



Scottish Affairs Committee

Oral evidence: [Creative Industries in Scotland](#), HC
332

Wednesday 28 October 2015

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Written evidence from witnesses:

- [Equity](#)
- [Creative Skillset](#)
- [Creative Coalition Campaign](#)
- [Alliance for Intellectual Property](#)

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Members present: Pete Wishart (Chair); Mr David Anderson; Kirsty Blackman; Mr Christopher Chope; Mr Jim Cunningham; Chris Law; John Stevenson and Maggie Throup.

Questions 63 – 117

Witnesses: **Lorne Boswell**, Scottish Secretary, Equity, **Louise McMullan**, Head of the General Secretary's Department, Equity, **Dan Simmons**, Head of Partnerships, Creative Skillset, and **Alasdair Smith**, Scotland Director, Creative Skillset, gave evidence.

Q63 Chair: Good afternoon and thank you ever so much for coming to the Scottish Affairs Committee. I think you know why we are here: we are looking into the creative industries in Scotland and we are looking for your assistance to put together a report that could suggest how we could improve the situation and the sector and what sort of support that it would require. But first of all, could we please get a brief introduction? If you have any pressing introductory remarks, we would prefer as brief as possible. We have an hour for the session and we want to get the absolute maximum value out of four such distinguished panellists along with us today. We will start with you, Louise. If you could say who you are, who you represent and if there is anything in particular you want to offer us.

Louise McMullan: My name is Louise McMullan and I am Head of the General Secretary's Department at Equity. It is my job to articulate our policy with regards to people working as actors, singers, dancers, opera performers and people who work as stage managers and theatre directors, as well as people who work in variety and circus art forms.

I will just leave it there for the moment. Lorne, you might want to add more from the Scottish perspective, but we are happy to take whatever questions are relevant to us.

Lorne Boswell: I am one of two national officials who cover Scotland and Northern Ireland. Every day is a mystery; you don't know what the inbox is going to entice you to have to deal with.

Chair: We had a particular mystery on Friday evening, when Lorne and I saw the opening evening of "Our Man in Havana" at Pitlochry Festival Theatre, and very enjoyable it was too.

Lorne Boswell: Indeed, it was.

Chair: Thank you for that. Dan.

Dan Simmons: I am Dan Simmons. I am Head of Partnerships for Creative Skillset and I oversee our sectoral team. We have sectoral managers who oversee the relationships with the different sectors within the creative industries. I oversee English regional partnerships at Creative Skillset and have the main responsibility for overseeing a number of the key funding contracts and funding investment programmes that we have for skills development across the UK.

Alasdair Smith: Good afternoon. I am Alasdair Smith. I am Creative Skillset's Scotland Director, so it is my responsibility to make sure that our strategy is rolled out across Scotland but also, importantly, that it is contextualised for the very different policy context and structural issues across the sector in Scotland.

Q64 Chair: Thank you ever so much, and thank you for your brevity in your introductions. This section that we are looking at today, and why we have asked you along, is to look at employability and skills in the creative industries. One of the things that perplexes us—and possibly yourselves, and I am interested in your views on this, particularly from Creative Skillset—is the methodology that is being used to try to assess the size of the sector. This is important to us because we want to know how big the sector is in terms of what it contributes to the economy, in terms of how many people it employs, the value added that it is giving. Is there any reason why we do have such diverse figures, why there seems to be a different methodology from the UK and Scotland, and is there anything that you could help us with or suggest, so that we could look at this again, tidy this up and make recommendations about how this could be improved? We will give it to you guys first to help us out with that conundrum.

Alasdair Smith: Perhaps if I could kick off just with some of our observations on that. The work that Creative Skillset did a few years ago—I think about two years ago in 2013—with Nesta and colleagues in Creative & Cultural Skills, as well as DCMS at that point, we worked very, very closely together to look at how to better define the creative economy as a whole across the UK. That involved a process of looking first and foremost at what the creative occupations were and then looking at what we call the creative intensity of particular organisations. If I could highlight, let's say, a digital content producer within a local authority as a creative occupation, but of course that local authority is not a creative organisation in a creative industry. What that methodology allowed us to do for the first time was to identify, first, those industries that were created by nature, but also the sectors of the economy that had significant elements of creative occupations, but were not inherently creative. Putting the two of those together gives you a fuller figure and we think

a better representation of total employment across the creative economy. You can split that into creative industries and non-creative industries employment, as well as aggregating the total together.

That resulted in looking at quite a sizeable increase in total creative employment and, therefore, the contribution to the economy. However, the way in which the figures are pulled together within Scotland at this stage does not reflect that change in methodology, so I think the figures, if I recall correctly, we have identified through the revised methodology of something like 102,000 total employment in Scotland compared to official Scottish Government statistics of about 68,000.

Q65 Chair: We have this very helpful diagram here that was provided by yourselves.

Alasdair Smith: That is one of our pieces of work.

Chair: Would you say that these figures are robust because they are pretty big figures—68,500 people, for example, employed in the creative industries in Scotland generating £3.6 billion? We have had other figures, which have been given to us in evidence, which are a lot smaller than that. One of the things that we would be interested in doing—and I am grateful for your responses—is finding a way that this could be objectively assessed, so we do know what we are talking about when we come to assess the size of the sector to Scotland. We are grateful for your evidence but, maybe as a further exercise, it would be helpful to this Committee to suggest a way that we can consolidate some of these figures so we get a better sense about how we do all this.

Alasdair Smith: Dare I say it that I think the solution lies in working closely with the Scottish Government and its agencies to agree a common methodology.

Q66 Chair: Can I ask just on that, do you get support and assistance and help from both the Scottish Government and DCMS when it comes to trying to get a picture of these figures? Are they quite open to helping determine the size of the sector here? Do they produce stuff on their own that is helpful at all?

Alasdair Smith: We have access, like everybody does, to the official ONS statistics base, so that much is readily available to us. Forgive me, but I was not directly involved in the recent work to revise that methodology, but certainly the feedback that I have had, when preparing for this session, is that achieving a single way of looking at the sector is the important move forward. If I can highlight some anomalies. For example, there are 13 subsectors identified within the DCMS definition, but there are 16 currently operating within the Scottish Government's definition. Those 16 were identified through a piece of work that was undertaken in 2012, I think, by Creative Scotland and I am afraid I don't know how they arrived at that particular definition. But one final point is that in the Scottish Government's definition, textiles and manufacturing is considered as part of the creative industries, whereas it is only fashion design that is considered within the DCMS. There are a number of anomalies of that nature that together, when aggregated, mean it is harder to compare and contrast the situation in Scotland with the situation across the rest of the UK.

Q67 Chair: That is helpful, because that brings me to my second general question. Again, it is mainly for Creative Skillset but, friends from Equity, if you have anything to offer on this, please let us know. The second one was in your evidence, and it is something that struck this Committee. You say in your evidence that the creative industries in Scotland are “structurally different” to the rest of the United Kingdom, and that interventions to support growth and development “need to properly account for these differences”. Could you define and explain the “structurally different” and what that means?

Alasdair Smith: Certainly, smaller companies dominate the creative industries in Scotland by some considerable margin; I think something like 98% of creative organisations in Scotland are micro-businesses, in fact. There are very, very clear issues there with how those small companies engage with the wider set of public sector support services that exist. There is also an issue—and we will perhaps get on to more detail of this later on—about the employment characteristics of the creative industries, which have a significant freelancing element within each of the subsectors to varying degrees. Those present clear issues for how those companies employing those freelancers access support. Looking at the way in which the public sector support is targeted within Scotland is something I think we also need to pay close attention to.

Scottish Enterprise targets high-growth companies. It also predominantly focuses on what you might call digital technologies and digital businesses, which is a tiny proportion of the total creative sector within Scotland, which begs the question: how do the rest of those companies, creative organisations and enterprises, access the kind of support that will help them to grow to become more sustainable, to develop their skills and to innovate? There are a multitude of issues around the size and structure of those sectors and the employment patterns within them.

Q68 Chair: Thank you for that. Your UK colleague recognises the difference in terms of approach and these structural differences too. Is that something you recognise when you are looking across the UK?

Dan Simmons: Absolutely, and these are challenges across the UK. It is just that it is more pronounced in Scotland as opposed to across the rest of the UK. In Scotland 63% of the workforce is in full-time permanent employment compared to 70% across the rest of the UK, so it makes it that much harder when you have higher levels of freelancing, when you have a higher proportion. Across the UK as a whole, I think it is 89% of businesses employ less than 10 people, and in Scotland, as Alasdair says, it is not far off 100%. The number of large employers is so small it makes a structured approach to skills development very difficult.

Chair: Thank you for that. I am going to bring in Chris Law, who is going to ask a question about the nature of employment in the creative industries in Scotland. Chris.

