
Review of proposed increased amount of archive content on BBC iPlayer

[Welsh overview available](#)

CONSULTATION:

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1. Overview

All major video-on-demand (“VoD”) services offer a mixture of new programmes and catalogues of older content. Since 2019, audiences have been able to access programmes on BBC iPlayer for 12 months from broadcast as standard. Older programmes are also available, for example past series of returning titles. Currently, the BBC limits the availability of older programmes on BBC iPlayer by reference to the volumes that it set out in its 2019 proposals for BBC iPlayer.¹

The BBC is now proposing to no longer apply these limits and increase the amount of older content on BBC iPlayer by publishing – subject to its financial and operational constraints – any title in line with its agreements with producers and underlying rightsholders. It has undertaken a public interest test (“PIT”) on its proposal, and the BBC Board has concluded that the proposal satisfies the PIT and that it is not a material change.

What we are consulting on – in brief

For the purposes of our materiality assessment, **we have considered how BBC iPlayer may realistically evolve in light of the BBC’s proposal over the next few years.** The BBC’s proposal indicates that it would expect to see an increase of less than three times the current levels of archive content on BBC iPlayer during this time. This would constitute a smaller percentage change than the increase in content on BBC iPlayer since the change to BBC iPlayer in 2019. We have considered how the proposal might affect BBC iPlayer usage, the extent of any audience substitution that could occur, and how this could affect commercial revenues, as well as taking into account developments in the market.

We are minded to find the BBC’s proposal is not a material change, having assessed the evidence available, which suggests the impact on individual competitors will be limited. This is based on assessing the risks to competition over a reasonable timeframe and does not imply setting limits on how much content the BBC could add. Nonetheless, the BBC will still be required to consider whether future changes to BBC iPlayer could have a material impact on competition, and Ofcom has regulatory tools available to consider significant competition issues which may emerge over the remainder of the Charter period.

Our provisional view is therefore that the BBC may proceed with its proposal. If, following our review of the responses to this consultation, we remain of the view that the proposal is not material, we will confirm this and the BBC may proceed with implementation of the proposal without further assessment by Ofcom. If we consider that the change is material, we will proceed to a more detailed second-phase BBC Competition Assessment (“BCA”) or a shorter assessment considering elements of the BCA (“**Shorter Assessment**”).

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

¹ BBC, April 2019. [BBC iPlayer Public Interest Test](#), p.31.

We recognise that stakeholders have raised concerns about the impact of BBC acquisitions on competition. We have not considered acquisitions on the basis that the BBC will not be changing the availability of acquired content on BBC iPlayer as part of the proposal. As part of our review of the Operating Licence, we have consulted on new requirements for the BBC to report on the role acquisitions play in its plans to deliver distinctive output, and on BBC iPlayer more widely, so we can better monitor any changes the BBC makes in this area.²

This consultation sets out our analysis of the BBC’s proposal and our provisional view that it is not a material change. We are consulting on our provisional view until 14 November 2022, and will publish our final decision within six weeks, by 30 November 2022.

² Ofcom, June 2022. [Modernising the BBC’s Operating Licence](#), paragraph 8.52.

2. Proposal to increase the amount of archive content on BBC iPlayer

Background

- 2.1 The BBC's Mission is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain.³ The BBC may look to make changes to its existing activities or seek to develop new services to better meet the needs of audiences in fulfilling its Mission.
- 2.2 Some changes may be minor, such as day-to-day editorial decisions about individual programmes, or their scheduling. However, as a large, publicly-funded organisation, some changes that the BBC might wish to make could have a significant impact on competition in the wider media market.
- 2.3 The impact may be positive in enhancing public value and encouraging competition by offering more choice, stimulating demand, or promoting innovation to the benefit of UK citizens and consumers. However, some changes that the BBC proposes may harm competition, for example by crowding out investment from third parties, with ultimately negative consequences for audiences. Because of this, the Charter and Agreement, which set the BBC's Mission and Public Purposes, provides for first the BBC and then for Ofcom to consider the effects on competition of material changes to the BBC's TV, radio and online public services.
- 2.4 On 23 June 2022, the BBC published a PIT consultation on its proposal to increase the availability of programmes on BBC iPlayer ("**BBC PIT consultation**").⁴ The BBC PIT consultation was open for six weeks, during which time the BBC engaged with Ofcom and other stakeholders on the proposal.
- 2.5 On 19 October 2022, the BBC published the BBC PIT submission, in which it states that "the BBC Board has decided that the change is not a material change as it will not have a significant adverse impact on fair and effective competition".⁵
- 2.6 We are now carrying out our initial assessment of the proposal, to decide whether it is material and therefore whether a further assessment is needed to consider the scale and likelihood of any public value, relative to the scale and likelihood of any adverse impact on fair and effective competition.

The BBC's proposal

- 2.7 In 2019, we approved the BBC's proposal to change BBC iPlayer from a service where programmes are available to 'catch-up' for 30 days after broadcast, to one where

³ [BBC Royal Charter and Agreement Framework](#). Referred to as "**the Charter**" and "**the Agreement**".

⁴ BBC, June 2022. [BBC iPlayer II: Public Interest Test consultation](#).

⁵ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 1.

programmes are available for 12 months as standard, with some available for longer.⁶ In reaching this decision, we assessed a specific proposal set out by the BBC in its 2019 PIT, which included indicative volumes and durations of content on BBC iPlayer.⁷ We approved its proposal on this basis, but did not set regulatory conditions or restraints limiting the BBC from expanding BBC iPlayer beyond the “baseline” figures in its 2019 proposal. We instead set our expectation that, as required by the Charter and Agreement, the BBC must consider the potential competition effects of any changes to BBC iPlayer (including adding more content) and whether any changes would constitute a material change.⁸

- 2.8 The BBC is now proposing to increase the amount of content on BBC iPlayer beyond the indicative volumes and durations of content it set out in its 2019 PIT. The BBC says that it is “seeking the ability to be flexible and adjust the content on BBC iPlayer as best suits our audiences in order to deliver greater public value”.⁹ It says that it does not have a fixed plan for the amount or type of content that it will put on BBC iPlayer, and that the composition of the catalogue will vary over time, “adapting to audience tastes, current events, contractual arrangements with rights holders and other trends”.¹⁰
- 2.9 As such, the BBC is proposing to have the ability to publish – subject to its financial and operational constraints – any title on BBC iPlayer, in line with its agreements with producers and underlying rights holders (the “**Proposal**”), including: (i) full boxsets for any (new and returning) programmes still in commission; and (ii) non-returning titles and archive programmes (i.e. no longer in commission) (together, “**archive content**”¹¹).¹² In practice, the Proposal therefore relates to growth in content which would be older than 12 months.
- 2.10 In the BBC PIT submission, the BBC says it is not proposing to change the standard 12-month availability of programmes, or any other change that would require a renegotiation of its Terms of Trade with Pact.¹³
- 2.11 The BBC also says that it is not proposing any changes to the availability of acquired programmes or films on BBC iPlayer as part of the Proposal. As such it considers that acquisitions are outside the scope of its PIT.¹⁴

⁶ Ofcom, August 2019. [BBC iPlayer Competition Assessment: Final determination](#).

