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Market position of BBC Sounds

Consultation

Contents

1. Overview

We are consulting on our provisional views on the market position and impact of BBC Sounds.

BBC Sounds is an audio streaming and download service from the BBC that includes live radio, on-demand content and podcasts. It is available on a range of devices, including smartphones, tablets, smart speakers and car audio systems.

In October 2020 we published a call for evidence, in which we sought evidence and information from stakeholders. In this consultation, we set out our provisional views on the market position and impact of BBC Sounds, having considered the responses to the call for evidence and other market information.

We welcome views and evidence from interested parties on our provisional views. The deadline for responses to this consultation is 29 June 2021. We aim to publish our statement in the autumn.

Our provisional views – in brief

- The UK radio and audio sector is undergoing a period of rapid change due to the evolution of online services and the growth of global streaming platforms. Commercial radio and the BBC have responded to this by developing their online offers.
- We have considered the ways in which BBC Sounds might have a significant adverse impact on competition by crowding out online radio, including through the cross-promotion of BBC Sounds, and by negatively impacting commercial podcast revenues.
- We have provisionally concluded that we do not have reasonable grounds to believe BBC Sounds is having a significant adverse impact on fair and effective competition. The evidence suggests, among other things, that: commercial radio has been more successful at attracting online listeners than BBC Sounds; listeners to BBC Sounds use multiple platforms (more so than listeners to other online platforms); the UK podcast sector has a wide range of non-BBC content and producers are able to generate revenue.
- Consequently, we do not consider that the threshold is currently met for proceeding to a competition review of BBC Sounds under the BBC Charter and Agreement. However, we will continue to monitor the development of BBC Sounds.
- We expect transparency, and engagement by the BBC with the market, about its plans and future strategy, to enable the BBC to understand how its proposals might impact on competition, and to take this into account when developing them. We are seeking views on the information being provided by the BBC and what improvements might be made.
- We also expect the BBC to adopt a more systematic approach to measuring the performance of BBC Sounds and to publish more information on how listeners are using BBC Sounds. This will allow for a better understanding of the ways in which its development contributes to the fulfilment of the BBC's Mission and the promotion of its Public Purposes.
- We think there could be scope for further collaboration between the BBC and other audio content providers in relation to BBC Sounds, which may help to support the future of UK radio in the context of challenges faced by the sector.
- We are initiating our first periodic review of the BBC, which is likely to consider the regulatory framework for examining proposed changes to the BBC's public service activities. We are also considering how the BBC's Operating Licence should evolve, among others to ensure that it

captures the BBC's online services. As part of this, we will explore what requirements related to BBC Sounds are required, for example in relation to the information the BBC provides about the contribution it makes to the Mission and Public Purposes or about its performance, to ensure greater accountability.

2. Background to this consultation

Introduction

2.1 This section provides factual and regulatory context to our consultation on the market position of BBC Sounds. It summarises our call for evidence on BBC Sounds that we published last year, as well as the key points raised by respondents. It then sets out a factual description of BBC Sounds, followed by an explanation of the regulatory framework for the BBC, and concludes by noting other Ofcom projects that are relevant to BBC Sounds and the Government's current review of digital radio and audio.

2.2 The remainder of this consultation is structured as follows:

- Section 3 sets out our understanding of the market context in which BBC Sounds has developed, based on information provided to us in response to the call for evidence and our own market research. It informs our competition assessment in section 4 and the provisional views we have reached in section 5.
- In section 4, we consult on our assessment of whether BBC Sounds is having a significant adverse impact on fair and effective competition.
- In section 5, we consult on the provisional views we have reached on the following:

  – whether, in the light of our competition assessment, it would be appropriate for Ofcom to open a formal BBC competition review in relation to BBC Sounds;
  – when future changes to BBC Sounds might raise competition issues;
  – our expectations of the BBC regarding transparency and engagement with others as BBC Sounds evolves;
  – the potential benefits of further collaboration between the BBC and third parties in relation to BBC Sounds.

Call for evidence on the market position and impact of BBC Sounds

2.3 On 14 October 2020 we published a call for evidence, in which we sought evidence and information in relation to the market position and impact of BBC Sounds.[1]

2.4 In the call for evidence, we said that it was the right time to consider the BBC's position in online audio, given that:

- the audio sector had been undergoing rapid change due to the evolution of streaming services, including the rapid growth of global players such as Spotify and Apple Music;
- audience expectations had also been changing, with people increasingly listening to audio content online;
- in response to these changes, there had been a number of incremental changes to BBC Sounds since its launch in 2018; and,
- competitors in the commercial radio sector had raised concerns with us about the market position and evolution of BBC Sounds.

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[1] Market position of BBC Sounds, call for evidence, Ofcom, October 2020.

2.5 We sought evidence from stakeholders about the impact of BBC Sounds on the market, including information about the market context in which BBC Sounds operates. We also said that we were keen to understand the BBC's strategy for BBC Sounds, the role it expects the service to play in fulfilling its Mission and promoting its Public Purposes, and how this might impact competition.

Responses to the call for evidence

2.6 We received 20 responses to the call for evidence from a wide range of stakeholders, including commercial radio groups, production companies and the BBC.[2]

2.7 We address the points raised by respondents in sections 3, 4 and 5 of this consultation. The key themes that arise from the responses are summarised below.

Market position and impact of BBC Sounds

2.8 Some respondents, such as Global, Radiocentre and Wireless Group, told us that BBC Sounds was creating an unequal playing field in audio production, broadcasting and distribution, thereby harming competition and consumer choice.

2.9 They said this was because BBC Sounds benefits from the BBC's unique presence in radio, a very large budget and the ability to cross-promote its services, which commercial radio is unable to match, alongside provision of too much audio content that is not sufficiently distinctive from commercial radio's output.

2.10 Radiocentre said that BBC Sounds is a closer competitor to UK radio services than it is to global streaming platforms such as Spotify and Apple Music.

2.11 With regard to podcasting, Global, Name Withheld 2 and Wireless told us that the BBC's supply of a large volume of advertising-free podcasts has, or risks having, an adverse impact on the commercial sector. Radiocentre and Wireless said that, as such, the UK is behind other countries in generating advertising revenue from podcasts.

Transparency and engagement with third parties

2.12 Global and Radiocentre said that stakeholders should have a better view of the potential impact of changes to BBC Sounds, and that the BBC needs to provide more detailed information on its plans, so that stakeholders are able to engage meaningfully with the BBC.

2.13 Concerns were also raised with us by Better Media, Radiocentre and Wireless that not enough financial and audience information is published regarding BBC Sounds. Global and Radiocentre said that the BBC needs to fully disclose the amount of cross-promotion it carries out in relation to BBC Sounds.

2.14 The BBC said that BBC Sounds has been developed openly and transparently, and fully in accordance with the requirements set out in the Charter and Agreement, in the BBC's

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[2] The responses are available at: https://www.ofcom.org.uk/consultations-and-statements/category-3/bbc-sounds-market-position

policy on material changes and in Ofcom's procedures and guidance on proposed changes to the BBC UK Public Services.

Inclusion of third-party radio within BBC Sounds

2.15   The BBC announced in March 2019 that it had plans for commercial radio and podcast aggregation on BBC Sounds. It engaged with commercial radio stakeholders on these plans for a number of months. But following the withdrawal of some commercial radio groups from the discussions, the BBC decided not to pursue commercial radio aggregation.

2.16   In their responses to our call for evidence, Wireless and Advisory Committee Scotland said that if the BBC had proceeded with its plans to include commercial radio within BBC Sounds, this would have benefited listeners and the audio sector.

Adequacy of the BBC regulatory framework

2.17   Radiocentre said that the regulatory process for assessing the market impact of changes to BBC public service activities did not ensure adequate scrutiny of changes, and that the BBC was thereby incentivised to make small changes which, according to Radiocentre, the BBC claims are not material. Radiocentre said it considered that the changes the BBC had made to BBC Sounds since its launch represented a material expansion in scope which is likely to harm competition.

2.18   Audio UK, Global, Radiocentre, Wireless and Name Withheld 2 told us that there was no effective regulatory oversight of BBC Sounds, as it is not listed as a UK Public Service and is not subject to regulatory conditions in the Operating Licence for the BBC's UK Public Services (the "**Operating Licence**").[3]

The BBC's strategy for online audio

2.19   The BBC explained that BBC Sounds is at the heart of its audio strategy and that the ambition it had set out in 2017 still stands: it wants BBC Sounds to represent a personalised experience with the user at its heart. It said that its latest description of its strategy is contained in the BBC Annual Plan for 2020/21.[4]

What is BBC Sounds?

2.20   BBC Sounds is an audio-streaming and download service from the BBC. It features live radio stations and other live streams, access to on-demand content such as music mixes, and podcasts.

2.21   It presents content to users in a personalised way. For example, it allows users to download content for use when they are not connected to the internet and enables live radio to be paused and rewound.

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[3] Operating licence for the BBC's UK Public Services, Ofcom, October 2017 (Updated July 2020) – see below for details concerning the Operating Licence.
[4] BBC Annual Plan 2020/21, May 2020, pages 25 and 26.

2.22   BBC Sounds is available as an app on operating systems such as Android and iOS, as well as through the BBC website. It can therefore be accessed through a wide range of connected devices, including mobile phones and tablets, personal computers, smart speakers, [5] car audio systems and smart TVs.

Regulatory framework for the BBC

2.23   The BBC's Mission, according to the Royal Charter for the BBC (the "**Charter**"), [6] is to act in the public interest and serve all audiences through the provision of impartial, high-quality and distinctive output, and services which inform, educate and entertain. [7] The Charter also sets out the BBC's Public Purposes. [8]

2.24   The BBC is required to fulfil its Mission and promote the Public Purposes when delivering its UK Public Services. [9] The BBC's existing UK Public Services are specified in a list that is maintained and published by the BBC. [10] They include "BBC Online", defined 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". BBC Sounds is part of the BBC Online UK Public Service.

2.25   In the area of performance, the BBC Board must lead the BBC to fulfil the Charter's aims. [11] The BBC is required to publish an Annual Plan for each financial year, in advance of the period to which it relates, which must include the creative remit and work plan for that year. [12] The BBC is also required to publish an annual report which must include how it delivered the creative remit and its work plan, and any significant changes to its activities. [13]

2.26   One of Ofcom's central responsibilities in relation to the BBC is to hold it to account for fulfilling its Mission and promoting the Public Purposes. Ofcom has set the Operating Licence, which stipulates a range of Regulatory Conditions that the BBC must meet. The Operating Licence covers all UK Public Services, with some of the Regulatory Conditions referring to individual BBC services. Ofcom has also set measures to assess the performance of the UK Public Services in fulfilling the BBC's Mission and promoting the Public Purposes. [14]

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[5] To access BBC Sounds on Amazon smart speakers, users need to enable the BBC Sounds Skill in Amazon Alexa (Alexa Skills are voice-driven capabilities that can be downloaded to allow for more intuitive use of smart speakers).
[6] Royal Charter for the continuance of the British Broadcasting Corporation, December 2016.
[7] Article 5 of the Charter.
[8] Article 6 of the Charter.
[9] Article 7(3) of the Charter.
[10] Article 7(3) of the Charter provides that UK Public Services shall include, among other things "the existing services specified in the Framework Agreement" (referring to the Agreement between the Secretary of State for Culture, Media and Sport, and the BBC, December 2016). Clause 7(1) of the Agreement provides that the UK Public Services "consist of the services specified by or under Schedule 1". Schedule 1 paragraph 1(1) requires the BBC to maintain and publish a list of the UK Public Services. The most recent list of UK Public Services (updated on 24 February 2019) is available at: http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/managementstructure/structureandgovernance/list_of_uk_public _services_feb_2019.pdf.
[11] Article 20(3)(a) and (b) of the Charter.
[12] Article 36 of the Charter.
[13] Article 37 of the Charter.
[14] https://www.ofcom.org.uk/__data/assets/pdf_file/0015/107070/bbc-performance-statement-annexes.pdf

2.27   The Operating Framework[15] for the BBC contains the provisions that Ofcom considers appropriate to secure the effective regulation of the BBC's activities set out in the Charter and the Agreement between the Secretary of State for Culture, Media and Sport and the BBC (the "**Agreement**").[16]

2.28   The Charter requires Ofcom to publish an annual report that sets out how we have carried out our functions and assessed the BBC's compliance with the Operating Licence and other regulatory requirements.[17] We are also required to carry out and publish two or more detailed periodic reviews during the Charter period on the extent to which the BBC is fulfilling its Mission and promoting each of the Public Purposes.[18]

Transparency and accountability

2.29   The BBC is required to observe high standards of openness and seek to maximise transparency and accountability.[19] As part of that, it is required to ensure among other things, that important decisions about changes to its creative remit and work plan, together with the reasons behind them and a summary of evidence supporting them, as well any other information that it is reasonable and proportionate to publish to comply with its transparency obligations, are made public as soon as possible. It must also have regard to the benefits of undertaking consultation with interested persons in relation to the principal functions of its Board, which include setting the strategic direction for the BBC.

Collaboration

2.30   The BBC must work collaboratively and seek to enter into partnerships with other organisations, where to do so would be in the public interest.[20]

The role of the BBC and Ofcom in relation to competition

2.31   As a large publicly-funded organisation which operates across the television, radio and online sectors in the UK, the BBC inevitably has an impact on competition in the media sector. This impact may be positive and stimulate demand or encourage innovation. But in fulfilling its objectives, the BBC may also harm the ability of others to compete effectively.

2.32   The BBC needs to evolve to fulfil its Mission and promote the Public Purposes, especially in the light of sector developments. But it is important that developments in the BBC's offering do not stifle competition in a way that may harm audiences' interests. The BBC is therefore required to have regard to the effects of its activities on competition. As part of

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[15] https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/bbc-operating-framework/operating-framework

[16] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/584329/57965_Cm_9366_Print__1_.pdf

[17] Article 50 of the Charter. Our latest annual report on the BBC is available at: https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/bbc-operating-framework/performance/bbc-annual-report.

[18] Article 51 of the Charter.

[19] Article 12 of the Charter.

[20] Article 13 of the Charter.

that, the BBC needs to consider the public value of its activities and seek to avoid unnecessary negative impacts on competition in the UK. It also needs to consider how it can promote positive impacts on the wider market.

