

BSAC ANNUAL REPORT 2009



CONTENTS

Honorary President Lord Attenborough	1
Chairman's Introduction	2
Statement by Director	4
About BSAC	6
Mission Statement	8
Issues addressed by BSAC in 2009	9
Events during 2009	48
Officers and Staff	51
Administration	53
Council Members	55
Associate Membership	58
Honorary Treasurer's Report	59
Documents published in 2009	61

LORD ATTENBOROUGH HONORARY PRESIDENT

BSAC is a unique organisation committed to serving the widest range of audiovisual interests. It provides an independent platform for discussion and facilitates the exchange of ideas and information, frequently acting as a vital link between policy-makers and practitioners. BSAC's membership comprises business leaders and industry specialists from many sectors in film, television, games and the new screen industries. This breadth of membership allows the Council to gather the widest possible views on issues that affect the audiovisual sector.



Lord Attenborough

CHAIRMAN'S INTRODUCTION

Screens are so ubiquitous that it is hard to know where the screen sector stops and other sectors start. It is a sign of our era that screen has moved from being a unique identifier, cinema and TV, to a common denominator, PC and mobile phone. Where once we saw convergence as merely a technical phenomenon, we can now see it as a cultural phenomenon. Convergence by its very nature erodes definition, and it is hard to sustain what you cannot define. A major issue of a converged world is that borderless community is challenging bordered territoriality. This is more than concepts of harm washing in over the net. It is about identity, as who you are moves from the easy definition of place to the harder definition of national identity, as a shared collection of cultural references. Cultural references that can all be digitized and that every time you digitize these are no longer national but global. This is not instant change but a long-term tectonic pressure.



Adam Singer

As the digital era lowers the barriers so that many can start TV or web channels, and these fragment audiences, so that traditional broadcasters now have smaller audiences. One realizes you cannot have audience fragmentation without cultural fragmentation. If you extrapolate this and see concepts of national identity as prone to fragmentation, similar to what is happening to a contemporary television audience, you realize the best way to defend the concept of Britain may not be £2bn spent on an aircraft carrier but £2bn generating shared cultural references. Do not take that too seriously, but it is why our screen industries are so important. Because as a collateral act of being a significant creator of wealth and employment they also generate notions of 'us'. This is why governments should take note, as they slowly but inevitably contemplate the difference between regulating a territory and regulating a community.

In 2009 BSAC heard from businesses spanning our sector. This included established institutions in TV and film, businesses born into the new media landscape, like games, ISP's and search, and businesses like advertising and publishing, traditionally on the periphery of our industry but now with the rise of digital, converging into the 'screen' industries. Common themes united their concerns: the problem of funding, in a recession where advertising has 'fallen off a cliff', where other countries can offer cheaper services, or offer more favourable tax breaks, and where the new empowered consumer demands content anytime, anywhere and decides whether or not they are willing to pay for it.

BSAC's work in 2009 focused on how our audiovisual industries must adapt to the new digital ecology and how Government should assist by realizing the impact of technological changes and reacting to them as they occur. BSAC argued, in our response

to UKIPO's consultation on 'Developing a Copyright Agenda for the 21st Century', that an evaluation of the current copyright regime should be undertaken and would need to be considered in a global context. A radical overhaul of the copyright framework would be needed to make it fit for purpose in the future. The final report of the BSAC Blue Skies Copyright Working Group outlined key aspects of a new copyright regime, emphasising that there must be a balance between the right of the consumer to 'quote' audiovisual content and the protection of rights holders' interests. A subsequent report 'Creativity, Competitiveness and Enterprise in UK Audiovisual' made valuable recommendations for an incoming administration on key areas where policy needs to change and regimes to be reformed.

BSAC will continue to play a vital role next year as a thought leader and thought provoker for policymakers and industry leaders to facilitate the growth and prosperity of the audiovisual sector.

STATEMENT BY THE DIRECTOR

The recession, and the impact of digital technology on the economics of audiovisual businesses, have come together to create turbulent and uncertain times which are likely to continue into 2010. The challenge for the sector, and for policymakers, of navigating such choppy waters make the role BSAC has to play in providing thought leadership and the sharing of experience at senior levels of the industry ever more vital.



Fiona Clarke-Hackston

BSAC will continue its work in anticipating and seeking to understand future trends in the rapidly changing communications environment. Such change inevitably means that the policy framework comes under increasing strain. At the close of 2009 BSAC, in a report entitled 'Creativity, Competitiveness and Enterprise in UK Audiovisual', set out a policy framework for the audiovisual sector in anticipation of a new government during 2010. Early in the year, the focus will move from promoting this report to further work on one of the key areas which it identified as vital if the sector is to develop as an important contributor to wealth creation – namely that of enterprise. The results of this work are expected to be published in the summer and will recommend how to focus effective investment in new digital media businesses. The project, enabling the sector to develop its own agenda for discussion with policymakers and business, illustrates BSAC's role as an independent forum for fresh thinking.

The new EU Commission will begin work in 2010 and BSAC looks forward to engaging with a fresh raft of ideas and consultations. BSAC held a meeting at the end of 2009 to discuss a response to the EU Reflection document entitled 'Creative Content in a European Digital Single Market'. The response will be submitted in early 2010.

BSAC's work has always benefited from the wide range of perspectives at our table and, reflecting the convergence of the screen industries, we continually seek to widen our membership. From the beginning of 2010 one of the key needlemovers in digital media, Google, will come into membership.

Our events programme kicks off in February when our Interview Series will feature Martha Lane Fox, founder of lastminute.com and the government's Digital Inclusion Champion. In March we will hold our seventh annual Film Conference which will examine global strategies for success and the impact of digital technology on creativity. Other events already planned for the year include a seminar on social networking.

BSAC will continue to debate a wide variety of business and public policy issues at meetings. Themes to be tackled include the future of free-to-air listed events, the success of various innovative new digital businesses such as Belfair and Playfish, plans for the 2012 Olympic Games and the role of Ofcom.

ABOUT BSAC

The British Screen Advisory Council (BSAC) is an independent industry-funded body. We bring together the widest range of UK interests, knowledge and contacts in the sector to provide an independent platform for the regular exchange of ideas and information.

BSAC works closely with industry leaders and policy makers to provide thought leadership on emerging business trends. BSAC helps the audiovisual industry, wherever possible, speak with a single and authoritative voice. In recent years we have worked closely with: Department for Culture, Media and Sport (DCMS); Department for Business, Innovation and Skills (BIS); UK Intellectual Property Office (UK IPO); Office of Fair Trading, Competition Commission; European Commission Directorates for Information Society and Media; Education; Internal Market and Services; Trade; Competition; Training, Culture and Youth; and Enterprise and Industry; World Intellectual Property Organisation (WIPO) and the World Trade Organisation (WTO).

BSAC Council Meetings provide Members with a regular opportunity to exchange information and ideas on commercial, policy and technological developments across the audiovisual industry. We invite speakers, drawn from our membership and the industry to update Members on rapidly changing industry trends.

BSAC Working Groups address specific business and public policy issues and tap into Members' considerable expertise and knowledge. Groups are created to respond to government consultations, to represent industry-wide views to policymakers and advance industry thinking on business and public policy issues.

BSAC also commissions and generates original research and reports to underpin policy and consultation documents. These provide a vital link between policymakers and the industry.

BSAC holds regular events including an annual Film Conference, an early evening Interview Series and Seminars on current issues for Members, Associate Members and invited guests.

BSAC Members are invited to join on the basis of their personal qualities, experience and expertise within the audiovisual sector. New Members are regularly invited, while the membership of existing Members is kept under review. Our Members include senior executives from television, telecommunications and new media companies; international film producers and distributors; cinema exhibitors; video distributors; technical experts; business people with media interests; media lawyers; communications consultants;

TV producers; games developers; trade unionists and the heads of training and trade organisations.

Associate Membership enables businesses with a particular interest in the sector, such as legal firms and accountancy practices, to become involved in BSAC's work. Associate Members are an important first port of call outside the Council's full membership for views on audiovisual issues, sitting on Working Groups and contributing to the Council's work.

BSAC is an independent body whose core funding is provided by its Members. Additional research is funded by Associate Members. Specific projects and events are also funded by separate sponsorship.

MISSION STATEMENT

The main aim of the Council is to enhance the prosperity, effectiveness and reputation of the UK audiovisual industries by:

- providing a unique forum for senior executives and specialists from diverse sectors to exchange ideas and information
- operating as an industry body, independent of government and individual corporate interests
- placing priority on the collection and presentation of facts and views held by different sectors of the industry to inform business and public policy issues
- making effective use of the broadest possible spectrum of knowledge and experience to convey informed independent and authoritative advice to the UK and European Governments
- exploring and assessing the impact of technological and commercial developments on the audiovisual industries.

ISSUES ADDRESSED BY BSAC IN 2009

This section provides some highlights of BSAC's policy work and key issues debated at Council Meetings during 2009 (listed in alphabetical order).

3D

In September, Rupert Gavin and Tim Richards spoke to Members about the history and future of 3D in cinemas.

Mr Gavin explained that 3D's latest incarnation was superior to everything that had gone before. One of the main differences was the DCI standard for digital which had been agreed in 2005 across all studios. This meant that content makers and exhibitors were working on a common standard for the creation and projection of digital around the world. There were different 3D systems, Dolby, RealD and XpanD, which all worked on top of the DCI standard. IMAX was a different standard. Only one projector was needed for 3D, making the capital cost of entry lower, although still substantial. The quality of the image was better leading a number of top directors and producers to view 3D as a highly creative medium.



Rupert Gavin

Penetration of 3D screens had increased rapidly over the last nine months and 9% of UK screens were now 3D screens. The UK was ahead of the rest of the world, partly due to the three large players able to invest. Italy had 7% 3D screens. The US had 6%. From January to June 2009 in the UK, 7% of the total cinema box office came from 3D tickets. *Ice Age 3* had box office revenues of over 50% from 3D in the UK.

3D demonstrated that if you provided a better experience in the content world, you could charge more. The premium charged was around two pounds on the standard ticket. Feedback from the audience was very positive. It appeared that the premium brought them to the cinema more often and was justified. 3D allowed theatrical to deliver more value to audiences. Exhibitors were managing to get a breadth of audience. *Avatar* would be an interesting moment.

Mr Richards explained that the 3D imaging which had been around since the 1920s had relied on two projectors trying to cast a perfectly aligned image on the screen. Viewers often experienced nausea and headaches, which meant that 3D went through phases of popularity and then declined. He believed this incarnation was different. 3D was now being embraced by all levels in Hollywood including young independent directors. A drop in price of the equipment was also a factor. There would be more small productions in the future and *Avatar* was expected to be a groundbreaking release.

The UK was leading on live 3D internationally with alternative programming such as music, live sporting events, live comedy, ballet, and theatre. A number of games manufacturers were currently working on 3D games. TV screens with 3D capability were close to release and Sky TV was developing 3D projection systems to be released as early as next year. This meant a full product run through all the ancillary revenue streams, from theatrical to DVD to pay TV, where everyone would be able to participate in the 3D benefit.

Advertising

In July, Members discussed current trends and issues for the advertising industry and how these affected the audiovisual sector. Steve Taylor, Director of Development and Innovation, Aegis Media UK and Ireland, spoke to Members about the health of the advertising industry and the effects of digitisation and Hamish Pringle, Director General, IPA, spoke about predictions for the future and the regulatory regime.

Mr Taylor explained that his job was to drive innovation in technology and systems, to create efficiency in traditional businesses, organisational structures and new business models. The media industries were reeling from a double blow, the digitisation of communication and the economic crisis. He was interested in the link between digitisation and changes in consumer behaviour and how an advertiser with a brand message could connect with recipients in an environment of such complexity.

