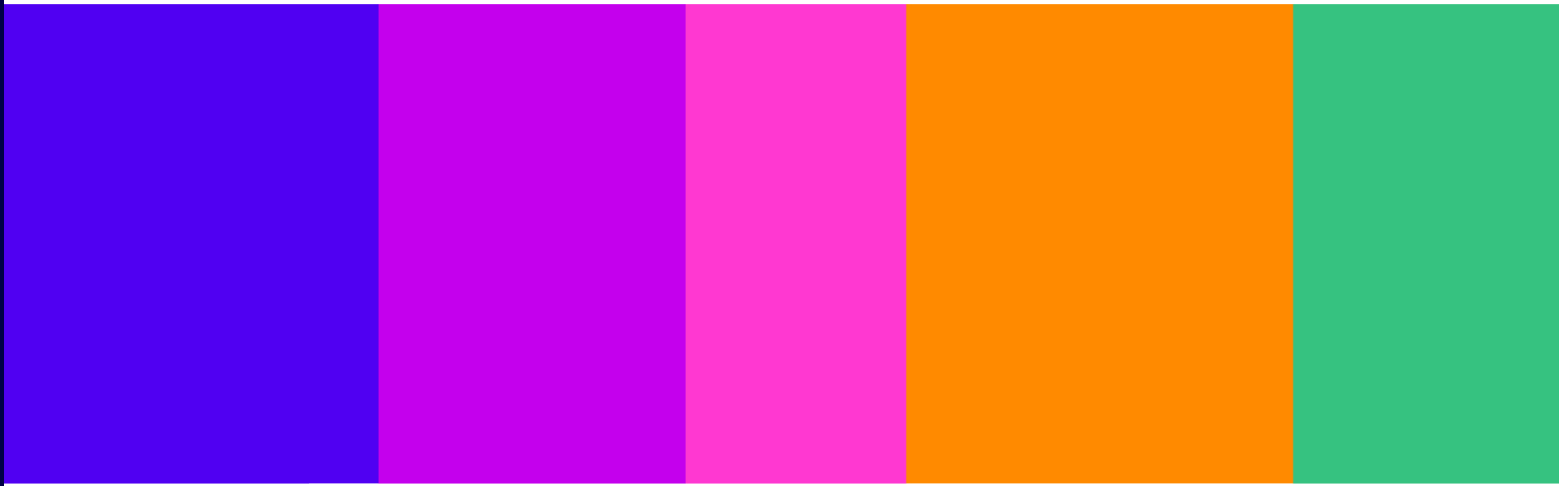


BBC Radio Cymru 2

Final determination

Statement

Published 18 January 2024



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1. Overview

- 1.1 The BBC has proposed to extend the number of originated Welsh-language hours offered by BBC Radio Cymru 2 so that it becomes a new UK Public Service. As required by the BBC Charter and Framework Agreement ('Agreement'), we are required to consider the BBC's proposal. Our role is to assess the impact of the BBC's proposals on competition and consider whether the public value justifies any adverse impacts that we identify.
- 1.2 We received three responses to our consultation. None of the responses disagreed with our preliminary determination's conclusions that the proposal was unlikely to have an adverse impact on fair and effective competition and that the BBC may proceed with its change. Alongside our assessment we considered what Operating Licence conditions to impose on the new service.

What we have decided – in brief

We have decided the BBC may proceed with its proposal to extend the hours of BBC Radio Cymru 2 so that it becomes a UK Public Service in its own right. Having considered the responses to our consultation and with regard to our relevant duties under the Communications Act 2003 and BBC Charter and Agreement, our conclusion that the additional public value of the proposal justifies the likely impact on the market is unchanged. We remain of the view that the proposal could deliver additional public value, particularly for audiences of Welsh-language content aged 25-54 years who are less fluent in the Welsh-language. It is unlikely to have an impact on radio in Wales overall and on the vast majority of commercial radio stations that offer Welsh-language content. The impact on Capital Cymru is unlikely to result in it exiting the market or significantly reducing its investment in this service.

We have decided to place Operating Licence conditions on the service. These ensure it delivers: content of interest and relevance to audiences in Wales; music of relevance for audiences in Wales; and regular and daily news bulletins. The BBC must also set out its plans for delivering news bulletins on the service and report to Ofcom its intended frequency of these. We require the BBC to report on compliance with the conditions with its Annual Report.

