



The BBC's response to Ofcom's consultation *Modernising the BBC's Operating Licence*

Consultation response

6 October 2022

Table of Contents

1. Introduction and background	3
1.1 Ofcom’s overall approach to modernising the Operating Licence	3
1.2 Market Context	4
1.3 Financial Context.....	5
1.4 The BBC is driven by its public service mission.....	6
2. Impartial news and information.....	8
2.1 BBC Network TV	8
2.2 BBC Network Radio	8
2.3 BBC Online	9
3. Learning for people of all ages	10
4. Creative, distinctive, quality output and services	11
4.1 BBC Network TV	11
4.2 BBC Network Radio	12
4.3 BBC Online	12
5. Reflecting, representing and serving the UK’s diverse communities	13
5.1 Workforce diversity reporting.....	13
5.2 Representation and portrayal.....	13
5.3 National and regional content.....	14
6. Other points for Ofcom’s consideration	17
6.1 Timing of publications.....	17
6.2 Timing of the new Operating Licence.....	17
Annex 1 – The BBC Radio 5 Live news and current affairs quota	19
Annex 2 – BBC Radio 2’s live music quota	25
Annex 3 – Programmes of a national and regional interest	30

1. Introduction and background

1.1 Ofcom's overall approach to modernising the Operating Licence

The BBC is a public service mission-driven organisation. Our 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. Our guiding principle is providing the best value for audiences in exchange for the Licence Fee.

The BBC has an exceptional compliance record with the Operating Licence. Of approximately 150 conditions¹, with the exception of the impact of the pandemic we have missed only three conditions since the new Licence came into force in 2017. In fact, in most cases the BBC's delivery significantly exceeds the minimum required by the Operating Licence. For example, for the 103 conditions in the Operating Licence that are output quotas, in our most recent reporting period, we exceeded the minimum requirement in 95% of cases, and in 33% of cases the 'over delivery' was more than 25%. This clearly demonstrates that the BBC's delivery of the mission and public purposes is intrinsic, rather than merely a response to the Operating Licence.

We welcome Ofcom's three main principles for the updated Operating Licence:

- **To incorporate the BBC's online service:** Ofcom has set out that it intends to hold the BBC to account for its online delivery to audiences, as well as giving it greater recognition for the contribution of online delivery to the BBC's mission and public purposes;
- **To give the BBC more scope to determine how to meet audience needs:** Ofcom recognises that quotas do not capture aspects of the BBC's delivery such as quality and innovation. Ofcom also notes that quotas can limit the BBC's ability to respond quickly to changing audience preferences. Ofcom plans to replace some quotas with new conditions where it considers that flexibility might enable the BBC to better serve audiences, but to retain quotas where it thinks they are still needed; and
- **To require greater transparency from the BBC:** Ofcom proposes that the Operating Licence requires the BBC to set out specific information within its Annual Plan and Annual Report, including its plans for hours of output where Ofcom proposes to remove quotas.

Our overall view is that the proposed updated Operating Licence is a balanced but stretching document which reflects the system of governance and regulation enshrined by the new Charter and Agreement.

We are also committed to adapting in order to succeed in a busy, global media market. Under the digital-first strategy, announced in May 2022, the BBC has the ambition of creating a modern, digital-led and streamlined organisation that drives the most value from the Licence Fee and delivers more for audiences. This will include changes to

¹ The number of conditions has varied slightly due to amendments to the Operating Licence.

content and services, efficiency savings and a drive to seek new commercial investment, as the BBC manages the demands of the Licence Fee settlement and looks to the future.

We therefore welcome that Ofcom's proposals for an updated Licence better incorporate the performance of the BBC's online activities as well as the fact that the plans give the BBC more flexibility in meeting audience needs. We consider that this approach reflects changes that we have seen since the original version of the Licence in October 2017, around audience behaviour, the market context, and the BBC's future strategy.

This document sets out our assessment of Ofcom's proposals in relation to each public purpose. Within this, we draw out the specific conditions in the draft Licence, that we believe there is a strong rationale for Ofcom to re-consider. These are:

- The BBC Radio 5 Live 75% news and current affairs quota;
- The BBC Radio 2 260 hours live music quota; and
- The programming for the nations and regions quotas.

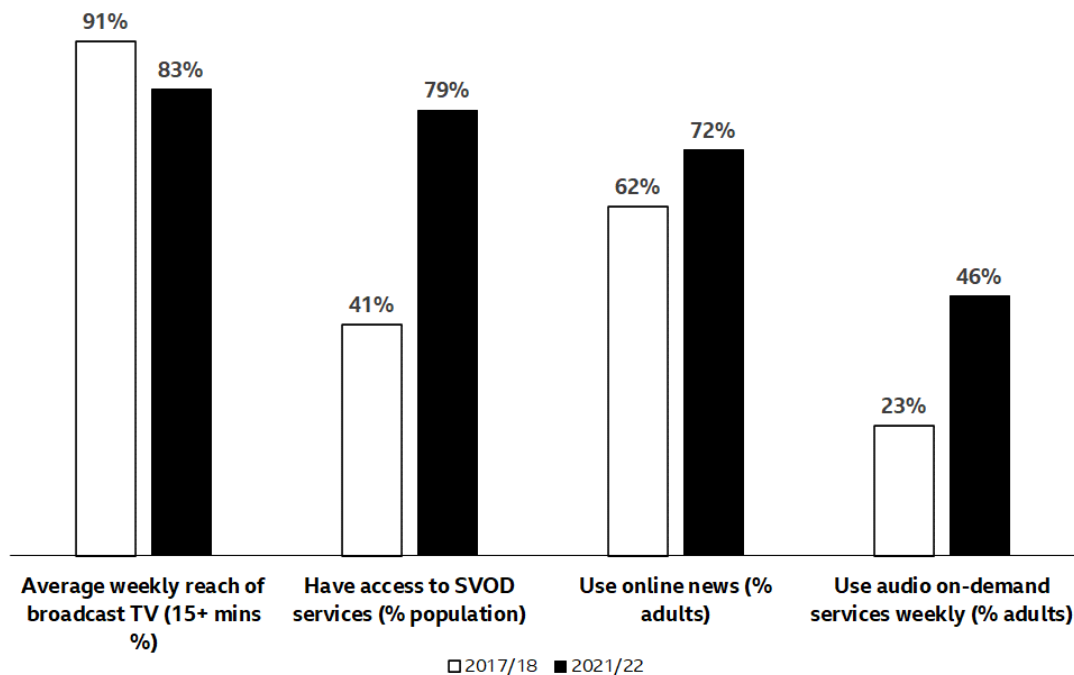
1.2 Market Context

Since the original version of the Operating Licence in 2017, there have been significant changes in the media landscape.

The UK and global media markets continue to be shaped by the long-term shift from broadcast to online services, as digital technology has offered both greater choice for consumers and opportunities for incumbents and new entrants alike.

The use of Subscription Video On-Demand (SVOD) services is now commonplace – 79% of all adults now subscribe to an SVOD service and between 2019 and 2021, SVOD adoption for over-65s nearly doubled. In radio, the pace of change is rapid, and while 89% of adults use broadcast radio each week on average, music streaming and podcasts now make up close to 60% of 15-24s listening time. As figure 1 shows below, access to SVOD and audio on-demand services has doubled since 2017/18; while the use of online news has increased from 62% to 72%. In short, audiences now have access to more choice in content than ever before and can consume it whenever and wherever they want.

Figure 1: Media usage over the Charter period so far (2021/22 v 2017/18)



Source: BARB Establishment Survey; Ofcom; RAJAR/MIDAS; Compass by Ipsos MORI

These changes in the market have also brought new opportunities for the BBC. The BBC has long recognised the need to transform digitally. Today, the BBC’s digital service remains a market leader and the BBC is at the forefront of digital innovation. We continue to improve our digital services, including offering a refreshed and updated user experience and functionality across BBC iPlayer, BBC News Online, BBC Sounds, and BBC Sport Online. Indeed this year, we have continued to drive more value from online by breaking new records for iPlayer with 6.6 billion programmes streamed in 2021/22, up 8% on 2020/21. We have also served 1.54 billion plays of radio, music and podcasts on Sounds in 2021/22, up 23% on 2020/21. And we have reached one-in-three adults on average per week with BBC News Online.

1.3 Financial Context

The review of the Operating Licence is also set against the context of financial challenges for the BBC. Between Ofcom setting the first Operating Licence in 2017/18 and the end of the 2021/22, the BBC’s Licence Fee income has declined by 11.4% in real terms.

Three factors combine to create a challenging financial context for the BBC. First, the Licence Fee settlement, announced earlier this year, will hold the Licence Fee flat for two years from 2022/23, followed by CPI increases for four years. This will result in c.£55 million less income in 22/23 than had the Licence Fee risen by CPI. Second, rising inflation rates across the UK economy put pressure on the BBC’s budget and the cost of talent and content has continued to rise faster than inflation (‘superinflation’) as the global demand for high-quality programming remains fierce. Third, during 2021/22, coronavirus has led to disruptions and delays to production activity and related events (e.g. sport events) that have meant the BBC incurred additional spend in 2021/22.

