



BSAC MEETING WITH PARLIAMENTARY CANDIDATES

NEW VISION, NEW POLICIES FOR UK AUDIOVISUAL

On 8 February, BSAC held a meeting for parliamentary candidates to discuss the recommendations contained in our report 'Creativity, Competitiveness and Enterprise in UK Audiovisual'. MPs and industry representatives were also present. Malcolm Wall, Chair, BSAC Working Group on Review of the Creative Industries, and Adam Singer, Chair, BSAC, gave presentations and fielded questions. The meeting was held jointly with EURIM – the Information Society Alliance.

Ian Stewart MP for Eccles and Salford acted as Chair. He welcomed guests and explained that EURIM stood for European Informatics Market, and was a private not-for-profit company limited by guarantee. It set up working parties to look at particular issues and interfaced with interested parties in the IT and media sectors. The working parties were effective due to the political backing offered by MPs like himself which enabled them to influence government policy.

The theme of the evening was 'New Vision, New Policies for UK Audiovisual'. The government did not support the creative industries sufficiently given the importance of the industry to UK culture. The issues to be discussed were important ones for the UK and for the future constituents of the parliamentary candidates present.



Adam Singer: My role this evening is to introduce BSAC and what we do. Then Malcolm Wall will discuss our report and why it is important.

After a period of time at Westminster, MP's get that glazed look of the seriously over-lobbied. One of the things that BSAC can do is provide some perspective on some of the issues where you will be lobbied concerning media because BSAC is a broad church. We represent the UK arms of the Hollywood Studios, independent movie producers, independent television producers, games, music, and all major broadcasters. We represent everybody who is involved in all aspects of the screen industries. We are an independent body dedicated to ensuring that the totality of the sector flourishes. We achieve this in two ways: by responding to government consultations; and by putting forward what, as sector protagonists, we think is important, as opposed to what government thinks is important. This evening you will hear about the work that we think is important and that government should be aware of.

If we are living in an information age, then all screen products are information, in the broadest sense of the word, thus near the heart of the economy. Every time there is an increase in bandwidth there is a diminution in our sense of locality. Are you a Brit because of where you are standing, or because of the cultural references you are consuming? No industry is better placed to ensure that in a world where cultural references are available anywhere at any time on any device, UK values and culture are available and prominent to reassure, educate and entertain those that live here, and to give a UK perspective to anybody on broadband around the planet.

Two of the key things we ask for in the report are clarity and focus. In some ways this is an era of confusions, for example, Ofcom licenses and regulates 500 television channels but has no view on YouTube, or on the pornographic Red Tube, as these are not television but on the web, and thus not licensed by Ofcom. Through my PlayStation 3 I can stream all those programmes straight onto my living room plasma screen. It is this confusion between what is television and what is the web that is one of the key things that any new MP is going to be addressing as we go forward. Concepts of platforms are vanishing quickly.

BSAC is a well of thought which can be accessed if you're interested in things like public service broadcasting (PSB). How do you define PSB? It is a crucial part of the UK media scene. We spend a lot of money on it in this country. There is a debate over what will happen to Channel 4. BSAC offers a plurality of views on that. Copyright is crucial, it underpins everything. There is an ongoing debate about the nature of copyright and what are the right models to optimise copyright. BSAC deals with a wide range of issues. It is a perfect place to get more information about the sector and BSAC will become more important as government deals with the important issues in the creative industries. We are entering an era where government's power is decreasing and industry and technology have increasing power.

It is in the nature of information products, be they entertainment or education, that they are recipients of much regulation and government debate. Sometimes the debate helps UK screen competitiveness, and sometimes it does not, for example, the decision on Kangaroo.

Our 'Creativity, Competitiveness and Enterprise' report contains our thoughts on areas where government can provide clarity. This is a thriving sector. We are often told that the UK creative industries are second behind the finance industries. I want to stress that this report is not asking for help, it's asking for focus and clarity.

BSAC has also put together another Working Group on the nature of enterprise in the creative sector. It will build on the conclusions in the report we will discuss this evening. Malcolm Wall has an extensive background in the industry. He has worked for ITV, and for Virgin Media. He chaired the Working Group that produced this report.

Malcolm Wall: I would like to quote a couple of statistics from the report before I go on to the recommendations made, in order to give some perspective.

