

---

# Proposed changes to requirements for BBC Radio 5 Live, BBC Radio 2 and programming of a national or regional interest

Consultation on the BBC's request to change the Operating Licence

---

[Welsh version available](#)

## **CONSULTATION:**

Publication date: 14 December 2022

Closing date for responses: 18 January 2023

# Contents

---

## Section

1. Overview	3
2. Background	7
3. BBC Radio 5 Live's news and current affairs quota	11
4. BBC Radio 2's live music quota	14
5. Programmes of a national or regional interest	17

## Annex

A1. Proposed Operating Licence conditions	27
A2. Legal Framework	34
A3. Equality impact assessment	37
A4. Responding to this consultation	40
A5. Ofcom's consultation principles	43
A6. Consultation coversheet	44
A7. Consultation questions	45

# 1. Overview

- 1.1 Audiences are central to the BBC's remit. While the way the BBC delivers for them is changing, the BBC must continue to deliver for all audiences, while fully and clearly explaining those changes. This consultation considers whether the BBC Operating Licence needs to be updated to enable the BBC to proceed with some of its plans.

## **As the BBC transforms its services, it must continue to deliver for all audiences**

- 1.2 The BBC is facing a challenging market and economic climate. People are steadily migrating towards online services to watch and listen to content, and there continues to be intense competition for audiences' time, particularly from well-funded global players. Alongside this, the BBC is facing financial challenges as a result of pressure on its licence fee funding as well as rising production costs and inflation. The BBC has said that this will create a £400m annual funding gap by 2027.
- 1.3 This all puts pressure on the BBC's ability to deliver its Mission and Public Purposes, and means the BBC must change. In May it set out its strategy to become a '[Digital First](#)' organisation, and has recently made a number of announcements about what this will look like in practice and how certain services stand to be affected.
- 1.4 We recognise the need for the BBC to transform and that this requires it to make tough choices and trade-offs, not all of which will be welcomed by all audiences. However, we have also been clear that we expect the BBC to continue to deliver for all audiences. As the BBC's Digital First plans develop and it focuses more on its online provision, it should not leave linear audiences behind. It will also need to continue to provide a broad range of important content, including local content. We will scrutinise the BBC's plans as they develop, not just to ensure they comply with the requirements set out in the Operating Licence, but also how they are likely to impact audiences and on the BBC's ability to deliver on its remit.

## **The BBC needs to do much more to engage with audiences about changes to its content and services**

- 1.5 Audiences pay for the BBC through the licence fee, and their confidence in the BBC's ability to respond to the challenges it faces is critical. The BBC therefore needs to be comprehensive and clear in setting out its strategy and plans, fully explain what these mean in practice for the delivery of content and services for audiences, and demonstrate how it will continue to deliver the Mission and Public Purposes in light of planned changes. Too often, the BBC drip-feeds information rather than communicating openly and proactively with audiences and stakeholders, and with Ofcom as its regulator.

## **To enable the BBC's transformation, we are now considering further changes to our proposed Operating Licence**

- 1.6 We recognise that in order to support the BBC to transform, the way we regulate the BBC also needs to change. In June 2022, we set out proposals for a new Operating Licence for the BBC. We proposed to fully incorporate the BBC's online services, to give the BBC greater flexibility to decide how best to reach audiences (including removing some quotas), and to require the BBC to publish more information about its plans and delivery in its Annual Plan and its Annual Report. We proposed to retain quotas in areas where we considered it necessary, for example to safeguard distinctiveness and news and current affairs.
- 1.7 In response to our consultation, the BBC requested we make further changes to the Operating Licence to enable it to implement certain changes to its content provision. Firstly, the BBC has requested a reduction in Radio 5 Live's news and current affairs quota from 75% to 70%. Second, it has requested we remove the quota for live music on BBC Radio 2 and replace it with a requirement for the BBC to set out its plans for live music in its Annual Plan and report on its live music provision in its Annual Report. Finally, the BBC has requested a reduction in its quota for news and non-news content on the opt-out services.<sup>1</sup>

---

<sup>1</sup> An opt-out service is a national or regional variation of a BBC channel (for example, BBC Two Wales)

## What we are proposing – in brief

**We propose to accept the BBC’s request to reduce the quota for news and current affairs on Radio 5 Live from 75% to 70%.** This would allow the BBC to broadcast some additional sports content, which would help extend the reach among people from lower socio-economic groups and younger audiences. People from lower socio-economic groups are among the audiences that have lower satisfaction with the BBC and younger audiences’ use of the BBC has been in decline. It is critical to the BBC’s long-term success that it builds strong links with all audiences.

**We propose to reject the BBC’s request to remove the quota for live music on BBC Radio 2.** Live music is a key element of the distinctiveness of BBC Radio 2, which is important to safeguard with quotas. However, we propose to amend the quota so it targets genuinely live or new specially recorded music, and excludes repeats, thereby focusing on what the BBC has submitted is the most valuable live music content to audiences. Under the proposed new quota, the BBC is required to broadcast 68 hours of live music or specially recorded music, excluding repeats, each Financial Year.

**We propose to accept the BBC’s request to reduce certain quotas for programming on the BBC’s opt-out services.** The changes to the news quotas on the BBC’s opt-out services would enable it to increase its investment in online news, reflecting where audiences are increasingly turning to for their news content. The changes would also give the BBC additional flexibility to make minor adjustments to the length and scheduling of its programming to respond to the needs of audiences, as well as variations in the news cycle.

The BBC has also requested changes to quotas relating to non-news content on the opt-out services. It has said it wants to transform its current affairs offering for audiences in England, replacing its English current affairs programme *We Are England* with a new network of investigative journalists, which will produce content for online, TV and radio. This is important content, but we consider that the BBC should have the flexibility to innovate how it delivers this.

The BBC also wants to improve its programming for the Nations by investing more in high-quality, high-impact local content to be shown on the network. We recognise, however, that this new approach will require a substantial decrease in the amount of lower budget, but highly distinctive commissions made specifically for the nations opt-out services. We have considered this against the benefits the BBC’s new strategy has the potential to bring. For audiences, this approach can bring better portrayal and representation of communities across the UK through locally commissioned content, and the availability of high-quality local programming to the whole of the UK as well as the Nations. For local producers, it can bring greater investment and the opportunity to undertake bigger commissions, as the BBC has said that its approach will mean local commissioners will have greater budgets available to them.

On balance, we propose to accept the BBC’s proposed changes. However, we are clear that the BBC must continue to provide a broad local offer for audiences and deliver on the plans it set out in the proposals. We therefore propose to require the BBC to set out additional information about its content offer for audiences in the Nations in its Annual Plan, and report on its performance in its Annual Report. In addition, Ofcom closely monitors the BBC’s performance and for that purpose considers a range of audience data and research, including audience satisfaction data. If we were to

find that the BBC failed to deliver on behalf of audiences in the Nations, we would not hesitate to step in and review the quota.

**Next steps**

We are now inviting affected or interested parties to give their views on these proposals which must be submitted by 18 January. We will take all responses into account before reaching our final decision.

## 2. Background

### The BBC's request

- 2.1 In June 2022, Ofcom consulted on a new Operating Licence for the BBC<sup>2</sup>, to take effect from April 2023. In October 2022, the BBC submitted its response to the consultation, and included a request to Ofcom for several further changes to be made to its Operating Licence (“the Request”).
- 2.2 To inform our assessment of the Request, we asked the BBC to provide some additional information through a series of exchanges. The BBC submitted an updated version of the Request in November 2022 to take account of the further information it had provided. A [non-confidential version of the Request](#) and an [additional submission on the BBC's proposals around its national and regional non-news quotas](#) can be found on our website.
- 2.3 In summary, the BBC would like the following changes to be made to its Operating Licence:
- A reduction in the proportion of news and current affairs it is required to broadcast on BBC Radio 5 Live from 75% to 70% of total output;
  - To replace the quota for a minimum number of hours of live music on BBC Radio 2 with transparency requirements for it to set out its plans for live music on the station and report on the delivery and impact of those plans alongside its annual report; and
  - Reductions in the levels of five quotas covering programming of a national or regional interest, including news and non-news content.

### Our approach

- 2.4 As part of our regulation of the BBC, we are required under the Charter<sup>3</sup> and Agreement<sup>4</sup> to set an Operating Licence for the BBC. The Operating Licence contains a set of regulatory conditions which we consider appropriate to secure that the BBC fulfils its Mission<sup>5</sup> and promotes its Public Purposes<sup>6</sup>, to secure the provision of distinctive output and services and to secure that audiences across the UK are well served.<sup>7</sup> We issued the first Operating Licence in October 2017<sup>8</sup> and it has been subsequently amended on several occasions.<sup>9</sup>

---

<sup>2</sup> Ofcom, 2022. [Modernising the BBC's Operating Licence](#).

<sup>3</sup> [The Charter](#).

<sup>4</sup> [The Agreement](#).

<sup>5</sup> The BBC's mission is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain (article 5 of the Charter).

<sup>6</sup> The Public Purposes of the BBC are 1) to provide impartial news and information to help people understand and engage with the world around them; 2) to support learning for people of all ages; 3) to show the most creative, highest quality and distinctive output and services; 4) to reflect, represent and serve the diverse communities of all of the UK's nations and regions and, in doing so, support the creative economy across the UK; and 5) to reflect the UK, its culture and values to the world (article 6 of the Charter).

<sup>7</sup> Article 46(3) of the Charter.

<sup>8</sup> Ofcom, 2017. [Operating licence for the BBC's UK Public Services](#), this is the original version of the Operating Licence without any amendments.

<sup>9</sup> For the most up to date version of the Operating Licence and a list of changes see [The Operating Framework webpage](#).

