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for everyone

Holding the BBC to account for the delivery of its mission and public purposes

Consultation

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About this document

Under the new Royal Charter and Agreement, regulation of the BBC passes from the BBC Trust to Ofcom on 3 April 2017. One of Ofcom's central responsibilities is to hold the BBC to account for fulfilling its mission and promoting its public purposes.

As part of our new responsibilities, we are required to publish an operating framework containing provisions to secure effective regulation of the BBC. In relation to the BBC's performance, we must set an operating licence for the BBC, and we may set measures to assess the BBC's performance. The licence must set out the enforceable regulatory conditions that we consider appropriate to ensure the BBC fulfils its duties.

This consultation seeks views on our proposals for:

- a) the BBC operating licence, and the process for amending this in future; and
- b) Ofcom's performance measures, and the process for amending these in future.

Alongside responses to this consultation, we will also consider the BBC's interim annual plan, which it is required to publish by 3 July 2017. We intend to publish a statement setting out our decisions, including the final operating licence, by the end of September 2017.

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Section 1

Executive summary

The BBC occupies a unique position in the UK's media landscape

- 1.1 The BBC is the UK's most widely used media organisation, occupying a special place in the UK media landscape. The BBC currently operates a wide range of services including seven UK-wide TV services, several interactive red button services, ten UK-wide, five national and 39 local radio services, and an online service that includes the BBC iPlayer, BBC Three and the full complement of websites under bbc.co.uk. The BBC's content is popular - 96% of adults in the UK consume its services each week, spending on average 18.3 hours watching, listening to, or using BBC services.¹ Because of the breadth and depth of its output, the BBC has the scale and presence to command the attention of the nation, and its creative footprint extends across the globe.
- 1.2 Public expectation of the BBC is exceptionally high, shaped by the BBC's role as a publicly-funded broadcaster, its longstanding independence from improper external influence and, related to this, the critical role it plays in informing public debate within the UK and its communities. The BBC also has an important role in supporting and sustaining creative life in the UK.

The new Charter gives Ofcom a role in holding the BBC to account for its performance in delivering its mission and public purposes

- 1.3 With a new Royal Charter in place until the end of 2027, the BBC will continue to play a central role in the UK's media landscape. Beneath this picture of continuity is one of change: the new Charter changes the BBC's mission and public purposes, and places a new focus on distinctiveness. The new Charter also heralds significant change to the oversight of the BBC: responsibility for governing the BBC transfers from the BBC Trust to a new BBC Board, and responsibility for regulating the BBC moves from the BBC Trust to Ofcom.
- 1.4 Within this new regime, it is the BBC Board's role to fulfil the mission and promote the public purposes. Ofcom's role is to hold the BBC to account for its performance in delivering the mission and purposes, across its range of TV, radio and online services. As part of our new regulatory responsibilities, we are required to publish an operating framework containing provisions that will secure the effective regulation of the BBC, as set out in the Charter and the accompanying Agreement between the UK Government and the BBC.
- 1.5 Ofcom's functions also include setting an operating licence for the BBC's UK public services containing regulatory conditions Ofcom considers appropriate for requiring the BBC:

¹ BBC, *Annual Report and Accounts 2015/16*

<http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/reports/pdf/bbc-annualreport-201516.pdf>

[Accessed 16 March 2017]

- 1.5.1 to fulfil its mission and promote the public purposes;
 - 1.5.2 to secure the provision of distinctive output and services; and
 - 1.5.3 to secure that audiences in England, Scotland, Wales and Northern Ireland are well served.²
- 1.6 The licence does not set BBC programme or service strategies or budgets. These areas are not part of Ofcom’s functions in relation to the BBC. Under the provisions of the Charter and Agreement, the BBC Board is responsible for ensuring that the BBC fulfils its mission and promotes the public purposes. The BBC Board is also responsible for setting the strategic direction and the creative remit.³ The BBC must publish an annual plan for each financial year, in advance of the period to which it relates, which must include (among other things): the creative remit for that year; the work plan for that year; and provision for the UK’s nations and regions.⁴
- 1.7 This consultation sets out how we intend to implement an effective regulatory regime until the end of the Charter period in 2027 that will hold the BBC to account against its plans, with flexibility to change the detailed requirements of the regime over time as the broadcasting market develops and audience tastes and habits change. Audiences will be at the heart of our approach. To fulfil our duties, we have a range of tools at our disposal, including:
- 1.7.1 the ability to set enforceable regulatory conditions on the BBC’s UK public services through the BBC’s operating licence.⁵ The BBC will face sanctions, including - for the first time - the possibility of financial penalties, if it fails to meet these regulatory conditions;
 - 1.7.2 a new performance measurement framework to assess the BBC’s delivery of its mission and purposes;
 - 1.7.3 the requirement that we report annually on these performance measures and the BBC’s compliance with the regulatory conditions; and
 - 1.7.4 the requirement that we conduct at least two in-depth reviews of the BBC’s performance. We can also conduct ad hoc reviews, where we feel appropriate.

² Article 46(3) of the Charter.

³ Article 20(3)(a) and (b) of the Charter.

⁴ Article 36 of the Charter.

⁵ Article 46(3) of the Charter sets out that the scope of Ofcom’s operating licence, and the regulatory conditions contained within it, is the UK public services. This scope therefore excludes the World Service and the BBC’s commercial services.

- 1.8 The BBC is also required to ensure that its news output is accurate and impartial, and that it considers the impact of its activities on the wider market. Ofcom's approach to regulation in these areas is set out elsewhere.⁶
- 1.9 This consultation focuses on proposals for a new series of regulatory conditions – contained within an operating licence – and a proposed framework for our new performance measures. It also makes proposals for the process for amending these in future, for instance to reflect changes in audiences' expectations, the BBC's performance over time, or any constraints due to its financial position.
- 1.10 Our approach seeks to preserve the BBC's editorial and creative freedom while also holding the BBC to account for important outcomes for audiences. Being a regulator, we do not replicate the extensive strategic requirements imposed by the Trust through its service licences. It is for the new BBC Board to determine its own strategy. But we have imposed regulatory conditions where we think it is in the interests of citizens and consumers to do so, and to ensure the BBC delivers its mission and public purposes as required under the Charter and Agreement.
- 1.11 During the consultation, it is open to the BBC to make comparable commitments that best fit its strategy and to include these within its annual plan and creative remit (alongside clear performance measures) to enable Ofcom to hold them to account for delivery. Ofcom may revise its proposed conditions to reflect such commitments by the BBC. Our approach is set out in more detail below.

We are proposing a series of regulatory conditions to strengthen accountability around the BBC's performance

- 1.12 The new Charter sets out a series of objectives for the BBC, through the new mission and public purposes, which are themselves an evolution of the mission and public purposes in place under the previous Charter. Greater detail around expectations for the operating licence – and by implication the BBC – are contained within Schedule 2 to the Agreement, which focuses on the concept of the BBC's 'distinctiveness', a reflection of the main change to the mission and public purposes under the new Charter. Schedule 2 places several detailed obligations on us that are reflected in our proposals.
- 1.13 We are proposing a single operating licence for the BBC containing clear, measurable and appropriately challenging regulatory conditions in relation to the BBC's services. The benefits of a single operating licence are in transparency and coherence. The single operating licence may also give us greater flexibility to respond to evolving consumption patterns in future by allowing for conditions that are not specific to individual services. This proposed approach also offers the BBC a more streamlined regulatory framework, with all regulatory conditions around performance set out in one place and focused on the issues that matter most to audiences.
- 1.14 Our approach to proposing the regulatory conditions in the operating licence has been twofold. First, we propose retaining or amending any conditions previously imposed by the BBC Trust where we consider they help support the BBC in

⁶ Ofcom, *BBC Operating Framework*, available at: <https://www.ofcom.org.uk/consultations-and-statements/ofcom-and-the-bbc/the-operating-framework/>

delivering the public purposes. Second, we propose imposing additional new conditions, where we consider they ensure the BBC's delivery of the public purposes. In doing so, we have been informed by our existing research base, including our annual Public Service Broadcasting (PSB) survey, and new deliberative research about audiences' relationship to the BBC, including its distinctiveness.⁷ Initial insights from this research are being published alongside this consultation. Where appropriate, we have also had regard to published stakeholder views submissions to the Government's Charter Review process.

- 1.15 We have retained most of the quantifiable conditions contained within the BBC's existing service licences, but have removed the extensive qualitative requirements which were a feature of them. In our view, these served more of a governance or strategic function than a regulatory function. Our operating licence does, however, propose a set of high-level objectives for the BBC that we envisage will remain subject to little or no change over time. These will set out clearly - for the BBC and others stakeholders - the overarching outcomes that we are seeking to achieve, in the interests of viewers, listeners and users.
- 1.16 In making these proposals, we have avoided regulation that duplicates or confuses the role of the new BBC Board. It is the responsibility of the Board to set overall strategy, and to set budgets for each BBC service.
- 1.17 We have also avoided regulation that interferes with the BBC's editorial decision-making: it is not in anybody's interest for the regulator to take creative decisions or set schedules. It is important for the regulatory regime to allow the BBC to exercise its creative discretion, innovate and take risks, within an overall framework of accountability. For this reason, our proposals focus on positive requirements around minimum levels of delivery by the BBC. Meeting these conditions alone would not guarantee the successful fulfilment of the BBC's mission and promotion of the public purposes; but they do make clear that these are minimum, specified requirements for the BBC - which will also be subject to broader measurement and monitoring.
- 1.18 We have considered the impact on the BBC of our proposals and we are confident that the overall burden is manageable and proportionate. We recognise that the BBC may face challenges in delivering the on-going efficiencies associated with the 2016 licence fee settlement⁸, and we will consider in future whether any regulatory requirements need to evolve as a result, while also assessing how the mission and public purposes can continue to be delivered.
- 1.19 We believe our proposals will strengthen the regime for holding the BBC to account for its performance in delivering its public purposes. In general, we propose increasing several existing quotas in key areas where the BBC is performing at a level above current requirements and has been doing for some time. This will ensure that high levels of delivery continue and audiences continue to receive high-quality, creative and distinct content and services. More specifically, in relation to each of the new public purposes, we propose:
 - 1.19.1 To underline the fundamental importance of the BBC's news, current affairs and factual output, and reflect how the delivery of trusted news and

⁷ Ofcom, *Ofcom BBC Distinctiveness Research Executive Summary*, 2017

⁸ BBC, <http://www.bbc.co.uk/mediacentre/speeches/2016/tony-hall-enders>

information to all audiences is central to the BBC. We propose retaining most of the regulatory conditions currently in place in relation to news and current affairs – including for BBC One and BBC Two – and increasing requirements where these have been exceeded over time. This will ensure that the BBC continues to provide news and current affairs that audiences value across a wide range of services. In addition, we are proposing new, peak-time conditions for news on BBC Radio 1, and news and current affairs on BBC Radio 2. We also recognise that online news and current affairs will become increasingly important over time as more consumption takes place online via websites and apps, and expect the BBC to innovate in this area to ensure that its news and current affairs output remains widely used.

- 1.19.2 To introduce new regulatory conditions that focus on the number of hours of first-run UK originations, across a range of TV services. The BBC is currently subject to quotas for hours of original productions and comfortably meets them. Our proposed new requirements focus on new, ‘first-run’ content. Audience research gathered by our most recent PSB Review and our annual PSB surveys shows that new originated content is very important for UK audiences. However, BBC expenditure on first-run UK originations has declined by 30% in real terms since its peak in 2004, and the number of hours has declined by 7% since its peak in 2003. Greater focus on first-run UK originated content will help ensure the BBC’s services are distinctive, creative, and reflect the diverse communities of the UK.
- 1.19.3 To ensure that the BBC continues to deliver engaging and stimulating programmes for the youngest audiences, we are proposing new targets for CBeebies and CBBC in relation to new content. We recognise the key role that BBC online plays in children’s and teenagers’ formal education, and we propose to enshrine this in a new condition.
- 1.19.4 To acknowledge that arts, music and religious programming are in decline across all public service broadcaster channels, and to recognise the key role the BBC’s provision plays, we propose increasing existing targets on TV for the BBC in these genres and are proposing some new peak-time obligations for arts, music and religious programming on BBC One and Two. This will help ensure that the largest possible audience can learn by engaging with new and stimulating ideas and perspectives. We also expect the BBC to continue to play a vital role in the provision of programmes which explore subjects such as science, nature, business and history. To set out clearly, for the nations and regions, conditions that will ensure delivery of content for audiences across the different parts of the UK. Our proposals for strengthening delivery include increasing quota levels where appropriate, when the BBC has delivered above existing levels over a period. We propose introducing requirements that guarantee network content expenditure, and for the number of hours made in each of the nations to be in proportion to population share. Alongside these new requirements, in 2017/18 we will begin a review of our guidance on Out of London programme-making, to ensure that the programmes the BBC and other PSB channels identify as being made outside London make a genuine contribution to the nations’ and regions’ creative economies. We expect the BBC’s production outside the M25 to include a range of genres and to use a range of production centres. The BBC’s regional programming should also include a range of genres. In addition, the BBC must reflect, accurately represent and authentically portray the nations and regions

through its network content, this has been captured as part of our broader diversity commitments.⁹

- 1.19.5 To require the BBC to improve its on-screen and on-air diversity, with the overall intention of ensuring that the BBC's output and services reflect the whole of the UK. We are proposing new conditions to require the BBC to report annually on the delivery of on-screen and on-air diversity, audience satisfaction, and the steps it is taking to improve audience satisfaction among dissatisfied audience groups. We propose that the BBC must agree with us a new diversity code of practice to ensure its newly commissioned content accurately represents, authentically portrays and reflects the diversity of the UK population. We are not proposing regulatory conditions at this stage regarding the diversity of the BBC's workforce, although we recognise this can play an important role in relation to on-screen and on-air diversity. We expect the BBC to increase diversity off-screen and off-air and to report openly on its progress. We will consider the case for conducting an ad hoc review of the BBC's performance around diversity if we do not see early and continued signs of progress.
- 1.20 We are inviting views on the proposed approach to establishing a set of regulatory conditions. Stakeholders are invited to provide views on any specific areas which they believe would merit focus within the set of proposed conditions set out in the draft licence.

We are proposing to introduce a new series of performance measures to monitor the BBC's delivery of its mission and public purposes over time

- 1.21 We propose to complement the regulatory conditions and requirements in the operating licence with a wider set of indicators to assess the BBC's performance in delivering the mission and public purposes. These performance measures will look at the content the BBC creates, where this content is made available, audience consumption and the impact this content has. This will ensure that our approach to holding the BBC to account is founded on a robust base of evidence, drawing on the BBC's data and research, as well as Ofcom's own independently gathered evidence.
- 1.22 This is particularly important for understanding the public's attitudes towards the BBC's performance in meeting concepts within the mission and public purposes, such as 'high-quality', 'distinctive' and 'creative'. These are - by their very nature - subjective and therefore more challenging to capture effectively in enforceable regulatory conditions. We will focus our performance measures on individual services, groups of services or the BBC's overall output depending on what is most appropriate. But we do not propose to measure the distinctiveness - or other attributes - of individual pieces of content or programme series.

⁹ We define 'representation' as the extent to which people and characters appear and 'portrayal' as the ways in which these people and characters are depicted. For representation to be accurate we expect the number of people appearing in BBC programmes to broadly reflect the populations of the UK. We will assess the extent to which people feel authentically portrayed through audience research. This is explained in further detail in paragraphs 4.101 and 4.102.

- 1.23 These performance measures will be central to our in-depth periodic reviews of the BBC's performance. In addition, they will act as an early warning sign for areas of potential underperformance by the BBC. This will allow us to assess the desirability of conducting an ad hoc review, or of including new or more stretching regulatory conditions within the operating licence, if our performance measurement indicates this is appropriate.
- 1.24 We are proposing the following framework for our performance measures:
- 1.24.1 **Availability.** Describing the spend on, nature, type, quantity, and range of content available across the BBC. This is a 'baseline' category that helps to build a robust understanding of the nature of the BBC content broadcast or published online.
 - 1.24.2 **Consumption.** The extent to which audiences consume the content provided. This category provides an overview of the reach of content and time spent consuming BBC content, by service, platform or cross-platform, as well as the extent to which the BBC reaches diverse audiences across the UK and in the nations.
 - 1.24.3 **Impact.** Examining what audiences think about the BBC's services and output, and the impact it has on their lives.
 - 1.24.4 **Contextual factors.** There are aspects of each public purpose that cannot be measured solely by the categories above. For example, any assessment of the BBC's record in taking creative risks and delivering innovative content would benefit from consideration of qualitative information from the BBC. We may want to consider changes in the BBC's funding, or other external public policy factors.
- 1.25 The BBC is required by the new Charter to establish its own performance measures, as it has done in the past. Our performance measures will supplement the BBC's, which we will take account of in our work. But it is important that our performance measures also stand alone: a credible regulatory regime must have access to an independent evidence base.
- 1.26 We are inviting views on the proposed approach to establishing a performance measurement framework. Stakeholders are also invited to provide views on any specific areas which they believe would merit focus within the set of performance measures as shown in Annex 6.

We expect the operating licence and performance measures to evolve over time

- 1.27 The Charter requires the BBC to produce an annual plan which must include a creative remit. We expect this to set out in detail how the BBC intends to use its range of services to deliver its mission and public purposes, and the performance measures it will use to assess delivery.
- 1.28 Ofcom's operating licence will contain only the regulatory conditions we believe appropriate to secure the BBC's delivery of its mission and public purposes, rather than seeking to exhaustively define all aspects of the BBC's output and services.
- 1.29 The process by which these new documents will initially be put in place is set out in the new Charter, which requires the BBC to produce an interim annual plan,

containing a draft work plan and creative remit, by 3 July 2017. The BBC will be able to take account of these consultation proposals in producing its interim annual plan. Before we take a decision on the final form of the operating licence, the performance measures and the operating framework, we will scrutinise the BBC's interim annual plan, alongside responses to our consultation from other stakeholders. We expect the interim annual plan to contain commitments against which the BBC can be held to account. If there are areas where we feel the BBC is not delivering, we will consider whether it would be appropriate to include further regulatory conditions in the final operating licence, which we intend to set and publish by the end of September 2017. The exact timing will depend on the BBC's interim annual plan, which will be an input to our consultation and on the consultation responses from other stakeholders.

- 1.30 Once this initial process is complete, we envisage a continuous process of evolution for the BBC's annual plan and Ofcom's operating licence, informed by the BBC's performance over time, changes in audience behaviour and expectations, technology and the broader market. For instance, at the start of the previous Charter period, in 2007, the BBC iPlayer was yet to be launched. Now, recent Ofcom research found that it is accessed by 50% of respondents at least once a month.¹⁰ Although we cannot forecast precisely how the BBC's services and output may change over the next 11 years, we can presume that shifts of equivalent scale are likely to unfold.
- 1.31 The regulatory conditions will also evolve to reflect the BBC's performance. There is a dynamic relationship between our performance measures and the regulatory conditions; if, for example, the performance measures provide evidence of declining performance or low levels of audience satisfaction, we will consider how the regulatory conditions might be strengthened. We may also gather evidence through our periodic or ad hoc reviews that lead us to consider changing the regulatory conditions in the operating licence.
- 1.32 Similarly, we anticipate that our set of performance measures will evolve over time. For instance, we might add measures in response to areas of audience or stakeholder concern, or if our periodic or ad hoc reviews identify issues that demand further examination.
- 1.33 In this consultation, we set out proposals for the procedures we will follow when seeking to set or amend the regulatory conditions in the operating licence, and when setting or amending performance measures. These draft procedures include proposals for how we would consult and how we would publish the outcome of our decisions in these areas.

There is a relationship with other areas of our regulatory responsibilities for the BBC

- 1.34 Our responsibilities around the BBC's performance do not sit in isolation; they are part of a wider set of regulatory responsibilities, broadly covering:

¹⁰ [Ofcom 2016 PSB Annual Research Report](#)

- 1.34.1 editorial standards: ensuring the BBC complies with the requirements of the Broadcasting Code¹¹, including in areas such as due impartiality, due accuracy and harm and offence; and
 - 1.34.2 competition: ensuring the impact of the BBC's activities on fair and effective competition is appropriate in relation to the direct benefits to consumers and citizens.
- 1.35 We will take care to consider how these other responsibilities intersect with the performance framework. For instance, if in our editorial standards work we identify issues that call into question the BBC's performance in promoting its public purposes, we can review this as part of our performance framework.
- 1.36 Ofcom will also enforce compliance by the BBC with regulatory requirements which apply to the BBC directly through the Charter or the Agreement, or through legislation, such as quotas for independent productions¹², and requirements relating to provision for people who are hearing or visually impaired.¹³

Next steps

- 1.37 This consultation closes on 17 July 2017. We intend to publish a statement – including relevant parts of the operating framework and a final operating licence – by the end of September 2017.
- 1.38 We are proposing that the regulatory conditions contained within the licence will come into effect on the date the licence is issued, but with conditions setting annual requirements coming into force on either 1 January 2018 (where the requirement applies to a calendar year) or 1 April 2018 (where the requirement applies to a financial year).¹⁴ Additionally, we will consider the case for a transitional approach for individual conditions where appropriate, for instance where additional time may be reasonably required by the BBC to commission new content.
- 1.39 The BBC is required to publish a final annual plan within three months of the publication of the final operating licence.

¹¹ Ofcom, *Broadcasting Code*, available at: <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code>

¹² Paragraph 6 of Schedule 3 to the Agreement, and Schedule 12 to the Communications Act 2003

¹³ Paragraph 9 of Schedule 3 to the Agreement

¹⁴ Ofcom's quotas cover calendar years and apply to a range of broadcasters, not just the BBC. The BBC Trust set quotas across financial years to align with the BBC's annual reporting. To ensure comparability of data, over time and between broadcasters, we intend to continue this approach.

Section 2

Introduction

The background to this consultation

- 2.1 On 15 December 2016, the UK Government published the new BBC Charter and Agreement setting out the how the BBC will be governed and regulated over the next 11 years.¹⁵¹⁶ In the new regime, responsibility for the governance of the BBC will pass to a new BBC Board and responsibility for the regulation of the BBC's UK public services will pass to Ofcom.
- 2.2 Ofcom is the independent regulator for the UK communications industries, and will take on its new responsibilities for regulation of the BBC on 3 April 2017. In doing so, we will have regard to our general duties under the Communications Act 2003 and to the specific requirements of the Charter and Agreement.
- 2.3 Ofcom's regulatory role in relation to the BBC can be broadly split into three main functions, covering content standards, the BBC's impact on fair and effective competition, and the BBC's performance in delivering its mission and public purposes.¹⁷ We are required to publish an operating framework containing the provisions we consider appropriate to secure the effective regulation of the BBC as set out in the Charter and Framework Agreement. The operating framework is a series of documents that cover the full range of our new regulatory duties in content standards, competition and performance.
- 2.4 Ofcom is required by the Charter to set an operating licence for the BBC, containing enforceable regulatory conditions. We can determine further measures we consider appropriate to assess the BBC's delivery of its mission and public purposes, although the BBC itself is responsible for setting a framework by which to measure its performance.¹⁸
- 2.5 The Charter and Agreement set out the clear distinction between the role of the new BBC Board, which is to govern the BBC, and the role of Ofcom, which is to act as the external regulator holding the BBC to account. It is critical to the success of the new regime that this distinction does not become blurred: the new BBC Board should retain clear responsibility for setting the BBC's strategic direction and its budgets and for overseeing the BBC's overall editorial and creative approach, including oversight

¹⁵ 'The Royal Charter for the continuance of the British Broadcasting Corporation' (the "Charter"), available at: <https://www.gov.uk/government/publications/bbc-charter-and-framework-agreement>.

¹⁶ 'The Agreement between the Secretary of State for Culture, Media and Sport, and the BBC' (the "Agreement"), available at: <https://www.gov.uk/government/publications/bbc-charter-and-frameworkagreement>.

¹⁷ Section 198 Communications Act 2003, Charter, Article 44 and Article 46.

¹⁸ Section 198 Communications Act 2003, Charter, Article 44 and Article 46.

of commissioning and scheduling decisions. Ofcom's role is to provide and enforce a clear accountability framework.

- 2.6 This consultation is about four documents relating to the regulation of the BBC:
- 2.6.1 the BBC operating licence, which will contain the enforceable regulatory conditions that we are setting;
 - 2.6.2 the part of the operating framework which makes clear the process we will follow when setting and amending the provisions of the operating licence;
 - 2.6.3 Ofcom's performance measures; and
 - 2.6.4 the part of the operating framework which makes clear the process we will follow when setting and amending performance measures
- 2.7 Under the Agreement, we must consult the BBC and any other person we consider appropriate before setting each of these four documents. This is our consultation.

Ofcom's duties

- 2.8 In making proposals for the operating licence, performance measures and operating framework documents, Ofcom is bound by its general duties in section 3 of the Communications Act 2003. We must carry out our functions in a way which will further the interests of citizens, in relation to communications matters, and of consumers, where appropriate by promoting competition. To do this, we must secure the availability throughout the UK of a wide range of television and radio services which, taken together, are both of high quality and appeal to a variety of tastes and interests. We also need to secure the maintenance of a sufficient plurality of providers of different television and radio services, to ensure that there are diverse viewpoints available to, and consumed by, viewers and listeners.
- 2.9 In performing our duties, we must have regard to the principles under which regulatory activities should be proportionate, consistent and targeted only at cases in which action is needed.
- 2.10 The Communications Act 2003 also requires us to have regard, as appropriate, to certain other principles where we consider them relevant. We consider the following to be relevant to this consultation:
- the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the UK;
 - the needs of persons with disabilities, of the elderly and of those on low incomes;
 - the opinions of consumers in relevant markets and of members of the public generally; and
 - the different interests of persons in the different parts of the UK, of the different ethnic communities within the UK and of persons living in rural and in urban areas.
- 2.11 Under the Agreement, we must also have regard to:
- the object of the BBC to fulfil its mission and promote the public purposes; and

- the requirement for the BBC to comply with its duties under the Charter.