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

2. Competition assessment

Our consultation

The BBC's Public Interest Test

- 2.1 The BBC is proposing to extend the number of originated Welsh-language hosted hours broadcast on BBC Radio Cymru 2. It believes this would ensure audiences across Wales are better served having access to Welsh-language programming for the majority of their day and giving them the opportunity to listen to and learn more of the Welsh language. The proposed service would target Welsh speakers and individuals keen on listening to Welsh-language content between the ages of 25 to 54, particularly Welsh-language speakers with lower levels of fluency. The service would be broadcast across Wales using Digital Audio Broadcasting ('DAB'). It would also be available online through BBC Sounds and other online apps, smart speakers, and digital TV.
- 2.2 The BBC's plan for the service proposes:
- Extending the number of originated Welsh-language hosted hours from 25 to 61.5 hours per week.
 - A total station content and operating costs budget of £420,000 per annum, a £10,000 increase on BBC Radio Cymru 2's current budget. The BBC will fund the extension through the reprioritisation of funding from BBC Radio Cymru. The BBC states this will not impact the provision of the BBC Radio Cymru service.
 - A combination of presenter-led content and pre-recorded playlist shows. BBC Radio Cymru 2 would become an 18.5 hour a day radio station operating from 5.30am to midnight each day.
 - BBC Radio Cymru 2's language of presentation would be wholly Welsh and at least 50% of its music would be Welsh-language in aggregate and in each programming block.
 - News bulletins scheduled for 8am, 9am, 10am, 11am and midday.
- 2.3 The proposal does not impact our Operating Licence conditions for BBC Radio Cymru.
- 2.4 At the end of July 2023, the BBC published a [consultation](#) on its proposals for BBC Radio Cymru 2. Following this, the BBC published [the results of its PIT](#) on 27 September 2023 which set out its proposals in more detail and responded to stakeholder comments on its consultation.¹ This document confirmed the BBC Board's view "that all elements of the Public Interest Test are met" and that the proposed service "will contribute to the fulfilment of the Mission and the promotion of the Public Purposes, create high public value in Wales, and will not have a significant impact on fair and effective competition".²
- 2.5 The BBC's assessment laid out the benefits of extending BBC Radio Cymru 2's originated hours for its audiences, the Welsh community and the Welsh language music industry within its public value framework. It identifies five areas where public value will occur:
- Better serving audiences in Wales
 - Increased volume of Welsh-language content

¹ Responses from stakeholders to the BBC's consultation are published on the BBC's website; [BBC Board Decision on BBC Radio Cymru 2 Public Interest Test](#)

² [BBC Public Interest Test](#), 6.4 Our conclusions

- Welsh language take-up
 - Increasing audience reach
 - Supporting Welsh-language music recording industry
- 2.6 The BBC’s assessment also considers the possible impact of its proposal on fair and effective competition. The BBC concludes that the proposals for BBC Radio Cymru 2 will have:
- An insignificant impact on commercial local and network radio in aggregate in Wales;
 - A negligible impact on those stations with some Welsh-language programming: Capital North West & Wales (North Wales Coast opt), GHR South Wales, Radio Pembrokeshire or Radio Carmarthenshire; and
 - Some potential impact on Capital Cymru, but not to the extent of crowding out³ Capital Cymru.
- 2.7 In the light of this, the BBC concludes that the increased hours will not have an adverse impact on fair and effective competition on other commercial Welsh-language radio or other commercial radio in Wales.

Our shorter assessment

- 2.8 If the BBC Board concludes that a PIT has been satisfied, Ofcom must carry out its own assessment of the proposal before a change can be implemented. Our assessment must take the form of either a BBC Competition Assessment (‘BCA’) or a shorter assessment (see Annex 1 for more detail on our role in assessing the BBC’s PIT).
- 2.9 In September we [consulted](#) on our intention to undertake a shorter assessment of the BBC’s PIT. We said we intended to undertake a shorter assessment because we were satisfied that the BBC has provided potentially affected parties a suitable opportunity to comment on the BBC’s PIT and that the nature of the market analysis the BBC has undertaken of the potential impact of the proposed change on fair and effective competition is appropriate and proportionate.
- 2.10 Our shorter assessment that followed was informed by the BBC’s PIT, its economic modelling and the qualitative research commissioned by the BBC supporting its public value assessment. We also took account of the consultation responses to the BBC’s PIT consultation, our own [consultation on our approach to the competition assessment](#), informal discussions with interested parties and additional analysis of RAJAR data. We explored current market context, analysed the BBC’s conclusions on public value and market impact, and reached a preliminary determination.
- 2.11 We publicly consulted on our shorter assessment’s [preliminary determination](#) at the end of 2023. In this section we outline our conclusions from our preliminary determination, our consideration of the consultation responses and our final determination.

³ ‘Crowding out’ considers whether the proposed change to BBC services causes the reduction of commercial providers’ revenues and profits to such an extent that these providers significantly reduce their investment in new or existing services. In the most extreme cases, commercial operators could cease providing services altogether.

Public value

- 2.12 Under the Agreement, it is for the BBC to secure the effective fulfilment of its mission and promotion of its Public Purposes, and therefore it has responsibility to shape the public value aspects of the proposal. Our role is to review the BBC's public value case. As such we are principally testing and reviewing the BBC's assessment of the proposed change, rather than conducting our own analysis.
- 2.13 Accordingly, we did not seek to determine whether the BBC could have delivered greater public value by changing aspects of its proposal. Instead, we considered whether the analysis conducted by the BBC is reasonable, robust and objective, and whether the interpretation of the evidence is credible.

