

BSAC ANNUAL REPORT 2008

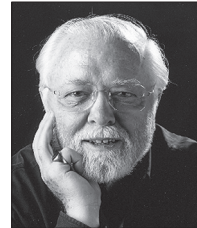


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LORD ATTENBOROUGH HONORARY PRESIDENT

BSAC is a unique organisation committed to serving the widest range of audiovisual interests. It provides an independent platform for discussion and facilitates the exchange of ideas and information, frequently acting as a vital link between policy-makers and practitioners. BSAC's membership comprises business leaders and industry specialists from many sectors in film, television and the new screen industries. This breadth of membership allows the Council to gather the widest possible views on issues that affect the audiovisual sector.



Lord Attenborough

CHAIRMAN'S INTRODUCTION

2008 saw the inexorable rise of interesting times for the screen industries. For me this was encapsulated in anecdotes. I heard a well known Sports rights broker decry YouTube as just a rights thieving vehicle that steals sporting moments and returns nothing to the sports they came from. He could not see in YouTube, a burgeoning engine of public service broadcasting with lectures on biogenesis, painting miniatures, and how to play the saxophone in the altissimo register. At a dinner party there was scoffing when screen repository Wikipedia was cited as a reference, but each year Wikipedia gets more accurate. I visited a middle aged English couple in Portugal, who a year ago used their PC for emailing family back home, and then discovered Pirate Bay, and have seen every 2008 movie for free. These are moral people and when challenged say, 'but why has nobody provided a site where we can get this material and pay for it?' They explain how their UK credit cards are not accepted by iTunes in Portugal and the UK iTunes will not accept their Portuguese ISP address. How and where can they buy legally? A good question but you can tell in their eyes they would not now pay, as they have been seduced by free, and they look guilty when I point out that every download they make kills the entertainment they love.



Adam Singer

What links these anecdotes is that they are all creations of the audience. We live in a time where the screen audience has discovered power, to choose, to create, to copy, without license, it is an interesting time for there is no traditional audience only a gathering of equals. In the past, through near monopoly, the screen industries could ensure responsibility in the audience. What makes this time interesting is how we get this audience that has discovered power, to embrace the responsibilities that go with it? This is a central question for BSAC. This is the role we need to play in the coming year.

STATEMENT BY THE DIRECTOR

2009 will be a year of change. Not only is BSAC moving from its Manette Street headquarters to Berwick Street in March, we are also beginning 2009 with a revised mission and purpose. BSAC has repositioned itself as a forum for the exchange of ideas and information on audiovisual industry issues. It will serve to understand and anticipate future trends, which will underpin its work and its dialogue with policymakers and industry. Early last year, BSAC established a Blue Skies Working Group – with a remit to examine business trends and identify regulatory frictions likely to become increasingly apparent over coming years. BSAC’s work in 2009 and its future direction will largely be influenced by the work which emerges from this Working Group. For example, a recently established spin-off Blue Skies Copyright Group will consider how the current architecture of the copyright regime can be redesigned to ensure its functionality in the longer term.




Fiona Clarke-Hackston

Change is also taking place amongst BSAC’s Membership, which has been broadened to include digital out of home advertising and thus embraces new areas of the audiovisual sector - this enables us to gain new insights into the ways in which the industry is changing.

In terms of policy work in 2009, BSAC looks forward to providing input into the DCMS ‘Digital Britain’ Review, the Lord Carter-led initiative of the future of the communications sector in the UK. The Review’s aim is to accelerate the rate of growth, and to cement the UK’s position as a world leader in the knowledge and learning economy. Early in 2009 BSAC is meeting Lord Carter, an ex-Member, to discuss this initiative. Meetings are also scheduled with David Lammy, Minister for IP, and Ian Fletcher, Chief Executive, UKIPO.

In February, BSAC will submit its response to the UKIPO consultation ‘Copyright the Future: Developing a Copyright Agenda for the 21st Century’. We are expecting a great deal of work on copyright over the year as we develop new thinking in this area and feed out thoughts to policymakers at regular intervals. We are also looking forward to engaging further with DCMS on the future regulatory regime for VOD services, following on from their recent consultation on the implementation of the Audiovisual Media Services Directive. BSAC is in favour of an industry-run, co-regulatory system for VOD services. DCMS is expected to provide a statement on policy decisions in early 2009.

A number of events are already scheduled to take place. In late January the BSAC Interview Series will continue with John Smith, CEO, BBC Worldwide. In March we will be holding our sixth annual Film Conference. The theme of the conference, ‘Getting Films



Noticed', is taken from the work of our Blue Skies Group where the importance of search to access audiovisual material was acknowledged. A further Interview is planned in July with Greg Dyke, Chairman, BFI.

The variety of issues BSAC will debate at its meetings will continue to be extremely wide-ranging. Some of the issues to be tackled early in the year include Digital Britain, the future of PSB, the appropriateness of regulation in various media environments, issues facing the games industry, new media advertising, and the future of the newspaper industry. It promises to be a stimulating and challenging year.

TRIBUTE TO DAVID ELSTEIN ON STEPPING DOWN AS CHAIRMAN

BSAC is hugely appreciative of the leadership David Elstein provided as our Chairman from 1997 to 2008. BSAC has benefited greatly from his expert guidance in all BSAC affairs, and he has chaired many meetings, seminars, interviews and conferences over the years.

David's intelligence and his tendency to think differently have greatly influenced the way that BSAC operates, and originality has increasingly become a hallmark of BSAC's work over the last decade. Council Meetings chaired by David will be remembered by all with great awe and affection. Not only did he have an ability to rapidly get to the heart of whichever matter was being discussed, he also brought a great deal of wit and humour to meetings.

We have enjoyed working with him immensely, and we are delighted that he is staying on as a Member.



David Elstein

WHAT IS BSAC?

The British Screen Advisory Council (BSAC) is an independent industry-funded body. It serves as a unique forum for identifying new business trends and provides advice to government, policy makers and the audiovisual industries. We bring together the widest range of UK interests, knowledge and contacts in the sector to provide an independent platform for the regular exchange of ideas and information.

BSAC works closely with industry leaders and policy makers to provide an informed lead on emerging business trends. BSAC helps the audiovisual sector, wherever possible, to speak with a single and authoritative voice. Over the years we have worked closely with: The Treasury; Her Majesty's Revenue and Customs (HMRC); Department for Culture, Media and Sport (DCMS); Department for Business, Enterprise & Regulatory Reform (BERR); Department for Innovation, Universities & Skills (DIUS); UK Intellectual Property Office (UKIPO); Office of Fair Trading; Competition Commission; The European Commission Directorates for Information Society and Media; Education; Internal Market and Services; Trade; Competition; Training, Culture and Youth; and Enterprise and Industry; World Trade Organisation (WTO); and World Intellectual Property Organisation (WIPO).


Council Meetings provide Members with a regular opportunity to exchange information and ideas on commercial, policy and technological developments across the audiovisual sector. We invite speakers, drawn from our membership and the industries, to update Members on rapidly changing industry trends.

Working Groups address specific business and public policy issues and tap into Members' considerable expertise and knowledge. Most of BSAC's responses to Government consultations are produced by Working Groups.

BSAC also commissions and generates original research and reports to underpin policy and consultation documents. These provide a vital link between policy-makers and the industry.

BSAC holds regular events, including an Annual Film Conference, an early evening Interview Series and seminars on current issues for Members.

BSAC Members are invited to join on the basis of their personal qualities, experience and expertise within the audiovisual sector. New Members are regularly invited, while the membership of existing Members is kept under review. Our Members include senior executives from television, telecommunications and new media companies; international film producers and distributors, cinema exhibitors, video distributors, technical experts,



business people with media interests, media lawyers, communications consultants, TV producers, trade unionists and the heads of training and trade organisations.

Associate Membership enables businesses with a particular interest in the sector, such as legal firms and accountancy practices, to become involved in BSAC's work. Associate Members are an important first port of call outside the Council's full membership for views on audiovisual issues, sitting on Working Groups and contributing to the Council's work.

BSAC is an independent body whose core funding is provided by its Members. Additional research is funded by Associate Members. Specific projects and events are also funded by separate sponsorship.

MISSION STATEMENT

The main aim of the Council is to enhance the prosperity, effectiveness and reputation of the UK audiovisual industries by:

- providing a unique forum for senior executives and specialists from diverse sectors to exchange ideas and information
- operating as an industry body, independent of government and individual corporate interests
- placing priority on the collection and presentation of facts and views held by different sectors of the industry to inform business and public policy issues
- making effective use of the broadest possible spectrum of knowledge and experience to convey informed independent and authoritative advice to the UK and European Governments
- exploring and assessing the impact of technological and commercial developments on the audiovisual industries.

ISSUES ADDRESSED BY BSAC IN 2008

This section provides some highlights of BSAC's policy work and Council Meeting debates in 2008.

Audiovisual Media Services Directive (AMSD)

At the October Council Meeting, Chris Bone, Head of International Broadcasting Policy Department, DCMS, spoke to Members about the DCMS consultation on the implementation of the Audiovisual Media Services Directive in the UK. Mr Bone explained that the consultation was focusing on how the UK would meet the requirements of the new Directive – which would have to be met by the end of 2009.

He said that the Directive introduced relaxations to existing EU rules about television advertising. The old Television Without Frontiers Directive had some stringent rules regarding the amount of spot advertising that television channels could have and the scheduling of those spots. In both cases, the AVMS Directive proposed alterations. Ofcom had been consulting on both issues. Another area of note was the enhanced collaboration procedure. This sets out how any one EU Member State can complain to any other Member State about the content of television broadcasts. There were no major changes to the 'country of origin' rule, i.e. that a broadcast is regulated by the rules within the Member State where the broadcast originated. Any concessions on the part of a broadcaster will be a voluntary act rather than something enforced by Ofcom or any other party.

There were three aspects of the consultation document which would require legislation. One was the scope of video on demand (VOD) controls and the way in which an industry-run, co-regulatory system could be introduced. The second was about product placement. The third issue was that the UK will be given jurisdiction for non-EU television satellite stations that are relayed into the EU through UK-based uplinks. The latter was essentially a question of extending Ofcom's existing licensing regime to those stations, and possibly creating a new control mechanism that allowed the removal of unacceptable content from the uplinks.

Mr Bone said that the VOD section of the document was divided into three parts. Firstly, there was material about the scope of the new controls and the definition of VOD in relation to other audiovisual material on the Internet. The second issue was the creation of the co-regulatory system and its legal basis. It was important to achieve a system where the industry was in charge. However, in order to make sure that UK citizens have certain guarantees about content, there needed to be some kind of legislative

backup, a mechanism by which the Government, preferably Ofcom, could intervene in the unlikely event that the system did not deliver. The third issue was how, and to what extent, the regulatory system would cover advertising offered as part of or alongside VOD services.

Andy Burnham, Secretary of State, DCMS had made a clear statement that the Government needed to be convinced about the merits of product placement. Mr Bone said that this did not mean that the issue was closed, however, but Ministers would need to see fairly strong arguments before they could convince Parliament that product placement was the way forward. They also needed to make sure that they could at least retain the UK's current position where neither prop placement nor product placement in existing products that broadcasters bought was an issue.

Mr Bone said that the consultation was due to close on 31 October 2008. DCMS would put together a summary of responses in January 2009. The summary would be accompanied by (or followed shortly with) a statement with conclusions of policy decisions that the Government had taken. The three issues to be addressed by legislation would then go to the House of Commons and the House of Lords. It was likely, but not absolutely inevitable, that legislation would take the form of an Order under the European Communities Act 1972. This allowed the Government to change primary legislation, in this case probably the Communications Act 2003, in order to bring in European requirements. Whatever form the legislation took, it was anticipated that it would be brought before Parliament in early 2009. Whatever process was necessary subsequently would depend on the nature of the legislation. It would be clear by summer 2009 what shape the regulatory system for VOD would take.

Mr Bone explained that if there was to be an industry-run, co-regulatory system, it would need to be effective by 19 December 2009 (the date the AVMS Directive was due to be implemented). Ofcom anticipated reconvening the VOD working group in order to inform the Government's final decisions on VOD. Ofcom had also begun discussions with companies offering VOD, and will work with the industry very closely over 2009. There were 14 months left to make sure a system was in place that enabled the UK to deliver the basic content standards of VOD that the AVMS Directive required. Mr Bone said that if for whatever reason the system failed, it would be inevitable for Ofcom to step in - which would be a solution neither Government nor the industry favoured.

BSAC response to the DCMS consultation on the AVMS Directive implementation

BSAC subsequently submitted to DCMS its response to the consultation on the implementation of the AVMS Directive. In the paper, BSAC welcomed the Government's preference for a co-regulatory approach, based on the existing structures created by industry, and also agreed that the Advertising Standards Authority (ASA) was well-placed to take responsibility for advertising regulation. However, the paper raised some concerns relating to the proposals surrounding the scope of regulation, advertising relating to VOD programming, and was in support of product placement.

It was noted in the response that the consultation document omitted some of the elements of definitions that appear in the Directive, and in some cases changed the terminology in its descriptions. BSAC's concern was that a failure to incorporate and reflect accurately all the relevant elements of the Directive could result in more services being caught by the regulation than was appropriate or necessary. Overly wide or restrictive regulation was likely to lead to many online service providers relocating or establishing themselves outside the EU, which could have a negative impact on economic activity as well as compromise consumer protection objectives. The current focus on the "principle purpose" of a service (as a means of testing which should fall within the scope of the regulation) cannot work, services are constantly evolving and changing their offerings, therefore making it increasingly difficult to make distinctions between them for regulatory scope purposes. BSAC also had some concerns that in certain places in the consultation document, it appeared that the Government's motivation was to try to capture a company (or a person) within the scope of the regulation, rather than to foster fair and effective competition within the audiovisual sector. Where no obvious entity or person met all relevant criteria, in BSAC's view the most appropriate approach would be to refrain from imposing unnecessary restrictions. The paper also argued that it was essential that The Principles of Better Regulation must be followed in the implementation of the Directive, therefore ensuring that legislation is only introduced/amended if absolutely necessary.

Another area of concern was that the consultation document implied that all advertising associated with VOD programming would be subject to regulation. In BSAC's view, only advertising which is embedded into an on-demand programme and not other forms of display advertising (such as banner ads) should be subject to the proposed regulation.

BSAC also argued that permitting product placement in some genres of TV programmes would result in the creation of a much needed and potentially significant new revenue stream, without adversely affecting editorial integrity. If the UK prohibited all product

placement, while other territories permitted it, the UK's creative industries would suffer competitive disadvantage.

BBC Trust

At the February Council Meeting, Sir Michael Lyons, Chairman, BBC Trust, spoke to Members about his first ten months as Chair of the BBC Trust.

Sir Michael said that the great triptych to 'inform, educate and entertain' remained at the heart of the BBC's mission. There was no doubt that the BBC remained a powerful voice and influence with a very large economic footprint. He was speaking against the backdrop of a number of controversies about whether the BBC was adequately governed; whether or not it had always been as impartial as it ought to be; whether it offered best value for money and whether it was challenging enough about the best use of licence fee payers' money.



Sir Michael Lyons

The Charter had created the BBC Trust as a sovereign body within the BBC to take important strategic decisions independently of senior management and the executive. The Trust was an attempt to create some independent oversight but also to be clear about the separation of responsibilities from the day to day running of the business and editorial decisions. There was still a remaining controversy about whether one could be both a parent body and a regulator at the same time. The Trust's responsibilities are laid down in the Charter. They are to: oversee how the licence fee is used; provide strategic direction; scrutinise the extent to which the BBC meets the six public purposes; respond to the needs and aspirations of licence fee payers; and to maintain and protect the independence of the BBC.

Sir Michael said that the Trust had grown stronger in its first year. It was strengthened by having its own support staff in the Trust unit. It had twelve new trustees, four of whom have explicit responsibilities for representing the nations and regions in the UK. They had set up some key instruments of intervention, not least the public value test. This focuses on the market and service impacts of any new service proposition, so that those issues can be balanced before approval is given. The job of issuing new service licences used to lie with the Secretary of State. The new Charter gave the BBC Trust the power to make those decisions. But in return, it put an emphasis on independence and enhanced scrutiny in challenging executive decisions. The Trust had approached this task with a strong emphasis on engagement with audiences.

The Trust was developing its expertise in audiences in terms of the quality of survey instruments, but was also using mechanisms like the Audience Councils in the regions and nations to explore what the public wants. It recognised from the beginning that this will be extremely diverse and involve some contradictory messages that will need balancing. This would be done with an open engagement with the industry. An increasing amount of energy had been put into engagement and communication inside the BBC, so that staff could understand the contribution the Trust was making. There was a strong emphasis on basing decisions on evidence that can be put in the public domain. It was the Trust's role to strengthen the BBC by being clear about the process of challenge and scrutiny of the way it uses money and uses its power and influence.

