

Your response

Question	Your response
<p>Question 1: What are stakeholder views on how Ofcom should assess and measure BBC performance?</p>	<p>The Advisory Committee for Scotland (ACS) is one of a number of committees and advisory bodies, established under the Communications Act (2003) to inform the work of the Ofcom Board and Executive. The ACS is one of four committees representing each of the UK's nations, specifically to <i>'advise Ofcom about the interests and opinions, in relation to communications matters, of persons living in Scotland.'</i> Therefore, in the responses below, comments highlight specific considerations particular to Scotland wherever possible. This submission draws on the knowledge and expertise of ACS members and is informed by our individual experience and through discussion at our meetings. It does not represent the views of Ofcom or its staff.</p> <p>We welcome the opportunity to respond to this consultation. In our response to the Small Screen; Big Debate consultation (SS:BD) we recognised the important position that public service media has within our society and we particularly noted the important part that the BBC plays in this ecology. However, we also recognised the ever-changing world that PSMs and the BBC are now operating within and the challenges that this is bringing. We therefore agree that this review of the Operating Licence is timely and much needed. The Operating Licence and Framework is the key tool which will enable Ofcom to effectively regulate the BBCs activities, ensuring that it fulfils its Missions and Public Purposes.</p> <p>However, as part of this consultation, we would suggest that Ofcom must anticipate an ongoing need for further review, allowing this licence and its conditions to reflect what is happening in the sector. Even since the SS:BD discussions, the market has changed and there are changes still to come. Within the next two years, it is possible that C4 will be privatised. It is possible the funding for the BBC will be completely different. It is possible that new technological advances will allow all UK households to be online. Ofcom and the BBC will both need to be vigilant and</p>

innovative in order to anticipate how best to serve audiences, as competitors and market changes challenge the status quo.

In terms of this consultation, we agree that the three areas highlighted (online, flexibility and transparency) are particularly important and need now to be reflected in a new Licence.

In the section within the consultation '*Holding the BBC to Account*', the process of assessment and monitoring is outlined in some detail. However, the timelines involved are challenging and we question whether these are achievable.

Within the draft Licence the commitment by the BBC is to;

'publish an annual plan for each financial year, in advance of the period to which it relates, which must include (amongst other things) the creative remit for that year, the work plan for that year, and provision for the United Kingdom's nations and regions.'

The consultation further suggests that the BBC needs to give '*more comprehensive reporting on its plans and reporting.*' The new framework therefore requires more detail than before, in keeping with the overall desire for more flexibility and transparency.

As outlined by the 'reporting cycle' this annual plan is then assessed by Ofcom which in turn publishes its own report. At the end of the year in question, this is followed by a BBC annual report. We challenge whether this reporting cycle will allow Ofcom to truly assess the BBC plans and give time to intervene, if necessary.

The planning, budgeting, commissioning, production and scheduling of content can be extremely lengthy and things can go wrong, delaying production and broadcast. The preparation of such a detailed annual report will be time consuming and by the time it is published, it is questionable as to what realistically could be changed.

The BBC have already alluded to this as quoted within the consultation .

'The BBC also emphasised that such stepping in must be proportionate, used as a last resort and that the BBC must not be subject to unnecessary delays in executing its plans.'

Whilst we recognise the commitment by Ofcom for constant engagement and monitoring, we are concerned that this planning and reporting cycle will not allow proper assessment and option of intervention.

We would suggest that Ofcom and the BBC could consider a rolling three or five year plan, with annual updates/amendments. A three or five year planning cycle, we believe, would better reflect the needs of the BBC and allow greater scrutiny by Ofcom. Annual updates/amendments would give the BBC the flexibility to respond to market changes. This would also lessen the considerable internal commitments from both the BBC and Ofcom for a detailed annual cycle.

Linked to this review of the Operating Licence and Framework there should be consideration of the measurement framework that Ofcom will use in the future. As digital becomes a key element to the BBCs delivery for audiences, we would like understand how digital will be measured. Barb has been traditionally a gold standard of measurement for broadcasters. There needs to be the same confidence in whatever system is used across the board for online.

Within this move to a more flexible service is a platform neutral delivery model. Whilst understanding the logic behind this, as in our response to the SS:BD consultation, we would recommend caution in the transition from on air to online.

