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# **BBC Scotland Competition Assessment**

Consultation on Ofcom's provisional determination

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**CONSULTATION:**

Publication Date: 20 April 2018

Closing Date for Responses: 18 May 2018

## About this document

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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.

This document explains how we have reached our provisional determination that the BBC may carry out the proposal. This is 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.

We now welcome views about the analysis we have undertaken and the provisional determination we have reached.

Our consultation period closes on 18 May 2018. We will then review the comments and evidence we receive before making a final decision later this summer as to whether the BBC may proceed with the new service.

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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. 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.
- 1.2 In November 2017, the BBC published a public interest test proposing the launch of a new BBC channel for Scotland. In this consultation we explain our provisional determination that the BBC may carry out that proposal. We summarise the review we have undertaken of the BBC's public interest test and the analysis we have done to conclude the public value offered by the proposal would justify any potential adverse effects on fair and effective competition it may have. In this document, we also take into account the stakeholder views we received in response to the Invitation to Comment we published late last year.

## Our provisional findings

**The new service proposed by the BBC will deliver public value for audiences:** We think a new channel for Scotland has the potential to make a valuable contribution to the BBC's public purposes. The BBC's proposal will broaden 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. It should also serve to strengthen production in the nation. However, the personal value audiences derive from it will depend on the BBC's ability to deliver a mix of high-quality content.

**We think the BBC's proposal is unlikely to have a substantial crowding out effect on competition:** We forecast the new channel could achieve a greater share of viewing in Scotland than anticipated by the BBC, broadly double BBC Four's current Scottish audience. Although this may have some impact on the business decisions made by rivals who lose viewers to the new service, our analysis suggests that there is unlikely to be a step-change in the incentives of broadcasters to innovate or invest in new content for Scotland.

**As it stands, the wider market effects of the BBC's proposal are unlikely to be large:** To support its channel launch, the BBC plans to increase its news capacity in Scotland. A significantly expanded online offering could have a potentially adverse impact on commercial news providers. However, the limited scope of the BBC's online plans set out in its proposal and the relatively flexible talent pool from which it will recruit mean there is unlikely to be a significant adverse effect on competition.

**Our provisional determination is the BBC should be permitted to launch the service as notified:** Taking all factors into account, we think the public value offered by the proposal as submitted by the BBC to Ofcom would justify any adverse effects on fair and effective competition it may cause.

**The BBC's processes, however, must evolve and become more transparent:** We are satisfied the BBC undertook appropriate procedures during its public interest test. However, in future, we will expect the BBC to examine potentially negative effects on public value, such as its decision to end Scotland-only programming on BBC Two, much more explicitly. To ensure third parties retain confidence in the regulatory structures, we will also expect the BBC to publish its market impact assessments and engage more openly.

- 1.3 We now welcome views on our provisional determination. This consultation will close on **18 May 2018** and we plan to publish our final determination later this summer.

## 2. Background to our competition assessment

- 2.1 This section summarises why Ofcom has undertaken this competition assessment. We explain why certain changes which the BBC proposes to make to its public services must be approved by the regulator before they can go ahead, what the BBC has proposed in this case and how we have approached our work.<sup>1</sup>

### The purpose of competition assessments

- 2.2 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 may seek to make changes to its existing activities or develop new services to better meet the needs of audiences.
- 2.3 Certain changes can be considered minor; for example, day-to-day editorial decisions about individual programmes, or their scheduling. However, as a large, publicly-funded organisation, other changes the BBC might wish to make could have a significant impact on competition in the wider media market.
- 2.4 Some of that impact may be positive. The BBC may enhance public value and encourage competition by offering more choice, stimulating demand, or promoting innovation to the benefit of UK citizens and consumers.
- 2.5 However, some changes the BBC proposes may harm competition; for example, by crowding out investment from third parties, with ultimately negative consequences for audiences. 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.<sup>2</sup>
- 2.6 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.<sup>3</sup> Rather, competition assessments ensure that legitimate concerns are properly considered – providing a tool to look at potential market impacts alongside public benefits.