Sir Michael said that it was a challenge to be a parent body with regulatory powers. It required the Trust to be very careful when it was in regulatory mode. The Trust does not exempt the BBC from regulation by Ofcom and the Competition Commission. Indeed, all it does is give the BBC the opportunity to make sure it puts its house in order itself before being challenged by external regulators. He emphasised, however, that the Trust does hold the final word on accuracy and impartiality and that it is important, when considering matters on that basis, that the Trust underlines its independence. He acknowledged that there were some tensions in the Trust's relationship with Ofcom, but he thought that was something they managed well: there is mutual respect for one another's contributions. After the first year, the Trust could demonstrate a real impact on the six year plan, not least the emphasis it placed on the unsatisfied public appetite for more distinctive output from the BBC. There was a clear emphasis on the importance of value for money and efficiency, pressing the BBC to go further than it would have liked to have gone. There had also been swift action on editorial standards when the lapses became public during the summer.

There had been some major decisions in terms of new services, such as the iPlayer, and the approval of Freesat. Sir Michael said that a first strand of service reviews looking at the BBC website was taking place at that time. The next strand of reviews would look at services for children and young people across the range of BBC outputs. The Trust was coming towards the end of a review of the BBC's practice in terms of top talent cost, whether it sets the market or responds to it, and whether its practice is as good as it should be. The Trust had commissioned an important piece of work on the issue of impartiality in the delivery of news and current affairs in the context of devolution.

BBFC

At the July Council Meeting, David Cooke, Director, BBFC, spoke to Members about online classification of entertainment. He said that recent BBFC research had suggested that 84% of adults and 91% of parents would find it helpful to have BBFC symbols on downloaded films. BBFC online had been launched in May, with the initial partners Disney, Warners and Fox, and had since been joined by 2Entertain (a joint venture between VCI and BBC Video), LOVEFiLM and iLoaded. Conversations with many other leading content providers and aggregators were also taking place. Mr Cooke explained that BBFC online was based on a voluntary membership scheme. The proposition was that downloaded/streamed films would be made available with the BBFC's recognised classifications, category symbols and consumer advice. If members of the scheme wished, an electronic black card could be shown at the start of the film, or there could be a link from a portal where one could roll over a classification symbol and then consumer advice/additional information would appear. Extended consumer information was being produced, which provided information about the issues that parents and others might be interested in when they were considering watching a particular movie.

Mr Cooke explained that BBFC online was subscription-based. The idea was essentially a 'buy one, get one free' proposition, enabling members to obtain a free classification for a new work in physical form, or, if it was a catalogue request, at a cost of £45 per title. For content providers, the key benefit of the proposition is to be able to provide a clear demonstration of a continuing commitment to child protection and provision of additional information; and for retailers and aggregators, the value-added proposition was proving attractive. To date, around 900 works had been classified in BBFC online with another 200 in the pipeline.

Mr Cooke said that the scheme did not currently apply to online videogames. However PEGI (Pan European Game Information) online was in existence, which BBFC would be perfectly happy to work through. He said that there was no obvious need for legislation to back up BBFC online. However, there was a question about some of the companies that might want to join the club (e.g. the porn industry). A number of organisations were involved in a slightly separate version of BBFC online. However, how extreme content is treated is a question for Government in the first instance. Mr Cooke observed that in those cases, one might be able to rely purely on criminal law.

Blue Skies Working Group

In 2008, BSAC established the Blue Skies Working Group, chaired by John Howkins, to explore the future development of the audiovisual industry. The findings of the Working Group have informed the recent re-positioning of BSAC, and its new mission statement.

During the meetings, the Group analysed various technological and service trends, including: levels of consumer participation; the capability of citizens and consumers to publicise their own works; citizens' production of media (that are often cost-free and IP-lite); the increase in bandwidth; the increase in the number of devices and gadgets; the increase in billing mechanisms; the increase in piracy; and the blurred boundaries between sectors such as recorded music, online networks, photography and short films.

The Group observed that, partly for technological reasons and partly for demographic reasons, there was a shift from a supply-led business to a demand-led business. The old model where producers, broadcasters and distributors effectively monopolised their relationships with audiences had given way to a new model where the audiences were disaggregating, and consumers were more and more instigating production and delivery. In some ways this switch reflected a normalisation of the sector, in other words, television and film were becoming more like any other industry.

The Group considered consumer demand and recognised that there are four basic demands i.e. what I want, when I want, how I want, and paid for when I want. It was obvious to the Group that the industry was not meeting the first two demands. The last point was more open. Cash payments, subscription and advertising as business models were discussed, as well as piracy as a matter of consumer choice (and one that consumers were increasingly opting for because the industry was not meeting their other demands).

The Group assessed the popularity of online search services, and considered that the old strapline 'content is king' might now be usefully accompanied by "search is king". It was noted that search was an important part of retailing. The Group concluded that a consumer-driven retailing management model was the way forward for the industry. The model would consist of three elements: content, search, and delivery (often ISP delivery). The last element included not only the technical act of getting something to a gadget or device, but also ordering, payment, fulfilment and after-sale service.

Other themes addressed by the Group were the issues of: pricing; value and how it is perceived by the consumer; gatekeepers (and the idea that traditional 'legacy' gatekeepers are likely to disappear); 'share of mind' (similar to broadcasters' 'share of time'); and release windows (i.e. the kind of problems they pose in stopping people seeing what they want to see).

The Group confined its observations on regulation to principles and agreed that good regulation requires collaboration between the policy-makers and the industry. The principles of good regulation adopted by the government and the European Commission, including the need for it to be transparent, evidence-based, consultative and proportionate, were useful foundations, but it was also true that there was a need for government to look much further ahead and to be much more open. Sector-specific regulation would be increasingly subjugated to consumer protection regulation. The Group also looked at the implications of competition policy, and the extent to which cultural goods need protection.

On 2 October, BSAC held a Blue Skies Seminar to launch the final report and at which Working Group Members outlined the Group's conclusions. (See Events section for summary of the Seminar). The main focus of BSAC's work during 2009 will be building on these conclusions.

Byron Review

At the April Council Meeting, Dr Tanya Byron provided a summary of the issues raised by the Byron Review, an independent review of the risks children face from the internet and video games.

She had been asked by the Prime Minister to carry out the review in six months. The remit was very broad, i.e. to look at harmful and inappropriate content both in videogames and online. It was important firstly to define what was meant by "harmful and inappropriate content". The focus was settled on *content*, *contact* and *conduct* as they related to children (i.e. not solely looking at the content in videogames, but also the way they were behaving as actors themselves, which included questions of who may be contacting them and whom they may be contacting).



Dr Tanya Byron

Dr Byron had been clear from the outset that the new technologies she had been asked to examine offered enormous opportunity and benefit as tools of learning and development. She was also clear that the review was not about closing things down and taking a paranoid and protectionist view of risk - but that in the online space, opportunity and risk were very closely correlated. Therefore the review required a pragmatic and proportionate approach to risk-management in a way that doesn't damage the possibility for opportunity.

In the current culture of fear, however, the 'zero risk' approach was very present, so children had a narrower world in which to exist. She found that her strategy was difficult to communicate without people becoming extremely agitated. Alongside that, it was important to be clear that there was a digital generational divide, i.e. there were children with fairly web savvy parents, who were creating extraordinary content and running ahead with the technologies – and on the other hand there were many children who had parents who didn't know how to set up a video game, never mind play it. A lot of the panic about videogames was related to the fear of the unknown. Without wanting to trivialize the notion of risk, she aimed to try to de-catastrophise what she could see had been a huge and very anxiety-fuelled and polarised debate.

She had felt strongly that the voice of young should be central to the review. She had published a call for evidence and a separate call from children and young people - to which she had received more responses than from the industry, adults and policy-makers. Dr Byron illustrated the value of children's observations, many of which indicated an awareness of the difficulties represented in the online world. Children had also indicated that they want to be guided and advised without being subject to ineffective access restrictions. Dr Byron had a lot of engagement with children with disabilities, and both video-gaming and the online space were essential for them.

There had been various workshops and other events and after this process the report at the end of March had been published. The recommendations were accepted in full.

In her recommendations, Dr Byron said she had tried to achieve a balance in terms of understanding that inappropriate and harmful material, if it was not illegal, was a very subjective response. For example, one parent asked her not to close down the pro-anorexia website, because she wanted her daughter to be able to look at it with her, as these things can help children to understand what the world is about. The question was how parents, adults and teachers could be empowered to think about how children can be educated about the online and digital world risks - the ones which we are not familiar with because we did not grow up with them ourselves - in the same way that we feel able

to help our children understand, assess and manage the offline risks.

John Whittingdale MP, Chair of the Culture, Media and Sport Select Committee indicated that the Committee was mid-way through their Inquiry on the same topic and had been covering much of the same ground, however the Select Committee was extending further into the different potential harms that the internet could be used for, not necessarily exclusively focussing on young people. The Committee was also looking at gaming and planning a visit to the US. (The final conclusions of this Inquiry were published on 31 July 2008).

Creative Britain

In February, there was a discussion about the 'Creative Britain – New Talents for the New Economy' report, which had recently been published by Government. Led by DCMS, in partnership with BERR and DIUS, it contained 26 commitments, outlining how Government would take action to support the creative industries. The paper was the latest iteration of work coming out of the Creative Economy Programme (CEP) which had been ongoing since 2005. BSAC Members Fred Hasson, former Managing Director of TIGA, and Simon Persoff, Director of Regulatory Affairs, Orange Home UK, were invited to respond to the document.

Mr Hasson expressed an enormous disappointment with the report. He wondered what had happened to the strategy that had been put forward in the original seven CEP working groups (covering infrastructure; competition and intellectual property; access to finance and business support; education and skills; diversity; technology; evidence and analysis). In his view, the report was not even a recycled creative economy programme, it was vintage. He asked whether DCMS had not realised that young people were voting with their feet with a technology that was already available to them? In the games sector, the industry had been throwing money at sites and tools to encourage amateurs to make new games, and they monetized them. Now the seven groups, initially aimed at the industry, had been essentially superseded by 5000 apprenticeships to help people from all backgrounds make the most of their creative skills. In the games industry skilled workers were needed, not kids who think they know it all.

The World Creative Business Conference had been advertised as an annual event, bringing together world leaders in the creative and financial sectors. Steps to protect intellectual property had been promised, including the commitment to take action on illegal file sharing in 2009 if the industry failed to reach a voluntary solution. He referred to the concept of 'creative hubs' as represented by Media City in Manchester. There had been an admission that, yet again, there needed to be a reorganisation of business

support and access to early stage finance. In Mr Hasson's view, the industry had been promised action and had been delivered platitudes. They had been told by the OECD in 2006 that the creative industries accounted for a greater share of GDP in the UK than in Canada, the USA, Australia or France. In 2007, however, Canada overtook the UK as the third largest producer of video games and all the countries mentioned above did more to support their video games industry than the UK.

Mr Persoff said that the ISP and telecommunications industry felt disenfranchised by not having been sufficiently consulted by the DCMS, Treasury and also the Gowers Review. ISPs had been having a difficult time commercially - most had been loss making since they were created. The reasons for this included bandwidth costs and the amount of traffic, for which they themselves were paying, not their customers. ISPs were also in a very price elastic market. Any process that enabled them to limit the amount of bandwidth that customers use for the purpose of copyright infringement was something they were very open to discuss. Orange had suffered as approximately 70% of their customers use about 10% of their bandwidth, and the remaining 30% use up to 90% of their bandwidth. They were not in a position to monitor what customers did online, technically or legally, but recognised that there was a problem with online copyright infringement. Any piece of audiovisual content downloaded, in breach of copyright, over the internet was one less sale they could potentially make – so there was a clear commercial incentive to tackle online copyright infringement. Orange and other service providers had tried to engage with rightsholders on this problem. However, they feel that the process is one-sided compared, for example, to the situation in France where an agreement was being negotiated. In France there will be carrots as well as sticks, including earlier rights for ISPs and telecommunications operators in relation to some content. Looking at Gowers and subsequent documentation, there was nothing in terms of carrots, and only sticks for service providers. They had stated that if ISPs did not enter into an agreement with rightsholders, the Government would legislate by April 2009.

Service providers were being asked to take a quasi-judicial role in suspending or terminating internet access accounts, in order to enforce the copyright of third parties. In any other area of copyright infringement, enforcement was normally initiated by the rightsholder, enforcing his/her rights before a court. Orange did not think it was the right decision ethically for a service provider to make an assessment of whether copyright has been infringed. There were almost no precedents for an innocent third party being asked to take that kind of action. The telecommunications industry had not lobbied as effectively as rightsholders. There seemed to be an almost universally held view within Government that it was a service providers' problem, and that they must come up with a solution.

Article 12 of the E-commerce Directive, which had not been incorporated into UK law appropriately, gave service providers a limitation on liability for what their customers did when they were online. It was called the 'mere conduit defence.' As ISPs were merely the conduit through which customers access the internet, they were held no more responsible for what they do online than the post offices for what people write in letters. However, ISPs were willing to reach an agreement with rightsholders. It was important to note that there were costs associated with such an approach. Each time they were asked to assess whether a customer had infringed copyright – which might include looking at blogs, matching the IP address, passing on service subscriber details, or even checking whether a customer is on their network – there was an associated cost which, in their view, should be shared with rightsholders.

Orange believed the solution should include as many carrots as sticks. He cited the example of 'Heroes Season 2' (which at the time was not available in the UK). Clearly there was a demand, and articles in the press had stated that 'Heroes Season 2' was one of the most downloaded pieces of audiovisual content. Why not release it in the UK at the same time as it was released elsewhere, so that customers, who would not necessarily download it unlawfully if they could pay for it, could do so? Why not allow the back catalogue of music archives to be released lawfully via iTunes, or Orange's own music download service, so that the vast majority of those who would pay for it were able to? There would always be a small proportion of customers who would download content unlawfully, even if it was available legally at reasonable cost. For those customers, enforcement was clearly the only option.

Orange was concerned that a situation had emerged where service providers, trying to get content for their IPTV service, were finding that the terms and conditions placed on them were arduous. They felt they were not getting as good a commercial deal as some other distributors. On the other hand, it may well be the case that those same rightsholders were being extremely strong-willed in their negotiations around copyright infringements. It seemed unfair that when it came to copyright enforcement they pleaded poverty and when it came to find a fairly reasonable deal over IPTV, ISPs found themselves under the heels of these very large companies. This is where he saw some of the carrots: in making content available, as in France, as early as possible via the IPTV platform.

Creative Content Online

BSAC responded to the EC Communication on Content Online in February. The Communication was issued eighteen months after the original consultation (to which BSAC had also sent a submission). The Communication built on and extended the Film Online document, which had been developed several years previously.

In the response document, BSAC made the point that constraints such as bandwidth remained a problem leading to lower penetration levels for audiovisual material online than for some other types of content. The differences between audiovisual material and other content needed to be acknowledged, particularly the fact that much audiovisual material is only viewed once. It was observed that business models in the online world, enabled by DRMs, would be likely to provide the same sort of choices as in the physical world where consumers can pay less for less consumption. Conclusions drawn from behaviour in one sector should not be used to justify regulation in another sector - BSAC continued to support a light touch regulatory regime and a market driven approach. However, solutions to permit use of orphan works are important.

The paper explained that DRMS permit right holders to monetise content, and consumers seem to support their use where this permits them to pay for only what they really want. Issues of interoperability may be less important for streamed content which may be the predominant way audiovisual material is consumed in the future, but BSAC supports continued efforts to reach a consensus on standards. Providing consumers with simple information about what they can and cannot do, and that DRMS have been used, is fair, but flexible guidance rather than regulation is the right approach if this needs to be formalised given that what is appropriate is likely to change as business models change. Awareness campaigns about copyright should draw attention to the beneficial enabling features of technology.

The paper argued that a Recommendation on multi-territory licensing was not appropriate for audiovisual material, not least because there is no convincing evidence of problems and/or that multi-territory licensing is the best way to meet consumer demand and deliver diversity across the EU. Single territory licensing was likely to remain an important option, and for the foreseeable future online licensing must fit in with licensing of the different windows in the physical world and how these vary between territories. Many factors were important to licensing choices, such as likely consumer interest in the material, access to marketing spend, other copyright issues such as exception regimes, and non-copyright issues such as bandwidth and rules of classification. Therefore, any perceived lack of multi-territory licensing for audiovisual material should be used with great caution in drawing any conclusions on licensing alone.

The response also stated that collaboration with ISPs in the fight against piracy in the online world was essential and urgent, but was proving difficult to achieve in the UK. In considering the approach going forward a number of models could be used. Conditions in Member States may vary and it was important that schemes should be practical and workable.

Customer Lifestyles and Behaviours

In September, Phil Stokes, PricewaterhouseCoopers provided a presentation about their three year research project into the media and entertainment market. The current forecast looked ahead to 2012, and showed that the industry as a whole was in good shape, growing at 6.6% compound annual growth rate. The report concentrated on who would be able to generate the revenues, rather than on profit.

