

Ofcom Regional TV Production and Programming Guidance – Q&A

Background

The PSBs are subject to quotas from Ofcom which ensure that a suitable proportion of their network programmes are made outside of London (outside the M25).

- **BBC** – at least 50% of network programme hours and production spend must be in the UK outside the M25
 - *England* – 30% of hours of Network programmes made in the UK must be made outside the M25 in England
 - *Scotland* – 8% of network programme hours and spend must be in Scotland
 - *Wales* – 4% (5% from 2020) of network programme hours must be in Wales. 5% of production spend must be in Wales
 - *Northern Ireland* – 2% (3% from 2020) of network programme hours must be in Northern Ireland. 3% of production spend must be in Northern Ireland
- **Channel 4** – C4 has voluntarily committed to increase its main channels N&R content spend to 50% of commissions by 2023. They only have to meet 35% of hours and spend as set by Ofcom.
 - 3% (9% from 2020) of network programme hours and production spend must be in the Nations outside England.
- **ITV** – 35% of network programme hours and production spend in the UK must be outside the M25
- **Channel 5** – 10% of network programme hours and production spend must be in the UK outside the M25.

In 2017, Ofcom launched a review of their Regional Production and Regional Programming Guidance. Ofcom consulted on proposed changes to the Guidance in December 2018. They published their final statement and updated Guidance in June 2019.

The Criteria

For productions to count as a regional production, two out of three criteria must be met;

- 1) Substantive Base
- 2) At least 70% production spend
- 3) At least 50% talent spend

Each regional production is assigned to a certain region, multi-region, nation or multi-nation:

- Scotland, Wales or Northern Ireland; or

- One of three English macro-regions (Northern England, Midlands and East, and Southern England); or
- Multi-English region; or
- Multi-nation outside England or;
- Multi-nation/English region

New Guidance

Q When is Ofcom's new guidance coming into force?

The updated guidance will come into force for programmes broadcast from January 2021. Ofcom will allow exceptions for titles that are broadcast in 2021, but were commissioned before 1st July 2019.

Substantive Base

Q How do I meet the substantive base criterion?

To qualify, the production company must have a substantive business and production base outside the M25. The production in question must be managed from the base, and the base will be taken to be substantive if it is the usual place of employment of:

- i) Executives managing the regional business; and
- ii) Senior personnel involved in the production in question; and
- iii) Senior personnel involved in seeking programme commissions

Q How many people need to be employed for the base to count as substantive?

The number will vary depending on the company. For example, a London headquartered company who have just opened up a regional office, may only have one person who is responsible for everything. For larger companies, there may be far more employees.

Q What jobs will count towards a base being substantive?

Ofcom do not give any specific job titles. The term 'executive' used are 'defined' by Ofcom as individuals who are responsible for making independent, executive decisions and/or having a significant leadership role in relation to the management of the regional business. 'Senior personnel' is defined as individuals who have a significant leadership role and/or are responsible for making independent, executive decisions in relation to the production in question or in relation to seeking programme commissions.

Q How much time do the executives and senior personnel need to spend at the substantive base?

Ofcom do not give a specific amount of time; rather its where the individual spends the majority of their working time.

Q Does my substantive base have to be up and running before the point of commission?

Originally, Ofcom had proposed that a substantive base had to be operational prior to the point of commission. In their final statement, Ofcom said that they do not have enough evidence to implement this.

Ofcom will be requesting additional information from the PSBs about whether the substantive base for a qualifying programme was open prior to the point of commission. Ofcom will also be requesting information about whether the base stayed open after the relevant commission had been completed, and whether any further commissions were secured from those bases.

Currently the substantive base does not have to be operational prior to the commission however, the company does need to have an authentic presence in the nation or macro-region where the office is, and will be contributing to that local area's creative economy.

Production Spend

Q What counts towards the calculation of the 70% production spend?

The production spend should be based on the entire production expenditure, which includes funding from third parties and spend outside the UK. On-screen talent, archive material, sports rights, competition prize-money, copyright costs and any production fee should not be included in the 70% production spend calculation.

Q My company has a regional office and a London office. Do overhead costs count towards the production spend?

In situations such as this, costs associated with the operation and maintenance of London premises should not be counted as regional expenditure. Overhead costs associated with the regional office will count.

Q Do travel costs count towards the production spend?

Expenditure on travel can be allocated as regional spend if the starting point is in the nations and regions.

Q Some of the production spend has been spent outside the UK, how should this be factored into the production spend?

Spend outside of the UK should be included as part of the spend, but it will not contribute to the 70% threshold. However, costs associated with paying regionally-based UK talent while working abroad on the production in question should be counted as regional, and therefore do contribute to the 70%.

Talent Spend

Q Who is included in the talent spend?

Those who are directly involved in the production of the programme, but not on-screen talent. Ofcom state that drivers, cleaners and catering staff should not be included, but they do say that there may be some cases where it's not easy to differentiate between different types of roles. In these cases, producers should keep the policy intent in mind and use their own judgement.

Q What is the policy intent?

For each criterion, Ofcom give an objective behind it; this should be taken into account when trying to meet Ofcom's criterion.

The objective behind the off-screen talent criterion is to ensure genuine creative job opportunities across varying levels of seniority in TV production in the nations and regions. Attracting talent to those areas can in turn help to create strong regional production centres.

Q My production is using freelancers, will they count towards the talent spend?

Yes, freelancers do count but must live outside the M25 to count as regional talent.

Allocating Regional Production Titles

Q I am a Scottish producer but I have set up a substantive base in Wales and will be making my production from there, but all of the post-production will be done in Scotland. What region or nation will the production be allocated to?

A production will be allocated to the area which the substantive base is in if it:

- Meets all three criteria in different nations or macro regions; or
- Meets only one of criteria b) (production spend) or c) (talent spend) and meets this in a different nation or macro-region to the substantive base; or
- Meets one or both of criteria b) and c) but in neither case is it fully met in one nation or macro-region.

In this example, the production in question will be allocated as a Welsh regional production.

Q I am based in Manchester but the production is being made in Northern Ireland. I don't meet the substantive base criterion, where will my production be allocated?

The two out of three criteria still apply. If you meet the production spend and off-screen talent spend in Northern Ireland, your production will be allocated to Northern Ireland.

Q I am a London based producer but I will be able to meet the production spend and off-screen talent spend out of London in various locations. Will my production still qualify as regional?

Yes, your production can still qualify as regional.

If there is no majority nation or macro-region to allocate the production to, the production will either qualify as; Multi-English region, Multi-nation outside England or multi-nation/English region. You don't have to meet the 70% production spend or 50% off-screen talent spend in the same region, you just have to meet them outside of London.

For example, if you meet the 70% and 50% in various locations in England; the production will qualify as multi-English region.

If you have any queries about the Ofcom Regional TV Production and Programming Guidance, please contact the Pact's Policy Assistant, Susie Heron-Halliday: susie@pact.co.uk.