
BBC Scotland Competition Assessment

Final determination

Statement

Publication Date: 26 June 2018

About this document

In November 2017, the BBC published a proposal to launch a new television channel for audiences in Scotland.

To protect fair and effective competition, Ofcom must examine any significant changes which the BBC wishes to make to its TV, radio and online public services before they can go ahead.

On 20 April 2018, we published our provisional determination that the BBC may carry out the proposal. This was based on our view that the public value which the proposal offers would justify any potential adverse effects on fair and effective competition it may cause.

In this document we explain our final determination that the BBC may carry out its proposal. We set out the stakeholder views we received in response to our consultation and how these, along with further analysis, have influenced our final determination.

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1. Summary

- 1.1 Ofcom wants to see Scottish audiences well served, both by the BBC and the broadcasting sector as a whole. A number of television services are currently provided in Scotland, including by the BBC, STV and the Gaelic Media Service, MG ALBA. Last year, the BBC announced the launch of a new television channel for Scotland, to be launched in February 2019.
- 1.2 In order to protect fair and effective competition, Ofcom must examine major changes which the BBC wishes to make to its TV, radio and online public services before such changes can go ahead. Following the publication of the BBC's Public Interest Test (PIT) in November 2017, Ofcom commenced its BBC competition assessment (BCA) of the new channel. As part of this, Ofcom commissioned consumer research, undertook economic analysis and engaged extensively with stakeholders. On 20 April 2018, we published a consultation on our provisional decision. This consultation closed on 18 May 2018. We are today publishing our final decision.
- 1.3 A BCA involves a review of the public value the BBC has said the proposal will deliver and an assessment of the impact of the proposal on fair and effective competition. Ofcom then assesses whether the public value of the proposal justifies any adverse impact on fair and effective competition.
- 1.4 Ofcom agrees with the BBC that the proposed channel will broaden the options available to viewers in Scotland, provide a greater Scottish focus in its news coverage and deliver more content designed to reflect the lives of people in Scotland. Stakeholders also broadly agreed that the BBC's proposal would have positive outcomes for Scotland and Scottish audiences. Some stakeholders have questioned whether the budget allocated to the channel would be sufficient for the BBC to deliver on its plans and have called for additional investment or a different focus for the channel. While no full details on the channel's schedule are available yet, we are satisfied that the proposal as it is will deliver public value. The BBC's strategic and budgetary decisions are a matter for the BBC Board.
- 1.5 The new channel is expected to have an impact on the viewing of other broadcast channels. However, we do not believe that the proposed channel would have a large and harmful effect on the incentives of broadcasters to innovate or invest in new content for Scotland. In addition, we do not believe the BBC's proposal will lead to a material change in its online offer, and consider that, in its current form, the BBC's proposal would be unlikely to have a significant adverse impact on print and online news provision. Finally, of the 80 new journalists the BBC plans to hire, around half will be involved in newsgathering, and we do not believe this poses a threat to the ability of Scottish newspapers to attract or retain journalists.
- 1.6 The BBC's activities inevitably have an impact on competition and it is not Ofcom's role to eliminate all competition impacts – rather we have to ensure that any negative impact is justified by the public value created. As noted above, we expect the new channel to have some impact on the market, in particular on other broadcast channels in Scotland.

However, it is our view that any adverse impact on fair and effective competition would be justified by the public value delivered by the proposal. For that reason, the BBC is allowed to proceed with the service as notified.

- 1.7 Our assessment of the public value and market impact are for the proposal as it was submitted to us. The BBC Board will need to monitor that the proposal is implemented as it was set out in the public interest test and consider closely the wider effects on other BBC services and third parties of any further expansion to the proposal, for example in relation to the BBC's online activities. Should the BBC make material changes to its service, the BBC would need to undertake a further Public Interest Test. In addition, Ofcom's BBC monitoring programme will capture the BBC's activities in Scotland. In the event that the BBC's offering changes substantially, we will consider whether a further competition assessment is necessary.
- 1.8 Finally, this was Ofcom's first BCA since we became the BBC's external regulator in April 2017. Overall, the BBC's engagement with Ofcom has been open and the PIT process has worked well. However, we consider that, in places, the BBC's processes must evolve and become more transparent to ensure constructive engagement with third parties.

2. Background to our competition assessment

The BCA Framework

- 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. To ensure it continues to deliver programmes which fulfil its mission and public purposes, the BBC will sometimes make changes to its existing activities or develop new services to better meet the needs of audiences.
- 2.2 Whilst certain changes can be considered minor; for example, day-to-day editorial decisions about individual programmes, or their scheduling, other, more substantive changes have the potential to harm competition; for example, by crowding out investment from third parties, with ultimately negative consequences for audiences.
- 2.3 Because of this, the BBC Charter and Framework Agreement, which set the BBC's mission and duties, provide for first the BBC, and then Ofcom, to consider the effects on competition of significant changes to the BBC's TV, radio and online public services.¹
- 2.4 It is important to note competition assessments are not intended as a means of calling into question the fundamental role of the BBC, nor of preventing the BBC from evolving to ensure it continues to serve UK audiences. Ofcom acknowledges the BBC must adapt and renew its services if it is to succeed throughout the duration of the present 11-year licence period.² Rather, competition assessments ensure that stakeholder concerns are properly considered – providing a tool to look at potential market impacts alongside public benefits.
- 2.5 Under the terms of the Framework Agreement, the BBC must assess whether any proposed change to its public service is 'material'.³ If it decides that a change is material, the BBC is then obliged to carry out a further assessment known as a 'Public Interest Test' or 'PIT' which is reviewed by the BBC Board.
- 2.6 Before the BBC can submit a proposal to Ofcom for approval, the BBC Board must be satisfied that:
- a) the proposed change contributes to the fulfilment of the 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 unnecessary adverse impacts on fair and effective competition; and

¹ The 'Charter' is used in the rest of this document to refer to the [Royal Charter for the continuance of the British Broadcasting Corporation](#). The [Agreement between the Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation](#) is referred to as the 'Framework Agreement'.

² See [speech by Sharon White to Enders/Deloitte conference](#), 8 March 2018 and Ofcom's paper [Public Service Broadcasting in the digital age](#).

³ A material change is defined as one where the BBC is proposing either to carry out a new UK public service or to make a change to a UK public service which may have a significant adverse impact on fair and effective competition.

- c) the public value of the proposed change justifies any adverse impact on fair and effective competition.

2.7 In this case, the BBC determined its proposal to launch a BBC Scotland channel would constitute a material change to its services and conducted a PIT over summer 2017. The BBC published the findings of its PIT, along with supporting evidence, on 30 November 2017, stating the BBC Board believed the PIT had been satisfied.⁴

The BBC's proposal

2.8 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.”⁵ To achieve this aim, the BBC proposed to launch a new television channel for Scottish audiences, with the following key features:

- a) **Broadcasting hours:** The new channel would broadcast between 12 noon and 12 midnight every day. Original programming shown between 12 noon and 7pm would include political coverage and other “ad hoc events (mainly sport)” and would be limited to 150 hours a year, with a ‘simulcast’ of BBC Two programming shown at all other times until 7pm.⁶ The channel’s ‘core’ programme content would be shown between 7pm and 12 midnight;
- b) **Programming:** The new channel would show some programming currently broadcast on BBC One and BBC Two in Scotland “alongside a mix of documentaries, specialist factual, lifestyle, music, quiz and factual entertainment programming” with around 50% of the content shown between 7pm and midnight consisting of first-run originations and acquisitions, and 50% repeats;
- c) **News hour:** The channel would feature an hour-long news programme, to be shown at 9pm on weekdays, with shorter bulletins on weekends; and
- d) **Budget:** The channel would have a programme budget of just over £32 million a year.