The UK communications sector generated total revenues of £52bn in 2008. The creative industries are generally acknowledged to be the second biggest sector in the UK. The leading internet social network is now used by 19m UK account holders. The individual video streams on the UK's three leading internet audiovisual brands topped £515m last year. However, about 80% of all audio streams in this

country are illegal. So whilst video has a greater legitimate streaming, at the other end of the spectrum we have a huge amount of peer-to-peer crime.

The UK computer games industry contributed an estimated £1bn to UK GDP in 2008 and £419m in tax revenues. Total television revenue was £11.2bn in the past year. Total spend on television output for the year exceeded £5bn. Film activities contributed £4.3bn to the economy. The media sector as a whole contributed 5.6% of Britain's total economic output. That is why it is important to the wealth of this country.

Despite the seeming success of the industry, we are constantly threatened. That is why we call in the report for further focus to ensure that not only does this industry grow but it prospers. The industry faces many challenges. It took radio 38 years to reach 50m people in the US, it took TV 13 years. It took Facebook just 9 months to reach 100m worldwide users. That is the rate of change that we are facing. YouTube now boasts 300m accounts worldwide. The video content web aggregator Hulu boasted 63m streams in April 2008, and by April 2009, that figure had risen to 373m streams and continues to rise.

There is frustration in the UK audiovisual industry with a number of public policy initiatives and we have been inundated with them. The recent landscape is littered with the Creative Economy Programme, the Creative Industry Task Force, the IP Forum, the Bigger Picture Report, consultations on PSB, the Review of Channel 4, and many consultations have had multiple phases. The Digital Economy Bill is currently in committee, it will be interesting to see if that ever reaches legislative stage. These initiatives share an approach in an increasingly global market moving between discussions on top level principles and dropping down into solutions. For example, the Digital Britain Report deals with vital debates about universal broadband and PSB and then moves to a solution for Channel 4. Our report focuses on the key dynamics and calls for next steps without being prescriptive. We identified four key areas as being critical for the future of the UK audiovisual industry:

- an appropriate competition framework;
- investment in enterprise and skills;
- a meaningful debate about public service content;
- a new regime for copyright.

I will now discuss our thoughts and recommendations in the four key areas and then take questions.

Competition. The current mechanisms designed to promote competition and fair trading in this sector are not capable of the speed and flexibility required in the global wired world. The existing framework is uncoordinated and fails to understand the changing forces. The main problem is that the current approach regulates according to static assumptions about the marketplace. A good example is regional newspapers. The Competition Commission is limiting in terms of its allowance of cross-media ownership. It does not allow much consolidation of regional and local newspapers. Even as cross-media ownership rules and regulation were being developed, many soothsayers saw the potential demise of local and regional newspapers. Much of the revenue of regional newspapers is dependent upon classified advertising. The growth of classified advertising through the internet is negatively impacting on local and regional newspaper revenues, yet the Competition Commission did not change the ownership rules. There has since been an outcry about the demise in this sector, that local democracy will be undermined. There needs to be more foresight shown in regulating in this sector in

advance. Our report calls for increased powers for regulatory bodies to be able to assess how industries are going to develop and use that evidence in their decision making. This will ensure vibrant industries and stop competition rulings in the present leading to the demise of those industries in the future. The UK Enterprise Act allows a public interest test which could be used in the manner just described. However, it is focused on a narrow interpretation of public interest and does not take into account the positive long term impact that consolidation, for example, might bring to the sector as a whole. If there were four UK local search engines that had 80% of the market, under current competition regulation, they would not be allowed to consolidate into one and become a global force, and yet we have a situation where Google has come into this country and organically grown to that size of the market. We recommend that the UK Enterprise Act is reviewed with new definitions for the public interest test. There should be a fast-track unified competition process. Media ownership rules should be redefined and Ofcom reformed so that it is better suited to deal with this changing environment.

Enterprise and Skills. Capital and education sustain our audiovisual industries. In the US, Silicon Valley, Hollywood, and Motown are centres of excellence fostered by a virtuous circle of reinvestment, both in terms of talent and capital. In the UK, public policy spending support and resource is spread too thinly. If you take the Regional Development Agencies (RDAs) statements of intent, all but one of the RDAs in England and Wales talk about developing a digital creative hub in their area. Would it not be much better to have a couple of centres of excellence which can compete on a global scale rather than seeing this resource spread thinly?