Q69 Chris Law: I was looking at the written submissions and both your written submissions highlight some of the differences between the creative workforce and the workforce in other industries, including fewer people working full time and obviously greater work flexibility. Are these characteristics that apply across the creative industries or is each industry different?

Alasdair Smith: Perhaps just to go first, I think we have already touched on the nature of freelancing across the subsectors. If you take film, for example, the figure is something like 95%. There is an incredibly high level of freelancing in the film sector. In television in

Scotland—I have the specific statistic here: it is 56% taken on average across all TV activities—compared to London, it is only 41%. Within computer games, the incidence of freelancing is far less than in some of the other sectors. So each subsector has different characteristics, and again—I think as Dan mentioned a moment ago—that different approach across all of these different subsectors makes it very difficult to have a consistent way of supporting these individuals and these companies. I think within performance, my colleagues here would probably have more to say on that matter.

Lorne Boswell: The vast majority of our members are “freelance”, whatever their tax status may or may not be. We do have some members who are permanently employed, stage managers in theatres, for example, ballet dancers obviously need to be permanently employed, but the overwhelming majority are freelance and making tax returns as self-employed individuals going from job to job. The average theatre engagement would tend to be somewhere around seven weeks. You could not say what the average engagement was on a film or in television: it could be a day, it could be 20 series; you just cannot tell.

Louise McMullan: It is worth adding as well that most performers will have a portfolio career, so they would not say, “I am an actor that just works in theatre”. They are more likely to be someone who does a voiceover one day, then maybe appears in a TV commercial filmed in Italy the next week and perhaps, if they are lucky, they get a couple of days in a film shoot. There are all sorts of things that are part of this portfolio career that they have, so we cannot really characterise our people as being in one of the subsectors of the creative industries. The reality is they can work in everything from modelling and the fashion industry through to video games even.

Dan Simmons: That would be something equally in many parts of production as well. In terms of TV, film production, commercial production, particularly the further away from London and the south-east you get, the more common it is that people work flexibly across different media to have a full-time career.

Q70 Mr Chope: You are describing a situation, you are not criticising that, are you? You are criticising it?

Dan Simmons: No, we are describing it.

Q71 Mr Chope: You are describing it. Surely this is inherent in a creative industry that you are going to have few barriers to entry; you are going to promote imagination and flair, flexibility, all those great virtues that we see so little of in the nationalised industries, which are funded often at great expense by the taxpayer. The great thing about the creative industries is that they are creative and flexible, people can join and they can succeed on their merits without too many problems. Surely that is something to praise rather than to criticise?

Alasdair Smith: Much of what you say is true: the creative industries should be celebrated for that innate creativity and the ambition that they have. However, that presents certain issues with how the creative industries can grow and thrive and become more individually sustainable, become more internationally recognised. For Scotland, particularly, there are some clear issues around some of our great creative industries—picking on TV production, for example, how we ensure that that becomes a meaningful, self-sustaining industry with internationally competitive content.

Yes, some of that creativity is what gets people started—it is what gets people in—but if I could look at the example of someone who manages to get a commission for a television drama on the back of a strong idea and a strong initial team, all of a sudden they have to crew up so they become employers. They have to make sure that they have a company. They have to do all of the insurance, all of the tax, all of the legislation. They then have responsibilities. That production period will only last for a number of months before it is in broadcast. They then have to either fold or they have to develop their company so it becomes sustainable, so they are constantly developing new ideas. That then means that, yes, there are essential creative core roles within that company, but there are also very important business skills that need to be introduced and adhered to.

If you will indulge me just a moment, if I can reflect on some years ago, when I was not long in this job, I met a very seasoned producer in Scotland of a reasonably successful TV production company. They had very recently recruited a managing director to deal with the business. I said, “Why did you do that? Did you not have worries or concerns that that would strip away your creativity and put leg irons on you as a creative individual?” He said, “No, quite the reverse happened, because I was dealing with all of that stuff that I was no good at and it was affecting the creativity. The truth was that if we had carried on the way we were going, we would go down the pan.” What happened, by bringing on somebody who understood how to run a business, it liberated creativity because it allowed it to flourish within a structured environment, so that they were always looking to the future, they were always looking at planning in a structured and measured way.

Your observations, I hear them a lot. You are absolutely right, creativity is fantastic and the freedom of creativity is fantastic, but if that creativity is to become internationally successful or even nationally recognised, it needs support and it needs it in a better and more structured format. I would say that goes for all forms of expression, I would have imagined.

Q72 Mr Cunningham: Looking at the negative side as opposed to the creative side and the wonderful world that Mr Chope has painted, what about bogus employment? We will take Equity, what views do you have about that?

Lorne Boswell: Bogus employment? I could bore you rigid about whether our members are employed or not employed. We have had a recent ruling from the Inland Revenue that our members are not employees, which is crazy because our members, of all people, are required to do a certain thing at a certain place at a certain time under direction in a certain sequence. If that is not the sort of master/servant relationship, then I don't know what is. However, the world of tax is one that is not my specialist subject, but one that we have had to look at. The key issue, though, for our members—and I think the same is true for small independent companies working in the sector, they may have all the freedoms that you describe but their goal is sustainability—their goal is to be able to put enough food on the table at the end of the week to survive. It is a fairly cut-throat market: when you are in fashion, you are in fashion big time, but when you are out of fashion, you are out of fashion big time. I think sustainability is the key economic aim of all of our members and almost all of the small, medium and large-scale companies operating in the creative industries.

Q73 Chair: For us in this Committee, the idea of the precarious employment that seems to be rife in this sector is something that we are interested in. We are looking at all the different

means of support that is available to those that work in the creative industry, particularly in the frontline, when it comes to producing the content or appearing on the boards and productions. The one question I would like to ask, just on the back of the precarious employability issue, is: does this seem to be common across all sectors? I know we are hearing from Equity today and it does seem to be television production, screen services, but we have some stuff from the Musicians' Union that is saying that this is same. Do you discuss this cross-sectoral when it comes to the employability issues and do you take up common agendas when it comes to these things too?

Louise McMullan: We do. Some of the things that we have worked across the unions around are less about bogus self-employment, because that is something that characterises other sectors more. Some of the issues that we have difficulties with are worker status, around issues like the national minimum wage legislation, and particularly in areas where there are loopholes around organisations who have charitable status. We also have issues in terms of agency worker regulations. There are certain exemptions, so that some agencies can charge fees to work-finders in the entertainment industry, so we have had issues around unscrupulous practices as regards some of the conduct regulations. Some of the things we do also work across the sectors is in terms of—this sounds a lot more generic or principled—trying to get employers, and I suppose Governments as well, to understand our people across the creative industries; it might be a small number of people in the performing arts across Scotland, but it is a big number of people, well over 100,000, across the UK, so getting respect for them as workers.

This is now quite a significant part of our economy. According to DCMS it is 7% or 8%, but there is still not quite the perception on the part of policy makers, I have to say, and also some of our enforcement agencies, like HMRC. We often go to them saying, “Our people are workers. They are entitled to the national minimum wage,” but we are often seen as, “Are you really a worker?” if you are an actor. “Are you really a worker?” as a musician. It is just getting that message through: this is a growing proportion of employment in the UK. It is something that a lot of younger people are attracted to and it is serious, proper work that drives the economy.

Q74 Mr Cunningham: This is not in the creative industries, but you certainly had the case of City Link, for example, and there were some issues surrounding that there. We are trying to get the Government to look at it. There is an issue going to court on that, so we cannot say too much about that. Are there any areas, in particular, in the creative industries where that is a particular problem?

Louise McMullan: Probably speaking from Equity, one of our biggest campaigns this year is around: we are trying to work positively with employers to make sure that people are paid the national minimum wage. That is something that we are trying to work in partnership to achieve. It is working quite well in areas like fringe theatre, and we want to expand it much more into the areas of low-budget film where we need to penetrate a little further. That is probably the biggest one for us.

Dan Simmons: About two to three years ago, we created something called a workplace guidance, basically. In our industries—going back to the points we have made—there are lots of very small businesses that don't have HR departments. They don't have people to translate and navigate and, to be frank, they don't always fully understand their responsibilities as employers. We have produced some guidelines that lay out what the difference is between work experience and internship and apprenticeship, because, to be

frank, it does confuse lots of people. We try to ensure that there is support there so that they understand when they risk breaking the law. We have done a lot of work around trying to stamp out unpaid internships and all the kind of stuff that, sadly, is too prevalent in our industries. We do a lot of work promoting traineeships, internships. We have funding to subsidise internships to help people try to change their practice, so there is quite a lot of work. That obviously is key to changing the diversity profile of the workforce that, if people are expected to work unpaid to get their first foot in the door to get experience, then it will only be those people who can afford to do that who will ever get their first break.

