news for public service broadcasting. Commercialising BBC production will exacerbate the danger recently highlighted by Ofcom (2015, 30) that the increasingly commercial production sector is unlikely to produce valuable but non-profitable PSB genres, such as children's programming, arts, ethics and education (which Ofcom also stresses is unlikely to be addressed by tax breaks),<sup>13</sup> some of which have fallen by as much as 77 per cent. Furthermore, a number of top executives tasked with developing BBC Studios have already abandoned the project for jobs in the independent sector (Conlan 2016), raising doubts about its ability to operate successfully as a commercial entity. The final section outlines the nature of that independent sector and the tiers of companies of which it is currently comprised.

### **Television production companies: mega-, super-, owned- and true-indies.**

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<sup>12</sup> This cut came in the form of making the BBC, rather than the government Department for Work and Pensions, absorb the cost of the free license fee for people over the age of seventy-five.

<sup>13</sup> The report notes the introduction of the animation tax break but points out that, while this will increase overall investment in animation and make the UK attractive for domestic and international productions, it is unlikely to deliver a significant increase in the commissioning and broadcaster of programming 'specifically aimed at, and reflecting the life of, children in the UK' (2015, 13).

As noted in the introduction, after decades of consolidation, the independent sector is stratified between ‘superindies’ (those that own portfolios of smaller companies), ‘ownedindies’ (companies owned by other production companies or international corporations) and ‘trueindies’ (companies without a parent company). The term ‘mega-indie’ emerged in 2014 to describe the merger of three separate superindies – Shine, Endemol and Core – into a single venture, Endemol Shine Group, joint-owned by 21st Century Fox and the Anglo-American private equity group Apollo, which now collectively owns around twenty smaller owned-indies.

As in the film industry, it is relatively easy to identify the largest companies; identifying smaller companies and estimating the total number involved is harder.<sup>14</sup> Two key annual publications – *Televsual*’s Production 100 and the *Broadcast Indie Survey* – provide valuable information about the most successful superindies and trueindies, but this means that smaller companies are often excluded. The Production 100 2015, for example, lists only fifty-two trueindies, the smallest being the Scottish factual and children's producer, Caledonia TV, with a turnover of £460,000. The number of production companies in the market also varies according to source. The government Communications Committee estimated there were 1 100 independent companies in 2010 (Communications Committee 2010), while the Office for National Statistics found 6,490 companies in 2013. The latter groups companies using the SIC Code for ‘Television programme production activity’ and as such includes sole-trader companies set-up by freelancers as well as more substantial companies. PACT membership, meanwhile, numbered 456 companies in 2015 but not every company is a member (Oliver and Ohlbaum 2013, 17). Below, I discuss those companies from the Broadcast and Televisual Surveys. Though flawed, these are the most reliable and up-to-date sources of information available.

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The superindies dominate the UK market. In 2015, seventeen superindies were active in the UK. After Endemol Shine, ITV Studios is the biggest both in terms of companies owned and turnover, with fifteen companies that earned £459m in 2014/15 (Televisual 2015, 15).

However, ITV is unusual as the independent production arm of the UK's main commercial broadcaster and because it is headquartered in the UK. Most UK superindies are based in or have parent companies headquartered in the US, such as Sony Pictures Television, NBC Universal, Warner Bros or William Morris Endeavour, while others are based or have parent companies headquartered in Europe, such as Banijay Group, FreemantleMedia UK, StudioCanal and Zodiak.<sup>15</sup> With most superindies owned by major global media groups, most of the revenues generated by the 'independent' sector are therefore foreign-owned. Of the revenue generated by the top 100 companies surveyed in 2013/14, for example, 65 per cent was foreign owned (Televisual 2014, 9). In 2015, meanwhile, six of the top seven owned indies, which accounted for around £1bn of the £1.77bn generated by the independent sector overall, were owned by foreign media groups (Ofcom 2015b, 10).

Unsurprisingly, superindies' turnover far exceeds that of the remaining trueindies. In 2013/14, the trueindie with the largest UK turnover was long-standing comedy format producer, Hat Trick, with £37m (Televisual 2014, 35). By contrast, the UK turnover of superindies such as All3Media, Freemantle UK and Warner Bros. was £288m, £150m and £109m respectively (Televisual 2014, 13). However, Hat Trick is also significantly larger than its nearest trueindie competitor. Prior to the waves of acquisitions in the last few years, the largest group of trueindies consisted of a tier of companies with turnovers ranging between £20-£40m (including TwoFour, Raw TV and RED Production Company). With these companies all now acquired, the next biggest trueindie after Hat Trick is the drama producer, Red Planet, with a considerably smaller UK turnover of £16.7m.