Impact assessment

- 2.12 Ofcom has a legal duty to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the public, or when there is a major change in Ofcom's activities.¹⁹ As a matter of policy, Ofcom carries out and publishes impact assessments in relation to the great majority of our policy decisions.²⁰ Impact assessments are a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making.
- 2.13 The potential impact of our proposals is discussed throughout this document and our final decisions and impact assessment will be informed by consultation responses. We have considered impact only where Ofcom is exercising material discretion, either regarding the inclusion of requirements or the level at which they should be set; we have not assessed impact where the Charter and Agreement does not give us that discretion. In relation to our proposals for the operating licence, our assessment (in the relevant paragraphs in section 4) includes analysis of the incremental impact of our proposals compared to the requirements that were in place under the BBC Trust.
- 2.14 In summary, the main organisations and groups we expect to be affected by our proposals are:
- 2.14.1 **Viewers, listeners and users.** Audiences will benefit directly from increased output in certain key genres. In other areas, they will benefit from the certainty that the BBC cannot reduce its output below specified minimum levels. We recognise that there may be an opportunity cost associated with our proposals: an hour of output that must be dedicated to one genre might imply a reduction in another genre.
- 2.14.2 **The BBC.** We have not made a quantitative assessment of the impact of these proposals on the BBC. The BBC may need to provide more output in certain areas than it may have currently planned. The proposed regulatory conditions may also constrain the BBC's flexibility to reduce certain areas of output over the longer term. We have considered impact on a case-by-case basis to ensure that each regulatory condition is appropriate and proportionate. The BBC is likely to face additional compliance costs associated with our performance measurement framework, where we require the BBC to provide information. We will target these requests to ensure that such costs are minimised.
- 2.14.3 **Other broadcasters, and providers of on-demand and online services.** The focus in the operating licence on the concept of distinctiveness, and our related proposals for investment in new content, is likely to have an impact on other providers of competing services. However, such impact is

¹⁹ Section 7 of the Communications Act 2003.

²⁰ For further information about our approach to impact assessments, see the guidelines, [Better policy-making: Ofcom's approach to impact assessment](#)

challenging to model in terms of understanding: (a) how the BBC will implement the requirements that we are proposing to impose in the operating licence; and (b) the impact that it will have on other broadcasters/services. We recognise the possibility that some of the proposals contained within the draft operating licence may have some negative impact on certain competing services (for example, a requirement on the BBC to maintain or increase its news output might impact on commercial news providers). These proposals have been drafted to minimise such impact wherever possible. We invite stakeholders to include details of any such potential negative impact within their consultation responses.

- 2.14.4 **The UK production sector.** Our focus on first-run UK originations from the BBC is likely to benefit the UK production sector. These benefits might be felt by independent producers, or by the production arms of competing broadcasters (such as ITV Studios). There is a potential positive impact for production companies in the nations and regions, related to the regulatory conditions around minimum levels of programme-making expenditure in the nations, and outside of the M25 region.

Equality Impact Assessment

- 2.15 Ofcom conducts Equality Impact Assessments to understand the impact of its regulatory interventions on the nine defined equality groups (with two further equality groups considered in Northern Ireland only). Our full assessment is included as Annex 8.
- 2.16 Our initial assessment is that these proposals should be positive for these equality groups. This is because one of the main purposes of the performance regime is to secure and assess - and by extension, improve – the BBC's performance in reflecting, representing and serving the diverse communities of the whole of the UK.

Next steps

- 2.17 Stakeholders are invited to comment on the operating licence, the performance measures and the associated procedures. The deadline for responses is 17 July 2017.
- 2.18 Following our review of stakeholder responses, and our consideration of the BBC's initial annual plan – which must be published by 3 July 2017 – we plan to issue final documents by the end of September 2017.
- 2.19 We are proposing that the regulatory conditions contained within the licence will come into effect on the date the licence is issued, but with conditions setting annual requirements coming into force on either 1 January 2018 (where the requirement applies to a calendar year) or 1 April 2018 (where the requirement applies to a financial year).²¹ Additionally, we will consider the case for a transitional approach for

²¹ Ofcom's quotas cover calendar years and apply to a range of broadcasters, not just the BBC. The BBC Trust set quotas across financial years to align with the BBC's annual reporting. To ensure comparability of data, over time and between broadcasters, we intend to continue this approach.

individual conditions where appropriate, for instance where additional time may be reasonably required by the BBC to commission new content

- 2.20 Under the transitional arrangements in the Charter, the conditions in the existing service licences – previously implemented and overseen by the BBC Trust – will continue to have effect until the new operating licence is in place and comes into force.²²

²² Charter, Schedule: Transitional Arrangements, paragraph 5(1).

Section 3

Ofcom's approach to holding the BBC to account for its performance

We have a range of tools to hold the BBC to account

- 3.1 The Charter and Agreement set out a range of regulatory tools with which Ofcom can hold the BBC to account, in the interests of citizens and consumers. These include the requirement to put in place an operating licence and broader performance measures, an annual reporting function, a duty to conduct periodic in-depth reviews of the BBC's performance at least twice during the period of the Charter, and the option to carry out ad hoc reviews if required. There are important relationships between each of these elements of the performance regime, and we set out below in general terms how we propose to make best use of each element.
- 3.2 Through an operating licence, Ofcom can place enforceable regulatory conditions on the BBC and can take a range of steps including, if appropriate, imposing a financial penalty if these are breached.²³ In developing our proposals for the regulatory conditions, we have considered whether the outcome we wish to see can be translated into an obligation that is objectively measurable, and whether imposing an obligation will unduly restrict the BBC's editorial and creative freedom. We have considered, so far as we are able, the levels of existing performance, potential future performance, and the impact on the BBC (and other stakeholders) of imposing a condition.
- 3.3 Under the Charter, the BBC is required to publish an annual plan which will set out, among other things, its creative remit and work plan for the year, its provision for the UK's nations and regions and how it will comply with its general duties. It must report the following year on how it has delivered on these plans.
- 3.4 Ofcom can establish its own performance measures, in addition to those used by the BBC. In this consultation, we are proposing to put in place measures in relation to the availability, consumption and impact of the BBC's content and services, as well as a range of contextual factors. We intend to publish these performance measures annually in most cases, although some will be measured on an ad hoc basis. We intend for this work to be an intrinsic part of the framework through which we hold the BBC to account.
- 3.5 Ofcom must report annually on the BBC's compliance with its regulatory conditions. In addition to this annual report, we are required to carry out two or more detailed periodic reviews on the extent to which the BBC is fulfilling its mission and promoting each of the public purposes, which will be informed by the BBC's reporting and our own information gathering and research. We may also carry out additional ad hoc reviews at any time, addressing any specific area of concern we have identified. We consider these reviews to be an important tool for delivering effective regulation of the BBC's performance, particularly to address issues that are more difficult to assess quantitatively and where it may not be appropriate to set specific regulatory conditions. We envisage that such reviews would consider whether any relevant

²³ Ofcom is required to pass any payment it receives by way of financial penalty to HM Treasury.

regulatory conditions in place remain sufficient and appropriate, or whether there is a case for change.

- 3.6 This set of regulatory tools will allow Ofcom to respond to changing circumstances and audience demands while holding the BBC to the high standards necessary for delivering its mission and public purposes. The interaction between the BBC's own planning and reporting, Ofcom's performance measurement, our periodic and ad hoc reviews, and the regulatory conditions in the operating licence is therefore inherently dynamic.

These proposals are a starting point and we have the flexibility to evolve the operating licence over time

- 3.7 The proposals in this consultation are a starting point. We will consider responses to the consultation before taking final decisions.
- 3.8 Alongside this, we will also consider the BBC's interim annual plan, including its creative remit and work plan, which it is required to publish by 3 July 2017. We have extended the closing date of this consultation to allow stakeholders to comment upon our proposals having seen the BBC's interim plan. We will make any appropriate adjustments to our proposals following consideration of the BBC's plan and stakeholders' feedback.
- 3.9 We expect that the operating licence will continue to evolve to reflect changes in the tastes and consumption habits of BBC users, wider developments in broadcasting markets and considering changes to the BBC's performance over time. In making any future proposals we will be guided by our performance measurement and the views of audiences.

Section 4

The BBC's new operating licence

Background to the operating licence

- 4.1 The BBC's new operating licence is the vehicle through which Ofcom can impose regulatory conditions on the BBC's UK public services that we consider appropriate for requiring the BBC to fulfil its mission and promote the public purposes.
- 4.2 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.²⁴
- 4.3 The public purposes are:
- 4.3.1 to provide impartial news and information to help people understand and engage with the world around them;
 - 4.3.2 to support learning for people of all ages;
 - 4.3.3 to show the most creative, highest quality and distinctive output and services;
 - 4.3.4 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
 - 4.3.5 to reflect the United Kingdom, its culture and its values to the world.²⁵
- 4.4 The BBC provides the UK public services, which include television, radio and online services aimed primarily at users in the UK.²⁶ Each UK public service must fulfil the mission and promote one or more of the public purposes.
- 4.5 The BBC's delivery of its fifth public purpose, reflecting the UK to the world, will be achieved primarily through the BBC World Service. The new operating licence will not cover the BBC World Service; responsibility for setting a licence for the BBC World Service lies with the BBC.²⁷ Similarly, the operating licence will not cover the BBC's

²⁴ Charter, Article 5.

²⁵ Charter, Article 6

²⁶ The UK Public Services are set out in Schedule 1 of the Agreement. They are BBC One, BBC Two, BBC Four, CBeebies, CBBC, BBC News, BBC Parliament, BBC Red Button, BBC Radio 1, BBC Radio 1Xtra, BBC Radio 2, BBC Radio 3, BBC Radio 4, BBC 4 Extra, BBC Radio 5 Live, BBC Radio 5 Live sports extra, BBC 6 Music, BBC Asian Network, BBC Radio Scotland, BBC Radio nan Gàidheal, BBC Radio Wales, BBC Radio Cymru, BBC Radio Ulster and BBC Radio Foyle, BBC Local Radio, BBC Alba, and BBC Online.

²⁷ Clause 34 of the Agreement.

commercial activities, which are those activities undertaken by the BBC with a view to generating profit.

- 4.6 In determining the regulatory conditions to include in the operating licence, we will have regard to our relevant general powers and duties. We will also have particular regard to the need for the BBC to secure the provision of distinctive output and services.²⁸ The licence must impose on the BBC the regulatory conditions set out in, and in accordance with, Schedule 2 of the Agreement. The licence must also be set in accordance with the operating framework. Our proposals for this part of the operating framework are set out for consultation in Annex 5.
- 4.7 In setting the first operating licence, we are required by the Charter and Agreement to seek to increase the current requirements on the BBC to secure the provision of more distinctive output and services. There are specific requirements in relation to television and radio services respectively, and in relation to different types of content, which we will consider in more detail below as we explain our proposals.
- 4.8 We are proposing that the regulatory conditions contained within the licence will come into effect on the date the licence is issued, but with conditions setting annual requirements coming into force on either 1 January 2018 (where the requirement applies to a calendar year) or 1 April 2018 (where the requirement applies to a financial year).²⁹ Additionally, we will consider the case for a transitional approach for individual conditions where appropriate, for instance where additional time may be reasonably required by the BBC to commission new content.
- 4.9 Under the transitional arrangements in the Charter, the conditions in the existing service licences – previously implemented and overseen by the BBC Trust - will continue to have effect until the new operating licence is in place and comes into force.
- 4.10 The operating licence sits within a broader framework. In putting in place the operating framework, Ofcom must explain out how it will set and administer the operating licence regime and the procedures to be followed. This must include:
- 4.10.1 the procedures for setting the regulatory conditions in an operating licence; and
 - 4.10.2 considerations Ofcom will have regard to in setting regulatory conditions.
- 4.11 We are consulting now on these procedures and considerations, to finalise our operating framework. Our proposals for the operating licence are being made in line with our proposed procedures. Clearly, however, if these procedures need to change because of this consultation, we may also need to revisit our proposals for the operating licence.

²⁸ Agreement, Schedule 2 paragraph 1.

²⁹ Ofcom's quotas cover calendar years and apply to a range of broadcasters, not just the BBC. The BBC Trust set quotas across financial years to align with the BBC's annual reporting. To ensure comparability of data, over time and between broadcasters, we intend to continue this approach.

Overview and structure of the operating licence

- 4.12 Under the last Charter, oversight of BBC performance was the responsibility of the BBC Trust, and was rooted in a system of individual service licences which prescribed each service's 'share of responsibility' for delivering the public purposes. In line with the Trust's combined role of governance and regulation, the service licences did much more too: setting strategic objectives and operational goals such as budgets, as well as performance measures.
- 4.13 The new Charter does not require us to follow the same approach³⁰, and there is no requirement for each individual BBC service to have a standalone licence, nor is it mandatory for every single BBC service to be subject to regulatory obligations. There is also no requirement for each individual service to be reviewed during the Charter period, as was previously the case. This reflects the fact that the regulator is not responsible for setting the detail of how each service should be run; from 3 April 2017, this falls within the remit of the new BBC Board.
- 4.14 Considering this flexibility, and the shift to a model of external regulation, we are proposing a single operating licence for the BBC containing clear, measurable and appropriately challenging regulatory conditions in relation to the BBC's services.
- 4.15 The benefits of a single operating licence are in transparency and coherence, especially because we are proposing a mixture of regulatory requirements aimed at specific services, some requirements targeted at groups of services and some requirements aimed at the UK public services overall. The single operating licence may also give us greater flexibility to respond to evolving consumption patterns in future by allowing for conditions that are not specific to individual services.
- 4.16 Alongside the operating licence, we are also proposing to publish separate documents which will set out in one place the regulatory conditions that apply for audiences in each of the nations. This will help secure a separate focus on each of the nations by the BBC, so that audiences in England, Scotland, Wales and Northern Ireland are well served, and will help audiences easily see what the BBC's specific obligations are in relation to them. We are publishing our proposals for these documents as part of this consultation.
- 4.17 In formulating proposals for the BBC's operating licence, we have sought to balance the need for oversight against the need for the BBC to have space to take creative risks and choose how it organises itself – provided it continues to comply with its overarching duties. We do not consider it appropriate for the regulator to involve itself in the detail of the BBC's creative decision-making, scheduling decisions or management structures. We propose to organise the contents of the licence by the first four public purposes. In doing so, we recognise that there is a close inter-relationship between the BBC's mission, its public purposes and the two additional objectives that Ofcom is required to secure by way of its principal functions in the Charter, which are:
- 4.17.1 requiring the BBC to secure the provision of distinctive output and services;
and

³⁰ Agreement, clause 13

- 4.17.2 requiring the BBC to secure that audiences in England, Scotland, Wales and Northern Ireland are well served.
- 4.18 Overall we feel a structure organised around the public purposes best delivers clarity and transparency for the BBC, audiences and other stakeholders. It is important to note that many of the proposed regulatory conditions are also relevant to the mission and/or more than one public purpose, so the structure of the licence does not imply that any regulatory condition is relevant only to the delivery of the purpose under which it is listed.
- 4.19 As above, the BBC's delivery of the fifth public purpose will be primarily through the BBC World Service. The new Charter makes clear that the scope of the operating licence is the BBC's UK public services, which do not include the BBC World Service. Accordingly, we do not propose to capture this purpose within the operating licence.
- 4.20 Within this overall structure, we are proposing that the operating licence includes:
- 4.20.1 high-level objectives, which set out our general expectations for the BBC in relation to each of its public purposes. These will help to clarify for the BBC and other stakeholders the underlying policy objectives that we believe are important for the BBC to deliver; and
- 4.20.2 regulatory conditions, which we can assess objectively and which we can enforce if the BBC fails to meet the obligation.

Our approach to proposing regulatory conditions given the new mission and public purposes

- 4.21 In line with the approach set out in Schedule 2 of the Agreement, we have considered the case for including, increasing, or otherwise amending each of the conditions formerly applicable to the BBC, and where appropriate for introducing new conditions to arrest decline of key genre or to secure more distinctive output and services. We consider these conditions a minimum and fully expect the BBC - in setting out its ambitions in its creative plan – to exceed these expectations in many areas. We expect the BBC's plan to set out clearly its intentions for each genre and service and for our role to be holding them to account for their declared delivery. It is important for the BBC to have scope for variety and flexibility in how it fulfils the mission and promotes the public purposes.
- 4.22 To determine the appropriate level at which to set quotas, we considered what the BBC was required to provide under the service licences set by the BBC Trust in the financial year 2015/2016, and what it had delivered in the four previous years.³¹
- 4.23 The BBC exceeded many of its 2015/2016 quota requirements in each of the five years, in some cases by a very wide margin. We therefore propose in many cases to increase existing quota requirements. We compared the BBC's quota with an average of its actual delivery over the past five years. Where the BBC's average output consistently exceeded the quota, we propose to increase that quota by 10%. Where it did not, we generally propose no change, unless we have a specific policy

³¹ In some cases quotas have been applied on a calendar rather than financial year. We have taken this into account in proposing new quota levels.

rationale for doing so, which we explain below. We consider that this will increase the guaranteed minimum levels of provision while not imposing unrealistic obligations.

- 4.24 In some cases, the BBC's outperformance against its quotas has been so great that we have considered increasing such levels by more than 10%. However, we recognise that output broadcast against one quota may have an impact on what else can be broadcast, and this could have an impact on the BBC's ability to retain balance and variety within its schedule.
- 4.25 We have also considered if new or strengthened conditions are justified to:
- 4.25.1 reflect changes to the BBC's mission and public purposes in the new Charter; and/or
 - 4.25.2 address key areas where we feel there is a risk of underperformance. In forming a view on this, we have considered our existing evidence base, including evidence gathered through the 2015 PSB Review, our annual PSB research reports, and the results of the new qualitative research we recently commissioned around audiences' views of the BBC's performance. We have considered relevant third party evidence including evidence submitted to the Government's Charter Review process.
- 4.26 We are proposing to remove a limited number of conditions from the service licences set by the BBC Trust where we consider they no longer secure delivery of the new mission and public purposes and their removal would not result in the provision of less distinctive output and services.

Consultation Question

Q.1 Do you agree with our overall approach to setting the operating licence?

Public purpose 1: to provide impartial news and information to help people understand and engage with the world around them

To provide impartial news and information to help people understand and engage with the world around them: the BBC should provide duly accurate and impartial news, current affairs and factual programming to build people's understanding of all parts of the United Kingdom and of the wider world. Its content should be provided to the highest editorial standards. It should offer a range and depth of analysis and content not widely available from other United Kingdom news providers, using the highest calibre presenters and journalists, and championing freedom of expression, so that all audiences can engage fully with major local, regional, national, United Kingdom and global issues and participate in the democratic process, at all levels, as active and informed citizens.

The context for our proposals

- 4.27 The provision of accurate and impartial news, current affairs and factual content plays a key role in helping ensure that UK citizens are well informed and able to actively participate in the world around them. Given the BBC's size, scale and reach, we recognise the importance of this Purpose as a key area for it to deliver.
- 4.28 The BBC already produces a wide range of news and information across its services. It remains the most consumed overall source of news in the UK, having the highest cross-platform reach of any provider with 77% of people saying they use the BBC as a source of news³², and its television current affairs and factual programming are also widely consumed. Research indicates that audiences appear largely satisfied with its output and recognise it as a trusted brand to rely on for high-quality information.³³
- 4.29 The BBC is operating in a rapidly evolving sector. Changing consumption patterns and new market entrants pose challenges for the BBC, and so it is critical that the BBC responds to these changes to ensure it continues to reach all audiences. The values of accuracy and impartiality are increasingly important given the fragmentation of news sources and the importance of people's access to reliable sources of news and information.
- 4.30 We recognise that there is a need for the BBC's news output to better serve all audiences, as evidence has shown that in the past this content has performed less well among those from an ethnic minority background, younger demographics, and those from lower socio-economic groups.³⁴ The BBC should also seek to improve its representation and coverage of the devolved nations in its news, current affairs and factual output.

³² Ofcom, *News Consumption Report 2015*

³³ Ofcom, *News Consumption Report 2015*; Ofcom *PSB Annual Research Report 2016*; BBC Trust, *Review of BBC Network News and Current Affairs*, 2014
http://www.bbc.co.uk/bbctrust/our_work/services/television/service_reviews/news_current_affairs.html

³⁴ BBC Trust, *Review of BBC Network News and Current Affairs*, 2014
http://www.bbc.co.uk/bbctrust/our_work/services/television/service_reviews/news_current_affairs.html

- 4.31 We consider that the regulatory conditions we are proposing in this area will maintain or build on the BBC's current positive performance and/or serve to address important areas of performance which have been identified within the Charter and Agreement.

Proposed high-level objectives

- 4.32 We propose to set out in the operating licence high-level objectives which we consider the BBC should meet in promoting this public purpose. We propose that the BBC should do the following:
- 4.32.1 provide a significant level of news, current affairs and factual programming across its full range of services and platforms, and seek to reach and serve all audiences with this output;
 - 4.32.2 seek to maintain its coverage of regional, national and international themes and stories within its news, current affairs and factual programming, to enable audiences to develop a broad understanding of what is happening locally, nationally and in the wider world;
 - 4.32.3 continue to provide trusted and reliable information, news, current affairs and factual output to the highest editorial standards;
 - 4.32.4 ensure that it provides adequate links to third party online material, particularly within its news stories, helping to provide its users with a wealth of information while also supporting other providers within the industry. In doing so the BBC should exercise careful judgement about the links that it offers.
- 4.33 Separate to the provisions of the operating licence, the BBC must also comply with the requirements of the Broadcasting Code, including in areas such as due impartiality and due accuracy.³⁵

Proposed regulatory conditions

- 4.34 Under Schedule 2 to the Agreement, we are required to impose on the BBC the requirements we consider appropriate for ensuring that the programmes included in the UK public television services include news programmes and current affairs programmes at an appropriate level. These news programmes must be broadcast for viewing at intervals throughout the period for which the services are provided.³⁶ We are proposing to include the following licence conditions:
- 4.34.1 securing news and current affairs, including in peak, on BBC One
 - 4.34.2 requiring a minimum volume of current affairs, including in peak, across BBC One and BBC Two; and

³⁵ Ofcom, *Broadcasting Code*, available at: <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code>

³⁶ Paragraph 4, Schedule 2 to the Agreement.

- 4.34.3 ensuring the provision of news in the nations and regions of the UK (see Public Purpose 4 below).
- 4.35 We are also required to consider, in relation to our duty when setting the first operating licence: increasing the current requirements on the BBC to secure the provision of more distinctive output and services; and, to have regard to the desirability of setting or changing requirements to increase the amount of news, information, current affairs and social action issues on BBC Radio 1 and BBC Radio 2, particularly at peak listening time.³⁷
- 4.36 We are proposing to include several conditions from the service licences previously set by the BBC Trust that serve to maintain current provision of news and current affairs output on each of the BBC's services, strengthening them where the BBC has outperformed on average over the past five years. Additionally, we propose to modify some of the BBC's existing requirements. This includes introducing a peak-time requirement for news on BBC Radio 1 and a peak-time requirement for news and current affairs on BBC Radio 2. We have also introduced a new condition to ensure the BBC provides adequate links on its online service to third party material. This replaces the BBC Trust condition which required the BBC to increase the number of click-throughs to third party websites.
- 4.37 Beyond this, it is also worth noting that there are a number of regulatory conditions which relate to the provision of national and regional news and current affairs on the BBC's TV and radio services which we are proposing to group under the fourth public purpose (to reflect, represent and serve the diverse communities of all of the UK's nations and regions) within the operating licence. Factual and documentary conditions will sit under the second public purpose (to support learning for people of all ages). These conditions also contribute to the delivery of the first public purpose (to provide impartial news and information to help people understand and engage with the world around them).

Our reasoning

- 4.38 We have proposed regulatory conditions in this area to ensure that the BBC continues to provide a significant range and volume of news and information that audiences value, across a wide range of services. We have increased the level of seven existing conditions which sit under this purpose in the licence. These increases take account of historic over-delivery of the BBC's previous quotas, and aim to secure continued delivery of these key genres at higher minimum levels. We believe that the short-term impact on the BBC should be limited, since in many cases they are already achieving the new level. We recognise that these increased targets for news and current affairs reduce the flexibility of the BBC to make reductions in this type of output in the future.
- 4.39 We are proposing to retain the BBC Trust service licence requirement that Radio 1 broadcast at least one hour of news - including two extended bulletins - during daytime each weekday. We believe this quota secures a sufficient level of news output on this service. Our research shows that younger audiences are more likely to

³⁷ Paragraph 2(3)(c), Schedule 2 to the Agreement.

consume news through online platforms rather than through listening to the radio³⁸, so any increase in quota level here would not necessarily increase consumption by the targeted audience. However, in recognition of the impact of broadcasting news content to younger audiences at peak time, we propose to formalise as a condition the BBC's current provision of an extended news bulletin broadcast at this time. We plan to monitor the BBC's performance in this area and will revisit this condition if we do not believe it is delivering the best outcomes for younger listeners.

- 4.40 On BBC Radio 2, the BBC Trust imposed a requirement for the BBC to broadcast at least 16 hours of news and current affairs programmes each week. We are proposing to increase the level of this quota to 17 hours each week to reflect the BBC's previous over-delivery, and of these 17 hours we are proposing that it delivers 3 hours in peak time. This is broadly in line with what the BBC already delivers in peak time on BBC Radio 2, and aims to secure the provision of this output at a time when it can have the most impact.
- 4.41 Schedule 2 to the Agreement requires Ofcom to have regard to the desirability of setting or changing requirements to improve the provision of news and current affairs on the BBC's online services, to support the provision of distinctive output and services. We have considered this issue carefully, and we are not proposing to include any specific regulatory conditions in the operating licence relating to this point. We consider that, while it is important that the BBC focuses on the distinctiveness of its online news and current affairs, the selection of stories by the BBC on its online news service is an editorial decision for the BBC. We also note that our recent deliberative research, which examined audiences' relationship with the BBC, suggests that users feel that the BBC News website has a distinctive brand and layout.³⁹ Additionally, in promoting this public purpose, the BBC should offer impartial news alongside a range and depth of analysis and content not widely available from other UK news providers, including on its online services.
- 4.42 We are required by Schedule 2 to impose on the BBC the requirements we consider appropriate for ensuring adequate links to material provided by third parties from BBC Online.⁴⁰ We have considered whether it would be appropriate to set a condition based on click-throughs to external sites. We note that the service licence for BBC Online set by the BBC Trust required the BBC to try to increase the volume of click-throughs to external sites from all parts of BBC Online year-on-year. While we note that the BBC has broadly delivered on this condition over the last five years⁴¹, we do not consider it appropriate to set an enforceable regulatory condition which relies on audience behaviour, whereby compliance is not directly within the BBC's control. Additionally, the number of click-throughs the BBC achieves is only a proxy for whether it has provided adequate links. Instead we propose to require the BBC to

³⁸ Ofcom News Consumption Report 2015 <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/tv-research/news-consumption-2015>

³⁹ *Ofcom BBC Distinctiveness Research Executive Summary*, 2017

⁴⁰ Paragraph 3 of Schedule 2 to the Agreement.

⁴¹ BBC Performance Against Public Commitments 2011/12, http://downloads.bbc.co.uk/annualreport/pdf/bbc_exec_sopps_2011_12.pdf and BBC Annual Report and Accounts 2015/16, <http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/reports/pdf/bbc-annualreport-201516.pdf> [Accessed 16 March 2017]

ensure that it provides adequate links to material provided by third parties across its BBC Online services. This aims to secure appropriate references to any content that the BBC uses from external sources, while also encouraging users to visit these sites for further information, which is beneficial to both audiences and providers of relevant websites.

