

Guardian Media Group response to Ofcom consultation on holding the BBC to account for the delivery of its mission and public purposes

About Guardian News & Media

Guardian Media Group (GMG), is the owner of Guardian News & Media (GNM) which publishes theguardian.com and the Guardian and Observer newspapers. Wholly owned by The Scott Trust Ltd, which exists to secure the financial and editorial independence of the Guardian in perpetuity, GMG is one of the few remaining British-owned newspaper companies and is a successful global digital business, with operations in the USA and Australia and a rapidly growing audience around the world.

As well as being a leading national quality newspaper, the Guardian and The Observer have championed a highly distinctive, open approach to publishing on the web and have sought global audience growth as a priority. A key consequence of this approach has been a huge growth in global readership, as theguardian.com has grown to become one of the world's leading quality English language newspaper website in the world, with over 140 million monthly unique browsers. From its roots as a regional news brand, the Guardian now flies the flag for Britain and its media industry on the global stage.

Introduction

GMG is a strong supporter of the BBC, its core values of public service and its contribution to British public life. GMG supports the fundamentals of the BBC in its current form and a universal service funded through a universal levy.

As this consultation recognises, the media ecosystem is changing rapidly, with high quality journalism now being created by a wide variety of new and established news sources. For news media that have been around for hundreds of years, the business model that has traditionally supported the production of commercial public interest journalism is under serious threat. The print advertising market continues to contract at a rapid rate, and digital advertising has plateaued as Google and Facebook look set to take more than 70% of online display advertising in the UK by 2020.¹

As an industry we are diversifying our business models - the Guardian's strategy encompasses membership, contributions and subscription schemes, while other news sources continue to experiment with a range of paid and freemium models. Many commercial news organisations are searching for ways to remain distinctive, to connect with readers, and rely less on advertising to fund journalism, primarily by seeking to create a more direct relationship with regular readers.

In this context, the BBC's public purposes relating to news and impartiality are vital. The BBC's position as an impartial public space that sits at the heart of the media ecosystem, is vital to a society in which political opinion is increasingly polarised. In a world of filter bubbles and algorithms, the BBC plays a vital role as the respected, mediating point through

¹ <https://www.theguardian.com/media/2016/dec/15/google-facebook-uk-online-ad-revenue>

which UK citizens can understand the news of the day with clear, respected and informed view of the events of the day (below we discuss the commercial news media's role as a genesis of many of the news stories covered by the BBC). That point at the heart of the ecosystem, along with its near £4 billion of annual public funding, ensure that the BBC has a very substantial influence across the country, and a significant income to invest in high quality public interest journalism.

But that position also places a unique responsibility on the BBC to act in ways that reflect and acknowledge the ecosystem of news brands that invest in high quality journalism in the UK, and to ensure that citizens remain connected to and aware of the investment that those news brands make in journalism. This role is vital in an increasingly complex and disintermediated search and social digital ecosystem.

Through the recent Charter review process, GMG made a number of submissions which argued that the BBC's unique public funding position means that they should support and promote the role of news sources, other than the BBC, in creating high quality journalism in the UK.

GNM invests in journalism that achieves many of the aims of the public interest objectives of the BBC. We provide "*impartial news and information to help people understand and engage with the world around them*", that builds "*people's understanding of all parts of the United Kingdom and of the wider world*", and offers a "*range and depth of analysis and content not widely available from other United Kingdom news providers*".

Within the context of a turbulent and increasingly polarised political climate, partisanship and threats to press freedom mean that readers increasingly want journalism that is trusted, accurate, high quality, authoritative, open, and which holds power to account.

It is therefore extremely pleasing that the recent annual report by Ofcom on news consumption in the UK² found extremely high levels of trust amongst regular readers of Guardian journalism. The report found that regular readers of the Guardian rate us a more accurate, reliable and trustworthy news source than the regular readers of any other newspaper source in the UK. Moreover, the Guardian is also the most trusted online news source - more so than regular users of the BBC, Sky News, Facebook or Google (the BBC is seen as another of the most credible and trusted sources). More of our regular readers see us as an impartial and unbiased digital news source, than the regular users of any other digital news source.