2.9 The BBC’s PIT also stated that the launch of a new channel would have certain further implications. These included:

- a) The end of separate programming for Scotland on BBC Two, with audiences in Scotland instead receiving the same programming as audiences in England;

⁴ The BBC’s Public Interest Test submission and supporting evidence can be found at the [BBC Board decision on the BBC Scotland TV channel Public Interest Test](#).

⁵ [Public Interest Test submission](#), page 1.

⁶ In the [consultation](#) which the BBC conducted as part of its PIT, the BBC initially proposed that the new channel would broadcast between 7pm and 12 midnight every evening only. In its [Public Interest Test submission](#), the BBC stated it had decided to extend the channel’s broadcast hours “to enable the broadcasting of live political daytime coverage (particularly First Minister’s Questions) and live sporting and other ad hoc events.”

- b) BBC Four’s standard-definition stream would move “to a less prominent slot on the EPG in Scotland” to make way for the new channel, although the precise nature of this change would vary between television platforms;⁷
 - c) The opportunity for cross-commissioning with BBC Alba, potentially leading “to the provision of up to an additional 100 hours of non-news content” on the Gaelic language service; and
 - d) The development of a “strengthened multi-platform newsgathering team” with “around 80 journalism-related posts of varying experience for new entrants to established journalists.”
- 2.10 In its PIT, the BBC noted that the channel would be broadcast in Standard Definition (SD) only. However, in March 2018, the BBC wrote to Ofcom indicating that because of subsequent technological developments and changes to its own distribution policy, the BBC Scotland channel would also be broadcast with a High Definition (HD) simulcast.
- 2.11 The BBC also provided a draft schedule for the new channel, indicating the types of programming that would be broadcast on a typical day. In addition to the 9pm news programme, the schedule is likely to include: a quiz show, lifestyle features, pre-watershed documentaries, drama, factual and comedy programmes, and content aimed at younger audiences⁸.

BBC processes during its Public Interest Test

- 2.12 In our Guidance we explained that, when conducting a Public Interest Test, we expected the BBC at a minimum to seek to understand the scale of market impacts associated with a proposal. Among other things we said that this would require the BBC to set out its proposal clearly, consult meaningfully with interested third parties and undertake its analysis in a transparent manner.⁹
- 2.13 This is the first time the BBC has undertaken a Public Interest Test examining a potential material change to the public services under the new Charter and Framework Agreement. In the context of this case, we are satisfied the BBC sought stakeholder views and undertook appropriate qualitative and quantitative market research and economic analysis to support its assessment of its proposals. However, we highlight below some areas which the BBC should consider in future Public Interest Tests.
- 2.14 In particular, the BBC should consult with stakeholders to the fullest extent possible. Ofcom acknowledges the BBC may seek to refine its proposals during its Public Interest Test. Where changes to a service do not have a significant impact on the market, we would not expect the BBC to re-consult with Stakeholders. However, we would expect the BBC to closely consider the impact of the proposed changes and provide us with clear analysis

⁷ An EPG or Electronic Programme Guide is the on-screen TV guide used by viewers to select broadcast channels. For the potential EPG slots originally proposed by the BBC, see its [Public Interest Test submission](#), page 26.

⁸ [BBC qualitative research report](#) slide 35, and BBC’s response to Ofcom’s consultation, Annex 1

⁹ See our [Guidance](#), paragraphs 4.13 to 4.20.

setting out why it considers the market impact of the change to not be significant. Where such changes are substantive however, we would expect the BBC to take account of and enable stakeholders to comment on these changes in a timely and effective manner.

- 2.15 Further, we would anticipate that the BBC would publish any detailed market impact analysis, and to ensure it reaches appropriate contractual agreements with its suppliers to enable it to do so, where that analysis is commissioned from third parties.
- 2.16 Finally, the BBC should also assess any negative impacts on public value as a consequence of the proposal (see, for example, the discussion below in relation to MG ALBA).

Ofcom's competition assessment

- 2.17 Under the Charter and Framework Agreement, when the BBC proposes changes to its public service activities and the BBC Board concludes that a PIT has been satisfied, Ofcom must carry out an assessment and approve the proposed change before it can be implemented.
- 2.18 The Framework Agreement divides Ofcom's work into two phases. During a short initial assessment phase, we must confirm whether we agree with the BBC's assessment that a proposal is material and decide what form our detailed assessment during the second phase should take. This could be either a BBC Competition Assessment ("BCA") or a shorter assessment.
- 2.19 In our Guidance, we explained that, in accordance with our obligations under the Framework Agreement, a BCA would include:
- a) a review of the procedures the BBC has followed in its Public Interest Test (including consultation with third parties);
 - 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.
- 2.20 Upon publication of the BBC's proposal, we began our initial assessment and invited stakeholders to comment on how they thought the launch of a new BBC Scotland channel could affect them.¹⁰ Subsequently, on 11 January 2018 we published a letter to the BBC,

¹⁰ See our [Invitation to Comment](#), issued on 30 November 2017.

confirming we were satisfied the proposal was material and concluding it would be appropriate to conduct a BCA.¹¹

- 2.21 During our BCA, we:
- a) Reviewed the BBC's proposal and sought further information from the BBC as to some of its features and processes;
 - b) Engaged extensively with stakeholders, both in our initial assessment and in our BCA;
 - c) Commissioned research to further understand audience attitudes towards the BBC Scotland channel; and
 - d) Carried out economic analysis, including an economic modelling exercise to determine the impact of the proposal on stakeholders and the Scottish media sector more generally.

Our consultation

- 2.22 On 20 April 2018, Ofcom published a consultation to explain and invite views on our provisional decision to approve the launch of the proposed BBC Scotland channel.
- 2.23 Over the course of four weeks, Ofcom met with interested parties and received a total of 24 written submissions to our consultation. Five stakeholders, including STV, asserted confidentiality over their responses. While we have not published these responses, we have, where relevant, set out the substance of STV's arguments to ensure transparency in our decision-making.
- 2.24 The following stakeholders submitted non-confidential responses to our consultation:

¹¹ See our letter to the BBC [Conclusion of initial assessment of proposed BBC Scotland television channel](#), issued on 11 January 2018. In this letter we explained that, while the BBC had not included the changes described in paragraph 2.11 above within its formal public interest test, in our view the activities proposed by the BBC, taken together, comprised a single proposal to carry out a new UK Public Service.

BBC	Scottish Daily Mail
Advisory Committee for Scotland	PACT
Scottish Newspaper Society	Professor Robert Beveridge
Newsquest Media Group	Scottish National Party
Scottish Government	Directors UK
MG ALBA	Mr David Henry
News Media Association	Mr Scott Simpson
Mr Steven Kirk	Mr Ian Philips
Mr Richard Dalglish	Mr Robin Ward
Ms Kathleen Bender	

- 2.25 We have carefully considered stakeholder responses and their input into our provisional decision.
- 2.26 Since our consultation, STV also announced it will close its loss-making local TV channel, STV2¹², at the end of June 2018.¹³ The decision to close STV2 was a commercial one for STV and was taken in the context of a wider strategic review and in the face of continued challenges to the local TV sector.