- 4.43 We propose to not include in the operating licence some existing conditions set by the BBC Trust which relate to news and current affairs. We consider that these conditions are strategic requirements which are not appropriate for regulatory conditions:
- 4.43.1 we consider that the BBC News channel does not require specific sports news targets; and
 - 4.43.2 the BBC should largely have flexibility to decide which Parliamentary debates it wishes to cover on BBC Parliament, excepting coverage of Assembly and Parliamentary proceedings in the devolved nations,
- 4.44 Our initial assessment is that our proposals in relation to public purpose 1 are likely to benefit audiences by securing a minimum level of news and current affairs output, have a limited but manageable impact on the BBC, and have little impact on other broadcasters and providers of on-demand and online services.

Consultation Question

Q.2 Do you agree with the approach we have proposed for public purpose 1, including the high-level objectives and regulatory conditions we are proposing?

Public purpose 2: to support learning for people of all ages

To support learning for people of all ages: the BBC should help everyone learn about different subjects in ways they will find accessible, engaging, inspiring and challenging. The BBC should provide specialist educational content to help support learning for children and teenagers across the United Kingdom. It should encourage people to explore new subjects and participate in new activities through partnerships with educational, sporting and cultural institutions.

The context for our proposals

- 4.45 As the main publicly-funded public service broadcaster in the UK, the BBC has an important role to play in developing and providing content that encourages audiences of all ages to learn about different subjects and which broadens their horizons. Research conducted by Ofcom shows that education and learning programmes on TV, radio and online continue to be highly valued by audiences in the UK.⁴²
- 4.46 The BBC is vital to ensuring the provision of programmes which explore subjects such as arts, music, religion, science, nature, business and history. Ofcom has identified declines in spend and output in some of these genres across the PSB channels.⁴³
- 4.47 Spend and output in children’s programming is in decline across all PSB channels and the BBC provides the clear majority of investment in new UK children’s programmes. Dedicated programmes play an important role in helping children learn through play and by exposing them to new and challenging ideas, across genres including drama, factual and news. Parents and carers continue to value high-quality UK children’s programmes, and are largely satisfied with the BBC’s output.⁴⁴
- 4.48 In addition to children’s content which encourages informal learning, the BBC is the only broadcaster in the UK to have an obligation to provide support for children and teenagers’ formal education. In response to evolving technologies and consumption patterns, the BBC now focuses its educational output for older children on its online platforms. Research shows that BBC Bitesize is very popular with its target audience, particularly 15 and 16 year olds.⁴⁵ For the youngest audiences, CBeebies’ educational content on TV and online is popular with pre-school children and well-regarded by parents and carers.⁴⁶

⁴² Ofcom, *PSB Annual Research Report 2016*.

⁴³ Ofcom, Data Annex to *Public Service Broadcasting in the Internet Age*, July 2015.

⁴⁴ BBC Trust, *Purpose Remit Surveys, 2011/12-2015/16*.

⁴⁵ EdComs, *BBC Formal Learning Panel Dip 8 & App Usage Extension*, August 2015.

⁴⁶ BBC Trust, *Review of services for children*, 2013.

http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/our_work/childrens_services/childrens_services.pdf

Proposed high-level objectives

- 4.49 We propose to set out in the operating licence high-level objectives which we consider the BBC should meet in promoting this public purpose. We propose that the BBC should do the following:
- 4.49.1 continue to provide a broad range of content across its services, which provide opportunities for all audiences to learn. We expect the BBC to produce informal learning content which covers subjects such as art, music, religion, science, nature, business and history programming. This content should be widely available, and the BBC should endeavour to serve and reach the widest possible audiences with this content via its mainstream TV channels, radio stations and websites;
 - 4.49.2 encourage people to learn about new and different subjects, by helping both adults and children develop skills to explore and navigate the resources it offers across its services, and in particular its online services;
 - 4.49.3 ensure that it serves children of all ages, including older children and teenagers, and that it produces engaging and stimulating content for informal learning which is available in the formats and on the services that children use; and
 - 4.49.4 play an important role in education and learning in the UK through partnerships with educational, cultural and sporting organisations. The BBC should share its expertise and resources, including its archive where appropriate, as part of these partnerships with specialist institutions, for the benefit of UK audiences.

Proposed regulatory conditions

- 4.50 We are required under Schedule 2 to the Agreement to have particular regard, when seeking to secure the provision of more distinctive output and services, to the desirability of setting or changing requirements in relation to television services (in particular BBC One). These relate to the amount and prominence of genres that provide a particular contribution to the mission and public purposes which are underprovided or in decline across the PSB channels, including music, arts, religion and other specialist factual content, and children's programming.⁴⁷
- 4.51 We are proposing in general to retain existing quotas set by the BBC Trust and to increase them where appropriate, based on the average of the BBC's performance over the past five years. We also propose to:
- 4.51.1 add obligations for BBC One and BBC Two to schedule some arts and music and religious programming in peak time;
 - 4.51.2 increase targets on CBBC in relation to children's factual and drama programming to ensure children continue to have access to a range of different programmes; and

⁴⁷ Paragraph 2(2)(a) of Schedule 2 to the Agreement.

- 4.51.3 introduce a condition on CBeebies to oblige the BBC to continue its provision of specialised support for pre-school children. We also propose a condition on BBC Online to ensure the BBC continues to provide curriculum-linked support for children and teenagers in each of the nations. (We have also proposed under public purpose three a condition which would introduce first-run UK originations conditions on CBBC and CBeebies to address the decline in new UK commissioned children's programming).

Our reasoning

- 4.52 In making these proposals we have considered previous research from our PSB Annual Reports and Review, the BBC's past performance, along with audience views and stakeholder views including Ofcom's National Advisory Committees. This work suggests that audiences are largely satisfied with the BBC's output in terms of its educational and informal learning content, but there are concerns around the decline in spend and output in children's programming. Stakeholders in the nations also underlined the need for the BBC to tailor the support it provides for children and teenagers' formal education to the different curricula in each nation.
- 4.53 Acknowledging the decline in provision of arts and music and religious programming across public service broadcasting channels, we propose increasing the existing targets for these genres considering the BBC's recent over-delivery in this area. These conditions will ensure that audiences continue to have access to content which focuses on specialist subjects and which provides them with opportunities for exploration and discovery.
- 4.54 Through the introduction of some peak-time obligations for arts and music and religious programming on BBC One and BBC Two, we propose to safeguard the prominence of this content and encourage the BBC to ensure it reaches mainstream audiences with a range of genres. In addition to maintaining current levels of provision, we expect the BBC to reach the largest audiences possible with content that stimulates, engages and inspires.
- 4.55 We expect the BBC to continue to invest in education output for all ages across its services, in particular on its online offering. We also recognise and welcome the contribution the BBC makes to the provision of education programmes on TV, including programmes which support children and teenagers in their formal education. The BBC has shifted its focus to delivering its educational content online, rather than on TV and when taking into consideration the amount of content the BBC provides through its online service, we do not consider it appropriate to propose quotas for formal education programming for children, teenagers and adults on television.
- 4.56 We expect the BBC to continue to offer a range of content for children and their parents and carers across its services, including mainstream television and its online services. In line with this we propose an increase in factual and drama targets for CBBC and, as part of the delivery of the public purpose for distinctiveness, we propose the introduction of new first-run UK originations quotas for CBBC and CBeebies to guarantee that children will continue to benefit from new and innovative content which helps them develop, and which broadens their horizons. We also

expect the BBC to take account of the increasing amount of time children spend online and ensure that it continues to reach children of all ages.⁴⁸

- 4.57 We expect the BBC to continue to work with a wide range of cultural, educational and sporting institutions, in ways that benefit the UK population. We have not included specific proposals for how the BBC agrees and conducts partnerships with other organisations as we consider it appropriate for the BBC and its partners to mutually set out how partnerships will be conducted.
- 4.58 We expect the proposals relating to the BBC’s learning content to have a positive impact on audiences and consumers, as the proposals will help to ensure that the BBC continues to deliver content which inspires, stimulates and challenges. We expect the proposals to have a positive impact also on parents, carers and children through the proposed increase in factual and drama programming on CBBC (in addition to new targets for first-run content for children under public purpose three).
- 4.59 For stakeholders in the nations, our proposed condition for BBC Online to provide curriculum-linked support reinforces the need for the BBC to support children and teenagers in each of the nations.
- 4.60 We would expect the impact of the conditions under this purpose to have a modest effect on the BBC. In relation to peak-time obligations for arts and music and religious programming on BBC One and Two, we expect these targets to be achievable as they reflect the current provision of these genres in peak-time slots.

Consultation Question

Q.3 Do you agree with the approach we have proposed for public purpose 2, including the high-level objectives and regulatory conditions we are proposing?

⁴⁸ Ofcom, *Children and parents: media use and attitudes report*, 2016.

Public purpose 3: to show the most creative, highest quality and distinctive output and services

To show the most creative, highest quality and distinctive output and services: the BBC should provide high-quality output in many different genres and across a range of services and platforms which sets the standards in the United Kingdom and internationally. Its services should be distinctive from those provided elsewhere and should take creative risks, even if not all succeed, in order to develop fresh approaches and innovative content.

The context for our proposals

- 4.61 While the concept of distinctiveness in the new Charter is a new addition to the BBC's mission and public purposes, the notion has been a key aspect of the BBC's output and services for several years. Since 2008 the BBC Trust had highlighted distinctiveness as part of the strategic objectives it set the BBC and had agreed, with the BBC, four key values that in their view defined distinctiveness; high editorial standards, creative and editorial ambition, range and depth, and UK-focused content and indigenous talent. The BBC has acknowledged the importance of distinctiveness in meeting the high expectations placed on it as a publicly-funded broadcaster.
- 4.62 Distinctiveness, quality and creativity are at the heart of audience expectations for the BBC's output and services. As the expansive discussion of the subject throughout the Charter Review process demonstrated, defining distinctiveness in a way that is measurable using regulatory conditions is complex. The nature of the BBC, the range of services it must provide in fulfilment of the mission and public purposes and its duty to set out each year its creative remit and work plan should be the first guarantors of the BBC's distinctiveness.
- 4.63 Many of the conditions associated with the first, second and fourth public purposes (providing impartial news and information; supporting learning; and reflecting, representing and serving the diverse communities of all of the UK's nations and regions) contribute to the distinctiveness of BBC output and services. Promoting these purposes contributes to distinctiveness. In addition, our research suggests that the delivery of original productions and first-run originations contributes to this delivery. We have drawn from a range of sources, including our existing evidence base, data provided by the BBC and the aforementioned bespoke audience research, to inform our understanding of the BBC's distinctiveness. In setting our proposed high-level objectives and regulatory conditions, we also considered the BBC's performance in relation to comparable providers.
- 4.64 We have had regard to our duties under Schedule 2 of the Agreement. Schedule 2 requires us, when setting the first operating licence, to seek to increase the current requirements on the BBC as a whole to secure the provision of more distinctive output and services:
- we must have a presumption against removing any of the current requirements which would result in the provision of less distinctive output and services;
 - we must consider the case for increasing the current requirements in areas where the BBC has exceeded those requirements or where this would support the provision of distinctive output and services;

- we must consider the case for setting requirements in areas where an improvement in performance would secure the provision of distinctive output and services; and
 - we must consider the need for the BBC to reflect, represent and serve audiences, taking into account the needs of the diverse communities of the UK's nations and regions.
- 4.65 Additionally, we are required when carrying out this duty in relation to television services (and in particular BBC One) to have particular regard to: the desirability of setting or changing requirements relating to the amount and prominence of genres that provide a particular contribution to the mission and public purposes. These genres which are considered underprovided or are in decline across the PSB channels, including music, arts, religion and other specialist factual content; comedy; and children's programming. We must also have regard to securing an appropriate balance of unique titles and long-running series both in peak-time and at other times.
- 4.66 In relation to radio services, in carrying out this duty in setting the first operating licence, we are required to have particular regard to the desirability of setting or changing requirements to do the following:
- to improve focus on promoting UK talent, particularly new UK acts, on BBC Radio 1 and BBC Radio 2;
 - to ensure BBC Radio 1 and BBC Radio 2 music output in particular is more distinct from those of other broadcasters;
 - to increase the amount of news, information, current affairs and social action issues on BBC Radio 1 and BBC Radio 2, particularly at peak listening time; and
 - to broaden sports coverage, to better support sports which currently receive less broadcast coverage.
- 4.67 We are further required in Schedule 2 to consider the case for clearer average age targets for the mainstream radio services.
- 4.68 We have considered carefully the requirements of Schedule 2 in relation to distinctiveness in developing our proposals for the operating licence. Some of the specific requirements above are discussed elsewhere under the other public purposes (for example, specific requirements relating to news and current affairs are covered earlier in this section under the public purpose relating to news and information).
- 4.69 Our approach to the remaining Schedule 2 requirements - including the need to impose appropriate requirements on the BBC for each UK public television service in relation to original productions - is set out in this section.⁴⁹

⁴⁹ Paragraph 5 of Schedule 2 to the Agreement.

Proposed high-level objectives

- 4.70 The Charter and Agreement define ‘distinctive output and services’, including in the definition a reference to creativity and high quality:

“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.”⁴⁴

- 4.71 Ofcom considers that this definition of distinctive output and services, at a high level, covers the important areas the BBC should take into account in meeting this purpose. Ofcom considers that in delivering distinctive output and services:

- 4.71.1 in relation to the mix of different genres and output, the BBC should ensure that a range of programming is provided across its TV services. It should also secure the amount and prominence of those genres identified as at risk or in decline across the PSB channels. On its radio services, the BBC should ensure its portfolio of stations offer the broadest variety of output and that the range of musical output on its popular radio services is broader than that of comparable providers;
- 4.71.2 in relation to the quality of output, the BBC should ensure high quality across the volume of its output with respect to content, the quality of content production, and the professional skill and editorial integrity applied to that production;
- 4.71.3 in relation to the amount of original output produced in the UK, the BBC should ensure that a substantial proportion of the programming broadcast on its TV services are original productions, particularly in peak time. The BBC should also secure an appropriate amount of first-run UK originations across its TV services, ensuring they make up a substantial proportion of peak-time programmes. The BBC should contribute to the creative economies of the UK through its continued investment in originated content;
- 4.71.4 in relation to the level of risk-taking, innovation, challenge and creative ambition, the BBC should continue to take risks in terms of the output it commissions, the range of organisations it commissions from and look to reduce the number of long-running series over time. It should also commission output from a wide range of independent producers to ensure a range of voices and ideas are reflected across its services; and
- 4.71.5 in relation to the range of audiences it serves, the BBC should ensure that its output and services cater for the diverse audiences of the UK, through

both its popular mixed genres services and its more specialist and single purpose services.

- 4.72 Because of the complex and interrelated nature of the different aspects of distinctiveness, we expect the BBC to set out clearly in its annual report and creative plan how it will secure the provision of distinctive output and services, and how each service will contribute to this delivery.

Proposed regulatory conditions

- 4.73 Our proposed operating licence sets original production quotas for all BBC UK public TV services, increasing the quotas set by the BBC Trust in line with historic actual levels of performance by the BBC over the last five years. Our work suggests that original productions - the content commissioned by the BBC for broadcast on its channels - is a key contributor to the overall distinctiveness of the BBC's output and services.
- 4.74 In addition, we propose setting minimum levels of first-run UK originations for BBC One, BBC Two, CBBC and CBeebies. The BBC's high level of investment in new productions contributes significantly to its distinctiveness, both in terms of the new content it makes available as well as its position as investor in the UK's creative economy. These conditions will also ensure the BBC meets its original productions quotas with an appropriate proportion of first-run UK originations and repeated programming.
- 4.75 In relation to BBC Radio 1 and BBC Radio 2, we propose retaining eight existing conditions. These will ensure that a minimum proportion of the music played in daytime is new music, and that a minimum proportion is from UK acts. We propose refining the existing conditions for 'new music' to ensure that a significant proportion of this new music comes from new and emerging UK artists. For BBC Radio 1, we propose retaining existing conditions that require a minimum number of hours of specialist music and a minimum number of new sessions to be broadcast each year. For BBC Radio 2, we propose retaining conditions that require a minimum number of hours of live music and specialist music programmes to be broadcast in each year. We consider that these conditions contribute to the distinctiveness of BBC Radio 1 and BBC Radio 2's musical output compared to that of comparable providers.
- 4.76 We also propose setting new conditions that require both BBC Radio 1 and BBC Radio 2 to play a broader range of music than comparable providers, considering the number of times each track is played as well as the size of the playlist, at both peak-time and in daytime.
- 4.77 We propose setting a condition for BBC Radio 5 Live to ensure that the station offers live commentary, news and other programming on at least 20 sports in each year. This condition will ensure that the service covers a broad range of sports and supports sports which currently do not receive a great amount of broadcast coverage.

Our reasoning

- 4.78 The key objectives in the third public purpose – creativity, quality and distinctiveness – are by their very nature subjective. Our analysis and experience in this area has underlined the complexity of setting regulatory requirements to improve the distinctiveness of the BBC's output and services.

- 4.79 Some of the key challenges in identifying appropriate regulatory conditions to promote the BBC's distinctiveness include the following:
- 4.79.1 Many services offered by the BBC are single purpose services that have no directly comparable provider, such as BBC Radio 4 and BBC Alba, and the notion of increasing the distinctiveness of such services further is problematic.
 - 4.79.2 The BBC's more mainstream, mixed genre services are distinct in that they provide programming in core PSB genres that are underserved by the wider market.
 - 4.79.3 Audiences do not always cite distinctiveness in relation to the value they place on the BBC content they enjoy
 - 4.79.4 Creative ambition and innovation can lead to more distinctive programming – however they are difficult to define and promote through regulatory mechanisms, and can arguably be restrained by them.
 - 4.79.5 There should be a balance between introducing regulatory conditions to promote the distinctiveness of the BBC and giving it the discretion to innovate or to provide its audiences with the content they value.
- 4.80 Research from our annual PSB survey and most recent PSB Review⁵⁰ show that the BBC remains the cornerstone of public service broadcasting and that it continues to deliver high quality services that are valued by people across the UK. We have carried out bespoke audience research to complement our existing evidence base.⁵¹ At a high level, this shows audiences across the UK feel the BBC is distinctive in both character and content. The BBC is considered a distinctive British institution, made unique by its history, remit and funding mechanism. They said the BBC produces high-quality output that is reliable and delivered with a professional tone.
- 4.81 When asked specifically about distinctiveness, participants broadly felt that the definition of distinctive output and services in the Charter covers the most important aspects: the quality of output, the amount of original output produced in the UK, and the range of audiences served. The level of risk-taking, innovation, challenge and creative ambition was the most contested aspect of distinctiveness. Older participants broadly felt that the BBC should focus on what it does best, while younger audiences felt that the BBC needs to adapt and innovate to remain relevant. There was, however, an overall appreciation that a balance should be struck between currently popular programming and more innovative content. We have used the findings of this work, alongside other research and existing data, to inform our high-level objectives and regulatory conditions. However, the wide range of perspectives of what makes the BBC distinctive further highlights the complexity of setting objective regulatory requirements.

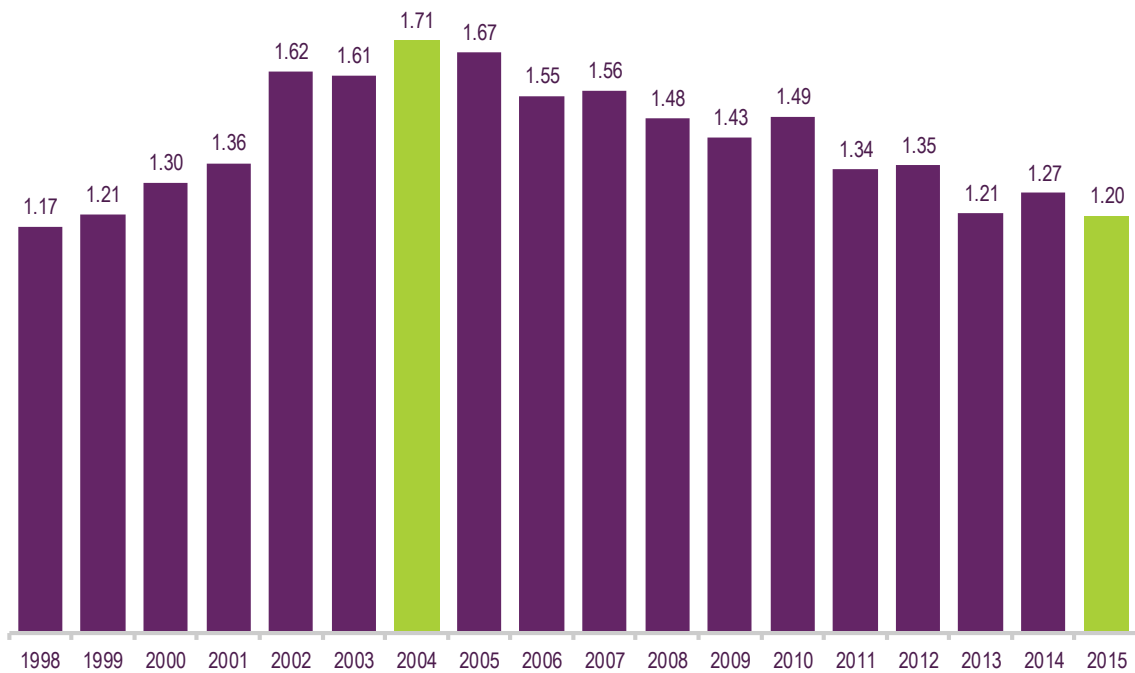
⁵⁰See PSB Survey at: <https://www.ofcom.org.uk/consultations-and-statements/category-1/psb-review-3> ; See PSB Review at: <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/public-service-broadcasting/public-service-broadcasting-annual-report-2016>

⁵¹ Ofcom, *BBC Distinctiveness Research Executive Summary*, 2017

- 4.82 Our proposed high-level objectives are designed to capture the key qualities set out in the Agreement, as well as to focus on areas in which the BBC should distinguish itself from other providers. Many elements outlined in our proposed high-level objectives are intentionally not defined as regulatory conditions. They give the BBC sufficient strategic discretion to secure their delivery and we expect the BBC to be set out clearly in its annual plan and creative remit how each and every UK public service will contribute to this. We have made clear the contribution that many of the conditions under purposes one, two and four make to this purpose.
- 4.83 Our evidence suggests that original productions, and first-run UK originations contribute significantly to the overall distinctiveness of the BBC in terms of both its content and its position in the UK broadcasting market. Our audience research, alongside evidence gathered by our most recent PSB Review and our annual PSB surveys, has shown that UK commissioned content is important for UK audiences.
- 4.84 In relation to original productions, we propose increasing the current quotas in line with an average of the BBC's actual delivery over the past five years as appropriate. We have proposed adding a new original production quota for BBC Alba using a similar methodology. BBC One, BBC Two and BBC Four would continue to have peak-time conditions to ensure that original productions make up the significant majority of programming when the largest audience is watching.
- 4.85 BBC expenditure on first-run UK originations has declined by 30% in real terms since its peak in 2004, from £1.71bn to £1.20bn in 2015. The freeze on the TV licence fee from 2010 has been a factor in this decline⁵², as well as the efficiency gains and reduced input costs associated with programme-making over this period. However, the BBC's commitment to major sporting events has meant spend has gone up in every even-numbered year since then. There have also been changes to the way TV productions are financed more generally since 2004, with the BBC using third-party funding and co-production deals to ensure the quality of their output remains high despite investing less in the content themselves.

⁵² The TV licence fee has been frozen at £145.50 since 2010 after previously being linked to inflation. It will increase to £147 from 1 April 2017.

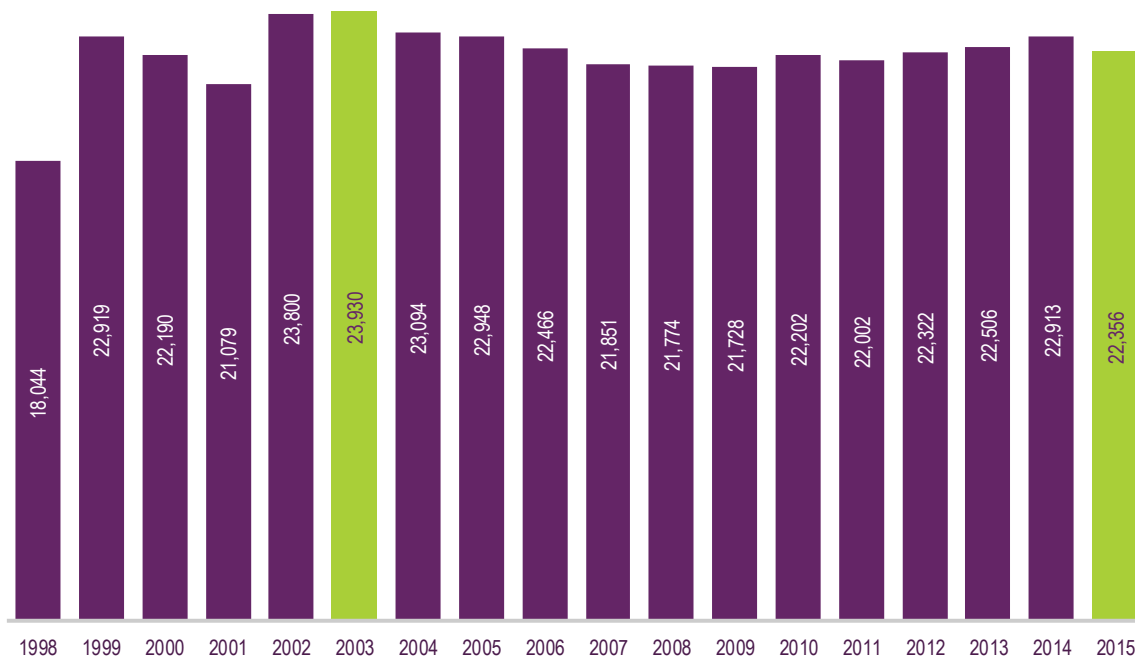
BBC spend on first-run UK originations declined by 30% from 2004 to 2015



Source: Ofcom PSB Annual Research Report 2016. Figures in £bn and in real terms.

4.86 The number of hours of first-run UK originations broadcast across the BBC TV services has also declined since the beginning of the last decade, down by 7% since the peak level seen in 2003.

BBC hours of first-run UK originations decreased by 7% from 2003 to 2015



Source: Ofcom PSB Annual Research Report 2016. Figures in hours.