- 2.5 In June 2022, we published a review on “[How Ofcom regulates the BBC](#)”, including a consultation on a new Operating Licence (the “June Consultation”). We explained that, since we set the first Operating Licence in 2017, the media landscape has changed significantly, with audiences now spending much more time using online services. Meanwhile production costs are rising as a result of increased competition for skilled workers and studio space, the Covid-19 pandemic, and general inflationary pressures.<sup>10</sup> Under its recent settlement with the Government, the licence fee will be held at its current level until 2024 and then rise with inflation (CPI) until the end of the Charter period.<sup>11</sup> Factoring in inflation, the [BBC has said this will create a £400m annual funding gap by 2027](#), which we acknowledge will lead to tough financial choices in the coming years.
- 2.6 Seeking to address these challenges, the BBC set out its strategy to become a ‘[Digital First](#)’ organisation in May 2022. It has said that this will include diverting resources into new programmes on BBC iPlayer which will also attract additional third-party investment, moving local and regional news and current affairs output towards digital, shifting resources from broadcast news to digital and online video news, [transforming its local services in England](#) and investing more in developing its online services. The BBC is also seeking to increase its footprint outside of London through its ‘[Across the UK](#)’ plan which covers 2022-2027 and aims to shift £700m of spending outside London. The goal of the plan is to make the BBC a truly UK-wide organisation by expanding its presence in the nations and regions, moving staff outside of London and ensuring that decision-making is more widely distributed.
- 2.7 We said that the regulatory framework for the BBC needs to keep pace with the changing environment in which the BBC operates, and set out proposed changes to our regulation, including a new Operating Licence. This incorporated three main principles to ensure that the BBC continues to effectively serve audiences:
- **Incorporating the BBC’s online provision:** We proposed to bring the BBC’s online services more fully into the Licence to enable us to hold the BBC to account across its full range of services as audiences increasingly move online.
  - **Enabling greater flexibility:** We proposed that the Licence should give the BBC greater scope to determine how best to meet audience needs by replacing some quotas with transparency requirements while retaining others where needed to safeguard distinctiveness and news and current affairs.
  - **Increasing transparency requirements on the BBC:** We proposed to introduce new transparency requirements for the BBC to set out specific information within its Annual Plan and Annual Report, including its plans for hours of output where we propose to remove quotas. This will provide greater clarity for audiences and stakeholders to feel confident about the BBC fulfilling its Mission and promoting Public Purposes and enable Ofcom to step away from detailed regulation.

---

<sup>10</sup> According to broadcaster data, average spend-per-hour on first-run UK-originated PSB programming in 2021 was about £82,500, compared to £80,000 in 2019. Broadcast’s [Indie Survey 2022](#) found that 92% of independent production companies reported costs between 10% and 25% higher than pre-pandemic levels.

<sup>11</sup> The Government has committed to a review of the licence fee by the end of the current Charter period.

- 2.8 We are currently considering responses to the June Consultation, and have assessed the BBC's request for further changes against the background of the principles and proposals we set out in our June consultation. For ease, we have referenced both the existing Licence, as in force on the date of this consultation, and the proposed Licence, as consulted on in June.
- 2.9 Further details on the legal and regulatory framework for changing the Operating Licence are set out in detail in Annex 2.

## The impact of our proposals

- 2.10 Ofcom has a legal duty to carry out impact assessments where our policy decisions are likely to have a significant effect on businesses or the public, or when there is a major change in Ofcom's activities.<sup>12</sup> The analysis set out in this document includes such an impact assessment for the purposes of the relevant duties imposed on Ofcom. We consider that our proposed assessment of the BBC's proposals is proportionate and will ensure Ofcom continues to discharge its functions under the Charter and Agreement in the interests of audiences for the remainder of this Charter period.
- 2.11 In compliance with our general duties under the Act<sup>13</sup> and our duty under the Charter<sup>14</sup> to have regard where relevant to the desirability of protecting fair and effective competition in the UK, we have also considered the potential impact of the BBC's proposed changes on fair and effective competition. Proposals that negatively affect fair and effective competition can result in reduced investment and/or firms leaving or not entering the market. Such outcomes can disadvantage audiences by leading to reduced choice and quality. Where relevant, we discuss the impact of the BBC's proposals further below, but in summary we do not consider that the BBC's proposals will have a significant impact on fair and effective competition. However, if the BBC did make substantial changes in future, potential competitive effects would need to be considered by the BBC and, if necessary, Ofcom, under existing processes.<sup>15</sup>
- 2.12 We are required by statute to assess the potential impact of all our functions, policies, projects and practices on people with any of the following protected characteristics: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation.<sup>16</sup> Our assessment of the potential impact on people with these characteristics of the proposals discussed in this consultation is set out in Annex 3.

---

<sup>12</sup> Section 7 of the Communications Act 2003 (the "Act").

<sup>13</sup> Under section 3 of the Act, Ofcom's principal duty, in carrying out our functions is to further the interests of citizens in relation to communications matters; and to further the interests of consumers in relevant markets, where appropriate by promoting competition.

<sup>14</sup> Article 45(2) of the Charter.

<sup>15</sup> The BBC has initial responsibility for considering the potential competition effects of changes to its services. If the BBC proposes changes to its output and services that are deemed material within the terms of the Agreement, we will carry out a competition assessment before the plans are permitted to go ahead. In relation to ongoing activities, if there are reasonable grounds to believe that the carrying out by the BBC of any of its public service activities is having a significant adverse impact on fair and effective competition, we can undertake a competition review.

<sup>16</sup> As defined in the Equality Act 2010.

## This consultation

- 2.13 We have considered the Request and set out our assessment of the BBC's proposals in this document. We are seeking stakeholders' views on our assessment and the proposed changes to the Operating Licence, and invite responses by 18 January 2023. Please see Annex 4 for further information about responding to this consultation.
- 2.14 We will consider responses submitted to this consultation and plan to publish our decisions on the BBC's proposals alongside the statement on our [Modernising the BBC's Operating Licence](#) consultation next year. We propose that any changes to the Licence come into force on 1 April 2023 and that any amended conditions which are measured by calendar year will apply for the full 2023 calendar year. We consider that this would be the most practical way of monitoring the BBC's compliance and it is line with the BBC's existing reporting cycle.

## 3. BBC Radio 5 Live's news and current affairs quota

### The BBC's proposal

- 3.1 The BBC is required, by condition 2.13.1 of the current Operating Licence, to ensure that at least 75% of Radio 5 Live's output in each Financial Year is news and current affairs programming. As part of our June Consultation, we proposed no changes to this condition.<sup>17</sup> The BBC has now requested that it be given additional flexibility around this quota, allowing it to reach audiences that are currently less well served by the BBC, respond to what audiences want around live sports coverage and analysis, and be more ambitious in its commitment to covering a broader range of sports. It has asked that Ofcom reduce BBC Radio 5 Live's news and current affairs quota from 75% to 70%.
- 3.2 We summarise the relevant points the BBC makes in favour of this reduction below; its full proposals can be found in [its request](#):
- i) Enhanced sports offering will reach underserved audiences. While Radio 5 Live is predominantly a news and current affairs station, the BBC states that sport performs an important role in reaching underserved audience groups such as younger men and those from lower socio-economic backgrounds. The BBC has identified these audiences as relatively less satisfied with BBC services<sup>18</sup> and notes that Ofcom has encouraged it to do more to serve them.<sup>19</sup> The BBC's analysis of RAJAR<sup>20</sup> data shows that men, 15-34-year-olds and those in C2 and D socio-economic groups<sup>21</sup> are more likely to listen to Radio 5 Live's sports output compared to the average listener. By increasing its sports offering, the BBC argues it will better reach these underserved audiences.
  - ii) Greater flexibility to cover a broad range of sport more extensively. The BBC plans to offer more live commentary and analysis while maintaining the current broad sports offer. It argues that increased flexibility will allow it to maximise the value of its existing investment in sports rights, including more commentary and analysis around key live fixtures. Where it does look to invest in new sports rights, it will look to strength its commitment to providing a range of sports, particularly in areas that drive value for underserved audiences.
  - iii) News and current affairs will remain the primary focus of the station. The BBC states that it has no plans to change its mid-week peak news programming, where

---

<sup>17</sup> We proposed to retain this condition as condition 1.13.1 in the June 2022 draft Operating Licence.

<sup>18</sup> In line with conditions 2.44 and 2.45 of the current Operating Licence. BBC, 2022. [BBC Annual Report & Accounts 2012/22](#), p.145.

<sup>19</sup> Ofcom, 2022. [Ofcom annual report on the BBC 2020-21](#), p. 1, 3, 6, 17, 20, 46-47, and 55.

<sup>20</sup> RAJAR is the official industry body for measuring radio listening within the UK.

<sup>21</sup> Socio-economic group is determined by several factors including income and occupation. In general terms, the highest groups, A and B, are more likely to be well-off, the C1 and C2 groups are in the middle and the lowest groups, D and E, are less likely to be well-off.

it recognises listenership and audience appetite for news and current affairs is high. It will use the additional flexibility at times when there is less audience appetite for news and current affairs audio. It also says that it will prioritise a breaking story by shifting or replacing sports content to provide coverage and highlights a number of examples where it has done this in the past.

- iv) Market impact likely to be limited. The BBC argues that competition for sports listening is primarily driven by live coverage of the most popular sports. It states that it is not planning any increase to its audio sports rights budgets and will not be pursuing additional high-value rights. Where it does consider acquiring new rights, to drive value for underserved audiences or broaden its sports output, they are unlikely to be in areas where there is substantive competition.

## Our assessment and provisional view

- 3.3 We are mindful of the need to ensure that the BBC serves the diverse communities of the UK, that its services are distinctive and that it provides news and information. We have also considered the potential impact of the BBC's proposed changes on fair and effective competition.
- 3.4 We are encouraged that the BBC is proposing steps to better deliver for underserved and less-satisfied audiences. In our [fourth annual report on the BBC](#), we identified the need for it to keep evolving to be relevant to all audiences. People from lower socio-economic groups are among the audiences that have lower satisfaction with the BBC and younger audiences' use of the BBC has been in decline. It is critical to the BBC's long-term success that it builds strong links with all audiences. Our [fifth annual report on the BBC](#) found that the BBC is still struggling to deliver to all audiences, and we announced a review of how the BBC is delivering for those in lower socio-economic groups.
- 3.5 We have considered the BBC's analysis of RAJAR data set out in its response and agree that this shows that men, 15-34-year-olds and people from C2D social grades are more likely to listen to sports content on Radio 5 Live than the average listener. Its analysis also shows that well-served audiences who spend more than three days a week listening to BBC audio spend just 2% of that time listening to sport, whereas underserved audiences who spend less than three days a week listening to BBC audio spend 10% of that time listening to sport. We believe that a small increase to Radio 5 Live's sports offering seems like a reasonable approach to try and increase the station's reach to underserved audiences. We would be able to track the BBC's performance in serving these audiences as part of our ongoing monitoring programme.
- 3.6 We have also considered the need for the BBC's services remain distinctive. Distinctiveness is typically delivered across different services and types of programming and may be perceived differently by different audiences.<sup>22</sup> Ofcom normally uses a 'basket' of measures

---

<sup>22</sup> Paragraph 2 of Schedule 2 to the Agreement defines "distinctive output and services to mean " output and services, taken as a whole, that are substantially different to other comparable providers across each and every UK Public Service both in peak time and overall, and on television, radio and online, in terms of-(a) the mix of different genres and output;

to look at the distinctiveness of the BBC's services and content. These include: its mix of genres and output, the quality of this output, the amount of original, UK-produced programming, the level of risk-taking, innovation, and the range of audiences it serves. Regarding the distinctiveness of BBC Radio 5 Live, we do not consider that a marginal 5% reduction in news and current affairs output (which equates to around eight and a half hours a week) will impact the station's distinctiveness. With 70% of its programming being news and current affairs and the requirement to broadcast live commentary on at least 20 sports, Radio 5 Live's offering will remain substantially different to other comparable providers of sport audio content.

