
Holding the BBC to account for delivering for audiences

Annexes

Statement:

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A1. Ofcom's role in regulating the BBC

The new BBC Charter and Agreement

- A1.1 On 15 December 2016, the Government published the new BBC Charter and Agreement setting out the how the BBC will be governed and regulated over the next 11 years.¹ The Charter sets a refreshed mission and public purposes for the BBC, with a new focus on distinctiveness. The new Charter also makes major changes to the oversight of the BBC: it establishes a new BBC Board to run the BBC in place of the BBC Trust, and moves responsibility for regulating the BBC to an independent, external regulator, Ofcom.
- A1.2 Under the Charter and Agreement, the BBC Board must run the BBC – setting the BBC's strategic direction and budgets, and overseeing the BBC's overall editorial and creative approach, including oversight of commissioning and scheduling decisions. Ofcom's role is to provide robust, fair and independent regulation in three areas: content standards, the BBC's impact on fair and effective competition, and the BBC's performance in delivering its mission and public purposes. Ofcom took on its new responsibilities on 3 April 2017. In regulating the BBC, we need to have regard to our general duties under the Communications Act 2003 (the “**Act**”) and to the specific requirements of the Charter and Agreement.

Ofcom's role and duties

- A1.3 Under the Charter and Agreement, we are required to publish an Operating Framework containing the provisions we consider appropriate to secure the effective regulation of the BBC. The Operating Framework is a series of documents that cover the full range of our new regulatory duties in the three areas of content standards, competition and performance.
- A1.4 In the area of performance, the BBC Board must lead the BBC to fulfil the Charter's aims. Ofcom is charged with holding the BBC to account for its performance across its range of services, and the Charter gives us a range of responsibilities and powers to do this. Specifically:

¹ '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>;

'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-framework-agreement>.

- a) we must set an **operating licence** (“Licence”) for the BBC, containing enforceable regulatory conditions on the BBC’s UK Public Services.² The Charter requires us to put in place the regulatory conditions we consider appropriate to ensure the BBC fulfils its mission and promotes the public purposes; to secure the provision of distinctive output and services; and to ensure that audiences in England, Scotland, Wales and Northern Ireland are well served. It also gives Ofcom the ability to place sanctions on the BBC including, for the first time, possible fines if it fails to meet the regulatory conditions we have set;
 - b) we have powers to set the **performance measures** we consider appropriate to assess the performance of the BBC’s UK public services, independent of the BBC’s own performance measures, to assess the BBC’s delivery of its mission and public purposes;³
 - c) we have powers to conduct reviews of aspects of the BBC’s performance at any time where we think it is appropriate,⁴ and a requirement that we conduct at least two detailed reviews of the BBC’s performance during the Charter period.
- A1.5 We are required to report annually on the BBC’s performance against the measures we have set, and on the BBC’s compliance with the regulatory conditions in the Licence.
- A1.6 This Statement sets out how we will fulfil our duties and hold the BBC to account for delivery. In it we are publishing final versions of the following:
- a) the first Licence⁵, which contains the enforceable regulatory conditions that we are setting;
 - b) Ofcom’s performance measurement framework for the BBC based around core performance measures; and
 - c) the parts of the Operating Framework setting out the process we will follow when setting and amending the Licence and the performance measures.
- A1.7 In setting the Licence and performance measures, as well as being bound by the requirements of the Charter and Agreement we are also bound by our general duties in section 3 of the Act.⁶ That means that 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.
- A1.8 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

² Article 46(3) of the Charter provides that the scope of Ofcom’s Licence, and the regulatory conditions contained within it, is the UK public services.

³ Section 198 of the Act, Charter, article 44 and article 46.

⁴ Ofcom must, where appropriate, carry out and publish additional reviews addressing any specific issue of concern identified by Ofcom relating to the activities of the BBC that are subject to regulation by Ofcom under the Charter and Agreement (Charter, article 51(3)).

⁵ Alongside the Licence, we have also published separate documents which set out in one place the regulatory conditions that apply for audiences in each nation.

⁶ Charter, article 45(1).

needed. The Act also requires us to have regard, as appropriate, to certain other principles we consider relevant. We consider the following principles in the Act to be relevant to this Statement:

- a) the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the UK;
- b) the needs of persons with disabilities, of the elderly and of those on low incomes;
- c) the opinions of consumers in relevant markets and of members of the public generally; and
- d) 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.⁷

A1.9 Under the Charter, we must also have regard in carrying out our functions (if we consider it relevant in the circumstances) to: the object of the BBC to fulfil its mission and promote the public purposes; the desirability of protecting fair and effective competition in the UK; and the requirement for the BBC to comply with its duties under the Charter, including its general duties set out in articles 9 to 18 of the Charter.⁸

The BBC's mission and public purposes are delivered for UK audiences through its UK public services

A1.10 The BBC's mission is set out in the Charter. It 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.⁹

A1.11 The BBC's public purposes are:

- a) to provide impartial news and information to help people understand and engage with the world around them;
- b) to support learning for people of all ages;
- c) to show the most creative, highest quality and distinctive output and services;
- d) 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
- e) to reflect the United Kingdom, its culture and its values to the world.¹⁰

A1.12 The BBC delivers its mission and public purposes to audiences across the UK through the UK public services. A list of its current UK public services is set out in Schedule 1 to the

⁷ Section 3(4) of the Act.

⁸ Charter, article 45(2). Article 20(8) of the Charter provides that where it appears to the BBC Board that their obligations under the Charter, Agreement and operating framework conflict with any request or decision made by Ofcom (who must take into account their obligation under article 45(2)(c)), the BBC Board must nevertheless comply with Ofcom's request or decision.

⁹ Charter, article 5.

¹⁰ Charter, article 6.

Agreement and consist of the BBC's portfolio of television, radio and online services aimed primarily at people in the UK.¹¹ The BBC must maintain and publish this list, setting out the name of the service, the type of service and a brief description of what it provides. For example, the Agreement describes BBC One as "*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*". Each of the BBC's UK public services must fulfil the mission and promote one or more of the public purposes.

- A1.13 The BBC is responsible for deciding on its overall approach to providing television, radio and online services, for setting the remit for each of them and for creative decision-making, including the choice and scheduling of programmes. However, the BBC must comply with the regulatory conditions that Ofcom sets in the Licence to ensure that the BBC fulfils its mission and promotes the public purposes through its UK public services. The Charter and Agreement expressly require us to set conditions in some areas, for example the provision of news; we also have a broader discretion to set conditions that we consider appropriate to carry out our regulatory functions.
- A1.14 Separately, the Agreement also provides for proposals for material changes to the UK public services to be assessed by the BBC and by Ofcom if they may have a significant adverse impact on fair and effective competition. Ofcom can also carry out competition reviews to assess the potential impacts of the BBC's ongoing public service activities and whether the public value justifies any adverse impact on fair and effective competition. Ofcom's approach to its competition responsibilities in relation to the BBC is set out in the competition section of the Operating Framework for the BBC.¹²

We consulted widely on our proposals for holding the BBC to account for its performance, and talked to audiences

- A1.15 On 29 March 2017, we published a consultation outlining our proposed approach, in which we set out how we could implement an effective regulatory regime for holding the BBC to account, with flexibility to change the detailed requirements over time.¹³ The March consultation on our draft Licence and performance measures ended on 17 July, allowing Ofcom and respondents to our consultation to take account of the BBC's own commitments for meeting its new public purposes in its interim annual plan, published on 3 July.
- A1.16 We received responses to our consultation from 117 stakeholders. In finalising the Licence and performance measures, as well as the two procedural documents on our processes for

¹¹ For ease of reference, we have set out the list of UK public services in Schedule 4 to the Licence.

¹² Our BBC competition procedures are published here: <https://www.ofcom.org.uk/consultations-and-statements/ofcom-and-the-bbc/the-operating-framework>.

¹³ Ofcom, *Holding the BBC to account for the delivery of its mission and public purposes*, 29 March 2017 (the "consultation"): https://www.ofcom.org.uk/data/assets/pdf_file/0033/99519/bbc-performance-consultation.pdf.

amending them in the future, we have considered all of these responses. All non-confidential responses are available on our website.¹⁴

A1.17 Given the importance of distinctiveness in the new Charter and Agreement, we also commissioned wide-ranging research to understand how audiences view the BBC's distinctiveness now, and what most matters to them, to inform our approach to setting the Licence.¹⁵

The BBC's response and its interim annual plan

A1.18 Under the Charter, the BBC must publish an annual plan for each financial year, in advance of the period to which it relates.¹⁶ The BBC published its interim annual plan and budget for 2017/18 on 3 July 2017 (the "**interim annual plan**").¹⁷ It set out:

- a) the BBC's creative remit for the year, which shows how its output and services will contribute to the fulfilment of its mission and promotion of the public purposes;
- b) how the BBC's output and services will contribute to the delivery of distinctiveness, through the conditions in Ofcom's draft Licence and additional BBC commitments; and
- c) a performance framework that the BBC Board will use to judge how effectively the BBC is delivering its mission and public purposes annually.

A1.19 The interim annual plan also sets out the BBC's wider strategic plans for the next three years including an additional £34m investment in children's content and increased investment in Scotland, Wales and Northern Ireland.

A1.20 The BBC's interim plan reproduced the majority of the conditions in Ofcom's draft Licence and, within it, the BBC said that it viewed the draft Licence as a balanced but stretching document. It also stated that regulatory conditions should be used only where necessary and that they should not unduly restrict creative freedom or the Board's ability to set strategy. In addition, the BBC sent us a separate consultation response, proposing a mixture of substantive and technical changes to the Licence, and setting additional commitments that the BBC intends to deliver in 2017/18.

A1.21 As well its interim annual plan and main consultation response, the BBC has sent us three subsequent letters setting out further commitments and comments on our proposals, all of which we have published on our website.¹⁸ The second letter, of 14 August 2017,

¹⁴ All non-confidential versions of responses to the consultation can be found at: <https://www.ofcom.org.uk/consultations-and-statements/category-1/bbc-performance>.

¹⁵ We commissioned Ipsos Mori to undertake this qualitative research to explore the public's view of the BBC's distinctiveness. It is published here <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/tv-research/bbc-distinctiveness-report>.

¹⁶ Charter, article 36.

¹⁷ *BBC interim annual plan*, available at:

http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/BBC_Annual_Plan_2017-18.pdf. The BBC notes that it will publish a final version after Ofcom has published the finalised Licence. Under the Charter, it is required to do this within three months of publication of the Licence.

¹⁸ <https://www.ofcom.org.uk/consultations-and-statements/category-1/bbc-performance>

contained additional commitments in relation to BBC radio services, which the BBC said will be incorporated into the final version of its interim annual plan.

- A1.22 We have considered the commitments made by the BBC in its interim annual plan and elsewhere, and its separate response to our consultation, alongside other consultation responses and the findings of our own research.

The Licence

- A1.23 Our consultation proposed a single Licence for all the BBC's UK public services – TV, radio and online - instead of the old system of a service licence for each individual BBC service. We proposed to set a single Licence for all of the BBC's UK public services as we considered it would be more accessible and coherent, since the different requirements we proposed to set would be aimed at one, some or all BBC services. We also proposed that our Licence should be organised around the BBC's public purposes. Alongside the draft Licence, we also published individual documents for each nation of the UK, drawing together all the proposed regulatory conditions applying to the BBC in that nation in a single place.
- A1.24 Following our consultation, we have decided to maintain the approach of a single Licence organised around the public purposes. Annex 2 sets out the responses we received to our consultation on this point, and our reasoning. We have made a number of changes to improve and strengthen the conditions in response to the consultation, our own research and the BBC's interim annual plan.
- A1.25 If we find that the BBC has failed to comply with a regulatory condition, and have given the BBC a reasonable opportunity to make representations, we are able to take a range of steps to sanction the BBC. This includes, if appropriate, imposing a financial penalty up to a maximum of £250,000.¹⁹ We expect the BBC to meet all the requirements we have set; and if it does not, we will take steps to enforce them.
- A1.26 Following the consultation, we have finalised the commencement date of the Licence. Under condition 2.3, the BBC is required to comply with the Licence's regulatory conditions starting from 1 January 2018. In addition, in line with the approach we set out in the consultation, alongside this Statement (and at Annex 8) we have published the document setting out the procedures and considerations we will follow when setting and amending the Licence, which forms part of the Operating Framework for the BBC. We have set the Licence in accordance with these procedures and considerations.
- A1.27 Annexes 2, 3 and 4 discuss the responses we received to our consultation and our reasoning for our final approach to the Licence in detail.

Our performance measurement framework

- A1.26 The regulatory conditions that we have set for the BBC in the Licence are central to ensuring that the BBC promotes its public purposes and meets the expectations of

¹⁹ Ofcom is required to pass any payment it receives by way of financial penalty to HM Treasury.

audiences. However, they are only part of how we will hold the BBC to account for delivery. The Charter and Agreement allow Ofcom to establish performance measures separate from the BBC's own and require us to report annually on the BBC's performance against them.

- A1.28 Establishing these performance measures will ensure that our approach to holding the BBC to account is founded on clear evidence. We will take account of the BBC's data 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.
- A1.29 In our consultation, we proposed a performance measurement framework designed to give Ofcom – and audiences – a detailed and comprehensive picture of how the BBC delivers the mission and public purposes through its UK public services. The approach we took in the consultation received broad support from those responding. Annex 5 sets out our final performance measurement framework.
- A1.30 Our framework will use a range of research and market data inputs to provide performance measures that support our annual reporting, periodic reviews and ad hoc reviews. We will focus our performance measures on individual services, groups of services or the BBC's overall output, depending on what is most appropriate. A summary of our data sources and the measures we propose to monitor with them can be found in Annex 5.
- A1.31 Taken together, this work will give us a detailed, developing picture of what audiences think, and how the BBC is delivering the mission and public purposes. It will be used to support our annual reporting, periodic reviews, and any ad hoc reviews we launch over the Charter period. It will act as an early-warning sign for areas of potential underperformance by the BBC, and allow us to respond to that.
- A1.32 We will refine and adjust our performance measurement over time, to ensure that we are capturing audience and stakeholder concerns across the Charter period. Alongside this Statement (and at Annex 9), we have published the procedures and considerations we will follow when setting and amending the performance measures. We have set our performance measures in accordance with these procedures and considerations.

The relationship with our other responsibilities for regulating the BBC

- A1.33 Our responsibilities for holding the BBC to account for performance are part of a wider set of regulatory duties broadly covering:
- a) editorial standards: ensuring the BBC complies with the requirements of the Broadcasting Code,²⁰ including in areas such as due impartiality, due accuracy and harm and offence; and
 - b) competition: protecting fair and effective competition in the areas in which the BBC operates.

²⁰ Ofcom, *Broadcasting Code*, available at: <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code>.

- A1.34 The most recent version of the Broadcasting Code contains the rules which the BBC is required to follow so that BBC viewers and listeners are protected. We have also published a set of documents explaining the tools we will use, including specific requirements we have placed on the BBC, to protect fair and effective competition in the areas in which the BBC operates.²¹ These documents, together with the Licence and performance measures discussed in this Statement, form part of our regulatory framework for the BBC. If through our editorial standards compliance work we identify issues that raise potential concerns in relation to the BBC's performance in promoting its public purposes, we can review this as part of our performance work. Similarly, when reviewing the BBC's performance through the provision of its UK public services, we will consider the potential for the BBC's activities to harm competition and have the powers to act.
- A1.35 We will also enforce compliance by the BBC with some regulatory requirements²² which apply to the BBC directly through the Charter or the Agreement, or through legislation, such as quotas for independent productions,²³ and requirements relating to provision for people who are hearing or visually impaired.²⁴

Impact assessment and equality impact assessment

- A1.36 We have a legal duty to carry out impact assessments where our policy decisions are likely to have a significant effect on businesses or the public, or when there is a major change in Ofcom's activities.²⁵ Our approach and a summary of the main groups and organisations we expect to be affected is set out in Annex 6.
- A1.37 Ofcom also conducts Equality Impact Assessments ("EIAs") to understand the impact of its regulatory interventions on the nine defined equality groups (with two further equality groups considered in Northern Ireland only). We published an EIA of our proposals in the consultation. Our final EIA on the decisions we have taken in this Statement, having fully considered the responses that we received to our consultation proposals, is set out at Annex 6.
- A1.38 In summary, our assessment is that the measures we are putting in place in this Statement should be positive for the relevant equality groups. This is because one of the core purposes of the performance regime is to assess and secure BBC's performance in reflecting, representing and serving the diverse communities of the whole of the UK.

²¹ <https://www.ofcom.org.uk/consultations-and-statements/ofcom-and-the-bbc/the-operating-framework>

²² Ofcom's enforcement powers are set out in article 49 of the Charter and clause 59 of the Agreement (definition of "specified requirements").

²³ Paragraph 6 of Schedule 3 to the Agreement, and Schedule 12 to the Act.

²⁴ Paragraph 9 of Schedule 3 to the Agreement.

²⁵ Section 7 of the Act.

A2. Our approach to setting the Licence

In this Annex and Annexes 3 and 4, we explain our decisions on setting the Licence, including our views on responses to the consultation. In this Annex, we explain how we have approached setting the Licence overall, and taken account of consultation responses in doing so.

Following the consultation, we have decided:

- to have a single Licence covering all of the BBC's UK public services, organised by public purpose;
- to set the BBC high-level objectives under each public purpose describing the outcomes we expect to see delivered over the Charter period, together with a set of enforceable regulatory conditions. The majority of the regulatory conditions will directly contribute to securing a more distinctive BBC; and
- to adopt the procedures and principles for setting and amending the Licence published in our March consultation.

- A2.1 This Licence and the performance measures that we have set alongside it are designed to deliver fully the intent of the new Charter and Agreement, by leaving creative decisions in the hands of programme-makers, but stretching and challenging the BBC to deliver for all of its audiences.
- A2.2 The Licence sets a wide range of enforceable regulatory conditions that the BBC must meet. In most cases our conditions raise the bar for the BBC: they are designed to safeguard current levels of delivery, not simply roll over existing quotas. They set a baseline for future performance.
- A2.3 In this Annex we set out in more detail our consideration of stakeholder responses and where relevant our decisions on:
- a) the structure of the Licence;
 - b) our overall approach to setting regulatory conditions;
 - c) other wider issues raised by respondents, including how we will take account of competition issues and the BBC's annual planning process; and
 - d) our procedures for setting and amending the Licence in the future.

A single Licence organised by public purpose

- A2.4 In our consultation document, we proposed a **single Licence** for the BBC. Within this structure we proposed that the Licence should include for each of the first four public purposes:

- a) **high-level objectives** which set out our general expectations for the BBC in relation to the public purposes. These help to clarify for the BBC and other stakeholders the underlying policy objectives that we believe are important for the BBC to deliver, and set clear expectations; and
- b) **regulatory conditions**, which we can assess objectively and which we can enforce if the BBC fails to meet them. Under the Charter, we must set regulatory conditions that we consider 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 audiences in England, Scotland, Wales and Northern Ireland are well served.²⁶

A2.5 Our consultation set out our view of the benefits of having a single Licence for the BBC, rather than a series of separate licences. We explained that we considered that a single document organised around the public purposes would give clarity and transparency for audiences, the BBC, and other stakeholders. We also considered that this structure would offer greater flexibility to respond to evolving consumption patterns and market changes by allowing us to set and to vary conditions that are not specific to individual services – for example, our new condition that the BBC must agree a diversity code of practice with us.²⁷ Our overall approach to setting regulatory conditions was to seek to guarantee the provision of output that is critical to the BBC delivering its mission and public purposes while ensuring it has flexibility to take creative risks and decide how it organises itself. In a large number of cases we increased the level of requirements from those previously set by the BBC Trust to better reflect actual performance and underpin delivery at higher levels.

Consultation responses

- A2.6 A number of respondents broadly supported the general approach we proposed through the new Licence structure.²⁸ Creative Scotland commented that our approach appropriately considered the separate roles and responsibilities of the BBC Board and Ofcom. The BBC stated that in its view a single Licence would provide greater accountability and clarity.
- A2.7 The Scottish Government stated that there should be dedicated Licences for each UK nation, expressing its view that this would provide a single, clear reference point for licence fee payers and stakeholders in each nation. The Scottish Government also suggested that Ofcom could define more clearly "the distinctive duties of the BBC in relation to audiences in each nation".²⁹
- A2.8 Some stakeholders questioned the proposal to set a single Licence, rather than replicate the previous BBC Trust system of individual service licences which described the remit and

²⁶ Charter, article 46(3).

²⁷ See paragraphs A3.62-90.

²⁸ BBC response, paragraph 3.2; Creative Scotland response, page 2; MG Alba response, page 4; Professor Steemers response, page 1; Ulster Unionist Party response, page 2.

²⁹ Scottish Government response, Annex, page 1.

character of every service in some detail.³⁰ Radiocentre stated that the qualitative descriptions set out in these BBC Trust service licences had encouraged BBC to drive distinctiveness of its services.³¹ Others suggested that our proposed high-level objectives for each public purpose lacked sufficient detail to hold the BBC to account effectively for the performance of each of its services.³² Bauer Media Group (**Bauer**) commented that relying on quotas alone at the service level might give too much leeway to the BBC.³³ Directors UK emphasised that Ofcom's assessment to determine whether the BBC is fulfilling regulatory conditions should go beyond quantitative metrics, and Wireless Group as well as Ofcom's Advisory Committee for England (**ACE**) stated we should also take account of qualitative factors.³⁴

- A2.9 Some respondents suggested that our approach to setting regulatory conditions was not sufficiently challenging and could result in a significant reduction in the regulation of BBC services.³⁵ The News Media Association (**NMA**) said it would be concerned if our approach allowed the BBC to conduct licence fee funded activities that were not adequately justified by its mission and public purposes.³⁶ Several stakeholders raised particular concerns with our approach to the BBC's radio services, noting that the draft Licence contained fewer regulatory conditions on these services than the BBC Trust's service licences, which they considered could lead to the provision of less distinctive output and services.³⁷
- A2.10 Global and Radiocentre raised issues with our methodology and the proposed levels at which quotas were set, arguing that, in areas where the BBC had historically exceeded our proposed levels, the quotas would only have an impact if they were increased beyond these proposed levels.³⁸ One respondent questioned how our statement that we do not seek to "set BBC programme or service strategies or budgets" is aligned with our proposals to increase existing targets on television for some genres and to introduce new peak-time obligations.³⁹
- A2.11 The BBC did not disagree with our focus on first-run UK originations but argued that volume quotas were helpful regulatory interventions only up to a point and would not guarantee the quality or impact of a programme and could risk incentivising the wrong behaviours. Longer-term, the BBC wanted its performance to be judged more on assessing audience outcomes and impacts than on prescribing quantitative inputs and outputs.⁴⁰

³⁰ RSA Fellows response, page 2; Global response, paragraph 16; Radiocentre response, paragraphs 29-30.

³¹ Radiocentre response, paragraphs 38-39.

³² MG Alba response, page 7; Radiocentre response, paragraphs 35-39.

³³ Bauer response, page 8.

³⁴ Directors UK response, page 1; ACE response, page 1; Wireless Group paragraph 32 and paragraph 36.

³⁵ Welsh Government response, page 2; Global response, paragraph 16; Bauer response, page 6; Radiocentre response, paragraphs 29-30; NMA response, page 4.

³⁶ NMA response, page 4.

³⁷ Wireless Group response, paragraph 25; Voice of the Listener and Viewer (**VLV**) response paragraph 71-75; Radiocentre response, paragraph 27.

³⁸ Global response, paragraphs 18-19; Radiocentre response, paragraphs 47-48.

³⁹ Professor Beveridge response, paragraph 1.

⁴⁰ BBC response, paragraphs 6.6-6.8.

A2.12 The BBC also stated that it would be concerned if the conditions we imposed in the final Licence introduced further complexity and constraints that affected its ability to deliver the mission and public purposes in a cost-effective manner.⁴¹ Finally, some stakeholders observed that the structure of our Licence suggested that each public purpose was to be considered in isolation whereas they felt that the public purposes were overlapping and should be considered together. This was particularly true in relation to the approach to the nations and regions, and diversity.⁴²

Our response

A2.13 We remain of the view that a single Licence, structured by public purpose with clear high level objectives and specific regulatory conditions, remains the most effective way to discharge our duties under the new Charter and Agreement. Setting a single Licence recognises the reality that the BBC will need to deliver aspects of its new mission and public purposes through both individual services and combinations of them. A single Licence allows us to impose conditions on individual services, on groups of services or on the BBC as a whole. The new Charter and Agreement gives the new BBC Board responsibility for determining the contribution of each individual BBC service to its mission and public purposes, within a framework set by our Licence, and we consider that a single Licence approach strikes the right balance.

A2.14 We understand the importance of audiences and stakeholders in each nation being able to easily identify the regulatory conditions that apply specifically within that nation. To address this we are also publishing four separate documents setting out in one place the regulatory conditions that apply for audiences in each of the nations to provide that clarity without losing the benefits of a single Licence regime.

A2.15 We have retained many of the BBC Trust's service licence targets, in most cases updating or strengthening them into regulatory conditions. We have consciously not replicated all of the qualitative requirements, as in our view these served more of a governance or strategic function – for example, setting the remit for, or target audience of, a service – which the BBC Board now has to perform. The new regulatory regime for the BBC's performance is built around giving us the primary tools of enforceable regulatory conditions and the ability to independently assess the BBC's performance. However, we agree that it is important that the BBC has a clear understanding of what we expect, and so our new high-level objectives set out - for the BBC and other stakeholders - the overarching outcomes that we are seeking to achieve. We will put in place further regulatory conditions if we judge that necessary.

A2.16 We agree with the view that the public purposes should not be viewed in isolation from each other. As we said in our consultation, it is important to note that many of the regulatory conditions are relevant to the mission or more than one of the public purposes,

⁴¹ BBC response, paragraph 3.6.

⁴² ACNI response, page 1; Creative Scotland response, page 2; Scottish Government response, Annex, page 4; Sir Lenny Henry response, page 3.

and in our view a single Licence structure facilitates that: organising conditions by public purpose is intended to make the Licence straightforward to navigate.

- A2.17 Views differed on the right approach to the number and level of regulatory conditions, with some concerned that the draft Licence contained fewer conditions than the previous BBC Trust service licences, and others that the draft Licence focused too much on the fulfilment of quotas. The BBC itself was concerned about volume quotas. We consider that our duties under the Charter and Agreement expressly require us to secure the BBC's promotion of its public purposes. That means that we have put in place a wide range of conditions. Our assessment of the overall impact of these conditions is set out in Annex 6.
- A2.18 Inevitably, judgements are required on where the right balance lies in setting individual conditions and overall. We have made changes in response to the consultation. Our final Licence strengthens a number of the regulatory conditions from the draft we published – for example on the diversity commissioning Code of Practice – in response to consultation and our own research. We have added new conditions, for example a combined comedy requirement for BBC One and BBC Two and a requirement for Radio 1 to offer two major social action campaigns each year.
- A2.19 The regulatory conditions we are setting are expressly designed to raise the bar for the BBC, but also to take account of the fact that programming decisions and strategies and budgets for its channels and services are for the BBC to set. For example, we have set stretching first-run origination and genre quotas at a level that we consider will safeguard the BBC's current provision overall, and in some cases have set targets for individual services. But we believe we have still allowed the BBC sufficient flexibility to run its portfolio of services effectively. On the specific question of how we have sought to secure the BBC's distinctiveness through our regulatory conditions, we discuss the requirements we have set to secure the provision of more distinctive output and services in depth in Annex 3.
- A2.20 The conditions we have set in the Licence are only one part of how we will hold the BBC to account. The Licence captures areas where the Charter and Agreement require, or we have found, that specific conditions are required. The Licence sets stretching requirements in a range of areas, and we expect the BBC to go further. We will assess the BBC's performance not just against the conditions set in the Licence but across the range of the BBC's services and output. If we have concerns about the BBC's performance, we can look to amend the Licence, which may include raising quotas, or setting new ones.

The impact of the BBC's activities on competition

- A2.21 A number of stakeholders raised issues related to the impact of the BBC's activities on competition and the wider market. This included queries as to how our proposed approach to regulation of the BBC's performance would interact with our work to protect fair and effective competition in the areas in which the BBC operates.⁴³ STV argued that our

⁴³ Pact response, paragraph 1.2; NMA response, page 5.

proposed approach permitted the BBC too much latitude, potentially making it difficult for Ofcom to classify changes to BBC activities as material.