The segments in the market that were growing with double-digit growth per year were internet access, TV subscriptions and video games as well as internet advertising which was expected to grow at almost 20% p.a. over the next 5 years. PwC also looked at specific ways money will be generated. Internet access would generate just under \$350 billion dollars worldwide in 2012. \$634 billion dollars would come from advertising, and would grow at 6% on a global basis. Internet advertising would lead with 20% growth rate - in five years time, 20% of all advertising would be internet advertising. Consumers were expected to spend \$1.2 trillion worldwide on media products and access in 2012. TV subscriptions (including license fees) would still take the largest share in this respect, followed by casinos and regulated gaming, while music, newspapers and printed book segments would have a more difficult time.

The UK market showed some anomalies, with some disproportionately large and small segments. The TV and licence fee segment would grow at 7.5% (held back by the BBC's licence fee). As for internet advertising in UK, it already stood at a 15% share of all advertising, and the forecast showed that it would attract a total of 35% of all advertising in the UK by 2012.

Six drivers underlay the global numbers;

- Emerging markets: The BRIC nations (Brazil, Russia, India and China) will generate significant growth (about double the rest of the world over the next five years).
- The Net generation: People who are the first to grow up with new media as a given, approximately everyone born after 1977. Such consumers would use media differently from older generations. In India and China alone there were a billion people under the age of 25, 30% of the UK population were under 25. The younger generation's media consumption and demand had an impact on the older generations - the parents and grandparents generation seemed to learn how to access a type of media they had not accessed before. However, people aged 50 and over remained particularly important for the traditional media. Globally, the 50+ population would increase from 1.1 billion to 1.25 billion.

- **Multiple Technology Tipping Points:** Technology and devices were a driver of growth in all segments of the markets. The level of adoption of broadband internet connection at households will have the most important impact. Worldwide broadband households will double again over the next five years. In the UK penetration of broadband households will be around 85% by 2012. Global internet access spending (both wired and mobile) will rise at a 12.1 percent CAGR to \$341 billion in 2012. The broadband household universe will more than double, rising to 661 million in 2012. Recorded music will be the only one out of 15 sectors where digital distribution will exceed physical distribution in five years time. In Asia Pacific it will happen in about 2 years, in the US the year after that. It would not happen in Europe before 2013. In other sectors competing factors could be seen. While HDTV and Blu-Ray were bringing people back in front of the screen and were exciting people about high quality television, at the same time another segment of the audience was diverting its attention to YouTube to watch low image quality clips. There was a real divergence in what people were looking for.
- **Media on demand:** Internet advertising, on demand book publishing and digital downloads of music will be driving almost a quarter of the growth that could be seen in the entire media and entertainment industry over the next five years. But even by the end of that period these would still only represent 11% of the \$1.2 trillion industry that PwC forecasted. There will still be an enormous amount of traditional media which consumers would pay for. PwC strongly recommended continuing to look for new ways of distributing content, and to not lose sight of monetising traditional media in the way it always had happened, and to use the money generated this way to seek out new ways to monetize content distribution via new media platforms.
- **Traditional Foundation, Digital Migration:** One of the areas where the impact of the younger demographics on the older could be seen was global video games. By the end of 2012, the video game industry market would be more than double the size of the recorded music industry market. There would be a special interest in advertising in video games, although this was in a very early stage at the moment.
- **Collaboration:** In a marketplace as complex as the media industry, the understanding of the need for collaboration would be imperative. A number of collaborations between fierce competitors on the creative side to establish portals or online destinations could already be seen.

Results from PwC's focus group based consumer research were presented. Typically a focus group would consist of two sessions, the first for a younger group aged 16-24, the second for the older demographic. One of the key findings was that the differences between the two age groups had seriously closed over time. Downloading was no longer the preserve of the young, and according to the research this mainly concerned music but increasingly TV as well. PwC had identified two types of consumers - the 'solos,' who downloaded material, kept it and would not usually think of sharing it (tending to be older demographics). And then there were the 'socials' that shared material and engaged with social network sites.

PwC observed a general resistance to paying. There were different thresholds for payments depending on the type of content and also the proximity to general release. Some of the quantitative research showed a willingness to pay to see content sooner rather than later. There seemed to be a high acceptance of file sharing sites, including the willingness to compromise on quality, reliability and security. Streaming was becoming more valued for broadcast media consumption than downloading. Advertising was accepted, providing it was highly targeted for consumers to trust and engage with it. When people were willing to pay for content, it was typically because the service providers had good performance, were innovative, creative and most of all offered convenience.

DCMS Policy

In July, Andy Burnham MP, Secretary of State for Culture, Media and Sport, spoke to Members about DCMS policy priorities.

The Secretary of State welcomed BSAC's work on technological change. From the perspective of the DCMS, the main exercise at the moment was the Convergence Think Tank (CTT). He encouraged the Council to further feed into the process. An interim report was expected in the autumn.

Increasing convergence was a key development that was rapidly changing the media environment, but importantly this change was not occurring at the same speed for everybody (i.e. for younger and older generations). This divergence of what, where and how people were using media played an important role in understanding the current media landscape.

Taking over his new role as Secretary of State, he had been confronted with a strong sense of both possibility and uncertainty. He was worried that a clash existed between the old and the new media worlds, and that people felt uncertain about how to make

sustainable for the future the best of what was available at present. In the context of the differences in the ways in which people were using media, important questions were not only what the audience would be watching or how they would be watching it, but crucially how and if they would pay for it. From a DCMS perspective these questions were crucial and urgent. There was a danger that people would regret in the future what was being decided today.

To understand the nature of the current changes in the media industries it was instructive to look back to the internet pioneers and examine some of the ideology that had been around when the internet was first created. Tellingly, the idea that content was free had been planted very early on. A speech to the World Economic Forum in Davos in 1996 included the challenging claim that the existing legal concepts of property had no meaning in the new space that had been created. This had been a powerful idea, but at the same time very destructive to the creative industries. Only within the last few years have people begun to reassess and re-evaluate some of those early questions.

The Secretary of State said that these questions were being considered at DCMS in the context of reassessing the old systems to make them fit for the new age. These policy areas were: debates around illegal file sharing, the Byron review on child safety online, the classification of video games, and the question of the sustainability of public service broadcasting. All of these questions were iterations of the same central problem of how to carry forward what was available today and make it fit for purpose in a new era. On the consumer side this included the question of how to equip people with the tools to competently navigate the changing media landscape. It also included issues around quality standards and the integrity of programming British viewers had become accustomed to and depended on.

He said he wanted to reassure the Council that this approach was in no way an anti-technological one. On the contrary, technological change provided hope for enriching cultural, creative and sporting life in very positive ways. For example, technology changed the rules of the media professions. In the past, a young person who wanted to work in the world of film and television would have to send CVs to people around London in the hope of 'miraculously getting through the net.' This did not apply today. Instead, people showed their creative talents to the world from their home, a process which was hugely democratising and liberating. In short, the potential for social mobility was vast, but it would only be a true force for good if people were given the tools to keep up with current quality standards.

Ten years ago, when the Secretary of State had been a special adviser in the DCMS, it had been hard to make the argument that the creative industries would be the future of the economy. Today a visit to the new MediaCityUK in Salford provided a glimpse of the future, a £3billion investment in what would be the biggest media facility in Europe. People were investing in the media industry with huge sums because they recognised this would be an economic driver for the future. However, unless solutions for protecting copyright and intellectual property were found, this economic potential would be lost. It was imperative to develop systems that protect creative value in the new media world to realise the full benefit of investments like MediaCity and other investments.

The Secretary of State concluded by saying that at the core of all these transitional issues was how to develop the cultural benefits of technological change, while at the same time protecting the creative processes. Another facet of this problem was finding the right balance between conceptualising people as both citizens and consumers. Citizens want high quality news, regional broadcasting, impartial content, a copyright system that is not undermined, and a continuance of the media systems that had been created and provided good service for many decades. These values might not be in line with what people ask for as consumers and vice versa. The question he posed to Members was how to find the best solutions for striking the balance for benefiting the population and the industry.

Convergence Think Tank

In the October Council Meeting, Tess Read, Industry Advisor, Convergence Think Tank (CTT), provided a brief outline of the CTT work. She explained that CTT was comprised of DCMS and BERR officials, representatives from Ofcom and various consultancies. The CTT had been launched by the then Minister of State, James Purnell a year previously. The public face of the CTT was the seminars that had taken place in London and Liverpool, to which stakeholders had been invited. The private work in DCMS and BERR so far had supported the process, but had not yet resulted in any official output. The appointment of Stephen Carter as Minister for Communications, Technology and Broadcasting had made the work even more important. Stephen Carter had set out his vision for taking the CTT forward, which will be reformed into the Digital Britain Review.

Digital Cinema Rollout

In October, Phil Clapp, Chief Executive, Cinema Exhibitors' Association (CEA), spoke to Members about digital cinema rollout in the UK. He began by explaining that cinema was still primarily a 35mm business, which meant in practice big reels of film being transported across the country from cinema site to cinema site.

Benefits of digitisation for distribution studios were significantly cheaper production and distribution costs. For exhibition, it potentially brought greater flexibility in programming, as well as access to 'alternative content', such as live opera and live concerts. It was also a gateway to new generation 3D cinema.

The UK remained in the early stages of the transition to digital. 8% of UK cinema screens were digital, primarily by virtue of the UK Film Council's Digital Screen Network, which had digitised around 240 screens. Progress had been slow and the main obstacle was cost. Costs were about £40,000-£50,000 per screen, digitisation would cost around £150 million. Most of the discussions between exhibition and distribution studios were over who should pay. At the centre of the agreements which had been reached in Europe and in the US were 'virtual print fee deals'. This was an agreement whereby, on top of an initial exhibitor contribution, distributors provide a certain amount of money to offset the costs of conversion of screens every time a digital print is shown by a cinema.

These discussions were ongoing on both sides of the Atlantic and around the world. Although the UK was by no means 'at the back of the pack', it was a concern that the transition to digital cinema was taking longer than expected. One of the key questions was the position of smaller operators. Around 10% of CEA members accounted for around 90% of screens. So there was a very long tail of small operators with one to three sites comprising single digit numbers of screens. The key issue, in terms of maintaining the integrity of the sector as a whole, was how they were supported from 'one side of the river to the other'. In the US, and hopefully in the UK through the CEA, attempts were being made to establish a form of negotiating group with the idea of creating a critical mass of small operators, so that some kind of deal could be done. There was no appetite for public subsidies at this stage. The key suspicion was that if even a small proportion of public money came in, the cost of production equipment would stay robustly high and any kind of deals might become much more difficult. In short, there was a strong desire for a market-driven approach. Coincidentally, the UK Film Council had indicated that there were no subsidies available. The CEA's position was clear in that there was a proportion of exhibitors, as yet unidentified, for whom digital cinema was not an achievable goal. These operators needed to think about what their position would be in a post-digital world.

Digital Switchover

In January, Simon Crine, Corporate Affairs Director, Digital UK, spoke to Members about the lessons learnt during switchover in Whitehaven in October 2007, and switchover plans for 2008-2012.

Mr Crine said that the authorities and Government had been closely overseeing the Digital Switchover programme. So far there had been three Office of Government Commerce reviews, and two reports by the National Audit Office. There was no doubt that this level of scrutiny would continue through the life of the programme. To date, the programme and its participants had been given a clean bill of health. All was working as planned: Digital UK would be delivering the communications around switchover; Ofcom would oversee the process (and ultimately DCMS and BERR); and the BBC, which was the administrator of the Help Scheme for more vulnerable people.

On 14 November 2007 the analogue signal in Whitehaven had been switched off and replaced with a digital signal. Much had been achieved in eighteen months, but what had driven that change? In particular, the rise of the flat screen and the desire for an HD-ready set had caused rapid growth in the market. When Digital UK launched, 65% of homes had digital television (on their primary set), by January 2008 85% of households had digital TV. All platforms had successfully engaged in pushing digital television - and the more that manufacturers and retailers can do to drive digital switchover, the easier Digital UK's job becomes. But there was still a challenge ahead - i.e. 15% of households had not switched to digital television yet, and half the television sets in UK households were still are not converted to digital.

Whitehaven, a small town on the West Cumbrian coast, had no digital terrestrial signal, which meant that people had been heavily reliant on Sky. About 66% of households in Whitehaven had Sky before the switchover occurred. During the switchover process in Whitehaven, Sky had managed to push up their penetration from 66% to about 77% of households in the area. The rest went for Freeview. The last to convert were older people and single person households - a section of the population who generally need some help through switchover. Some critics had predicted many blank screens, but there were no complaints. Digital UK's research indicated that only two or three homes actually had a blank screen on the day. What this told us was that around 1% of the population leave it to the last minute. In practice, there was a double switchover date for Whitehaven: a first date when BBC2 was switched off, and a second and final date when all the other channels were switched off. What happened was that in the couple of weeks running up to those two switchover dates even the consumers who chose to leave it to the last minute

managed to sort it out, with very few exceptions. Overall, switchover in Whitehaven was successful. Those who already had Sky had the benefits of multi-channel television, but those who did not could access for the first time BBC3 and 4, ITV2, 3 and 4, More4 and E4, and Five's sister channels (as well as the 5 basic terrestrial channels they had been able to access via analogue). The Freeview offer in Whitehaven is essentially the twenty or so channels that make up the public service broadcast family, excluding the commercial channels, but the overwhelming impression in Whitehaven was that people were very pleased with what they could now access.

However, there was a small minority of the population who found switchover a bit complicated, and there were also a few complaints around channel line-up. Digital UK is very clear that they have to find a way of communicating very honestly with viewers about what the digital offer will be. The difficulty is that the offer will vary from area to area. If one's digital signal comes from a main mast, all the channels are provided - this applies to 90% of the UK population. However, if one's digital signal comes from one of the relay transmitters then the only channels available will be the public broadcaster family channels. Another area of criticism was that some people found toggling between analogue and digital during the transition period a bit annoying. There were also some worries around recording, many older and more vulnerable viewers are still using their old VCRs. After switchover these can only be used to record the channel that is currently being watched, and that is a loss of utility for some consumers. Digital UK assumed that this would generate more of a problem than it actually turned out to be. Two reasons might account for this. Firstly, once one has access to a bigger family of channels, many programmes are time delayed, so if one misses Eastenders at one time, it can be watched later. Secondly, for an increasing part of the population, a hard disk recorder (PVR) provided the same, or better, functionality.

Film tax credit

BSAC reconvened the Film Tax Working Group in August, in order to explore how well the film tax credit scheme was working, since its introduction in January 2007.

Overall the tax credit was working well but two areas where improvements could be made were identified. Firstly, British cast and crew were disincentivised from working overseas as, when doing so, costs were not eligible for tax relief. Secondly, the 80% cap on co-productions had ensured that few were made.

The tax credit provided relief on items in a film's budget which were 'used or consumed' in the UK. Therefore a script, even though written by an American writer could qualify for relief if the film was shot in the UK. However, if a film used a location outside the UK, the

cast and crew were not relievable. It was thought that the effect of this was to discourage more internationally attractive films. Therefore many producers and funders had concerns for the independent sector. The unions were also concerned as British actors and crew are effectively disadvantaged. BSAC hoped to engage with Government on the 'used and consumed' issue in the coming months and also to seek the removal of the 80% cap on co-productions.

Independent film production

In February, Andy Paterson spoke to Members about the independent production business (as part of the BSAC discussion series, "What keeps me awake at night", where Members are occasionally asked to outline the main business issues and policy concerns pre-occupying them).



Andy Paterson

Mr Paterson said that his main question was, how was it possible that, after the extraordinary efforts of so many people over so many years to develop a sustainable independent film production centre, that he still did not have anything that he could call a business? Why did he struggle, as many other production companies do, to make money? And what effect did this have on the sector? In the UK, there were only a few very successful film production companies.

When he had made 'The Girl With A Pearl Earring' (2002), a movie that had cost \$11 million and which made \$50 million theatrically worldwide, he did not receive his deferred producer fee. Looking at these kinds of economics made one realise that it was not just a case of whether a film was good or successful, but it seemed that a set of economics existed that was loaded against the people who were creating the content. By contrast, Mr Paterson's first film, which he had made when he was a student, was released theatrically, bought by the BBC and returned 3 times its investment to the people who invested the money. Since then he has never come anywhere close to that financial success. Film producers now have to beg for help to make their movies.

