



# **Ofcom consultation: The BBC's request to change the Operating Licence**

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Response to Ofcom consultation

16 January 2023

## **1. Executive summary**

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.

We are also committed to adapting in order to succeed in a busy, global media market. In May 2022, the BBC outlined plans to deliver a digital first BBC, focussed on 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 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.

As such we welcome Ofcom's consideration of the requests we made for further changes to the Operating Licence. We also welcome Ofcom's proposals to implement these proposals, albeit with some amendments. We also welcome the clarity has given on its expectations of transparency in the BBC's Annual Plan and Annual Report.

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. These changes will give the BBC the ability and flexibility to deliver the strategy we have set out in the past two years.

By the end of March, the BBC will publish its Annual Plan for 2023-24. In this we will – in line with Ofcom's transparency requirements – clearly and in detail set out our plans for meeting the Mission and Public Purposes.

## 2. BBC Radio 5 Live's news and current affairs quota

We welcome and support Ofcom's proposal to reduce the news and current affairs quota for BBC Radio 5 Live from 75% of broadcast hours to 70%.

This modest change will help 5 Live reach audiences that are currently less well served, in particular younger men, and those audiences from lower socio-economic groups. 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.

Through this change, 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, including our commitment to broadcasting women's sports and sporting events for disabled people. For example, in years containing the Euros, Olympics, and Paralympics, such flexibility could allow fuller coverage of the Paralympics than we have previously been able to offer.

In 2022-23, 5 Live will have provided live commentary on over 20 sports including:

- Athletics
- Formula One
- Horse Racing
- Men's Boxing
- Men's Rugby League
- Men's Cricket
- Men's Football
- Men's Golf
- Men's Rugby Union
- Netball
- NFL
- Para Athletics
- Para Swimming
- Rugby League
- Wheelchair World Cup
- Snooker
- Swimming
- Tennis
- Women's Boxing
- Women's Rugby League
- Women's Cricket
- Women's Football
- Women's Golf
- Women's Rugby Union

The change will also 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.

With regard to audio sports rights, we can confirm that we are not – as a result of the 5% change to the quota – planning to increase our audio sports rights budgets and will not be pursuing additional high-value rights as a result of this change to the quota. Where we do consider acquiring new rights as a result of this change, to drive value for underserved audiences or broaden our sports output, they are unlikely to be in areas where there is substantive competition. Additionally, as Ofcom notes in its consultation document, if the BBC intended to significantly increase our audio sports rights budget we would need to consider whether this was likely to have a significant adverse impact on fair and effective competition (i.e. whether it was a material change) under our requirements in the Charter, Agreement and Ofcom's Operating Framework.

Finally, 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 also continue to reflect the UK-wide audience as the only national speech station based in the North of England.

### **3. Live music on BBC Radio 2**

In the BBC's submission to Ofcom, we set out our rationale for Ofcom to revisit the current operating licence requirement for BBC Radio 2 to broadcast 260 hours of live music each financial year. We proposed to Ofcom that a transparency condition would be more appropriate.

However, Ofcom considers that a specific quota is required to safeguard live music on Radio 2. Ofcom has proposed to set the new quota at 68 hours, and specified the criteria to include live music or specially recorded music, excluding repeats, and measured across each financial year.

The BBC agrees with Ofcom's assessment that new live music is highly valued by the Radio 2 audience and continues to benefit the UK's production and creative sector. The BBC continues to be committed to delivering high impact live music sessions on Radio 2. Live music is crucial to Radio 2's unique and distinctive offer to audiences. We also agree that the focus should be on new live or specially recorded music.

However, we consider that the most important aspects of our live and specially recorded music for audiences is its uniqueness and its high-quality, rather than the precise volume of hours. Given the financial realities the BBC faces for the remainder of the Charter period, it is essential that any quota is set at a level that will not be detrimental to the quality and distinctiveness of Radio 2's live and specially recorded music. Below we set out what we consider would be a realistic quota that balances financial realities, the quality and distinctiveness of our live music, and a compelling audience offer.

#### **3.1 Radio 2 is committed to celebrating and creating high-quality live music**

Radio 2 has long championed live music in radio and it has developed a strong reputation among the industry and audiences for live performances through unique and distinctive programming.

Live music on Radio 2 helps create strong connections between artists and listeners. There have been a range of opportunities for artists to perform live on Radio 2 and many artists and labels have praised Radio 2 for its commitment to supporting live and specially recorded music. This includes supporting genres which may be considered niche or not given the same space on other pop networks.

One of Radio 2's great recent successes in live music has been *Radio 2's Piano Room*, offering live performances from much-loved music stars. This is a totally unique proposition – we commission three new arrangements of popular songs and the artists perform a classic track, a new song and a cover backed by the BBC Concert Orchestra at the BBC's Maida Vale studios. The line-up spans the broad and distinctive mix of artists we play on Radio 2. In 2023, we will be showcasing the breadth and distinctiveness of Radio 2's music from Suzanne Vega and Michael Ball to Stormzy, Haircut 100 and Jessie Ware.