- 3.7 As noted, we consider that the reduction in the provision of news and current affairs output will be marginal, and that the station will continue to play an important role of providing such content to audiences. In this context, we welcome the BBC taking into account listenership and audience appetite for news and current affairs in saying that it will not change its peak mid-week news programming. In its Request, it states that it would use the additional flexibility offered by the proposed change at times when there is less audience appetite for news and current affairs audio.
- 3.8 We agree with the BBC that live coverage of the most popular sports and increased spend in audio sports rights are likely to have the most significant impact on competition for sports listening. However, we note the BBC's assurances that it is not planning to increase its audio sports rights budget or pursue additional high-value rights. We consider that a 5% increase in sport programming on Radio 5 Live is unlikely to have an impact on fair and effective competition, particularly without additional high-value sports rights. If the BBC were to increase its audio sports rights budget or its sports programming beyond what is set out in these proposals they would need to consider potential impact on competition.

## Our proposed changes to the licence

- 3.9 In light of the above, we propose to reduce the level of BBC Radio 5 Live's news and current affairs quota from 75% to 70%.
- 3.10 The exact amendments that we propose, in light of the Request and our assessment, to make to the Operating Licence are presented in Annex 1.

Question 1: Do you agree with Ofcom's provisional assessment and its proposed changes to the Operating Licence for news and current affairs on BBC Radio 5 Live? If not, please explain why, providing appropriate supporting evidence where possible.

---

(b) the quality of output; (c) the amount of original output produced in the UK; (d) the level of risk-taking, innovation, challenge and creative ambition; and (e) the range of audiences it serves.

## 4. BBC Radio 2's live music quota

### The BBC's proposal

- 4.1 The BBC is required, by condition 2.40.3 of the current Operating Licence, to ensure that in each Financial Year BBC Radio 2 broadcasts at least 260 hours of live music. As part of our June Consultation, we proposed no changes to this condition.<sup>23</sup> However, the BBC has now requested that we take a similar approach for this quota as we have for other genre quotas in our June 2022 Consultation, and replace it with a transparency requirement to enhance flexibility and transparency. Under this proposal, the BBC would set out its plans for live music on BBC Radio 2 for the forthcoming year in its Annual Plan and report on the delivery and impact of those plans as part of its annual reporting.
- 4.2 We summarise the relevant points the BBC makes in favour of this change below; its full proposals can be found in [its request](#):
- i) Financial pressures and high costs mean the majority of BBC Radio 2's live music output is made up of repeats. The BBC notes that this Operating Licence condition has been in place unchanged since 2008, before Ofcom took over regulation of the BBC, and needs to be examined as it is impacting its ability to deliver audience value. It has always been met through a combination of new live music (i.e. performed live or the first playout of music which has been specially recorded for BBC Radio 2) and repeated live music (i.e. archive recordings of live concerts or sessions). Of the 260 hours of live music BBC Radio 2 broadcast in 2021/22, 192 hours (74%) were repeats and 68 hours (26%) were new live music. The BBC argues that an increasing number of repeats is the inevitable result of a fixed output quota, the high cost of live music and the BBC's financial pressures coming together. It says that maintaining the condition in its current form will force BBC Radio 2 to further increase the proportion of repeated material at the expense of new live music.
  - ii) A focus on new live music would benefit audiences. The BBC lists a range of distinctive new live music offerings in its response, including *Sunday Night is Music Night*, *Radio 2 in concert* and its *Piano Rooms Sessions*. It cites its own research from May 2021 which shows that around half of regular BBC Radio 2 listeners agreed that the service is great for live music and over two in five say that it offers live music they do not hear elsewhere.
  - iii) Increased flexibility would benefit audiences and improve distinctiveness. The BBC states that BBC Radio 2 is committed to bringing audiences the best and most distinctive live music, and in doing so supporting the creative economies across the UK. It argues that this is best delivered by genuinely live or new specially recorded music and not repeated material. It explains that new live music sessions and concerts are among the most expensive shows per broadcast hour on BBC Radio 2

---

<sup>23</sup> We proposed to retain this condition as condition 3.10.3 in the June 2022 draft Operating Licence.

and even repeated live music can cost more than much of its other programming. It also notes that while new live music generates good listening and audience response, repeats are often among the least listened to shows on BBC Radio 2. The budget spent on these low value repeats could be used for more distinctive, higher impact programming.

## Our assessment and provisional view

- 4.3 In our June 2022 Consultation we set out our proposals to retain the current Licence’s music quotas for BBC Radio 1 and BBC Radio 2 at their current levels. We considered that these conditions are key to ensuring the distinctiveness of both stations’ musical output compared to other music stations. However, we are open to considering the unintended consequence of BBC Radio 2’s live music quota and the BBC’s financial pressures together leading to a decrease in new live music and an overreliance on repeats. The BBC’s scheduling decisions around live music on the station should be driven by audience needs and not just to meet a quota, particularly with content that may not be valued by audiences.
- 4.4 The BBC shared the May 2021 research it carried out on BBC Radio 2’s live music output. It found that 49% of regular BBC Radio 2 listeners agreed (19% strongly) that the station is currently great for live music. This figure increases to 76% (41% strongly) among those who have watched<sup>24</sup> or listened to its live music content. In addition, 44% of regular listeners agreed (16% strongly) that BBC Radio 2 offers “live music they do not hear elsewhere”, which increases to 73% (35% strongly) among those who have watched or listened to its live music content. It is clear that live music is valued by BBC Radio 2 listeners, but this research does not differentiate the value of repeated and new live music to audiences. While there may certainly be value in archived live music, particularly if it is new to some listeners, an ever-decreasing volume of new live music adding to this archive may cause it to stagnate and lose relevance. The BBC has told us that repeats receive less audience response than new live music and can attract some of the smallest audiences on the station. While the BBC has not provided specific data on this point, we are minded to proceed on the basis that new live music is more valuable to audiences than repeats; however, we would welcome views on whether this is the case. It should also be noted that new live concerts make a contribution to the UK’s production and creative sector.
- 4.5 We believe there is reason to continue to safeguard the amount of new live music on the station. A significant proportion of BBC Radio 2’s audiences value its live music and see it as a point of distinction between the station and comparable services. As mentioned above, we proposed to retain all of BBC Radio 2’s music quotas because of their importance in securing the distinctiveness of the station’s musical output. We accept, however, that it is not in the interest of audiences for the current quota to lead to a decreasing amount of new live music and an increase in repeats as a result of the financial pressures on the BBC.

---

<sup>24</sup> The BBC’s research includes those who have watched live music recorded for Radio 2 in video form on other BBC services.

- 4.6 We therefore propose to amend the quota so that it excludes the repeated live music content that is less valued by audiences and instead only captures genuinely live music or new specially recorded live music. The BBC has anticipated this option in its submission and proposed that a quota for new live music be set at 55 hours each Financial Year, capturing their current level of output with additional flexibility in anticipation of financial pressures.
- 4.7 We would note that the BBC delivered 68 hours of new live music in 2021/22 but that it has not consistently tracked historic performance against this metric. Given that the BBC has said in its proposals that not having to rely on repeats would “*release funds that could be used to develop and invest more in live music sessions*”, we do not agree that the level of such a new live music quota should be set below current delivery. We propose setting this new quota at a level that secures current delivery of new live music and, with the BBC’s financial pressures in mind, encourages reinvestment of the money saved from lowered repeats into new sessions and concerts.

## Our proposed changes to the licence

- 4.8 We propose to amend condition 2.40.3 such that it only requires BBC Radio 2 to broadcast live music or specially recorded music, with repeats excluded. In line with this change, we propose to set the level of the quota to 68 hours each Financial Year.
- 4.9 The exact amendment we propose, in light of the Request and our assessment, to make to the Operating Licence are presented in Annex 1.

Question 2: Do you agree with Ofcom’s provisional assessment and its proposed changes to the Operating Licence for live music on BBC Radio 2, including the view that new live music is more valuable to audiences than repeats? If not, please explain why, providing appropriate supporting evidence where possible.

## 5. Programmes of a national or regional interest

### The BBC's proposal

5.1 In setting the context for its proposals, the BBC highlights the announcements it has made over the past two years, including its *Across the UK* and Digital First strategies, that will impact its programmes of national and regional interest. It notes it has set a target of at least 60% of network TV commissions by spend to be made outside London by the end of the Charter, will grow its representation and portrayal of audiences across the UK through its scripted titles and will reshape its services to strike a better balance between broadcast and online news across the UK's nations and regions.

5.2 The BBC argues that its strategy and published proposals around national and regional programming will impact how it provides for audiences in the nations on the national and regional variations of BBC One and BBC Two (also referred to as 'opt-out services' or 'opts'). Consequently, it has asked Ofcom for changes to the following quotas in the Operating Licence; as part of our June Consultation, we proposed no changes to these conditions:

<b>Condition (current Licence condition/ condition in the June 2022 proposed Operating Licence)</b>	<b>Current quotas (hrs)</b>	<b>Proposed quotas (hrs)</b>
News programming of national or regional interest on BBC One (2.68 / 4.32)	4,300	3,900
News programming of national or regional interest throughout the day at Peak Viewing Time <sup>25</sup> on BBC One (2.68 / 4.32)	2,100	1,700
Non-news programming of national or regional interest at Peak Viewing Time on BBC One and Two (2.67.6 / 4.31.4)	557	200
Non-news programming of national or regional interest adjacent to Peak Viewing Time on BBC One and Two (2.67.8 / 4.31.5)	179	150
Programming of a national or regional interest on BBC One and Two (2.67.2 / 4.31.1)	5,909	5,000

5.3 The Agreement requires Ofcom to set these quotas and they apply to the BBC's nations and regions opt-out services taken together.