Better serving audiences in Wales

- 2.14 We agreed with the BBC's assessment that the proposal for increased hours on BBC Radio Cymru 2 would better serve audiences in Wales. The offer will differ substantially from the current programming on BBC Radio Cymru and the high proportion of Welsh-language music proposed, from a diverse range of Welsh-language artists including a 'new music' category, will be a key aspect of the service. This focus on Welsh-language music provides an opportunity for the BBC to engage a different Welsh-language audience to BBC Radio Cymru, and in doing so should support Welsh-language listeners in the targeted younger age demographic who want to engage with Welsh-language radio and music in particular.
- 2.15 Our analysis of RAJAR data confirmed that individuals living in Wales aged 25-54, which the BBC is targeting, are likely underserved by the existing BBC Radio Cymru service compared to older groups. In particular, we noted that 44.5% of radio listeners in Wales are aged 25-54, but only 36.0% of BBC Radio Cymru/Cymru 2's listeners are in that age range.⁴
- 2.16 We stated the proposal should also better serve people living outside the more densely populated parts of Wales. Our analysis showed that commercial and community radio stations do not cover all of Wales, and particularly in large parts of the less densely populated rural areas. While there are parts of Wales without digital reach, and the proposed service will not be available on AM/FM, increasing the hours of BBC Radio Cymru 2 will increase the Welsh-language content for those who live in areas that have digital or DAB reach. It will also provide additional Welsh-language music programming at times when commercial stations are not broadcasting in the Welsh language.
- 2.17 We welcomed the BBC's commitment to simulcast regular news bulletins from the BBC Radio Cymru service, that could deliver increased social value for audiences against Public Purpose 1.⁵ We also considered that regular daily news bulletins could bring additional personal value to the target audience, who are less likely to tune into BBC Radio Cymru and are therefore currently receiving less news in Welsh.

Increased volume of Welsh-language content

- 2.18 We considered that the additional hours of Welsh-programming proposed for BBC Radio Cymru 2 should provide Welsh-language listeners with a distinctive service and greater

⁴ Please note we were unable to isolate Welsh-speakers in RAJAR so this analysis refers to listeners in the 25-54 age group.

⁵ BBC PIT, Annex 2: Summary of Radio Cymru 2's schedule under proposed extension

choice. We were satisfied that providing a minimum of 50% Welsh-language music for all programming blocks (both the presenter-led and the playlist shows) and in the aggregate as well as 100% Welsh speech would likely deliver personal and social value for people in Wales interested in Welsh-language content and contribute to the delivery of Public Purpose 4. We considered that these proportions would offer a distinctive service and meet the expectations of the target audience, in particular the less fluent Welsh-speakers and those that are keen to develop their learning of the Welsh language.

Welsh language take-up

2.19 We stated that the Welsh language is a significant distinguishing characteristic of the people of Wales and agreed with the BBC's view that the proposal has the potential to support Welsh-language speakers keen to improve their fluency, particularly if the programming is used and enjoyed by listeners as an additional resource to assist their learning. We agreed that expanding hours of BBC Radio Cymru 2 should provide more Welsh-language content targeted towards younger individuals, with lower levels of fluency, that BBC Radio Cymru attracts fewer of and caters to less.

Increasing audience reach

- 2.20 We agreed that the increase in hours may mean the proposed service can reach new audiences and therefore could see some uplift in the future. We considered that this would increase public value by bringing targeted Welsh-language content to audiences not already accessing this, or accessing less of it than they would be without the service.
- 2.21 Our analysis indicated that the launch of BBC Radio Cymru 2 as an opt in 2018 did not materially increase the reach of BBC Radio Cymru and BBC Radio Cymru 2. We also noted that more recently, following the increase in radio listening during the Covid-19 lockdown, the reach of BBC Radio Cymru and BBC Radio Cymru 2 has been in decline.⁶
- 2.22 We stated that, while the proposed service has the potential to reach and serve new Welsh-language listeners, we expect the service might draw most of its increased listenership from BBC Radio Cymru which has seen overall listening decline. Given this, we would not expect there to be a material increase in overall audience reach of the BBC's Welsh-language radio stations.

Supporting Welsh-language music recording industry

2.23 We considered it is reasonable to expect that additional broadcasting of Welsh-language music may have a positive impact on the Welsh-language recording industry, by encouraging more people to listen to and purchase the work of Welsh language artists, to attend their gigs and to support the development of new talent. However, we also stated that without quantitative evidence or modelling it is not possible to estimate the value of this potential industry impact.

Overall change in public value

2.24 We agreed that the proposal will generate additional public value. The distinctive nature of BBC Radio Cymru 2 could attract new listeners to Welsh-language radio content. There may

⁶ RAJAR

be some foregone public value when consumers switch from another BBC service and/or the BBC reduces spend on existing services as a result of this proposal. However, in this case:

- a) We agreed that the additional budget for BBC Radio Cymru 2 would not have a significant impact on BBC's overall ability to offer its services to audiences since it represents a small proportion of BBC Radio Cymru's overall budget.
- b) We expected the proposed service might draw most of its increased listenership from BBC Radio Cymru, and so there is likely to be some foregone public value from these listeners. However, we stated these listeners will gain additional personal value from listening to BBC Radio Cymru 2.
- c) We stated that some of the increased listenership would come from other commercial and community radio stations, and this could also be a source of foregone public value. We considered that the limited overlap in Welsh-language scheduling and the distinctive nature of content on BBC Radio Cymru 2 would likely mean that BBC Radio Cymru 2 will largely complement any public value that is delivered by commercial and community radio stations.