2.33   Ofcom's role is to provide robust, fair and independent regulation of the BBC, having regard to the objective of the BBC to fulfil its Mission and promote the Public Purposes, as well as the desirability of protecting fair and effective competition.[21] Among other things, Ofcom must set requirements in the BBC's Operating Framework to protect fair and effective competition in the UK[22] and may, where appropriate, conduct a BBC competition review ("**BCR**").[23]

2.34   The Charter also places specific obligations on the BBC in relation to proposed changes to its UK Public Services, which are further specified in the Agreement and the Operating Framework.[24] In particular, the BBC must consider whether any proposed changes to its UK Public Services are material.[25] If it considers they are, the BBC must carry out a Public Interest Test ("**PIT**"). Where the test is satisfied, the BBC must publish the changes and may only implement them if Ofcom has determined that it may proceed. In reaching a decision, Ofcom may carry out (i) a BBC competition assessment ("**BCA**"), which requires us to consider whether the public value of the proposed change justifies any adverse effects on fair and effective competition, or (ii) a shorter assessment. Where the BBC has failed to publish a material change, Ofcom may, among other things, direct the BBC to carry out a PIT.

BBC competition reviews

2.35   As part of our role in relation to competition, we may carry out a BCR if we have reasonable grounds for believing that the carrying out of a UK Public Service is having a significant adverse impact on fair and effective competition. A BCR must assess whether the public value of the relevant activity justifies any adverse impact on fair and effective competition. It may conclude that the BBC may continue the activity, or that it must make modifications, or continue subject to conditions.[26]

2.36   We have published guidance setting out the approach that we will adopt in deciding whether to launch and then undertake a BCR (our "**BCR guidance**").[27] As set out in our BCR guidance, there are two aspects involved in a decision to initiate a BCR: (a) whether the minimum threshold, that must be met before initiating a BCR, has been met; and (b) whether it would be appropriate to initiate a BCR, in the light of matters including the scale

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[21] Article 45 of the Charter.
[22] 4 Article 46(5)(b) of the Charter.
[23] See below.
[24] See article 20(4) of the Charter and clauses 7 to 11 of the Agreement. See also:
https://www.ofcom.org.uk/__data/assets/pdf_file/0028/99415/bbc-public-service-activities-proposed.pdf.
[25] The introduction of a new UK Public Service will always be material. To determine whether changes to existing UK Public Services are material, the BBC is required to consider whether the change "may have significant adverse impact on fair and effective competition".
[26] Clause 12 of the Agreement.
[27] Assessing the impact of the BBC's public service activities, Ofcom, March 2017.

of apparent impacts, any initial view of possible public value, and measures potentially available to resolve the issue.

The regulatory framework and BBC Sounds

2.37 BBC Sounds was launched in October 2018, and brought together the functionality and content of iPlayer Radio (launched in October 2012) and BBC Music (launched in October 2014) under a single unified website and app, and included a small number of enhancements to functionality and content.

2.38 Ahead of this, the BBC had shared with us a materiality assessment of its proposals for BBC Sounds, which it concluded would not amount to a material change to its "BBC Online" UK Public Service. We agreed with the BBC that the proposals did not amount to a material change.

2.39 Last year, we reviewed the BBC's materiality assessments of its proposal to aggregate third-party podcasts on BBC Sounds and its proposal to launch the Radio 1 Dance stream on the service. In each case we agreed with the BBC that its proposals did not amount to a material change to its BBC Online Public Service.

2.40 As part of the BBC's UK Public Services, BBC Sounds is subject to the relevant requirements in the Charter and Agreement, Ofcom's Operating Framework, and the Operating Licence. There are no specific Regulatory Conditions attached to BBC Sounds in the Operating Licence, although many of the BBC radio stations included on it are subject to specific Regulatory Conditions. There are also a limited number of Regulatory Conditions that relate specifically to BBC Online as a whole.

2.41 Under the Charter, the BBC must ensure that promotion of a UK Public Service within its other UK Public Services focuses on output that contributes substantially to the fulfilment of its Mission and promotion of the Public Purposes. The BBC is also required to publish information on such cross-promotion.[28] However, there are no provisions in the Operating Framework as to how the BBC cross-promotes its UK Public Services.

Contribution of BBC Sounds to the delivery of the BBC's Mission and Public Purposes

2.42 As noted above, the BBC is required to fulfil its Mission and promote its Public Purposes when delivering its UK Public Services. The Public Purposes are:

- Public Purpose 1: to provide impartial news and information to help people understand and engage with the world around them.
- Public Purpose 2: to support learning for people of all ages.
- Public Purpose 3: to show the most creative, highest quality and distinctive output and services.
- Public Purpose 4: to reflect, represent and serve the diverse communities of all of the UK's nations and regions and, in doing so, support the creative economy across the UK.

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[28] Article 63 of the Charter.

- Public Purpose 5: to reflect the United Kingdom, its culture and its values to the world. [29]

BBC's response to the call for evidence

2.43   In its response to the call for evidence, the BBC said that the creation and evolution of BBC Sounds has contributed, and continues to contribute, to the BBC's ability to deliver the Mission and Public Purposes by making its audio content available in ways expected by audiences.

BBC Annual Plan 2021/22

2.44   The BBC's Annual Plan 2021/22 sets out its strategic plans for audio, including BBC Sounds. [30] In Annex 2 of the Annual Plan, the BBC states how it intends to promote the Public Purposes across all its services. Set out below are extracts from Annex 2 relating specifically to BBC Sounds.

Public Purpose 1

"BBC News will explore ways to enhance the news offer on BBC iPlayer and BBC Sounds, experimenting with new ways to deliver news bulletins and curate news content."

Public Purpose 3

"Radio 3 will broadcast distinctive mood and talent-led music show formats building on the success of Tearjerker; Downtime Symphony; commissioned with BBC Sounds, to drive discovery and bring classical music to new and young genre-fluid audiences who otherwise might never engage with it.

BBC Sounds will be an experience with live radio at its heart: with new collaborative approaches to commissioning that deliver exclusive content, standout events and regular listening moments joined up across linear and on-demand.

A creative engine for the UK: renewing the offer from our amazing radio stations to deliver value to all audiences, developing new diverse talent through the Sounds Lab scheme, exploring new ways of partnering with community radio, and showcasing the best new and growing British podcasts.

More local than ever: making it easier to discover Nations and local content on its own or as part of curated experiences.

Simple and relevant to you: more value by unlocking BBC Radio content from schedules to curate presentations tailored to your tastes and listening moments both on-demand and through a new scheduled stream of content to help young audiences in particular to manage stress and wellbeing through music and speech content.

Available everywhere: working with others across UK audio to keep radio evolving, relevant and prominent in-car and on new platforms like voice."

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[29] In practice, the UK Public Services are not the means by which the BBC fulfils Public Purpose 5.
[30] BBC Annual Plan 2021/22, March 2021. See pages 22 and 23.

Public Purpose 4

[In relation to the BBC in Wales] "We will attract younger audiences by creating bespoke podcasts and content for BBC Sounds – including The Hayley Pearce Podcast."

[In relation to the BBC in Wales] "We'll continue to expand our Welsh language content produced exclusively for BBC Sounds and will create more space for diverse voices and strengthen our offer for young audiences."

[In relation to the BBC in Northern Ireland] "Develop the profile, reach and impact of locally produced output on BBC Sounds, including podcasts such as Year 21."

Ofcom's plan of work 2021/22

2.45   As we explain in our plan of work for 2021/22,[31] we are initiating other BBC projects to support UK broadcasting. Three of these projects are relevant to the issues raised by respondents to the BBC Sounds call for evidence.

2.46   First, we are beginning our first periodic review of the BBC, ahead of the Government's mid-term review of the Charter. In addition to a review of the BBC's performance to date, we will identify themes and issues for the future regulation of the BBC and will reflect on future strategic challenges.

2.47   Second, we are considering how the Operating Licence should evolve to reflect changing audience habits and expectations in a digital world. The current Operating Licence includes a range of specific Regulatory Conditions, the majority of which relate to linear, broadcast services. As audiences increasingly watch and listen to content online, via BBC Sounds, BBC iPlayer and other streaming services, we will consider how the Operating Licence should evolve to reflect this.

2.48   Third, we will continue to report on the BBC's performance to make sure it is delivering its Mission and promoting the Public Purposes, and that it is complying with the Operating Licence and other regulatory requirements.

Government review of digital radio and audio

2.49   The Government is currently undertaking a review of radio and audio in the UK, focusing on how to ensure radio remains fit for the future.[32] We expect the outcome of the review to be published in the next couple of months, and will take into account its findings in reaching our final conclusions on the market impact of BBC Sounds.

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[31] Ofcom's plan of work 2021/22, March 2021.
[32] https://www.gov.uk/government/news/government-announces-details-of-new-review-to-protect-the-future-of-radio

3. Market context

3.1   This section outlines our understanding of the market context in which BBC Sounds has developed. This understanding is based on current Ofcom research, as well as information provided to us in response to the call for evidence. We welcome further input from stakeholders that adds to our thinking on the market context and views on how the market might develop.

3.2   BBC Sounds is part of a development in the BBC's strategy which, it claims, allows it to fulfil its Mission and promote the Public Purposes to sections of the public who are increasingly going online to consume audio content. As such, the development of BBC Sounds should be understood in the context of the traditional UK radio and audio sector and the development of technologies and services that have given rise to the increase in online listening.

3.3   Below, we examine how the market has evolved as audiences have moved more of their listening online, and how the BBC and commercial radio have developed their offerings to keep pace with this change. We also look at trends in radio listening and how BBC and commercial radio services are performing in the online space.

The UK radio and audio sector is undergoing rapid change due to the evolution of streaming services

3.4   The rise of online listening has allowed audiences to choose from a wider variety of content and services. Beyond traditional radio listening and listening to personal music collections, listeners can use online streaming services and online radio stations to access a personalised, on-demand service.

3.5   Radio broadcasters have responded to changing behaviours by developing new ways for listeners to access radio content online.

The BBC has developed BBC Sounds to compete in this changing market

3.6   BBC Sounds contains more opportunities for the listener to determine their own listening experience. This brings BBC Sounds into line with the increasing trend of personalised and on-demand listening that can be seen with online streaming services such as Spotify, YouTube, Apple and Amazon Music.

3.7   By functioning both as a means to listen to live radio, and as an on-demand audio service, BBC Sounds competes both with live radio providers and with online streaming services.

Commercial radio stations have also developed their online offerings

3.8   Commercial radio has also taken steps to adapt to an increasingly online market.

3.9   The UK commercial radio market has consolidated in recent years; most national and regional radio stations are now owned by Global, Bauer Media or Wireless.

3.10   Global has developed Global Player, an online radio player that is available as an app and on web browsers. It carries live and catch-up radio from Global's stations, such as the Heart and Capital brands, as well as its own and third-party podcasts and playlists. Many of Global's brands have their own apps and websites, with similar functions. Global has developed Alexa Skills and Google Assistant Actions, so that its stations can be accessed through smart speakers.[33]

3.11   Bauer Media has aggregated live streams, catch-up radio and podcasts for its stations on Planet Radio, which is available on web browsers but not as an app. In 2019 Bauer Media expanded its online offering by launching seven new online stations on Planet Radio: extensions of its existing radio brands KISS, Kerrang! and Heat.[34] Like Global, some Bauer Media brands have their own app, e.g. the KISS KUBE app and the Jazz FM app. Bauer Media has also developed voice assistant technology to accompany its apps through Alexa Skills and Google Assistant Actions.

3.12   Wireless does not have a single aggregator app or website for its radio stations but has individual apps and web players that allow listeners to listen to live and catch-up radio from Virgin Radio UK, talkSPORT and Times Radio. Wireless also has its own Alexa Skill.

3.13   Listeners can also access radio online through aggregator apps and websites that curate links and streams to online radio stations from the UK and around the world. TuneIn is a notable example of an aggregator service. It allows users to access live radio stations and has an extensive podcast library, and last year it reported having 75 million monthly active users worldwide.[35]

3.14   The BBC, Global, Bauer Media and Radiocentre are shareholders in the online radio platform Radioplayer, which was designed to provide a single destination for online radio listening. Launched in 2011, the platform now hosts over 500 UK stations from Ofcom-licensed broadcasters. Through Radioplayer, these radio providers are working together to ensure their visibility in connected car media systems. Radioplayer Car was launched in the UK in 2014 as a hybrid radio receiver that automatically changes between FM, DAB and online streaming to find the strongest signal.

The growth of global streaming services

3.15   Global streaming services such as Spotify, Apple, Amazon and YouTube have become major players in the UK and are continuing to develop their offers, including speech and, in some cases, radio-like content.

3.16   Streaming services offer both free and paid-for options that encompass a variety of types of audio content. Listeners can take control of their listening or can rely on streams, playlists and suggestions, tailored to them based on their previous listening, or grouped

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[33] Alexa Skills and Google Assistant Actions are voice-driven capabilities that can be downloaded to enable more intuitive use of smart speakers. These are created by, and tailored to specific interaction with, third party apps such as radio apps.
[34] https://radiotoday.co.uk/2019/08/bauer-launches-seven-new-radio-services/
[35] TuneIn news release, November 2020. We note that the BBC removed its radio stations from TuneIn in 2019 after the two parties failed to reach a data-sharing agreement, and that TuneIn removed access for UK listeners to the majority of radio stations based outside the country, for licensing reasons.

according to mood, activity or genre. Streaming services focused initially on music but are increasingly expanding into other types of audio including podcasts and audiobooks.

3.17   Streaming services are developing their technology to enable increased automation and smart speaker compatibility, so that listeners can have a more personalised experience with minimum intervention. Features such as Spotify's 'radio' automatically curate playlists similar to a chosen artist, song or playlist, and with the 'autoplay' setting, once a chosen artist/song/playlist has finished an automatically curated playlist will play, generating similar songs. Similarly, a listener can ask Amazon Alexa to play music with a particular 'mood' and Amazon Music will generate playlists based on this.

3.18   Spotify's 'daily drive' function is a personalised playlist targeted at commuters that combines music and short news podcasts. Spotify allows listeners to create playlists of their own that are a mixture of podcasts and music. These functions create a radio-like experience that requires minimum intervention from the listener, allowing for background listening at home or hands-free listening in the car.

3.19   Spotify has invested heavily in podcasts in recent years, acquiring podcast publishers and production companies, as well as signing exclusive content deals for podcasts with Joe Rogan and Michelle Obama. In January 2021, Spotify added audiobooks for the first time, beginning with nine classic titles available to all Spotify users. Similarly, Amazon has invested heavily in podcasts and audiobooks via Amazon Music and Audible.

Streaming services use advertising and subscription models to generate revenue

3.20   Spotify is the largest audio subscription streaming service in the UK by number of subscribers; it uses both a premium subscription model and a free advertising model. Users paying for a premium subscription can access music streaming, podcasts and audiobooks. 'Spotify Free' listeners have access to a large proportion of the same content, but with interruptions from advertisers, and only with an internet connection, whereas premium users can download content to listen to when offline.

