



Ofcom's proposed annual plan 2019/20

BBC Response

8 February 2019

General comments

The BBC welcomes the opportunity to comment on Ofcom's plan for the year ahead. The BBC is keen to engage to ensure the best outcome for licence fee payers.

We are encouraged that Ofcom's proposed annual plan, as with its first Annual Report on the BBC, recognises the rapidly changing and challenging environment in which the BBC operates. Ofcom's annual plan also recognises the improvements we are trying to make to our on-demand offer to meet audiences' changing needs. As Ofcom stated in its first BBC Annual Report, the BBC 'needs to take significant steps to address this issue, to ensure it delivers content that appeals in ways that suit and reflect young people's viewing and listening habits'.

The BBC has long recognised that we must become more nimble and evolve our services to best serve the licence fee payer and deliver on our mission and public purposes. Our intent has been demonstrated clearly over the last year through our steps forward with BBC Sounds and with BBC iPlayer. Regulation also needs to keep pace with the changing market context and not place unnecessary impediments to development in this fast changing environment. We recognise the need for regulation given our publicly-funded position. However, regulation should focus on protecting fair and effective competition, not individual competitors or limiting the ability of the BBC to compete.

On 7 January, we published a consultation on our proposals to improve the BBC iPlayer for licence fee payers.¹ As the viewing habits of audiences increasingly move from linear to on demand the service that the BBC offers for the licence fee must adapt to reflect the expectations and demands of licence fee payers. These proposals are essential to the BBC continuing to serve audience and give value for all licence fee payers. Currently we expect that we will refer the Public Interest Test to Ofcom in early 2019/20. We expect that Ofcom will want to reference its subsequent review – whether a BBC Competition Assessment or shorter assessment – in its final annual plan. Ofcom will need to ensure it is adequately resourced and has the right procedures in place to be able to deliver within the timeframe specified under the BBC Charter and Agreement or, given the ongoing pace of change in the market, at a faster pace where, as in this case, it has committed to do so.

Our Annual Plan for 2019/20 will set out greater detail on our continued development across all areas of the BBC. We will keep Ofcom advised of any significant activity as we finalise our plan for the year ahead, so where possible these can be factored into its planning. The remainder of our response is structured around Ofcom's stated key themes.

¹ [BBC iPlayer proposals: Public Interest Test consultation](#), February 2019.

Promoting competition and ensure that markets work effectively for consumers

We welcome Ofcom's continuing commitment to ensure that markets work in the interests of consumers.

As part of this work we look forward to continued constructive engagement with Ofcom on its **review of BBC Studios**. We note that the scope for this review is clearly defined by the Agreement, which sets out that:

“Where a new commercial subsidiary of the BBC of significant size is established to carry out the activity of making television programmes, Ofcom must, within two years of its establishment, consider whether to carry out a review on whether the activity the subsidiary carries out meets the requirements of the trading and separation rules.”²

Clearly the scope of such a review is therefore limited to an assessment against Ofcom's own trading and separation requirements and guidance for the BBC. We have some concerns about how Ofcom would in practice conduct such a review of BBC Studios production arm next year, specifically in the context of Ofcom's imminent revisions to these trading and separation requirements. Any review carried out by Ofcom in the coming financial year would inevitably be assessing the way in which BBC Studios had met the requirements of a set of trading and separation rules that had been superseded by Ofcom's new requirements. It may be a more advisable and efficient use of Ofcom's resources to postpone this review to a later date to enable a review against Ofcom's new requirements.

Securing standards and improving quality

We welcome Ofcom's continued support for Public Service Broadcasting and its intention to start scoping the forthcoming **PSB review**. Ofcom's proposed study on **Audience expectations in a digital world** is a positive step in this direction given the rapid evolution of traditional broadcast markets and the need for new regulation in this area. This will also be useful in supporting Ofcom's **review of the EPG code and the future of PSB prominence**, and we await Ofcom's recommendations with interest.

We firmly believe that diversity both on air and off makes fundamentally better content and that new technology should mean that content is more accessible to all of our audience, not less so. We therefore welcome Ofcom's continued focus on diversity across the media industry, in particular:

² [Agreement between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation](#), December 2016.

- Ofcom's **diversity and equal opportunity reports**, the second on the radio industry and the third such report in Television.
- Ofcom's project on **Increasing the accessibility of TV and on-demand programme services**. The development of standards in the provision Access Service online is crucial to ensure that digital technology delivers for all users. Through the operation of iPlayer and the BBC's suite of online services we have much learning to share with Ofcom.

Ofcom's recent consultation on its **Review of regional TV production and programming** is a positive step to ensure application of the Ofcom's criteria reflects the original policy objective to stimulate and strengthen production outside of London. The BBC has been working with other PSB and is keen to engage with Ofcom to ensure a workable solution.

The importance of Ofcom's activities in collecting and monitoring the industry through reports such as the **Communications Market Review** and **Media Nations** should not be understated. Ofcom should consider carefully the provision of this analysis, the underlying datasets and not let its move to interactivity undermine the quality and usefulness of these outputs.

In assessing how we are delivering on our Mission and Public Purposes we hope Ofcom builds on the lessons learnt from its first Thematic Review of the BBC as Ofcom scopes and develops its **review of the BBC's news and current affairs output**. The BBC's role in providing impartial news and information to help people understand and engage with the world around them is more important than ever in the digital age. We are keen to engage with Ofcom and demonstrate how we meet these challenges.

Other areas

Outside of broadcast we are pleased to see Ofcom continuing to develop access and speeds in both mobile and fixed line telephony. Millions of BBC viewers, listeners and readers utilise BBC services over IP every day. Continued investment in the infrastructure underpinning speed, consistency and continuity of these services ensures a platform for competition within the creative industries and beyond.

We welcome Ofcom's commitment to work with Government on transposing relevant European legislation into national law. For the BBC, updated rules on access, especially ex ante competition tools and must carry, are important so that the UK has a fit for purpose toolkit to secure distribution of all services to licence fee pays should commercial negotiations fail, including on-demand and interactive services like BBC iPlayer and Red Button+.

Equally, the Audiovisual Media Services Directive is an important step in rebalancing regulation across all providers to improve protections for audiences and support investment in UK content. In this respect we welcome Ofcom continuing to cooperate with other international regulators to share best practice and seek consistent regulation

for industry and protection for audiences, since audiovisual platforms and devices are increasingly global.