Market impact

- 2.25 We assessed whether the BBC has conducted a reasonable, complete and objective assessment of its proposal on fair and effective competition. In particular, we considered the BBC's assessment of the impact of extending BBC Radio Cymru 2's hours on radio services within Wales as a whole and on radio services with Welsh-language propositions.
- 2.26 We agreed with the BBC that the increase in hours for the proposed BBC Radio Cymru 2 service will likely attract more listeners to this service, but we expected that this increase will be small relative to the overall audience figures within Wales. This is consistent with our observations that total reach of BBC Radio Cymru/Cymru 2 has remained relatively flat following the launch of BBC Radio Cymru 2 in 2018 and its listening figures have declined more recently.
- 2.27 We agreed that the potential impact of this change will be greater on commercial radio stations that offer Welsh-language content as BBC Radio Cymru 2 will be a closer substitute to these stations. However, with the exception of Capital Cymru, we noted that the proposed change to the schedule of BBC Radio Cymru 2 does not overlap with the Welsh language programming of these radio stations. As such, we did not consider that the proposal will have a significant impact on these radio stations.
- 2.28 We did however consider that this proposal could have a relatively larger impact on Capital Cymru than other commercial radio stations as the expanded schedule of BBC Radio Cymru 2 will overlap with the Welsh language programming on this radio station. We stated it is difficult to predict how and to what extent Capital Cymru listeners might change their listening habits in response to the extended hours on BBC Radio Cymru 2. However, we agreed with the BBC that there are several factors that could mitigate and/or limit the potential impact of this proposal on Capital Cymru's listening figures and revenues. For example, we recognised that BBC Radio Cymru 2 offers a higher proportion of Welsh music across all time slots and offers a larger number of Welsh artists with more recent music tracks than Capital Cymru. Given these factors, we considered that any impact on Capital Cymru's listening – and therefore revenues – is unlikely to be significant and agreed that the

proposal is unlikely to result in Capital Cymru exiting the market or significantly reducing its investment in this service.

- 2.29 Overall, we considered that the BBC has conducted a sufficiently robust assessment of the potential impact of this proposal and that the potential impact of this proposal on fair and effective competition (and the degree of crowding out) will likely be limited. We therefore considered that the proposed changes are unlikely to have a significant adverse impact on fair and effective competition.

Preliminary determination

- 2.30 In our preliminary determination, we agreed that the proposal could deliver additional public value to Welsh-language listeners in the form of additional Welsh-language content and to a different audience to that of existing services. This would also provide more content for less-fluent Welsh-language listeners and those who have an interest in learning the Welsh language.
- 2.31 We concluded that the impact on fair and effective competition is likely to be limited as this proposal will unlikely have an impact on radio in Wales overall and the vast majority of commercial radio stations that offer Welsh-language content. We did however consider that this proposal could have a relatively larger impact on Capital Cymru than other commercial radio stations but this is likely to be limited given the considerable differences in their content offerings.
- 2.32 We therefore provisionally concluded that the additional public value justifies the limited adverse impact on fair and effective competition. Our provisional determination was therefore to approve the BBC's proposal.

Responses to our consultation

- 2.33 We received three responses to our consultation.⁷ The BBC and National Union of Journalists ('NUJ') agreed with our conclusion that the BBC should be able to proceed with its proposal to extend the hours of BBC Radio Cymru 2 so that it becomes a UK Public Service in its own right.
- 2.34 The BBC considered "Ofcom's reviews of our public value and market impact assessments robust and thorough, it welcomed "Ofcom's provisional determination that the additional public value of extending Radio Cymru 2's originated hours justifies the limited adverse impact on fair and effective competition". The BBC agreed with Ofcom's conclusion that the proposal has the potential to deliver significant public value for listeners of Welsh-language content and those interested in the Welsh language. It also agreed with Ofcom's conclusion of the market impacts; that this proposal is unlikely to have a significant adverse impact on competitors. It noted Ofcom's analysis included community radio stations and explained it didn't include community radio in its assessment because they do not subscribe for the RAJAR industry survey and are not-for-profit and so have strict limits on the amount of income they can make from advertising. It agreed with Ofcom that even taking these stations into account the proposals were unlikely to have a significant impact on them and

⁷ Consultation responses are published here: [Consultation: The BBC's proposals for BBC Radio Cymru 2 - Ofcom](#)

will deliver public value, “particularly for audiences that receive only Radio Cymru 2 and no community radio offering Welsh-language”.

- 2.35 The NUJ welcomed the BBC’s proposed expansion of BBC Radio Cymru 2 as “a welcome addition to the media offering for people of Wales”. It agreed with the conclusions of our competition assessment. It thought Ofcom was correct to conclude the station could compete with Capital Cymru in the area of Wales it operates. However competition could be positive in that the stations “should aim to grow audiences by serving them well”. It raised its concern about the funding of the extension; given the BBC’s overall budget has decreased in the past decade.
- 2.36 Radiocentre did not directly comment on our competition assessment however it set out its recommendations to the BBC’s PIT consultation that Ofcom should set Operating Licence conditions similar to those for BBC Radio Cymru (with the additional focus on consistency of Welsh-language music output) to ensure the service remains distinctive and does not have an impact on fair and effective competition. In Section 3 we consider the comments we received about our proposed Operating Licence conditions and confirm our decision.