Document structure

- 2.27 In section 3, we briefly summarise our provisional decision, stakeholder responses to our consultation, and Ofcom’s response.
- 2.28 In section 4, we set out our final decision. This includes our view on channel take-up and substitution, public value, and market impact, as well as our final view on whether the BBC may proceed with the proposal.
- 2.29 Our detailed findings on public value, channel take-up and substitution, and market impacts, taking account of stakeholder views, are included in the annexes.

¹² STV currently holds five local TV licences for Aberdeen, Dundee, Edinburgh, Glasgow, and Ayr. Together these comprise the local TV service STV2.

¹³ STV Group plc, [STV sets out strategy for creative and digital growth](#), 16 May 2018.

3. Ofcom's provisional findings and stakeholder comments

Our provisional findings

- 3.1 On 20 April 2018, we published a provisional determination on our competition assessment into the proposed BBC Scotland television channel. As required by the BBC Charter and Framework Agreement, in our provisional determination, we carried out a review of the procedures the BBC has followed in its Public Interest Test, the BBC's assessment of public value of the proposal, along with our own assessment of the impact of the BBC's proposal on fair and effective competition. In light of that review and assessment, we considered whether the public value of the proposed change would justify any adverse impact on fair and effective competition.
- 3.2 In this section, we provide a summary of our provisional findings.

Channel take-up and substitution

- 3.3 We modelled the likely take-up of the new BBC Scotland channel and the impact that it may have on the viewing of other BBC and commercial television channels.¹⁴ We forecast a base case of 2.14% for the viewing share in Scotland of the BBC Scotland channel,¹⁵ which was higher than the viewing share anticipated by the BBC. We forecast a viewing share loss of 1.10pp in our base case for all commercial channels if the new channel is launched (relative to a situation where the BBC's proposal does not go ahead),¹⁶ with the largest individual decline in viewing for STV of 0.28pp in our base case¹⁷ resulting in a viewing share of 14.81% in our base case.¹⁸

Review of public value

- 3.4 Following review, we concluded that the BBC's PIT does provide evidence that the proposal will contribute to the delivery of public value, including through its increased news provision and greater Scottish-focus in its news coverage. It will also contribute to public value through the delivery of more content designed to reflect the lives of people in Scotland and should serve to strengthen production in the nation.

¹⁴ As part of its PIT, the BBC commissioned analysis to estimate take-up of the new BBC Scotland channel and the impact that may have on the viewing of other BBC and commercial television channels. We have adopted a similar modelling approach for our own analysis. This is set out, along with assumptions we have made, and the alternative scenarios and sensitivity analyses we have completed, in Annex 2. A summary of the analysis undertaken on behalf of the BBC can be found at Annex 3 of the [BBC Board decision on the BBC Scotland TV channel Public Interest Test](#). The BBC did not publish the full report, although this was supplied to Ofcom in confidence as part of the BBC's PIT submission.

¹⁵ We forecast a range of 1.65% to 3.65%.

¹⁶ We forecast a range of 0.82pp to 1.99pp.

¹⁷ We forecast a range of 0.21pp to 0.50pp.

¹⁸ We forecast a range of 14.59% to 14.88%.

- 3.5 Although viewing estimates for the new channel are modest (see paragraph 3.3), the increased choice for viewers in Scotland afforded by the new channel is also a source of public value. The level of personal value experienced by viewers in Scotland will depend on how attractive audiences in Scotland find this content as well as the BBC's ability to deliver creative and distinctive output for the new channel.

Assessment of market impacts

- 3.6 In our market impact assessment, we focused in particular on the following potential market impacts:¹⁹
- a) **Audience switching from commercial TV broadcasters to the BBC Scotland channel:** We found that the new channel is most likely to have an impact on commercial TV broadcasters showing content aimed at Scottish audiences. However, our analysis suggested the new channel would achieve a relatively modest take-up and we considered the overall effect on the revenues of commercial TV broadcasters would be likely to be relatively small. As a result, we did not consider the BBC's proposal by itself would be likely to have an impact on the viability of commercial TV services or substantially affect the incentives of commercial broadcasters to invest and innovate.
 - b) **The risk that additional news content causes audiences to switch from commercial news providers:** In relation to online news, we found that the BBC's proposal would be unlikely to lead either to a substantial expansion or to a change in the focus of the BBC's online news offering. We concluded that, in its current form, the BBC's proposal would be unlikely to have a significant adverse impact on print and online news provision.
 - c) **The impact on Scottish newspapers' ability to attract/retain journalists:** We did not consider that the BBC's proposal to create 80 additional journalism posts (only half of which were news-gathering roles) to support its news coverage on the new BBC Scotland channel poses a significant threat to the ability of Scottish newspapers to attract or retain journalists.

Provisional determination

- 3.7 We recognised that there are uncertainties about the take-up of the new channel and the content it will include. However, we were satisfied the BBC had shown its proposal would deliver public value by broadening the options available to viewers in Scotland, providing a greater Scottish-focus in its news coverage and delivering more content designed to reflect the lives of people in Scotland.
- 3.8 We acknowledged the concerns of a range of stakeholders. However, we took the view that any adverse impacts on fair and effective competition resulting from the BBC's proposal were likely to be fairly limited.

¹⁹ We also considered audience switching from other commercial media providers to the BBC Scotland channel, the impact on the Scottish production sector and the impact on commercial broadcasters' ability to acquire content rights.

- 3.9 Taking these factors into account; having found that the public value generated by the proposal justifies the potential adverse impact on competition, our provisional determination was to allow the BBC to proceed with its proposal.

Stakeholder responses

- 3.10 We received 24 responses to our consultation from a range of stakeholders, a number of whom provided comments on the implications of the BBC's proposal, both in terms of public value and market impact. In addition, we also met with a number of interested parties in Edinburgh.
- 3.11 Broadly speaking, stakeholders were supportive of the BBC's plans for further investment in Scotland, noting the benefits of increased choice for Scottish audiences, and the positive contribution the channel could make to the Scottish creative sector in general. However, there were clear differences between some stakeholders who felt the BBC's proposal did not go far enough in delivering public value, and some who felt the market impact of the BBC's proposal was too great to allow it to go ahead as planned.
- 3.12 We set out the main stakeholder comments and our response below. Further detail and additional comments are included in the annexes.

Take-up of the new channel

Stakeholder comments

- 3.13 Some stakeholders (STV and ACS) noted that take-up of the new BBC Scotland channel could be higher than the viewing share range we forecast in our consultation and therefore the financial impact on rival commercial services could be larger than we estimated.
- 3.14 Stakeholders noted the BBC's plans for the new channel to include repeats or simulcasts of popular BBC programmes such as *Still Game* could generate large audiences.²⁰ STV noted that Scottish-focussed BBC One programmes (premieres, simulcasts or repeats) might even move permanently from BBC One Scotland to the new channel, which could pose additional risks to rivals, if additional popular network programmes were shown on BBC One Scotland.²¹
- 3.15 STV pointed to other reasons our modelling may have understated potential take-up of the new channel. It noted that our modelling relied on the performance of BBC Scottish opts programming on BBC Two, whereas the commissioning briefs that the BBC has issued ahead of launch of the new channel were for 'mass-market, populist programmes' more akin to BBC One output. Furthermore, STV submitted that we had not considered that the actual cost (and viewing) for programming on BBC Scotland could be higher than implied by BBC Scotland's budget set out in the BBC's PIT (and our viewing forecasts), as the BBC's

²⁰ STV Group plc's confidential response to Ofcom's consultation, page 6; and ACS response to Ofcom's consultation, pages 3-4.