⁷ BBC, 2019. [BBC iPlayer Public Interest Test](#).

⁸ Ofcom, 2019. BBC iPlayer Competition Assessment: Final determination, p. 46-47.

⁹ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 6.1.

¹⁰ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 6.1.

¹¹ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 4.2.3 and Section 6: The BBC defines archive content as “any BBC-commissioned programme on BBC iPlayer after the initial 12 month availability”.

¹² BBC, October 2022. [BBC Public Interest Test Submission](#), Sections 1.2, 4.1, and 4.2.

¹³ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 1.2.

¹⁴ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 4.3.3.

The regulatory framework for material changes to the BBC’s UK Public Services

- 2.12 Under the terms of the Agreement, the BBC must assess whether a proposed change to its public services is “material”.¹⁵ A material change is defined as either a “new UK Public Service” or “any change to a UK Public Service which may have a significant adverse impact on fair and effective competition”.¹⁶
- 2.13 If it decides that a change is material, the BBC is then obliged to carry out a further assessment known as a PIT, to be reviewed by the BBC Board.¹⁷ In order to approve a proposed material change, the BBC Board must be satisfied that the PIT successfully demonstrates that:
- a) the proposed change contributes to the fulfilment of the BBC’s Mission and the promotion of at least one of the Public Purposes;
 - b) reasonable steps have been taken to ensure the proposal will have no adverse impacts on fair and effective competition which are not necessary for the effective fulfilment of the BBC’s Mission and Public Purposes; and
 - c) the public value of the proposed change justifies any adverse impact on fair and effective competition which it may have.
- 2.14 In the event that the BBC Board is satisfied, the PIT is then submitted to Ofcom for our review.

The BBC’s analysis

Materiality

- 2.15 The BBC concludes that the Proposal will not have a significant adverse impact on fair and effective competition, and that it is therefore not a material change within the meaning of Clause 7(7) of the Agreement.¹⁸
- 2.16 This is the first time that the BBC has published a PIT for a proposal without it either being considered by the BBC to be a material change or being previously determined by Ofcom to be a material change.

¹⁵ The Agreement, Clause 7.

¹⁶ The Agreement, Clause 7(7).

¹⁷ The Agreement, Clause 8. The Agreement also does not preclude the option of the BBC conducting a PIT for a proposed change that it does not consider to be material.

¹⁸ BBC, October 2022. [BBC Public Interest Test Submission](#), Sections 1.4, 6.6.

- 2.17 The BBC’s reasoning relies upon its market impact modelling,¹⁹ which is centred around the following scenarios:²⁰
- a) a “core estimate” based on a 300% increase in the size of BBC iPlayer archive content. This is based on “assessing plans for the year ahead, what content we believe is available in the market and adding headroom beyond this”; and
 - b) a “more extreme” estimate based on a 600% increase in the size of the BBC iPlayer archive.²¹
- 2.18 The BBC has estimated the impact on BBC iPlayer reach will increase negligibly under either scenario, and that viewing will increase by 3.1% for all viewers in the 300% scenario, and 3.6% for all viewers in the 600% scenario.
- 2.19 The BBC expects viewing to be drawn from a range of sources, the largest of which is linear TV (including BBC services). It considers that diversion from other VoD services is greatest from Netflix and Amazon Prime Video, followed by All4. The BBC says that this is a reflection of the size of those services in relation to the market (Netflix is the largest VoD service) and the closeness of competition between them.
- 2.20 As set out in Figure 1, the BBC has provided analysis in the BBC PIT submission which suggests that overall, no individual commercial provider²² would face a total loss of viewing of more than 0.2% if there were a 300% increase in archive content, or more than 0.3% if there were a 600% increase. This results in a negligible impact on the market shares of commercial providers.

Figure 1: Commercial provider viewer losses modelled by the BBC, in 2023

	ITV	C4	C5	Sky	Prime	Disney+	Netflix
Three-fold increase in BBC iPlayer archive content							
VoD viewing	-0.5%	-0.9%	-0.2%	-0.4%			
Linear viewing	-0.1%	-0.1%	-0.1%	-0.1%			
Total viewing	-0.1%	-0.2%	-0.1%	-0.1%	-0.2%	-0.0%	-0.2%
Six-fold increase in BBC iPlayer archive content							
VoD viewing	-0.6%	-1.0%	-0.2%	-0.4%			

¹⁹ In Section 6 of the BBC PIT submission, the BBC says “In order to measure the impact of BBC iPlayer changes, we have analysed BBC system data on audiences’ behaviour as we have increased the volume of content available on BBC iPlayer over the past few years. We have used this to model the expected growth to BBC iPlayer viewing as a result of the changes and compare this to forecasts of market growth absent the proposed changes”.

²⁰ The BBC has stressed that these are illustrative ranges rather than firm commitments. In Section 1.4 of BBC PIT submission, it says that “neither scenario is a forecast, however, in the interest of a robust conclusion on likely market impact, they are intended to model a volume significantly greater than we could accomplish in the next few years”.

²¹ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 6.1.

²² In this document, Channel 4 is included within the consideration of commercial providers.

Linear viewing	-0.1%	-0.1%	-0.1%	-0.1%			
Total viewing	-0.1%	-0.2%	-0.1%	-0.2%	-0.3%	-0.0%	-0.3%

Source: BBC PIT submission, modelling.

