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Television production, Funding Models and Exploitation of Content

Producción de televisión, modelos de financiación y explotación de contenidos

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- Guest paper -

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Abstract

The rise of digital platforms has transformative implications for strategies of financing media production and for exploitation of the economic value in creative content. In the television industry, changes in technologies for distribution and the emergence of SVOD services such as Netflix are gradually shifting audiences and financial power away from broadcasters while at the same time creating unprecedented opportunities for programme-makers. Drawing on findings from recent RCUK-funded research, this article examines how these shifts are affecting production financing and the economics of supplying television content. In particular, it focuses on how changes in the dynamics of rights markets and in strategic approaches towards the financing of television production might mean for markets, industries and for policies intended to support the economic sustainability of independent television content production businesses.

Key Words: *Television production - Digital platforms - SVOD services - Television industry - Funding Models*

Resumen

El creciente aumento de las plataformas digitales está transformando las estrategias de financiación de los medios de comunicación para la producción y la explotación del valor económico de los contenidos creativos. En la industria de la televisión, los cambios que se han producido en las tecnologías de distribución y la aparición de servicios VOD (video bajo demanda) como Netflix están cambiando gradualmente tanto al público como el poder financiero de los radiodifusores, al tiempo que está generando oportunidades sin precedentes para los realizadores de programas. A partir de los resultados de un reciente investigación financiada por la RCUK (Research Councils UK), este artículo examina cómo estos cambios están afectando a la financiación de la producción de contenidos para televisión. En particular se centra en evaluar los cambios en las dinámicas de los mercados de derechos así como los nuevos enfoques estratégicos para la financiación de la producción de la televisión con el fin de comprender el valor que tienen para los mercados, las industrias y las políticas destinadas a apoyar la sostenibilidad económica de las empresas de producción de contenidos televisivos independientes.

Palabras clave: *Producción de televisión - Plataformas digitales - VOD - Industria de la televisión - Modelos de financiación*

1. Introduction

Television is an important industry and, on account of its significance as a medium of communication and popular entertainment and as a component of the creative economy, is often the subject of public policy interventions and special support measures. The UK television industry generates annual revenues in excess of £13bn (Ofcom, 2015b: 143) and programme-making or production represents a vital sector within this. Helped by steady growth in international sales, revenues to the UK production sector from exploitation of content rights have been on a rising trend for the last two decades and doubled between 2009 and 2014 (Oliver & Ohlbaum, 2015: 54).

However, in recent years digitisation and growth of the internet have altered modes of distribution and consumption of television with potentially transformative implications for television programe-making businesses (Steemers, 2014). The emergence of digital subscription video-on-demand (SVOD) services such as Netflix is gradually shifting audiences and financial power away from broadcasters and, while creating unprecedented opportunities for programme-makers, is also altering the windowing strategies used to squeeze value from intellectual property rights (IPRs) in television content (Doyle, 2016). Drawing on findings from recent RCUK-funded research, this article provides a preliminary analysis of how these shifts may pose a threat to predominant models of production financing, rights ownership and the economics of supplying television content. The question it addresses is to what extent do changes in the dynamics of rights markets ushered in by the rise of multi-territory SVOD services raise concern about the ability of production companies to retain ownership of IPRs and maximize the value of their content assets?

Economics of Content Supply

Making television is generally both an expensive and a risky business (Caves, 2000; De Vany, 2004) . Production of professionally-crafted content is characterized by high first copy costs (Hoskins, McFadyen & Finn, 2004). However, once a programme has been created then it costs relatively little to reproduce and supply it to extra consumers. Like other so-called 'information' goods, television content has public good characteristics insofar as the act of consumption by one individual does not reduce its supply to others (Withers 2006: 5). Replication costs tend to be low as the same content can be re-used again and again with little additional expense.

This makes it attractive to try and extend consumption of finished programmes to as many paying audiences as possible across platforms and across international territories (Chalaby, 2012). Selling programmes across national frontiers may well involve some marginal outlays in marketing and distribution (e.g., costs of attendance at international television fairs and markets). In territories that have their own distinctive languages, dubbing or sub-titling may impose some marginal costs, although how these are shared between rights owners and distributors varies. Even so, because of the public good attributes of audiovisual content, content suppliers stand to benefit from the widespread availability of economies of scale and scope (Doyle 2014). The wider the audience, the more profitable content will become. But, as consumption of each individual television programme expands, an important question is who exactly will reap the benefit? How are the rewards that stem from reducing per-capita production costs apportioned between the producer of content, the distributor, and the broadcaster or other service packager? A central concern in this article is to examine how existing patterns of apportionment of rewards may be disrupted as multi-territory digital services become increasingly important purchasers of original new television content.