3.21   In June 2018, YouTube introduced a consumer subscription service, YouTube Premium, which includes the music streaming service YouTube Music. At the end of 2019 YouTube stated that, globally, it had more than 20 million paid Music and Premium subscribers. [36] According to a consumer survey by Ampere Analysis, 6.5% of online 18-64 year-olds in the UK (and 10.4% of 18-34 year-olds) subscribed to YouTube Premium in Q1 2021.

3.22   Amazon has multiple audio offerings. Amazon Music is available in Free, Prime, Unlimited and HD versions, each at a different price point, allowing listeners to access differently-sized libraries and services at varying levels of audio quality. Amazon's Audible service is the leading audiobook subscription service and allows subscribers to purchase and stream audiobooks and original podcasts.

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[36] Alphabet Q4 2019 Earnings Call transcript

Global streaming services have considerable resources at their disposal

3.23   Spending on music streaming in the UK exceeded £1bn for the first time in 2019, a 23.5% increase in spending since 2018.[37]

3.24   Spotify reported that its UK revenue grew from €576m in 2018 to €727m in 2019.[38] For Amazon, Google and Apple, it is difficult to isolate the proportion of total company revenue that is generated by audio streaming.

Spend on radio advertising was relatively stable until 2019

3.25   Total advertising spend for radio was relatively stable until recently, but in 2019 it fell by 3% in real terms to £703m.[39] There was growth in expenditure on branded content and digital advertising formats (such as adverts on radio station websites), but this was not enough to offset a 1% decline in national spot advertising and a 16% decline in local spot expenditure.

3.26   Despite the pressure on advertising spend, total commercial radio revenue grew by 4% year on year in 2019, as companies were able to generate other revenue which grew to £81m and included, for example, premium-rate telephone and text service income from on-air competitions.[40]

3.27   As a result of the Covid-19 pandemic, radio advertising spend was forecast to decline by 15% in nominal terms in 2020, and partially recover in 2021, growing by 12.5% year on year.[41] These estimates are more positive than those made by AA/WARC in October 2020, predicting a 22% drop in advertising spending in 2020 compared with 2019, with only a 15.2% spending increase in 2021.[42]

Audience behaviour is changing

3.28   As services and technologies change and expand, so too do listening habits. UK audiences still listen to the radio in large numbers, but the proportion of their weekly listening hours spent with radio has begun to decrease in recent years. People are spending more time listening to online streaming services.

3.29   For young listeners, the trend towards online listening is even more pronounced, with research indicating that 15-34 year olds are increasingly turning away from live radio towards music streaming, and to a lesser extent, podcasts.

3.30   The official radio industry measurement body, RAJAR, halted its fieldwork at the start of the Covid-19 lockdown in March 2020, so we have been unable to look at recent listening trends. A comparison of our most recent survey, which looks at audio habits, with a survey commissioned for *Media Nations* in summer 2020, suggests that the number of people

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[37] Entertainment Retailers Association, 2020 Yearbook Statistics.
[38] Spotify Annual Report 2019
[39] Media Nations 2020, Ofcom, August 2020.
[40] The Communications Market 2020, Ofcom, September 2020.
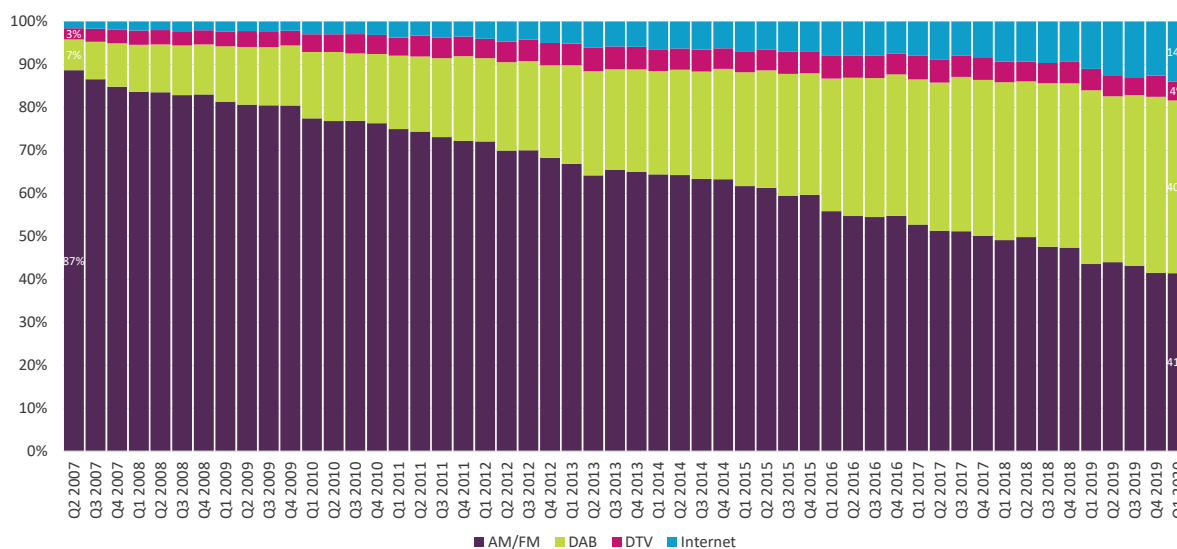[41] AA/WARC, January 2021.
[42] AA/WARC, October 2020.

listening to radio since summer 2020 has stayed consistent each week.[43] However, the research commissioned last summer found that around 14% of online adults had stopped listening to radio since lockdown, primarily driven by reduced commuting into work.

Radio listening has remained relatively stable in terms of reach

3.31   RAJAR data show that, on average, live radio was listened to each week by almost nine in ten adults (89%) aged 15+ at the start of 2020, down slightly from 91% at the start of 2010.

3.32   TouchPoints data[44] indicate that 67% of UK adults' time spent listening to audio was to radio content (live radio on a radio set, online live radio, online catch-up radio and radio podcasts), down from 79% in 2015.

3.33   RAJAR data suggest that radio listeners continue to favour the traditional radio set. In Q1 2020, the last results before fieldwork was suspended, 81% of hours spent listening to radio was through a radio set, while online listening to radio accounted for just 14% of all weekly hours (Figure 1). Although RAJAR found that just a quarter of adults (26%) listen to online radio, our most recent survey suggests that behaviours may have started to shift more online, with 43% of our overall sample indicating they listen to radio online.[45]

Figure 1: Distribution of all listening hours, by platform: all radio (adults 15+)

Source: RAJAR

There has been an increase in listening online, primarily driven by streaming services

3.34   Around two-thirds of online adults (64%) use a streaming service on a weekly basis to listen to audio content. The most popular online service used for audio is YouTube, used by 42% of online adults each week, followed by Spotify at 32%.[46]

3.35   Of the time that UK adults spend listening to audio, 18% is to streaming services, up from 5% in 2015 (Figure 2). This rises to 40% for 15-34 year olds, up from 12% in 2015.

Figure 2: Share of time spent each week on <u>any</u> audio over time: adults 15+ vs. adults 15-34
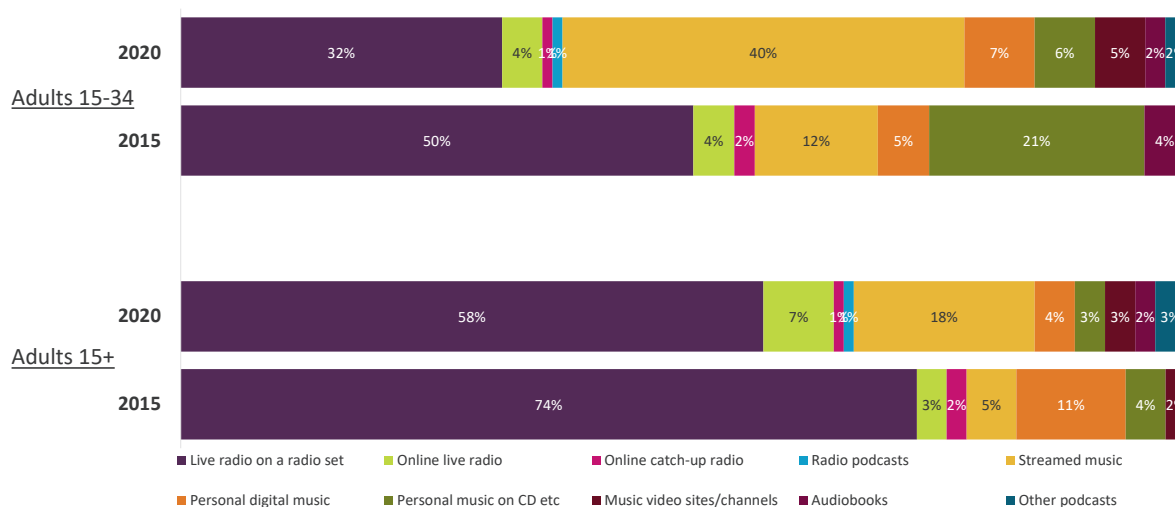
Source: TouchPoints. Note: Podcasts were not included on the 2015 survey. RAJAR indicates that about 7% of the population listened to podcasts each week in Q1 2015 compared to 16% in Q1 2020

3.36   The growth in music streaming seems to have mainly replaced listening to personal digital music (e.g. iTunes) and physical music formats such as CDs (Figure 3). This trend is even more pronounced among younger audiences (Figure 4).

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[46] Ofcom Audio Survey, March 2021.

Figure 3: Weekly reach of different types of audio: adults 15+

Bars (2015, 2017, 2020):
- Live radio on a radio set: 83%, 79%, 75%
- Online radio: 18%, 19%, 20%
- On-demand radio: 10%, 7%, 8%
- Streamed music: 16%, 23%, 39%
- Personal digital music: 37%, 30%, 19%
- Podcasts: 11%, 14%
- Personal music on CD etc: 25%, 21%, 15%
- Music video sites / channels: 14%, 13%, 16%
- Audiobooks: 5%

2015 2017 2020
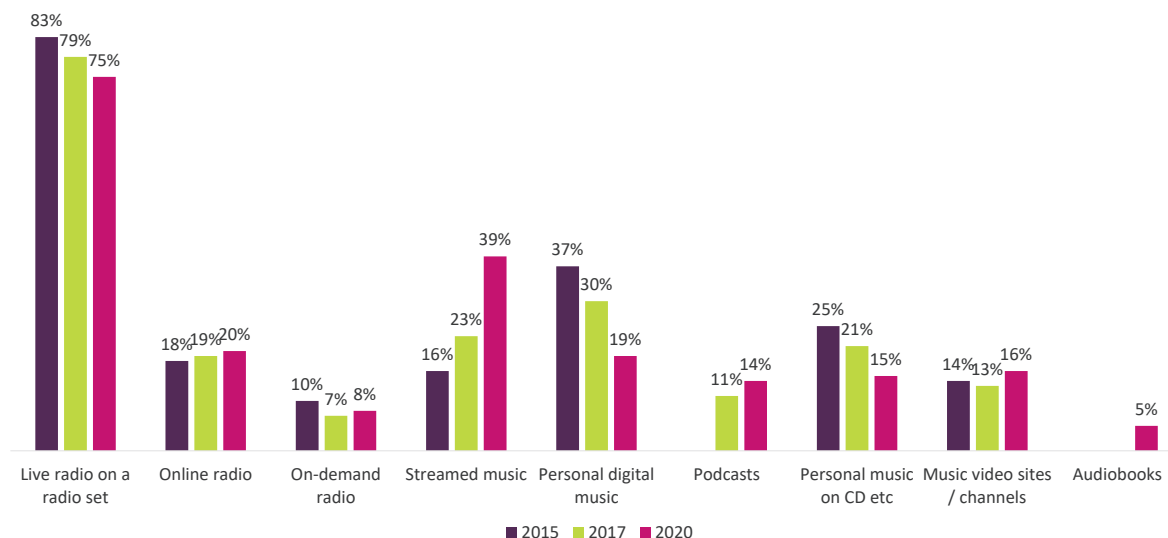
Source: TouchPoints

Figure 4: Weekly reach of different types of audio: adults 15-34

Bars (2015, 2017, 2020):
- Live radio on a radio set: 72%, 66%, 59%
- Online radio: 19%, 20%, 16%
- On-demand radio: 11%, 6%, 7%
- Streamed music: 28%, 43%, 64%
- Personal digital music: 52%, 40%, 18%
- Podcasts: 14%, 19%
- Personal music on CD etc: 23%, 17%, 11%
- Music video sites / channels: 23%, 23%, 24%
- Audiobooks: 6%

2015 2017 2020

Source: TouchPoints

The trend towards listening online has not yet been reflected in radio listening

3.37   Online radio listening as a proportion of all online listening fell from 43% in 2015 to 24% in 2020 (Figure 5) as audiences continued to favour the traditional radio set and online streaming services became more popular.

3.38   This trend indicates that listeners are not moving their radio listening online and are turning to other online content instead. For young people this trend is more pronounced.

Their share of online listening spent with live online radio fell from 17% in 2015 to 7% in 2020 (Figure 5).