We also recently launched a significant specialist music initiative called *21<sup>st</sup> Century Folk*. A central part of *21<sup>st</sup> Century Folk* has been to capture the essence of life in the North East of England through the prism of folk songs, offering people from the region the

opportunity to have a song written about their life by acclaimed songwriters. These songs have then been performed by a range of musicians, including some with links to the region, creating a musical time capsule of life today in the North East.

This truly ambitious and unique project is being delivered across a range of BBC platforms and through live performances on Radio 2. Mark Radcliffe's *Folk Show* has been the home of *21<sup>st</sup> Century Folk*. But live performances of the songs have also been played throughout the week on the *Jeremy Vine Show* reaching his 6.8 million strong audience and the original compositions generated by this project were broadcast throughout the week on daytime radio and in a single bespoke two-hour programme. A News report featuring content from the project ran on *BBC Breakfast*, *The One Show*, *The One O'Clock News* and throughout the day on the BBC News Channel, showcasing folk music and folk musicians to the broadest possible audience. BBC Radio Tees and BBC Radio Newcastle also showcased the content last week. There was significant press interest in the project including from *The Guardian* and local newspapers in the North East and videos of the songs being performed are available on the BBC Music YouTube channel.

This unique initiative is providing a massive boost for the folk music industry in the UK (where they are arguably undervalued), offers artists an unparalleled platform to showcase their talent, and has created value to Radio 2 through distinctive high quality content that can resonate with audiences, bringing new listening experiences to wider audiences.

Jo Whiley also regularly showcases live music on her show in her weekly sofa sessions. These are new and emerging acts that wouldn't necessarily get mainstream session experience elsewhere at such an early stage in their career such as Lola Young, Holly Humberstone and Dodie.

We also run peripatetic sessions across our specialist Blues, Jazz, Folk and Country shows giving a platform on national radio to artists who would not get coverage otherwise.

Our live music programmes are also available for 30 days on Sounds after they are broadcast, giving audiences the option to listen to live music on-demand and enabling that content to reach audiences beyond the live broadcast. Many performances are also filmed and available to watch on BBC iPlayer and the BBC website.

We want to prioritise these types of live and specially recorded music sessions which deliver significant audience impact and public value.

### **3.2 Radio 2's current new live or specially recorded music sessions**

In our request, we set out how much new live music we were broadcasting in 2022, which totalled 68 hours. Ofcom is proposing to set this as the minimum level each financial year.

However, this output comprises about 55 hours of live music from programmes and events that are built into our annual schedule (e.g. *Sunday Night is Music Night*, *Glastonbury*, *C2C*, *Radio 2 in Concert*, *Piano Room*, *Jo Whiley's Sofa Sessions*, etc.) and 14

hours of ad hoc live music, recorded when resources are available and the opportunity arises with talent.

2022 was an atypical year. After two years when live music was very difficult to arrange due to the pandemic restrictions, Radio 2 wanted to do as much to celebrate live music as possible and had some budget available. This coincided with artists wanting to perform and engage with their audiences. Therefore, while it was possible to arrange additional music sessions in 2022, this level of output cannot be guaranteed every year.

Additionally, these unique offers are possible thanks to careful planning and scheduling from artists and the BBC. There are a number of operational and logistical issues around booking appropriate artists which impact the BBC's ability to deliver this consistently. It requires the availability and co-ordination of artists, recording facilities, production staff, preparation of arrangements, etc. Live music in particular is complicated to plan and execute – if just one link in the chain goes wrong it can lead to planned sessions being cancelled. This can include sickness (on both the BBC side and the artist side), tour schedules being altered, problems with transportation, etc.

These factors show that there is an inherent risk and uncertainty in delivering a higher number of live sessions, exacerbated by budgetary pressures on the BBC and changing audience behaviour.

### **3.3 Live music on Radio 2 is constrained by the BBC's financial realities**

Our ambition is to deliver the very best, high quality, distinctive live listening experiences on Radio 2. However, cost is a major factor and we need to use our live music budget where it will have maximum impact for the audience.

As part of budgetary adjustments under the current Charter period, there is a need to make significant savings across the BBC including BBC Radio and Music. This is in addition to building saving initiatives to address the challenges of rising costs and unfunded inflation. Live music is particularly susceptible to cost inflation as the industry recovers from the impact of Covid-19 on ticket revenues and continues to pay for enhanced soft measures, as well as grappling with the rising costs and CPI. Any new investment Radio and Music is able to make will focus on BBC Sounds reflecting the strategic imperative of meeting the needs of future audiences.

Ofcom's proposal to exclude repeated live music content is a positive change and will help the BBC avoid having to broadcast expensive repeats within a constrained budget. We agree that repeated content is less valued by audiences. This change will enable the BBC to deliver more value for audiences by providing new distinctive content rather than repeats from the BBC archive. However, the funds saved by this will not fund significant volumes of new live music.