Our final determination

- 2.37 Having considered the consultation responses and having regard to our relevant duties under the Communications Act 2003 and the BBC Charter and Agreement, our view, as set out in our preliminary determination conclusions is unchanged. We remain of the view the additional public value that the proposal brings justifies the limited adverse impact on fair and effective competition. Our final determination is that the BBC may proceed with its proposal to extend the hours of BBC Radio Cymru 2 so that it becomes a UK Public Service in its own right.

3. Operating licence

Our consultation

- 3.1 Under the [Charter](#) and [Agreement](#), Ofcom is required to set an [Operating Licence for the BBC's UK Public Services](#). The Agreement creates obligations on Ofcom to set certain licence conditions for the BBC, and enables us to impose such further regulatory conditions as we consider appropriate for requiring the BBC, in carrying out the UK Public Services, to fulfil the Mission⁸ and promote the Public Purposes,⁹ and to secure that the audiences in the UK's nations are well served.¹⁰ We can amend the Operating Licence following consultation with the BBC and any person we consider appropriate. We have regard to the "procedures for setting and amending the Operating Licence" in proposing the conditions in our consultation.¹¹
- 3.2 We considered in our consultation what proposed changes to the Operating Licence were appropriate to impose on the new BBC Radio Cymru 2 service, if approved, in the light of our duties in the Charter and Agreement. We also set out in our consultation where we did not propose securing other considerations through an Operating Licence condition.
- 3.3 We proposed adding BBC Radio Cymru 2 to the services listed in our Operating Licence conditions 4.51 (to provide content of interest and relevance to audiences in Wales) and 4.52 (on all services that provide music specifically for audiences in Wales). This is because this content would contribute to the delivery of Public Purpose 4 for people in Wales and, as a new service specifically for people in Wales, we considered that it should also contribute to the delivery of these conditions.
- 3.4 We proposed setting an Operating Licence condition to secure news bulletins on the service because the BBC plays an important role in keeping audiences across the UK informed with up to date and accurate news. We said that providing high quality, trusted and accurate news is central to the BBC's remit and the promotion of Public Purpose 1.
- 3.5 In proposing a condition on news provision we took into account the distinctive features of the service and how, for its target audience, it would provide an alternative to Welsh-language content on BBC Radio Cymru as well as commercial and community radio stations that are available only in some locations in Wales. As BBC Radio Cymru 2 intends to broadcast pre-recorded music playlists that are at least 50% music in the Welsh-language, we recognised there would be times in the schedule, namely weekday afternoon 'drive-time' slots and Sundays, when news bulletins would be less frequent.
- 3.6 Our proposed condition for news bulletins included an exception to frequency for only this proposed service (compared to our other UK public radio services that are subject to

⁸ The BBC's mission is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain (article 5 of the Charter)

⁹ The Public Purposes of the BBC are 1) to provide impartial news and information to help people understand and engage with the world around them; 2) to support learning for people of all ages; 3) to show the most creative, highest quality and distinctive output and services; 4) to reflect, represent and serve the diverse communities of all of the UK's nations and regions and, in doing so, support the creative economy across the UK; and 5) to reflect the UK, its culture and values to the world (article 6 of the Charter).

¹⁰ As required by article 46 of the Charter

¹¹ Agreement, clause 13

providing news bulletins ‘regularly at frequent intervals throughout the day’ in our Operating Licence)¹² to take account of the periods in BBC Radio Cymru 2’s schedule where news bulletins become less frequent so that it provides the additional Welsh-language music content. We considered that this offer would better serve the target audience of the service than the alternative of simulcasting BBC Radio Cymru during these periods. Such simulcasting would alter the genre-mix and nature of BBC Radio Cymru 2.

3.7 We proposed setting a reporting requirement on the BBC to set out with its Annual Plan how it will deliver news bulletins on BBC Radio Cymru 2. We proposed this must include the expected frequency of news bulletins and it must inform Ofcom if there is significant change in the year to these timings. Regularity of news bulletins for this service would mean throughout the day Monday to Saturday and in the morning on Sundays. We proposed simulcasting news bulletins is permissible in delivering this condition.

3.8 We therefore consulted on the following conditions:

4.51 In relation to each of BBC iPlayer, BBC Sounds, the BBC Website, BBC One Wales, BBC Two Wales, BBC Radio Wales, BBC Radio Cymru and **BBC Radio Cymru 2**, the BBC must provide content of interest and relevance to audiences in Wales, including a broad range of content which reflects Wales’ culture.

4.52 In complying with condition 4.51, in relation to each of BBC Sounds, BBC Radio Wales, BBC Radio Cymru and **BBC Radio Cymru 2**, the BBC must provide music of particular relevance to audiences in Wales.

4.58A. In respect of **BBC Radio Cymru 2**, the BBC must ensure that it provides daily and regular news bulletins Monday to Saturday and daily news bulletins on Sunday.

....

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

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

....

4.68.8 its plans to deliver news on **BBC Radio Cymru 2**. As part of this explanation, the BBC must set out planned frequency of news bulletins.