- 2.21 The BBC has estimated these viewing impacts will result in small changes in the static revenues of commercial providers. The BBC analysis suggests that overall, no individual service would face a total revenue loss of more than 0.39% if there were a 300% increase in archive content, or more than 0.46% if there were a 600% increase.²³ The BBC argues that at this level of impact it is unlikely to alter competitors' ability or incentives to invest.
- 2.22 On dynamic market impacts, the BBC concludes that since it increased BBC iPlayer programming in 2019, VoD competition has continued, with new entrants to the market as well as investment from global streamers and UK public service broadcasters ("**PSBs**").²⁴ In this context, it expects BBC iPlayer changes "to be dwarfed by the market dynamics driven by US based SVoD".²⁵
- 2.23 In addition to its modelling, the BBC refers to the impact of changes to BBC iPlayer since 2019, saying "it is clear that the changes to BBC iPlayer in 2019 have not crowded out commercial activity".²⁶ It says, "On the contrary, innovation, investment and entry have grown over this period. Additionally, the digital performance (both operational and financial) of UK PSBs have improved over this period. It is essential that BBC iPlayer can continue to evolve in line with these market norms".²⁷
- 2.24 The BBC also references other potential market impacts. In terms of content production and financing, the BBC considers that the Proposal is unlikely to alter the bargaining power of the BBC as it does not impact the way in which it purchases rights or how they are available within the market. In terms of other distributors of BBC iPlayer, the BBC considers that the Proposal does not alter its obligations to distribute its services under the Charter and Agreement, and that it is unlikely to affect its bargaining power with other distributors.

Public Interest Test

- 2.25 The BBC has concluded that the Proposal is not material and that the PIT is met. It considers that its market impact analysis demonstrates the forecasted uplift in BBC iPlayer viewing as a result of the change is not sufficient to have a significant adverse impact on fair and effective competition, and that the Proposal will deliver high public value, as well as fulfil its Mission and promote several of the Public Purposes. The BBC considers that any market impact is therefore justified by the public value of the Proposal.²⁸

²³ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 6.3.2

²⁴ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 6.4.

²⁵ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 6.4.4.

²⁶ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 1.1.

²⁷ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 1.1.

²⁸ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 1.5.

Consultation question 1: Do you agree with the BBC’s assessment in the BBC PIT submission about the market impact of the Proposal? If you disagree, please provide any evidence supporting your reasoning.²⁹

Ofcom’s role

- 2.26 Ofcom has a role to protect fair and effective competition when the BBC proposes changes to its public service activities.³⁰ To fulfil this role, where we consider a proposed change is material, we must establish whether the public value of a proposed change justifies any adverse effects on fair and effective competition.
- 2.27 The Agreement divides this work into two phases.³¹ During the initial phase, which in this case we must complete by 30 November 2022,³² we are required:
- a) to confirm whether the BBC’s proposal is ‘material’ within the definition set out in the Agreement; and, if we determine that the proposal is material:
 - b) to decide what form the second phase assessment should take.
- 2.28 Under the Agreement, the BBC is only required to carry out a PIT for a material change to its public service activities. However, as the BBC has published a PIT and referred a proposed change to us for consideration, we consider this engages the process under the Agreement whereby we are required to consider the issue of materiality (even though the BBC has determined that the proposed change is not material).
- 2.29 We review the materiality of a proposal by considering whether it may have a significant adverse impact on fair and effective competition.
- 2.30 Where we conclude a change is not material, we will notify the BBC that we do not consider the change material, and the BBC may proceed with its implementation.³³
- 2.31 Where we consider a change is material, our second phase work will either take the form of a BCA or a Shorter Assessment considering elements of the BCA, as set out in our procedures and guidance on assessing the impact of proposed changes to the BBC’s public service activities (the “**BCA guidance**”).³⁴ In either a BCA or a Shorter Assessment, we consult with stakeholders before reaching a final decision as to whether the public value of the proposal justifies any adverse impact it may have on fair and effective competition.

²⁹ Should Ofcom conclude that the Proposal is material, stakeholders will be given the opportunity to comment on the BBC’s assessment (in the BBC PIT submission) about the potential public value of the Proposal as part of the BCA or Shorter Assessment process.

³⁰ Article 46(5)(a) of the Charter.

³¹ The Agreement, Clauses 9-11.

³² If during the initial phase we decide either we do not have sufficient information about the proposal to enable us to complete our work, or because it appears to us that the BBC’s proposal requires further substantive work, we may direct the BBC to withdraw its publication and to republish and resubmit it only when that work has been completed.

³³ Clauses 9(3) and 18(3) of the Agreement.

³⁴ Ofcom, 2017. [Assessing the impact of proposed changes to the BBC’s public service activities](#), paragraphs 4.35 to 4.66.

Our initial assessment

- 2.32 We have carried out an initial assessment of materiality of the Proposal using the information available, including the BBC’s analysis and modelling.³⁵ In reaching a provisional view, we have considered the factors set out in our BCA guidance.
- 2.33 We first set out the theories of harm we have considered, and the nature of the change we are assessing. We then set out our current views of the BBC’s quantitative analysis, before setting out below our view on the potential market impact of the Proposal.

Theories of harm

- 2.34 The Proposal will result in additional archive content being added to BBC iPlayer over time. As a publicly-funded organisation, the BBC does not need to earn a profit from the addition of that content, and unlike commercial providers, it does not charge BBC iPlayer audiences for content or require them to watch adverts. It is in this context that we consider whether the Proposal may have a significant adverse impact on fair and effective competition.

Crowding out

- 2.35 We consider that ‘crowding out’ of commercial activity is the most likely way in which the Proposal could have a significant adverse impact on fair and effective competition. Crowding out can occur if the BBC changes its services in a way that leads audiences to switch away from commercial services to BBC services, such that it reduces commercial providers’ revenue to an extent that they reduce investment in their services. This would lead to a reduction in overall choice, quality and range of content for audiences. In some extreme cases, companies may cease providing services altogether.
- 2.36 In general, we would expect crowding out to be a higher risk for domestic commercial providers than for large global competitors, as a given impact caused by a BBC change is likely to be proportionately larger for them. Therefore, we have paid particular attention to the potential impact of the Proposal on UK-focused commercial providers.

BBC acquisitions

- 2.37 The other main competition concern raised in response to the BBC PIT consultation was the potential for adverse effects from changes in the BBC’s approach to acquisitions. The BBC PIT submission describes a concern that were it to increase the amount of acquired content on BBC iPlayer, this could inflate the price of acquisitions for other broadcasters, and may not align with the BBC’s Mission to be distinctive.³⁶ The BBC sets out in the BBC PIT submission that it is not proposing any change to its current position on acquisitions

³⁵ Under the [Operating Framework for the BBC](#) we are required to undertake a further assessment (including a public consultation) of whether the proposed change is material at such time as the BBC has carried out a PIT on the proposed change and published it. This assessment is therefore without prejudice to any future assessment made following a PIT.

