

Chris Rowsell
Controller, Regulation
BBC Policy

14 November 2023

Dear Chris,

Transfer of audio production activity

Thank you for providing us with the BBC's materiality assessment in relation to the proposed partial transfer of audio production activity from the UK Public Services to BBC Studios, the BBC's commercial production and distribution arm.

As you know, under the BBC's Charter and Agreement, in the first instance it is for the BBC to consider whether a proposed change such as this to its commercial activities is material. A change is defined as material if it involves:

- (a) carrying out of a new type of activity as a commercial activity; or
- (b) a significant change to the BBC's commercial arm, *and*
- (c) where there is a significant risk that the change may, as a result of the relationship of the activity with the UK Public Services distort the market or create an unfair competitive advantage.

While there is no process under the Charter and Agreement for Ofcom to formally approve materiality assessments, should the BBC conclude a proposed change to its commercial activities is non-material and then implement the change without Ofcom providing a view, the BBC runs the risk that we reach a different view (i.e. that it is material). In these circumstances, Ofcom has the power to direct the BBC to freeze the change and carry out a commercial test.

We therefore welcome the opportunity to review the BBC's assessment of this proposed change, which you have concluded is non-material, and appreciate the engagement we have had with you and your team in responding to our follow-up queries.

We have considered the assessment having had regard to our operational and financial separation requirements, which apply to the BBC's commercial and trading activities. Based on the evidence available to us on the scope of the proposed partial transfer as well as the procedures and controls that will be in place around governance, information-sharing and transfer-pricing, we agree that the proposed change will not result in a significant risk of market distortion or unfair competitive advantage as a result of BBC Studios' relationship with the Public Service.

We note that the BBC is still finalising the details of some additional minor changes as part of this transfer. We would appreciate an update should any matters of substance change in your plans. We would also encourage the BBC to provide as much information as it is able to on its plans to interested stakeholders.

Yours sincerely,

Ali-Abbas Ali