### **3.4 Our current plans and proposal for Ofcom's quota**

However, the BBC Radio and Music team will need to adapt against these budgetary pressures and an audience that is increasingly migrating toward digital listening. These challenges will inevitably impact the final allocation across the portfolio for the coming years, requiring the BBC to act responsibly and with flexibility to ensure it can continue

to deliver high quality and distinctive content for audiences and fulfil the Mission and Public Purposes.

Currently our plans are to deliver 62 hours of high-quality, distinctive live music next year. However, we consider that this output will become increasingly challenging in subsequent years due to the short and long-term financial constraints on the BBC. Nonetheless, we do not intend to lower the operating minimum of 55 hours new live or specially recorded music each year.

Therefore, we propose that – in order to continue to offer the most distinctive, creative and high-quality live music sessions that generate public value for audiences, artists and the music industry, while managing our significant financial constraints – Ofcom should require Radio 2 to provide 55 hours of new live or specially recorded music every financial year.

## **4. Programmes of a national or regional interest**

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 viewers across the UK, the creative sector across the UK and support the independent production community.

### **4.1 News of a national or regional interest on BBC One**

We welcome and support Ofcom's proposal to reduce the level of news of national or regional interest the BBC must broadcast on BBC One from 4,300 hours to 3,900 hours and at Peak Viewing Time from 2,100 to 1,700 hours.

These proposals reflect three types of changes we have made to our national and regional news output: some small reductions in output (e.g. reducing the number of local breakfast bulletins from six to five); rationalising the English regions (i.e. closing the Oxford and Cambridge sub-opts and merging them with *South Today* and *Look East*, respectively – this has now been implemented); and some minor scheduling changes.

### **4.2 National and regional non-news programmes on BBC One and BBC Two**

We welcome and support Ofcom's proposal 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 taken together from 557 to 200 hours and at Peak Adjacent viewing time from 179 to 150 hours.

It is important to note that these quotas apply only to non-news programmes broadcast in Peak Viewing Time and Peak Adjacent viewing time. Almost half of the BBC's national and regional non-news programmes are broadcast outside of these times. These are mostly current affairs (for example, *Sunday Politics*) and sport (much of which, being live, is broadcast at weekend afternoons). Other than the improvements to our current affairs programming in England discussed below, 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).

Other than some minor scheduling changes, our request was driven by two objectives – to increase investment in more high-impact content and to enhance investigative current affairs in England.

#### **4.2.1 Increasing investment in more high-impact content**

In our request to Ofcom we set out our plans to invest more money in commissioning in the devolved nations and English regions, increasing the number of high-impact portrayal titles which will go out on network TV and BBC iPlayer, not just on national or regional opts.

Examples of these high-impact portrayal shows include dramas such as *Sherwood* (English Midlands), *The Pact* (Wales), *The Responder* (Liverpool), *Control Room* (Scotland), *Guilt* (Scotland), *Wolf* (Wales), *Steel Town* (Wales), *Mayflies* (Scotland), and *Granite Harbour* (Scotland); documentaries such as *Once Upon a Time in Belfast*, *Slammed* (Wales), *The Ice Cream Wars* (Scotland), *Murder Case* (Scotland), and *James Joyce's Ulysses* (Northern Ireland); and reality / entertainment titles such as *Ruck Stars* (Wales), *Made up in Belfast*, *Fast and Famerish* (Northern Ireland), and *Nurses* (Wales).

This approach will ensure wider portrayal of the lives and stories of communities across the UK in compelling, high-impact programmes. Our analysis shows these types of genuinely locally made high-quality programmes perform well nationally but particularly in their nation / region of origin. For example, *Bloodlands* got a 31% share across the UK, but 50% in Northern Ireland; *The Responder* had a 14% share across the UK, but 30% in North West England; and *A Killing in Tiger Bay* had a 5% share across the UK and 21% in Wales.

We will still, of course, continue to provide a consistent and regular current affairs offer, hours of regular sport across all nations (e.g. *Sportscene*, *Super League Show*, *Bikes – NW200*, *Scrum V*, snooker, URC, shinty, etc.), regular favourites in each nation (e.g. *Beechgrove*, *River City*, *Sin Bin*, etc.) and landmark cultural moments (e.g. *Eisteddfod*, *Cardiff Singer Of The World*, *The Belfast Mixtape*, *Hogmanay*, *TRNSMT*, etc.).

#### 4.2.2 Enhancing investigative current affairs journalism in England

We consider that our new approach to regional investigative current affairs journalism in England will be a significant improvement.

We are increasing our investment in regional investigative current affairs by 20%. Additionally, the total output of the 11 new regional 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.

### 4.3 Programming of a national or regional interest on BBC One and BBC Two

We welcome and support Ofcom's proposal to reduce the overall level of programming of a national or regional interest the BBC must broadcast on BBC One and BBC Two taken together from 5,909 to 5,000 hours. This change merely reflects the cumulative impact of the changes discussed in more detail above.

We also welcome and support Ofcom's proposal to set transparency conditions relating to the BBC's national and regional programming. We are confident that viewers will respond positively to these changes will enable the implementation of our *Across the UK* strategy and will clearly set out our plans for the coming financial deal in detail in our forthcoming Annual Plan.