Mr Paterson said that he had been through the years of the video boom and presales, when it was possible to put films together if you had the right cast attached, and then the Section 48 years, when huge amounts of money were flowing through the industry. But the people who were putting the money in at this point were more interested in production as turnover (and a way to employ a tax scheme) than the actual product, which caused a huge amount of problems. He said he had sat through many committees steered by BSAC to persuade the Government that after Section 48, production still needed support - and it had been a very successful process. The industry spoke with

one voice, and tried to come up with something which would fit a number of criteria: it would have to be affordable for a Government scared about how much money was being poured into the industry; it would have to be abuse-proof; and it would have to be relatively easy to operate and deliver what the Government intended, which was direct support of the production community. What they came up with was a tax credit, which Mr Paterson said was working very well. There were some frustrations – but if money was spent in the UK, you could get a refund from HMRC. There were fewer pitfalls and problems than previously. They did not know yet whether it was abuse-proof, but the indications so far were good.

At the end of that process, however, which was generally intended to provide some sustainability for producers, it was still fair to say that none of that money was really helping the independent production community. The reason for this was the ‘producer equity’ arrangement – i.e. the idea that the tax credit, according to Government policy, should be the producer’s equity investment in the film. The arrangement was that a producer takes his or her 15-16% benefit to the financing table as their equity investment in the film. Mr Paterson said that it would be wonderful if it could work that way, but it was slightly naïve to think so, because commercial investors looked at that money as a way of reducing the cost of production.

He concluded by saying that what kept him awake at night was that, after the many years of committees and the absolute support that the Government gave to building an industry, there had still been a failure in making it work. The only way to overcome that problem was to bring the problem to the attention of broadcasters and the public funders, and to ask them to act in the interest of the industry.

Intellectual Property

BSAC was very active on intellectual property issues during 2008. The Copyright Working Group, chaired by Mark Devereux, oversaw BSAC’s responses to several Government and European Commission consultations on IP issues (see various subsections below). Several meetings took place between BSAC and the IPO. BSAC’s main IP-related activities and responses to consultations are summarised below.



Mark Devereux

Lord Triesman

In January, Lord Triesman, Parliamentary Under Secretary of State for Intellectual Property and Quality, spoke to Members about the progress of the Gowers Review and the various steps towards implementation of the recommendations coming out of that Review.

Lord Triesman said that the UK historically had a world-class copyright regime. It was a regime which had been designed in very different circumstances, and in the midst of very different technologies from the ones that were dominant currently. The regime existed to protect, and to ensure that those who produced copyrighted materials could earn a living out of it. The idea was that unless people could produce and protect content and then exploit it in a sensible economic way, the possibilities of being able to continue to produce content would diminish. That was the principal purpose of the copyright regime.

Digital technologies had emerged rapidly and had led to huge changes in the way that content was created and consumed – but this was only the beginning of what was possible. In his view, the copyright regime of the future would not only have to catch up with the realities of technology of today, but it would also need to be designed to be able to respond to (and preferably anticipate) the changes that would continue to take place. This was a big task, because if one wanted to address this as a priority, then there had to be some understanding, not just of the technologies, but also of the nature of the culture (and what one needs to embed in the culture in order to get people to respect laws).

With regard to piracy and counterfeiting, Lord Triesman was strongly of the view that it was important to have the right balances in place for the cultural dialogue that was necessary, in order for people to respect copyright properly. They had to be absolutely clear that certain activities were illegal. He was indifferent to the idea that there was any difference between a child stealing another child's bicycle or stealing someone else's intellectual property. In policing terms, it did not make much sense trying to arrest the fourteen years olds who do it. But in terms of the priorities in allocating law enforcement resources, the aim was to stop the people who were stealing content in order to commercially exploit it (i.e. to multiply products and distribute it in a way which meant that the original copyright owners were defaulted). For those reasons Lord Triesman wanted to see a very tough response in legal terms and was not averse to seeing more severe penalties attached to this kind of theft.

Ensuring the elimination of counterfeiting and the sale of counterfeit goods would be a high priority activity in the run-up to the London Olympics. Pilot studies of how this could be achieved were under way. Lord Triesman was alert to the idea that one could

sometimes put pressure on an illegal activity, and just simply move it out to a further ring outside. In the context of 'Fake Free London', making use of the fact that the Olympics would be in London, they would in fact extend this much further geographically.

The Minister said that there were some strong arguments in areas of knowledge production where it was very important to try and keep things free to use, because that was a great stimulant in the economy. However, there were critical areas in the economy where that was simply not true, where protection was needed and people needed to know that they could not have everything free. Some of the measures being pursued in films were very attractive and interesting, and it was his view that the messages conveyed by the creative industries were likely to be more appealing than anything that any politician could ever say. He was determined, however, to try to ensure that policymakers cooperated with the creative industries in making sure they developed the right messages, and that the messages were conveyed by the most effective ambassadors. He wanted the fourteen year old to understand that what he or she was doing was not right, and that if they continued, then many of the things they valued and wanted would probably die off.

With regard to the Gowers consultation, Lord Triesman said that if new legislation in this area was to come out of the process, which seems rather likely, he hoped it would be voluntary. There would need to be an umbrella of legislation, under which secondary legislation (which was much more easily amended) could reflect the changes that would take place in the technologies. He called for everybody to use their knowledge of the legislative process in order to get it right. Lord Triesman made it clear that he did not consider Gowers as the last word. It would be an important word, but a word that everybody knew would be superseded as technologies and the market for content developed.

Lord Triesman concluded that the issue of open and controlled access was fundamental. The United Kingdom ought to be the very best place for people who were in inventive businesses, science or otherwise, to come and do business. The UK would need to have a workforce that was as educated as possible, in order to provide the kinds of people who were needed to keep the UK on the leading edge of such businesses.

Copyright Tribunal

In January, BSAC submitted to Department of Innovation, Universities and Skills (DIUS) (which was at the time running a sub-Committee on the work and operation of the Copyright Council), a paper Members had prepared in response to the IPO's consultation on the Review of the Copyright Tribunal in 2007.

In the paper, BSAC noted that the review had been based on a narrow consideration of the Copyright Tribunal's possible jurisdiction. There were some concerns that recommendations may have been developed without a proper understanding of some aspects of copyright. It was thought that many of the recommendations were based on provisions in Canada, and in BSAC's view it was unwise to limit consideration to arrangements in just one other country. The paper also pointed to a lack of clarity as to where the Gowers work and the Copyright Tribunal review was overlapping. One particular area of overlap causing concern to BSAC was orphan works. It was noted that while the Gowers Review supported an exception for use of orphan works, the Copyright Tribunal review recommended that the Copyright Tribunal should be responsible for granting licenses for the use of orphan works (thus appearing to support a legislative solution along the lines of that existing in Canada, and not acknowledging that there could be any other solutions). A light touch exception for use of orphan works was strongly recommended.

Copyright Exceptions

In March, BSAC responded to the Intellectual Property Office consultation on the proposed changes to Copyright Exceptions. The main points in the paper were as follows:

- There were concerns that a format shifting exception applying to audiovisual material would undermine existing business models and jeopardise the transition to new business models. Treating filmed content in a similar way to music sound recordings was inappropriate, and the consultation paper had not taken into account: the very low penetration of online business models for film compared to music; the consistent use of DRMs on DVDs compared to CDs; the low demand for format shifting of DVDs compared to CDs; and consumers' appetite for business models permitting a single viewing of a film compared to the usual consumption of sound recordings by repeated listening.
- There was support for the principle of exploring where there was a need for delivering improved access to audiovisual material for education, but the point was made that exception provisions should not be so broad as to replace the need to

purchase audiovisual material in the normal way where possible. New business models would increasingly permit educational establishments and remote learners to access audiovisual material on demand as and when they needed it.

- With regards to extending the exception for copying for research and private study, BSAC was sympathetic to the needs of genuine researchers, but was concerned that little evidence of these needs had been provided in the consultation document.
- BSAC supported the amendment of library privilege exceptions in order to extend permitted acts for the purposes of preservation
- With regard to the caricature, parody or pastiche exception, BSAC was of the view that a potentially ineffective solution had been provided for a non-problem.

Fair compensation for acts of private copying

In April, BSAC submitted a response to the European Commission's second call for comments on fair compensation for acts of private copying.

In the response, it was noted that in the context of the consultation in the UK on the new and amended copyright exceptions, BSAC had concluded that levies to compensate for an act of private copying under an exception, such as one permitting format shifting, were not in the best interests of consumers. There was substantial evidence that consumers prefer to pay only for what they want, and also that they prefer streamed as opposed to downloaded copies of audiovisual material. A private copying levy was likely to be particularly unfair to consumers when applied to equipment frequently used for streaming of audiovisual content, i.e. where no private copying takes place.

European Digital Libraries Initiative

The European Digital Libraries Initiative is part of DG Information Society's strategy to provide a common multilingual access point to Europe's cultural heritage. During 2008, BSAC participated in the work of the Audiovisual Working Group. In May, BSAC signed a Memorandum of Understanding, which outlined the broad principles for guidelines relating to searching for rightholders. BSAC also endorsed the joint report and the working group report.

Enforcement of IP Rights

In September, BSAC responded to the All Party Intellectual Property Group Inquiry: Has Gowers Helped or Hindered Enforcement of IP Rights? In its submission, BSAC made the following main points:

- The Gowers Review had not fully recognized that the audiovisual industry was in a state of transition from old to new business models, or how business models varied between creative sectors. For most audiovisual content, consumers often prefer business models that permit a single viewing for a lower price, rather than those that charge for a copy to keep (this is different to music content business models). The private copying recommendation made by Gowers had the unfortunate effect of diverting debate too much onto what should happen to physical copies (e.g. music CDs that might be copied onto MP3 player). BSAC believed that in the online world, differently priced business models that permitted less to be paid for less consumption (as well as more for more) were likely to be attractive to consumers.
- The increased ability of trading standards officers to enforce copyright offences, facilitated through Gowers, was very much welcomed. BSAC was also pleased that a private copying exception applying to audiovisual material was not in place. BSAC was however committed to a balanced copyright framework, and would like to see some other exception provisions put in place. In particular with regard to the use of orphan works.
- The enforcement of rights was crucial to enable industry to obtain sufficient returns on investment, in order to pay for the transition to new business models. Development of new models would be based on consumption preferences. A better understanding of the likely nature of the future landscape in the audiovisual sector was therefore important.
- Some legislative changes, which would have been helpful, were not taken up by Gowers, such as the need to criminalise camcording in a cinema. BSAC was also disappointed that Gowers failed to recommend that IP should be embedded in the school curriculum, as better understanding about IP is also crucial to enforcement. Better coordination of current educational activity by industry and Government was important to avoid the risk of mixed messages being delivered.
- BSAC did not believe that Gowers was the key to delivering improved choice for consumers. The development of new business models had to date delivered improved

choice and this was likely to continue. Therefore it was important that legislative changes to deliver the Gowers Review did not undermine the flexibilities that industry needed in order to offer the best business models to consumers.

Legislative options to address illicit P2P filesharing

The Department for Business, Enterprise and Regulatory Reform (BERR) launched a consultation on legislative options to address illicit P2P filesharing. In October, Adrian Brazier, BERR, provided an overview.

Mr Brazier said that the consultation was in response to rightsholders' concerns that illegal filesharing was out of control, and out of proportion with the existing remedies that rightsholders were able to take. Revenue streams were disappearing fast, making it very difficult to find new ways of making money in a digital environment. Rightsholders made a strong case to Andrew Gowers, which resulted in Recommendation 39, which he quoted: "Observe the industry agreement of protocols for sharing data between ISPs and rightsholders to remove and disempower users engaged in piracy. If this has not proved operationally successful by the end of 2007, Government should consider whether to legislate". Andrew Gowers had clearly thought that this was a fairly straightforward issue for Government, and that the ISPs and rightsholders communities were close to an agreement. On the contrary they were far from an agreement. Whilst rightsholders alleged that ISPs used illicit downloading to at least partially drive uptake of customer growth, particularly in the broadband world, ISPs responded that it was not their job to protect somebody else's copyright and that they had no particular interest in being the policeman. The Gower's deadline had passed without the prospect of an industry solution, and discussions between the Internet Services Providers' Association (ISPA) and the Music Publishers Association (MPA) had broken down.

It became apparent that this was a problem that needed fixing. Driven by Baroness Shriti Vadera, a Memorandum of Understanding (MOU) was signed. It was based on three principles. The first key element was education and awareness. The second was about the proliferation of legitimate content in ways that the consumer finds attractive (although the MOU was careful to avoid any suggestion that it was endorsing any anti-competitive activity). Thirdly, the MOU addressed the issue of taking action against unlawful P2P file-sharing. The MOU had been signed by the six biggest ISPs in the country, the four major UK record labels and the BPI, the six studios of the MPA and the MPA itself. While there was always a danger that once people had signed the MOU there would be a reluctance to admit new parties, it was reasonable and right to keep it focussed and manageable in the early stages. The idea was to investigate what effect

a trial of letter-writing to people would have, and what measures could be taken against repeated infringement.

In addition to adding other content sectors, there was also a recognition that it needed to include other service providers. Although the top six ISPs held about 95% of the market, there were about 299 ISPs. There was some concern about those outside the MOU seeking commercial advantage. In order for this to proceed (and for Ofcom to be able to function on a voluntary basis), Government needed to make it clear that it was prepared to legislate in a co-regulatory way. A consultation was therefore issued in July. While there was no intention of pre-empting the consultation process, thought needed to be given about what a co-regulatory approach might look like, because this was not typical co-regulation territory. Co-regulation usually involved people who had the same destination in mind, and were used to working together. In the case of ISPs and rightsholders that was not a given.

Mr Brazier said that the main idea was to impose, through either secondary or primary legislation, a general duty upon ISPs to take reasonable steps to address unlawful P2P filesharing (once they had been notified of it in an agreed format by rightsholders or rightsholders' organisations). It was important that ISPs had some certainty about how they could meet their obligation. He said that the two possible approaches to this were to outline the terms of each individual measure in the legislation; or they could rely on codes of practice which would need to be drawn up in cooperation with the industry partners and Ofcom. Ofcom would need to be given powers to approve such codes. If they were to proceed with the second option (which was favoured), it would almost certainly require a short piece of primary legislation, which contained an element of uncertainty exacerbated by a forthcoming election.

Mr Brazier said that the consultation was due to end on 30 October. The MOU Group would be reporting on repeated infringements and the findings of the notification trial by January 2009. There would also be a report on what was happening on education and legitimate offers, all of which would be taken into account in a Government response setting out what they propose to do next. Any new legislation would be subject to further consultation.

Penalties for Copyright Infringement

In October, BSAC responded to the IPO's consultation, 'Taking Forward the Gowers Review of Intellectual Property: Penalties for Copyright Infringement'. The paper made the following main points:

- With regard to Gowers Recommendation 36, BSAC believed that the equalisation of penalties relating to equivalent offences in the on and offline world was important. The more serious offending behaviour in the online world could have the same sort of damaging impact on right holders (and society more generally) as the most serious offending behaviour in the physical world.
- BSAC queried the very limited scope of the consultation on penalties for copyright infringement – the proposals did not deliver any changes to the maximum terms of imprisonment as explored in the Gowers Review. The consultation therefore did not appear to take Gowers Recommendation 36 forward.
- With regard to online copyright infringement, in order not to undermine the public's perception of copyright, it was important that criminal offences were only used to tackle more serious copyright infringements. Maximum penalties did, however, need to be tough for these cases. However, it was important to understand the differing nature of copyright infringement in different environments. Online copyright infringement could encompass a wide range of illegal behaviour, but at the time the prevalent activity was P2P file sharing. Generally, individuals uploading copyright works illegally for file sharing were not getting payments from those who then illegally download copies. However, a great deal of money was being made by illegal downloading sites that sell advertising space and other services. These usually hid behind foreign servers located in jurisdictions with very relaxed IP laws. IP laws in the UK therefore certainly needed to make provision (such as that in Gowers Recommendation 36) to ensure that such activity was not seen as attractive in the UK.
- BSAC welcomed Recommendation 44 on the training needs of judges and magistrates on IP issues. However, given that illegal activity in the online world was something that was rarely going to be solved using criminal law, much wider efforts to improve understanding about copyright would be needed. Right holders continue to develop new business models that must play a large part in countering illegal activity online. Government should take a more proactive role in ensuring that appropriate teaching about IP is embedded into the school curriculum.

- Offending behaviour in the copyright area is often currently pursued via a prosecution for a trademark offence (given the greater ease of proving those offences). If exceptional summary maxima are to be introduced for any IP offences, then these should certainly cover copyright as well as trademark offences.

Orphan Works

In 2008, BSAC submitted to IPO a further paper on orphan works, as a supplement to the insights and recommendations that the BSAC Working Group provided during the Gowers Review in 2006. The paper covered issues such as: diligent search for rightholders; the various legal constraints in EU and international law; a possible 'insurance approach' (whereby in return for a payment, an indemnity against the costs of being sued for infringement is given); extended collective licensing; a 'treated as licensed' approach, and mass digitisation issues.

