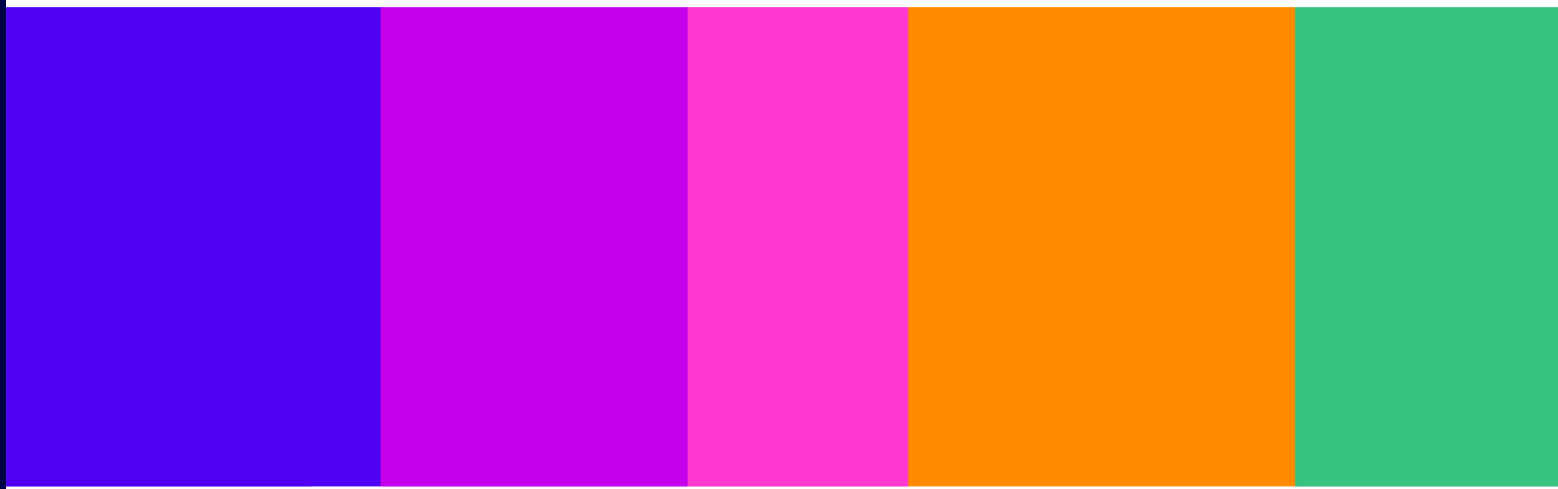


Ofcom review of proposed new BBC DAB+ radio stations and proposed changes to Radio 5 Sports Extra

Invitation to comment

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1. Overview

What we are consulting on – in brief

Following consultations in February 2024 the BBC has undertaken public interest tests (“PITs”) for each of the following:

- Four proposed new DAB+ music radio stations, comprising a relaunch of the existing Radio 1 Dance Sounds-only stream as a radio station on DAB+ and three new DAB+ extensions of Radio 1, Radio 2 and Radio 3. The stations would also be available online via BBC Sounds, in line with the BBC’s approach to its existing national radio stations.
- An extension of the broadcasting hours of the BBC’s existing part time radio station, Radio 5 Sports Extra.

The BBC Board has [concluded](#) that both proposals meet the PITs.

The BBC Charter and Agreement require Ofcom to examine any “material” changes to its services which the BBC has decided meet the PIT and it wishes to implement. Our initial task is to decide whether we also consider that the relevant changes are material and, if so, what form of assessment we will carry out.

The BBC Charter and Agreement provide that the introduction of a new public service will always be material. We consider that the launch of the four new DAB+ radio stations would involve the creation of new public services, and we therefore propose to find this change to be material.

In its PIT, the BBC states that the proposed change to Radio 5 Sports Extra from a part-time to an extended hours station is material, due to the nature of the change and as there is only one competitor in the UK sports radio market, talkSPORT. We agree with the BBC and therefore propose to find this change to be material.

We also recognise that these proposals raise a number of contentious issues that could affect a range of interested parties. As such, we intend to proceed with a more detailed second phase competition assessment (“BCA”) for both proposals rather than a Shorter Assessment.