³⁶ BBC, October 2022. [BBC Public Interest Test Submission](#), Sections 4.3.2 and 4.3.3.

and that acquisitions “will continue to make up a small proportion of content available on BBC iPlayer”.³⁷

- 2.38 We note the BBC set out that acquired TV programmes and films made up 6.4% of available hours on BBC iPlayer in 2021/22 and that its top five acquired titles accounted for 2.6% of BBC iPlayer viewing. The BBC also states that acquisitions have never made up more than 5% of the BBC’s public service expenditure on TV content.³⁸
- 2.39 We recognise that BBC acquisitions are an important area for stakeholders. Therefore, we reiterate that were the BBC to consider making changes to its approach to acquisitions on BBC iPlayer in the future, it would need to consider whether they are material under the regulatory framework, being mindful of the risk of a negative impact on fair and effective competition. We have recently consulted on new requirements for the BBC to report in detail on the role acquisitions will play in its plans to deliver distinctive output as part of a new BBC Operating Licence, which would increase transparency.³⁹ This would enable us – and stakeholders – to monitor changes in this area that may impact competition and consider regulatory action if necessary.

Other theories of harm

- 2.40 We have not considered any other theories of harm in detail. The BBC has stated that it is not proposing changes to the 12-month standard availability of programmes approved in 2019, or to the terms of trade for producers and business arrangements for other rightsholders.⁴⁰ Therefore it states that where it publishes more returning series as full series boxsets, keeps non-returning series on BBC iPlayer for longer, or publishes more archive series, it will do so under the terms agreed with Pact and underlying rightsholders.⁴¹ The BBC also states that the Proposal will apply to all the implementations of the BBC iPlayer app across all c.20,000 devices on which it is available, with no discrimination between platforms, so there does not appear to be a risk of crowding out elsewhere in the supply chain.⁴²
- 2.41 Some stakeholders raised concerns with the BBC about the potential impact of the Proposal on the secondary commercial market. Specifically, that increased content on BBC iPlayer would reduce the market for programmes and lead to removal of that content from third party services or a reduction in pay TV viewing (through the same content being available on BBC iPlayer).⁴³ However, we have not seen evidence to suggest that BBC archive content is a crucial input to any of its rivals, such that changes to its availability

³⁷ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 4.3.3.

³⁸ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 4.3.3.

³⁹ Ofcom, 2022. [Modernising the BBC’s Operating Licence](#).

⁴⁰ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 4.6.3.

⁴¹ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 1.2.

⁴² BBC, October 2022. [BBC Public Interest Test Submission](#), Section 4.6.3. Note: This specifically references the BBC iPlayer app and not the browser version of BBC iPlayer. However, the BBC PIT also states: “The BBC will not discriminate between platforms or implementations of BBC iPlayer” and therefore we assume this will also include BBC iPlayer accessed through a browser.

⁴³ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 4.6.2.

would significantly adversely affect fair and effective competition. We also note the constraints on the archive content that the BBC will be able to add to BBC iPlayer as set out in the BBC PIT submission, which includes the fact it will not have or control the rights for some of the programmes (and where this is the case, it will be subject to commercial negotiation).⁴⁴

- 2.42 We have not received evidence to date from stakeholders on any other potential risks to competition.

The nature of the change we are assessing

- 2.43 To assess materiality, we need to consider a firm proposal, including in relation to scale (for example, in terms of financial resource, reach and amount of content) and timescales for implementation.⁴⁵
- 2.44 The BBC describes the Proposal as giving it the flexibility to publish full series boxsets for any new and returning programmes and any other archive title, with no fixed or pre-determined constraint on the number of hours or type of archive content that will be added. However, the BBC is also clear that although it has a significant archive, the actual increase in content on BBC iPlayer will be limited by a number of constraints including control of rights⁴⁶ as well as operational and financial constraints.⁴⁷
- 2.45 In its assessment, the BBC concludes that the level of market impact estimated by its models is incapable of having a significant adverse impact on fair and effective competition, even with a six-fold increase in archive content. Further, it argues that its econometric modelling provides evidence that “even in the absence of the operational and financial constraints the BBC faces, and were the availability of archive to be unlimited, the market impact of the proposed changes is limited”.⁴⁸
- 2.46 We do not consider it is necessary or appropriate to assess whether *any* increase in archive content would be material, as the BBC itself says the Proposal will not go this far in the next few years. We also consider that the BBC’s preferred approach of determining that there is no increase in archive content which could have a material impact on competition (and therefore the BBC can increase content free from competition regulation) would be

⁴⁴ BBC, October 2022. [BBC Public Interest Test Submission](#), section 6.5. We note the BBC also argues it does not have adequate incentive nor market power sufficient to meaningfully restrict the supply of IP as a result of the change, and the way in which it purchases content is unchanged by the expansion of BBC iPlayer.

⁴⁵ BCA guidance, paragraph 4.25.

⁴⁶ For example, the BBC states it will not have or control the rights to bring back many of these programmes, either because they were made by an independent producer who owns the IP, they were a co-production or have been sold exclusively to another on-demand service. BBC PIT Submission, Section 6.1.

⁴⁷ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 4.4.3 states that the funding for the Proposal is “within the existing budget for the BBC’s PSB TV expenditure” and “the change will represent a very modest change to allocations within that budget”. Within its plans for the next three years, which it states are inevitably uncertain given the current economic circumstances, the BBC forecasts that expenditure on BBC iPlayer archive will remain below 1% of the BBC’s total PSB TV expenditure.