Chair: That brings us on very neatly to the question about local authorities and diversity in the workforce. But just before we do, I don't think I need to tell Louise and Lorne, but we have the Performers Alliance in the House of Commons, which Equity are part of, and that works cross-sectorally with the Writers Union and Musicians Union. We are always there to take up some of the issues on behalf of those involved in the frontline when it comes to working in the creative industries. It has always been a very helpful group.

On that note, we will hand across to John Stevenson, who has some questions on local authorities.

Q75 John Stevenson: Dan, Equity have stated that local authority support for the creative industries is essential. Would you agree with that or disagree with that? Within your knowledge, how would you compare the support that is given to the creative industries from Scottish local authorities in comparison with those elsewhere in the United Kingdom?

Dan Simmons: I think you had a few points you were going to mention on this. Alasdair is going to take that first. I can chip in, if that is okay.

Alasdair Smith: This reflects back on the earlier comments about the position of Scottish Enterprise, for example, only focusing on the higher end, so local authority provision through Business Gateway is an important port of call for smaller companies to get the necessary support to help them grow and develop. There is a further level of support through the Cultural Enterprise Office in Scotland, which is a publicly-funded service. That is very much about supporting what you might call entry-level sole traders across the creative industries to get a foot in the door. The idea there is that there is a progression from the Cultural Enterprise Office through to Business Gateway, which provides economic development support at a local authority level and then on to the higher levels of support.

One of the challenges that are inevitably present with that structure is that there are—I always forget the number—32 local authorities in Scotland, so there are 32 avenues for Business Gateway, so an offer in one local authority may differ slightly from an offer in another local authority.

Q76 John Stevenson: How does it compare with the rest of the United Kingdom?

Alasdair Smith: I cannot compare that.

Dan Simmons: What is interesting in terms of what is happening on skills support—I am talking from a skills perspective—obviously there is an interesting devolution agenda of

skills funding. We are working with lots of the Local Enterprise Partnerships around England. There are about 20 or so that have identified the creative industries as a priority for their local area. My team are working on the ground in the different areas and we have set up a range of City Action groups in most of the cities that have identified the creative industries as a priority, and we are pulling together groups of employers and education providers and so on to look at this. In terms of the investment, it is early days. In terms of the European funding that will be coming through the LEPs, it is all quite delayed and it is not all totally clear what that picture is going to be but we are watching and monitoring that. I think a few calls for funding have been released, but quite a few are delayed and are due out later this year.

Q77 John Stevenson: Do you think there is a great emphasis on the creative industries in the English authorities and LEPs or within Scotland or is it broadly the same?

Dan Simmons: I think it is variable.

Alasdair Smith: I think it is, yes.

John Stevenson: It is variable. You are suggesting it is variable within Scotland and it is variable within England?

Dan Simmons: Absolutely, yes.

Alasdair Smith: Just one little addendum. I suppose the situation in Scotland is because of the clustering of certain sectors. In Dundee there is a clustering of games. In Glasgow it is broadcasting and TV production. There are the festivals in Edinburgh. Each local authority can pick and choose the areas they will prioritise.

Q78 John Stevenson: Therefore, logic would dictate that those authorities that see it as a growth area within their district are clearly going to—well, you would think—invest more in them than those that are not such a big part of their economy.

Alasdair Smith: We have seen it in Dundee. There is a very good example at the moment, where there is a lot of investment going into design through supporting the V&A development and the whole waterfront development there and, historically, the support for computer games.

Chair: We were shown around some of these developments in Dundee last week, which Chris Law particularly appreciated, I think, as a local Member, but Jim Cunningham has a supplementary.

Q79 Mr Cunningham: In relation to the creative industries, certainly in terms of England, there have been cut-backs in the arts budget, for example. We have experience of that in Coventry. How much has that affected your membership in Scotland in particular or England, for that matter?

Lorne Boswell: I don't think we have had cuts on the scale that we have heard about in parts of England. Talking to colleagues of mine who work in different parts of England, I think the local authority support for the creative industries is very varied. In the north-west

of England I think the support is good, and in other parts of the country local authorities have toyed with even abandoning all support completely. I think it is more nuanced than “Scotland is one colour and England is another colour.” It varies quite considerably in different parts of England.

Q80 John Stevenson: Louise or Lorne, you indicate in your report that you think there should be a statutory duty on local authorities to support creative industries. How would you go about doing that? Just because you say there is a statutory duty does not mean they are going to necessarily invest a great deal.

Lorne Boswell: We are quite clear about that. We have said that there isn’t a statutory duty but we would like to see in the National Performance Framework—the framework through which the Scottish Government works with local authorities—that the creative industries were slightly higher placed so that, when the local authority comes to sign off its budget with the Scottish Government, it can identify that it is supporting the creative industries within its territory. It is slightly different to saying “a statutory duty”. What we are asking for is that the creative industries and culture have a higher placing within the National Performance Framework.

Louise McMullan: We have argued that, in the same way that local authorities support their local libraries—and the reality is right now most local theatres are dependent on their local authorities for a large proportion of their funding—if that relationship stops existing—and it is not one that is very well known about by people, and we experienced huge cuts in places like Newcastle a few years ago—and a local authority maintains the relationship and does make the public statement that it wants to continue supporting the arts, or would like to support the arts, that is what we think is important. It is not about how much they can give, but making sure that they have a relationship and make some sort of provision in every area. Then beyond that, with that seed funding, lots of different things can happen. You can have some areas that are more successful commercially than others, but if you have some sort of seed funding all across the country that is what is essential.

Q81 John Stevenson: Thank you. Just moving on—and again it is a question for Louise or Lorne—to equality of opportunity within the creative industries, what state are we at at present and what can be done to improve, or is a particularly good area for equality of opportunity?

Lorne Boswell: There isn’t equality of opportunity. The vast majority of our members work in drama. Drama is the telling of stories, and stories predominantly are told from a male perspective. If you look at any Shakespeare, you will have three women in any Shakespeare play, three female parts, and 12 or so male parts.

Q82 John Stevenson: That may reflect the time that Shakespeare was writing in.

Lorne Boswell: That may reflect that and of course, as you know, the women were played by the men anyway. We have a significant number of our members in Scotland who are trying to effect that generational change. What they are seeing is that there has not been a change in their working lifetime and they are looking to try to make that change, to try to make it a much more equal workplace. We are working with Creative Scotland; we are

trying to get the raw data to demonstrate that, without drilling down into whether they were good parts for the women or whether they were just incidental parts. What we would love to achieve is that light bulb moment that Daniel Evans—who runs Sheffield Theatres—struck upon when he audited himself. He looked at his own programme for the previous three years and he thought he was absolutely fine. He thought, “I try to be equal,” and when he realised what he had programmed, he saw there was a significant difference in the opportunities for men towards the opportunities for women. With research, we hope to be able to try to effect that change in Scotland. You cannot prescribe that change. That change has to be voluntary and has to be driven from the employers’ point of view, but it is a work in progress.

Q83 John Stevenson: But you can influence it?

Lorne Boswell: We hope to influence it. We have engaged with all the employers in Scotland. We have engaged with Creative Scotland. We have not achieved the outcome yet, but we will work towards that.

Louise McMullan: Step one is asking all of the funding bodies to monitor equalities—how many people were employed on and off stage—and give us a fuller picture of what the reality is for employment at the moment. As we understand it currently—and perhaps our colleagues at Skillset know more about this—the entry through drama schools, as we understand, is quite reflective of society currently and most socioeconomic groups and BME communities, people with disabilities, are progressing through that training, but unfortunately they are not getting sustainable employment afterwards. It does become a sustainable career if you are a white, upper middle-class male, unfortunately.

One of the priorities we have set ourselves as a union this year is to try to advance the agenda for all the equality strands. The first part of that is asking all the funding bodies, so all of the arts councils around the UK—and Creative Scotland included in that, but also the BFI, and through Project Diamond, all of the broadcasters—to monitor who is currently appearing on stage and screen so that we can get a better picture of this.

Q84 Chair: Has the rebranding of the RSMAD to the Conservatoire made any difference at all in terms of some of the equality issues and being able to recruit people from different backgrounds and social—

Lorne Boswell: I don’t think so. The rebranding was more to reflect the growth, moving into teaching dance and other subjects, so I don’t think the rebranding has impacted on that.

Chair: We are going to come to Kirsty Blackman, who has a series of questions about developing, attracting and retaining talent in the sector.

Q85 Kirsty Blackman: Obviously it is key to develop, attract and retain talent, but what are the key challenges to it in Scotland? Also, is Scottish and UK-wide activity joined up in relation to this?

Alasdair Smith: There are so many issues that we cannot possibly hope to cover them all, so we want to highlight a couple of key areas for consideration. If we pick first on the television sector in Scotland, which has some key strengths, there are some significant

challenges. One of the most demanding challenges is the issue of indigenous production and commissions within Scotland and there are some concerns. Although there has been movement to drive up the level of indigenous production in Scotland—for example, the BBC set a target of 9% some years ago, stating that that was a floor rather than a ceiling, and it is great to see that they have reached that or are around about that target at the moment—we still don't have a returning drama that is produced in and out of Scotland. That is almost like the Holy Grail, because not only does that provide an opportunity to broadcast a Scottish-produced piece of content across the UK and sell that abroad but it is also a fantastic training ground for the next generation of talent.