The high initial costs involved in production make it imperative for content owners to deploy effective so-called 'windowing' strategies to maximise the value of their wares. Windowing describes a process in which content is released in a carefully planned sequential order across a number of distributive outlets (August, Dao and Shin, 2012; Shay, 2015; Ulin, 2014). It is about arranging the release sequence for content to differing portions of the audience in such a way as maximises overall returns. Windowing is often most closely associated with feature film but owners of rights for television content must also adopt strategies of dividing the whiole potential market into segments and of then releasing content to differing portions of the audience at different times, using delays where possible to build demand but more fundamentally as a means of squeezing the maximum value from

IPR assets (Christophers, 2012). Global audiences are segmented by platform and territory, and then content is rolled out across domestic and international markets through a series of sequential 'windows'.

The work of Steve Wildman and Bruce Owen was seminal in modelling this process (Owen and Wildman, 1992). These media economists identified a number of factors that theoretically determine the best sequence for releasing content via differing windows or channels. The starting point is systematic analysis of factors such as the size and per-viewer profit margins of differing windows, the perishability of the content, the time value of money and, not least, piracy. Many of the factors identified by Owen and Wildman remain relevant some 25 years later. However the landscape for distribution of television content has been transformed, in particular by the rapid growth of 'over the top' provision – content distributed via the internet (Álvarez Monzoncillo, 2011; Sherman and Waterman, 2015).

Rights, Asymmetry in Bargaining Power and Policy Interventions

It is no accident that windowing strategies for television content were first theorized in the context of the US. The television industry in the US has historically tended to be much more commercially developed than in Europe or elsewhere (Lotz, 2007). Helped along by advantages of scale, wealth and language in their home market, US producers have long experience of and success in honing their strategies for maximising returns from IPRs in both domestic and international markets (Doyle, 2014; Owen and Wildman, 1992; Ulin 2014). By contrast, Europe's television industries with their strong traditions of public service and monolithic state broadcasting institutions, up until as recently as the early 1980s were prone to regarding the production of content not so much as an economic activity in its own right but rather as an adjunct to the task of broadcasting. However, from the mid-1980s onwards, a growing recognition of the potential value of having a competitive and economically robust programme production sector was to bring about change.

In the UK, a series of key policy interventions brought about the arrival and early development of a fledgling 'independent' television production sector – i.e. one in which programme-makers are not cross-owned by broadcasters (or vice versa)

(Doyle and Paterson, 2008). A political impetus on the part of the UK Government to support the interests of independent producers partly reflects the historically strong and well-organised lobbying efforts of this particular sector over many years. A similar commitment to fostering a programme-making sector which is separate from broadcasting is discernible at European level and is evidenced, for example, by the continued enshrinement in European legislation of a 10 percent compulsory quota on broadcast channels for independent television productions (Broughton Micova, 2013).

The position of the UK independent production sector was bolstered from the early 1980s onwards through a variety of policy measures (Darlow, 2004; Chalaby, 2010). Initially, the emphasis of policy interventions was on countering the strength of vertically integrated broadcasters (who historically had tended to make a majority of their own programmes in-house) and on boosting levels of demand for the output of newly emergent 'indies'. UK Government intervention was successful in encouraged the development of a large number of independent producers throughout the 1980s and 1990s (Doyle and Paterson, 2008). However, a proliferation of competing programme suppliers brought one unwelcome side effect: asymmetry in bargaining power. Programme supply is a market place characterized by high levels of buyer concentration. The resulting problem for most UK producers (aside from a small handful with well established reputations) of limited leverage when dealing with broadcasters meant, in turn, a lack of opportunity to participate in the rewards that any 'hit' television product might generate.

From around 2000 onwards, it was recognised that many independent producers suffered from a lack of bargaining strength in their negotiations with commissioning broadcasters and so the focus of public intervention shifted away from promoting market entry and onto the need to secure improved terms of trade for programme-makers (Ofcom, 2006; Doyle and Paterson, 2008). Intervention via the Communications Act 2003 sought to tackle this situation by requiring UK public sector broadcasting (PSB) organisations to offer deals to producers where primary transmission rights may be unbundled and priced separately from the additional rights with a greater proportion or the latter left in the hands of producers (Oliver and Ohlbaum, 2011). UK regulator Ofcom is obliged to ensure that PSB channels draw up and adhere to suitable and transparent frameworks when agreeing terms for the commissioning of independent productions.