5.4 The current Licence also contains separate quotas for content other than news and current affairs on the opt-out services in Scotland, Wales and Northern Ireland.<sup>26</sup> In the June 2022 Consultation, we proposed to replace these nation specific quotas with general conditions

<sup>25</sup> In the BBC's Operating Licence, "Peak Viewing Time" means: (a) 18:00 to 22:30 in relation to all UK Public Television Services except for BBC Four; and (b) 19:00 to 24:00 in relation to BBC Four.

<sup>26</sup> Current Licence conditions 2.78.2, 2.85.2, 2.87, 2.91.2 and 2.93.

and transparency requirements, as we believe this would better serve audiences by providing the BBC with more flexibility to adapt its provision to meet audience needs, for example by providing more or less hours of programming on a particular service, or delivering content on iPlayer for those who prefer to view content online.<sup>27</sup>

5.5 We summarise the relevant points the BBC makes in favour of the changes around news and non-news separately below; its full proposals can be found in [its request](#).

### **News of a national or regional interest on BBC One (Current Condition 2.68 / Condition 4.32 in the June 2022 proposed Licence)**

5.6 The BBC outlines the following changes which impact the two news quotas:

- i) Changes to English local news. In May 2022, the BBC set out plans to close the Oxford and Cambridge local news opt-out services and merge them with South Today and Look East. If implemented, these changes would free up money to invest in local online news and would reduce the total volume of local TV news by around 260 hours per year, 190 in Peak Viewing Time.
- ii) Changes to programme length and scheduling: The BBC indicates that it has made various changes to its news output which impact its delivery on the quota. These include:
  - A change in the length of the local news bulletin on BBC One to minimise the overlap between the local news bulletin and *Newsnight* on BBC Two: the BBC reverted the length of its 10.30pm local news bulletin on BBC One to 7 minutes after increasing it to 11 minutes over the pandemic.
  - A drop of one of the six half-hourly local news bulletins during *BBC Breakfast*, as audiences found them, according to the BBC, repetitive and on average watched for long enough to see two bulletins.
  - A change to the running order of the 10.30pm news slot in February 2022 so that UK weather follows UK news and local weather follows local news (instead of local news following immediately after the UK news) which saw the local news bulletin starting just outside of Peak Viewing Time.<sup>28</sup>

5.7 The BBC has said that the cumulative impact of these changes would amount to a reduction in BBC One's news of a national or regional interest by about 650 hours annually, including 450 hours in Peak Viewing Time. The BBC has also noted that from an individual viewer's perspective, this would amount to a reduction of 5 to 6 minutes of local news per day, and that the BBC's online local news offer will improve.

---

<sup>27</sup> Ofcom, 2022. [Modernising the BBC's Operating Licence](#), page 79.

<sup>28</sup> "Peak Viewing Time" is defined in the Operating Licence to mean 18:00 to 22:30 in relation to all UK Public Television Services except for BBC Four..."

5.8 To accommodate these changes, the BBC has requested a change in the quota for news programming on BBC One (from 4,300 to 3,900 hours) and the quota for news programming in Peak Viewing Time on BBC One (from 2,100 to 1,700).<sup>29</sup>

### **National and regional non-news programmes on BBC One and Two (Conditions 2.67.6 and 2.67.8 / Conditions 4.31.4 and 4.31.5 in the June 2022 proposed Licence)**

5.9 The BBC also outlines three types of changes it plans to make to its national and regional non-news output in Peak and adjacent to Peak (“Peak Adjacent”)<sup>30</sup> viewing time:

- i) Increasing investment in more high impact content. The BBC believes that the representation and portrayal of audiences across the UK will be best served by its *Across the UK* commitment to make the majority of its UK-wide TV across the UK and not in London and its high impact strategy of commissioning a smaller volume of more ambitious and high-quality shows with broad appeal. The BBC states that this would see a reduction in programming on the opt-out services<sup>31</sup> to fund high impact programmes with a strong sense of locality mainly for the UK-wide TV network, commissioned at network tariffs. This high impact content would be commissioned in the nations and regions or co-commissioned with the network. The BBC notes that the proposed investment in high impact programmes would exceed savings from lower impact programmes, leading to a net benefit to local production sectors. This strategy would mean c.200 fewer hours of non-news programmes on the opt-out services.
- ii) Enhancing investigative current affairs journalism in England. The BBC plans to end its English current affairs programme *We Are England* and replace it with a new network of investigative journalists, which will produce content for online, TV and radio. These teams will create 80 to 100 hours of English current affairs content to embed in existing programmes and 10-12 hours of half hour standalone programmes for linear TV and iPlayer each year. The BBC notes this represents an increase in investment in local investigative current affairs in England of more than 20% above the budget of *We Are England*. These changes account for a net reduction in its non-news Peak Viewing Time quota of around 50 hours per year.
- iii) Changes to programme scheduling. The BBC states that it would like the flexibility to reschedule certain programmes at times when they deliver the most audience value. It argues that audiences would be better served if certain long-running programmes were rescheduled outside Peak or Peak Adjacent, but that it is unable

---

<sup>29</sup> It should be noted that there is no direct read-across between the decrease in news hours and the change in the proposed quota, as the proposed change takes into account not only the BBC’s specific changes to its output, but also its current over-delivery on the quota, and the future need for flexibility.

<sup>30</sup> “Peak Adjacent” is referred to in the Licence as times immediately preceding or following Peak Viewing Time.

<sup>31</sup> The BBC said it would do this “through decommissioning underperforming programmes, commissioning fewer episodes per year of existing titles or not commissioning as many one-off programmes.”

to do so due to the quotas. It asks for the flexibility to move 50-60 hours of Peak Viewing Time non-news to other parts of the schedule.

- 5.10 These changes amount to a reduction in BBC One and Two's non-news programming of a national or regional interest by about 300 hours annually. To accommodate these changes, the BBC has requested a change in the quota for non-news programming in Peak on BBC One and Two (from 557 to 200 hours) and the quota for non-news programming adjacent to Peak on BBC One and Two (from 179 to 150).<sup>32</sup>

### **Programming of a national or regional interest on BBC One and Two (Condition 2.67.1 / Condition 4.31.1 in the June 2022 proposed Licence)**

- 5.11 As noted above, the quota in condition 2.67.2 (4.31.1 in the June 2022 proposed licence) captures both news and non-news programming in the nations and regions and any changes to the other news and non-news quotas referred to above will in turn impact the level of this overall quota.

## **Our assessment and provisional view**

### **News of a national or regional interest on BBC One**

- 5.12 Research conducted for our *Small Screen: Big Debate* review found that PSBs are considered particularly important for providing news and current affairs for the nations and regions,<sup>33</sup> a point also made by stakeholders.<sup>34</sup> Our research also shows that audience satisfaction with the BBC's regional TV news is generally high.<sup>35</sup>

### **Changes to the quota to reflect the proposed closure of the Oxford and Cambridge local news opt-out services**

- 5.13 Ofcom does not regulate the exact number and geographic size of the BBC's regional opt-out services, these are decisions for its Board. However, the BBC is required to provide output and services that meet the needs of audiences in the UK's nations, regions and local communities. We said in our June 2022 Consultation that the BBC should have some flexibility to determine how it delivers this type of localised content to audiences, and how its different services contribute to that delivery.
- 5.14 As a result of this change, we acknowledge that audiences in Oxford and Cambridge will receive news from a larger geographic area than they do currently and that some of this news may feel less relevant. However, these audiences will continue to receive news about their area as part of a bulletin of the same length. In addition, the enhanced online local

---

<sup>32</sup> It should be noted that there is no direct read-across between the decrease in non-news hours and the change in the proposed quota, as the proposed change takes into account not only the BBC's specific changes to its output, but also its current over-delivery on the quota, and the BBC's desire for future flexibility.

<sup>33</sup> Jigsaw Research report for Ofcom, 2020. *The impact of lockdown on audiences' relationship with PSB*, p.7.

<sup>34</sup> *Ofcom's Advisory Committee for Northern Ireland*, p.2; and Ofcom, July 2021. *Small Screen: Big Debate – Recommendations to Government on the Future of Public Service Media*, p.21, footnote 68.

<sup>35</sup> *Ofcom 2022 News Consumption Survey*. 82% of adults who follow news on BBC regional TV are satisfied with the quality of the local news they provide.

news offering the BBC plans to fund with its cost savings will also benefit the increasing proportion of audiences who access their news online. The BBC's plans here align with the goals set out in our June 2022 Consultation of including the BBC's online services and flexibly adapting to audience needs, particularly their changing viewing behaviour. As such, we are minded to adjust the relevant quotas accordingly.

- 5.15 New transparency requirements proposed in the June 2022 Consultation would ensure the BBC publishes its plans and reporting around online national and regional news annually, enabling us to track its performance in this area.<sup>36</sup> This is discussed in more detail below.

### Changes to the quota to reflect changes to programme length and scheduling

- 5.16 We remain of the view, as set out in our June 2022 Consultation that some quotas are necessary to ensure that the BBC continues to provide a substantial amount of news and current affairs across its TV and radio services. However, we also consider that it is appropriate that the BBC should have some flexibility to make minor adjustments to the length and scheduling of its programming in order to respond to the needs of audiences as well as variations in the news cycle. In our discussions with the BBC since it submitted its proposals, it also noted the importance of it having the flexibility to make scheduling decisions in this area with its financial pressures in mind.
- 5.17 In relation to the instances described by the BBC, we are content that the changes it referred to were made in response to changes to audience needs, and a reduction of 5.5 minutes of local news per day would not significantly impact on delivery for audiences. Specifically:
- We consider the BBC's lengthening and shortening of its 10.30pm local news bulletin during and after the pandemic to be a good example of it flexibly responding to audience needs and the news cycle.<sup>37</sup> Based on the evidence the BBC has provided, it doesn't appear that the change impacted viewership when considering reach, audience size and share of viewing.
  - In relation to *BBC Breakfast*, we considered the BBC's audience feedback that half-hourly local bulletins were repetitive and the analysis showing that the average viewer watched the programme for 48 minutes, meaning most viewers got the same content from bulletins at least twice. We consider that the BBC's decision to drop one of the bulletins was reasonable and that, based on its analysis, the change does not appear to have impacted audiences' viewing habits.
  - We agree that the BBC's scheduling change to its evening news slot which sees the local news bulletin start at 10.30pm rather than 10.25pm will not fundamentally change audiences' experience of the programming. A five minute time shift is marginal

---

<sup>36</sup> Condition 4.68.1 of the proposed Operating Licence requires the BBC to publish "its plans in relation to each of BBC iPlayer, BBC Sounds and the BBC Website to provide content of interest and relevance to audiences in the nations and regions". Condition 4.69 of the proposed Operating Licence requires the BBC to report on those plans, including whether it made significant changes to them and the reasons for those changes.