4.87 The BBC’s high level of investment in first-run UK originations is one of the key factors that sets it apart from other broadcasters and we consider that the level of

hours should be maintained over the next Charter period. We propose setting minimum hour requirements for first-run UK originations on the BBC's largest mixed genre services, BBC One and BBC Two, to ensure that investment is secured and that new commissions are made available to the largest audiences. Further to this, we propose setting first-run UK originations conditions on CBBC and CBeebies to address the decline in new UK commissioned children's programming

- 4.88 The service-specific conditions set out below represent our consideration of our duties under Schedule 2 in relation to this purpose.
- 4.89 We have assessed whether setting conditions in line with Schedule 2's objectives would secure more distinctive output and services. We propose retaining eight existing conditions relating to the musical output of BBC Radio 1 and BBC Radio 2. Schedule 2 to the Agreement states that Ofcom have particular regard to the desirability of setting or changing requirements to ensure that the musical output of these services is distinct from that of other providers. We are also proposing to amend the existing 'new music' conditions to require that a significant proportion come from new and emerging UK artists. We propose to set the levels of these requirements to ensure the BBC maintains its current level of performance.
- 4.90 We propose adding a new condition for BBC Radio 1 and BBC Radio 2 requiring the stations to play a broader range of music than comparable providers, considering number of plays (not just size of playlist) at both peak listening time and in daytime. We consider that the distinctiveness of a station's playlist can be undermined if certain tracks receive a significantly larger number of plays than others. We consider that the BBC should take this into account when considering the distinctiveness of BBC Radio 1 and BBC Radio 2's musical output.
- 4.91 We propose setting a condition for BBC Radio 5 Live to ensure that the station offers live commentary, news and other programming on at least 20 sports. We consider that coverage of a wide range of sports sets the station apart from comparable providers, and our audience research supports this. Schedule 2 highlights broader sports coverage and better support of sports which receive less coverage as key areas of improvement for BBC radio services.
- 4.92 The BBC's compliance with our conditions in relation to news and current affairs, education, diversity and the nations and regions also further sets it apart in the market. We have increased the levels of many of the conditions that we have retained to ensure continued levels of performance.
- 4.93 In relation to TV services, we have carefully considered the Schedule 2 requirement to have regard to the desirability of setting or changing requirements to secure an appropriate balance of unique titles and long-running series. both in peak-time and at other times. We have included a high-level objective to reduce the number of long-running series over time. However, we consider that determining the appropriate ratio within the TV schedule is a scheduling matter for the BBC. We will gather evidence in this area through our performance measurement framework and may revisit the possibility of setting conditions in the future.
- 4.94 We have considered the Schedule 2 requirement to have regard to setting clearer average age targets for the mainstream radio services. In our view, it would not be appropriate to set average age targets for the BBC's mainstream radio services as the demographic profile of individual mainstream services is a strategic decision for the BBC.

- 4.95 In addition to the conditions outlined in this section, this public purpose will be a focus of our performance measures and of the more qualitative analysis we conduct through our periodic and ad hoc reviews. We will consider setting further regulatory conditions if we determine that the BBC's ongoing performance does not sufficiently secure the provision of distinctive output and services.
- 4.96 Overall we believe the impact of our proposals on other stakeholders will be modest relative to the benefits to citizens and consumers. The focus on original productions is likely to deliver benefits for the independent production sector and support the production sector.
- 4.97 We recognise that the proposals may have an impact on the BBC, particularly in future years as it seeks to meet the efficiency challenge implied by the 2016 licence fee settlement. We are looking to the BBC and other stakeholders to provide evidence of this impact through this consultation.
- 4.98 We also recognise that other broadcasters could be affected by the requirement on the BBC to broadcast more first-run UK originations, which could potentially increase the share of BBC channels.
- 4.99 In preparing these proposals, we have considered it appropriate to avoid making proposals we consider likely to have a significant impact on the BBC's editorial freedom and creativity. This would not be in the interests of audiences. We recognise that Schedule 2 makes specific and detailed provision in relation to distinctiveness in setting the first operating licence. Nevertheless, it remains critical that the BBC addresses clearly how it plans to ensure the delivery of distinctive output and services in its interim annual plan and creative remit. We will return to these proposals in due course if it becomes clear that the BBC is not doing so, or if our performance measures indicate audiences are dissatisfied with the BBC's progress in delivering high-quality, distinctive, creative content.

Consultation Question

Q.4 Do you agree with the approach we have proposed for public purpose 3, including the high-level objectives and regulatory conditions we are proposing?

Public purpose 4: to reflect, represent and serve the diverse communities of all the UK's nations and regions

To reflect, represent and service 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: the BBC should reflect the diversity of the United Kingdom both in its output and services. In doing so, the BBC should accurately and authentically represent and portray the lives of the people of the United Kingdom today, and raise awareness of the different cultures and alternative viewpoints that make up its society. It should ensure that it provides output and services that meet the needs of the United Kingdom's nations, regions and communities. The BBC should bring people together for shared experiences and help contribute to the social cohesion and wellbeing of the United Kingdom. In commissioning and delivering output the BBC should invest in the creative economies of each of the nations and contribute to their development.

- 4.100 This purpose includes two significant and substantial topics. We are proposing to consider separately the BBC's delivery across the nations and regions, and delivery among the diverse audiences of the UK. We recognise that diversity issues affect the nations and regions, and vice versa, but consider it important to make this distinction in order that both topics can be given due consideration.
- 4.101 We consider that 'representation' refers to the numbers of characters and people who appear on screen and the amount of screen time they are given.⁵³ 'Portrayal' refers to the ways in which characters and people are depicted on screen, for instance the nature of the role and coverage.
- 4.102 As context for assessing the BBC's performance on accurate representation, we will use the BBC's diversity reporting and consider whether the BBC's output and services overall represent the populations of the UK. For portrayal, we will consider whether audiences feel that the BBC, overall, portrays audiences authentically. Given the subjective nature of portrayal, our assessment will review the BBC's and our own audience satisfaction measures on how audiences feel they are portrayed by the BBC.

The context for our proposals: nations and regions

- 4.103 The mission and public purposes place a responsibility on the BBC to deliver content that meets the needs of all audiences across the UK. In addition, the BBC must ensure that it contributes to the creative industries in each nation. With increased devolution in the UK these responsibilities have become more significant. Our new deliberative research about audiences' relationship to the BBC highlighted the importance that audiences place on the BBC to produce content to serve a range of audiences.⁵⁴ Audiences felt the BBC does do this to some extent and recognised the

⁵³ References in this section to 'on-screen' include consideration of representation issues across the BBC's television, radio and online output and services

⁵⁴ Ofcom, *BBC Distinctiveness Research Executive Summary*, 2017

challenges in fulfilling this purpose, but felt that it could do more to reflect and serve different audiences across the UK, including those from the nations and regions.

- 4.104 Ofcom's 2016 research into all the PSB broadcasters shows that audiences across the UK attach as high a degree of importance to the portrayal of their nation or region as they do to news in their nation or region. Audiences are broadly satisfied with news in the nations and regions, whereas audiences do not always feel that portrayal of the nations is delivered fairly by the public service broadcasters as a whole.⁵⁵ As part of our 2015 PSB Review, we found that 20% of audiences from the devolved nations felt negatively portrayed by the PSB channels compared to 11% in England.⁵⁶ Our research also found that audiences in the devolved nations were more likely to feel that too few people from the nations are found on programmes shown by the public service broadcasters (26%), compared to audiences in England (10%). BBC Trust research in 2015 also found that there had been significant declines on several measures relating to the BBC and the "nations, regions and communities" purpose⁵⁷.
- 4.105 The BBC has increased the proportion of its out of London network spend from 32% in 2006 to 48% in 2015, and the proportion of its hours of out of London network programming has increased from 30% in 2006 to 58% in 2015. However, the 2015 figures were lower than the 2014 levels for spend (53%) and hours (62%). We consider it important for there to be stable levels of production outside London and across the nations and regions, so that the full economic and wider benefits of commissioning can be realised across the UK.⁵⁸
- 4.106 In addition to the proposals within the operating licence to secure production in the nations, we intend to review our guidance for PSB channels on regional productions.⁵⁹ This review is intended to help ensure that programme-making which qualifies towards the relevant nations or outside the M25 regulatory conditions provides material benefits to the nations and English regions in line with the policy intent. We intend to commence this review in the 2017/18 financial year, and any changes resulting from this review will apply to the relevant regulatory requirements imposed on the BBC and other public service broadcasters.
- 4.107 Ofcom has previously raised concerns about the fall in non-network nations' and regions' output. BBC spend on new programming for the nations and regions fell from £266 million in 2002 to £192 million in 2013 (in real terms) at its lowest. This content spend appears to have now levelled out with £193 million spent in 2015. The

⁵⁵ Ofcom, *PSB Annual Research Report*, 2016

⁵⁶ Ofcom, *PSB Diversity Research Summary*, 2015

⁵⁷ BBC Trust, *Purpose Remit Survey Autumn 2015, 2016*:
http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/review_report_research/ara_2015_2016/uk.pdf
[Accessed 16 March 2017].

⁵⁸ Ofcom, *PSB Compliance Reporting*, 2015

Ofcom, *PSB Compliance Reporting*, 2010

⁵⁹ Ofcom, *Regional production and regional programme definitions Guidance for public service broadcasters*, 2010

BBC's hours of new programming for the nations and regions, however, has continued to fluctuate with an overall decline from 6,510 hours in 2010 to 6,171 hours in 2015.⁶⁰

4.108 We note the recently announced BBC commitments in relation to Scotland, Wales and Northern Ireland.⁶¹ If these considerations are incorporated into the BBC's interim annual plan, we will consider the implications of these commitments as part of our broader assessment of the BBC's published plans.

Proposed high-level objectives: nations and regions

4.109 We propose to set out in the operating licence high-level objectives which we consider the BBC should meet in promoting this public purpose. We propose that the BBC should do the following:

- 4.109.1 accurately represent and authentically portray all audience groups from the nations and regions across its output, services and genres⁶²;
- 4.109.2 distribute its production resources across the UK ensuring that it supports the creative industries in the nations and regions. This should also include production across the regions of England and build sustainable growth for the creative industries across the UK;
- 4.109.3 ensure programming for the nations and regions serves and creates content of interest and of relevance to the people living in the area for which the service is provided. Within Scotland, Wales and Northern Ireland this should include a wide range of genres, including drama, comedy, sports and indigenous language broadcasting; and
- 4.109.4 contribute to social wellbeing through cultural education, awareness and bringing people together for shared experiences.

Proposed regulatory conditions: nations and regions

4.110 Our proposed approach is to provide a stronger focus on production in each nation of the UK and on guaranteed levels of programming for the nations and regions. Our proposals in relation to diversity will also cover the public purpose requirement for the BBC to reflect, accurately represent and authentically portray the nations and regions in its content.

⁶⁰ Ofcom, *PSB Annual Research Report*, 2016

⁶¹ BBC, BBC to increase investment in programming for Wales by 50 per cent, 2017: <http://www.bbc.co.uk/mediacentre/latestnews/2017/wales-investment> [Accessed 16 March 2017].

BBC, Biggest BBC investment in Scotland in twenty years, 2017: <http://www.bbc.co.uk/mediacentre/latestnews/2017/scotland-investment> [Accessed 16 March 2017].

- 4.111 Our proposed operating licence sets quantitative requirements for programme making in, and programming for, the nations and regions, as required under Schedule 2 to the Agreement.⁶³ In line with our general approach, the levels of these quotas have been increased to capture historic over-delivery (i.e. above the levels set by the BBC Trust) where appropriate.
- 4.112 We are also proposing new conditions which cover:
- 4.112.1 the proportion of hours of programming made in each of the nations;
 - 4.112.2 the proportion of programming expenditure in England outside the M25;
 - 4.112.3 the range of genres made outside the M25;
 - 4.112.4 the range of production centres used outside the M25;
 - 4.112.5 the range of genres made for regional programming;
 - 4.112.6 and news provision on local radio stations.

Our reasoning: nations and regions

- 4.113 In making these proposals we have considered previous research from our PSB Annual Reports and Review, the BBC's past performance, along with audience views and stakeholder views including Ofcom's National Advisory Committees. This research suggests that there is scope for the BBC to improve the way in which it meets the needs of audiences in the nations and regions. The BBC needs to take account of its stakeholders and audiences across the nations and regions so that it can reflect, represent and serve all its audience groups and support the creative economies of the UK.
- 4.114 We propose to introduce new conditions in relation to both production and content for the nations and regions. We believe these conditions will benefit audience groups across the UK and the creative industries in each of the four nations. The proposals may have an impact on the BBC if they result in increased costs. However, given the BBC's current performance and commitments, we expect any impact to be manageable. Increased BBC investment in the creative industries of the UK should contribute to a more diverse production sector.
- 4.115 We consider that the quota levels we have proposed for production and hours of programming will help ensure audiences in the nations and regions are well served. The levels have been calculated using five years of previous BBC performance data, and we believe the BBC should be able to meet the new requirements placed on them.
- 4.116 We have also summarised and formalised some requirements from the existing service licences set by the BBC Trust that we think are important to the delivery of this public purpose. We believe these amended conditions will help to improve the programming and content for audiences in the nations and regions.

⁶³ Paragraphs 6 and 7 of Schedule 2 to the Agreement, which both relate to the UK Public Television Services.

- 4.117 We have proposed individual quotas for each nation which replace the out-of-England quota and we propose aligning the format of the original production quota for BBC Alba with those of other services under the third public purpose.
- 4.118 In developing our approach, we considered more prescriptive conditions, for example in setting quotas for the number of hours each nation should provide in specific genres such as drama and comedy. Our provisional view is that this is a matter for the BBC Board in setting strategy. We expect the BBC to set out in its annual plan how it intends to deliver a range of genres for the nations. We note the continued debate about how the BBC allocates licence fee spend more broadly. While we have set conditions relating to content spend in each of the nations, we do not believe it is appropriate for Ofcom to intervene in how the BBC allocates operational spend more broadly.

The context for our proposals: diversity

- 4.119 The BBC needs to reflect, represent and serve the diverse communities across the UK. Given the UK's population is becoming increasingly diverse, the BBC's role in meeting the needs of all its audience groups has become increasingly important. Our recent research about audiences' relationship to the BBC highlighted the importance that audiences place on the BBC to reflect, represent and serve the diverse communities of the UK.⁶⁴ Audiences felt that although the BBC does serve a wide range of UK citizens through its content, the BBC could do more to reflect and serve different audiences across the UK, for example in terms of age, race and socio-economic background.
- 4.120 Analysis and evidence contained within our 2015 PSB Review showed that not all groups feel that PSB output adequately reflects their lives.⁶⁵ In terms of representation, the research found that several different audiences felt they were under-represented in programmes aired by the PSBs. These audiences included disabled people, people who identify as lesbian, gay or bi-sexual, women aged 55 and over, alongside people from black ethnic backgrounds. Younger men and younger women, and older women were more likely than other age/gender groups to feel they were negatively portrayed. People from black ethnic backgrounds also felt they were negatively portrayed more than other groups.
- 4.121 Ofcom's Communications Market Report 2016 also highlighted a growing generational divide in media consumption habits, which will challenge the BBC as it seeks to meet the changing needs of younger audiences while continuing to deliver more traditional output and services.
- 4.122 To reflect and portray the UK as it is, we consider that the BBC will need to constantly challenge itself to do better. Its development of talent, its employment decisions, budgets and how it commissions content all have a crucial role to play in delivering this objective.

⁶⁴ Ofcom, *BBC Distinctiveness Research Executive Summary*, 2017

⁶⁵ Ofcom, *PSB Diversity Research Summary*, 2015

- 4.123 While on-screen diversity is not an issue unique to the BBC, this purpose makes clear that the BBC should be at the vanguard of efforts to improve diversity by ensuring that its output and services reflect, represent and serve the diverse communities of the whole of the UK. We note that the Charter and Agreement also places further diversity related obligations on the BBC, which are outside the scope of this consultation.⁶⁶
- 4.124 The proposed regulatory conditions below focus on the output and services of the BBC in line with the public purpose. We recognise the role of the BBC's off-screen diversity initiatives in successfully delivering an improved performance in this area. We recognise that the BBC has recently committed to a new BBC Diversity and Inclusion Strategy 2016 – 2020, which includes targets for representation in relation to: women⁶⁷; disabled people; people who identify as LGBT; and black, Asian and ethnic minorities.⁶⁸ The BBC has also established new diversity commissioning guidelines, proposed a centre of excellence for diversity and diverse talent, set up a £2.1m diversity creative talent fund, and established an internship scheme for graduates. The BBC has also committed to using diverse audience panels to get feedback on its output from under-represented audience groups. The BBC has set workforce targets for its employees and leadership teams in relation to women, ethnic minorities, disabled people and people who identify as LGBT, among other initiatives to improve the diversity of its workforce.
- 4.125 We welcome these initiatives. We will be considering how they are adopted as part of the BBC's interim annual plan in summer 2017 before finalising our proposals in this area.
- 4.126 The BBC has a duty to meet the needs of all the diverse communities of the UK, not just the audience groups highlighted within their diversity targets. We expect the BBC to take account of this, especially for other audience groups that are protected by equality legislation, and that our 2015 research has identified as feeling under-represented and poorly portrayed by PSB broadcasters. These include older women, younger women and younger men, as well as audiences across a range of different religious groups. We expect the BBC to work to improve audience satisfaction among the audience groups who feel under-represented and poorly portrayed over this next charter period and will monitor the BBC's delivery in this area.
- 4.127 We expect the BBC to measure and report on its initiatives and investment in improving diversity, as well as the impact of these measures. We intend to closely

⁶⁶ Article 14 of the Charter also requires the BBC to reflect the diverse communities of the whole of the UK in the content of its output, the means by which its output and services are delivered (including where its activities are carried out and by whom) and in its organisation and management. Schedule 3 of the Agreement also places specific equal opportunities (in relation to gender, disability, or race) and training requirements upon the BBC.

⁶⁷ The BBC's Strategy refers to these targets as "portrayal" targets, although under our terminology the targets more closely reflect representation, since the targets capture the *amount* of coverage on screen or on air of a certain community or group, rather than the *nature* of that coverage.

⁶⁸ These are the four groups as specified by the BBC in its Diversity and Inclusion Strategy 2016 – 2020.

monitor the BBC's performance in this area so that we can review progress and consider additional conditions should this be appropriate.

Proposed high-level objectives: diversity

- 4.128 We propose to set out in the operating licence high-level objectives which we consider the BBC should meet in promoting this Public Purpose. We propose that the BBC should do the following:
- 4.128.1 serve and create content of interest and of relevance to all audience groups across the whole of the United Kingdom;
 - 4.128.2 reflect the diversity of the UK's nations and regions appropriately in its output, services and genres. This should include age, disability, gender reassignment, race, religion and belief, sex, sexual orientation and socioeconomic background;
 - 4.128.3 accurately represent and authentically portray the diverse communities of the whole of the UK; and
 - 4.128.4 help contribute to social wellbeing through cultural education, awareness and bringing people together for shared experiences.

Proposed regulatory conditions: diversity

- 4.129 As diversity has been included for the first time in the BBC's public purposes, all of the regulatory conditions that we are proposing in this area are new. These conditions cover:
- 4.129.1 the BBC's annual reporting on how it has complied with the requirement to reflect, represent and serve the diverse communities of the UK;
 - 4.129.2 the BBC's measures and reporting of audience satisfaction across the diverse communities of the UK, including the steps the BBC has taken to seek to improve audience satisfaction among any underserved groups it identifies; and
 - 4.129.3 the content that the BBC creates. We are proposing that the BBC must agree a diversity code of practice with Ofcom that helps to ensure that its content accurately represents, authentically portrays and reflects the whole of the UK.

Our reasoning: diversity

- 4.130 In determining what enforceable regulatory conditions to propose we have focused on what is measurable, can be monitored and represents a challenging but realistic outcome. In making these proposals we have reviewed previous research and the BBC's past performance, along with stakeholder and audience views, to better understand what is important to those the BBC serves. Research suggests that there are audience groups in the UK that feel underserved, and that there is a generational

divide between younger and older audiences.⁶⁹ The BBC should address this over the next charter period to reflect, represent and serve the diverse communities of the UK.

- 4.131 The new conditions that we have introduced address the diversity of the BBC's output and services by focusing on how it delivers content and represents the UK population. We believe these conditions will have a positive impact on audiences from across the UK. The BBC will be affected by our proposals as they will need to ensure the delivery in these areas and consistently measure and report on progress. These conditions should be achievable for the BBC as they complement the BBC's commitments outlined in the BBC's Diversity and Inclusion Strategy. We consider that an improvement in the delivery of diversity will help to drive improvements in this area across the industry.
- 4.132 We are also proposing to focus on this area through our performance measurement framework, by seeking views from different communities on how the BBC's services and outputs meet their needs and reflect their lives. Our proposals for the operating licence are therefore a starting point. If our performance measurements indicate that the BBC is not reflecting, representing or serving the UK's diverse communities we are likely to revisit this area, for example by carrying out an ad hoc performance review.
- 4.133 While developing our diversity proposals we considered relying solely on performance measures to track the BBC's performance and to hold them to account. Our provisional view is that this would not be appropriate, as we consider this would not secure the delivery by the BBC of the fourth public purpose.
- 4.134 We also explored more prescriptive requirements such as the possibility of conditions aimed at improving the BBC's diversity off-screen. While some aspects of the BBC's off-screen diversity could have an impact on the delivery of diversity on-screen and on-air, we consider such conditions are not appropriate at this stage in order to ensure the BBC delivers the fourth public purpose. This is something that we will monitor closely and review to provide the necessary context as part of our diversity performance measures.

Consultation Question

Q.5 Do you agree with the approach we have proposed for public purpose 4, including the high-level objectives and regulatory conditions we are proposing?

Setting and amending the licence

- 4.135 We are required under the Charter and Agreement to set an operating framework for the BBC, which must contain provisions we consider appropriate to secure the effective regulation of the activities of the BBC as set out in the Charter and Agreement. We have already set a suite of documents which together comprise the operating framework. The two procedural documents that we are consulting on now, relating to the operating licence and to the performance measures respectively, are the two final documents for the operating framework. The operating framework must

⁶⁹ Ofcom, *BBC Distinctiveness Research Executive Summary*, 2017; Ofcom, *Public Service Broadcasting in the Internet Age*, July 2015

(among other things) cover how we will set and administer the operating licence regime and the procedures to be followed. It must include:

- the procedures for setting the regulatory conditions in an operating licence;
- considerations Ofcom will have regard to in setting regulatory conditions.

4.136 We have set out in Annex 5 to this consultation the provisions that we are proposing to adopt in the operating framework in relation to the operating licence regime, which are in line with our overall approach to regulating the BBC. In summary, these provisions cover:

- the considerations we will have regard to in setting and amending regulatory conditions including our statutory duties under section 3 of the Communications Act 2003 and the specific duties placed on us by the Charter and the Agreement;
- the procedural requirements for setting and amending the licence, including our proposals for consultation and publication.

Consultation Question

Q.6 Do you agree with Ofcom's approach to how we will set and amend the operating licence, as set out in Annex 5?

Section 5

Performance measures

Performance measures are a critical part of the overall performance framework

- 5.1 Under the Charter, the BBC is tasked with establishing a framework to assess its performance in delivering its strategies and creative remit, and obligations under the Charter and Agreement. This includes performance measures (and targets for those measures where appropriate) to assess the performance of the UK public services in fulfilling the mission and promoting the public purposes.⁷⁰
- 5.2 Ofcom is also able to determine its own measures, further to the BBC's measures, that we consider appropriate to assess the performance of the UK public services in fulfilling the mission and promoting the public purposes.⁷¹ Unlike the regulatory conditions within the operating licence, these performance measures are not themselves enforceable, although they may of course indicate where additional regulatory conditions might be appropriate in future.
- 5.3 In this consultation, we are also seeking views on the part of our operating framework covering the procedures we will follow when setting and amending our performance measures. Our proposals for setting the performance measures are being made consistently with these procedures. Clearly, if this part of the operating framework needs to change as a result of this consultation process, we may need to revisit our proposals (see later in this section).

Overview of Ofcom's proposals for performance measures

A rigorous and flexible approach to BBC performance assessment

- 5.4 The BBC's objective is to fulfil its mission and promote its public purposes. Part of Ofcom's role as the BBC's external regulator is to assess how the BBC is doing in this regard. For this assessment to be meaningful, we need it to be based in a clear understanding of a range of factors, including audiences' own views on the BBC's performance.

⁷⁰ Charter. Article 20(3).

⁷¹ In setting and amending the operating licence, the Charter sets out that our role is limited to the UK public services. In practice, the UK public services are not the means by which the BBC fulfils the fifth public purpose: "to reflect the UK, its culture and values to the world". However, in carrying out our periodic reviews we must have regard to the performance of the World Service in contributing to the fulfilment of the mission and the promotion of the public purposes. The BBC is required to set a framework for assessing the performance of the World Service (article 20 of the Charter) and to publish information about the performance of the World Service in its annual report, and carry out reviews of the performance of the World Service at least every five years (clause 35 of the Agreement). We intend to make use of this information, and any further relevant information we may require from the BBC, in fulfilling this responsibility.

- 5.5 Assessing the BBC's performance therefore requires a rigorous and flexible approach. It will need to recognise that some aspects of delivery are best achieved on a service basis, others on a cross-service basis (by type of genre), and others via a focus on audience perception and satisfaction. For clarity, we do not intend to assess individual pieces of content or programme series. We believe that such a role, where it is required, is most appropriately conducted by the new BBC Board in its responsibility for governing the BBC.
- 5.6 As the Charter and Agreement make clear, there is a dynamic relationship between the operating licence and our performance measures. While regulatory conditions are enforceable obligations, performance measures are also a powerful way to hold the BBC to account: they help set incentives for the BBC to achieve good outcomes before regulatory conditions are required. We have powers to propose variations to the licence at any time, which could include proposals to set a specific requirement in the licence if we considered it appropriate in light of evidence about a particular performance measure.
- 5.7 We are also required by the Charter to conduct at least two in-depth Periodic Reviews during the Charter period, as well as ad hoc reviews if appropriate. Our performance measures will be a critical input into these review functions
- 5.8 Our proposed approach to putting in place a new performance measurement framework for the BBC will build on our existing research base, in particular our PSB survey, which we have run annually since 2007. It will also consider evidence and analysis conducted as part of both our most recent PSB Review in 2015 and our PSB Annual Research Report, as well as our annual News survey. In addition to this, we propose to put in place a bespoke programme of regular evidence-gathering and audience research to ensure that the BBC's performance is tracked robustly and publicly. This will complement the performance measures the BBC sets itself.
- 5.9 As well as setting a new mission and new public purposes for the BBC, the new Charter and Agreement specify a wide-ranging set of challenges for the BBC, that must be addressed over time. The BBC must have the space to take creative risks and choose how it organises itself – provided it continues to comply with its overarching duties – without the regulator becoming involved in its creative decision-making, scheduling decisions or management structures. The performance measures we put in place will reflect and respect this separation of responsibilities.
- 5.10 Due to the wide-ranging nature of each purpose, it is not possible to measure the BBC's performance against each public purpose using a single category of performance measure. As such we anticipate that we will use a range of measures in combination in order to report on the BBC's performance each year. For each purpose we propose to consider performance measures for each of TV, radio and online, individual services (e.g. BBC One, BBC iPlayer) as well as cross-platform delivery, as appropriate.
- 5.11 The measures we propose to use, for each public purpose, are:
- 5.11.1 **Availability** - describes the spend on, nature, type, quantity and range of content available across the BBC. This is a 'baseline' category that helps us to build a robust understanding of the nature of the BBC content broadcast (both at peak times and overall) or published online to give a sense of the content that people can use. This data would be sourced from the BBC

(and other content providers where we need to consider benchmarks) and analysed by Ofcom.