This intervention made a substantial positive difference to the business performance of UK independent producers and is credited with enabling many to turn 'from minnows into sharks' (Saini, 2005). It paved the way for the development of many larger sized independents or 'super indies' who, on account of their scale and successful track records, have managed to achieve considerable status and financial success (Digital-i, 2008; Ofcom, 2015b: 12). As Figure 1 below indicates, the UK independent production sector has almost doubled its revenues over the last decade (Oliver & Ohlbaum, 2015: 7) and a growing proportion of revenues in the sector are accounted for by larger sized companies (Ofcom, 2015b: 38-9).

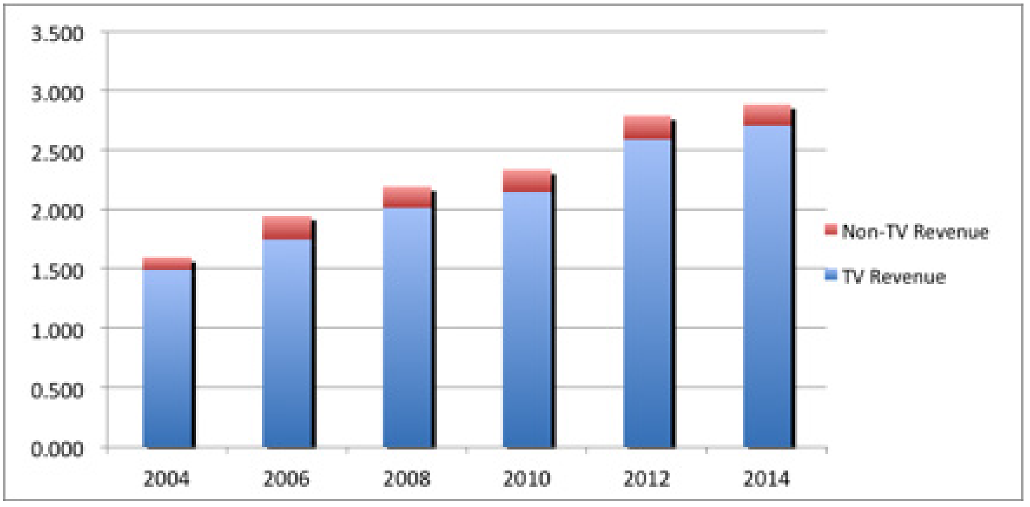

Figure 1: *UK Independent Television Production Sector Revenues, 2004-2015*

Thus, intervention on the part of the UK Government has proven effective in supporting the development of what is now recognised to be, comparatively speaking, a commercially thriving indigenous television production sector in the UK (Digital-i, 2008; Oliver & Ohlbaum, 2015). The instigation of improved terms of trade agreements between commissioning television broadcasters and producers played a key role in promoting a more favourable business performance by the sector (McVay, 2014). Many production companies began to achieve commercial success and to merge with one another 'once interventions were put in place in 2003 that allowed production companies to own and exploit their own intellectual property' (Ofcom, 2015b:12). However changes in the dynamics of rights markets suggest that this approach which, for many UK production companies, has served well in building up their businesses over time, is now of limited compatability with the emerging requirements of multi-territory service providors as purchasers of television content.

Drawing on an original empirical investigation of the experience of leading UK-based international television producers and distributors, this article provides a preliminary analysis of how television producers are responding to the rise of multi-territory digital services as purchasers of new content and how new cultures of production funding are affecting rights ownership and the ability of producers to fully exploit the economic value in their own content. Findings presented stem from an original empirical investigation funded by the UK Arts and Humanities Research Council (AH/K000179/1). Methods of research involved a case study based investigation of leading UK-based television production and distribution companies. Interviews were carried out with senior executives at companies including Endemol-Shine, Sony Pictures Television International, Lookout Point, KEO Films, Zodiak Rights, Warner Brothers International Television Production, ITV and BBC Worldwide in 2014-15. Interviewees included distribution specialists with frontline responsibility for developing and enacting windowing strategies and Chief Creative Officers with responsibility for production decisions.