His clients wanted to completely change the way media and content was used to generate revenue and maximise efficiency. The industry was currently experiencing irreversible commoditisation. The best they could do in their traditional businesses was to mitigate this by driving efficiency. At the same time, they had a rising revenue curve from advanced advertising solutions with data-rich, digitally driven outcomes. However, the new solutions had not yet begun to fully compensate for the losses through commoditisation.

He saw the change they were seeing as structural, rather than cyclical, as economic recovery would not reverse the transformation being wrought by digitisation. The rising generation of young adults were living online. They were very casual in their relationships with media brands and habitually consumed several media simultaneously.

The issue was not about traditional versus digital media. It was about how one designed all communications in ways that connected with these new behaviours and about a change in business models that implicated all of them. The long-term health of the broadcasting, advertising, media, communication and publishing industries depended on radically changing ways of thinking.

Mr Pringle said that there had always been a close relationship between GDP and advertising expenditure, suggesting that the advertising sector would pick up again as soon as GDP recovered. They had commissioned a forecast to look at the future shape of the industry which predicted that total communication would grow by 6% per annum until 2016. Three possible scenarios for future models had emerged: the current direction of change; a media-led scenario, where media owners became a powerful channel for media brands, and a consumer-led model where consumers became more empowered, making it difficult for brands to connect with them. The fact that TV viewing levels in the UK were at a record high, reinforced the perception of the screen as an ultimate expression of media platforms. He was very optimistic about the future for audiovisual communication.

He explained a proposal to widen the remit agreed by industry for the Advertising Standards Authority (ASA). There had been pressure by government to address marketing and promotional content on brand websites, as many were turning into mini broadcasters and this content was not being captured by the ASA remit. This had been agreed by the industry, together with a levy applied by media agencies to fund the whole regulatory system. However, there were some problems with enforcement. Although 80% of businesses complied, there were many rogue traders who exploited the fact that no enforcement regime could be applied.

The UK is generally regarded as the world's best self-regulatory and co-regulatory regime for advertising. But despite this it was being attacked relentlessly. Advertisers were spending £9m per annum funding the system providing a cost-effective avoidance of the law courts and a free, fast, complaints resolution service for customers. However, the UK was one of the most expensive markets to operate in, and also one of the strictest in terms of regulation. The question was at what point advertisers would decide that a legally based regulatory regime, funded by the taxpayer, would be preferable?

BBC

In April, Caroline Thomson, Chief Operating Officer for the BBC, spoke about the BBC's position in the recession and its role in driving broadband and Digital Britain.

In the last Charter Review, the BBC had been given the new purpose of helping to drive Digital Britain and explain new media to the audience. FreeView had played an important part



Caroline Thomson

in the uptake of digital TV. Its success showed how the BBC had demonstrated that it could adopt new technologies and adapt its creative skills.

She saw a new activism from the BBC. This recognised that they should be using their secure income to deliver partnerships, for example by using iPlayer technology for the benefit of others in the sector. This would be done through Project Canvas, the next generation of FreeView and FreeSat platforms, which aimed to have completely open standards, including a pay service of some kind. The BBC Trust's consent was needed to launch it. They were changing the classic BBC style in which online services had been run by looking into the possibilities of sharing content with regional newspapers. Being innovative, as well as open, was important for driving the partnership agenda.

BBC Films was going through a very rich time with two films selected for Cannes and the BBC should continue having a very active role in supporting film. Piracy was a big issue for the BBC even within the free windows. They were currently looking at how to operate beyond the 7-day iPlayer window, possibly by operating a paying iPlayer.

BBC Trust

In December, Sir Michael Lyons, Chairman, BBC Trust, spoke to Members about recent criticisms of the Trust and the strategic review of the BBC.

Sir Michael explained that the Trust had been set up three years ago and represented a fundamental change in governance. The Trust was not a regulator, but a governing body with a remit to represent licence fee payers and shareholders and protect the independence of the BBC. Ofcom was the BBC's main regulator. The only new regulatory function that the Trust had been given was over new services, previously regulated by the Secretary of State.

The Trust had a clear set of priorities for the BBC. Reach was important, as universal access was consistent with a universal licence fee charge. Distinctiveness and quality were highly valued by the public. The Trust had made efforts to deliver better value for money. The decisions on senior salaries were an example of this.

He had written an open letter to 'shareholders' explaining that the Trust had commissioned a strategic review from the Director General to consider the role, function, size and priorities of the BBC over the next six to ten years. The review was a response to concerns over the BBC's size in the rapidly changing communications economy: whether the BBC was trying to do too much and, therefore, letting standards slip, and the need to assess how new ventures like public access to the archive would be delivered. The strategic

review would prepare them for a dialogue with the incoming government, and with the public, on the licence fee.

Out of the experiences of the past year, the BBC was trying to become a better partner. Exciting initiatives like Project Canvas would provide a renewed emphasis on partnerships. They were aiming for a more open, porous BBC. The Trust also believed that online services should be streamlined.

The Trust had recently published the results of its review of BBC Worldwide. It had concluded that the BBC should continue to exploit its intellectual property effectively. The 'first look' arrangement needed to be considered in detail, M&A activity in the UK would be severely limited, and they did not anticipate another Lonely Planet. A firm grip on the BBC's intellectual property rights and its reputation needed to be ensured. Commissioned material across the world had to be consistent with BBC values and editorial guidelines.

BFI

In October, Amanda Nevill, BFI Director, spoke to Members about the BFI's role, its progress on the strategy for the archive and Government's plans to merge the BFI and UK Film Council (UKFC).

The BFI's purpose was to give people access to the broadest diversity of film, no matter where they lived in the UK. The BFI was there to champion film in its totality, but the concentration was only on film that would not be there if the BFI did not exist. The BFI was a charity set up over seventy five years ago and was incorporated by a Charter in the 1980s which protected the national archive. It was in the process of re-crafting the wording of the Charter to seek tighter clarity on what the BFI meant by the word 'film', as well as revisiting its collecting policy. The job of the BFI was not to collect all film but to champion the art form of film. The collecting policy had to be selective as everything put into the archive cost public money.

When she had first joined the BFI, it had been working on a five year strategy to modernise and reach a wider audience. Five years on, 60% of the BFI's reach was outside London and the BFI was the biggest distributor of cultural cinema in Britain. In terms of its performance, self-generated income was up by 50%. All the money it generated went back into education programming or investing in the archives. The government grant in aid had stayed the same for the last seven years. Once inflation and the pension deficit were factored in, the value of the grant in aid had dropped by 43%. There were real issues for the BFI going forward. Hence the merger with UKFC presented an opportunity.

The BFI had lobbied heavily to raise the profile of the national film archive. Film seemed to have less cultural value than other art forms. Five years ago, £34m had been needed to fix the estate that held the archive. The film stock was not being kept in the proper environment. Eventually, the BFI had been awarded £25m for the film archive, although this did not meet the figure needed and getting hold of the money had not been straightforward. The £25m was being spent across four areas:

- securing the national collection programme which involved building vaults that minimised the decay of film
- emergency funding into the regional archives
- the digital access programme which involved making the collections available online on a common platform to allow the public to search the archives
- the education programme.

Greg Dyke, had been appointed as Chair of the BFI in 2008. As a result, they had reviewed their strategy focusing on how the BFI should change in the digital world. Digital technology meant that the BFI could fulfil its purpose of giving everyone access to a broad diversity of film. It had opened up new opportunities for two-way communication between the BFI and the public such as the Mediatheque which allowed the public to explore the archive. By 2015, they wanted 80% of their programmes to be available digitally online.

The BFI needed to consider how to achieve this aim. It had an ageing estate which needed refurbishment, but this would be costly and mean that it would have to close for two years. She believed that it would be better to build a new building which was cheaper to run, fit for purpose and had the potential to generate more money. At present, it was difficult to share or broadcast their content from their central hub. This would cease to be a problem with the new Film Centre which would also be a home for the collections and the Film Festival.

After the government had agreed to fund the Film Centre, a merger of the BFI and the UKFC had been proposed. She believed that there were reasons why a merger could work as well as presenting significant challenges. There would be less public money available going forward, so cuts would have to be made somewhere. The priority for the BFI was to protect its cultural integrity.

Children's Entertainment Regulation and Legislation

In July, John McVay, Chief Executive, Pact, spoke about the proposal of a new set of regulations for licensing children to work in television and film.

At present, in order for children to work in film and television, they had to be licensed under the terms of the 1963 Young Persons Act. That licence only concerned terms and conditions and working hours of the children, not editorial content. PACT and the broadcasters had been working with the Department for Children, Schools and Families (DCSF) to update the legislation and remove anomalies. During this process, DCSF had begun an enquiry into the primary legislation as to how children were licensed, why they were licensed and what were they licensed for. There had been a very cogent lobby, led by various child psychologists and the National Network for Children in Employment and Entertainment (NNCEE) a collection of local authorities, to extend the licensing regime to children appearing in factual programming. This had been driven by a sense of moral outrage concerning children in reality programming.

Until now, children did not have to be licensed to appear in anything in which they were not acting, dancing, or singing. With the review of the regulations, because the word 'performance' was now captured, children could not be licensed unless they were acting, singing or dancing. This effectively meant vast parts of our public service broadcasting would be banned.

PACT had been lobbying hard and put together a group of all the broadcasters and producers to make representations to government on this issue. They had pointed out the absurdity of some of the proposed changes and the impact they would have on their ability to make programmes. The NNCEE argued that children appearing in scripted feature films should also be licensed. This raised both commercial and fundamental issues for the industry about who had editorial control over the programmes made.

Mr McVay explained that the DCSF had delayed the consultation which had not yet been released. It was important to tackle the anomalies in the legislation, but they were worried about the child protection part of DCSF which saw television as harmful in itself. PACT was consulting with Ministers to make clear that, if the proposed changes went ahead, many programmes children currently enjoyed, which involved them, would disappear because the risks would have a chilling effect on public service broadcasters and producers and would also be very detrimental to the feature film industry.

Copyright Agenda

BSAC continued to be very active on copyright and intellectual property issues in 2009. It responded to government consultations on copyright issues and set up the Blue Skies Copyright Working Group (see below for a summary of this Group's work).



Mark Devereux

BSAC held a dinner in January attended by Ian Fletcher, CEO and Ed Quilty, Director of Copyright and IP at UK Intellectual Property Office. It provided an opportunity to gauge UK IPO thinking and share observations with them.

BSAC had regular meetings with UK IPO and SABIP during the year. In July, a meeting was held to follow up on orphan works and implementation of the recommendations of the Digital Britain report. BSAC asked why changes to copyright exceptions were mentioned in the Digital Britain report but were not part of the Digital Economy Bill. UK IPO said it would consult later in the year on draft secondary legislation. The Digital Economy Bill would provide the enabling power to make further regulations that would permit schemes for orphan works to be authorised by the Secretary of State. There would be a further consultation on the detail.

Developing a Copyright Agenda for the 21st Century

In February, BSAC responded to the UK IPO consultation 'Copyright the Future: Developing a Copyright Agenda for the 21st Century'.

The paper set out the following key points:

- due to the tight timescale of the consultation, BSAC offered a preliminary response setting out some of the issues to be considered in making recommendations for a future copyright framework. BSAC would add value to the debate by looking beyond immediate concerns and developing a longer-term vision. The Blue Skies Copyright Group would undertake radical thinking about the copyright framework.
- responding to the consultation question concerning the rights of creative artists, BSAC argued that resolving problems through collective agreements, such as those between Equity and producers and distributors, might be better than a statutory framework, as regulation would not necessarily fit all problems that arose. BSAC warned that it is not always appropriate to attribute a greater creative input to writers or performers than to those who provide investment, and that an audiovisual product is likely to comprise material in which many individuals have originally held individual rights.
- responding to the consultation question, concerning an evaluation of the current copyright system, BSAC commented that to evaluate the scope and nature of the current copyright framework in a fundamental way would take time. It urged the UK IPO to develop the debate, taking into consideration the questions that will arise over the wider EU and international copyright frameworks.