We also face an inappropriate educational output for our needs. There is a supply and demand dislocation. Another BSAC Working Group is taking this work forward, particularly around the enterprise area.

Our report recommends a goal-orientated partnership between the public and private sector that would focus on a small number of well funded nodes. Training and education should be focused on areas of growth with greater vocational relevance, for example, entrepreneurial development. US tertiary education has been famed for combining creative processes with entrepreneurial training that is singularly lacking in the UK. What we desperately need in this country are creative technologists. We are good at developing people with creativity but we separate technical and technologically based training. Above all else we need entrepreneurial development. Our report is not asking for money or tax breaks, we are asking for focus and better use of existing resources.

Public Service Content. How can we build upon our rich public service broadcasting institutions and legacies? Too often policy makers have called for protection of institutions facing structural change whilst also encouraging the UK audiovisual sector to embrace the new. Evolution has always had casualties and we need to manage this process. Current institutions, including the BBC and Channel 4 have a vital role to play going forward, but the notion that public service will continue to be delivered solely through a small number of linear broadcasters is over. Today Wikipedia, YouTube and many others are delivering content that has been traditionally seen as only possible through public service broadcasters. We assume that the imperative for universal digital inclusion and universal broadband will be successful, there seems to be a consensus about that in terms of government policy, driven by the Digital Economy Bill. We think that the public service content model needs to be re-evaluated. It should embrace the work that is done today by the public service broadcasters, as well as utilising their brand power to signpost other suppliers of public service media. We should re-define what can be developed and supplied by the market, as opposed to what needs to be supplied by public service media, and we should continue to measure those outcomes more effectively. A root and branch

evaluation of the future of public service media is needed while acknowledging and encouraging work done by the existing providers.

Copyright. The exercise and enforcement of copyright and related rights is vital to the future success of the creative industries. However, the reproduction, duplication and distribution of intellectual property can now be done by anyone with a home computer and a broadband connection. A rollback of protections and incentives afforded to creators of content is not the answer, and we all know there are people calling for a world where copyright protection is removed. Redefining a copyright framework to protect owners, whilst allowing creative development, is essential. We propose the continuation of enforcement against content theft, bringing all parties together, including ISPs, platforms and content providers, where there seems to be a consensus, to fight copyright theft. Educating people against peer-to-peer file-sharing is of utmost importance. They need to understand that copyright theft destroys business models meaning the content they want will no longer be available. We also need flexible licensing and support for new business models including encryption and DRM tools. Government must see copyright as a social contract between creator and society and to ensure fair use. In a print literate society, we have a right to quote, but we don't necessarily have a right to quote in an audiovisual literate society. It is not just about enforcement, it is about the re-definition of copyright.

Chair: Thank you Malcolm and Adam. We will now take questions from the audience

Tom Flynn (Labour PPC for Southend West): How do you think politicians should regulate against peer-to-peer file-sharing in order to protect copyright? And also what role would a regulator like Ofcom have in that, or is there scope for a new regulator?



MW: We support the work that has been done on enforcement of protection of intellectual property. ISPs and platforms should continue to work with content providers, and when a content provider finds an individual or a household that is in breach of the law, they should be able to work with the ISP to give them a warning. The debate is what takes place after the warning, whether some action should be allowed. There are a number of countries where further effort has been made to stop piracy in terms of action, notably Sweden. We think enforcement should be combined with education. It is important to keep up with the technology because you can

close down that peer to peer area but there are ways that technology tends to race ahead of legitimate activities.

AS: The report states that we should be thinking about an Ofcom 2.0. This was not meant as a criticism of what Ofcom does. It works remarkably well within the parameters that it has been given. The problem that Ofcom has is the gap between the brief and the remit. The remit is quite constrained. It is about platforms; television, communications, telephone, broadband, radio. The brief is about a platform-free world. There is a contradiction there. There needs to be an organisation, whether it is Ofcom or not, that takes a broad view in terms of the current reality, the way people use television, and that understands that post-switchover, we will see significant discontinuous uses of the way people consume media. The question is how do you legislate for that? A different kind of organisation may be

needed. I declare an interest in that I sit on the Ofcom Content Board, but I think that Ofcom has the influential horsepower and savvy to be at the core of that organisation. The report recommends that a broader view be taken, politicians talk largely about television, but we are moving into a post-television world.

