

Modernising the BBC's Operating Licence

1. We have worked closely with Radiocentre on its response to this consultation; we fully support their case for an effective Operating Licence as the primary means of setting clear and robust expectations on the way in which the BBC should deliver distinctive content.
2. We are submitting our own response to share some further audience insight from surveys we have carried out regarding BBC Local Radio, and to underscore the key points made in Radiocentre's document.

Overarching points

Radio is different

3. Ofcom acknowledges that the dynamics within the UK audio sector differ from those in TV; radio listening accounts for 67% of all audio consumption¹ and the BBC remains the dominant single radio broadcaster: the BBC accounts for 48% of all radio listening – over twice that of Global, the next biggest market participant, with a 22% share². Overall audience behaviour is changing less quickly in audio, and the impact of global tech companies is materially less pronounced than in TV.
4. We find it disappointing that despite the acknowledgement of this difference, the proposals set out by Ofcom fail to adequately recognise the inevitable consequences of those differences. To give BBC radio further flexibility will have much more wide-reaching impacts than in the TV market, by enabling the BBC to further leverage and abuse this dominant position. The new regime will further distort fair and effective competition between the BBC on the one hand, and the commercial radio sector on the other. We can see no apparent reason for these significant and far-reaching changes. They are not in the interests of the licence-fee paying listener, nor the radio sector as a whole.
5. Overall, the proposals do not appear to satisfactorily discharge Ofcom's obligations set out in Schedule 2 of the Operating Framework, that "in imposing the regulatory conditions Ofcom must have particular regard to the need for the BBC to secure the provision of distinctive output and services", nor those relating to fair and effective competition (in particular section 3(4)(b) of the Communications Act 2003 (the "Act") and Article 45(2)(b) of the BBC Charter. As a result, Ofcom's proposals will fail as regards its principal duty to further the interests of citizens and consumers under section 3(1) of the Act.

BBC's unique funding position

6. We are surprised that there was very little mention in the consultation document as to the principal reason why BBC-specific regulation exists in the first instance: namely, its unique funding position and guaranteed access to a significant amount of public funding. It is this funding position – and its ability to have significant distortive effects in markets well served by commercial stations – that should be a cornerstone of any regulatory regime for the BBC.

¹ Ofcom Media Nations 2021, Figure 5.3

² RAJAR, June 2022

7. We are very disappointed that in these proposals, Ofcom appears to place significant emphasis on the BBC being able to compete more aggressively with worldwide commercial players, and in doing so allows the BBC to also further compete with and serve audiences already well served by UK commercial radio stations. It does not try to avoid market distortions funded from the BBC's public subsidy, or 'crowding out' of much loved UK commercial radio stations.
8. Today, technology enables a greater range and volume of content to be produced (and audiences to be served) without the need for public subsidy. So it is more – not less – important to consider the distortive effects of such continued public funding.

Inclusion of BBC's Online Services within Operating Licence perimeter

9. The proposal to include the BBC's Online Services within the perimeter of the operating licence is very light touch. Despite Ofcom's acceptance that the UK audio market is different to the UK TV market, it is proposing a similarly high-level approach to regulating the BBC's activities online, irrespective of the medium. This is not coherent, nor is it consistent with Ofcom's duties referenced above.
10. Given the BBC's dominance in the UK audio sector, and its unique publicly funded status, Ofcom should be concerned about the BBC leveraging that dominance further into adjacent services, such as BBC Sounds.
11. Accordingly, the BBC's online audio activities should be subject to a greater level of regulation than for its online TV services. New proposed services on BBC Sounds, be they on the main wheel or EPG of any BBC app or website, or those services with their own smart speaker utterance, must be subject to proper scrutiny with stakeholders having clarity on the proposal and a substantial opportunity to meaningfully input. The final decision on launching any new public services must rest with Ofcom.