¹² Except BBC Radio 4 and BBC Radio 5 Live which are subject to different news conditions.

Responses to our consultation

- 3.9 The BBC said it thought the conditions proposed by Ofcom were “suitable and proportionate”. It also said the BBC “will set out our plans for Radio Cymru 2 in our Annual Plan as we do each year for other BBC services”.¹³
- 3.10 The NUJ agreed with our proposed Operating Licence conditions and said it welcomed our proposal that the service must provide regular news bulletins.¹⁴
- 3.11 Radiocentre was “pleased to see that Ofcom has proposed that the service contribute to the current Operating Licence conditions (4.51 and 4.52) that secure the delivery of content of interest and relevance and music of relevance to audiences in Wales”.¹⁵ It supported Ofcom’s proposals to impose an Operating Licence condition on the delivery of news and said it expected Ofcom to scrutinise the BBC’s plans for news bulletins to ensure they are “frequent enough to genuinely deliver on the BBC’s public purpose objectives”. It noted we did not propose imposing a condition on the percentage of Welsh-language music. It thought “if the BBC fails to provide sufficient transparency about the proportion of Welsh-language output or falls short of its commitment” Ofcom should reconsider whether to impose an Operating Licence condition.¹⁶

Our decision

- 3.12 Following our consideration of the consultation responses and with regard to our duties in the BBC Charter and Agreement we have decided to impose the conditions as written in our consultation and set out above. We believe that these will help ensure that the service contributes to the delivery of the BBC’s Mission and Public Purposes; in particular Public Purpose 4.
- 3.13 In relation to Radiocentre’s view that Ofcom should reconsider the Operating Licence conditions on the service should the BBC fall short of its commitment to broadcast at least 50% music in the Welsh language, as set out in paragraph 7.15 of our preliminary determination, this is something we would look at should this situation occur. As we explained in our consultation, we believe providing at least 50% music in the Welsh language is a key aspect of the service’s distinctive character and in better serving the needs of its target audience. We therefore expect, as part of approving the service, the BBC to regularly monitor the proportion of its Welsh-language music output on the service, as it already does for BBC Radio Cymru,¹⁷ to ensure it is delivering against its public commitment and so it can readily respond to an information request by Ofcom on the performance of the service.
- 3.14 Annex 2 contains a notice of variation of the Operating Licence. The new Operating Licence conditions we have decided for BBC Radio Cymru 2 will take effect from 1 April 2024. We will require the BBC to report on compliance with the conditions with its Annual Report. We also expect the BBC with its next Annual Plan to set out BBC Radio Cymru 2’s plans for delivering content of interest and relevance and music of relevance to people in Wales, as well as its plans to deliver news on the service and its frequency.

¹³ [BBC response to our consultation](#)

¹⁴ [NUJ response to our consultation](#)

¹⁵ [Radiocentre response to our consultation](#)

¹⁶ Ibid

¹⁷ BBC PIT, at 5.3 the BBC notes that approximately 66% of Radio Cymru’s music is Welsh-language

A1. Background and legal framework

- A1.1 Ofcom’s principal duty, in section 3 of [the Communications Act 2003](#) (‘the Act’), is to further the interests of citizens in relation to communications matters and of consumers in relevant markets, where appropriate by promoting competition. In performing our duties we must have regard, among other things, to the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the UK and of promoting competition in relevant markets.
- A1.2 Ofcom’s power to regulate the BBC is derived from section 198 of the Act, which sets out that for the purposes of the carrying out of regulation of the BBC, we will have such powers and duties as may be conferred on us by or under the Royal Charter for the continuance of the British Broadcasting Corporation (‘[the Charter](#)’) and the Agreement between the Secretary of State for Culture, Media and Sport, and the BBC (‘[the Agreement](#)’). The Charter and Agreement set the BBC’s Mission and Public Purposes and the framework for Ofcom’s regulation of the BBC.
- A1.3 The Charter provides that we must have regard, in carrying out our functions, to such of the following as appear to us to be relevant in the circumstances:¹⁸
- a) the object of the BBC to fulfil its Mission¹⁹ and to promote the Public Purposes;
 - b) the desirability of protecting fair and effective competition in the United Kingdom; and
 - c) the requirement for the BBC to comply with its duties under the Charter, including its general duties.²⁰
- A1.4 The Charter and Agreement recognise that, in order fulfil its Mission and promote the Public Purposes, the BBC may need to make changes to the UK Public Services. However, to protect fair and effective competition, the BBC may only make a material change to the UK Public Services where:
- a) it has carried out a public interest test and determined that test is satisfied; and
 - b) Ofcom determines that the BBC may carry out the proposed change.²¹

The BBC’s analysis

- A1.5 The BBC must therefore initially assess whether a proposed change is material. The Agreement defines a material change as:

¹⁸ Article 45(2) of the Charter.

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

²⁰ The BBC’s general duties are set out at Articles 9 to 18 of the Charter. The Agreement also imposes certain general obligations on the BBC. These include, at Clause 61, a requirement for the BBC to do all that is reasonably practicable to ensure that viewers, listeners and other users (as the case may be) are able to access the UK Public Services that are intended for them, or elements of their content, in a range of convenient and cost effective ways which are available or might become available in the future. These could include (for example) broadcasting, streaming or making content available on demand, whether by terrestrial, satellite, cable or broadband networks (fixed or wireless) or via the internet.