Rupert Gavin (Odeon & UCI Cinemas): I work with the studios and Odeon & UCI are owned by a shareholder who also owns EMI, so I work very closely with people within the music sector. The problems that film and music face are slightly different but you can see how music has been a canary in the mine for piracy. Some of the strands for film and music are the same, for the majority of piracy by volume it is down to a relatively few number of users. You are talking about people on an industrial scale distributing and downloading this content and using it primarily for commercial purposes, and that's what we, as an industry, are focused on. It is easy to identify these people and there is a lot of kick back from the ISPs saying this is an infringement of the user environment. I used to run the biggest photo processing laboratory in the UK, and one of the stipulations on us was that we couldn't distribute illegal material. And therefore we used to have a team who scanned all the photographs. If somebody was putting illegal, erotic material through the system we were breaking the law, so it was up to us to check. That is what we are arguing for with piracy. We are not arguing about an innocent individual whose daughter or son made a mistake and downloaded something illegally. We are talking about the significant users of broadband networks to generate breaches in somebody's ownership, and cracking that is actually not that complex. We know who they are and it's only a matter of getting the industry together with the support of government and the legal framework behind it.

One particular example of this is that over 95% of the illegal copies of movies are still recorded with a camcorder in a cinema. For all the growth of digital networks the predominant method of pirating films is still sitting with a camcorder and recording it off the screen. In most countries, America, Canada, France that act is illegal. In the UK that act is not illegal in itself. You are perfectly entitled within the framework of British law to record somebody else's property because your defence is 'I'm doing this for my own use'. Even if you call the police, they often won't come because of the legal difficulty of proving that somebody is recording your material for profit not for their own use. We have been lobbying the current government to change the law for 10 years, just make it illegal. It was outlawed in America so it all shifted to Canada. It was made illegal in Canada, it shifted to other places. Now the UK is one of the hot spots for ripping off people's content because we do not have a legal framework to enable the police to follow through and be able to arrest people. These are the sort of things that cost the taxpayer nothing. We are not making special pleadings for funding just a bit of focus on what is necessary to support the creative industries in this country.

Jenny Rathbone (Labour PPC for Cardiff Central): If it was that simple why haven't you managed to get a clause in the Digital Economy Bill? The impression given in the press is that it is the ordinary individual who takes a couple of things off the internet for free who will be affected by the proposals. If that is not the case, then you need to make it really clear.

AS: I think this is something that the industry has been clear about for a long time.

RG: The focus of the industry is the industrial use, normally linked to organised crime, quite often linked to the Russian economy as well. Very few people realise that the Russian army is paid for by illegal DVD production, that's where the biggest output of counterfeit DVDs come from. Most of them are recorded in our cinemas and distributed across the internet. Avatar came out on December 17th, there were 18 copies on the internet the same day, and every day pirates will be updating a new copy as

the copies improve. China is another big base of production. Most of the pirates are linked to drug trade, money laundering, etc. This is what we're trying to throttle out of the system because of the effects of it and because of the fundamental larceny of people's rights and ownership.

AS: Camcording is a simple issue. We have been expressing this for a long time but there has been a lack of interest from elected politicians. They haven't felt that this was a serious issue. One of the reasons why copyright is so important isn't to do with film, music or books, it's to do with the fact that everything will become binary information and could be replicated. As soon as you have the binary information stored accurately you can put the design anywhere in the world and a local shop will just print it out. Every part of your economy becomes a subset of copyright and IP. That's why, long term, it is so crucial. Anybody who has seen a 3D printer will know how important it is.

Loanna Morrison (Conservative PPC for Bermondsey and Old Southwark): Copying happens across the board, it's not just in music or fashion. Any idea you have ever had, someone has put it on the internet, copied it, made money out of it. The internet and technology allows this to cross borders and I really find it difficult to see how we are going to legislate within borders, because even if you legislate in England somebody else will start it in Japan, or China, or somewhere else where the technology is already there and the workforce is willing. So I am not sure that legislating in the UK alone will stop the problem.

