



## **Made Outside of London (MOL)**

### **Channel 5 Guidance on Ofcom's Request for Additional Information**

**9 November 2018**

Pursuant to enhanced Ofcom requirements, we will be requiring additional information to be delivered regarding regional made outside of London (MOL) UK productions commissioned by Channel 5. The same requirements apply to the BBC, ITV and C4.

This new requirement arises as a result of Ofcom's request for such additional information to be reported to Ofcom by all public service broadcasters (PSBs) (following a consultation), in order to comply with their respective PSB/Ofcom quota reporting obligations on MOL productions.

As Channel 5 and the other PSBs report to Ofcom based on the information provided by producers, it's necessary for broadcasters to pass on the additional information request to producers.

#### **MOL/Regional Productions**

Broadly, a production (excluding the News) is considered regional where a production meets 2 out of the 3 criteria (named (a) to (c)) outside of the M25 but within the UK:

- (a) **Location:** where the production company has a substantive business and production based outside of the M25. A based will be taken to be substantive if it is the usual place of employment of executives managing the regional business, of senior personnel involved in the production in question, and of senior personnel involved in seeking programme commissions;
- (b) **Spend:** where 70% or more of the production budget (excluding on-screen talent, archive, sports rights, competition prize-money and copyright costs) to be spent outside of the M25;
- (c) **Crew:** where 50% or more of the production talent (not on-screen talent) costs have their usual place of employment outside of the M25. Freelancers without a usual place of employment outside the M25 will nonetheless count for this purpose if they live outside the M25.

This requirement will, for now, remain. However, the information required to be delivered to Ofcom to support the above will be enhanced as set out below, due to new Ofcom requirements.

#### **Current Capture**

Currently Channel 5's regional report is based on information declared by Producers in the signed Commissioning Specification which is incorporated into the signed Production Agreement.

#### **Additional Information**

Ofcom doesn't feel that the current capture of information is sufficient to ensure compliance with the regional production quota requirements and requires additional information going forward. We've included an extract of the additional information required by Ofcom at Annex 1.

### **(A) 2018 Transmitted Programmes (reported March 2019)**

In summary, for programmes transmitted between 1 July to 31 December 2018, Ofcom requires confirmation of the confirmed data being:

- (i) the **postal address** of the substantive base where criteria (a) was met;
- (ii) the nation or macro-region of the substantive base (where criteria (a) was met);
- (iii) the nation or macro-region in which the production budget criterion was met (if criteria (b) was met); and
- (iv) the nation or macro-region in which the production talent criterion was met (if criteria (c) was met).

This is different to the current capture as it will require the confirmed criteria to be provided by producers for regional productions, following completion of post-production.

### **(B) 2019 Transmitted Programmes (reported March 2020) onwards**

In summary, for programmes transmitted from 1<sup>st</sup> January 2019 onwards, Ofcom requires further enhanced information including actual budget and crew information and confirmation of the region in which the largest proportion of production budget and talent costs were spent.

In order to fulfil Ofcom's request set out in Annex 1, Channel 5 and the other PSBs will require the below actual data to be delivered by producers for programmes transmitted from 1<sup>st</sup> January 2019\*:

***If criteria (a) is met:***

- (v) the postal address of the substantive base where criteria (a) was met;
- (vi) the nation or macro-region of the substantive base (where criteria (a) was met);

***If criteria (b) is met:***

- (vii) the actual percentage of the production budget which was spent in the UK outside of the M25 (if criteria (b) was met);
- (viii) the macro-region in which the greatest proportion of the budget was delivered; and
- (ix) if multi-region, the actual percentage of production budget spent in each macro region.

***If criteria (c) is met:***

- (x) the actual Percentage of the production talent based in the UK outside of the M25;
- (xi) the nation or macro-region in which the greatest proportion of the talent was delivered; and
- (xii) if multi-region, the actual percentage of production talent delivered in each macro region.

**NB:** to deal with Ofcom's compliance concerns, we intend to require producers to report the actual percentages of talent and crew for 100% of the Agreed Cost of Production or crew, as the case may be. So producers will be required to allocate 100% to either the relevant region (or regions) outside the M25 and/or nations, and/or inside the M25 as appropriate. We feel that this will improve the accuracy and completeness of data submitted to us and ultimately to Ofcom. We understand other broadcasters will be taking a similar approach. We intend to capture the information in materially the form set out at Annex 2 (exact format to be confirmed by Channel 5 in its Final Production Declaration).

We also remind producers that the Channel is entitled to request producers substantiate the data reported and producers must retain records pursuant to the relevant record keeping and audit provisions contained in production agreements.