It is very true to say that the more indigenous production and commissions across all genres—not just drama, but across factual, entertainment, news-gathering and journalism—will help to drive the future success of the industry. There are some very key structural issues, and I am sure that some of the industry contributors to this inquiry will have fed into the concern of what is rather colloquially called “lift and shift”, where something gets commissioned, it is produced in Scotland, where the company locates for the duration of the production, and then it disappears. There will be a short-term beneficial effect certainly, in that some local crew and the workforce will get work, but they will also bring in some of their own workforce. That is not a positive way in which to help to develop the sector.

Q86 Chair: We have discussed that with the broadcasters when they were in front of us, the very issue that you mention, lift and shift. I think the concern is not just what lift and shifts happening but you talk about sustainable dramas returning, and what we are finding is that Scotland is falling further behind, behind the Bristol, South Wales city region areas as well as Manchester. Is there anything that you observe, other than getting the returning drama, anything that could be done that this Committee could raise that would help to improve our fortunes when it comes to these things?

Alasdair Smith: If this Committee has the influence to try to press for greater localised commissioning within Scotland, I think that would be a positive outcome for everybody concerned. I don't think that is a controversial thing to say either. That is one of the things that will help and with that will come a certain momentum.

As you will be aware, there is another issue that has been ongoing for many, many years, which is the issue of a film studio within Scotland. We have looked over at the situation in Northern Ireland for some time with the Paint Hall there. What we have seen, and what we have experienced in our work in Northern Ireland, is that there is the quota for production but also a whole new set of industry and support services and infrastructure radiates out from the core of that studio. There are new industries. There is a visual effects sector. We can provide a training platform to help grow from that core.

Chair: We are all fans of “Game of Thrones” around this table.

Q87 Kirsty Blackman: Specifically on the recurring drama thing, Denmark manage it very, very successfully in a small country with not that big a population. What do they do differently? How do they do it?

Lorne Boswell: They tend to do less but better, so they don't make as much, but Scotland could do more. Northern Ireland has three returning drama series, two from the BBC, one

from ITV. Scotland has none. I think the question is one for the broadcasters: why is that the case? The Chair referred to the Bristol and Cardiff corridor. There is a huge amount of investment down there, but not the equivalent in Scotland. If I can just comment on the film studio, I think the film studio was the responsibility of Scottish Enterprise, who are clearly not interested, because, if it takes them seven years to not come up with a solution to the film studio, I would suggest that they are the wrong people to do it.

Q88 Kirsty Blackman: A question that I asked the computer games industry guys that we saw, I asked them each to say one thing that Government at any level could do that would help the industry and would improve the industry. Would it be possible for each of you to answer that question as well? You can start with that end if you want. They might steal your idea before you get there.

Alasdair Smith: I think that one of the things that we observe, we understand the economic environment and shrinking public budgets and increasing challenges of devolution as that shifts, following the vote last year. Within such a challenging environment, the solution is for us all to come together more meaningfully, rather than to continue to plough our own separate furrows. If I could cite one example, within Scotland there is a Scottish Creative Industries Partnership, which is a collaborative meeting of all of the public sector bodies. Please don't get me wrong, that is a good thing that they come together with a common interest. However, the industry is not part of that discussion and debate, and Creative Skillset—our colleagues in Creative & Cultural Skills—are not part of that group. If we are all to be able to come together so that we can share issues, share challenges, inform, advise and reach solutions that we can all agree on, we will deliver better value for the limited public investment that exists and we will deliver something that is properly contextualised for Scotland, while also taking advantage of some of the economies of scale, for example, from solutions or ideas that have been developed by industry and informed by industry across the UK.

Dan Simmons: I think to enable flexibility around policy that mirrors the realities of the industry is critical as well. That is something we struggle with often—that policy is developed without fully taking into account the challenges of industry, of timescales, and, as we talked about, the characteristics of small businesses or highly freelanced. I think it is taking the time to make sure that what is implemented is going to work.

An example we will talk about shortly, I think, is looking at the new apprenticeship levy and making sure that that is something that is designed and implemented in a way that allows employers to take advantage of it and does not result in money leaving the industry.

Chair: Kirsty, have you finished?

Kirsty Blackman: I wondered, is it possible for the other two to answer that question?

Lorne Boswell: You are asking one thing that Government could do?

Kirsty Blackman: Yes, either the UK Government or Scottish Government, just a policy change that would help.

Lorne Boswell: It is hard to think of a policy because, in terms of television, it is the broadcasters making a commitment to doing things in Scotland. I think John Birt, when he was Director General of the BBC, centralised almost everything in London to a ridiculous

extent. If, in the Charter process, the new BBC Charter was enabling a proportionate spend outside of London, I think that would make a massive difference.

Louise McMullan: I find it pretty economically illiterate that you would cut any more funding from the arts across anywhere in the UK, because obviously it is that kind of seed funding that is promoting so much growth. If I had to come up with one really snappy policy that I would change right now—it would be a small thing but it would make a massive difference to us and to people who work as performers in Scotland—that is the Ofcom definition of a regional production. I would include in that a criterion around onscreen talent, because they are excluded at the moment. That means that you can have certain quotas for employment of local labour, in terms of technicians but there is nothing onscreen. You don't need to comply with anything on that front.

Kirsty Blackman: That is really useful, thank you.

Chair: I have some questions on apprenticeships, which is again John Stevenson.

Q89 John Stevenson: Thank you. Both the national Government and the Scottish Government place a lot of emphasis now on apprenticeships. They are very much back in vogue, which is a positive. What role do you think they can play within the creative industries?

Alasdair Smith: Our experience of apprenticeships in Scotland is kind of a tale of two cities. On the fashion and textiles side of our work, particularly within textiles manufacturing and the allied industries of laundry and dry-cleaning, apprenticeships have become a very effective way of both upskilling the existing workforce and bringing new people into the industry. For example, we have worked with a consortium of textiles manufacturers in the Borders to bring them together. We have worked with a key training provider to help develop in-house assessment capacity and verification capacity, so that the employers take on much of the responsibility for the training and development themselves. Therefore, it is empowering that network of employers and manufacturers in the Borders and bringing them together—in their words—for the first time in a generation around a common issue. Apprenticeships within textiles are a critical pathway to both bringing in new talent and providing a pathway for career progression. We now have frameworks ranging from Level 2 through to Level 4 at technical textiles level, so that is one aspect of it. We are seeing healthy numbers every year, anywhere between 60 and 100 new apprentices every year across that sector.

In our other framework, in creative and digital media, the numbers are less but we are starting to see a greater degree of interest in that framework, interestingly, from non-creative organisations. However, the foundations for that lie within BBC Scotland, who we collaborated with back in 2011 to design the framework and to implement it, and BBC Scotland commit to taking in 10 new modern apprentices every year, and they are now in their fifth intake. Importantly, and this one relates to the issue of access routes and the lack of access routes for non-graduates and diversity, the BBC is committed to using that modern apprenticeship programme as one of the means that they have at their disposal to tackle diversity.

Q90 John Stevenson: That sounds quite positive. How does it compare with south of the border? Is there something to be learnt from either side? Is one doing it better than the other?

Alasdair Smith: Maybe if I could deal with one issue first, and we will get down to reflect on the English issue and success. The challenge with apprenticeships, again, is related to size of companies.

John Stevenson: I was going to come to that in a minute, actually.

Alasdair Smith: If you are a small company, an obligation of taking on apprentices, they have to have a job first and foremost, they have to be paid. If you are a company that employs only four people, these sorts of—

John Stevenson: Just interrupting that, you said earlier, I think, it was 98% of Scottish businesses are small and we have the apprenticeship levy that is coming in that in theory should help. Do you think it will help, or do you think it will create its own problems?

Alasdair Smith: We do not know yet how that will be implemented in Scotland. If it can provide a mechanism to support smaller companies to take on apprentices, then of course we would see that welcomed. As Dan commented a moment ago, our overriding concern is that those monies gathered from the levy from the creative sector must stay within the creative sector. We would also urge that investment from the levy needs to be additional to the existing public sector investment available for apprenticeships and not replace it, but also that the industries themselves should have a key role in looking at how those levies are used, because in some cases an apprenticeship may not be the solution for a small company, or for any company. It may be, and we may be able to drive—

Q91 Chair: Just on that so we don't lose this point—just given that the Scottish policy is devolved—will that present a range of difficulties and challenges in order to ensure that the levy is getting through to the businesses that require and can support it?

Alasdair Smith: I think the issue there lies in what settlement is reached with Westminster, who will collect the levy, and how they will distribute it to Government. I am afraid we don't have any knowledge or intelligence on how that is operated.