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<sup>1</sup> Further detailed information about the legal and regulatory framework is available in [Assessing the impact of proposed changes to the BBC's public service activities](#), referred to as our 'Guidance' throughout this document.

<sup>2</sup> 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'.

<sup>3</sup> See [speech by Sharon White to Enders/Deloitte conference](#), 8 March 2018 and Ofcom's paper [Public Service Broadcasting in the digital age](#).

## The process leading to a competition assessment

- 2.7 Under the terms of the Framework Agreement, the BBC must assess whether any proposed change to its public service is 'material'.<sup>4</sup> 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.
- 2.8 A PIT is only satisfied if the BBC Board decides:
- 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,
  - c) the public value of the proposed change justifies any adverse impact on fair and effective competition.
- 2.9 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.<sup>5</sup>

## The BBC's Proposal

- 2.10 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."<sup>6</sup> To achieve this aim, the BBC proposed to launch a new television channel for Scottish audiences, with the following key features:<sup>7</sup>
- 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.<sup>8</sup> The channel's 'core' programme content would be shown between 7pm and 12 midnight;

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<sup>4</sup> 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 which may have a significant adverse impact on fair and effective competition.

<sup>5</sup> 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](#).

<sup>6</sup> [Public Interest Test submission](#), page 1.

<sup>7</sup> The proposal submitted by the BBC in its [Public Interest Test submission](#) stated that the channel would be transmitted in standard definition or SD only. [The BBC wrote to Ofcom on 14 March 2018](#) to alter its proposal to include a high definition or HD stream. This is further discussed in section 2.21 below.

<sup>8</sup> 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) **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.

2.11 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;
- 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;<sup>9</sup>
- 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.”

## Ofcom's role in assessing BBC proposals

2.12 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.

2.13 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.

2.14 In this case, to help us with our initial assessment, on 30 November 2017 we published an Invitation to Comment asking stakeholders to provide us with information to explain how they thought the launch of a new BBC channel could affect them.<sup>10</sup> Subsequently, on 11 January 2018 we published a letter to the BBC, confirming we were satisfied the proposal

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<sup>9</sup> 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.

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

was material and concluding it would be appropriate to conduct a Competition Assessment in the second phase, also known as a BCA.<sup>11</sup>

## What a BCA involves

- 2.15 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.
- 2.16 At the end of a BCA process, we are able to 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.

## BBC processes during its public interest test

- 2.17 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.<sup>12</sup>
- 2.18 This is the first public interest test examining a potential material change to the public services which the BBC has undertaken under the new Charter and Framework Agreement. In the context of this case, we are satisfied the BBC sought stakeholder views to a sufficient

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<sup>11</sup> 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.

<sup>12</sup> See our [Guidance](#), paragraphs 4.13 to 4.20.



extent and undertook appropriate qualitative and quantitative market research and economic analysis to support its assessment of its proposals. However, our view is that the BBC should have given greater consideration to some areas.

- 2.19 First, we note the BBC undertook a public consultation and stakeholder roundtables as part of its public interest test. However, when subsequently the BBC decided to amend substantive features of its proposal (i.e. the hours in which the new channel would broadcast and the balance between original and repeat programming) before submitting it to Ofcom for our approval, the BBC did not seek further views. Additionally, the BBC did not publish the detailed market impact analysis which it commissioned as part of its public interest test.
- 2.20 Ofcom acknowledges the BBC may seek to make improvements to its proposals during its public interest test if it is able to do so in a timely manner. It must also be able to take steps to protect commercial confidentiality. However, it is important third parties have a sufficiently detailed and timely understanding of a proposal to provide constructive input. While not presenting an issue in these specific circumstances, the issues described above may give rise to difficulties in other cases.
- 2.21 Second, in March 2018, the BBC wrote to Ofcom stating that it planned to amend its proposal in order to launch BBC Scotland with a High Definition (HD) simulcast.<sup>13</sup> Subsequently, and in response to an information request, the BBC explained that it was able to launch the channel in HD at no extra cost as a result of “improvements in technology and... a relaxation of the BBC’s requirement for parity across our service portfolio”.<sup>14</sup> In this case we did not consider the amendments proposed by the BBC affected our findings or approach. However, Ofcom will require the BBC Board to review a PIT where we think an amendment may substantively alter our analysis.
- 2.22 Third, as discussed below, we consider the BBC’s assessment is limited by the fact it does not take into account the effects the proposal may have on the public value created either by the BBC’s existing services, including BBC Two Scotland and BBC Four, or by those of third parties such as STV. Again, while this did not give rise to a substantive issue in this case, we expect the BBC to give greater consideration in its future assessments to the positive and negative effects on public value arising both from changes to its own services and those offered by third parties.