The BBC will carefully manage its costs, transform our organisation to deliver further savings and maintain a high level of efficiency whilst reviewing our service and content spend plans. As we set out in our report *BBC Value for Audiences* in February 2021, since 2010 the BBC has made significant savings, with a series of efficiency plans focused on improving productivity and reducing the cost of running the organisation. Given the BBC's last ten years of work to deliver significant gains in productivity, further savings will involve difficult choices that will impact programmes and services.² The BBC needs to be enabled to focus on delivering great audience value at the same time as meeting these challenges.

We welcome Ofcom's recognition of these financial challenges in their consultation and the plans for greater flexibility in the Operating Licence to allow the BBC to respond to such changes and continue to better serve audiences.

1.4 The BBC is driven by its public service mission

Inevitably there is always a tension between whether the regulator sets the organisation's approach or vice versa. In the BBC's case the mission and public purposes are set clearly in the Charter, and in our hundredth year, our focus on distinctive content remains at the core of what we do. Our track record has been to over-achieve. We believe there is scope to give the BBC more freedom to operate to provide greater audience value whilst at the same time being held to account for distinctiveness in a highly competitive, global marketplace.

As we noted above, the BBC's track record of compliance with, and over-delivery of its Operating Licence conditions clearly demonstrates that delivery of its mission and the Public Purposes is intrinsic, rather than merely a response to the Operating Licence.

We are aware that some stakeholders have suggested that quotas are necessary to ensure that the BBC continues to deliver its public service mission. Voice of the Listener & Viewer (VLV) is concerned that "as a result of the removal of quotas the volume of 'at risk' genres on broadcast platforms will decline further than it already has." Audio UK has said that Ofcom's removal of specific quotas for drama and comedy on BBC Radio 4 and drama on BBC Radio 3 has led to significant declines in output.

In fact, the BBC has continued to commission drama on Radio 3 and comedy on Radio 4 significantly above the levels previously required by the BBC Trust. In 2021/22, Radio 3 broadcast 23 new drama productions (the Trust had previously required 20) and Radio 4 broadcast 213 hours of original comedy (the Trust had previously required 180 hours). Indeed the BBC has exceeded the levels of the previous quotas in every year since they were removed. We have reduced our commissioning of drama on Radio 4, but in 2021/22 still commissioned and broadcast 360 hours of original drama. Since the Operating Licence was first set in real terms the content budgets for Radio 3 and Radio 4 have fallen by 19% and 18%, respectively.

We remain the largest commissioner of audio drama and we are continuing to invest, now paying more for all our drama commissions after years of frozen costs. We are also innovating in the on-demand space with ambitious podcasts to bring the delights of

² [BBC Value for Audiences](#), February 2021.

audio drama to wider audiences. While we face significant financial pressures and need to make difficult decisions, the BBC remains committed to audio drama and has done so in the absence of any Operating Licence conditions.

Furthermore, we consider that Ofcom's approach of broad conditions supported by transparency requirements will be markedly superior to the existing genre quotas, which in fact do little to ensure the delivery of public value.

For example, the Condition 2.38 of the current Operating Licence requires that BBC One and BBC Two broadcast at least 300 hours of comedy programmes (including repeats and acquisitions) some of which must be in peak viewing time. Hypothetically the condition could be entirely met by low-budget acquired content or repeats, and a single programme at 10pm. Fortunately for our audiences that is not the BBC's approach to comedy.

In 2021/22, we broadcast 305 hours of comedy on BBC One and BBC Two, of which 195 hours (64%) were in peak. We also broadcast a further 205 hours on other channels, made 1,273 hours of comedy available in total across BBC iPlayer and all our channels, and commissioned 111 hours of brand new, first-run comedy. This included new series of returning favourites such as *Motherland*, *Ghosts*, and *Inside No. 9*; and the first series of BAFTA award-winning *Alma's Not Normal*, *The Outlaws*; and many other programmes serving a wide range of audiences. All of which is set out clearly in our Annual Report.³ In May this year we announced that the BBC will be investing an extra £10 million in comedy.⁴

None of this public value is currently required by or captured by the current Operating Licence condition. However, Ofcom's proposed transparency conditions – supported by the BBC making commitments in our Annual Plan and reporting on performance in our Annual Report – will make the BBC's delivery of public value transparent.

In summary, the BBC can be trusted to set out its strategy and plans to deliver public value, be clear about where it is already delivering for audiences, and where it can do better. And Ofcom can be trusted to monitor our performance, report on it, and where necessary intervene.

³ [BBC Annual Report & Accounts 2012/22](#), p.151.

⁴ [Jon Petrie's speech at the BBC Comedy Festival](#), May 2022.

2. Impartial news and information

The BBC remains fully committed to delivering impartiality. We are currently implementing the Serota review. The BBC remains the most trusted source of news in this country and is the world's most trusted international broadcaster. The BBC plays an important role in helping to counter the disinformation that now so often proliferates in our national and international debate.

The importance of what we do to ensure that everyone has access to news and information they can trust has been repeatedly highlighted this year, and in particular as Russia invaded Ukraine. During the week that the war in Ukraine started, an estimated audience of over 280 million people came to the BBC's online news output. We have seen record use of BBC services in Ukraine and Russia, with our Ukrainian language platforms reaching six million people and our Russian language platforms reaching 17 million people before services were blocked. Meanwhile, our local news bulletins on BBC One continue to be collectively the most-watched news programme on TV.

As we implement our digital-first strategy, developing our news and current affairs offer on BBC iPlayer and BBC Sounds are key priorities. We will explore new formats made for streaming audiences and organise content around major issues and stories to ensure audiences can more easily find out about the major issues of the day across all of the BBC's major digital services.

We broadly welcome the proposals in relation to Public Purpose 1.

2.1 BBC Network TV

Ofcom plans to retain the quotas to ensure that the BBC continues to provide a substantial amount of news and current affairs across TV services.

We support Ofcom's proposal to remove the condition on the BBC News channel to provide more international news, and more local/regional news than other main continuous news channels in the UK. We are committed to the BBC News channel covering a wide range of stories from across the UK and the world. We agree with Ofcom's assessment of the value of the current Operating Licence condition.

As above, we remain committed to providing impartial news and information to all UK audiences across our services, including across network TV, and therefore welcome Ofcom's plans to retain this quota.

2.2 BBC Network Radio

Ofcom has also proposed to replace the daily and weekly news and current affairs quotas which apply to some BBC radio services with annual quotas. This is purely an administrative change and will help reduce the resourcing and cost burden on the BBC to monitor and report on the current daily and weekly conditions. The BBC has no intention to make any changes to our radio news and current affairs output or scheduling. We therefore welcome these plans.

More broadly, Ofcom also plans to retain the quotas to ensure that the BBC continues to provide a substantial amount of news and current affairs across radio services. We are supportive of these plans to retain these quotas.

However, for the reasons set out in detail in Annex 1 below, we consider that it would be appropriate for BBC Radio 5 Live to have some additional flexibility regarding the Operating Licence quota that at least 75% of its output in each Financial Year must be news and current affairs programming.

5 Live is and will remain predominantly a news and current affairs station, that also broadcasts some sports. It will continue to report the most up-to-date live news coverage of the big stories in the UK and globally that affect our audience. We are requesting that Ofcom makes a modest reduction in the quota from 75% to 70%, which will give us the flexibility to respond to audience needs around live sports coverage and sports analysis. Through this flexibility we will be able to cover a broad range of sports more extensively. We will also seek to improve the value for Licence Fee payers, including by improving the coverage of our live sports events with more commentary, analysis, and 'wraparound content', as well as by better showcasing our sports podcasts on 5 Live. Further, recognising that sports coverage fluctuates significantly given the cyclical nature of some major sports events (for example, the Commonwealth Games and the Football World Cup both falling this year), this added flexibility will allow us to offer a more full range of these sporting events at these times. We will also be able to better reach underserved audiences, such as younger men and those audiences from lower socio-economic groups, for whom our sports programming is a clear draw.

2.3 BBC Online

Ofcom has proposed new requirements for the BBC to make news and current affairs available and easily discoverable on BBC iPlayer and BBC Sounds, and to provide a broad range of in-depth news on the BBC website and apps.

It also plans to introduce transparency requirements for the BBC to set out its plans to provide news and current affairs on its online services, and report on the outcome of those plans.

We are supportive of these changes and welcome the fact that they are consistent with our plans to move towards a digital-led organisation and our commitment to transparency.

3. Learning for people of all ages

We welcome Ofcom's proposals in relation to Public Purpose 2, in particular around retaining the requirements to deliver content which supports children in their learning and separately, introducing new requirements for the BBC to provide informal learning content for adults and children of all ages across its services and to make this content easily discoverable.

The BBC continues to offer a breadth of content in order to support learning for all UK audiences. In particular, our education and learning offer continues to support students, teachers and parents still dealing with the exceptional educational challenges caused by the coronavirus pandemic.