Green Paper on Copyright in the Knowledge Economy

In November, BSAC responded to the European Commission's consultation on Copyright in the Knowledge Economy. The paper made the following main points:

- BSAC was in support of a copyright framework where strong rights were balanced by appropriate exceptions to rights. Exceptions to copyright should not involve contractual arrangements with right holders in order for them to be enjoyed, as they define activities that can be carried out without permission. However, it could be worth debating when flexible exceptions (possibly with guidance) are more helpful than detailed exceptions, and when it should not be possible to override exceptions by contracts. BSAC would like to see further consideration of whether the relationship between exceptions and technical protection measures is appropriately dealt with in European law, given that Article 6.4 of the 2001 copyright Directive does not apply to some exceptions.
- Licensing, including collective licensing, would be likely to play an important part in how creative content was delivered online. However, BSAC would urge caution on the development of guidelines or model licences for uses not covered by exceptions, given that it is very important not to constrain the ways in which new business models might be developed in the online world to meet consumers' needs.
- In general, libraries and archives wishing to make material in their collections available online should do so under licensing arrangements. Activity by libraries and archives could otherwise damage commercial business models. In some areas, such as orphan works, BSAC had in the past proposed an exception to copyright to permit

use. BSAC has more recently acknowledged that, in areas where collective licensing already takes place (that is for some types of work and some uses), this should be explored as part of the solution too.

- Any solution should permit commercial use of orphan works as well as use by libraries and archives. A Community-wide solution seems preferable. But any solution, or solutions, adopted should minimise bureaucracy before an orphan work can be used, wherever possible.
- The Green Paper did not refer to audiovisual material when examining the needs of disabled people. In the UK the provision of subtitles, signing and audio description on audiovisual material has increased tremendously in recent years. Encouraging and facilitating further adoption of accessibility options generally provided the best solution for disabled people.
- BSAC was pleased to see the requirements of those who need protected material for the purposes of education or research explored. But exceptions should not replace the purchase of physical copies or online access, where this is commercially available and the whole of the content is needed. For audiovisual material, the interaction between exceptions and technical protection measures was particularly difficult. It may be that licensing would provide the best solutions. The Commission could facilitate discussion between stakeholders to identify needs better and explore possible solutions.
- The evidence of what was needed to help follow-on creators was lacking, but BSAC would be happy to see this issue explored further. However, it would be important to include the role of licensing in any further consideration, as well as the differences in what might infringe copyright in different Member States, and what might be compatible with the three-step test. BSAC would be concerned if any solution was limited to user-created content – as this could lead to such creators having an unfair advantage over commercial creators.

Mobile Media Advertising Opportunities

In October, Julien Theys, Screen Digest, provided a presentation on mobile media advertising.

Mr Theys said that in terms of mobile content revenues, paid content was already available on many operators' networks alongside traditional advertising, including display and search models. The mobile TV market was not considered to be a huge market for the years to come. In terms of subscription revenues, Screen Digest estimated the market would reach around £290m by 2012. Mobile TV included TV watched on mobile either through broadcast technology such as DVB-H (Digital Video Broadcast Handheld), Media Flow technologies or Unicast technologies, video streamed through 3G networks. Since most of the growth in mobile TV was going to happen through paid subscriptions, the relative size of advertising was not going to be immense in the UK market. Mobile media advertising was still in its infancy and would have to compete with other mobile advertising.

There were some specific challenges for mobile TV advertising in the UK market. Firstly, the UK market was not well prepared for mobile advertising experiments. The lack of industry-wide metrics for mobile media was considered an important problem. Furthermore there was a common confusion between mobile TV specific advertising and more traditional advertising, for example TV spots broadcast through mobile channels. Mobile TV advertising could mean both advertising that was traditional broadcast media through mobile channels, or mobile specific advertising (for example overlay technologies). Screen Digest expected the UK and France to experiment with mobile specific metric solutions at the end of this year, and to start using them at the beginning of 2009.

Another problem was the critical mass and inventory size for mobile specific advertising. Currently, mobile TV channels were not considered to be very successful, Sky for mobile had about 200,000 subscribers across all networks. The technology was not satisfying, and even promotional offers were not leading to more permanent subscriptions at the moment. Mobile VoD was not an entirely new concept but had been implemented in some wrong ways with MMS and Mobisodes – small pieces of content specifically made for mobile technology. The problem with Mobisodes was that they were not familiar content and therefore not attracting viewers to familiar grounds. When it came to advertisement supported content today the most popular content was convenient and served primary demands, such as weather, news and talent show clips. This was considered to be a very limited kind of success. VoD services that were expected to be popular in the future were catch-up services. The fact that the BBC iPlayer was launching on mobile technology was seen as probably one of the biggest pushes for mobile content consumption.

User generated content would play an important role. The mobile was not only a part of mass media but also a communication device. The fact that most mobiles were equipped

with camera and video capabilities was a great opportunity for user generated content, but also a threat for traditional media. If traditional right holders for content waited too long to make the content available for mobile, they would see a shift in the habits of mobile users to contribute more than to consume. If the mobile did not establish itself as a potent mass media device, it would become a very potent contribution device. Screen Digest estimated that the mobile VoD market could reach up to around £100m in the UK, 7% of which would be advertising and 93% subscriptions.

The 'snacking' nature of the mobile sector in terms of the content had an impact on the format of advertising. Pre-rolls were already said to have an irritating effect for the online market. Clips therefore had to be short with a maximum size of 5-10 seconds to fit the format. Mobile technology as a distribution channel had some natural competitors. The biggest were place-shifting and side-loading services that would transpose a business model on to the mobile, rather than making mobile a proper business model on its own. Place shifting services allowed the user to acquire content elsewhere and then to screen it to a mobile.

Mr Theys commented that the impact of the financial crisis on the sector might mean overall advertising spending was slowing down. Mobile was still seen as an experimental medium by many, and there were still problems of fragmentation among operators. The consolidation that was very likely to happen in the mobile advertising landscape was not going to help with innovation. But there was also some good news. The mobile sector mostly used the same tools as online advertising, so having a presence online with VoD services already would not require a big shift. Mobile broadband was also taking off at very rapid pace. There were millions of users in the UK already connecting their mobiles to broadband, which was very encouraging. The fact that companies like Google, Microsoft, Nokia, Yahoo and Apple contributed to the development of the mobile ecosystem also gave credibility to the medium.

Music Industry Business Models

In July, Andy Heath, Chairman, British Music Rights and Director, Beggars Group, spoke to Members about the ways in which the music industry was developing new business models. Major record companies were having serious problems, however the rest of the music economy was growing, the independent sector was developing fast, performers' incomes had never been higher, and the live music economy was completely exploding.

Mr Heath said that over the year everything he had heard from the major forces in the screen and broadcast industry was exactly what had been said by the major record

labels ten years previously. Unless this changed, Mr Heath predicted that the audiovisual industry would make the same mistakes as the music industry, such as failing to grasp the spirit of revolution, failing to grasp the complete control of the online market that the consumer was able to exert, and continuing to spend too much time trying to control older models and restrict use. The only upshot of that activity for music was that they actually enabled a gigantic illegal market, which is now the dominant market. 90% of the music on the internet is now illegitimate, and with the way that broadband is exploding and enabling students to consume material at will, there is a danger that a predominantly illegal market for screen products will emerge.

Mr Heath commented that it would be important to spend all available time exploring ways to enable consumers to do what they want to do, rather than try to prevent them from doing what they want to do. The most obvious manifestation of this was the iPlayer, which technically runs out seven days after a programme has been broadcast. This time limit was not a good idea – content should be available forever after it has been broadcast. In fact, the content was available forever, he said, since hacking enables everyone to use it this way – a clear warning shot for the industry.

Another comparison with the music business was that many activities in the market had not been observed by conventional business people. Mr Heath believed the same would be true for audiovisual activity. Despite the many pieces of content that were created online by culturally diverse people, music executives had felt that they had nothing to do with conventional business models. These are the people that audiovisual should seek out.

The other manifestation which was now turning into something very healthy for the music industry, was what has been loosely called the 'DIY model.' Although the entry level expense of music was not comparable to the entry level expense of audiovisual, so many talented people were able to create the beginnings of their careers for themselves online in music. It looked as though this would repeat itself in the audiovisual world. One of the skills that would need to emerge would be the ability to recognise talent early.

Mr Heath said that the destination should be consumer-enabled models. For the journey to this destination there were a couple of priorities, the first one being the maintenance of the UK's position as the interpreter between the US and the rest of the world. There was no point in jealousy between the screen and music industries – rather, the content producing industries needed to work together, because the interdependence was colossal. Also, if the ISPs could become part of the economic chain, they would have a better business, because it would give them an ability to create a functioning value chain for content. One

had to remember that in this debate the content creators were fine and the consumers were fine, it was those in the middle who were not. It was essential that all stakeholders could agree on the way forward.

Net Neutrality

In December, there was a discussion on net neutrality.

Jean Prewitt, President, Independent Film and Television Alliance (IFTA) said that in Washington's policy circles, there was a coalition surrounding virtually every aspect of the net neutrality argument and they all had similar names. One was the 'Open Internet Coalition', there was the 'Internet for Everyone Coalition', the 'Hands-Off the Internet Coalition' and about seven others. Each of them tracked back to an interest group that had a very specific issue related to how they expected to connect to the internet and to deal with the broadband providers. The interest groups were now breaking up into smaller forums that were concerned about the connectivity of equipment (such as the Open Internet Coalition), and groups that were concerned about having absolutely no fetters (such as the Hands-Off Coalition), and various others that were looking at public access issues. The IFTA was in an unusual position because it stood alone. Currently, it is the only group representing video content producers that is in favour of net neutrality.

IFTA defined 'net neutrality' as a series of policies that required Government intervention to ensure the internet remains open. In the United States there was currently very little competition on broadband. There were a number of forces which strongly suggested that the internet would become increasingly closed to independent content providers, in the way the television system had been. To some degree, the debate reflected a long history in the US that the UK did not share. Firstly there was virtually no competition for the provision of broadband services – there was one telecommunications company and there was one cable company in every jurisdiction. There was also very little choice between those two in terms of their offerings. Over the last eight years there had also been a series of deregulatory moves both in the television broadcasting and cable environment that had driven independent content completely off US television, and the Federal Communications Commission (FCC) had avoided intervening. If there was an industry agreement on the internet, the Government must intervene and it must be pursued following the principles of non-discrimination, transparency, and limitations on self-dealing.

The specific concern of IFTA was that the cable companies would favour their own content offerings rather than content offerings from competitors. Much of the debate about net neutrality in the US had shifted over the last two years. The initial debate had been largely conducted within Congress – but about a year ago there was a shift due to

the great 'Comcast debacle'. Comcast was blocking peer to peer (P2P) traffic regardless of whether it was legal or illegal. One example was an electrician who at the time was undergoing chemotherapy treatment and was up at night due to insomnia, attempting to upload Barber Shop music to share with his friends. Another gentleman was prevented from sharing the King James Bible, and a variety of other people doing inoffensive file-sharing activities. The engineer managed to track the blocking back to source, and detected that it was in fact affirmative blocking at Comcast. When questioned about it by the FCC, Comcast initially denied it, but then said it was an accident, and then later that it was an effort to clear congestion. None of these statements made any sense. Fourteen months into this process the FCC still could not get a solid answer as to what had gone on. Several different groups had filed affirmative petitions with the FCC for intervention, including a legitimate P2P video provider, and Free Press, which was one of the largest Internet advocacy groups in Washington. The Commission decided that they did need to intervene. It changed the dynamics of conversations on Capitol Hill, because the question of abuse was no longer theoretical. There was a hearing that the Commission convened in Cambridge, Massachusetts, where Comcast was found to have paid people to sit in all the seats, so that the public interest groups could not come in. This then led to a makeover and a second meeting held at Stanford, home of Larry Lessig, who was one of the largest proponents of open internet and creative commons. IFTA testified at this meeting, as did the Christian coalition, a group called Future of Music (a trade organisation that represents independent musicians), and the people who had been prevented from sharing legitimate files. The major issue addressed was the question of whether or not transparency alone would solve the problem. The Commission wanted to take the posture that if consumers knew that these applications could be blocked that would be sufficient to allow them to make choices. It was clear, however, that this could not be a solution in a context where there was no competition. The Commission articulated the fact that no carrier was entitled to engage in arbitrary and unfair discrimination with respect to the source of content or the nature of the application. As long as the content and applications were legal, they had to be treated commonly across the internet. The result was that Comcast is now under orders to produce a network management plan by the end of the year, which will be publicly approved, and which will demonstrate that even when there were traffic congestion issues, those will be handled on a non-discriminatory basis.

Campbell Cowie, Director of Policy, Ofcom, said that Ms Prewitt had touched on the fundamental difference between the respective debates in the US and the UK, i.e. the issue of competition between the ISPs. Ofcom's view was that net neutrality was not an issue in itself, but it was rather a symptom of a lack of competition between ISPs. Many of the concerns raised in the US could be addressed through competition, transparency and ease of consumers switching between ISPs. There was a different approach to regulation

on the wholesale and retail level of internet service provision. In the UK the agenda was very much on driving competition into the retail ISP market, whereas in the US they were lucky if they had a duopoly, with many markets having a monopoly. In the UK context on the other hand, and the European context more generally, the feeling was that if one offered transparency and made switching easy, the consumer had a choice. As soon as consumers understood what the traffic shaping policies of ISPs were, they had the freedom and ability to choose an ISP whose policies suited their interests.

Ofcom had looked at this issue two years previously, but it was back in the European context in the form of the debate around the Telecommunications Regulatory Framework. The drivers that were bringing this debate back were the new applications that were coming onto the network, such as HD and video services (that were creating massive congestion). There were also many more time sensitive applications, such as internet telephony, where delays in the packages of content were a real concern for both the providers and the consumers, so that a number of services had to be prioritised on these grounds. The networks themselves were also becoming much more intelligent and although it was appropriate to say that the network had never been just a pipe and the network had always been subject to traffic shaping and network management, the difference was that now technological advances allowed a greater degree of network management. However, in addition to being able to apply competition policies to a greater degree than in the US, the European legislation already gave them sufficient powers to intervene if there was consumer detriment because of a traffic shaping policy of a particular ISP. The question was to what extent the introduction of filtering into the network was a cause for concern from a net neutrality point of view. It also raised issues such as the question of whether it was a challenge to the mere conduit status of ISPs, which was a massive issue in Europe even beyond the narrow copyright issue. From the consumer point of view there were also data protection issues in terms of whether and to what degree consent from the consumer was required before a service provider introduced filtering. On the other side of the debate there was the network investment issue. Lord Carter had recently made it very clear that in the UK the Government objective was to drive the rollout of faster next generation broadband services. Somebody had to pay for that and the issue of tiering the networks was deemed to be part of the solution.

New Media Advertising

In December, Danny Meadows-Klue, Founder and CEO, Digital Strategy Consulting, talked about new media advertising issues. The monetisation of the internet was mainly concerning advertising models. The entire media industry was on an exciting new journey – but without clear road maps. It was only in 1994 that the first web banner was created. The form and structure of advertising was continuing to evolve at a pace far beyond the

speed at which most brands could cope. Google had celebrated its tenth birthday, and around the same time they had announced that they had indexed one trillion web pages. These were still the early days of digital media, and the really big changes in society and media had not yet arrived. Online advertising was growing in every market, and the UK had been the world leader since the start in terms of digital advertising. The UK had a higher percentage of national advertising going into online media than anywhere else in the world. The figures for the first half of 2008 showed that almost 19% of all advertising was spent online. Online advertising is expected to overtake television by the first half of 2009 in terms of total ad spend. What is happening is not just a simple migration of advertising from one channel to another, but an evolution of advertising itself.

Although there is a new era of confidence, there are challenges of globalisation to consider. There has been a paradigm shift in the market, where suddenly every piece of content in theory is available to everybody anywhere in the world. In terms of the marketing paradigm shift, we have moved into an era of conversation with brands, which has created enormous challenges in advertising. There has been a democratisation in the production of media in advertising, the consumer co-creation of advertising content and consumer-selected exposure to advertising. Consumers are now in absolute control of what they see – and there is now a new equality between brands and consumers.

New behaviours in advertising consumption can be seen in YouTube – e.g. snacking of bite-sized content, packets of 3-5 minutes that people may digest over a coffee break or on their mobile phone. It also means that advertisers are competing with the divided attention of their consumers rather than the undivided attention. According to some recent research, more than 28% of Britons said that they surf the internet and watched television simultaneously on a daily basis. There are new approaches to online advertising around the notion of blogs, and marketing content generated by brands. The relationship between advertising and content is starting to mould into one. In a more democratic environment consumers can be in the same space as, for example, retailers. The notion of who owns control over the conversation between consumers and brands has changed.