## How we have approached our analysis in this competition assessment

- 2.23 During our initial assessment, and in light of comments made by stakeholders in response to our Invitation to Comment, we considered which aspects of the BBC’s proposal could have an impact on competition and therefore required further analysis as part of our BCA. Specifically, we looked at the likelihood that the new channel could affect either the revenues of existing broadcasters and news providers or the willingness of companies to invest in services, and also whether impacts of this nature could ultimately lead rivals to

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<sup>13</sup> See [BBC letter to Ofcom](#), 14 March 2018.

<sup>14</sup> BBC response to Ofcom information request, 26 January 2018.

exit a market. Similarly, because the BBC is a large and well-funded operator, we considered whether there was a risk the new channel could harm competition by pricing journalist or production talent out of the reach of commercial companies.<sup>15</sup>

- 2.24 Taking these factors in to account, when we decided to start our BCA we explained we intended to use that assessment to look at the following factors in particular:
- a) the potential for the new service to crowd out free-to-air commercial broadcasters such as STV plc;
  - b) the potential for the new service to crowd out Scottish online news providers and Scottish newspapers;
  - c) the potential impact of the creation of 80 journalism roles on access to journalists; and
  - d) the potential impact of the BBC's investment in Scottish-produced content (positive and/or negative) on access to Scottish content, and on the Scottish production sector more generally.<sup>16</sup>
- 2.25 The remainder of this document sets out the approach we have taken in this assessment:
- a) In section 3, we provide a short overview of the existing media landscape in Scotland into which the BBC proposes to launch its new service and summarise how we think the BBC's proposal might affect viewing habits in Scotland if it were to go ahead;
  - b) In section 4, we look at the approach the BBC has taken to its public value assessment, setting out the evidence the BBC has put forward and considering the extent to which the BBC has made compelling arguments for the benefits to public value which it believes its proposal will deliver;
  - c) In section 5, we summarise our own market impact assessment, setting the main positive and negative effects we believe the proposal could have on competition; and
  - d) In section 6, we explain how we have used the various public value and market impact factors identified in earlier sections of this report to make our provisional determination that the BBC may carry out its proposal.

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<sup>15</sup> Potential competition concerns arising from BBC proposals are set out in Section 3 of our [Guidance](#), in the summary of our market impact assessment in Section 5 of this document and in our detailed market impact assessment at Annex 3.

<sup>16</sup> See our letter to the BBC [Conclusion of initial assessment of proposed BBC Scotland television channel](#), issued on 11 January 2018.

## 3. The media landscape in Scotland

- 3.1 The BBC's proposal to launch a new television service is a significant change to the Scottish media landscape. To help us understand the public value a new BBC channel could generate in Scotland, as well as its potential impact on competitors in the nation, in this section we look at how Scottish audiences currently use media services.<sup>17</sup>
- 3.2 We describe the platforms and channels people use in Scotland to access television content, including how much Scottish audiences watch and the programmes people enjoy. We then explain how we think the BBC's proposal might affect viewing habits in Scotland. Finally, we summarise usage in Scotland of radio, print and online media.