²¹ STV Group plc's confidential response to Ofcom's consultation, page 6.

commissioning brief had indicated the ‘right ideas’ could attract network or BBC Worldwide investment.²²

Our response

- 3.16 We recognise that there are significant uncertainties around take-up of the new BBC Scotland channel and we do not consider that it is possible to estimate take-up and substitution precisely. Our objective is to ensure that the broad magnitude of our estimates is credible. Our take-up estimates are built up systematically from the available evidence (e.g. viewing of similar content on BBC Two) and we consider that they are reasonable. No stakeholder engaged with the detail of our analysis.
- 3.17 We have nevertheless reviewed our modelling of take-up of the new BBC Scotland channel. In particular, we have updated two further assumptions to reflect 2017 BARB data (in line with the remainder of our modelling which is based on 2017 BARB data).²³ As a result of this adjustment, we now forecast a revised base case of 2.42% for the viewing share in Scotland of the new BBC Scotland channel (compared to our base case of 2.14% in our consultation).²⁴ However, as set out below, we do not agree with stakeholders that further adjustments are required to our modelling. In light of stakeholder submissions and comparisons with channel benchmarks (see below), we believe the likelihood of the new BBC Scotland channel achieving our revised high case estimate of 4.13% is very low.²⁵
- 3.18 Regarding stakeholders’ comments that take-up of BBC Scotland could be higher than the range we have forecast, we observe that BBC Scotland’s content budget sits somewhere between that of BBC Alba and BBC Four, which both achieve relatively modest viewing shares (c.1% of viewing hours in Scotland). Stakeholders’ suggestion that take-up for the new channel could exceed our high case estimate if the BBC included repeats or simulcasts of popular programmes or BBC One-type content thus seems unlikely – it would imply that BBC Scotland would have to perform far better than BBC Four (which has a higher budget) and better still than BBC Alba. Overall, we consider it is unlikely that the new channel would achieve take-up beyond our revised high case estimate (which itself we consider unlikely to arise), as this would imply a viewing share performance that is closer to BBC Two and Channel Four, both of which have significantly higher content budgets and significantly more prominent EPG positions than the proposed new channel.
- 3.19 Regarding STV’s point that the actual cost of each programme could rise beyond that implied by BBC Scotland’s budget, in our high case scenario we modelled the impact of a much higher (per-hour) content budget for the new channel than presented in the BBC’s PIT.

²² STV Group plc’s confidential response to Ofcom’s consultation, page 6.

²³ Annex 2, paragraphs A2.61 and A2.86.

²⁴ We have also adjusted our low and high cases to produce a revised forecast range of 1.87% to 4.13%. See Annex 2, paragraph A2.93.

²⁵ Annex 2, paragraphs A2.114-A2.115.

- 3.20 While our modelling of BBC Scotland's take-up has not explicitly considered the inclusion of premieres, simulcast or repeats of popular BBC One programming, we consider that our estimates are reasonable in light of the available evidence and, even if we did include some BBC One programming, this would not materially affect our take-up estimates. Our detailed reasoning is set out in Annex 2.²⁶ We recognise the potential for certain BBC programmes to perform well, but we consider that our modelling captures a wide range of scenarios for the performance of BBC Scotland. As noted above, no stakeholder engaged with the detail of our analysis.
- 3.21 In summary, we consider our forecast take-up of the new channel to be reasonable in light of the available evidence. Our detailed assessment of the likely take-up of the new BBC Scotland channel is set out in Annex 2.²⁷
- 3.22 Table 1 below summarises our revised forecast viewing shares for television channels in Scotland in 2019 if the new service is launched, as well as the forecast percentage point change in channel viewing share relative to a situation where the BBC's proposal does not go ahead.

²⁶ Annex 2, paragraphs A2.127-A2.132.

²⁷ Annex 2, paragraphs A2.32-A2.93 and A2.112-A2.135.

Table 1: Summary of revised viewing share impacts on TV channels in 2019 if the new service is launched (base case, followed by low case and high case)²⁸

	Predicted share of Scottish viewing (%)	Percentage point change in viewing share(pp)
BBC Scotland	2.42% (1.87% to 4.13%)	2.42pp (1.87pp to 4.13pp)
BBC One	21.80% (21.29% to 21.96%)	-0.66pp (-0.50pp to -1.17pp)
BBC Two	5.57% (5.42% to 5.62%)	-0.27pp (-0.23pp to -0.42pp)
BBC Four	0.77% (0.74% to 0.78%)	-0.18pp (-0.18pp to -0.21pp)
Other BBC channels	1.64% (1.62% to 1.65%)	-0.03pp (-0.03pp to -0.06pp)
BBC channels (total)	32.20% (31.88% to 33.20%)	1.26pp (0.94pp to 2.26pp)
STV/ITV	14.77% (14.52% to 14.85%)	-0.32pp (-0.24pp to -0.57pp)
Other TV channels	53.02% (52.27% to 53.26%)	-0.93pp (-0.69pp to -1.68pp)

Insufficient funding leads to low quality programming and the BBC being unable to deliver on its plans

Stakeholder comments

3.23 A number of stakeholders including the Scottish Government, the NUJ, the ACS, the SNP and a number of members of the public noted the relatively low budget for the channel

²⁸ Figures may not add up to 100% due to rounding. Given the announcement of STV2's closure, we no longer present the viewing impact on STV2 separately but instead include it within the viewing impact on "Other TV channels", which becomes slightly larger than the equivalent estimate presented in Table 1 of our consultation. BARB does not report viewing for BBC Alba, therefore we have only estimated BBC Alba's share in Scotland based on available data (c.0.9%) – similar to BBC Four's share of viewing in Scotland. Based on our revised base case estimate of 2.42% for take-up of BBC Scotland (our revised estimated range is 1.87% to 4.13%) and viewing from BBC Alba in line with its estimated market share (0.9%), we estimate that BBC Alba could lose about 2.3% of its viewing hours in our revised base case (our revised estimated range is between 1.8% and 3.9% of its viewing hours).

and expressed concerns that the resulting content would not be able to match the BBC's vision for the channel.

- 3.24 Scottish producers and the ACS stated that it would be extremely difficult to produce commissions of high quality and distinctive content with an average budget of £25-30k per hour²⁹.
- 3.25 STV questioned the need for a new news programme in light of the existing provision and consumers' limited likelihood to watch the proposed 9pm programme. STV also noted the limited new non-news programming and the high proportion of simulcasts and repeats, suppressing public value. Overall, STV was of the view the channel promises middling public value at best.

Our response

- 3.26 Ofcom wants to see audiences in Scotland well served by the BBC. Each of the BBC's public service channels, stations, and services contribute to the creation of public value. The BBC's public purposes stress the importance of reflecting, representing and serving the diverse communities of all of the United Kingdom's nations and regions, as well as providing impartial news and information to UK citizens.
- 3.27 We think a new channel for Scotland has the potential to make a valuable contribution to the BBC's public purposes; generating increased choice for audiences, providing a greater Scottish-focus in its news coverage and delivering more content designed to reflect the lives of people in Scotland.
- 3.28 Whilst Ofcom has a clear duty to assess the impact of the BBC's proposals on the market, it is primarily the role of the BBC Board to determine how best to deliver public value. Accordingly, in our consultation we did not seek to determine whether the BBC could have delivered greater public value by changing aspects of its proposal. Instead, we considered whether it had made a compelling, well evidenced and methodologically sound assessment of the public value it believes its proposal will deliver.
- 3.29 Although the BBC provided limited information on the likely schedule for the new channel, we are satisfied that the BBC's PIT does provide evidence that the proposal will contribute to the delivery of public value by broadening the options available to viewers in Scotland, providing a greater Scottish-focus in its news coverage and delivering more content designed to reflect the lives of people in Scotland.