Our education and learning offer also continues to reach far beyond Bitesize and those audiences who are at school. We remain committed to helping people, whatever their stage of life, to achieve their full potential through educational content, services and participative experiences.

We agree with Ofcom that the BBC is an important contributor to the educational development of children and young people across the UK, and supports continuous informal learning for all audiences.

We also recognise Ofcom's plans for greater transparency from the BBC and welcome the proposals to introduce transparency requirements for the BBC to set out its plans to support learning, and report on the outcome of those plans. We will continue to deliver against these requirements and support learning for all audiences.

4. Creative, distinctive, quality output and services

We welcome Ofcom's proposals under Public Purpose 3.

We remain committed to, and will continue to produce high-quality, distinctive content across factual, arts, drama, entertainment, comedy, sport and music, offering outstanding value for everyone by maintaining the highest production and editorial standards across the broadest range of output. In the last year alone, we have delivered across every genre, with huge audiences for programmes like *The Tourist*, *Vigil*, *Peaky Blinders* and *The Apprentice*, major acclaim for shows like *The Green Planet*, *Uprising*, *UkraineCast*, and *The House of Maxwell*, and nine BAFTA awards for shows like *Time*, *Motherland*, *In My Skin*, as well as Rose and Giovanni's unforgettable silent dance on *Strictly*.

We will continue to put British creativity, quality and risk-taking at the heart of our work, and produce high-quality output on TV and radio that is unique in its distinctiveness and its focus on British content from across the UK.

4.1 BBC Network TV

Ofcom plans to retain the existing quotas for UK original productions, except for the quota for BBC Four, where Ofcom plans to lower the quota to 65%. We welcome Ofcom's change to BBC Four's quota as it will help us maintain BBC Four as a distinctive multi-genre channel. Where we do increase the level of acquisitions on BBC Four, these will be carefully curated to ensure they add to the distinctive content mix of BBC Four and will include performance capture of theatre, opera and dance from across the UK. BBC Four will continue to reflect the UK's culture, support the UK's creative economy and production sector, deliver important value to audiences and help deliver a wide mix of different genres.

Ofcom is proposing to consolidate the quotas for first-run UK originations on BBC One, BBC Two, CBBC and CBeebies into a single quota of 6,650 hours to be delivered flexibly across our non-news network TV channels and BBC iPlayer. We support this proposal as the additional flexibility will enable us to adapt to changing audience demands, to schedule programmes where they will deliver the greatest audience value, and invest in utterly distinctive high-quality high-impact programmes in the context of our financial constraints. In the interests of transparency, each year's Annual Plan will set out the level of first-run programming we intend to release across each channel and for specific genres.

Further, Ofcom proposes to replace quotas for arts and music, religious programmes, content for children, and comedy on network TV with a condition to provide a wide breadth of output supported by transparency requirements. We also welcome these changes, and will be committed to setting out our plans in this area, annually in our Annual Plan, and reporting on our performance in the Annual Report. As we have set out above, we consider that Ofcom's proposed approach will be a significant improvement to the current approach.

4.2 BBC Network Radio

In relation to network radio, Ofcom plans to replace network radio quotas for arts and religious programmes, documentaries, social action campaigns, live or specially recorded performances and new musical works with a condition to provide a wide breadth of output supported by transparency requirements. We are supportive of these plans, and again will be committed to transparently setting out our plans in our Annual Plan each year, and reporting on our performance in the respective Annual Report.

Ofcom also proposes to retain the existing quotas for music on BBC Radio 1 and BBC Radio 2, live or specially recorded music on BBC Radio 3 and sports coverage on BBC Radio 5 Live. We are content with the plans to retain these quotas. We consider that they are relevant, fit for purpose and that they are an important contribution to the BBC's distinctiveness.

In Annex 2 below, we set out our rationale for Ofcom revisiting the current requirement for Radio 2 to broadcast 260 hours of live music each Financial Year. This condition has been in place unchanged since 2008. In summary, we consider that the current condition forces the BBC to schedule high-cost, low-impact repeats of recorded concerts, which consumes budget and airtime that could be used for more distinctive, higher impact programming, including genuinely live music programming. We propose that a transparency condition would be more appropriate. However, if Ofcom considers that a specific quota is required, we consider that this should apply solely to new live music.

4.3 BBC Online

With respect to the BBC's online portfolio, Ofcom plans to introduce a transparency requirement related to the BBC's plans for ensuring each of its services are distinctive, including for BBC iPlayer and BBC Sounds. We are supportive of the introduction of these new transparency requirements, and welcome that they align with our plans to build a digital-first organisation, with a strengthened online offer.

5. Reflecting, representing and serving the UK's diverse communities

5.1 Workforce diversity reporting

The BBC publishes more detailed workforce diversity information than any other media organisation in the UK. We are fully committed to meaningful transparency of workforce diversity and reporting progress against our stretching workforce diversity targets.

While the proposed Operating Licence conditions are very similar to the existing conditions, Ofcom is proposing that it should be able to flexibly specify the job levels and job types to be reported against, in contrast to the current conditions which set out the specific job levels and types on which the BBC is required to report.⁵ Ofcom says that this will enable us to reflect best practice in the data we collect from the BBC and avoid unnecessary administrative complexity for the BBC and Ofcom.

We consider that Ofcom should retain the current approach of specifying the appropriate job levels and types. There is a clear benefit in stability in definitions over time in order to have a comparable time series of data that can be used to measure performance effectively. Additionally, in order to report workforce diversity data the BBC needs to capture information on each of its over 20,000 employees and over 15,000 freelancers. Amending these systems to capture changes to job title or level categories would be time consuming, costly and inefficient. Such a change should only be made following appropriate due process and consultation. Indeed Ofcom has demonstrated how easily it can amend these conditions, doing so most recently in March 2021 to set the current job title and level categories.⁶

5.2 Representation and portrayal

The BBC remains committed to ensuring that we continue to represent the whole country, portray its diverse communities authentically across our output and ensure all its viewers and voices are heard.

For example, we remain committed to providing a range of dedicated, cross-genre output specifically for Scotland, Wales, Northern Ireland and the English Regions across television, radio and online. We have major production centres in Glasgow, Cardiff, Belfast, Salford, Bristol, Birmingham and London. Currently over half (54%) of the BBC's network TV production is in the nations and regions, and we have major production centres throughout the UK.

⁵ Condition 2.50 currently sets the following Job level categories: senior managers (including those employed at Board level); middle/junior managers; and non-management; and job type categories: broadcast management; organisational – technical/engineering/data analytics; sales/marketing; creative and content production; journalism; on-screen talent; business management and administrative; and other.

⁶ [Notice of Variation to the Operating Licence for the BBC's UK public services](#), Ofcom, 25 March 2021.

We also remain committed to locating at least 50% of our employees outside of London and some 53% are currently based outside of the M25. This compares to the sector average of 20%.

We continue to reflect, represent and serve the diverse communities of the UK's nations and regions with authentic and homegrown programmes such as *The Pact* and *Slammed* in Wales, special coverage of the global climate conference COP26 in Scotland, and *Hope Street* and *The Fast and Farmer-ish* in Northern Ireland.

More broadly, we recognise the importance of the voices we hear on-air and the people we see on-screen reflecting the breadth of the UK. We also recognise that the diversity of the production talent behind-the-scenes is vital to delivering content which resonates with and authentically portrays the diverse communities right across the nations and regions. We will continue to follow the BBC's Diversity Commissioning Code of Practice (DCCOP) which sets out five principles that are key to ensuring that all of the UK's diverse communities are represented in our content, and that their experiences and perspectives are authentically portrayed. We will also continue to track our Creative Diversity Commitment – to prioritise £112 million of existing commissioning budgets for diverse content across TV and Radio which authentically portrays our audiences – and we will also continue to work on the BBC's 50:50 Equality Project aimed at increasing representation in BBC content.

Against these commitments, we support Ofcom's proposals with respect to the proposed diversity requirements under Public Purpose 4.

We support, for example, the plans to enhance the BBC's transparency requirements on diversity, representation and portrayal. We remain committed to reporting on how we are representing and portraying audiences across the UK, the diversity of our workforce, and our compliance against its DCCOP and we welcome strengthening it in order to help us to better demonstrate how we are serving and representing the diverse communities of the UK.

We note that Ofcom is proposing to amend the drafting in relation to the BBC's reports on the satisfaction of audience groups with the BBC. The original Operating Licence referred to the BBC having to identify through research, audience groups who were 'dissatisfied' rather than 'less satisfied' with the BBC's performance regarding representation and portrayal. We have developed a reporting framework that already addresses 'less satisfied'. We would like to confirm that Ofcom is formalising that collaborative agreement, rather than suggesting something significantly different.