### Current television viewing in Scotland

#### The television platforms which people use in Scotland

- 3.3 As in the rest of the UK, Freeview and satellite television are the most widely used TV platforms – accounting for a combined 70% of main television set viewing – although viewers in Scotland are more likely to say that Freeview is their main television service (37% vs 30% for the UK overall).<sup>18</sup> Scottish Freeview users are also more likely to be heavy users, watching 14 minutes more television each day than the average among all Scottish viewers.<sup>19</sup> Scottish audiences are also the least likely viewers in the UK to use an HD television set, with 70% of households describing their main set as HD ready, compared to 77% in the UK as a whole.<sup>20</sup>
- 3.4 There are distinct differences between the platforms used in rural and urban areas. Whereas six in ten (61%) of households in Scotland use some form of pay TV, take-up of pay services is significantly higher in urban (63%) than in rural (51%) areas of Scotland. Satellite television has a higher penetration in rural areas of Scotland (42% in rural areas vs. 31% in urban areas), whereas take-up of cable services is higher in urban areas (19% in urban areas vs. 2% in rural areas), probably due to its lower availability in rural locations.<sup>21</sup>

#### The television channels Scottish audiences watch

- 3.5 Viewing of the main five public service channels (BBC One, BBC Two, STV/ITV,<sup>22</sup> Channel 4 and Channel 5) continues to account for just over half of all television watched in Scotland – 52.4% in 2017, compared to 50.9% across the UK.<sup>23</sup> Viewing of public service channels

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<sup>17</sup> More detail on the Scottish media landscape can be found in our [Communications Market Report: Scotland \(2017\)](#).

<sup>18</sup> Source: Ofcom Technology Tracker, Half 1 2017. See Ofcom, [Communications Market Report: Scotland \(2017\)](#), p.17.

<sup>19</sup> Ofcom analysis of average minutes per day by platform audience. Source: BARB, individuals 4+, BBC Scotland region, by type of platform owned, 2017.

<sup>20</sup> Source: Ofcom Technology Tracker, Half 1 2017. See Ofcom, [Communications Market Report: Scotland \(2017\)](#), p.19.

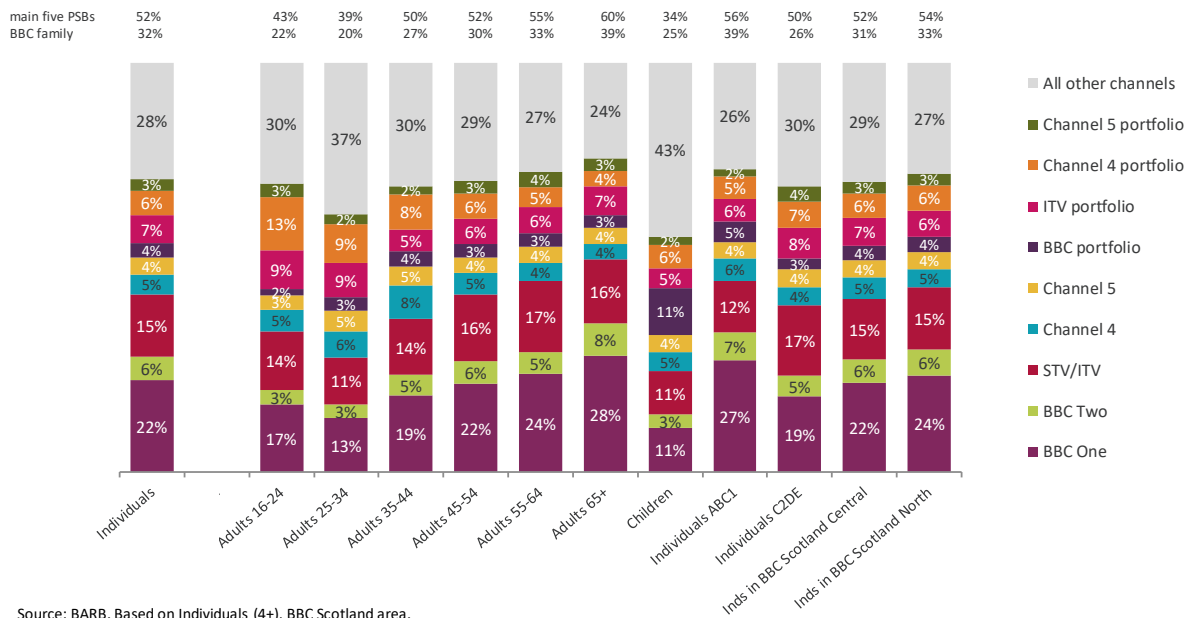
<sup>21</sup> Source: Ofcom Technology Tracker, Half 1 2017. See Ofcom, [Communications Market Report: Scotland \(2017\)](#), p.17-18.

