

Ofcom's Consultation on the BBC's Proposed Changes to its Future Operating Licence

Submission by Ofcom's Advisory Committee for Northern Ireland

Ofcom's Advisory Committee for Northern Ireland (ACNI) provides Ofcom with independent advice on the interests and opinions of citizens and consumers in Northern Ireland.

The Committee is deeply concerned by the BBC proposals for a very large reduction in BBC Northern Ireland non-news content – the 'local opts' which provide a range of programmes of interest specifically for audiences in NI.

The Committee agrees that a wider portrayal of NI to the rest of the UK is welcome, noting plans for more programmes about NI on the BBC's networks. The difficulty arises in a trade-off which massively reduces the offer of programmes made specifically for audiences in NI – programming which is at the very heart of the public service offer in this part of the UK.

Whilst some programmes made in and about NI will have a resonance in other parts of the UK, there are many others which carry immense - but definitively local - value and interest. That could be Gaelic games or Irish Leagueⁱ football coverage, Irish Language or Ulster-Scots Language programming, a *Spotlight* (current affairs) investigation or the whole range of cultural, factual and entertainment programmes which can be much more culturally specific when they are not commissioned with the purpose of serving a UK-wide audience. This is where we believe there would be considerable loss if this proposal was accepted.

This would be a substantial loss because we know that local content is especially highly valued in NI, and – critically - compensates for an historic pattern of lower viewing of the network programming.

BBC NI opts have consistently punched well above their weight in audience share, with a record of outperforming the equivalent network offering. Although they are a very small proportion of broadcast hours, and much cheaper than network programmes, they make a strong and unique contribution to the BBC's public purposes, including areas that network programmes about NI don't reach. For example, whilst a network co-commission can contribute to a wider portrayal of NI to the rest of the UK, it is largely through the range of local programmes that the full diversity of interests and communities that make up this place are reflected and served.

A reduction in programming aimed at local, rather than network, audiences will surely reduce the diversity of local content and reduce the reach and value for already underserved niche interests and communities.

We agree that there should be a quota to safeguard content broadcast to audiences in NI. However, the BBC has proposed a huge reduction in broadcast hours for these local programmes. Networked co-commissions will not compensate for this loss because they are essentially very different types of programmes (each with their value) and only a small subset of the range that is required to reflect and serve audiences in NI.

The current Operating Licence sets a quota of 90 hours of BBC One NI and 60 of BBC Two NI 'opts' – programmes made specifically for NI audiences, which do not need to fit a network commissioning brief.

Our understanding is that the BBC proposal reduces this to a quota of 200 hours peak and 150 peak adjacent which covers content produced for NI, Scotland, Wales and the English regions combined. An equal four-way split would reduce NI's local content from 150 hours to 50 peak time hours per year, representing a 66% reduction. And this includes repeats.

We further understand that the new quota will include current affairs programming, which was previously included in the news quota – so the investment is spread even thinner. (In 2021 BBC NI broadcast 74 hours of current affairs, in itself exceeding NI's potential share of the quota for all genres in peak-time in the new proposals).

As the BBC is currently significantly overdelivering on the quota the reduction actually experienced by audiences would be significantly higher.

The quota is not defined for each Nation so we do not know that NI would receive an equal share, and past experience has given us little comfort in this regard. This could mean that the volume of production for NI in peak-time could be even lower than the assumed 50 hours.

Whatever the final figures ends up being – and this is one of the real issues of this consultation, that there is no way of knowing what the real level of future programming made in and for the audience of Northern Ireland will be – the reduction will be stark.

Using figures from Ofcom's Media Nation report in 2021 BBC Northern Ireland delivered:

Current Affairs – 74 hours first run
Other non-news – 195 hours first run

At total of original in region production for the NI audience of 269 hours in 2021 (and there is a level of repeats on top of this number).