⁴⁸ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 6.1.

inconsistent with the Agreement, which places an ongoing requirement on the BBC to consider whether changes it makes to its services are material.⁴⁹

- 2.47 Therefore, in order to assess materiality, we have considered how BBC iPlayer may reasonably and plausibly be expected to change over the next few years in light of the Proposal. As described above, in the BBC PIT submission, the BBC modelled two scenarios: one where it increased the amount of BBC iPlayer archive content by three times, and an increase twice this size (a six-fold increase) to demonstrate a more extreme case.⁵⁰ It stated that these scenarios are not forecasts, and are intended to model a volume significantly greater than the BBC could accomplish in the next few years, with the core estimate of 300% increase in archive content based on the BBC's views on its plans, what content the BBC believe is available in the market, and adding headroom beyond this.⁵¹
- 2.48 Given this, we consider a 300% increase in archive content provides an upper bound to assess how BBC iPlayer may realistically be expected to evolve over the next few years. Therefore, we have based our assessment of materiality on the potential impact this scale of change could have on fair and effective competition.
- 2.49 This approach is intended to provide a reasonable and realistic basis for assessing whether the Proposal is material and should therefore be subject to a BCA or Shorter Assessment. Our approach does not set a limit or threshold on how much archive content the BBC can add. However, as the BBC develops BBC iPlayer, the regulatory framework set out in the Agreement still applies and the BBC will need to consider whether any developments it wishes to make are material.⁵²

The BBC's assessment of the potential impact on competition

- 2.50 The BBC's analysis of the impact on competition consists of three models:⁵³
- a) An **uplift econometric model**, which estimates the relationship between the volume of content available on BBC iPlayer and the viewing that content receives. This is based on behavioural data collected by the BBC as the volume of content available on BBC iPlayer has increased in recent years. It uses this relationship to forecast the uplift in BBC iPlayer viewing of a further three- and six-fold increase in archive content, split by age and genre.
 - b) A **diversion econometric model**, which uses longitudinal survey data to estimate the relationship between the viewing share of BBC iPlayer archive content and the viewing

⁴⁹ As explained below, we also have some conceptual concerns around the BBC's modelling which may affect its robustness or reliability, particularly for larger increases.

⁵⁰ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 1.4.

⁵¹ BBC, October 2022. [BBC Public Interest Test Submission](#), Sections 1.4 and 6.1.

⁵² Changes to BBC iPlayer, including the amount of content on BBC iPlayer, may be incremental, and individually these changes may not be material. We recognise the potential concern that these changes add up over time to cause significant competitive impacts. Our power under the BBC Agreement to launch a BBC Competition Review ("BCR") of the BBC's public service activities allows us to investigate and take measures to address such impacts.

⁵³ BBC, October 2022. [BBC Public Interest Test Submission](#), Annex 2 - modelling.

share of competitors. It uses this relationship to forecast the loss of viewing of competitors' services resulting from the forecast uplift in BBC iPlayer viewing.

- c) A **revenue model**, which estimates the potential decline in revenues for competitors resulting from the forecast loss in viewing.

2.51 We welcome the BBC's efforts to identify the impact of the Proposal on competitors,⁵⁴ and we agree with the BBC that the results of its modelling suggest that the Proposal is unlikely to have a significant adverse effect on competition. However, the techniques used by the BBC are more complex than those used in previous BBC assessments.⁵⁵ We have only undertaken an initial review of the BBC's models, and on this basis we have not been able to satisfy ourselves of the robustness of the results for the purposes of this consultation.⁵⁶

2.52 We appreciate the difficulty of forecasting BBC iPlayer viewing and its impact on competition. However, we note that the amount of BBC iPlayer content for which viewing is being predicted (up to around 50,000 hours of content) is considerably more than the largest observation over which the uplift econometric model is estimated.⁵⁷ In general, extrapolating the impact of changes significantly beyond the observed data is less reliable.⁵⁸ The BBC also recognises this, stating that the "modelling reflects the relationship that we observe in the current usage of BBC iPlayer. We believe these relationships are likely hold to for smaller increases in volume of content. As we apply larger increases in content we cannot foresee whether the underlying relationships will change. As a result the changes to viewing could be larger (or smaller) for larger changes in the archive."⁵⁹

2.53 We also recognise that forward-looking exercises are inherently uncertain, and as the BBC recognises, require simplifications and assumptions.⁶⁰ The BBC did not include a discussion of the uncertainty surrounding its results which would have provided some insight to the robustness of the analysis. In particular, the exercise the BBC has undertaken involves many modelling choices across a number of model components, but in the BBC PIT submission the BBC presented forecasts based on one final model specification. We understand the BBC has tested different specifications, but the results were not provided.⁶¹ A more detailed discussion of the robustness checks performed, how different model

⁵⁴ Information about the BBC's work here is provided, including through annexes, on its website for its [iPlayer PIT](#).

⁵⁵ The BBC notes an alternative approach would have been to rely on bespoke survey data, but states that survey data has significant limitations when trying to assess behavioural changes, particularly in the context of expanding content availability (BBC PIT submission, Annex 2). We note that any method for assessing forward-looking effects is inherently uncertain, and so alternative approaches can provide valuable cross-checks even if they have their own limitations.

⁵⁶ The BBC shared some details of its modelling approach with us as it developed. It has also provided the final models to us and answers to a number of informal questions on their methodology.

⁵⁷ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 6.1.

⁵⁸ The BBC told us that it based its modelling choices on measures of in-sample fit and professional judgment. However, a model selected based on an in-sample measure of goodness of fit might perform poorly out-of-sample, and particularly for predictions out of the sample range. This is particularly important when considering large changes (e.g. 600%) which significantly exceed what has been observed in reality.

⁵⁹ BBC, October 2022. [BBC Public Interest Test Submission](#), Annex 2. The BBC argues it is unlikely there would be a significant change in the relationships at larger volumes given VoD viewing across all platforms (regardless of catalogue size) is skewed towards newly commissioned content.

⁶⁰ BBC, October 2022. [BBC Public Interest Test Submission](#), Annex 2.

⁶¹ For example, we do not know how the results would change under different assumptions about diminishing marginal returns of additional content in terms of BBC iPlayer viewing.

specifications performed, and how sensitive the forecasts are to these modelling choices would have been informative about how confident we can be in the forecasts.

- 2.54 Given the above, we have not been able to satisfy ourselves of the robustness of the modelling results, particularly when looking at large increases in content. Therefore, we have considered other available evidence to inform our provisional view on materiality.