<sup>22</sup> STV is the Channel 3 service in northern and central Scotland. ITV Border is the Channel 3 service in Dumfries and Galloway and the Scottish Borders.

<sup>23</sup> Source: BARB, individuals (4+). BBC Scotland area, 2017.

varies significantly by socio-economic group and age, however, with viewing of the main BBC channels predominantly focused in ABC1 socio-economic groups and among older viewers, as shown in Figure 1 below.

Figure 1: Channel share by demographic groups in Scotland (2017)<sup>24</sup>



Source: BARB. Based on Individuals (4+), BBC Scotland area.

3.6 Viewing of the BBC’s portfolio services in Scotland (which include the children’s services CBeebies and CBBC, BBC Four and BBC News) grew up to 2012 as digital take-up increased ahead of switchover.<sup>25</sup> Since then, the range of services and content available to viewers has grown. The overall share of TV viewing in Scotland accounted for by the BBC’s portfolio channels (i.e. excluding BBC One and BBC Two) fell from a peak of 5.6% in 2012 to 3.5% in 2016 when BBC Three became an online only service. As shown in Figure 2 on the next page, viewing stabilised in 2017 at 3.6% with small increases and decreases among the individual portfolio channels equaling each other out.

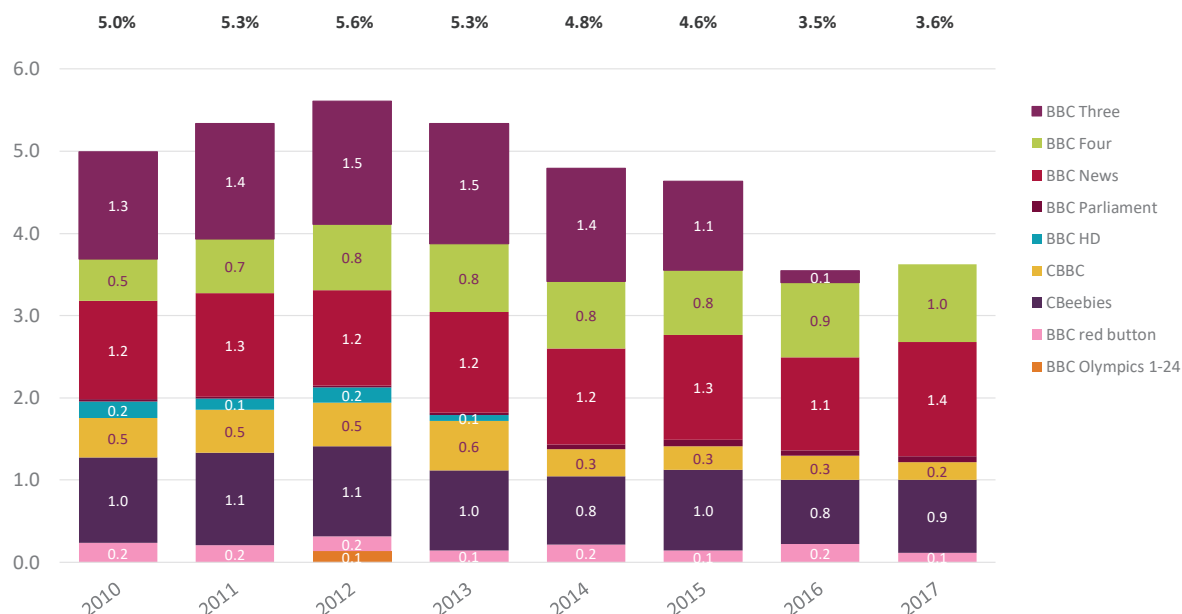
3.7 In addition, the BBC broadcasts a further service for viewers in Scotland – BBC Alba. BBC Alba is a mixed-genre television channel aimed at Gaelic speakers and those interested in the Gaelic language and culture, provided by the BBC in partnership with MG Alba. BARB does not record viewing figures for BBC Alba, however MG Alba’s most recent annual report stated that the service had an average weekly reach of 67.1% among the Gaelic community and 13% of the population in Scotland overall.<sup>26</sup>