Figure 5: Share of time spent each week on <u>online</u> audio over time: adults 15+ vs. adults 15-34

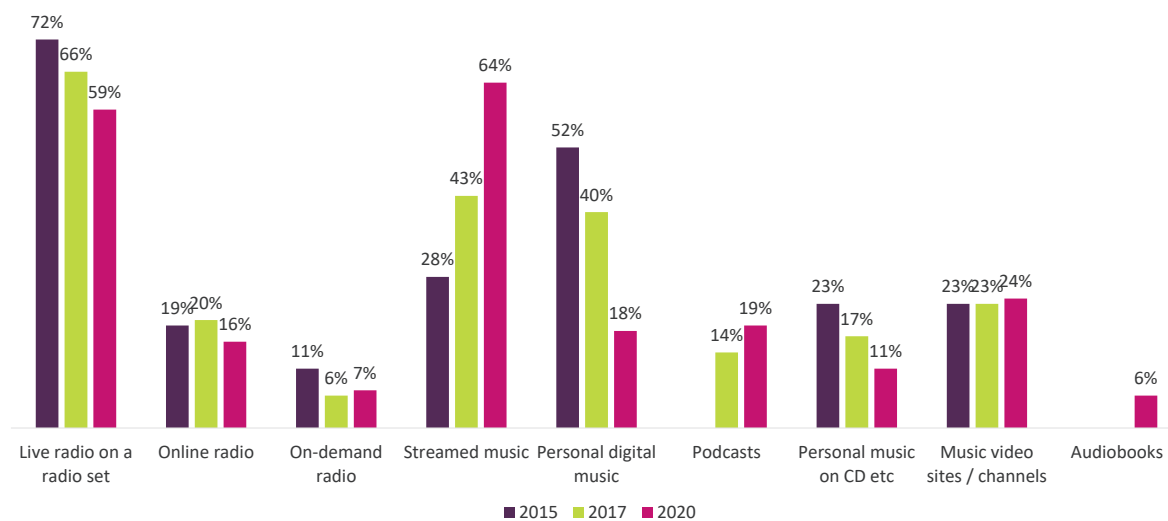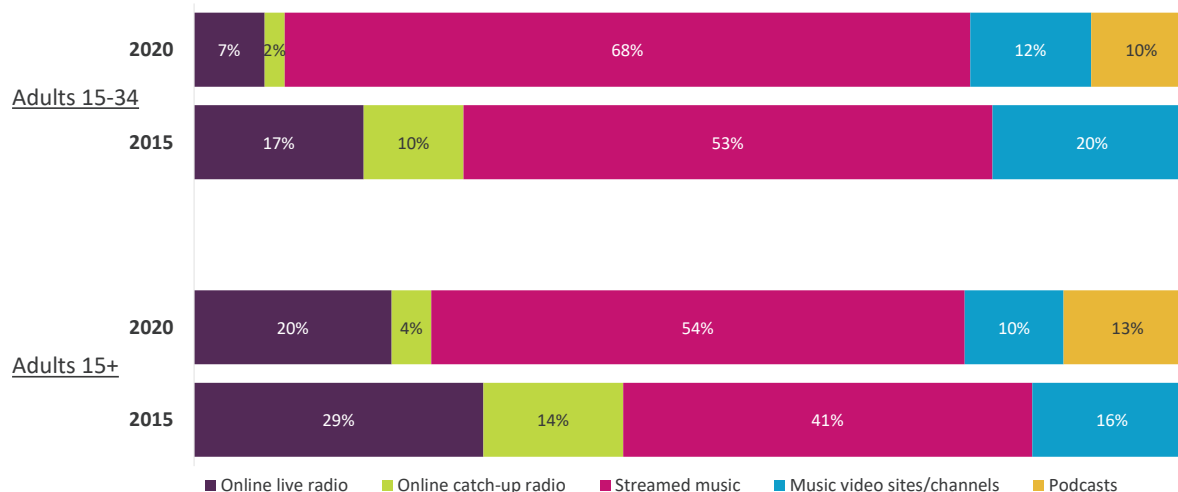|	Online live radio	Online catch-up radio	Streamed music	Music video sites/channels	Podcasts
Adults 15-34 — 2020	7%	2%	68%	12%	10%
Adults 15-34 — 2015	17%	10%	53%	20%	
Adults 15+ — 2020	20%	4%	54%	10%	13%
Adults 15+ — 2015	29%	14%	41%	16%	

Source: TouchPoints; Note: Podcasts were not included on the 2015 survey. RAJAR indicates that c.7% of the population listened to podcasts each week in Q1 2015 compared to 16% in Q1 2020

The trend towards online listening seems likely to continue as people increasingly use connected devices at home and in cars

3.39 Take-up of connected devices may continue the trend of online listening. One in five adults (22%) reported having a smart speaker in their home in Ofcom's 2020 Technology Tracker, a 9 percentage point increase since 2018. There is likely to have been a further increase in 2021, with John Lewis & Partners, for example, reporting that its sales of smart speakers had boomed. [47] The top uses of smart speakers were listening to radio and streaming music (with 63% of adults surveyed claiming to do this), while 13% used their smart speaker for listening to podcasts. [48]

3.40 Cars remain a key location for radio listening. Currently, the large majority of in-car radio listening takes place through either FM/AM or DAB radio. As technology advances, it is likely that new cars will increasingly be manufactured with connected devices installed. For instance, some car manufacturers are already integrating Android Audio or Apple Car Play systems, while others are providing hybrid radio, such as RadioPlayer, which combines broadcast and online radio. This developing technology may change in-car listening habits as it becomes easier for people to listen to online services in cars.

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[47] https://getdigitalradio.com/radios-digital-revolution-comes-to-john-lewis-partners/
[48] Ofcom Technology Tracker 2020

The BBC's share of online radio listening is lower than commercial radio, and has an older demographic

3.41   The evidence available suggests that commercial radio has been more successful than BBC Sounds at gaining listeners online, particularly among younger age groups. While overall radio listening hours are relatively evenly split between the BBC and commercial radio (50% vs. 48% in Q1 of 2020), commercial radio accounts for 54% of all online radio listening hours compared to 41% for the BBC. [49]

3.42   This higher share online might be partly due to commercial radio having a younger audience: 41.7% of commercial radio's audience is under 35, compared to just 28.6% of the BBC's. As well as being older, BBC online radio listeners are more likely to be male and in the ABC1 socio-economic group (Figure 6).

Figure 6: Demographic profile of online listeners: BBC online radio vs. commercial online radio
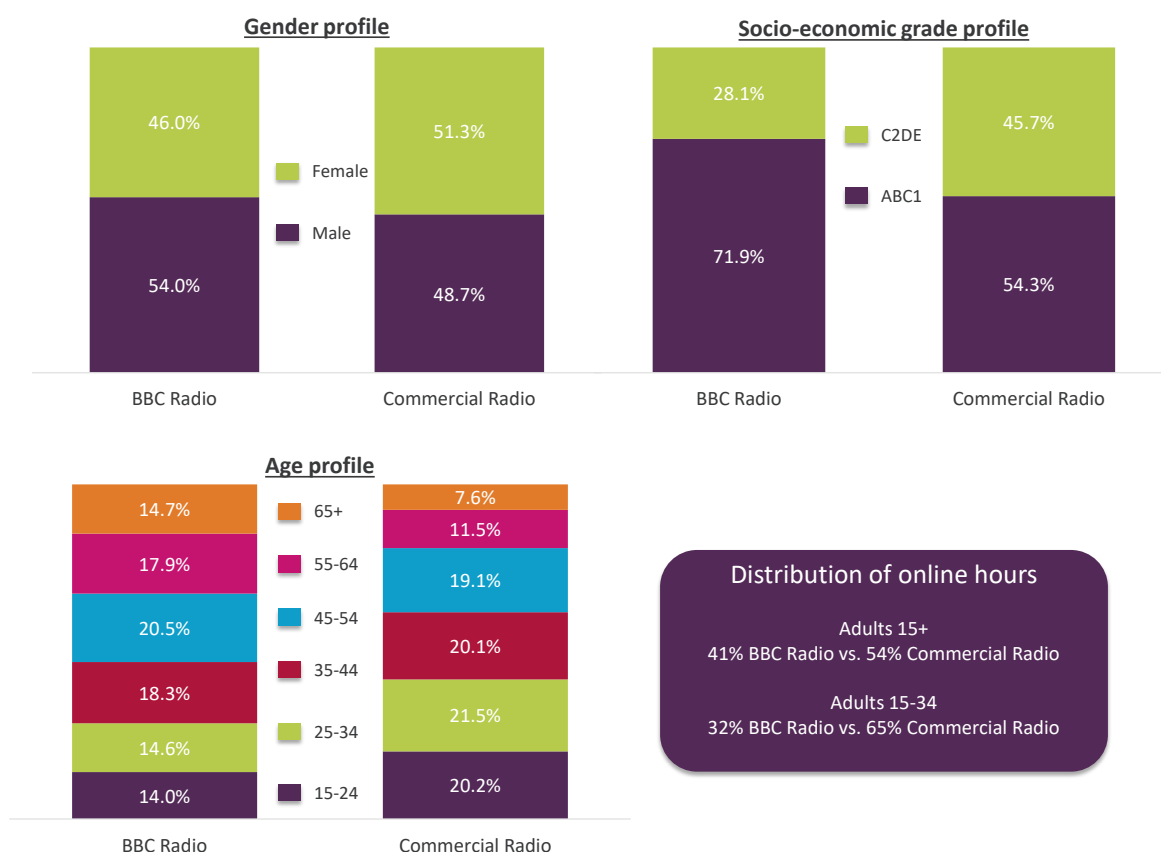
Source: RAJAR Q1 2020

3.43   In contrast to the BBC, which uses BBC Sounds to bring together all its audio services and content in one place, Global's stations, such as Heart, can be accessed online through dedicated websites and apps, as well as through the Globalplayer app. Similarly, Bauer
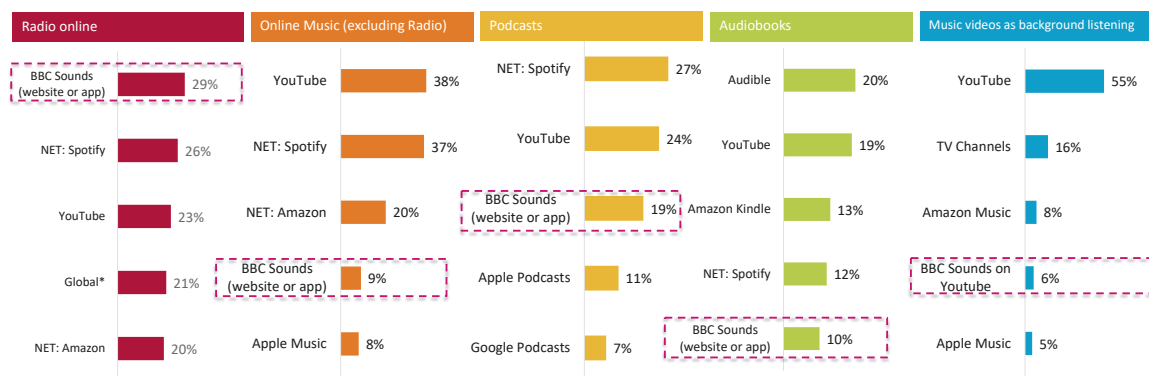
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[49] The remaining 5% is attributed to non-RAJAR subscribing stations which includes community radio, international radio and some online-only UK stations.

Media's stations, such as Magic, can be accessed online through the Planet Radio website or through the station's dedicated website or app.

3.44   Although RAJAR shows that commercial radio has a greater share of online listening and is growing in reach, our research finds that BBC Sounds is the most used app/website for online radio (29% of those who listen to online radio listen to BBC Sounds weekly) followed by Spotify (26%) and YouTube (23%) (Figure 7). Around a fifth of those listening to online radio say they listen to Globalplayer or one of the main Global radio station apps/sites weekly, and just 12% say they listen to Planet Radio or one of the main Bauer Media radio station/apps weekly.

3.45   Among users of the various online audio services, there are differences in how often these are used. The most loyal listeners are those who pay for Spotify; half listen to it daily and almost all (84%) listen weekly. Only a third (36%) of BBC Sounds users listen on a daily basis and 79% listen weekly.

Figure 7: Most-used audio services – top five, by audio type (weekly use)

Radio online		Online Music (excluding Radio)		Podcasts		Audiobooks		Music videos as background listening	
BBC Sounds (website or app)	29%	YouTube	38%	NET: Spotify	27%	Audible	20%	YouTube	55%
NET: Spotify	26%	NET: Spotify	37%	YouTube	24%	YouTube	19%	TV Channels	16%
YouTube	23%	NET: Amazon	20%	BBC Sounds (website or app)	19%	Amazon Kindle	13%	Amazon Music	8%
Global*	21%	BBC Sounds (website or app)	9%	Apple Podcasts	11%	NET: Spotify	12%	BBC Sounds on Youtube	6%
NET: Amazon	20%	Apple Music	8%	Google Podcasts	7%	BBC Sounds (website or app)	10%	Apple Music	5%

Source: Ofcom Audio Survey, March 2021, Question: 4a/c/e/g/i. You said you listen to [audio type] online. Which of these ways do you listen? Base: All respondents who listen to radio online (875), online music (1,805), podcasts (827), audiobooks (500), music videos as background listening (1,195).
*Includes Globalplayer and website or app for Heart, Capital, Classic FM, Smooth, Radio X radio stations

Podcast listening in the UK is growing steadily but its share of audio time remains relatively small

Podcast production and publishing

3.46   The podcast production and publishing sector is large and diverse, and the barriers to entry and the costs involved in podcast production and distribution are reasonably low. The technology to record and edit audio content has become readily available and podcast platforms allow users to upload their podcasts at a low cost. This has meant that a wide range of organisations and individuals publish podcasts. In its response to our call for evidence, Audio UK told us that the rise of podcasting has allowed audio producers to be less reliant on commissions from broadcasters as they can now distribute their own content through worldwide digital platforms e.g. Apple, Spotify, Acast and others.

3.47   As noted by Audio UK in its response to our call for evidence, BBC podcasts appear regularly in the podcast charts in the UK, and in a survey we commissioned among regular podcast listeners in 2019,[50] the BBC had the highest reach of all podcast publishers. Our most recent survey indicates that half of regular podcast listeners prefer podcasts from the UK to those produced internationally, increasing to 60% of BBC Sounds podcast listeners. [51]

Figure 8: Examples of UK-based podcast publishers and podcasts

	Description	Examples
Radio broadcasters	Podcasts produced by radio broadcasters. These may include repurposed content and/or that which has not been previously broadcast on a radio station. Often monetised via advertising and sponsorship or funded via licence fee (BBC).	*Ellie & Hannah Have Issues* (Heart), *Brexitcast* (Radio 5 Live) *Frank Skinner Show* (Absolute Radio), *Premier League Preview Show* (talkSPORT), *Tomorrow's Nerd* (Global)
TV broadcasters	Podcasts developed from or associated with TV programmes. Often monetised via advertising and sponsorship or funded via licence fee (BBC).	*Obsessed With Line of Duty* (BBC), *Love Island* (ITV), *Channel 4 News* (C4) *The Gary Neville Podcast* (Sky), *Ffit Cymru* (S4C)
News brands	Podcasts published by non-broadcaster news brands. Some of these podcasts are daily news shows, while others are more thematic. Often monetised via sponsorship and/or advertising or used as promotional material to gain subscriptions. These may sometimes sit behind the paywall as part of the overall offering to subscribers.	*Today in Focus* (Guardian), *Sun Football Podcast* (Sun), *Brexit Podcast* (Telegraph), *The Intelligence* (Economist), *FT Money Show Podcast* (Financial Times)
Other media businesses	Podcasts published by organisations with a significant presence in other types of media, e.g. magazine or book publishing. Podcasts may be used to supplement other types of content produced by the organisation, as a way of reaching new audiences, as a source of	*Appearances* (British Vogue), Wired UK Podcast (Wired UK), *Empire Podcast* (Empire), *The Penguin Podcast* (Penguin)

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[50] [Media Nations 2019](), Ofcom, August 2019.
[51] [Ofcom Podcast Survey](), 2021.

	additional revenue and/or a promotional tool.	
Independent podcasts	Wide range of organisations and individuals in the UK whose activities are focused on production and publication of podcasts on both a commercial and non-commercial basis. Wide variation in genres, scale of operations and funding sources.	*Retro Hour Podcast* (retro gaming), *Wooden Overcoats* (drama / sitcom), *The Unseen Hour* (horror / drama), *The Guilty Feminist* (comedy), *The Football Ramble* (sport)
Non-media organisation podcasts	Podcasts produced by a wide range of for-profit, not-for-profit and public sector organisations whose primary purpose is not media production. These organisations may be using podcasts to engage with audiences to promote the organisation's broader objectives (for example in relation to education, outreach or health), as a promotional activity, or a service targeted specifically at the organisation's members. Depending on the purpose of the podcast, it might not be monetised directly and may run for a relatively limited number of episodes.	*Future Curious* (Nesta), *Strength and Flex plan* (NHS), *Big Idea* (Edinburgh University), *The British Museum Membercast* (British Museum), *PLT: Behind Closed Doors* (Pretty Little Thing), *FRS 102 Podcast* (Institute of Chartered Accountants of England and Wales)

Advertising revenue

3.48   Advertising revenue generated by UK podcasts appears broadly comparable to other markets, although evidence is limited. Advertising revenue from UK podcasts amounted to £26m in 2019, up by 66% year on year in real terms. [52]

Podcast platforms

3.49   UK listeners use a range of popular platforms to access podcasts, including the larger platforms such as BBC Sounds, Apple podcasts and Spotify, and smaller platforms such as Soundcloud, Castbox, Global Player and Acast.