The linear channel system is currently the framework which brings society together, allowing enjoyment and engagement with content at the same time as the rest of the country. These 'appointments to view' can be entertainment, news or drama but their impact is enhanced by the knowledge that others are watching at the same time, allowing further engagement through social media channels. This

	<p>is a key advantage to current linear offerings and should complement a digital service.</p> <p>Whilst we support a service neutral framework, the balance has to be struck to ensure all audiences can engage in their preferred way. We noted previously in our SS:BD submission that there are learnings from other industries here who have moved away from face to face and telephone customer services and have forced customers online; this consumer pressure is not appropriate when considering PSM and could be detrimental particularly to vulnerable groups. In Scotland, available superfast broadband coverage is at 94% however only 68% have taken it up. The situation continues to improve, as there is ongoing commercial investment and public schemes supported by the Scottish, UK and local government, but it remains the case that a number of people will still find it challenging to access TV service, particularly in the more rural isolated communities across Scotland.</p> <p>It is also recognised that the traditional channels have an older audience, less likely to be online and it is imperative that this elderly group, and addition vulnerable groups are not left behind.</p> <p>We would therefore recommend that this transition and service neutral delivery does not disadvantage those that will still rely on traditional broadcasting methods.</p>
<p>Question 2: Do you agree with the proposals for Public Purpose 1? If not, please explain why.</p>	<p>In general we agree with the proposals outlined for Public Purpose 1</p> <p>However we note that a reference to ‘factual programming’ has been lost. In the current Operating Licence, the BBC has an obligation to:</p> <p><i>provide a significant level of news, current affairs and factual programming across its full range of services and platforms, and seek to reach and serve all audiences with this output;</i></p> <p>In the introduction to Public Purpose 1, within the proposed draft, there is a reference to news, current affairs and factual programming. However, this reference to factual programming is lost in the translation into the objectives. We would suggest that this should be carried over</p>

	<p>into the objectives to reiterate the breadth and depth of provision that the BBC need to commit to.</p>
<p>Question 3: Do you agree with the proposals for Public Purpose 2? If not, please explain why.</p>	<p>We agree with the proposals for Public Purpose 2</p>
<p>Question 4: Do you agree with the proposals for Public Purpose 3? If not, please explain why.</p>	<p>We note the suggested changes outlined in the draft operating licence but highlight the risk associated with replacement of quotas for at-risk programming (both on air and on radio) with broad range commitments, supported by transparency requirements.</p> <p>At-risk programming is at-risk for a variety of reasons. It can expensive, it can deliver small, niche audiences, it often has no commercial on-sale value. However, it is rated highly by audiences, gives a service its distinctiveness and lies at the very heart of public service broadcasting</p> <p>Whilst we are supportive of more flexibility in relation to content decision making within the BBC, in this new licence arrangement the onus will lie on Ofcom to ensure that the required range and diversity in programming is delivered for all audiences. Whilst the BBC will have the responsibility of delivering a detailed and public Annual plan, it is unlikely that many stakeholders or members of the public will engage with it in detail. It therefore will be down to Ofcom to ensure that the plans are acceptable and deliver for all audiences.</p> <p>This is a real risk that needs to be acknowledged and Ofcom needs to ensure and be convinced that they have enough safeguards in place so that this area of programming does not become of a casualty of reduced budgets.</p> <p>The information in the BBC annual plan therefore needs to be clear and timely, in order to allow Ofcom to intervene, if necessary. Early assessment and monitoring of this area within the annual plan will be the main safeguard for these at risk areas and we would therefore urge Ofcom,</p>

	<p>as outlined in our response to Question 1, to carefully consider the Operating Licence cycle and whether there will be sufficient time to intervene and adjust, if necessary.</p> <p>We also raise the challenge of changing to a service neutral delivery pattern. Again, whilst supportive of giving the BBC the flexibility they need to respond to market trends and follow their audiences, this does leave the main network channels in a possibly precarious position in the future. If more first run material is premiered online, the linear main channels may become starved of new material. Their first run quotas may become increasingly difficult to deliver. The spread of the new content then becomes important, allowing the BBC to follow audience behaviour without leaving anyone behind or disadvantaged</p>
<p>Question 5: Do you agree with our preliminary view on the BBC's request to change Operating Licence conditions 2.21 and 2.32 for BBC Four, including our proposal to remove BBC Four's peak original productions quota and set the 'all hours' quota at 65% instead of 60% as requested by the BBC? If not, please explain why.</p>	<p>We agree on these proposals relating to BBC Four</p>
<p>Question 6: Do you agree with the proposals for Public Purpose 4? If not, please explain why.</p>	<p>Within the new proposals for Public Purpose 4, there are a number of key areas that we will respond to individually.</p> <p>We support the requirements outlined in the draft Licence for the BBC to be more transparent regarding diversity, representation and portrayal. It is important the they clearly lay out their plans on how they will improve representation of different geographic and demographic communities throughout the UK. Only 55% of audiences in Scotland believe that they are authentically represented by the BBC and it is important as a result of this review, the BBC lay out plans on how to change that and how they will monitor success.</p>