5.3 National and regional content

5.3.1 Made out of London

We support Ofcom's proposals to retain the quotas for production in the nations and regions on TV and radio, and allow content made for BBC Sounds to count towards delivery of the network radio production quota for the nations and regions. We note that we have already committed in our *BBC Across the UK* strategy⁷ to new targets for

⁷ [The BBC Across the UK](#), March 2021.

outside the M25 productions – by 2027/28 at least 60% of network TV expenditure and 50% of network radio and music (including the performing groups) will be incurred outside the M25. This was also formalised with the Secretary of State in May 2022 by amending the Agreement.⁸

We request that Ofcom consider removing the separate quota on Radio 3 in relation to 28% of its relevant expenditure being made outside the M25 area. This separate condition dates back to a historic situation where the funding of the BBC's performing groups (including the three orchestras outside of London) was made via Radio 3's budget. The amendments Ofcom made to this condition in March 2021⁹ reflected the change in budgetary responsibility for the respective performing group to BBC Nations.

Given the changes to the budgetary responsibility within the BBC, Ofcom's amendment of the Operating Licence, the amendment of the Agreement, and our announcement that Radio 3 (including its leadership) will be rooted in the North of England, we consider that the separate condition for Radio 3 is redundant and creates unnecessary administrative costs.

5.3.2 Programmes of a national or regional interest

We also broadly support Ofcom's proposals in relation to the BBC providing programming for the nations and regions. This includes, plans to retain the existing news and current affairs quotas on the BBC's TV and radio services for the nations and regions, and 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 supported by transparency requirements. We consider that replacing these quotas with a condition to provide this output, and supported by transparency requirements, would give the BBC the flexibility to deliver programming for the nations and regions across its TV and online services, and better meet audience needs. We also support Ofcom's recommendations as part of the Mid-Term Review, that the Government should consider amending the Agreement to remove the requirement for Ofcom to set quotas for non-news and current affairs programming in the nations and regions. If this were to be implemented, the current quotas would be replaced with transparency requirements. We agree with Ofcom that this will better serve audiences, and be a more effective way of monitoring the BBC's public service outcomes.

In order to implement the BBC's publicly stated strategy of creating more high-impact content from the Nations and English regions; support our shift to digital; and enhance our investigative current affairs journalism in England, we require changes to the levels of the current quotas for programmes of a national or regional interest.

We therefore request that Ofcom reconsider the levels at which the quotas on programming for the nations and regions are set, such that there is greater flexibility to

⁸ [An Agreement Between Her Majesty's Secretary of State for Digital, Culture, Media and Sport and the British Broadcasting Corporation](#), May 2022.

⁹ [Notice of variation to the Operating Licence](#), Ofcom, 25 March 2021. Prior to this change, the BBC's network stations collectively had to spend a third of relevant expenditure outside of London and Radio 3 40%. Following the 2021 changes, this changed to 30% and 28% respectively.

support our strategy, and deliver better value for all audiences in the nations and regions. We set out below, our proposals for the levels at which we consider the quotas should be set. We explore this in more detail in Annex 3.

5.3.3 English local radio

We also support Ofcom's proposal to retain quotas for original locally-made programming, maintain the core hours speech quota at 60%, and reduce the breakfast peak speech quota from 100% to 75%. This will be supported by a new requirement for the BBC to provide a significant amount of local news and information during the breakfast peak. Removing the 100% speech requirement in breakfast hours will offer us greater flexibility to include some music at this time, and overall, maintain a range of programming, and better serve audiences.

5.3.4 Online

We support Ofcom's proposal that BBC iPlayer, BBC Sounds and the BBC Website should provide content of interest and relevance to audiences in the nations and regions. This captures for the first time the BBC's performance in this area.

6. Other points for Ofcom’s consideration

There are also a small number of additional points that the BBC would like Ofcom to reconsider as part of its consideration for how the BBC’s Operating Licence needs to be updated to ensure it remains effective, now and in the future. These suggested changes are not ones where the BBC plans to change its output, or ones that will impact upon the audience experience. Rather, our points here are around clarifying the BBC’s interpretation of specific Operating Licence conditions, aligning our reporting with our own internal systems so as to reduce the administrative burden on our side, and clarifying the process for implementing the new Operating Licence. We set out our points in turn below.

6.1 Timing of publications

In various of its proposed transparency and diversity conditions (including 1.17, 2.7, 3.15, 4.2, 4.3, 4.4, 4.6, and 4.69) Ofcom is proposing that “The BBC must publish annually, at the same time as it publishes its Annual Report, a report” to demonstrate its performance in each of these areas.

The BBC is fully supportive of the approach that Ofcom is proposing for these conditions. We are currently exploring various options for presenting the BBC’s performance against the Mission and Public Purposes in as clear, transparent and useful a manner as possible. We plan to trial our approach for the current financial year to allow engagement with stakeholders and Ofcom in advance of the first full year of the modernised Operating Licence.

However, our experience from publishing the BBC Commissioning Supply Reports¹⁰ and DCCOP reports¹¹ is that publication at the same time or very close to the Annual Report reduces their impact and the attention that is given to them. Therefore, we think Ofcom should allow the BBC the freedom to publish these reports at about the same time as the Annual Report, rather than exactly at the same time. We would envisage this as being either up to two weeks before or up to two weeks after the publication of Annual Report.

We consider that this flexibility will significantly improve the coverage, reception and impact of the transparency reporting.

6.2 Timing of the new Operating Licence

In its *Modernising the BBC’s Operating Licence* consultation, Ofcom has proposed that the new Licence will take effect from 1 April 2023.

We would like Ofcom to clarify its planned approach to the Licence conditions given that some requirements apply across a financial year period, whereas others apply across a calendar year period. While Ofcom is not proposing to amend the majority of the calendar year conditions, it is proposing to change the conditions for first-run

¹⁰ [BBC Commissioning Supply Report](#), BBC, 2022.

¹¹ [Diversity Commissioning Code of Practice Progress Report](#), BBC, 2022.

originations for network TV and Social Action Plans on Radio 1, and the BBC (see below) is proposing some changes to the quotas for programmes of a national or regional interest.

Our preferred approach would be that the Financial Year conditions take effect from 1 April 2023, and that the Calendar Year conditions are backdated to take effect from 1 January 2023. Our view is that this is the simplest and most transparent way of reporting against and monitoring the BBC's compliance against the requirements. It is also consistent with our reporting cycle, e.g. the 2021 calendar year quotas were reported against in our 2021/22 Annual Report.

This would also be consistent with the approach Ofcom took when it amended the Operating Licence in relation to BBC Children's news and first-run UK originations.¹² In that case, Ofcom backdated the changes to the First-run quotas for CBBC and CBeebies to the start of 2020, although the final decision was published in July 2020.

¹² [BBC Children's news and first-run UK originations: Statement on the BBC's request to change its Operating Licence](#), 28 July 2020.

Annex 1 – The BBC Radio 5 Live news and current affairs quota

BBC Radio 5 Live broadcasts continuous news and live sports coverage, bringing major news stories and sports events to its listeners as they happen, and providing context through wide-ranging analysis and discussion. 5 Live is and will remain predominantly a news and current affairs station, that also broadcasts some sports. It will continue to report the most up-to-date live news coverage of the big stories in the UK and globally that affect our audience. 5 Live will continue to reflect the UK-wide audience as the only national speech station based in the North of England.

However, for the reasons set out below, we consider that it would be appropriate for 5 Live to have some additional flexibility regarding the Operating Licence quota that at least 75% of its output in each Financial Year must be news and current affairs programming.¹³

We are requesting that Ofcom reduce the quota from 75% to 70%. This minor change is fundamentally about giving us more flexibility in our approach. Through it, we will be more ambitious in our commitment to delivering a broader range of sports, and more live commentary on these sports than any other radio broadcaster. We will also hope to respond to audience needs around live sports coverage and sports analysis. We also consider that it will help 5 Live reach audiences that are currently less well served, in particular younger men, and those audiences from lower socio-economic groups.

Benefits of our proposal

Sports is of central cultural and social importance

Sports has a fundamentally important role in the cultural and social life of the nation. It is essential that there is coverage of a wide range of sports on free to air broadcasting. Its importance is recognised by broadcasting legislation, the Charter, the Agreement, the Operating Licence, other Ofcom regulation (e.g. the listed events regime), Ofcom's *Small Screen: Big Debate* report, and the recent Media Bill White Paper.

Therefore, while 5 Live is predominantly a news and current affairs channel, sport also performs an important role on the station. Sports coverage helps the BBC reach the underserved audience groups that Ofcom has raised concerns about over the first period of the Charter. Sports programming can help the BBC reach audiences that the BBC otherwise can struggle to reach, in particular, younger men and those from lower socio-economic backgrounds. These are some of the audiences that the BBC has identified as relatively less satisfied with BBC services in line with conditions 2.44 and 2.45 of the Operating Licence.¹⁴ Ofcom has encouraged the BBC to do more to serve these audiences in its annual reports on the BBC.¹⁵

Data from RAJAR (Q4 2021) shows that sport over-indexes for underserved audiences. Well-served audiences, spend more than three days a week listening to BBC audio and

¹³ Under the Trust Service Licence for 5 Live the quota was: "News and current affairs programming represents around three-quarters of output each year".

¹⁴ [BBC Annual Report & Accounts 2012/22](#), p.145.