<sup>37</sup> We note that this change has not led to an overall decrease in local news as the bulletin was temporarily lengthened before being reverted to its original length.

and, as mentioned above, the BBC's analysis shows that viewership of the bulletin has remained stable after the change.

### **Our provisional view**

- 5.18 Our provisional view on the BBC's proposals around its news programming of national or regional interest quota on BBC One is that modification to the Licence may be appropriate. We propose to reduce the level of news of national or regional interest it must broadcast from 4,300 hours to 3,900 hours and at Peak Viewing Time from 2,100 to 1,700 hours.
- 5.19 The BBC's ability to serve audiences through an enhanced online local news offering is important in justifying the closure of its Oxford and Cambridge opt-out services. In the June 2022 Consultation, we proposed a new transparency requirement (condition 4.68.1 in the draft Licence) requiring the BBC to set out "its plans in relation to each of BBC iPlayer, BBC Sounds and the BBC Website to provide content of interest and relevance to audiences in the nations and regions" alongside its Annual Plan. In complying with this requirement, we would expect the BBC to publish its plans around online national and regional news. Proposed condition 4.69 would also require the BBC to report on these plans, including on any changes to them and the reasons for those changes, alongside its Annual Report.
- 5.20 However, it is important that audiences are served with local news whether they wish to use a linear or online service. We also expect the BBC to track whether its strategy for delivering news to all audiences is successful. Ofcom also undertakes its own audience research, including assessing audience satisfaction and attitudes towards news, in this area.

### **National and regional non-news programmes on BBC One and Two**

- 5.21 Non-news programming is an important aspect of the BBC's offering in the nations and regions of the UK. This content includes current affairs content, local sports coverage, indigenous language programming and comedy, drama, religious and factual programmes of a national or regional interest. Such programming contributes to the nation or region's culture and benefits the local production sector. It offers an opportunity to tell stories which resonate with local audiences and reflect their community back to them.

### **Increasing investment in more high impact content**

- 5.22 We asked the BBC to go into more detail about why its high impact strategy would lead to a 200 hour decrease in hours of non-news programming on the BBC One and Two opt-out services each year. It explained that around 90 of these hours would be developed into high impact content that would most likely be first broadcast on the network services. The remaining 110 hours represent a decrease in hours commissioned in order to fund this high impact content. It also provided us with a [separate submission](#) providing more detail on its proposals around national and regional non-news programmes.
- 5.23 In discussions with the BBC, we highlighted our concern that this strategy could lead to a reduction in the breadth of content produced for the nations and regions. The reduced number of hours of non-news programming left on the opt-out services could impact the

range of genres covered and the focus on network audiences could risk content of exclusive interest to national and regional audiences being deprioritised. While this content may not attract large audiences, high consumption is not the only measure of success and highly distinctive content which is appreciated by a small audience is also valuable.

- 5.24 The BBC has clarified its commitment to retain a breadth of genres across its non-news programmes of a regional or national interest. It has said it has no current plans to reduce its current affairs offer in the devolved nations or the amount of local sports coverage, indigenous language content, arts and music or education programmes broadcast. It also plans to continue to broadcast a range of comedy, drama, religious and factual programmes of a regional or national interest. We welcome the BBC's confirmation that there will be no change in the breadth of genres covered by the BBC's opt-out services in each of the nations and regions.
- 5.25 A further risk presented by the BBC's high impact strategy is that the high impact network content it plans to commission or co-commission from the nations and regions becomes more generic over time. Attempts to appeal to a wider audience may lead to this content having less relevance to the nation or region from which it is commissioned. The BBC has said that commissioning decisions will be made with the nations and regions to safeguard this local relevance. It has also said that it will track the performance of these high impact programmes within the nation or region it was commissioned from, across the UK and on BBC iPlayer. It has told us it will look at viewership, return on investment and audience opinion, both in terms of satisfaction and whether the content appropriately represents and portrays them, as well as how the programmes perform in the nations compared to the UK as a whole.
- 5.26 While we are mindful of the potential risks, we believe that the BBC's high-impact strategy can benefit both audiences and local producers. Higher impact network programming from the nations and regions, or through co-commissioning between BBC Nations and network commissioners, can bring greater representation and portrayal of those nations and regions to wider UK audiences. Seeing local places, talent and stories presented in higher budget programming and made widely available on network services and BBC iPlayer could provide value to local audiences. We would also see a strengthening of the role of commissioners in the nations and regions in network decisions. The change in strategy may also benefit the local production sector as a result of increased investment and opportunities for local producers to create bigger budget content for BBC network services.

### **Enhancing investigative current affairs journalism in England**

- 5.27 We have engaged with the BBC on its plans around current affairs TV content in the English regions both in response to these proposals and as part of our compliance work for our [fifth Annual Report on the BBC](#). With the BBC's plans to close *We Are England* it is important for us to understand how it will continue to deliver current affairs to audiences in England. We welcome the additional detail the BBC has provided on what its new network of investigative journalists will provide in the place of a dedicated current affairs

programme. While the 10-12 hours of standalone programmes for linear TV and iPlayer is more comparable to such a programme, the 80 to 100 hours of English current affairs content embedded in existing programmes represent a different approach to offering current affairs.

- 5.28 We consider that it is important for the BBC to have the flexibility to try different strategies such as this, but that it must be sufficiently transparent about how its new network of investigative journalists will deliver English current affairs going forwards.

### **Changes to programmes scheduling**

- 5.29 As noted in our assessment of the BBC's proposals around news of national and regional interest, we consider it appropriate that the BBC should have some flexibility to make minor adjustments to the length and scheduling of its programming in order to respond to the needs of audiences. This is also the case for its non-news programming.
- 5.30 The BBC considers that audiences would be better served if some of its long-running programming on the opt-out services were rescheduled from Peak or Peak Adjacent Times to daytime or after Peak Viewing Time.

### **Our provisional view**

- 5.31 There are a range of benefits to the BBC's proposals which we have set out above, but also potential risks. On balance, we believe the BBC should be allowed to develop its plans around high impact national and regional programming, English current affairs and opt-out non-news scheduling, but with certain safeguards in place. We therefore propose to reduce the level of non-news of national or regional interest it must broadcast at Peak Viewing Time from 557 to 200 hours and at Peak Adjacent viewing time from 179 to 150 hours.
- 5.32 In order to secure the BBC's commitment to maintain the breadth of genres that will remain on its opt-out services, we propose to put in place a transparency requirement for it to set out the range of genres it plans to broadcast in each nation each year alongside its Annual Plan and explain the reasons for any changes from its current provision. We also propose to require the BBC to publish its planned total and first-run hours of non-news content on the opt-out services alongside its Annual Plan allowing us to keep track of the BBC's general provision of this content.<sup>38</sup> We can request a more detailed breakdown of this information by genre from the BBC if we consider it is necessary. The BBC would also be required to report on these plans, including any changes, alongside its Annual Report.
- 5.33 It will be important for us to track the volume of high impact national and regional non-news programmes broadcast on network TV services. As such, we propose to put in place a transparency requirement for the BBC to publish the planned hours of this content

---

<sup>38</sup> We note that under in our June 2022 Consultation, we proposed that the BBC should set out its plans for non-news non-current affairs content, and the proposals set out as part of this consultation would therefore further extend this requirement. We also note that while the BBC presented to us its plans in the context of a request to reduce its peak and peak adjacent non-news quota, it confirmed that its high impact strategy also applies to content broadcast outside peak and peak-adjacent, and that we therefore believe it is necessary to provide this information across the day.

alongside its Annual Plan and then report on any changes to these hours with its Annual Report.

- 5.34 In the June 2022 Consultation, we proposed to introduce transparency requirement 4.67 which requires the BBC to annually publish the steps it plans to take to provide content of interest and relevance to audiences in the nations and regions, including any significant changes it plans to make from its current provision and the reasons for those changes. In complying with this requirement, we would expect the BBC to clearly set out how its high impact strategy will achieve the benefits it highlights in its proposals. This should include how it will reach and resonate with audiences in the nations and regions, enhance their representation and portrayal to wider UK audiences and deliver benefits to local production sectors through increased investment.
- 5.35 The BBC's focus on larger budget, higher impact programming will place greater emphasis on investment as a measure of performance and we would expect the BBC to provide us with granular information about its planned spend in the nations and regions, and on high impact programming in confidence. We will consider whether such information should be published.
- 5.36 Proposed transparency requirement 4.69 also requires the BBC to annually report on the plans it set out under condition 4.67, including whether it made significant changes to the plans and the reasons for the changes. In complying with this requirement, we would expect the BBC to develop its current reporting of expenditure in the nations and regions in its Annual Report to clearly show high impact network content of national and regional interest. We also expect it to report on the performance of this content with audiences in the nation or region it originates from in terms of viewership and satisfaction, including how well it represents and portrays them. The BBC should also consider the reach of such content to the nations and regions as well as wider UK audiences. The BBC has already committed to some reporting in this area in its [additional submission](#) and we would work with them to develop this. We would also plan to track audience opinion as part of our performance assessment.
- 5.37 Regarding current affairs in England, we would expect the BBC to set out the planned contribution of its new network of investigative journalists to English current affairs in complying with proposed transparency requirements 4.68.1 and 4.69 in the draft Operating Licence. This should include the hours of standalone programmes, hours of content produced for other programmes and contribution to online news.
- 5.38 If we proceed with our proposed changes to the Licence following this consultation, we believe that the information outlined above will allow us to assess whether audiences in the nations and regions are being appropriately provided for as a result of the BBC plans around high impact programming, English current affairs and scheduling on the opt-out services. We will look at its delivery and will engage with audiences and stakeholders to understand the impact of the changes. If we have concerns about the BBC's performance, we can step in to address them, including by reverting the quotas to their previous levels or introducing further requirements.