In the sections that follow, this article firstly explains the production funding models that have predominated to date; secondly presents findings on how, on account of the rise of SVOD services, windowing strategies and the dynamics of rights markets are undergoing transformation; and thirdly it assesses how attendant changes in approaches to production funding raise potential for concern about the ability of production companies to retain ownership of intellectual property rights and maximize the value of their content assets and businesses in future.

2. Television production funding models

Commissioning terms vary from one individual production to the next and can be very complex but, broadly speaking, the sort of deal on offer to television producers who are commissioned to make original content will frequently conform with one or other of two basic sorts of models. The first of these called deficit financing and is common practice in the US (Litman, 1998) and now followed in the UK too. What it means is that, in return for the right to transmit a finished programme, the commissioner of that content – typically, a major broadcaster - will systematically offer the producer a fee which is less than the production budget for that programme, say by one-third. The ensuing difference or 'deficit' has to be made up by programme-maker. But in return, it is the programme-maker – as opposed to the commissioning television service provider – who retains the potentially lucrative secondary rights, i.e. the ability, following initial transmissions, to sell that content property onwards again to additional domestic broadcasters, video on demand services, online retailers such as iTunes, DVD distributors, overseas broadcasters, etc. Deficit financing promotes risk-sharing between the broadcaster and the producer with potential benefits for each party in that 'the broadcaster pays less than it would otherwise have done, while the producer can gain the upside from selling secondary rights' (Ofcom, 2015b: 17).

The main alternative model – one which is prevalent across Europe and which was dominant in the UK prior to 2003 - is called cost plus. Under this approach, broadcasters or other television services services who commission new programmes from producers will generally pay the full production costs plus a small production fee or 'profit' up-front to the producer (Doyle and Paterson 2008). In return, the broadcaster generally acquires not only the first window transmission rights but also, by and large, all additional secondary rights (e.g. DVD, overseas sales, digital catch-up, online etc). For independent production companies, many of which are small and under-capitalised, the absence of any requirement for financial input or risk sharing may be welcome. However, there is a residual value in many or most programmes beyond their first transmission; the right to sell a programme to an additional audience is a potential additional source of revenue which could stretch out over several years (Chalaby, 2012; Owen and Wildman, 1992).

So the differing cultures and models of financing - the differing *terms* on which original productions are commissioned - can have very significant implications for the business performance and economic viability of firms engaged in production and supply of television content.

3. Windowing

For production companies who retain ownership and control of the intellectual property attached to their television shows, effective exploitation of these assets is dependent on strategies of windowing. But, on account of the growth of digital distribution platforms and of the internet in recent years, devising and enacting a suitable windowing strategy has become much more challenging (Christophers, 2012; Napoli, 2011; Ulin 2014). From a producers' perspective, the arrival and growth of digital platforms has stimulated welcome growth in the number of windows available and has introduced more competition between potential purchasers of content. Whereas, back in the 1990s, the main windows available for example in the UK were, typically, the primary and secondary domestic broadcast channels plus interantional markets (often with the initial rights being assigned to a domestic commissioning broadcaster and with international rollout following later), a major difference in 2016 is the presence of many online distribution windows for TV content, such as online catch-up, advertiser based (AVOD) and subscription funded (SVOD) services, and online retail services (TVOD).

BBC Worldwide – the distribution arm of the BBC - is one of the largest intenational suppliers of television content in the world. The Chief Content Office of BBC Worldwide confirms that the development of digital distribution has had a marked impact on windowing strategies over the last 10-20 years:

> The over the top players have had a huge impact. [But] first of all the big change has been the proliferation of channels - an enormous number of pay TV and cable and satellite channels and digital channels that are in the marketplace now …and so that in itself leads to more windowing. It's not necessarily straightforward as to what the [ideal release] sequence is for television. Sometimes it will be pay first, followed by terrestrial, and then into basic. Or it could be the reverse: it is often terrestrial first followed by secondary cable. It depends on each individual market landscape … [and] if you've got a niche service… Another big change over the last few years is speed to market … nobody is prepared to wait and obviously piracy on the internet is an issue... for really big brands that passionate fans would do anything to get to see.
>
> (CCO, BBCW, Interview, London: March 2015)