²⁹ The ACS based this range on [producers' responses](#) to the BBC's consultation to inform its PIT. For example, based on the BBC's original proposal, PACT estimated a non-news budget of around £23m and 826 hours of non-news original content (i.e. excluding acquisitions and assuming 40% of non-news hours during 7pm-midnight would be repeats). In its PIT submission (paragraphs 48-53, pages 18-19), the BBC explains that it had originally planned that the channel should have a content budget of £31m comprising of a c.£18m p.a. new investment, along with £12m in "*funding that is currently used for opt-out programming on BBC Two Scotland*". In light of its decision to extend the channel's broadcast hours, the proposal submitted to Ofcom featured a £32m budget, including an additional c.£0.7m "*to accommodate live day time political coverage currently shown on BBC Two (approximately 66 hours [a year])*". The BBC also increased the proportion of hours of non-news content during 7pm-midnight that would be repeats to 50%.

- 3.30 We acknowledge the extent to which the BBC is able to deliver public value to audiences in Scotland will be partly dependent on delivering high quality, distinctive content. Ofcom will be looking to the BBC to do this within the available budget.³⁰

Impact of BBC's proposal on BBC Alba

Stakeholder comments

- 3.31 BBC Alba, as a Gaelic language channel showcasing a wide and diverse range of high quality programmes in Gaelic, already plays an important role in creating public value by reflecting and representing Scotland and Gaelic in particular to Scottish audiences.
- 3.32 In its response to our consultation MG ALBA which provides BBC Alba in partnership with the BBC, suggested we had not fully considered the particular circumstances of BBC Alba. It suggested that it was not the case that the transfer of viewership from BBC Alba will be offset by the viewership of BBC Scotland. MG ALBA claimed that a loss to BBC Alba will be an absolute loss of public value in many respects, due to the unique role that the Gaelic television channel fulfils.
- 3.33 MG ALBA also argued that, although it was not reliant on commercial funding, the loss of audience to BBC Scotland could put at risk the amount of funding made available from the Scottish Government, which in turn would impact on the amount of content investment.

Our response

- 3.34 We estimate that BBC Alba may lose 2.3% of its viewing in our revised base case,³¹ suggesting that any loss of public value associated with a lower audience is likely to be moderate. In addition, an increased choice in content representing and portraying different aspects of Scotland, its communities and its people is likely to be beneficial for audiences. However, we note that the BBC in its PIT did not assess the possible negative impact on the public value delivered by BBC Alba. In the future, we would expect the BBC to assess the negative impact on public value of proposals through the impact on existing services. Our detailed assessment of the public value impact of the BBC Scotland channel on MG ALBA is set out in Annex 1.³²
- 3.35 Given that MG ALBA's revenues are not directly reliant on commercial revenues, we consider there is no direct impact on MG ALBA's revenues and investment from a loss of audiences. While there is also no indication that the Scottish Government's commitment to funding is likely to decrease, we recognise that the impact of the BBC Scotland channel could be felt in other ways. We note that the BBC has indicated in its PIT that the new service would lead to opportunities for cross-commissioning with BBC Alba, potentially leading *"to the provision of up to an additional 100 hours of non-news content"* on the

³⁰ In Annex 2, we estimate a higher budget of £34.6k per hour for originations shown between 7-12pm in light of the information in the BBC's PIT and its updated proposals.

³¹ We estimate a revised range of 1.8% to 3.9%.

³² Annex 1, paragraphs A1.61-A1.63.

Gaelic language service.³³ However, the BBC is yet to provide additional information on this. While this does not affect our analysis in this BCA, we will be requesting further information from the BBC on this. Were cross-commissioning opportunities to emerge, this may result in BBC Alba becoming a more attractive proposition to viewers. Our detailed assessment of the market impact of the BBC Scotland channel on MG ALBA is set out in Annex 2 and Annex 3.³⁴

Impact of new channel on revenues of existing commercial operators and on incentives to invest

Stakeholder comments

- 3.36 STV disagreed with our provisional view that the overall impact on its revenues would be likely to be relatively small and unlikely to substantially affect its incentives to invest.³⁵ STV argued instead that this revenue impact would put at risk existing and future investment in content and services for Scottish viewers.³⁶
- 3.37 STV was concerned that we placed reduced weight on the impact that STV Group would suffer as a result of the BBC's proposal because the revenue impact seems small in absolute terms. STV argued that, if the same relative impact on net advertising revenues ("NAR") were felt by ITV, the maximum revenue loss would be £51.7m, while 14% (the impact on STV Group of Ofcom's maximal case) of ITV's Broadcast and Online EBITDA equates to £83.9m. It added that such an impact on ITV would be larger than the impact of various BBC proposals in 2015, including for a BBC One+1 channel which the BBC Trust deemed would have "*an adverse market impact on commercial channels*" and which was not approved.³⁷

Our response

- 3.38 Table 2 below summarises our revised estimates of the viewing share and revenue impacts on television channels in Scotland in 2019 if the new channel is launched (relative to a situation where the BBC's proposal does not go ahead).

³³ [Public Interest Test submission](#), paragraphs 108, 325 and Annex 2, paragraph 33.

³⁴ Annex 2, paragraphs A2.159-A2.161; and Annex 3, paragraphs A3.72, A3.207-A3.208, A3.222-A3.223.

³⁵ STV Group plc's confidential response to Ofcom's consultation, pages 4-5 and 7.

³⁶ STV Group plc's confidential response to Ofcom's consultation, pages 5 and 7.

³⁷ STV Group plc's confidential response to Ofcom's consultation, page 5; and Ofcom, Proposed changes to BBC Three, BBC iPlayer, BBC One and CBBC, [Market Impact Assessment](#), 30 June 2015.

Table 2: Summary of revised Scottish viewing share and revenue impacts on TV channels in 2019 (base case, followed by low case and high case)

	Percentage point change in Scottish viewing share (2019)	Change in advertising revenue (£m)**	Change in advertising revenue (as % of 2016 revenues)**
BBC Scotland channel	2.42pp (1.87pp to 4.13pp)	N/A	N/A
All BBC channels	1.26pp (0.94pp to 2.26pp)	N/A	N/A
All commercial channels	-1.26pp (-0.94pp to -2.26pp)	-£4.26m to -£4.48m (-£3.19m to -£8.02m)	-1.75% to -1.84% (-1.31% to -3.29%)
STV*	-0.32pp (-0.24pp to -0.57pp)	-£1.90m to -£2.02m (-£1.43m to -£3.60m)	-1.90% to -2.01% (-1.42% to -3.59%)
ITV Border (Scotland)*		-£0.23m to -£0.25m (-£0.18m to -£0.44m)	-1.92% to -2.03% (-1.44% to -3.61%)

*STV and ITV Border (Scotland) are the Channel 3 licensees in central and northern Scotland and in Dumfries and Galloway and the Scottish Borders respectively and hence we have reported the combined change in their viewing share in Scotland. However, as STV plc and ITV plc are separate companies, we have reported changes to their advertising revenue separately.

**For the reasons explained in Annex 3 (paragraphs A3.15-A3.18), our estimates for each of the base, low and high cases for the revenue impacts are ranges.