BSAC Blue Skies Copyright Group

In 2009, BSAC established a Blue Skies Copyright Working Group, chaired by Adam Singer. The Group was formed to build on the work of the Blue Skies Working Group created in early 2008. Its remit was to consider how the copyright regime could be re-designed to ensure its long-term functionality.

The Group identified key aspects of a new IP rights framework namely that it must: promote equitable and flexible licensing rights; recognise public entitlement to access publicly funded content and facilitate mash-ups.

The Group considered a number of issues needing to be addressed as part of an evaluation of the current copyright regime including: the need to consider definitions of fair and unfair competition; the possibility that remuneration right should be the only entitlement for some uses of creative content and the long-term future of DRM's. The Group also considered what 'type' of copyright regime would work in a digital future.

In April, John Enser, Partner, Olswang reported on the work of the Group and introduced the final report. Its main recommendations were:

- an evolution of the rights eco-system, as well as legislative change, and a cultural shift combining to make life easier, quicker and cheaper for licensing
- to make access to publicly funded content easier and to educate people about value, cost structures and the business models inherent in the creative industries
- to allow consumers to carry on with the same activities as before in a licensed form, whilst recognising that piracy needs to be tackled.

The radical aspect of the report was that it gave permission for new conversations about new models. This encapsulated an understanding that an era was approaching where different models and different ways of supporting creativity would be required.

The Group's final report 'The Fall and Rise of Rights in a Web World: Reflections on Copyright' was published on 19 June and is available on the BSAC website.

Content Levies

In January, Steve Morrison, Chief Executive, All3Media spoke to Members about his proposal for levies to support public service content.

Mr Morrison said that ways needed to be found in order for investment in content to recover. Total TV revenue was predicted to grow by 10% in the next five years with all the growth coming from the pay sector. Structural changes would mitigate against the upturn in the cycle of advertising revenue which was predicted to recover by 2011. Ofcom statistics showed a drop in the commissioning of original UK content between 2004 and 2008 which now stood at £314m with a further reduction forecast. The three commercial public service broadcasters spent a large proportion of their revenue on UK originated content. 90% of the original commission spend for UK originated content came from the traditional five channels. These were the channels that were under pressure and becoming a smaller part of the whole. Although the pay TV sector and the internet were

receiving 60% of revenue coming into the audiovisual sector, they were only contributing 7% to the annual commissioning of UK content. The fact that these faster growing areas had no tradition of spending significant sums on UK content was a problem. Although pay TV did pay for content such as movies and sport, they received their most attractive content for free i.e. that commissioned by the PSB channels. Thus, about £3bn of main channel rights and programmes were currently free to pay TV.

Forecasts of a decline in advertising revenue meant that programme spend by the main channels was already being cut or delayed, especially for drama which was more expensive. It had been argued that drama yielded lower returns than other genres. This was incorrect, as drama was a very 'sticky' genre that drew exceptionally loyal viewers and had a much longer life than other entertainment programmes. The BBC was insulated from this situation to some extent. However, it would receive about £1bn less over the next five years than was hoped from the latest licence fee settlement.

All3Media had looked at models of how to pay for content in the future. In Europe, production companies received fees that their UK equivalents did not. Re-use fees applied, where an individual purchased the right to copy copyright, for example paying a small fee on a DVD player. Re-transmission fees applied, where a pay or ISP system re-transmitted analogue broadcast television. In 2006, Europe had been raising about €100m from re-transmission fees and about €600m from re-use fees, which was expected to have risen to €1bn in 2009. Some countries had their own system. In France, a re-circulation system was used where cinema tickets, DVDs, and broadcasting were directly taxed and the money redistributed to content production, about €500m per annum.

At present, re-transmission, called simultaneous transmission in the UK, and re-use were exempted from the copyright legislation. If the UK were to reverse this and bring its legislation into line with Europe, then substantial royalties could be collected. For example, on re-transmission there could be a 50p a month charge per cable or satellite home for the right to retransmit £300bn of programmes. £225m would be raised by 2012 and £250m would be raised by 2015. For re-use, payments would be included on DVDs, mp3s, and free standing PVR machines. The proportional amount that could be raised in the UK from re-use fees would be £176m by 2012 and over £200m by 2015.

A similar system could be used for search engines like Google, as such companies made money from search but do not contribute to content production. A charge could be made on the percentage of the search income and display ads income and put back into original content production. A low estimate of the opportunity here was £32m by 2012 and about £50m by 2015. A combination of all these changes would mean an extra £433m for UK original content production and over £500m by 2015. If it was sensible for the music industry to charge for royalties in a similar way with collecting societies, why should this not apply for audiovisual content?

During the Digital Britain consultation, the industry demanded that there had to be a return on investment for high cost high value content, and the only way to do that was to have a copyright protection system at each window of exploitation. This was vital if the sector was going to sustain the high level of original content that the UK had been used to.

Creative Content in a European Digital Single Market

In 2009, the European Commission published a reflection document on 'Creative Content in a European Digital Single Market'. BSAC set up a meeting with interested parties on 17 December with a view to producing a response to be submitted to the Commission.

The main points of the paper were as follows;

- The audiovisual sector had succeeded by making the most of international markets. The industry had much experience of when multi-territory licensing was likely to be the right option. BSAC was not opposed to cross-border business models in principle where there was sufficient consumer demand to make them commercially appropriate. However, they were not the only appropriate choice.
- Neither the EU nor national governments should take any action that would remove the audiovisual industry's ability to decide which business models were appropriate in what circumstances. Business models in the online world should be market-determined and the Commission should not intervene on copyright licensing arrangements unless there is evidence of demonstrable market failure.

Creativity, Competitiveness & Enterprise in UK Audiovisual Working Group

In 2009, BSAC established a Working Group, chaired by Malcolm Wall, initially to respond to the Review of the Creative Industries for the Conservative Party which was being chaired by Greg Dyke. In the event the Group decided to conduct its own review of the creative industries developing conclusions for promulgation to all political parties ahead of the General Election. The report outlined key aspects of the UK's audiovisual industries, where regulatory intervention and/or direct support were needed by government.



Malcolm Wall

The BSAC Group focused on how the audiovisual industry's capability as an enterprise sector and contributor to wealth creation could be further developed. It was agreed that government needed to adopt an integrated and flexible approach to regulation and consider incentives that took into account profound changes in consumer behaviour.

The report identified four key policy prescriptions to be undertaken as a matter of urgency for an incoming government:

- a new, streamlined audiovisual competition framework
- a new, focused and cohesive investment in enterprise and skills
- a bold new approach to public service content in the pluralistic broadband universe
- a copyright regime that facilitates decentralised creativity and access to content in the broadband ecology.

It then comprised four sections where a new framework and working practices were needed:

- the competition regime could not deliver the speed and flexibility required to allow entrepreneurs and businesses to keep up in the digital world. The UK's Enterprise Act needed to be reviewed as a matter of priority and adopt a new definition of the 'public interest'. A fast-track, unified approach to decisions regarding mergers and abuse of dominant position was needed. Media mergers needed to be subjected to a public interest test as a matter of course, and media ownership rules needed to take into consideration fundamental changes in consumer behaviour. Ofcom, under its current structure and remit was no longer fit for purpose, it needed to become a rapid response, economic regulator across all electronic information not just broadcast.
- capital and education were the twin, interlocking principles which sustained our audiovisual content industries and fostered innovation and enterprise culture. Current policies for the encouragement of enterprise and innovation were not working. Capital resources were not being focused in geographical areas and on business sectors with strong growth potential. A goal-orientated, public private partnership was needed to deliver successful enterprise policies and resources. This needed to be focused where the chances of generating a small number of nodes of economic success were greater. An ageing workforce and proliferation of low-cost alternative services in other countries was a challenge to the future of UK audiovisual. As it was no longer possible to compete on price, it was even more essential to compete on skills. To do this, a substantial re-orientation of educational resources was urgently needed.
- a new approach to public service content was needed, as the competitive market dynamics now required to encourage innovation and risk taking, conflicted with the structure of old public service media. However, the brand advantage, range and impact of public service incumbents would be a valuable tool in the transition to a multi-platform audiovisual ecology. Public service incumbents should be encouraged to provide a range of content through relevant networks, portals and search engines, in order to avoid a decline in its impact. The roll out of universal broadband infrastructure in the UK was a priority in working towards universal access. The measure of the impact of public service content was no longer mass audience at a given moment, but the number influenced over time. New forms of 'viral' iteration of content needed to be understood. By measuring the impact and diversity of public service content from all platforms, the Government could assess the scope of public service contribution.

- the exercise and enforcement of copyright and related rights were vital in ensuring the future success of the audiovisual industries. The legislative and enforcement framework needed to evolve in order to reflect the changes that digitisation had wrought. This included the expectation of accessing content everywhere. Government needed to continue encouraging the cooperation of stakeholders in enabling legitimate peer-to-peer file exchanges. Copyright must be presented as a positive tool through new educational initiatives. The UK's licensing regimes needed to be reviewed to allow for greater flexibility and global demand, without undermining rights holders' interests. Encryption and DRMs were valuable tools to enable and promote legitimate online content and government should support their use. Government needed to see copyright as a social compact between creator and society and ensure 'fair use'.

The Group's final report 'Creativity, Competitiveness and Enterprise in UK Audiovisual' was published on 14 December and is available on the BSAC website.

David Lammy

In September, the Minister for IP and Higher Education, David Lammy, spoke to Members about the Government's copyright strategy.

The Minister explained that he was aware that views on rights in the industry were divergent. Copyright was a global issue where the UK should seek to influence debate in Europe and internationally. To do that, they would need greater consensus amongst themselves.



David Lammy

There must be the right and appropriate protection for both creators and rights holders in the 21st century. A new rights regime would have to take into account technological advances and changes in consumer behaviour. Such a regime would have to create a balance of permission and exception, and make licensing easier and simpler. Many people supported a move towards extended collective licensing. Consumer education was also very important.

The potential to open up the UK's extensive archives of creative content was hindered by the current regime. It was worrying that the BBC archive trial revealed that it took six and a half thousand hours to clear a thousand hours of archived programmes. The system had to be simplified. He believed BSAC's Blue Skies work had been enlightening in this area.

Digital Book Publishing

In June, Members heard from Genevieve Shore, Group Digital Director, Penguin, on the challenges facing the book publishing industry.

Ms Shore said that the book industry was in good health with print sales growing. However, they were seeing the rise of digital formats. They were worried that they were moving into a world where services and devices had more value than content. This was an issue that publishing shared with other creative industries. The leading edge of digital content for book publishing was the eBook reader. There were about one million eReaders in the US with another million in China, Japan and Korea. It was estimated that there would be 18m eBook Readers in the market within the next three years. Sales of eBooks were largely substitutional, although in the romance and crime genres eBooks were growing the market.

Digital not only allowed Penguin to publish more, but also different kinds of content, such as the eSpecials range of content, short stories and essays which did not fit the print book format. Although any public domain Penguin Classic can be downloaded for free, by adding extra content to the digital version, they had managed to outsell free on the Kindle. eBooks were on Blackberry, Nokia, Samsung and smartphones. Apple was taking digital books very seriously. Penguin had just launched a series of ten iPhone applications for the DK travel guide range. They had undertaken a number of projects including, re-writing classics using Google maps to recreate *The Forty-Nine Steps*, the first novel written on Twitter, and using gaming technology for people to create their own fairytale. These projects were reaching new users.