3.50   Most platforms carry a large variety of content from a range of producers and publishers. They have a substantially equivalent offering in terms of content but may vary in terms of functionality or usability. In some cases, e.g. Spotify and Audible, platforms have exclusive content to encourage listeners to subscribe. BBC Sounds hosts only BBC podcast and catch-up radio content. BBC podcasts are also available on most of the other main podcast

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[52] PwC and Ofcom calculation, as quoted in Media Nations 2020.

platforms, such as Apple podcasts and Global Player. There are some variations in functionality between platforms, but most provide similar core functions of listening, subscribing and downloading podcasts.

Podcast audiences

3.51   In Q1 2020, RAJAR data showed that 16% of UK adults listened to podcasts each week, up from 7% in Q1 2013, although this growth seems to plateau between Q4 2019 and Q1 2020. Young people are more likely to listen to podcasts, with 23% of 15-24 year-olds listening to a podcast each week compared to 17% of 45-54 year-olds (RAJAR).

3.52   A survey we commissioned in March this year indicates that there may have been some growth: one in four adults (25%) now listen to podcasts each week. [53] Looking at weekly podcast users, 40% say they use BBC Sounds, about the same amount who use Spotify (42%) but more than YouTube (31%), Apple (29%) and Amazon Prime Music (17%).

3.53   Listeners tend to use multiple platforms to access podcasts. Overall, regular podcast listeners use an average of 2.9 different platforms to access podcasts, increasing to 4.4 for those who use BBC Sounds to listen to podcasts.

> Question 1: Do you agree with our provisional view of the market? Please provide evidence in support of your answer.

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[53] Ofcom Podcast Survey, March 2021.

4. Competition assessment

4.1   In this section, we consult on our assessment of the impact of BBC Sounds on the market. Specifically, we consider whether BBC Sounds is having a significant adverse impact on fair and effective competition, so that we can reach a provisional view on whether it would be appropriate for Ofcom to open a BCR in relation to BBC Sounds.

What do we mean by 'an adverse impact on fair and effective competition'?

4.2   In general, competition is valued because it can produce good outcomes for consumers, and for society in general. In the audio sector, if content producers and broadcasters compete for listeners, audiences are likely to benefit from a broad range of quality programming, as well as innovation through new content or services. Measures may be required to secure good outcomes for listeners: for example, obligations on public service broadcasters can be used to secure the provision of high-quality news and to develop new UK-based talent. If this functions well, the BBC can be part of a thriving ecosystem.

4.3   A potential concern is that the BBC – as a licence fee-funded, public service broadcaster – distorts competition in the audio market, ultimately reducing choice for listeners. The BBC has certain advantages in producing and distributing its services. These include: not needing to carry adverts (which can make it more appealing to listeners); the large range of services that the BBC offers may enable it to recruit more talented people, save costs or cross-promote between services; and the BBC's historic market position and brand. Such advantages could mean that commercial broadcasters would not be able to win listeners, even if they offered appealing content. This might diminish their ability and incentives to offer such content in the future, potentially reducing choice and quality for listeners in the long run.

4.4   The BBC's commercial rivals have argued in their responses to our call for evidence that due to the size and funding model of the BBC, developments in BBC Sounds must have a significant impact on the UK audio market.[54] What we need to consider, however, is whether there are reasonable grounds to believe that BBC Sounds is having a significant adverse impact on fair and effective competition, to the potential detriment of listeners.

4.5   The fact that the BBC's activities may result in competitive pressure on other suppliers is not, in itself, a problem. First, new developments on BBC Sounds may not necessarily attract a large number of listeners away from commercial radio. Second, even if BBC Sounds were able to induce people to spend less time listening to other audio services, this would not necessarily constitute an adverse impact on competition. If rivals can respond with innovative services or content, or react by investing more, or increasing their range of services, to the benefit of audiences, this would not distort competition. In general, the

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[54] Radiocentre response, page 18: "Clearly, with the BBC such a large player in the UK audio market, such ambition for a new service could never be delivered with no significant impact on the market." Wireless, p1: "The BBC holds a unique position in UK audio – enjoying benefits that create a de facto likelihood of market impact, particularly in relation to new digital services."

process of one player improving its product or service, and others responding by innovating or otherwise improving their offering, is what constitutes effective competition.

4.6   We would be more concerned by evidence that BBC Sounds might be displacing the activities of commercial providers, as a result of any competitive advantages that follow from the BBC's provision of public services. This could be the case, for example, if there was evidence to suggest that the market impact of BBC Sounds was: causing the reduction of commercial providers' revenues and profits, to such an extent that these providers either: significantly reduce their investment in new services or in improving the quality of existing services; cease providing services; or are deterred from entering the market. This in turn may ultimately harm consumers by reducing choice, quality and/or innovation.[55] This is known as 'crowding out'.

4.7   Crowding out is not merely equivalent to the BBC providing some content similar to its commercial rivals'.[56] The BBC must adapt to current market trends and audience preferences to be able to fulfil its Mission and promote the Public Purposes. To do this it must stay relevant for younger listeners and offer services in ways that audiences prefer – increasingly online. Therefore, BBC Sounds must continue to innovate its online offering in terms of functionality and content, and offer a wide range of programmes, but it must seek to do this in a way that does not have a significant adverse effect on competition.

We have considered the effect of BBC Sounds in the UK online radio sector

4.8   It is important to identify the range of products and services affected by BBC Sounds. As noted above, BBC Sounds and UK commercial radio are competing with global players for listening hours. We have considered whether we should focus on competition in online radio listening, all UK radio (including broadcast) or all online audio services.

4.9   The concerns expressed by many respondents to our call for evidence related to the impact that BBC Sounds is having on online radio and podcasts. This is therefore the focus of the theories of harm that we are considering in this consultation. Although we have not considered the impact that BBC Sounds may have on all radio (including broadcast), we note that it appears unlikely that BBC Sounds' activities could have an adverse impact on competition in that area, without also affecting online radio.

4.10   We would expect BBC Sounds' ability to affect competition in all online listening to be small, and therefore we have not looked in depth at its effect on global audio platforms (e.g. Spotify, YouTube) for this consultation. As noted in section 3, these global audio players are the most significant online audio platforms in the UK. If we were to consider all

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[55] BCR Guidance, paragraphs 3.12 to 3.13.

[56] For example, Radiocentre (page 23) claims that BBC Sounds is positioned to deliver content which is 'almost indistinguishable' from that provided by the commercial players. It goes on to present the results of its research on the content of the BBC's Radio 1 Dance stream, having found that in its first week of broadcast it duplicated 35.5% of Capital Dance's repertoire and 31.5% of its airtime, while 11.3% of Radio 1 Dance's repertoire was covered by Capital Dance, corresponding to 29.7% of Radio 1 Dance's airtime.

types of online audio content, the share of listening for BBC Sounds would be fairly low, likely in the region of 14% of online audience time.[57]

4.11   As well as its smaller reach, we consider that BBC Sounds does not currently have a large impact on competition in all online listening because it offers services with a different emphasis to those of the global audio platforms. The most popular reason to use BBC Sounds appears to be for radio listening, with 60% of users indicating they listen to this type of content, followed by music (44% of users) and podcasts (41% of users).[58] Although Spotify has recently entered the podcast market with some exclusive content and is starting to offer 'radio-like' services, it is predominantly driven by music streaming. BBC Sounds does not offer the same range or functionality in its music streams as Spotify.[59]

4.12   In assessing whether there are reasonable grounds to believe that a BBC activity is having an adverse effect on fair and effective competition, we need to focus on the impact of the activity in question. In this case, it is relevant to consider what the BBC would be offering if BBC Sounds did not exist. In this scenario, we consider that the BBC would still be supplying its full range of broadcast and online radio stations and would be providing access to its programmes on an on-demand basis. We note above that the BBC was supplying online radio content and podcasts (both repackaged radio and off-schedule content) before the launch of BBC Sounds. In addition, BBC content continues to be available online on non-BBC platforms, and we can assume that it would continue to be available in this way if BBC Sounds did not exist. We consider that the relevant features of BBC Sounds are, therefore, its improved functionality (including different ways of curating content) and personalisation, as well as the provision of increased amounts of off-schedule content, all under a single unified brand.

4.13   In our assessment, we consider the effect of BBC Sounds on competition in online radio as a whole, without separating out speech and music radio. Speech radio is a small share of listening on commercial radio, and we have less data to separate out any effects of BBC Sounds on this area.[60] We welcome any additional evidence on the competitive effect of BBC Sounds (not BBC radio *per se*) on speech radio in the commercial sector. We do, however, consider in some detail the effect of BBC Sounds' activities on podcast provision.

4.14   Below, we consider three ways in which BBC Sounds might have an adverse impact on competition. For each, we set out the way in which the impact might occur, in theory, then examine the current evidence from the online radio and podcast sectors to see if that supports the theory.

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[57] TouchPoints 2020.
[58] Ofcom Audio Survey, March 2021.
[59] For example, you cannot select and play individual songs in the music mixes on BBC Sounds.
[60] For example, Radiocentre presents evidence that the share of commercial radio stations on speech radio listening time was only about 15% in 2019.

Theory of harm 1: BBC Sounds is 'crowding out' online commercial radio

The theory

4.15   This theory of harm explores whether BBC Sounds is displacing online commercial radio listening, to the longer-term detriment of listeners.

4.16   In this regard, Radiocentre claims that BBC Sounds 'dominates' listening time among its users for music and speech radio, and that it is expanding into areas where it duplicates commercial provision, such as music mixes.[61] Wireless claims that a combination of the BBC's existing market position, technology investment and content resources have made BBC Sounds an audio product which is highly challenging for independent providers to compete against, having become 'an effective walled garden' for UK listeners.[62]

4.17   As noted above, it is important to evaluate the effect of BBC Sounds compared to the scenario in which BBC Sounds does not exist but the BBC does provide online radio. In this case, we consider the impact of both the improved functionality and the personalisation of BBC Sounds, compared to an alternative online radio offering, as well as any content which is specifically curated for Sounds.

4.18   This theory of harm has the following elements:

a)   BBC Sounds expands the range of content available on the service (e.g. new music streams or exclusive podcasts) to win more listeners (and/or listening hours). BBC Sounds is also able to use individuals' listening data to deliver a personalised experience and to keep people on the service for longer;

b)   commercial radio cannot respond effectively to this development and loses online audience time and reach, especially among younger listeners who are more likely to listen online; and

c)   this in turn leads to a loss of revenue and reduced profitability (in particular as younger listeners are more valuable to advertisers). This could lead to a reduction in quality or range of services, or deter new entry or innovation, to the detriment of listeners.

The evidence

### Commercial radio has been more successful than BBC Sounds at winning online listeners

4.19   There is some content on BBC Sounds which has not been previously broadcast on BBC radio. For example, there are themed music mixes, as well as podcast content, some of which is not available on third-party podcast platforms. The BBC is also able to gather data on listeners to BBC Sounds, to personalise content and increase the attractiveness of the service.

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[61] Radiocentre response, pages 27-28 and 30.
[62] Wireless response, page 1.