While extra distribution avenues have opened up new revenue streams to producers, at the same time they have made it much more difficult to organize the planned roll-out of content across differing windows into a pattern that builds avoids overlaps and potential cannibalisation of revenues and that yields the highest return (Doyle, 2016). In addition to promoting market growth, new digital windows have precipitated a substitution effect as processes of audience fragmentation have fractured returns and made it increasingly difficult for programme suppliers to capture large audiences and launch new programme brands in the digital era (ibid). According to one senior distribution executive:

> what is interesting is that these opportunities tend to start off as a sort of a nice bit of additional revenue and over time you get to a world where rather than it being 'and' it's 'or'. I think that is the challenge that everyone faces.
>
> (Distribution Executive, Zodiak International, Interview, London: March 2015)

At the same time as new avenues have brought opportunity, they have also made it more challenging to extract value from content assets using the approaches to windowing of the past (Kuhr, 2008; Napoli, 2011). Traditional approaches to windowing rely on being able to partition audiences into discrete segments and then control the release of content across those differing segments. Whereas that was relatively straightforward in the pre-internet period, now some of the segments have become somewhat or very porous. Online video-on-demand services (catch-up etc) typically require extended temporal access to content, and subscription video-on-demand (SVOD) services usually entail a multi-territory footprint. Evidence gathered from a range of production and distribution executives involved in planning and executing windowing strategies confirms that, as market delineations become more porous, this has made it much more difficult to shepherd content through in a neat sequential series of releases (Doyle, 2016).

Earlier research has drawn attention to the changes wrought by the growing market presence of OTT services such as Netflix in the UK, Spain and beyond (Steemers, 2014; Pérez-Latre, Sánchez-Tabernero and García Mansilla, 2016; Urgellés, Herrero and Medina, 2016). Increased competition between broadcasters, pay-TV operators and SVOD services has had a marked influence on patterns of demand for content. One of the major corollaries of the rise of SVODs and of existing Pay-TV operators seeking to defend their market positions has been increased investment in 'big statement' programmes, especially drama (Doyle, 2016). In the words of one television executive:

> Netflix and Amazon are having a huge impact. Even if what they actually commit to is not that huge, in terms of volume of shows, the PR impact and the kind of eye-watering financial numbers that are involved leaves everyone else dwarfed. If they want something they will go very big. So the impact in people's minds is much greater ...They are changing everything, partly because of the way [they] will often release a whole series all in one day… They are also incredibly focussed on a small number of genres… [especially] high end, high budget, big impact, highly marketable [drama].
>
> (CCO, BBCW, Interview, London: March 2015)

An emphasis on drama which generally is expensive to produce has in turn necessitated much greater emphasis on drawing in international sources of support whether through tax supports or partnerships (Chalaby 2012; Steemers, 2014; Doyle, 2016). At a time of concern about the viability of national content production industries (Hartley, 2004; Hesmondhalgh, 2012), the ways that internationalisation of funding is affecting production decisions is an issue that deserves further research and analysis.

It is also evident that, fuelled by the growth of multi-territory broadcast platforms and channels such as Sky and Discovery but also driven by SVOD services such as Netflix and Amazon Prime, the *terms* on which content is commissioned from producers are changing. When globalised pay-TV or online subscription VOD services such as Netflix buy new content, they typically want exclusive rights across multiple territories and over time. Such requirements potentially have disruptive implications for windowing strategies, as explained by one creative and sales executive:

> In the past distribution and rights businesses were built on rights to a territory and particular segments of rights for that territory and particular windows… Now the Netflix's are going "Right let's just scrap the territory model"…Multi-territory global buyers are completely changing the landscape … It reduces potential revenues. It makes it a lot more difficult because a buyer will now say "Well, you are making it for me in country X but I want to use this in countries Y and Z." You will find some way of making them pay something for that but very rarely will it be what you would have got if you had taken it to them directly after the event and it will be certainly a lot less than what you would have got if you had been able to generate competition for the rights to the particular product created. So it is bad news.
>
> (CCO,WBITV, Interview, London: April 2015)

Most UK production companies are keenly aware of the contrast between the terms on offer from an SVOD service versus those on offer from UK PSB organisations (which, since 2004, have been subject to regulatory oversight). Yet there remains considerable optimism surrounding the development SVOD services. Is such enthusiasm consistent with longer-term ambitions to develop sustainable content production businesses?