In this document, we are providing stakeholders with an opportunity to comment on this initial assessment and seek initial views to understand how stakeholders consider the launch of the new DAB+ stations and the changes to Radio 5 Sports Extra could affect them if they go ahead. Stakeholders will have an opportunity to comment on our draft conclusions for both proposals before we reach a final decision.

We welcome responses to our questions in Annex 4. These must be submitted no later than **5 December 2024**.

We will conclude our initial assessment by 19 December 2024. We will notify the BBC of our decision and publish this on our website.

2. Invitation to comment

Background

Assessing the impact of BBC changes on competition

- 2.1 The BBC's mission is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain. The BBC may look to make changes to its existing activities or seek to develop new services to better meet the needs of audiences in fulfilling its mission.
- 2.2 Some changes may be minor, for example, day-to-day editorial decisions about individual programmes, or their scheduling. However, as a large, publicly funded organisation, some changes that the BBC might wish to make could have a significant impact on competition in the wider media sector.
- 2.3 The impact may be positive in enhancing public value and encouraging competition by offering more choice, stimulating demand, or promoting innovation to the benefit of UK citizens and consumers. However, some changes that the BBC proposes may harm competition, for example, by crowding out investment from third parties, with ultimately negative consequences for audiences.¹ Because of this, the [BBC Charter and Agreement](#), which set out the BBC's mission and duties, provide for first the BBC, and then Ofcom, to consider the effects on competition of material changes to the BBC's TV, radio and online public services.

Our review of the BBC's materiality assessment on new BBC Sounds only streams

- 2.4 On 16 July 2024, we published a decision on the materiality of three new proposed BBC Sounds-only streams. We decided that the proposed Radio 1 extension Sounds-only stream and the Radio 3 extension Sounds-only stream were not 'material' changes, and the BBC could move ahead with its plans for these streams.² However, we concluded that the Radio 2 extension Sounds-only stream was material and directed the BBC to conduct a PIT on this proposal should it wish to go ahead with it. The BBC subsequently discontinued its plans for a Radio 2 extension Sounds-only stream.
- 2.5 The BBC also proposed to commission some original content for its existing Radio 1 Dance stream (and existing stream on BBC sounds), which it did not consider to be material. We reviewed the BBC's proposals and agreed that the changes were not material.
- 2.6 Our review of the BBC's materiality assessment on the BBC's Sounds-only streams, which we set out here for context, is now concluded. The regulatory process around the BBC's

¹ The BBC's changes could lead audiences to switch away from commercial providers thereby reducing their ability to generate revenue. This may in turn limit commercial providers' ability to invest in their services, leading to a reduction in overall choice, quality, and range of content available for UK audiences.

² See paragraph 2.11 for the definition of a 'material' change. The Radio 3 Extension and Radio 1 Extension launched on November 4 and 8 respectively.

proposed new DAB+ stations, which is the subject of this document, is separate from our review of the BBC's materiality assessment.

The BBC's public interest tests on further audio changes

2.7 The BBC published today [the findings](#) of its public interest tests ("PITs") for its proposals to launch four new DAB+ music radio stations and to extend the broadcasting hours of existing station Radio 5 Sports Extra. We are now carrying out our own assessment of the BBC's proposals, which includes the BBC's changes to both broadcast radio (i.e. DAB+) and online (i.e. BBC Sounds), to decide if further assessment is needed on whether the proposals are justified in the light of its potential public value and impact on competition.

The BBC's proposals

2.8 The BBC proposes to launch four new music radio stations that the BBC says will improve value for all audiences including younger (15 – 34) and C2DE audiences who currently receive less value from the BBC. They would be broadcast on DAB+ and will also be made available online across digital radio, BBC Sounds and smart speakers. The proposed new services are as follows.