¹⁵ [Ofcom annual report on the BBC 2020-21](#), p. 1, 3, 6, 17, 20, 46-47, and 55.

spend 2% of their time with the BBC listening to sport. In contrast, underserved audiences, spend 10% of their time with the BBC listening to sport but less than three days a week listening to BBC audio overall.

As set out in the table below, 5 Live sports output also over-indexes for younger 15-34 audience groups. Data from RAJAR (Q4 2021) shows that 5 Live’s sport offer significantly over-indexes for 15-34s compared to all audiences aged 15+, and they spend 43% of their listening hours with 5 Live listening to sports content compared to 29% for 15+ audiences overall.

Figure 2: Indexed Performance of BBC Radio 5 Live sport compared to 5 Live news among different audience groups

	Total Five Live Sport	5 Live News
Men 15+	115	94
Women 15+	64	115
Adults 15-24	133	87
Adults 25-34	157	77
Adults 35-44	96	102
Adults 45-54	102	99
Adults 55-64	100	100
Adults 65+	88	105
Social Grade: A	98	101
Social Grade: B	91	104
Social Grade: C1	103	99
Social Grade: C2	114	94
Social Grade: D	109	96
Social Grade: E	84	106
Out of London	101	100
BAME	96	102

Source: BBC Research. Adults 15+. Over-indexing by category in bold.

Certain sports events and fixtures (for example, Premier League Football 2021-22; Champions League Football 2021-22; Euros 2020; and the Anthony Joshua vs Andy Ruiz Jr boxing match) over-index for C1C2D, 16-24 and 25-34 audiences relative to all 15+ audiences.

By slightly increasing our sports offering, we will therefore better reach these underserved audiences, including younger audiences and those in the C1C2D groups.

The flexibility will enable us to cover a broader range of sports more extensively

As noted above, this change in the quota is about giving us more flexibility. 5 Live already delivers a distinctive and high-quality sports offer. For example, we provide live commentary on a broader range of sports than any other radio broadcaster, including Premier League, Champions League and Women’s Super League football, international

cricket, rugby and boxing. Last year we delivered live commentary across 43 different sports, against our commitment of 20 different sports.¹⁶

In having more flexibility in the news and current affairs output quota, we hope to offer both more extensive live commentary with deeper analysis, and to maintain our current broad sports offer. Our output will continue to be high quality and distinctive, and as noted above, we will focus our efforts on content that better reaches underserved audiences, such as C1C2D groups and younger audiences.

Where we do explore investing in new sports rights, we will look to strengthen our commitment towards providing a range of sports, and look do so in areas that drive value for underserved audiences. For example, we may look to improve our coverage of women's sports, sports that appeal to audiences outside of London (e.g. rugby league) and/or coverage of sporting events for disabled people.

Improved Licence Fee payer value

This change will improve Licence Fee payer value. As sports coverage is driven by sports rights and these rights need to be acquired in the packages offered by rightsholders, this flexibility will enable us to maximise the value from our investment in existing sports rights. For example, we will look to improve coverage of our live sporting events through even more commentary and analysis. This could include more distinctive 'wraparound content' for key live fixtures, using BBC Sport's unparalleled breadth and depth of knowledge to provide high-quality original output and develop the range of audiences served.

Other options include improving the prominence of live events by switching coverage from BBC Radio 5 Sports Extra to 5 Live where we see that there is audience demand. This could include Formula 1 qualifiers and early Masters rounds, as well as for growing women's sports such as women's cricket.

We will also look to better showcase our sports podcasts on 5 Live. Our own research shows that sports audio delivers the third highest number of activations (15%) on BBC Sounds over a year.¹⁷ Showcasing our sports podcasts on 5 Live will help raise awareness of the full sports offer available on Sounds and improve the return on investment.

Cyclical nature of sports and fluctuations in news stories

Sports coverage fluctuates significantly given the cyclical nature of some major sports events. For example, 2022 will include the Commonwealth Games and the Football World Cup; 2024 will include the Euros, Olympics, and Paralympics. In these high-sports years there is the standard annual schedule of sports, plus these major global events.

In these high-sports years, the 75% news and current affairs quota limits our ability to provide consistent and full coverage of all relevant events. For example, in those years

¹⁶ Last year was unprecedented as due to the pandemic-related delay to the Tokyo 2020 Olympics it was the first time that the Olympics, Paralympics and Winter Olympics had been held during a single financial year

¹⁷ A user is 'activated' when they play BBC Sounds content having not played BBC Sounds content for 13+ weeks.

where the Euros, Olympics and Paralympics are all being staged, we cannot comply with the condition and provide the coverage we would like of all these events. This means coverage of the more niche sports and sports events inevitably suffers.

Equally, the news cycle also sees fluctuations. Major news stories and their timing can of course be unprecedented in nature. For instance, this financial year has already seen continued reporting of the Russian invasion of Ukraine, as well as major news stories such as former Prime Minister Boris Johnson's resignation and Queen Elizabeth II's death. At such times, we seek to prioritise reporting these major stories, and we are therefore in a better position to meet the 75% news and current affairs quota. However, at times, when there are not as many major news stories, the additional flexibility in the quota, constrains us from offering better value for audiences and skewing towards increased non-news programming.

The change will not have a significant market impact

The national sports radio market in the UK largely comprises of just the BBC (mainly 5 Live and 5 Sports Extra) and Wireless (talkSPORT, talkSPORT 2 and Virgin Radio). However, we consider that this modest change will not result in any significant market impact.

The BBC's proposal will only represent a modest change in the volume of sports coverage on 5 Live, with the station remaining predominantly news and current affairs.

Competition for sports listening is primarily driven by live coverage of the most popular sports and this coverage requires gaining the appropriate rights. The BBC is also not planning any increase in our audio sports rights budgets and will not be pursuing additional high-value rights. Rather the context of the BBC's wider financial challenges makes it likely that the sports rights budget for BBC Radio will be increasingly squeezed.

If we do consider acquiring new rights these would be for sports that would drive value for underserved audiences and strengthen our commitment to providing a range of sports. They are unlikely to be in areas where there is substantive competition for rights.

As this will represent only a small increase in sports coverage by the BBC and no increase in high-value sports rights, we consider this will not have a significant impact on rivals in sports radio.

News and current affairs will remain the primary focus of 5 Live

News and current affairs will remain the primary focus of 5 Live which will remain a service primarily for live and breaking news. We will continue to deliver on our remit through ambitious, distinctive and compelling output. A modest increase in sports content will not impair 5 Live's delivery of news.

We have no plans to make changes to our mid-week peak news programming, recognising listenership and audience appetite for news and current affairs programming at these times is high. Where we use the additional flexibility we will do so at times where there is less audience appetite for news and current affairs audio consumption.

As we have shown repeatedly in the past, when there is a breaking story we will prioritise flexibly shifting our programming in order to provide coverage of these pressing stories. For example:

- Following Queen Elizabeth II's death on 8 September, we removed all non-news programming throughout the weekend. On Saturday 10 September that meant 9 hours of news programmes were broadcast, replacing sport and entertainment shows. On Sunday 11 September, five hours of a usual sports schedule was replaced with news programmes, and the sports coverage that was aired, also included breaking news and news updates;
- When the former Chancellor, Rishi Sunak resigned from his role in July 2022, 5 Live was broadcasting the opening England match of the women's Euros. The station used half time in the match to broadcast news coverage instead of offering in depth match analysis. We similarly often use half time moments to cover major and breaking news stories;
- During the coronavirus pandemic, we provided the latest on the situation in the UK. At the start of the pandemic, 5 Live sport was taken off air, in order for the station to broadcast the Prime Minister's address to nation. Further, where necessary, we also shifted from our regular programming in order to cover the press conferences from Downing Street; and
- During the Brexit negotiations, 5 Live sport coverage was taken off air on a number of evenings for news coverage from Westminster, reporting on the voting for Theresa May's Brexit deal in the Houses of Parliament.

We will also utilise a portfolio approach to news across our speech stations

Across our BBC radio services, we will also be maintaining our news and current affairs output. In May this year, we announced our plans to reshape the senior commissioning team for BBC Radio and Music, in order to deliver maximum value for audiences. We announced a new portfolio approach in Music and Speech commissioning, with plans to work around the BBC's unique network of radio stations, recognising their individuality and huge popularity, whilst allowing teams to accelerate their digital first activities. We also announced plans to create more opportunities for collaboration around big ideas and find more ways to help listeners discover more from the BBC. We have already starting to implement this approach of working holistically across our services to provide news and current affairs output. For example:

- When 5 Live was broadcasting the opening match of the women's Euros, Radio 4 extended the hours of *The World Tonight*. On another occasion when Radio 4 was broadcasting non-news content they pointed audiences to 5 Live during every news bulletin during a recent breaking story; and
- Radio 4 has commissioned a new series of news programmes (*Today Debates*) that will go out at 8pm, at a time that 5 Live is broadcasting sports content.