AS: That is true. However, there are a lot of economies where the value in IP in various forms is increasing. In America, there was no copyright on books throughout most of the 19th Century, and one of the things which absolutely irritated Dickens, Trollop etc., was all their books were just copied for free across the US and it was absolutely fine. Then American authors started writing their own books and the same thing happened to them, and then they started to introduce copyright laws. And you will start to see the same thing eventually as economies grow, and start to rest on the value of their IP.

Stephen Garrett (Kudos Film & Television): We make Spooks and Life on Mars. What we do in order to finance those shows is effectively mortgage future income from DVDs, in particular secondary sales through the UK and other countries in order to fund that. Our advances have been going down largely because of piracy, so even if you protect the UK that will protect the integrity and quite culturally specific entity. Although our shows travel, the bulk of their audience is the UK and the bulk of the funding comes out of the UK, and if we don't stop piracy here that is going to threaten the future of these kinds of shows and the employment indications alone are huge.

James Evans (Local Councillor for Windsor & Maidenhead): There have been a number of proposals to cut off internet access in response to piracy, and I'm very interested in how you see Article 8 of the European Convention for Human Rights as interacting with efforts to stop piracy, which is the right to freedom of correspondence, which will be used no doubt by many people if methods are employed to try and cut off internet access?

MW: That is an issue. There is the need for a Digital Economy Bill, or any related legislation, to be specific about what you can do to stop people pirating content, and when you can allow people to be monitored in terms of their use of phones for potential acts of terrorism, so there is a considerable reconciliation of the law needed before you go ahead.

RG: One of the proposals is not to cut people off but gradually narrow the bandwidth. ISPs do that all the time, narrow bandwidth in relation to people's traffic. It is in the terms and conditions. The current

Bill references the extremity of a removal of connection. I don't think anyone within the industry seriously thinks that is the outcome. The people who should be targeted are primarily not the average population. Most people are pretty lawful especially if they have been educated about copyright, which is part of the solution. The industry is good at communicating what is legal and what is illegal, but there needs to be a course of action to tackle the individuals who massively abuse copyright. It is not necessary to cut people off, it is sufficient to throttle back the amount of bandwidth given the volume of traffic that they are utilising and sharing with countless other user groups around the world. You can then avoid the situation where people are denied access. By throttling bandwidth, the user can still use the majority of the internet they are only denied access to massive bandwidth volume transactions. You can trace use very specifically. We are not talking about a huge number of people but we are talking about a massive number of files.

Phillip Virgo (EURIM): I should declare an interest in that I was the political engineer behind the original legislation to extend copyright to cover computer software. I don't regret what we did but it ceased to be the right answer about 10 years ago. Rupert made the point that in that particular campaign it was the organised crime piracy that was quite often provable. And part of the political deal was that the industry would fund the coordination with the trading standards officers and with law enforcement. The E-Crime Reduction Partnership will be coming in soon. One of the issues is that the police are massively under resourced when it comes down to tracking, tracing, taking action on illegal material of all kinds. Wouldn't one better point of leverage be to put more resource into working with law enforcement and cooperating to take down those groups who are at one level making their money out of piracy, but at another level they're training the Russian army and the Chinese army in cyber warfare to take down Tesco or Wall-mart, actually industry putting resource into that cooperation rather than pressing for legislation and action against teenagers in their bedrooms?

RG: The answer is a combination of them both. We, as an industry, put a huge amount of money and resource into the Federation Against Copyright Theft (FACT) which works closely with the police and provides a lot of the police resources in terms of tracking pirates. We have been successful in tracing organised crime, we've done the groundwork, put the money in and gathered the evidence and then handed that to the police. It is a very effective model. We're totally committed to doing more, but our belief still is that you need the legislative and the legal framework that currently is flawed in so many critical areas.

Philip Virgo: I understand that you have had proposals for about 18 months to create a stronger operation. Are you in a position to say anything about that?

RG: I can't speak about that specifically, but we are very supportive of it, we're just getting everybody aligned around those proposals and the necessary funding in place. An organisation like FACT is definitely not focused on teenagers in their bedrooms. Even if we wanted to do it, it is an impossible task. Communicating with and educating teenagers about copyright is achievable and desirable. The collection of evidence and enforcement is something that we are very focused on and want to expand.