3.39 Our analysis suggests the new BBC Scotland channel would achieve a relatively modest share of viewing by Scottish audiences in 2019. We recognise the launch of the new channel will have an impact on STV's revenue and profitability, which we forecast to be a revenue loss of £1.90m to £2.02m under our revised base case, representing 9% of STV Group's 2017 EBITDA and 10-11% of STV Group's 2017 operating profits under our revised base case.³⁸ We also recognise this may impact STV's business decisions. However, STV will remain profitable and will continue to be the largest commercial channel in Scotland with the highest viewing share and weekly reach.

3.40 In assessing the likely impact on competition, we do not agree with STV's focus on the upper limit of the impacts. We consider that other points in our estimated range for take-up and the change in advertising revenue are also relevant, including those where STV

³⁸ We forecast a revised range for the revenue loss on STV of £1.43m to £3.60m per annum, representing 7% to 17% of STV Group's 2017 EBITDA and 8% to 19% of STV Group's 2017 operating profits.

experiences a smaller fall. As noted above, we consider the upper bound of our range is very unlikely.

- 3.41 STV has argued that the areas at most risk are STV Group's expenditure on content and services specifically for Scottish audiences or technology.³⁹ We recognise that the availability and quality of content that reflects Scotland and Scottish perspectives is important and we need to consider the impact of the BBC's proposal, in particular whether it is likely to significantly harm STV's investment in valued content aimed at Scottish audiences.
- 3.42 There is unlikely to be an impact on investment in network content which is shared with ITV and which makes up a large proportion of STV's programming. We recognise there may be an impact on STV's investment in non-network content, but the nature of any impact is unclear. For example, STV may improve (and so invest more in) this content, since the presence of BBC Scotland means STV has to enhance this content to attract/retain viewers. Alternatively STV may reposition this content (e.g. shift this content mix away from news) to differentiate itself from BBC Scotland and so attract/retain viewers. Or STV may reduce the quality of (and investment in) this content, since the presence of BBC Scotland means investment attracts a smaller extra audience.
- 3.43 STV did not provide evidence on how BBC Scotland may affect its investment plans. However, we see no evidence of a significant harmful effect on future STV investment. Indeed, since the announcement of the BBC's proposal, STV has announced a £15m investment over 3 years in new original content and digital services, although STV intends to make cost savings in relation to news and the closure of STV2.⁴⁰
- 3.44 Regarding STV's comparison with the BBC Trust's decision in relation to the BBC One +1 channel, we do not consider that the overall effects of the BBC One+1 proposal are comparable to those of the BBC Scotland proposal. The BBC Trust assessed whether any adverse impact likely to be generated by the proposal to launch a BBC One +1 channel was justified by the public value.⁴¹ It found that while there were small public value gains from the BBC's proposal, these were outweighed by the market impact and for that reason did not allow the proposal to go ahead.⁴² In contrast, in the case of the BBC Scotland proposal, we recognise there may be an impact on STV. However, as set out in section 4, we consider that the public value associated with the proposal justifies its competition impacts.
- 3.45 Overall, we remain of the view that a large harmful impact on STV's incentives to invest is unlikely. Our detailed assessment of the impact of the BBC Scotland channel on STV's broadcast business is set out in Annex 3.⁴³

³⁹ STV Group plc's confidential response to Ofcom's consultation, page 5.

⁴⁰ STV Group plc, [STV sets out strategy for creative and digital growth](#), 16 May 2018.

⁴¹ For the purpose of this assessment, Ofcom undertook a market impact assessment, while the public value assessment, as well as the final decision, were undertaken by the BBC Trust

⁴² BBC Trust, BBC Trust publishes [final decision](#) on proposals for BBC Three, CBBC, iPlayer, BBC One+1, 26 November 2015.

⁴³ Annex 3, paragraphs A3.61-A3.72.

BBC may use additional journalists to grow its online news output in Scotland

Stakeholder comments

3.46 A number of stakeholders including the SNS, the NMA and several other print media companies in Scotland argued that the proposed expansion of BBC Scotland's news operation is disproportionate to the needs of a one-hour news programme given the resources already available to it.⁴⁴ They raised concerns that the BBC will use the additional journalists to expand the BBC's digital written services (in particular the focus on longer investigative pieces and bespoke online content) in direct competition with established commercial news providers.⁴⁵ Some stakeholders encouraged Ofcom to monitor the BBC's operations to ensure that this expansion does not take place.⁴⁶

Our response

3.47 The BBC's PIT noted the potential for its strengthened news-gathering team to produce further material for use online (with particular focus on longer, more investigative pieces), allowing a richer range and depth of journalism and this will enable an enhanced online offer through more bespoke online content for its website. In principle, such an improvement to the BBC's online service could draw audiences away from commercial news providers' websites.

3.48 We requested the BBC provide us with further information about its recruitment and online plans in order to establish what, if any role the additional 80 journalists would play in contributing to its online news output.

3.49 The BBC said that while it was difficult to estimate how much TV content would be re-versioned to appear online, *"the additional investment in the news programme will be unlikely to drive an increase in the number of stories covered on BBC Online News Scotland. TV news coverage will always tend to cover a subset of stories published online."*⁴⁷ It also said that *"the material gathered for the 9pm news programme will enable BBC Scotland to provide an enriched and more distinctive online offer, focusing in particular on more investigative pieces which are currently not provided commercially."*⁴⁸ In its response to our consultation, the BBC confirmed that only half of the 80 new journalism roles are focused on news-gathering (e.g. Senior Journalists and Correspondents) with the other half being production roles (e.g. Editors, Directors, Producers).⁴⁹

3.50 Based on the information we received from the BBC about its recruitment and online plans, along with the additional information provided in its response to our consultation,

⁴⁴ SNS response to Ofcom's consultation, page 1; NMA response to Ofcom's consultation, page 2; Newsquest response to Ofcom's consultation, page 1.

⁴⁵ SNS response to Ofcom's consultation, page 1; NMA response to Ofcom's consultation, page 2; Newsquest response to Ofcom's consultation, pages 1-2; and Scottish Daily Mail response to Ofcom's consultation, pages 1-2.

⁴⁶ SNS response to Ofcom's consultation, page 2; and NMA response to Ofcom's consultation, page 2.

⁴⁷ BBC response to Ofcom information request, 26 January 2018.

⁴⁸ BBC response to Ofcom information request, 26 January 2018.

⁴⁹ BBC's response to Ofcom's consultation, page 2.

we are satisfied that the additional staff will be focused on the broadcast channel (and the delivery of an hour-long weekday bulletin and weekend coverage). We are also satisfied that, in light of its recruitment plans and what the BBC has set out in the PIT, the impact of its investment in BBC Scotland on its online output will be relatively limited. Accordingly, on the basis of the changes as set out by the BBC, we consider that, in its current form, the BBC's proposal would be unlikely to have a significant adverse impact on print and online news provision. Our assessment of the impact of incremental BBC online news content on commercial news providers is set out in Annex 3.⁵⁰

The ability of Scottish newspapers to attract and retain journalists

Stakeholder comments

3.51 Stakeholders involved in Scottish print journalism including the SNS, the Scottish Daily Mail, Newsquest Media Group, and the NMA expressed concerns about the ability of newspapers to attract and retain staff in light of the BBC's proposal. The SNS noted that one publisher has already reported a job offer being rejected on the basis of a better offer coming in from the BBC to join the new channel's news team.⁵¹

Our response

3.52 As set out in our consultation, we do not consider the BBC's proposal will disproportionately impact existing print news providers in Scotland. In its response to our consultation, the BBC confirmed that only half of the 80 new journalism roles are focused on news-gathering with the other half being production roles.⁵² Given the level of news-gathering recruitment proposed and the fact that the BBC may recruit many of the roles from a range of sources, including in-house from the BBC itself as well as from the wider broadcasting sector, we remain of the view that the BBC's proposal does not pose a significant threat to the ability of Scottish newspapers to attract or retain journalists. Our assessment of the impact on Scottish newspapers' ability to attract/retain journalists is set out in Annex 3.⁵³

⁵⁰ Annex 3, paragraphs A3.118-A3.167

⁵¹ SNS response to Ofcom's consultation, page 2.