- A2.22 Respondents also raised specific concerns about the possible adverse market impact of existing BBC practices and services and/or potential changes to the BBC's services and proposals for new services.⁴⁴ For example: STV was concerned about the BBC's proposal for a new television channel for Scotland;⁴⁵ Wireless Group requested publication of an updated protocol for the acquisition of sports radio rights;⁴⁶ and Guardian Media Group (GMG) asked for clarity on how to raise issues which could have a significant impact on the market.⁴⁷
- A2.23 Some stakeholders made specific points in relation to the distribution of BBC services. In particular, Sky argued we should place a specific requirement on the BBC obliging it to make its UK public services widely available.⁴⁸ Pact and the Radio Independents Group (RIG) raised concerns about the lack of a reference to enforcement of requirements around commissioning.⁴⁹ ⁵⁰ Creative Scotland also noted that the draft Licence did not mention the independent production quotas.⁵¹
- A2.24 We will take account of the BBC's ability to fulfil its mission and promote the public purposes when assessing competition issues. Equally, in reviewing the BBC's performance, we will consider the potential for the BBC's activities to harm competition. These documents cover many of the points raised by stakeholders in response to the consultation. Specifically:
- a) Our guidance on *Assessing the impact of proposed changes to the BBC's public service activities* sets out how we will assess both the materiality of changes proposed by the BBC and their potential market impact.
 - b) Our guidance on *Assessing the impact of the BBC's public service activities* includes a non-exhaustive list of factors that we will take into account when deciding whether to initiate a competition review of BBC activities.
 - c) Our guidance on *Distribution of BBC public services* sets out the competition requirements we have placed on the BBC relating to distribution and the factors we would expect to take into account when assessing compliance. In response to the related point made by Sky, we do not consider that we need to set any additional requirements to secure the BBC's performance in this area.

⁴⁴ Wireless Group response, paragraphs 69-70, 93-98; NMA response.

⁴⁵ STV response, page 1.

⁴⁶ Wireless Group response, paragraph 80.

⁴⁷ GMG response, pages 5-6.

⁴⁸ Sky response, paragraph 2.9.

⁴⁹ Pact response, paragraphs 1.2 and 1.3.

⁵⁰ Creative Scotland response, page 2; RIG response, paragraphs 31-35.

⁵¹ Creative Scotland response, page 2.

d) In relation to commissioning, the BBC is already obliged to comply with the specified requirements placed directly on it by the Charter and the Agreement, including those in Schedule 3 to the Agreement. It is not necessary for these to be repeated in the Licence in order for Ofcom to be able to enforce compliance. We are also considering whether further regulation is needed in this area in order to protect fair and effective competition.

A2.25 We will regularly engage with the BBC on its plans as well as other stakeholders which will help us identify as early as possible areas that may require consideration under our BBC competition procedures.

The BBC's Annual Plan

A2.26 In the consultation, we noted that the Charter requires the BBC to produce an annual plan which must include a "creative remit": that is, the BBC's proposals for how each UK public service and the World Service will, for that year, contribute to the fulfilment of the mission and the promotion of the public purposes. We also noted that, as the BBC would publish an interim annual plan following the publication of our consultation, it would be able to take account of our proposals as it developed that plan. We were clear that we would expect the interim annual plan to contain commitments against which the BBC could be held to account,⁵² and that we would scrutinise the interim annual plan after it was published and before we finalised our Licence. Should there be areas where we felt the BBC was not delivering, we stated that we would consider whether to include further regulatory conditions in the final Licence.⁵³ The BBC published its interim annual plan on 3 July, a fortnight before our consultation closed.

A2.27 Some stakeholders commented on the BBC's annual strategy development and sought clarification on the mechanisms in place to ensure the BBC's annual plan aligned with our proposed regulatory conditions in the Licence.⁵⁴

A2.28 Some stakeholders representing the commercial radio sector raised specific points on the BBC's interim annual plan. Global stated that the interim annual plan lacked sufficient detail to address what it saw as gaps between it and the draft Licence.⁵⁵ Wireless Group argued that there was a clear disconnect between the BBC's own ambitions as set out in its plan and the objectives set out in the Charter and Agreement.⁵⁶ Radiocentre commented that the plan appeared to outline an ambition to maximise audiences and minimise regulatory obligations, including those relevant to competition.⁵⁷

A2.29 Under the Charter, it is the BBC's responsibility to prepare and publish the annual plan, and the BBC must ensure the objectives and proposals contained within its plan are appropriately aligned with the Charter and Agreement. However, the BBC must also

⁵² Consultation, paragraph 1.29.

⁵³ Consultation, paragraph 3.8.

⁵⁴ ACE response, page 1; Welsh Government response, page 2.

⁵⁵ Global response, paragraph 18.

⁵⁶ Wireless Group response, paragraph 2.

⁵⁷ Radiocentre response, paragraph 19.

comply with the requirements of our Licence, and we expect that the BBC's annual planning cycle will take account of that. We note that the BBC's interim annual plan includes many of our proposed regulatory conditions. In addition, although Ofcom does not have a direct role in enforcing commitments the BBC has set in its annual plan, we may consider its performance against commitments that the BBC makes as relevant evidence of its overall delivery of its mission and public purposes. For example, we have taken account of the BBC's commitments to provide distinctive radio output in setting regulatory conditions in the Licence. Any proposals the BBC makes in its annual plan that could lead to material changes in its public service activities might fall to be considered under our competition rules.⁵⁸

A2.30 We have carefully considered the BBC's interim annual plan and its letters of 28 July and 14 August 2017, which set out further plans in relation to portrayal and representation, and distinctiveness.⁵⁹ We have had regard to these documents in finalising our proposed performance framework. We expect the BBC's further commitments to be incorporated into its finalised annual plan, which is required to be published within three months of the publication of the first Licence.

Other points on coverage and scope of the Licence

A2.31 Stakeholders also made other points in relation to the scope and coverage of the draft Licence, as well as the financial penalties we can impose on the BBC in the event of non-compliance with our regulatory conditions.

BBC Three

A2.32 The International Broadcasting Trust (**IBT**) and the Voice of the Listener & Viewer (**VLV**) were concerned that we had not included any reference to BBC Three online in our Licence. They stated that we should ensure we take this service into account when assessing the BBC's performance.

A2.33 Following the closure of BBC Three as a linear television channel, it is treated under the Agreement as part of BBC Online.⁶⁰ In assessing the BBC's performance, we will take account of the contribution of BBC Online, including BBC Three.

⁵⁸ See our procedures and guidance, *Assessing the impact of proposed changes to the BBC's public service activities*: https://www.ofcom.org.uk/data/assets/pdf_file/0028/99415/bbc-public-service-activities-proposed.pdf.

⁵⁹ The letters are published alongside the BBC's main response to our consultation: <https://www.ofcom.org.uk/consultations-and-statements/category-1/bbc-performance>.

⁶⁰ Schedule 1 to the Agreement describes BBC Online as "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".

The fifth public purpose

- A2.34 The Welsh Government considered that reviewing the promotion of the BBC's fifth public purpose – to reflect the United Kingdom, its culture and values to the world – should not be left solely to the BBC Board and Ofcom should amend the Licence accordingly.⁶¹
- A2.35 We agree with the Welsh Government that it is important that the BBC promotes all five of its public purposes effectively. However, the BBC's promotion of the fifth public purpose will be primarily through the World Service and its commercial services. The Charter makes clear that the scope of the Licence is the BBC's UK public services, which do not include the BBC World Service or services provided by BBC Worldwide.⁶² The draft Licence does not, therefore, set out high-level objectives or regulatory conditions that are specific to the fifth public purpose. However, in carrying out our periodic reviews of the BBC's performance under the Charter and Agreement we must have regard to the performance of the World Service in contributing to the delivery of the BBC's mission and public purposes, and will ensure that we scrutinise the BBC's promotion of the fifth purpose through that mechanism.

Digital radio

- A2.36 Radiocentre was concerned by the absence of any obligation in the draft Licence requiring BBC radio stations to support and promote digital platforms, including DAB digital radio. It referenced the BBC's obligations to support the transition from analogue to digital radio under the Agreement.⁶³
- A2.37 The Agreement places a direct requirement on the BBC to continue to use all reasonable endeavours to support the transition from analogue to digital radio, and includes a requirement for the BBC to consult with Ofcom on technical and coverage planning requirements in the event that the Secretary of State intends to set a digital switchover date. This requirement does not fall within the scope of Ofcom's enforcement powers as set out in the Charter and the Agreement.⁶⁴

Gaelic broadcasting

- A2.38 MG Alba was concerned that the draft Licence did not set out how Ofcom would measure or hold the BBC to account for its delivery of its Charter and Agreement obligations to support the provision of Gaelic language output in Scotland. It also considered that a mechanism should be put in place whereby the BBC must produce an annual statement of Gaelic media policy which Ofcom would review.⁶⁵

⁶¹ Welsh Government response, page 1.

⁶² Article 46(3) of the Charter.

⁶³ Agreement, Clause 45.

⁶⁴ Article 49 of the Charter and clause 59 of the Agreement (definition of "specified requirements").

⁶⁵ Agreement, Clause 40.

A2.39 The Agreement places a direct requirement on the BBC to continue to support the provision of output in the Gaelic language in Scotland, and makes provision relating to the BBC's partnership with MG Alba.⁶⁶ These provisions does not fall within the scope of Ofcom's enforcement powers as set out in the Charter and the Agreement.⁶⁷

Financial penalties

A2.40 A number of stakeholders commented on the financial penalties that we could impose on the BBC in the event that it did not comply with our regulatory conditions. Some respondents commented that any proceeds from the imposition of such penalties should go to the other UK public service broadcasters (**PSBs**) rather than the Government.⁶⁸ The Centre for Competition Policy (**CCP**) stated that fining the BBC would be problematic as private capital is not at stake.⁶⁹

A2.41 The Act provides that any financial penalty paid to Ofcom must be passed by us to HM Treasury. Any change to that framework would be a matter for Government and Parliament.⁷⁰ Our separate procedures for enforcement of requirements in the Agreement and compliance with Ofcom enforcement action explain that where Ofcom determines that there has been a breach of a regulatory condition, Ofcom may determine that it justifies consideration of a sanction against the BBC. The imposition of a sanction is a serious matter. Ofcom may impose a sanction if it considers that the BBC has seriously, deliberately, repeatedly or recklessly breached a regulatory condition. We also have the power to direct the BBC, or accept undertakings from the BBC, to take such steps we consider will remedy the failure to comply.⁷¹

Ofcom's procedures for setting and amending the Licence

A2.42 Alongside the draft Licence, we consulted on our proposed approach to how the Operating Framework would cover how we set and administer the Licence regime and the procedures to be followed. Under the Charter, we must ensure that we consult on and put in place (i) procedures for setting the regulatory conditions in a Licence; and (ii) considerations Ofcom will have regard to in setting regulatory conditions.

A2.43 The BBC agreed with our approach, stating that in their view it was critical that the first Licence was not set in stone and was able to be adapted quickly to changes in audience behaviour and the BBC's circumstances.⁷² The Welsh Government and ACE also supported our approach.⁷³

⁶⁶ Clause 40 of the Agreement.

⁶⁷ Article 49 of the Charter and clause 59 of the Agreement.

⁶⁸ RIG response, paragraphs 25-27; TAC response, page 6; Welsh Government response, page 2.

⁶⁹ CCP response, page 2.

⁷⁰ Section 400 of the Act. Section 400(7) refers specifically to penalties paid by the BBC.

⁷¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0031/99580/BBCAgreementstatement.pdf

⁷² BBC response, paragraph 7.3.

⁷³ ACE response, page 4; Welsh Government response, page 8.

- A2.44 There were proposals from RIG and Teledwyr Annibynnol Cymru (**TAC**) that Ofcom should provide more information about how it would determine whom to consult and when.⁷⁴ Radiocentre, Wireless Group and STV said Ofcom should have a presumption toward a public consultation on changes to the Licence.⁷⁵ Mudiadau Dathlu'r Gymraeg (**MDG**) proposed that Ofcom should set a minimum timeframe for consultation.⁷⁶
- A2.45 Some stakeholders in the nations called for a consultation in certain circumstances, with the Scottish Government suggesting that MG Alba should be consulted on the same footing as the BBC on any relevant matter.⁷⁷ Cytûn said that members of the Welsh Assembly and Members of Parliament should be consulted.⁷⁸
- A2.46 The Agreement provides that before setting or amending a Licence, Ofcom must consult with the BBC and any person Ofcom considers appropriate.⁷⁹ For any consultation we carry out, we follow our published consultation principles.⁸⁰ As set out in the proposed procedures, which we have now decided to adopt and which we have followed in setting the Licence, we will make decisions on the scope and length of individual consultations taking account of the scale and significance of any proposed amendment.
- A2.47 In response to the Scottish Government's suggestion, we agree that it would be appropriate for us to consult MG Alba on any substantive amendment relating to BBC Alba.

Decision on Ofcom's overall approach

- A2.48 In light of responses to our consultation, we have decided:
- a) to put in place a single Licence covering all of the BBC's UK public services, organised by public purpose;
 - b) to set the BBC high-level objectives under each public purpose describing the outcomes we expect to see delivered over the Charter period, together with a set of enforceable regulatory conditions. The majority of the regulatory conditions will directly contribute to secure a more distinctive BBC;
 - c) to adopt the procedures and principles for setting the Licence and for future changes to the Licence published in our March consultation.

⁷⁴ RIG response, paragraphs 38-41; TAC response, page 11.

⁷⁵ Radiocentre response, paragraphs 79-82; Wireless Group response, paragraph 88; STV response, page 5.

⁷⁶ MDG response, page 3.

⁷⁷ Scottish Government response, Annex, page 6.

⁷⁸ Cytûn response, page 2.

⁷⁹ Clauses 13(5) and 80 of the Agreement.

⁸⁰ <https://www.ofcom.org.uk/consultations-and-statements/how-will-ofcom-consult>

A3. Key consultation themes

- A3.1 We received over 100 responses to our consultation, making a range of points on the proposed form and content of the Licence and our approach to measuring performance.
- A3.2 We considered all of these responses carefully, as well as taking account of discussion at a number of stakeholder events we carried out across the UK during the consultation period. The table at Annex 4 highlights a number of the individual proposals or points made in the consultation responses, and our response to them, including where we have made amendments to our approach in the Licence as a result.
- A3.3 Respondents made a number of points about different aspects of the draft Licence. However, three significant themes emerged from the consultation process, and given their importance to the promotion of the BBC's public purposes, we discuss the consultation responses on these issues and our response to them, including the adjustments we have made to the Licence, in this Annex. They are:
- a) the distinctiveness of the BBC's output and services;
 - b) the BBC's programme making in the UK's nations and regions; and
 - c) diversity.

Distinctiveness of the BBC's output and services

- A3.4 The BBC is a unique institution, able to offer a wide portfolio of recognisably distinctive and high-quality content across television, radio and online. The new Charter and Agreement put the need for the BBC to be creative and distinctive at its core, requiring the BBC to offer output and services that – taken as a whole – are substantially different to other comparable providers, across every UK public service and platform, both in peak time and overall.
- A3.5 Public purpose 3 requires the BBC 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.
- A3.6 The BBC must decide how to fulfil its requirements under the Charter. Under Schedule 2 to the Agreement, Ofcom is responsible for setting regulatory conditions that mean there is a clear set of requirements across the BBC services as a whole, and for specific individual services and key genres, to secure a more distinctive BBC. We have delivered this responsibility in the Licence.
- A3.7 To help frame these new requirements, we commissioned wide-ranging research to understand how audiences view the BBC's distinctiveness now, and what most matters to them. Audiences generally see the BBC's quality and range of output as "distinctive", and

the BBC as an organisation with a history, funding and remit setting it apart. However, the BBC was not generally seen as more creative and innovative than other broadcasters, especially by younger audiences; though older people were more likely to consider its output as sufficiently distinctive by virtue of its quality and reliability.

- A3.8 Some felt that the BBC focused more on middle-aged and middle-class audiences, with less output suited to younger audiences, working-class people, and people from a minority background. Original UK output was seen as important. BBC radio's quality and range of content were seen as distinctive – more so than BBC television and online. However, some wanted more non-mainstream music on popular services, and more coverage of local issues. BBC television's quality and professionalism were seen as distinctive, as were the clarity and ease of use of the BBC's online services.

Our proposed approach

- A3.9 The third public purpose lies at the core of the new Charter, and the majority of the conditions we are placing on the BBC across its services are designed to promote it being distinctive. Many of our conditions for other public purposes will contribute to a more distinctive BBC – such as the delivery of news and current affairs, more commissioned children's content, and a higher proportion of programmes in the nations or outside London. Taken together, they set a clear set of requirements that we expect the BBC not just to meet, but to surpass.
- A3.10 The Charter and Agreement defined “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.
- A3.11 In our consultation, we considered that the definition of distinctive output and services, at a high level, covers the important areas the BBC should take into account in meeting this public purpose. We considered that in delivering distinctive output and services:

- a) 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 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 services⁸¹ is broader than that of comparable providers;
- b) 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;
- c) 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;
- d) 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
- e) 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.

A3.12 Our consultation proposed a number of regulatory conditions we considered appropriate to secure the BBC's delivery of distinctive output and services and to meet the specific requirements relating to distinctiveness set out in Schedule 2 to the Agreement.

A3.13 The draft Licence set original production quotas for all BBC UK public **television** services, increasing previous quotas based on historic actual levels of performance by the BBC over the last five years.

A3.14 In addition, we proposed 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 would also ensure the BBC meets its original productions quotas with an appropriate proportion of first-run UK originations and repeated programming.

A3.15 In relation to **radio**, we proposed retaining eight existing conditions on Radio 1 and Radio 2. These would ensure that a minimum proportion of the music played in daytime is new

⁸¹ By "popular radio services" we mean Radio 1 and Radio 2 in this context.

music, and that a minimum proportion is from UK acts. We proposed 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 Radio 1, we proposed 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 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 considered that these conditions would contribute to the distinctiveness of Radio 1 and Radio 2’s musical output compared to that of comparable providers.

- A3.16 We also consulted on setting new conditions that would require both Radio 1 and 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.
- A3.17 We also proposed 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 would ensure that the service covers a broad range of sports and supports sports which currently do not receive a great amount of broadcast coverage.

Responses to our proposals

- A3.18 Responses to our consultation were generally supportive of the conditions we proposed, in particular the first-run UK originations quotas and the music output requirements on Radio 1 and Radio 2. Some expressed concern that regulation of distinctiveness could put pressure on the BBC to concentrate on areas where the market had failed and so reduce its broad appeal and reach. Some highlighted the importance of new formats and titles and said that first-run UK originations conditions alone would not guarantee this, while others argued that long-running series can also be distinctive. Others argued for the retention of certain genre conditions or offered their own requirements for a range of services. The BBC stated that the definition of “new music” should be updated.
- A3.19 In this section we address three main themes that emerged from consultation responses in this area: distinctiveness of radio, genre conditions on television, and new titles and long-running series on television. Below, we explain how we have responded to the consultation responses, including where we have changed our approach. Other issues raised in responses are included in Annex 4.

Conditions for radio

- A3.20 Some stakeholders said that we had not proposed to retain regulatory conditions and qualitative service descriptions across the BBC’s network radio services, for example in relation to drama provision on Radio 3 and comedy provision on Radio 4, which they

argued contributed to the distinctiveness of these services.⁸² Others said there would be competitive impacts from not retaining such conditions.⁸³

A3.21 Some responses queried the number of conditions that we proposed to apply to BBC radio services in the nations as well as its local radio services, and the impact this could have on the distinctiveness of these services.⁸⁴ Stakeholders were also concerned that we had not proposed to retain qualitative service descriptions of BBC Local Radio.⁸⁵

A3.22 Some stakeholders wished to see average age targets for BBC radio services. Radiocentre was concerned that, without such targets, the BBC would focus on the most commercially valuable audiences.⁸⁶ It stated that the 'editorial focus' on certain age demographics committed to in the BBC interim plan would be less measurable and would not cover all radio services.⁸⁷ Other stakeholders argued for average age targets for Radio 1, Radio 2 and BBC Local Radio in particular.⁸⁸ Radiocentre, Global and Bauer also queried the absence of regulatory conditions requiring the broadcast of social action issues and campaigns on Radio 1 and Radio 2.⁸⁹

Genre conditions on television

A3.23 In relation to television services, ITV and STV noted that no additional genre quotas had been proposed in the draft Licence beyond those which existed under the BBC Trust regime.⁹⁰ In particular it said that Ofcom had not proposed any genre quotas relating to either specialist factual or comedy on BBC One, citing the Agreement and Ofcom's deliberative research, which identified comedy as "an area of particular weakness" for the BBC.⁹¹

New titles and long-running series on television

A3.24 In our consultation, we proposed a high-level objective in relation to the level of risk-taking, innovation, challenge and creative ambition taken by the BBC. This said that the BBC should continue to take risks in terms of the output it commissions, and the range of organisations it commissions from, and that it should look to reduce the number of long-running series over time. It should also commission output from a wide range of

⁸² VLV response, paragraphs 28, 74; Radiocentre response, paragraphs 36-44; Radio Forum response, pages 1-2; Friends of Radio 3 response, page 4; RIG response, paragraphs 18-24.

⁸³ Wireless Group response, paragraph 25.

⁸⁴ RIG response, paragraph 37; David Lloyd Media Services response, pages 3-6; Global response, paragraphs 38 and 45; Radiocentre response, paragraphs 76-77.

⁸⁵ Global response, paragraph 38; Radiocentre response, paragraph 74.

⁸⁶ Radiocentre response, paragraph 12; BBC interim annual plan, page 22.

⁸⁷ Radiocentre response, paragraph 22; BBC interim annual plan, pages 41-42.

⁸⁸ Global, paragraphs 12-13; David Lloyd Media Services response, pages 2-3.

⁸⁹ Radiocentre response, paragraph 58; Global response, paragraph 30; Bauer response, page 10; Paragraph 2(3)(c) of Schedule 2 to the Agreement.

⁹⁰ ITV and STV response, pages 8-9.

⁹¹ Paragraph 2(2)(a) of Schedule 2 to the Agreement; [Ofcom, Ofcom BBC Distinctiveness Research: qualitative findings, 2017](#), page 17.

independent producers to ensure a range of voices and ideas are reflected across its services.

- A3.25 A number of stakeholders expressed views on this proposed objective, in particular our expectation that the BBC should look to reduce the number of long-running series over time.⁹² While not disagreeing with the objective, ITV and STV sought clarification on how the BBC's compliance in reducing long-running series would be measured. It noted that the BBC made no mention of the objective in its interim annual plan.⁹³ A number of other stakeholders, including the VLV and the CCP, were concerned that setting an objective of "reducing" the number of long-running series would risk reducing the amount of popular content to the detriment of audiences, and was not necessary in order for the BBC to innovate and take risks. Our own research showed that audiences felt that given the BBC's role as a publicly-funded broadcaster it should both make programmes that appeal to large audiences and produce innovative content to serve less mainstream communities and interests.
- A3.26 The BBC suggested that "to reduce the number of long-running series over time" should be replaced by "to secure an appropriate balance of unique titles and long-running series", drawing on the wording of the Agreement.⁹⁴
- A3.27 A number of respondents suggested a requirement to measure the number of genuinely new titles commissioned by the BBC, many stating that the BBC tended to focus on recommissions and recycling previously used formats.⁹⁵

Ofcom response, and the new Licence

- A3.28 The conditions and requirements we have set provide a strong framework to ensure the BBC fulfils its duties under the Charter and Agreement to provide distinctive output and services.
- A3.29 The Agreement places clear conditions, set and enforced by Ofcom, as an external regulator, at the core of the new regime. If the BBC fails to carry out its obligations, it is at risk of enforcement action by Ofcom, which includes the imposition of financial penalties. While the BBC Trust reported annually on the fulfilment of the service licence conditions and reviewed the service descriptions at least every five years with a view to informing and developing the BBC's strategic objectives, the old regulatory structure did not provide for other enforcement action in the event of non-compliance. The new regime subjects the BBC to more onerous regulatory scrutiny; so we consider it is appropriate to set clear, measurable conditions that can be effectively enforced so any regulatory intervention is consistent, targeted and best placed to secure the promotion of the public purposes.

⁹² VLV response, paragraph 68; Directors UK response, page 4; CCP response, pages 4-5.

⁹³ ITV and STV response, page 12.

⁹⁴ BBC response, paragraph 5.5.

⁹⁵ Professor Steemers response, page 2; Campaign for Regional Broadcasting Midlands (CRBM) response, page 6; Ofcom's Advisory Committee for Scotland (ACS) response, page 4; Children's Media Foundation (CMF) response, paragraph 9.

- A3.30 Some felt that the proposed removal of certain conditions set by the BBC Trust would reduce the distinctiveness of some BBC services. However, as the split between governance and regulation has been bolstered under the new Charter and Agreement, old conditions and commitments do not map precisely across to the new regulatory framework. While particular kinds of programmes or mix of genres may make a service distinctive, other combinations of output may also make it as, or more, distinctive.
- A3.31 The majority of the conditions we are placing on the BBC across its services overall are designed to promote it being distinctive. Many of our conditions for other public purposes will contribute to a more distinctive BBC – such as the delivery of news and current affairs, more commissioned children’s content, and a higher proportion of programmes in the nations or outside London. Taken together, they set a clear set of requirements that we expect the BBC not just to meet, but to surpass.
- A3.32 We also consider that the objectives and conditions we have put in place for the BBC in the Licence meet the requirements set out in Schedule 2 to the Agreement. The high-level objectives we have set at paragraph 1.33 of the Licence are designed to secure that the BBC delivers distinctive output and services fulfilling each of the characteristics set out in paragraph 1(2) of Schedule 2 to the Agreement. In line with paragraph 2(1) of Schedule 2 to the Agreement, we have retained the majority of the BBC Trust’s conditions to underpin these high-level objectives. We have also increased a number of current requirements and added a range of new conditions, as well as including conditions to secure content serving the UK’s nations and regions. We believe that the conditions contained within the Licence will support the provision of distinctive output and services to a greater extent than the previous regulatory regime.
- A3.33 In setting the Licence conditions in accordance with paragraph 2(1) of Schedule 2 to the Agreement, we have had particular regard to the desirability of setting or change requirements relating to the matters specified in paragraph 2(2) and (3) of that Schedule relating to the BBC’s television and radio services.
- A3.34 We have decided to maintain all of the new or increased conditions to secure the **provision and prominence of genres on television** that we proposed in our consultation, including to protect genres that are underserved or in decline across PSBs, such as music and arts programmes on BBC One, BBC Two and BBC Four; religious programming on BBC One and BBC Two; children’s drama and factual programming on CBBC; and content in a range of genres that supports pre-school children in their learning on CBeebies.⁹⁶ After carefully considering the evidence in relation to setting additional specialist factual conditions on the BBC’s television services (and BBC One in particular),⁹⁷ we have decided not to propose specific genre quotas relating to this at present. Our latest PSB report data does not reveal specialist factual content to be underserved or in decline across the PSBs.⁹⁸

⁹⁶ See summary of regulatory conditions at Schedule 3 to the Licence. In relation to the children’s programming, we have also set conditions in relation to first-run UK originations to further contribute to distinctiveness.

⁹⁷ Paragraph 2(2)(a) of Schedule 2 to the Agreement.

⁹⁸ Ofcom, PSB Report 2017: [Annex C - Output and spend](#), slide 32.