Chair: Yes, that is interesting.

Q92 John Stevenson: Going back to the question of comparing Scotland with England, is there any evidence that either side is doing it better, or is there particular weaknesses in—

Dan Simmons: As Alasdair was saying, what the challenge is everywhere is that for industries that are predominantly freelance workforce, or SMEs, apprenticeships are very challenging because you don't have a fixed employment for 12 months. There are models called apprenticeship training agencies that essentially act as the employer and then farm out the apprentices to different work placements for the duration of their apprenticeship. There are not many models of that working exceptionally well. There is a lot of financial risk, essentially. If you are employing people for 12 months and you don't know up front where you will place them that is a challenge. We are doing a lot of work looking into what that could be because obviously, as you can imagine, with the apprenticeship levy coming into being everyone is going to go, "How is this going to work? If we have to pay in how will this work?" Equally, our concern is making sure that SMEs benefit and that this isn't a system that is purely predicated on the needs of large employers.

There is a lot of work happening, and we can share further analysis with you, but generally where that happens, or where there is sharing of apprentices, there is greater take-up.

Across the creative industries as a whole, we have incredibly low take-up across the UK of apprentices. We have one of the lowest take-up of any—

John Stevenson: I suppose it is easier—as Alasdair was talking about earlier—for industries like textiles that have probably a more traditional—

Dan Simmons: Yes, longer-term employment. In other areas of fixed employment—advertising—there are such high levels of graduate recruitment that they are starting to try with apprenticeships, but it is not a strong take-up; so yes, it is very variable across the industries.

Q93 John Stevenson: Just out of interest, where is Equity with regard to apprenticeships?

Louise McMullan: They are not widely used in the areas of work that we represent. The only area I would imagine one would be stage management. There are sometimes internships, but not very many apprenticeships across the board. But Equity members, though, a lot of them started out in apprenticeships.

Chair: Thank you. We have only about eight minutes left, and I know we are going to get through, but Dave you have supplementary on this.

Q94 Mr Anderson: Is there any more being done on two levels; one to make sure that people are not employing apprentices deliberately in place of fully qualified workers, and also is there any evidence on what has been done to ensure that when apprentices have gone through an apprenticeship, they are not kept as apprentices, even though they are doing the full task of the job but not being paid, that is they are being abused by being kept as an apprentices when they should really be full-time employees?

Alasdair Smith: The trend is that once they complete their apprenticeship, they move on to full-time employment. Just to explain, the BBC model is slightly different in that again it is related to the nature of employment in the sector. The BBC's commitment is that, over the course of 12 months, which is the duration of the apprenticeship, they will prepare them to be employable within the creative sector within television broadcast and production. Touch wood, their success rate is exceptionally high, with all of the completed apprentices so far either moving on into a series of ongoing contracts within the BBC and other production companies. Some start jobs, some choose to return to higher education to specialise as well. In textiles, they absolutely do go on because it is part of the progression. They take in a new intake and they move in to the mainstream workforce.

Chair: Thank you. We have a couple of questions on broadcasting and then we have the session on strategy and co-ordination across the sector of Scotland, but Chris Chope has a question on broadcasting.

Q95 Mr Chope: What is interesting for the Committee are the emerging themes that are coming out through the submissions. Last week in Dundee when we took evidence on broadcasting, one of the themes that came out was the low level of trust in Scotland compared with the rest of the UK. What I personally looked at was that the way we use our news and current affairs and where the programming was coming from. What is interesting this week, looking at the information I have here, is that London-centric nature, not only on the broadcasting side but also the employee and employability. Are we reaching a point now

where, albeit that public service broadcasting is a hugely important area for Scotland, it is time for it to be devolved?

Alasdair Smith: Our submission to the Charter review process focuses on some key issues. The nature of devolution is not something we go down in to a particular degree. However, what we do support is investment in skills and training and education for the sector needs to be embedded within that public service broadcasting purpose, so they need to have a core purpose and a commitment to that. Additionally, we would seek a commitment to investment in skills and learning within the nations specifically. It is perhaps not to the extent you may be imagining but certainly we want to see a focus on investment in skills and training in the nations, so that we can absolutely build up that indigenous workforce, and also, associated with that, a commitment for fairness and access to training reflected in the supply chains, as well, across the nations.

That is a very important element of ensuring that it does not just become part of, for example, the BBC's responsibility but also the responsibility of other public service broadcasters, and the companies they work with, day in and day out, all take their fair share of responsibility to ensure that the workforce is supported, that new entrant opportunities are provided, that diversity issues are tackled and that that just becomes part of what they do, day in and day out, as part of their purpose.

Q96 Chair: Thank you. I think you would probably agree that the evidence shaping up for us is that, because broadcasting remains outside the devolution settlement layer, unlike all the rest of the creative architecture, there does not seem to be an opportunity to have that joined up type of approach when it comes to the sector. The fact that broadcasting sits outside the devolution settlement, and isn't part of the stuff that has been looked at by Creative Scotland and Scottish Enterprise, must present some difficulties and issues for you.

Lorne Boswell: It does. We welcome the Smith Commission proposals that would suggest that the BBC, for example, should also let us report in front of the Scottish Parliament and discuss with the Scottish Parliament what it does in Scotland and allow itself to be questioned. What is reserved to Westminster is the regulation of broadcasting, which is a deeply boring subject about frequencies, and transmitters. But forgive me, sorry, it may be somebody's passion but it is certainly not mine.

There is nothing to stop—and I had this conversation with Mike Russell when he was briefly Culture Minister in the Scottish Parliament—the Scottish Government asking the BBC to account for what they do in Scotland and to enter in a dialogue and a debate with them. That is already able to be there under the current settlement.

Q97 Chair: There are still a few minutes left. You see the proposal by the Scottish Culture Minister and the First Minister, which is suggesting an almost standalone federal BBC as a model, about how some of the issues that Chris Law has been raising, about satisfaction with the BBC in Scotland, and also some of the things that you have raised with us about production targets and skills and employability. Do you see anything attractive about what has been suggested by the Scottish Government about how we deal with the outstanding things in public sector broadcasting?

Lorne Boswell: I am not sure we would go so far as to say a federal BBC, but what we are arguing for is proportional spend in the various parts of these islands. The BBC is a fantastic organisation. It is a public service broadcaster that is there to serve everybody

who lives in these islands, yet it spends an enormous amount of its budget within the M25. That is clearly not fair on those people who live outside the M25. In arguing that, I am not just arguing for Scotland; I am also arguing for colleagues in other parts of the country as well.

Chair: Thank you. We only have a few short minutes left and I know Dave Anderson has a couple of questions, just about strategy and joined up.

Q98 Mr Anderson Yes, to Alasdair and Dan. One of the points that were raised last week in Dundee was the view that public support for the creative industries is spread too thinly and should be focused more tightly. Would you support that and, if you do, does that then mean the horrible term “You aren’t all winners and losers” and whatever else?

Alasdair Smith: Is it spread too thinly? It probably is at this stage, but I would refer back to what I said earlier. We all know that public sector investment is getting harder and harder to secure and our responsibility is, I think, that we need to look at more intensive collaboration among those who are responsible for supporting the sector. We do need to get into the room together with everybody to talk.

Reflecting on our experience with the investment we have secured from DCMS over the last few years, we have managed to leverage pound-for-pound co-investment from industry for every penny DCMS puts into that. That is an important change in the way in which the industry is now taking more responsibility to support itself. Also of course they are benefiting from public sector investment. So yes, it is spread too thinly; but equally, yes, I think we can find mechanisms that will allow what is available to become as effective as possible. Ensuring that all parts of the industry are at that table, are at the heart of informing with good intelligence, good input, advice and advocacy, so that the interventions are properly targeted where the need is most acute. In that way I don’t think you end up in the situation where there are winners and losers, but rather there is a more targeted prioritisation of what investment is available.

Q99 Mr Anderson: Who will decide? Everyone is going to make their own case, aren’t they?

Alasdair Smith: We are an evidenced-based organisation. We research; we do primary and secondary research into the nature of skills challenges in the sectors that we are responsible for. There is another organisation that does it for some of the sectors that Lorne and Louise are responsible for. Equity has its own evidence. I have no doubt we can combine that evidence and work together to reach a mutually agreeable conclusion.

Dan Simmons: One of the points of interest that people also raise is that there is, for instance, the Creative Industries Council, which is looking at the needs collectively—although its remit initially was focusing on an English coverage—looking at how the different sorts of bodies work better together to look at, “If we’re going to have to prioritise, how do we all take some shared sense of prioritisation, so that we make the most of the limited resources we have and so that it is super clear to the people out there that we are meant to be supporting who to go to for what?” I think that is always one of the challenges. People go, “How do you navigate all the support agencies?” It is important that that is simple and streamlined and it is clear who is doing what.

