

Consultation response form

Confidentiality

We ask for your contact details along with your response so that we can engage with you on this consultation. For further information about how Ofcom handles your personal information and your corresponding rights, see [Ofcom's General Privacy Statement](#).

Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential? Delete as appropriate.	Your name
Your response: Please indicate how much of your response you want to keep confidential. Delete as appropriate.	None
For confidential responses, can Ofcom publish a reference to the contents of your response?	Yes

Your response

Question	Your response
Question 1: Do you agree with Ofcom's proposed approach to amending the Licence set out in this consultation and the proposed amendments to the Licence set out in paragraphs 2.2 to 2.29? Please provide reasons for your views.	<p>Confidential? – N</p> <p>Dear Ofcom, please accept my response to your call for input into this consultation.</p> <p>My aim in this response is to highlight the unequal and unjust treatment of speakers of the Scots language by Ofcom and the BBC, and to show that current UK legislation, Scottish Government policy, and the devolution settlement require Ofcom to act to ameliorate this situation. In updating its Operating Licence for the new BBC Scotland Channel, Ofcom has an important opportunity to begin to 'right' an historic and continuing 'wrong' in its treatment of this language community.</p> <p>Background</p> <p>The fact that Ofcom and the BBC treat the Scots language unfairly (compared to</p>

other indigenous British and Irish languages), and that it is incumbent on Ofcom to act on this, can be demonstrated logically from the following premises and arguments:

i) Scots is recognised as a language by the UK Government, which in 2001 ratified The European Charter for Regional or Minority Languages (ECRML) with respect to Scots, along with the UK's other indigenous minority languages. This treaty was developed by the Council of Europe to protect and promote regional and minority languages in Europe

(<https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007bf4b>).

In 2015, the Scots language Ministerial Working Group stated: "**Scots is, along with Gaelic and English, one of the three indigenous languages of Scotland**"

(<https://beta.gov.scot/publications/report-ministerial-working-group-scots-language>).

In its response, the Scottish Government reaffirmed its belief that: "The Scots language is an integral part of Scotland's distinctive culture and heritage" (Scots Language Working Group report: Scottish Government response;

<https://beta.gov.scot/publications/scots-language-working-group-report-response-scottish-government>).

In 2011, a question on Scots was included in the census for the first time. This indicated that over 1.5 million people identified themselves as Scots speakers, whilst a further 400,000 identified themselves as having some skills in Scots (UK Census 2011). These numbers were roughly concordant with estimates made by The General Register Office (Scotland) in 1996 which estimated there to be approximately 1.5 million Scots speakers.

ii) As stated by Ofcom in its 'Thematic review of representation and portrayal on the BBC' "**One of the Public Purposes of the BBC is for the BBC to reflect, represent and serve the diverse communities of all of the UK**" and "in doing so, **the BBC should accurately and authentically represent and portray the lives of the people across the UK**".

iii) In its response to the 'Scots language Ministerial Working Group report' the Scottish Government clearly stated: "**We acknowledge the key role that broadcasting has in the use and status of the Scots language. We are keen to see the Scots language have a more prominent place in broadcasting**".

Furthermore, "Both the Scottish and UK Governments are committed to the

undertakings in relation to the Scots language in the Council of Europe Charter for Regional and Minority Languages. We will ensure that all media organisations are aware of this and that ***the Scottish Government would like to see the range and quality of Scots output extended***" (Scots Language Working Group report: Scottish Government response; <https://beta.gov.scot/publications/scots-language-working-group-report-response-scottish-government>).

iv) According to the first Report of the [Council of Europe] Committee of Experts on the application of the Charter in the United Kingdom (ECRML 2004 1; <https://www.coe.int/en/web/european-charter-regional-or-minority-languages/reports-and-recommendations>): "As a result of the devolution of power within the United Kingdom, ***the application of a great number of provisions of the Charter falls within the responsibility of the devolved administrations of Scotland and Wales***". The Committee goes on to say that "The UK Government reports that ***responsibility for implementation of the Charter has been devolved, almost entirely***, to the administrations in whose territories the regional or minority languages are traditionally spoken, namely the Scottish Parliament (in the case of Gaelic and Scots), the National Assembly for Wales (in the case of Welsh) and...the Northern Ireland Assembly (in the case of Irish and Ulster Scots)".