- A3.35 Ofcom expects the BBC to support valued genres, particularly those that have seen declining investment. The BBC must support a wide range of valued genres across its services, such as drama, comedy, factual programmes and different types of music. We also expect the BBC to continue producing programmes on a broad range of established themes and interests – including but not exclusively programmes covering politics, business, consumer issues, rural affairs, health, disability and social action. We will monitor the BBC’s output in a variety of ways to ensure it promotes its public purposes and provides a broad range of programmes across its services.
- A3.36 In response to the consultation, we have also introduced a new condition to safeguard the provision of comedy on BBC One and BBC Two for the first time, recognising BBC Three’s move online. Respondents pointed to Ofcom’s deliberative research, which identified BBC comedy as too traditional and risk-averse: we expect the BBC to have particular regard to this finding in complying with this condition. We consider that setting a condition for comedy on BBC television is important to ensure continued representation on the medium.
- A3.37 We have carefully considered the consultation responses on the distinctiveness of BBC **radio**. We have decided to maintain all of the new or increased conditions to secure the **distinctiveness of radio** that we proposed in our consultation, including increasing the proportion of music from UK acts that Radio 1 and the proportion on Radio 2, and for these services to play 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 time and daytime). We have maintained news and documentary requirements on Radio 1 and Radio 2, including in peak time. BBC Radio 5 live will have to broadcast live commentary on a minimum number of sports and BBC Online must deliver content which supports children and teenagers in their formal learning in all parts of the UK.⁹⁹
- A3.38 In setting these conditions, we took account of the commitments made by the BBC on its radio services in its interim annual plan. The BBC has said that it intends to include further commitments including increasing the level of new and UK music broadcast in daytime on Radio 1 and Radio 2 and introducing further measures to monitor the distinctiveness of these services from their key commercial radio competitors. The BBC’s commitments also cover the level of new music on BBC 6 Music; new music and music from UK artists during daytime on 1Xtra; new music and music from UK artists during daytime on the BBC Asian Network; original drama and original comedy on Radio 4; comedy and drama on BBC 4 Extra; new drama on Radio 3; and reporting commitments on BBC Radio 5 live sports extra, and a review of the station’s remit and range of broadcast content.
- A3.39 We consider that the BBC’s interim annual plan for 2017/18 and supplementary document relating to its radio services¹⁰⁰ demonstrate commitment to the delivery of distinctive output and services. However, will we assess the BBC’s performance against all of the commitments made in these documents and future annual plans carefully in our assessment of the BBC’s delivery of public purpose 3. We expect the BBC’s finalised annual

⁹⁹ See summary of regulatory conditions at Schedule 3 to the Licence.

¹⁰⁰ BBC letter to Ofcom, 14 August 2017: https://www.ofcom.org.uk/_data/assets/pdf_file/0022/105934/BBC-3.pdf.

plan to contain a description of how each individual service contributes to the delivery of distinctive output and services, and all of the commitments that will secure this delivery.

- A3.40 Following consultation responses and further assessment, we are also now imposing an additional condition on the BBC requiring Radio 1 to offer a minimum number of major social action campaigns each year. Providing information and awareness of social issues affecting young people and creating a forum for discussion is one of the key ways Radio 1 can set itself apart from other radio services.
- A3.41 We also note the points made about setting average age targets for the BBC's mainstream radio services.¹⁰¹ The Agreement requires us to consider the case for these. Part 1 of Schedule 1 to the Agreement describes Radio 1 as a service aimed at young audiences¹⁰². The BBC builds on this in its interim annual plan and commits to an editorial focus on listeners aged 15-29. While Part 1 of Schedule 1 to the Agreement does not describe a specific target audience for Radio 2, the BBC's interim annual plan commits to an editorial focus on listeners aged over 35.¹⁰³ Ofcom's ongoing monitoring will assess the extent to which these audiences are served.
- A3.42 We note the points made about the potential competitive impact of BBC radio services. The Charter and Agreement give us the tools to take action should this be necessary and justified. Should the BBC wish to make material changes which may have a significant adverse impact on fair and effective competition, we would assess such proposals through our competition procedures before any change could proceed. In other cases, where the BBC has made incremental changes over time which have not warranted an individual competition assessment, or where market conditions have undergone significant change, we can launch a competition review.
- A3.43 We have carefully considered the consultation responses on our proposed objective for the BBC **to take risks and innovate, and on the number of long-running series**. It is important that the BBC continues to innovate and show creative ambition by commissioning new titles to sit alongside well-established ones, and the Agreement requires us to secure an appropriate balance of unique titles and long-running series on the BBC's television channels. The challenge facing the BBC in striking the right balance between both elements was highlighted in consultation responses and our research given the expectations that audiences rightly have of it.¹⁰⁴
- A3.44 Accordingly, we have decided to amend our proposed objective for the BBC to expressly require "a renewed focus on innovation and creative risk-taking through the commissioning and scheduling of new titles", and that "the BBC should secure an appropriate balance of unique titles and long-running series". By placing clear emphasis both on new titles and the balance of unique titles and long-running series, we are signalling that while the precise balance between new titles and long-running series within

¹⁰¹ Paragraph 2(4) of Schedule 2 to the Agreement.

¹⁰² Paragraph 2(2) of Schedule 1 to the Agreement.

¹⁰³ BBC interim annual plan, page 41-42.

¹⁰⁴ Ofcom, *Ofcom BBC Distinctiveness Research: qualitative findings*, 2017, paragraph 4.2.2.

the schedule is, in the first instance, an editorial matter for the BBC, we expect to see genuine innovation and exploration of new formats to deliver for audiences. In addition, given the provisions of the Agreement, and taking account of ITV and STV's point on how we will assess compliance with this condition, we will monitor the balance of new titles and long-running series, at both peak and non-peak times, as part of our performance measurement. If we believe that an appropriate balance is not being struck, we will revisit the question of whether to impose more prescriptive regulatory conditions.

The BBC's programme making in the UK's nations and regions

- A3.45 Public purpose 4 places a responsibility on the BBC to deliver content that meets the needs of all audiences across the UK, providing *"output and services that meet the needs of the United Kingdom's nations, regions and communities"*. The BBC is also required to *"invest in the creative economies of each of the nations and contribute to their development"*. There is also emphasis on representation and portrayal.
- A3.46 The Charter and Agreement give Ofcom a range of specific duties here. The Charter makes clear that in setting the Licence for the BBC, Ofcom should have regard to ensuring that audiences in England, Scotland, Wales and Northern Ireland are well served. The Agreement also requires Ofcom to set a number of specific regulatory conditions for the BBC to meet in relation to the nations, including on programme production in each nation of the UK, and on the broadcast of content designed specifically for audiences in each nation.
- A3.47 We received consultation responses on a number of individual points relating to our proposed regulatory conditions and objectives for the BBC's delivery for the nations and regions. One of the most complex and debated issues related to our proposals on quotas for the BBC's production in the nations, where there were a range of views.

Our proposed approach

- A3.48 The question of how public service broadcasting can deliver for audiences across the UK's nations is not new. Our most recent Public Service Broadcasting annual report shows that audiences across the UK do not always feel that portrayal of the nations is delivered fairly by PSBs as a whole.¹⁰⁵ Our 2015 Public Service Broadcasting review also found that audiences in the devolved nations felt under-represented compared to audiences in England.¹⁰⁶ In considering how to fulfil our duties under the Charter and Agreement to secure the BBC's delivery across the nations and regions, we have taken account of our audience research and the BBC's past performance. We have also considered audience and stakeholder views, including the views of the devolved governments, which suggest that there is scope for the BBC to improve how it meets the needs of the UK's whole population.

¹⁰⁵ Ofcom, *PSB Report 2017*.

¹⁰⁶ Ofcom, *Public Service Broadcasting in the Internet Age*, 2015.

- A3.49 Specifically on production, we have taken the approach that, for the BBC to better serve and reflect the diverse communities of the UK's nations and regions, more of the programmes it makes need to be made in those areas. Our approach is to provide a greater focus on production in each nation of the UK, and on guaranteed levels of programmes for the nations and regions. We expect the BBC to build on what it already does, and help develop sustainable production outside London. It should reflect life and attitudes in all parts of the UK, and contribute towards sustainable creative economies across the nations.
- A3.50 We therefore proposed in our consultation a series of quotas for production spend and for hours of programming produced in each nation, which would work as follows:
- a) regulatory conditions requiring that the share of total spend on, and hours of, qualifying BBC network television programming in each of the nations should broadly reflect their respective population.¹⁰⁷ We considered that this population-based approach would be the best way to ensure BBC programme-making investment would be fairly spread between nations;
 - b) for both the spend and hours quotas we therefore proposed to set the figures for each nation as 8% in Scotland, 5% in Wales, 3% in Northern Ireland.¹⁰⁸ This was buttressed by a further quota for production spend and hours within England, specifying that 34% of production hours and spend in England must be outside the M25.¹⁰⁹ In addition, we proposed capping hours of, and spend on, production within the M25 area at 50% of the total.¹¹⁰
- A3.51 Our approach goes beyond the Agreement's requirements. The Agreement requires Ofcom to set quotas for production *spend* in each UK nation, leaving the levels to our discretion. Our proposal to set a quota for production *hours* in each nation goes beyond the Agreement, which only requires us to set a single combined quota for all production hours outside England plus an hours quota for production outside London. We considered that the importance of building sustainable production across each of the UK's nations required a stronger obligation.

Responses to our proposals

- A3.52 A range of opposing views were expressed in response to our proposals on production:

¹⁰⁷ Ofcom's guidance on regional production and regional programme definitions sets out criteria for assigning programmes to nations or regions, based on location of the production company, where the production budget is spent, and the usual place of employment of the off-screen production talent:

https://www.ofcom.org.uk/data/assets/pdf_file/0019/87040/Regional-production-and-regional-programme-definitions.pdf.

¹⁰⁸ Draft Licence conditions 2.41, 2.42 and 2.43.

¹⁰⁹ Draft Licence condition 2.40.

¹¹⁰ Draft Licence condition 2.39.

- a) a number of respondents supported our proposal to set regulatory conditions for the hours of network production in each nation. Some made some additional suggestions.¹¹¹ TAC suggested that we should require the BBC to demonstrate a commitment to a large range of genres produced in the nations and regions.¹¹² Pact noted that the conditions were not explicitly linked to each BBC television channel and argued they should be, to avoid the risk that the BBC could meet these requirements by ‘loading’ programmes made out of London on to one channel or within slots that were watched less;¹¹³
- b) other stakeholders, including the BBC, argued that imposing conditions for both network production spend *and* hours for each nation could affect the BBC’s ability to commission the best ideas and deliver value for money. They argued that our proposals risked creating incentives to commission for volume rather than quality, and to allocate resources to meet quotas rather than to build sustainable production bases around the UK.¹¹⁴ The BBC and VLV suggested this would run counter to the BBC’s current out of London strategy, which was based on delivering ‘high value, high impact’ (but not necessarily high volume) programming in genres such as drama, particularly in Northern Ireland and Wales.¹¹⁵ The BBC argued that it would make less sense for it to take creative risks on genres that do not contribute towards hours and have a higher risk of failure, but could in its view deliver significantly in terms of representation and portrayal.¹¹⁶ The BBC provided data on its commitments for 2016 and 2017 which it said demonstrated that the BBC was already meeting our proposed hours levels for the overall out of London, England (outside of the M25) and Scotland levels, but would not meet our proposed levels for Wales or Northern Ireland.¹¹⁷ In response to an Ofcom information request, the BBC provided a detailed confidential forecast for 2018 and 2019;¹¹⁸
- c) some respondents considered that quotas for spend and hours in Scotland and for spend in Wales should be set in line with the BBC’s existing performance in these nations rather than population share, to avoid what they saw as a risk of a reduction in qualifying spend or hours in these nations.¹¹⁹ The Campaign for Regional Broadcasting Midlands (**CRBM**) wanted the condition for the proportion of programme spend and hours made in England and outside London to be made more specific, and production to be more evenly divided between the BBC’s regional production centres;¹²⁰

¹¹¹ Scottish Government response, Annex, page 5; Creative Scotland response, page 4; ACS response, TAC response pages 4 and 9-10; Ofcom’s Advisory Committee for Wales (**ACW**) response, page 1; Pact response, paragraphs 1.7 and 5.1; MG Alba response, pages 12-13.

¹¹² TAC response, page 10.

¹¹³ Pact response, paragraph 1.8.

¹¹⁴ BBC response, paragraphs 4.1-4.25; ACNI response, page 2; IWA response, page 4; VLV response, paragraphs 84-87.

¹¹⁵ BBC response, paragraphs 4.18-4.25; VLV response, paragraph 85.

¹¹⁶ BBC response, paragraph 4.24.

¹¹⁷ BBC response paragraphs 4.12-4.14.

¹¹⁸ BBC response to Ofcom information request under article 47 of the Charter, 25 July 2017.

¹¹⁹ Welsh Government response, pages 2 and 6-7; Scottish Government response, page 2, Annex, page 5; ACS response, page 4; ACW response, page 1; IWA response, page 4; Creative Scotland response, page 4; TAC response, page 4.

¹²⁰ CRBM response, pages 7-11.

- d) finally, the BBC stated that meeting our proposed spend quota for productions in the English regions would require it to move significant amounts of content spend from areas of ‘over-delivery’ such as London, Scotland and potentially Wales. It considered that this would not be an approach that supported sustainable growth and would have the effect of ‘penalising creative success’.¹²¹ It also queried how our proposed quota level of 34% for productions in England outside the M25 was calculated.¹²² It explained that it had previously included multi-regional productions, defined by Ofcom guidance, in its calculations for network spend in the English regions and that not including this figure in the new quota would have a significant impact on its approach.¹²³ The BBC also argued that a quota set at this level would be unsustainable and costly given current levels of delivery. It provided confidential evidence of the projected costs required to meet the condition.¹²⁴

Ofcom’s response, and the new Licence

- A3.53 In setting requirements for securing a suitable proportion of network programming is made in the nations and regions, we are seeking to ensure that the UK’s nations and regions receive a fair share of the BBC’s investment. There are, understandably, a range of views about what constitutes a “fair share”. We proposed setting minimum levels for each of Scotland, Wales and Northern Ireland in line with population share as a reasonable proxy for this.
- A3.54 We understand the concern that setting population-based quotas in those nations where levels of production are already higher could lead to a lowering of the BBC’s ambition. However, an approach to setting quotas based on current levels of programme-making and spend outside London risks “baking in” the current distribution of BBC production across the UK, with the result that some areas would benefit, and others lose out. As with all of the Licence conditions, the BBC can seek to exceed individual quotas, but they are set a level that the BBC must not fall below.
- A3.55 We have therefore decided broadly to maintain the population-based approach for both hours and spend quotas at the level of each nation, as we think this strikes an effective balance between challenging the BBC to deliver right across the UK and the importance of delivering to audiences and supporting the creative economy across the whole United Kingdom.
- A3.56 We understand the BBC’s concerns about setting individual hours quotas for network production in each nation beyond the Agreement but have decided to maintain hours quotas for each nation. We believe volume requirements alongside spend requirements

¹²¹ Draft condition 2.40.2; BBC response, paragraphs 4.26-4.29.

¹²² BBC response, paragraph 4.30.

¹²³ Multi-regional productions are programmes which qualify as out of London productions on certain criteria (spend and talent), but do not fully meet those criteria in any one nation or macro-region. Though these productions may contribute to English regional spend, they are not made exclusively in the English regions, and can be partially made in the other nations.

¹²⁴ BBC response, paragraphs 4.26-4.30; BBC confidential response to Ofcom information request under article 47 of the Charter, 25 July 2017.

will help to stimulate a broader range and larger scale of production in each nation beyond a small number of big-budget productions. An increase in hours production in the nations will also encourage the commissioning of returning or longer running series, which will help to build scale and long-term investment in the nations. In turn, this should lead to an increase in the amount of indigenous productions and talent, delivering programming with different perspectives and increasing the range of voices in a variety of programming. As well as benefiting the local creative economy, this should also improve the BBC's representation and portrayal of the nations and regions of the UK.

- A3.57 We have carefully considered the arguments about what the *level* of hours and spend quotas should be, and the BBC's evidence. We consider that, although the BBC is not meeting our proposed levels for Wales and Northern Ireland now, they are achievable over time. We also consider the BBC has enough flexibility across the genres produced in Wales and Northern Ireland to maintain quality programming without departing from its current strategy to support sustainable production bases in the nations and regions.
- A3.58 As set out above, we think that a clear, direct link between quota levels and population is the most appropriate basis for setting quotas for each nation, and it should remain the objective. However, in light of the BBC's evidence, in particular the fact that a high proportion of BBC commissions for 2018 and 2019 has already been set, we are introducing a "glide path" for the BBC to reach that level in Wales and Northern Ireland. We have therefore set initial levels at 4% of network hours in Wales, and of 2% for Northern Ireland. We expect the BBC to maintain these levels in 2018, in line with current performance, and to increase the levels to 5% and 3% respectively by 2022 when the mid-Charter review takes place.¹²⁵ The levels of network spend in Wales and in Northern Ireland will remain as proposed at 5% and 3% respectively, to be achieved by 2018.¹²⁶ For Scotland, the levels will remain as proposed at 8% for both hours and spend, to be achieved by 2018.¹²⁷
- A3.59 We did not propose to set population-based quotas for regions within each nation, but did propose quotas of 34% for production hours and spend in England outside London, balancing the need for the BBC's production to be spread across the UK with a recognition of London's value as a world-class creative hub. Having considered the evidence supplied by the BBC we have decided to adjust the quotas for production hours and spend in England outside the M25 area to 30%.¹²⁸ We do not consider it appropriate to include multi-regional productions in calculating English regional spend. Although we understand the points the BBC have made about the challenging nature of such a target, we think that this quota level will both be stretching and allow the BBC to continue to produce multi-regional programmes and prioritise the best ideas to maintain quality. We have also decided to set a glide path for the BBC to reach the level of 30% in relation to the

¹²⁵ Final Licence conditions 2.58.1; 2.58.2; 2.60.1 and 2.60.2.

¹²⁶ Final Licence conditions 2.58.3 and 2.60.3.

¹²⁷ Final Licence condition 2.56.

¹²⁸ Final Licence condition 2.54; BBC confidential response to Ofcom information request under article 47 of the Charter, 25 July 2017.

production spend quota given the proportion of BBC commissions for 2018 and 2019 which have already been determined. For 2018 and 2019 we will set the level of English regional spend at 28%, in line with current BBC delivery, and we require the level to be 30% by 2020.

- A3.60 Given the stretching nature of the quotas we are now setting in the Licence, and the need to afford the BBC a degree of flexibility in how it further develops its production outside London and the M25, we do not propose to set any other additional production requirements at regional level. We also consider the genres of network programming made outside London and the channels on which they are broadcast, to be matters for the BBC to determine. In addition to setting quotas for production in the nations and outside London, we have also retained and strengthened the requirements that we proposed on programming of national or regional interest.
- A3.61 We acknowledge the points that the BBC, the Advisory Committee for Northern Ireland (ACNI), the Institute of Welsh Affairs Media Policy Group (IWA) and VLV¹²⁹ have made that requirements for a given level of hours to be produced in each nation could constrain its flexibility in the short-term on some commissioning decisions. While we have set the regulatory conditions on hours of production to drive an increase in volume and growth of the production sector across the UK, it may be appropriate to vary these in specific circumstances if it is justified. If the BBC were, for example, to propose a temporary focus on commissioning a high-cost drama in one nation, which would mean not meeting that nation's hours target in any one year, it could request Ofcom to agree to a lower proportion of hours for that year.¹³⁰ The BBC already produces some high-value drama series in the UK's nations, for example the production of *Doctor Who* in Cardiff. We would consider any such request on a case by case basis, and may consider it appropriate to consult publicly on such a request.
- A3.62 We will continue to monitor and review performance in this area closely. We are also reviewing Ofcom's Out of London Guidance on how productions are allocated for the purposes of meeting quotas later this financial year.

Diversity, audience portrayal and representation

- A3.63 Everyone in the UK – whatever their background – has a stake in the BBC. The BBC must reflect the diversity of the UK population as a whole. Ofcom's audience research suggests that the BBC is not adequately reflecting and portraying some groups, and it does not reach or serve some audiences particularly well.
- A3.64 Public purpose 4 requires the BBC to *"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."*

¹²⁹ BBC response 4.15-4.25, ACNI response, page 2; IWA response, page 3; VLV response, paragraphs 84-87.

¹³⁰ Final Licence conditions 2.55; 2.57; 2.59; 2.61.

Our proposed approach

- A3.65 Our consultation proposals were designed to create a robust system for ensuring that the BBC would improve its performance in relation to diversity, audience portrayal and representation. We proposed four high-level objectives we considered the BBC should meet in promoting public purpose 4. These were:
- a) serve and create content of interest and of relevance to all audience groups across the whole of the United Kingdom;
 - b) 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;
 - c) accurately represent and authentically portray the diverse communities of the whole of the United Kingdom; and
 - d) help contribute to social wellbeing through cultural education, awareness and bringing people together for shared experiences.
- A3.66 We also proposed regulatory conditions to ensure robust oversight of the BBC's portrayal and representation of diverse communities, which is central to the promotion of public purpose 4.¹³¹ These conditions covered:
- a) the BBC's annual reporting on how it has complied with the requirement to reflect, represent and serve the diverse communities of the UK. The BBC has diversity targets for on-screen and on-air representation, which cover the number and type of roles taken by women; by people from a minority background; and by disabled people. We proposed to require the BBC to measure and report to Ofcom every year on its on-screen and on-air diversity, so Ofcom and the public can scrutinise its performance and assess whether it is making sufficient progress and whether audiences are satisfied. This includes how the BBC represents, portrays and serves diverse audiences; how the BBC reflects the whole of the UK population on-screen and on-air, with particular regard to first-run programmes; and how the BBC raises awareness of different cultures and viewpoints. If audiences are dissatisfied, the BBC must explain and put in place measures on how it will improve;
 - b) 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 the content that the BBC creates. We will ensure that comprehensive and clear data are available to ensure we and the public can scrutinise its performance on diversity. We will also measure audience satisfaction through our BBC performance tracker, which will look at how people think they are accurately represented and authentically portrayed by the BBC;

¹³¹ Consultation, paragraph 4.128.

- c) a diversity commissioning Code of Practice, to be approved by Ofcom. The Code will help to ensure that the BBC's content accurately represents, authentically portrays and reflects the whole of the UK. It will embed consideration of on-screen and off-screen diversity in the commissioning process, requiring commissioners and producers to demonstrate how their programmes reflect different groups. In particular, the Code must set out the BBC's steps in respect of on-screen and on-air portrayal and casting, and workforce diversity, when commissioning and producing content. The Code will apply to all commissions – whether produced by the BBC in-house or externally, including BBC Studios. The Code of Practice will help integrate diversity into the programme-making process, and push the wider industry to improve how it reflects society.
- A3.67 Since publishing our consultation proposals there have been notable developments. First, the BBC published its interim annual plan for 2017/2018, which set out its plans for how it intended to promote public purpose 4¹³² across its output and services, including plans to meet its general diversity duty.¹³³
- A3.68 Regarding representation and portrayal in its programmes, the BBC has committed to achieve by 2020: 50% women on screen, on air and in lead roles across all genres from drama to news; 8% disabled people, on screen and on air including some lead roles by 2020; 8% lesbian, gay, bisexual and trans (LGBT) on-screen and on-air portrayal including some lead roles by 2020; and 15% black, Asian and ethnic minorities (BAME) on screen, on air and in lead roles across all genres by 2020.
- A3.69 The BBC Board also set its own workforce diversity targets to be achieved by 2020. It has committed to have by 2020: 50% of all staff and leadership roles to be occupied by women; 15% of all staff and leadership to be from a BAME background; 8% of all staff to be LGBT; and for people with disabilities to make up 8% of staff and leadership¹³⁴
- A3.70 Ofcom published wide-ranging quantitative research on the BBC to understand how audiences view its distinctiveness, and what most matters to them.¹³⁵ It found that people from an ethnic minority background were less likely to think the BBC produces content that appeals to a wide range of different audiences on all platforms, while older viewers (aged 55 and over) were more satisfied than younger ones (aged 16-34).
- A3.71 In September 2017, we published our first *Diversity and Equal Opportunities in television report*¹³⁶, which reported on the diversity characteristics of the BBC's employees. It showed that its performance on most characteristics was behind that of Channel 4. As the UK's largest broadcaster, the BBC's position on diversity will have a disproportionate effect on the wider industry. We concluded that the BBC should be leading the way on the diversity of its workforce.

¹³² Reflecting, representing and serving the diverse communities of all of the United Kingdom's nations and regions.

¹³³ Article 14 of the Charter.

¹³⁴ http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/BBC_Annual_Plan_2017-18.pdf

¹³⁵ https://www.ofcom.org.uk/data/assets/pdf_file/0022/104557/bbc-distinctiveness-research.pdf

¹³⁶ https://www.ofcom.org.uk/data/assets/pdf_file/0017/106343/diversity-television-report-2017.pdf

Responses to our proposals

- A3.72 Overall, respondents agreed with the importance of the BBC accurately and authentically representing and portraying the lives of diverse communities in the UK. No respondent disagreed with the conditions we proposed in our consultation, but a number wanted us to go further. The bulk of the responses covered two themes: the suggestion that regulatory conditions should be set on the composition of the BBC's workforce; and additional monitoring and reporting of the BBC's workforce.
- A3.73 Several respondents, including the National Union of Journalists (**NUJ**), Directors UK, Sir Lenny Henry, Stonewall, and the Campaign for Broadcasting Equality CIO (**CBE**), argued that there is a link between off-screen diversity and the extent and quality of on-screen representation and portrayal.
- A3.74 Respondents said that Ofcom should set minimum standards for the BBC's on-screen diversity requirements, including quotas for lead roles on-screen, ringfenced funding for content produced by/for audiences from an ethnic minority background, and programme hour and spend targets similar to those in place for nations and regions productions.
- A3.75 Many were concerned about the robustness of current data and a lack of transparency, particularly the make-up in relation to the World Service and the balance between back office and programming roles. Respondents suggested Ofcom should collect and publish a range of diversity data and with broader industry initiatives, including Project Diamond. Sir Lenny Henry suggested Ofcom should publish an annual report including detailed statistics and recommendations as well as a qualitative evaluation of the BBC's practice and initiatives and their impact on different types of diversity.¹³⁷
- A3.76 Below, we explain how we have responded to the consultation responses, including where we have changed our approach.

Ofcom response, and the new Licence

- A3.77 We agree with the view that improvements in the diversity of the BBC's workforce should support better representation and portrayal on-screen and on-air. The BBC will need a diverse workforce at all levels to meet the high-level objectives we have placed within the Licence and deliver its mission and public purposes for audiences.
- A3.78 The BBC has acknowledged this point in its *Diversity and Inclusion Strategy 2016-20*, where it states "We believe that if we get Diversity and Inclusion right with our workforce we will get it right on-screen too."¹³⁸ Since our consultation, the BBC Board has affirmed its own workforce targets. We welcome these targets and the initiatives the BBC has put into place to help reach them. However, at this time, both the BBC's *Equality Information Report*¹³⁹

¹³⁷ Radiocentre response, paragraph 78; Sir Lenny Henry response, page 3; CBE response, page 5.

¹³⁸ <http://downloads.bbc.co.uk/diversity/pdf/diversity-and-inclusion-strategy2016.pdf>

¹³⁹ <http://downloads.bbc.co.uk/diversity/pdf/equality-information-report-2017.pdf>

and Ofcom's *Diversity and equal opportunities in television* report¹⁴⁰ indicate that the BBC has some way to go to achieve its targets.

- A3.79 To secure the BBC's delivery of its mission and public purposes on diversity, we have increased the requirements and conditions we are placing on the BBC to hold it publicly to account. In setting the conditions in the finalised Licence, we have also had regard to the requirement for the BBC to comply with its duties under the Charter, including its general duties (set out in articles 9-18). In particular, we have had regard to the requirement for the BBC to comply with its general diversity duty under article 14 of the Charter, and with its duty to make arrangements for promoting equality of opportunity under paragraph 12 of Schedule 3 to the Agreement.¹⁴¹
- A3.80 We are reinforcing our proposed requirement on the BBC to put in place a new diversity commissioning Code of Practice by April 2018, which would require Ofcom's approval. The revised condition now sets out in more detail our expectations of the BBC. This Code will ensure that consideration of on-screen and off-screen diversity is embedded in the commissioning process, requiring commissioners and producers to demonstrate how their programmes reflect different groups. In particular, the Code of Practice must set out the steps the BBC will take, when commissioning and producing content, to deliver on-screen and on-air portrayal and casting, and workforce diversity. The Code of Practice will apply to all commissions – whether produced by the BBC in-house or externally, including BBC Studios. The Code of Practice will help integrate diversity into the programme-making process, and push the wider industry to improve how it reflects society. Any subsequent revisions to the BBC's Code will also be subject to Ofcom's approval.
- A3.81 In response to consultees, we have introduced a new condition in the Licence to ensure that the BBC reports to Ofcom on its progress in meeting its targets for on-screen and on-air representation and portrayal of diverse communities, as currently set out in its Diversity and Inclusion Strategy, to increase its public accountability. This new condition is in addition to the requirements that we proposed in the consultation that will allow Ofcom and the public to scrutinise the BBC's performance, and assess whether it is making sufficient progress and whether audiences are satisfied. This will cover how the BBC represents, portrays and serves diverse audiences; how the BBC reflects the whole of the UK population on-screen and on-air, with particular regard to first-run programmes; and how the BBC raises awareness of different cultures and viewpoints. If audiences are dissatisfied, the BBC must explain itself and put in place measures on how it will improve.
- A3.82 Having carefully considered all responses, we have also considered whether it is appropriate to set further regulatory conditions relating to workforce diversity to secure the promotion of public purpose 4.