This approach is supported by internal BBC Compass data which shows that there is an overlap between audiences consuming news and current affairs on BBC Radio 4 and BBC Radio 5 Live. When using the greater flexibility to offer sports programming, 5 Live will signpost to other BBC services, such as Radio 4, for news and current affairs, and our data suggests that audiences are willing to switch to these other BBC radio services.

We will also continue to demonstrate our commitment to news and current affairs more broadly, including through our extensive digital offer, which now includes an 'always on' digital offer including live coverage via the BBC's News app.

Annex 2 – BBC Radio 2’s live music quota

Under the current Operating Licence, BBC Radio 2 is required to broadcast 260 hours of live music each Financial Year. This condition has been in place unchanged since 2008 – first in the BBC Trust Service Licence for Radio 2 and then it was rolled over into the first Operating Licence in October 2017 in line with the requirements of Schedule 2 of the Agreement. We think this needs to be looked at again as it is impacting our ability to deliver audience value, particularly when we are operating under significant financial constraints. That said, we remain committed to providing distinctive Radio 2 live content which our audiences highly value as detailed below.

This condition has always been met through a combination of ‘new’ live music (i.e. happening in real time or the first run of specially recorded live music) and repeated live music (i.e. archive recordings of live concerts or sessions). Of the 260 hours of live music in 2021/22, 192 hours (74%) were repeats and 68 hours (26%) were new live music. This is the inevitable result of a fixed output quota, the high cost of live music, and the BBC’s financial pressures. In real terms, by 2021/22 Radio 2’s budget had declined by 14% since the first Operating Licence was set in 2017. Given the terms of the recent Licence Fee settlement and the current levels of inflation, the financial constraints will be even greater in the future.

Radio 2 is committed to bringing audiences the best and most distinctive live music, and in doing so supporting the creative economies across the UK. However, we believe that this public value and distinctiveness is delivered by the genuinely live or specially recorded first-run music, and not by the repeated material. The current condition leads to the BBC having to schedule high-cost, low audience value repeats of recorded concerts to meet the current quota. This consumes budget and airtime that could be used for more distinctive, higher impact programming delivering greater audience value. Maintaining the current condition will inevitably force Radio 2 to further increase the proportion of repeated material to the detriment of new live music.

Therefore, our preference would be that Ofcom treat live music in the same way as other genres and impose a transparency condition rather than a quota. Under this proposal, we would set out our exciting plans for live music in the forthcoming year in our Annual Plan and report on the delivery and impact of these plans as part of our annual reporting.

If Ofcom considers that a specific quota is required, we consider that this should apply to the distinctive and high public value programming, i.e. the genuinely live or specially recorded music programming. This could be accomplished by keeping the current approach but defining live music as only applying to the higher value programming and rebasing the hours requirement accordingly (and allowing for future budgetary constraints). If Ofcom were to follow this approach, we would propose that the quota for new / first-run live music be set at 55 hours each Financial Year. This would reflect our current level of output for genuinely live or specially recorded music, while providing flexibility in anticipation of the inevitable impact of the current level of inflation and our funding settlement.

We set out our evidence for these changes in more detail below.

Our commitment to genuinely distinctive and high-value live music on BBC Radio 2

We remain committed to delivering live music on Radio 2. Radio 2 continues to showcase live music with new and archive performances across the year, including coverage from key festivals and events. In 2022, we will have broadcast 142 sessions or 68 hours of new live music. In the last year our distinctive new live music offer has included:

- **Sunday Night is Music Night:** 5-6 new recordings of the world's longest-running live orchestral music radio programme, featuring the BBC Concert Orchestra live from across the UK; amounting to approximately 10-12 hours.
- **Radio 2 in concert:** 2 specially recorded concerts from global artists (in 2022: Duran Duran and Coldplay) from the BBC Radio Theatre, amounting to about two hours.
- **Sessions/Piano Rooms:** Live music recordings from well-known and emerging music artists – both mainstream and specialist – in sessions across the breadth of our programming. Plus in February this year, we celebrated ‘Piano Room Month’ featuring 20 of pop’s best-loved and new artists, including Tears For Fears, David Gray, Jack Savoretti, Natalie Imbruglia, Joy Crookes and JP Cooper alongside the BBC Concert Orchestra at the BBC’s Maida Vale Studios.
- **Radio 2 Country/Country 2 Country festival:** Live coverage from the Country to Country Festival in London. We also deliver ten sessions each Financial Year, amounting to around ten hours of live music sessions programming.
- **Glastonbury/Eurovision:** We also seek to bring the best coverage to our audiences from Glastonbury and Eurovision as well as providing live music programming from these world-famous events across our portfolio of pop music networks. We deliver ten sessions each Financial Year, amounting to around ten hours of live music programming.
- **Ad Hoc live programming:** We also continue to deliver ad hoc live music programming across the Financial Year.

Live music continues to be valued among Radio 2 audiences, particularly among the station’s strategic target of audiences aged 34-54. Our own research from May 2021 shows a high level of awareness of Radio 2’s live music programming among regular listeners, particularly among audiences aged 34-54. Awareness and consumption is particularly high for *Radio 2 in Hyde Park* and *Radio 2 in Concert*. Further, 41% of those who listen to Radio 2 live, agreed strongly that the service is great for live music, and 40% agreed strongly that the service had regular live music sessions. Radio 2 listeners aged 35-54 also showed higher levels of agreement levels than the regular Radio 2 listeners for statements around “*Feels like it is for people like me*”, “*I hear live music on Radio 2 that I do not hear elsewhere*”, and “*I specifically tune in to Radio 2 when it broadcasts live music performances*”. We will continue to respond to audience needs, and deliver distinctive programming that they value and cannot listen to elsewhere.

Our focus should be on high-quality, innovative and distinctive live and specially recorded music – however, these are expensive

The costs associated with live music programming are significant. Recording live music is inherently more complicated and therefore costly than DJ-led shows (where costs are

driven by on-air talent, relatively simple production support and utilisation of studio facilities). By contrast, live music programming costs involve:

- Cost of performers, e.g. BBC Concert Orchestra;
- Venue hire;
- Technical costs, e.g. outside broadcast costs;
- Larger number of production staff; and
- Sometimes visualisation spend.

For example, new live music sessions and concerts are the most expensive shows per broadcast hour on Radio 2, sometimes more than four times expensive than the next most expensive Radio 2 show. Even repeating live music is expensive, with some repeats being more expensive than all but the 11 most expensive shows on Radio 2.

We are committed to investing in brilliant, utterly distinctive live music events, but the reality is that there are only so many we can afford. The 142 sessions of new live music shows generate good listening and audience response, whilst the repeats receive lower levels of listening, and are often among the least listened to shows on Radio 2.

Additionally due to music rights issues with live / special recordings, catch-up on Sounds is typically limited to one month, reducing the value that can be gained from extended on-demand listening.

As can be seen from above and the table below, the current condition leads to the BBC investing too much to schedule high-cost, low audience value repeats to meet the current quota. This consumes budget and airtime that could be used for more distinctive, higher impact programming delivering greater audience value. Given the current financial conditions, if the structure and level of this quota is retained we will inevitably have to further reduce the volume of new live music we commission and the proportion of repeated lower-value content will have to increase.

Figure 3: BBC Radio 2 programming contributing to the current live music quota

	New programming (Hours)	Repeats (Hours)	Total hours
Sunday Night is Music Night	12	88	100
Radio 2 in concert	2	104	106
Sessions/Piano Rooms	20	-	20
C2C Festival	10	-	10
Glastonbury/Eurovision	10	-	10
Ad Hoc	14	-	14
Total	68	192	260

Source: BBC analysis

Changing this approach would benefit audiences and increase public value and distinctiveness

Amending the quota will enable Radio 2 to prioritise genuinely impactful and distinctive new live music content. The change would support Radio 2 in offering more live music content that audiences cannot hear anywhere else, and that complements our other output. It would release funds that could be used to develop and invest more in live music sessions.

We are committed to continuing to programme more high-impact new, live music sessions. As noted above, our preference would be that Ofcom impose a transparency condition, replacing the current live music quota. Under this proposal, we would set out our plans for live music in the forthcoming year in our Annual Plan and report on the delivery and impact of these plans as part of our annual reporting. If Ofcom were to retain a quota, we would recommend that it be set at 55 hours of genuinely live or specially recorded music each Financial Year. Within these 55 hours, we will continue to broadcast innovative and high-quality live sessions such as this year's *Piano Room* month, which saw 20 of pop's best-loved artists perform a new song, a classic and a cover accompanied by the BBC Concert Orchestra. These are performances that would not exist without the investment and inspiration of Radio 2, and are of significant benefit to listeners, artists and the recording industry.

We will also continue to deliver on *Radio 2 In Concert* sessions, showcasing specially recorded music from global artists from the BBC Radio Theatre. We are committed to continue showcasing coverage from special live music events, including Glastonbury, Eurovision, and the Country to Country and Country Music Association festivals. We will also offer a range of additional live music sessions, prioritising content that is genuinely impactful, innovative and distinctive.