Looking back at television advertising in the UK when it started in 1953, and the evolution which followed, suggests that online advertising today is in its early days. The banners that emerged in 1994 were just one tiny component of a much richer digital advertising mix now. In the UK last year over half of all online advertising spent went into search engines. Consumers are taking a key role in writing their history of the world. Harrowing events such as 7 July helped trigger a step change in media consumption, and forced the media industry to behave differently. Wikipedia became one of the hubs of media content for that day, with many news organisations taking their feeds and knowledge

out of blogs and Wikipedia services. This was fundamental to the advertising debate because it showed how advertising was changing. In a sense, Amazon was doing this 10 years ago involving consumers and authors in the marketing of books and reviews. We now have the language of web 2.0, social networks and social media. Marmite's media activity on Facebook could serve as an example of when it is not clear whether the content should be classified as editorial, marketing or advertising. Brands are thinking about web space rather than a specific website. What might seem as just whispers of new techniques and technology now could be elements of the mainstream marketing over the next 10 years.

The notion of geography has been marginalised in this environment. Most places have relatively easy access to most content all of the time. In search engines 'relevancy' is rarely driven by geography. The 'one to all' marketing communication became 'one to many' and then 'one to one.' What began as individual email to all of us eventually became personalised advertising. The economies have changed in the cost of production and the precision of targeting, and against this background it is important to consider how people crave individuality. Mobile Internet has accelerated this, and has created the notion of 'anytime, anyplace, anywhere' media consumption. The introduction of the iPhone heralded the beginning of proper mobile internet usage.

New Media Technologies and Content

At the April Council Meeting, there was a session on the future of new media content and technologies. Richard Adams, Digital Strategy Director, Chemistry Communications Group, said that consumers were becoming well connected – broadband technology provided a huge market, mobile technology finally worked and the iPhone was providing some advanced applications and rich experiences. As a result, one could find rich content everywhere. 60-70% of people were connected to the Internet and 88.4% of those had access to broadband. In addition, great equipment was available for less money. For example, everybody who had a Mac with Final Cut Pro could edit video easily and cheaply, and people were using mobile phones to generate videos, using free software, and high definition cameras for less than £1000. The home cinema systems available now meant people were getting used to rich home entertainment experiences. Also there was a vast amount of interactivity – when digital TV switchover was completed every person in the country would have access to some interactivity. There was also the phenomenon of YouTube. Stage 6, set up by DIVX, also allowed access to high definition content (which had recently been shut down for facilitating access to pirated films). Furthermore, the iPlayer had been an important success. All these developments were feeding a demand for quality content to be available at all times.

In the United States, HULU had recently been launched by Warner Brothers – an attempt to create something like the iPlayer, making the most popular TV episodes available to a wide audience on demand. Since these sites had been launched many people rarely watched conventional television. Rich content had also come to the phone, which Mr Adams demonstrated with Endemol's latest mobile phone offering (the consumer could interact by sending text messages). Kate Modern was another example – i.e. an entire narrative drama delivered via the Bebo social networking site, not via television. Mr Adams said that this was an interesting development, because it was at this point that brands started listening. Brands, recognising that TV commercials were not working as effectively, were starting to develop brand TV channels.

Open source was a methodology and set of principles that had emerged from the software development market. It allowed one to create a piece of software, then give it away, let users play with the code, and make different versions of it. This was starting to happen with the web 2.0 generation. A few years previously it had happened with video games, whereby users were given levels that they could play with and modify. Now the same was happening with television and cinema. He then described, 'In the Motherhood', an online TV show which had been developed by a media buying agency in the United States. The show comprised 15 minute episodes, paid for by Unilever Suave and Sprint Telecom. Most of the products used on screen were made by those two companies, but other than that there was no advertising. Another interesting development in this area was the growth of user-generated content. 'Where are the Joneses?' a sitcom series produced by Steve Coogan's company 'Baby Cow', was a great example of how open source entertainment development could work. The same was also being tried with movies, e.g. 'Peach'. Mr Adams also spoke about a growing phenomenon called crowd sourcing, where people who want to make a movie invite other people via a website to help make it.

Another development was the change in terms of how audiences were generated – the relationship between the broadcaster and audience used to be direct, but now because of online connectivity, the importance of peer opinion and word of mouth was recognised. Instead of a simple two-way relationship, a circular relationship had developed between the media, consumers and peers. Consumers trusted their peers more than they trusted conventional media. If a friend on MySpace says that a movie is good, you will trust their opinion, and watch it. Therefore, the power of the connection between the consumer and the peer is increasingly important. Another important development was that content value had dropped – people did not want to pay for it anymore. Mr Adams said he spent his life worrying about the context in which the content-receiver relationship took place and how to make this a coherent relationship with consumers who were more and more

flexible. He was looking at what he termed 'transmedia narratives', which were stories that operate across multiple channels. Where monetisation occurs, it is at the point of intersection of narratives – the point where consumers perceive usefulness. People want to be able to download DVD quality films in less than 5 minutes, or to download TV programmes on demand. People want simple things, and they want to enjoy them on their own terms.

BSAC Member, Anthony Lilley, Managing Director, Magic Lantern Productions, spoke to Members about the future of online content. Mr Lilley told Members that the brightest group of people he had spoken to in the last 10 years was his undergraduate class in Broadcast Media (as a Visiting Professor at Oxford). His class had routinely labelled him old-fashioned as he did not use the technologies that they used everyday. He said they were completely right, because he was from a different generation. He was a 'bridge generation individual'.

Mr Lilley said that his Oxford lectures were essentially constructed around the economic notion that from scarcity comes value: if there was only a certain amount of coal but a high demand then the price for coal would go up. The media industry misunderstood what was scarce in the current landscape, because there was essentially no scarcity in many of the things that traditionally media people produced. There was absolutely no scarcity in content, whether that was professional or homemade content. There was no scarcity in distribution or in the facilitating technologies. Mr Lilley thought that a war for attention was about to be entered – which most media companies had always been in, but they had had the deck stacked in their favour for a substantial amount of time, because there had been scarcity of content (or a scarcity of distribution or technology). Those who understood the attention wars better than everybody else were brands and advertisers. Magic Lantern had been built on the principle that experiences were scarce and valuable. The creative teams spent time trying to understand the 'new-ish kids on the block,' the network, and the incredible power of peer-to-peer communication. The internet was not a content distribution platform and had never been one; it was a peer-to-peer communication platform which one could sometimes use to distribute content. The network was enormously powerful, but interactivity was more powerful. Magic Lantern was working on bridging mass media and interactive media. It did this firstly, by helping people distribute existing content across new platforms; secondly, by deepening the relationship of an audience to a content brand; and thirdly, by developing new interactive experiences. For example FourDocs for Channel 4 was a platform for people making their own content. There were currently about 800 short documentaries posted – the creative forms coming out of FourDocs were quite interesting. The site had been



Anthony Lilley

recreated in Australia, as well as in Canada and in the US, and was one of Magic Lantern's first moves in that direction.

There was a growing area between distribution and the development of new products in social media channels. Communities had developed around interest points – with linear content, blogs and e-commerce springing up around particular communities of interest. These channels were going beyond Facebook and other social networking sites. Film, television and music companies were starting to explore these possibilities. One example was Topgear.com, which was a social media channel. It posed a fascinating creative and branding question as to how to deal with the overlap of taking the best of a brand into the online space. This question had arisen again in developing Dr. Who's online, gaming and commercial properties. The creative team behind it were essentially fans – 4 years previously they had been obsessive Dr. Who fans, and now they were making/contributing to the Dr Who online experience. The fans had a very innate understanding of the brand, the characters and the stories.

In terms of open media or open content, an example would be remaking the Titanic in 3D. The Titanic would be rebuilt by the online animation community with help from Magic Lantern and the BBC. It would then be used to tell documentary stories. The fascinating question for a broadcaster was: could they be involved in this kind of community without trying to control it? There was also the question of how can one commercialise it? Transmedia narratives were about creating experiences that blend platforms together and use them for their strengths.

Interactive filmmaker, Martin Percy, demonstrated some of his multi award winning works. In his opinion the vast majority of video online fell into an interesting trap which history had seen before. At the end of the 19th century, cinema emerged, and many people at the time thought that it would be another method of distributing an old medium, i.e. theatre and musical. This was exactly what was happening in the present day with online video, where film and TV companies regarded it just as a means of distributing traditional linear film and TV. The opportunity that was available to everybody at this point was to use the medium to do new things that had not been done before.

Recent data from a sample of 40,000 views of five different online videos indicated that after thirty seconds the average number of people watching the videos went down by 55% - 80% as people went somewhere else on the internet. And after 60-70 seconds some videos had only 10% of viewers left. Applied to cinema, one would feel that something had gone wrong when after about a minute only 10% of the audience were still sitting in the room. Mr Percy said that the huge opportunity for online content was to

create pieces where interactivity was put into the video experience. He then demonstrated a project he had developed with the National Theatre, sponsored by BT. It showed what he described to be very simple interactivity, and he pointed out that when working with video, very simple interactivity was just enough to make it work like a conversation (this was not the case for games though). And although everybody knew that it was not really a conversation, he suggested that at this point a new kind of suspension of disbelief came into play. Another example Mr Percy demonstrated was 'Tate Tracks', again sponsored by BT, which was about the appreciation of art. The Tate Gallery wanted an advertising campaign to encourage young people to come to the gallery and the Tate Online website. The advertising agency finally came up with the idea of getting twelve musicians to each write a piece of music inspired by a work of art at Tate Modern. For one month the only place you could hear this music had been in the physical gallery, after that the only place you could hear it was online on the Tate website. The overall aim had been to give people an experience unavailable elsewhere.

Mr Percy said that some years ago the UK Film Council had asked him what could be done online for cinema and he had developed an interactive game, which he demonstrated, and which illustrated the possibilities of the medium.

Ofcom

In September, Phil Graf, Deputy Chairman, Ofcom, spoke to Members about media content regulatory issues and the role of the Sanctions Committee. Mr Graf said that the practice of media regulation had developed and changed considerably. In Ofcom's early days a significant amount of its time had been taken up with pornography cases, while the material that had attracted most attention over the last year had been of an entirely different nature. By contrast, twenty cases had been considered by the Sanctions Committee in the past 12-18 months, and fines had been handed out of over £11 million which compared to 25 cases in the first four years of Ofcom's existence with a total £1 million of fines. It was clear that the past year had been a year of important changes for Ofcom, the Sanctions Committee and the broadcasters.

Ofcom and the Sanctions Committee derived their power from the 2003 Communications Act and the two Broadcasting Acts in the 1990s. They had the power to order a broadcaster not to repeat a programme or to broadcast a co-action or statement, to shorten the licence or to evocate a licence (not including the BBC, Channel 4 or S4C licences) and the power to fine. The Committee usually consisted of three to five members of the Content Board. A hearing consisted of an oral representation of up to 35 minutes from a broadcaster, followed by questions, and an opportunity for the broadcaster to have a final say. The Committee would then consider its decision – in complex cases

they would have a second meeting after the hearing. It was important to stress that the Committee itself was a lay committee that had knowledge and background information on the matters that it was considering. Essentially the aim was to find out what had happened, why it had happened, understand the compliance processes and what actions had taken place afterwards, and what lessons the broadcaster had learned from the process. These factors helped decide the appropriate level of sanctions. Although Ofcom's executive provided a recommendation for a sanction, the result of a hearing was the Committee's own decision.

Mr Graf said the following lessons could be learnt from the past 18 months. If broadcasters had done something wrong, they should admit it and take responsibility. They should identify what had gone wrong and rectify it. It was distressing to find broadcasters who held junior members of staff responsible for major mistakes, and then demanded a reduction of a fine. The Committee wanted to see broadcasters taking responsibility at a senior level and taking appropriate action. Furthermore he urged broadcasters to define the role of their lawyers. There were cases in which a broadcaster, who would have been able to make a reasonable case, had not been able to do so because their lawyer had controlled the proceedings. In a hearing it was also important to ensure that detailed information was made available to senior members of staff attending the hearing on behalf of a broadcaster. It was imperative that CEOs attending a hearing had actually seen the programmes in question and that circulated papers were carefully read prior to the hearing. Since members of the panel often had significant experience and training in the broadcasting sector themselves, he advised broadcasters to ensure they send representatives who were well informed about the compliance process. The best performing participants in hearings had been brief, to the point, had admitted responsibility, and taken real action subsequently within the organisation.

When considering a sanction, the Committee would take previous cases into account while taking account of the unique character of each individual case. The regulator's task was to protect freedom of expression as well as to protect the public from harmful material. He urged broadcasters not to overreact, or to create an overly bureaucratic response, or to stop producing important and challenging material, but rather to engage in good compliance.

AVMS Directive – Product Placement

The October Council Meeting focused on the product placement aspects of the Audiovisual Media Services Directive (AVMS) consultation. David Brennan, Research and Strategy Director, Thinkbox, said that as a trade marketing company rather than a lobbying organisation, Thinkbox would not look at product placement specifically until it was allowed under existing regulations. In many ways the broadcasters' commitment and interest in product placement would depend on the amount of content they produced themselves. Thinkbox had not directly researched the topic because product placement was not part of the current UK regulations – but it could rely on syndicated sources and other research, which provided good insights into relevant consumer views. Considering examples from other countries, it was necessary to maintain a separation of commercial and editorial practices. When sponsorship had first been legalised in the UK, it had developed from being heavily regulated creatively to gradually being allowed to become more creative and part of the programme experience. Consumers had welcomed this development. Within the context of the DCMS's consultation on the implementation of the AVMS Directive, part of the nervousness about product placement was concerned with maintaining the degree of trust between the viewer and the broadcaster. By contrast, all the consumer research known to him showed that consumers were very relaxed about this issue.

Product placement was likely to create relatively small revenues compared to spot advertising or sponsorship. Compared to a billboard opportunity, there was little opportunity to communicate with the customer directly. Therefore, everything that put the audience credibility under threat would be considered a bigger trade off than the revenues that were at stake. The 'Television Opinion Monitor' was a research report commissioned by the whole of commercial television. It indicated that only eight percent of consumers said they always noted branded products in programmes, rising to 43% who sometimes did. 52% thought the company had paid to have them shown, a further 32% thought the products had been provided by the company and only a small minority thought they just happened to be there. Only 5% of a sample was very concerned about the idea of companies paying to have their products featured, a further 32% fairly concerned and, even amongst those who had noticed brands consistently on television, only 8% said they were very concerned with this particular relationship. Set against that, 42% were not very concerned and 26% were not at all concerned.

Mr Brennan said that Thinkbox had recently done some research on online VoD, looking at different forms of advertising that could be presented through this medium. One of the questions had used examples from the US using digital insert, a form of product

placement inserted into a programme after filming (i.e. in post-production). In one group, viewers had looked at scenes from a programme and were then informed about the advertising within it, with an explanation that a billboard had been digitally inserted (i.e. it had not been part of the original programme). All viewers had been relaxed about that, not having noticed it in the first place. In another group, viewers had been shown both alternatives: how the programme would look with and without the inserted advertising. The reaction in this group was very different, some people talked about 'distortions to the programme,' how they found it 'intrusive,' and considered it to be 'bastardising art, dishonest and treating viewers like idiots'. But there had been no such reactions when the advertising had been presented in the context of the programme.

There were two lessons to be learned from this research. Firstly, the level of intrusiveness needed to be carefully considered. Secondly, the context of a production was very relevant. Wherever a brand, in context, successfully added to the level of realism, viewers would generally feel comfortable. If product placement was to be allowed, broadcasters would have to make sure it was unobtrusive and context sensitive. Only a relatively small range of programmes could make product placement profitable, and there would be very little direct brand communication through product placement. Producers themselves would want to limit the amount and the level of obtrusiveness at the risk of losing their audience, which was their biggest single commercial currency.

Calum Chace, Business Development Director, MirriAd, a Member of Council, spoke about the technology currently being employed for product placement. He presented some clips, illustrating where product and brand images featured had been digitally placed or embedded after the shoot. He hoped to find agreement that all the shown images looked as if the products in question had been in the picture when originally shot, although in fact all were digital placements or embedded advertising. He argued that could generate substantial additional revenues. According to PQ's Media Report on product placement, it was now a \$3 billion industry in the US alone, split between TV and movies and benefiting both producers and broadcasters. The TV component was about 5% of advert revenues. It was not on a level with advertising spots, and would not replace spots or rival them as a revenue source – however, revenues were substantial.

Mr Chace said that traditional product placement was hard to scale, and risky for brands. Digital placement would not replace traditional placement. It worked well with it and offered four great benefits. Firstly, it allowed deals to be struck just before the programme was aired, instead of months or even years before. Secondly, there was no longer a need to liaise with scriptwriters, directors, actors, and cameramen. Thirdly, it

de-risked product placement for advertisers by allowing advertisers to check a placement before it appeared. And fourthly, different brands could appear in content on different platforms, different regions and different release windows. Digital placement was just about to start in the US, and was expected to add another 5% to industry revenues. If the AVMS was implemented liberally in the UK, there was no reason why the companies in the relevant sector could not enjoy an additional 5% increase as well. Product placement created and maintained awareness and association and placed a brand into the heart of sought after content. It did not intrude and could not be skipped. It was only sometimes that people did not like placement. Research showed that when consumers saw product placement, they usually liked it. When In-Game advertising had been introduced, the gaming community had resented the idea. But when they saw it, they had adopted a positive response to it. The idea that consumers would not like placement became absurd considering how much placement was present already in Hollywood movies, US TV shows and sports programmes. And thanks to the prop placement industry, there were a lot of placements on the BBC as well. Interestingly, nobody was complaining about the current levels of placement.