¹⁴⁰ https://www.ofcom.org.uk/data/assets/pdf_file/0017/106343/diversity-television-report-2017.pdf

¹⁴¹ Ofcom's enforcement powers under the Charter and Agreement apply in the event of non-compliance by the BBC with paragraph 12, Schedule 3 to the Agreement (see definition of "specified requirements" in clause 59 of the Agreement). The BBC Board is responsible for ensuring the BBC meets its general duties, including its duty under article 14 of the Charter.

- A3.83 We have increased the requirements in the area by ensuring the BBC is publicly accountable for achieving its workforce diversity targets. The BBC must now provide a detailed annual report to Ofcom on progress towards achieving these targets because high levels of transparency and accountability are essential to achieve positive change in this area.
- A3.84 The BBC must monitor and report following information to Ofcom:
- a) the number of such staff by age, disability, gender reassignment, race, religion and belief, sex, sexual orientation and socioeconomic background;
 - b) the job level of such staff by the following categories: Board members and non-executives; senior managers; middle/junior managers; and non-management;
 - c) the job type of such staff by the following categories: programming; commissioning; technical/engineering; sales/marketing; and support functions/administrative; and
 - d) the extent to which the BBC has made progress towards meeting its diversity workforce targets.
- A3.85 We are requiring the BBC to report this data for its UK public services, which will, therefore, not include the BBC World Service or the BBC's commercial services.
- A3.86 In relation to the workforce diversity targets that the BBC has set for itself, we note that these are largely set at levels in line with UK population levels. Respondents did not argue against the levels at which the targets have been set. Given that the BBC has already put in place targets, and we are setting a new condition to hold the BBC publicly to account on its targets, we do not consider that further regulatory intervention is required.
- A3.87 We are also announcing an in-depth review of how different audiences are represented and portrayed on the BBC. All audiences should feel that the BBC offers something for them, but we are concerned that our research shows that several groups feel that it does not adequately represent their interests or lives. This is our first ad hoc review of the BBC. As part of our analysis we plan to examine the on-screen diversity of the BBC's programming, including in its popular peak time shows. The review will ask what audiences expect from the BBC, to understand whether it reflects and portrays the lives of all people across the whole of the UK, ranging from younger and older audiences to diverse communities. We will take into account the outcomes of the review as we shape future regulation, and take further measures where needed to ensure that the BBC is delivering for all of its audiences.
- A3.88 The BBC is free to set ringfenced funding for diverse production if it wishes. However, we would be concerned if this led to diversity being marginalised or restricted to certain departments or programmes. We expect to see all of the BBC's programmes making a contribution to promoting diversity and the wider cultural change that is required for the BBC to deliver its mission and public purposes on diversity. We consider that requiring the BBC to implement a new commissioning Code of Practice will bring about material improvements to the diversity of BBC productions right across the board, and not limited to certain productions. Parallels were made between setting quotas for the nations and

regions and proposals for ringfenced funding for diverse productions. However, nations and regions quotas are focused on a set number of separate, clearly defined geographic areas, while diversity, in the broad sense in which the BBC should be promoting it, comprises many overlapping and complex facets to people's identity. We want diversity to be mainstream across all of the BBC's services. Focusing diversity on individual communities is unlikely to be the most effective way of achieving this.

- A3.89 Regarding respondents' views that there needs to be accurate monitoring and measurement of diversity, we agree that transparency is crucial. We consider that the range of reporting requirements that we are setting, outlined above, will ensure that comprehensive and clear data are available to ensure we and the public can scrutinise its performance on diversity, both on-screen and off-screen. We will also measure audience satisfaction through our BBC performance tracker, which will look at how people think they are accurately represented and authentically portrayed by the BBC.
- A3.90 Also, we will publish annually our *Diversity and equal opportunities in television* report.¹⁴² This report uses consistent and comparable data to compare the BBC against other major broadcasters. It will be followed by a similar report focusing on the radio industry, which we intend to publish in 2018.
- A3.91 The Licence imposes robust requirements on the BBC to improve diversity, additional to the plans already put in place by the BBC. For the first time, there will be clear accountability and transparency to ensure that the BBC delivers its mission and public purposes. We have set out the requirements that we have placed on the BBC and the high-level objectives in our Statement and in the Licence.

¹⁴² <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/guidance/diversity/diversity-equal-opportunities-television>

A4. The Licence: setting the high-level objectives and regulatory conditions

A4.1 In Annex 3 we assess in detail three significant themes that emerged from the consultation process: the distinctiveness of the BBC's output and services; the BBC's programme making in the UK's nations and regions; and diversity. In this Annex we look at the broader range of responses we received in relation to other elements of our work. The following table sets out the main views expressed during the consultation, our response, and any decisions we have made as a result. While we have not addressed every single point raised by each response in detail in this table, in reaching our decisions we have carefully considered all the points made by all respondents. All the non-confidential responses to our consultation have been published on our website in full.

COMMENT MADE	OFCOM RESPONSE
PUBLIC PURPOSE 1	
BBC radio services	
<p>Global said that Radio 1 should have higher commitments for news provision to reflect the BBC's role as a public service broadcaster.¹⁴³</p> <p>Some individuals questioned whether our requirements could have a negative impact on balance between music and news coverage on Radio 1 and Radio 2.¹⁴⁴</p>	<p><i>We expect the requirement for Radio 1 to broadcast at least one hour of news, which includes two extended bulletins during daytime each weekday, to secure an appropriate level of news output while maintaining the balance between music and news on the service. We introduced a new peak-time requirement in draft regulatory condition 2.8.1 for Radio 1 after considering the impact of broadcasting news content to younger audiences at peak time.</i></p> <p><i>In our consultation, we proposed to increase the existing requirement for hours of news and current affairs on Radio 2 by one hour each week to a total of 17 hours, of which not less than 3 hours must be in peak time. This was to set a more stretching target for the BBC given the importance of delivering news and current affairs to a wide audience. We added the new requirement for three hours to be in peak time in the proposed condition as this is broadly in line with what the BBC already delivers in peak time on Radio 2, and so is aimed at securing the provision of this output at existing levels in peak time.</i></p>
<p>ACE said that our proposed regulatory conditions were similar to the previous service licence regime, which would not encourage the BBC to innovate and engage younger audiences with its news content.¹⁴⁵</p>	<p><i>Developing fresh approaches and innovative content is a core part of the BBC delivering the most creative, highest quality and distinctive output and services. We consider that the requirements we have set will contribute to securing the delivery of news content to younger audiences and note that the BBC needs to ensure it is reaching younger audiences with news content across its platforms.</i></p>

¹⁴³ Global response, pages 7 and 8.

¹⁴⁴ Responses from Simon Labrow and Gerrit Lemmens.

¹⁴⁵ ACE response, page 2.

<p>David Lloyd Media Services considered our proposed conditions for BBC Local Radio news and current affairs output and said they were reduced in comparison to those set in previous service licences.¹⁴⁶</p>	<p><i>In relation to requirements for local news and current affairs on local radio, we have strengthened requirements by setting an enforceable condition for the first time that will require BBC Local Radio to provide ‘news and information of particular relevance to the area and communities it serves at intervals throughout the day’ (regulatory condition 2.74.1).</i></p>
<p>Representation of the nations and regions in network news and current affairs</p>	
<p>The Welsh Government and MDG said our proposed high-level objectives for the BBC under public purpose 1 should better reflect the importance of broad coverage of the devolved nations on network news and current affairs.¹⁴⁷</p> <p>The Welsh Government and ACS said our objectives should place greater emphasis on the BBC’s role in creating active and informed citizens and promoting democratic engagement through its news and current affairs provision.¹⁴⁸</p>	<p><i>We expect the BBC to cover a mix of regional and national stories in its news and current affairs output on network television. We consider that this is clearly set out in the high-level objectives for public purposes 1 and 4.</i></p>
<p>International non-news content</p>	
<p>We explained in the consultation that we were proposing that conditions on factual and documentary output would sit under public purpose 2, but that they would also contribute to the promotion of public purpose 1.</p>	
<p>Some stakeholders called for greater emphasis on international non-news content in the Licence.¹⁴⁹</p> <p>Some respondents added that by placing regulatory conditions for factual programming under public purpose 2 rather than public purpose 1, Ofcom was underplaying the importance of the BBC’s role in providing non-news content covering international themes, which the BBC has a duty to do under public purpose 1.</p>	<p><i>Although the proposed regulatory conditions that relate to the BBC’s factual content sit under public purpose 2, the public purposes are interlinked and delivery against a regulatory condition can contribute to promoting more than one of the public purposes. We agree that a specific reference to the provision of content with an international focus in the high-level objectives of public purpose 2 would set out more clearly our expectations of the BBC in relation to its factual content, and have amended the Licence accordingly.</i></p>
<p>Adequate links</p>	

¹⁴⁶ David Lloyd Media Services response, page 3.

¹⁴⁷ Welsh Government response, page 3; MDG response, page 1.

¹⁴⁸ Welsh Government response, page 3; ACS response, page 2.

¹⁴⁹ Responses from ActionAid, CAFOD, Concern Worldwide, Disasters Emergency Committee, IBT, Lord Judd, David Lloyd, J Edward Milner, Public Media Alliance, Dr. Martin Scott, Sightsavers, Unicef, VLV.

<p>We are required under Schedule 2 to the Agreement to impose on the BBC the requirements that we consider appropriate for ensuring adequate links to material provided by third parties from BBC Online.¹⁵⁰ In our consultation, we proposed a regulatory condition (2.16) requiring the BBC to ensure that BBC Online provides adequate links to material provided by third parties. In addition, we proposed a high-level objective (1.22.4) to provide greater context to the condition.</p>	
<p>ACE and VLV asked for greater clarity around the scope of the condition, including an explanation of what was meant by ‘adequate’ links. VLV said the objective should not be focused on news stories.¹⁵¹</p> <p>Other stakeholders considered that the condition should place more specific requirements on the BBC.¹⁵² They suggested that the condition should specifically mention the attribution of news stories where the source is another provider. The NMA and the Welsh Government wanted particular reference to local and regional news providers. GMG called for the reinstatement of a target for click-throughs to external sites, which was in the BBC Trust’s service licence for BBC Online.¹⁵³</p>	<p><i>We believe that imposing a quantitative condition such as click-throughs would not be appropriate because whether a website user clicks on third-party links is not within the BBC’s control. In addition, the number of click-throughs from BBC Online to third-party sites does not in itself demonstrate whether it has provided adequate links. The BBC should use careful judgement to ensure that links are provided across its websites and that links are to appropriate third party material. We consider the provision of adequate links to third-party online material to be particularly relevant to two areas: in news, where the intention is to offer BBC users direction to other, possibly primary or additional sources; and in non-news, where such direction may enhance digital literacy and user experience.</i></p>
<p>Clarifications requested by the BBC</p>	
<p>The BBC asked whether the Licence would allow for flexible scheduling of news on Radio 1, 1Xtra and Radio 2 in view of special events and holiday periods. The BBC queried whether this would still be the case under the Licence.¹⁵⁴</p>	<p><i>We agree that it is appropriate to allow some flexibility in the scheduling of news on the BBC’s radio stations. We have added Public Holiday exceptions (where relevant) and a condition setting out a process the BBC must follow where it is seeking the suspension of the relevant requirements for a specified time. We will consider requests from the BBC to do this on a case-by-case basis.</i></p>
<p>PUBLIC PURPOSE 2</p>	
<p>High-level objectives</p>	
<p>The Welsh Government said the proposed high-level objective setting out Ofcom’s expectations of the BBC in relation to informal learning content (paragraph 1.24.1) would not include digital platforms beyond the BBC’s</p>	<p><i>We agree with the suggestion to broaden the description of digital content and have amended the high-level objective to make it clear that it also includes online platforms such as BBC apps.</i></p>

¹⁵⁰ Paragraph 3, Schedule 2 to the Agreement.

¹⁵¹ ACE response, page 2; VLV response, paragraphs 40-42.

¹⁵² GMG response, pages 3 and 9; NMA response, pages 2 and 5; Welsh Government response, page 3.

¹⁵³ GMG response, page 6.

¹⁵⁴ BBC response, paragraph 5.3.

<p>websites.¹⁵⁵ It suggested the description of online content should capture all methods of digital content.</p>	
<p>VLV suggested that the high-level objective should include the words ‘engaging’ and ‘accessible’ to ensure the BBC provides informal learning content designed to appeal to a range of audiences on mainstream channels.¹⁵⁶</p>	<p><i>We consider that the high-level objectives and regulatory conditions we proposed set out clear expectations for the BBC to deliver informal learning content which appeals to all audiences.</i></p>
<p>Children’s content</p>	
<p>The Children’s Media Foundation (CMF) welcomed our proposed increased hours quotas for factual and drama programming on CBBC, but was concerned the quotas included repeats and acquisitions.¹⁵⁷ It said this would not stimulate a diverse range of programming from across the UK, and that the BBC might rely too heavily on foreign acquisitions.</p>	<p><i>We consider that the conditions that we proposed to set under public purpose 3 for original production and first-run UK originations for CBBC and CBeebies (conditions 2.31, 2.34 and 2.35) will ensure that a significant proportion of both channels’ output across genres is made for UK audiences and that the BBC will continue to invest in new content for its children’s channels. The first-run UK originations quotas that we have set do not include repeats.</i></p>
<p>Professor Steemers asked how we would measure performance for older children¹⁵⁸ and argued that there needed to be greater digital investment in children’s content by the BBC to keep up with changing audience and user trends.¹⁵⁹</p>	<p><i>We intend to use a range of research methodologies and industry measures to build an understanding of the BBC’s performance in this area: these are set out more fully in Annex 5, which discusses our performance measures for the BBC. We will ensure that we clearly state which age ranges are included in our research findings.</i></p> <p><i>We recognise that while children still consume linear television, digital use is continuing to grow. The BBC announced in its interim annual plan that it will increase investment in its digital offer while maintaining levels of provision for children on linear channels.¹⁶⁰ We will keep this commitment under close scrutiny and use our performance monitoring work to ensure we have a broad picture of children’s consumption of BBC content.</i></p>

¹⁵⁵ Welsh Government response, page 3.

¹⁵⁶ VLV response, paragraph 54.

¹⁵⁷ CMF response, paragraph 8.

¹⁵⁸ CMF response, paragraph 15; Professor Steemers response, page 3.

¹⁵⁹ Professor Steemers response, page 1.

¹⁶⁰ BBC interim annual plan, page 11.

<p>CRBM argued that children’s programming should be provided on main linear channels, particularly in the after-school period.¹⁶¹</p>	<p><i>We note that the BBC has dedicated children’s channels with programming scheduled throughout the day including the after-school period. As both channels have high reach among their target audiences, we judge our conditions are appropriate for ensuring that children are well-served by the BBC’s TV services.</i></p>
<p>MDG said it was important to ensure that Welsh language programmes for children and young people are included on the BBC’s digital platforms.¹⁶²</p>	<p><i>The BBC has a statutory duty¹⁶³ to provide content in Welsh for broadcast by S4C, which S4C broadcasts alongside its own content on television and on its online platform, Clic. A portion of this content is specifically for children and young audiences. We note that the BBC currently has an arrangement to broadcast S4C content on its digital platform (iPlayer) as a separate channel. We welcome this arrangement and note that it is subject to agreement between the BBC and S4C.</i></p>
<p>Several respondents raised concerns about the absence of first-run originations quotas for children’s content on BBC Alba.¹⁶⁴</p>	<p><i>In relation to Gaelic content, we recognise the provisions in the Charter placing an obligation on the BBC to deliver content for the Gaelic community, which it does through BBC Alba, BBC Radio nan Gàidheal and its online services. BBC Alba is crucial to the provision of children’s programming in Gaelic and we expect the BBC to continue delivering this important content for younger viewers.</i></p>
<p>Arts, music and religion In the consultation, we proposed regulatory conditions requiring the BBC to secure specified levels of arts, music and religious programming on a variety of their services including increased levels of peak-time programming on BBC One and BBC Two.</p>	
<p>VLV, Dr. Noonan and Dr. Genders requested clarity about peak-time commitments for arts and music programming on BBC One and Two, including the proportion of this content that should be first-run and scheduled in peak time.¹⁶⁵ Dr. Noonan and Dr. Genders also requested a review into the provision and consumption of arts content and its impact on audiences. Creative Scotland said there should be a focus on</p>	<p><i>The delivery of arts, music and religious programming plays an important role for public purpose 2 and there has been a decline in spend and output in these genres across public service broadcasters. We have therefore set conditions requiring a minimum number of hours (some of which must be in peak time) of provision for arts, music and religious programmes on BBC One and Two. We have introduced a peak-time requirement without specifying the exact number of hours we expect the BBC to deliver in peak time. This is so the BBC can deliver this content most effectively, while ensuring that some</i></p>

¹⁶¹ CRBM response, page 5.

¹⁶² MDG response, page 2.

¹⁶³ Section 58(1) of the Broadcasting Act 1990 provides that: For the purpose mentioned in subsection (1A) the BBC shall: (a) provide to the Welsh Authority (free of charge) sufficient television programmes in Welsh to occupy not less than ten hours’ transmission time per week; and (b) do so in a way which meets the reasonable requirements of the Authority.

¹⁶⁴ Comhairle nan Eilean Siar response, page 1; MG Alba response, page 10; Bòrd na Gàidhlig response, page 3.

¹⁶⁵ VLV response, paragraph 57; Drs. Noonan and Genders response, page 4.

<p>addressing the declining spend and output in a number of different genres, including arts, music and children’s programming.¹⁶⁶</p> <p>The Sandford St Martin Trust (SSMT) said there should be a significant increase in the current provision of religious programming, and an individual called for better coverage of faith matters. SSMT pressed for a requirement on the BBC to provide a religious and ethical programming definition and strategy.¹⁶⁷</p>	<p><i>content must be broadcast in peak time, with the aim of reaching large, mainstream audiences. We will also monitor spend and output of these genres through our performance measurement framework.</i></p>
<p>Educational support</p> <p>In our consultation, we said the BBC must ensure that: (a) it provides curriculum-linked support for children and teenagers in each of the nations through BBC Online platforms (draft regulatory condition 2.31); and (b) in each week the time allocated to originated programming aimed at those learning the Gaelic language is not less than 5 hours on BBC Alba (draft regulatory condition 2.24).</p>	
<p>Several stakeholders requested obligations for the BBC to provide curriculum-linked resources in each nation.¹⁶⁸ IWA said that, because the Welsh Government is set to introduce a new curriculum in Wales, this should have dedicated formal learning resources available via the BBC. ACNI said it was not satisfied that the current provision of formal learning resources by the BBC aligned with the Northern Irish school curriculum.¹⁶⁹</p>	<p><i>The BBC’s interim annual plan states that BBC Bitesize is the BBC’s ‘flagship service’ to support students with their formal learning and will be linked to the different curricula in each nation. We expect BBC Bitesize to reflect changes to a particular nation’s curriculum. Regulatory condition 2.31 requires BBC Online to deliver content which supports children’s formal education in all parts of the UK.</i></p>
<p>The Scottish Government called for BBC Radio nan Gàidheal to be given regulatory conditions similar to BBC Alba in supporting Gaelic learning.¹⁷⁰ Comhairle nan Eilean Siar said broadcast material should not be more than five years old in order to reflect new learning techniques for languages.¹⁷¹</p>	<p><i>Regulatory condition 2.24 requires BBC Alba to provide content to help learners of Gaelic. We note the BBC’s plans for BBC Radio nan Gàidheal to focus on younger audiences and that BBC Radio nan Gàidheal will work alongside BBC Alba to support learners of Gaelic.¹⁷²</i></p>

¹⁶⁶ Creative Scotland response, page 3.

¹⁶⁷ SSMT response, paragraph 7; Philip Graham Cole response.

¹⁶⁸ Scottish Government response, page 3; IWA response, page 2; ACNI response, page 1.

¹⁶⁹ ACNI response, page 1.

¹⁷⁰ Scottish Government response, Annex, page 4.

¹⁷¹ Comhairle nan Eilean Siar response, page 1.

¹⁷² BBC interim annual plan, page 46.

<p>ACE said there should be a requirement for the BBC to be seen as innovative when providing educational content and services.¹⁷³</p>	<p><i>Developing fresh approaches and innovative content is a core part of the BBC delivering the most creative, highest quality and distinctive output and services. We note that the BBC's interim annual plan sets out a commitment to: transform its education mission; further digital investment; and a strategic shift to a connected multiplatform offer.¹⁷⁴</i></p>
<p>PUBLIC PURPOSE 3</p>	
<p>Overall approach to regulating the public purpose In our consultation, we set out our high-level objectives, regulatory conditions and accompanying reasoning for how our approach will hold the BBC to account for the promotion of this public purpose.</p>	
<p>Some stakeholders, including the NUJ and Directors UK, said they would be concerned if our approach to regulating the promotion of public purpose 3 put pressure on the BBC to concentrate its provision primarily on areas where the market has failed and so reduce its broad appeal and reach.¹⁷⁵</p>	<p><i>Our approach to regulating the promotion of public purpose 3 is built on the definition of distinctive output and services under the Charter and Agreement, which sets an expectation that the BBC's output and services should be substantially different to other comparable providers in a number of ways, including mix of outputs and range of audiences served. The BBC's output and services appeal to a large proportion of the population and our approach does not seek to reduce the BBC's reach or its value to audiences.</i></p>
<p>Original productions on television In the consultation, we proposed a regulatory condition (2.31) requiring a minimum proportion of the output of each UK public television service to be original productions, which included peak viewing time requirements for BBC One, BBC Two and BBC Four. We also proposed an original production condition for BBC Alba.</p>	
<p>The BBC broadly agreed with our approach, but argued the methodology used to determine the levels should be applied more consistently to ensure equivalent flexibility across the conditions.¹⁷⁶ It said the proposed level for original productions on BBC Two in peak time had been set closer to current provision than the other levels proposed. The BBC said that originations on BBC One and BBC Two should not be regulated to the same level because BBC One receives much more funding than BBC Two.</p>	<p><i>The BBC's performance against its original productions quota on BBC Two in peak time over the past ten years has not fallen below 95%. We therefore consider that the proposed level of 90% in peak time provides the BBC with sufficient flexibility.</i></p>

¹⁷³ ACE response, page 2.

¹⁷⁴ BBC interim annual plan, page 12.

¹⁷⁵ NUJ response, paragraph 14; Directors UK response, paragraph 7.

¹⁷⁶ BBC response, paragraphs 4.47-50.

<p>MG Alba was positive about the addition of an original productions condition for BBC Alba, agreeing that it should be treated like BBC One in respect of original productions.¹⁷⁷</p>	
<p>First-run UK originations on television We proposed regulatory conditions (2.33 to 2.37) to require a minimum number of hours broadcast on BBC One, BBC Two, CBBC and CBeebies across daytime and peak viewing time to be first-run UK originations.</p>	
<p>ACW and the CMF were broadly supportive of our proposed first-run UK originations conditions.¹⁷⁸</p> <p>ITV and STV argued that first-run UK originations are not the best proxy for distinctiveness as they did not in their view necessarily guarantee new and innovative programming.¹⁷⁹ The Commercial Broadcasters Association (COBA) made a similar point.¹⁸⁰ The IBT and VLV said that, if the levels were set too high, the impact of our first-run UK originations conditions could limit the BBC’s creative freedom.¹⁸¹</p>	<p><i>We consider that the first-run UK origination conditions contribute significantly to the overall distinctiveness of the BBC, ensuring that content on the relevant services is constantly refreshed and that its position as a significant investor in the UK broadcasting market is secured. In meeting these conditions, we expect the BBC to have particular regard to our high-level objective for it to “have a renewed focus on innovation and creative risk-taking through the commissioning and scheduling of new titles”. Other regulatory conditions, high-level objectives and our measurement framework also contribute to securing this outcome. If we determine the BBC is not being sufficiently innovative in its programme commissioning, we will consider whether to set further Licence conditions.</i></p> <p><i>The levels we are setting for BBC One and BBC Two will secure the BBC’s substantial investment in UK programming and ensure that it reaches the widest audience possible. The flexibility afforded by these conditions leaves the BBC with sufficient space to deliver its commissioning strategy. The levels for CBBC and CBeebies are closer to current provision and are designed to protect the delivery of first-run UK originations in children’s programming at current levels.</i></p>
<p>A number of stakeholders questioned why we had not proposed a first-run UK origination condition for BBC Alba and made the case for such a condition.¹⁸² MG Alba said the nature of BBC Alba as a Gaelic language channel does not make it inherently distinctive, and the Scottish</p>	<p><i>We note that the unique contribution BBC Alba makes to the BBC’s distinctiveness is described in Schedule 1 to the Agreement: “a mixed-genre television channel for Gaelic speakers and those interested in the Gaelic language and culture”. We do not consider a first-run UK origination condition for the service is required to secure this contribution,</i></p>

¹⁷⁷ MG Alba response, page 12.

¹⁷⁸ ACW response, page 1. CMF response, paragraphs 6-7.

¹⁷⁹ ITV and STV response, page 9.

¹⁸⁰ COBA response, paragraph 2.

¹⁸¹ IBT response, paragraph 82; VLV response, paragraph 12.

¹⁸² Comhairle nan Eilean Siar response, page 1; Education Scotland response; An Comunn Gàidhealach response, page 2; MG Alba response, page 10; Creative Scotland response, page 4.

<p>Government said the level of repeats on the service is adversely impacting its performance.¹⁸³</p>	<p><i>particularly given the steady level of first-run UK originations broadcast on the channel in recent years and the increased investment in the service announced by the BBC at the start of the year.¹⁸⁴ However, we will continue to track BBC Alba’s provision of first-run UK originated hours over time and may revisit the possibility of setting conditions.</i></p>
<p>The BBC argued that the first-run UK originations conditions should be based on actual hours (58 minutes) rather than slot hours (60 minutes) and should be updated to reflect this.</p>	<p><i>This is the measurement we have historically used to assess the provision of first-run UK originated hours across the UK PSBs in our annual PSB research reports. We have set the BBC’s first-run UK originations conditions using this data and consider it appropriate to continue using slot hours to ensure comparability across broadcasters.</i></p>
<p>Sport on radio We proposed a regulatory condition (2.38) requiring BBC Radio 5 live to offer live commentary, news and other programming on at least 20 sports each Year.</p>	
<p>Some stakeholders asked how the proposed condition aligned with the BBC’s statement in its interim annual plan that BBC Radio 5 live “together with 5 live sports extra, [...] represents over 50 different sports”.¹⁸⁵ Radiocentre said that in its view the interim annual plan appeared to conflate the condition across BBC Radio 5 live and BBC Radio 5 live sports extra.¹⁸⁶</p>	<p><i>We confirm that the output of BBC Radio 5 live sports extra cannot be counted towards meeting regulatory conditions that apply specifically to BBC Radio 5 live alone. It is for the BBC to set out in its interim annual plan its creative commitments for each of its services.</i></p>
<p>Music on radio In our consultation, we proposed a range of regulatory conditions we considered appropriate to secure the distinctiveness of Radio 1 and Radio 2’s music output. These included conditions which ensured that a minimum proportion of the music played on each station in daytime is new music, that a minimum proportion is from UK acts, and that the stations played a broader range of music than comparable providers.</p>	

¹⁸³ Scottish Government response, page 1, Annex, page 4.

¹⁸⁴ <http://www.bbc.co.uk/mediacentre/latestnews/2017/scotland-investment>

¹⁸⁵ BBC interim annual plan, page 44.