Our provisional view on the potential market impact of the Proposal

- 2.55 To assess the potential risk of crowding out, we have considered how the Proposal might affect the usage of BBC iPlayer and the extent of any audience substitution that could occur, and how this could in turn affect commercial revenues. In doing this, we have been mindful of recent and ongoing market developments, recognising that this is not a new or embryonic market segment.⁶²
- 2.56 Our assessment is set out below. In summary, our reasoning is as follows:
- a) We would expect an increase in viewing hours following implementation of the Proposal. It is unclear by how much, but we consider it unlikely to be proportionately greater than that which occurred following the 2019 changes to BBC iPlayer.
 - b) While the BBC is likely to draw some audiences from competitors, the impact is likely to be dispersed across a number of commercial providers, diluting the impact on individual UK commercial providers.
 - c) As a result, BBC iPlayer would need to experience a very large uplift in viewing at the expense of commercial providers to have a discernible impact on an individual commercial provider's viewing and revenue.
 - d) This seems unlikely given BBC iPlayer currently accounts for a relatively small share of total viewing of audio-visual services and market developments mean it is likely to be hard to gain significant viewing share. This view is supported by the impact of the 2019 changes to BBC iPlayer on VoD viewing.
 - e) We therefore provisionally conclude that the Proposal is not a material change.
- 2.57 We would expect an increase in the amount of archive content on BBC iPlayer to increase viewing, as it would provide a greater breadth and/or depth of content to users. This is what happened as a result of the 2019 BBC iPlayer changes described above, where following an almost three-fold increase in content hours available between May 2019 and April 2022, viewing hours increased by around 75% (although we note other factors also contributed to this increase, including the underlying trend away from broadcast TV to online services).⁶³

⁶² BBC, October 2022. [BBC Public Interest Test Submission](#), Section 2.

⁶³ The number of average weekly signed-in accounts for BBC iPlayer increased from 6.4m in 2018/19 to 12.1m in 2021/22, and the number of average weekly streamed hours increased from 25.5m hours in 2018/19 to 44.5m hours in 2021/22. See BBC PIT submission, Section 3.1.1.

- 2.58 It is unclear by how much BBC iPlayer viewing hours would be expected to increase as a result of the Proposal. However, we expect the percentage increase in BBC iPlayer viewing to be smaller than that which occurred following the 2019 changes for the following reasons.
- 2.59 As discussed above, our assessment of materiality considers the potential impact of a 300% increase in archive content over the next few years, which we consider to be an upper bound for how BBC iPlayer may realistically be expected to evolve over this period. Such an increase would be similar to the percentage change in available content since the 2019 changes.
- 2.60 However, we would expect the additional archive content under the Proposal to have a smaller marginal (per additional hour) impact on viewing than content added since the 2019 changes. The BBC notes the increase in available content following the 2019 changes was primarily driven by the increase in standard availability of programmes from 30 days to 12 months and the availability of boxsets of returning series.⁶⁴ Only a very small proportion of the additional hours were pure archive titles (i.e. titles no longer in commission and more than 12 months old). While the Proposal will also increase availability of complete boxsets for returning series (and there could be other archive series which are particularly attractive to some audiences), overall we would expect additional archive content to have diminishing widespread appeal. This reflects the following:
- a) We would generally expect the more popular content to already be on BBC iPlayer.⁶⁵
 - b) Archive content is – in general – unlikely to be as attractive to audiences as newer content, which is a key draw to platforms.⁶⁶ This effect is reflected in the fact that archive content (as defined by the BBC in the BBC PIT submission, i.e., any content older than 12 months) accounted for c.49% of BBC iPlayer content⁶⁷ but only around 30% of BBC iPlayer viewing in 2022.⁶⁸
 - c) Even within archive there is likely to be some variability. This is because this definition of archive content includes some comparatively newer content and boxsets of content which is still being commissioned, which tend to be more popular. Pure archive content

⁶⁴ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 3.1.1.

⁶⁵ In describing its modelling approach, the BBC states that it considers that the best performing content is already available on BBC iPlayer, which means that, all else being equal, it would expect the next tranche of content to have lower viewing performance than content currently on BBC iPlayer. BBC PIT submission, Annex 2. We also note it argued that constraining the BBC's archive is more likely to create an incentive to concentrate on identifying those titles with the greatest audience potential. BBC PIT submission, Section 4.2.3.

⁶⁶ For example, Ofcom research shows that the most popular reason for using PSB BVoD services is 'to catch up on programmes missing on live TV' (63% of respondents), while 'to access older or archive programmes' is the fourth most popular reason (35% of respondents). See [Ofcom Media Nations 2022](#), Figure 48. The importance of new content is also reflected in the strategies of VoD services, for example there has been an increase in the volume of originals and exclusives available among SVoD providers (as discussed below), and ITV has announced it is going to invest more in digital-first content (BBC PIT submission, section 1.1). The BBC also notes the importance of first-run programming in the BBC PIT submission, Section 6.1.

⁶⁷ BBC PIT submission, Section 6.1.1. We note Ampere Analysis data suggests a larger share of BBC iPlayer content is more than 12 months old.

⁶⁸ BBC System data used by the BBC in its diversion modelling.

which is no longer commissioned is likely to attract lower levels of viewing, in part because it is less likely to benefit from the same levels of active promotion. Therefore, adding lots of archive content – if of diminishing value to users – does not necessarily translate into proportionately more viewing (particularly when increasing content can make it harder for people to find).⁶⁹

2.61 Therefore, we would expect an increase in viewing hours following implementation of the Proposal but consider it unlikely to be proportionately greater than that which occurred following the 2019 changes.

2.62 We recognise that the increase in BBC iPlayer viewing is likely to attract audiences from commercial providers, which could in turn affect their revenues. However, the impact of the Proposal is likely to be spread across a wide range of services, diluting the impact on any individual commercial provider. This reflects the fact that many users view content from a range of providers, including linear, other BVoD and/or other SVoD services, with significant overlap in reach:⁷⁰

- a) **Other linear services (including BBC channels)** – most people watch a mix of linear TV and online services, with 84% of regular BBC iPlayer users also watching linear TV on a weekly basis.⁷¹
- b) **Other BVoD and SVoD services** – most people use both SVoD and BVoD services, with the average number of VoD platforms used being 4.4.⁷² There is a high degree of overlap between use of BBC iPlayer and other BVoD and SVoD services, with 71% of weekly BBC iPlayer users also viewing content on an SVoD each week and 72% also using at least one BVoD other than BBC iPlayer each week.⁷³ There are also other free-to-view video services regularly used by viewers, with YouTube the second most popular free-to-view service for watching programmes, films or other video content (used by 56%).⁷⁴
- c) **Other audiovisual and non-audiovisual services** – there is also likely to be overlap with other audiovisual services (for example, short-form content on YouTube, Facebook and TikTok is increasingly popular⁷⁵) and/or other activities, although these are likely to be less close substitutes to BBC iPlayer given the different characteristics of these services.

⁶⁹ Amazon Prime Video’s decision to significantly reduce its library size since 2020 as it trims “the long tail of content that has little appeal to viewers” appears to be consistent with this (although we note that its library size remains larger than BBC iPlayer). Source: Ampere Analysis report, ‘Amazon Prime Video culls its US catalogue’, November 2021.