²¹ Clause 7(6) of the Agreement.

- a) the carrying out of any activity as a new UK Public Service; and
 - b) any change to a UK Public Service which may have a significant adverse impact on fair and effective competition.²²
- A1.6 If the BBC considers that a proposed change is not material, it may carry out the change, unless Ofcom disagrees with the BBC on materiality. If we consider that the proposed change is material, we may direct the BBC to:
- a) carry out a public interest test and, if the test is satisfied, publish the change; or
 - b) stop carrying out the change in accordance with such directions as we consider appropriate.²³
- A1.7 In order for a public interest test to be satisfied, the BBC must determine that:
- a) the proposed change contributes to the fulfilment of the BBC’s mission and promotion of one or more of the Public Purposes;
 - b) it has taken reasonable steps to ensure that the proposed change has no unnecessary adverse impact on fair and effective competition; and
 - c) the public value of the proposed change justifies any adverse impact on fair and effective competition.²⁴
- A1.8 If the test is satisfied and the BBC wishes to implement the proposal, it must publish the proposed change and provide a copy to Ofcom.²⁵

Ofcom’s role

- A1.9 Ofcom must then assess whether the proposed change is material and, if so, decide what type of further assessment to conduct.²⁶
- A1.10 Paragraph 4.41 of Ofcom’s guidance document [Assessing the impact of proposed changes to the BBC’s public service activities](#) (‘the guidance’) sets out a non-exhaustive list of factors we may take into account when assessing the potential significant adverse impact of a change.
- A1.11 If we conclude a proposed change is not material, or six weeks pass without our informing the BBC of our view, the BBC may carry out the change.²⁷
- A1.12 If we conclude that the proposal is material, we may decide to carry out a BBC competition assessment (‘BCA’) under clause 10 of the Agreement or a shorter assessment drawing on elements of the BCA procedure. Paragraph 4.43 of the guidance explains when each type of assessment might be appropriate.
- A1.13 In carrying out a BCA or shorter assessment, Ofcom must:
- a) review the procedures the BBC has followed in carrying out the public interest test;
 - b) review the BBC’s assessment of the public value of the proposed change to the UK Public Services;
 - c) assess any adverse impact of the proposed change on fair and effective competition; and

²² Clause 7(7) of the Agreement.

²³ Clause 9(6) of the Agreement.

²⁴ Clause 8(1) of the Agreement.

²⁵ Clause 8(3) of the Agreement.

²⁶ Clause 9 of the Agreement.

²⁷ Clauses 9(3) and (4) of the Agreement.

- d) assess whether the public value of the proposed change justifies any adverse impact on fair and effective competition.²⁸
- A1.14 In our guidance document, [*Assessing the impact of proposed changes to the BBC's public service activities*](#), we explain that:
- a) a BCA is more likely to be appropriate “where a proposal raises large, complex and/or particularly contentious issues, potentially involving a number of interested parties and ways in which there may be an adverse impact on fair and effective competition”; whereas,
 - b) a shorter assessment is likely if “there is a narrower range of issues to consider,” for example where we consider the BBC’s public interest test “adequately addresses all (or most) issues”.
- A1.15 A shorter assessment considers the same four elements but we do not have to reach a conclusion on all of them.
- A1.16 Ofcom must 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 Agreement recognises that the determination will require qualitative assessments to be made and that direct comparison of factors relating to public value and factors relating to risks to fair and effective competition may not be possible.²⁹
- A1.17 At the end of the process, we will make one of four possible determinations:
- a) that the BBC may carry out the proposed change;
 - b) that the BBC may not carry out the proposal;
 - c) that the proposal may go ahead subject to conditions or modifications that we consider appropriate; or
 - d) that the BBC must reconsider elements of its public interest test or follow any further procedures we consider appropriate.³⁰
- A1.18 The determination procedure for short assessments differs from that of a BCA. In this case, we may only conclude that the BBC may carry out a proposed change, or reconsider its public interest test, or follow such further procedures as we consider appropriate. However, it would be open for us to convert a shorter assessment into a BCA if it became appropriate.
- A1.19 Ofcom may only make determinations (b) and (c) above where we have carried out a BCA and not following a shorter assessment.³¹
- A1.20 Our guidance sets out factors we expected to consider in deciding which assessment was most appropriate, including:
- the thoroughness, quality and balance of the BBC’s PIT;
 - the likelihood of an outcome other than unconditional clearance;
 - whether there is a separable element of the proposal giving rise to concern, while other elements give rise to few concerns; and
 - the proportionality of the resources required.

²⁸ Clause 10(3) of the Agreement. Section 5 of the BCA guidance explains the analytical approach we expect to apply.

²⁹ Clause 10(4) of the Agreement

³⁰ Clause 11(1) of the Agreement.

³¹ Clause 11(2) of the Agreement.

A1.21 Ofcom must complete a BCA within six months³² and a shorter assessment in less than six months.³³ In either case we will consult stakeholders before making our final determination.