4. A return to cost plus?

It is easy to see why television producers might look favourably on opportunities to sell their back catalogues to Netflix, Amazon Prime and other new online content services. Evidence gathered from leading UK independent producers and distributors suggests that most tend to welcome the growing market presence of SVODs as extra windows through which library content can gain incremental paid exposure to audiences.

In addition, the growing presence of Netflix, Amazon and others as potential purchasers of first-run originated content is seen by most producers as a welcome development. One independent producer acknowledges that, although the commissioning terms on offer from SVODs do not offer the protections related to ownership of secondary rights that UK producers currently enjoy under domestic PSB commissioning models, imparting exclusive rights over a lengthy period of time may nonetheless be attractive on account of high fees:

> The way we view Netflix, we would love to produce something directly for them… you know they are going to want worldwide rights probably for a significant amount of time if not forever. And whilst we are lucky enough *not* to have that model with the UK broadcasters, we are prepared to accept it on some other platforms. The *quid pro quo* is that [SVODs] tend to pay the full cost of production plus a decent margin. So you know that you're going to be making money off the original commission.
>
> (CEO, KEO Films, Interview, London: March 2015).

The willingness of SVOD services to pay high prices for content that is seen as desirable is clearly a major source of appeal. One executive in charge of creative development of international productions explains the comparative advantages of achieving a commission from Netflix thus:

> We have recently got the biggest drama commission in British television history which is a show called *The Crown*. It is going to be a very, very expensive show…Originally our intention was that we would make it for a British broadcaster and we would look for American co-production money - the traditional model… [But] then Netflix came in and said we want *all* rights so we will fund this and we will fund it at a level that is unimaginably high. Because clearly they see it strategically …The British monarchy is one of those brands it is quite easy to sell. They can market it. It will be top quality. For them it is worth the premium.
>
> (Chief Creative Officer, SPTV, Interview, London: April 2015)

The fact that SVODs are prepared to pay 'unimaginably high' fees for appealing content is a welcome proposition for most producers and many welcome the prospect of access to audiences on a global scale. More generally, enthusiasm for what one producer describes as additional 'customers in the marketplace' reflects recognition of the potential for SVODs to help counteract power structures in the television industry which, historically, have been dominated by broadcasters. While the introduction of terms of trade in the UK back in 2004 has functioned well as a corrective to lack of bargaining leverage for producers, a decade later buyer concentration still remains an issue. According to recent data, '[i]n 2014, the PSBs remained the largest buyers of UK TV programmes, still accounting for around 85% of all UK non-sport new TV programme investment, a figure that has remained broadly flat over the past five years' (Oliver & Ohlbaum data cited in Ofcom, 2015b: 14-15). So even though, in the words of one distribution executive, 'Netflix won't want everything and won't pay the big fees for everything' (Endemol-Shine International, Interview, March 2015), the presence of SVODs as extra competitors in the domain of content commissioning promises to help shift power dynamics in the television industry in ways that are favourable to content suppliers.

However broadcasters still retain considerable market power and are unlikely to be deposed quickly and easily. According to one highly experienced practitioner of windowing strategies, an important consideration for any producer who at the moment is considering selling first window rights to SVODs – quite aside from issues of retention of ownership of secondary rights – is whether broadcasters will in any case be interested in purchasing that programme afterwards:

> The big unknown for anybody at the moment is whether, if you licence a brand first windowed to one of those big label players and they take those rights for a few years or if you do an original with those players or a presale or whatever, what we don't yet know is will broadcasters touch those brands afterwards? Logic would say that they would. But there is a lot of pressure from traditional broadcasters in the market that says "well, if you do that then don't assume that we are going to take the programmes later".

(Distribution Executive, Interview, London: March 2015)

Clearly then, conducting transactions with SVODs involves risks, not least related to curtailment of opportunities to exploit the residual value in content assets. It is widely acknowledged that sale of first window rights to an SVOD service is apt to reduce the opportunities available to content suppliers to exploit any residual value in their intellectual property assets in subsequent release windows. An additional drawback is that SVODs are reluctant to share data about their audiences which adds to the difficulty producers face in trying to plan optimal widowing strategies. Whether, on balance, the sort of commissioning terms on offer from SVODs are advantageous or not depends on circumstances. According to a leading UK independent production and distribution company:

> This is the big question really at the moment in the industry – if you are creating programming for these big SVOD platforms, are you doing it in a way where those platforms end up owning the entire content?