⁷⁰ Our analysis found that average viewing per day across all devices is split across a number of platforms including live TV, recorded playback, BVoD, SVoD, YouTube and other video (Ofcom Media Nations 2022, Figure 3). The BBC also argues that BBC iPlayer competes in a wide, but differentiated, marketplace that includes other BVoD services, SVoD services and linear TV, as well as other services like gaming and audio (BBC PIT submission, Section 6.2.1).

⁷¹ IPA TouchPoints wave 1 2022.

⁷² Ofcom VoD Survey 2022.

⁷³ IPA TouchPoints wave 1 2022.

⁷⁴ Ofcom Media Nations 2022, Figure 13.

⁷⁵ Short-form video was watched by a third (32%) of online adults in Great Britain aged 15+ daily in Q1 2022, with viewing skewing more to younger audiences. Ofcom Media Nations 2022, p.24.

- 2.63 Therefore, given this overlap in usage, we would expect audiences to be drawn from a wide range of services.⁷⁶ This will include the BBC’s own linear channels as it retains audiences as they move online (indeed, this is one aim of the BBC’s strategy for BBC iPlayer⁷⁷), which has no impact on the viewing of commercial providers.
- 2.64 We recognise that some of the services above are closer substitutes for BBC iPlayer than others (and this could vary by user), so the impact is unlikely to be uniform across all commercial providers.⁷⁸ While some variability is likely, it seems unlikely that the impact will be highly concentrated on any specific commercial provider. This is because the Proposal as described by the BBC is broad in terms of the range of potential archive content which could be added and is not targeted at a particular segment of viewers.⁷⁹ The requirements of the Mission and Public Purposes as well as the Operating Licence also provide some protection from a more concentrated impact (as, for example, they require the BBC to serve all audiences with diverse and distinctive content).
- 2.65 Therefore, where previously we might have expected viewing gains by the BBC to come predominantly from UK-based commercial providers, the evidence above suggests this is no longer the case. Where viewing does come from competitors, the impact is likely to be dispersed among a large competitor set, including global SVoD services (who are at lower risk of being crowded out as discussed above). This has the effect of diluting the impact on individual UK commercial providers. As a result, BBC iPlayer would need to experience a very large uplift in viewing that occurred at the expense of commercial providers to have a discernible impact on their viewing and revenue.
- 2.66 A very large uplift in BBC iPlayer viewing at the expense of commercial providers seems unlikely given that BBC iPlayer currently accounts for a relatively small share of total viewing of audiovisual services (approximately 3% in 2021) and market developments mean it is likely to be hard to gain significant viewing share.⁸⁰ In particular, the BBC faces a number of domestic and large global VoD competitors which have been investing in and developing their platforms to attract and retain audiences as viewing increasingly moves from linear to online, and the Proposal is reflective of these wider market developments. In this context we note that:
- a) on-demand streaming services now form an integral part of the PSBs’ strategies, as they attempt to maintain revenues and compete for audiences with online streaming

⁷⁶ This is consistent with MTM research commissioned by the BBC as part of its PIT which shows that among respondents who said they would use BBC iPlayer more because of the change, some people estimated they might use a wide range of other VoD services less and/or are less likely to spend time watching other linear channels as a result. Slides 52-54, BBC/MTM research.

⁷⁷ BBC, May 2022. [Plan to deliver a digital-first BBC](#).

⁷⁸ We note this is consistent with the BBC’s analysis and modelling which found variability in impact, with diversion greatest from non-VoD (including other BBC services), and the diversion from VoD greatest from Netflix and Amazon Prime Video, followed by All4.

⁷⁹ The risk of a concentrated impact is likely to be higher where changes are focused on a particular segment currently served by individual commercial provider(s), meaning the viewing substitution is more concentrated.

⁸⁰ Ofcom analysis based on BARB data.

platforms as linear viewing declines.⁸¹ To make their services competitive and appealing to audiences other BVoD platforms have been increasing their library sizes with more of their back catalogue and ‘box sets’, improving functionality of these services, and adopting digital-first strategies to retain audiences;⁸² and

- b) the most popular global players have much larger libraries than BBC iPlayer and are perceived to have better recommendations.⁸³ Among SVoD providers, there has been an increase in the volume of originals and exclusives available (up 22% in the year to April 2022), reflecting its importance in attracting subscribers.⁸⁴ As well as new SVoD services launching since 2019 (e.g. Disney+), an increasing number of streaming providers are also adopting hybrid models for either ‘freemium’ or tiered propositions, as the maturing market has prompted providers to look at new ways of generating revenue.⁸⁵

- 2.67 In light of this, it seems unlikely that the Proposal would significantly uplift BBC iPlayer viewing at the expense of commercial providers (particularly UK platforms), such that its overall share of viewing increased substantially. We also note that in changing the library size, the BBC states that it will be subject to periodic negotiations with rightsholders and market availability, which – combined with similar market developments we observe by commercial providers – is likely to reduce the risk of any rapid (and irreversible) impacts.
- 2.68 Given the above, we consider that any impact on commercial providers’ viewing – and therefore revenues – is likely to be relatively limited.
- 2.69 This view of the potential impact on viewing is supported by the impact of the 2019 changes to BBC iPlayer on VoD services. Despite a significant increase in absolute viewing hours, there appears to have been a limited impact on the BBC’s share of VoD viewing, which has been fairly stable over time.⁸⁶ Therefore, to the extent the increase in available content increased viewing of BBC iPlayer, it appears to have allowed the BBC to largely keep pace with overall VoD viewing growth rather than make significant gains at the expense of commercial providers.
- 2.70 We also note that the previous change does not appear to have had a significant crowding out effect. Commercial providers have continued to invest in their services and push their digital strategies following the 2019 changes, and we are not aware of any evidence of crowding out from that change. In fact, investing in VoD is a strategic priority for some of

⁸¹ We expect this online focus to continue into the long-term, with ITV and Channel 4 having announced a focus on digital growth.

⁸² Ofcom Media Nations 2022, p.56 and p.71.

⁸³ BBC, October 2022. [BBC Public Interest Test Submission](#), Figure 4. The BBC’s research found that users (particularly 16-34s) often describe Netflix as their ‘go-to’ service because of its recommendations (among other factors) and states that better recommendations is considered to be an area where BBC iPlayer could improve. BBC PIT submission, Section 3.1.2 and 5.5.2.2.