## Our proposed changes to the licence

- 5.39 We propose to reduce the level of news of national or regional interest the BBC must broadcast on BBC One from 4,300 hours to 3,900 hours and at Peak Viewing Time from 2,100 to 1,700 hours.
- 5.40 We propose to reduce the level of non-news of national or regional interest the BBC must broadcast at Peak Viewing Time on BBC One and BBC Two taken together from 557 to 200 hours and at Peak Adjacent viewing time from 179 to 150 hours.
- 5.41 In line with the reductions above, we propose to reduce the overall level of programming of a national or regional interest the BBC must broadcast on BBC One and BBC Two taken together from 5,909 to 5,000 hours.
- 5.42 We propose to put in place a new transparency requirement for the BBC to set out the range of genres it plans to broadcast on its opt-out services each year alongside its Annual Plan. We also propose to require it to publish its planned total and first-run hours of non-news content on the opt-out services alongside its Annual Plan. Condition 4.69 in the draft Operating Licence would also require the BBC to report on these plans, including any changes, alongside its Annual Report.
- 5.43 We propose to put in place a transparency requirement for the BBC to publish the planned hours of high impact non-news programmes of interest to the nations and regions broadcast on network TV services alongside its Annual Plan. Condition 4.69 in the draft Operating Licence would require the BBC to report against its delivery of these hours, including any changes, alongside its Annual Report.
- 5.44 In compliance with condition 4.67 in the draft Operating Licence, we expect the BBC to clearly set out how its high impact strategy will serve audiences in the nations and regions and deliver benefits to local production sectors through increased investment.
- 5.45 In compliance with condition 4.69 in the draft Operating Licence, we expect the BBC to report on how its high impact strategy has delivered investment in the nations and regions and how its high impact content is performing with audiences in the nations and regions and across the UK.
- 5.46 In compliance with conditions 4.68.1 and 4.69 in our draft Operating Licence, we would expect the BBC to publish plans and reporting around online news of national and regional interest and the contribution of its new investigative journalists to English current affairs, including the hours of standalone programmes, hours of content produced for other programmes and their contribution to online news.

Question 3: Do you agree with Ofcom's provisional assessment and its proposed changes to the Operating Licence for Programmes of a national or regional interest? If not, please explain why, providing appropriate supporting evidence where possible.

# A1. Proposed Operating Licence conditions

- A1.1 This annex sets out how Ofcom proposes to amend the Operating Licence conditions proposed in the June Consultation to reflect the proposals made in this consultation. To help stakeholders understand the impact of the proposals we include the following below:
- a) a comparison between the Operating Licence conditions proposed in the June Consultation and the revised conditions proposed in this consultation shown as a blackline; and
  - b) the proposed Operating Licence conditions taking account of the proposals made in the June Consultation and this consultation shown as a clean version.

## Comparison between conditions proposed in the June Consultation and proposed Operating Licence conditions

### BBC Radio 5 Live

- A1.2 A comparison between the Operating Licence conditions proposed in the June Consultation and the revised conditions proposed in this consultation for news and current affairs on BBC Radio 5 live is set out below.

“1.13. In respect of **BBC Radio 5 live**, the BBC must ensure that:

- 1.13.1 at least ~~75%~~ 70% of its output in each Financial Year must be news and current affairs programming; and
- 1.13.2 there is extensive coverage of local and general elections, and of elections to the United Kingdom’s devolved chambers, as well as regular coverage of international politics.”

### BBC Radio 2 live music

- A1.3 A comparison between the Operating Licence conditions proposed in the June Consultation and the revised conditions proposed in this consultation for live music on BBC Radio 2 is set out below:

3.10 “In respect of **Radio 2**, the BBC must ensure that:

- 3.10.1 in each Financial Year at least 40% of the music in Daytime is from United Kingdom acts;
- 3.10.2 in each Financial Year at least 20% of the music in Daytime is New Music, of which a significant proportion must come from new and emerging United Kingdom artists;
- 3.10.3 in each Financial Year it broadcasts at least ~~260~~ 68 hours of live music or new specially recorded music (excluding repeats);

- 3.10.4 in each Financial Year it broadcasts at least 1,100 hours of specialist music programmes. For the purpose of this requirement, “specialist music” means music which appeals to specific groups of listeners, and focuses on a specific genre of music or on cutting edge music from a range of genres; and
- 3.10.5 the station plays a broader range of music than comparable providers, taking into account both the number of plays and the size of the playlist, at both Peak Listening Time and Daytime.<sup>39</sup>

## Programming for the nations and regions

A1.4 A comparison between the Operating Licence conditions proposed in the June Consultation and the revised conditions proposed in this consultation for nations and regions is set out below:

“4.31 In respect of **BBC One** and **BBC Two** taken together, the BBC must ensure that:

- 4.31.1 in each Calendar Year, at least ~~5,909~~ 5,000 hours are allocated to programmes which are of national or regional interest;
  - 4.31.2 those programmes include a suitable range of programmes (including regional news programmes);
  - 4.31.3 at least 95% of those programmes consist of programmes made in the nation or region in relation to which those programmes are to be of national or regional interest;
  - 4.31.4 in each Calendar Year, at least ~~557~~ 200 hours of those programmes consist of non-news programming in Peak Viewing Time; and
  - 4.31.5 in each Calendar Year, at least ~~179~~ 150 hours of those programmes consist of non-news programming at times immediately preceding or following Peak Viewing Time.
- 4.32 The BBC must ensure that in each Calendar Year the time allocated to programmes which are of national or regional interest in accordance with condition 4.31 includes at least ~~4,300~~ 3,900 hours of news of national or regional interest to be broadcast at intervals throughout the day on BBC One, of which at least ~~2,100~~ 1,700 hours must be in Peak Viewing Time.”

## Transparency requirements for programming for the nations and regions

A1.5 A comparison between the Operating Licence conditions proposed in the June Consultation and the revised conditions proposed in this consultation regarding the transparency requirements for programming for the nations and regions is set out below. For the

---

<sup>39</sup> For the purposes of identifying comparable providers, the description of the Radio 2 service published under Part 1, Schedule 1 to the Agreement, and the audience it attracts, are key considerations. To the extent that Radio 2 discharges its requirement to play specialist music by playing such music outside Peak Listening Time and Daytime, we would not regard a station specialising in a particular genre of music as a comparable provider.

avoidance of doubt, we are not proposing any revisions to conditions 4.67 and 4.69 proposed in the June Consultation; these have been included below solely for the purpose of helping stakeholders understand better the proposed changes to condition 4.68.

“4.67 The BBC must publish annually, at the same time as it publishes its Annual Plan, the steps it plans to take during the financial year to which the Annual Plan relates to provide content of interest and relevance to audiences in Scotland, in Wales, in Northern Ireland and in the regions of England, including any significant changes it plans to make in that year from its current provision and the reasons for those changes.

4.68 In complying with condition 4.67, the BBC must include the following:

4.68.1 its plans in relation to each of **BBC iPlayer**, **BBC Sounds** and the **BBC Website** to provide content of interest and relevant to audiences in the nations and regions;

4.68.2 for all the variations of **BBC One** for the English regions taken together, the hours of news ~~and current affairs~~ it plans to provide;

4.68.3 for each of the following: (i) all the variations of **BBC One** for the English regions taken together; (ii) **BBC Scotland**, (iii) **BBC One Scotland**, (iv) **BBC One Wales**, (v) **BBC Two Wales**, (vi) **BBC One Northern Ireland**, (vii) **BBC Two Northern Ireland** and (viii) **BBC iPlayer**, its plans to provide a range of non-news programming ~~and non-current affairs programming~~. As part of this explanation, the BBC must set out:

4.68.3.1 planned hours of programmes other than news and current affairs;

4.68.3.2 planned hours of current affairs programming;

4.68.3.23 planned hours of First-Run UK Originations of programmes other than news and current affairs;

4.68.3.4 planned hours of First Run UK Originations of current affairs programming; and

4.68.3.5 a list of the specific genres it plans to provide.

4.68.4 planned hours of Network Programmes specifically aimed at audiences in the nations and regions.<sup>40</sup>

4.68.45 for **BBC Alba** and **BBC iPlayer**, its plans to provide programming aimed at those learning the Gaelic language. As part of this explanation, the BBC must set out:

---

<sup>40</sup> In the June Consultation “Network Programmes” have been proposed to be defined as follows: “programmes made for viewing on any of the UK Public Television Services, other than programmes made for viewing only on a variation of such a service that relates to one of the following: (a) Northern Ireland; (b) Scotland; (c) Wales; (d) any region of England”.

4.68.45.1 planned hours of programming aimed at those learning the Gaelic language; and

4.68.45.2 planned hours of First-Run UK Originations programming aimed at those learning the Gaelic language.

4.68.56 for each of **BBC Alba, BBC One Northern Ireland, BBC Two Northern Ireland** and **BBC iPlayer**, its plans to provide indigenous language programming. As part of this explanation, the BBC must set out:

4.68.56.1 planned hours of Gaelic, of Irish, and of Ulster-Scots programming; and

4.68.56.2 planned hours of First-Run UK Originations of Gaelic, of Irish and of Ulster-Scots programming.

4.69 The BBC must publish annually, at the same time as it publishes its Annual Report, a report on whether it took the steps that it set out under conditions 4.67 and 4.68 during the financial year to which the Annual Report relates, including whether it made significant changes from those plans and the reasons for those changes.”

## Proposed Operating Licence conditions

### BBC Radio 5 Live

A1.6 We propose to amend the BBC Radio 5 Live news and current affairs conditions as follows:

“1.13 In respect of **BBC Radio 5 live**, the BBC must ensure that:

1.13.3 at least 70% of its output in each Financial Year must be news and current affairs programming; and

1.13.4 there is extensive coverage of local and general elections, and of elections to the United Kingdom’s devolved chambers, as well as regular coverage of international politics.”