We agree that the quotas (hours and spend) for production of tv and radio in the nations and regions should remain at 50%. However, as the Agreement between the BBC and the DCMS has been amended in May 2022, with a target of 60% by 2027, we would anticipate that 50% is a floor and that this will increase to 60% over the next 5 years.

We agree that the quota (hours and spend) for network production made in Scotland is retained at 8%. However, again as the overall amount of production increases as per the DCMS agreement, we would expect the % of spend to increase accordingly.

We agree with the intention to retain radio speech quotas as outlined in the draft licence.

We agree with the replacement of a quota for BBC Alba to provide content aimed at Gaelic learners with a detailed and transparent condition.

Our biggest concern is around the intention to replace the non-news and non-current affairs quotas on the BBC's opt-out services for the nations with a condition to provide this output and transparency requirements.

As outlined in our response to SS:BD we believe that there are certain areas of content that will only be delivered through the intervention of quotas. Non-news and non-current affairs programming made in and for the nations and regions is one such area.

To remove this quota seems to fly in the face of many recent commitments from the BBC to enhance their position in the nations and regions. Indeed the most recent BBC strategy announcement committed to:

'getting closer to audiences across the UK¹¹

and to increased investment in the nations and regions. We believe that without quota intervention, content like this will inevitably decrease. This area of programming is at-risk. It can be expensive, niche and not commercially

<https://www.bbc.com/mediacentre/2022/bbc-annual-plan-2022-2023>

attractive and therefore as pressure increases, as budgets and services are cut and as new licence arrangements are made it is very likely this area (without a quota) will reduce. With the relaxation of intervention in this area, on other PSBs, this happened. The BBC is the only broadcaster in Scotland which has this commitment to local non-news and non-current affairs.

We believe that there are two main risks associated with this change.

Firstly, the key risk is that audiences are underserved. As mentioned, audiences in Scotland already feel disconnected from the BBC. Without a broad range of content, reflecting their lives on the main BBC channels, this will only increase. The BBC Scotland channel is obviously available to Scottish audiences but the reach and audiences so far are very small and for non news programming to make an impact, it needs the shop window of BBC 1 or 2 in Scotland. It would also be worrying if, in the future, the BBC Scotland channel was seen as the only home for Scottish content. It is important for Scottish audiences to see local content sitting alongside network content to prevent any suggestion of first and second class services.

Secondly, the removal of this quota will directly affect the production sector within Scotland. This area of programming is key for new and small independents working in Scotland. It is through these smaller commissions that newer companies gain experience which may eventually lead to a network commission. The BBC in Scotland and C4 are the key commissioners for this group. For this commitment to programming to reduce and with the possible changes to C4, there is a real and tangible accumulation of risk to the Scottish sector.

We appreciate the need for the BBC in Scotland to have flexibility (one of the key principles behind the review) but we do not believe that there are enough safeguards around this area of programming to secure it for the future.

	<p>We note that within the other area of retained quota (network programming from Scotland) two measurements are used – hours and spend. Whilst Ofcom cannot decide how the BBC should best spend their budget, this does set a precedent which could be mirrored here. Could there be an option of removing the hour commitment for non news and non current affairs quota for the opt out services for the nations and regions but introducing a spend commitment (at the current 2022 spend level?) This would give the BBC the editorial flexibility to deliver content that they believe will work for their audiences but retain the level of current investment, thereby securing work for the independent sector.</p> <p>For this committee, this is an area of real concern and we would urge Ofcom to consider how best to safeguard this area of programming for future Scottish audiences</p>
<p>Question 7: Taken together, do you agree with the proposals for a new Operating Licence? If not, please explain why.</p>	<p>As outlined earlier, we are in agreement on the need to review the Operating licence and welcome the work and research that Ofcom have committed to this so far. However there are significant challenges in this transition to a more outcomes focussed and platform neutral world that need further consideration and possible further safeguards</p>