⁵² BBC response to Ofcom's consultation, page 2.

⁵³ Annex 3, paragraphs A3.170-A3.181.

4. Final determination

- 4.1 In this section we set out the final determination on our competition assessment, taken in light of stakeholder comments and our responses to the issues they raised. This includes our view on the likely take-up and substitution of the new channel, the public value it will generate, its potential impact on the market, and finally our overall view on whether the BBC may proceed with the proposal.
- 4.2 We have published our final analyses of take-up and substitution, public value, and market impact separately, taking account of stakeholder comments and amending our findings accordingly. These annexes comprise the bulk of our analysis, the conclusions to which are summarised below.
- 4.3 As set out in our provisional determination, a quantitative comparison of the factors relating to public value and risks to competition is unlikely to be possible as part of a BCA. Therefore, consistent with this, in reaching our provisional determination about the likely effects of the proposal, we exercised our judgment, taking into account the available evidence from the BBC's Public Interest Test, our own analysis and research, as well as information and views offered by other stakeholders

Channel take-up and substitution

- 4.4 In order to examine the potential benefits and negative consequences of the BBC's proposal it is important to consider the amount of viewing the new channel is likely to attract and where those viewers are likely to be drawn from. In Annex 2, we set out our detailed assessment of the likely take-up of the new BBC Scotland channel and the impact this may have on the viewing of other BBC and commercial television channels.
- 4.5 We forecast a base case estimate of 2.42% for the viewing share in Scotland of the BBC Scotland channel.⁵⁴ While we recognise that there are significant uncertainties around take-up of the new channel, we consider our forecast take-up is reasonable in light of the available evidence. We forecast a viewing share loss of 1.26pp for all commercial channels in our base case if the new channel is launched (relative to a situation where the BBC's proposal does not go ahead), with the largest individual decline in viewing being for STV of 0.32pp in our base case.⁵⁵

Review of public value

- 4.6 The BBC has a remit to inform, educate and entertain the public, and to support the creative economy across the UK. The BBC's public purposes stress the importance of

⁵⁴ We forecast a range of 1.87% to 4.13% for the viewing share in Scotland of the BBC Scotland channel.

⁵⁵ We forecast a viewing share loss of between 0.94pp and 2.26pp for all commercial channels if the new channel is launched, with the largest individual decline in viewing being for STV of between 0.24pp to 0.57pp.

- reflecting, representing and serving the diverse communities of all of the United Kingdom's nations and regions, as well as providing impartial news and information to UK citizens.
- 4.7 The public have very high expectations of the BBC, and in order to deliver on those expectations, each of the BBC's public service channels, stations and services must contribute to the creation of public value.
- 4.8 Ofcom's role with respect to public value is different from our assessment of the market impact of the BBC's proposal. While it is Ofcom's duty to consider how a proposal may affect fair and effective competition, and if appropriate seek to minimise any harmful effects, how the BBC chooses to fulfil its mission and public purposes is primarily a decision for its Board. Accordingly, we have not sought to determine whether the BBC could have delivered greater public value by changing aspects of its proposal. Instead, we have considered whether it has made a compelling, well evidenced and methodologically sound assessment of the public value it believes its proposal will deliver.
- 4.9 We have been mindful that the service proposed by the BBC would not exist in isolation. Although a proposal may generate public value in some areas, it may also reduce public value in others, for instance by diverting viewing or investment away from other content or services. We have therefore taken into account the ways in which the proposal may reduce public value through changes to other BBC or commercial services.
- 4.10 In Annex 1, we set out our detailed review of the BBC's public value assessment. In summary, we consider that the BBC's proposal does provide evidence that the proposal will contribute to the delivery of public value by broadening the options available to viewers in Scotland, providing a greater Scottish-focus in its news coverage and delivering more content designed to reflect the lives of people in Scotland.
- 4.11 Our review finds that the BBC's proposal will contribute to the BBC's Public Purposes "reflecting, representing and serving the diverse communities of all of the United Kingdom's nations and regions" (part of Public Purpose 4) and "the provision of impartial news and information to help people understand and engage with the world around them" (Public Purpose 1).
- 4.12 As set out in Annex 1, the evidence the BBC has provided to demonstrate how the channel will "show the most creative, highest quality and distinctive output and services" (Public Purpose 3) and "support the creative economy across the United Kingdom" (Public Purpose 4) is less compelling.⁵⁶
- 4.13 Although viewing estimates for the new channel are modest, the increased choice for viewers in Scotland afforded by the new channel is also a source of public value. If the channel was to outperform any estimations then in addition to having an impact on the market, we would expect there to be a greater delivery of both public and personal value, reflecting the higher number of people consuming the content delivered on the service.

⁵⁶ The BBC did not discuss whether the proposal would contribute to the delivery of Public Purpose 2: To support learning for people of all ages.

- 4.14 Our review notes that there are areas which the BBC's analysis did not consider such as the impact of the new channel on the consumption of Scottish content on STV, BBC Alba and BBC Two, the potential reduction in viewing and discoverability of high quality, distinctive content on BBC Four SD caused by moving BBC Four's EPG slot; and the replacement of CBBC HD in Scotland from 7pm on digital terrestrial television (DTT). Our review found that, in this instance, such factors did not have a significant impact on the delivery of public value, however they may do so in future cases.
- 4.15 Taking these factors into consideration, we remain of the view that the new service will contribute to public value. Nevertheless, it is clear that some of these elements, all of which are a direct result of the launch of the new channel and which therefore fall within the scope of our review, will have a moderating effect on the overall public value.

Assessment of market impacts

- 4.16 We believe competition is good for audiences, for example because it can increase choice and stimulate investment and innovation. Competition between broadcasters, producers and platforms continues to energise the UK's vibrant media sector.
- 4.17 As a large, publicly-funded organisation, changes which the BBC proposes to make to its public services could have an impact on competition in the UK's media markets. Some of that impact may be positive, serving to stimulate demand or encourage innovation. However, some changes may also harm competition; for example, crowding out third parties, with ultimately negative consequences for audiences.⁵⁷
- 4.18 Under the Framework Agreement, Ofcom is required to make its own assessment of the potential impact on fair and effective competition of changes proposed by the BBC. We have assessed the main positive and negative effects we believe the proposal could have.
- 4.19 In Annex 3, we set out our detailed view on the market impact of the BBC's proposal. In summary, assessing the overall competition effects, we consider that any adverse impacts on fair and effective competition resulting from the proposal set out in the BBC's submission to Ofcom are likely to be fairly limited.
- 4.20 **Audience switching from commercial TV broadcasters to the BBC Scotland channel:** We recognise the impact the proposal is likely to have on STV's broadcast business. However, we remain of the view that a large adverse impact on STV's incentives to invest is unlikely. Overall, our view is that, although it is the case that the business decisions of some rivals who lose viewers to the new service may be affected, we do not consider the BBC's proposal by itself is likely to have an impact on the viability of commercial TV services in

⁵⁷ The risk that the BBC may 'crowd out' other suppliers is discussed in further detail in paragraphs 3.7-3.10 of our [Guidance](#). In summary, a new BBC service may diminish commercial rivals by drawing audiences away from them or acquiring scarce inputs (such as content or talent) that they would otherwise use. This may reduce commercial rivals' revenue and profitability, potentially harming their willingness to innovate and invest. It may result in some firms ceasing to provide services and others being deterred from starting to do so.