But concludes: "While fully recognising the value of such structures, ***the Committee of Experts nevertheless underlines that the United Kingdom remains responsible under international law for the implementation of treaties it has ratified***". In 2014, the 4th triennial report (ECRML 2014 1) reiterated this position: "As mentioned in the first evaluation report, ***the responsibility for the practical implementation of the Charter lies within the devolved administrations, with the exception of the Cornish language and those undertakings that lie directly within the competence of the central authorities. The UK Government nevertheless has the final responsibility under international law for the implementation of the Charter.***"

iv) Hence, at a practical level, responsibility for meeting the UK's legal obligations to Scots language speakers under the Charter lies with the Scottish Parliament and Government "*with the exception of...those undertakings that lie directly within the competence of the central authorities*". ***Given that 'broadcasting' is a reserved matter, the Scottish Government cannot implement its policies to 'extend the range and quality of Scots language output' and give it 'a more prominent place in broadcasting'. It must therefore***

be the responsibility of the UK Government to make provisions to enhance the range and quality of broadcasting in Scots for speakers of Scots. Given that it is Ofcom's job to hold the BBC to account, and ensure that 'the BBC fulfils its mission, promotes its public purposes, and provides distinctive output and services that serve audiences in England, Scotland, Wales and Northern Ireland', ***it is the responsibility of Ofcom to ensure the BBC meets its stated public purpose to reflect, represent and serve speakers of Scots.***

v) Currently, Ofcom's Operating Licence for the BBC provides unequal and inequitable provisions for broadcasting and media in the UK's minority languages. It does not even mention the Scots language in Scotland. However, the Operating Licence for the BBC's UK Public Services does make multiple explicit demands for content in *some* of the UK's minority languages, including for provision of services in Ulster-Scots in Northern Ireland. For example:

With respect to TV and Radio broadcasting:

"2.94 In respect of BBC Two Northern Ireland, **the BBC must ensure that it provides Irish language programming and Ulster-Scots programming.**"

"2.95 In respect of BBC Radio Ulster and BBC Radio Foyle, the BBC must ensure that: 2.95.4 in each Financial Year **at least 240 hours are allocated to indigenous minority language programming, including Irish and Ulster-Scots output.**"

In terms of written material for BBC Online, the BBC must ensure that:

"2.84.2 it provides content in Gaelic;"

"2.90.2 it provides content in Welsh;"

"2.96.2 it provides content in Irish and Ulster-Scots;"

vi) These differences have real consequences both for the amount of Scots output provided by the BBC and, presumably, for the extent to which people in Scotland feel that the BBC represents and reflects their lives in its broadcasting. A clear example of these consequences is the difference in provision of radio magazine shows in Scots and Ulster-Scots on BBC Radio.

For example, since 2002 BBC Radio Ulster has provided a *weekly* magazine style show on the language, culture, and history of Ulster-Scots. Until recently, it provided 'A Kist o Wurd's' (<https://www.bbc.co.uk/programmes/b007d4s0>), now it provides the *weekly* Ulster-Scots magazine programme 'Kintra' (<https://www.bbc.co.uk/programmes/m00000p2/episodes/player>). The BBC even provides a dedicated webpage called "Fair faa ye!" to house BBC Northern

Ireland's Ulster-Scots content from radio, television and online (<http://www.bbc.co.uk/programmes/articles/4Khw3BZhnQntQs93L9dZ1JN/fair-faa-ye>).

In contrast, the BBC provides little to nothing explicitly in Scots. The only radio programme I am aware of that is presented in Scots and celebrates Scots life, history and culture is "Scots Radio" (<https://www.scotsradio.com>), an independent *monthly* online radio magazine programme/podcast which is presented by broadcaster Frieda Morrison in the Scots language. Notably this programme is funded by listener donations and Creative Scotland (rather than the UK Government and BBC). Notably, it has been nominated for an award three years in row (2016-2018) at the prestigious Celtic Media Festival Awards (<http://www.celticmediafestival.co.uk>). What should perhaps rightfully be a BBC triumph is instead funded independently from Scotland because broadcasting is reserved and the BBC and Ofcom are failing to meet their responsibilities to develop and provide services for Scots language speakers.

Conclusion

This situation is clearly inequitable and unjust and reflects poorly on both Ofcom and the BBC as institutions. Consequently, it is incumbent on Ofcom and the BBC to provide services in the Scots language as an integral part of Scottish culture. To not do so would be a betrayal of the BBC's mission and public purpose.

I believe that to correct this self-evident injustice **Ofcom should amend its Operating Licence for the new BBC Scotland Channel to explicitly require *the provision of programming in the Scots language across a range of genres***.

Recommendations

2.79 In respect of ~~BBC One Scotland and BBC Two Scotland taken together~~, the BBC must ensure that it provides a range of genres in its programming that reflects Scotland's culture.

2.80 In respect of BBC Scotland, the BBC must ensure that:

2.80.1 it provides a range of genres in its programming that reflects Scotland's culture;

2.80.2 in each Calendar Year it provides a suitable range of programmes, including regional news programmes ****and programmes in the Scots language across a range of genres****;

2.80.3 in each Calendar Year at least 95% of its programmes are made in Scotland;

2.80.4 in the Calendar Year 2019, at least 208 hours are allocated to news in Peak Viewing Time; and

2.80.5 in each Calendar Year after 2019, at least 250 hours are allocated to news in Peak Viewing time.

~~BBC Two Scotland, the BBC must ensure that in each Financial Year at least 200 hours are allocated to non-news programmes, including Gaelic language output. For the purpose of this requirement, "non-news programmes" includes repeats and acquisitions, and does not include current affairs programmes.~~