This short consultation response should be read in conjunction with the detailed response provided by the News Media Association.

Q.1 Do you agree with our overall approach to setting the operating licence?

We note that Ofcom's approach seeks to preserve the BBC's editorial and creative freedom while also holding the BBC to account, principally by not seeking to replicate the extensive

strategic requirements imposed by the Trust through its service licences. In principle, we do not object to this approach as long as there are clear parameters and expectations around the sort of content that the BBC should invest in.

We do emphasise that certain principles and points must be kept in mind when deciding which regulatory conditions should be imposed by Ofcom. A key issue for commercial news sources is ensuring that through the BBC's news output, there is recognition and appropriately prominent credit given to commercial news brands where they are the source of news stories. Such credit should be provided across the BBC's TV, radio, and online news services, with a continued - and monitored - policy of maintaining a linking quota in the online world. Where the BBC falls short of that quota, Ofcom should investigate the reasons why that target has been missed.

We also note that Ofcom has imposed regulatory conditions where it thinks it is in the interests of citizens and consumers to do so. Again, we do not object to this approach.

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 note in particular the following sections:

Public Purpose 1: To provide impartial news and information to help people understand and engage with the world around them: the BBC should provide duly accurate and impartial news, current affairs and factual programming to build people's understanding of all parts of the United Kingdom and of the wider world. Its content should be provided to the highest editorial standards. It should offer a range and depth of analysis and content not widely available from other United Kingdom news providers, using the highest calibre presenters and journalists, and championing freedom of expression, so that all audiences can engage fully with major local, regional, national, United Kingdom and global issues and participate in the democratic process, at all levels, as active and informed citizens.

Relevant context for proposals:

4.29 The BBC is operating in a rapidly evolving sector. Changing consumption patterns and new market entrants pose challenges for the BBC, and so it is critical that the BBC responds to these changes to ensure it continues to reach all audiences. The values of accuracy and impartiality are increasingly important given the fragmentation of news sources and the importance of people's access to reliable sources of news and information.

Relevant high level objectives:

4.32.3 continue to provide trusted and reliable information, news, current affairs and factual output to the highest editorial standards;

4.32.4 ensure that it provides adequate links to third party online material, particularly within its news stories, helping to provide its users with a wealth of information while also supporting other providers within the industry. In doing so the BBC should exercise careful judgement about the links that it offers.

Relevant proposed regulatory conditions:

4.35 We are also required to consider, in relation to our duty when setting the first operating licence: increasing the current requirements on the BBC to secure the provision of more distinctive output and services; and, to have regard to the desirability of setting or changing requirements to increase the amount of news, information, current affairs and social action issues on BBC Radio 1 and BBC Radio 2, particularly at peak listening time.

4.41 Schedule 2 to the Agreement requires Ofcom to have regard to the desirability of setting or changing requirements to improve the provision of news and current affairs on the BBC's online services, to support the provision of distinctive output and services. We have considered this issue carefully, and we are not proposing to include any specific regulatory conditions in the operating licence relating to this point. We consider that, while it is important that the BBC focuses on the distinctiveness of its online news and current affairs, the selection of stories by the BBC on its online news service is an editorial decision for the BBC. We also note that our recent deliberative research, which examined audiences' relationship with the BBC, suggests that **users feel that the BBC News website has a distinctive brand and layout**. Additionally, in promoting this public purpose, the BBC should offer impartial news alongside a range and depth of analysis and content not widely available from other UK news providers, including on its online services. [our emphasis]

4.42 We are required by Schedule 2 to impose on the BBC the requirements we consider appropriate for **ensuring adequate links to material provided by third parties from BBC Online. We have considered whether it would be appropriate to set a condition based on click-throughs to external sites**. We note that the service licence for BBC Online set by the BBC Trust required the BBC to try to increase the volume of click-throughs to external sites from all parts of BBC Online year-on-year. While we note that the BBC has broadly delivered on this condition over the last five years, **we do not consider it appropriate to set an enforceable regulatory condition which relies on audience behaviour, whereby compliance is not directly within the BBC's control**. Additionally, the number of click-throughs the BBC achieves is only a proxy for whether it has provided adequate links. Instead we propose to require the BBC to ensure that it provides adequate links to material provided by third parties across its BBC Online services. This aims to secure appropriate references to any content that the BBC uses from external sources, while also encouraging users to visit these sites for further information, which is beneficial to both audiences and providers of relevant websites. [our emphasis]

4.44 Our initial assessment is that our proposals in relation to public purpose 1 are likely to benefit audiences by securing a minimum level of news and current affairs output, have a limited but manageable impact on the BBC, and have little impact on other broadcasters and providers of on-demand and online services.