- a) **Radio 1 Dance:** This has been a stream on BBC Sounds since October 2020. The BBC plans to re-launch this as a radio station, targeting younger audiences. The proposed Radio 1 Dance station would have an expanded content offer including new commissions, and cover a range of dance genres including house, techno, breakbeat, drum & bass, trance, EDM, Afro House and UK Funky.
- b) **Radio 1 Anthems:** The BBC states that this would play a "broader range of music than any comparable station", with a similar genre mix to Radio 1, including classic pop, rock, rap, R&B, dance and indie tracks from the last two decades. The proposed station would particularly focus on younger audiences.
- c) **Radio 2 extension:** The BBC states that this would provide music and BBC archive content from the 1950s, 1960s and 1970s, with about 60% of the schedule being speech-led. It would also include at least 10 news bulletins a day, simulcast with Radio 2. The proposed station would be targeted at audiences aged 55 and over. The BBC states that it is establishing a partnership between the Radio 2 extension and the BBC's local and national radio stations to cover the music of specific regions across the UK.
- d) **Radio 3 Unwind:** The BBC says this station would be aimed at audiences aged 35 to 54, providing classical music to support listeners' daily routines, and support wellbeing. The majority of music broadcast on the proposed station would have been recorded in the past five years, and would include orchestral works, solo piano, ethereal choral music, music from the minimalist and neoclassical repertoire, and specially recorded music from BBC orchestras and choirs. The music policy of the proposed station would include an emphasis on contemporary living composers, UK composers and British performers.

2.9 The BBC states that should the BBC's proposals for these new DAB+ stations go ahead, the Sounds-only streams of Radio 1 Anthems and Radio 3 Unwind would be "subsumed into the full stations".

2.10 The BBC also plans to **extend the broadcasting hours of Radio 5 Sports Extra**, which is currently a part-time extension to BBC Radio 5 Live offering live sports coverage. Under its proposal, the station would become an extended hours service, broadcasting from 9am to 7pm, providing non-live sports-related content such as sports podcasts in the gaps between

live sporting events. The BBC says the proposals do not involve any increase to either the BBC's commissioning spend or hours of live sports coverage. It states that the service would continue to target an audience of 25 to 44-year-olds interested in BBC sports content.

The BBC's process

- 2.11 Under the terms of the Agreement, the BBC must assess whether any proposed change to its public service is 'material'.³ A material change is either a new UK Public Service or "any change to a UK Public Service which may have a significant adverse impact on fair and effective competition."⁴ If it decides that a change is material, the BBC is then obliged to carry out a further assessment known as a PIT, to be reviewed by the BBC Board.⁵
- 2.12 In order to approve a proposal, the BBC Board must be satisfied that the PIT successfully demonstrates that:
- a) the proposed change contributes to the fulfilment of BBC's mission and the promotion of at least one of the public purposes;
 - b) reasonable steps have been taken to ensure the proposal will have no adverse impacts on fair and effective competition which are not necessary for the effective fulfilment of the BBC's mission and public purposes; and
 - c) the public value of the proposed change justifies any adverse impact on fair and effective competition which it may have.
- 2.13 In the event that the BBC Board is satisfied, the PIT is then submitted to Ofcom for our review.

Ofcom's role

- 2.14 If the BBC Board concludes that a PIT has been satisfied, Ofcom must carry out its own assessment of the proposal before a change can be implemented. The Agreement divides Ofcom's work into two phases. During the initial phase, which must be completed within six weeks, Ofcom is required to confirm whether the BBC proposal is material and, if so, decide what form our assessment during the second phase should take.
- 2.15 Under the terms of the Agreement, our assessment must take the form of either a BBC Competition Assessment ("BCA") or a Shorter Assessment. In our [BCA Guidance](#), we explain that:
- a) a BCA is more likely to be appropriate "where a proposal raises large, complex and/or particularly contentious issues, potentially involving a number of interested parties and ways in which there may be an adverse impact on fair and effective competition"; whereas,
 - b) a Shorter Assessment is likely if "there is a narrower range of issues to consider," for example where we consider the BBC's public interest test "adequately addresses all (or most) issues".
- 2.16 In a BCA, our work will include:

³ The Agreement, Clause 7.

⁴ The Agreement, Clause 7(7)(a)&(b).

⁵ The Agreement, Clause 8.

- a) a review of the procedures the BBC has followed in carrying out its PIT;
- b) a review of the BBC's assessment of public value, testing the BBC's analysis and the range of evidence relied upon to demonstrate the additional public value the proposal will deliver over and above its existing services;
- c) our own assessment of whether the changes that would result from the BBC's proposal would have an adverse impact on fair and effective competition, gathering additional evidence and considering matters raised by other stakeholders as appropriate; and
- d) a concluding assessment of whether, based on the specific facts of the case and taking into account all of our relevant duties and obligations, the public value of the proposal justifies any adverse impact it may have on fair and effective competition.

