

# THE NEW BBC SCOTLAND CHANNEL – OFCOM’S PROPOSED VARIATION TO THE BBC LICENCE

## RESPONSE BY THE SCOTTISH GOVERNMENT

### Main points:

- We question the proposal that co-commissioned hours be allocated to the channel which broadcasts them first, as this could result in hours funded by BBC Scotland contributing to meet network quotas. We suggest Ofcom considers extending to ‘hours’ the pro-rata approach adopted for ‘spend’.
- The BBC should transfer some of its network comedy and drama budget to Scotland to reduce the new channel’s dependence on network co-commissioning, and help it, while being “outward-looking”, to be “entirely Scottish” as the BBC intends.
- We welcome Ofcom’s proposal that at least 95% of the channel’s output should be made in Scotland, to help development of the creative sector here.
- We request that Ofcom set conditions for the level of new programming (first-run originations), as it does for some other BBC channels.

### In more detail:

#### **1 - Network production quotas (2.3-2.17)**

We agree with the proposal at 2.6 to “zero-weight” the BBC Scotland channel (“BBC SC”) and BBC Alba programming for the purposes of network production quotas. Regarding co-commissions (2.8-16), we agree with pro-rata allocation of spend.

##### 1.1 Co-commissions - hours

However we question why, if pro-rata allocation is appropriate for spend, it would not be reasonable to extend the same approach to requirements on hours.

Ofcom states that the BBC has argued that such an approach “does not work” and that “these existing network channels [BBC One, Two and/or Four] would be reluctant to co-commission content with the BBC SC if the programming hours did not contribute to the quotas” (2.13). The BBC suggested (2.15) that all hours co-commissioned with these networks should be attributable to network quotas. We agree with Ofcom’s rejection of this because, in our view, it conflates two purposes of the BBC which should, for clarity, be regulated separately: its duty to “provide output that meets the needs of the nations and regions”, and its duty to produce network content from all across the UK.

We also consider that, while it should operate as efficiently as possible, the BBC should not be seeking ways to minimise its investment in Scotland, where there is already a lower per capita licence fee spend than in Northern Ireland or Wales.

However we also have concerns about the proposal by Ofcom to attribute all co-commissioned hours to the service which broadcasts them first (2.16).

This could result in hours funded by BBC SC being attributed to BBC network quotas, especially if, as the BBC says, “network channels would be reluctant to co-commission content with the BBC SC if the programming hours did not contribute to the quotas mentioned above” (2.13). In such circumstances the arrangement may not work out equitably, and there is a risk that the incentive to fulfil quotas might influence decisions about commissioning and scheduling which are, ideally, editorially- and audience-led.

We suggest that Ofcom may wish to consider any unintended consequences of this approach and explore more deeply the practicability of extending the pro-rata approach to the requirement on hours.

### 1.2 Co-commissioning – wider issue

The BBC proposal document for the new channel indicates that the channel will look to co-commissioning with networks to deliver its objectives, particularly in the key genres of comedy and drama to which its own budget may not stretch (pages 19 and 21). This suggests that the channel’s budget may not be fully equal to the BBC’s ambitions for the service.

We support the BBC’s ambition that the channel, while being “outward-looking”, should offer audiences the choice of something “entirely Scottish” (BBC channel proposal, page 1). However we suggest that it would be better for the BBC to transfer a proportion of network comedy and drama budgets to BBC Scotland, so that Scottish-based commissioners can serve audiences here without any need to negotiate co-funding from commissioners based in London whose obligation it is to serve UK-wide audiences.

## **2 - Range and origin (2.23)**

We agree with Ofcom’s proposal to retain for BBC SC the three BBC Two Scotland conditions noted at 2.23. We consider that these are suitable, as BBC SC may be seen as a development of the service previously provided by BBC Two Scotland, and presumably intended to fulfil the same public purposes.

We particularly support inclusion of the condition that “at least 95% of the BBC SC’s output would consist of programmes made in Scotland”. This will help to ensure that programme-making for the channel takes place in the production sector in Scotland and contributes to its development.

This condition would protect BBC Scotland commissioners from any possible pressure from networks to locate production outside of Scotland. It should not impose any editorial constraints on the channel, as it is open to production companies outwith Scotland to partner with companies here, or set up bases in Scotland themselves.

## **3 - Gaelic language programming (2.24)**

We agree that it is appropriate to discontinue the requirement to provide some Gaelic language programming, given the provision on BBC Alba.

#### **4 - Original productions (2.25)**

We agree that it is appropriate to carry over the condition that at least 75% of BBC SC's output must consist of original productions. However we urge Ofcom to go further and set conditions for first-run UK originations for BBC SC.

We understand that Ofcom sets separate conditions for 'original productions' (defined, broadly, as those commissioned by a UK PSB channel for that channel) and 'first-run UK originations' (programmes which, additionally, "have not previously been shown"; i.e. they are new). First-run UK originations are generally considered to be more likely to help channels set standards for innovation and creativity.

In its BBC Operating licence, Ofcom considers that the BBC "should contribute to the creative economies of the UK through its continued investment in originated content" (1.33.3) and we would ask that Ofcom acts to ensure this happens to a proportionate degree in the BBC's services which are primarily for audiences in Scotland.

We suggest that Ofcom set conditions for an appropriate level of first-run UK originations on BBC SC as it does for BBC One, BBC Two, CBBC and CBeebies. We believe that this should also be done for BBC Alba.

#### **5 - Repeats (2.32)**

We note that Ofcom, "mindful of how other television services are treated", proposes not to set a condition relating to the volume of repeats on the channel. We agree that such a condition is unnecessary, as the BBC itself has made a commitment that repeats will make up no more than 50% of the new channel's output.

However we still believe it would be useful to set a quota for first-run UK originations for non-news content on BBC SC (and for BBC Alba) as is done for some other BBC channels, including BBC One and BBC Two, for the reasons given above.

#### **6 - Performance measurement (2.34)**

We agree that the measures and evidence sources which Ofcom proposes to use to assess the performance of the channel (including analysis of its content, in-depth analysis of its audience, and qualitative audience research) are appropriate.

We remain of the view that licence payers in Scotland would be better served by a Scotland-specific licence. This would allow for the inclusion of obligations addressing issues of particular importance in Scotland such as representation of its diverse cultures and languages including Gaelic and Scots, its distinctive public sphere and development of its creative industries in the widest sense.

*October 2018*