¹⁸⁶ Radiocentre response, paragraph 51; BBC interim annual plan, page 44.

<p>Bauer and Radiocentre welcomed the proposed conditions, but said that Ofcom should be clear about what constitutes a 'broader range of music than comparable providers'.¹⁸⁷</p> <p>TAC agreed with the emphasis on UK talent on Radio 1 and Radio 2.¹⁸⁸</p>	<p><i>For the purposes of identifying comparable providers, the description of the Radio 1 and Radio 2 music services published under Part 1, Schedule 1 to the Agreement, and the audiences they each attract, are key considerations.¹⁸⁹ The BBC must determine how it demonstrates compliance with these conditions and provide its analysis for Ofcom to review.</i></p>
<p>The BBC supported our proposal to change the definition of 'New Music' to take account of digital releases, but argued that our proposed wording inadvertently narrowed the range of music that could be considered "new".¹⁹⁰ It proposed a new definition that considered duration in the official singles chart which it believed would address this concern.¹⁹¹</p>	<p><i>We have reverted the definition of 'new music' in the Licence to that used in the BBC Trust's service licences as an interim measure while we complete a consultation on a new definition. We will consult by the end of 2017 with a view to having it in place sufficiently in advance of the condition coming into force on 1 April 2018.</i></p>
<p>The BBC also suggested that Radio 1's condition for new sessions be based on recordings made in the previous three months rather than the proposed one month.¹⁹² It said this would allow it more flexibility to include sessions recorded from visiting non-UK artists, or record bands in advance to cover times when engineers are required to work at major events.</p>	<p><i>We consider the BBC's proposal on sessions recorded in the preceding three months to be reasonable. We do not consider such an adjustment would significantly impact the distinctiveness of Radio's 1 provision and we have amended the condition to reflect this. We have also clarified that live sessions will contribute to compliance with this condition.</i></p>
<p>Friends of Radio 3 considered that the distinctiveness of Radio 3 cannot be appropriately judged by the percentage of live or specially recorded music, as such material is generally played in non-peak hours.¹⁹³</p>	<p><i>We consider that judgements about the distinctiveness of a service are not limited to its peak hours. Draft regulatory condition 2.27.1 is one of several we proposed for Radio 3 and would form only part of our assessment of its distinctiveness. We will also monitor the proportion of live or specially recorded music and performances broadcast at peak time and other times within the measurement framework and, if appropriate, will consider amending the Licence. We also note that the description of Radio 3 set out in</i></p>

¹⁸⁷ Bauer response, pages 9, 11; Radiocentre response, paragraphs 49-50.

¹⁸⁸ TAC response, page 7.

¹⁸⁹ Taking this approach, our expectation is that a radio service offering a popular music service, featuring new music and appealing to young audiences, would be a comparable provider to Radio 1. We note that the relevant obligations apply to the music services provided by Radio 1 and Radio 2 at Peak Listening Time and Daytime (as defined). To the extent that Radio 2 discharges its obligation to play specialist music outside of these hours, we would not regard a station specialising in a particular genre of music as a comparable provider.

¹⁹⁰ BBC response, paragraphs 4.31-4.46.

¹⁹¹ "a track remains new for either 12 months from initial release to radio, digital download or streaming services, or for 6 weeks after entering the Top 20 of the UK's Official Singles Chart, whichever is sooner". This definition is based on discussions the BBC had with the music industry in 2015.

¹⁹² BBC response, paragraph 5.3.

¹⁹³ Friends of Radio 3 response, page 3.

	<i>Part 1, Schedule 1 to the Agreement requires the service to be “centred on classical music, alongside other music and art forms and speech output, and with a strong focus on live and specially recorded music”.</i>
PUBLIC PURPOSE 4 (NATIONS AND REGIONS)	
Made Outside London – radio spend	
In our draft Licence, we proposed regulatory conditions for out of London radio spend. ¹⁹⁴	
The ACW and the Culture, Welsh Language and Communications Committee of the National Assembly for Wales (NAW) suggested Ofcom make these requirements more specific to reflect a similar approach to network programming on television. ¹⁹⁵	<i>We do not consider it appropriate to introduce equivalent network spend conditions for radio as we have done for TV. We have set a new regulatory condition that one third of spend on BBC network radio services is incurred outside of London, as well as a separate condition that 40% of Radio 3’s spend is incurred outside of London.¹⁹⁶ We will also measure and report on the BBC’s overall radio spend, network radio spend and how its output is distributed across its radio services and the UK.</i>
The BBC questioned our proposal to exclude expenditure on news or sports output from the network radio spend requirement. It said this exclusion should be removed, otherwise it would be very complicated to measure compliance against the condition and would exclude investment in BBC Radio 5 live. ¹⁹⁷	<i>Responding to an information request, BBC explained that while news and sport was excluded under the previous condition set by the BBC Trust, this concerned the exclusion of central costs such as newsgathering and sports rights. It included the production costs incurred in making sport and news output.¹⁹⁸ We agree that this is an appropriate approach to achieve the objective of this requirement and have therefore changed the definition so that news and sports content is no longer excluded from the definition.¹⁹⁹ <i>On reviewing the draft condition we also recognised the need to clarify that the condition applies to the BBC’s network radio stations.²⁰⁰ We have reflected this change</i></i>

¹⁹⁴ Draft conditions 2.46-2.48.

¹⁹⁵ ACW response, pages 1-2 and NAW response, page 2.

¹⁹⁶ Final Licence conditions 2.64 and 2.66.

¹⁹⁷ BBC response, paragraphs 4.51-4.53.

¹⁹⁸ Ofcom requested additional information from the BBC regarding radio expenditure. BBC response to question 1.2 of Ofcom informal information request under article 47 of the Charter, 25 July 2017.

¹⁹⁹ Final Licence condition 2.64.

²⁰⁰ It applies in respect of the UK Public Radio Services which are designed for audiences across the UK. These are: Radio 1; 1Xtra; Radio 2; Radio 3; Radio 4; BBC 4 Extra; BBC Radio 5 live; BBC Radio 5 live sports extra; BBC 6 Music; BBC Asian Network.

	<i>in the final Licence. For consistency, we have also revised the definition for the out of London spend condition for Radio 3.²⁰¹</i>
Made Outside London – guidance	
In our consultation, we announced plans to undertake a review of our guidance for public service broadcasters on regional production and regional programmes definitions. A number of respondents raised concerns about the efficacy of the current guidance ²⁰² and welcomed this review. ²⁰³	<i>We intend to commence the review in the 2017/18 financial year and will seek views from across the production sector throughout this process to help inform our work.</i>
Representation and portrayal	
The Scottish Government stated we should set specific performance indicators and targets, ²⁰⁴ and TAC argued that we needed to be more proactive so that all licence fee payers feel represented and portrayed. ²⁰⁵ NAW called for Ofcom to ensure it uses performance measures to monitor and encourage progress in this area and not rely on regulatory conditions alone. ²⁰⁶ The BBC stated that it should be judged on the impact of its current strategy for achieving its representation and portrayal commitments. ²⁰⁷	<i>As part of our diversity conditions, the BBC will need to report on the delivery of on-screen and on-air diversity, including how it has accurately represented and authentically portrayed the whole of the UK. In addition, the BBC must measure and report on audience satisfaction, and the steps it is taking to improve audience satisfaction among dissatisfied audience groups. We will also track and report on how well audiences think they are represented and portrayed by the BBC through our bespoke BBC performance tracker which forms an integral part of our performance measures. We note the initiatives the BBC has outlined in its letter regarding representation and portrayal in the nations,²⁰⁸ which we expect to see included in the BBC’s finalised interim annual plan.</i>
Indigenous languages	

²⁰¹ Final Licence condition 2.66.

²⁰² IWA response, pages 3-4; ACE response, page 3; ACW response, page 1; TAC response, page 5

²⁰³ Scottish Government response, page 2, Annex, page 5; Welsh Government response, page 5; Creative Scotland response, pages 4-5; Pact response, paragraphs 1.11-1.12 and 5.1; VLV response, paragraph 82.

²⁰⁴ Scottish Government response, Annex, page 5.

²⁰⁵ TAC response, page 8.

²⁰⁶ NAW response, page 3; BBC response, pages 4.15-4.25.

²⁰⁷ BBC’s additional information regarding representation and portrayal in the nations, 28 July 2017: https://www.ofcom.org.uk/data/assets/pdf_file/0016/105541/BBC-2.pdf.

²⁰⁸ BBC’s additional information regarding representation and portrayal in the nations, 28 July 2017.

<p>In our consultation, we proposed a high-level objective²⁰⁹ and regulatory conditions²¹⁰, to help ensure programming for the nations and regions serves and creates content of interest and of relevance to the people living in the area. This included indigenous language broadcasting for Scotland, Wales and Northern Ireland.</p>	
<p>Creative Scotland and MG Alba interpreted the high-level objective as treating indigenous language broadcasting as a separate genre and disagreed with this treatment. Creative Scotland said ‘the BBC should be held to account for commissioning and broadcasting Gaelic language programming across all genres’.²¹¹</p> <p>During our engagement with stakeholders from Northern Ireland, suggestions were also made as to how Ofcom refers to Ulster-Scots programming. These stakeholders explained that Ulster-Scots programming often covers wider Ulster-Scots cultural and historical content rather than just the language itself.</p>	<p><i>We agree with Creative Scotland and MG Alba; indigenous language broadcasting is not a genre. As such, we have re-ordered the wording of the high-level objective so that indigenous language broadcasting is listed before the genres.</i>²¹²</p> <p><i>Following feedback and guidance from stakeholders in Northern Ireland we have amended our reference to Ulster-Scots in the relevant condition.²¹³ This has been revised for clarity and to allow the BBC continued flexibility with its Ulster-Scots output.</i></p>
<p>Requested amendment to reflect scheduling changes</p>	
<p>The BBC requested that we reduce two proposed level increases.²¹⁴</p> <p>The first request was to reduce the level for the amount of news of national or regional interest per year in peak viewing time on BBC One from 2,200 hours back to 2,010 hours. The BBC explained that in January 2016, it extended its network 10pm news by ten minutes, four nights a week, meaning the national and regional news programmes which follow now usually begin after 10:30pm (outside of peak viewing time).²¹⁵</p> <p>The second request was to reduce the level for the amount of non-news programming of national and regional interest per year in ‘shoulder</p>	<p><i>Regarding the BBC’s first request, we have reduced the level from 2,200 hours to 2,100 hours instead of to the level of 2,010 hours requested.²¹⁸ Output for the condition for 2016 was 2,153 with a similar forecast for 2017. We consider there is still sufficient scope for an increase, in line with our general approach to setting levels based on historic performance.</i></p> <p><i>For the BBC’s second request, we have reduced the level from 335 hours back to 280 hours as we no longer consider there to be sufficient scope for an increase.²¹⁹</i></p>

²⁰⁹ Draft high-level objective 1.31.3.

²¹⁰ Draft Licence conditions 2.61; 2.65.1; 2.70; 2.71.1; 2.75; 2.76.4; 2.77.1.

²¹¹ Creative Scotland response, page 5.

²¹² Final Licence high-level objective 1.39.3.

²¹³ Final Licence condition 2.94.

²¹⁴ Draft Licence conditions 2.49 and 2.50.

²¹⁵ BBC response, paragraph 5.4.

²¹⁸ Final Licence condition 2.68.

²¹⁹ Final Licence condition 2.67.5.

<p>peak'²¹⁶ on BBC One and Two (taken together) from 335 hours back to 280 hours. In early 2017, the BBC explained that it decommissioned a programme in Scotland in shoulder peak and replaced it with another programme in peak viewing time. It also moved a programme in Northern Ireland from shoulder peak to peak viewing time. BBC stated that these changes mean its latest forecast for 2017 is that it will only just meet 280 hours.²¹⁷</p>	
<p>Radio conditions</p>	
<p>Some stakeholders considered that Ofcom should set more specific genre requirements for the BBC's radio services in the nations.²²⁰ Cytûn and ACS also suggested introducing measures to help improve the coverage of the nations on network radio stations.²²¹</p>	<p><i>As set out in high-level objective 1.39.3, in our final Licence, the BBC must deliver a range of genres in its programming for the nations. In conjunction, we believe the conditions we have set for the nations radio services are appropriate for securing the delivery of public purpose 4.</i></p> <p><i>We expect coverage of nations issues on network news, and will also be measuring audience opinion on how audiences feel represented and portrayed by the BBC. Under public purpose 1, we expect the BBC to cover regional and national stories in its news and current affairs output, as set out in the high-level objectives for public purposes 1 and 4.</i></p>
<p>Variation of requirements between the nations</p>	
<p>Some respondents raised concerns about the levels of news²²² and non-news programming²²³ being lower for some nations compared to others. Specifically, the ACW argued that the level of news and current affairs on BBC Radio Wales should match BBC Radio Scotland.</p>	<p><i>Our approach to setting the levels for the quotas in the Licence, is based on the historic performance of the BBC. Historically, the levels set by the BBC Trust have differed between each of the nations because the BBC has separate divisions and individual strategies for each nation.</i></p>
<p>Online conditions</p>	

²¹⁶ Immediately before or after peak viewing time.

²¹⁷ BBC Supplementary response dated 24 Aug 2017.

²²⁰ RIG response, paragraph 37; ACS response, page 5; Creative Scotland response, page 4.

²²¹ Cytûn response, page 3; ACS response, page 5.

²²² Cytûn response, page 2; MDG response, page 1.

²²³ Cytûn response, page 3; ACW response page 2; NAW response, page 1; IWA response, page 5.

<p>Some respondents said that the online conditions for each nation should be extended to cover news and information, education and other genres as well as sport.²²⁴</p>	<p><i>We have considered the proposals for the nations’ BBC Online conditions and have made some corresponding amendments. In the final Licence, we have included a news and information requirement for the English regions and the nations.²²⁵ We have also introduced a ‘dedicated coverage of sport’ requirement for the English regions.²²⁶</i></p> <p><i>Our policy intent for the BBC Online conditions in public purpose 4 is to secure important aspects of BBC Online’s informative content for the nations and regions, rather than focusing on all genres. We also believe that educational content is already covered by public purpose 2 condition 2.31, for BBC Online to ‘deliver content which supports children and teenagers in their formal learning in all parts of the UK’.</i></p>
<p>The proposed BBC Scotland channel</p>	
<p>STV expressed concerns about the proposed BBC Scotland channel. It argued that because the assessment process for the new BBC channel and – if approved – its establishment would take place after the first Licence is issued, Ofcom should prospectively incorporate into the Licence any regulatory conditions relevant to the proposed service and a consultation should then be held to ensure the transparency of the process of amending the Licence and the performance measures.²²⁷ The BBC noted in its response that it would wish to revisit a number of quotas, if the channel were approved.²²⁸</p>	<p><i>The Licence places conditions on a range of existing BBC services, or on the BBC. Since the BBC Scotland channel is yet to receive approval and begin broadcasting, we do not consider that we can “prospectively” place conditions on it. However, for this or any other new service proposed by the BBC we will be able to amend the Licence as appropriate should we consider that new or different regulatory conditions are required. Consideration of whether new regulatory conditions or changes to existing conditions were required for a new service proposed by the BBC would take place following our competition procedures. If Ofcom proposed changes to the Licence as a result of a new service being launched, it would consult with the BBC and any other person Ofcom considers appropriate.</i></p>
<p>PUBLIC PURPOSE 4 (DIVERSITY)</p>	
<p>Measuring representation and portrayal</p>	
<p>Stonewall encouraged Ofcom to consider the portrayal of each identity in the LGBT community, rather than treating the groups represented within</p>	<p><i>We recognise Stonewall’s suggestion that we should ensure that people with different diversity characteristics are not grouped together at a high level and are not assumed to be homogenous groups. This will continue to be a feature of our thinking around</i></p>

²²⁴ ACW response, page 2; IWA response, page 5; Creative Scotland response, page 3.

²²⁵ Final Licence conditions 2.65.1; 2.72.1; 2.73.1; 2.84.1.

²²⁶ Final Licence condition 2.65.2; the English regions did not have online requirements in our draft Licence.

²²⁷ STV response, paragraph 6(iii).

²²⁸ BBC response, paragraphs 6.9-10.

<p>the LGBT abbreviation as a single group, and noted that people have multiple and overlapping aspects to their identities.²²⁹</p>	<p><i>representation and portrayal and we will aim to disaggregate groups in our research activities where it is proportionate and statistically robust.</i></p>
<p>The BBC disagreed with the footnote which states: 'for representation to be accurate we expect the number of people appearing in BBC programmes to broadly reflect the populations of the United Kingdom'. The BBC said that accuracy of representation cannot be measured in a 'mechanistic' way and that this is not a realistic expectation.²³⁰</p>	<p><i>We are content that the footnote in question is adequate and consistent with our intent to interpret this part of the condition in broad terms, to get a sense for whether the BBC is broadly reflecting UK society. We do not intend to take a 'mechanistic' interpretation, and will use demographic information alongside other sources in coming to an overall view.</i></p>
<p>The CCP criticised the reference to 'authentic' portrayal of groups because of its perceived problems as a concept. It argued that it would be better to simply refer to 'represent and portray'.²³¹</p>	<p><i>This wording appears in the Charter so, accordingly, will remain as proposed in our consultation. We consider that the authenticity of portrayal of different UK communities should be an essential aspect of the BBC's delivery of this public purpose.</i></p>
<p>PERFORMANCE MEASURES</p>	
<p>The provision of distinctive output and services In the consultation, we provided for each public purpose an overview of the types of metrics we proposed to look at in relation to our performance measures.</p>	
<p>Radiocentre and Bauer stated that our approach to assessing the BBC's performance in delivering public purpose 3 through performance measures may prove useful over time, but stated a preference for further enforceable regulatory conditions. They argued that our illustrative metrics appeared to prioritise a 'bigger and better' approach that deems wider availability, higher consumption and greater impact as positive outcomes rather than looking genuinely at distinctiveness.²³² An individual commented that our metrics for distinctiveness could be more carefully defined and include cost-per-hour analysis.²³³</p> <p>Directors UK suggested there are other ways we could measure performance including consideration of BBC's programme-making culture and whether it effectively supports creativity and distinctive output.²³⁴</p>	<p><i>There is no one way to measure distinctiveness. One of the objectives of our performance measurement framework is to provide a robust evidence base to inform our assessment of the BBC's promotion of its public purposes, including the delivery of distinctive content and services. It allows us to look at multiple data metrics and sources, including comparisons between BBC services and commercial providers where appropriate, in monitoring the BBC's performance in relation to each of the measures and this, in turn, will contribute to an assessment of the distinctiveness of the BBC's UK public services.</i></p> <p><i>Data relevant to contextual factors may also be used throughout the Charter period to assist with reviews to assess the delivery of public purpose 3. It is in this context that we expect the programme-making culture of the BBC to be examined, rather than in our annual research reports.</i></p>

²²⁹ Stonewall response, page 2.

²³⁰ BBC response, paragraph 5.5.

²³¹ CCP response, pages 5 and 6.

²³² Radiocentre response, paragraph 84; Bauer response, page 12.

²³³ Name Withheld 5 response.

²³⁴ Directors UK response, paragraphs 12-15.

<p>ACNI considered that distinctiveness measures should be ‘set at a high level’, but should also encourage the BBC not to consign this output to the margins of the schedule.²³⁵</p> <p>The CCP considered that the BBC should not be compared to other public service broadcasters or other competitors as its remit is different.²³⁶</p>	
<p>Radio Provision In the consultation, we set out metrics that applied to BBC radio provision and indicated how frequently we intended to analyse them as part of our monitoring.</p>	
<p>Wireless Group considered that the wider speech radio market should be assessed as part of our performance measurement framework. As such, it argued we should include metrics that look at the value for money of BBC radio in comparison with independent providers through cost benchmarking, and that our framework for radio should discourage inefficient or market-distorting programming investments.²³⁷</p> <p>Radiocentre requested more clarity on playlist measures in relation to public purpose 3.²³⁸ Global felt that we should monitor the BBC’s radio playlists monthly, rather than annually as proposed in the consultation.²³⁹</p> <p>Wireless Group stated that we should also monitor the BBC’s online audio content.²⁴⁰</p>	<p><i>The performance measures we set will provide an evidence base for the BBC’s fulfilment of its mission and promotion of the public purposes over the Charter period. As part of our overall regulatory framework for the BBC, we have published separate guidance that sets out how we will consider the impact of the BBC’s activities.²⁴¹ Under the Charter and Agreement, the National Audit Office is responsible for conducting value for money reviews of the BBC’s services.²⁴²</i></p> <p><i>We will monitor the BBC against the performance measures in accordance with the measurement principles we have specified, including proportionality.²⁴³ We do not consider it proportionate to analyse the BBC’s radio output on a monthly basis. Through the performance measures, we will monitor the levels of new music and UK acts played on Radio 1 and Radio 2, as well as the range of programming across BBC network radio services beyond their obligations in these areas under the Licence.</i></p>

²³⁵ ACNI response, page 2.

²³⁶ CCP response, paragraph 7.2.

²³⁷ Wireless Group response, paragraphs 89-92.

²³⁸ Radiocentre response, paragraph 85.

²³⁹ Global response, paragraph 49.

²⁴⁰ Wireless Group response, paragraphs 89-92.

²⁴¹ See Ofcom’s statement on procedures for enforcement of BBC competition requirements, available at https://www.ofcom.org.uk/_data/assets/pdf_file/0011/102521/Statement-on-Procedures-for-enforcement-of-BBC-competition-requirements.pdf.

²⁴² Clause 55 of the Agreement.

²⁴³ Consultation, paragraph 5.13.

	<p><i>The BBC’s delivery of audio content through BBC Online contributes to its delivery of the public purposes, and we will look at the reach of BBC online audio content through BBC-supplied data and industry data such as RAJAR, where appropriate.</i></p>
<p>News Provision In the consultation, we identified, for illustrative purposes, a range of metrics that we proposed to capture through our performance measurement framework that applied to the BBC’s provision of news, in particular under public purpose 1 and public purpose 4.</p>	
<p>GMG encouraged Ofcom to measure the range, type, diversity, distinctiveness and impact of news content produced by BBC News.²⁴⁴ GMG also considered that our performance measures should capture views from the commercial news sector.²⁴⁵</p> <p>Professor Beveridge argued that our measurement of nations and regions news portrayal should be based on content analysis and patterns of media consumption, not just satisfaction.²⁴⁶</p>	<p><i>In monitoring the BBC’s performance against our performance measures, we will gather further evidence to monitor delivery of public purpose 1 through the UK public services. Therefore, it would not be proportionate to commission regular content analysis around news portrayal, or to consult with the commercial news sector, as part of our annual reporting.</i></p> <p><i>We are extending our current annual news consumption survey to capture consumption and opinions about BBC News and Current Affairs in more detail. We will ask about the BBC’s provision of impartial news and information to help people understand and engage with the world around them. This research will provide us with further evidence to monitor the BBC’s promotion of public purpose 1.</i></p>
<p>Output for children and young people In the consultation we identified, for illustrative purposes, a range of metrics we proposed to capture through our performance measurement framework that applied to output for children and young people, in particular through public purpose 2.</p>	
<p>VLV wanted assurance that we would measure the performance of BBC Three output.²⁴⁷ Radiocentre raised a concern that output for children and teenagers on radio is not covered in our performance measures.²⁴⁸</p>	<p><i>We will monitor levels of consumption of BBC Three output.</i></p> <p><i>We will measure the range of output that is targeted at young people across Radio 1 and 1Xtra. We will also monitor the performance of the BBC’s formal education content which is predominantly delivered through the BBC’s online services.</i></p>
<p>Production in the nations and English regions</p>	

²⁴⁴ GMG response, pages 10-11.

²⁴⁵ Ibid.

²⁴⁶ Professor Beveridge response, section 7.

²⁴⁷ VLV response, paragraph 37.

²⁴⁸ Radiocentre response, paragraph 85.

<p>In the consultation we identified, for illustrative purposes, a range of metrics we proposed to capture through our performance measurement framework that applied to BBC TV programming produced in the nations and regions, in particular under public purpose 4.</p>	
<p>CRBM requested that we provide the number of hours produced by independent production companies in each English region alongside regional output hours and spend.²⁴⁹ Pact requested more detailed reporting on commissioning obligations linked to hours and content spend.²⁵⁰</p> <p>Directors UK stated that, as part of our performance measurement, we should assess the impact out of London investment has had on local and regional skills bases and undertake content analysis as to the diversity of stories and perspectives across BBC content.²⁵¹</p> <p>TAC and RIG requested clarification on what constitutes a ‘production centre’ and what we mean by ‘range and type’ of production companies.²⁵²</p>	<p><i>We will gather evidence of the BBC’s delivery of public purpose 4 in carrying out our annual monitoring against the performance measures. We will look at the proportion of BBC TV network production taking place across the nations and English regions, and hours of and spend on TV content produced specifically for audiences in the nations and regions. Given this, we do not consider it would be proportionate to conduct the type of content analysis and impact assessment suggested by Directors UK as a matter of course as part of our annual reporting against the performance measures. However, we may wish to do this for the purpose of monitoring contextual factors or for the purposes of our periodic reviews during the Charter period.</i></p> <p><i>Ofcom also publishes the Out of London register,²⁵³ which sets out programmes made out of London by the BBC and the other PSBs and details of the production company where relevant.²⁵⁴</i></p> <p><i>We will monitor the range of production companies used by the BBC and look at the proportion that are qualifying/non-qualifying independents.²⁵⁵ We expect production centres to continue to be interpreted by the BBC as it has been previously under our regional production guidance.</i></p> <p><i>In the consultation, we announced a review of our regional production guidance to ensure it remains fit for purpose in today’s broadcasting landscape.</i></p>
<p>Distribution of BBC content</p>	
<p>The IWA was concerned that our proposed performance metrics for measuring availability did not take account of an audience's ability to</p>	<p><i>Clause 61 of the Agreement requires the BBC to do all that is reasonably practicable to ensure users are able to access the UK Public Services intended for them in a range of convenient and cost effective ways. To meet this obligation, the BBC negotiates</i></p>

²⁴⁹ CRBM response, page 12.

²⁵⁰ Pact response, paragraph 1.11.

²⁵¹ Directors UK response, paragraph 18.

²⁵² TAC response, pages 11-12; RIG response, paragraph 42.

²⁵³ Latest report available at https://www.ofcom.org.uk/data/assets/pdf_file/0020/106544/Made-Outside-London-2016.pdf.

²⁵⁴ Ofcom’s guidance on regional productions is available at https://www.ofcom.org.uk/data/assets/pdf_file/0019/87040/Regional-production-and-regional-programme-definitions.pdf.

²⁵⁵ In accordance with the Broadcasting (Independent Productions) Order 1991 (as amended).

<p>access content.²⁵⁶ The Scottish Government similarly suggested the inclusion of an accessibility measure within the framework.²⁵⁷</p>	<p><i>distribution agreements with a wide range of platforms, including terrestrial, satellite and broadband.</i></p> <p><i>We acknowledge the concerns about connectivity raised by respondents, and will continue to monitor infrastructure through our annual Connected Nations report. However, accessibility measures of the kind proposed relate to the status of networks, rather than the BBC's performance in distributing its public services.</i></p>
<p>Data Methodology and reporting</p> <p>In the consultation we set out our proposed performance measures, having taken into account the principles of comparability, proportionality, practicability, transparency, reliability and flexibility.</p>	
<p>VLV considered that a forum of stakeholders and organisations with an interest in the citizen benefits of public service broadcasting should be established to ensure that the needs and interests of licence fee payers are represented in the debate about BBC performance.²⁵⁸</p> <p>A number of stakeholders considered that the data we proposed to collect needed to be more detailed and that Ofcom should set firm performance indicators.²⁵⁹ In contrast, the CCP considered that our proposed metrics for television, radio and online 'could be too granular and strict'.²⁶⁰</p>	<p><i>We will continue to engage with stakeholders around our role in monitoring the BBC's delivery of the mission and public purposes. During periodic reviews, we will look for input from stakeholders and the general public, through an open consultation. As set out at Figures A5.3 – A5.8, we have determined a minimum set of data metrics and sources that we will use for the purpose of our annual monitoring against each of the performance measures. They may be supplemented by information we gather, where appropriate, for the purpose of monitoring contextual factors specific to the UK nations.</i></p>
<p>Commissioned research</p> <p>In the consultation we proposed a bespoke programme of regular evidence-gathering and audience research to ensure that the BBC's performance is tracked robustly and publicly.</p>	

²⁵⁶ IWA response, page 5.