Red Planet is part of a cluster of around ten companies with turnovers over £10m. These include factual-entertainment and children's producer Zig Zag (£15.6m in 2014.15), natural history producer, Atlantic (£12.5m), and factual-entertainment and documentary producer, Keo (£10.1m). The remaining forty companies in the trueindie listings turnover less than £10m. Most companies in this region produce entertainment and factual or natural history programmes, such Icon, (£8.5m), Wag TV (£7.6m), Oxford Film and TV (£4.1m), Testimony

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<sup>15</sup> In February 2016 Zodiak and Banijay merged under the banner of the Banijay Group, which is now one of the largest production companies in the world (Keslassy 2016).



Films (£1.5m) and Firecrest Films (£700,000). Others produce children's programmes, such as Magic Light (£2.54m); live events, such as Blink (£8.5m); lifestyle and food programmes, such as Pacific (£4.5m); drama, such as Kindle (£4.2m); and current affairs shows, such as Quicksilver Media (£2.5m).

Those companies with turnovers of around £10 are the obvious next candidates for acquisition, while those below them bear the brunt of the consequences of such a consolidated production ecology. Small true-indies cannot compete with owned-indies that can rely on parent companies to fund development, deficit finance productions and maintain relationships with commissioners all over the world (Televisual 2011). Furthermore, cost-saving measures, increased competition from overseas and the rapidly changing production climate at home have created an uncertain commissioning environment that has seen PSB investment fall by £400m between 2008 and 2014 (Ofcom 2015, 3). Again, it is small companies that have to spend time piecing together patchwork finance deals comprised of pre-sales and distribution advances, which in turn eats into production schedules and can involve surrendering rights to the final product (Televisual 2012). Increasingly, the problems afflicting the independent end of the film industry can be found in television.

## **Conclusion**

As this chapter was being written, the press was full of headlines celebrating the achievement of two outstanding British filmmakers, Ken Loach and Andrea Arnold, at the 2016 Cannes Film Festival. Loach won the festival's highest prize, the Palme d'Or, for his latest film, *I, Daniel Blake*, about the brutal consequences of austerity politics in Britain. Arnold won the Jury Prize for the third time in her career, after *Red Road* in 2006 and *Fishtank* in 2009, with *American Honey*, a road movie about disenfranchised youth in the American Midwest. Both films were financed by the BFI and PSBs, with BBC Films supporting *I, Daniel Blake* and Film 4 supporting *American Honey*, along with patchwork support from a range of other international production companies, sales agents and distributors.

Yet the success of these bold, socially-engaged, low- to medium-budget filmmakers masks the fact that this is emphatically not where the current emphasis of UK film policy lies. As we have seen, contemporary film policy is built around a substantial automatic tax break that is designed to attract inward investment from overseas. As a result, the overwhelmingly

majority of public funding for production is beyond democratic control, fluctuates according to investment decisions made in Hollywood, and is spent on big-budget American films. The paltry sums available to support filmmakers like Loach, Arnold and others – Amma Asante, Clio Barnard, Duane Hopkins, Lynne Ramsay, Shane Meadows, Steve McQueen – pale into insignificance by comparison. The BFI and PSBs do fantastically well to support the range of filmmakers that they do, but in this context they are necessarily the talented, lucky few.

So, British cinema is, as Andrew Higson argues, ‘both a small, fragmented, unstable cottage industry and a substantial global enterprise’, and this is a consequence of a film policy that is overwhelmingly geared towards global enterprise at the expense of independent, indigenous production (2015, 127). This imbalance manifests itself in the ecology of production companies. Polarised between an elite top tier making inward investment films and the rest, it is independent companies that suffer most. Those that survive and remain independent typically depend on the initial support of the BFI and PSBs to secure complex and time-consuming jigsaw funding for their work; those that don’t are either acquired, or fold and re-emerge as producers and talent attempt new strategies and partnerships – which are increasingly based on making television as well as (or even perhaps instead of) film.

After nearly three decades of deregulation, the traditionally more stable television industry has come to resemble the pyramid-like structure of the film industry, with a smaller number of secure, mostly foreign-owned and wealthy companies at the top and large number of less secure independent companies at the bottom. Television finance is still based on the investment of the PSBs but, as discussed, that investment is declining, and the public service system as a whole – weakened from successive rounds of neoliberal legislation – is under attack yet again. Key public service genres are in decline, all BBC production is to be commercialised and the Secretary of State for Culture, Minister and Sport is clearly in favour of the privatisation of Channel 4 (Communications Committee 2016, 16-30).

In short, the outlook is bleak, but identifying the shortcomings of contemporary policy is at least a necessary starting point for thinking about how it might be improved. In their reflections on UK film policy, Toby Miller (2000) and Michael Chanan (2003) both cite Colin McCabe’s (1992) helpful reminder that the language and processes of policy can – like that of management – make certain things unthinkable bureaucratically impossible. This book is about the realities of independent production in four European states, and of course any

lessons for film and television policy must be grounded empirically. But we must equally not let the present limit what seems possible in the future. Film and television policy must therefore start as much from where we want to be as from where we are. As a famous revolutionary once said: ‘be realistic, demand the impossible!’

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