It is also likely that we will still broadcast some repeats of specially recorded concerts. However, by clearly defining the live music quota as relating to music that is genuinely new live and specially recorded, we will have the flexibility to deliver repeats that deliver real audience value, rather than including repeats in the schedule purely in order to meet the 260 hours quota in its current form. For example, we would plan to broadcast repeat live music sessions or specially recorded concerts to commemorate particular events, including those of cultural significance, religious festivals and notable birthdays or deaths. This will likely vary in volume year on year.

Given the financial constraints and costs described above it is clear that not all these 260 hours would be filled by live or specially recorded music programming. However, it is essential to note that all of Radio 2's other programming is also inherently distinctive, as we demonstrated in 2021/22 when:

- Radio 2 broadcast 15,621 unique tracks (all hours) compared to an average of 2,730 across 11 relevant commercial stations and 8,879 between 6am and 7pm compared to a commercial average of 1,845 in the same time slot.
- Radio 2 had a low overlap with songs played on commercial radio, i.e. about 10% in peak listening time.
- 51% of music in daytime from UK acts (quota: 40%) and 24% from new and emerging (quota: 20%).
- Radio 2 broadcast more than 1,200 hours of specialist music, significantly above its quota.
- Radio 2 also continued to provide more news and current affairs than any comparable radio station and significantly exceeded its quotas for arts programming, documentaries and religious output.

In scheduling the slots made available by reducing repeated 'live' music, Radio 2 will remain committed to prioritising creativity, breadth of genres and distinctiveness in its

output. We will continue to broadcast a unique mix of music and speech programmes covering a diverse mix of live pop and rock, documentaries and religious output and run social action campaigns. In our music offering, we will continue to showcase UK acts, new and emerging UK artists and broadcast a broader range of music than comparable commercial radio stations. As such, Radio 2 will remain an utterly diverse and distinctive radio service.

Annex 3 – Programmes of a national and regional interest

Over the past two years the BBC has made a number of announcements about its strategy that will have an impact on the output related to the quotas for programmes of a national and regional interest. These announcements include Tim Davie’s introductory speech as Director-General¹⁸, our *The BBC Across the UK* strategy¹⁹, the Director-General’s recent speech on *A digital-first BBC*,²⁰ and our Annual Plans.²¹ All these announcements are consistent with the core priorities the Director-General set out in September 2020 to deliver great value for audiences, i.e. impartiality, high-quality content, online, and commercial growth.

With regard to programming in the devolved nations and English regions, we have committed to rebalancing our output across the UK as never before, and spending more in the devolved nations and outside of London. For the first time in our history, the clear majority of our UK-wide TV will be made across the UK and not in London. We have set a new target of at least 60% of network TV commissions by spend to be made across the UK (outside London), which we would reach sustainably by the end of the Charter. This will benefit the creative sector across the UK and support the independent production community

As part of this, we will grow our portrayal and representation of audiences across the UK. Over the next three years, over a hundred of our new and returning scripted titles will portray the lives and communities of audiences outside London, of which at least 20 will reflect Scotland, Wales or Northern Ireland. We will also double the number of co-commissions between our Network and Nations teams across Factual, Drama and Comedy. We will track how much of our content delivers portrayal for our audiences.

Consistent with our strategy for high-quality, high-impact content, our goal is bigger, even more ambitious shows – keeping a very strong sense of locality but also able to work beyond borders delivering distinctive diverse content as set out in our public purposes 3 and 4.

With regard to news output, we will reshape our local services to be fit for the digital world – increasing the impact of our journalism online, and putting compelling local storytelling at the heart of iPlayer, Sounds and News, with a multimedia BBC presence in over 40 towns and cities. To strike a better balance between broadcast and freeing up money to invest online, we have proposed to end our dedicated TV bulletins from Oxford and Cambridge – merging these services with *South Today* and *Look East*. Similarly, to enhance our investigative journalism across England we will create a new network of journalists to focus on original storytelling rooted in our communities across England. This means that the next series of *We are England* – this autumn – will be the final one.

Currently the Operating Licence sets UK-wide quotas for:

¹⁸ [Tim Davie’s introductory speech as Director-General](#), 3 September 2020.

¹⁹ [The BBC Across the UK](#), March 2021.

²⁰ [A digital-first BBC](#), May 2022.

²¹ [BBC Annual Plans](#).

- 5,909 hours of programmes of national or regional interest on BBC One and Two, of which 557 hours must be non-news in peak and 179 hours non-news in times adjacent to peak; and
- 4,300 hours of the 5,909 hours must be news of national or regional interest on BBC One, of which 2,100 must be in peak viewing time.

It is important to note that these quotas are set on a cumulative basis, i.e. by summing all the national and regional programmes across 18 devolved nations and English regions.

Our strategy and published proposals will require changes to all these elements of the Operating Licence. Had Ofcom not been reviewing the Operating Licence, we would have made a formal request for a change to the quotas in order to implement these proposals. Below we set out the detail of our proposals.

News of a national or regional interest

There are three types of changes we are making for our national and regional news output: some small reductions in output; rationalising the English regions; and some minor scheduling changes.

Small reductions in regional and national TV news output

We have reduced some local news output on BBC One where that enabled an improved overall news offer and no meaningful impact on local provision. Decisions on the length and frequency of local news bulletins are taken jointly by the Content division, the News division and BBC Nations.

During the pandemic (from 20 March 2020 to 21 June 2021), we increased the length of the 10.30pm local news bulletin by 4 minutes, to 11 minutes Monday to Friday. We then reverted to the original length of 7 minutes.

We took this decision to reduce the overlap between the news on BBC One (including the local news) and *Newsnight* on BBC Two to maximise the audience impact of our most important news and current affairs programming across BBC One and BBC Two between 10pm and 11.10pm. Our view was that this improved audience offer justified the small reduction in local news minutes.

While the event-driven performance of news makes direct like-for-like analysis difficult, we have examined the performance of the 10.30pm local news bulletin in 2021 and 2022 using data from BARB. We can identify the increase and fall in time spent associated with the lengthening and shortening of the bulletin; however, all other metrics – reach, audience size and share – are in line with general trends for linear TV viewing or stable.

The Breakfast opts were dropped during the pandemic as we managed the impact on our own staff at this time with the need to protect higher value local news output, e.g. the 6.30pm programmes. Following this, *BBC Breakfast* decided to drop the 7.57am local bulletin for the audience reasons set out below. There were six local bulletins throughout *Breakfast*, one every 30 minutes (at approx. 6.27am, 6.57am, 7.27am, 7.57am, 8.27am and 9.05am). Audience feedback showed that audiences found this repetitive. The average *Breakfast* viewer watches for 48 minutes, meaning most viewers got the same content at least twice in that time. In addition, *Breakfast* were doing longer

in-depth interviews with politicians around 7.30am. Dropping the 7.57am bulletin allowed them to do that and continue to give space to other content so there was a broader mix of news, features, sport and weather at the key viewing hours (i.e. between 7.15am and 8.45am). *Breakfast* continues to have five local bulletins, which is more than any other public service broadcaster, both in terms of regularity and duration.

Even with this small reduction, viewing of the local breakfast bulletins has remained in line with trends for reach, audience size and share.

Collectively these changes have reduced our output of news of a national or regional interest by about 390 hours per year. However, it is important to note that this means only 5.5 fewer minutes of local news per day.

Rationalisation of English regions

In May 2022, we announced our intention to close the Oxford and Cambridge local news opts and merge them with *South Today* and *Look East*²² respectively. Oxford and Cambridge are both local news opts that already share some programming with a wider area, and are amongst the smallest of our local news locations – both in relation to population covered and the level of viewing. As we set out at the time, these changes will free up money to invest in local online news.

While neither the Agreement nor the Operating Licence specify the number of separate regions, the existing quota is based on the current cumulative level of opts. These changes will lead to no reduction in the volume of news available to viewers at home, who will instead receive news from a slightly broader region than previously. That is, news in Cambridgeshire will now be included in *Look East* and news from Oxfordshire in *South Today*. Collectively, these changes will reduce the total volume of local news broadcast by the BBC by about 260 hours per year (of which about 190 hours in Peak Viewing Time) but will not impact on our audiences' experience of the important coverage from these areas.

Scheduling changes

In addition we have made a small number of scheduling changes that have an impact on the distribution of programmes between peak and off-peak. For example, in late February 2022 we amended the running order of the 10.30pm news slot. Previously the running order was UK news, local news, UK weather, local weather. We decided it would be better for audiences if the UK weather followed the UK news, and the local weather the local news. This coincided with the small reduction in the length of the bulletin.

The change in this running order means that the local news bulletin now starts at 10.30pm rather than 10.25pm, and therefore falls outside Peak Viewing Time. However, it is fundamentally the same content offer, with the local news merely a few minutes later. This reduces BBC News in Peak Viewing Time by 155 hours, but at no loss to audiences' experience of our local news offer.

²² Following the changes *Look East* will cover Cambridge, Essex, Norfolk and Suffolk and *South Today* will cover Hampshire, Isle of Wight, Oxfordshire, West Sussex, much of Dorset and parts of Berkshire, Surrey and Wiltshire.