4.20   Radiocentre presents a comparison of online radio listening share in Q2 2020, showing that the BBC's share was similar to that of Global and Bauer Media in the 15-34 age group and much higher in the older age groups. [63] However, the development of listening share over time shows that BBC Sounds has not, to date, been more successful than commercial radio at gaining listeners online, particularly among younger age groups. The BBC's share of online radio listening has remained relatively stable for several years among UK adults, and has been on a declining path for the 15-34 age group. This long-term trend has continued since the launch of BBC Sounds in October 2018, as shown in Figures 9 and 10.
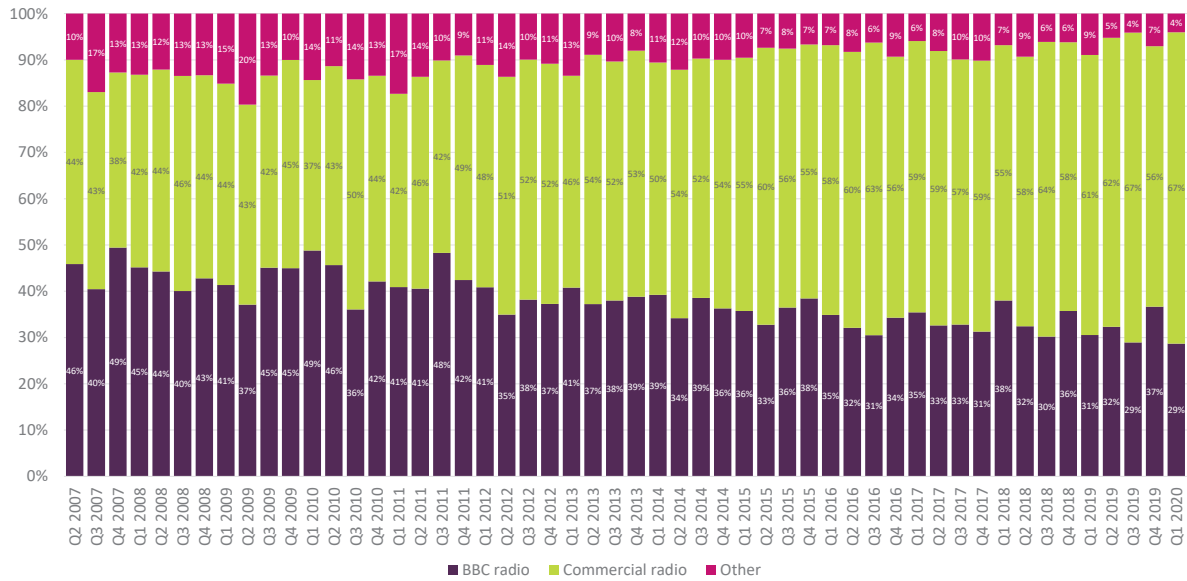
Figure 9: Share of online radio listening hours: adults 15+
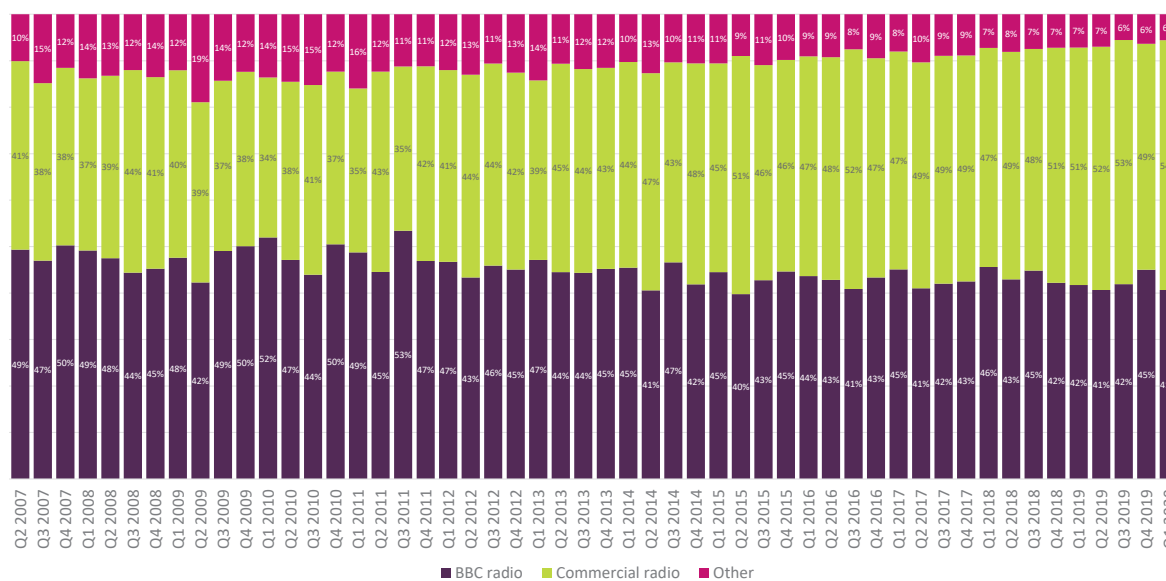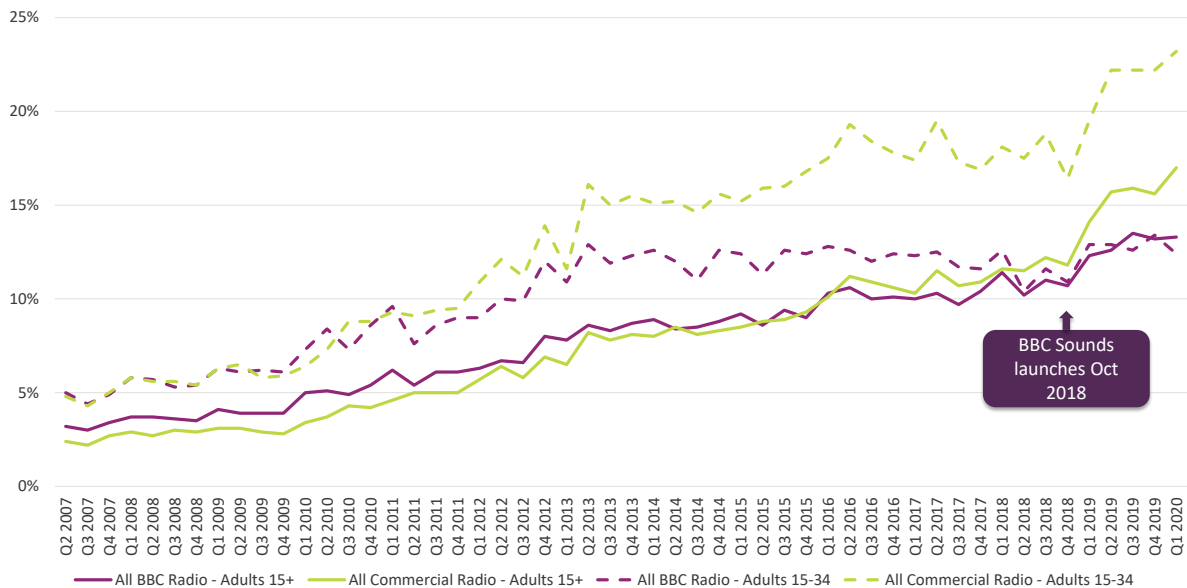

Source: RAJAR

Figure 10: Share of online radio listening hours: adults 15-34

Source: RAJAR

4.21　The average online weekly reach to UK adults has been growing steadily, both for the BBC and commercial radio, but the pace of growth has accelerated markedly for commercial radio, compared to the BBC, since the launch of BBC Sounds. Among younger age groups, the BBC's reach has remained relatively flat over the past eight years, while commercial radio's reach has grown dynamically over the same period and has reached almost twice the BBC's level. This suggests that commercial radio has been able to respond effectively to the launch of BBC Sounds.

Figure 11: Average weekly reach of radio through online platforms

Source: RAJAR

4.22 Changes in audience share, and weekly reach in online radio listening, suggest that BBC Sounds has not inhibited the ability of commercial radio to compete. On the contrary, commercial radio's growth online appears to have outpaced the BBC's, most significantly among younger age groups, in particular since the launch of BBC Sounds in Q4 2018.

4.23 We note that, in its response to our call for evidence, Radiocentre presents a projection of the BBC's share of online radio listening until 2025, arguing that the BBC's share will increase. [64] The projection is based on an extrapolation of the historical trend of total online radio listening hours since Q3 2015 and the historical trend of the BBC's online radio listening hours since Q1 2019. This implies higher growth by the BBC compared to the market. We do not consider this assumption to be reasonable, given that the market has grown faster than the BBC since Q1 2019, driven by commercial radio listening.

4.24 Therefore, we do not consider that the evidence shows that the BBC has a growing share of online radio listening time.

The evidence on a shift in listeners from commercial radio to BBC Sounds is inconclusive

4.25 Radiocentre claims that over 5% of BBC Sounds listeners have reduced their listening to commercial radio, by an average of 3.32 hours per week, as a result of using BBC Sounds, on the basis of a survey it commissioned from FlyResearch. [65] We have not been able to assess the scope and phrasing of the questions asked in the survey to be able to fully interpret the results quoted by Radiocentre. However, Radiocentre implies that almost 95% of BBC Sounds users have not reduced their listening to commercial radio as a result of using BBC Sounds, so we do not consider that this demonstrates that BBC Sounds harms the ability of commercial radio to compete.

4.26 Radiocentre further claims that a shift of listening patterns towards BBC Sounds has resulted in an annual loss of over £4m of advertising revenues to commercial radio, due to a weekly loss of 3.79 million listening hours, corresponding to a fall in online listening hours and revenue by [✂]%. [66] It says this estimate is based on scaling up the numbers from the survey to account for the whole UK population. We do not consider this conclusion plausible in the light of the evidence above, which shows that the growth of online listening to commercial radio has outpaced the growth of online listening to BBC radio; a trend which has accelerated since the launch of BBC Sounds.

4.27 Furthermore, evidence presented by Radiocentre shows that the growth of BBC online listening since the launch of BBC Sounds in Q4 2018 has predominantly been in the 55+ age group, with lower growth in the younger age groups, which are the most valuable to commercial radio. [67] And the numbers presented by Radiocentre imply that the survey results were extrapolated to a population of [✂] BBC Sounds users. We do not consider

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[64] Radiocentre response, page 36.
[65] Radiocentre response, Figure 10.
[66] Radiocentre response, page 29.
[67] Radiocentre response, Figure 15.

this to be a realistic assumption: our evidence indicates that BBC Sounds is used by 18% of UK adults, corresponding to 9.58 million listeners. [68]

4.28   Also, it does not follow from the evidence that the changes in listening patterns only favour BBC Sounds, nor that they are permanent and irreversible. The survey commissioned by Radiocentre does not capture the amount of listening time gained by commercial radio online, which has been able to respond effectively to BBC Sounds, as shown below.

Commercial radio has been adding new stations and expanding its online presence

4.29   We have seen radio stations and online streams on commercial radio platforms expand their offerings recently, for example:

- Seven new online streams launched by Bauer Media in August 2019, including brand extensions from KISS, Kerrang!, and Heat. [69]
- Seven new radio stations launched by Global in 2019-20, including LBC News and other stations on the Heart, Capital and Smooth networks. [70]
- Podcast Radio launched in February 2020, with plans to create original podcast content announced in December 2020 and international content partnerships in Canada, New Zealand and the US. [71]
- Times Radio, a national digital news radio station, launched by News UK in June 2020. [72]
- The launch of Capital Dance in October 2020, as a competitive response to the announced launch of BBC Radio 1 Dance stream. [73]

4.30   The launch of new commercial radio services suggests that the presence of BBC Sounds has not constrained or reduced the range of online radio services offered by commercial radio providers. Moreover, we have not been presented with any evidence of commercial radio services cancelled, or the launch of new services aborted, as a result of BBC Sounds.

4.31   Radiocentre argues that crowding out is happening mostly in speech radio, and that no new stations have been able to compete with the BBC in this area. [74] However, the nature of the speech radio market, which makes entry challenging, is not specific to BBC Sounds. As we have previously said, the BBC would be producing a wide range of speech radio, and offering this online in some form, even without the existence of BBC Sounds. And as noted above, we have seen speech radio stations, such as LBC News, Podcast Radio and Times Radio, enter the market since the launch of BBC Sounds.

Commercial radio generated a steady revenue stream before the impact of Covid-19

4.32   The finances of major commercial radio groups appear robust, generating a steady revenue stream (pre-Covid-19). Although 2019 saw a drop in radio advertising spend, commercial

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[68] Based on data from Ofcom Audio Survey and extrapolated to UK population using ONS: Internet Users, 2020. Allowing for sample error, the 95% confidence range is 8.7 to 10.4m people will make use of BBC Sounds

[69] RadioToday, 15 August 2019.

[70] Global Annual Report 2019-20, page 4.

[71] RadioToday, December 2020.

[72] News UK, 2 June 2020.

[73] RadioToday, 1 October 2020.

[74] Radiocentre response, pages 27-24.

radio groups have been able to more than offset this by other income, such as competition entries, achieving year-on-year revenue growth (see section 2).

Conclusion

4.33   The evidence does not appear to show that BBC Sounds is crowding out the commercial radio sector online.

> Question 2: Do you agree with our analysis and provisional conclusions on BBC Sounds crowding out the commercial sector? Please provide evidence in support of your answer.

Theory of harm 2: The BBC's extensive cross-promotion of BBC Sounds is harming commercial radio's ability to compete

The theory

4.34   This theory of harm assumes that:

a)   The BBC extensively promotes BBC Sounds on TV, radio and online, at a level that could not be matched by rivals on commercial terms;

b)   BBC Sounds wins listeners and increases its share of listening time, even though it may not offer a better service than other platforms; and

c)   this reduces the ability of other platforms to effectively compete on quality, choice or innovation, ultimately harming listeners, as outlined in our first theory of harm.

4.35   This is primarily a concern for UK-based platforms, which tend to be vertically integrated with commercial radio, and whose resources are much more limited compared with global players. Wireless[75] has claimed that BBC Sounds "has become an effective walled garden for UK listeners", while Radiocentre has claimed that BBC Sounds is "dominating the time listeners allocate to music and speech radio", pointing to the results of its commissioned survey showing that BBC Sounds users spend a high proportion of their radio listening time on this service.[76]

4.36   While there are no specific obligations in the Operating Framework as to how the BBC cross-promotes its UK Public Services, cross-promotion between such services could be considered as part of our competition analysis if we considered it to be of such a nature or extent that it could potentially cause a significant impact on competition. As such, we consider the extent of the BBC's cross-promotion of BBC Sounds in the context of our theory of harm 1, i.e. in its potential to crowd out commercial radio.

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[75] Wireless response, page 1.
[76] Radiocentre response, pages 27-28.

The evidence

4.37   If the theory of harm were correct, the cross-promotion of BBC Sounds would be likely to result in more people using the service, listeners spending more time on the service, and/or listeners using the service more often relative to rival platforms. However, the evidence suggests that none of this has happened.

4.38   It is important to note that cross-promotion activities regarding BBC Sounds can only reach audiences who are already consuming BBC content. It may, therefore, expand the potential audience for BBC Sounds but only among those who already listen to BBC radio through other means, or who watch BBC television programmes. It will not attract listeners who do not currently engage with BBC services.

Radiocentre may have over-estimated the commercial value of the cross-promotion of BBC Sounds

4.39   Radiocentre presented an estimate of the commercial value of the BBC's cross-promotion of BBC Sounds.[77] This was based on monitoring the amount of cross-promotion received by BBC Sounds over a single week and then annualising its estimated value.

4.40   The monitored amount of weekly cross-promotion of BBC Sounds was 602 minutes in total, across radio and TV.[78] Annualising this would imply 31,304 minutes per year received by BBC Sounds alone. We do not consider this estimate is based on a realistic assumption, given the total amount of cross-promotion reported by the BBC in 2019-20: 11,060 minutes of cross-promotion received by BBC radio and BBC Sounds combined.[79]

4.41   Also, the amount of cross-promotion received by BBC Sounds in a given year may not necessarily be a reliable indication of the ongoing amount of cross-promotion. The BBC incurs an opportunity cost by cross-promoting BBC Sounds in that other services cannot be promoted in these slots. The BBC may wish to use this airtime to promote other services in the future.

4.42   Finally, many commercial radio stations have substantial cross-promotion opportunities in addition to being able to cross-promote their online platforms on their own portfolio of radio stations. For example, the Global group also owns outdoor media, the Bauer Media owns magazine publishing, and Wireless is owned by News Corp UK. Each of these groups promote their online radio services through their other channels, although we do not have data on how the amount of this compares with cross-promotion of BBC Sounds.