Previously, Penguin had owned everything that was part of the publishing experience i.e. the design of the jacket, the font, the size of the book and the distribution to the bookstores. In the US, the programme Penguin Personalised allowed consumers to choose the format and cover of the book and, in the travel sector, people could assemble their own customised travel guides. Traditionally publishers were a business-to-business industry with relations to other media and booksellers and not a business to consumer industry. That was now being challenged.

Traditionally, Penguin had started PR for a book a month before the release, at best, and then there were six months of publicity post-release. With the new Bond book, they launched the website eight months before publication and started running teaser campaigns, extracts, interviews and a MySpace campaign, as well as live events to

accompany the launch. The result was the most successful hardcover launch that Penguin had ever had.

Free content was the biggest challenge facing the publishing industry. Following the settlement with Google over their book search facility, the US publishing industry was looking at how they could work with Google on a book search and protect their IP. It was a big challenge to understand the balance of free and paid. No author will get rich on click-through online advertising revenue at a book search page, so it was important to understand how this fitted into the larger ecosystem of selling books and content. Peer-to-peer was also a huge issue. The eBook file-sharing site Scribd was the seventeenth biggest site in the US with 55m users. Wattpad did the same for mobile smartphones. Just two years ago, the concept did not even exist in their industry.

Digital Britain

BSAC actively engaged with the Digital Britain process during 2009.

In January, the Chairman gave an account of BSAC's recent meeting with Lord Carter, which had focussed on his strategy for driving forward the Digital Britain agenda. The Chairman commented that for the purposes of the report, Lord Carter divided the world into 'plumbers and poets' and was very keen on driving forward the 'plumbing' in order to generate next generation access networks as a foundation for the 'poets'. He was looking to adapt to the current circumstances. Lord Carter had highlighted the fact that the traditional European control model was very much in the ascendancy compared to the Anglo-Saxon model of light regulation and control of information.

In February, Claire Enders, Founder and Managing Director, Enders Analysis, and Tim Suter, Managing Director, Perspectives Associates, provided their perspectives on the sector following the publication of the Digital Britain interim report.

Ms Enders said that the sector was in a unique situation. The decline of regional papers' income was 40% every year, and up to 20% in radio and 40% in magazines expected in 2009. The scale of damage indicated that these trends were universal across media. Rising internet consumption was associated with large declines in radio listening and newspaper circulation, though not with TV viewing, and had caused press advertising to suffer.

The effects of the Digital Britain broadband availability targets, spurring the growth of internet traffic and online market reach, would further damage traditional media, particularly TV which was less flexible. The TV advertising crisis had worsened due

to the recession and structural changes within the TV medium, for example, the shift from analogue to digital. ITV, Channel 4 and Five were the most exposed due to their reliance on advertising income. The BBC licence fee settlement lasting up to 2013 made it effectively recession-proof, while the pay sector, which also showed few signs of damage, continued to expand.

The pace of change was extremely fast. Enders Analysis predicted that half of the employment in the media industry in the UK would be gone in the next five years. 400 local press titles, commercial radio stations and the national press would be affected. TV Net Advertising Revenue (NAR) would not begin recovery before 2012 and ITV would have to cut its budget by 20-30% if it did not receive government funding. It was important for these media to find new ways of sustaining themselves, or to retreat, in order to survive. PSB content such as local and regional news and children's programming, were vital public goods and market failure in this area needed to be addressed quickly.

Ms Enders considered the impact of changes to the PSB funding model during the recession on the independent production sector. Independent production relied on commissions from commercial PSBs, making up 61% of the value. A large scaling back of investment in the independent sector was expected. This resulted in major challenges to Digital Britain's content objectives. By 2012, the BBC would be much bigger in relation to its competitors, with the pay sector being the other large component and a much smaller revenue share for advertising based organisations.

Mr Suter welcomed the Digital Britain interim report as an attempt to inject pace and vigour into the debate and praised its recognition of the interconnectedness of the different issues. He warned that there was a limitation on what regulators could achieve and that the decisions to be made needed to be taken following political discussions and debate. Regulation by deal making was a tricky thing to do, whilst policy making by deal making was a legitimate process, provided it was done openly and publicly. The report had recognised this. The Digital Britain report had not decided whether it wanted to build something that solved the Channel 4 question or something that created a different forward facing digital institution.

On the issue of rights, it was important to ensure that those who commissioned content received enough value to be able to carry on, and that those who created content had a share in the exploitation of that content and full recognition of the ownership of the copyright. There were three questions the report must address: whether an institutional solution such as a partnership between Channel 4 and BBC Worldwide would work; how quickly would the movement from a broadcast model into a different model occur

and what the impact would be; and how to change the way the BBC viewed the money it received and the legitimate uses to which this money could be put.

In June, four Members were invited to respond to the Digital Britain report.

Mr White, Head of External Policy, BBC, said that the BBC welcomed efforts to make broadband a more universal service and praised the commitment to public service broadcasting demonstrated in the report. It talked about the BBC's obligations to the wider creative economy. The BBC believed that it was already fulfilling that commitment, for example, with projects such as iPlayer and Canvas, and by looking at partnership issues with ITV and Channel 4.

There was a proposed consultation on top-slicing the licence fee for regional news partnerships. It was important to listen to licence fee payers themselves on this issue. According to Ofcom research, 63% of people given the choice would like the money back. Sir Michael Lyons has argued that the licence fee links the BBC with licence payers in a system of accountability that it would be dangerous to interfere with. The BBC believed that there were other ways of looking at the issue of funding regional news for ITV other than top slicing.

On the issue of rights, as a major creator the BBC sat somewhere between those anxious to protect rights and those anxious to give access. Concerning the archive, the BBC felt that existing structures for rights clearance did not stand up in a digital on-demand world.

Mr Robinson, Head of Corporate and Public Affairs, Television, Virgin Media, said that there was a lot to be welcomed in the report. Both the universal service commitment and the next generation fund were measured responses to what were very difficult issues. However, the state should only become involved in broadband roll out in those areas where the market will never deliver solutions, and the support should be technology neutral. He supported the notion of strong PSB content. However, until it was clear how the PSB system was going to be re-structured, it was difficult to say more. He cited Canvas as a good example of how the BBC was working with other partners to come up with innovative solutions. However, Virgin would welcome an acknowledgment that the BBC Trust needed to do more to make sure that Canvas was as open as possible. On the issue of rights, Mr Robinson praised the newly announced deal with Universal Music as a service that will leave people with no excuse to use illegal services. While this was a commercial deal, it also placed obligations on Virgin to take a more proactive role in enforcing IP with their customers, which will involve temporary suspensions and legal action.

Mr Toon, Head of Corporate Relations, Channel 4, said that in 2008, Channel 4 had consulted its audience and stakeholders on what kind of public service broadcaster or institution Channel 4 should be in the digital age. The resulting strategy was for Channel 4 to become an experimental public service provider on a cross-platform basis. From that a number of things had evolved including a digital investment fund for IP. The new strategy had now been endorsed by the Digital Britain report. The proposal that film should be included in its remit was welcome. In statutory terms, only content on the core channel counted as public service content, so projects outside of this like 4IP, The Big Art Project and children's content online did not count. This needed to be reviewed. Concerning funding, Channel 4 was pleased that the Government had ruled out part privatisation and part merger with Five as it did not think it would solve problems long term. The Channel was pleased that the report endorsed the idea of a BBC Worldwide / Channel 4 commercial deal. They were now in major negotiations with the BBC and hoped for a conclusion very soon.

Mr Brooke, Director, Regulatory Affairs, ITV, said that he welcomed the recognition in the report of what was realistic and unrealistic for ITV to provide as a PSB. ITV could not be expected to provide PSB content at a loss. It had to have licences that were viable as they transitioned from analogue to digital. Concerning regional news, ITV were happy to act as competition to the BBC and make slots available in its schedule. However, ITV could not meet the cost. For ITV public funding was a last resort. It had spent a long time in discussions with the BBC to develop a partnership and there was some value and synergy there, but not sufficient to cover the funding gap for regional news. Regarding broadband, it welcomed the investment in next generation networks especially in the opportunities this opened up for Canvas. It was obvious from the report that ITV still needed to convince policy makers that independent producers no longer needed guaranteed commissions or terms of trade from ITV. In conclusion, the real challenge now was to keep the momentum. Successfully passing a Digital Economy Bill through Parliament before the election was a challenge and it was in everybody's interest to come together as an industry and make it happen.

Digital Economy Bill

In December, Members responded to the proposed Digital Economy Bill, which had been born out of the Digital Britain report.

Ms Jones, Head of Public Affairs, Channel 4, said that Channel 4 broadly welcomed the Bill as it contained an updated remit focusing even more on innovating and catering for diverse audiences. There were three new commitments: investment in films and showing British films on their channels, provision for older children and innovation in digital channels. This built on work the Channel had done on their 'Next on 4' initiative which pinpointed four key purposes: to inspire change, to represent alternative viewpoints, to champion alternative voices and to nurture new talent. Channel 4 thought a solely linear channel based remit was out of date, as it did not take account of activities not attached to the main channels, like investment in film or innovation in new forms of content, in the digital space.

Mr Wheeldon, Director of Public Affairs, Sky, said that Sky had a mixed response to the Bill. It welcomed the copyright protection elements and attempt to deal with peer-to-peer file sharing. Some of the legislation was controversial, for example, clause 17 giving the Secretary of State reserved powers to deal with new technologies for copyright infringement. However, he supported the clause as the future of copyright abuse was unknown. The role of Ofcom in assessing the cost of technical measures needed to be clarified. It was also important that the notification process was made to work and technical measures were there only as a backstop.

Sky was unsure about the first three clauses of the Bill dealing with changes to Ofcom's powers. Regarding the first clause, an additional duty to promote investment in communications infrastructure, he thought that there was no evidence that this was needed. This was troubling as it was predicated on an idea that competition was a bad thing in respect of promoting investment in communications infrastructure. Sky believed there was a danger of reducing Ofcom's primacy in promoting competition. The second clause emphasised the duty to promote investment in content, but critically it was public service content. Sky was worried that this could lead to Ofcom's regulatory responsibilities becoming skewed towards public service content only. It was not clear what outcomes government expected to achieve from these changes.

Ms Carey, Director General, BVA, said that from the audiovisual sector's point of view the main concern was that the Bill went through intact. Clause 17 was causing concern and it was possible that it would be thrown overboard to save the Bill. This would be a shame as

provision needed to be made for the possibility that the infringement of copyright would move substantially away from peer-to-peer file sharing towards another format. Copyright infringement using technologies other than peer-to-peer, already accounted for 30% of the total problem. The lack of detail in the Bill, which would be included in the code of practice, was also a problem. But she believed the audiovisual sector could join with officials and stakeholders to get a code of practice ready for the Bill's implementation.

Mr White, Head of External Policy, BBC, said that the BBC welcomed the Bill especially the measures to combat peer-to-peer file sharing, which they felt were balanced and sensible. The BBC was also very supportive of the proposals for Channel 4's new remit and for digital radio, which was a very important part of the Bill.

Digital Entertainment Content Ecosystem (DECE): Opening the Digital Marketplace

In April, Caroline Mulligan, Director of Technology, and Vincent Artis, Manager, EMEA, Government Affairs, Sony Pictures, explained the key objectives of Digital Entertainment Content Ecosystem (DECE) and the opportunities it represented.