Monitoring of market impact

We appreciate that the market impact of the BBC's news operations, and obligations relating to distribution of content and partnerships, are largely dealt with in other Ofcom consultations, some of which GMG has responded to directly.

Tension between the BBC and commercial news sources, is caused by the BBC's core objectives of reach and relevance conflicting with the more commercial - and often longer term - objectives of the commercial sector. At para 4.29, Ofcom states that "*Changing consumption patterns and new market entrants pose challenges for the BBC, and so it is critical that the BBC responds to these changes to ensure it continues to reach all audiences.*" The BBC's response to these changes in recent years, has been to move first in joining initiatives such as Facebook Instant Articles or the move to [partner with Google and YouTube](#) to takeover of the Google search page - where users searched for Rio 2016 - with the effect of relegating the search results for every other commercial news source that provided coverage of the 2016 Olympics Games.

The BBC has been seen as a leading partner with digital platforms, and has ensured that its news content is present on those platforms at launch. But the impact of those partnership decisions also impacts on the commercial sector. When the BBC agrees to be a launch partner with Facebook, the BBC's content, including vast amounts of publicly funded news and sport articles and video content, provides enough content for digital platforms to launch a minimum viable product. Once in the market - and to the extent that it becomes a key element of news consumption for a wider population - that product then becomes a key consideration for commercial news organisations, influencing their own distribution strategies.

Because the BBC's primary consideration is reach, insufficient consideration appears to be given to how the Corporation's behaviour will influence the commercial arrangements between those dominant commercial platforms and commercial news providers. While the BBC's objective in joining these initiatives may be considerations such as immediate reach and brand awareness amongst key demographics (of the sort acknowledged in section 4.29), there is a longer term impact. As new and existing commercial news brands feel compelled to join those same initiatives or risk becoming irrelevant with key demographics, the BBC's decisions can impact on commercial news providers' revenue and brand recognition.

The decision about how the BBC participates in such platform initiatives is not easy for the organisation and therefore not a simple case for regulation. However, it is important that the BBC executive is mindful of the impact that its distribution decisions have on the commercial sector. This is primarily due to the impact that dominant commercial platforms are having on the profession of journalism, or more accurately, the business model that has traditionally supported the profession of journalism. This does not require the BBC to stand back from its core purpose of creating high quality, impartial journalism about the world around us, but it

does require the BBC to think harder before deciding how and where to distribute that journalism.

Therefore GMG respectfully asks how Ofcom will assess the BBC's market impact in relation to such distribution arrangements, and what mechanisms are in place to enable commercial news sources to raise issues that could have a significant impact on the market?

Linking obligations

One area where the BBC has previously been held to a specific metric around collaboration was in relation to linking out to third party providers of news. We are therefore concerned that Ofcom has decided to remove any form of specific target or quota from the new regulatory framework. GMG has written previously regarding concerns about the mismatch between the BBC's high share of the online news market in the UK, and the relatively poor flow of onward traffic to the originators of commercially funded journalism.

As Ofcom notes, a linking policy was previously been set out by the BBC Trust in BBC Online's service licence. In May 2013, the BBC Trust reviewed that service licence, and set out that BBC online should "*encourage users to broaden the range of their media consumption by offering links to external websites and other functions which allow users to navigate beyond BBC Online.*"³ The Trust's review document set a "*service licence target to provide 22 million monthly external click-throughs by 2013/14*", and an expectation for "*BBC management to continue to increase the number of external click-throughs, and make them more effective and consistent across the products.*"⁴ The BBC Executive's Performance against Public Commitments (PAPC) report in 2013/2014⁵ listed the volume of click-throughs as falling well short of the 22 million monthly target, standing at 16.75m, over 20% below target. This number grew to 17.8 million in the 2014/2015 PAPC report, still 19% below the target set for the BBC Executive in 2013.