⁸⁴ Ofcom Media Nations 2022, p.38.

⁸⁵ For example, an increasing number of SVoD services are starting to incorporate advertising into their offerings. Ofcom Media Nations 2022, p.36.

⁸⁶ Our analysis of IPA TouchPoints data shows that since 2018 the BBC’s share of VoD viewing has been relatively stable over time. Other BVoD market shares have also been relatively stable over this period. There has been more volatility amongst SVoDs (e.g. recent fall for Netflix, rise for Disney+). Ofcom analysis of IPA TouchPoints data.

the PSBs, and they are continuing to focus on delivering digital growth.⁸⁷ Further, we note that although BBC iPlayer remained the most popular PSB BVOD service, the other BVODs also increased their reach over the same period despite these changes to BBC iPlayer, and their share of VoD viewing has also been relatively stable.⁸⁸ The BBC also argues the digital performance (both operational and financial) of UK PSBs has improved over this period.⁸⁹

- 2.71 Therefore, while there could be changes in absolute viewing hours and revenues for commercial providers as a result of the Proposal, we think the impact is likely to be relatively limited.

Overall conclusion on materiality

- 2.72 In reaching a provisional conclusion on whether the Proposal is material we have considered a range of factors as set out above. Taken overall, our provisional view is that the Proposal is not a material change. This is because we have not seen evidence to believe there is a reasonable prospect of the Proposal having a significant adverse impact on fair and effective competition from crowding out. This view is based on available evidence and how BBC iPlayer is expected to develop over the next few years. As such, we would welcome evidence from stakeholders on the views expressed above, particularly if they disagree with our provisional view.
- 2.73 As noted above, our approach to assessing the materiality of a plausible outcome from the Proposal over the next few years does not place limits on the BBC's ability to go further than what we have considered. However, any changes will continue to be subject to the regulatory framework – i.e., the BBC would need to consider whether any change to the service is material, and if so, conduct a PIT. We recognise that as a result, similar future changes may be more incremental in effect, and so may never be material individually. However, even in such a scenario, we have the ability to launch a BCR (see above) if we are concerned that a BBC public service activity is having a significant adverse impact on fair and effective competition, even if individual changes have not warranted a BCA or Shorter Assessment. We are also currently consulting on introducing additional reporting requirements into our new Operating Licence, these requirements would improve the ability of Ofcom and stakeholders to monitor significant changes to the BBC's output.

⁸⁷ ITV will launch ITVX – its integrated AVoD/SVoD platform – in late 2022 as part of its digital-first content strategy ([ITV plc Annual Report and Accounts for the year ended 31 December 2021](#), p.8). Similarly, Channel 4's Future4 strategy aims to prioritise digital growth over linear ratings, with the goal of doubling All 4 viewing by 2025 ([Channel Four Television Corporation Report and Financial Statements 2021](#), p.21).

⁸⁸ BBC iPlayer was used by 32% of adults (up from 27% in 2017), ITV Hub/STV Player was used by 15% of adults (up from 11%), All4 11% (up from 8%) and My5 7% (up from 4%). IPA TouchPoints wave 1 2022. The largest SVoD services have also increased reach and viewing hours over the same period. Ofcom Media Nations 2022, Figure 10 and Figure 44. VoD viewing shares based on Ofcom analysis of IPA TouchPoints data.

⁸⁹ BBC, October 2022. [BBC Public Interest Test Submission](#), Section 1.1.

Consultation question 2: Do you agree with Ofcom’s initial assessment that the Proposal is not material? If you disagree, please provide any evidence supporting your reasoning.

Consultation question 3: If you consider that the Proposal is material, please explain whether you consider Ofcom should undertake a BCA or a Shorter Assessment of the Proposal.⁹⁰

Next steps

- 2.74 We will publish our conclusions on or before 30 November 2022 as to materiality and whether further assessment is therefore necessary.
- 2.75 If we conclude that the Proposal is material, we will also outline, at that point, the type of further assessment we plan to conduct, either a BCA or a Shorter Assessment, and commence that assessment at that point. We will consult again with stakeholders during our BCA or Shorter Assessment before reaching a decision.
- 2.76 If we conclude that the Proposal is not material, we will notify the BBC and it may then proceed to implementation.

⁹⁰ See paragraphs 4.35 and 4.36 of our BCA guidance.

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 14 November 2022.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/review-proposed-increase-archive-content-on-bbc-iplayer>. You can return this by email or post 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 BBCiPlayerAssessment@ofcom.org.uk, as an attachment in Microsoft Word format, together with the [cover sheet](#).
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- BBC iPlayer assessment
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files; or
 - upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential).
- A1.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt of a response submitted to us by email.
- A1.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 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.
- A1.10 If you want to discuss the issues and questions raised in this consultation, please contact by email to BBCiPlayerAssessment@ofcom.org.uk.

Confidentiality

- A1.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish responses on [the Ofcom website](#) at regular intervals during and after the consultation period.
- A1.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.14 To fulfil our pre-disclosure duty, we may share a copy of your response with the relevant government department (the Department for Culture, Media and Sport (DCMS)) before we publish it on our website.
- 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 by the end of the year.
- 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:

Corporation Secretary
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
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 an overview of no more than two pages. We will try to make it as easy as possible for people to give us a written response.
- 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 the responses on our website at regular intervals during and after the consultation period. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A3. Consultation coversheet

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

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

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? _____

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

DECLARATION

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

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

Name

Signed (if hard copy)

A4. Consultation questions

A4.1 Ofcom invites third parties to respond to the questions set out below. Please provide Ofcom with available supporting evidence where possible.

Question 1: Do you agree with the BBC’s assessment in the BBC PIT submission about the market impact of the Proposal? If you disagree, please provide any evidence supporting your reasoning.⁹¹

Question 2: Do you agree with Ofcom’s initial assessment that the Proposal is not material? If you disagree, please provide any evidence supporting your reasoning.

Question 3: If you consider that the Proposal is material, please explain whether you consider Ofcom should undertake a BCA or a Shorter Assessment of the Proposal.⁹²

⁹¹ Should Ofcom conclude that the Proposal is material, stakeholders will be given the opportunity to comment on the BBC’s assessment (in the BBC PIT submission) about the potential public value of its Proposal, as part of the BCA or Shorter Assessment process.

⁹² See paragraphs 4.35 and 4.36 of our BCA guidance.