DECE was a new cross-industry group formed to define open global standards, based on existing technologies and new technologies, enabling the consumer to 'buy once/play anywhere'. It was created in May 2008 and its founding members comprise major studios, technology providers and retailers. A new digital media product, with a recognizable brand and logo, would be created rather than another technology specification.

DECE's key objectives were to create a new industry standard for digital media and to facilitate compatibility across service providers and devices, and so provide digital flexibility and content accessibility. Electronic Sell-Thru (EST) was one of the many business models that would be enabled by DECE, as it would provide transparency and remove consumer confusion about what they were buying and where they could play it.

DECE had been studying physical distribution and trying to emulate the success of the DVD as an approved format with a single usage model. It would also be able to deliver a rights locker, so that the consumer had the rights in perpetuity and could reacquire content and move it between devices. The use cases which had been defined for the first phase would allow the content to be played on a specific number of devices, allow remote streaming and remote access and in-the-cloud architecture, within a digital rights locker.

Google

In September, Matt Brittin, Managing Director, Google UK, spoke to Members about issues facing the company.

Mr Brittin said that UK consumers spent two to three times as much per head buying things online as they did in the US, France and Germany and businesses were spending nearly double the share of their marketing budgets online. This was exciting, but the speed of consumer driven change enabled by new technology also raised questions about what new business models would work. Mr Brittin explained how Google was working to protect the rights of video and audio content creators online.



Matt Brittin

The most important headline about how Google made money was that Google only made money when they made more money for somebody else. This was done through sponsored links on their search results page or through Google ads on blogs and websites. Google shared the majority of the revenue from those ads with the publisher.

Content ID technology allowed rights owners to find their content on YouTube and decide how to control it. Twenty hours of content were uploaded to YouTube every minute around the world, much of which was of public service value. But it was uploaded without the agreement of rights holders. Content ID technology allowed rights holders to claim their content by uploading a reference file. Google then sought matching files and the rights holder viewed a report of the matches and decided whether to take down the content or manage it. Many people chose to manage content as leaving the content where it was could more than double viewing, thus allowing the rights holder to find ways of making money from it. Overlay, pre-roll and display ads could be shown around the content as well as the click-to-buy option.

The Monty Python team observed that their content was still very popular online so they launched a brand channel through YouTube allowing viewers to click through to Amazon and buy the DVD. This resulted in sales rising by 23,000%. There were also tools which allowed you to track content providing information on the demographic of people watching which could lead rights holders to identify market opportunities. Google was optimistic that a combination of understanding what consumers were doing, trying to work with rights holders using technology, and a sensible process, was creating new business models.

House of Lords Inquiry into British Film and Television

In 2009, the House of Lords Communications Select Committee launched an inquiry into UK originated content in film and television. BSAC held a meeting on 5 March with interested parties, including some Council Members, with a view to producing an evidence paper to be submitted to the Select Committee.

The main points of this paper were as follows:

- although other economic sectors generate greater turnover and employment, the creative industries are central to our culture and our perceptions of the world in which we live. The public support that flows into the sector, through the BBC licence fee, Channel 4, the tax credit, regional development etc., is justifiable on both an economic basis and in terms of quality of life, notably social inclusion and diversity.
- the business models which have been successful for film and television are facing a number of challenges. The collapse of old business models and the slow emergence of new models represent the most important inhibitors in raising finance for film. The problems of funding are spreading to television production which is becoming more like feature film, in terms of shortage of finance and the complexity of financing deals.
- the tax credit is vital to the continued production of UK independent films and in attracting mobile productions. However, the 2006 changes to the tax credit system have meant that UK producers are less attractive as co-production partners, and that it is harder for UK filmmakers to make global films and for British talent to work abroad.
- the UK Film Council is supporting production and export of British film as far as it can. It could do more to assist the UK film industry's contribution to the economy. This could only be achieved through being given greater resources, for example, in exploiting the UK film and television archives, and improving transparency of the film market by making available data about broadcasting, DVD and video-on-demand markets. This would enable policy-makers and industry to better understand how the market is operating and the effects of digitization.

- investing in skills and talent to ensure our competitiveness and a diverse workforce is vitally important. However, there is an absence of clear entry and progression rates into industry meaning a lack of support for development. It is difficult for freelancers operating in television and film to access training.
- although the regulatory system has been very successful in supporting UK content in television, today it is less successful and some aspects of regulation prevent industry from responding quickly to massive changes. An example of this is the ban on product placement.
- the slump in investment in content creation is likely to be permanent. However, political will can have important impacts for example increasing the creation of television and film content outside of London. Paid-for content will have to compete increasingly fiercely with 'free' content.

IBM Online Environments and Regulation

In February, Dr Chris Francis, Government Programmes Executive, IBM, spoke to Members about the current regulatory environment.

Dr Francis said that due to constantly changing consumer expectations, companies could find themselves falling under one regulatory regime or another from one day to the next. Regulation only worked with clear objectives. However, at the European level, objectives were often unknown and regulation rarely prevented what it banned. The EU directive process was slow to react to changes with a ten year regulatory cycle.

It was often thought that when something had gone online, or a product was replaced by a service, nothing in the regulation would change. However, there were objectives that increased in priority and importance, such as copyright, due to the fact that the digital online environment changed the debate. Also, traditional offline objectives required new approaches due to the increasing importance of consumer protection and cross-border trade.

Dr Francis considered the pros and cons of a range of regulatory principles and trends. Harmonisation was desirable as it made it cheaper to comply, but sometimes a better deal was provided by every Member State proceeding differently. Innovation friendliness was desirable but complicated when looked at in detail. Business model neutrality was often applied to the debate about digital content and whether or not it was a good or a service, the settlement being vastly different for the former as opposed to the latter.

Interactive services were increasing rapidly. If a business was not in the AVMS scope, it was almost certainly in the Electronic Communications Services scope. The single biggest issue for online regulatory compliance was location, which may be where a business was located, where it sold, where it had staff or where it provided service. In general, an online business was facing more consumer law than an offline business, even if it was not considered an Electronic Communications Service, because of the eCommerce Directive.

In online environments, regulation would affect the Gambling Commission, Ofcom, PhonePayPlus, Financial Services Authority, the Information Commissioner's Office, Trading Standards, Office of Fair Trading, Advertising Standards Authority and the Home Office. In many cases, co-regulation and self-regulation yielded very good results. However, it was important to realise that regulators had very loosely defined Directives on the basis of when they decided to intervene in particular cases. The problem with regulating the internet was that it is a collection of private networks, a public index with many standards. There were problems of scope as the internet is an undefined area. The value lay in keeping this collection of networks, indexes and standards connected to be able to use it as a platform for innovation.

India

In January, Guy Di Piazza, Director of Media, Transaction Services, KPMG, gave Members an overview of the Indian audiovisual sectors.

Mr Di Piazza highlighted the cultural and linguistic diversity of India, as well as the differences between metropolitan India, which has high cable and satellite penetration, and rural India where electricity supply is unreliable. He provided statistics on how the Indian TV and film industry were structured:

- the estimated growth rate was 8% in 2008, although rural parts were growing much more slowly
- out of 220m households in India, the top tier of 1.6m households had an income of about \$100,000 per annum or more, on a purchasing power parity that was about \$300,000 or more. There was a very large middle class of around 60m households with high purchasing power, the majority in Mumbai
- of the 220m households, 125m were TV households. 77m had multi-channel TV, and direct to home satellite 5.3m. Around 40m, mostly in rural areas, had terrestrial TV only

- the content production market was estimated to be around \$275m per annum compared to the UK's £1.2bn. However, the market was heavily fragmented. There were around 6000 producers which made up around 80% of the marketplace
- the large production companies were Balaji, Miditech and UTV, all supported or owned by US media conglomerates
- the market for TV broadcasting was around \$2.14bn pa, Net Advertising Revenues (NAR) being the primary source of income. Again, the market was fragmented with 100 new channels launching in the last sixteen months
- advertising revenues were growing in double digits, in 2007 and 2008 around the 20% mark, but rates were expected to slow down in the next two to three years
- the number one TV channel in terms of audience share was Star TV. Zee, Sony Entertainment, Sahara and others were the main competition, with Sun TV dominant in the South. The top TV channel was always a general entertainment channel with 12-13% of the audience
- pay TV service providers commanded around \$4.5bn in 2008, passing back some of that to the TV broadcasters via an affiliate subscription fee. Since cable operators did not declare all their revenues, an estimated \$1.4bn was not passed back. The Government had introduced conditional access set-top boxes to provide greater transparency about revenues
- 1000 films were released per year in India, only 250 of them Bollywood films, and 500 produced in the Southern States. Bollywood films cost between £1-7m, averaging about £2.5m. The trend towards higher budgets suggested that fewer Indian films will be produced in the future
- the box office generated about \$2bn in 2008, with a further \$800m from other revenue streams such as home video, satellite rights and remake rights
- the big six US media conglomerates all had a stake in the Indian media and entertainment sector, especially in television and in the production of content, however these were all minority stakes

- Indian organisations had been making investments in Western media and entertainment companies for example, Reliance Big Entertainment planned to invest \$1.5bn in Spielberg and DreamWorks.

ITV

In February, Magnus Brooke, Director of Regulatory Affairs, ITV, gave Members an overview of current public policy issues.



Magnus Brooke

Mr Brooke said that there were two important questions: whether the UK should try and sustain the level of investment in original UK content available to all for free, and, if so, how and whether one should try and sustain original news media in the UK and, if so, how? That we were asking these questions was the result of a transition from forms of a monopoly or semi-monopoly to competitive market conditions. The ability of legacy monopoly players to continue to deliver public benefit, as well as make profit, was looking increasingly challenging. Of the total amount invested by the five PSB channels, over 90% was invested in original UK content production. It was not clear who would step in to replace that investment. However, audiences continued to value original content and effective competition to the BBC highly.

He outlined the ways that investment in original UK content production could be sustained. For commercial broadcasters with commercial shareholders, like ITV and Five, the starting point had to be a market based solution, rather than a favour from the state. He said that there was a new model for ITV as an efficient content-led organisation in the digital world that would enable it to sustain investment in original content production and make a commercial return from content production, broadcasting and secondary exploitation, particularly online. However, the old regulatory regime needed to be changed quickly. The competition law regime needed to be flexible enough to recognise when markets were changing fast and traditional assumptions were unsustainable. For publicly owned broadcasters, mainly Channel 4, the Government had been right to explore the potential synergies, scale and value creation with other publicly owned assets, such as BBC Worldwide.

Concerning the question of regional news provision, a crisis was approaching for newspapers and in regional television news, delivered by Channel 3. In both cases this was the result of the end of a monopoly or quasi-monopoly. For ITV, there would have to be a new solution by 2011 at the latest, given the rate of decline in the value of PSB licences as a result of the advertising recession. There were potential market solutions for the regional press and reasonable signs of progress with the announcement of the

review of the local and regional newspaper merger regime. Regional news was a good where the public value exceeded the private value. He welcomed Ofcom's recognition in its final PSB report that some form of new funding source, perhaps allocated on a contestable basis, was likely to be required.

Microsoft

In December, Ashley Highfield, Managing Director and Vice-President, Microsoft UK, spoke to Members about the company's products and services and how Microsoft views the digital world.

Mr Highfield said that the increasing pace of change of innovation meant that a company like Microsoft had to change the way it operated. The life cycle of a product was different. Products had to be consumer tested and feedback taken on board before the launch. It had been a landmark year for the UK. There had been a massive shift for the classified advertising market from newspapers to online and figures showed that online advertising had overtaken TV advertising for the first time. Google had the largest share of online advertising, mainly classifieds. However, large corporations were still spending their budget on TV. We were at the beginning of a shift to online.