Ofcom's consultation document states that it does "*not consider it appropriate to set an enforceable regulatory condition which relies on audience behaviour, whereby compliance is not directly within the BBC's control.*" While it is true that the behaviour of the BBC audience is not within Ofcom's control, the quota target does provide a data signal as to whether the format and structure of the BBC's website is conducive to users actually clicking on a link to the source of original source article, or remaining within the BBC ecosystem. The absence of links, or indeed the positional placement of links within stories can have an impact on whether users click out to the original source story.

³ http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/service_licences/service_reviews/online_redbutton/report_online_redbutton.pdf

⁴ Ibid

⁵ http://downloads.bbc.co.uk/annualreport/pdf/2013-14/BBC_PAPC_201314_AP.pdf

In April 2016, the BBC online website reproduced a version of an exclusive Guardian story about match-fixing in tennis, in which the Guardian had invested significant time and resources. The story posted⁶ by the BBC contained a BBC/Buzzfeed picture caption (included below), a link out to an older BBC/Buzzfeed story, a link out to review triggered by BBC story, five links to related BBC stories and content, a video of the ATP president, only then providing a reference and link back to the new Guardian investigation. The impact of placing links lower down stories is to reduce the likelihood of readers of that story from finding and clicking on the original Guardian story, and moving out of the BBC ecosystem to the Guardian website.

While a quota would not prevent the BBC entering into such practices, or alter the culture within the organisation, it could provide an indication as to whether there is an issue with the BBC's practises around linking and attribution that warrants further regulatory attention. Therefore GMG would advocate the continuance of a metric on external-linking remaining in place. If Ofcom does remain of the view that such a metric is unnecessary, it should outline what mechanism will replace the links quota in order to ensure *“adequate links to material provided by third parties from BBC Online.”*

Distinctive content

A key differentiator of the Guardian from the BBC is the analysis and opinion that the Guardian is known and loved for. This is recognised in two recent pieces of research looking at trends in the consumption of news.

First, the recent Reuters digital report finds that respondents believe that there are clear and distinct roles that the BBC and the Guardian play in their lives. The report states that, *“Looking at the BBC in the UK, we can see that two-thirds of its users (70%) think it is ‘best for’ accurate and reliable news but only 28% think it’s good at amusing or entertaining. Less than a quarter of Guardian readers (21%) think it is best for reliable news (because the BBC plays that role for many), but almost half (45%) value it for opinion and viewpoints.”*⁷

Second, Ofcom’s latest annual report on News Consumption in the UK⁸ finds that 64% of regular users of theguardian.com say that it offers a range of opinions,

⁶ <http://www.bbc.co.uk/sport/tennis/35534906>

⁷ <http://po.st/lfJFXh>

⁸ https://www.ofcom.org.uk/data/assets/pdf_file/0016/103570/

Tennis fixing: ITF bans two umpires and suspends four more

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Last month, the BBC and BuzzFeed exposed evidence of widespread suspected match-fixing in tennis

Two umpires have been banned by the International Tennis Federation and four more are being investigated over allegations of fixing.

The ITF has revealed it barred Kazakhstani Kirill Parfenov for life in February 2015 and suspended Croatia's Denis Pitner for a year last August.

Four others are being investigated for allegedly taking bribes to manipulate scores on the Futures Tour.

This follows BBC and BuzzFeed claims of match-fixing in tennis.

That joint investigation uncovered files showing that, over the past 10 years, 16 high-ranking players have been repeatedly flagged to the Tennis Integrity Unit (TIU) over suspicions they have thrown matches.

It led to the announcement of an independent review into tennis' anti-corruption practices.

More on this story:

Listen to File on 4: Tennis - game, set & fix?

Evidence of suspected match-fixing revealed

The Tennis Files: Have top players been paid to lose?

