

Response from the Advisory Committee for Scotland (ACS) to the consultation on Ofcom's provisional determination of BBC Scotland's Competition Assessment (May 2018).

'The Advisory Committee for Scotland advises Ofcom about the interests and opinions, in relation to communications matters, of persons living in Scotland.'

This response from the ACS to the consultation on Ofcom's provisional determination of BBC Scotland's Competition Assessment draws on the knowledge and expertise of ACS members, and is informed by our individual experience and through discussion at our meetings. It does not represent the views of Ofcom or its staff.

To reflect the broad range of interests in the proposed new BBC Scotland channel, this response goes deliberately wider than the parameters of Ofcom's responsibilities for the Competition Assessment.

Context

This is a period of unparalleled challenge to traditional public service broadcasting. During the 20th century, the BBC led the world in programmes which "educated, informed and entertained". However, with the advent of smartphones and other devices to access and consume content, the landscape is changing beyond recognition. Global players like Amazon & Netflix are fundamentally affecting the commissioning market, with budgets which dwarf domestic ones. And these players are commissioning content which directly challenges public service broadcasting genres, eg. documentaries, by being able to invest in well-researched docu-series, such as Netflix Original: The Keepers (2017).¹ This strategy has led to Netflix increasing its subscriber base to 125 million by March 2018 and hugely increasing its profits.²

Audiences have more content than ever to choose from, including "free" content such as YouTube and podcasts. The BBC has guaranteed income under the current Charter and this period is critical for the BBC to decide how best to deliver its five Public Purposes, in order to convince the UK nation that the licence fee offers value for money and is the appropriate funding mechanism beyond 2027. It requires a degree of boldness, creativity and imagination on the scale which delivered the iPlayer in 2007. Audiences are now much more emboldened to question the role and function of the BBC with its status in the consciousness of the nation not guaranteed.

In responding to this consultation, the ACS wishes to emphasise, as noted above, that its comments are made in the wider context of current & upcoming Ofcom PSB consultations. The ACS has been impressed that the various Ofcom Project Teams dealing with current issues relating to broadcasting (eg. OOL, Regional Production Quotas) are very conscious that the various aspects intertwine and are consulting with each other regularly to ensure a cohesive "whole".

Channel ambition/Representation

The context for the proposed new BBC Scotland channel referred to above is entirely different than for any other channel launch in the BBC's history. This will be the first national channel³ to be launched since BBC Three began in 2003; this is a unique opportunity for PSB in Scotland and one unlikely to be repeated.

¹ The Keepers (2017) <https://www.netflix.com/gb/title/80122179>

² <https://www.statista.com/chart/10311/netflix-subscriptions-usa-international/>

³ BBC Alba launched in 2008 but is the BBC's dedicated Gaelic channel

This is a critical moment for BBC Scotland to regain the trust⁴ of Scottish audiences and to deliver high quality, programmes which reflect Scotland and its various diverse communities in a new way, relevant to 21st century audiences. It is an opportunity to embrace ambition and distinctiveness, rather than one well-resourced flagship news programme at 9pm and the rest of the content being significantly lower quality, or repeats, due to budget constraints. Now that the BBC have announced that the launch of the new channel, if approved, will not be until February 2019, the ACS considers the BBC might wish to re-examine their proposal, taking into account their own research about what Scottish audiences are looking for:

This view is supported in section 4.9 of the Ofcom response, *“The BBC’s qualitative research report showed that nearly half of the participants placed low or medium-low value on the 9pm news programme “when thinking about society as a whole”, with around two-thirds taking a similar view “[when] thinking personally about you and your household”. In both cases, the 9pm news bulletin was the second lowest element out of nine asked”*.

Given that para. 3.11 of the consultation states that *“entertainment, drama and factual programming attracted the largest share of Scottish TV audiences in 2017”*, this is a particular concern. This is important for the long-term sustainability of the channel, particularly given the challenges which Local TV (STV2) has encountered.

In the opinion of the ACS, the proposed channel should not be a 2019 version of the much vaunted “Scottish Six”. News, including Scottish news, is widely available already on commercial rivals, newspapers & other digital platforms. The BBC’s own public purposes call for “high quality, distinctive output which helps people understand & engage with the world around them.” (BBC Public Purposes 1 & 3).

This is also about promoting Scotland to the rest of the world, thereby contributing to Scotland’s creative & wider economy (BBC Public Purpose 4). It is not clear from the submission how much of the content would be available outside Scotland through UK network transmission and beyond. There are opportunities here to match the success of the recent BBC Wales/S4C production, “Keeping Faith” which has become BBC Wales’s most successful non-network drama in over 20 years, with a second series in development. Only broadcast in Wales, it attracted TV audiences of more than 300k, plus over 9 million downloads on iPlayer.

The series, produced by independent production company Vox Pictures, was jointly commissioned by the BBC and S4C, with extra funding from the Welsh Government’s Media Investment Budget. All the principal location filming & post-production was in Wales, with assistance provided from Wales Screen, part of the Welsh Government’s creative industries team, helping to maximise the economic benefits for Wales.⁵

The ACS believes that a new, dedicated Scottish TV Channel, which is editorially autonomous, well funded, and with a schedule which experiments in new ways to deliver distinctive, quality programming across a variety of genres to today’s audiences, has the potential to be an excellent addition to Scotland’s media landscape. Indeed, it could act as a marker for a new approach to public service broadcasting which might then be replicated elsewhere.