²⁵⁷ Scottish Government response, Annex, page 10.

²⁵⁸ VLV response, paragraph 91.

²⁵⁹ CMF response, page 1, paragraph 3; CRBM response, page 12; Pact response, paragraph 1.9 and 1.11; TAC response, page 11; RIG response, paragraph 43; Directors UK response, paragraph 2; Global response, paragraph 13; Radiocentre response, paragraphs 49-50, 83-85; Wireless Group response, page 33; Dr. Dekavalla response, page 1; Scottish Government response, page 1; Welsh Government response, page 8; IWA response, page 2; Professor Beveridge response, page 3; GMG response, pages 4 and 10.

²⁶⁰ CCP response, paragraph 7.1.

Six stakeholders²⁶¹ said that commissioning ad hoc research would provide useful evidence to inform our assessment of areas, such as representation and portrayal, which are difficult to measure through quantitative metrics alone. ACE said that any research should not take place immediately after a special BBC 'season' (e.g. Black History Month) as this could skew the results.²⁶² The Scottish Government considered that more detailed nations research was required to measure representation and portrayal using factual data such as content analysis, rather than just audience research and recommended that a Scotland-based research agency is used to gather views in Scotland.²⁶³

When commissioning research, stakeholders such as ACE and MDG stated that details should be made available on the methodology, such as fieldwork and sample sizes, as well as clarifying who the external experts would be and on what basis they would be selected.²⁶⁴

The IWA acknowledged the challenge of measuring authentic portrayal accurately and stressed that care should be taken in drafting this aspect of our research.²⁶⁵

The CMF and Professor Steemers considered that we should collate views on children's output by engaging with families. The CMF stated that this would help us establish the extent to which families find BBC programming innovative, challenging and distinctive.²⁶⁶

In line with best practice and Ofcom's Market Research Framework, we publish our research on the Ofcom website. We also publish as much as possible of our raw data as open data, in .csv and similar open formats. The methodology, including fieldwork and sample, will therefore be published alongside any reports and data tables.

Our procurement framework²⁶⁷ ensures that best practice is achieved in our market research projects. All research is conducted by independent market research agencies, selected through a rigorous tendering process. We will ensure that research conducted in the nations as part of the performance tracker and separate News Consumption Survey will have a robust sample. Fieldwork will be conducted by interviewers who are from the relevant region or nation wherever possible.

As our performance tracker will be focused on the delivery of the four public purposes, it will be asking about the BBC's performance on portrayal, for example, from both an individual and a communities perspective. Fieldwork for the performance tracker will be carried out continuously across the year. This continuous interviewing approach will minimise the impact of any individual programmes or events on the data over the course of a year. We will also conduct ad hoc research when necessary and appropriate, which may include qualitative audience research or content analysis.²⁶⁸ Careful consideration will be given to the timing of this research so that there are no major clashes with relevant BBC programming or seasons of programmes.

Our BBC performance tracker will also look at the views of parents with children aged under 16 years and young people aged over 16 when assessing the distinctiveness of BBC output. Further information will be provided through our ongoing children's media literacy research which looks specifically at the value of BBC content for children aged

²⁶¹ CMF response, page 1, paragraph 3; Professor Steemers response, page 3; ACE response, page 4; Scottish Government response, page 2, Annex, page 4; Dr. Dekavalla response, page 2; Welsh Government response, page 8.

²⁶² ACE response, page 4.

²⁶³ Scottish Government response, Annex, page 6.

²⁶⁴ ACE response, page 3; MDG response, page 3.

²⁶⁵ IWA response, page 2.

²⁶⁶ CMF response, paragraph 3; Professor Steemers response, page 3.

²⁶⁷ Information about Ofcom's procurement process can be found at <https://www.ofcom.org.uk/about-ofcom/supplying-ofcom>.

²⁶⁸ We have recently published two pieces of ad hoc research on the distinctiveness of the BBC. Both pieces can be found at <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/tv-research/bbc-distinctiveness-report>.

	<p><i>12-15 compared to other providers. We will also consider relevant information from industry audience measurement services such as BARB, RAJAR and comScore.</i></p>
<p>Performance measurement reporting In the consultation we proposed to publish annually a research report, providing an overview of the BBC’s performance by public purpose through an associated suite of indicators.</p>	
<p>The Welsh Government expressed concerns that it could take several years for Ofcom to compile compelling data as it would take time for trends to appear, and that Ofcom should challenge the BBC in the interim. It also challenged Ofcom’s assumption of using spend on first-run output as a reliable proxy for quality within the nations²⁶⁹ (See also the above responses on ‘First-run UK obligations on television’ under public purpose 3 – distinctiveness). The Welsh Government was unclear which data will be reported at a UK level only and what will be reported at a nations and regions level.²⁷⁰</p> <p>The CCP said that longer periods of time may be more appropriate before we assess some services. It argued that annual research reports are excessive and unnecessary, and suggested producing core data annually and detailed reports every three years.²⁷¹</p> <p>Sir Lenny Henry asked how Ofcom intends to address gaps in audience opinion between the delivery and importance of the public purposes.²⁷²</p> <p>The BBC submitted that it would like to avoid unnecessary duplication of measurement and resources between what would be collected and reported by Ofcom, and what may already be collected and reported by the BBC.²⁷³</p>	<p><i>We consider an annual reporting cycle to be proportionate to our duties in relation to performance measurement.</i></p> <p><i>In our performance tracker, we will ask respondents about both delivery and importance of the public purposes at a high level. However, we are aware that conducting gap analysis can have limitations and can hide more nuanced findings. We will be looking at ways that we can look at this data effectively while also taking into account other contextual factors.</i></p> <p><i>We agree that spend on first-run output is not by itself a reliable proxy for quality. Our approach ensures that we monitor quality through a range of measures across availability, consumption and impact. We outline in Figure A5.2 the data sources we will use for our performance measures and which ones will be able to provide analysis of specific nations.</i></p> <p><i>We are well placed to report on trends since we have been monitoring the BBC’s performance as part of the broader system of public service broadcasting in the UK for several years. We conduct a PSB tracker which looks at public service broadcasting and we also have results from the BBC Trust’s own Purpose Remit studies. Our performance measurement framework will enable us to collect new trend data relevant to the BBC’s performance against the mission and public purposes.</i></p> <p><i>Regarding metrics on audience impact, we acknowledge and share the BBC’s wish to avoid unnecessary duplication of research and information. We must, however, ensure that we have independent measures in place where applicable.</i></p>

²⁶⁹ Welsh Government response, page 8.

²⁷⁰ Welsh Government response, page 8.

²⁷¹ CCP response, paragraph 7.3.

²⁷² Sir Lenny Henry response, page 3.

²⁷³ BBC response, paragraph 7.6

	<p><i>Regarding consumption metrics, our intention is to use a mixture of media industry data sources (such as BARB and RAJAR), BBC data sources, particularly for consumption of BBC iPlayer and the BBC website, and a mixture of data from surveys run by the BBC and Ofcom to establish overall BBC reach figures.</i></p>
<p>Ofcom’s procedures for setting and amending the performance measures Annex 7 of the consultation set out the procedures and considerations for setting and amending the performance measures. We also said that we do not intend to consult on changes to individual performance metrics.</p>	
<p>Wireless Group considered that Ofcom should look to consult on any proposed changes to the BBC performance measures.²⁷⁴</p> <p>ACS similarly expressed a wish to feed into the process of setting performance measures as and when Ofcom develops the framework.²⁷⁵</p>	<p><i>Under the Charter and Agreement, we are required to consult the BBC and any person we consider appropriate when determining the performance measures. However, we do not intend to consult on every change to individual performance metrics. We may consult for significant changes, such as those that fall under the scope of the Official Statistics Act. This approach is proportionate and will allow us a sufficient degree of flexibility to adjust the data metrics and sources which we use in order to carry out our monitoring and reporting duties effectively and efficiently.</i></p> <p><i>We will continue to engage with Ofcom’s statutory advisory committees for England, Scotland, Wales and Northern Ireland, which regularly provide us with input on behalf of the industry and audiences, on the range of our BBC responsibilities.²⁷⁶</i></p>

²⁷⁴ Wireless Group response, paragraph 119.

²⁷⁵ ACS response, page 1.

²⁷⁶ Further detail available at <https://www.ofcom.org.uk/about-ofcom/how-ofcom-is-run/committees>.

A5. Performance measurement framework

A5.1 This Annex sets out our plans for performance measurement. It begins with a reminder of the function and purpose of performance measures, and our proposals in the consultation, and then provides details of our final plans to measure BBC performance.

Performance measures are a critical part of the overall performance framework

A5.2 Under the Charter, the BBC is tasked with establishing a framework to assess its performance in delivering its strategies and creative remit,²⁷⁷ and obligations under the Charter and Agreement. This includes performance measures (and targets for those measures where appropriate) to monitor the performance of the UK public services in fulfilling the mission and promoting the public purposes.²⁷⁸

A5.3 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.²⁷⁹ Unlike the regulatory conditions within the Licence, these performance measures are not themselves enforceable. However, they are a key component of how Ofcom will hold the BBC to account for the delivery of its public services, by providing an evidence base to monitor BBC performance over time.

A5.4 Our performance measures will be used in the following ways:

- to measure annually the BBC's performance in delivering the public purposes;
- to alert us to potential areas of concern which may require further investigation, and may indicate where additional regulatory conditions might be appropriate in future;
- to provide a robust evidence base for any reviews we will undertake during the Charter period; and
- to monitor the high-level objectives that we have set for the BBC, over the Charter period.

²⁷⁷ The BBC's proposals for how each UK public service and the World Service will, for that year, contribute to the fulfilment of the Mission and the promotion of the Public Purposes.

²⁷⁸ Charter, Article 20(3).

²⁷⁹ In setting and amending the 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.

Our consultation proposals

- A5.5 In our consultation, we set out our plans for this overall performance measurement framework, including:
- A set of four measurement categories (availability; consumption; impact; and contextual factors) to be applied to each of the public purposes;
 - A set of principles (see below Figure A5.1), which we said we would have regard to when determining which particular indicators and data sources to use;
 - A range of research and market data sources – using our existing research base, as well as developing a bespoke research programme. We said these data sources would be complemented by the research and evidence that the BBC provides, as well as relevant third party material. We set out, for illustrative purposes, the types of metrics we proposed to use for the purpose of monitoring each of the performance measures.
- A5.6 We said that we would publish an annual research report providing an overview of the BBC’s performance by public purpose through an associated suite of indicators. This would be separate to Ofcom’s annual report of the BBC’s compliance with its regulatory conditions.
- A5.7 We asked stakeholders for their views on our proposed overall approach to performance measurement and our proposed framework of availability; consumption; impact; contextual factors.
- A5.8 Since the consultation, the BBC has published its interim annual plan. This includes its plans for performance measurement. The BBC groups its metrics into “experienced value” (reach and time spent), and “perceived value” (perceptions of audiences) alongside audience views and perceptions on how well the BBC is promoting its public purposes. It also sets out the range of scores and percentage reach that the BBC aims to achieve. These plans for performance measurement include some metrics which will be similar to our own. We will work with the BBC to ensure that we minimise unnecessary duplication of research activity: however, as an external regulator, we also need to ensure that we have an independent evidence base.

Consultation responses

- A5.9 Stakeholders broadly agreed with our proposed overall approach to performance measurement and our proposed framework as outlined in our consultation.²⁸⁰ Stakeholders also commented on a range of aspects related to our performance measurement framework. Their views, and our responses to the issues raised are set out in the table in Annex 4, grouped by theme.

²⁸⁰ CCP response, paragraphs 7.1 and 8.1; Directors UK response, paragraph 31; Global response, paragraphs 47 and 50; GMG response, page 10; Pact response, paragraph 7.1; VLV response, paragraphs 92 and 95.

Final performance measurement framework

- A5.10 In finalising our performance measurement framework we have fully considered the consultation responses, and the BBC's plans for its own performance measurement. Our final framework has also been set in accordance with the procedures that we have put in place in the Operating Framework for setting the performance measures.
- A5.11 Our framework comprises four performance measures and a set of principles to which we will have regard in applying the performance measures. We have also determined a minimum set of data metrics and sources that we will use as evidence of the BBC's performance against the measures we have specified. We may supplement this with additional data metrics and sources on an ad hoc basis to take account of contextual factors.
- A5.12 The four performance measures are:
- **Availability:** describing the nature, type, quantity, and range of content available across the BBC as well as the spend on this content. This is a 'baseline' category that helps to build a robust understanding of the nature of the content provided by the BBC.
 - **Consumption:** monitoring the extent to which audiences consume the content provided by the BBC. This category provides an overview of the reach of content and time spent consuming BBC content, by service, platform or cross-platform.
 - **Impact:** examining what audiences think about the BBC's services and output, including their satisfaction with various aspects of the BBC's promotion of the public purposes.
 - **Contextual factors:** There are aspects of each public purpose that cannot be measured solely by the measures above. For example, an assessment of the BBC's record in taking creative risks and delivering innovative content would benefit from consideration of additional analysis provided by the BBC, or opinions from industry stakeholders. Other contextual factors may vary from year to year. We give examples of the type of evidence we may seek in relation to this performance measure in paragraph A5.16.
- A5.13 Our core principles which will guide the application of our performance measurement are set out in Figure A5.1:

Figure A5.1 Core principles of the performance measurement framework

	Description
Flexibility	We will take a flexible approach to the metrics associated with the performance measures. We will produce basic tracking information on output, spend, consumption and impact every year. Our level of assessment beyond this will vary in any given year. Any deeper assessment of delivery against a particular public purpose will be carried out on a less frequent basis to be cost-effective, proportionate, and be based on a sufficient range of relevant data.
Proportionality	When measuring different audience groups, we will take a proportionate approach that balances the desirability of understanding discrete sub-groups with the practicality and cost of doing so. We will gather evidence about the BBC as a whole, and service-specific data where informative and practicable. We will not exhaustively measure all aspects of each public purpose against each and every service, audience or parts of the day.
Practicability	We will ensure that what we seek to measure quantifiably can realistically and objectively be measured in such a way. We will consider alternative, qualitative ways on an ad hoc basis to understand performance in those instances where it is particularly difficult to reduce to a quantifiable metric.
Transparency	We consider that the metrics that can be associated with each measure should be clear and straightforward to understand.
Reliability/robustness	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 sub-groups over time, where feasible.
Comparability	Where applicable and available, we will benchmark BBC delivery against other PSBs/the commercial sector/online content and services.

A5.14 Figure A5.2 provides a summary of the main data sources that we will use to monitor the BBC’s delivery of the mission and promotion of the public purposes over the Charter period. Some data sources and audience sub-groups will be used as part of our annual performance measures while others will be used on an ad hoc basis. It should be noted that our overall assessment of delivery to each public purpose does not depend on any single data source. This list is not exhaustive and may also evolve over time, for example, in response to changing audience needs and tastes revealed through our independent audience research. The emphasis placed upon each of the data sources and each of the categories of availability, consumption, impact and contextual factors will vary by public purpose, taking into consideration the core principles of our performance measurement framework.

Figure A5.2 Data sources relevant to the performance measurement framework

	Data Source	Further Information
Availability	BBC output	BBC-provided data that shows the levels and range of output across BBC services.
	BBC content spend	BBC-provided financial data that shows investment levels across BBC services.
Consumption ²⁸¹	BARB (broadcast television industry data)	Audience groups covered include a range of age, gender, socioeconomic group (SEG), national/regional, ethnicity and disability groups. In addition, we expect to include findings from BARB project Dovetail, which includes measurement of BBC iPlayer, over the Charter period. ²⁸²
	RAJAR (radio industry data)	Audience groups covered include a range of age, gender, SEG, national/regional, ethnicity and disability groups.
	comScore (online industry measurement)	Audience groups covered include a range of age, gender and SEG groups, as well as some regional/nations measurement.
	BBC server data (consumption of BBC iPlayer and BBC website)	Information is browser-based at present, which means no analysis by audience group is possible. Analysis by audience group should become available over the Charter period.
	BBC cross media measurement	This data source exists but is in development. It will cover a broad range of audience groups.
Impact	Ofcom BBC performance tracker	This new survey from Ofcom covers a broad range of audience groups including gender, age, SEG, sexual orientation and region/nation. We monitor sub-groups for ethnicity and religions where sample sizes allow.
	Ofcom news consumption survey	This annual survey provides a detailed understanding of news consumption habits and attitudes relating to the BBC's promotion of public purpose 1. It covers a range of audience groups.

²⁸¹The levels of genre granularity provided by industry currencies of consumption vary. ComScore online consumption is based on URLs rather than specific types of programming (e.g. BBC News will contain features other than reportage) while RAJAR listening figures are based on time slots only without genre level data. We will draw on other sources of data and information, such as the BBC's own data and research, based on the core principles of our performance measurement framework.

²⁸² Project Dovetail is a BARB-led initiative to provide a joint-industry, audited measure of total reach across all devices. For further details please see <http://www.barb.co.uk/project-dovetail/>.

	Data Source	Further Information
	Ofcom media literacy trackers	Ofcom’s annual media literacy trackers, for both adults and children, provide further contextual information to supplement our BBC performance tracker, especially in relation to the promotion of public purpose 2.
	Ofcom PSB tracker	This tracker provides information on audience views about the BBC television channels’ delivery of public service broadcasting in comparison to other public service broadcasters.
Contextual Factors	Various data sources (e.g. qualitative research, opinion gathering and content analysis)	These tools can be used as required to provide additional research for an in-depth focus, possibly including groups that are hard to measure quantitatively.

A5.15 In light of the consultation responses and the BBC’s proposals in its interim annual plan, we are also listing a minimum set of evidence in the tables below that we will gather annually (by reference, as appropriate, to the data sources set out above) for the purpose of monitoring the BBC’s delivery of each of public purposes 1, 2, 3 and 4 against the performance measures. This list is not exhaustive and may change over time.

A5.16 The list does not include evidence that we will gather in relation to contextual factors, since this will be determined on an ad hoc basis, according to the contextual factors that are relevant in a given year to the delivery of one or more the public purposes. Examples of the type of evidence that we might seek to collect in this regard include content analysis, in-depth audience analysis and qualitative audience research. We may also look at additional evidence from the BBC (e.g. on creative risk-taking), from the BBC’s partners in education, sports and culture, or opinions from industry stakeholders where appropriate. These methods may also be used for any reviews, and to help in our assessment of the BBC’s delivery of the high-level objectives over the Charter period.

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

A5.17 In this area of our performance measurement framework we will focus on national and international news as well as current affairs. We will also look at factual content that contributes to the delivery of this public purpose.

Figure A5.3 Evidence for monitoring public purpose 1 against the performance measures

Availability	Hours of programming available on the BBC. <ul style="list-style-type: none"> Covers all BBC television and radio services and BBC Three. Focus on first-run UK originated content.
	Spend on output across BBC television, radio and online services
Consumption	Reach of, and time spent on, news and current affairs output across the BBC.
Impact	Audience attitudes to the BBC’s delivery of news, including the importance of impartial news and information
	Audience attitudes to BBC delivery within the wider market context of news consumption.

Public purpose 2: learning for children and teenagers

A5.18 In this area of our performance framework we will cover formal education, with a specific focus on the BBC’s Bitesize service.

Figure A5.4 Evidence for monitoring public purpose 2 (1) against the performance measures

Availability	Spend on BBC services that provides educational content for children and teenagers
Consumption	Reach of BBC educational content among school-age children and teenagers.
	Minutes of BBC educational content consumed by school-age children and teenagers.
Impact	Views of parents and young people on the extent to which the BBC provides output that supports children and young people with their education.

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

A5.19 In this area of our performance measurement framework we will focus on genres most likely to contain informal educational content including arts, music, religion, science, business and other specialist factual such as nature and history documentaries.

Figure A5.5 Evidence for monitoring public purpose 2 against the performance measures

Availability	Hours of programming available on the BBC <ul style="list-style-type: none"> • Covers all BBC television and radio services and BBC Three • Focus on first-run UK originated content
	Spend on output across the BBC television services, radio and online.
Consumption	Reach of, and time spent on, arts/music/religion/science/business/specialist factual across the BBC.
Impact	Audience views and attitudes on the extent to which the BBC overall delivers public purpose 2.
	Audience views on the importance of this public purpose on both a societal and a personal level.

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

A5.20 In this area of our performance measurement framework we will examine television, radio and online provision through BBC iPlayer and the BBC website.

Figure A5.6 Evidence for monitoring public purpose 3 against the performance measures

Availability	BBC schedule analysis covering: <ul style="list-style-type: none"> • The genre mix on each of the BBC television/radio services and BBC Three. • The proportion of first-run UK originations against repeats and acquisitions, by genre. • The range and type of production companies used by the BBC when commissioning content. • The number of new titles and the proportion of unique titles and long-running series across the BBC television services. <p>For Radio 1 and Radio 2, the BBC’s playlist analysis of the range of music being played across these services.</p>
	BBC spend on first-run UK originated content across BBC television will be tracked over time, as will spend on the BBC radio services and their online provision.
	Consumption

Impact	Audience views and attitudes on the extent to which the BBC is delivering this public purpose. ²⁸³
	Audience views and attitudes on the extent to which individual BBC services offer something that other providers do not.
	Audience views on the importance of this public purpose on both a societal and a personal level.

* Data from RAJAR is time-based only with no genre level information. Bespoke genre-based analysis will be used where appropriate.

Public purpose 4: The UK’s nations and regions

A5.21 In this area of our performance measurement framework we will cover network programming produced in each nation/region as well as nations’/regions’ content including news, current affairs and other content, across television, radio and online.

Figure A5.7 Evidence for monitoring public purpose 4 (nations and regions) against the performance measures

Availability	<p>Network television content:</p> <ul style="list-style-type: none"> • The proportion of qualifying network content (as defined in Ofcom’s guidance on regional productions) produced in the nations and English regions across BBC television. • The proportion of relevant spend (as defined in Ofcom’s guidance on regional productions) on network content produced in the nations and English regions. <p>The spread of hours and spend across the nations and English regions for BBC network radio content.</p>
	<p>Non-network television content:</p> <ul style="list-style-type: none"> • The hours of content produced for viewers in specific nations and regions across all BBC One, Two and the BBC radio services. • Spend on first-run UK originated content specifically for viewers in the nations and regions across BBC One and Two. <p>Spend on BBC local radio services.</p>
Consumption	Reach of, and time spent on, BBC services across the UK’s nations and regions for television, radio and online.
Impact	Audience views and attitudes on the extent to which audiences feel the BBC delivers this aspect of the public purpose, across the nations and regions of the UK.

²⁸³ For further information on this area, please see our recent research on the BBC’s distinctiveness. Available at: <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/tv-research/bbc-distinctiveness-report>.

	Audience views on the importance of this public purpose on both a societal and a personal level.
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Public purpose 4: Diversity

A5.22 In this area of our performance framework we will cover a range of genres. We plan to measure performance by reference to diversity by age, gender, socioeconomic group (SEG), disability, race, religion and belief, and sexual orientation, where feasible.

Figure A5.8 Evidence for monitoring public purpose 4 (diversity) against the performance measures

Consumption	Reach of, time spent on and audience profile of the BBC’s services for a range of audience groups such as age, gender, ethnicity and SEG.
	Use of industry data from BARB, RAJAR and comScore (see Figure A5.2) as well as data from the BBC’s cross media measurement and Ofcom’s BBC performance tracker.
Impact	Audience views and attitudes on the extent to which audiences feel the BBC delivers this aspect of the public purpose.
	From diverse communities within the UK, audience views on the extent to which the BBC reflects ‘people like me’.
	Audience views on the importance of this public purpose on both a societal and a personal level.

A6. Impact assessment and equality impact assessment

Impact assessment

- A6.1 Ofcom is required under the Charter and Agreement to put in place a Licence, and to do so in accordance with the provisions contained in those documents. Ofcom also has a legal duty to carry out impact assessments where our policy decisions are likely to have a significant effect on businesses or the public, or when there is a major change in Ofcom's activities.²⁸⁴
- A6.2 Our assessments of the potential impact of our decisions have been informed by the consultation responses we have received and are explained throughout this document. In summary, it is our view that the single Licence introduced by this Operating Framework provides the necessary flexibility to enable the BBC to respond to evolving consumption patterns over the Charter period. We consider that users will benefit from the certainty that the BBC cannot reduce its output below specified minimum levels, while acknowledging there may be opportunity costs associated with our decisions: an hour of output that must be dedicated to one genre might imply a reduction in another genre.
- A6.3 The Licence places tougher requirements on the BBC in many areas, including some new obligations, and we expect the BBC to go further. We are mindful that the BBC is likely to face additional compliance costs associated with our performance measurement framework, where we require the BBC to provide information for reviews, annual reports and information requests.
- A6.4 We consider that the requirements we have put in place are proportionate and will help Ofcom to discharge its functions under the Charter and Agreement in the interests of viewers, listeners and users. We will target information requests appropriately, taking into account potential costs. We note that in relation to our consultation proposals, the BBC raised concerns about the impact of certain obligations in relation to the nations and regions and we have taken these into account in setting these obligations accordingly.²⁸⁵ Accordingly, notwithstanding the stretching and challenging nature of the BBC's obligations, we are satisfied, taking account of the BBC's historic performance, that they are deliverable, securing material benefits for the BBC's viewers, listeners and users, within the BBC's budgets.
- A6.5 We have also taken into account consultation responses in considering whether the requirements placed on the BBC in the Licence have the potential to harm fair and effective competition.

²⁸⁴ Section 7 of the Act.

²⁸⁵ See paragraphs A3.56-A3.62.

- A6.6 The Licence issued by Ofcom alongside this Statement forms part of our regulatory framework for the BBC, which also includes specific provisions to enable us to address potential competition concerns as they arise during the Charter period.²⁸⁶
- A6.7 In the case of certain obligations, for example the requirement for original productions to account for 70% of all hours of programming on CBeebies, the Licence reflects conditions in place under the previous regime, as we consider they are sufficient to meet the objectives set out in the Charter and Agreement. In the case of a further range of obligations originally set by the BBC Trust at a lower level, although we have increased the amounts which the BBC's UK public services are required to achieve, for example, the level of news programming required on BBC One, our conditions have been set to take into account existing BBC delivery in recent years. We therefore do not consider that either of these types of obligations are likely to lead to the BBC having a different impact on competition than would have been anticipated at the time the Charter and Agreement were finalised.
- A6.8 In certain cases, we have decided either to remove or reduce a requirement set by the BBC Trust. We have done so, either because we considered the obligation was not explicitly necessary in order for the BBC to deliver its new mission and public purposes – for example, the requirements set by the BBC Trust relating to the number of hours of original drama on Radio 4 – or because we concluded it reflected a service goal set by the BBC Trust, rather than a regulatory obligation required to implement the Agreement, for example the obligation on BBC Two to feature “topical arts reportage as well as a wide range of series and special events” within its arts output. At this stage, it is not possible to assess whether the BBC may make changes to its services in response to these steps which would have the potential to give rise to competition concerns. This will depend on decisions the BBC takes in the future as to how to develop its services, which we will monitor closely over time. As a result, and in the event that we conclude it is appropriate to do so, we may put further or revised obligations in the Licence.
- A6.9 Where the BBC does propose changes to its services and output, the Charter and Agreement, and the Operating Framework we have developed as a result, provide a means to address issues that could arise. In the event changes are deemed to be material within the terms of the Agreement, they will be subject to competition assessment by us before being permitted to go ahead. In other cases, where we have reasonable grounds to believe that the carrying out by the BBC of its public service activities is having a significant adverse impact on fair and effective competition, we may undertake a competition review. Under any regulatory process examining the impact of public service activities on competition which we undertake in future, we will take full account of the BBC's obligations to fulfil its mission and promote the public purposes.

²⁸⁶ Rules developed by Ofcom relating to different areas of BBC activity that could lead to competition concerns can be found at: https://www.ofcom.org.uk/consultations-and-statements/ofcom-and-the-bbc/the-operating-framework#accordion_target-98352.