(COO, Lookout Point, Interview, London: March 2015)

One distribution executive provides a salutary reminder that, rather than prioritising control over rights per se, the business of supplying television content is dependent on maximising revenues from licencing:

> I always say all rights are available if you've got the money to pay for them. Because otherwise what is the model? Our model as a producer is *not* that we work to create IP but that we licence it. We licence out. We control production and we also are the distributor and we share the rights with those we have to.

(CEO, Endemol-Shine International, London: March 2015)

However, at a time when industry power dynamics are in transition, making judgements about whom to share rights with and on what terms can prove challenging. The correct windowing strategy for any programme of course always depends on the specific features of that content and market context (ibid). But more widely the possibility of engaging in deals with SVODs such as Netflix on a cost plus basis entails both potential advantages and disadvantages.

High fees from one outlet may result in a greater overall return for the producer than the alternative strategy of selling that same content across a protracted series of windows. Selling all rights to one outlet may save on transaction costs which, as earlier research has shown (Deakin and Pratten, 2000), are a recognised feature in the television industry. The certainty of a high upfront fee that is both immediate and guaranteed may well be appealing, especially for smaller producers. On the other hand, licencing new content to SVODs entails potential opportunity costs in terms of building brand visibility with domestic audiences since, despite changing television consumption habits, SVODs generally attract much lower audiences than popular mainstream broadcast channels (Ofcom, 2015a). More fundamentally, the allure of cost plus deals is greatly tainted by awareness amongst producers of how effective policy interventions that discouraged such deals have been in helping UK production businesses build up their intellectual property catalogues and raise the capital and investment needed to achieve expansion and international success over recent years.

Conclusions

Recent work in cultural economics and in cultural sociology has questioned the links between the incentives towards making creative output and the protections provided by copyright law to monopolise returns from creative output (Schlesinger and Waelde, 2012; Towse, 2004). Based on evidence concerning the experience of the UK televison production sector, this article argues that there are compelling links between rights ownership and opportunities to build commercially successful content creation businesses.

The production sector in the UK has thrived over the last decade and, as evidenced by strong growth in international sales of programmes and programme formats, UK producers have build an enviable reputation of leadership in global markets for intellectual property rights in television content (Ofcom, 2015b). Amongst industry analysts, a strong consensus exists that a key enabler of this success has been:

> …the ability under terms of trade of independent producers to own programme IP in the long term, with rights reverting to production companies after initial primary licence, catch-up and returning series 'hold back' periods. This asset ownership led directly to an inflow of capital to the sector post 2004, providing

> UK companies with the means to expand internationally and cement a position for the UK as a global hub for television IP trade.
>
> (Oliver & Ohlbaum, 2011: 2)

For those television companies who have managed to achieve significant commercial success, retention of copyright ownership and systematic exploitation of rights have been key features. Ownership of rights and of an asset base are pivotal to raising capital, securing investment and fostering businesses that are truly sustainable over the longer term. However, as the findings presented in this paper suggest, the rise of SVODs and other transnational television services with requirements for content on a multi-territory and extended temporal basis now raises questions about the ability of content producers to operate business models that are reliant on full ownership and exploitation of secondary rights.

Whilst a determination to retain ownership of secondary rights for their own sake makes little sense, the lessons provided by the history of the UK production sector suggest that programme-makers must be circumspect about being lured by big fees into a cost plus model of production financing in which the outlet that is commissioning the content expects to take ownership of almost all the rights. The problem with this approach is that it cuts across the ability of production companies to build up their catalogues of revenue-generating intellectual property assets and to use windowing strategies to build their businesses. As one leading producer put it: "Windows become a bit less important there when you are just dealing with one client who wants to own the world." (COO, Lookout Point, Interview, London: March 2015)

The importance of ownership of rights is inescapable and this applies not only to individual companies but to the television production sector as a whole. The connection between, on the one hand, ownership of rights and, on the other, commercial and creative success is powerfully made by one senior television executive:

> The thing that makes Britain such a vibrant creative hub is the fact that the producers *own* the rights and so that means that it breeds, in simplistic terms,

> a hunger - a commercial hunger - that then in turn breeds creative competition which is healthy and good and allows Britain export internationally.
>
> (Business Manager, BBCW, Interview, London: March 2015)

Thus, the performance of the UK's sector over the last decade offers a potentially valuable lesson for other European countries, Spain included, who still adhere to cost plus rather than deficit financing models of production funding.

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