Transparency and reporting requirements

12. Ofcom's proposals to improve the BBC's transparency and reporting, and Ofcom's intention to more effectively hold the BBC to account, do not go far enough. Indeed, the proposed Operating Licence substantially weakens Ofcom's ability to hold the BBC to account when it comes to Radio, rather than strengthening it.
13. In practice, there will not be sufficient and timely information for Ofcom – or other stakeholders – to assess whether the BBC is adequately meeting the conditions of its licence. This will have the effect of negating the impact of a 'step-in' power, particularly in areas where the impact of the BBC failing to meet its licence condition could have material and persistent effects on how the market evolves – for example, in relation to the BBC's online audio activities.
14. Concerns about the inadequacies of ex-post regulation in fast-moving digital markets underpin the creation of the DMU and proposals for a special ex-ante regime for large tech firms, and we believe similar arguments are applicable here given the BBC's dominance in UK audio.

Enforcement

15. The document did not set out in any detail how Ofcom intends to take enforcement action against the BBC, aside from saying it would be “flexible and agile”, whatever that means. Ofcom has certainly not been ‘flexible or agile’ when regulating the BBC to date, giving us no cause to believe this would be the case in the future. Given Ofcom proposes moving from an ex-ante regulatory structure to a mix of ex-ante and ex-post regulation, when and how Ofcom takes enforcement action is particularly important for those areas that will be effectively ‘deregulated’.
16. In particular, it is not clear whether, and if so how, Ofcom intends to engage with stakeholders in its enforcement action, even though they – and their audiences – may be adversely affected by the BBC’s actions under these proposals. In past BBC regulatory decisions, Ofcom has failed to check whether stakeholders have been properly and meaningfully consulted; and given that Ofcom staff members involved in these processes and decisions have not changed, our confidence in Ofcom’s willingness or ability to do so in future situations, is very low.
17. Without clear enforcement ability, Ofcom will be left impotent to intervene should the BBC act in a way that distorts the market or does not further their Public Purposes, and it is audiences that will ultimately lose out.
18. Ofcom’s remit is to regulate the BBC. These proposals do not give it the tools to adequately do so. The overall tone of the proposals suggests that, in fact, Ofcom does not itself wish to regulate the BBC, but would rather hand the baton over to the BBC itself and revert to the model of self-regulation, the failure of which led to Ofcom’s oversight of the BBC in the first place. This would represent a wholesale dereliction of Ofcom’s duties under Article 45 of the Charter and a failure to fulfil its function set out in Article 44 of the Charter and, in particular, the requirement under clause 5(1) of the BBC Agreement that the Operating Framework published by Ofcom should “secure the **effective** regulation of the activities of the BBC” (emphasis added).

Specific Responses

Do you agree with the proposals for Public Purpose 1: To provide impartial news and information to help people understand and engage with the world around them?

Proposed Changes Impacting the Audio Sector:

- The key proposal impacting the audio sector around Public Purpose 1 is to amend the measurement of news quotas for BBC Radio 1, BBC Radio 1Xtra, BBC Radio 2, BBC 6 Music and BBC Asian Network. There is currently a requirement to provide a minimum number of hours of news programming over the course of a week, the proposal is that these minimums instead apply over the course of a year.

Relevant Licence Condition Changes:

Service	Current Requirement	Proposed Requirement
Radio 1 & Radio 1 Xtra <i>(2.8 / 1.8; 2.9 / 1.9)</i>	at least one hour is allocated to news during Daytime each weekday (except for Public Holidays)	280 hours allocated to news in each Financial Year
	bulletins at regular times during Daytime at weekends	bulletins at intervals throughout the day
Radio 2 <i>(2.10 / 1.10)</i>	at least 17 hours are allocated to news and current affairs programming each week, of which at least 3 hours must be in Peak Listening Time	at least 867 hours are allocated to news and current affairs programming each Financial Year, of which at least 153 hours must be in Peak Listening Time

Note: Original licence condition number / proposed licence condition number shown in brackets

Our Response:

19. It is essential that the BBC carries news on its radio services; this should be at the core of any publicly funded broadcaster's output, and is recognised in Public Purpose 1 to "provide impartial news and information...".
20. Ofcom notes that "by moving to annual quotas, the BBC could provide news less frequently than now",³ and yet still this proposal is put forward. The proposed requirements for each relevant service to provide news bulletins "at intervals throughout the day" do not go far enough to protect against this eventuality and mitigate this risk. Indeed, these proposals actually create the risk that this is exactly what will happen. In proposing a solution that enables an outcome which Ofcom identifies as unsatisfactory, Ofcom cannot be said to be providing a framework for **effective** regulation – and we question why they would want to do so.
21. Has Ofcom considered what this could mean in practice? At the very extreme, by merely providing two long news bulletins a day (for example one late at night and one early in the morning) - this new, watered-down obligation would be met. This would clearly not be in the interests of citizens.