Mr Chace was worried about one argument in the DCMS consultation, which had been influenced by the 2005 Ofcom calculation: i.e. that after 5 years, product placement would generate no more than £25million for the industry as a whole. This could lead to the conclusion that legalising product placement would be risky and might not create huge incomes for the industry. He considered the Ofcom calculation to be seriously out of date, given recent advances in product placement in the US industry and the arrival of digital placement. Hundreds of millions of pounds would be a more realistic estimate for future product placement revenues in this country.

He concluded that product placement, digital and traditional forms together, could make a big difference to the audiovisual industry. Not to exploit this opportunity would put the UK industry at a comparative disadvantage to its counterparts outside the EU.

Scottish Broadcasting Commission

In December, Blair Jenkins, Chair, Scottish Broadcasting Commission, spoke to Members about the recommendations within the Commission's final and independent report on the future of broadcasting in Scotland.

Mr Jenkins explained that Ofcom's general approach towards PSB had been to try and maintain the status quo as far as possible (i.e. to keep the quality-quantity balance of PSB in the UK). By contrast, the Scottish Broadcast Commission's view was that the status quo had not been working well for some time, and was rapidly deteriorating. No one

disputed that the overall framework for broadcasting in the UK had worked extremely well, but within that generally successful UK framework Scotland had been marginalised and excluded to a large extent – and this had a certain resonance in other parts of the UK, such as Wales and Northern Ireland.

The Commission had been given a remit to conduct an investigation into the current state of broadcasting in Scotland and television production in particular with a view to making recommendations on a strategic way forward. The Commission took a very broad view, and defined broadcasting as creative audiovisual content that could be distributed, produced and consumed in any number of ways. Mr Jenkins said that the report, comprising twenty-two recommendations, had been published almost three months previously, and had received unanimous support from all parties at the Scottish Parliament in October. There had been no significant disagreement with the main findings about the PSB deficit in Scotland and what needed to be done to remedy it. The key recommendation was the need for a new institution in the Scottish broadcast ecology, a new digital public service channel with an online platform. This was regarded as the most effective, proportionate and ambitious solution to the PSB deficit in Scotland.

In part, the situation in Scotland mirrored what was happening in the UK in microcosm. The position of the Scottish ITV licence holder, STV, was that their PSB service was reducing considerably. The volume of Scottish programming on STV was now less than a third of what it had been ten years ago. Considering what had happened in Scotland in terms of political cultural developments it was bizarre that the volume of Scottish material on the main ITV licences in Scotland was now a third of what it had been in 1998. There was a need to secure sustainable competition for the BBC in Scotland. At a UK level, part of that would be picked up by Channel 4, which had no remit and no requirement to produce programming for Scottish audiences. This would leave the potential of the BBC as a monopoly supplier of PSB content in Scotland and that was clearly unacceptable.

Meanwhile there was clear evidence of very strong demand for more content. Public opinion surveys showed high levels of dissatisfaction (up to 40-60%) across a wide range of genres. This high level occurred together with the lowest level of approval of the BBC in any part of the UK. When the original STV licence to broadcast for Scotland had been granted in 1957, there had been a requirement that 15% of the content of the service should be indigenous Scottish production. Therefore, fifty years before devolution there had been an understanding of the requirement for Scottish content for Scottish audiences. Today on the BBC, on the two channels where Scottish content was offered (BBC1 and BBC2), Scottish content was less than 5% of the schedules – and it was under 5% on STV.

The 'opt out' culture in Scottish broadcasting had been a restraint on ambition and content in Scotland, and there was a need for a Scottish entity. The Commission estimated a cost of about £75 million to create a new Scottish network which could deliver a full range of programming. It obviously would provide predominantly Scottish content, but it would be outward looking, bold, original, and risk-taking rather than inward looking. Other than the question of the source of funding for the proposed new network, there had been no disagreement with the analysis of the condition of broadcasting and remedies required. The report had not identified precisely where public funding should come from, other than it should be part of the overall UK funding solution for the future of PSB. It ought to be located there along with the Channel 4 funding deficit and the other claims for support for PSB going forward.

The Commission had referenced its recommendations within a broader vision of what creative content industries should look like in Scotland, since audiovisual content was driving creative industries. There had been a democratic and cultural imperative linked to the work they were doing, and, to many of the recommendations, there had been a very strong economic development set of issues as well. The Commission took the view that the online version of the new channel would be as important as the linear service, and that the content of the new channel as much as possible should be made available online on a 'creative commons' type licence. It should be possible for the content to be re-versioned, re-edited, re-mixed and played back onto the online platform to give the opportunity for viewers to participate and create. It should operate on an open source platform, to provide the opportunity for designing computer programmes and new applications, as well as remixing the editorial content. Most of the outstanding media ventures of recent history have involved collaborations between creative technology and creative content producers, and this was where the future of a successful creative economy was seen in the report.

Television Against Piracy

BSAC continued its participation as a founding member of the TV Against Piracy (TAP) Working Group meetings, chaired by John Enser, Partner, Olswang, throughout 2008. BSAC organised a Television Against Piracy breakfast for policy makers, which took place in June. A summary of the event can be found in the 'Events During 2008' section.

VOD market – TV platforms

At the February Council Meeting, Ben Keen, Screen Digest, gave a presentation about the VOD market (on TV platforms). The main VOD TV platforms in the UK were: Sky Box Office's Near VOD (NVOD) and Sky VOD (Sky Anytime); Virgin Media's 'true' one-to-one streaming to an individual user (with control over that stream such as an ability to pause, rewind, fast-forward etc); Tiscali TV (formerly Homechoice); and the most recent entrant, BT Vision, a hybrid platform with a Freeview Set Top Box that has an IPTV dimension connecting up to broadband.

In the United States, where Video on Demand (VOD) had the longest history, there were now over 30 million subscribers with VOD in their homes, which was close to 50% of all the homes with cable. That had taken a lot of investment on the part of those big cable companies to upgrade their networks and infrastructure. The backend had to enable all of that to happen. There had been a time when people thought about VOD as a kind of electronic video rental store, which would be a cash cow for movie studios when it finally became a mass market. That simply had not happened. The studio revenues from VOD in the US in 2007 had been a little over \$600 million. This was tiny in the grand scheme of things. Revenues from DVD sales in the same year had been 15 times larger than that. One of the reasons for this was that people did not really want to buy pay-per-view access to movies with multiple transactions. What they liked was having free access. A lot of activity on US cable networks is what is known as Free VOD (FVOD), some of which is supported by a different business model, i.e. based on advertising rather than pay-per-view. In addition, there was a lot of subscription-based VOD in the US. VOD had made little impact on the studios compared to packaged media rental and retail.

Revenues from VOD had grown since its introduction in 2005. Total on demand revenues grew after a dip in 2007, because of the shift from NVOD to VOD. No massive growth was expected from the transactional part of the market, partly because VOD was really about other things for the service providers (like subscriber attention and free service). It was reasonable to expect more competition in the market, particularly from internet-based services. Looking at the kinds of content driving revenues, it was certainly not just about movies, even in terms of the paid-for transactions. Movie content accounted for about 44% of all the paid-for on demand transactions. The TV slice was virtually missing because it was, by and large, free at this point. But other significant categories, for example, were sport and adult. However, the movie part of the revenue was driven by the shift to true VOD as it gave greater virtual 'shelf-space' for a wider choice of titles and more exploitation of library movies, even though the latter only accounted for about 10% of movie on demand revenues currently. On the consumer spending side, DVD rental still

accounted for 3.5 times as much spending as true VOD in the UK. Even though DVD rental was in many people's minds a dying business, it was still massively bigger than VOD. However, because of the higher take for the studios from their revenue-share deals, they were making slightly more revenues from VOD than from DVD rental.

In terms of windows, Mr Keen said that the UK VOD window was typically at a slightly later point than in the US, but there was pressure on windows everywhere. The 1.5 months window in the US had already started to be compressed to about one month. The subscription window happened at the same time as the Pay TV window, so in the US market (where the Pay TV channels were generally more independent of the platform than in the UK) there was a much more active SVOD market. By contrast in the UK, where BskyB owned most of the rights in this window, SVOD was primarily happening on true VOD platforms for movie content. This was an important distinction between what was possible in the US and the UK respectively because of the contractual terms around windows. Currently, the on demand market in the UK, in terms of relative market shares, was primarily split between Virgin Media and Sky (with Virgin Media having a slightly larger share), and BT and Tiscali taking relatively small shares of the market. BT Vision was not expected to take any more than 10% over a mid-term period.

VOD market – Internet platforms

In September, Ben Keen, Screen Digest, provided another update on the VOD market, this time concentrating on open internet platforms.

Different kinds of content were being impacted in different ways by the development of distribution. Movies were typically a paid-for content type. The core market was physical and would be so for a long time to come. It was a transactional business model, and there was a strong after-market for movies. TV programming, digital as well as traditional, was primarily a free-to-the-consumer business model. In the digital domain, VOD had been focussed on advertising-supported delivery, with some incremental transactional revenue to physical retail. The online entertainment space was evolving, and the gateway (the device itself) was important in understanding consumer behaviour. One could identify two stages, and they were concurrent. The first stage was characterised by a demand for instant access and, most of all, a low willingness to pay for content. Content on a PC was almost exclusively free. Stage two began when video started to be delivered into other devices, particularly the traditional TV set, but also to portable devices. Key to other devices was that they transferred open internet content into places where people liked to view it.

Apple dominated the market for paid for video content with its iTunes proposition. People bought the device, i.e. the iPod or in other cases the games console, and then bought content for the device. In the US alone, iTunes sold about 7 million movies in the 15 months up to January 2008 (and this was achieved without most of the film studios on board). The studios had come on board finally in 2008, both with rental business models and later on with retail business (a download-to-own business model). The download-to-own model was concurrent to the DVD release. Apple had been able to report a run-rate of 50,000 iTunes movie transactions per day worldwide, in North America and the UK only. iTunes accounted for well over a half of all transactions, even though it was only available in three countries. The only other player of any significance in this market was Microsoft with the Xbox Live video service, which paired with the Xbox 360 Games console. Companies that were solely web based and did not have a device strategy at the heart of their business had found themselves in a so-called 'digital ghetto.'

Well over 70% of the paid-for market was controlled by Apple and Microsoft. Companies had tried and failed when they did not have a device-based route to market. One of the high profile examples was Movielink, set up by five of the Hollywood majors and now owned by Blockbuster. Up to the middle of 2007 Movielink recorded revenues of a little under 10 million and the studios did quite well, insofar as they had been paid over 5 million out of that 10 million. The infrastructure and distribution costs were significant along with the marketing costs, so overall in 2.5 years they had an accumulative operating loss of over 70 million. To sum up, expectations for the UK were that movies on demand would be a £50 million business by 2012, and would account for less than 2% of the total home video market at that point in time. As a stand-alone business it was therefore not very viable. It was only viable when it supported another more profitable business. Apple was mainly concerned with selling devices, and the iTunes business provided an ecosystem to support that. Microsoft was focused on selling games for the Xbox, and the download system supported that.

Mr Keen spoke about the research findings on TV content delivered to the consumer free over the internet. In 2007, over 800 million streams or downloads of TV shows in the UK had taken place, where every stream represented a viewing of some piece of content. To put that in perspective, YouTube had over 10 billion streams in 2007 in the UK alone. TV distribution was expected to more than triple by 2012, in terms of the number of streams, clearly driven by the BBC's iPlayer. In terms of financial value in 2007, close to 30 million pounds had been generated in associated advertising delivered in and around TV show streams. Sports had been the only content category viable as a subscription business model online at this point. He estimated that the iPlayer would account for around 40% of all free-to-view online TV streams consumed in the UK in 2008. The iPlayer was a very

successful platform, that other broadcasters had been trying to learn from and seeking to replicate its success. More than a million videos were viewed per day. Consumers seemed to enjoy its easy usability, minimum barriers and join-free model. Those were all important lessons that could be learnt from. The next stage would be to transfer the iPlayer experience to other platforms and other devices, examples being the iPlayer on the iPhone, the Nintendo Wii and an implementation on the Sony PS3. Additionally community features were implemented, and the concept of viral distribution had been taken up. This was enabling viewers themselves to pass on the content and to embed it, just as one could with any YouTube content. At the moment online television was a low value high volume business, and the revenues and margins were currently low because the audience size was relatively small. The iPlayer was dominating the UK market and the crux of this business was that every additional viewer costs extra money, a cost that was currently outweighed by the revenue being brought in. Pricing of the advertising was still in an experimental stage, and the costs that broadcasters had to deliver that content (through CDNs, or Content Delivery Networks) were fairly high especially in the UK. For a 45-minute episode of a show, the delivery costs were 3-5 pence per viewer typically, which was a high amount in terms of an advertising payback.

In summary the digital media service provision as a stand-alone proposition was rarely a profitable business. In the paid-for segment, the most successful companies were those that utilised online video to support another already profitable business. In the free-to-view segment, much of the activity had been prompted by defensive manoeuvring – being in the space because competitors were and they were attempting to counter viewer ‘leakage’ to rival services. These motivations were similar to those of broadcasters who had gone into the multi-channel world. The two categories of company that were currently profiting from the online video business were owners of valuable premium content, and also technical enablers of the services – many of which have received significant outside investment.

EVENTS DURING 2008

BSAC Film Conference

BSAC held its fifth annual Film Conference on 7 March. The Conference, chaired by Deputy Chairman John Howkins, focused on ways of monetising content in the new digital environment.

There was a Ministerial Address by Margaret Hodge, Minister for Culture, Creative Industries and Tourism, describing the Government's strategy for the creative industries, making reference to some of the ideas contained within the recently published 'Creative Britain' document.



John Howkins

The keynote addresses were provided by Josh Berger, Warner Bros. Entertainment UK, who described the various ways in which Warner Bros. was embracing the digital age; and Mark Cranwell, Babelgum, who described the company's strategy in the years ahead.

Other highlights included a presentation by Ben Keen, Screen Digest, about film industry trends. The other morning sessions comprised:- a panel discussion on distribution and rights issues in an online world, chaired by James Kay, Olswang (panellists were Michael Maxtone-Smith, Reed Smith Richards Butler; Phil Rymer, Icon UK Group; Peter Watson, Recorded Picture Company); and a session on the cinema business in a digital world chaired by Arvind Ethan David, Slingshot (panellists were: Chris Auty, Producer/Distributor; Ross Fitzsimons, Curzon Artificial Eye; Rupert Gavin, Odeon and UCI Cinemas; Tim Richards, Vue Entertainment).

The afternoon sessions comprised a discussion on monetising content, chaired by John Howkins (panellists were Simon Oakes, Hammer Film Productions; Patrick Walker, YouTube/Google); and a presentation on investors, film and the digital economy by Martin Smith, Ingenious. For the final panel session of the day, there was a 'crystal ball gazing' session, chaired by John Howkins – with Sue Bruce-Smith, Head of Commercial Development, Film4; Ajay Chowdhury, EnQii Holdings plc; Marc Gareton, Warner Bros. Digital Distribution; Christine Langan, BBC Films; Paul Webster, Kudos Film and Television; John Woodward, UK Film council.

The event was made possible by generous sponsorship from Time Warner.

Games Financing Seminar

BSAC held a games financing seminar at the West End Vue Cinema on 21 April. The aim of the seminar was to explore what lessons could be learnt from financing structures already used by the film industry, and whether any experience from film could be applied to games financing.



Tim Richards

The seminar, chaired by Council Member Fred Hasson, TIGA, began with a demonstration of in cinema gaming by Tim Richards, Vue Entertainment and Mark de Quervain, Vue Entertainment. A keynote speech on the games sector and opportunities for investment was provided by Ian Hetherington, Realtime Worlds.

Other sessions included a talk on the R&D Tax Credit by Greg Howe, Braithwaites Tax Recovery Consultants Ltd; a talk on the history of film finance by Nigel Palmer, S J Berwin; and a presentation on a fund dedicated to developing online, casual and console games in the US by James Donnell and Alex Collmer, Autumn Entertainment Partners. The final panel discussion included contributions from: Paul Gardner, Osborne Clarke; Tim Gatland, Fund4Games; Patricia Jackson, RBS; Siggie Koegl, Attaction; Rob Sherr, Bank Leumi; and William Latham, Games Audit Ltd.

BSAC was grateful to RBS and Vue for sponsorship of the seminar, also to TIGA for their help in the organisation of the programme.