- 5.11.2 **Consumption** - the extent to which audiences consume the content provided. This category provides an overview of the reach and time spent on the BBC, by service or cross-platform, as well as the extent to which the BBC reaches diverse audiences across the UK and in the nations. This data would be sourced from a range of vehicles where available, including widely recognised industry sources (such as BARB, RAJAR and ComScore), BBC data sets (e.g. PULSE survey or BBC iPlayer consumption metrics); and bespoke consumer research commissioned by Ofcom (such as our cross-platform news survey).
 - 5.11.3 **Impact** - what audiences think about this content. Measuring impact is complex, but such metrics play an important part in our reporting of the BBC's delivery against its mission and public purposes. We anticipate the need for a range of indicators which would be sourced from Ofcom bespoke quantitative and qualitative research as well as giving consideration to the BBC's own research.
 - 5.11.4 **Contextual factors** - there are aspects of each public purpose that cannot be measured solely by the categories above. For example, any assessment of the BBC's record in taking creative risks and delivering innovative content would benefit from consideration of qualitative information provided by the BBC. We may also want to consider over time changes in the BBC's funding or other external public policy factors. Such contextual factors are therefore part of our overall proposed approach. The source is likely to vary depending on the nature of the factor we are considering, but is likely to include qualitative information from the BBC.
- 5.12 Vital aspects of our approach include establishing trend data to measure changes in performance over time, and devising comparative measures where applicable and available that allow us to compare the BBC's performance against other content providers.

Principles of measurement

- 5.13 We have taken account of the following factors in developing the specific performance measures that we are proposing:
 - 5.13.1 **Comparability**: ensuring that the BBC's delivery is benchmarked against other PSBs/commercial sector/online content and services, where applicable and available.
 - 5.13.2 **Proportionality**: we do not propose to exhaustively measure all aspects of each purpose against each and every service or parts of the day. We propose to start from the basis of gathering evidence about the BBC as a whole, and service-specific data where informative. We will drill further into specific services or parts of the day as and when any indicator suggests a potential area of concern.
 - 5.13.3 **Practicability**: we will ensure that what we seek to measure quantifiably can realistically and objectively be measured in such a way. We would consider alternative, qualitative ways to understand performance in those instances where it is particularly difficult to reduce to a quantifiable metric.

- 5.13.4 **Transparency:** we consider that the metrics that can be associated with each measure should be clear and straightforward to understand.
- 5.13.5 **Reliability/robustness:** for example in the case of audience research, the measurement tools should be of sufficient sample size to be able to look at the views of particular subgroups over time.
- 5.13.6 **Flexibility:** we propose a flexible approach to the metrics associated with the performance measures. We propose to produce basic tracking information on output, spend, consumption and impact every year. Our level of assessment beyond this would vary in any given year. Any deeper assessment of delivery against a particular purpose might be better done on a less frequent basis to reduce cost, be proportionate, and be based on adequate data.

An illustration of what our proposed performance measures would provide

- 5.14 We propose to publish annually a research report, providing an overview of the BBC's performance by public purpose through an associated suite of indicators. For each public purpose we propose to consider performance measures for each of TV, radio and online, individual services (e.g. BBC One, BBC iPlayer) as well as cross-platform delivery, as appropriate. We would also draw on the BBC's own annual performance reporting to describe how well the BBC has delivered against each public purpose.
- 5.15 This would be separate to Ofcom's annual report of the BBC's compliance with its regulatory conditions. It would feed into our periodic reviews, although inevitably the annual performance measure report will be a less-extensive exercise than these periodic reviews.
- 5.16 This proposed approach would provide a high-level transparent monitor of the BBC's performance against each of the public purposes, designed to enable Ofcom to assess performance beyond licence conditions. It would act as a warning signal of underperformance, providing evidence that may inform (a) a change to the operating licence or (b) a decision on the subject of focus for an ad hoc review. Overall, we consider that our proposals would provide Ofcom with independent evidence beyond that produced by the BBC on its performance.
- 5.17 Figure 1 below provides a summary of the types of indicators we propose to use against each of our four proposed areas covered by the performance measure framework. A more detailed illustrative guide to the metrics we might make use of, related to each public purpose, is set out in Annex 6.

Illustrative overview of the types of metrics to be used within Ofcom’s proposed performance measurement framework

Performance measure	Metric example	What it tells us	Frequency of analysis	Source
Availability	Hours of first run UK originated output	Amount of new UK content made available to audiences.	Annual	BBC hours of output
	Spend on first run UK originated output	A proxy for quality; high levels of investment serve as a proxy for high-quality content. ⁷²	Annual	BBC spend on output
	Content analysis	An independent case study analysis of the range, type or diversity of content provided by the BBC.	Ad hoc	Ofcom-commissioned external specialist
Consumption	Reach	The extent to which different audiences access BBC content (e.g. by platform/service/demographic).	Annual	Industry currencies – e.g. BARB, RAJAR, ComScore or Ofcom consumer research
	Minutes consumed	Time spent on BBC content, with high average minutes being a proxy for high engagement.	Annual	As above
Impact	Audience opinion – quantitative	Quantification of audience opinions on the BBC’s delivery against the mission and purposes.	Annual	Ofcom consumer research/BBC consumer research
	Audience opinion – qualitative	In depth exploration of audience opinions on the BBC’s delivery against the mission and purposes.	Ad hoc	As above
	Expert opinion	Views from stakeholders other than the general public.	Ad hoc	Ofcom stakeholder interviews
Contextual factors	Qualitative information from the BBC	Relevant qualitative information from the BBC or elsewhere that helps to describe how the BBC has delivered its mission and public purposes.	Ad hoc	Ofcom requests information from the BBC

5.18 We propose to report on the BBC’s delivery of the mission and public purposes across TV, radio and online.⁷³ However it is more challenging to assess delivery for

⁷² This approach is consistent with the way we have assessed the delivery of high-quality content across the public service broadcast channels in our annual PSB Annual Research report. We use spend as a proxy figure, while accepting that the genre mix across services, fluctuations in input costs, efficiency gains in production and third-party funding are among the factors to consider when looking at investment levels.

⁷³ Online includes on-demand and streaming services, such as BBC iPlayer, and BBC Three as appropriate.

radio and online platforms using availability and consumption metrics than for TV. For example, the levels of granularity provided by industry currencies of consumption vary⁷⁴, while hours of first run UK originated content on TV have no analogous measure across various online services. We would source alternative and robust datasets where feasible.

Impacts

- 5.19 The majority of the administrative burden in compiling this proposed performance measurement framework is likely to fall on Ofcom. We recognise however that, where we require the provision of information by the BBC, this will imply costs for the BBC too. We intend to mitigate these costs as far as possible, for example ensuring that requests are proportionate, providing reasonable time for the completion of a request, using existing datasets provided by the BBC where possible and engaging with the BBC on the format and scope of the additional information they provide us. Nevertheless, our ability to require information from the BBC for the purposes of regulating the BBC is an express provision in the Charter and we intend to deploy these powers where we believe it is appropriate. We also have the power to request information from third-party providers where we believe it is relevant to our responsibilities in regulating the BBC. We recognise the potential burden on third parties, and will seek to mitigate these impacts in the same ways as with the BBC.
- 5.20 We recognise that the publication of more granular performance measures may provide information which could be of use to the BBC's competitors and could, in principle, be used to develop or tailor competing services, which might reduce the BBC's audience share. Depending on the circumstances this may or may not benefit the interests of citizens and consumers. In any case, we judge the risk of significant impacts on the BBC's reach to be relatively low.

Consultation Question

Q.7 Do you agree with our proposed overall approach to performance measurement?

Q.8 Do you agree with the proposed framework of: availability; consumption; impact; contextual factors?

The process for setting and amending performance measures

- 5.21 The operating framework that we are required under the Charter and Agreement to set for the BBC contain provisions we consider appropriate to secure the effective regulation of the activities of the BBC as set out in the Charter and Agreement. We have already set a suite of documents which together comprise the operating framework. As discussed at the end of section 4 of this document, the two procedural documents that we are consulting on now, relating to the operating licence and to the performance measures respectively, are the two final documents for the operating

⁷⁴ For example, there is far less granularity in the level of detail provided by RAJAR listening figures compared to TV viewing figures from BARB (e.g. availability of genre level data), or the range of audience groups provided by ComScore for online usage differs from that available in BARB or RAJAR.

framework. The operating framework must (among other things) set out how we will set performance measures and the procedures to be followed.

- 5.22 We have set out in Annex 7 to this consultation the provisions that we are proposing to adopt in the operating framework in relation to the performance measures, which are in line with our overall approach to regulating the BBC.
- 5.23 When complete, the framework is likely to include several hundred individual metrics. While a core of metrics are likely to remain stable, we intend to add or drop metrics year-by-year in line with particular areas of policy interest. The proposed operating framework provision in Annex 7 include provision for consultation on setting or amending performance measures. For the avoidance of doubt, we would not intend to consult on changes to individual performance metrics.

Consultation Question

Q.9 Do you agree with Ofcom's approach to how we will set and amend the performance measures?

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, **by 5pm on 17 July 2017**.
- A1.2 We strongly prefer to receive responses via the online form at <https://www.ofcom.org.uk/consultations-and-statements/category-1/bbc-performance>. We also provide a cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>) for responses sent by email or post; please fill this in, as it helps us to maintain your confidentiality, and speeds up our work. You do not need to do this if you respond using the online form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to bbcperformance@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>). This email address is for this consultation only, and will not be valid after 17 July.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation.
- BBC performance
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 If you would like to submit your response in an alternative format (e.g. a video or audio file), please contact Jacquie Hughes on 020 7981 3000, or email bbcperformance@ofcom.org.uk
- A1.6 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.7 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.
- A1.8 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 3. 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.
- A1.9 If you want to discuss the issues and questions raised in this consultation, please contact Jacquie Hughes on 020 7981 3000, or by email to bbcperformance@ofcom.org.uk

Confidentiality

- A1.10 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 all responses on our website, www.ofcom.org.uk, as soon as we receive them.
- A1.11 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.
- A1.12 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.
- A1.13 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 at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

Next steps

- A1.14 Following this consultation period, Ofcom plans to publish a statement by the end of September 2017.
- A1.15 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

Ofcom's consultation processes

- A1.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.17 If you have any comments or suggestions on how we manage our consultations, please call our consultation helpdesk on 020 7981 3003 or email us at 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.
- A1.18 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Steve Gettings
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Tel: 020 7981 3601
Email steve.gettings@ofcom.org.uk

Annex 2

Ofcom's consultation principles

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

Before the consultation

- A2.1 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

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English/Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 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.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. 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.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

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 to be confidential, 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. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. 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)

Annex 3

Consultation questions

Please respond to the following consultation questions, which are also set out in the relevant sections of the consultation:

Questions about the operating licence

- Q.1 Do you agree with our overall approach to setting the operating licence?*
- Q.2 Do you agree with the approach we have proposed for public purpose 1, including the high-level objectives and regulatory conditions we are proposing?*
- Q.3 Do you agree with the approach we have proposed for public purpose 2, including the high-level objectives and regulatory conditions we are proposing?*
- Q.4 Do you agree with the approach we have proposed for public purpose 3, including the high-level objectives and regulatory conditions we are proposing?*
- Q.5 Do you agree with the approach we have proposed for public purpose 4, including the high-level objectives and regulatory conditions we are proposing?*

Question about setting and amending the operating licence

- Q.6 Do you agree with Ofcom's approach to how we will set and amend the operating licence, as set out in Annex 5?*

Questions about performance measures

- Q.7 Do you agree with our proposed overall approach to performance measurement?*
- Q.8 Do you agree with the proposed framework of: availability; consumption; impact; contextual factors?*

Question about the operating framework for the performance measures

- Q.9 Do you agree with Ofcom's approach to how we will set and amend the performance measures?*

Annex 4

Proposed BBC operating licence

About this document

[NOTE: this document is a draft of the BBC's operating licence for consultation.]

This is the operating licence for the BBC's UK Public Services. It sets the regulatory conditions that Ofcom considers appropriate for requiring the BBC to fulfil its Mission and promote the Public Purposes; to secure the provision of distinctive output and services; and to secure that all BBC audiences in England, Scotland, Wales, and Northern Ireland are well served.

The BBC must comply with the regulatory conditions in this licence. Ofcom can take enforcement action in the event of non-compliance.

A separate document is available for audiences in each of the United Kingdom's nations which sets out the regulatory conditions that apply specifically to the BBC's services in that nation.

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Section 1

The Licence

- 1.1 This is the operating licence for the BBC's UK Public Services (the "Licence"). Ofcom has set the Licence in exercise of its functions under the Royal Charter for the continuance of the British Broadcasting Corporation (the "Charter") and the Agreement between the Secretary of State for Culture, Media and Sport, and the BBC (the "Agreement"), pursuant to section 198 of the Communications Act 2003¹.
- 1.2 In particular, Ofcom's functions include² setting an operating licence for the UK Public Services containing regulatory conditions Ofcom considers appropriate for requiring the BBC:
- 1.2.1 to fulfil its Mission and promote the Public Purposes;
 - 1.2.2 to secure the provision of distinctive output and services; and
 - 1.2.3 to secure that audiences in England, Scotland, Wales and Northern Ireland are well served.
- 1.3 Further, Ofcom has set the Licence in accordance with the requirement³ to impose specific conditions⁴ which relate to:
- distinctiveness (where, in particular, in the first operating licence we are required to seek to increase the current requirements set by the BBC Trust to secure the provision of more distinctive output and services);
 - news and current affairs (quantity and scheduling);
 - quotas for Original Productions; and
 - quotas for nations and regions programming and programme-making.
- 1.4 Ofcom has imposed in the Licence further regulatory conditions it considers appropriate for requiring the BBC, in carrying out the UK Public Services, to fulfil the Mission and promote the Public Purposes⁵.
- 1.5 Additionally, Ofcom has imposed in the Licence further regulatory conditions it considers appropriate for requiring the BBC to ensure that the audiences in England, Scotland, Wales, and Northern Ireland are well served⁶.
- 1.6 The Licence applies to all of the BBC's UK Public Services as set out in the Agreement⁷ and applies to all of the nations and regions of the United Kingdom. Ofcom has produced a separate document for audiences in each nation of the United Kingdom

¹ Section 198 of the Communications Act 2003 makes provision for Ofcom's functions in relation to the BBC.

² Article 46(3) of the Charter.

³ Clause 13(2) of the Agreement.

⁴ The operating licence regulatory conditions set out in Schedule 2 to the Agreement.

⁵ Clause 13(3) of the Agreement.

⁶ Clause 13(4) of the Agreement.

⁷ A list of the UK Public Services is set out at Schedule 4 to this Licence.

which sets out the specific regulatory requirement relating to the relevant nation, to be read alongside this Licence.

- 1.7 The Licence does not set BBC programme or service strategies or budgets. These areas are not part of Ofcom's functions in relation to the BBC. Under the provisions of the Charter and Agreement, the BBC Board is responsible both for ensuring that the BBC fulfils its Mission and promotes the Public Purposes, and for setting the strategic direction and the creative remit for doing so⁸. The BBC must publish an annual plan for each financial year, in advance of the period to which it relates, which must include (amongst other things) the creative remit for that year; the work plan for that year; and provision for the United Kingdom's nations and regions⁹.
- 1.8 Ofcom has consulted publicly before setting this Licence¹⁰, and Ofcom has set the Licence in accordance with the relevant provisions of the Operating Framework¹¹.
- 1.9 Ofcom may amend this Licence and considers it likely that it will do so regularly over the duration of the Charter. For illustration only, Ofcom may consider it appropriate to amend the Licence in light of evidence about the BBC's performance in particular areas, or to take account of changes in audiences' viewing or listening habits, or changes to technology: for example, greater consumption across different platforms. Before amending the Licence, Ofcom will consult with the BBC. Ofcom will also consult with any other person it considers appropriate in light of the nature and materiality of the proposed amendment, in accordance with the relevant provisions of the Operating Framework.
- 1.10 The BBC must comply with the Regulatory Conditions of the Licence in providing the UK Public Services¹². Ofcom must enforce compliance by the BBC with the Regulatory Conditions of the Licence¹³, and in particular Ofcom may consider complaints made to Ofcom by any person, and carry out such investigations as Ofcom considers appropriate¹⁴. Ofcom must also enforce compliance by the BBC with regulatory requirements which apply to the BBC directly through the Charter or the Agreement, or through legislation, such as quotas for independent productions¹⁵, and requirements relating to provision for people who are hearing or visually impaired¹⁶.
- 1.11 If Ofcom is satisfied that the BBC has failed to comply with a regulatory condition of the Licence, and has given the BBC a reasonable opportunity to make representations about the matter, Ofcom may:
 - 1.11.1 direct the BBC (or accept undertakings from the BBC) to take such steps Ofcom consider will remedy the failure to comply, and ensure that the BBC complies with their requirements properly in future;

⁸ Article 20(3)(a) and (b) of the Charter.

⁹ Article 36 of the Charter.

¹⁰ Clause 13(5) of the Agreement provides that before setting an operating licence Ofcom must consult the BBC and any person Ofcom considers appropriate.

¹¹ Article 46(3) of the Charter provides that Ofcom must set an operating licence for the UK Public Services in accordance with the Operating Framework.

¹² Clause 7(2) of the Agreement.

¹³ The regulatory conditions are "specified requirements" under clause 59(b) of the Agreement.

¹⁴ Article 49(1) of the Charter.

¹⁵ Paragraph 6 of Schedule 3 to the Agreement, and Schedule 12 to the Communications Act 2003.

¹⁶ Paragraph 9 of Schedule 3 to the Agreement.

- 1.11.2 serve on the BBC a notice requiring it to pay to Ofcom, within a specified period, a specified penalty up to a maximum of £250,000¹⁷.
- 1.12 Ofcom has made provision in the Operating Framework for how it will exercise its enforcement powers¹⁸.
- 1.13 The BBC is required to publish an annual report for each financial year, which must include (amongst other things) how the BBC delivered the creative remit and its work plan; the BBC's provision for the United Kingdom's nations and regions, including how the BBC delivered the creative remit in the nations and regions; how it has made the BBC's output and services available to the public; and expenditure on the UK Public Television Services by genre¹⁹.
- 1.14 Following receipt of the BBC's annual report, Ofcom also must publish an annual report, setting out how Ofcom has carried out its principal functions under the Charter across the whole of the United Kingdom. This report will include (amongst other things) Ofcom's assessment of the BBC's compliance with the Regulatory Conditions of the Licence²⁰. Ofcom has power to require the BBC to provide information for the purpose of the carrying out by Ofcom of its functions²¹.

The BBC's Mission

- 1.15 The Mission of the BBC²² 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.

The BBC's Public Purposes

- 1.16 The Public Purposes of the BBC²³ are as follows:
- 1.16.1 **To provide impartial news and information to help people understand and engage with the world around them:** the BBC should provide duly accurate and impartial news, current affairs and factual programming to build people's understanding of all parts of the United Kingdom and of the wider world. Its content should be provided to the highest editorial standards. It should offer a range and depth of analysis and content not widely available from other United Kingdom news providers, using the highest calibre presenters and journalists, and championing freedom of expression, so that all audiences can engage fully with major local, regional, national, United Kingdom and global issues and participate in the democratic process, at all levels, as active and informed citizens.
- 1.16.2 **To support learning for people of all ages:** the BBC should help everyone learn about different subjects in ways they will find accessible, engaging, inspiring and challenging. The BBC should provide specialist educational content to help support learning for children and teenagers across the United

¹⁷ Article 49(2) to (5) of the Charter and section 198(5) of the Communications Act 2003. Ofcom passes any sums that it receives in payment of a financial penalty to HM Treasury.

¹⁸ <https://www.ofcom.org.uk/consultations-and-statements/category-2/enforcement-bbc-agreement-compliance>

¹⁹ Article 37 of the Charter.

²⁰ Article 50 of the Charter.

²¹ Article 47 of the Charter.

²² Article 5 of the Charter.

²³ Article 6 of the Charter.

Kingdom. It should encourage people to explore new subjects and participate in new activities through partnerships with educational, sporting and cultural institutions.

1.16.3 **To show the most creative, highest quality and distinctive output and services:** the BBC should provide high-quality output in many different genres and across a range of services and platforms which sets the standards in the United Kingdom and internationally. Its services should be distinctive from those provided elsewhere and should take creative risks, even if not all succeed, in order to develop fresh approaches and innovative content.

1.16.4 **To reflect, represent and service 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:** the BBC should reflect the diversity of the United Kingdom both in its output and services. In doing so, the BBC should accurately and authentically represent and portray the lives of the people of the United Kingdom today, and raise awareness of the different cultures and alternative viewpoints that make up its society. It should ensure that it provides output and services that meet the needs of the United Kingdom's nations, regions and communities. The BBC should bring people together for shared experiences and help contribute to the social cohesion and wellbeing of the United Kingdom. In commissioning and delivering output the BBC should invest in the creative economies of each of the nations and contribute to their development.

1.16.5 **To reflect the United Kingdom, its culture and values to the world:** the BBC should provide high-quality news coverage to international audiences, firmly based on British values of accuracy, impartiality, and fairness. Its international services should put the United Kingdom in a world context, aiding understanding of the United Kingdom as a whole, including its nations and regions where appropriate. It should ensure that it produces output and services which will be enjoyed by people in the United Kingdom and globally²⁴.

1.17 This Licence sets out Regulatory Conditions to ensure that the BBC continues to provide a mix of key genres and high quality output across television, radio and online, and to ensure that a significant amount of original programming is produced for audiences in the United Kingdom.

1.18 The requirements that we have set for the BBC are designed to ensure that the BBC delivers its Mission and Public Purposes and distinctive output and services. Regulatory conditions previously set by the Trust that deliver this were maintained and increased where appropriate. Other Trust targets were not retained. Where appropriate, new conditions have been set to ensure delivery of these aims.

1.19 These requirements may need to change over time, depending on the ongoing delivery and commitment of the BBC in these areas, or to reflect any real financial constraints on the BBC. These conditions may also be amended if Ofcom considers it appropriate to do so, for example in light of the BBC's performance.

²⁴ The BBC's delivery of its fifth public purpose, reflecting the UK to the world, will be achieved primarily through the BBC World Service. The new operating licence will not cover the BBC World Service; responsibility for setting a licence for the BBC World Service lies with the BBC (clause 34 of the Agreement).

- 1.20 The rest of this Licence (including the Regulatory Conditions) is organised by Public Purpose. The Regulatory Conditions are set out in Schedule 1 to the Licence.
- 1.21 Regulatory Conditions relate either to individual services or, where appropriate, set cross service commitments. It is important to note that many Regulatory Conditions may contribute to more than one Public Purpose. For example, many of the Regulatory Conditions across the Licence contribute to securing the provision of distinctive output and services. A summary of the specific Regulatory Conditions arranged by service is set out in Schedule 3 (this is for reference only).

Purpose (1): Providing impartial news and information to help people understand and engage with the world around them

- 1.22 Ofcom considers that in meeting its Public Purpose of providing impartial news and information to help people understand and engage with the world around them in accordance with its obligations under the Charter the BBC should do the following:
- 1.22.1 provide a significant level of news, current affairs and factual programming across its full range of services and platforms, and seek to reach and serve all audiences with this output;
 - 1.22.2 seek to maintain its coverage of regional, national and international themes and stories within its news, current affairs and factual programming, to enable audiences to develop a broad understanding of what is happening locally, nationally and in the wider world;
 - 1.22.3 continue to provide trusted and reliable information, news, current affairs and factual output to the highest editorial standards;
 - 1.22.4 ensure that it provides adequate links to third party online material, particularly within its news stories, helping to provide its users with a wealth of information while also supporting other providers within the industry. In doing so the BBC should exercise careful judgment about the links that it offers.
- 1.23 Accordingly, Ofcom has imposed Regulatory Conditions on the BBC as set out in Schedule 1, which the BBC must comply with and which Ofcom will enforce.

Purpose (2): Supporting learning for people of all ages

- 1.24 Ofcom considers that in meeting its Public Purpose of supporting learning for people of all ages in accordance with its obligations under the Charter the BBC should do the following:
- 1.24.1 continue to provide a broad range of content across its services, which provide opportunities for all audiences to learn. We expect the BBC to produce informal learning content which covers subjects such as art, music, religion, science, nature, business and history programming. This content should be widely available, and the BBC should endeavour to serve and reach the widest possible audiences with this content via its mainstream television channels, radio stations and websites;
 - 1.24.2 as part of its duty to encourage people to learn about new and different subjects, we expect the BBC to help both adults and children develop skills to explore and navigate the resources it offers across its services, and in particular its online services;

- 1.24.3 ensure that it serves children of all ages, including older children and teenagers, and that it produces engaging and stimulating content for informal learning which is available in the formats and on the services that children use; and
- 1.24.4 play an important role in education and learning in the United Kingdom through partnerships with educational, cultural and sporting organisations. The BBC should share its expertise and resources, including its archive where appropriate, as part of these partnerships with specialist institutions, for the benefit of UK audiences.
- 1.25 Accordingly, Ofcom has imposed Regulatory Conditions on the BBC as set out in Schedule 1, which the BBC must comply with and which Ofcom will enforce.

Purpose (3): Showing the most creative, highest quality and distinctive output and services

- 1.26 The Charter and Agreement define “distinctive output and services”, with reference to creativity and high quality. Article 63 of the Charter, and paragraph 1 of Schedule 2 to the Agreement, defines distinctive output and services as:

“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.”