The cross-promotion does not appear to have significantly driven listeners to BBC Sounds, away from commercial radio

4.43   Even if the cross-promotion were extensive, the evidence suggests that it has not had a significant impact on commercial radio's ability to compete. As discussed in theory of harm

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[77] Radiocentre response, pages 20-21.
[78] Intelligent Media report included in Radiocentre submission.
[79] BBC Annual Report and Accounts 2019/20, page 135. Cross-promotion received by BBC Sounds was not reported separately in 2019-20. In 2018-19, BBC Sounds received 1,475 minutes of cross-promotion on BBC radio and 582 minutes on BBC TV (BBC Annual Report and Accounts 2018/19, page 165).

1, the number of online radio listeners has been growing faster for commercial radio than for the BBC, and the BBC has been unable to increase its share of online audience time. Also, BBC Sounds is used less regularly than most other platforms, including commercial radio platforms, as shown in Figure 12.

Figure 12: Frequency of audio platform use among users
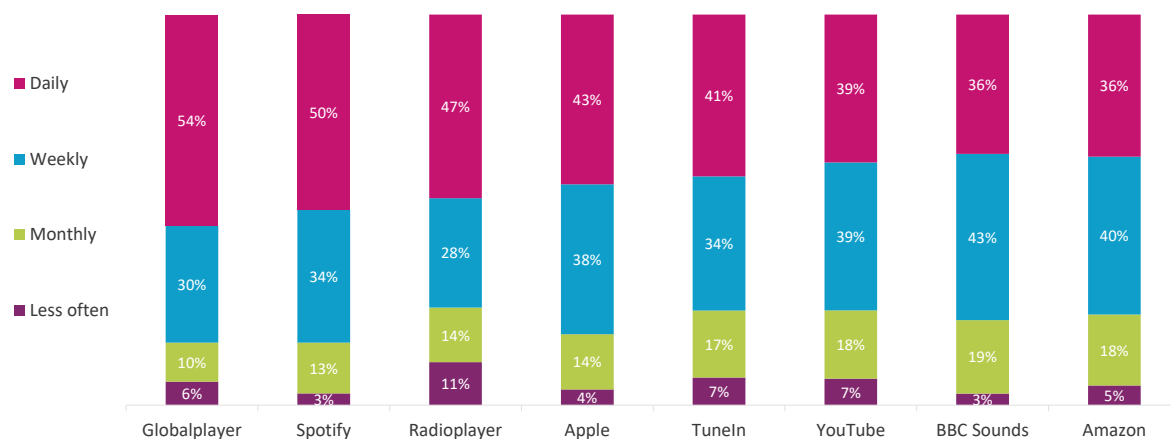
Source: Ofcom Audio Survey, March 2021

4.44   Overall, the impact of the BBC's cross-promotion of BBC Sounds, in terms of attracting new users, appears to be limited. We consider that the cross-promotion is likely to reach users who are already consumers of BBC content, but not those who are new to the BBC.

4.45   Radiocentre argues that the BBC's extensive promotion of BBC Sounds prevents the commercial radio sector from competing in new segments of the market, such as podcasts and music mixes, and it presents survey results showing the percentage of respondents using BBC Sounds, by age group and content type.[80] It claims that BBC Sounds 'dominates' listening by younger demographics in the new segments. We do not consider this conclusion follows from the results presented by Radiocentre, which reflect only the use of BBC Sounds, not the use of other platforms.

Listeners use multiple audio services alongside BBC Sounds

4.46   BBC Sounds users tend to use a wider variety of audio services than the overall average. The results of a consumer survey conducted by Yonder suggest that BBC Sounds users listen to various types of audio content on about four different services (i.e. BBC Sounds plus three other services), whereas overall listeners use fewer than two services on average.[81]

4.47   This suggests that the use of BBC Sounds does not make listeners less likely to use other services, and that it is has not built an "effective walled garden", as claimed by Wireless.

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[80] Radiocentre response, Figure 11.
[81] Ofcom Audio Survey, March 2021.

Conclusion

4.48   Our provisional conclusion is that cross-promotion of BBC Sounds is not contributing to the crowding out of commercial radio.

Question 3: Do you agree with our analysis and provisional conclusions about cross-promotion of BBC Sounds? Please give evidence to support your views.

Theory of harm 3: BBC Sounds supplies the UK podcast market with a large amount of ad-free, 'archive' content, making it difficult for other podcast publishers to make money

4.49   As explained above, it is appropriate to consider the impact of BBC Sounds, bearing in mind what the BBC would be providing if BBC Sounds did not exist (and what it was providing before the launch of Sounds). In relation to this theory of harm, we compare the current situation with one in which the BBC releases repackaged radio programmes as podcasts, as well as some off-schedule podcasts (i.e. not previously broadcast on radio), and these are available on a dedicated BBC platform and on third-party platforms.

The theory

4.50   A potential concern is that the BBC can produce a large quantity of podcasts for relatively little cost (based on its speech radio archive or using existing BBC presenters / journalists). In addition, the BBC offers its podcasts advertising-free, which may encourage listeners to choose podcasts without adverts.

4.51   This theory of harm has the following steps:

a) The BBC has a large number of attractive podcasts. Listeners interested in BBC podcasts go to BBC Sounds, which currently only features BBC content;

b) by spending more time on BBC Sounds, users are driven to additional BBC content and have less opportunity to discover non-BBC content. This makes it harder for rival podcast publishers, or other radio stations, to reach this audience;

c) this reduces the ability of rival podcast producers (or platforms) to generate revenue from their podcasts; and

d) this may result in less investment in new podcasts, the withdrawal of some rival podcast publishers from the market, or entry deterrence, ultimately reducing consumer choice and innovation.

4.52   An issue with considering the BBC's role in the podcast sector is how to account for repackaged speech radio: is this catch-up radio, or is it podcasts? Listeners seem to consider it to be either, perhaps depending on whether they access it on BBC Sounds (feels like catch-up radio) or via a third party (when it's clearly a podcast). The most popular definition of a podcast (when asked to select) is: "A series of audio programmes about a

particular topic that I can listen to at my convenience"; 33% of BBC Sounds podcast listeners indicated this. [82]

The evidence

Podcast listeners do not appear to use only BBC Sounds or be 'sticky', once there.

4.53   BBC Sounds podcast listeners use, on average, 4.38 platforms to listen to podcasts, more than the average of 2.94 platforms for any podcast listeners. [83] This suggests that users of BBC Sounds do not stop using other podcast platforms.

4.54   BBC podcasts are available on other platforms. The BBC reported 240 million global podcast downloads on third-party platforms in Q2 2020. [84]

4.55   The potential shift of listening patterns between other audio platforms and BBC Sounds affects a relatively small percentage of podcast listeners. Radiocentre reports that 3% of BBC Sounds users have reduced their listening to free podcasts by an average of 2.28 hours per week as a result of listening to BBC Sounds, while 3.5% have reduced their listening to paid podcasts by an average 1.64 hours per week. [85] We consider this is unlikely to harm the ability of rivals to compete: according to these results, over 96% of listeners to BBC Sounds did not reduce their listening to alternative podcasts. Also, the survey results presented by Radiocentre do not capture the amount of audience time lost by BBC Sounds due to use of other platforms.

UK podcast listeners are offered a broad range of content, not only from the BBC but also from the independent sector and international producers

4.56   Although the amount of podcast listening is difficult to measure reliably, and we must treat the charts with caution [86], the evidence suggests that BBC podcasts are popular but have not 'flooded' the market.

- The BBC's share of on-demand speech listening was 39.44% in Q1 2020, made up of listening to BBC catch-up radio (15.87% of all on-demand speech listening) and BBC podcasts (23.58% of all on-demand speech listening). [87]
- AudioUK presented a *Podcast Insights* chart of the top 100 podcasts on Apple Podcasts (iTunes) in the UK as of 29 October 2020, which features 18 podcasts published by the BBC. [88] On 12 April 2021, this chart featured 24 podcasts published by the BBC within the top 100. [89]

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[82] Ofcom Podcast Survey, March 2021.
[83] Ofcom Podcast Survey, March 2021.
[84] BBC Sounds Quarterly Report, Q2 2020
[85] Radiocentre response, Figure 10.
[86] It is not always clear how these charts are compiled. For example, some may be driven by marketing concerns.
[87] BBC Sounds Phase 1 Materiality Assessment, Performance Report for Q1 2020, BBC Analysis of RAJAR/MIDAS Spring 2020. The data shows the BBC's share of on-demand audio listening hours as a content publisher, i.e. not only on BBC Sounds. The definitions of catch-up radio and podcasts are those made by RAJAR as part of its survey.
[88] AudioUK response, pages 8-10.
[89] Podcast Insights, viewed on 21 April 2021.

- The Chartable podcasts chart showed eight podcasts published by the BBC within the top 100 podcasts on Spotify in Great Britain, and 23 podcasts published by the BBC within the top 100 podcasts on Apple Podcasts in Great Britain as of 21 April 2021.[90]
- Over the past year the iTunes UK top 100 chart featured on average about 22 podcasts published by the BBC and about 23 non-BBC published podcasts which also featured in the US top 100 chart in that year.[91]

4.57   It is also important to note that listening to BBC podcasts takes place on multiple platforms. The BBC reported over 240 million downloads of its podcasts on third-party platforms between April and June 2020.[92] Although this metric is not equivalent to the amount of podcast listening, and captures audiences across the world, including the UK, it does illustrate the significance of BBC podcasts being accessed outside BBC Sounds. The success of BBC podcasts does not necessarily translate to increased listeners on BBC Sounds.

Adverts in podcasts do not seem to put off listeners to a significant extent

4.58   The absence of adverts in podcasts does not appear to be a decisive factor in listeners' choice.

- Most listeners do not appear to find adverts in podcasts particularly intrusive: only 37% of podcast listeners report that the podcasts they listen to contain too many adverts, while 32% disagree with this statement and 33% are neutral.[93]
- A significant percentage of podcast listeners (41%) find advertising to be the best way to keep podcast content-free and accessible to all.[94]

Advertising revenue in the UK podcast sector is dynamic and not particularly low compared to other countries

4.59   There is no universally accepted way of measuring or reporting podcast advertising revenues. There may be differences in terms of definition (e.g. what type of content is considered to be a 'podcast', or what advertising formats are included in the podcast revenue calculation), and differences in the attribution of revenues to a particular national market (e.g. the country where the platform is based, where the podcast publisher is based or where the podcast is being listened to). This makes the interpretation of podcast advertising revenue data, and comparison across different countries, subject to a large degree of uncertainty.

4.60   Advertising revenue from UK podcasts is showing dynamic growth, up by 66% year on year in real terms since 2019.[95] This does not support the conclusion that the presence of BBC content is stifling the development of the UK podcast advertising market.

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[90] Chartable, viewed on 21 April 2021.
[91] iTunes Charts, accessed on 8 April 2021. Based on the charts as of each calendar month end from April 2020 to March 2021.
[92] BBC Sounds Quarterly Report, Q2 2020
[93] Ofcom Podcast Survey, March 2021.
[94] 4DC, The Business of UK Podcasting, page 12.
[95] Ofcom *Media Nations 2020*, August 2020, page 91.

4.61 Advertising revenue generated by UK podcasts appears to be broadly comparable with other markets, although evidence is limited. UK podcast advertising revenue totalled £27m in 2019. This is lower than France (£30m) and less than half the level of Germany (£62m), but higher than Italy (£18m) and Spain (£21m). [96] [97]

4.62 Radiocentre presents a comparison of podcast advertising revenue in the UK and four other countries (Australia, France, Germany, and the US) and concludes that the UK is lagging behind these countries. [98] This is based on comparing the projected revenues and numbers of podcast listeners in 2020. We consider this comparison to be subject to a large degree of uncertainty for the following reasons:

- The uncertainty inherent in forecasting advertising spend during a pandemic year;
- differing definitions of podcast listening, e.g. whether listening to catch-up radio is included or excluded;
- differing reference timeframes for which podcast listening is reported (e.g. weekly, monthly); and
- the assignment of advertising revenue to the country where the revenue accrues, regardless of where the listening takes place. This is likely to skew the reported revenue towards countries that tend to produce content with global appeal, such as the US, and may not accurately reflect revenue generated in local markets.

4.63 Finally, advertising is not the only way of generating revenue from podcasts in the UK. Our survey results show that a significant percentage of podcast listeners (34%) would be happy to pay to subscribe to their favourite podcasts. [99]

Conclusion

4.64 Our provisional conclusion is that the distribution of BBC podcasts through BBC Sounds is not significantly hampering other podcast publishers' ability to generate revenue.

4.65 As we discuss in section 3, the audio sector is developing rapidly, both in terms of listening habits (increasingly online) and the range of players and their offerings. This might call for a future assessment of how BBC Sounds has evolved and how it may have impacted competition. The BBC and commercial radio are likely to face increasingly strong and direct competitive challenges from global players such as Spotify, Apple, YouTube and Amazon/Audible. An important factor to consider as part of our ongoing monitoring of the sector will be how UK audio providers, including the BBC, will need to respond to global competition.

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[96] PwC *Global Entertainment & Media Outlook 2020-2024*, page 2. Figures reported by PwC in USD. Converted to GBP using an exchange rate of 0.786 GBP/USD.
[97] Advertising revenue is assigned to the country where the revenue accrues (generally the country where it is produced), regardless of where the listening actually occurs.
[98] Radiocentre response, page 31.
[99] Populus 2020, Table 516.

Question 4: Do you agree with our analysis and provisional conclusions about the impact of BBC Sounds on podcast publishers' ability to generate revenue? Please give evidence to support your views.

5. Provisional views

5.1   In this section, we set out our provisional views on: whether the threshold is met for initiating a BCR in relation to BBC Sounds; whether future changes to BBC Sounds might be likely to raise competition issues; and our expectations of the BBC regarding transparency and engagement with third parties. We also make some observations about the scope for further collaboration between the BBC and other players in the radio and wider audio sector.

The legal test for initiating a BCR

5.2   In section 4, we consider the potential ways in which competition might be adversely impacted by the presence of BBC Sounds in the market, and provisionally conclude that none of the theories of harm we have identified provide us with reasonable grounds to believe that BBC Sounds is having a significant adverse impact on fair and effective competition. Accordingly, our provisional view is that the test for launching a BCR in relation to BBC Sounds is not satisfied.