Operating licence

A1.22 Under the Charter and the Agreement, we are required to set an Operating Licence ('the Operating Licence') containing a set of regulatory conditions with which the BBC must comply.³⁴ The Charter states that the Operating Licence must contain regulatory conditions Ofcom considers appropriate for requiring the BBC to:

- a) fulfil its Mission and promote the Public Purposes;
- b) secure the provision of distinctive output and services; and
- c) secure that audiences in Scotland, Wales, Northern Ireland and England are well served.³⁵

A1.23 The Agreement provides that:

- a) Ofcom must impose on the BBC the regulatory conditions set out in, and in accordance with, Schedule 2 to the Agreement;
- b) Ofcom may impose such further regulatory conditions we consider appropriate for requiring the BBC, in carrying out the UK Public Services, to fulfil the mission and promote the Public Purposes; and
- c) Ofcom may impose further regulatory conditions we consider appropriate for requiring the BBC to secure that the audiences in Scotland, Wales, Northern Ireland and England are well served.³⁶

A1.24 We may amend the Operating Licence under [our published procedures for setting and amending the Operating Licence](#) following consultation with the BBC and any person we consider appropriate.³⁷ Ofcom will do so in compliance with its consultation principles. The most recent Operating Licence was issued on 23 March 2023.³⁸

³² Clause 10(2) of the Agreement.

³³ Clause 9(2) of the Agreement.

³⁴ Under the Charter and the Agreement, Ofcom is required to set an Operating Licence for the BBC's UK Public Services. Charter, Article 46(3) and Agreement, Clause 13

³⁵ This duty is reiterated in paragraph 1(1) of Schedule 2 to the Agreement, which states that "[i]n imposing the regulatory conditions Ofcom must have particular regard to the need for the BBC to secure the provision of distinctive output and services".

³⁶ Agreement, Clause 13.

³⁷ Agreement, Clause 13(5).

³⁸ For changes to the Operating Licence see The Operating Framework webpage. For our procedures for setting and amending the Operating Licence see https://www.ofcom.org.uk/__data/assets/pdf_file/0025/107089/procedures-bbc-operating-licence.pdf

A2. Notice of variation

Notice number 1 dated 18 January 2024 to the second Operating Licence for the BBC's UK Public Services issued on 23 March 2023

Recitals

- (A) On 15 December 2016, the Government published the Royal Charter for the continuance of the BBC (“the Charter”) and the agreement between the Secretary of State for Culture, Media and Sport, and the BBC (the “Agreement”) which required Ofcom to set a licence for the BBC’s UK Public Services. On 13 October 2017, Ofcom issued the first Licence. This first Licence was subsequently amended a few times.
- (B) On 23 March 2023, Ofcom issued the second Licence for the BBC’s UK Public Services (the “Licence”).
- (C) In accordance with Clause 80 and 13(5) of the Agreement, Ofcom’s “Procedures for setting and amending the operating licence” published on 13 October 2017 (the “Procedures”) and its consultation principles, Ofcom considered it appropriate in the circumstances to consult publicly, on 18 November 2023, on the BBC’s proposal to extend the number of originated Welsh-language hours offered by BBC Radio Cymru 2 so that it becomes a new UK Public Service. Alongside our assessment of the BBC’s request, we considered, if we approved the service, what Licence conditions we should impose for BBC Radio Cymru 2 and proposed consequential amendments to the Licence.
- (D) Ofcom has considered all the responses to the consultation.
- (E) Following consultation, on 18 January 2024 Ofcom published a statement setting out our decision to approve the BBC’s proposal to make a new UK Public Service (the “Statement”).
- (F) For the reasons set out in the Statement, Ofcom has decided that it is appropriate to amend the Licence.

NOW THEREFORE, the Licence shall be varied in the following manner:

1. Replace the existing text of condition 4.51 with the following:
“In relation to each of **BBC iPlayer, BBC Sounds, the BBC Website, BBC One Wales, BBC Two Wales, BBC Radio Wales, BBC Radio Cymru** and **BBC Radio Cymru 2**, the BBC must provide content of interest and relevance to audiences in Wales, including a broad range of content which reflects Wales’ culture.”
2. Replace the existing text of condition 4.52 with the following:
“In complying with condition 4.51, in relation to each of **BBC Sounds, BBC Radio Wales, BBC Radio Cymru** and **BBC Radio Cymru 2**, the BBC must provide music of particular relevance to audiences in Wales.”
3. After condition 4.58, insert new condition number 4.58A as follows:
“In respect of **BBC Radio Cymru 2**, the BBC must ensure that it provides daily and regular news bulletins Monday to Saturday and daily news bulletins on Sunday.”
4. After condition 4.68.7, insert new condition numbered 4.68.8 as follows:

“its plans to deliver news on **BBC Radio Cymru 2**. As part of this explanation, the BBC must set out planned frequency of news bulletins.”

This Variation to the Licence shall come into force on 1 April 2024

SIGNED FOR OFCOM ON 18 JANUARY 2024

A handwritten signature in black ink, appearing to read 'S & W', followed by a period.

Siobhan Walsh
Broadcasting and Media Interim Group Director, Ofcom