



ALBA | CHRUTHACHAIL

Holding the BBC to account of the delivery of its mission and public purposes: Ofcom Consultation

Creative Scotland Response

Creative Scotland is the public body that supports the Arts, Screen and Creative Industries across all parts of Scotland on behalf of everyone who lives, works or visits here.

We enable people and organisations in Scotland to work in and experience the arts and creative sectors. We do this by helping others to create culture through developing great ideas and bringing them to life.

“We want a Scotland where everyone actively values and celebrates arts and creativity as the heartbeat for our lives and the world in which we live; which continually extends its creative imagination and ways of doing things; and where the Arts, Screen and Creative Industries are confident, connected and thriving.” **Unlocking Potential, Embracing Ambition**, a shared plan for the arts, screen and creative industries, 2014.

We aim to achieve this vision through four key functions:

- **Funding** support for individuals and organisations working in the arts, screen and creative industries.
- **Advocacy** on behalf of these sectors, both nationally and internationally.
- **Development** support for these sectors so that they can continue to grow and thrive.
- **Influencing** others to understand the value that the arts, screen and creative industries deliver.

Creative Scotland’s overall budget for 2016/17 is £77.6m, which we receive from the Scottish Government (57%) and the National Lottery (43%). We distribute this funding to the sectors we serve through **three funding routes**: Regular Funding over three years for organisations; Open Project Funding for individuals and organisations for programmes of work for up to two years; Targeted Funding to support specific sectors, projects and initiatives (including Film & TV development and production and talent and skills development).

In April 2014, we published our Strategic Plan, **Unlocking Potential, Embracing Ambition**, which presents a shared vision for the arts, screen and creative industries for the next 10 years.

At the heart of this plan is a set of ambitions and priorities that provide a focus for our work and reflect what we want to achieve, in collaboration with the sectors we support. Supporting this 10-year plan, are distinct but complementary strategies for the **Arts, Screen, and wider Creative Industries**. Developed in consultation and collaboration with the sectors they serve, these strategies set out the priorities for these sectors and how our work supports them.

Introduction

Creative Scotland welcomes the opportunity to respond to the current consultation. The BBC is a powerful force in our national cultural life and it is vitally important that its public service remit is protected in a highly competitive media landscape. The new mission and public purposes for the BBC as set out in the BBC Charter are a clear statement of this intent and we are committed to working with the BBC to help maximise its contribution to the cultural well-being of Scotland and the rest of the UK.

In line with Creative Scotland's organisational remit, our response to the consultation is driven by three main concerns:

- that the BBC provides opportunity for the people of Scotland to access programmes and content that are culturally relevant, diverse, distinctive and engaging;
- that the BBC provides an effective platform for cultural output from Scotland; and
- that the BBC makes a significant contribution to the creative economy of Scotland.

Q1: Do you agree with our overall approach to setting the operating licence?

We welcome the general approach proposed through the new operating licence structure. In particular, we support the clarity and independence of the BBC being regulated by Ofcom, and consider the division of responsibilities between the BBC Board and Ofcom to be appropriate. We also support the expectation, made explicit by Ofcom, that quota targets should be regarded as minimum standards, and that performance should in many cases exceed the stated levels. At the same time, it is important that the introduction of a single BBC Operating Licence should not detract from the protection of distinctiveness in individual services.

While we understand that the operating licence will not seek to define all areas of the BBC's outputs and services, and is intended to work alongside other regulatory responsibilities, we would note the omission of the target quotas for independent production. Plurality of supply in content production is a critical factor in the BBC producing a sufficiently diverse range of outputs that represents the interests of the UK population. It is also central to ensuring the BBC's contribution to the UK's creative economy. As such, the independent production quotas are an essential mechanism through which the BBC delivers its mission and public purposes and, as such, we might have expected these to be included within the operating licence.

However, this can be considered a relatively minor point so long as there are transparent and effective mechanisms to hold the BBC to account for its performance against these quotas.

Finally, we support the commitment to flexibility and regular review. The landscape in which the BBC operates is subject to rapid change and the regulatory framework must be responsive. This is of particular interest to Creative Scotland in light of the proposals for a new channel in Scotland and we expect that this, along with any other new services, will operate within the BBC Charter, Framework Agreement and Single Operating Licence.