³ 6.27. Modernising the BBC's Operating Licence - consultation

22. It is irrational for Ofcom to propose a regulatory regime that it itself acknowledges enables the BBC to deliver outcomes that would harm the interests of citizens.
23. The best way to ensure that the BBC does not provide news “less frequently than now” would be to retain the existing requirements for hourly news, which is our strongly recommended course of action.
24. Furthermore, the consultation does not recognise the current content regulation rules already in place for the commercial radio sector, which already mandate hourly and/or regular local news⁴.
25. Thus, the current proposals would see the BBC – despite its unique funding position – subject to a more relaxed regulatory regime regarding news provision than the commercial sector.
26. This clear asymmetry would not only distort the market, but is against Ofcom’s duty to promote fair and effective competition as well as Ofcom’s own Regulatory Principles of taking a “consistent” approach to interventions, as mandated by section 3(3)(a) of the Act.

Existing news quotas for BBC radio should therefore remain to ensure:

- **The BBC continues to provide impartial news and information on a regular basis**
- **A ‘level playing field’ between the BBC and the commercial radio sector**

Existing licence conditions 2.8 – 2.10 should be retained.

27. If Ofcom were to ignore these representations and move forward with these proposals, we would expect hourly news requirements and local news requirements for commercial radio under Ofcom’s localness guidelines, to be relaxed so that they mirror the new, lighter touch obligations placed on the BBC. It is irrational that commercial broadcasters, in order to access equivalent spectrum as that available to the BBC, but without the public subsidy, should be subjected to stricter content rules. Failure to provide corresponding relaxations to the commercial sector would be a breach of Ofcom’s principal duty and its regulatory principles under section 3(3)(a) of the Act and leave Ofcom open to legal challenge.

Do you agree with the proposals for Public Purpose 3: To show the most creative, highest quality and distinctive output and services?

Proposed Changes Impacting the Radio Sector:

- Moving weekly specialist music quotas from weekly to annual measurement
- Replace network radio quotas for arts and religious programmes, documentaries, social action campaigns, live or specially recorded performances and new musical works with a condition to provide a wide breadth of output supported by transparency requirements. This would include requiring the BBC to set out planned hours of such programming with its Annual Plan.
- New transparency requirement “The BBC must explain and publish annually, at the same time as it publishes its Annual Report...the contribution specialist music made to the distinctiveness of Radio 1 and Radio 2 during that year.”

⁴ Ofcom localness requirements

Relevant Licence Condition Changes:

Service	Current Requirement	Proposed Requirement
Radio 1 & Radio 1 Xtra <i>(2.25 / 3.14.5.1)</i> <i>(2.39.3 / 3.9.3)</i>	40 new documentaries	None <i>(BBC must set out planned hours of new documentaries each year)</i>
<i>(2.39.6 / 3.9.6)</i>	At least 60 hours of specialist music in each week	3,129 hours of specialist music each year
	Offers at least two major social action campaigns	Offers major social action campaigns
Radio 2 <i>(2.27.1 / 3.14.5.2)</i>	100 hours allocated to arts programming	None <i>(BBC must set out planned hours of new arts programming each year)</i>
<i>(2.27.2 / 3.14.5.1)</i>	130 hours allocated to documentaries	None <i>(BBC must set out planned hours of new documentaries each year)</i>
<i>(2.27.3 / 3.14.5.4)</i>	170 hours allocated to religious output	None <i>(BBC must set out planned hours of religious programming each year)</i>
Radio 3 <i>(2.25 / 3.14.5.5)</i>	440 live or specially recorded performances	None <i>(BBC must set out planned number of live or specially recorded performances)</i>
<i>(2.28.3 / 3.11.2 & 3.14.5.6)</i>	25 new musical works	The BBC must ensure that it commissions and broadcasts new musical works. The BBC must set out the number of new musical works it plans to commission and broadcast on Radio 3
<i>(2.28.4 / 3.14.5.3)</i>	35 new documentaries on arts and cultural topics	None <i>(BBC must set out planned hours of arts documentaries)</i>
Radio 4 <i>(2.29.1 / 3.14.5.1)</i>	At least 375 hours allocated to original documentaries	None <i>(BBC must set out planned hours of new documentaries each year)</i>
<i>(2.29.2 / 3.14.5.4)</i>	At least 200 hours allocated to original religious programming	None <i>(BBC must set out planned hours of religious programming each year)</i>
BBC 6 Music <i>(2.30 / 3.14.5.1)</i>	On average 10 hours or more per week allocated to speech-based features, documentaries and essays	None <i>(BBC must set out planned hours of new documentaries each year)</i>
BBC Sounds <i>(NA / 3.14.1; 3.14.2)</i>	None	BBC must explain its plans for ensuring that BBC sounds is distinctive and explain the role that acquisitions will play in delivering these plans
<i>(NA / 3.2)</i>	None	Must provide a broad range of original UK content; Support new UK talent and creative innovation, including commissioning new titles and output from a wide range of independent producers; Provide a wide breadth of output covering a range of genres and content types, including music, arts, religion, ethics and other specialist factual content, comedy, and children's programming; Make original UK content easily discoverable