- 1.27 Ofcom considers that this definition of distinctive output and services, at a high level, covers the important areas the BBC should take into account in meeting its Public Purpose of showing the most creative, highest quality and distinctive output and services in accordance with its obligations under the Charter. Ofcom considers that in delivering distinctive output and services:

1.27.1 in relation to the mix of different genres and output, the BBC should ensure that a range of programming is provided across its television services. It should also secure the amount and prominence of those genres identified as at risk or in decline across public service broadcasting. On its radio services, the BBC should ensure its portfolio of stations offer the broadest variety of output and that the range of musical output on its popular radio services is broader than that of comparable providers;

1.27.2 in relation to the quality of output, the BBC should ensure high quality across the volume of its output, with respect to content, the quality of content production, and the professional skill and editorial integrity applied to that production;

- 1.27.3 in relation to the amount of original output produced in the United Kingdom, the BBC should ensure that a substantial proportion of the programming broadcast on its television services are Original Productions, particularly at Peak Viewing Time. The BBC should also secure an appropriate amount of First-run UK Originations across its television services, ensuring they make up a substantial proportion of Peak Viewing Time. The BBC should contribute to the creative economies of the United Kingdom through its continued investment in originated content;
- 1.27.4 in relation to the level of risk-taking, innovation, challenge and creative ambition, the BBC should continue to take risks in terms of the output it commissions, the range of organisations it commissions from and look to reduce the number of long-running series over time. It should also commission output from a wide range of independent producers to ensure a range of voices and ideas are reflected across its services;
- 1.27.5 in relation to the audience it serves, the BBC should ensure that its output and services cater for the diverse audiences of the United Kingdom, through both through its popular mixed genres services and its more specialist and single purpose services.
- 1.28 Accordingly, Ofcom has imposed Regulatory Conditions on the BBC as set out in Schedule 1, which the BBC must comply with and which Ofcom will enforce.
- 1.29 Due to the complex and interrelated nature of the different aspects of distinctiveness, Ofcom considers that the BBC should set out clearly in its annual plan and creative remit how it will secure the provision of distinctive output and services and how each and every UK Public Service will contribute to this delivery.

Purpose (4): Reflecting, representing and serving the diverse communities of all of the United Kingdom's nations and regions and, in doing so, supporting the creative economy across the United Kingdom

- 1.30 Ofcom considers that in meeting its Public Purpose of reflecting, representing and serving the diverse communities of all of the United Kingdom's nations and regions and, in doing so, supporting the creative economy across the United Kingdom in accordance with its obligations under the Charter the BBC should do the following.

Nations and Regions

- 1.31 In relation to the United Kingdom's nations and regions, the BBC should:
- 1.31.1 accurately represent and authentically portray all audience groups from the nations and regions across its output, services and genres²⁵;
- 1.31.2 distribute its production resources across the United Kingdom ensuring that it supports the creative industries in the nations and regions. This should also

²⁵ "Representation" means the extent to which people and characters appear and "portrayal" means the ways in which these people and characters are depicted. For representation to be accurate we expect the number of people appearing in BBC programmes to broadly reflect the populations of the United Kingdom. We will assess the extent to which people feel authentically portrayed through audience research.

include production across the regions of England and build sustainable growth for the creative industries across the United Kingdom;

1.31.3 ensure programming for the nations and regions serves and creates content of interest and of relevance to the people living in the area for which the service is provided. Within Scotland, Wales and Northern Ireland this should include a wide range of genres, including drama, comedy, sports and indigenous language broadcasting; and

1.31.4 contribute to social wellbeing through cultural education, awareness and bringing people together for shared experiences.

Diversity

1.32 In relation to diversity, the BBC should:

1.32.1 serve and create content of interest and of relevance to all audience groups across the whole of the United Kingdom;

1.32.2 reflect the diversity of the United Kingdom's nations and regions appropriately in its output, services and genres. This should include age, disability, gender reassignment, race, religion and belief, sex, sexual orientation and socioeconomic background;

1.32.3 accurately represent and authentically portray the diverse communities of the whole of the United Kingdom; and

1.32.4 help contribute to social wellbeing through cultural education, awareness and bringing people together for shared experiences.

1.33 Accordingly, Ofcom has imposed Regulatory Conditions on the BBC as set out in Schedule 1, which the BBC must comply with and which Ofcom will enforce.

Schedule 1

Regulatory conditions

- 2.1 Ofcom has set the following Regulatory Conditions which it considers appropriate for requiring the BBC to:
- 2.1.1 fulfil its Mission and promote the Public Purposes;
 - 2.1.2 secure the provision of distinctive output and services; and
 - 2.1.3 secure that audiences in England, Scotland, Wales, and Northern Ireland are well served.
- 2.2 Ofcom has set the Regulatory Conditions in light of its expectations of the BBC as set out in this Licence. The Regulatory Conditions will be regularly reviewed by Ofcom and amended if Ofcom considers it appropriate to do so, including in light of the BBC's performance.
- 2.3 The BBC must comply with the Regulatory Conditions in providing the UK Public Services with effect from [commencement date] and throughout the Licence Period.

Purpose (1): To provide impartial news and information to help people understand and engage with the world around them

- 2.4 In respect of **BBC One**, the BBC must ensure that:
- 2.4.1 it shows news programmes at intervals throughout the day;
 - 2.4.2 in each Calendar Year, the time allocated to news programmes is not less than 1,520 hours, of which not less than 280 hours must be during Peak Viewing Time. For the purpose of this requirement, "news programmes" does not include programmes which are overnight simulcasts of programmes on the BBC News channel; and
 - 2.4.3 in each Calendar Year, the time allocated to current affairs programmes during Peak Viewing Time is not less than 45 hours.
- 2.5 In respect of **BBC One** and **BBC Two** taken together, the BBC must ensure that in each Calendar Year the time allocated to current affairs programmes is not less than 450 hours, of which not less than 106 hours must be during Peak Viewing Time.
- 2.6 In respect of **CBBC**, the BBC must ensure that:
- 2.6.1 it shows news at intervals throughout the day; and
 - 2.6.2 in each Year the time allocated to news is not less than 85 hours.
- 2.7 The BBC must ensure that the **BBC News channel** includes
- 2.7.1 more international news, and
 - 2.7.2 more local/regional news and perspectives

than other main continuous news channels in the United Kingdom.

2.8 In respect of **Radio 1**, the BBC must ensure that:

2.8.1 the time allocated to news during Daytime each weekday is not less than one hour and includes at least two extended bulletins, of which at least one must be in Peak Listening Time; and

2.8.2 it provides regular bulletins during Daytime at weekends.

2.9 In respect of **1Xtra**, the BBC must ensure that:

2.9.1 the time allocated to news during Daytime each weekday is not less than one hour and includes at least two extended bulletins; and

2.9.2 it provides regular bulletins during Daytime at weekends.

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

2.10.1 the time allocated to news and current affairs programming each week is not less than 17 hours, of which not less than 3 hours must be in Peak Listening Time; and

2.10.2 it provides regular news bulletins.

2.11 In respect of **Radio 3**, the BBC must ensure that it provides news at intervals throughout the day.

2.12 In respect of **Radio 4**, the BBC must ensure that:

2.12.1 the time allocated to news and current affair programmes (including repeats) in each Year is not less than 2,750 hours; and

2.12.2 it provides daily reports of Parliamentary proceedings when Parliament is sitting.

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

2.13.1 in each Year the proportion of its output that is news and current affairs programming is not less than 75%; and

2.13.2 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 European and international politics.

2.14 In respect of **BBC 6 Music**, the BBC must ensure that the time allocated to news in each week is not less than 6 hours.

2.15 In respect of **BBC Asian Network**, the BBC must ensure that the time allocated to news and current affairs programming each week is not less than 24 hours.

2.16 In respect of **BBC Online**, the BBC must ensure that it provides adequate links to material provided by third parties.

Purpose (2): To support learning for people of all ages

- 2.17 In respect of **BBC One**, the BBC must ensure that in each Year the time allocated to music and arts programmes is not less than 45 hours, some of which must be in Peak Viewing Time. For the purpose of this requirement, “music and arts programmes” includes repeats and acquisitions.
- 2.18 In respect of **BBC One** and **BBC Two** taken together, the BBC must ensure that in each Year the time allocated to religious programming is not less than 115 hours, some of which must be in Peak Viewing Time. For the purpose of this requirement, “religious programming” includes repeats and acquisitions.
- 2.19 In respect of **BBC Two**, the BBC must ensure that in each Year the time allocated to music and arts programming is not less than 175 hours, some of which must be in Peak Viewing Time. For the purpose of this requirement, “music and arts programmes” includes repeats and acquisitions.
- 2.20 In respect of **BBC Four**, the BBC must ensure that in each Year the time allocated to new arts and music programmes is not less than 175 hours. For the purpose of this requirement, “new arts and music programmes” includes acquisitions.
- 2.21 In respect of **CBeebies**, the BBC must ensure that in each Year it delivers content in a range of genres which supports pre-school children in their learning.
- 2.22 In respect of **CBBC**, the BBC must ensure that in each Year:
- 2.22.1 the time allocated to drama (including repeats and acquisitions) is not less than 1,000 hours; and
 - 2.22.2 the time allocated to factual programming is not less than 675 hours. For the purpose of this requirement, “factual programming” includes repeats and acquisitions.
- 2.23 In respect of **BBC Alba**, the BBC must ensure that in each week the time allocated to originated programming aimed at those learning the Gaelic language is not less than 5 hours. For the purpose of this requirement, “originated programming”:
- 2.23.1 does not include news;
 - 2.23.2 includes programming first shown on other UK Public Services.
- 2.24 In respect of **Radio 1**, the BBC must ensure that in each Year the number of first-run documentaries is not less than 40. For the purpose of this requirement “first-run documentaries” includes documentaries which have been first broadcast on 1Xtra.
- 2.25 In respect of **1Xtra**, the BBC must ensure that in each Year the number of documentaries is not less than 40. For the purpose of this requirement, “documentaries” includes repeats.
- 2.26 In respect of **Radio 2**, the BBC must ensure that in each Year:
- 2.26.1 the time allocated to arts programming is not less than 100 hours. For the purpose of this requirement, “arts programming” includes repeats;

- 2.26.2 the time allocated to documentaries is not less than 130 hours. For the purpose of this requirement, “documentaries” does not include repeats; and
 - 2.26.3 the time allocated to religious output is not less than 170 hours, and that the output covers a broad range of faiths. For the purpose of this requirement, “religious output” includes repeats.
- 2.27 In respect of **Radio 3**, the BBC must ensure that in each Year:
- 2.27.1 at least 45% of the station’s music output consists of live or specially recorded music;
 - 2.27.2 it broadcasts at least 440 live or specially recorded performances;
 - 2.27.3 it commissions at least 25 new musical works (excluding repeats); and
 - 2.27.4 it broadcasts at least 35 new documentaries on arts and cultural topics (excluding repeats).
- 2.28 In respect of **Radio 4**, the BBC must ensure that in each Year:
- 2.28.1 the time allocated to original documentaries (excluding repeats) covering a range of different subjects is not less than 375 hours; and
 - 2.28.2 the time allocated to original religious programming (excluding repeats) is not less than 200 hours.
- 2.29 In respect of **BBC 6 Music**, the BBC must ensure that the time allocated to speech-based features, documentaries and essays each week is not less than 10 hours on average across each Year.
- 2.30 In respect of **BBC Online**, the BBC must deliver content which supports children and teenagers in their formal learning in all parts of the United Kingdom.

Purpose (3): To show the most creative, high quality and distinctive output and services

Original productions

- 2.31 The BBC shall ensure that in each Calendar Year the time allocated to the broadcasting of Original Productions by each UK Public Television Service set out at column I below:
- 2.31.1 is not less than the percentage of the total time allocated to the broadcasting of all the programmes for that service specified in column II; and
- 2.31.2 is not less than the percentage of the total time allocated to the broadcasting of all the programmes for that service in Peak Viewing Time specified in column III.

Column I Service	Column II Original Productions as a percentage of the hours of all programming	Column III Original Productions in Peak Viewing Time as a percentage of the hours of all programming in Peak Viewing Time
BBC One	75%	90%
BBC Two	75%	90%
BBC Four	75%	60%
BBC Parliament	90%	-
BBC News channel	90%	-
CBBC	72%	-
CBeebies	70%	-
BBC Alba	75%	-

First-run UK Originations

- 2.32 In respect of **BBC One**, the BBC must ensure that in each Calendar Year the time allocated to the broadcasting of First-run UK Originations across Daytime and Peak Viewing Time is not less than 4,000 hours.
- 2.33 In respect of **BBC Two**, the BBC must ensure that in each Calendar Year the time allocated to the broadcasting of First-run UK Originations across Daytime and Peak Viewing Time is not less than 2,200 hours.
- 2.34 In respect of **CBBC**, the BBC must ensure that in each Calendar Year the time allocated to the broadcasting of First-run UK Originations across Daytime and Peak Viewing Time is not less than 400 hours.
- 2.35 In respect of **CBeebies**, the BBC must ensure that in each Calendar Year the time allocated to the broadcasting of First-run UK Originations across Daytime and Peak Viewing Time is not less than 100 hours.

Distinctiveness

- 2.36 In respect of **Radio 1**, the BBC must ensure that:
- 2.36.1 in each Year at least 45% of the music in Daytime is from United Kingdom acts;
 - 2.36.2 in each Year at least 50% of the music in Daytime is New Music, of which a significant proportion must come from new and emerging United Kingdom artists;
 - 2.36.3 in each week it broadcasts at least 60 hours of Specialist Music; and
 - 2.36.4 in each Year it broadcasts at least 175 new sessions (excluding repeats) that have been recorded within the previous month; and
 - 2.36.5 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.
- 2.37 In respect of **Radio 2**, the BBC must ensure that:
- 2.37.1 in each Year at least 40% of the music in Daytime is from United Kingdom acts;
 - 2.37.2 in each 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;
 - 2.37.3 in each Year it broadcasts at least 260 hours of live music;
 - 2.37.4 in each Year it broadcasts at least 1100 hours of special music programmes; and
 - 2.37.5 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.
- 2.38 In respect of **BBC Radio 5 live**, the BBC must ensure that in each Year live commentary, news and other programming is offered on at least 20 sports.

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

Programme-making in the nations and regions: network programmes

United Kingdom (outside the M25 area)

- 2.39 The BBC must ensure that in each Calendar Year:
- 2.39.1 at least 50% of the hours of Network Programmes made in the United Kingdom are made in the United Kingdom outside the M25 area;
 - 2.39.2 the Network Programmes that are made in the United Kingdom outside the M25 area (taken together) constitute a suitable range of programmes; and
 - 2.39.3 at least 50% of the Expenditure of the BBC on Network Programmes made in the United Kingdom is referable to programme production at different production centres outside the M25 area.

England (outside the M25 area)

- 2.40 The BBC must ensure that in each Calendar Year:
- 2.40.1 at least 34% of the hours of Network Programmes made in the United Kingdom are made in England (outside the M25 area); and
 - 2.40.2 at least 34% of the Expenditure of the BBC on Network Programmes made in the United Kingdom is referable to programme production at different production centres in England (outside the M25 area).

Scotland

- 2.41 The BBC must ensure that in each Calendar Year:
- 2.41.1 at least 8% of the hours of Network Programmes made in the United Kingdom are made in Scotland; and
 - 2.41.2 at least 8% of the Expenditure of the BBC on Network Programmes made in the United Kingdom is referable to programme production at different production centres in Scotland.

Wales

- 2.42 The BBC must ensure that in each Calendar Year:
- 2.42.1 at least 5% of the hours of Network Programmes made in the United Kingdom are made in Wales; and
 - 2.42.2 at least 5% of the Expenditure of the BBC on Network Programmes made in the United Kingdom is referable to programme production at different production centres in Wales.

Northern Ireland

- 2.43 The BBC must ensure that in each Calendar Year:
- 2.43.1 at least 3% of the hours of Network Programmes made in the United Kingdom are made in Northern Ireland; and
 - 2.43.2 at least 3% of the Expenditure of the BBC on Network Programmes made in the United Kingdom is referable to programme production at different production centres in Northern Ireland.

Production centres

- 2.44 The different programme production centres to which the Expenditure referred to in conditions 2.39.3, 2.40.2, 2.41.2, 2.42.2 and 2.43.2 is referable must constitute a suitable range of such production centres.

Guidance

- 2.45 In complying with conditions 2.39 to 2.44, the BBC must have regard to any guidance that may be issued by Ofcom.

Programme-making in the nations and regions: radio services

- 2.46 In respect of the **UK Public Radio Services**, the BBC must ensure that in each Year at least one third of relevant Expenditure is incurred outside the M25 area. "Relevant Expenditure" includes Expenditure on first-run originated programming, but does not include Expenditure on news or sport output. For the purpose of this requirement, "first-run originated programming" means programming which is commissioned by or for a UK Public Radio Service and has not previously been broadcast on a radio service in the United Kingdom.
- 2.47 In meeting the requirement in condition 2.46, the BBC must ensure that some of the relevant Expenditure is incurred in respect of each of the following radio services:
- 2.47.1 Radio 1;
 - 2.47.2 Radio 2;
 - 2.47.3 Radio 3;
 - 2.47.4 Radio 4;
 - 2.47.5 BBC Radio 5 live.
- 2.48 In respect of **Radio 3**, the BBC must ensure that in each Year at least 40% of relevant Expenditure is incurred outside the M25 area. For the purpose of this requirement "relevant Expenditure" includes Expenditure on first-run originated programming and Radio 3's allocation of the central orchestras' subsidy but does not include Expenditure on news or sport output.

Programming for the nations and regions

- 2.49 In respect of **BBC One** and **BBC Two** taken together, the BBC must ensure that in each Calendar Year:

- 2.49.1 the time allocated to programmes which are of national or regional interest is not less than 6,300 hours;
 - 2.49.2 those programmes include a suitable range of programmes (including regional news programmes);
 - 2.49.3 not less than 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;
 - 2.49.4 not less than 700 hours of those programmes consist of non-news programming in Peak Viewing Time; and
 - 2.49.5 not less than 335 hours of those programmes consist of non-news programming at times immediately preceding or following Peak Viewing Time.
- 2.50 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 2.49 includes not less than 4,300 hours of news of national or regional interest to be broadcast at intervals throughout the day on **BBC One**, of which not less than 2,200 hours must be during Peak Viewing Time.
- 2.51 In complying with conditions 2.49 and 2.50, the BBC must have regard to any guidance that may be issued by Ofcom.
- 2.52 In respect of **BBC Parliament**, the BBC must ensure that in each Year the time allocated to proceedings of the Scottish Parliament, Northern Ireland Assembly and Welsh Assembly is not less than 300 hours.
- 2.53 In respect of each **UK Public Radio Service** specified in condition 2.54, the BBC must ensure that in each Year, the proportion of content which is speech content on that service is:
- 2.53.1 on average at least 60% in Core Hours; and
 - 2.53.2 100% at the Breakfast Peak.
- 2.54 The following UK Public Radio Services are specified for the purpose of condition 2.53:
- 2.54.1 each BBC Local Radio service;
 - 2.54.2 BBC Radio Scotland;
 - 2.54.3 BBC Radio nan Gàidheal;
 - 2.54.4 BBC Radio Wales;
 - 2.54.5 BBC Radio Cymru;
 - 2.54.6 BBC Radio Ulster and BBC Radio Foyle.
- 2.55 In condition 2.53 “Core Hours” means 06:00 to 19:00 on Mondays to Fridays, and “Breakfast Peak” means 07:00 to 08:30 on Mondays to Fridays.

England

- 2.56 In respect of each **BBC Local Radio** station, the BBC must ensure that:
- 2.56.1 it provides news and information of particular relevance to the area and communities it serves at intervals throughout the day; and
 - 2.56.2 it provides other content of particular relevance to the area and communities it serves.
- 2.57 In respect of **BBC Local Radio**, the BBC must ensure that in each week the time allocated on each BBC Local Radio station to original, locally-made programming is not less than 95 hours. For the purpose of this requirement, "original, locally-made programming" includes programming shared with neighbouring stations broadcast between 06:00 and 19:00.
- 2.58 The requirement in condition 2.57 shall apply to the following BBC Local Radio stations as though the minimum requirement for original, locally-made programming were the time shown in the corresponding entry.

BBC Local Radio station	Minimum requirement for original, locally-made programmes
BBC Radio Guernsey	80 hours
BBC Radio Jersey	80 hours
BBC Radio Somerset	70 hours

Scotland

- 2.59 In respect of **BBC One Scotland**, the BBC must ensure that in each Calendar Year:
- 2.59.1 the time allocated to news and current affairs programmes is not less than 290 hours; and
 - 2.59.2 the time allocated to non-news programming is not less than 155 hours. For the purpose of this requirement, "non-news programming" includes repeats and acquisitions, and does not include news or current affairs programmes.
- 2.60 In respect of **BBC One Scotland** and **BBC Two Scotland** taken together, the BBC must ensure that it provides a range of genres in its programming that reflects Scotland's culture.
- 2.61 In respect of **BBC Two Scotland**, the BBC must ensure that in each Year the time allocated to non-news programming, including Gaelic language output, is not less than 200 hours. For the purpose of this requirement, "non-news programming":
- 2.61.1 includes repeats and acquisitions;
 - 2.61.2 does not include news;

- 2.61.3 does not include current affairs.
- 2.62 In respect of **BBC Alba**, the BBC must ensure that the service includes live news programmes each weekday evening, including during Peak Viewing Time, and a longer news review at the weekends.
- 2.63 In respect of **BBC Radio Scotland**, the BBC must ensure that:
 - 2.63.1 in each week the time allocated to news and current affairs (including repeats) is not less than 50 hours;
 - 2.63.2 it provides several regional opt-outs each weekday, offering news, sport and information, and some regional opt-out community programming in the evenings; and
 - 2.63.3 it provides content and music of particular relevance to Scotland.
- 2.64 In respect of **BBC Radio nan Gàidheal**, the BBC must ensure that:
 - 2.64.1 it includes news frequently across the day, particularly between 07:00 to 08:30 and 16:00 to 19:00 on Mondays to Fridays and 07:00 to 11:00 on Saturdays and Sundays; and
 - 2.64.2 it provides content and music of particular relevance to Scotland.
- 2.65 In respect of **BBC Online**, the BBC must ensure that:
 - 2.65.1 it provides content in Gaelic; and
 - 2.65.2 it provides dedicated coverage of sport in Scotland.

Wales

- 2.66 In respect of **BBC One Wales**, the BBC must ensure that in each Calendar Year:
 - 2.66.1 the time allocated to news and current affairs programmes is not less than 275 hours; and
 - 2.66.2 the time allocated to non-news programming is not less than 65 hours. For the purpose of this requirement, “non-news programming” includes repeats and acquisitions, and does not include news or current affairs programmes.
- 2.67 In respect of **BBC One Wales** and **BBC Two Wales** taken together, the BBC must ensure that it provides a range of genres in its programming that reflects Wales’s culture.
- 2.68 In respect of **BBC Two Wales**, the BBC must ensure that in each Year the time allocated to non-news programming is not less than 175 hours. For the purpose of this requirement, “non-news programming”:
 - 2.68.1 includes repeats and acquisitions;
 - 2.68.2 does not include news;
 - 2.68.3 does not include current affairs.
- 2.69 In respect of **BBC Radio Wales**, the BBC must ensure that:

- 2.69.1 in each week the time allocated to news and current affairs (including repeats and acquisitions) is not less than 32 hours; and
 - 2.69.2 it provides content and music of particular relevance to Wales.
- 2.70 In respect of **BBC Radio Cymru**, the BBC must ensure that:
- 2.70.1 in each week the time allocated to news and current affairs (including repeats) is not less than 23 hours; and
 - 2.70.2 it provides content and music of particular relevance to Wales.
- 2.71 In respect of **BBC Online**, the BBC must ensure that:
- 2.71.1 it provides content in Welsh; and
 - 2.71.2 it provides dedicated coverage of sport in Wales.

Northern Ireland

- 2.72 In respect of **BBC One Northern Ireland**, the BBC must ensure that in each Calendar Year:
- 2.72.1 the time allocated to news and current affairs programmes is not less than 310 hours; and
 - 2.72.2 the time allocated to non-news programming is not less than 90 hours. For the purpose of this requirement, "non-news programming" includes repeats and acquisitions, and does not include news or current affairs programmes.
- 2.73 In respect of **BBC One Northern Ireland** and **BBC Two Northern Ireland** taken together, the BBC must ensure that it provides a range of genres in its programming that reflects Northern Ireland's culture.
- 2.74 In respect of **BBC Two Northern Ireland**, the BBC must ensure that in each Year the time allocated to non-news programming is not less than 60 hours. For the purpose of this requirement, "non-news programming":
- 2.74.1 includes repeats and acquisitions;
 - 2.74.2 does not include news;
 - 2.74.3 does not include current affairs.
- 2.75 In respect of **BBC Two Northern Ireland**, the BBC must ensure that it provides programming in the Irish and Ulster Scots languages.
- 2.76 In respect of **BBC Radio Ulster** and **BBC Radio Foyle**, the BBC must ensure that:
- 2.76.1 in each week the time allocated to news and current affairs (including repeats) on Radio Ulster is not less than 35 hours;
 - 2.76.2 in each week the time allocated to news and current affairs (including repeats) on Radio Foyle is not less than 20 hours;
 - 2.76.3 it provides content and music of particular relevance to Northern Ireland; and

2.76.4 in each Year the time allocated to indigenous minority language programming, including Irish and Ulster Scots output, is not less than 240 hours. For the purpose of this requirement, "indigenous minority language programming" includes repeats and acquisitions.

2.77 In respect of **BBC Online**, the BBC must ensure that:

2.77.1 it provides content in Irish and Ulster Scots; and

2.77.2 it provides dedicated coverage of sport in Northern Ireland.

Diversity

2.78 The BBC must report annually on how the UK Public Services as a whole have reflected, represented and served the diverse communities of the whole of the United Kingdom during the previous Year. In particular, the BBC must demonstrate how it has:

2.78.1 had regard to the range of the diverse communities of the whole of the United Kingdom. This should include age, disability, gender reassignment, race, religion and belief, sex, sexual orientation and socioeconomic background;

2.78.2 served and delivered content for the range of the diverse communities of the whole of the United Kingdom;

2.78.3 accurately represented the diverse communities of the whole of the United Kingdom;

2.78.4 authentically portrayed the diverse communities of the whole of the United Kingdom; and

2.78.5 raised awareness of the different cultures and alternative viewpoints of the diverse communities of the whole of the United Kingdom.

2.79 The BBC must measure and report annually on audience satisfaction during the previous Year with the reflection, representation and serving of the diverse communities of the whole of the United Kingdom across the UK Public Services as a whole, with particular regard to first-run content across all genres. This must include audience satisfaction in the following areas:

2.79.1 how the BBC represents, portrays and serves diverse audiences;

2.79.2 how the BBC reflects the whole of the United Kingdom population on-screen and on-air, with particular regard to first-run content across all genres; and

2.79.3 how the BBC raises awareness of different cultures and viewpoints.

2.80 Where in any particular Year the BBC's measurement of audience satisfaction under condition 2.79 indicates that specific audience groups are dissatisfied with the BBC's performance in these areas, the BBC must:

2.80.1 identify in its report under condition 2.79 for that Year the steps that it will take to seek to improve audience satisfaction among those particular audience groups; and

2.80.2 include in its report under condition 2.79 for the following Year an account of the steps it has taken and the effect that those steps have had on audience satisfaction in those particular audience groups.