Alan Bullion (Lib Dem PPC for Sevenoaks): What should someone do if they see a person in a pub or on the street trying to sell illegal DVDs? I've seen the adverts warning the public about not buying illegal copies at the beginning of films at the cinema.

RG: In all our cinemas we run an anti-piracy communication. In that situation it is best to report the incident to the police. Even if there is nothing they can do, they will give the information to the

industry which helps us track people. Every piece of content has an identifier on it so we are able to tell the specific film, print, cinema and date when it was shown. We operate through the police and are there to assist them. The knock-on effect of piracy is that real jobs are lost. Nothing distresses me more than when I have to close a cinema. Supporting local communities by providing employment and special screenings for senior citizens, young children and their mothers etc, is important to us.

AS: There is also another point of view on copyright which is worth expressing, that copyright is not just about ensuring that producers get a return on their efforts. Copyright is also a system to ensure we have a vibrant culture. How long should copyright be? Copyright was not just created to create a return to artists; it was created to stop people locking up the right to use it in perpetuity. There is a big debate to be had about how you ensure the right balance so that Rupert can keep his cinemas open, so Hollywood can get a return on its investment, as well as copyright contributing to culture, so that people can quote from and use works. Any creative work is inspired in some way by certain other historical creative works. I passionately believe in the importance of copyright, but it is about more than the specific issues we have discussed, it is about the nature of a cultural balance. If you are making a film of somebody out in the street and they happen to be humming a few bars from a major hit as they walk past, do you have to go and clear that? What is the nature of their use? And in print that is well defined. It is not well defined in audiovisual.

Rhona Brown (Researcher for Alan Whitehead MP): I understand the value of copyright certainly in the short term from the discussions this evening but in the long term to what extent is it outflanking the illegal distributors by providing a better service? For example, is a service like iTunes going to be the way forward in terms of combating piracy? Has iTunes made a discernable dent in the illegal downloading of music and videos?

MW: It is incumbent upon the copyright owners to develop business models like iTunes, which protect copyright, which give people a good consumer experience, and allow for investment in new content production. Copyright owners need to continue to develop encryption models, better distribution rights management, and so on. It is not easy. Spotify is an interesting new business providing a free service using the ‘freemium’ model attempting to get customers to move from a free to a pay service. This is currently an unproven business model. The book market is another area that is developing very quickly, the growth in e-books is astounding. Models with free reads and pay-for-ownership are being experimented with. There is a lot of effort and thought going into developing new business models.

RG: Within digital music, legal consumption has gone from 0% to around 10%. That is the result of services such as iTunes. That means 90% is still pirated and that speaks to the power of ‘free’ specifically that there is now a generation that believes music is a free commodity, and it is very difficult to change that. However, iTunes has been very successful and there are now a lot of similar services.

MW: In 2005 the recorded music business was worth \$45bn worldwide, this year it will be worth \$25bn, and that is not because the standard of music has declined or that we are consuming less.

Rhona Brown: Is that the best percentage that the market for downloaded music is going to achieve, or will that percentage increase?

RG: It will increase. Part of it will depend on better services, better education and communication about this and also tackling some of the legal issues and the frameworks of the law which currently make it very easy for pirated content.

MW: The experience that audio has had leads us to fear the potential implications in video. That level of destruction of an industry will mean that programme makers will not get sufficient income in order to make the programmes we value so highly.

AS: There is also the issue of supply. When the first MP3 players came out and even when the iPod was first available, the music industry was still focusing on physical values, on CDs and records. A significant amount of time was lost. Even if we had had iTunes as soon as MP3 players started to emerge, and even if there was no piracy, digital would still have meant that the music industry's economics would be completely rebased because consumers no longer had to buy full albums. This is an important lesson for the broadcast industry. For example, if you wanted to buy a particular comedy programme but it is not available to buy legally, then you are forced to download it illegally. The digital era has brought a multitude of choice, which the consumer did not have in the analogue era. With digital, you have to change the nature of the service to reflect the change in economic models. This is why we are seeing a constant diminution in the value of recording and an increased value in the live moment. Sport has become more valuable, concerts have become more valuable. There is no scarcity in recording but there is now becoming a tremendous scarcity in that live moment and you'll see improvements there.

Ian Stewart MP thanked the speakers for their insightful presentations and the parliamentary candidates who attended.