Our Response:

Quotas

28. The BBC's dominant position in audio is recognised, and Ofcom acknowledges the need to take a different approach to this market. We were therefore disappointed to see the proposal to remove the vast majority of quotas for BBC Radio, ultimately reducing Ofcom's regulatory powers and oversight over the BBC.
29. The BBC has trended towards delivering the bare minimum against certain existing quotas, and it is hard to see how allowing the BBC to set its own quotas will result in enhanced delivery of the Public Purposes. No reasonable person could come to that conclusion.
30. The consultation document states that Ofcom would expect "levels [of output in the areas where quotas are removed] to stay broadly the same"⁵. Then why change them? If Ofcom considers that reduction of these levels of output to be undesirable, then the BBC should remain obliged to maintain them. As with the news content proposals, in proposing a solution that enables an undesirable outcome, Ofcom cannot be said to be providing a framework for **effective** regulation.
31. There are also new requirements for the BBC to provide detailed reasoning for any specific changes. The proposed licence conditions, however, do not appear to allow for any challenge by Ofcom or other stakeholders if they disagree with the BBC's programming plans or reasoning behind reducing output of certain categories.
32. Ultimately, as set out in the consultation, it appears the BBC will be able to simply report what it plans to do and to proceed with those plans. This is not regulation. Nor is it the appropriate way to regulate a publicly funded broadcaster – it is the role of Ofcom as the regulator to set and monitor these conditions, not the BBC itself.
33. The proposals would also result in less rigorous regulation for the publicly funded, and dominant, BBC than for commercial radio stations. If a commercial radio station wishes to change its 'format' it cannot just do so. In commercial radio, for example, changing the amount of specialist programming in its output, in exactly the same way as Ofcom is proposing to allow the BBC to do here, or, making changes to types of speech content, music output and news provision all need Ofcom approval.
34. Commercial radio stations cannot simply set out what they plan to do going forward and change their format – but instead must go through a rigorous and evidence-based process that requires Ofcom approval.
35. And yet here, Ofcom are proposing to allow the BBC to do just that.

⁵ 8.45. Modernising the BBC's Operating Licence - Consultation

We therefore strongly recommend that the existing quotas around arts, religious programmes, documentaries, social action, live or specially recorded performances and music on BBC radio remain – to ensure that Ofcom has proper regulatory oversight and that the commercial radio sector is not put in a position where it has less flexibility than the publicly funded public broadcaster.

36. If Ofcom were to ignore these representations and move forward with these proposals, we would expect commercial radio stations to also be able to vary their formats each year by simply making a statement of intent, to mirror the new, lighter touch requirements applied to the BBC.
37. As with the news proposals, it is irrational that commercial broadcasters, in order to access equivalent spectrum as that available to the BBC, but without the public subsidy, should be subjected to stricter content rules. Failure to provide corresponding relaxations to the commercial sector would be a breach of Ofcom’s principal duty and its regulatory principles under section 3(3)(a) of the Act.

