

Consultation response form

Your response

Question	Your response
<p>Question: Do you agree with Ofcom's provisional assessment and its proposed changes to the Operating Licence for news and current affairs on BBC Radio 5 Live? If As not, please explain why, providing appropriate supporting evidence where possible.</p>	<p>N</p> <p>The Advisory Committee for Scotland (ACS) is one of a number of committees and advisory bodies, established under the Communications Act (2003) to inform the work of the Ofcom Board and Executive. The ACS is one of four committees representing each of the UK's nations, specifically to <i>'advise Ofcom about the interests and opinions, in relation to communications matters, of persons living in Scotland.'</i> Therefore, in the responses below, comments highlight specific considerations particular to Scotland wherever possible. This submission draws on the knowledge and expertise of ACS members and is informed by our individual experience and through discussion at our meetings. It does not represent the views of Ofcom or its staff.</p> <p>As we see no issues here that particularly relate to Scotland, we have therefore opted not to answer this question</p>
<p>Question 2: Do you agree with Ofcom's provisional assessment and its proposed changes to the Operating Licence for live music on BBC Radio 2, including the view that new live music is more valuable to audiences than repeats? If not, please explain why, providing appropriate supporting evidence where possible.</p>	<p>N</p> <p>As we see no issues here that particularly relate to Scotland, we have therefore opted not to answer this question</p>
<p>Question 3: Do you agree with Ofcom's provisional assessment and its proposed changes to the Operating Licence for Programmes of a national or regional interest? If not, please explain why, providing appropriate supporting evidence where possible.</p>	<p>N</p> <p>We are not in agreement with the proposed changes and in particular have concerns around the suggestion <i>'to reduce the level of non-news of national or regional interest the BBC must broadcast at Peak Viewing Time on BBC One and BBC Two be taken together from 557 to 200.'</i></p> <p>The first point that we would like to make is that within this consultation there is a</p>

general assumption that the question posed in the previous Ofcom consultation in September 2022, relating to Public Purpose 4, has been answered and agreed. This was the suggestion that non news quotas for the Nations should be removed. In the recent BBC request, to which this consultation relates, they state:

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.

And indeed this consultation has also assumed that these quotas should be removed. We believe that this is premature and would have appreciated seeing and understanding some of the responses to this suggestion, in the previous consultation, before it is passed by default, as a result of this further request from the BBC. We were not in favour of this change and believe that there were other stakeholders who were also against this change.

The question that has now been posed in this consultation not only assumes that these quotas will go but is suggesting much bigger changes overall including:

- 1 Reduction in numbers
- 2 Removal of local specificity
- 3 Refocus on fewer, bigger, better.
4. More transparency in planning, reporting and monitoring

1 Reduction in the numbers

These have specific implications for Scotland. As a result of the launch of the BBC Scotland Channel, Scotland lost access to its BBC2 opt out slots. Therefore BBC2 has no commitment to local non news content for Scotland on its channel. The current non news quota for Scotland is 155 hours and is for BBC1 Scotland only.

Wales has a commitment of 240 across BBC1 Wales and BBC2.

NI has a commitment of 150 over BBC1 NI and BBC2.

The total of all of those commitments taken together is now to be reduced to 200.

We do not see how this can be a positive move for the audiences in the nations. It is non news that gives a local service its identity and audience connection. News and current affairs are obviously important but it is the range and diversity of non news that can reflect an audience back to itself in a positive way. And as soon as the range and diversity of this content begins to disappear, audiences notice, object, and if ignored, eventually leave. BBC Scotland already has an issue with audience representation and we believe that this will just add to this

It also begins to deliver a two tier service to Scottish audiences. BBC1 Scotland will become less Scottish. It will contain BBC1 Scotland branding, Scottish news and a very small amount of non news. The BBC Scotland channel therefore becomes the only home for all other Scottish programming. BBC1 Scotland obviously has a big budget schedule whilst the BBC Scotland channel languishes with a tiny

budget by comparison. And so the home for Scottish content becomes 2nd class and low budget.

2 Removal of local specificity

Nowhere within the consultation, or within the BBCs request and further explanation, is there a suggestion that the 200 will come with any commitment to any of the nations. Therefore the 200 will be split in an arbitrary way. With this reduction and without any local commitment, BBC 1 Scotland is unlikely to carry more than its fair share of the overall sum. That could be argued at 8% (around 12 hours a year) or a quarter of the total (around 50 hours a year) – considerably less than at the moment. At best, BBC1 Scotland could end up with one hour a week of non news local content – hardly a channel that represents its audience.

The BBC are keen to explain that through these 200 hours they will be able to cover a wide *'range of genres including comedy, drama, religious and factual programmes of a regional or national interest'* and also commit to having *'no plans to change our current affairs offer in the devolved nations.'*

However it is unclear to this committee where and how local current affairs, for the individual nations, will feature and be safeguarded.

In both the BBCs chart showing the new number and in Ofcom's chart, there is no mention of current affairs. Previously each nation had a news and current affairs quota and the non news quota specifically excluded current affairs. However, the breakdown in the new chart is either news or non news. Therefore by assumption this seems to indicate that the 200 non news

quota will not only have to accommodate the *'range of genres including comedy, drama, religious and factual programmes of a regional or national interest'* already mentioned, but also all current affairs programming for and from each of the nations.