### BBC Radio 2 live music

A1.7 We propose to amend the BBC Radio 2 live music conditions as follows:

3.10 “In respect of Radio 2, the BBC must ensure that:

3.10.1 in each Financial Year at least 40% of the music in Daytime is from United Kingdom acts;

3.10.2 in each Financial Year at least 20% of the music in Daytime is New Music, of which a significant proportion must come from new and emerging United Kingdom artists;

3.10.3 in each Financial Year it broadcasts at least 68 hours of live music or new specially recorded music (excluding repeats);”

- 3.10.4 in each Financial Year it broadcasts at least 1,100 hours of specialist music programmes. For the purpose of this requirement, “specialist music” means music which appeals to specific groups of listeners, and focuses on a specific genre of music or on cutting edge music from a range of genres; and
- 3.10.5 the station plays a broader range of music than comparable providers, taking into account both the number of plays and the size of the playlist, at both Peak Listening Time and Daytime.”

## Programming for the nations and regions

A1.8 We propose to amend the programming for the nations and regions conditions as follows:

“4.31 In respect of **BBC One** and **BBC Two** taken together, the BBC must ensure that:

- 4.31.1 in each Calendar Year, at least 5,000 hours are allocated to programmes which are of national or regional interest;
- 4.31.2 those programmes include a suitable range of programmes (including regional news programmes);
- 4.31.3 at least 95% of those programmes consist of programmes made in the nation or region in relation to which those programmes are to be of national or regional interest;
- 4.31.4 in each Calendar Year, at least 200 hours of those programmes consist of non-news programming in Peak Viewing Time; and
- 4.31.5 in each Calendar Year, at least 150 hours of those programmes consist of non-news programming at times immediately preceding or following Peak Viewing Time.

4.32 The BBC must ensure that in each Calendar Year the time allocated to programmes which are of national or regional interest in accordance with condition 4.31 includes at least 3,900 hours of news of national or regional interest to be broadcast at intervals throughout the day on BBC One, of which at least 1,700 hours must be in Peak Viewing Time.”

## Transparency requirements for programming for the nations and regions

A1.9 We propose to amend the transparency requirements for programming for the nations and regions as set out below. For the avoidance of doubt, we are not proposing any revisions to conditions 4.67 and 4.69 proposed in the June Consultation; these have been included below solely for the purpose of helping stakeholders understand better the proposed changes to condition 4.68.

“4.67 The BBC must publish annually, at the same time as it publishes its Annual Plan, the steps it plans to take during the financial year to which the Annual Plan relates to provide content of interest and relevance to audiences in Scotland, in Wales, in Northern Ireland and in the regions of England, including any significant changes it

plans to make in that year from its current provision and the reasons for those changes.

- 4.68 In complying with condition 4.67, the BBC must include the following:
- 4.68.1 its plans in relation to each of **BBC iPlayer**, **BBC Sounds** and the **BBC Website** to provide content of interest and relevant to audiences in the nations and regions;
  - 4.68.2 for all the variations of **BBC One** for the English regions taken together, the hours of news it plans to provide;
  - 4.68.3 for each of the following: (i) all the variations of **BBC One** for the English regions taken together; (ii) **BBC Scotland**, (iii) **BBC One Scotland**, (iv) **BBC One Wales**, (v) **BBC Two Wales**, (vi) **BBC One Northern Ireland**, (vii) **BBC Two Northern Ireland** and (viii) **BBC iPlayer**, its plans to provide a range of non-news programming. As part of this explanation, the BBC must set out:
    - 4.68.3.1 planned hours of programmes other than news and current affairs;
    - 4.68.3.2 planned hours of current affairs programming;
    - 4.68.3.3 planned hours of First-Run UK Originations of programmes other than news and current affairs;
    - 4.68.3.4 planned hours of First Run UK Originations of current affairs programming; and
    - 4.68.3.5 a list of the specific genres it plans to provide.
  - 4.68.4 planned hours of Network Programmes specifically aimed at audiences in the nations and regions.<sup>41</sup>
  - 4.68.5 for **BBC Alba** and **BBC iPlayer**, its plans to provide programming aimed at those learning the Gaelic language. As part of this explanation, the BBC must set out:
    - 4.68.5.1 planned hours of programming aimed at those learning the Gaelic language; and
    - 4.68.5.2 planned hours of First-Run UK Originations programming aimed at those learning the Gaelic language.
  - 4.68.6 for each of **BBC Alba**, **BBC One Northern Ireland**, **BBC Two Northern Ireland** and **BBC iPlayer**, its plans to provide indigenous language programming. As part of this explanation, the BBC must set out:
    - 4.68.56.1 planned hours of Gaelic, of Irish, and of Ulster-Scots programming; and

---

<sup>41</sup> In the June Consultation “Network Programmes” have been proposed to be defined as follows: “programmes made for viewing on any of the UK Public Television Services, other than programmes made for viewing only on a variation of such a service that relates to one of the following: (a) Northern Ireland; (b) Scotland; (c) Wales; (d) any region of England”.

4.68.56.2 planned hours of First-Run UK Originations of Gaelic, of Irish and of Ulster-Scots programming.

4.69 The BBC must publish annually, at the same time as it publishes its Annual Report, a report on whether it took the steps that it set out under conditions 4.67 and 4.68 during the financial year to which the Annual Report relates, including whether it made significant changes from those plans and the reasons for those changes.”

## A2. Legal Framework

- A2.1 Ofcom’s power to regulate the BBC is derived from the Communications Act 2003 (the Act)<sup>42</sup>, which sets out that for the purposes of the carrying out of regulation of the BBC we will have such powers and duties as may be conferred on us by or under the Royal Charter for the continuance of the British Broadcasting Corporation (the Charter)<sup>43</sup> and the Agreement between the Secretary of State for Culture, Media and Sport, and the BBC (the Agreement).<sup>44</sup>
- A2.2 Ofcom’s general duties under section 3 of the Act also apply to the exercise of our functions in relation to the BBC.<sup>45</sup> These include our principal duty to further the interests of citizens in relation to communications matters, and to further the interests of consumers in relevant markets, where appropriate by promoting competition.
- A2.3 Under the Charter, Ofcom is required to have regard, in carrying out its functions in relation to the BBC, to such of the following as appear to us to be relevant in the circumstances:<sup>46</sup>
- a) the object of the BBC to fulfil its mission<sup>47</sup> and promote the public purposes;
  - b) the desirability of protecting fair and effective competition in the UK; and
  - c) the requirement for the BBC to comply with its general duties.<sup>48</sup>
- A2.4 We consider that out of the five public purposes<sup>49</sup>, the following are particularly relevant to the Request:
- a) Public Purpose 1: To provide impartial news and information to help people understand and engage with the world around them;
  - b) Public Purpose 3: To show the most creative, highest quality and distinctive output and services; and
  - c) 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.

---

<sup>42</sup> Section 198 of the Act.

<sup>43</sup> [The Charter](#).

<sup>44</sup> [The Agreement](#).

<sup>45</sup> Article 45(1) of the Charter.

<sup>46</sup> Article 45(2) of the Charter.

<sup>47</sup> The BBC’s mission is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain (article 5 of the Charter).

<sup>48</sup> The BBC’s general duties are set out at Articles 9 to 18 of the Charter and include, amongst others, the duty to promote technological innovation, including by focusing on technological innovation to support the delivery of the UK Public Services. The Agreement also imposes certain general obligations on the BBC. These include, at Clause 61, a requirement for the BBC to do all that is reasonably practicable to ensure that viewers, listeners and other users (as the case may be) are able to access the UK Public Services that are intended for them, or elements of their content, in a range of convenient and cost effective ways which are available or might become available in the future. These could include (for example) broadcasting, streaming or making content available on demand, whether by terrestrial, satellite, cable or broadband networks (fixed or wireless) or via the internet.

<sup>49</sup> Article 6 of the Charter.

- A2.5 We note that, by virtue of article 20(3)(d) of the Charter, the BBC is required to set performance measures (and targets for those measures where appropriate) and to collect such information as is necessary to assess the performance of the UK Public Services<sup>50</sup> in fulfilling the mission and promoting the public purposes.<sup>51</sup>
- A2.6 Separately, by virtue of article 46(4) of the Charter, Ofcom may set performance measures (further to those set by the BBC), and may collect such information as is necessary, to assess the performance of the UK Public Services in fulfilling the mission and promoting the public purposes.<sup>52</sup> In addition, Ofcom may require the BBC to collect such information as we consider necessary for the performance measures.<sup>53</sup>
- A2.7 In addition to setting performance measures, we are required to set an operating licence (the Operating Licence) containing a set of regulatory conditions with which the BBC must comply.<sup>54</sup> The Charter states that the Operating Licence must contain regulatory conditions Ofcom considers appropriate for requiring the BBC to:
- a) to fulfil its mission and promote the public purposes;
  - b) to secure the provision of distinctive output and services; and
  - c) to secure that audiences in Scotland, Wales, Northern Ireland and England are well served.<sup>55</sup>
- A2.8 The duty to secure the provision of distinctive output and services<sup>56</sup> is particularly relevant to the proposed changes to the BBC Radio 2 live music condition and the quota for news and current affairs programming on BBC Radio 5 Live.<sup>57</sup>
- A2.9 Schedule 2 of the Agreement contains some further rules regarding the regulatory conditions that Ofcom must impose through the Operating Licence. Amongst other things, it provides that:
- a) Ofcom should have particular regard, in imposing the regulatory conditions, to the need for the BBC to secure the provision of distinctive output and services;
  - b) In respect of news and current affairs, we must impose requirements, in the Operating Licence, that we consider appropriate for securing:

---

<sup>50</sup> The UK Public Services are set out in a list maintained and published by the BBC: [List of the UK Public Services](#).

<sup>51</sup> Clause 14(1) of the Agreement.

<sup>52</sup> Clause 14(2) of the Agreement.

<sup>53</sup> Clause 14(4) of the Agreement.

<sup>54</sup> Under the Charter and the Agreement, Ofcom is required to set an operating licence for the BBC's UK Public Services.

<sup>55</sup> Article 46(3) of the Charter.

<sup>56</sup> This duty is reiterated in paragraph 1(1) of Schedule 2 to the Agreement, which states that "[i]n imposing the regulatory conditions Ofcom must have particular regard to the need for the BBC to secure the provision of distinctive output and services".

<sup>57</sup> This is confirmed by paragraph 1(2) of Schedule 2 to the Agreement, which states that distinctive output and services means "output and services, taken as a whole, that are substantially different to other comparable providers across each and every UK Public Service both in peak time and overall, and on television, radio and online, in terms of- (a) the mix of different genres and output; (b) the quality of output; (c) the amount of original output produced in the UK; (d) the level of risk-taking, innovation, challenge and creative ambition; and (e) the range of audiences it serves."