BBC Sounds Requirements

38. Whilst we are pleased to see that BBC Sounds is now recognised in the operating licence, it does not go far enough.
39. We recognise the requirement to support UK talent and creative innovation, but we have serious concerns that, particularly in podcasting, the BBC is leveraging its dominant position in radio. The new requirements mandate a breadth of output but do nothing to ensure distinctiveness. These new requirements will have unintended consequences, and result in the BBC producing more content in categories that are already very well served by the commercial sector.

The new requirements for BBC Sounds must be enhanced to avoid unintended consequences that not only permit but mandate the BBC to produce content that is not distinctive and mirrors that already produced by the commercial sector.

Requirement 3.2.1 should be enhanced to ensure that the BBC must “provide a broad range of distinctive original UK content” and that requirement 3.2.3 is similarly enhanced to ensure that BBC Sounds provides “a wide breadth of distinctive output covering a range of specialist genres and content types that are not well served by the commercial sector”.

Do you agree with the proposals for Public Purpose 4? If not, please explain why

Proposed changes that impact the radio sector:

- Retain all speech quotas on the BBC’s radio services for the nations
- For local radio in England, retain quotas for original locally-made programming; retain the core hours speech quota at 60%; but reduce the breakfast peak speech quota from 100% to 75%. This will be supported by a new requirement for the BBC to provide a significant amount of local news and information during the breakfast peak.

Relevant Licence Condition Changes:

Service	Current Requirement	Proposed Requirement
BBC Local Radio England <i>(2.71 / 4.40.2)</i>	100% speech content during the breakfast peak	75% speech content during the breakfast peak
<i>(2.74.1 / 4.40.3)</i>	provides news bulletins and information of particular relevance to the area and communities it serves at intervals throughout the day	provides news bulletins and information of particular relevance to the area and communities it serves at intervals throughout the day
<i>(NA / 4.40.4)</i>	<i>None</i>	Provide a significant amount of news and information of particular relevance to the area and communities it serves during the breakfast peak;

Our Response:

40. BBC Local Radio has a key role in supporting radio production in the nations and regions and providing local content for audiences.
41. However, the proposed changes to breakfast peak speech requirements for BBC Local Radio in England will not support Public Purpose 4, particularly the requirement to “*provides output and services that meet the needs of the United Kingdom’s nations, regions and communities*” – they are instead likely to lead to less distinctive output on BBC Local Radio in England, also reducing the BBC’s performance against Public Purpose 3.