Search online was the second biggest activity after emailing. Instead of just using search to find websites, people now used search to make decisions: 50% of people who searched spent thirty minutes or more on a typical search. This was a reason for Google's phenomenal growth. Google had 87% share of the search market in the UK. Microsoft with its product Bing had 3%. It was clear Microsoft faced challenges. With Bing they had taken a different approach to search. Information was brought into the search environment from a variety of sources, like Facebook and Twitter. The idea was that you did not need to visit other websites, it all came to you.

Bing also worked with text-based and visual-based links. It was able to look at videos on the internet and aggregate just the highlights to give the user a shortened version. It also allowed the user to specify what kind of video they wanted, the length and resolution.

Microsoft Advertising was the UK's largest digital advertising company. Microsoft's strategy was to place advertising campaigns across all media and devices. Search was about a quarter of their business with traditional display advertising making up the rest. They did not have to be number one in every market, but they had to have a meaningful foothold across different platforms, underpinned by their service, like Cloud, Hotmail, MSN, Windows 7, in order to offer their customers reach.

Olswang Convergence Survey 2009

In December, John Enser, Partner, Olswang, gave Members a summary of the results of the fifth annual Olswang Convergence Survey.

The survey was done primarily with YouGov using 1013 adults and 536 13-17 year olds across four tech-adoption groups: 'tech vanguard, second wave, mainstream and laggards.' They also had discussions with senior executives in the industry. The survey focused on convergence as the consumption of media and entertainment content across different devices, putting choice and control into the hands of viewers.

Mr Enser gave a summary of the findings across different topics when they asked people about their current behaviour and what they wanted to do in the future:

- *Internet access:* When questioned, many people expressed a desire for faster broadband, but when asked about their experience of their current internet connection, most were satisfied, even those with a comparatively slow connection. This posed a challenge to those who advocated the widespread introduction of super-fast broadband. What was important to content companies was reaching their customers wherever they were, rather than the speed of the connection. However, super-fast broadband would be needed to deliver mass market, internet delivered, high quality on-demand services.
- *Social networking:* There had been a significant take-up of social networking especially among children on PCs. 17% of children were already social networking via their mobiles, which went up to 30% of the tech vanguard. When asked about how they wanted to social network in the future, people wanted to use their PCs away from the home and to use mobile increasingly, adults as well as children. The use of TVs would increase.
- *On-demand TV:* 68% of the sample was using some form of on-demand TV. Predictions for the future did not increase as fast as some had thought. There was a small increase in use of on-demand for mobile devices. The PC would still be a more popular device with which to consume on-demand than the TV. Even though companies were racing to deliver different platforms, consumer demand was still not fully met. As solutions became more divergent there was a degree of consumer confusion.

- *Connected main screens:* 1.9m customers were using Virgin VoD services every month. 26% of the iPlayer views were on Virgin Media and 6% were on Play Station 3. He thought that VoD was going to remain a linear experience. People did not yet join up to a VoD TV experience. The existing take-up in absolute numbers was big, but if one compared it to the thirty hours of weekly viewing people consumed, it was still relatively small. It was assumed that people would go first to scheduled television, then to PVR and to on-demand last when looking for something to watch. However, the cannibalisation between PVR and VoD was more complex.
- *iPhone:* Olswang had been consistently sceptical about the consumption of rich media content on smartphones but they had begun to see a transformation. 19% of people were already using their mobiles for on-demand content. iPhone users said they would like to consume more on-demand content on mobile and other devices in the future.
- *DVD:* The latent demand, the people who would always buy a DVD, was only 19% of adults, more amongst the laggards category. The market suffered from piracy but the potential for cannibalising through offering alternative services was still valid.
- *Money:* The conclusion from previous surveys was that people wanted things free and without advertising, but that they would prefer advertising to pay if given no choice. In this survey, people were asked what they were willing to pay for in a scenario where they made a one-off nominal payment. 19% of the survey base was willing to pay for newspaper articles. 30% of people said they were willing to pay for catch-up. People would always over-state what they were willing to pay for, but the numbers were still encouraging.
- *Aggregators:* Many of the executives they had spoken to had seen Google as a threat to their businesses. However consumers loved Google. Only 2% spoke negatively about Google.

Online Commerce Roundtable

In June, BSAC responded to the 'Report on Opportunities and Barriers leading to Online Retailing' from the Online Commerce Roundtable hosted by the European Commissioner for Competition, Neelie Kroes.

In its paper, BSAC noted that, although the report was confined to music licensing, a number of the ideas discussed such as piracy had synergies for the audiovisual sector.

Furthermore, easier EU-wide licensing of music would benefit producers of audiovisual content wishing to include music in their productions. BSAC urged the Commission to engage with all relevant stakeholders on copyright licensing issues and not to assume that the solutions for music will necessarily fit other types of content. It was important to understand consumer demand and promote equitable and flexible licensing. The current differences and future convergence of the various content sectors needed to be considered.

Post Production

In July, Mark Benson, CEO, Moving Picture Company, spoke to Members about business issues facing the postproduction industry.

The Moving Picture Company (MPC) was a visual effects company involved in postproduction, computer graphics and animation for the advertising and feature film industries. He was worried about the advertising side of the business due to advertising price and the fact that the advertising market was contracting down 15-20% year on year. The price erosion was creating a commoditisation of services. However, services, such as those MPC provided, were not seen as commodities and they did not structure costs as a commodity business would.

In film, the pressure on price across the visual effects industry was as intense as ever and work had become a question of feast or famine. Los Angeles and New Zealand had dominated the market two to three years ago with London behind, but now Los Angeles was slowing down with London booming. London would now enjoy better visibility in terms of high-end visual effects for the coming twelve to eighteen months which was very good news.

London based visual effects businesses were increasingly working with lower cost centres around the world, in India and China. These markets would eventually develop to the point where they become an apparent risk for London. As such, these markets should be embraced now by working with local colleagues. It was important that they were seen as an opportunity rather than a threat because of the lower costs.

The number of creative seats in London delivering high-end visual effects was about 1500. The large number of people operating in the market, along with other factors, was what made London so compelling to big film studios. The exchange rate was another factor as it had been very attractive when the current slate of films was being planned, but now represented a risk to the business. Tax breaks, like exchange rates, were influential in the award of work to London. Any change in legislation was a risk for

them. To counter this, MPC had offices in various markets such as Vancouver where tax breaks were equally valuable.

The business was facing a lot of pressure. The best way to managing risk was a 'no compromise' approach to creative excellence. There were new opportunities in film and advertising, especially advertising, where London excelled.

Premier League

In July, Oliver Weingarten, Solicitor, Commercial and Intellectual Property, and Bill Bush, Director of Communications and Public Policy, Premier League, spoke to Members about the main issues facing their business.

Mr Bush explained that Premier League retained no money and neither did the football clubs. No one in football, apart from the players, made a profit. This meant that they had to stay exciting and interesting in order to create revenue to reinvest. The live event was very important to them and to the broadcasters because it was driving their audience and made up 90% of the value. Live events offered good opportunities for advertising through digital technology. Premier League had a significant economic impact down the chain. They contributed to broadcasting and the success of pay TV, 3D and HD.

Mr Weingarten added that the Premier League had grown and diversified considerably since it was formed in 1992. The first term revenue over three years was £100m. This had grown to about £3bn over a three year term. The number of market entrants and people who bought their rights had also increased. Historically, they had sold their rights through an agent. Now they mostly dealt with broadcasters individually, selling their own rights. They had grown the number of platforms on which they broadcast, selling their rights live, on demand, mobile and online on a platform-neutral basis. They had realised they needed to be innovative around convergence. They also enjoyed a very good image globally.

They constantly had to remind people that they were an important economic factor in the creative industries. When they wished to be involved in discussions around reports like the Digital Britain report, they were sent to the sports policy people, who did not have the knowledge of complex audiovisual market issues. Premier League's membership of BSAC was part of their efforts to signal that a big part of their business was the wider audiovisual industries.

There were some features that distinguished them from other businesses. In the sector, for example, most industries were worried about downloads over a long period of time.

Premier League was worried about file-sharing or pirate satellite signals that took place simultaneously with the legal transmissions. Another difference was that sport did not have copyright. However, they were in the business of selling rights so they had the same interests as every copyright holder. It was extremely difficult to get government to understand this.

They had formed the Sports Rights Owners Coalition in order to lobby the relevant institutions on a collective basis to raise the issue of sports rights. They were vulnerable to digital piracy which was having a huge impact on them. Cases raised issues with regard to reproduction rights, and the decisions affected not only how the Premier League could continue to sell its rights, but the rest of the creative industries as well.

Mr Bush said that there was a significant consumer lobby for sports and the Premier League to be free, which obviously misunderstood the nature of the business. Premier League was vulnerable to those who tried to squeeze money from them down the value chain. It saw enforcement as a key issue as the nature of the live product meant that if they were pirated, notices that took two weeks were useless. Inconsistency of enforcement across the country meant it was very difficult for them to take any action.

Fingerprinting and rights management devices were interesting as they enabled rights to be deployed and increased the prospect of return, allowing the investment model to continue. They were worried about the Ofcom Pay TV review due to the fact that Premier League was regarded by some as outside the 'creative industries'. Any effects of regulatory intervention that transferred value from Premier League to others were seen as something that did not affect the creative industries but this was not the case.

Public Service Reform Bill, Scotland

In April, Ken Hay, Chief Executive, Scottish Screen, described the background and evolution of Creative Scotland.

Mr Hay explained that Scottish Screen was set up in 1997 by the Conservative government as an integrated national screen agency. It was responsible for cultural and economic development policy and creating opportunities for screen industries in Scotland. Reviews of Scottish Screen and Scottish Arts Council in 2002 had found that both were failing to deliver against objectives. It was recommended that the two combine, adding economic responsibility from Scottish Enterprise, to create one body, Creative Scotland. Bills in 2006 and 2008 proposing the creation of Creative Scotland were unsuccessful due to questions of cost and the role of the new body.

In September 2008 the Government announced that Creative Scotland would come back to Parliament as part of the Public Services Reform Bill, which aimed to reduce the size of the public sector. The cost of establishing Creative Scotland would be £3.2m, the same as Scottish Screen's annual budget, and it would be responsible for policy, research and advocacy across the thirteen creative industries. The body will be created in May 2010 and will have high expectations placed on it to be different from the previous bodies.

Parallels can be drawn between Creative Scotland and the Creative Economy Programme, the two main PSB reviews, the film tax credit and potentially with Digital Britain. Each has been restricted by confusion over cultural and economic goals, reasons for the structural reform, and the screen sector's place within the economy. Despite this, Creative Scotland represents a huge opportunity to refocus public policy and public intervention to best support talent, businesses, and audiences across the creative spectrum.

Spectrum Management

In October, Professor Martin Cave, Director of the Centre for Management Under Regulation, Warwick Business School, gave an outline of current spectrum issues.

Professor Cave explained that there were a range of frequencies, from zero to infinity, between which extremes there lay a 'sweet spot', between 300 MHz and 3 GHz, which was suitable for both broadcasting and mobile communications. For higher spectrum the range of transmission became much less and for lower frequencies the capacity was much less. There were now about 4.2bn mobile communications users worldwide rising to 5bn before the end of this decade, which created huge pressure on the sweet spot of spectrum.

Ofcom was responsible for the spectrum management regime. The spectrum framework review had given spectrum the status of a property right that could be traded in the market place subject to restrictions. The ownership and use of spectrum was flexible. Ofcom had tried to integrate public and private sector spectrum markets, so the Ministry of Defence, for example, would have to buy spectrum in the market place. Ofcom aimed to create incentives for the public sector to release spectrum, like allowing them to keep the money from the sale. They had aimed to turn 80% of spectrum into a tradable, flexible form by 2010, but they would manage only 50%.