Podcast: Match-fixing scandal stuns tennis

Match-fixing a 'secret on tour that everybody knows'

In a joint statement, the TIU and ITF said: "Kirill Parfenov of Kazakhstan was decertified for life in February 2015 for contacting another official on Facebook in an attempt to manipulate the scoring of matches.

"Separately, Denis Pitner of Croatia had his certification suspended on 1 August 2015 for 12 months for sending information on the physical well-being of a player to a coach during a tournament and regularly logging on to a betting account from which bets were placed on tennis matches."



ATP president Chris Kermode tells the BBC he is aware there is match-fixing within tennis but says it is at an 'incredibly small level'

What is 'courtsiding'?

The Guardian, whose investigation brought the latest suspensions to light, says the umpires involved on the Futures Tour, the lowest rung of professional tennis, are, in effect, accused of an act known as 'courtsiding'.

It is a practice whereby gamblers attend sporting events live and bet on scores before bookmakers have up-to-date information.

Umpires at smaller tournaments update the scoreboard themselves after each point, and this information is transmitted to live-score sites and bookmakers.

The umpires being investigated are alleged to have deliberately delayed updating the scores for up to 60 seconds - allowing gamblers to place bets on events they knew the outcome of.

All four have been suspended until investigations are complete.

The Guardian also says some umpires are alleged to have sent text messages to gamblers before updating the score on their tablet computer.

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while 66% of users say that it helps them to make their mind up. This contrasts with regular users of the BBC's online news service, of whom 55% say that it offers a range of opinions, while 50% of regular users say that it helps them to make their mind up.

At 4.41 of this consultation document, Ofcom mentions qualitative research commissioned as part of this process. The research includes many positive views on the services provided by the BBC, including that the BBC's services are *'the best that's out there'*, meaning *"you don't need anything else"*. One respondent is quoted as saying that the BBC should do more in depth journalism, and *"more opinion pieces like The Guardian"*. The report suggests that the *"BBC's drive to remain impartial limited their ability to provide more challenging in-depth journalism in an online context."*

A move away from providing impartial news coverage is something that has been suggested in a number of recent BBC strategy documents. In 2014, the BBC board commissioned a report by Howard Stringer on the Future of the BBC. Stringer expressed concern that in a world of BuzzFeed and Vice, how could the BBC "add character and personality". Stringer suggested that the *"BBC cannot offer an opinion of its own but it could – and should – explore curating opinion online."*

As we have set out above in relation to both the Ofcom and Reuters data, the opinion and analysis provided by the Guardian is highly regarded by our readers and acts as a key differentiator from the the BBC. Therefore any move by the BBC to move into this area of specialism held by the commercial news media would not only fail the distinctive test, but may lead to citizens not seeking news providers other than the BBC. But more importantly in the context of the BBC's core mission, how would the BBC moving more focused on a more opinion driven news organisation square with its core duty to provide *"impartial news and information to help people understand and engage with the world around them"*.

Beyond the question of impartiality and the provision of opinion-led content, the Royal Charter process featured an ongoing debate about whether the BBC should be using public funds to create journalism that might be referred to as lifestyle or magazine content. Examples of such recent content include:

- "For Sale: Wedding Dress. Never worn." tells personal anecdotes and stories of "10 dresses that never made it to the big day."⁹
- "Cats in the office" is a video exploring the benefits of cats in the workplace.¹⁰
- "Teen wakes to bear 'crunching' head" charts the story of a 19 year old attacked by a bear
- "Should washing machines be in kitchens" - headline later changed to "Kirstie Allsopp criticised for washing machine comment"¹¹

The reason for creating such content is to increase user engagement on the BBC's online services. While the BBC committed to close the 'Magazine' section of its news website¹², it is clear that BBC News continues to commission content that does not appear distinct from

⁹ <http://www.bbc.co.uk/news/magazine-40524578>

¹⁰ <http://www.bbc.co.uk/news/av/world-asia-39986484/cats-in-the-office>

¹¹ <http://www.bbc.co.uk/news/uk-40571843>

¹² <http://www.bbc.co.uk/news/uk-36308976>

content that could be found on any number of commercial entertainment sites. This continuing commissioning policy appears to run counter to the commitment in the BBC's recent annual plan to focus on investment in "*impartial, high-quality, distinctive journalism*".¹³