⁴ http://www.thenational.scot/news/14989375.Director_of_BBC_Scotland_Donalda_MacKinnon_My_mission_is_to_restore_trust_in_the_BBC/

⁵ <http://www.bbc.co.uk/mediacentre/latestnews/2017/bbc-wales-s4c-keeping-faith>

Channel Budget/Audiences

The BBC's channel submission to Ofcom states: *"This will be a channel for modern Scotland, a home for compelling, quality content that appeals to and reflects the diversity of Scottish audiences today" and that the channel will be "bringing high quality drama, comedy, factual, sport, and entertainment programmes"*.

The ACS believes this vision will not be possible to realise, based on the proposed budget of £32 million, with only £11.25 million earmarked for non-news content. This point is raised in every submission from Scottish production companies to the PIT, with many calculating that an average production budget for a commission from the new channel would be between £25k-£30k per hr.⁶

This is not a sustainable business model for Scotland's screen sector, despite the BBC stating, in its submission to Ofcom: *"where respondents have raised questions about the potential quality of the programming, the level of the budget and the prevalence of news in the schedule, the BBC will fulfill its editorial vision for the channel to meet these challenges and ensure that its content is distinctive"*. No concrete evidence is offered to substantiate this claim, such as opportunities for co-commissions (eg. with BBC Alba) or working in partnership with other organizations, both public and private.

Para.3.5 (Figure 1) of the consultation states that it is the 0-34 age group in Scotland which watches the least amount of linear TV, because current PSB provision is not to their liking. Since this is the next generation of licence fee payers, the ACS believes the proposed channel might consider pioneering new forms of content for that audience; Amazon & Netflix have shown that quality factual programming, drama and well-researched investigative journalism can draw in new audiences, particularly when the "offering" is framed in different size chunks to traditional programming.

In summary, whilst the ACS appreciates this consultation focuses on narrower competition issues, with limited scope for Ofcom intervention, we believe the BBC Board should reassess the figure required to deliver the proposed channel.

Impact on Fair & Effective Competition

In the view of the ACS, the BBC submission did not contain enough information to be able to judge how the channel might perform and, consequently, how the new channel might impact its media competitors. That said, if the channel goes ahead, STV and, to a lesser degree, Border TV will have a new competitor unique to their broadcast area, which could leave them at a disadvantage to their commercial rivals in the rest of the UK. BBC Scotland's own research showed: *"Those who watch STV/ITV news programmes most days are more likely to say they would be likely to watch the 9pm news programme on the new BBCS channel (46%) than those who watch STV/ITV news programmes less often (32%) and never (24%)"*.

In Para 3.15, Ofcom predicts that the new channel would achieve an audience share of between 1.65% to 3.65% and that the subsequent potential loss of audience for STV could amount to an advertising loss of between £1.25m and £3.17m. This is not an insignificant amount for a company that delivered a profit of £19m in 2017⁷ (16.7%), particularly when the "prime" time for broadcasting the channel's new, original content is 7 – 12pm, the timeslot which commands the highest premium rate for advertisers. Furthermore, if the BBC chooses to run repeats of popular,

⁶ http://www.bbc.co.uk/aboutthebbc/insidethebbc/howwework/accountability/consultations/scotland_tv

⁷ <http://www.stvplc.tv/files/download/d8e337836f012fa>

high rating series, such as ‘Still Game’, with the ability to cross-promote these programmes across all their channels and online, then the audience share could be higher than predicted.

These competition concerns could potentially be mitigated should the BBC revisit the channel proposal and ambitions, alongside the budget, so that the channel includes a wider range of new, original content which could itself stimulate the Scottish creative economy, including STV Productions (as one of many Scottish independent production companies).

Repeats

The ACS is concerned that 50% of the content shown between 7pm and midnight will be repeats and only 50% will be first-run originations and acquisitions. This target falls well below those set by Ofcom for other BBC Channels. Even BBC Four, which has a not dissimilar audience share in Scotland to the proposed new channel (3.75% in 2017), has a requirement to ensure that 75% of its total programme hours are original productions and that 60% of those are broadcast during peak times (6-10.30pm).⁸

In Annex 4 of its submission to Ofcom, the BBC published two schedules indicative of the weekday schedule.⁹ However, these do not indicate which, if any, of these programmes would be repeats (apart from an ‘archive’ Factual / Comedy at 11pm on schedule B). Research commissioned by the DCMS in 2016¹⁰ indicates that 49% of the sample interviewed agreed with the statement “The BBC shows too many repeats”.

In Annex 4 of the Proposal Submission to Ofcom, the BBC states that “repeats may include another chance to see programmes shown on other BBC schedules”. Unless these programmes have a Scottish dimension, then this contradicts para. 2.1 of Ofcom’s response: *“In its PIT, the BBC explains that the changing political, creative and cultural landscape within Scotland had led it to conclude it ‘should give audiences the choice of something entirely Scottish – that reflects all aspects of life in Scotland.’”*

Performance Monitoring

Lastly, the ACS considers there is the potential for obfuscation when in para 6.7, Ofcom states that *“there is a risk that either the channel or the BBC’s associated online output might change substantially after launch”* and then in para 6.8 states *“we will not impose any specific limitations at this time”*.

Since this is the first major test of its powers since becoming the Regulator, the ACS is concerned that Ofcom’s “performance monitoring programme” is rigorous enough to challenge & question BBC thinking from the outset, at a time when new approaches to PSB TV content are required.

The Advisory Committee for Scotland 17 May 2018

⁸ <https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2017/Regulating-the-BBC-performance>

⁹ http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/accountability/consultations/bbc_public_interest_test_submission.pdf

¹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522509/Research_to_explore_public_views_about_the_BBC.pdf