Q.2 Do you agree with the approach we have proposed for public purpose 1, including the high-level objectives and regulatory conditions we are proposing?

We have no comment to make on this question beyond general support for the role of the BBC in the provision of news, current affairs and factual programming and content. Any comments regarding the implications for Scotland are addressed under the questions that follow.

Q.3 Do you agree with the approach we have proposed for public purpose 2, including the high-level objectives and regulatory conditions we are proposing?

Television and radio are essential media for education and for cultural consumption, and a key part of a healthy educational and cultural ecology in the UK.

We therefore strongly support the focus on addressing declining spend and output in a number of genres, including arts, music and children's programming. Indeed, factual programming across a range of genres is a long-standing strength of the production sector in Scotland and we welcome all measures that can continue to sustain this expertise.

The operating licence clearly sets out target quotas for these genres, and we consider these to be appropriate and proportionate. However, the quotas are expressed at UK level only, and do not appear to translate to the Scottish context. Instead, the regulatory requirements are expressed in less direct terms such as BBC One Scotland and BBC Two Scotland being required to provide a "*range of genres in programming that reflects Scotland's culture*" and BBC Radio Scotland and BBC Radio nan Gaidheal to provide "*content and music of particular relevance to Scotland*".

We recognise the difficulties of simply applying UK targets at the level of individual nations and regions, but feel that these regulatory requirements should be strengthened to provide greater emphasis on the provision of key genres such as arts, music and children's programming within Scottish broadcasting. Other nations and regions may wish to make similar arguments.

In addition, we would also wish to see a range of Scottish cultural output broadcast on the network schedule, including in peak hours. This is essential both to the effective representation of the diversity of UK audiences, but also to the wider promotion of cultural activities and interests. We suggest that reference should be made here such that the cultural output of the whole of the UK, including the nations and regions, is properly reflected.

We have a related point to make in respect of music content broadcast on radio, as detailed under our response to Q4 below, and would also note that diversity of content should also be a key principle of the BBC's online offer. As proposed, the regulations for BBC online relate mainly to news and sports content, and to indigenous language content in the nations. We would like to see arts and culture added to this condition.

With respect to the regulatory conditions for children's programming, we welcome the proposed approach and would reinforce the need to consider the different educational curricula across the UK nations when developing educational content.

Finally, we welcome Ofcom's emphasis on partnership between the BBC and educational, cultural and sporting organisations across the UK, and we look forward to working with the BBC on matters that relate to our responsibilities for the arts, screen and creative industries in Scotland.

Q.4 Do you agree with the approach we have proposed for public purpose 3, including the high-level objectives and regulatory conditions we are proposing?

We support the assertion that the BBC should continue to invest in original productions and first run originations if it is to maintain a creative, high quality and distinctive output in an increasingly competitive media landscape. We therefore agree with the high-level objectives, in particular that first-run UK originations make up a substantial proportion of peak-time programmes. To secure this objective, the proposed regulatory conditions for BBC1 and BBC2 should be extended to BBC ALBA and, in due course, to the proposed new TV channel – BBC Scotland.

In particular, we welcome the recognition that commissioning output from a wide range of independent producers will help the BBC to maintain a high level of risk taking, innovation and creative ambition in its content provision. This is essential to ensuring a diversity of voices and creative output, as well as the BBC's contribution to the creative economies of the UK. Again, however, we note the omission of the independent production quotas and suggest that these are at least referenced, even if they are enforced through other regulatory instruments.

The critical role played by radio in supporting new and emerging artists is also one that we would support. We welcome the specific quotas for Radio 1 and Radio 2 regarding the promotion of UK music, but would like to see mention also of music from Scotland (as well as the other devolved nations). This may be implied in the commitment to UK music, but we believe the commitment to music from across the whole of the UK should be made more explicit. We also think that the regulatory conditions relating to BBC Radio Scotland should similarly be strengthened to reinforce the station's support for music and cultural output from Scotland.

Q.5 Do you agree with the approach we have proposed for public purpose 4, including the high-level objectives and regulatory conditions we are proposing?