In the future – and assuming all the nations are treated equally - the figures look like this:

- Non news and current affairs – 87.5 hours (200 peak plus 150 shoulder peak divided by the four nations)
- So, from 269 hours in 2021, the audience may only receive 87.5 hours of directly relevant NI relevant content (non-news) from 2023.
- Plus, the new category of co-commissioned content – 22.5hrs (90hrs divided by the four regions)

It should be pointed out here that UTV, the commercial C3 licensee in Northern Ireland, is expected to produce 2 hours per week of non-news from and for Northern Ireland. Due to

the way the BBC is funded, ACNI believes the BBC should be expected to deliver a higher level of content than the commercial broadcaster.

Furthermore, both Wales and Scotland have additional public service channels (over and above the ITV licensee) providing content for the national audience. Scotland has both BBC Scotland and MB Alba and Wales has S4C. In Northern Ireland there is no additional PSB channel and the impact of any reductions will be proportionately much greater.

That also means that, as NI does not have separate language services like MB Alba for Gaelic in Scotland and S4C for Welsh, the BBC's Irish and Ulster-Scots content must be delivered within the greatly reduced opt out quota which must also accommodate all the other genres.

ACNI believes it is essential that Irish and Ulster-Scots provision is maintained and welcomes the funding through the language broadcast funds. It can, however, see a position where the separate language funding streams means few other original NI productions are made, which will hugely reduce the BBC's relationship with the local audience and how well they feel connected into the BBC.

In any case, such a substantial reduction in broadcast hours will make it impossible to sustain, in any meaningful way, the range of genres, including current affairs, Irish and Ulster-Scots, arts and culture, comedy and entertainment, factual programming, sport and so on.

Each of these genres represents a diversity of interest in itself – for example there are multiple 'main sports' in NI, to say nothing of the breadth of cultural experiences and interests.

Without that range and diversity – which cannot be replicated by a small number of co-commissions aimed at a UK audience - the value of the BBC in NI will be irrevocably diminished for its licence fee payers.

For many decades audiences in NI have enjoyed a mix of local and network programmes in peak times. This has been an intrinsic part of the viewing experience and it is what many sections of the audience expect of their BBC. BBC NI has been successful in creating an experience of a local version of BBC One and Two, through a fine balance of local and network programmes, even with just a few hours a week of local content.

There is a significant danger that there will not be the critical minimum number of local programmes to sustain this presence, for example through recognised schedule slots and established series.

On that point, we note that Ofcom carried out its original Equality Impact Assessment (EQIA) for NI on the basis of its original proposal that aimed to allow the BBC to have more flexibility around the platforms on which local content would be delivered and did not apparently envisage a major cut in provision.

We note that the proposal for local non-news content has now substantively changed, with a major cut to content aimed specifically at a NI audience. Such content is at the very heart of

the BBC's role in representing diverse communities in NI and therefore this has significant implications for an equality assessment.

We believe that there needs to be a full reassessment of the EQIA based on the new proposals. Any assessment should be clear about its evidence base and how this has informed Ofcom's decision-making.

We are especially concerned that the audience in NI, and the many stakeholder groups which represent its interests, have not been involved in the Operating Licence consultation, and indeed are completely unaware of the proposals. Yet these are the very people who will be most impacted.

The consultation process, as can be seen from the responses, has been largely industry focused. Yet Ofcom's own consultation principles state that "it will aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions." The onus on Ofcom has increased because the BBC is not consulting and engaging with its audiences. We strongly believe that the decision on local non-news content should be deferred until this principle has been adhered to.

The exception to this of course are the Advisory Committees, which are independent of Ofcom, rooted in their respective nations and represent the interests of consumers and citizens there. However, we are not confident at this stage that our representations on this matter have been taken on board.

Of course, we expect our advice to be taken into consideration alongside a wealth of other audience information. However, we are not aware of audience research and engagement that has sought to understand any potential detriment or suggests that this would be an acceptable trade off. It appears that the focus of evidence has been on the benefits of co-commissions, so has only looked at one side of the equation.