New Media Advertising Seminar

BSAC held a seminar on new media advertising on 2 June at the offices of S J Berwin.

The seminar, chaired by Ajay Chowdhury, EnQii Holdings, included keynote speeches by: Mark Boyd, Bartle Bogle Hegarty (in which he provided insights into the changing advertising market from an agency perspective); and James Davies, Hyperspace/ Posterscope (during which he focused on the main developments in new media advertising particularly in terms of outdoor spaces).

There was also a panel session on the opportunities for growth in advertising, with contributions by: Ed Bartlett, IGA Worldwide Inc; David Brennan, Thinkbox; Hugo Drayton, Phorm UK; Charlie Horrell, Packet Vision Ltd; and Nitzan Yaniv, Amobee.

BSAC was grateful to S J Berwin for hosting the event.

Television against Piracy Breakfast for Policy Makers

BSAC organised a breakfast seminar on behalf of the Television against Piracy (TAP) Group on 17 June, which aimed to raise awareness among policy makers about how online piracy was affecting the television industry.

The seminar was opened by Jon Gisby, Channel 4 – and was chaired by John Enser, Chairman, TAP Group.

A keynote speech was given by Michael Grade, Executive Chairman, ITV plc, on the problem of piracy, in which he put piracy in context with the changing industry. There was a session with Anthony Rose, BBC, where he demonstrated how easy it was to pirate TV content. There was also a panel discussion on enforcement aspects, chaired by John Enser, with contributions from Michael Barley, BSkyB plc; Paul Stevens, Olswang; and Nick Swimer, Channel 4.

Among the guests were Baroness Delyth Morgan of Drefelin, Parliamentary Under Secretary of State for IP & Quality, civil servants, members of parliamentary committees and the House of Lords, and representatives from the television industry who were involved in piracy issues.

Blue Skies Seminar

BSAC held a seminar on 2 October to launch the report of the Blue Skies Working Group. The seminar was well attended by senior executives and policymakers.

The seminar, chaired by John Howkins, began with a keynote speech by Adam Singer, Chairman, about the nature of change and the need for the industry to restructure itself. Claire Enders, Enders Analysis, provided a contextual presentation, and Ajay Chowdhury, EnQii Holdings, presented some insights into some of the findings of the Working Group.

Following on from this was a panel discussion, during which Working Group Members further discussed the issues affecting the industry. One key point discussed was the retail model. See page 16-17 for further information on the Group's conclusions.

OFFICERS AND STAFF

Honorary President

Lord Attenborough of Richmond-upon-Thames

Chairman

Adam Singer

Honorary Deputy Chairman

Michael Flint

Deputy Chairmen

Michael Deeley, Mark Devereux, John Howkins, Marc Samuelson

Working Group Chairs

Blue Skies Working Group

John Howkins

Copyright Working Group

Mark Devereux

Film Tax Credit Working Group

Libby Savill

Executive Committee

Adam Singer

Director

Fiona Clarke-Hackston

Staff



Sarah Stevens



Elizabeth Wilding

Consultants



Helen Baehr



Ben Keen



Amy Seeley



Judith Sullivan

Accountant

Doug Abbott MA FCA

ADMINISTRATION

Council Administration and Membership

How BSAC operates

BSAC holds eight Council meetings a year and requires a quorum of fifteen Members. Agendas for the meetings are varied according to issues facing the industry. Members unable to attend a specific Council meeting may nominate a substitute who must be approved by the Director. However, Members are still required personally to attend a minimum of two Council meetings a year.

Much of BSAC's work is handled by Working Groups set up on an ad hoc basis to deal with issues. BSAC also has a valuable network of co-opted Members, particularly Associate Members, who are invited to serve on Working Groups where a particular field of expertise not represented on the Council is needed. Reports from Working Groups are given to Council regularly and on such occasions the full Council's endorsement is sought. Wherever possible the Council seeks support from all Members on policy issues. On rare occasions where proposals are not fully supported the Council seeks to illustrate, where possible, the degree of support and, in general terms, who supported and who are the dissenters with their reasons.

In addition to the Chairman, the Council is served by four Deputy Chairmen.

Executive Committee

The Executive Committee meets three times a year and reports of meetings are circulated to all Council Members. Executive Committee comprises five officers, the Director, and five Members who are elected by Members bi-annually to act on behalf of Council between Council Meetings. A quorum of four Members is required. In addition to audiovisual policy, the Executive Committee also considers BSAC's internal affairs, in particular finance and membership, and makes recommendations on such matters to the Council.

BSAC's Links with Government

BSAC maintains strong links with Government. Civil servants and policymakers from the key departments with responsibilities for the audiovisual industries such as DCMS, BERR and DIUS are regularly invited to participate in Council meetings and events. John Whittingdale MP, the Chairman of the Culture, Media and Sport Select Committee and Derek Wyatt MP, Co-Chair All-Party Communications Group also attend as Observers. BSAC also invites representatives from the Treasury, other Government departments and the European Commission to attend meetings where appropriate. BSAC holds frequent meetings with EU officials and MEPs. BSAC is non-party political.

Associate Membership

Associate Membership provides an effective mechanism whereby companies and institutions can formalise a relationship with BSAC through attending events, receiving minutes, reports and other information. Unlike Membership, Associate Membership is available on a corporate not individual basis. Many representatives of Associate Member companies assist BSAC's work by serving on Working Groups or undertaking research on a pro-bono basis. The Council is appreciative of this support.

COUNCIL MEMBERS

Members

Membership information given below relates to December 2008.

Honorary President

Lord Attenborough of Richmond upon Thames

Chairman

Adam Singer Consultant, Cordelia Consultancy

Honorary Deputy Chairman

Michael Flint

Deputy Chairmen

Michael Deeley Producer
Mark Devereux Senior Partner, Olswang
John Howkins Director, ITR & Co
Marc Samuelson Managing Director, CinemaNX

Members

Chris Auty Producer/Distributor
Mark Batey Chief Executive, Film Distributors' Association Ltd
Mark Benson Managing Director, The Moving Picture Company
*Josh Berger President & Managing Director,
Warner Bros. Entertainment UK*
Parvinder Bhatia Group Chief Operating Officer, VTR plc/Prime Focus Group
Dan Brooke General Manager UK, Discovery Networks Europe
Magnus Brooke Director, Regulatory Affairs, ITV
Rob Buckler Director, Skillset Screen Academy at LCC and EIM
Anne Bulford Group Finance Director, Channel 4
Dinah Caine OBE Chief Executive, Skillset
Lavinia Carey OBE Director General, British Video Association
Calum Chace Business Development Director, MirriAd
Ajay Chowdhury Chief Executive Officer, EnQii Holdings Plc
Larry Chrisfield Independent Tax Consultant
Phil Clapp Chief Executive, Cinema Exhibitors' Association
Mark Cranwell Director, Content Acquisition, Babelgum
Luke Crawley Assistant General Secretary, BECTU
*Carolyn Dailey Managing Director, Public Policy, Europe, Time Warner
International*

<i>Gaynor Davenport</i>	<i>Chief Executive, UK Screen Association</i>
<i>Arvind David</i>	<i>CEO and Producer, Slingshot</i>
<i>James Davies</i>	<i>Board Director, Posterscope</i>
<i>Jonathan Davis</i>	<i>Consultant</i>
<i>Ivan Dunleavy</i>	<i>Chief Executive, Pinewood Shepperton</i>
<i>David Elstein</i>	<i>Independent</i>
<i>Lady Falkender</i>	<i>Life Peer and Company Director</i>
<i>Sarah Faulder</i>	<i>Director, Public Affairs, MCPS-PRS Alliance</i>
<i>Ray Gallagher</i>	<i>Independent</i>
<i>Stephen Garrett</i>	<i>Executive Chairman, Kudos Film and Television</i>
<i>Rupert Gavin</i>	<i>Chief Executive Officer, Odeon & UCI Cinemas</i>
<i>Andrew Hall</i>	<i>Senior Vice President and Head of Legal and Business Affairs, Universal Pictures and Entertainment</i>
<i>Fred Hasson</i>	<i>Consultant, Cross Media Apps</i>
<i>Ken Hay</i>	<i>Chief Executive, Scottish Screen</i>
<i>Phil Jenner</i>	<i>Vice President, Government Relations, Europe, Viacom</i>
<i>Iona Jones</i>	<i>Chief Executive, S4C</i>
<i>Brian Kelly</i>	<i>President, Technicolor Network Services</i>
<i>Mike Kelt</i>	<i>Managing Director & SFX Supervisor, Artem Visual Effects</i>
<i>Jason Kingsley</i>	<i>Chief Executive Officer, Rebellion</i>
<i>Roger Laughton</i>	<i>Consultant</i>
<i>Jane Lighting</i>	<i>Independent</i>
<i>Anthony Liley OBE</i>	<i>Managing Director, Magic Lantern Productions</i>
<i>Dan Marks</i>	<i>Chief Executive, TV Services, BT Vision</i>
<i>Charlie McAuley</i>	<i>Manager Director, Paramount Home Entertainment UK & Ireland</i>
<i>Cameron McCracken</i>	<i>Managing Director, Pathé UK</i>
<i>John McVay</i>	<i>Chief Executive, PACT</i>
<i>Kerry Neilson</i>	<i>Executive Director, Satellite and Cable Broadcasters' Group Ltd</i>
<i>Amanda Nevill</i>	<i>Director, British Film Institute</i>
<i>Sam Nichols</i>	<i>Managing Director, Momentum Pictures</i>
<i>Jonathan Olsberg</i>	<i>Chairman, Olsberg-SPI Limited</i>
<i>Simon Olswang</i>	<i>Founder, Olswang</i>
<i>Julia Palau</i>	<i>Producer, Tusk Productions</i>
<i>Andy Paterson</i>	<i>Company Director, Archer Street Limited</i>
<i>Christine Payne</i>	<i>General Secretary, British Equity</i>
<i>Simon Perry CBE</i>	<i>Independent</i>
<i>Simon Persoff</i>	<i>Director of Regulatory Affairs, Orange Home UK plc</i>
<i>Nik Powell</i>	<i>Independent Producer</i>

Tim Richards Chief Executive Officer, Vue Entertainment
Sue Robertson Corporate Affairs Director, Five
Nick Toon Head of Corporate Relations, Channel 4
Jane Tranter Controller, BBC Fiction, BBC Vision
Malcolm Wall Chief Executive Officer, Content, Virgin Media Inc
Oliver Weingarten Solicitor, Commercial and Intellectual Property, Premier League
David Wheeldon Director of Public Affairs, BskyB
Wilf White Head of External Policy, BBC
Prof Colin Young Black Sheep Films/Consultant, Ateliers du Cinéma Européen

Permanent Observers

John Whittingdale
OBE MP Chairman, Select Committee for Culture, Media and Sport
Derek Wyatt MP Co-Chairman, All-Party Communications Group

Associate Membership

Associate Membership applies on a corporate not individual basis. Associate Membership information given below relates to December 2008.

<i>Martyn Atkinson</i>	<i>Senior Manager, Ivan Sopher & Co.</i>
<i>Terry Back</i>	<i>Head of Media and Entertainment, Grant Thornton</i>
<i>Richard Bawden</i>	<i>Partner, KPMG</i>
<i>Paul Brett</i>	<i>Prescience Film Finance Ltd</i>
<i>Stephen Edwards</i>	<i>Head of Media and Entertainment Group, Reed Smith LLP</i>
<i>Nick Fitzpatrick</i>	<i>Partner, DLA Piper Rudnick Gray Cary</i>
<i>John Graydon</i>	<i>Head of Film, Tenon Group plc</i>
<i>Fiona Hotston-Moore</i>	<i>Managing Partner & Head of Media, Mazars</i>
<i>John Dixon</i>	<i>Head of Media, Royal Bank of Scotland</i>
<i>Leon Morgan</i>	<i>Partner, Davenport Lyons</i>
<i>Timothy Nicholas</i>	<i>Chief Executive Officer, Centrespur Corporate Services Ltd</i>
<i>Nigel Palmer</i>	<i>Partner, Commercial Group, S J Berwin LLP</i>
<i>Duncan Reid</i>	<i>Commercial Director, Ingenious</i>
<i>Rob Sherr</i>	<i>Head of Media, Bank Leumi</i>
<i>Phil Stokes</i>	<i>Entertainment and Media Leader, PriceWaterhouseCoopers</i>
<i>Yu-Fai Suen</i>	<i>Chief Operating Officer, Aramid Capital</i>
<i>Mo Yusef</i>	<i>Chairman and CEO, Invicta Capital Ltd</i>

HONORARY TREASURER'S REPORT

The Council's funds are provided by companies, organisations and individuals within the industry. BSAC operates a subscription scheme directly related to membership of the Council. Invitations to membership are made to selected individuals rather than the organisations they represent. Members without an organisation behind them also pay a modest subscription.



Michael Deeley

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<i>Aramid Capital Partners</i>	<i>ITV</i>
<i>Artem Visual Effects</i>	<i>Irish Film Board</i>
<i>Babelgum</i>	<i>Ivan Sopher & Co</i>
<i>Bank Leumi</i>	<i>KPMG LLP</i>
<i>British Broadcasting Corporation (BBC)</i>	<i>Kudos Film & Television</i>
<i>British Equity</i>	<i>Magic Lantern Productions</i>
<i>British Film Institute (BFI)</i>	<i>Mazars LLP</i>
<i>British Telecom (BT)</i>	<i>Michael Simkins LLP</i>
<i>British Video Association (BVA)</i>	<i>MirriAd</i>
<i>Broadcasting Entertainment</i>	<i>Momentum Pictures Ltd</i>
<i>Cinematograph and Theatre Union (BECTU)</i>	<i>NBC Universal International</i>
<i>BSkyB</i>	<i>Odeon & UCI Cinemas</i>
<i>Centrespur Corporate Services Ltd</i>	<i>Olsberg SPI Ltd</i>
<i>Channel 4</i>	<i>Olswang</i>
<i>Channel 5 Broadcasting (Five)</i>	<i>Orange Home UK</i>
<i>Cinema Exhibitors Association (CEA)</i>	<i>Pathé Pictures</i>
<i>CinemaNX</i>	<i>Pinewood Shepperton</i>
<i>Davenport Lyons</i>	<i>Posterscope</i>
<i>Discovery Networks Europe</i>	<i>Prescience</i>
<i>Enqii Holdings</i>	<i>PriceWaterhouseCoopers</i>
<i>Film Distributors Association (FDA)</i>	<i>Producers Alliance for Cinema & Television (PACT)</i>
<i>Grant Thornton</i>	<i>PRS for Music</i>
<i>Hyperspace</i>	<i>Rebellion</i>
<i>Ingenious Media</i>	<i>Reed Smith LLP</i>
<i>Invicta Capital Ltd</i>	<i>Royal Bank of Scotland (RBS)</i>

S4C
Satellite and Cable Broadcasters' Group
Scottish Screen
SJ Berwin & Co
Skillset
Skillset Screen Academy at LCC and EIM
Slingshot
Technicolor Network Services
Tenon Group
The Moving Picture Company

Time Warner
Tusk
Twentieth Century Fox
UK Screen Association
Viacom
Virgin Media Inc
VTR Plc
Vue Entertainment
Warner Bros. Entertainment UK

In 1997 BSAC established a sister company, BSAC Events Ltd, through which all events are run. BSAC is a non-profit making organisation and operates with limited resources. BSAC endeavours to keep costs for all events as low as possible through sponsorship.

DOCUMENTS PUBLISHED IN 2008

1. BSAC response to the EC Communication on Content Online – February 2008
2. TV Platform Video-On-Demand: Market Status Update – February 2008
3. BSAC response to the Intellectual Property Office consultation on the proposed changes to Copyright Exceptions – March 2008
4. BSAC Film Conference Report – March 2008
5. UK Movie Market Update – March 2008
6. BSAC Annual Report 2007 – March 2008
7. BSAC response to the European Commission's second call for comments on fair compensation for acts of private copying – April 2008
8. The Video Games Industry – April 2008
9. New Media Advertising Seminar – June 2008
10. Implementing the Gowers Review of Intellectual Property: Orphan Works – an additional paper from BSAC – September 2008
11. BSAC response to the All Party Intellectual Property Group Inquiry: Has Gowers Helped or Hindered Enforcement of IP Rights? - September 2008
12. Internet Video-On-Demand: Market Status Update – September 2008
13. Report by the BSAC Blue Skies Working Group – October 2008
14. Report on the seminar 'Future Business Trends: Life and Death Post 2012' – October 2008
15. BSAC response to UKIPO's consultation, 'Taking Forward the Gowers Review of Intellectual Property: Penalties for Copyright Infringement' – October 2008
16. BSAC response to the European Commission's consultation on Copyright in the Knowledge Economy – November 2008
17. BSAC response to the DCMS consultation on the AVMS Directive implementation – November 2008

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