Chair: Thank you all ever so much. It was very, very helpful. Again, if there is anything after the session that you feel would be of value and use to this Committee please give us further submissions, particularly the very interesting questions from Kirsty Blackman about if there are one or two things that we could do, in particular, to improve the sector and anything in particular we can be looking at in terms of recommendations. This inquiry will be going on for the next three weeks, I believe, and will be taking different evidence from IPO, from the Ministers here and the Ministers in the Scottish Government, so thank you and thank you for coming along and for such full and comprehensive evidence.

Examination of Witnesses

Witnesses: **John McVay**, Member, Creative Coalition Campaign, and **Ian Moss**, Vice Chair, Alliance for Intellectual Property, gave evidence.

Q100 Chair: Good afternoon, gentlemen, and fancy meeting you here. I have to say to the rest of my Committee colleagues that I am very familiar with both these gentlemen and the work we have been doing with the all-party intellectual property group in the course of the past years.

For the benefit of this Committee, both of you tell us who you are, first of all—who you represent and just a little bit about how important and valuable intellectual property is for the underpinning of the success of the creative economy and the creative industries. I think the Committee would like to know your views about the centrality of IP when it comes to these things.

John McVay: Thank you very much. I am here wearing many hats but I am probably not the first person you have heard saying that. I am here representing the Creative Coalition Campaign, which is a pan-industry—union, composers, producers, directors—association that has been created, along with the support of Pete and many other Members of Parliament, to help make sure Parliament is conscious of how valuable intellectual property is and, also, to take measures to protect it. I will come on to more of that shortly specifically in terms of your inquiry in the Scottish creative industries.

I am also the chief executive of Pact, which is the trade body representing the UK's film and TV digital children's animation producers. I am also a member of the Creative Coalition Campaign; the chairman of the UK's Digital Single Market campaign; and also chairman of the Creative Diversity Network, the broadcasting body responsible for increasing diversity across broadcasting.

So I have many hats on. I am very happy to talk about any of those subjects but I am here representing the Creative Coalition. I would endorse the Chair's remarks that the intellectual property industries, the creative industries, are a valuable part of the UK and Scottish economies. They are an increasingly growing valuable part of that and certainly, as the world moves to more global markets and more opportunities for monetising around intellectual property, that also brings opportunities for growth but also brings significant threats. I think every Government across the UK has a key role to play in supporting the businesses and creators you are responsible for, and intellectual property I see lies at the heart of the UK's future success.

Q101 Chair: Thank you. We will come on to quite a number of these issues that you raise with us in your introductory remarks. Ian.

Ian Moss: Thank you for inviting me along. I am the vice chair of the Alliance for Intellectual Property and that is the role that I am in here today but, like John, I can segue through several different hats, including the Creative Coalition Campaign of which we are members. In my day job I am director of public affairs at the BPI, which is the British recorded music industry.

To back up what Pete and John McVay were just saying, the Alliance represents 24 trade associations. We are a representative body of trade associations from across the creative, branded and design sectors. We have a collection of interests in ensuring that intellectual property rights are valued in the UK and protected, and the work around our industries is promoted in a way that makes people understand quite how important intellectual property is to the UK economy as a whole and, indeed, Scotland itself. Our members include representatives of audio-visual, music, game software, sports rights—sport is often forgotten in this mix but it is fundamental to sport that intellectual property rights and copyright are respected and promoted—branded manufactured goods, books, magazines, publishing and retail design sectors. Through our membership we have members in every part of the UK, and obviously some of those are very large companies, but if there was any characteristic of the creative industries it is mainly made up of very small SMEs, whether that is in the publishing sector, the music sector or small individual designers. When we talk about protection and promotion of intellectual property, we are defending the rights of many, many small businesses around the country.

To go to the question about the importance of this, we are one of the world leaders in almost every category of creative industry that I have just explained. The creative industries are worth around £75 to £76 billion to the UK economy and about 1.7 million jobs. There is very heavy investment in them. They are very good for our exports. In many of these areas we are world beaters. We are the fifth-largest games industry in the world. We are one of the largest music industries in the world; and so on. In a world where ideas can be sold and ideas have such a great value, the UK is incredibly and uniquely positioned to capitalise, and that is why intellectual property has been growing faster than other areas of the economy. We saw in the statistics this week that returns to the film industry are growing faster than other parts of the economy and so on and so on, so if you are looking at rebalancing the economy, you should look at intellectual property and the creative industries.

Q102 Chair: Thank you both for those very helpful introductory comments. Scottish Government has identified the creative sector, the creative economy, as one of the major growth sectors as we go forward in terms of the Scottish economy. All issues to do with intellectual property are reserved; it is run by the Intellectual property Office here; it is split across Departments, the DCMS and in BIS. We are dependent on intellectual property and its rights and depend on you guys to help us in terms of the UK industry going forward.

What more could we do to get interest in IP in Scotland? Is there any work that we could be doing with specific agencies or support services in Scotland, and how do we get the message across that this is an important issue for inventors, creators, writers, artists to get involved in as they are developing their businesses?

John McVay: I have argued for a decade now that it would be helpful to include something about creation and intellectual property in the business of creation in the curriculum at some point. I think this is an important part of our economy and yet it is completely missing from what we teach our children. One of my sons is very keen on design and architecture. He is halfway through his A levels and he is looking at that. I asked him to look at all the courses he is looking to apply for, and none of the degree courses have anything about intellectual property protection either. I think it is something that all Governments can do something about.

The other thing is that there has been a recent campaign just launched, which is a joint campaign between internet service providers and content creators called CCUK—Creative Content UK. That has just been launched this week. I and many other trade associations will be promoting this to creators and other bodies. I think all Governments, as far as you can, can help to do that and promote it. It is a very high-profile educational campaign to encourage people to use legitimate content and to explain, in very easy to digest ways, what are the consequences if you use illicit content and what impact that has on the quality of the content you could expect in future; the jobs and so on. That is a campaign that is being supported by the UK Government. Clearly, I would look to the Scottish Government, the Welsh Assembly and Northern Ireland Assembly—although it is not devolved powers—to keep up pressure on the Westminster Parliament to make sure that they address issues around intellectual property. The current review that is going on about the role of intermediaries—search engines where we can drive people to sites that are being monetised illicitly—I think that is a loss of revenue to the creative industries. Those platforms generally hold up their hands and say, “It is nothing to do with us; we are just the pipes,” but they are generating revenues from that themselves if there is advertising involved. I think more should be done on that and certainly I would encourage you to consider that.

Q103 Chair: Before we come to Ian, is there more that agencies in Scotland—I am thinking of Creative Scotland, Scottish Enterprise and the Scottish Government, for example—could do more to promote and help businesses and those involved in the creative industry sector about the opportunities and challenges there are when it comes to intellectual property? Is there more that you have observed that we would do and things that we might be able to do better through our public agencies in Scotland?

John McVay: I have to admit I do not know what Creative Scotland does on this at all, as they seem to be more an organisation that is culturally focused rather than commercially focused. While the cultural products that come out of intellectual property activities are highly valuable in a range of ways for society and for business, I would think it would be more the role of maybe perhaps Scottish Enterprise or the Scottish equivalent of BIS to look at how businesses can better protect intellectual property.

There are also roles for the Scottish police force to adopt—a PIPCU or similar activity—to support people protecting intellectual property rights because the investment that goes into creating something can be considerable, not just in cash but in blood, sweat and tears. That value can be lost quite quickly, so it is always hard for the SMEs Ian described to protect themselves from rapacious and sometimes industrial-scale illicit use of their content. That is where I think Government does have a role in terms of helping those businesses either through enforcement or advice to help those businesses, which are often very small and will not necessarily have the capital to take someone to court. Helping to educate people about the role of copyright at an early stage—someone sitting in their garage, as you and I

once did, Pete, coming up with a song, when we write the song when we are 17, we do not really know what copyright is; we just want to write a song. But if that ends up being a big successful song then we worry about it. Those are the things Governments should be looking at as it is the 21st century economy.

Q104 Chair: Ian, do you work with Scottish agencies for example?

Ian Moss: We do have a lot of dealings with the Scottish police. On a practical level, I would say our work in Scotland, with Police Scotland and with Trading Standards, has been very, very good. They have intellectual property crimes as a management indicator. They did have it as a key performance indicator but it still is a management indicator. We have the forensic unit in Scotland with two staff, which is extraordinarily helpful in investigating intellectual property crime. A lot of this is still physical-based—so, DVDs, CDs, manufactured copies—but it really is a very good partnership and I think we have to accentuate the positive on this.

As John says, going into a digital age looking more at what can be done to support the work in England and the PIPCU would be very interesting because of course there are issues around digital distribution, search engines, advertising and advertisers that should be co-ordinated across all law enforcement agencies in the UK.