*\* Once our agreements are updated, we are likely to request this additional information in all agreements going forward so this may capture some shows transmitted in 2018 rather than 2019. We may (at contract stage or by the Final Production Declaration) invite producers to make a voluntary declaration of the data for programmes which do not meet the regional criteria to help build up a full picture of regional TV production in the UK today – but this of course would be at producers' discretion.*

### **Next Steps**

We will be updating our Commissioning Specification, Production Agreement and other documents e.g. the Final Production Declaration to reflect the information which is required to be delivered to comply with the information highlighted under (B) 2019 Transmitted Programmes requirements to apply to commissions going forward.

For shows which were identified as being regional at Commissioning Specification stage, we will also be in touch in due course to request the information under (A) 2018 Transmitted Programmes, for programmes for which Production Agreements have been signed (and potentially delivered).

We are working on making changes to our PCIS Programme as Completed system and internal systems which will be rolled out in due course.

Whilst this request applies for now, please note this is in addition to Ofcom's Call for Evidence and consultation on regional productions, the results of which are anticipated to come out towards the end of the year. It is not yet known whether more information will be required by Ofcom as a result of this exercise.

More information including the list of nations and macro-regions can be found on the Ofcom website including in the Ofcom Guidance at:  
[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0019/87040/Regional-production-and-regional-programme-definitions.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0019/87040/Regional-production-and-regional-programme-definitions.pdf)

We appreciate your cooperation in providing this information to us to enable our compliance with these new Ofcom requirements and would like to thank you in advance for your cooperation.

Pact are aware of these requirements.

**(See Annex 1 & Annex 2 Attached)**

## ANNEX 1

### **Programmes Transmitted July – December 2018 titles – for submission March 2019**

- *The postal address of the substantive base for the production (if criterion a) was met);*
- *The nation or macro-region in which the which the substantive base criterion was met (if criterion a) was met)*
- *The nation or macro-region in which the production budget criterion was met (if criterion b) was met)*
- *The nation or macro-region in which the production talent criterion was met (if criterion c) was met);*

### **Programmes Transmitted 2019 titles – for submission March 2020**

*As there will not always be a single region in which the majority of budget or talent can be allocated to, we intend to request the region in which the largest proportion of (i) production budget, and (ii) production talent cost were spent (e.g. if the production budget is spent 23% South, 19% Scotland, 15% Wales and 22% North, the response to (i) would be South). To assist with designing and making the necessary system changes, please see the list of data points we currently anticipate requesting for 2019 titles below, which would be included in the January 2020 information request.*

#### ***If criterion a) is met***

- *The postal address of the substantive base for the production; The nation or macro-region in which the substantive base criterion was met;*

#### ***If criterion b) is met***

- *The percentage of the production budget which was spent in the UK outside the M25;*
- *The nation or macro-region in which the production budget criterion was met; o If multi-region, the macro region in which the greatest proportion of budget was delivered*

#### ***If criterion c) is met***

- *The percentage of the production talent based in the UK outside of the M25;*
- *The nation or macro-region in which the production talent criterion was met;*
- *If multi-region, the macro region in which the greatest proportion of talent was delivered.*



working outside the M25:		<p>(i) the actual percentage of the production talent which were engaged in the region outside of the M25 (within the UK) : _____</p> <p>(ii) the macro-region in which the greatest proportion of the talent was delivered: _____</p> <p>(iii) if multi-region, the actual percentage of production talent engaged in each macro region: _____</p>
		<p>For completeness please specify the percentages of production talent engaged in all nations &amp; regions and London below for 100% of the talent engaged:</p> <ul style="list-style-type: none"> <li>• London [ ]%</li> <li>• South of England (comprising South-West &amp; South-East England) [ ]%</li> <li>• Midlands/East of England (West Midlands, East Midlands &amp; East of England) [ ]%</li> <li>• North of England (Yorkshire and Humber, North-West and North-East England) [ ]%</li> <li>• Other (multi region productions) – to cover regional productions from London producers which do not meet both 70% of spend and 50% of talent in any one particular macro region [ ]%</li> </ul>
Further Information...		

**\*\*If more than one region applies insert the macro region in which the majority of the budget or talent applies, as appropriate.**

**List of Nations and Macro Regions:**

Nations: Scotland, Wales or Northern Ireland

English macro-regions:

- South of England (comprising South-West & South-East England)
- Midlands/East of England (West Midlands, East Midlands & East of England)
- North of England (Yorkshire and Humber, North-West and North-East England)
- Other (multi region productions) – to cover regional productions from London producers which do not meet both 70% of spend and 50% of talent in any one particular macro region

**END**