2.81 The BBC must establish and comply with a code of practice, approved by Ofcom, setting out the steps the BBC will take when commissioning content across all genres to ensure that such content accurately represents, authentically portrays and reflects the diverse communities of the whole of the United Kingdom.

Schedule 2

Definitions and interpretation

3.1 In this Licence, unless the context requires otherwise:

“the Agreement” means the agreement between the Secretary of State for Culture, Media and Sport and the BBC made on 7 December 2016;

“the BBC” means the British Broadcasting Corporation;

“BBC One Northern Ireland” means the version of BBC One for Northern Ireland;

“BBC One Scotland” means the version of BBC One for Scotland;

“BBC One Wales” means the version of BBC One for Wales;

“BBC Two Northern Ireland” means the version of BBC Two for Northern Ireland;

“BBC Two Scotland” means the version of BBC Two for Scotland;

“BBC Two Wales” means the version of BBC Two for Wales;

“Breakfast Peak” has the meaning set out in condition 2.55;

a **“Calendar Year”** means a period of 12 months starting on 1 January, with the first such period starting on 1 January 2018;

“the Charter” means the Royal Charter for the continuance of the BBC for the period ending on 31 December 2027;

“Core Hours” has the meaning set out in condition 2.55;

“Daytime” means:

- (a) 06:00 to 18:00 in relation to a UK Public Television Service;
- (b) 06:00 to 19:00 on Mondays to Fridays and 08:00 to 14:00 on Saturdays and Sundays in relation to a UK Public Radio Service;

“Expenditure”, in relation to a programme, means:

- (a) expenditure which constitutes an investment in or is otherwise attributable to the making of the programme, or
- (b) expenditure on the commissioning or other acquisition of the programme or on the acquisition of a right to include it in a service or to have it broadcast;

“First-run UK Originations” means programmes which

- (a) are commissioned by or for a UK Public Television Service, and
- (b) have not previously been shown on television in the United Kingdom;

“the Licence Period” means the period from [commencement date] to 31 December 2027;

“the M25 Area” means the area the outer boundary of which is represented by the London Orbital Motorway (M25);

“Network Programmes” means 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;

“New Music” means:

- (a) music which has never been released, either by physical release or by download release;
- (b) music which has been released within the previous month, either by physical release or by download release or by both. In cases where the date of physical release is different from the date of download release, the earlier date shall be deemed to be the date of release;

“Ofcom” means the Office of Communications established under the Office of Communications Act 2002;

“Original Productions”, in relation to the UK Public Television Services taken together, has the same meaning that is specified by the Broadcasting (Original Productions) Order 2004 or any subsequent order under section 278(6) of the Communications Act 2003 in relation to a licensed public service channel;

“Peak Listening Time” means 06:00 to 10:00 and 16:00 to 19:00 on Mondays to Fridays, and 07:00 to 11:00 on Saturdays and Sundays;

“Peak Viewing Time” means 18:00 to 22:30;

“the Public Purposes” means the public purposes of the BBC as set out in Article 6 of the Charter;

“the Regulatory Conditions” means the regulatory conditions in Schedule 1 of the Licence, as amended by Ofcom from time to time;

“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;

“the UK Public Radio Services” means those UK Public Services which consist of radio programme services, and **“UK Public Radio Service”** means any of those services;

“the UK Public Services” means the services included in the list maintained and published by the BBC under Part 1 of Schedule 1 to the Agreement, as amended by the BBC from time to time;

“the UK Public Television Services” means those UK Public Services which consist of television programme services, and **“UK Public Television Service”** means any of those services;

a “**Year**” means a period of 12 months starting on 1 April, with the first such period starting on 1 April 2018.

- 3.2 Terms used in this Schedule have the same meaning as in the Charter and the Agreement, unless the context requires otherwise.
- 3.3 Words importing the masculine gender include the feminine and vice versa.
- 3.4 Words in the singular include the plural.
- 3.5 References to particular legislation should be read as referring to that legislation as amended or re-enacted from time to time.
- 3.6 Headings are for convenience only and do not form part of the Regulatory Conditions.

Schedule 3

Summary of regulatory conditions

4.1 This Schedule is a reference guide only.

4.2 This is a summary of the Regulatory Conditions applying to each service. The full and authoritative text of each relevant Regulatory Condition is set out in Schedule 1.

Name of service	Summary of Regulatory Condition	Regulatory Condition number
BBC One	News programmes at intervals throughout the day	2.4.1
BBC One	Calendar Year quota for news (1,520 hours) and news in Peak (280 hours)	2.4.2
BBC One	Calendar Year quota for current affairs in Peak (45 hours)	2.4.3
BBC One	Annual quota for music and arts programmes in Peak (45 hours)	2.17
BBC One	Calendar Year quota for Original Productions as a percentage of the hours of all programming (75%), and as a percentage of all programming in Peak (90%)	2.31
BBC One	Calendar Year quota for First-run UK Originations across Daytime and Peak (4,000 hours)	2.32
BBC One and BBC Two	Calendar Year quota for current affairs programmes (450 hours, of which 106 hours must be during Peak)	2.5
BBC One and BBC Two	Annual quota for religious programming (115 hours, some of which must be during Peak)	2.18
BBC One and BBC Two	Calendar Year quota for programmes of national or regional interest (6,300 hours), to include <ul style="list-style-type: none"> • a suitable range of programmes; • not less than 95% made in relevant nation or region; • 700 hours of non-news programming in Peak; • 335 hours of non-news programming immediately preceding or following Peak; • a specific requirement for BBC One to broadcast at least 4,300 hours of news of national or regional interest at intervals throughout the day, of which 2,200 hours must be during Peak. 	2.49; 2.50
BBC Two	Annual quota for music and arts programming (175 hours, some of which must be during Peak)	2.19
BBC Two	Calendar Year quota for Original Productions as a percentage of the hours of all programming (75%), and as a percentage of all programming in Peak (90%)	2.31

BBC Two	Calendar Year quota for First-run UK Originations across Daytime and Peak (2,200 hours)	2.33
BBC One Scotland	Calendar Year quota for news and current affairs programmes (290 hours) and non-news programmes (155 hours)	2.59
BBC One Scotland and BBC Two Scotland	Range of genres in programming that reflects Scotland's culture	2.60
BBC Two Scotland	Annual quota for non-news programming, including Gaelic output (200 hours)	2.61
BBC One Wales	Calendar Year quota for news and current affairs programmes (275 hours) and non-news programmes (65 hours)	2.66
BBC One Wales and BBC Two Wales	Range of genres in programming that reflects Wales's culture	2.67
BBC Two Wales	Annual quota for non-news programming (175 hours)	2.68
BBC One Northern Ireland	Calendar year quota for news and current affairs programmes (310 hours) and non-news programmes (90 hours)	2.72
BBC One Northern Ireland and BBC Two Northern Ireland	Range of genres in programming that reflects Northern Ireland's culture	2.73
BBC Two Northern Ireland	Annual quota for non-news programming (60 hours)	2.74
BBC Two Northern Ireland	Programming in Irish and Ulster Scots	2.75
BBC Four	Annual quota for new arts and music programmes (175 hours)	2.20
BBC Four	Calendar Year quota for Original Productions as a percentage of the hours of all programming (75%), and as a percentage of all programming in Peak (60%)	2.31
CBeebies	Annual delivery of content in range of genres that supports pre-school children in their learning	2.21
CBeebies	Calendar Year quota for Original Productions as a percentage of the hours of all programming (70%)	2.31
CBeebies	Calendar Year quota for First-run UK Originations across Daytime and Peak (100 hours)	2.35
CBBC	News programmes at intervals throughout the day	2.6.1
CBBC	Annual quota for news programmes (85 hours)	2.6.2

CBBC	Annual quota for drama (1,000 hours)	2.22.1
CBBC	Annual quota for factual programming (675 hours)	2.22.2
CBBC	Calendar Year quota for Original Productions as a percentage of the hours of all programming (72%)	2.31
CBBC	Calendar Year quota for First-run UK Originations across Daytime and Peak (400 hours)	2.34
BBC News channel	More international news and more local/regional news and perspectives than other main continuous news channels in the UK	2.7
BBC News channel	Calendar Year quota for Original Productions as a percentage of the hours of all programming (90%)	2.31
BBC Parliament	Calendar year quota for Original Productions as a percentage of the hours of all programming (90%)	2.31
BBC Parliament	Annual quota for coverage of proceedings of the Scottish Parliament, Northern Ireland Assembly and Welsh Assembly (300 hours)	2.52
BBC Alba	Weekly quota for originated programming for learners of the Gaelic language (5 hours)	2.23
BBC Alba	Calendar Year quota for Original Productions as a percentage of the hours of all programming (75%)	2.31
BBC Alba	Live news programmes each weekday evening, including during Peak, and a longer news review at weekends	2.62
UK Public Television Services (Network Programmes)	Calendar Year quota for network programmes made outside the M25 area (50% of hours of network programmes made in the UK; 50% of expenditure of BBC on network programmes made in the UK; suitable range of network programmes to be made outside the M25 area)	2.39; 2.44
UK Public Television Services (Network Programmes)	Calendar Year quota for network programmes made in England (outside M25 area) (34% of hours of network programmes made in the UK; 34% of BBC expenditure on network programmes made in the UK, at a suitable range of different production centres)	2.40; 2.44
UK Public Television Services (Network Programmes)	Calendar year quota for network programmes made in Scotland (8% of hours of network programmes made in the UK; 8% of BBC expenditure on network programmes made in the UK, at a suitable range of different production centres in Scotland)	2.41; 2.44

UK Public Television Services (Network Programmes)	Calendar year quota for network programmes made in Wales (5% of network programmes made in the UK; 5% of BBC expenditure on network programmes made in the UK, at a suitable range of different production centres in Wales)	2.42; 2.44
UK Public Television Services (Network Programmes)	Calendar year quota for network programmes made in Northern Ireland (3% of network programmes made in UK; 3% of BBC expenditure of network programmes that are made in the UK, at a suitable range of different production centres in Northern Ireland)	2.43; 2.44
Radio 1	Daily quota for news programmes (1 hour), including two extended bulletins with one in Peak	2.8.1
Radio 1	News programmes at regular intervals throughout the daytime at weekends	2.8.2
Radio 1	Annual quota of first-run documentaries (40 hours)	2.24
Radio 1	Annual quota for music in Daytime from UK acts (45%)	2.36.1
Radio 1	Annual quota for New Music in Daytime (50%), with a significant proportion from new and emerging UK artists	2.36.2
Radio 1	Weekly quota for Specialist Music (60 hours)	2.36.3
Radio 1	Annual quota for new sessions (175)	2.36.4
Radio 1	Broader range of music (number of plays and size of playlist) than comparable providers during Peak and Daytime	2.36.5
1Xtra	Quota for news during weekday Daytime (1 hour, including two extended bulletins)	2.9.1
1Xtra	Bulletins at regular intervals during Daytime at weekends	2.9.2
1Xtra	Annual quota for number of documentaries (40)	2.25
Radio 2	Weekly quota for news and current affairs programming (17 hours, with 3 hours in Peak)	2.10.1
Radio 2	Regular news bulletins	2.10.2
Radio 2	Annual quota for arts programming (100 hours)	2.26.1
Radio 2	Annual quota for documentaries (130 hours)	2.26.2
Radio 2	Annual quota for religious output for broad range of faiths (170 hours)	2.26.3
Radio 2	Annual quota for music from UK acts during Daytime (40%)	2.37.1

Radio 2	Annual quota for New Music in Daytime (20%), with a significant proportion from new and emerging UK artists	2.37.2
Radio 2	Annual quota for live music (260 hours)	2.37.3
Radio 2	Annual quota for special music programmes (1,100 hours)	2.37.4
Radio 2	Broader range of music (number of plays and size of playlist) than comparable providers during Peak and Daytime	2.37.5
Radio 3	News intervals throughout the day	2.11
Radio 3	Annual quota for live or specially recorded music (45%)	2.27.1
Radio 3	Annual quota for live or specially recorded performances (440)	2.27.2
Radio 3	Annual quota for commissions of new musical works (25)	2.27.3
Radio 3	Annual quota for new documentaries on arts and cultural topics (35)	2.27.4
Radio 3	Annual quota for relevant expenditure incurred outside the M25 area (40%)	2.48
Radio 4	Annual quota for news and current affairs programmes (2,750 hours)	2.12.1
Radio 4	Daily reports of Parliamentary proceedings when Parliament is sitting	2.12.2
Radio 4	Annual quota for original documentaries covering range of subjects (375 hours)	2.28.1
Radio 4	Annual quota for original religious programming (200 hours)	2.28.2
BBC Radio 5 live	Annual quota for news and current affairs programming (75% of output)	2.13.1
BBC Radio 5 live	Extensive coverage of elections (local, general, and the devolved chambers) and regular coverage of European and international politics	2.13.2
BBC Radio 5 live	Annual quota for live commentary, news and other programming on 20 sports	2.38
BBC 6 Music	Weekly quota for news (6 hours)	2.14
BBC 6 Music	Weekly quota for speech-based features, documentaries and essays (10 hours, on average across each Year)	2.29
BBC Asian Network	Weekly quota for news and current affairs programming (24 hours)	2.15
BBC Radio Scotland	Annual quota for speech content (60% in core hours; 100% at breakfast peak)	2.53

BBC Radio Scotland	Weekly quota for news and current affairs (50 hours)	2.63.1
BBC Radio Scotland	Several regional opt-outs each weekday, and some regional opt-out community programming in evenings	2.63.2
BBC Radio Scotland	Content and music of particular relevance to Scotland	2.63.3
BBC Radio nan Gàidheal	Annual quota for speech content (60% in core hours; 100% at breakfast peak)	2.53
BBC Radio nan Gàidheal	News frequently across the day	2.64.1
BBC Radio nan Gàidheal	Content and music of particular relevance to Scotland	2.64.2
BBC Radio Wales	Annual quota for speech content (60% in core hours; 100% at breakfast peak)	2.53; 2.60; 2.61
BBC Radio Wales	Weekly quota for news and current affairs (32 hours)	2.69.1
BBC Radio Wales	Content and music of particular relevance to Wales	2.69.2
BBC Radio Cymru	Annual quota for speech content (60% in core hours; 100% at breakfast peak)	2.53
BBC Radio Cymru	Weekly quota for news and current affairs (23 hours)	2.70.1
BBC Radio Cymru	Content and music of particular relevance to Wales	2.70.2
BBC Radio Ulster and BBC Radio Foyle	Annual quota for speech content (60% in core hours; 100% at breakfast peak)	2.53
BBC Radio Ulster and BBC Radio Foyle	Weekly quota for news and current affairs (including repeats) (35 hours for BBC Radio Ulster, 20 hours for BBC Radio Foyle)	2.76.1
BBC Radio Ulster and BBC Radio Foyle	Content and music of particular relevance to NI	2.76.3
BBC Radio Ulster and BBC Radio Foyle	Annual quota for indigenous minority language programming, including Irish and Ulster Scots (240 hours)	2.76.4
BBC Local Radio (each station in England)	News and information of particular relevance to the area and communities at intervals throughout the day, other content of particular relevance	2.56
BBC Local Radio (each station in England)	Weekly quota for original, locally-made programming (95 hours), with exceptions for BBC Radio Guernsey; BBC Radio Jersey; and BBC Radio Somerset	2.57; 2.58

Each BBC Local Radio service	Annual quota for speech content (60% in core hours; 100% at breakfast peak)	2.53
UK Public Radio Services	Annual quota on relevant expenditure incurred outside the M25 area (33.3% of relevant expenditure, with some incurred in respect of Radio 1, Radio 2, Radio 3, Radio 4, and BBC Radio 5 live services)	2.46; 2.47
BBC Online	Adequate links to material provided by third parties	2.16
BBC Online	Content that supports children and teenagers in their formal learning in all parts of the UK	2.30
BBC Online	Content in Gaelic	2.65.1
BBC Online	Dedicated coverage of sport in Scotland	2.65.2
BBC Online	Content in Welsh	2.71.1
BBC Online	Dedicated coverage of sport in Wales	2.71.2
BBC Online	Content in Irish and Ulster Scots	2.77.1
BBC Online	Dedicated coverage of sport in NI	2.77.2
UK Public Services (Diversity)	Annual report demonstrating how BBC has had regard to, served and delivered content for, accurately represented, authentically portrayed, and raised awareness of the different cultures and alternative viewpoints of the diverse communities of the whole of the UK	2.78
UK Public Services (Diversity)	Compliance with a commissioning code of conduct, to ensure accurate representation, authentic portrayal and reflection of the diverse communities of the whole of the UK	2.81
UK Public Services (Diversity)	Annual measuring and report on audience satisfaction on how the BBC represents, portrays and serves diverse audiences, and identifying steps it will take to improve audience satisfaction in particular amongst any dissatisfied audience groups	2.79; 2.80

Schedule 4

The UK Public Services

5.1 The Licence applies to the BBC's UK Public Services. These are the services included in the list maintained and published by the BBC under Part 1 of Schedule 1 to the Agreement, as amended by the BBC from time to time. A material change to the UK Public Services may require the list to be amended.

5.2 The Agreement specifies the initial list of UK Public Services²⁶. We have reproduced that list here for ease of reference:

(1) As television services designed for audiences across the United Kingdom:

- (a) BBC One: a mixed-genre channel, with versions for Scotland, Wales and Northern Ireland and variations for English regions and the Channel Islands, providing a very broad range of programmes to a mainstream audience;
- (b) BBC Two: a mixed-genre channel, with versions for Scotland, Wales and Northern Ireland, carrying a broad range of programmes for a mainstream audience, but with a particular focus on factual programmes, innovative comedy and drama;
- (c) BBC Four: a channel providing an intellectually and culturally enriching alternative to mainstream programming on other BBC channels;
- (d) CBeebies: a channel providing a range of programming to educate and entertain very young children;
- (e) CBBC: a mixed-schedule channel for pre-teen children;
- (f) BBC News: a rolling news channel providing news, analysis and other international programmes;
- (g) BBC Parliament: a channel providing substantial live coverage of debates and committees of the United Kingdom's Parliaments and Assemblies, and other political coverage; and
- (h) BBC Red Button: interactive digital content including news and other information, both freestanding and in support of the other linear services but also providing an access and navigation point for non-linear BBC content.

(2) As radio services designed for audiences across the United Kingdom:

- (a) Radio 1: principally a popular music services aimed at young audiences, with a commitment to the best new music, but also containing significant speech output;
- (b) 1Xtra: a service of contemporary black music, with a focus on new and live music, alongside significant speech output for young audiences;
- (c) Radio 2: a service providing a broad range of popular and specialist music and speech output including news, current affairs and factual programming;
- (d) Radio 3: a service centred on classical music, alongside other music and art forms and speech output, and with a strong focus on live and specially recorded music;
- (e) Radio 4: a speech-based service including news, current affairs, factual programmes, drama, readings and comedy;

²⁶ Paragraph 1(2) and paragraph 2 of Part 1, Schedule 1 to the Agreement.

- (f) BBC 4 Extra: a speech-based service offering comedy, drama and readings, mainly from the BBC archive;
 - (g) BBC Radio 5 live: 24-hour coverage of news and sport;
 - (h) BBC Radio 5 live sports extra: a part-time extension to BBC Radio 5 live providing additional live coverage of sporting events;
 - (i) BBC 6 Music: a service of popular music outside the current mainstream, together with speech output which provides context for that music; and
 - (j) BBC Asian Network: a service bringing a wide range of news, music and factual programming to audiences of British Asians.
- (3) As television and radio services designed primarily for audiences in particular parts of the United Kingdom:
- (a) BBC Radio Scotland: a radio service available throughout Scotland, with a mixed schedule of music and speech output;
 - (b) BBC Radio nan Gàidheal: a radio service of programming in the Gaelic language in Scotland;
 - (c) BBC Radio Wales: a radio service available throughout Wales, with a mixed schedule of music and speech output in the English language;
 - (d) BBC Radio Cymru: a radio service available throughout Wales with programming in the Welsh language;
 - (e) BBC Radio Ulster and BBC Radio Foyle: a radio service with a mixed schedule of music and speech output, in which BBC Radio Ulster is available throughout Northern Ireland except that at certain times BBC Radio Foyle is provided instead to audiences in the western parts of Northern Ireland;
 - (f) BBC Local Radio: a number of local radio services for audiences in different parts of England and the Channel Islands, providing a mixture of music and speech output; and
 - (g) BBC Alba: a mixed-genre television channel for Gaelic speakers and those interested in the Gaelic language and culture, provided by the BBC in partnership with MG Alba.
- (4) As online services designed for users across the United Kingdom, BBC Online: a comprehensive online content service, with content serving the whole range of the BBC's Public Purposes and including the BBC's news and sports websites, BBC iPlayer and BBC Three for younger adult audiences.

Annex 5

Operating Framework: proposed procedures and considerations for setting and amending the operating licence

Introduction

- A5.1 Under the Royal Charter⁷⁵ and the agreement between the Secretary of State for Culture, Media and Sport, and the BBC (the “**Agreement**”) published by Government on 15 December 2016, Ofcom is required to set an operating licence for the BBC’s UK Public Services (a “**Licence**”)⁷⁶. Ofcom must set a Licence in accordance with the provisions that Ofcom has set out in the BBC’s Operating Framework.⁷⁷
- A5.2 This document forms part of the BBC’s Operating Framework. It sets out how Ofcom will set and administer the operating licence regime and the procedures to be followed. In particular, it sets out: (a) the procedure for setting and amending regulatory conditions in a Licence; and (b) the considerations Ofcom will have regard to in setting or amending those conditions.⁷⁸

Procedure

- A5.3 The Agreement provides that before setting a Licence, Ofcom must consult the BBC and any person Ofcom considers appropriate.⁷⁹ Further, the Agreement provides that the requirement that Ofcom consult the BBC and any person Ofcom considers appropriate also applies where Ofcom is amending a Licence⁸⁰. The procedural requirements set out below apply to setting or amending a regulatory condition in a Licence. Any part of a Licence that is not a regulatory condition (that is, it does not impose enforceable obligations on the BBC) can be amended by Ofcom without consultation.
- A5.4 When Ofcom consults on setting a regulatory condition in a Licence or amending a regulatory condition in a Licence, Ofcom will do so in compliance with its

⁷⁵ The Royal Charter for the continuance of the British Broadcasting Corporation (the “**Charter**”), available at <https://www.gov.uk/government/publications/bbc-charter-and-framework-agreement>

⁷⁶ Article 46(3) of the Charter.

⁷⁷ Article 46(3) of the Charter.

⁷⁸ Clause 15(2) of the Agreement.

⁷⁹ Clause 13(5) of the Agreement

⁸⁰ Clause 80 of the Agreement.

Consultation Principles.⁸¹ In particular, Ofcom will be clear about whom it is consulting, why, on what questions and for how long.

- A5.5 Where Ofcom is considering setting a new Licence, including replacing an existing Licence, Ofcom would generally expect that it would be appropriate to consult publicly on its proposals. Where Ofcom is considering an amendment to a Licence, Ofcom will consult the BBC, and Ofcom will decide on a case by case basis which other persons (if any) it is appropriate to consult, having regard to the nature and significance of the proposed amendment. For example, a proposal to make a minor amendment may not require a public consultation.
- A5.6 Ofcom will give a reasonable period of time for responses to a consultation to be submitted. Ofcom will assess what is reasonable in light of the nature and significance of the proposal, having regard to its Consultation Principles.
- A5.7 If Ofcom considers that it needs further information before deciding whether to set a Licence or amend a Licence, whether from the BBC or from another person, Ofcom will seek that information before taking a decision. The Charter gives Ofcom information-gathering powers in relation to its functions under the Charter and Agreement.⁸²
- A5.8 Ofcom will set a Licence, or make an amendment to a Licence, having taken account of all the views and information supplied. Ofcom will send a hard copy of the Licence or amendment to the BBC and publish the Licence or amendment on Ofcom's website.
- A5.9 Ofcom may propose setting a new Licence or amending an existing Licence on its own initiative (for example, if Ofcom considers it appropriate to do so in light of evidence about the BBC's performance). It is also possible that such a proposal may come from the BBC. Where the BBC wishes to make such a request to Ofcom, it should do so in writing, setting out the reasons for its request.
- A5.10 Potential changes to UK Public Services could be the subject of assessments by the BBC and/or Ofcom under clauses 7 to 12 of the Agreement. Where a change is likely to require an amendment to the Licence, Ofcom will consider the appropriate timing for its assessment of the Licence change so that separate processes can be avoided where possible.

Considerations

- A5.11 When setting or amending a Licence, Ofcom will apply the relevant legal framework.
- A5.12 Ofcom is a statutory corporation created by the Office of Communications Act 2002.
- A5.13 Ofcom's power to regulate the BBC is derived from the Communications Act 2003, which sets out that for the purposes of the carrying out regulation of the BBC we will

⁸¹ <https://www.ofcom.org.uk/consultations-and-statements/how-will-ofcom-consult>

⁸² Article 47 of the Charter.

- A5.14 have such powers and duties as may be conferred on us by or under the Charter and Agreement⁸³. Our general duties under section 3 of the Communications Act 2003 apply to the exercise of our functions in relation to the BBC⁸⁴. Ofcom's section 3 duties include its 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 competition⁸⁵.
- A5.15 Ofcom's section 3 duties also include a requirement on Ofcom to have regard, in all case, to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles appearing to Ofcom to represent the best regulatory practice⁸⁶.
- A5.16 Article 45(2) of the Charter provides that Ofcom must have regard, in carrying out its functions, to such of the following as appear to us to be relevant in the circumstances:
- 5.16.1 the object of the BBC to fulfil its Mission and to promote the Public Purposes;
 - 5.16.2 the desirability of protecting fair and effective competition in the United Kingdom;
 - 5.16.3 the requirement for the BBC to comply with its duties under the Charter, including its general duties.
- A5.17 Article 46 of the Charter (Principal functions of Ofcom) sets out that Ofcom must set an operating licence for the UK Public Services, in accordance with the Operating Framework, which must contain regulatory conditions we consider appropriate for requiring the BBC to:
- 5.17.1 fulfil its Mission and promote the Public Purposes;
 - 5.17.2 secure the provision of distinctive output and services; and
 - 5.17.3 secure that audiences in Scotland, Wales, Northern Ireland and England are well served.⁸⁷
- A5.18 The provisions of the Agreement which are most relevant to the setting or amending of a Licence are clause 13 and Schedule 2.
- A5.19 Clause 13 of the Agreement requires Ofcom to set and publish one or more operating licences for the UK Public Services. It provides that Ofcom:

⁸³ Section 198 of the Communications Act 2003.

⁸⁴ Article 45(1) of the Charter.

⁸⁵ Section 3(1) of the Communications Act 2003.

⁸⁶ Section 3(3) of the Communications Act 2003.