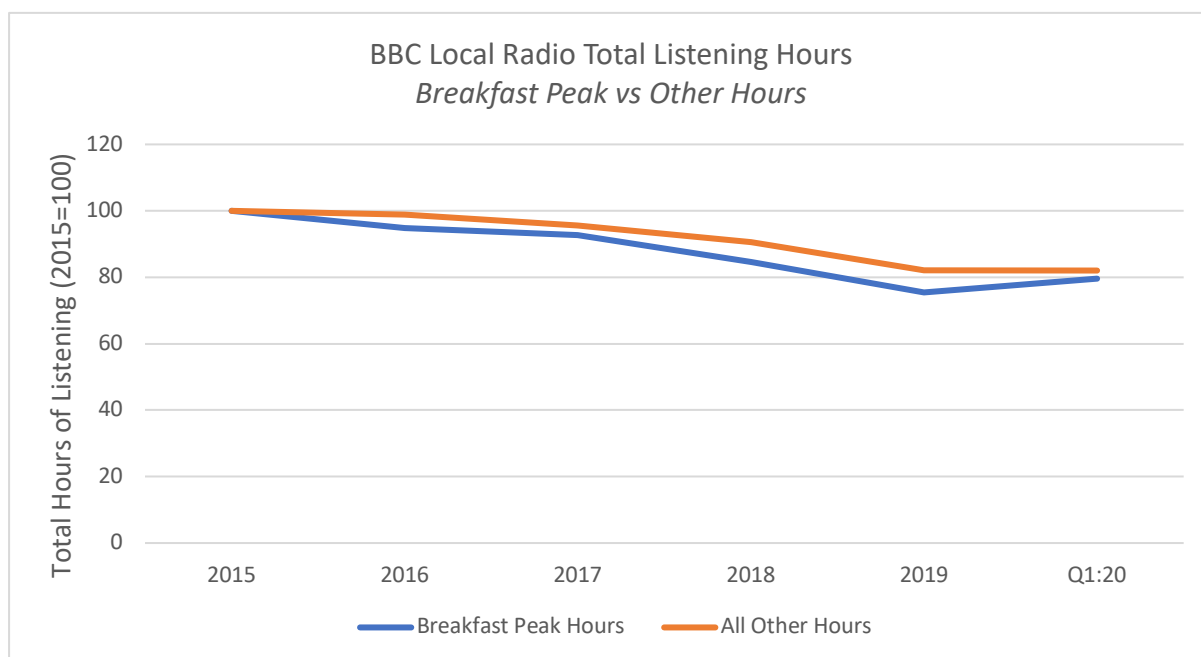
Audience Demand for Speech vs. Music

42. The consultation cites BBC research from 2018 as demonstrating that BBC Local Radio listeners in England consider the lack of music at breakfast to negatively impact the perceptions of BBC Local Radio stations⁶. This research was carried out pre-pandemic, and as far as we have been able to determine is not publicly available, so it is hard to determine its validity.
43. This assertion about audience demand is contradicted by more recent research that Global undertook in July 2021 to understand the public reaction to potential changes around the core elements of BBC Local Radio. We carried out an online survey with a representative sample of over 1,000 people, covering listening habits and attitudes to BBC Local Radio. This research demonstrates that speech is the most important and valued element of BBC Local Radio, with speech at breakfast being particularly valued:
 - Only 29% of listeners say they want more mainstream music on BBC Local, falling to only 8% of over 55s;
 - only 3% of listeners wanted to hear less news and information about their local area at breakfast;

⁶ 9.72. Modernising the BBC’s Operating Licence - consultation

- only 12% of breakfast listeners want less presenter discussion and chat on BBC Local Radio – under the proposed changes this discussion and chat is likely to be replaced with music content which can be found on many other services.

44. In addition to our own consumer research, the assertion that falling audience numbers for BBC Local are as a direct result of not playing music at peak breakfast⁷ is simply not borne out by audience data. Listening data shows that Breakfast Peak hours (which currently have 100% speech requirements) have fallen at a comparable rate to hours during the rest of the day where the speech requirement is only 60% (see chart below).



45. Furthermore, the decline in listening during peak breakfast hours vs. the decline during other hours of the day has been less acute in BBC Local Radio than it has for all other BBC Radio Stations, again illustrating that the audience does not appear to have an aversion to the 100% speech requirement.

46. For BBC Local Radio, peak breakfast decline was 2 percentage points lower than decline in listening over the rest of the day, compared with a 5% delta for all other BBC radio stations where similar levels of music are played throughout the day.

Listening Hours	2015	Q1 2020	Change
BBC Local Radio			
Peak Breakfast	9,747	7,759	-20%
Other times of day	66,773	54,773	-18%
Relative Decline			-2pp
Other BBC Radio Stations			
Peak Breakfast	53,986	46,499	-14%
Other times of day	419,730	382,034	-9%
Relative Decline			-5pp

⁷ 9.73. Modernising the BBC's Operating Licence - consultation

Source: RAJAR. Data shown pre-pandemic to avoid noise from the impact of changing listening habits across the whole market

47. Finally, we find it contradictory that the consultation states it is not considered appropriate to reduce the breakfast peak speech quota for the nations “because these stations primarily broadcast speech output during the morning”⁸. Given local radio stations in England also primarily broadcast speech output during the morning, we do not see how it is appropriate to reduce the breakfast peak speech quota for those stations either.

Distinctiveness

48. Even if, contrary to what research and audience data suggests audiences want, the BBC started playing music at breakfast peak, there are already numerous BBC and commercial radio stations that provide a mix of music and speech programming during this time period. This change would therefore bring BBC Local Radio content in duplication with these stations and would ultimately provide less choice to consumers and be a less efficient use of public funding.
49. Not only would BBC Local Radio services in England become less distinctive in their type of output (music vs speech), but the music they choose to play during breakfast peak would also not be distinctive, instead being duplicative of commercial radio services. We know this from the evidence to date.