A6.10 Finally, we do not consider that the competitive impact, if any, of the new obligations we have introduced requiring the BBC to ensure specified amounts of network programming are made in the nations, can be fully determined at this stage. The impact of these obligations, which are to be phased in over time, will be dependent on the approach taken by the BBC and will be kept under review. However, as above, where we have reasonable grounds to believe that the carrying out by the BBC of its public service activities is having a significant adverse impact on fair and effective competition, we may undertake a formal competition review.

Equality Impact Assessment

- A6.11 We are required by statute to assess the potential impact of all our functions, policies, projects and practices on people with any of the following protected characteristics: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation.²⁸⁷ We refer to groups of people with these protected characteristics as ‘equality groups’.
- A6.12 We fulfil these obligations by carrying out an EIA, which examines the potential impact our 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.
- A6.13 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.
- A6.14 As part of our EIA we have considered our policy approaches to setting the Licence, and the measures we will use to assess the BBC’s performance.
- A6.15 The consultation set out our proposed approach for holding the BBC to account for the delivery of its mission and public purposes. We proposed a range of tools comprising: a single Licence; a performance measurement framework to supplement the BBC’s own performance measures; and annual reports and reviews (both periodic and ad hoc). We consider that securing delivery of the BBC’s mission and public purposes through this regulatory regime will bring benefits to all consumers of BBC output including equality groups.
- A6.16 The BBC’s mission includes the requirements for the BBC to “serve all audiences”. Public purpose 4 builds on this by stating that the BBC should “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”.²⁸⁸

²⁸⁷ As defined in the Equality Act 2010.

²⁸⁸ Article 6(4) of the Charter.

- A6.17 We have set conditions in the Licence for the purpose of securing public purpose 4. As set out in Annex 3, we agree with respondents that the BBC can and must do more to improve diversity, both on-screen and off-screen. Therefore, we have strengthened the requirements on the BBC to ensure it is held to account on its delivery of the mission and public purposes in relation to diversity.²⁸⁹ These requirements include: an annual reporting obligation, demonstrating how the BBC has reflected, represented and served the diverse communities of the UK, which include each of the equality groups;²⁹⁰ and an annual monitoring and reporting obligation on the diversity of all staff (by reference to the equality groups).²⁹¹ The BBC must also agree a diversity code of practice with us.²⁹²
- A6.18 There are a number of other regulatory conditions we consider have a specific relevance to particular equality groups which should deliver a positive impact.
- A6.19 We have set three requirements for the BBC radio services 1Xtra and BBC Asian Network to help ensure BBC news output reaches and serves minority ethnic and Asian audiences.²⁹³ Evidence shows the BBC has historically performed less well in serving people from ethnic minority backgrounds with news output.²⁹⁴ Over time, our performance measurement framework should indicate whether our conditions improve satisfaction levels for news output among various equality groups.
- A6.20 We have set conditions to ensure the BBC provides children aged 12 and under with news, drama and factual content made for them. This includes a minimum number of hours of new content to be shown on CBBC each year. CBeebies has to provide a range of content that supports pre-school children's learning.²⁹⁵
- A6.21 In a broadcasting landscape where the BBC is by far the biggest 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 programmes that is suitable for them including news content and original, UK-made output.
- A6.22 In addition, as set out in the discussion of our performance measurement framework at Annex 4, we will also be monitoring and reporting annually on the BBC's performance in delivering the mission and public purposes.
- A6.23 We are therefore satisfied that the regulation of the BBC set out in the Licence and this Statement will have a positive impact on the equality groups.

²⁸⁹ See paragraph A3.82.

²⁹⁰ Paragraph 2.42 of the Licence.

²⁹¹ Paragraph 2.50 of the Licence.

²⁹² Paragraphs 2.46-2.49 of the Licence.

²⁹³ Paragraphs 2.9 and 2.15 of the Licence.

²⁹⁴ 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.

²⁹⁵ Paragraphs 2.6, 2.22, and 2.23 of the Licence.

Northern Ireland

- A6.24 Under public purpose 4, the BBC should also ensure that its output and services meet the needs of the UK's nations, regions and communities. As discussed in Annex 3, we have set conditions in the Licence to secure delivery of this public purpose.²⁹⁶ These conditions include obligations 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 are also increasing the amount of network hours and spend referable to production in Northern Ireland. On that basis, we do not believe that this policy approach will have an adverse impact on any of the Northern Ireland equality categories.
- A6.25 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 voices of the audience in Northern Ireland are heard. Accordingly, we believe the impact of our measurement framework should be positive for equality groups in Northern Ireland.

²⁹⁶ See paragraphs A3. 45-A3.62.

A7. BBC operating licence

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 2003.¹
- 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 requirements set by the BBC Trust on the BBC as a whole to secure the provision of more distinctive output and services);
 - third party online material;
 - 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 Purposes.⁵
- 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 served.⁶

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.

- 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 which sets out the specific regulatory requirements relating to the relevant nation, to be read alongside this Licence.
- 1.7 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 so.⁸ The Board, rather than Ofcom, is tasked with setting budgets and strategies for BBC programmes and services. 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 regions.⁹
- 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 Framework.¹¹
- 1.9 Ofcom may amend this Licence and considers it likely that it will do so regularly over the duration of the Charter. For example, 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 the BBC. Ofcom will also consult 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 Services.¹² 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 appropriate.¹⁴ Ofcom must also enforce compliance by the BBC with some regulatory requirements¹⁵ which apply to the BBC directly through the Charter and the Agreement, or through legislation, such as quotas for independent productions¹⁶, and requirements relating to provision for people who are hearing or visually impaired.¹⁷

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

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 Ofcom's enforcement powers are set out under Article 49 of the Charter and clause 59 of the Agreement (definition of "specified requirements").

¹⁶ Paragraph 6 of Schedule 3 to the Agreement, and Schedule 12 to the Communications Act 2003.

¹⁷ Paragraph 9 of Schedule 3 to the Agreement.

- 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;
 - 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 £250,000.¹⁸
- 1.12 Ofcom has made provision in the Operating Framework for how it will exercise its enforcement powers.¹⁹
- 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 genre.²⁰
- 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 also set out Ofcom's assessment of the BBC's compliance with the Regulatory Conditions of the Licence.²¹ Ofcom has power to require the BBC to provide information for the purpose of the carrying out by Ofcom of its functions.²²

The BBC's Mission

- 1.15 The Mission of the BBC 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.²³

The BBC's Public Purposes

- 1.16 The Public Purposes of the BBC are as follows:²⁴
- 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

¹⁸ 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.

¹⁹ <https://www.ofcom.org.uk/consultations-and-statements/category-2/enforcement-bbc-agreement-compliance>

²⁰ Article 37 of the Charter.

²¹ Article 50 of the Charter.

²² Article 47 of the Charter.

²³ Article 5 of the Charter.

²⁴ Article 6 of the Charter.

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 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 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:** 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 globally.²⁵

²⁵ The BBC's delivery of its fifth public purpose, reflecting the UK to the world, will be achieved primarily through the BBC World Service and BBC Worldwide. 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).

- 1.17 The BBC must support a wide range of valued genres across its services, such as drama, comedy, factual programmes and different types of music.²⁶ In doing so, we expect the BBC to continue producing programmes on a broad range of established themes and interests – including but not exclusively programmes covering politics, business, consumer issues, rural affairs, health, disability and social action. We will monitor the BBC’s output in a variety of ways to ensure it meets its public purposes and provides a broad range of programmes across its services.
- 1.18 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.
- 1.19 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. This Licence and the performance measures that we have set alongside it are designed to deliver fully the intent of the new Charter and Agreement, by leaving creative decisions in the hands of programme-makers, but challenging the BBC to deliver for all of its audiences.
- 1.20 This Licence sets Regulatory Conditions that the BBC must meet, setting a baseline for future performance. The conditions capture areas where the Charter and Agreement require, or we have found, that specific conditions are required. The Licence sets stretching requirements in a range of areas, but we expect the BBC to go further. As well as the rules we have set in this Licence, we have put in place detailed plans for measuring the BBC’s performance, not only against the Regulatory Conditions in this Licence but across the range of the BBC’s services and output.
- 1.21 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 effectiveness of 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 across its services. We expect the BBC to continue improving how it delivers against its remit.
- 1.22 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.
- 1.23 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.

²⁶ A list and description of the existing UK Public Services is set out in Part 1, Schedule 1 to the Agreement. We have reproduced that list in Schedule 3 to this Licence for ease of reference.

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

- 1.24 Ofcom considers that the BBC, 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, should do the following:
- 1.24.1 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;
 - 1.24.2 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;
 - 1.24.3 continue to provide trusted and reliable information, news, current affairs and factual output to the highest editorial standards;
 - 1.24.4 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.
- 1.25 Accordingly, Ofcom has imposed Regulatory Conditions on the BBC as set out in Schedule 1 to this Licence, which the BBC must comply with and which Ofcom will enforce.

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

- 1.26 Ofcom considers that the BBC, in meeting its Public Purpose of supporting learning for people of all ages in accordance with its obligations under the Charter, should do the following:
- 1.26.1 continue to provide a broad range of content across its services which provides 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, and content with an international focus. 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 online platforms;
 - 1.26.2 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;
 - 1.26.3 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

1.26.4 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.

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

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

1.28 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, define 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.”

1.29 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 and Agreement. Distinctiveness lies at the core of the Charter, and the majority of the conditions we are placing on the BBC across its services are designed to promote it. Many of our conditions for other Public Purposes will contribute to a more distinctive BBC. For example, our conditions securing delivery of news and current affairs set out in the Licence under Public Purpose 1 are an important part of securing distinctiveness. In relation to Public Purpose 2, our conditions for delivery of children’s content are significant in securing distinctiveness. Likewise, our conditions under Public Purpose 4 requiring a higher proportion of programmes in the nations or outside London are a key part of securing distinctiveness.

1.30 We want the BBC to set out clearly in its annual plan and creative remit each year how it will secure the provision of distinctive output and services, and how every UK Public Service will contribute to this delivery. Distinctiveness will also be at the core of how we measure performance.

1.31 The BBC published its interim annual plan containing a draft work plan and creative remit for 2017/18 on 3 July 2017.²⁷ The interim annual plan takes as its starting point the regulatory conditions that we set out in our draft Operating Licence, and adds to these

²⁷ http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/BBC_Annual_Plan_2017-18.pdf

over 100 further commitments. They include: broadcasting a demonstrably broader range of genres in peak-time on BBC One than any comparable channel; commissioning substantial scripted content for BBC Three; exploring different types of programming, including super long-form on BBC Four; age targets for Radio 1, 1Xtra and Radio 2; drama commitments for Radio 3 and 4 and comedy commitments for Radio 4; and a broader range of sports on 5 Live and Sports Extra than on any comparable service.

1.32 Additionally, the BBC has set out further commitments to strengthen distinctiveness on its radio services, which it intends to include in its final annual plan for 2017/18. These further commitments include increasing the level of new and UK music broadcast in Daytime on Radio 1 and Radio 2 and introducing further measures to monitor the distinctiveness of these services from their key commercial radio competitors. The BBC's commitments also cover the level of new music on BBC 6 Music; new music and music from UK artists during Daytime on 1Xtra; new and UK music during Daytime on the BBC Asian Network; original drama and original comedy on Radio 4; comedy and drama on BBC 4 Extra; new drama on Radio 3; and reporting commitments on BBC Radio 5 live sports extra, plus a review by the BBC of the station's remit and range of broadcast content.²⁸

1.33 Ofcom considers that in delivering distinctive output and services:

1.33.1 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, including: music, arts, religion, comedy and children's programming. 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 services²⁹ is broader than that of comparable providers;

1.33.2 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;

1.33.3 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;

1.33.4 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 have a renewed focus on innovation and creative risk-taking through the commissioning and scheduling of new titles. In doing so, the BBC should secure an appropriate balance of unique

²⁸ Letter from BBC to Ofcom, 14 August 2017 (https://www.ofcom.org.uk/data/assets/pdf_file/0022/105934/BBC-3.pdf).

²⁹ By "popular radio services" we mean Radio 1 and Radio 2.

titles and long-running series. 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

1.33.5 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 genre services and its more specialist and single purpose services.

1.34 Accordingly, Ofcom has imposed Regulatory Conditions on the BBC as set out in Schedule 1 to this Licence, which the BBC must comply with and which Ofcom will enforce. The Regulatory Conditions particularly emphasise new and original content, and include increased requirements for original production of BBC One, Two, CBBC and BBC Four; new first-run UK originations requirements to secure the BBC's investment in new programmes; a new quota for comedy on BBC One and Two; new requirements on both Radio 1 and 2 to play a broader range of music than comparable providers and more music from new and emerging UK artists; and a requirement for Radio 1 to offer a minimum number of major social action campaigns. We have also set out in the same part of Schedule 1 to the Licence a list of the conditions which have been grouped in this Licence under the other public purposes to which they relate (purposes 1, 2 and 4) and are also key to securing the public purpose of showing the most creative, high quality and distinctive output.

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

1.35 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.

Diversity, audience portrayal and representation

1.36 In relation to diversity, the BBC should:

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

1.36.2 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;

1.36.3 accurately represent and authentically portray the diverse communities of the whole of the United Kingdom;³⁰ and

³⁰ "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

- 1.36.4 help contribute to social wellbeing through cultural education, awareness and bringing people together for shared experiences.
- 1.37 In doing so, we would expect the BBC’s own workforce and that of the production companies from which it commissions to reflect the make-up of different communities across the United Kingdom and its nations and regions – and to make demonstrable year on year progress.
- 1.38 We are conducting an in-depth review of how different audiences are represented and portrayed on the BBC. All audiences should feel that the BBC offers something for them, but our research shows that several groups feel that it doesn’t adequately represent their interests or lives. This is our first ad hoc review of the BBC.³¹ As part of our analysis we plan to examine the on-screen diversity of the BBC’s programming, including in its popular peak time shows. It will ask what audiences expect from the BBC, to understand whether it reflects and portrays the lives of all people across the whole of the UK, ranging from younger and older audiences to diverse communities. We will take into account the outcomes of the review as we shape future regulation, and take further measures where needed to ensure that the BBC is delivering for all of its audiences.

Nations and Regions

- 1.39 In relation to the United Kingdom’s nations and regions, the BBC should:
- 1.39.1 accurately represent and authentically portray all audience groups from the nations and regions across its output, services and genres³²;
 - 1.39.2 distribute its production resources across the United Kingdom 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 United Kingdom;
 - 1.39.3 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 indigenous language broadcasting and a wide range of genres, including drama, comedy and sports; and
 - 1.39.4 contribute to social wellbeing through cultural education, awareness and bringing people together for shared experiences.
- 1.40 Accordingly, Ofcom has imposed Regulatory Conditions on the BBC as set out in Schedule 1 to this Licence, which the BBC must comply with and which Ofcom will enforce.

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.

³¹ Ofcom must, where appropriate, carry out and publish additional (“ad hoc”) reviews addressing any specific issue of concern identified by Ofcom relating to the activities of the BBC that are subject to regulation by Ofcom under this Charter and Framework Agreement (Article 51(3) of the Charter).

³² “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.

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 1 January 2018 and throughout the Licence Period.³³

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 network news programmes at intervals throughout the day;
 - 2.4.2 in each Calendar Year, at least 1,520 hours are allocated to network news programmes, of which at least 280 hours must be in Peak Viewing Time. For the purpose of this requirement, "network 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, at least 45 hours are allocated to network current affairs programmes during Peak Viewing Time.
- 2.5 In respect of **BBC One** and **BBC Two** taken together, the BBC must ensure that in each Calendar Year at least 450 hours are allocated to current affairs programmes, of which at least 106 hours must be in 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 Financial Year at least 85 hours are allocated to news.
- 2.7 The BBC must ensure that the **BBC News channel** includes
- 2.7.1 more international news, and

³³ Some of the Regulatory Conditions set requirements by reference to a financial year. For these purposes the first financial year begins on 1 April 2018 (see definition of a "Financial Year" in Schedule 2 to the Licence).

- 2.7.2 more local/regional news
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 at least one hour is allocated to news during Daytime each weekday (except for Public Holidays) including at least two extended bulletins, of which at least one must be in Peak Listening Time; and
 - 2.8.2 it provides bulletins at regular times during Daytime at weekends.
- 2.9 In respect of **1Xtra**, the BBC must ensure that:
- 2.9.1 at least one hour is allocated to news during Daytime each weekday (except for Public Holidays) including at least two extended bulletins; and
 - 2.9.2 it provides bulletins at regular times during Daytime at weekends.
- 2.10 In respect of **Radio 2**, the BBC must ensure that:
- 2.10.1 at least 17 hours are allocated to news and current affairs programming each week, of which at least 3 hours must be in Peak Listening Time; and
 - 2.10.2 it provides news bulletins at regular times.
- 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 at least 2,750 hours are allocated to news and current affairs programmes (including repeats) in each Financial Year; 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 at least 75% of its output in each Financial Year must be news and current affairs programming; 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 in each week at least 6 hours are allocated to news.
- 2.15 In respect of **BBC Asian Network**, the BBC must ensure that in each week at least 24 hours are allocated to news and current affairs programming.
- 2.16 The BBC may request in writing that the requirements in condition 2.8.1, 2.9.1, 2.10.1, 2.14 or 2.15 be suspended for a specified period. Ofcom will consider any such request and may agree to the request where it is satisfied that in the particular circumstances of the case it is appropriate to do so. Such circumstances may include, but are not limited to, proposed changes to schedules to cover a live event such as a music festival.

2.17 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

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

- 2.27.2 at least 130 hours are allocated to documentaries. For the purpose of this requirement, “documentaries” does not include repeats; and
 - 2.27.3 at least 170 hours are allocated to religious output, and that the output covers a broad range of faiths. For the purpose of this requirement, “religious output” includes repeats. For illustration only, religious output could include coverage of key events in the religious calendar, religious music, and interviews with religious leaders in the community.
- 2.28 In respect of **Radio 3**, the BBC must ensure that in each Financial Year:
- 2.28.1 at least 45% of the station’s music output consists of live or specially recorded music;
 - 2.28.2 it broadcasts at least 440 live or specially recorded performances;
 - 2.28.3 it commissions at least 25 new musical works (excluding repeats); and
 - 2.28.4 it broadcasts at least 35 new documentaries on arts and cultural topics (excluding repeats). For illustration only, documentaries on arts and cultural topics could include programmes to help audiences develop their understanding of music and other cultural topics such as history, science, philosophy, film, visual arts and literature.
- 2.29 In respect of **Radio 4**, the BBC must ensure that in each Financial Year:
- 2.29.1 at least 375 hours are allocated to original documentaries (excluding repeats) covering a range of different subjects. For illustration only, these documentaries could include programmes on subjects like politics, business, law, finance, health, education, food and farming, international affairs, religion, ethics, travel and gardening; and
 - 2.29.2 at least 200 hours are allocated to original religious programming (excluding repeats), and that the output covers a broad range of faiths.
- 2.30 In respect of **BBC 6 Music**, the BBC must ensure that in each week, on average across each Financial Year, at least 10 hours are allocated to one or more of the following: speech-based features, documentaries and essays. For illustration only, speech-based features, documentaries and essays could include programmes to help audiences develop their understanding of the music, for instance through exploration of music and social trends across the years, and features on different artists and musical movements.
- 2.31 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, highest quality and distinctive output and services

The majority of the Regulatory Conditions in this Licence are important in securing a more distinctive BBC. Many of these have been grouped under the other Public Purposes to which they specifically relate (purposes 1, 2 and 4) and are also key to securing the Public Purpose of showing the most creative, highest quality and distinctive output and services. A list of these Regulatory Conditions appears at the end of this part of the Licence, below condition 2.41.

Original productions

2.32 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 in column I below:

2.32.1 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

2.32.2 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.

“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.

Column I	Column II	Column III
Service	Original productions as a percentage of the hours of all programming	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

2.33 In respect of **BBC One**, the BBC must ensure that in each Calendar Year at least 4,000 hours are allocated to the broadcasting of first-run UK originations across Daytime and Peak Viewing Time.

2.34 In respect of **BBC Two**, the BBC must ensure that in each Calendar Year at least 2,200 hours are allocated to the broadcasting of first-run UK originations across Daytime and Peak Viewing Time.

- 2.35 In respect of **CBBC**, the BBC must ensure that in each Calendar Year at least 400 hours are allocated to the broadcasting of first-run UK originations across Daytime and Peak Viewing Time.
- 2.36 In respect of **CBeebies**, the BBC must ensure that in each Calendar Year at least 100 hours are allocated to the broadcasting of first-run UK originations across Daytime and Peak Viewing Time.
- 2.37 For the purposes of conditions 2.33 to 2.36:
- 2.37.1 “first-run UK originations” means programmes which are commissioned by or for a UK Public Television Service and have not previously been shown on television in the United Kingdom; and
- 2.37.2 references to hours mean hours measured in slot times³⁴ for programmes with a slot time of 10 minutes or more, or hours measured in running times³⁵ for programmes with a slot time of less than 10 minutes.

Distinctiveness

- 2.38 In respect of **BBC One** and **BBC Two** taken together, the BBC must ensure that in each Financial Year at least 300 hours are allocated to comedy programmes, some of which must be in Peak Viewing Time. For the purpose of this requirement, “comedy programmes” includes repeats and acquisitions.
- 2.39 In respect of **Radio 1**, the BBC must ensure that:
- 2.39.1 in each Financial Year at least 45% of the music in Daytime is from United Kingdom acts;
- 2.39.2 in each Financial Year at least 45% of the music in Daytime is New Music, of which a significant proportion must come from new and emerging United Kingdom artists;
- 2.39.3 in each week it broadcasts at least 60 hours of specialist music. For the purpose of this requirement, “specialist music” means music which appeals to specific groups of listeners, and focuses on a specific genre of music or on cutting edge music from a range of genres;
- 2.39.4 in each Financial Year it broadcasts at least 175 new sessions live or recorded within the previous three months (excluding repeats);
- 2.39.5 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;³⁶
- 2.39.6 in each Calendar Year it offers at least two major social action campaigns.

³⁴ i.e. including presentation material during and at the end of programmes.

³⁵ i.e. excluding presentation material.

³⁶ For the purposes of identifying comparable providers, the description of the Radio 1 service published under Part 1, Schedule 1 to the Agreement, and the audiences it attracts, are key considerations. Taking this approach, our expectation is that a radio service offering a popular music service, featuring new music and appealing to young audiences would be a comparable provider to Radio 1.

- 2.40 In respect of **Radio 2**, the BBC must ensure that:
- 2.40.1 in each Financial Year at least 40% of the music in Daytime is from United Kingdom acts;
 - 2.40.2 in each Financial Year at least 20% of the music in Daytime is New Music, of which a significant proportion must come from new and emerging United Kingdom artists;
 - 2.40.3 in each Financial Year it broadcasts at least 260 hours of live music;
 - 2.40.4 in each Financial Year it broadcasts at least 1,100 hours of specialist music programmes. For the purpose of this requirement, “specialist music” means music which appeals to specific groups of listeners, and focuses on a specific genre of music or on cutting edge music from a range of genres; and
 - 2.40.5 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.³⁷
- 2.41 In respect of **BBC Radio 5 live**, the BBC must ensure that in each Financial Year live commentary is offered on at least 20 sports.

The following Regulatory Conditions have been grouped in this Licence under the other Public Purposes to which they specifically relate (purposes 1, 2 and 4) and are also key to securing the Public Purpose of showing the most creative, highest quality and distinctive output.

Name of service	Summary of Regulatory Condition³⁸	Regulatory Condition number
<i>BBC One</i>	<i>Network news programmes at intervals throughout the day</i>	<i>2.4.1</i>
<i>BBC One</i>	<i>Calendar Year quota for network news programmes (1,520 hours, of which 280 hours must be in Peak)</i>	<i>2.4.2</i>
<i>BBC One</i>	<i>Calendar Year quota for network current affairs in Peak (45 hours)</i>	<i>2.4.3</i>
<i>BBC One</i>	<i>Financial Year quota for arts and music programmes (45 hours, some of which must be in Peak)</i>	<i>2.18</i>
<i>BBC One and BBC Two</i>	<i>Calendar Year quota for current affairs programmes (450 hours, of which 106 hours must be in Peak)</i>	<i>2.5</i>
<i>BBC One and BBC Two</i>	<i>Financial Year quota for religious programmes (115 hours, some of which must be in Peak)</i>	<i>2.19</i>
<i>BBC One and BBC Two</i>	<i>Calendar Year quota for programmes of national or regional interest (6,300 hours), to include</i>	<i>2.67; 2.68</i>

³⁷ For the purposes of identifying comparable providers, the description of the Radio 2 service published under Part 1, Schedule 1 to the Agreement, and the audience it attracts, are key considerations. To the extent that Radio 2 discharges its requirement to play specialist music by playing such music outside Peak Listening Time and Daytime, we would not regard a station specialising in a particular genre of music as a comparable provider.

³⁸ This table contains a summary of the relevant conditions. The full and authoritative text can be found in this Licence at the Regulatory Condition indicated.