⁸⁷ Article 46(3) of the Charter

- 5.19.1 must impose the regulatory conditions set out in, and in accordance with, Schedule 2 (operating licence regulatory conditions);
 - 5.19.2 may impose such further regulatory conditions we consider appropriate for requiring the BBC, in carrying out the UK Public Services, to fulfil the Mission and promote the Public Purposes;
 - 5.19.3 may impose such further regulatory conditions we consider appropriate for requiring the BBC to secure that the audiences in Scotland, Wales, Northern Ireland and England are well served.
- A5.20 Schedule 2 to the Agreement requires Ofcom to do the following:
- 5.20.1 to have particular regard, in imposing the regulatory conditions, to the need for the BBC to secure the provision of distinctive output and services;
 - 5.20.2 in imposing the regulatory conditions in the first operating licence, to seek to increase the current requirements on the BBC as a whole to secure the provision of more distinctive output and services. The Agreement sets out specific areas to which Ofcom must have particular regard in carrying out this requirement (paragraph 2(2) to (5) of Schedule 2);
 - 5.20.3 to impose on the BBC the requirements Ofcom consider appropriate for ensuring adequate links to material provided by third parties from BBC Online;
 - 5.20.4 to impose specified requirements for the UK Public Television Services relating to the provision of news programmes and current affairs programmes;
 - 5.20.5 to impose, in relation to each of the UK Public Television Services, specified requirements relating to the broadcasting of original productions;
 - 5.20.6 to impose specified requirements for the UK Public Television Services in relation to programming for the nations and regions; and
 - 5.20.7 to impose specified requirements for the UK Public Television Services in relation to programme making in the nations and regions.
- A5.21 In setting a new regulatory condition in a Licence, or amending an existing regulatory condition, Ofcom will have regard to the 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.

Annex 6

Overview of proposed framework for assessing the performance of the BBC

- A6.1 This annex provides an overview, for illustrative purposes, of the types of metrics we propose to capture through our performance measurement framework. We have provided such an overview for each of Public Purposes 1, 2, 3 and 4. To aid clarity we have further broken down:
- 6.1.1 Public Purpose 2 between (a) learning for children and teenagers and (b) learning for people of all ages;
 - 6.1.2 Public Purpose 4 between (a) nations and regions and (b) diversity.
- A6.2 The performance measures for Purpose 3 are structured with consideration to the definition of “distinctive outputs and services” as detailed in Schedule 2, section 1 (2) of the Agreement.

Purpose 1: Impartial news and information

A6.3 In this area of our performance measurement framework we propose to focus, where possible, on the following genres: national and international news; current affairs, serious factual (but not factual entertainment).

Performance measure	Metric example	What it tells us	TV/Radio/Online	Frequency of analysis
Availability	Hours of first-run UK originated output <i>e.g. hours of national news broadcast on BBC One</i>	The amount of news content made available to audiences.	All	Annual
	Spend on first-run UK originated output <i>e.g. spend on news output across the BBC</i>	A proxy for quality; high levels of investment serve as a proxy for high-quality content.	All	Annual
	Content analysis <i>e.g. the range and type of stories covered</i>	An independent case study assessment of the tone and content (e.g. nations or international themes) of the BBC's news output.	All	Ad hoc
Consumption	Reach <i>e.g. the proportion of the UK population that have consumed news from the BBC in an average week</i>	The extent to which different audiences are accessing news from the BBC	All	Annual
	Minutes consumed <i>e.g. time spent watching current affairs on BBC TV services</i>	A proxy for engagement levels with BBC news content among different audiences.	All	Annual
Impact	Quantitative audience research <i>e.g. audiences asked to rate the extent to which BBC news helps them understand what's going on in the world today</i>	The extent to which different audiences are satisfied with BBC news provision across a range of dimensions.	All	Annual
	Qualitative audience research <i>e.g. audiences asked about BBC's delivery of news content</i>	Provides considered views about BBC performance across a range of audiences.	All	Ad hoc
Contextual factors	Qualitative information from the BBC and others	Relevant qualitative information from the BBC or elsewhere that helps to describe how the BBC has delivered this purpose.	All	Ad hoc

Purpose 2: Learning for children and teenagers

A6.4 In this area of our performance framework we propose to cover formal education, with a specific focus on the BBC's *Bitesize* service. We will also report on the BBC's schools programmes on television.

Performance measure	Metric example	What it tells us	TV/Radio / Online	Frequency of analysis
Availability	Hours of total output <i>e.g. hours of schools content broadcast on BBC Two</i>	The amount of schools content that is available for children and teenagers.	TV	Annual
	Spend on total output <i>e.g. spend on formal education content</i>	A proxy for the priority level of formal education content across the BBC.	TV & Online	Annual
Consumption	Reach among school-aged children and teenagers <i>e.g. proportion of secondary school children who have used Bitesize</i>	The extent to which children and teenagers are accessing BBC educational content, with a specific focus on Bitesize.	TV & Online	Annual
	Minutes consumed among school-aged children and teenagers <i>e.g. time spent on Bitesize</i>	A proxy for engagement with BBC educational content among children and teenagers.	TV & Online	Annual
Impact	Quantitative audience research <i>e.g. parents asked to rate the extent to which BBC services help my child/ren with what they learn at school/college</i>	Parents/carers' and teens' opinions on the BBC's impact in relation to formal education.	Online	Annual
	Qualitative expert opinions <i>e.g. secondary school teachers asked the extent to which they are satisfied with the content provided on Bitesize</i>	Provides the perspective of professionals on the quality, delivery an impact of the BBC's formal education provision for children and teenagers.	Online	Ad hoc

Purpose 2: Learning for people of all ages

A6.5 In this area of our performance measurement framework we propose to focus on genres most likely to contain informal educational content including arts, music, religion, science, business and other specialist factual, documentaries, children's content.

Performance measure	Metric example	What it tells us	TV/Radio/ Online	Frequency of analysis
Availability	Hours of total output and first-run UK originations by genre <i>e.g. hours of arts and music content broadcast across the BBC</i>	The amount of informal education content that is available to audiences.	All	Annual
	Spend on total output and first-run UK originations by genre <i>e.g. spend on total children's content</i>	The quality of informal educational output produced by the BBC, with high levels of investment being a proxy for high-quality informal educational content.	All	Annual
Consumption	Reach <i>e.g. proportion of the population who watched BBC documentaries in an average week at peak times</i>	The extent to which different audiences are accessing BBC's informal educational content.	All	Annual
	Minutes consumed <i>e.g. average time spent on iPlayer kids</i>	A proxy for the extent to which different audiences are engaged with BBC's informal educational content.	All	Annual
Impact	Quantitative audience research <i>e.g. audiences asked about how the BBC helps them learn about science, history, the arts</i>	Audience opinions on the BBC's impact on their lives in relation to informal education.	All	Annual
	Qualitative audience research <i>e.g. audiences asked about the extent to which they view the BBC as broadening their horizons; and providing engaging, inspiring content</i>	Audience opinions on the BBC's impact on their lives in relation to informal education.	All	Ad hoc
Contextual factors	Feedback from the BBC and its partners in education, sports and culture <i>e.g. how the number of visitors to a specific institution increased as a result of a BBC partnership</i>	Information that would contribute to assessing the effectiveness of BBC partnerships.	All	Annual

Purpose 3: Creative, high-quality and distinctive output and services

A6.6 In this area of our performance measurement framework we propose to cover all genres across TV, radio and online. Where feasible, we will compare the BBC to other content providers.

Performance measure	Metric example	What it tells us	TV/radio online	Frequency of analysis
Availability	Hours of first-run UK originations by genre <i>e.g. genre mix on BBC One at peak time</i>	The mix of different genres across BBC TV and radio services; levels of first run UK originations versus repeats and acquisitions.	All	Annual
	Spend on first-run UK originations, repeats and acquisitions <i>e.g. spend on first-run UK originations by the BBC</i>	The quality of the BBC output, with high spend on new UK content serving as a proxy for high-quality content.	All	Annual
	Playlist analysis <i>e.g. proportion of new tracks played on Radio 1</i>	An indicator of distinctiveness.	Radio	Annual
	Commissioning analysis <i>e.g. types and range of production companies used by the BBC</i>	An indication of innovation of the BBC in commissioning content.	All	Annual
	Content analysis <i>e.g. number of new formats</i>	A case study approach to measuring indicators of distinctiveness	All	Ad hoc
	Range of new series <i>e.g. proportion of BBC One output that is new vs. returning series</i>	An indication of the BBC's risk-taking, innovation and creative ambition in producing new content.	All	Annual
Consumption	Reach <i>e.g. the proportion of the UK population that accessed the BBC's online services</i>	The extent to which different audience groups are accessing the range of BBC outputs and services, including new UK content versus repeats and acquisitions	All	Annual
	Minutes consumed <i>e.g. time spent listening to BBC radio services</i>	A proxy for how engaged different audiences are with the mix of genres and outputs across BBC services.	All	Annual
Impact	Quantitative audience research <i>e.g. audiences asked if the style of programmes is different to what they would expect to see elsewhere</i>	Extent to which audiences are satisfied with the quality and range of content and services provided by the BBC and how distinctive they think it is compared to other providers.	All	Annual
	Qualitative audience research <i>e.g. explore audience opinions on the extent to which BBC content is distinctive</i>	Provides a more in-depth look at how audiences perceive BBC content compared to other providers.	All	Ad hoc
Contextual Factors	Creative risk taking <i>e.g. information from the BBC on how they have incentivised creativity and risk-taking</i>	Qualitative information from the BBC as to how they have delivered this purpose.	All	Annual
	Qualitative industry opinions	Peer-review indication of the creativity, quality, or distinctiveness of BBC output.	All	Annual

Purpose 4: The UK's nations and regions

A6.7 In this area of our performance measurement framework we propose to cover network programming produced in each nation/region and nations'/regions' content including news, current affairs and other content, across TV, radio and online.

Performance measure	Metric example	What it tells us	TV/Radio/online	Frequency of analysis
Availability	Hours of first-run UK originations for the nations and regions <i>e.g. hours of sport content for viewers in Wales</i>	The amount and range of content made for audiences in the nations and regions including news, current affairs and other content.	TV & radio	Annual
	Hours of first-run UK originated network programming produced in each nation/region <i>e.g. proportion of network content produced in Northern Ireland</i>	The amount and range of content made outside of London across the nations and regions.	All	Annual
	Spend on first-run UK originated network programming produced in each nation/region <i>e.g. proportion of network spend in Scotland</i>	The investment by the BBC in a broad range of production centres outside of London.	All	Annual
	Spend on first-run nations originated output for the nations and regions <i>e.g. spend on news content for viewers in the nations and regions</i>	The quality of BBC content for the nations and regions, with high spend being a proxy for high quality.	All	Annual
Consumption	Reach of BBC services <i>e.g. proportion of adults in Scotland who watch 'Reporting Scotland'</i>	The extent to which different audiences are consuming BBC nations content by nation.	All	Annual
	Minutes viewed by nation <i>e.g. average time people in Wales listened to BBC Radio Wales or Radio Cymru</i>	Engagement with the BBC among audiences in the nations and regions.	All	Annual
Impact	Quantitative audience research <i>e.g. asking audiences in the nations about how well served they feel by the BBC</i>	The extent to which audiences in the nations feel well served by the BBC nations content, and how well they think the BBC across the UK portrays their own Nation.	All	Annual
	Qualitative audience research <i>e.g. asking audiences about how they think the BBC has raised awareness of different cultures through its output</i>	Qualitatively explore audience's views on the extent to which they feel well served, represented and portrayed.	All	Ad hoc
	Expert opinions on the provision, delivery and impact of the BBC's nations content	Perspectives from external stakeholders.	All	Ad hoc
Contextual factors	Assessment of the BBC's impact on the creative economy	Information on the BBC's impact on the creative economy.	All	Ad hoc

Purpose 4: Diversity

A6.8 In this area of our performance framework we propose to cover all genres. We plan to carry out analysis by age, disability, gender reassignment, race, religion and belief, sex, sexual orientation and socioeconomic background, where feasible.

Performance measure	Metric example	What it tells us	TV/Radio/online	Frequency of analysis
Availability	Content analysis <i>e.g. case studies covering on screen and on-air representation</i>	The extent to which different groups within the UK appear on-screen and on-air.	All	Ad hoc
	Reach to BBC services <i>e.g. levels of use of BBC online services among different audience groups</i>	The extent to which different audiences consume the BBC as an indicator of whether audiences are being served by the BBC.	All	Annual
Consumption	Minutes consumed by diversity group <i>e.g. average listening time to BBC radio services by age group</i>	Engagement with the BBC among different audiences as an indicator of the extent to which the BBC is serving diverse audiences.	All	Annual
	Audience profile <i>e.g. Proportion that BAME audiences make of BBC TV audiences</i>	The extent to which different audiences are consuming the BBC as a proportion of the total BBC audience. An indicator of whether audiences are being served by the BBC.	All	Annual
Impact	Quantitative audience research <i>e.g. asking audiences about how the BBC has raised awareness of different cultures and viewpoints</i>	The extent to which different audiences feel well served/represented/portrayed by the BBC.	All	Annual
	Qualitative audience research <i>e.g. asking audiences about how well they are portrayed by the BBC</i>	Qualitatively explore audiences' views on the extent to which they feel well served, represented and portrayed.	All	Ad hoc
Contextual factors	Qualitative industry opinions	Peer-review indication of the extent to which the BBC is serving diverse audiences.	All	Annual

Annex 7

Operating framework: proposed procedures and considerations for setting and amending the performance measures

Introduction

- A7.1 Under the Royal Charter⁸⁸ and the agreement between the Secretary of State for Culture, Media and Sport, and the BBC (the “**Agreement**”) published by Government on 15 December 2016, Ofcom may determine measures (further to those determined by the BBC) that Ofcom considers appropriate to assess the BBC’s success in fulfilling the Mission and promoting the Public Purposes⁸⁹ as set out in the Royal Charter⁹⁰ and the agreement between the Secretary of State for Culture, Media and Sport, and the BBC (the “**Agreement**”) published by Government on 15 December 2016.⁹¹
- A7.2 This document forms part of the BBC’s Operating Framework. It sets out how Ofcom will set and amend performance measures and the procedures to be followed.⁹²

How Ofcom will set and amend performance measures

- A7.3 When setting and amending performance measures, Ofcom will apply the relevant legal framework.
- A7.4 Ofcom is a statutory corporation created by the Office of Communications Act 2002.
- A7.5 Ofcom’s power to regulate the BBC is derived from the Communications Act 2003, which sets out that for the purposes of the carrying out regulation of the BBC we will have such powers and duties as may be conferred on us by or under the Charter and Agreement⁹³. Our general duties under section 3 of the Communications Act 2003 apply to the exercise of our functions in relation to the BBC⁹⁴. Ofcom’s section 3 duties include its principal duty to further the interests of citizens in relation to

⁸⁸ The Royal Charter for the continuance of the British Broadcasting Corporation (the “**Charter**”), available at <https://www.gov.uk/government/publications/bbc-charter-and-framework-agreement>

⁸⁹ Article 46(4) of the Charter; and Clause 14(1) of the Agreement.

⁹⁰ The Royal Charter for the continuance of the British Broadcasting Corporation (the “**Charter**”), available at <https://www.gov.uk/government/publications/bbc-charter-and-framework-agreement>

⁹¹ Article 20(3)(d) of the Charter.

⁹² As required by Clause 15(3) of the Agreement

⁹³ Section 198 of the Communications Act 2003.

⁹⁴ Article 45(1) of the Charter.

communications matters, and to further the interests of consumers in relevant markets, where appropriate by promoting competition⁹⁵.

- A7.6 Ofcom's section 3 duties also include a requirement on Ofcom to have regard, in all case, to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles appearing to Ofcom to represent the best regulatory practice⁹⁶.
- A7.7 Article 45(2) of the Charter provides that Ofcom must have regard, in carrying out its functions, to such of the following as appear to us to be relevant in the circumstances:
- 7.7.1 the object of the BBC to fulfil its Mission and to promote the Public Purposes;
 - 7.7.2 the desirability of protecting fair and effective competition in the United Kingdom;
 - 7.7.3 the requirement for the BBC to comply with its duties under the Charter, including its general duties.
- A7.8 Article 46 of the Charter (Principal functions of Ofcom) sets out that Ofcom may determine measures (further to those determined by the BBC under article 20(3)(d) (principal functions of the Board)) that Ofcom considers appropriate to assess the performance of the UK Public Services in fulfilling the Mission and promoting the Public Purposes⁹⁷.
- A7.9 Article 20(3)(d) of the Charter provides that the BBC Board must ensure that the BBC fulfils its Mission and promotes the Public Purposes by, in particular, setting a framework to assess the performance of the BBC in delivering its strategies and creative remit, and obligations under the Charter and the Agreement, including performance measures (and targets for those measures where appropriate) to assess the performance of the UK Public Services in fulfilling the mission and promoting the Public Purposes).
- A7.10 In determining performance measures further to those determined by the BBC, Ofcom will have regard to the performance measures determined by the BBC.

Procedure

- A7.11 Before determining performance measures, the BBC and Ofcom respectively must consult each other and any person they consider appropriate⁹⁸.

⁹⁵ Section 3(1) of the Communications Act 2003.

⁹⁶ Section 3(3) of the Communications Act 2003.

⁹⁷ Article 46(4) of the Charter.

⁹⁸ Clause 14(3) of the Agreement.

- A7.12 When Ofcom consults on setting or amending performance measures, Ofcom will do so in compliance with its Consultation Principles.⁹⁹ In particular, Ofcom will be clear about whom it is consulting, why, on what questions and for how long.
- A7.13 Ofcom will give a reasonable period of time for responses to a consultation to be submitted. Ofcom will assess what is reasonable in light of the nature and significance of the proposal, having regard to its Consultation Principles.
- A7.14 If Ofcom considers that it needs further information before setting or amending performance measures, whether from the BBC or from another person, Ofcom will seek that information before taking a decision. The Charter gives Ofcom information-gathering powers in relation to its functions under the Charter and Agreement.¹⁰⁰
- A7.15 Ofcom will determine performance measures having taken account of all the views and information supplied. Ofcom will publish the performance measures on its website.
- A7.16 Ofcom may require the BBC to collect such information as Ofcom consider necessary for the performance measures¹⁰¹.
- A7.17 The BBC and Ofcom must publish at least annually the performance measures and evidence about performance against those measures¹⁰². Ofcom will publish this information on its website.

⁹⁹ <https://www.ofcom.org.uk/consultations-and-statements/how-will-ofcom-consult>

¹⁰⁰ Article 47 of the Charter.

¹⁰¹ Clause 14(4) of the Agreement.

¹⁰² Clause 14(5) of the Agreement.

Annex 8

Equality Impact Assessment

Introduction

- A8.1 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, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation.¹⁰³ We refer to groups of people with these protected characteristics as “**equality groups**”.
- A8.2 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.
- A8.3 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.
- A8.4 As part of our Equality Impact Assessment we have screened our policy approaches to setting the BBC’s operating licence, and the measures we will use to assess the BBC’s performance. It is important to note that this screening does not apply to the BBC’s programming output.

The aims of our consultation

- A8.5 The consultation sets out our proposed approach for holding the BBC to account for the delivery of its mission and public purposes. We intend to introduce a suite of performance tools comprising: an operating licence; performance measurement framework; annual reports and reviews (both periodic and ad hoc). We consider that securing delivery of the BBC’s mission and public purposes via this licensing regime will bring benefits to consumers of BBC output in general, and specifically to equality groups.

Equality impact assessment

- A8.6 The mission and public purpose four set out in the BBC Charter include the requirements for the BBC to “serve all audiences”, and “reflect the diversity of the United Kingdom both in its output and services and in doing so, accurately and authentically represent and portray the lives of the people of the United Kingdom today, and raise awareness of the different cultures and alternative viewpoints that make up its society”. This is reflected in the proposed operating licence and the

¹⁰³As defined in the Equality Act 2010.

performance measures, and has obvious relevance to our Equality Impact Assessment.

A8.7 The requirement upon the BBC to “serve all audiences” was a key consideration in designing the operating licence. It is therefore the case that the proposed licence conditions would have some relevance to the equality groups. However it is the diversity focus of the fourth public purpose which makes the proposed licence conditions in this area particularly pertinent to the equality groups. Given the proposed licence requires that the BBC works to improve its delivery of on air and onscreen diversity, and that our performance measurement frameworks will also include key metrics in this area, we consider that the licencing approach as detailed in the consultation document would have a positive impact on the following diversity groups:

8.7.1 groups by age - including those who feel under-represented on-screen or on-air – currently older women, younger women and younger men;

8.7.2 women;

8.7.3 people with disabilities;

8.7.4 people who have undertaken gender reassignment;

8.7.5 black, Asian and ethnic minority communities;

8.7.6 people who identify with a particular religion; and

8.7.7 people who identify as lesbian, gay or bi sexual.

A8.8 Below, we summarise the proposed conditions that we think would be particularly relevant to these equality groups.

A8.9 Conditions 2.78 - 2.81 of the licence are designed to ensure the BBC demonstrates how it: delivers diversity; measures this delivery; and addresses the diversity areas identified as being under-delivered. These should have a positive impact for all of the equality groups identified above. The conditions cover the following:

8.9.1 an annual reporting condition requiring the BBC to demonstrate how it has complied with the requirement for the UK public services to represent, reflect and serve the diverse communities of the whole of the UK (five requirements);

8.9.2 conditions requiring the BBC to report annually on its measures and reporting of audience satisfaction across the diverse communities of the UK, including the steps the BBC has taken to seek to improve audience satisfaction among any underserved groups it identifies (two conditions including five requirements); and

8.9.3 the content that the BBC creates. A condition requiring the BBC to agree a diversity code of practice with Ofcom that helps to ensure that its content

taken as a whole accurately represents, authentically portrays and reflects the whole of the UK.¹⁰⁴

- A8.10 This set of conditions are designed to help ensure delivery of content for the diverse communities of the whole of the UK as well as help to improve the balance of their representation and portrayal on the BBC's UK public services. We also believe that efforts in this area by the BBC are likely to drive up diversity standards across UK broadcasting. As a result we believe that these conditions should deliver a range of positive impacts for the equality groups identified above.
- A8.11 There are a number of other licence conditions we consider have a specific relevance to particular equality groups which should also deliver positive impacts.
- A8.12 For example, there are three radio news licence requirements for BBC Radio 1Xtra and BBC Asian Network designed to help reach and serve minority ethnic and Asian audiences with news output. In respect of BBC 1Xtra, the BBC must ensure that: i) the time allocated to news programmes in daytime each weekday is not less than one hour and includes at least two extended bulletins; and ii) it provides regular bulletins during Daytime at weekends. In respect of BBC Asian Network, the BBC must ensure that the time allocated to news and current affairs each week is not less than 24 hours.
- A8.13 According to evidence the BBC has performed less well in the past in serving people from ethnic minority backgrounds with news output.¹⁰⁵ The proposal to retain the existing conditions on BBC Radio 1 Xtra and BBC Asian Network should continue to deliver a positive impact for listeners from equality groups identified as hard to reach with news content. Over time the performance measurement framework should provide insights into whether the broader diversity conditions proposed for the licence might further improve satisfaction levels among hard to reach equality groups with news output and in turn deliver a greater positive impact.
- A8.14 There are six licence requirements specifically designed to ensure children aged 0-12 are served with news, drama and factual content designed for them, including a minimum number of hours of new content each year. In respect of CBeebies, the BBC must ensure that: i) in each year it delivers content in a range of genres which supports pre-school children in their learning; and ii) in each calendar year the time allocated to the broadcasting of first-run UK original productions during daytime and peak-time is not less than 100 hours. In respect of CBBC, the BBC must ensure that: i) in each year the time allocated to drama (including repeats and acquisitions) is not less than 1,000 hours; and ii) the time allocated to factual programming is not less than 675 hours (for the purpose of this requirement, "factual programming" includes repeats and acquisitions); v) it shows news programmes at intervals throughout the day; vi) in each year the time allocated to news programmes is not less than 85 hours; and vii) in each calendar year the time allocated to the broadcasting of first-run UK original productions during daytime and peak-time is not less than 400 hours.

¹⁰⁵ BBC Trust Service Review: BBC Network News and Current Affairs, 2014, http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/our_work/news_current_affairs/news_current_affairs.pdf

- A8.15 In a broadcasting landscape where the BBC is almost the only investor in new UK children's programmes, the positive impacts for children who consume CBeebies and/or CBBC's content include the guaranteed provision of a range of high-quality programmes for young consumers including both news and a minimum number of hours of new output.
- A8.16 In addition, to the operating licence Ofcom will also be introducing a performance measurement framework. We propose including a range of metrics in the framework (which will supplement the BBC's measurement data) to inform our assessment of the performance of the BBC's UK public services in fulfilling the mission and promoting the public purposes.¹⁰⁶ The resulting data may indicate where additional regulatory conditions might be required in future.
- A8.17 The key measures included in the proposed performance framework are availability, consumption, impact and contextual factors. In assessing the BBC's performance in relation to diversity, the analysis will be conducted by age, disability, gender reassignment, race, religion and belief, sex, sexual orientation and socioeconomic background. Annex 6 provides examples of the type of metrics Ofcom may use.
- A8.18 We believe the impact of our measurement framework should also be positive for equality groups. This is because one of its main purposes is to assess – and by extension, improve – the BBC's performance in reflecting, representing and serving the diverse communities of all the UK's nations and regions.

Northern Ireland

- A8.19 In setting the Operating Licence, Ofcom has proposed obligations on 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. We have proposed increasing minimum levels of delivery which take account of the BBC's current levels of output. On that basis, we do not believe that this policy approach will have an adverse impact on any of the Northern Ireland equality categories.
- A8.20 Our approach to holding the BBC to account is founded on a robust base of evidence, drawing on the BBC's data and research, as well as Ofcom's own independently-gathered evidence. This research will include representative samples from Northern Ireland, ensuring that the voice of the audience in Northern Ireland is heard. We do not believe that our approach to the performance measurement of the BBC will have an adverse impact on any of the Northern Ireland equality categories. Indeed, as described earlier in the EIA we believe the impact of our measurement framework should be positive for equality groups.

¹⁰⁶ In setting and amending the operating licence, the Charter sets out that our role is limited to the UK Public Services. In practice, the UK Public Services are not the means by which the BBC fulfils Public Purpose 5: "to reflect the UK, its culture and values to the world". However, in carrying out our periodic reviews we must have regard to the performance of the World Service in contributing to the fulfilment of the Mission and the promotion of the Public Purposes. Under Clause 33 of the Charter, the Foreign and Commonwealth Office (FCO) is responsible for setting performance measures for the World Service. We intend to make use of these performance measures, and any further relevant information we may require from the BBC, in fulfilling this responsibility.

A8.21 Therefore, our initial conclusion is that the policy approaches outlined in this document do not require a more detailed Equality Impact Assessment in relation to Northern Ireland.