The position and commitment to current affairs for and from the nations needs to be clarified before any agreement is reached.

It should also be of concern to Ofcom that the 200 hours includes repeats and we assume acquisitions. Therefore the actual new content being shared between the nations and regions could be much less.

This lack of local specificity is also a theme in the BBCs Across the UK plan where they commit to commissioning 20 drama titles *which will portray Scotland, Wales or Northern Ireland* - but no specific local commitment. It is worrying to this committee that the BBC are happy to categorise 'nations' as one group rather than recognise the huge diversity between them and the need to treat each one differently.

3 Refocus on fewer, bigger and better.

Within the suggested new quota of 200 hours, the BBC outlines its plans to invest in around 90 high impact titles. It will help fund this by the reduction of hours overall and will therefore *'not commission as many one offs, programmes of lower value and of lower impact.'*

Again this has a specific threat for Scotland and its production community. The Scottish production community is fragile. 80% of the commissions for independents based in Scotland come from the BBC. No

other PSB has a commitment to commission content from Scotland. Many of these commissions are of the lower value variety and one offs. These often allow new independents to get their first commission and develop. So the adoption of fewer titles will undoubtedly impact the Scottish sector. Fewer only works well if you are part of the few.

The bigger and better will also be a challenge for the Scottish sector. Whilst fragile, the sector is burgeoning but even in these more positive times the number of companies that will be able to take on bigger and better high impact shows will be limited. The examples quoted by the BBC tend to be high impact drama and whilst Scotland has produced two outstanding drama series recently (Mayflies produced by Synchronicity Films for the BBC and Screws produced by STV Studios for C4) there are not many more companies working at that level. It is interesting that the examples used by the BBC as the type of high impact shows that will benefit the nations and regions, include a number of titles highlighted as 'Scottish'. These may be deemed Scottish by the BBC but they have actually all been made by non Scottish companies.

Shetland is made by ITV Studios (based in London)

Granite Harbour is made by LA Productions (based in Liverpool)

The Control Room is made by Hartswood Films (based in London/Cardiff)

So whilst there is benefit to production taking place in Scotland further investigation would be needed to establish whether they would qualify as a Scottish production as they do not have a substantive base in Scotland. Commissions

like this are therefore not growing indigenous Scottish companies which is part of what the sector requires.

The funding for the higher impact content is also indicated to be through co-commissioning between commissioners based locally and London commissioners. There are two risks here for Scotland. The first being that local budgets are used as network top ups. The balance of power and decision must be pushed further into the nations and regions in order to avoid this. In the BBCs plan Across the UK there was a commitment to more commissioners in the nations which would be an obvious and welcome shift in the power base. However, as far as this committee understands there has been no increase in network commissioners in Scotland since March 2021 when the plan was published.

Co-commissioning also runs the risk (outlined by Ofcom) that localness is diluted through network needs. Local content made with the network in mind is obviously very different from local content made with a local audience in mind. The best way to ensure localness is for content to come from and be made in the nation. Therefore if co-commissioning is going to work the nations must have the power and the budget to develop and pitch ideas that truly reflect where they come from but have the universality of storytelling that will make them connect with audiences across the UK.

The use of the term 'lower impact' is also worrying in relation to the BBCs commitment to its audience to deliver a diverse range of content. Some of that diverse content will not deliver high impacts but will be hugely valued by its audiences. A good example of this is

currently ongoing within BBC Scotland radio listeners. At the suggested removal of dedicated Jazz and Classical music programmes, there is burgeoning audience campaign against the move. The commitment in the current operating licence for BBC Radio Scotland requires it to *'provide content and music of particular relevance to Scotland'*. The BBC interpretation seems to be moving towards the belief that Jazz and Classical music are not particularly relevant to Scottish audiences, a stance a growing part of their audience obviously disagree with.

This goes to the heart of our final concern – that moving away from defined and quantifiable quotas puts the emphasis on interpretation. And that interpretation will now become Ofcom's main regulating tool.

The BBC operating licence and these consultations are extremely complicated and will certainly not be poured over by members of the public or even other key stakeholders. Therefore the onus is on Ofcom to deliver a monitoring system which allows them to pick up issues, before the commissioning/production process is too far down the line to change. In order to do this Ofcom are requesting more transparency and engagement from the BBC. This is a big expectation in view of the fact for the past few years Ofcom have been consistently asking for more transparency from the BBC and not getting it. Where is the evidence that this will change?

However even with increased transparency, there still remains the challenge of interpretation of these commitments. How will Ofcom measure whether the new quota of non news content from the

nations and regions deliver for a Scottish audience, before it is made and produced?

Jazz and Classical music fans are rightly up in arms at the possible reduction in this type of output. How will Ofcom regulate as to whether the BBC are delivering as per their licence or whether the BBCs interpretation is the right one? If Ofcom was listening to BBC Radio Scotland listeners at the moment, it would have to say that the BBC's interpretation is wrong. If BBC1 Scotland changes as a result of these suggestions, then there are likely to be many more examples where audiences will see a reduced service and look to Ofcom to do something about it. And after all it is the audience's interpretation that is the important one. If audiences don't believe that the BBC are delivering the service they want and need, then they and Ofcom will have failed.