- i) the programmes included in the UK Public Television Services<sup>58</sup> include news programmes and current affairs programmes at an appropriate level (as determined by Ofcom); and
- ii) the news programmes so included are broadcast for viewing at intervals throughout the period for which the UK Public Television Services are provided.<sup>59</sup>

A2.10 We may amend the Operating Licence following consultation with the BBC and any person we consider appropriate. We issued the first Operating Licence in October 2017<sup>60</sup> and it has been subsequently amended a few times since 2017.<sup>61</sup>

A2.11 In addition to setting an Operating Licence, we are also required to publish an operating framework.<sup>62</sup> The operating framework for BBC regulation includes the 'Procedures for setting and amending the Operating Licence' (the Procedures).<sup>63</sup> which explain how we set and administer the Operating Licence regime and the procedures to be followed.

A2.12 The Procedures set out considerations to which Ofcom will have regard when amending the Operating Licence, including the relevant legal framework, enforceable nature of operating licence conditions and the desirability of ensuring that regulatory conditions are clear and capable of enforcement in the event of non-compliance.<sup>64</sup> This consultation follows the Procedures (and applies the considerations it lists) together with Ofcom's consultation principles (see Annex 5).

---

<sup>58</sup> Clause 75 and part 1 of Schedule 1 to the Agreement taken together define 'UK Public Television Services'. CBeebies and CBBC are included in the [list of UK Public Television Services](#) published by the BBC.

<sup>59</sup> Paragraph 4(1) of Schedule 2 to the Agreement.

<sup>60</sup> Ofcom, 2017 (updated 2019). [Operating licence for the BBC's UK Public Services](#).

<sup>61</sup> For changes to the Operating Licence see [The Operating Framework webpage](#).

<sup>62</sup> Article 46(2) of the Charter and Clause 5(1) of the Agreement.

<sup>63</sup> Ofcom, 2017. [Holding the BBC to account for delivering for audiences: Procedures for setting and amending the operating licence](#).

<sup>64</sup> [The Procedures](#), paragraphs 1.11 to 1.20.

## A3. Equality impact assessment

### Introduction

- A3.1 Ofcom is required by statute to assess the potential impact of all our functions, policies, projects and practices on the following equality groups: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation.<sup>65</sup> We refer to groups of people with these protected characteristics as ‘equality groups’. We fulfil these obligations by carrying out an Equality Impact Assessment (EIA), which examines the potential impact our proposed policy is likely to have on people, depending on their personal circumstances. EIAs also assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers, regardless of their background and identity.
- A3.2 Ofcom has separate but complementary duties under Northern Ireland’s equality legislation. This requires Ofcom to screen policies for their impact on equality of opportunity and/or good relations in each of the nine equality categories identified for Northern Ireland.

### The aims of our consultation

- A3.3 The consultation sets out our proposals based on the requests the BBC has made for changes to the Operating Licence. This consultation is running alongside and will feed into our broader consultation on our proposed approach for holding the BBC to account for the delivery of its Mission and Public Purposes, and setting conditions for a new Operating Licence. We believe that securing delivery of the BBC’s Mission and Public Purposes under this Licence will bring benefits to audiences in general, and specifically to equality groups.

### Equality impact assessment

- A3.4 We have conducted an EIA and set out a summary of our assessment below. First, we consider our proposals by the three areas of requests from the BBC and then consider our duties in relation to Northern Ireland.
- A3.5 The requirement for the BBC to ‘serve all audiences’ remains a key consideration in setting this Operating Licence.<sup>66</sup> These proposed changes to the Licence that the BBC have requested are associated with quotas for specific services and types of programming. We therefore consider that the proposed changes to the Licence would have some relevance to the equality groups and could particularly have a positive impact on the following diversity groups:
- a) Younger audiences; and

---

<sup>65</sup> As defined in the Equality Act 2010.

<sup>66</sup> The BBC’s Mission, as defined in the Charter, requires it “to act in the public interest, **servicing all audiences** through the provision of impartial, high-quality and distinctive output and services which inform, educate, and entertain”.

b) Men.

- A3.6 We also believe that there is the potential for certain audience groups to not benefit from the changes, or indeed be negatively impacted by them. For example, older audiences and those who are less connected may be affected by the move to more online current affairs.
- A3.7 Below, we summarise the three areas of proposals for changes to the Operating Licence and highlight where we think there is particular relevance to these equality groups.

### **BBC Radio 5 Live news and current affairs**

- A3.8 The BBC have argued that the proposals affecting Radio 5 Live news quotas will allow them to broadcast more content, such as live sport, that appeals to underserved audiences. They highlight in particular, younger male audiences and audiences from C2D socio-economic groups. They have provided RAJAR data that indicates sports will appeal more to these groups compared to news. Ofcom has said in its [Annual Report on the BBC 2022](#) that some audiences, particularly those in lower socio-economic groups, have persistently been less satisfied with the BBC than other audiences and are less likely to use its services.
- A3.9 Radio 5 Live currently has an audience that skews older, with an average age of 52.1 and 68% of its audience aged 45 and over. 70% of its audience are in the ABC1 socio-economic groups and 90% of its audience are White.<sup>67</sup>
- A3.10 As set out above in section 3, we believe it is reasonable to conclude that a small increase in sports coverage will improve reach and have positive impacts on younger male audiences and those from C2D socio-economic backgrounds.

### **BBC Radio 2 live music**

- A3.11 We do not consider that the Radio 2 live music proposal will have equality implications under the 2010 Act or the 1998 Act.

### **Programmes of a national and regional interest**

- A3.12 The BBC's requests for changes to quotas related to programmes of a national and regional interest will clearly have an impact on audiences living in the nations and regions. Broader than that, their overall strategy to become a 'Digital First' organisation will need to consider those who are dependent on linear services.
- A3.13 The BBC believe that local audiences will benefit from these proposals by the increased spend on high-impact content and more resources available for online local content, although it could be a concern that older audiences may be negatively affected if they prefer to receive their news from traditional linear services. The BBC will still be required to deliver news and current affairs on its broadcast services to ensure all audiences are well served (proposed conditions 1.4-1.17) which would constitute a safeguard for older

---

<sup>67</sup> RAJAR Q3 2022

people who may prefer using traditional broadcast services, or people from lower socio-economic groups who may not have access to the internet at home.<sup>68</sup>

- A3.14 To mitigate the impact on audiences in the nations and regions we have proposed to impose transparency requirements that will mean the BBC will need to provide detailed plans for each nation and region in its Annual Plan (see section 5). We will review their plans and performance, and will be ready to step in if necessary and ultimately, to reimpose quotas.

## Northern Ireland

- A3.15 The current Operating Licence requires the BBC to produce a range of programmes for viewers and listeners in Northern Ireland, and to produce programmes in Northern Ireland that will be broadcast across the UK. This consultation does not change what we proposed in our [June consultation](#), that these requirements are retained, with some amendments to acknowledge changes in the media landscape and in audience habits. For example, allowing content delivered on the BBC's online services to count towards some of its quotas. On this basis, we do not believe our policy approach will have an adverse impact on any of the Northern Ireland equality categories. Therefore, our initial conclusion is that the policy approaches outline in this document do not require a more detailed Equality Impact Assessment in relation to Northern Ireland.

---

<sup>68</sup> 20% of those aged 65 and over, and 14% of those in lower socio-economic groups, do not have access to the internet at home (Ofcom Adults' Media Literacy Tracker 2021: CATI omnibus survey).

## A4. Responding to this consultation

### How to respond

- A4.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 18th January 2023.
- A4.2 You can download a response form from <https://www.ofcom.org.uk/consultations-andstatements/category-3/bbcs-request-to-change-the-operating-licence>. You can return this by email or post to the address provided in the response form.
- A4.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [bbcoperatinglicencereview@ofcom.org.uk](mailto:bbcoperatinglicencereview@ofcom.org.uk), as an attachment in Microsoft Word format, together with the [cover sheet](#).
- A4.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Content Policy team  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- A4.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files; or
  - upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A4.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A4.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt of a response submitted to us by email.
- A4.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A4.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 7. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A4.10 If you want to discuss the issues and questions raised in this consultation, please contact by email to [bbcoperatinglicencereview@ofcom.org.uk](mailto:bbcoperatinglicencereview@ofcom.org.uk).

## Confidentiality

- A4.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish responses on [the Ofcom website](#) at regular intervals during and after the consultation period.
- A4.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A4.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A4.14 To fulfil our pre-disclosure duty, we may share a copy of your response with the relevant government department before we publish it on our website. This is the Department for Business, Energy and Industrial Strategy (BEIS) for postal matters, and the Department for Culture, Media and Sport (DCMS) for all other matters.
- A4.15 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

## Next steps

- A4.16 Following this consultation period, Ofcom plans to publish a statement in 2023.
- A4.17 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

## Ofcom's consultation processes

- A4.18 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 5.
- A4.19 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A4.20 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA  
Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

## A5. Ofcom's consultation principles

### Ofcom has seven principles that it follows for every public written consultation:

#### Before the consultation

- A5.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

#### During the consultation

- A5.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A5.3 We will make the consultation document as short and simple as possible, with an overview of no more than two pages. We will try to make it as easy as possible for people to give us a written response.
- A5.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A5.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A5.6 If we are not able to follow any of these seven principles, we will explain why.

#### After the consultation

- A5.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish the responses on our website at regular intervals during and after the consultation period. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

# A6. Consultation coversheet

## BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

## CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? \_\_\_\_\_

\_\_\_\_\_

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

## DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom aims to publish responses at regular intervals during and after the consultation period. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## A7. Consultation questions

A7.1 We request stakeholders' views and evidence on the following questions:

**Question 1:** Do you agree with Ofcom's provisional assessment and its proposed changes to the Operating Licence for news and current affairs on BBC Radio 5 Live? If not, please explain why, providing appropriate supporting evidence where possible.

**Question 2:** Do you agree with Ofcom's provisional assessment and its proposed changes to the Operating Licence for live music on BBC Radio 2, including the view that new live music is more valuable to audiences than repeats? If not, please explain why, providing appropriate supporting evidence where possible.

**Question 3:** Do you agree with Ofcom's provisional assessment and its proposed changes to the Operating Licence for Programmes of a national or regional interest? If not, please explain why, providing appropriate supporting evidence where possible.

The overview section in this document is a simplified high-level summary only. The proposals we are consulting on and our reasoning are set out in the full document.