On that point, whilst we welcome many benefits from a greater representation of NI on the networks, we urge caution regarding some of the claims.

For example, we believe that the proposals do more to centralise than devolve commissioning power. The final decision for network programming is always made in London or Salford – never in the nation, so managerial and commissioning authority is actually being lost.

The process becomes more centralised, rather than creating content in the nation, the budget and decisions process is ultimately outside the nation.

We recognise that co-commissions will carry higher tariffs and therefore there is an argument that investment in NI production will increase as a result of these proposals. However, it can also be argued that local production budgets will be subsidising network budgets.

Furthermore, whilst there may be some gain to larger independent companies that can produce network content, there will be a significant loss of opportunity for local talent, both on and off air to “break into the business” on small local productions. NI’s independent production sector is characterised by a high number of smaller companies and is likely to be particularly hard hit.

Critically, we believe that this proposal goes against the stated aims of the BBC’s Across the UK strategy as audiences in NI would lose so much of the content that is especially relevant to and valued by them, and both budgets and decision-making power would become more weighted towards the centre.

Interestingly, whilst we understood from Ofcom’s June consultation that changes were necessary to support the BBC’s digital first strategy, and did not envisage substantive content cuts, these proposals have not borne this out.

We believe that there are better options which respond to the BBC’s funding challenges and changes in consumption patterns and better support the principles of Across the UK - for example a platform neutral quota specifically for NI for first-run content (ie not including repeats), set at a higher level than these proposals. (Note we have used ‘local opts as shorthand for NI programming aimed specifically at NI audiences rather being commissioned for a wider UK audience as well – but we are entirely open to a more service-neutral approach providing it best serves the NI audience. We have previously articulated our concerns about the lack of prominence and even availability of NI content online.)

We ask Ofcom to:

- **Consider and respond to ACNI’s advice above, including alternative options**
- **Defer a decision about local non-news content until ‘the largest possible number of people who may be interested in the consultation’ have been meaningfully consulted**
- **Consider other relevant audience evidence, particularly to understand the point at which there is potential detriment from a reduction in local opts**
- **Review the EQIA in light of the proposals, involving all relevant inputs**

This is a weighty decision for Ofcom. We are very aware of NI audience and societal ownership and interest in local content, and how finely balanced decisions in this regard can be. We hope that our advice will help to inform an optimal decision for licence fee payers in NI.

Note of English Regions Current Affairs.

While outside the direct remit of ACNI, we find it hard to accept that Ofcom feels it is correct to allow the BBC to end regular current affairs programming in the English regions. While the increase in current affairs resourcing and the benefits this may bring the evening news programming is potentially of benefit, to lose a regular appointment to view current affairs programme for the regions is a seriously retrograde step. The ability to hold authority to account – and for it to be seen to be kept to account – is one of the strengths of the BBC at all levels.

The proposed reduction of BBC local radio on top of the potential end of regular regional TV current affairs would surely be a double blow to an area that connects the audience, the BBC and the value they place on the BBC.

The Broader Future Operating Licence Consultation

The Advisory Committee has been closely engaged with Ofcom's work on regulating the BBC and developing the new operating licence, and this consultation should be read in the context of this wider advice.

In September the Committee responded to Ofcom's proposals on the BBC's Future Operating Licenceⁱⁱ and raised a series of concerns including: the lack of audience voice in these decisions, safeguarding local content and ensuring it is equally well served under the 'Digital First' strategy, transparency and Ofcom's ability to intervene in a timely and effective manner when required. It asks Ofcom to give full consideration to these issues.

**Advisory Committee for Northern Ireland
January 2023**

This is the Northern Ireland football league, known locally as the Irish League.

ⁱⁱ [Advisory Council for Northern Ireland \(ofcom.org.uk\)](https://www.ofcom.gov.uk/consult/condocs/bbc/bbc_191906/bbc_191906.pdf)