Public purpose 4 is concerned with the BBC's role across the UK's nations and regions and, as such, it is of direct interest and relevance to Creative Scotland. The separation of the issue of nations and regions delivery, and the representational issues relating to the diverse communities of the UK's nations and regions allows clear focus on each set of objectives.

We regret the fact that only some 5% of the BBC licence fee revenue has historically been spent in Scotland. This compares unfavourably with the share of license fee spent in the other Nations of the UK in comparison to the license fee raised in those Nations. It is important that the BBC should continue to find ways to ensure that more of the licence fee raised in Scotland is spent there.

Turning in more detail to production in the nations and regions, we welcome the introduction of specific network production quotas for the nations (separate from the English regions) and the target for network production spend and hours in Scotland, but would highlight four main points:

- the target of 8% of production spend and hours in Scotland is lower than the BBC's recent performance (10.6% of spend and 16.6% of hours in 2016¹ and five year averages of 9.1% and 14.5% respectively) and there is a risk that the regulatory framework encourages a reduction in qualifying production spend and hours in Scotland. Although there is an expectation that this target quota would be a floor and not a ceiling, that is not guaranteed and we are concerned that the target is too low relative to recent performance;
- we strongly welcome Ofcom's plans to review the guidance for PSB channels on qualifying regional productions. This has been a much contested area, and the review provides a valuable opportunity to articulate clear and transparent definitions of qualifying out-of-London production spend that can better deliver the intended benefits to the nations and regions. It is fundamentally important that the BBC's investments make a significant contribution to the development of sustainable production centres across the UK, and this

¹ PSB Annual Compliance Report 2017 (Ofcom, 2017)

- principle should guide the development of the revised guidance. The new guidance should also allow transparent monitoring of performance against the new quotas;
- while we acknowledge it is not the role of regulation to set prescriptive conditions for how quotas should be delivered, the effective delivery of network production in Scotland would be significantly enhanced by the devolution of commissioning power and spend from London to Scotland. The commissioning process for network production is heavily concentrated in London, and this is consistently identified as a barrier to achieving greater plurality of supply in Scotland; and
 - we note the consideration given to more prescriptive genre quotas in the nations and regions, and understand Ofcom's rationale for not taking this approach. However, there is a long standing deficit in network drama production in Scotland. Drama has important representational as well as economic benefits, and we would like to see a proactive approach from the BBC that provides opportunities for drama writers, producers and directors in Scotland as well as delivering important representational benefits for audiences.

On the issue of diversity, we support the commitment to providing content of relevance to different audiences across the nations and regions. We agree with the approach set out in the consultation documents and recognise the challenge of defining measurable conditions in this new area of regulation.

We also support the ongoing commitment to Gaelic language broadcasting through BBC ALBA, which suffers from the same deficit in drama production as the English language network. However, it is inappropriate for Ofcom to classify indigenous language broadcasting in its high level objectives as a "genre" separate from drama, comedy and sport (para 4.109.3). Rather, the BBC should be held to account for commissioning and broadcasting Gaelic language programming across all genres; and the volume of broadcasting in Gaelic – much of it funded by Scottish Government rather than the BBC – should not be regarded as a distinctive genre in enabling the BBC to meet its regional programming targets (para 4.112.5).

Q.6 Do you agree with Ofcom's approach to how we will set and amend the operating licence, as set out in Annex 5?

We have no comment to make on this question.

Q.7 Do you agree with our proposed overall approach to performance measurement?

Q.8 Do you agree with the proposed framework of: availability; consumption; impact; contextual factors?

Q.9 Do you agree with Ofcom's approach to how we will set and amend the performance measures?

We have grouped our responses to questions 7, 8 and 9 together to provide comment on the overall approach to performance measurement.

The proposed approach and framework appear comprehensive and are consistent with the regulatory framework outlined in the document. Our only comment here would be that some of the proposed measures should also include a breakdown by genre (e.g. spend on first-run originated network programming produced in each nation and region). We assume, on the basis of past practice, that these analyses would be included, but highlight this for completeness. The process for setting and amending performance measures again seems to us to be appropriate and we have no further comment to make on this aspect.