As noted above, having analysed BARB data, we have seen no adverse reaction from audiences in terms of reach, audience size, share or time spent with this bulletin following the changes.

Cumulative impact of our news changes

Cumulatively these changes will reduce BBC One's output of news of a national or regional interest by about 650 hours annually in all hours and by about 450 hours in peak (of which about 200 hours relates to the closure of the separate Cambridge and Oxford opts and about 250 hours to the schedule change of the late bulletin from 10.25pm to 10.30pm). However, it is important to note that from a viewer perspective this is only a reduction of 5-6 minutes per day and under our overall local proposals they will have a better local digital offer which will provide them with more value.

Regional and national non-news programmes

The Operating Licence requires that the non-news quotas are set for Peak Viewing Time (6pm-10.30pm) and at times immediately preceding or following Peak Viewing Time (Peak Adjacent).

There are three types of change we are making for our national and regional non-news output: increasing investment in more high-impact content; enhancing our investigative current affairs journalism in England; and some minor scheduling changes.

We note that Ofcom has recommended to Government that the requirements in the Agreement to set quotas for non-news programmes of a regional or national interest in Peak Viewing Time and Peak Adjacent should be removed. We agree with this recommendation. This requirement is arbitrary and prevents the BBC from scheduling programmes in the interest of audiences. It is also – given the increased use of BBC iPlayer – in line with Ofcom's approach to the BBC as a portfolio across broadcast and digital.

It is also important to note that while all our non-news hours contribute to the total quota for programmes of a national or regional interest, only some of them are covered by the Peak Viewing Time and Peak Adjacent non-news quotas. In 2021, the BBC broadcast 1,378 hours of non-news programmes of a national or regional interest, of which:

- 442 hours (32%) were in Peak Viewing Time;
- 291 hours (21%) were in Peak Adjacent; and
- 644 hours (47%) were outside these times, largely in Daytime.

These daytime hours contain some of the non-news programmes with the highest public value, such as 348 hours of live sports (of which 63% were in daytime) or 380 hours of current affairs programmes (of which 75% were in daytime).²³

²³ In 2021, the BBC England current affairs strand *Inside Out* was off-air and its replacement *We are England* had not begun. Therefore, given our plans for current affairs in England our total current affairs hours are likely to be slightly higher than this in future years.

Additionally, although the BBC Scotland channel is not an opt and does not count towards these quotas, in 2021 it broadcast 1,675 hours of non-news programmes for Scottish audiences, of which 78% were in Peak Viewing Time or Peak Adjacent.

Increasing investment in more high impact content

As noted above, and as set out in our *Across the UK* strategy, we have committed to rebalancing our output across the UK, with the clear majority of our UK-wide TV being made across the UK and not in London. We consider that representation and portrayal of audiences across the UK will be best served by these plans, and – consistent with our strategy for high-quality, high-impact content – through the commissioning of a smaller volume of bigger, even more ambitious shows with a very strong sense of locality but with much greater appeal beyond the borders of the Nation or region within which they were commissioned. Examples of this would include *Keeping Faith* (Carmarthenshire), *The Control Room* (Glasgow), *Angels of the North* (Tyneside), and *The Responder* (Liverpool). This will also provide wider portrayal of that Nation or region to the whole of the UK. As well as appearing in prime schedule slots on BBC One these high-impact hours will feature much more prominently in BBC iPlayer. As these programmes will be broadcast UK-wide on BBC One or Two we will not necessarily also run them on opts.

The corollary of this is that we will need to reduce lower value, lower impact programming. This will either be through decommissioning underperforming programmes, commissioning fewer episodes per year of existing titles or not commissioning as many one-off programmes.

However, it is important to note that our planned investment required to commission these high-impact ‘Across the UK’ programmes on network tariffs will, on the basis of our current plans exceed the savings from the reduction in lower value, lower impact programming. As such this will be a net benefit to local production sectors.

Moving to this strategy would involve a reduction of about 200 fewer hours of non-news programmes of a national or regional interest per year, although many of these programmes will still be made but will be broadcast on network TV.

Enhancing investigative current affairs journalism in England

We plan for the next series of *We Are England* – this autumn – to be the final one. Instead, we will create a new network of investigative journalists (11 teams based in newsrooms across England) to focus on original storytelling rooted in our communities across England – increasing our investment in local current affairs investigative journalism by more than 20%. More broadly, we will focus on high impact content, putting compelling local storytelling at the heart of iPlayer. These teams will deliver around six stories a month that will appear first on our online services and also deliver versions of the stories for our local TV news programmes and radio services. In addition, a central team would develop stories, some from the 11 current affairs teams and some of their own, into 20- 25 half hour programmes for linear TV and iPlayer.

In 2022 *We Are England* will account for approximately 55 hours of our annual non-news programming in England.

The total output of the new teams will significantly exceed the hours of English current affairs provided by *We Are England*, although with some of this embedded in other existing programmes. The unique programmes produced by the new local current affairs teams will create:

- about 20-25 standalone half-hour programmes for linear TV and iPlayer, i.e. approximately 10-12 hours per year.
- About 80 to 100 hours of English local current affairs embedded in other existing programmes such as the 6.30pm programmes.

We will also continue to produce a large volume of current affairs outside of peak, but of importance to audiences, including *Sunday Politics*.

The net effect on the non-news peak quota is a reduction of approximately 50 hours per year. We consider that the enhancement of our English local current affairs described above justifies this change.

Scheduling changes

Given the peak and adjacent to peak requirements of the quotas, our performance against these quotas is highly sensitive to the scheduling of content. This is particularly true given the small volumes of programming per region covered by these quotas, e.g. the 557 hour peak quota is about 11 hours per week across all our regional variations of BBC One and BBC Two while the 179 hour peak-adjacent quota is about 3.5 hours per week across all our regional variations.

The levels of these quotas relate to historic broadcast patterns and specific programmes or programme blocks. As the market context has changed, with the increased importance of on-demand viewing and other changes in viewing behaviour, we need to take decisions to schedule programmes at the times when they will deliver the most audience value. We consider that audiences would be better served if some long-running programmes were rescheduled, e.g. to daytime or after peak viewing time rather than peak or peak-adjacent times. However, we are currently constrained from making such changes.

Our current plans would involve about 50 to 60 hours of peak regional or national non-news programming moving to other parts of the schedule. However, we consider that Ofcom should set the quota at a level that gives us flexibility in scheduling content in the best interests of the audience.

Cumulative impact of our non-news changes

Cumulatively these changes will reduce BBC One and Two's output of non-news programming of a national or regional interest by about 300 hours annually. However, 200 of these hours relate to our investment in high-impact content that will deliver brilliant representation and portrayal from across the UK on network TV; 50 hours relate to our investment in current affairs investigative journalism in England which will provide more coverage of local stories on network TV; and 50 hours relate to already planned scheduling changes that will not reduce the volume of hours but only their broadcast time.

We will retain a breadth of genre across our non-news programmes of a regional or national interest. Other than the improvements to our current affairs programming in England described above, we have no plans to change our current affairs offer in the devolved nations. We also have no plans to reduce our local sports coverage (future negotiations on sports rights permitting), indigenous language or education programmes. We will continue to broadcast a range of comedy, drama, religious and factual programmes of a regional or national interest. Our changes will offer greater value to audiences, and the change in the quotas will enable us to prioritise high quality content and deliver more local investigative journalism across the UK.

Our proposals for the Operating Licence

In order to implement the BBC’s publicly stated strategy set out in *Across the UK* of creating more high-impact content from the Nations and English regions; support our shift to digital; and enhance English investigative current affairs journalism, we require changes to the current quotas for programmes of a national or regional interest.

We therefore request that Ofcom reconsider the levels at which the quotas on programming for the nations and regions are set, such that there is greater flexibility to support our plans, and deliver better value for all audiences in the nations and regions. We set out below, our proposals for the levels at which we consider the quotas should be set. In developing these proposals we have taken into account our plans set out above and our current level of delivery, rather than just the levels of the current quotas.

Figure 4: Summary of proposed changes to quotas for programmes of a national or regional interest

	Current quotas (hrs)	Proposed quotas (hrs)	Rationale for the change
Programming of a national or regional interest on BBC One and Two	5,909	5,000	Cumulative effect of changes below
News programming of national or regional interest on BBC One	4,300	3,900	Closing Oxford and Cambridge opts * Removing 7.57am breakfast and shortening 10.30pm bulletins
News programming of national or regional interest throughout the day at Peak Viewing Time on BBC One	2,100	1,700	Closing Oxford and Cambridge opts * Scheduling change of 10.30pm local news *
Non-news programming of national or regional interest provided at Peak Viewing Time on BBC One and Two	557	200	High-impact content Closing <i>We Are England</i> Scheduling changes*
Non-news regional programming of national or regional interest providing adjacent to Peak Viewing Time on BBC One and Two	179	150	Flexibility required given other potential changes to scheduling

* These do not impact the volume of content available to viewers in a single region/nation.