On the very practical point, again following on from what John said about Creative Content UK, it is something that Alliance members have been very involved in and me personally through BPI, which is part of the partnership. Anything that can be done by the Scottish Government to promote the Get it Right From a Genuine Site campaign to Scottish audiences—and that frankly includes resources, any advertising space that we can be given, any initiatives even through the creative sector agencies in Scotland that can promote that—is very important because, ultimately, the big thing we are wrestling with through all our enforcement work and why the Alliance was set up in the first place is ensuring that the right value gets to the right bit of the chain; that the people making the intellectual property, the people coming up with the ideas, the people generating this incredible creative story in the UK, get their fair share out of a digital world.

At a very basic level that is education, as we have talked about. At a median level it is about ensuring that enforcement works and all the agencies are drawn up. At a macro level it is ensuring that at a European level, above UK, the framework works for all the people in it and we make sure that the right value is being distributed down the value chain. Those are the really difficult problems that the intellectual property world faces in the next few years.

Q105 Kirsty Blackman: The UK Government told us that, in terms of intellectual property, they work with the Scottish Government to ensure that organisations in Scotland are aware of any changes or any policies or consultations in relation to IP. Does this work in practice? Does it work well? Could it be done better?

John McVay: In terms of consulting with the Scottish Government?

Kirsty Blackman: In terms of how that filters to creative organisations in Scotland.

John McVay: Okay. Because we have many members in Scotland, when we are consulted by any Government about copyright or intellectual property issues we go and consult our

members in Northern Ireland, Scotland, Wales and the English regions. So our response is always a UK response but our response is based on consulting our businesses across the UK. Sometimes they will feed in to particular consultations from the Scottish Government or Creative Scotland, as we have done. In terms of the opportunities to be consulted and fed back, they do exist. Whether that is sufficient in terms of the interaction between the Scottish Parliament and Westminster I am not qualified to answer.

Kirsty Blackman: That's fine.

Ian Moss: It is worth reflecting on the two big issues of consultation, one historic and one current. The historical one was the Hargreaves Review, which sought to create exceptions to copyright; basically to remove the rights of copyright holders to be paid in specific circumstances. In that review—it is not a Scottish-only issue—I felt that the views of the creators—the views of the artists, the individuals, the designers, the people that were making the copyright—were not given adequate weight and the evidence was not sought in an appropriate way. We are where we are with this. I think when we finally come to evaluate and reflect on what exactly happened following that review, we will find the exceptions did not suddenly have the dramatic impact on the UK tax sector that was promised. I think part of all of this problem is an assumption that there is a bold tomorrow in technology that does not involve content and content is the thing that people want access to; the technology is a means of access to it and the deals are what we want to do, commercially on commercial terms, between our members and our businesses and the technology companies. Any consultations that change that framework change the balance of commercial negotiations. It is incredibly difficult to garner the right sort of views from thousands of small individuals who are working on content compared to the kind of tech cluster that might have a very similar, very homogenous view.

The contemporary challenge is the Digital Single Market. It is not just a problem of the UK Government ensuring that it is getting through to the Scottish Government and response in Scotland. It is that the European Commission and the European Parliament are getting through to the UK that is getting through and that both of those channels are working. From our experience of the Hargreaves Review I think the Government is in a slightly different position now. It is making all the right noises about the evidence necessary for changes to the copyright framework and anything that creates uncertainty creates problems in commercial markets and creates problems in negotiations.

Q106 Kirsty Blackman: On uncertainty, can you explain further about why stability and lack of uncertainty is important?

John McVay: Yes, it is very simple. If you look at say a major drama series—“Outlander”, which is made in Scotland, funded by Netflix—that is a multi-million dollar investment. Any threat to anyone making that, in terms of their ability to monetise that globally will reduce investment because with big high-quality audio-visual products—unlike music, which is on a different scale—a lot of money goes into just the creation: \$50 million can go; \$100 million into the latest Netflix series on the Queen. That is a huge investment. It is of the scale of a major single Hollywood movie. You recoup that from being able to sell it through multiple windows, as they are called, and through multiple territories. Anything that undermines that will chill investment. Of course, one of our concerns about the Digital Single Market, which is the Commission's position: they would like to see a single market for European consumers to access European content when it was made available in any one country.

Now of course the UK is the largest exporter to Europe, £340 million of TV exports is generated in Europe. We sell our programming into Europe by territory: by France; by Germany; by Holland; by Italy; by Poland. Any attempt to create one single market where we would only sell to one buyer would force me as a creator to sell it to the buyer who would give me the most money. That would more than likely be Amazon or Netflix, because they are a subscription service where you have access to high pay revenues, or Sky—indeed, Sky Europe if you want. What I would not be doing would be selling it to a small broadcast channel in Poland for a discounted price.

So this is not an issue about copyright. Copyright works very well. As a copyright owner I can choose to give my content away or I can choose to monetise it. It is my right to do that. This is an issue about contractual and commercial freedom. The way rights owners license their works is normally by territory. Sometimes with the music industry that is pan-European, but they have deals through that. For audio-visual works we sell by territory. The Commission's view—and I must admit that I think the Westminster Government is slightly sympathetic to this—is that there should be more opportunities for single-market licensing. That would be of severe detriment to the UK audio-visual industry, which is the second largest exporter on the planet, and that includes Scottish companies.

Q107 Chair: I think this Committee is concerned about some of the conversations we are having with Digital Single Market; in particular the impact it will have on audio-visual. A lot of the content produced and provided in Scotland is audio-visual. We know that the music industry has managed to secure a pan-European approach.

Other than the territoriality issues with audio-visual is there anything else that we should be concerned about with the coming of the Digital Single Market? Is there anything that Scottish creators, those who are working in the sector, should be looking at? What is round the corner with Digital Single Market?

Ian Moss: There are other aspects. Obviously territoriality is one important aspect.

From the Alliance point of view, further exceptions to copyright are a concern. Going back to the issue of stability, copyright is the only thing you have; the property right is the only thing you can trade. If there is a potential for an exception coming round the corner, first it can put a block on deals. People say, "We will wait to see if we have to pay for it at all". Or the deal can be on asymmetric terms in the sense that someone might go, "We will give you this price because you know in two years we might be able to get it for free," so it chills the price as well.

Particularly for the publishing industry, the concerns over text and data mining and the effect that has on its business model—where it has licences for people to do exactly that—the idea that will be an exception and that people will not have to be licensed is a significant concern to that industry, which relies on income from those licences.

For the educational publishing industry the idea of an exception for copyright for educational institutions would be a terrific intervention in the market, in the sense that people being able to freely share educational publications without payment would be a great loss both to the UK industry but also to the future of people willing to put the time and effort into creating publications for an education market when they cannot raise a return from it. So there are issues that are for seemingly innocuous public policy reasons coming round the corner in a digital single market that will have a significant impact. On

the plus side, there is quite a lot of stuff in enforcement and intermediaries that we can talk about as well.

Q108 Chair: Thanks for that. It is the UK Government that is going to be doing this for us and they will be interfacing with the European Commission when it comes to the single market so, therefore, they are going to be looking after the interests of Scottish artists and creators and their sector too. Are you confident that the UK Government has the right approach when it comes to Digital Single Market? I know there are concerns about audio-visual but just in terms of this overall engagement, conversations about the Digital Single Market are we getting on the right track? Or are the difficulties and problems that we should be looking at as a Committee when it comes to how this is being done?

John McVay: For Scottish audio-visual creators who I know best, but broadly creators, I think anything that opens up a broader market for goods and services is a good thing. The question is how much you are compelled to do that as a rights owner, which is the worrying thing.

One of the things that the UK Government is very interested in is, indeed, the Commission's the main focus. I listened to one of the commissioners yesterday at an event here in London where they are stressing very much that they do not want to do anything that would be disruptive. However, their main focus is on what is called portability—the idea that you can subscribe to a service in one country, go on holiday and still get that service, which would seem eminently sensible. It raises all sorts of other issues and I suppose I have yet to meet anyone from the Commission, the UK Government or anywhere else that has been able to give me a very clear understanding and define portability in its complete vision. Being on holiday for two years in Germany might be different from being on holiday for two weeks in Majorca and, therefore, is that portability or is it just allowing a different type of access, cross-border access, which is where value can be lost?

One of the things that concerns me is the Commission's view about what is called geo-blocking and our Government in Westminster has yet to be more definitive about this, which is whereby if Scottish television were to broadcast a show, it would go on the Scottish Television VOD service, the catch-up service, and that would become immediately available to everyone in Europe, which means that Scottish Television would have a job selling that programme at a value price to a French buyer or a German buyer because it would already be freely available. So that I think would be of detriment to the Scottish creative economies, whether it is Scottish television or indeed my members making programming for other broadcasters. That has to be really looked at. It gets bundled up into issues about portability but portability becomes cross-border access then that will have severe consequences for the monetisation of Scottish creative audio-visual content.

Q109 Chair: Ian, do you think the UK Government has got it about right?