Professor Cave touched on digital dividend issues explaining that the Government had kept two thirds of broadcasting spectrum by giving it to digital terrestrial television (DTT). This spectrum was tradable to some degree across firms, but not users. If the demand for mobile broadband became incapable of being satisfied with the rest of the available

spectrum, the question was how would it be possible to shift the DTT spectrum? 128 MHz of spectrum was left from digital dividend which was of enormous potential value to mobile providers. It had broadly been harmonised for uses for mobile broadband in Europe but about 50MHz was still available for auction.

Spectrum used for mobile communications had different values. Vodafone and O2 had got the most valuable type of spectrum, 900MHz, while T-Mobile and Orange had the inferior 1800MHz spectrum and 3 had 2.1GHz, the worst kind of mobile communications spectrum. Should government equalise the conditions of competition when it made additional awards? Ofcom had tried to produce such a mechanism, but it was difficult to persuade Vodafone and O2 to give up their advantage. The Government hoped to carry out a complex spectrum auction aiming at making some 900MHz spectrum available to all mobile broadcasters. However, this was likely to be legally challenged.

Another issue was the price companies paid for spectrum. Government now required Ofcom to establish a full economic price for mobile spectrum. In the past, spectrum had been auctioned or owners had to pay an annual fee. Prices had varied greatly. Whatever full economic price Ofcom set would be very controversial.

The Commission was going to introduce a number of spectrum reforms throughout the EU. This would be done through changes to the EU regulatory framework. The possible effects of these changes included spectrum bands across Member States being designated as tradable, allowing frequencies in those bands to be acquired, and as a result, pan-European services to be offered. At present, mobile communications could not offer pan-European services, so this was an important change. There was the possibility that the Commission would propose a European-wide spectrum plan. The likely effect of which would be increased flexibility of spectrum in all Member States, making it more contestable and likely to be better used.

TV Platform Video-on-Demand

In December, Ben Keen spoke to Members about the latest trends in TV Platform Video-on-Demand (VoD) contained in a BSAC briefing paper (available at www.bsac.uk.com).

Mr Keen provided statistics on the VoD market and predictions on what would happen in the future:

- 50% of UK households had access to some form of VoD, either Near Video-on-Demand (NVoD), which was delivered at staggered start times via satellite, or true VoD delivered through cable or IPTV

- 4m had true VoD, growing to 5m by the end of 2013. Virgin dominated that section of the market
- Screen Digest estimated that the total UK VoD market was £274m in 2009, growing to £350m by the end of 2013
- The UK was the second largest VoD market in the world. However, the US had 60% of the global on-demand market and the UK 6%
- Less than 5% of on-demand views attracted a consumer payment, the rest were without charge and free of advertising. This was because they were often bundled with subscription packages
- These free views were beginning to be monetised, for example through Virgin's dynamic ad insertion, using programme-context aware ads
- TV content was the main driver for VoD. Movies and other paid for content made up about 10% of VoD catalogues and just 3% of views
- 'Over the top' internet delivered content had started coming into the TV space. Sky had launched a PC-based online VoD service in January 2006 which had been rebranded as SkyPlayer. The service now included live simulcasting of premium channels to different screens in the home. It was also available through Xbox which took the service from the PC to the TV world.

UK Implementation of the AVMS Directive

In February, Ray Gallagher detailed the progress of implementation of the AVMS Directive.

The AVMS Directive had been agreed in Brussels in December 2007 with a deadline for UK implementation in December 2009. One of the most dramatic changes was that the Directive would, for the first time, regulate Video-on-Demand (VoD) services in the EU. Stakeholder meetings held by DCMS and Ofcom as well as a VoD working group had been established to discuss the particularities with VoD stakeholders. DCMS and Ofcom encouraged industry leadership, especially in the task of establishing a co-regulatory regime. In response, a number of VoD stakeholders had met to discuss the implementation and interpretation of the Directive.

There was a range of criteria a service would have to fall under to be regulated under the Directive as a VoD service. Many services available to UK consumers of VoD content would be out of scope, including many services that provided user generated content. Consumer expectation should guide when regulation should be used, for example, if a VoD service did not have a consumer expectation for TV-like regulation then it would be out of scope.

The consensus AVMS principles document reinforced the need for the lightest touch framework required to fulfil the UK's obligations. The reasoning for such a framework was that, if UK services within scope were heavily regulated, burdens would be created against all international competitors. The vast range of services out of scope should be following consumer protection practices that provided similar protection on a self-regulatory basis.

In April, Chris Bone, Head of International Broadcasting Policy, DCMS reported on the implementation of the AVMS Directive in the UK. He summarised the main points of the announcement which Andy Burnham, Secretary of State, DCMS, had made on 11 March. There was a need to establish a regulatory system for VoD, preferably an industry-led co-regulatory system. The regulator would act on complaints, instead of operating a pre-clearance system, in order to minimise the burden on businesses. Companies that would be regulated were those defined as having the principal purpose of providing a service for people to choose TV programmes on demand. This would be a decision for the regulator. With Ofcom guidance, industry would decide who was caught in the regulatory net, and what the rules and penalties were. Product placement would continue to be banned in TV programmes made by and for UK TV broadcasters to preserve separation between editorial and advertising, but it would be allowed in VoD. For children's programming, the Directive prevented product placement even in imported programmes, UK legislation would have to implement this.

The EU deadline for bringing the Directive into force was 19 December 2009. There would be an amendment of the Communications Act 2003 to contain the regulatory structure of VoD and the new product placement rules. An informal consultation would be launched and then Parliament would receive the Order. If the Order was agreed, it would come into force by the implementation date.

At European level, the Directive would probably be revisited and a new consultation launched within two to three years. At this time the issue of convergence would arise again. Government had promised to review product placement in 2011 or 2012

allowing assessment of the policies of other Member States such as Germany, where only strictly commercial broadcasters would be allowed product placement.

UK Games Development

In February, Jason Kingsley, CEO, Rebellion, presented his view as a leading UK games developer.



Jason Kingsley

Piracy was a major issue for his business and he gave an example of the scale of the problem. One of Rebellion's very successful games that had never been released in China was currently being played there by 250,000 people. After reading some of the messages by consumers on blogs about their views on piracy and copyright, he realised that there were now one or two generations of people that think that ownership does not mean anything. This was an issue of education about right and wrong. The problem with digital goods was that they could be perfectly duplicated and served exactly the same purpose as the original.

However, there were fantastic opportunities as well, like expanding the consumer experience. If somebody was using a pirated copy of one of his games, he could convert this stolen product into value by digitally providing extra features on top of that.

Concerning the UK's position as a producer of international games, the UK lost out in terms of tax incentives. The financial environment for games companies in France and Canada was much more favourable. There was also the issue of brain drain as many employees in the games industry were young people without too many obligations.

On regulation, Mr Kingsley explained that he was also Vice-Chair of TIGA (UK Trade Association of Games Software Developers), and that the industry's current self-regulation regime was quite successful. About 94-95% of all games were suitable for under 18-year olds. However, as an industry they had to find responsible ways to deal with the issue. Although the level of violence in a game was clearly marked with a rating sign, parents sometimes bought these games for under-age children. This was a matter of parental responsibility and again touched on the issue of education.

EVENTS DURING 2009

BSAC Interview – John Smith, CEO, BBC Worldwide

On 27 January, John Smith was interviewed by David Elstein. Topics discussed were: the possibility of a partnership between BBC Worldwide and Channel 4, the Culture, Media and Sport Select Committee review of BBC Worldwide's commercial activities and the company's strategy going forward.



John Smith

The event was generously sponsored by KPMG.

BSAC Interview – Greg Dyke, Chairman, BFI

On 1 July, Greg Dyke was interviewed by BSAC Chairman Adam Singer. Mr Dyke discussed issues such as the BFI's funding of the archive, BFI's relationship with the UK Film Council, plans for a National Film Centre and the Conservative Review of the Creative Industries, which is chaired by Mr Dyke. (A note of the interview is available on the BSAC website at www.bsac.uk.com).



Greg Dyke

The event was generously sponsored by PricewaterhouseCoopers.

BSAC Interview – Lee Bartlett, Managing Director of Global Content, ITV

On 30 September, Lee Bartlett was interviewed by BSAC Chairman Adam Singer. Mr Bartlett, who had previously worked at Fox Entertainment, discussed issues such as the difference between the US and UK business environments, the nature of regulation in the UK and the role of advertising supported broadcast television. (A note of the interview is available on the BSAC website at www.bsac.uk.com).



Lee Bartlett

The event was generously sponsored by KPMG.

BSAC Breakfast Seminar on Fingerprint Technology

On 12 November, Martin Brooker, Vice-President of Sales and Marketing, Vobile, gave a presentation on fingerprint technology for tracking content at a seminar chaired by BSAC Chairman Adam Singer.

The event was generously sponsored by Reed Smith.

BSAC Film Conference

BSAC held its sixth annual Film Conference on 20 March. The theme of the Conference, chaired by Deputy Chairman John Howkins, was 'Meeting Consumer Demand'. The day's presentations and panel discussions focused on the changing expectations of consumers and how this informed ways to promote and sell products.



John Howkins

Keynote addresses were given by Carolyn Dailey, MD, Public Policy, Europe, Time Warner who explained how Time Warner was embracing the concept of 'Content Everywhere', and Rob Salter, Entertainment Category Director, Tesco who described Tesco's strategy in the entertainment sector and their future plans.

Other highlights included a presentation by Ben Keen, Screen Digest, about the latest industry trends, a presentation by John Enser, Partner, Olswang, on smart ways to find films after 2010, a demonstration by Eddie Abrams, CEO, IP Vision, of the new on-demand TV service and a presentation by Richard Halton, Programme Director, IPTV for the BBC, about the development of Project Canvas.

There were three panel sessions:

- a panel considering how new technology makes DIY distribution possible chaired by Arvind Ethan David, CEO, Slingshot with panellists Pete Buckingham, Head of the Distribution Fund, UK Film Council, Elizabeth Draper, Head of Business Development, Arts Alliance Media, Nick Leese, MD, Organic Marketing and Stephen Hallows, Digital Sales and Marketing Manager, Beggars Group
- a panel on new marketing trends chaired by Simon Hewlett, MD, Universal with panellists Charlie McAuley, MD, Paramount UK and Ireland, Sam Nichols, MD Momentum Pictures and Sue Unerman, Chief Strategy Office, Mediacom

- a panel on consumer behaviour and why consumers choose to buy film chaired by Jonathan Olsberg, Chairman, Olsberg-SPI with panellists Mark de Quervain, Marketing and Sales Director, Vue, Joshua Green, Board Director, Blinkbox, and Andrew Keyte, CEO, Filmflex.

The Conference concluded with a session chaired by John Howkins where David Docherty, Chairman, IP Vision, and Simon Olswang, Founder, Olswang reflected on what they had learnt from the presentations and discussions throughout the day.

The Conference could not have been held without generous support from Time Warner.

OFFICERS AND STAFF

Honorary President

Lord Attenborough of Richmond-upon-Thames

Chairman

Adam Singer

Honorary Deputy Chairman

Michael Flint

Deputy Chairmen



Michael Deeley



Mark Devereux



John Howkins



Marc Samuelson

Working Group Chairs

Blue Skies Copyright Working Group

Adam Singer

Creativity, Competitiveness & Enterprise Working Group

Malcolm Wall

Executive Committee

Adam Singer

EU Creative Content Working Group

Nick Fitzpatrick

HoL Committee Inquiry into TV and Film Group

Marc Samuelson

Director

Fiona Clarke-Hackston

Events & Reports Coordinator



Sarah Stevens

Events & Office Coordinator



Elizabeth Wilding

Consultants



Helen Baehr



Ben Keen



Bertrand Moullier



Amy Seely



Judith Sullivan

Accountant

Doug Abbott MA FCA

ADMINISTRATION

Council Administration and Membership

How BSAC operates

BSAC holds eight Council meetings a year and requires a quorum of fifteen Members. Agendas for the meetings are varied according to issues facing the industry. Members unable to attend a specific Council meeting may nominate a substitute who must be approved by the Director. However, Members are still required personally to attend a minimum of two Council meetings a year.