Scotland or substantially affect the incentives of commercial broadcasters to invest and innovate.⁵⁸

- 4.21 **Audience switching from other commercial media providers to the BBC Scotland channel:** We consider that the impact on commercial media providers (in particular newspaper publishers, websites and radio stations) of audiences switching to the new channel is likely to be limited.⁵⁹
- 4.22 **The risk that additional online news content causes audiences to switch from commercial news providers:** The BBC will reversion some content from the channel for its online services. However, we consider that the BBC's online news offering is unlikely to substantially expand or change its focus as a result of the BBC's proposal as set out in its PIT and information provided to Ofcom. We conclude that, in its current form, the BBC's proposal would be unlikely to have a significant adverse impact on print and online news provision.⁶⁰
- 4.23 **The impact on Scottish newspapers' ability to attract/retain journalists:** We do not consider that the BBC's proposal to create 80 additional journalism posts to support its news coverage on the new BBC Scotland channel, of which around half are focused on news-gathering, poses a significant threat to the ability of Scottish newspapers to attract or retain journalists.⁶¹
- 4.24 **The impact on the Scottish production sector:** We consider that the increase in the BBC's demand for original Scottish programming is unlikely to limit the ability of rival channels to access the production capacity and facilities they need for their own original Scottish content. We do not consider that there are any significant barriers that would prevent producers from expanding capacity in response to this increase in demand. While we recognise that the BBC's investment could create efficiency benefits for the Scottish production sector, we consider it is uncertain at this time whether such benefits would arise and how large they might be.⁶²
- 4.25 **The impact on commercial broadcasters' ability to acquire content rights:** We consider that an increase in the BBC's demand for acquired content aimed at Scottish audiences (e.g. rights to sports and other Scottish events) is unlikely to significantly harm rival broadcasters' ability to acquire rights to this type of content.⁶³

Ofcom's regulatory assessment

- 4.26 We have set out above our view on the BBC's assessment of the public value of the proposed change, and our assessment of the impact of the proposed change on fair and

⁵⁸ Our detailed assessment of this market impact is set out in Annex 3, paragraphs A3.9-A3.72.

⁵⁹ Our detailed assessment of this market impact is set out in Annex 3, paragraphs A3.73-A3.98.

⁶⁰ Our detailed assessment of this market impact is set out in Annex 3, paragraphs A3.118-A3.167.

⁶¹ Our detailed assessment of this market impact is set out in Annex 3, paragraphs A3.170-A3.181.

⁶² Our detailed assessment of this market impact is set out in Annex 3, paragraphs A3.182-A3.208.

⁶³ Our detailed assessment of this market impact is set out in Annex 3, paragraphs A3.209-A3.223.

effective competition. We must, in light of this, determine whether the public value justifies any adverse impact on fair and effective competition.

- 4.27 In reaching our final determination, we have exercised our judgement, taking into account the available evidence from the BBC's PIT, our own analysis and research as well as information and views offered by other stakeholders. We have done so with particular regard to the object of the BBC to fulfil its mission and promote the public purposes as well as our relevant duties under the Communications Act, Charter and Framework Agreement, including to protect fair and effective competition.
- 4.28 Ofcom wants to see Scottish audiences well served by the BBC. Any proposal by the BBC which increases the provision of services for Scottish audiences will impact on competition, and it is not Ofcom's role to eliminate all competition impacts. However, any such increased provision should not disproportionately impact on fair and effective competition. We also recognise the contribution to Scottish audiences made by other broadcasters and commercial news providers more broadly.
- 4.29 We recognise that there are uncertainties about the take-up of the new channel and the content it will include. However, we are satisfied the BBC has shown its proposal will deliver public value by broadening the options available to viewers in Scotland, providing a greater Scottish-focus in its news coverage and delivering more content designed to reflect the lives of people in Scotland.
- 4.30 Any adverse impacts on fair and effective competition resulting from the proposals as set out in the BBC's submission to Ofcom are likely to be fairly limited. We acknowledge that some stakeholders, particularly STV, may experience negative effects as a result of the BBC's proposal.⁶⁴ However, taking these impacts on rivals into account, we do not believe that the proposed channel is likely to have a negative impact on citizens and consumers. They will benefit from the effects described in our review of public value. Further, as explained above, we believe there is unlikely to be a large and harmful effect on the incentives of broadcasters to innovate or invest in new content for Scotland.
- 4.31 Some stakeholders who raised concerns about the public value or market impact of the proposed service called for the rejection of the proposal or offered alternative proposals and mitigations for how the BBC could increase delivery of public value and/or lessen the possible adverse impact on fair and effective competition. For example, STV suggested Ofcom prohibit the broadcasting of BBC One content (premieres, repeats, simulcasts) on BBC Scotland, as well as the use of BBC Two simulcasts on the channel. It also argued for a cap on programme expenditure, as well as limits on scheduling.⁶⁵
- 4.32 However, in the round, it is our view that any adverse effect on fair and effective competition of the proposal as set out by the BBC in its PIT would be justified by the public

⁶⁴ A negative impact on the revenues and profitability of an individual competitor does not necessarily imply an adverse impact on fair and effective competition or a negative impact on citizens and consumers. For example, when any business launches a new service this is likely to reduce the revenues and profits of its competitors, even though consumers may benefit.

⁶⁵ STV Group plc's confidential response to Ofcom's consultation, page 8.

value delivered by the proposal. For that reason, we do not believe it is necessary to require the BBC to amend the service proposition.

- 4.33 For that reason, we have decided that the BBC may carry out the proposed change to the service as notified.
- 4.34 Stakeholders also noted the risk that the channel or the BBC's associated online output might change substantially after launch. We similarly noted this possibility in our consultation. To prevent this, some stakeholders (including the NMA and Newsquest Media) suggested Ofcom impose certain conditions (such as limits on scheduling and programme expenditure) on the BBC to prevent the channel and its associated online content expanding beyond the bounds of what was approved by Ofcom.
- 4.35 The risk that a BBC service substantially changes in the future is not unique to this proposal. Our review of the BBC's public value assessment and our market impact assessment are for the proposal as it was submitted to us. While we do not believe it necessary or appropriate to attach specific limitations to our approval, the BBC Board will need to monitor that the proposal is implemented as it was set out in the PIT and consider closely the wider effects on other BBC services and third parties of any further expansion to the proposal we have reviewed. Should the BBC make material changes to its service, the BBC would need to undertake a further Public Interest Test. In addition, Ofcom's BBC monitoring programme will capture the BBC's activities in Scotland. In the event that the BBC's offering changes substantially, we will consider whether a further competition assessment of any such changes is necessary.

A1. Review of Public Value

Document published separately on [Ofcom website](#)

A2. Channel Take-up and Substitution

Document published separately on [Ofcom website](#)

A3. Assessment of Market Impacts

Document published separately on [Ofcom website](#)