5.3   Were we to conclude, following our consultation process, that reasonable grounds did in fact exist, then, as explained in section 2, we would need to decide whether to exercise our discretion to open a BCR. In our BCR guidance, we explain that the factors we may consider, in deciding whether to open an investigation, include the following. However, we will take into account other factors, where appropriate. [100]

   a)   The likely scale of the adverse impact that we have reasonable grounds for believing may exist.

   b)   The potential for any adverse impact to increase or reduce in future.

   c)   Any initial view we have on the public value of the elements of the BBC public service activities that a BCR would examine.

   d)   The existence of appropriate potential measures that we could put in place to address any adverse impact.

   e)   The existence of alternative, potentially more appropriate mechanisms to address the issues raised, including other regulatory tools and further discussions between the BBC and third parties.

   f)   The resources required to conduct a BCR and the comparative benefits of using those resources in other ways.

   g)   Whether the subject matter is appropriate for a BCR, given the purpose of this procedure. [101]

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[100] Paragraphs 4.15 and 4.16 of our BCR guidance.
[101] Our BCR guidance identifies a BCR as a tool for examining existing services to which the BBC has made incremental changes over time, or where market conditions have undergone significant change. It also outlines that a BCR is "not about

5.4   In the light of our provisional views in this consultation, we have not considered in detail whether these or other factors would lead us to exercise our discretion, if we were to find that the legal threshold for opening a BCR had been met.

5.5   We note that, on the face of it, it appears that, although online listening is a relatively new market, it is likely that its significance will increase, and that global players will continue to innovate and attract listeners. Given that BBC Sounds is central to the BBC's audio strategy, we would also expect BBC Sounds to evolve further to meet audience preferences and competition.

5.6   At the same time, there could be scope to mitigate any potential adverse impacts by using alternative mechanisms; increased transparency and industry engagement by the BBC would be a central element of this. Improvements in the way the BBC measures and reports on the performance of BBC Sounds would also allow for a better understanding of the way in which any changes to the service contribute towards the fulfilment of the BBC's Mission and the promotion of the Public Purposes.

5.7   Below, we discuss how these mechanisms can be put in place effectively in ways that may reduce the need for regulatory scrutiny in future.

> Question 5: Do you agree with our provisional view that the test for opening a BCR in relation to BBC Sounds is not met?

Future changes to BBC Sounds

5.8   In its response, Radiocentre argued that "a proper formal consultation is required for all proposed changes, providing stakeholders with an opportunity to input into the process". It and others expressed concerns about the current process for considering changes to BBC Sounds.

5.9   The process for assessing changes to BBC's existing UK Public Services, such as BBC Online, is discussed in section 2. The BBC is required to consider whether such changes "may have a significant effect on fair and effective competition". Whether any change is material must be assessed on its own merits.

5.10   In our guidance on assessing the impact of proposed changes to the BBC's Public Service activities ("**BCA guidance**"),[102] we set out the factors that we expect the BBC to consider when making this assessment. We say that changes which leave the existing character and scale of a service essentially unchanged are less likely to be 'material' in the specific sense of the term set out in the Agreement, and we refer to individual programme scheduling decisions as an example of such changes.

5.11   In this sense, we would expect that most changes to BBC Sounds' functionality, such as additional features (e.g. alarms, ability to subscribe etc.) and greater personalisation, would be less likely to require closer scrutiny. Changes to the content available on BBC

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looking at day-to-day business decisions made by the BBC", nor about "revisiting historic matters settled in the Charter or the fundamental role of the BBC".

[102] https://www.ofcom.org.uk/__data/assets/pdf_file/0028/99415/bbc-public-service-activities-proposed.pdf

Sounds may be more difficult to assess. However, it is unlikely that the addition of small amounts of content, similar to that already available on BBC Sounds, would raise concerns. In contrast, we would expect the addition of new types of content or of content pertaining to a new or embryonic market area to be more likely to require closer scrutiny.

5.12 In their responses to the call for evidence, Radiocentre and others expressed concerns about the BBC making smaller incremental changes that in themselves may have limited impact but taken together are significant, which they term 'scope creep'.

5.13 In this respect, the Charter and the Agreement set out a specific framework for the assessment of proposed individual changes to the BBC's UK Public Services. The assessment of a proposed change must be made in the context of the relevant activity as has been developed until that point in time. It is also in recognition of the potential cumulative impact that such individual changes to BBC Sounds may have had on the market that we have initiated the present review.

> Question 6: Do you agree with our view above on when changes to BBC Sounds might raise competition issues?

BBC transparency and engagement

Planned changes to the BBC's public service activities

5.14 In their responses to our call for evidence, Global and Radiocentre raised concerns about the previous lack of consultation by the BBC in respect of proposed changes to BBC Sounds, while Wireless said it was concerned that announcements of planned changes by the BBC are at times vague or not clearly defined.

5.15 As set out in section 2, it is the responsibility of the BBC to have particular regard to the effects of its activities on competition in general, and to have regard to promoting positive impacts on the wider market. The BBC must also understand the potential impact of proposed changes to its UK Public Services. In order to meet its obligations, the BBC must assess how stakeholders might be affected by planned changes, and take this into account in developing its proposals, consistent also with its broader obligations as to transparency, openness and accountability.

5.16 In our 2019/20 annual report on the BBC,[103] we said that the BBC needed to be more proactive in engaging consistently with others in the industry about its plans. As we explained in that report, the BBC's Annual Plans and public announcements are a good way for the BBC to provide stakeholders with information about its future plans and strategy; using these consistently will help the BBC to ensure greater transparency. As noted in section 2, in March this year the BBC published its Annual Plan for 2021/22 in which it sets out its latest plans for BBC Sounds.

5.17 The BBC's Annual Plans need to contain sufficient detail to allow stakeholders to comment meaningfully on the potential impact of the BBC's plans, including those for BBC Sounds. It

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[103] Ofcom's Annual Report on the BBC 2019/20, November 2020.

is also important that the BBC looks beyond its Annual Plans and public announcements to seek comments from stakeholders on potential changes to its services, particularly when plans are developed outside the Annual Plan cycle.

> Question 7: What further detail, if any, would you expect to see in the BBC's Annual Plans and public announcements to enable stakeholders to meaningfully comment on its plans for BBC Sounds?

Availability of BBC Sounds performance data

5.18   Stakeholders also raised concerns regarding the lack of published information about BBC Sounds. Global, Radiocentre and Wireless told us that there is insufficient transparency of data on the performance of and spend on BBC Sounds, and Radiocentre linked this to the fact that BBC Sounds is not listed as a standalone UK Public Service in schedule 1 of the Agreement, or subject to any specific Regulatory Conditions in the Licence.

5.19   The BBC provides Ofcom with data regarding the number of hours of podcasts and music mixes that it publishes, and its share of speech listening. It also publishes an annual press release (most recently published in December 2020)[104] and a quarterly report on BBC Sounds (the most recent being for Q4 2020).[105] However, as we state in our 2019/20 annual report on the BBC, the definitions are not clear, such as what a 'play' constitutes, and only selected podcasts or radio stations are highlighted each quarter.

5.20   As we explain in our 2019/20 annual report on the BBC, it is critical that the BBC is able to measure the contribution of services such as BBC Sounds in the light of the greater role that these services play in fulfilling its Mission and promoting the Public Purposes. The BBC's approach to measuring the performance of BBC Sounds will need to improve, and there should be a more systematic approach to measuring performance. For example, it is important that the BBC explains how people are using BBC Sounds (e.g. live versus on-demand, and genre information), and wherever possible, provides more detail about user demographics.

5.21   Improvements to the BBC's approach to measuring the contribution of services such as BBC Sounds to the fulfilment of its Mission and promotion of the Public Purposes would also allow for a better understanding of the public value of its activities, and how this may compare against any adverse impact on fair and effective competition.

5.22   We are continuing to explore with the BBC the additional information that it can make available regarding the performance of BBC Sounds, and will report on this in our 2020/21 annual report on the BBC, which we aim to publish in the autumn.

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[104] https://www.bbc.co.uk/mediacentre/2020/bbc-sounds-end-of-year-round-up
[105] https://downloads.bbc.co.uk/mediacentre/bbc-sounds-q4-2020.pdf

Collaboration with third parties

BBC proposals to aggregate third-party content on BBC Sounds

5.23   In March 2019, the BBC announced that it was in discussion with stakeholders on how listeners could access live radio and podcasts from third-party providers in BBC Sounds. [106] The BBC said that its aim was to "support the British creative industries, as well as champion new, niche, innovative UK podcasts that may struggle to achieve prominence on global platforms", and that it would like to make BBC Sounds "a platform that serves British audiences and British creativity." As explained in section 2, the BBC later decided not to proceed with its plans for the aggregation of third-party radio stations on BBC Sounds.

Responses to the call for evidence

5.24   In its response to our call for evidence, Wireless Group said that the BBC's decision on radio aggregation was a missed opportunity for the BBC to have engaged positively with the independent audio sector, and that conversations with stakeholders should be revisited, while Advisory Committee Scotland said that coming to an agreed position with the BBC that benefited all radio stations regardless of size, would have ultimately benefited listeners and, more broadly, public service broadcasting.

Benefits of collaboration

5.25   As set out in section 2, the BBC has a general duty under the Charter to "work collaboratively and seek to enter into partnerships with other organisations, particularly in the creative economy, where to do so would be in the public interest."

5.26   Further, as we explained in our December 2020 consultation on the future of public service media, strategic partnerships between public service broadcasters and other companies could help to support long-term sustainability in the public service media system. [107]

5.27   In relation to BBC Sounds, collaboration between the BBC and other radio and audio content providers might be strengthened or extended in the areas of distribution, knowledge or content. For example, there may be benefits in the BBC revisiting its plans to include third-party radio stations on Sounds, as this could bring more listeners to BBC Sounds and provide UK radio companies and stations with a new means of distribution.

5.28   Such collaboration may help to secure the future of UK radio in the context of the challenges that the sector faces from changes in listener habits and the growth of global streaming services. However, we accept that there could be scope for this to adversely impact others in the market, for example if their incentives to invest in new platform functionality are reduced.

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[106] Blog by James Purnell, BBC, March 2019.
[107] Small Screen: Big Debate, The Future of Public Service Media, Ofcom, December 2020.

> Question 8: Do you agree that further collaboration between the BBC and other players could bring benefits to the UK radio and audio sector?

Wider issues to be considered by other Ofcom projects

Periodic review of the BBC

5.29   As noted in section 2, stakeholders raised concerns about the regulatory process for assessing the market impact of proposed changes to the BBC's public service activities. We are considering the scope of our first periodic review of the BBC, the primary aim of which is to evaluate the extent to which the BBC is fulfilling its Mission and promoting the Public Purposes. This is also an opportunity to consider any areas of concern identified by Ofcom. The concerns raised by stakeholders in response to our call for evidence will feed into our thinking on the scope of the periodic review.

Ofcom's annual report on the BBC

5.30   We will continue to monitor how the BBC is fulfilling its Mission and promoting the Public Purposes, including how BBC Sounds contributes to this, through our annual reporting process. We aim to publish our next annual report on the BBC in the autumn.

Review of the Operating Licence

5.31   Stakeholders raised concerns that there is no effective regulatory oversight of BBC Sounds, as it is not listed as a UK Public Service and is not subject to regulatory conditions in the Operating Licence. As we note in section 2, Ofcom is considering how the Operating Licence should evolve to reflect changing audience habits and expectations. The Operating Licence is currently focused on linear services, and we will be looking to evolve the licence so that it reflects the BBC's delivery of content across TV, radio and online. This will include exploring what requirements related to BBC Sounds are required, for example in relation to the information the BBC provides about the contribution it makes to the Mission and Public Purposes or about its performance, to ensure greater accountability. We plan to publish a document in the summer, seeking input from stakeholders on the evolution of the Operating Licence.

A1. Responding to this consultation

How to respond

A1.1   Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 29 June 2021.

A1.2   You can download a response form from https://www.ofcom.org.uk/consultations-and-statements/category-3/bbc-sounds-market-position. You can return this by email to the address provided in the response form.

A1.3   If your response is a large file, or has supporting charts, tables or other data, please email it to bbcsoundscfe@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet. This email address is for this consultation only, and will not be valid after 29 June 2022.

A1.4   We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:

A1.5   Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or

A1.6   Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.

A1.7   We will publish a transcript of any audio or video responses we receive (unless your response is confidential).

A1.8   We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.

A1.9   You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.

A1.10   It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.

A1.11   If you want to discuss the issues and questions raised in this consultation, please contact Hazel Noton on 020 7783 4702, or by email to hazel.noton@ofcom.org.uk.

Confidentiality

A1.12   Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that

everyone who is interested in an issue can see other respondents' views, we usually publish all responses on the Ofcom website as soon as we receive them.

A1.13   If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.

A1.14   If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.

A1.15   Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our Terms of Use.

Next steps

A1.16   Following this consultation period, Ofcom plans to publish a statement in the autumn.

A1.17   If you wish, you can register to receive mail updates alerting you to new Ofcom publications.

Ofcom's consultation processes

A1.18   Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.

A1.19   If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.

A1.20   If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Email: corporationsecretary@ofcom.org.uk

A2. Ofcom's consultation principles

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

Before the consultation

A2.1   Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

A2.2   We will be clear about whom we are consulting, why, on what questions and for how long.

A2.3   We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.

A2.4   We will consult for up to ten weeks, depending on the potential impact of our proposals.

A2.5   A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.

A2.6   If we are not able to follow any of these seven principles, we will explain why.

After the consultation

A2.7   We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A3. Consultation cover sheet

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

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

Nothing   ☐

Name/contact details/job title   ☐

Whole response   ☐

Organisation   ☐

Part of the response   ☐

If there is no separate annex, which parts?   _____

_____

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

DECLARATION

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

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name   Signed (if hard copy)

A4. Consultation questions

Question 1: Do you agree with our provisional view of the market? Please provide evidence in support of your answer.

Question 2: Do you agree with our analysis and provisional conclusions on BBC Sounds crowding out the commercial sector? Please provide evidence in support of your answer.

Question 3: Do you agree with our analysis and provisional conclusions about cross-promotion of BBC Sounds? Please give evidence to support your views.

Question 4: Do you agree with our analysis and provisional conclusions about the impact of BBC Sounds on podcast publishers' ability to generate revenue? Please give evidence to support your views.

Question 5: Do you agree with our provisional view that the test for opening a BCR in relation to BBC Sounds is not met?

Question 6: Do you agree with our view above on when changes to BBC Sounds might raise competition issues?

Question 7: What further detail, if any, would you expect to see in the BBC's Annual Plans and public announcements to enable stakeholders to meaningfully comment on its plans for BBC Sounds?

Question 8: Do you agree that further collaboration between the BBC and other players could bring benefits to the UK radio and audio sector?