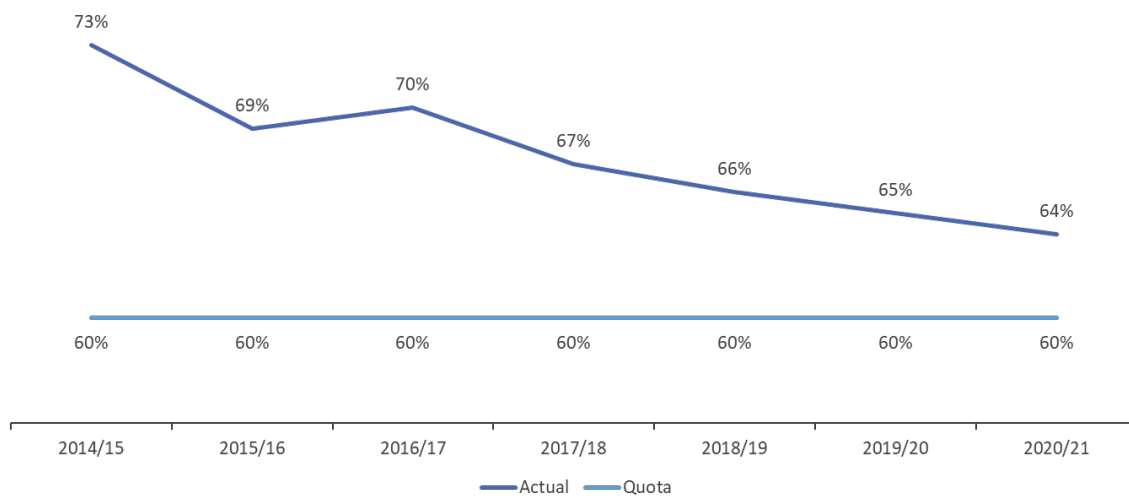
BBC Local Radio Output is Already far Less Distinctive than it was since the last regulatory relaxation

Speech vs Music

50. We can see that when given regulatory relaxation, the BBC will take that to the extreme edge of that relaxation. The chart below shows the change in % of daytime weekday output that is speech in the last 6 years. We have previously submitted this chart to Ofcom, and we urge Ofcom to take this analysis into consideration.

⁸ 9.75

Percentage of daytime weekday output that is speech content on BBC Local Radio, 2014/15 – 2020/21



Music

51. Since the guidance from BBC Local’s music policy in the previous operating licence that “Current and recent chart hits [defined as released within the last 12 months] should represent a low proportion of weekly music output” was dropped from the 2018 operating licence, we have seen a clear change in the music selections on BBC Local Radio and the BBC’s desired direction of travel is clear.
52. An analysis of a sample of BBC Local Radio stations shows that the total number of songs played that were songs released in the past year rose from 7% in July 2018, to 25% in July 2022.
53. BBC Local Radio has also moved to playing a much greater proportion of songs that are not distinctive, but duplicative of those offered by commercial radio and other BBC services.

Unless protections are put in place, past behaviour indicates that we will see music output at peak breakfast that is not distinctive from other BBC and commercial radio stations. This is unnecessary, and contrary to the evidence of what the listeners expect and want from BBC Local Radio in England, contrary to Ofcom’s duty under section 3(4)(a) of the Act and does not further Public Purpose 3. Without such protections, Ofcom shall be failing in its obligation under paragraph 1(1) of Schedule 2 of the BBC Agreement to “have particular regard to the need for the BBC to secure the provision of distinctive output and services”.

For the above reasons, we strongly believe that the proposed changes to allow music at peak breakfast would be detrimental to audiences and would weaken the BBC’s performance against Public Purposes 3 and 4.

Ofcom should not make this change.