	<ul style="list-style-type: none"> • a suitable range of programmes; • 700 hours of non-news programming in Peak; • 280 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 2,100 hours must be in Peak. 	
<i>BBC Two</i>	<i>Financial Year quota for arts and music programmes (175 hours, some of which must be in Peak)</i>	<i>2.20</i>
<i>BBC One Scotland</i>	<i>Financial Year quota for news and current affairs programmes (290 hours) and non-news programmes (155 hours)</i>	<i>2.78</i>
<i>BBC One Scotland and BBC Two Scotland</i>	<i>Range of genres in programming that reflects Scotland's culture</i>	<i>2.79</i>
<i>BBC Two Scotland</i>	<i>Financial Year quota for non-news programmes, including Gaelic language output (200 hours)</i>	<i>2.80</i>
<i>BBC One Wales</i>	<i>Financial Year quota for news and current affairs programmes (275 hours) and non-news programmes (65 hours)</i>	<i>2.85</i>
<i>BBC One Wales and BBC Two Wales</i>	<i>Range of genres in programming that reflects Wales's culture</i>	<i>2.86</i>
<i>BBC Two Wales</i>	<i>Financial Year quota for non-news programmes (175 hours)</i>	<i>2.87</i>
<i>BBC One Northern Ireland</i>	<i>Financial Year quota for news and current affairs programmes (310 hours) and non-news programmes (90 hours)</i>	<i>2.91</i>
<i>BBC One Northern Ireland and BBC Two Northern Ireland</i>	<i>Range of genres in programming that reflects Northern Ireland's culture</i>	<i>2.92</i>
<i>BBC Two Northern Ireland</i>	<i>Financial Year quota for non-news programmes (60 hours)</i>	<i>2.93</i>
<i>BBC Two Northern Ireland</i>	<i>Irish language programming and Ulster-Scots programming</i>	<i>2.94</i>
<i>BBC Four</i>	<i>Financial Year quota for new arts and music programmes (175 hours)</i>	<i>2.21</i>
<i>CBeebies</i>	<i>Financial Year delivery of a range of content which supports pre-school children in their learning</i>	<i>2.22</i>
<i>CBBC</i>	<i>News at intervals throughout the day</i>	<i>2.6.1</i>

CBBC	<i>Financial Year quota for news (85 hours)</i>	2.6.2
CBBC	<i>Financial Year quota for drama (1,000 hours)</i>	2.23.1
CBBC	<i>Financial Year quota for factual programmes (675 hours)</i>	2.23.2
BBC News channel	<i>More international news and more local/regional news than other main continuous news channels in the UK</i>	2.7
BBC Parliament	<i>Financial Year quota for coverage of proceedings of the Scottish Parliament, Northern Ireland Assembly and Welsh Assembly (300 hours)</i>	2.70
BBC Alba	<i>Weekly quota for originated programming for learners of the Gaelic language (5 hours)</i>	2.24
BBC Alba	<i>Live news programmes each weekday evening, including during Peak, and a longer news review at weekends</i>	2.81
Radio 1	<i>News, two extended bulletins with one in Peak</i>	2.8.1
Radio 1	<i>Financial Year quota of new documentaries (40)</i>	2.25
1Xtra	<i>News, two extended bulletins</i>	2.9.1
1Xtra	<i>Financial Year quota for number of documentaries (40)</i>	2.26
Radio 2	<i>Weekly quota for news and current affairs programming (17 hours, with 3 hours in Peak)</i>	2.10.1
Radio 2	<i>Financial Year quota for arts programming (100 hours)</i>	2.27.1
Radio 2	<i>Financial Year quota for documentaries (130 hours)</i>	2.27.2
Radio 2	<i>Financial Year quota for religious output covering a broad range of faiths (170 hours)</i>	2.27.3
Radio 3	<i>Financial Year quota for live or specially recorded music (45%)</i>	2.28.1
Radio 3	<i>Financial Year quota for live or specially recorded performances (440)</i>	2.28.2
Radio 3	<i>Financial Year quota for commissions of new musical works (25)</i>	2.28.3
Radio 3	<i>Financial Year quota for new documentaries on arts and cultural topics (35)</i>	2.28.4
Radio 4	<i>Financial Year quota for news and current affairs programmes (2,750 hours)</i>	2.12.1
Radio 4	<i>Daily reports of Parliamentary proceedings when Parliament is sitting</i>	2.12.2
Radio 4	<i>Financial Year quota for original documentaries covering range of subjects (375 hours)</i>	2.29.1

<i>Radio 4</i>	<i>Financial Year quota for original religious programming (200 hours) covering a broad range of faiths</i>	<i>2.29.2</i>
<i>BBC Radio 5 live</i>	<i>Financial Year quota for news and current affairs programming (75% of output)</i>	<i>2.13.1</i>
<i>BBC Radio 5 live</i>	<i>Extensive coverage of elections (local, general, and the UK's devolved chambers) and regular coverage of European and international politics</i>	<i>2.13.2</i>
<i>BBC 6 Music</i>	<i>Weekly quota for news (6 hours)</i>	<i>2.14</i>
<i>BBC 6 Music</i>	<i>Weekly quota on average across each Financial Year for one or more of speech-based features, documentaries and essays (10 hours)</i>	<i>2.30</i>
<i>BBC Asian Network</i>	<i>Weekly quota for news and current affairs programming (24 hours)</i>	<i>2.15</i>
<i>BBC Radio Scotland</i>	<i>Financial Year quota for speech content (60% in core hours; 100% at breakfast peak)</i>	<i>2.71</i>
<i>BBC Radio Scotland</i>	<i>Weekly quota for news and current affairs (50 hours)</i>	<i>2.82.1</i>
<i>BBC Radio Scotland</i>	<i>Several regional opt-outs each weekday (offering news, sport and information), and some regional opt-out community programming in evenings</i>	<i>2.82.2</i>
<i>BBC Radio Scotland</i>	<i>Content and music of particular relevance to Scotland</i>	<i>2.82.3</i>
<i>BBC Radio nan Gàidheal</i>	<i>Financial Year quota for speech content (60% in core hours; 100% at breakfast peak)</i>	<i>2.71</i>
<i>BBC Radio nan Gàidheal</i>	<i>Content and music of particular relevance to Scotland</i>	<i>2.83.2</i>
<i>BBC Radio Wales</i>	<i>Financial Year quota for speech content (60% in core hours; 100% at breakfast peak)</i>	<i>2.71</i>
<i>BBC Radio Wales</i>	<i>Weekly quota for news and current affairs (32 hours)</i>	<i>2.88.1</i>
<i>BBC Radio Wales</i>	<i>Content and music of particular relevance to Wales</i>	<i>2.88.2</i>
<i>BBC Radio Cymru</i>	<i>Financial Year quota for speech content (60% in core hours; 100% at breakfast peak)</i>	<i>2.71</i>
<i>BBC Radio Cymru</i>	<i>Weekly quota for news and current affairs (23 hours)</i>	<i>2.89.1</i>
<i>BBC Radio Cymru</i>	<i>Content and music of particular relevance to Wales</i>	<i>2.89.2</i>
<i>BBC Radio Ulster and BBC Radio Foyle</i>	<i>Financial Year quota for speech content (60% in core hours; 100% at breakfast peak)</i>	<i>2.71</i>
<i>BBC Radio Ulster and BBC Radio Foyle</i>	<i>Weekly quota for news and current affairs (35 hours for BBC Radio Ulster, 20 hours for BBC Radio Foyle)</i>	<i>2.95.1; 2.95.2</i>

<i>BBC Radio Ulster and BBC Radio Foyle</i>	<i>Content and music of particular relevance to Northern Ireland</i>	<i>2.95.3</i>
<i>BBC Radio Ulster and BBC Radio Foyle</i>	<i>Financial Year quota for indigenous minority language programming, including Irish and Ulster-Scots output (240 hours)</i>	<i>2.95.4</i>
<i>BBC Local Radio</i>	<i>News and information of particular relevance to the area and communities at intervals throughout the day, other content of particular relevance to the area and communities</i>	<i>2.74</i>
<i>BBC Local Radio</i>	<i>Weekly quota for original, locally-made programming (95 hours), with modifications in respect of BBC Radio Guernsey, BBC Radio Jersey and BBC Radio Somerset</i>	<i>2.75; 2.76</i>
<i>Each BBC Local Radio service</i>	<i>Financial Year quota for speech content (60% in core hours; 100% at breakfast peak)</i>	<i>2.71</i>
<i>BBC Online</i>	<i>Content that supports children and teenagers in their formal learning in all parts of the UK</i>	<i>2.31</i>

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

Diversity, audience portrayal and representation

- 2.42 The BBC must report to Ofcom 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 Financial Year. In particular, the BBC must demonstrate how it has:
- 2.42.1 had regard to the range of 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;
 - 2.42.2 served and delivered content for the range of the diverse communities of the whole of the United Kingdom;
 - 2.42.3 accurately represented the diverse communities of the whole of the United Kingdom;
 - 2.42.4 authentically portrayed the diverse communities of the whole of the United Kingdom;
 - 2.42.5 raised awareness of the different cultures and alternative viewpoints of the diverse communities of the whole of the United Kingdom.
- 2.43 The BBC must report to Ofcom annually on the extent to which the BBC has made progress towards meeting its on-screen and on-air representation and/or portrayal targets.
- 2.44 The BBC must measure and report to Ofcom annually on audience satisfaction during the previous Financial 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:
- 2.44.1 how the BBC represents, portrays and serves diverse audiences;
 - 2.44.2 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
 - 2.44.3 how the BBC raises awareness of different cultures and viewpoints.
- 2.45 Where in any particular Financial Year the BBC's measurement of audience satisfaction under condition 2.44 indicates that specific audience groups are dissatisfied with the BBC's performance in these areas, the BBC must:
- 2.45.1 identify in its report under condition 2.44 for that Financial Year the steps that it will take to seek to improve audience satisfaction among those particular audience groups; and

- 2.45.2 include in its report under condition 2.44 for the following Financial 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.
- 2.46 The BBC must, by 1 April 2018, 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. The code of practice must cover commissions produced by the BBC in-house and commissions produced externally.
- 2.47 In particular, the code of practice must set out the steps that the BBC will take, when commissioning content, in respect of:
- 2.47.1 on-screen portrayal and casting;
 - 2.47.2 workforce diversity of commissioned production teams; and
 - 2.47.3 the production and commissioning decision process.
- 2.48 The BBC must monitor its compliance with the code of practice and must report annually to Ofcom on its compliance with the code of practice during the previous Financial Year.
- 2.49 Ofcom may, at any time, by notification in writing to the BBC:
- 2.49.1 approve modifications to an approved code where Ofcom considers that the code as so modified would meet the objectives set out in condition 2.46; or
 - 2.49.2 withdraw its approval from a code where Ofcom considers that the code no longer meets the objectives sets out in condition 2.46.
- 2.50 The BBC must monitor and report to Ofcom annually on the diversity of all staff (employees and freelance) of the BBC who are employed in connection with the provision of the UK Public Services.³⁹ The report must be in a form specified by Ofcom and must include the following information:
- 2.50.1 the number of such staff by age, disability, gender reassignment, race, religion and belief, sex, sexual orientation and socioeconomic background;
 - 2.50.2 the job level of such staff by the following categories: Board members and non-executives; senior managers; middle/junior managers; and non-management;
 - 2.50.3 the job type of such staff by the following categories: programming; commissioning; technical/engineering; sales/marketing; and support functions/administrative;
 - 2.50.4 the extent to which the BBC has made progress towards meeting its diversity workforce targets.
- 2.51 Nothing in condition 2.50 requires the BBC to provide any information to Ofcom where such provision would be in breach of relevant data protection legislation.

³⁹ The UK Public Services do not include the World Service or the BBC's commercial services (see definition of "the UK Public Services" in Schedule 2 to this Licence).

2.52 Ofcom may publish any report provided by the BBC under condition 2.42, 2.43, 2.44, 2.48 or 2.50.

Programme making in the nations and regions: network programmes

United Kingdom (outside the M25 Area)

2.53 The BBC must ensure that in each Calendar Year:

2.53.1 at least 50% of the hours of Network Programmes made in the United Kingdom are made outside the M25 Area;

2.53.2 the Network Programmes that are made in the United Kingdom outside the M25 Area (taken together) constitute a suitable range of programmes; and

2.53.3 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)

2.54 The BBC must ensure that:

2.54.1 in each Calendar Year at least 30% of the hours of Network Programmes made in the United Kingdom are made in England (outside the M25 Area);

2.54.2 until 31 December 2019, in each Calendar Year at least 28% 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); and

2.54.3 from 1 January 2020, in each Calendar Year at least 30% 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).

2.55 The BBC may request in writing that the percentage of hours of Network Programmes specified in condition 2.54.1 be reduced in respect of a particular Calendar Year. Ofcom will consider any such request and may agree to the request where it appears to Ofcom that in the particular circumstances of the case the reduction would secure a suitable proportion of Network Programmes.⁴⁰

Scotland

2.56 The BBC must ensure that in each Calendar Year:

⁴⁰ For illustration only, an example of when the BBC might wish to make such a request could be if in a particular year it proposed to commission a high cost drama to be made in England (outside the M25 Area) but its proposal would result in the BBC being unable to meet the specified percentage of hours in England (outside the M25 Area) for that year.

- 2.56.1 at least 8% of the hours of Network Programmes made in the United Kingdom are made in Scotland; and
- 2.56.2 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.
- 2.57 The BBC may request in writing that the percentage of hours of Network Programmes specified in condition 2.56.1 be reduced in respect of a particular Calendar Year. Ofcom will consider any such request and may agree to the request where it appears to Ofcom that in the particular circumstances of the case the reduction would secure a suitable proportion of Network Programmes.⁴¹

Wales

- 2.58 The BBC must ensure that:
- 2.58.1 until 31 December 2021, in each Calendar Year at least 4% of the hours of Network Programmes made in the United Kingdom are made in Wales;
- 2.58.2 from 1 January 2022, in each Calendar Year at least 5% of the hours of Network Programmes made in the United Kingdom are made in Wales; and
- 2.58.3 in each Calendar Year 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.
- 2.59 The BBC may request in writing that the percentage of hours of Network Programmes specified in condition 2.58.1 or 2.58.2 be reduced in respect of a particular Calendar Year. Ofcom will consider any such request and may agree to the request where it appears to Ofcom that in the particular circumstances of the case the reduction would secure a suitable proportion of Network Programmes.⁴²

Northern Ireland

- 2.60 The BBC must ensure that:
- 2.60.1 until 31 December 2021, in each Calendar Year at least 2% of the hours of Network Programmes made in the United Kingdom are made in Northern Ireland;
- 2.60.2 from 1 January 2022, in each Calendar Year at least 3% of the hours of Network Programmes made in the United Kingdom are made in Northern Ireland; and

⁴¹ For illustration only, an example of when the BBC might wish to make such a request could be if in a particular year it proposed to commission a high cost drama to be made in Scotland but its proposal would result in the BBC being unable to meet the specified percentage of hours in Scotland for that year.

⁴² For illustration only, an example of when the BBC might wish to make such a request could be if in a particular year it proposed to commission a high cost drama to be made in Wales but its proposal would result in the BBC being unable to meet the specified percentage of hours in Wales for that year.

2.60.3 in each Calendar Year 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.

2.61 The BBC may request in writing that the percentage of hours of Network Programmes specified in condition 2.60.1 or 2.60.2 be reduced in respect of a particular Calendar Year. Ofcom will consider any such request and may agree to the request where it appears to Ofcom that in the particular circumstances of the case the reduction would secure a suitable proportion of Network Programmes.⁴³

Production centres

2.62 The different programme production centres to which the Expenditure referred to in conditions 2.53, 2.54, 2.56, 2.58 and 2.60 is referable must constitute a suitable range of such production centres.

Guidance

2.63 In complying with conditions 2.53 to 2.60, the BBC must have regard to any guidance that may be issued by Ofcom.

Programme making in the nations and regions: radio services

2.64 In respect of the UK Public Radio Services which are designed for audiences across the UK⁴⁴, the BBC must ensure that in each Financial Year at least one third of relevant expenditure is incurred outside the M25 Area. For the purpose of this requirement, “relevant expenditure” means expenditure on programme production (not including expenditure on centrally funded costs).

2.65 In meeting the requirement in condition 2.64, the BBC must ensure that some of the relevant expenditure is incurred in respect of each of the following radio services:

2.65.1 Radio 1;

2.65.2 Radio 2;

2.65.3 Radio 3;

2.65.4 Radio 4;

2.65.5 BBC Radio 5 live.

2.66 In respect of **Radio 3**, the BBC must ensure that in each Financial Year at least 40% of relevant expenditure is incurred outside the M25 Area. For the purpose of this requirement “relevant expenditure” means expenditure on programme production (not including

⁴³ For illustration only, an example of when the BBC might wish to make such a request could be if in a particular year it proposed to commission a high cost drama to be made in Northern Ireland but its proposal would result in the BBC being unable to meet the specified percentage of hours in Northern Ireland for that year.

⁴⁴ Radio 1; 1Xtra; Radio 2; Radio 3; Radio 4; BBC 4 Extra; BBC Radio 5 live; BBC Radio 5 live sports extra; BBC 6 Music; BBC Asian Network.

expenditure on centrally funded costs) and Radio 3's allocation of the central orchestras' subsidy.

Programming for the nations and regions

- 2.67 In respect of **BBC One** and **BBC Two** taken together, the BBC must ensure that in each Calendar Year:
- 2.67.1 at least 6,300 hours are allocated to programmes which are of national or regional interest;
 - 2.67.2 those programmes include a suitable range of programmes (including regional news programmes);
 - 2.67.3 at least 95% of those programmes consist of programmes made in the nation or region in relation to which those programmes are to be of national or regional interest;
 - 2.67.4 at least 700 hours of those programmes consist of non-news programming in Peak Viewing Time; and
 - 2.67.5 at least 280 hours of those programmes consist of non-news programming at times immediately preceding or following Peak Viewing Time.
- 2.68 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 2.67 includes at least 4,300 hours of news of national or regional interest to be broadcast at intervals throughout the day on **BBC One**, of which at least 2,100 hours must be in Peak Viewing Time.
- 2.69 In complying with conditions 2.67 and 2.68, the BBC must have regard to any guidance that may be issued by Ofcom.
- 2.70 In respect of **BBC Parliament**, the BBC must ensure that in each Financial Year at least 300 hours are allocated to proceedings of the Scottish Parliament, Northern Ireland Assembly and Welsh Assembly.
- 2.71 In respect of each **UK Public Radio Service** specified in condition 2.72, the BBC must ensure that in each Financial Year, the proportion of content which is speech content on that service is:
- 2.71.1 on average at least 60% in core hours; and
 - 2.71.2 100% during the breakfast peak.
- 2.72 The following UK Public Radio Services are specified for the purpose of condition 2.71:
- 2.72.1 each BBC Local Radio service;
 - 2.72.2 BBC Radio Scotland;
 - 2.72.3 BBC Radio nan Gàidheal;
 - 2.72.4 BBC Radio Wales;

2.72.5 BBC Radio Cymru;

2.72.6 BBC Radio Ulster and BBC Radio Foyle.

2.73 In condition 2.71 “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.

England⁴⁵

2.74 In respect of each **BBC Local Radio** station, the BBC must ensure that:

2.74.1 it provides news and information of particular relevance to the area and communities it serves at intervals throughout the day; and

2.74.2 it provides other content of particular relevance to the area and communities it serves.

2.75 In respect of **BBC Local Radio**, the BBC must ensure that each week at least 95 hours are allocated on each BBC Local Radio station to original, locally-made programming. For the purpose of this requirement, “original, locally-made programming” includes programming shared with neighbouring stations broadcast between 06:00 and 19:00.

2.76 The requirement in condition 2.75 applies 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

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

2.77.1 it provides news and information for the English regions; and

2.77.2 it provides dedicated coverage of sport for the English regions.

Scotland

2.78 In respect of **BBC One Scotland**, the BBC must ensure that in each Financial Year:

2.78.1 at least 290 hours are allocated to news and current affairs programmes; and

2.78.2 at least 155 hours are allocated to non-news programmes. For the purpose of this requirement, “non-news programmes” includes repeats and acquisitions, and does not include current affairs programmes.

⁴⁵ BBC Local Radio for the Channel Islands has been included under these conditions.

- 2.79 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.
- 2.80 In respect of **BBC Two Scotland**, the BBC must ensure that in each Financial Year at least 200 hours are allocated to non-news programmes, including Gaelic language output. For the purpose of this requirement, “non-news programmes” includes repeats and acquisitions, and does not include current affairs programmes.
- 2.81 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.
- 2.82 In respect of **BBC Radio Scotland**, the BBC must ensure that:
- 2.82.1 in each week at least 50 hours are allocated to news and current affairs (including repeats);
 - 2.82.2 it provides several regional opt-outs each weekday, offering news, sport and information, and some regional opt-out community programming in the evenings; and
 - 2.82.3 it provides content and music of particular relevance to Scotland.
- 2.83 In respect of **BBC Radio nan Gàidheal**, the BBC must ensure that:
- 2.83.1 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
 - 2.83.2 it provides content and music of particular relevance to Scotland.
- 2.84 In respect of **BBC Online**, the BBC must ensure that:
- 2.84.1 it provides news and information for Scotland;
 - 2.84.2 it provides content in Gaelic; and
 - 2.84.3 it provides dedicated coverage of sport for Scotland.

Wales

- 2.85 In respect of **BBC One Wales**, the BBC must ensure that in each Financial Year:
- 2.85.1 at least 275 hours are allocated to news and current affairs programmes; and
 - 2.85.2 at least 65 hours are allocated to non-news programmes. For the purpose of this requirement, “non-news programmes” includes repeats and acquisitions, and does not include current affairs programmes.
- 2.86 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.
- 2.87 In respect of **BBC Two Wales**, the BBC must ensure that in each Financial Year at least 175 hours are allocated to non-news programmes. For the purpose of this requirement, “non-news programmes” includes repeats and acquisitions, and does not include current affairs programmes.

- 2.88 In respect of **BBC Radio Wales**, the BBC must ensure that:
- 2.88.1 in each week at least 32 hours are allocated to news and current affairs (including repeats and acquisitions); and
 - 2.88.2 it provides content and music of particular relevance to Wales.
- 2.89 In respect of **BBC Radio Cymru**, the BBC must ensure that:
- 2.89.1 in each week at least 23 hours are allocated to news and current affairs (including repeats); and
 - 2.89.2 it provides content and music of particular relevance to Wales.
- 2.90 In respect of **BBC Online**, the BBC must ensure that:
- 2.90.1 it provides news and information for Wales;
 - 2.90.2 it provides content in Welsh; and
 - 2.90.3 it provides dedicated coverage of sport for Wales.

Northern Ireland

- 2.91 In respect of **BBC One Northern Ireland**, the BBC must ensure that in each Financial Year:
- 2.91.1 at least 310 hours are allocated to news and current affairs programmes; and
 - 2.91.2 at least 90 hours are allocated to non-news programmes. For the purpose of this requirement, “non-news programmes” includes repeats and acquisitions, and does not include current affairs programmes.
- 2.92 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.
- 2.93 In respect of **BBC Two Northern Ireland**, the BBC must ensure that in each Financial Year at least 60 hours are allocated to non-news programmes. For the purpose of this requirement, “non-news programmes” includes repeats and acquisitions, and does not include current affairs programmes.
- 2.94 In respect of **BBC Two Northern Ireland**, the BBC must ensure that it provides Irish language programming and Ulster-Scots programming.
- 2.95 In respect of **BBC Radio Ulster** and **BBC Radio Foyle**, the BBC must ensure that:
- 2.95.1 in each week at least 35 hours are allocated to news and current affairs (including repeats) on Radio Ulster;
 - 2.95.2 in each week at least 20 hours are allocated to news and current affairs (including repeats) on Radio Foyle;
 - 2.95.3 it provides content and music of particular relevance to Northern Ireland; and
 - 2.95.4 in each Financial Year at least 240 hours are allocated to indigenous minority language programming, including Irish and Ulster-Scots output. For the purpose of

this requirement, “indigenous minority language programming” includes repeats and acquisitions.

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

2.96.1 it provides news and information for Northern Ireland;

2.96.2 it provides content in Irish and Ulster-Scots; and

2.96.3 it provides dedicated coverage of sport for Northern Ireland.

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;

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;

“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;

“the Licence Period” means the period from 1 January 2018 to 31 December 2027;

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

“the Mission” means the mission of the BBC as set out in Article 5 of the Charter;

“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 music which is either unreleased or it has been less than one month since release date (physical release, not download release);

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

“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;

- (a) 18:00 to 22:30 in relation to all UK Public Television Services except for BBC Four;
- (b) 19:00 to 24:00 in relation to BBC Four;

“Public Holiday” means Christmas Day, Good Friday, or a bank holiday under the Banking and Financial Dealings Act 1971;

“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 to this Licence, as amended by Ofcom from time to time;

“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 **“Financial 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 Licence 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

The UK Public Services

4.1 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.

4.2 The Agreement specifies the list of existing UK Public Services.⁴⁶ 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;

⁴⁶ Paragraph 1(2) and paragraph 2 of Part 1, Schedule 1 to the Agreement.

- (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;
 - (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.

A8. Operating Framework: Procedures and considerations for setting and amending the operating licence

Introduction

- A8.1 Under the Royal Charter²⁹⁷ 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**”).²⁹⁸ Ofcom must set a Licence in accordance with the provisions that Ofcom has set out in the BBC’s Operating Framework.²⁹⁹
- A8.2 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.³⁰⁰

Procedure

- A8.3 The Agreement provides that before setting a Licence, Ofcom must consult the BBC and any person Ofcom considers appropriate.³⁰¹ 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 Licence.³⁰² 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.
- A8.4 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 consultation principles.³⁰³ In particular, Ofcom will be clear about whom it is consulting, why, on what questions and for how long.
- A8.5 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

²⁹⁷ 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>

²⁹⁸ Article 46(3) of the Charter.

²⁹⁹ Article 46(3) of the Charter.

³⁰⁰ Clause 15(2) of the Agreement.

³⁰¹ Clause 13(5) of the Agreement

³⁰² Clause 80 of the Agreement.

³⁰³ <https://www.ofcom.org.uk/consultations-and-statements/how-will-ofcom-consult>

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.

- A8.6 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.
- A8.7 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.³⁰⁴
- A8.8 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.
- A8.9 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.
- A8.10 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

- A8.11 When setting or amending a Licence, Ofcom will apply the relevant legal framework.
- A8.12 Ofcom is a statutory corporation created by the Office of Communications Act 2002.
- A8.13 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 have such powers and duties as may be conferred on us by or under the Charter and Agreement.³⁰⁵ Our general duties under section 3 of the Communications Act 2003 apply to the exercise of our functions in relation to the BBC.³⁰⁶ Ofcom's section 3 duties include its principal duty to further the interests of citizens in relation to communications matters, and to further

³⁰⁴ Article 47 of the Charter.

³⁰⁵ Section 198 of the Communications Act 2003.

³⁰⁶ Article 45(1) of the Charter.

the interests of consumers in relevant markets, where appropriate by promoting competition.³⁰⁷

- A8.14 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 practice.³⁰⁸
- A8.15 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:
- a) the object of the BBC to fulfil its Mission and to promote the Public Purposes;
 - b) the desirability of protecting fair and effective competition in the United Kingdom;
 - c) the requirement for the BBC to comply with its duties under the Charter, including its general duties.
- A8.16 Article 46 of the Charter (Principal functions of Ofcom) sets out that Ofcom must set a 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:
- a) fulfil its Mission and promote the Public Purposes;
 - b) secure the provision of distinctive output and services; and
 - c) secure that audiences in England, Scotland, Wales, and Northern Ireland are well served.³⁰⁹
- A8.17 The provisions of the Agreement which are most relevant to the setting or amending of a Licence are clause 13 and Schedule 2.
- A8.18 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:
- a) must impose the regulatory conditions set out in, and in accordance with, Schedule 2 (operating licence regulatory conditions);
 - b) 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;
 - c) may impose such further regulatory conditions we consider appropriate for requiring the BBC to secure that the audiences in England, Scotland, Wales, and Northern Ireland are well served.
- A8.19 Schedule 2 to the Agreement requires Ofcom to do the following:

³⁰⁷ Section 3(1) of the Communications Act 2003.

³⁰⁸ Section 3(3) of the Communications Act 2003.

³⁰⁹ Article 46(3) of the Charter.

- a) to have particular regard, in imposing the regulatory conditions, to the need for the BBC to secure the provision of distinctive output and services;
- b) in 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);
- c) to impose on the BBC the requirements Ofcom consider appropriate for ensuring adequate links to material provided by third parties from BBC Online;
- d) to impose specified requirements for the UK Public Television Services relating to the provision of news programmes and current affairs programmes;
- e) to impose, in relation to each of the UK Public Television Services, specified requirements relating to the broadcasting of original productions;
- f) to impose specified requirements for the UK Public Television Services in relation to programming for the nations and regions; and
- g) to impose specified requirements for the UK Public Television Services in relation to programme making in the nations and regions.

A8.20 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.

A9. Operating Framework: Procedures and considerations for setting and amending the performance measures

Introduction

- A9.1 Under the Royal Charter³¹⁰ 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 Purposes.³¹¹
- A9.2 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.³¹²

How Ofcom will set and amend performance measures

- A9.3 When setting and amending performance measures, Ofcom will apply the relevant legal framework.
- A9.4 Ofcom is a statutory corporation created by the Office of Communications Act 2002.
- A9.5 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 Agreement.³¹³ Our general duties under section 3 of the Communications Act 2003 apply to the exercise of our functions in relation to the BBC.³¹⁴ 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 competition.³¹⁵
- A9.6 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 practice.³¹⁶

³¹⁰ 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>

³¹¹ Article 46(4) of the Charter; and Clause 14(1) of the Agreement.

³¹² As required by Clause 15(3) of the Agreement.

³¹³ Section 198 of the Communications Act 2003.

³¹⁴ Article 45(1) of the Charter.

³¹⁵ Section 3(1) of the Communications Act 2003.

³¹⁶ Section 3(3) of the Communications Act 2003.

- A9.7 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:
- a) the object of the BBC to fulfil its Mission and to promote the Public Purposes;
 - b) the desirability of protecting fair and effective competition in the United Kingdom;
 - c) the requirement for the BBC to comply with its duties under the Charter, including its general duties.
- A9.8 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 Purposes.³¹⁷
- A9.9 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).
- A9.10 In determining performance measures further to those determined by the BBC, Ofcom will have regard to the performance measures determined by the BBC.

Procedure

- A9.11 Before determining performance measures, the BBC and Ofcom respectively must consult each other and any person they consider appropriate.³¹⁸
- A9.12 When Ofcom consults on setting or amending performance measures, Ofcom will do so in compliance with its consultation principles.³¹⁹ In particular, Ofcom will be clear about whom it is consulting, why, on what questions and for how long.
- A9.13 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.
- A9.14 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.³²⁰

³¹⁷ Article 46(4) of the Charter.

³¹⁸ Clause 14(3) of the Agreement.

³¹⁹ <https://www.ofcom.org.uk/consultations-and-statements/how-will-ofcom-consult>

³²⁰ Article 47 of the Charter.

- A9.15 Ofcom will determine performance measures having taken account of all the views and information supplied. Ofcom will publish the performance measures on its website.
- A9.16 Ofcom may require the BBC to collect such information as Ofcom consider necessary for the performance measures.³²¹
- A9.17 The BBC and Ofcom must publish at least annually the performance measures and evidence about performance against those measures.³²² Ofcom will publish this information on its website.

³²¹ Clause 14(4) of the Agreement.

³²² Clause 14(5) of the Agreement.