Ian Moss: I think the most important thing the UK Government could do now is clarify its position clearly, openly, on the record, to Europe and to creators across the UK. We are hearing very sensible noises out of the UK and we have all sorts of assurances from the Government, but we do not feel that that has yet got itself into a clear message to either the people negotiating in Europe on the behalf of the UK Government or the Commission

itself. We have been on a journey with this and the previous Coalition Governments, over IP and the Digital Single Market, and the most important thing to emphasise here is we are digital businesses. We are all digital businesses. We are all doing deals on commercial terms across Europe in the way that works for us and for our consumers and we are licensing technologies on that basis as well. As John has said, for music, my industry, that might be different terms from the AV industry but that is because the way investment works is different and the way the markets work is different. Copyright itself is not a barrier. We have gone a long way with this Government, since the days of coalition, in understanding that. I still think there are hangovers from what happened two, three, four years ago that need to be clarified and need to be sorted out.

Q110 Chair: Do you think that the European Commission get the sense that we are the biggest producers of content across Europe? Do they understand our particular sensitivities and concerns when it comes to Digital Single Market and the impact that this will have on our sectors as compared and contrasted to east Europeans or southern Europeans?

Ian Moss: You ask the question for a very good reason, which is: I am sure you know that the answer is that we do not think, at the moment, the UK is still being able to really press the fact that it is extraordinarily concerned about its creative industries, that the Digital Single Market has to work in a way that works for consumers and businesses alike and the long-term benefits for consumers are best served by long-term investment in content and commercial deals. The European Commission should be very concerned about interventions in the market that might in the long term damage consumer interests, even in fact in the short term. There are obviously other factors involved in the European negotiations, at the moment, that make looking at this in isolation difficult but the Government put in a non-paper some time ago which was of concern to the creative industries. If they have moved their thinking on they need to clarify that and get that up to the Commission.

Q111 Chair: I suppose at the heart of the debate about intellectual property, copyright, there is a tension between consumer access to the services they expect—there is a feature of the digital age: we put on our iPads and there is a certain expectation that we get content out of our fingertips—but also the monetising of this content for the people who create and make it so it makes it worthwhile to create all this wonderful content. Are we getting that balance about right in the UK just now? Or do we favour the consumer at the expense of the creator and the artist? Is this something that we are beginning to get fixed?

John McVay: I think there is a false dichotomy between the consumer and artist. I think they are aligned. If I have made something and people in Germany would like it, why would I not want to give it to them, provided I can monetise it? Why should I be forced to give it to them? There have been great shows made over the years—“Taggart” would be one that sold very well from Scotland; I am sure you all remember it well—but that is done by demand being developed. We provided a case study to the Government about “Midsomer Murders”, the UK’s largest-selling drama, which is highly popular in Germany and Scandinavia; Angela Merkel’s favourite programme—she’s got some taste—but I know from the people who sell that, when they go into a new territory they often discount that programming to help the local channel or the local VOD service build up an audience for it. Then over time it becomes more popular and they might extract more value as that channel or VOD service begins to get more money; it becomes more popular. That is something you can choose to do because you are not forced to give it away to that territory.

Now of course if you are forced to give it away, my other point, which is you will not sell it at a discount to build a market. What you will have to do is go to the person who will write you the biggest check and unfortunately that will probably be an American tech company. So instead of this driving media plurality, diversity and consumer interest in Europe it will probably drive high-value rights into the arms of American tech companies and they will control it.

Q112 Chair: Should the Scottish creative industry, particularly in the AV sector, be concerned, then, just now, about what is happening in Digital Single Market and this Government's approach and what the Commission's plans are?

John McVay: Absolutely. Going to your point, which is, "Is this part of the broader debate and discussion with the Commission and the Westminster Parliament?", obviously this has to be part of that discussion because this right up front for the Commission's ambitions. Juncker, Anele and others have come out and said this is critical to the Commission's vision. This is not a secondary issue for the Commission; this is what they see as a primary economic driver for a single market and they have identified this as one of the ways to try to stimulate European economy. That is perfectly legitimate. My worry is that high-value parts of the UK economy would effectively be thrown under a bus in order to achieve that ambition and we have to be conscious that the UK's balance of trade on high-quality audio-visual content is positive and that is something we should be determined to protect. £340 million from Europe into our economy sustains jobs, creativity, secondary earnings, payments for artists, musicians, composers, actors, writers. That is a very important part of our overall audio-visual economy and if we lose it, it will be very hard in the short term to find replacement income so that will have a detrimental effect on the quality of our content, which will have a detrimental effect on our ability to sell to other buyers globally.

Q113 Mr Anderson: I am not an expert in this field by any means but from a local business that I am working with, one of the problems he has is that he is being blocked—he is convinced by cyber-attack—from developing his business in the States. Is that something that your members have problems with, the overall security within your networks?

John McVay: Content is regularly taken off members and used illicitly. Because of the nature of programme-making you have a lot of very sensitive personal data. For instance if you were doing a programme about people who were undergoing various changes to their physique, then clearly you have researched a lot of people and you will have collected a lot of personal data, so it is incumbent on all companies to protect that data to the highest level of encryption. If there are people out there who want to get it, then I am sure they will go and try to get access to that data. As we have seen on so many occasions, in very senior level organisations, that is possible but I think it is up to every business to look at very high levels of encryption on any data or any information. Whether we have experienced any particular anti-commercial attacks on businesses I don't really know because content, we give it away free on television every night and then sell it so, other than people taking it off and then distributing themselves; but that's different.

Q114 Mr Anderson: Are you happy then, the other side of it, with the encryption that you are secure enough? The guy I am working with, he believes he is being attacked by Google. He has been told by an expert in the field, "Your best thing to do is put your server in Russia". We have had discussions with DCMS Ministers and so on and they all said, "We are all doing

the right thing” but again—and it’s my ignorance—the field you are working in will be wide open to stuff like that.

John McVay: I do not know enough about where servers should go. Certainly for my business, for Pact, we have double encryption and three sites that back up our website and all our data every night. If we do have an attack we can be restored pretty much instantaneously and I think that is the world that all businesses—we are all digital businesses now—are in so I would think that as we move into the opportunities that the digital markets bring us, I think it is incumbent on Governments, educationalists, trade associations and others to help educate businesses about how best to protect themselves and how best to develop those opportunities. But I think it has to be fair to say—going to your point—that I would look forward to the cost of data security being a standard overhead on every single business, going forward, partly through law because of data protection legislation but also because of commercial interests. We have seen some major US studios hacked and personal details being distributed widely. The cost of that to those institutions is huge. I think it is something that has to be factored into all Governments’ thinking about economic growth that this is now. It is not just your rents, your rates or your whatever else that are now a cost; in a digital world, that is a cost that you will have to cover.

Q115 Chair: On that theme we have had several submissions to this inquiry about tackling IP infringement. Both of you said something in your introductory remarks about where we are with all this. Do you think this is improving, the current problem? Is there enough being done so IP infringement is being tackled and tackled effectively?

Ian Moss: Let’s talk about physical piracy, because it is still there as a legacy issue and is certainly an issue in Scotland that we have engaged with over a number of years. I started with my remarks about BIS Scotland and the work that we have done there and the Anti Illicit Trade Group in Scotland, which brings together public and private sectors being very effective in co-ordinating issues. We have had some markets in Scotland where we have had significant issues. In one high-profile example the Commonwealth Games did help us to get over a lot of the problems—*[Interruption.]*

Q116 Chair: Sorry, I have just seen there is a Division—there will be two. We are almost through with the questions. I don’t want to bring you guys back. Is there anything else that we have missed that you could give us a couple of minutes on?

Ian Moss: Very quickly, and it is a cyber issue: the online environment is the biggest challenge. An individual can create a great piece of work whether that be a game, a film, a book, or music, and if it is stolen before it is widely released or widely sold then that can be the end of their employment in the creative industries. We are talking here about people who lose their jobs because their album is stolen or their work is stolen and distributed widely for free. All that we can do to co-ordinate activities online but, also, to get each individual bit of the value chain to take its responsibilities; so search, payment providers, advertisers and advertising should all be doing their bit and the UK Government has made some commitments on, for instance, trying to reduce the amount of pirated material in search engines but I think we need to make sure that they push these issues because for people who are entering the world of the creative industries now and the digital industry, the protection of rights online is critical to their ability to grow a business.

Q117 Chair: Quickly, any last remarks, John?

John McVay: I endorse all that. As this is a Scottish Affairs Committee, I would say that if we get this right then there are great opportunities for growth for Scottish creative businesses. Although there is a lot of scary stuff out there, the world is wide open now and there is nothing to stop great Scottish content travelling round the world and making money for Scottish creatives.

Chair: On that very positive note we thank you. Sorry about the Division. You guys are familiar enough with this to know exactly what happens with these things. Thank you very much.