2.17 At the end of the process, we will reach one of four possible decisions:

- a) that the BBC may carry out the proposal in the form submitted to us;
- b) that the BBC may not carry out the proposal;
- c) that the proposal may go ahead, subject to any conditions or modifications that we require; or
- d) that the BBC must reconsider elements of its public interest test, or follow any further procedures that we consider appropriate.

2.18 We will always look to complete our work as promptly and efficiently as possible. Ofcom must complete a BCA within six months. Alternatively, Ofcom can complete a Shorter Assessment, considering the elements relevant to a BCA assessment, but focussing on a more targeted set of issues.⁶ For shorter assessments, we may only conclude that the BBC may carry out a proposed change, or reconsider its public interest test or follow such further procedures as we consider appropriate.⁷

2.19 In either case, we will consult with stakeholders before reaching a final decision as to whether the public value of the proposal justifies any adverse impact it may have on fair and effective competition.

Our initial assessment of the BBC's proposals and this invitation to comment

2.20 We propose to find that both sets of changes are material:

- a) The Agreement explicitly states that the introduction of a new UK public service will always be 'material'.⁸ The BBC considers in its PIT statement that the launch of the four new DAB+ music stations would involve the creation of new UK public services. We agree with the BBC that the launch of the four new DAB+ radio stations would involve the creation of new UK public services, and we therefore propose to find this change to be material.
- b) The BBC says in its PIT statement that the potential market impact of the proposed change to Radio 5 Sports Extra is material, due to the nature of the change and the potential impact falling on one competitor in the UK sports radio market, talkSPORT.

⁶ Clause 9(2) of the Agreement: "Where Ofcom decide that a proposed change is a material change, Ofcom must notify the BBC and proceed to make a determination under clause 11 having carried out a competition assessment under clause 10 or a shorter (less than 6 months) assessment which considers the elements of clause 10(3)(a) to (d)".

⁷ Clause 11(2) of the Agreement.

⁸ Clause 7(7)(a) of the Agreement.

We agree with the BBC and therefore propose to find this change to be material, given the nature of the change, from a part-time to an extended hours station, and its potential market impact.

- 2.21 We also recognise that these proposals raise a number of contentious issues that could affect a range of interested parties. As such, we intend to proceed with a more detailed second phase BCA for both proposals rather than a Shorter Assessment.
- 2.22 Given the above, we intend to concentrate on the following in our initial assessment:
- a) deciding whether the BBC's PITs contain sufficient information about its proposals to enable us to complete more detailed competition assessments in phase two; and if so
 - b) ensuring that our initial view that we should undertake full BCAs or Shorter Assessments is appropriate; as well as
 - c) gathering information from stakeholders on how the BBC's proposals may affect them if they go ahead. We would welcome responses to the questions set out in Annex 4 below. Respondents are also welcome to provide any other evidence which may inform our work.⁹
- 2.23 If we decide to conduct a subsequent BCA or Shorter Assessment process, we will take into account all the submissions we receive. We will also take into account the findings of our initial assessment, our analysis of the BBC's proposals and any market research we decide to undertake.

Next steps

- 2.24 The next stage of our process will begin on or before **19 December 2024**. At this point we will:
- publish our decisions as to materiality, whether further assessment is therefore necessary and whether the BBC's PITs contain sufficient information to enable us to complete more detailed competition assessments; and
 - outline the type of further assessments we plan to conduct, either BCAs or Shorter Assessments.
- 2.25 We will have **up to six months** from the start of our assessments to complete the BCAs or Shorter Assessments. The ultimate timescale and structure for our assessment will depend on what type of assessments we choose to undertake. Irrespective of whether we undertake BCAs or Shorter Assessments, we will consult with stakeholders on our provisional views before reaching our final decisions.
- 2.26 Additional details about the processes we may undertake are set out in our [BCA Guidance](#).¹⁰

⁹ As set out in our [BCA Guidance](#), although we will not be carrying out any detailed assessment at this stage, we would welcome any evidence that stakeholders are able to provide, such as market research or assessments of competitive impact.

¹⁰ Pages 20-21.

Responses

2.27 The questions for this consultation are in Annex 4. The deadline for responses is **5 December 2024**. Responses should be sent to BBCaudioproposals@ofcom.org.uk.