Attribution and crediting

One of the most positive elements of the Charter Review process was the commitment by the BBC in relation to partnerships. Specifically the commitment to ensure that they are "*fair and beneficial to all organisations in the partnership and, in particular, that partners are given due attribution and recognition, including in the branding and promotion of the output and services created or distributed.*"

As commercial news brands are less able to rely on advertising to fund investment in journalism, almost all commercial news brands are turning to readers, in one way or another, in order fund investment in high quality journalism. Crediting stories created by 3rd party news organisations, subsequently reported by the BBC, is essential in an environment in which the connection between the brand of a news source, and the journalism that it produces, is more important than ever before.

As such, we strongly believe the BBC should meaningfully and consistently attribute the source of stories, through radio, TV and linking out to external commercial sites via BBC online. We have raised this issue with the BBC on a number of occasions, but the practice remains patchy and inconsistent. We regularly provide Guardian journalists and experts to comment on topical news stories through BBC News and Current Affairs programming, with no expectation of payment. This "social contract" is placed under strain when BBC outlets decline to accredit original Guardian journalism, whether on air or online. A clear policy on attribution, and a formal channel through which to complain to the BBC about a lack of attribution, could provide a useful benchmark by which both the BBC and the regulator could judge whether the BBC is doing enough to credit the originators of journalistic content.

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?

We note the following sections:

5.8 Our proposed approach to putting in place a new performance measurement framework for the BBC will build on our existing research base, in particular our PSB survey, which we have run annually since 2007. It will also consider evidence and analysis conducted as part of both our most recent PSB Review in 2015 and our PSB Annual Research Report, as well as our annual News survey. In addition to this, we propose to put in place a bespoke programme of regular evidence-gathering and audience research to ensure that the BBC's performance is tracked

13

robustly and publicly. This will complement the performance measures the BBC sets itself.

Illustrative overview of the types of metrics to be used within Ofcom's proposed performance measurement framework

Performance measure	Metric example	What it tells us	Frequency of analysis	Source
Availability	Hours of first run UK originated output	Amount of new UK content made available to audiences.	Annual	BBC hours of output
	Spend on first run UK originated output	A proxy for quality; high levels of investment serve as a proxy for high-quality content. ⁷²	Annual	BBC spend on output
	Content analysis	An independent case study analysis of the range, type or diversity of content provided by the BBC.	Ad hoc	Ofcom-commissioned external specialist
Consumption	Reach	The extent to which different audiences access BBC content (e.g. by platform/service/demographic).	Annual	Industry currencies – e.g. BARB, RAJAR, ComScore or Ofcom consumer research
	Minutes consumed	Time spent on BBC content, with high average minutes being a proxy for high engagement.	Annual	As above
Impact	Audience opinion – quantitative	Quantification of audience opinions on the BBC's delivery against the mission and purposes.	Annual	Ofcom consumer research/BBC consumer research
	Audience opinion – qualitative	In depth exploration of audience opinions on the BBC's delivery against the mission and purposes.	Ad hoc	As above
	Expert opinion	Views from stakeholders other than the general public.	Ad hoc	Ofcom stakeholder interviews
Contextual factors	Qualitative information from the BBC	Relevant qualitative information from the BBC or elsewhere that helps to describe how the BBC has delivered its mission and public purposes.	Ad hoc	Ofcom requests information from the BBC

Broadly, we agree with the approach taken by Ofcom. However, given the points that we have made above, we consider that there are other approaches and key metrics that should be borne in mind when considering the BBC's performance.

Under 'Availability, Content Analysis', we would like to see a commitment to measure the range, type and diversity and distinctiveness of news content produced by BBC News, and some way of gathering opinions from the commercial sector about areas where the BBC is directly competing with commercial news brands, and areas where the BBC could do more (for example where commercial coverage of a given area is no longer viable).

We would also like to see a consideration of the impact of the BBC's news distribution strategy on the behaviour of market participants, in order to understand the degree to which

the BBC's actions are forcing the commercial news sector to follow. Again, consultation with commercial news sources would be essential as part of this exercise.

Guardian Media Group
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