54. If, however, in spite of the body of evidence, Ofcom is still minded to make these changes, we would expect Ofcom to set out in detail why it considers that the deregulation is necessary and proportionate and its justifications for disregarding the above evidence. In this case we would strongly recommend that, as a backstop, additional requirements are included as to the type of music content played.
55. These requirements should ensure that any music played is only from artists and bands local to that BBC station, ensuring that the stations champion and support the unsigned and undiscovered grassroots talent across their area. Peak breakfast should consist only of local music outside the current mainstream genres of pop, R&B, classical, alternative/indie, jazz and country.
56. We would anticipate this manifesting itself as a requirement that sits in a new sub-clause under 4.40:
- “during breakfast peak it plays only distinctive music performed by artists local to the area the station serves, and does not play current or recent chart hits from within the last 5 years”
57. This would ensure that the goal of BBC Local Radio in supporting Public Purpose 4, “to reflect, represent and serve the diverse communities of all of the United Kingdom’s nations and regions and, in doing so, support the creative economy across the United Kingdom” is not diluted. It would also further Public Purpose 3 of providing services that are “distinctive from those provided elsewhere”.
58. We believe this is an essential matter that Ofcom must take very seriously. Nobody’s interests are served by allowing BBC Local Radio to play pop music at breakfast time, not the listeners (and this point is borne out in our research), not the industry, and not the public who are funding the BBC. Ofcom’s Regulatory Principles include making “evidence-based” and “consistent” interventions – and we most seriously urge Ofcom to reconsider this proposal.

News & Information Requirements

59. Finally, recognising the need to “provide a significant amount of news and information of particular relevance to the area and communities it serves during the breakfast peak”, Ofcom appears to be contradicting this by the removal of the 100% speech requirement.

We recommend that this is replaced with a more clearly quantifiable news and information target, to ensure that speech remains relevant to the local area.

Taken together, do you agree with the proposals for a new Operating Licence? If not, please explain why.

60. We are very disappointed with the proposals for the revised BBC Operating Licence and cannot see how they benefit the public or further any of the BBC’s Public Purposes. Neither can we see how they represent Ofcom fulfilling their requirement under paragraph 1(1) of Schedule 2 of the Operating Agreement to “have particular regard to the need for the BBC to serve the provision of distinctive output and services” in “imposing the regulatory conditions”.

61. These proposals also go against clear evidence of past behaviour by the BBC, and audience demand, as well as being inconsistent with interventions for commercial radio. They therefore contradict Ofcom's regulatory principle that they will "strive to ensure that interventions are **evidence-based**, proportionate, **consistent**, accountable and transparent in both deliberation and outcome" (as dictated by section 3(4)(a) of the Act).
62. Whilst these proposals may reduce the regulatory burden on Ofcom, and therefore reduce their pressures on staff and budgets, that is not a relevant consideration. Clause 5(1) of the BBC Agreement requires that the Operating Framework published by Ofcom should "secure the **effective** regulation of the activities of the BBC" (emphasis added) and the present proposals are not demonstrably capable of delivering effective regulation.
63. If the proposed Operating Licence were implemented, we would see:
- the publicly funded BBC having fewer requirements to provide news content than commercial radio stations;
 - the BBC being able to set its own output quotas, rather than the regulator (with no clear process for stakeholders or Ofcom to comment or intervene if they disagree);
 - the publicly funded BBC having less regulation pertaining to formats and specialist music and programming than commercial radio stations currently have;
 - BBC Local Radio with less local content (contrary to what audiences appear to demand) and more generic music that can be found across other BBC and commercial radio stations; and
 - the BBC still able to produce and broadcast content on BBC Sounds that is not distinctive to that produced by the commercial sector.
64. We hope that Ofcom recognises these very serious issues with the current proposals. We know from recent evidence, and experience over many years, that the BBC will take any and all de-regulation to the ultimate degree, and these proposals really do mark the end of meaningful regulation in many areas of a publicly funded BBC radio. That is not in the interests of citizens or, as regards the ability for commercial radio to compete with the BBC, consumers, nor is the proposed Operating Licence capable of delivering **effective** regulation of the BBC's activities in the radio market which it continues to dominate.
65. We sincerely hope that Ofcom take our recommendations seriously and amend their proposals in a way that:
- Ensures the BBC is not subject to less regulation than commercial radio in terms of news and format regulation;
 - Recognises Ofcom's role as a regulator of the publicly funded BBC, and ensures that quotas are set by the regulator, not the BBC itself;
 - Ensures that local radio provides local content to serve their local communities; and,
 - Ensures that any publicly funded BBC Sounds output is truly distinctive.