A1. Responding to this consultation

How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on **5 December 2024**.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/tv-radio-and-on-demand/bbc/ofcom-review-of-bbcs-proposed-new-dab-radio-services-and-extending-the-hours-of-radio-5-sports-extra>. You can return this by email or post to the address provided in the response form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to BBCaudioproposals@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet.
- A1.4 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- > send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files; or
 - > upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.5 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A1.6 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt of a response submitted to us by email.
- A1.7 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.8 It would be helpful if your response could include direct answers to the questions asked in the consultation document and indicate which of the BBC's proposals your response relates to. The questions are listed at Annex 4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A1.9 If you want to discuss the issues and questions raised in this consultation, please contact us by email at BBCaudioproposals@ofcom.org.uk.

Confidentiality

- A1.10 Consultations are more effective if we publish the responses before the consultation period closes. This can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish responses on the Ofcom website at regular intervals during and after the consultation period.

- A1.11 If you think your response should be kept confidential, please specify which part(s) this applies to and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.12 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.13 To fulfil our pre-disclosure duty, we may share a copy of your response with the relevant government department before we publish it on our website.
- A1.14 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our Terms of Use.

Next steps

- A1.15 Following this consultation period, we will publish our conclusions as to whether the BBC's public interest tests contains sufficient information to enable us to complete more detailed competition assessments. We will also outline, at that point, the type of further assessments we plan to conduct. Irrespective of whether we undertake BCAs or Shorter Assessments, we will consult with stakeholders on our provisional views before reaching our final decisions.¹¹
- A1.16 If you wish, you can register to receive mail updates alerting you to new Ofcom publications.

Ofcom's consultation processes

- A1.17 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.18 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.19 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary: corporationsecretary@ofcom.org.uk.

¹¹ Additional details about the processes we may undertake and indicative timelines are set out in our [BCA Guidance](#).

A2. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with an overview of no more than two pages. We will try to make it as easy as possible for people to give us a written response.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish the responses on our website at regular intervals during and after the consultation period. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A3. Consultation coversheet

Basic details

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

Confidentiality

Please tick below what part of your response you consider is confidential, giving your reasons why

- > Nothing
- > Name/contact details/job title
- > Whole response
- > Organisation
- > Part of the response

If you selected 'Part of the response', please specify which parts:

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes No

Declaration

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom aims to publish responses at regular intervals during and after the consultation period. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

A4. Consultation questions

- A4.1 We invite stakeholders to respond to the questions below and provide supporting evidence where possible. The questions cover both the BBC's PIT relating to the proposed launch of four DAB+ music stations and the BBC's PIT relating to proposed changes to Radio 5 Sports Extra. Stakeholders are welcome to answer questions related to both PITs together or separately, or choose to respond in relation to only one of the PITs. Please indicate which of the BBC's proposals your response relates to.
- A4.2 In particular, for Questions 5 and 6 below, we welcome any pre-existing information / evidence that supports your response and a description of what type of additional information / evidence you could provide in the future. There will be further opportunities for stakeholders to provide evidence related to these questions at the next stage of the PIT process.

Question 1: We consider that the launch of the four DAB+ music stations and the extension of broadcast hours for BBC 5 Sports Extra are material changes. If you disagree, please explain why you consider the BBC's published proposals are not material.

Question 2: Do you consider that the BBC's published proposals are clear in relation to their scale (both in terms of financial resource and in terms of reach and type of content) and the timescales for implementation? If not, please provide details of the areas where you feel more clarity is required.

Question 3: Did the BBC's PIT consultation processes provide suitable opportunity for you to set out your views fully? If not, please provide details.

Question 4: Given that both proposals raise a number of contentious issues, it is our intention to undertake full BCAs for both. If you disagree and think that Ofcom should undertake Shorter Assessments, please explain why.

Question 5: Do you agree with the BBC's assessments in its PITs about the potential public value and/or market impact of the proposals? Are there any additional public value and/or competition considerations that have not been identified by the BBC?

Question 6: Do these proposals lead to any significant market impact concerns which might affect your own services? If so, please explain how the BBC's proposals would affect your services if they go ahead.

The overview section in this document is a simplified high-level summary only. The proposals we are consulting on and our reasoning are set out in the full document.