Much of BSAC's work is handled by Working Groups set up on an ad hoc basis to deal with issues. BSAC also has a valuable network of co-opted Members, particularly Associate Members, who are invited to serve on Working Groups where a particular field of expertise not represented on the Council is needed. Reports from Working Groups are given to Council regularly and on such occasions the full Council's endorsement is sought. Wherever possible the Council seeks support from all Members on policy issues. On rare occasions where proposals are not fully supported the Council seeks to illustrate, where possible, the degree of support and, in general terms, who supported and who are the dissenters with their reasons.

In addition to the Chairman, the Council is served by four Deputy Chairmen.

Executive Committee

The Executive Committee meets three times a year and reports of meetings are circulated to all Council Members. Executive Committee comprises five officers, the Director, and five Members who are elected by Members bi-annually to act on behalf of Council between Council Meetings. A quorum of four Members is required. In addition to audiovisual policy, the Executive Committee also considers BSAC's internal affairs, in particular finance and membership, and makes recommendations on such matters to the Council.

BSAC's Links with Government

BSAC maintains strong links with government. Civil servants and policymakers from the key departments with responsibilities for the audiovisual industries such as DCMS and BIS are regularly invited to participate in Council meetings and events. John Whittingdale MP, the Chairman of the Culture, Media and Sport Select Committee and Derek Wyatt MP, Co-Chair All-Party Communications Group also attend as Observers. BSAC also invites representatives from the Treasury, other government departments and the European Commission to attend meetings where appropriate. BSAC holds frequent meetings with EU officials and MEPs. BSAC is non-party political.

Associate Membership

Associate Membership provides an effective mechanism whereby companies and institutions can formalise a relationship with BSAC through attending events, receiving minutes, reports and other information. Unlike Membership, Associate Membership is available on a corporate not individual basis. Many representatives of Associate Member companies assist BSAC's work by serving on Working Groups or undertaking research on a pro-bono basis. The Council is appreciative of this support.

COUNCIL MEMBERS

Members

Membership information given below relates to December 2009.

Honorary President

Lord Attenborough of Richmond upon Thames

Chairman

Adam Singer Consultant, Cordelia Consultancy

Honorary Deputy Chairman

Michael Flint

Deputy Chairmen

Michael Deeley Producer
Mark Devereux Senior Partner, Olswang
John Howkins Director, ITR & Co
Marc Samuelson Managing Director, CinemaNX

Members

Chris Auty Producer/Distributor
Jolyon Barker Partner, Deloitte and Touche
Mark Batey Chief Executive, Film Distributors' Association Ltd
Mark Benson Managing Director, The Moving Picture Company
*Josh Berger President and Managing Director,
Warner Bros. Entertainment UK*
Will Berryman Chief Operating Officer, Technicolor Digital Content Delivery
Magnus Brooke Director, Regulatory Affairs, ITV
Rob Buckler Director, Skillset Screen Academy at LCC and EIM
Anne Bulford Group Finance Director, Channel 4
Dinah Caine OBE Chief Executive, Skillset
Lavinia Carey OBE Director General, British Video Association
Calum Chace Business Development Director, MirriAd
Ajay Chowdhury Chief Executive Officer, EnQii Holdings Plc
Larry Chrisfield Independent Tax Consultant
Phil Clapp Chief Executive, Cinema Exhibitors' Association
Mark Cranwell Director, Content Acquisition, Babelgum
Luke Crawley Assistant General Secretary, BECTU
*Carolyn Dailey Managing Director, Public Policy, Europe, Time Warner
International*

Gaynor Davenport	Chief Executive, UK Screen Association
Arvind David	CEO and Producer, Slingshot
James Davies	Board Director, Posterscope
Jonathan Davis	Consultant
Ivan Dunleavy	Chief Executive, Pinewood Shepperton
David Elstein	Independent
Lady Falkender	Life Peer and Company Director
Ray Gallagher	Independent
Stephen Garrett	Executive Chairman, Kudos Film and Television
Rupert Gavin	Chief Executive Officer, Odeon and UCI Cinemas
Andrew Hall	Senior Vice President and Head of Legal and Business Affairs, Universal Pictures and Entertainment
Fred Hasson	Consultant, Cross Media Apps
Ken Hay	Chief Executive, Scottish Screen
Andrew Hildebrand	Senior Vice-President, Business Affairs, Momentum
Phil Jenner	Vice President, Government Relations, Europe, Viacom
Iona Jones	Chief Executive, S4C
Mike Kelt	Managing Director and SFX Supervisor, Artem Visual Effects
Jason Kingsley	Chief Executive Officer, Rebellion
Jane Lighting	Independent
Anthony Lilley OBE	Managing Director, Magic Lantern Productions
Charlie McAuley	Manager Director, Paramount Home Entertainment UK and Ireland
Cameron McCracken	Managing Director, Pathé UK
John McVay	Chief Executive, PACT
Amanda Nevill	Director, British Film Institute
Jonathan Olsberg	Chairman, Olsberg-SPI Limited
Simon Olswang	Founder, Olswang
Julia Palau	Producer, Tusk Productions
Andy Paterson	Company Director, Archer Street Limited
Christine Payne	General Secretary, British Equity
Simon Perry CBE	Independent
Jon Pettigrew	CEO, NKA Films
Matthew Postgate	Controller, Research and Development, BBC
Nik Powell	Independent Producer
Tim Richards	Chief Executive Officer, Vue Entertainment
Patrick Robinson	Head of Corporate and Public Affairs, Television, Virgin Media Television
Sue Robertson	Corporate Affairs Director, Five

<i>Andrew Shaw</i>	<i>Managing Director Broadcast and Online, PRS For Music</i>
<i>Nick Toon</i>	<i>Head of Corporate Relations, Channel 4</i>
<i>Malcolm Wall</i>	<i>Independent</i>
<i>Oliver Weingarten</i>	<i>Solicitor, Commercial and Intellectual Property, Premier League</i>
<i>David Wheeldon</i>	<i>Director of Public Affairs, BskyB</i>
<i>Wilf White</i>	<i>Head of External Policy, BBC</i>
<i>Jane Wright</i>	<i>Managing Director, BBC Films</i>
<i>Prof Colin Young</i>	<i>Black Sheep Films/Consultant, Ateliers du Cinéma Européen</i>

Permanent Observers

<i>John Whittingdale OBE MP</i>	<i>Chairman, Select Committee for Culture, Media and Sport</i>
<i>Derek Wyatt MP</i>	<i>Co-Chairman, All-Party Communications Group</i>

ASSOCIATE MEMBERSHIP

Associate Membership applies on a corporate not individual basis. Associate Membership information given below relates to December 2009.

<i>Martyn Atkinson</i>	<i>Senior Manager, Ivan Sopher and Co.</i>
<i>Terry Back</i>	<i>Head of Media and Entertainment, Grant Thornton</i>
<i>Richard Bawden</i>	<i>Partner, KPMG</i>
<i>Nigel Bennett</i>	<i>Partner, Michael Simkins LLP</i>
<i>Paul Brett</i>	<i>Executive Producer, Prescience Film Finance Ltd</i>
<i>John Dixon</i>	<i>Head of Media, Royal Bank of Scotland</i>
<i>Stephen Edwards</i>	<i>Head of Media and Entertainment Group, Reed Smith LLP</i>
<i>Nick Fitzpatrick</i>	<i>Partner, DLA Piper Rudnick Gray Cary</i>
<i>John Graydon</i>	<i>Head of Film, Tenon Group plc</i>
<i>Fiona Hotston-Moore</i>	<i>Managing Partner and Head of Media, Mazars</i>
<i>Leon Morgan</i>	<i>Partner, Davenport Lyons</i>
<i>Timothy Nicholas</i>	<i>Chief Executive Officer, Centrespur Corporate Services Ltd</i>
<i>Nigel Palmer</i>	<i>Partner, Farrer and Co</i>
<i>Duncan Reid</i>	<i>Commercial Director, Ingenious</i>
<i>Ingrid Silver</i>	<i>Partner, Technology, Media and Telecoms, DentonWildeSapte</i>
<i>Phil Stokes</i>	<i>Entertainment and Media Leader, PriceWaterhouseCoopers</i>
<i>Yu-Fai Suen</i>	<i>Chief Operating Officer, Aramid Capital</i>

HONORARY TREASURER'S REPORT

The Council's funds are provided by companies, organisations and individuals within the industry. BSAC operates a subscription scheme directly related to membership of the Council. Invitations to membership are made to selected individuals rather than the organisations they represent. Members without an organisation behind them also pay a modest subscription.



Michael Deeley

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<i>Artem Visual Effects</i>	<i>Ivan Sopher and Co</i>
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<i>British Equity</i>	<i>Magic Lantern Productions</i>
<i>British Film Institute (BFI)</i>	<i>Mazars LLP</i>
<i>British Telecom (BT)</i>	<i>Michael Simkins LLP</i>
<i>British Video Association (BVA)</i>	<i>MirriAd</i>
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<i>CinemaNX</i>	<i>Pinewood Shepperton</i>
<i>Davenport Lyons</i>	<i>Posterscope</i>
<i>Deloitte and Touche</i>	<i>Premier League</i>
<i>DentonWildeSapte</i>	<i>Prescience</i>
<i>EnQii Holdings</i>	<i>PriceWaterhouseCoopers</i>
<i>Farrer and Co</i>	<i>Producers Alliance for Cinema and</i>
<i>Film Distributors Association (FDA)</i>	<i>Television (PACT)</i>
<i>Grant Thornton</i>	<i>PRS for Music</i>
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Tusk

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Vue Entertainment

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In 1997 BSAC established a sister company, BSAC Events Ltd, through which all events are run. BSAC is a non-profit making organisation and operates with limited resources. BSAC endeavours to keep costs for all events as low as possible through sponsorship.

DOCUMENTS PUBLISHED IN 2009

1. Report on BSAC Interview Series with John Smith, CEO, BBC Worldwide – January 2009
2. BSAC response to the UK IPO consultation ‘Copyright the Future: Developing a Copyright Agenda for the 21st Century’ – February 2009
3. BSAC response to the House of Lords Communications Committee inquiry into the Film and Television Industries – March 2009
4. ‘UK Movie Market Update’ – March 2009
5. Report by the Blue Skies Copyright Working Group, ‘The Fall and Rise of Rights in a Web World: Reflections on Copyright’ – May 2009
6. BSAC Annual Report 2008 – June 2009
7. ‘Online Commerce Roundtable: Report on Opportunities and Barriers to Online Retailing, Comments from BSAC’ – June 2009
8. BSAC Film Conference Report – July 2009
9. ‘A Perfect Storm? The Outlook for Advertising’, BSAC Briefing Paper – July 2009
10. Report on BSAC Interview Series with Greg Dyke, Chairman, BFI – July 2009
11. Report on BSAC Interview Series with Lee Bartlett, Managing Director of Global Content, ITV – September 2009
12. ‘TV Platform Video-on-Demand: Market Status Update’ – December 2009
13. ‘Creativity, Competitiveness and Enterprise in UK Audiovisual: New Visions, New Policies’ – December 2009

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