<sup>24</sup> BBC portfolio channels includes BBC Three, BBC Four, BBC News, BBC Parliament, CBBC, CBeebies and BBC Red Button channels. Commercial PSB portfolio channels include, ITV2, ITV3, ITV4, CITV, ITVBe, ITV Encore, E4, More 4, Film 4, 4Music, 4Seven, 5USA, 5Star, 5Select and 5Spike (and their ‘+1’ channels). ITV +1, Channel 4 +1 and Channel 5 +1 channels are included in the portfolio groups, not with the main channel.

<sup>25</sup> Digital switchover in Scotland took place between 2008 and 2011.

<sup>26</sup> [MG Alba Annual Report](#), page 31. Average weekly reach means the proportion of the TV viewing population (i.e. aged 4+) who will watch a channel at least once in an average week (for at least 15 consecutive minutes).

Figure 2: BBC portfolio channels share of viewing (2010-2017)

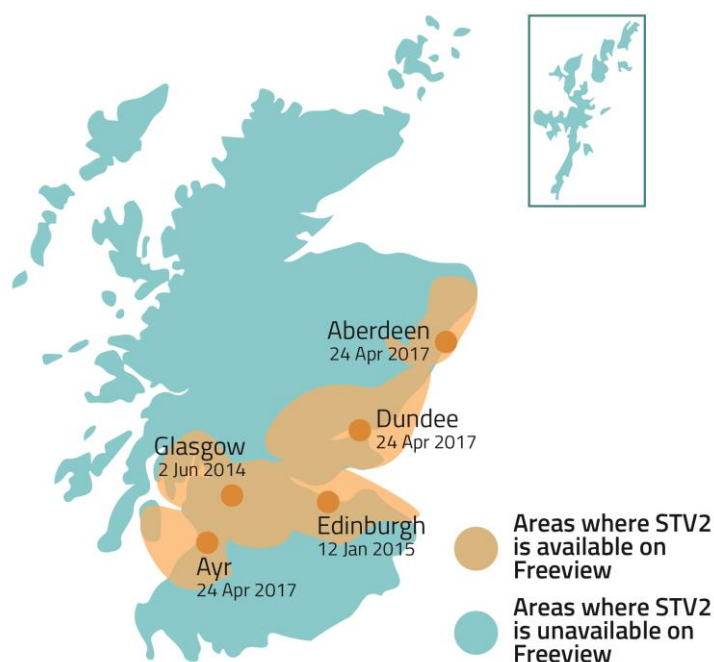


Source: BARB, individuals 4+, BBC Scotland area. BBC Three ceased reporting 31/03/2016; BBC HD ceased 25/03/2013.

- 3.8 Unlike other parts of the UK, where ITV plc is the sole Channel 3 licence holder, the licence for the main commercial public service channel in Scotland is split between ITV plc in Dumfries and Galloway and the Scottish Borders, and STV plc in central and northern Scotland. STV/ITV’s share of viewing in Scotland has fluctuated since 2010, peaking at 16.4% in 2010 and dropping to its lowest in 2015 (14.6%). It was 15.1% in 2017.
- 3.9 Viewing of ITV’s portfolio channels in Scotland as a group increased from 2010 to 2013 where it peaked at 7.6%. It then decreased in 2014 and 2015 (6.7%) and has since stabilised (6.7% in 2016 and 6.8% in 2017).
- 3.10 STV plc also operates a second service, STV2, launched in April 2017.<sup>27</sup> STV2 brings together the five local TV services in Scotland into a single channel, available to 85% of the Scottish population via Freeview (as shown in Figure 3 on the next page) as well as users of satellite platforms in other parts of the nation.

<sup>27</sup> Viewers in northern and central Scotland also receive STV1+1.

Figure 3: Map showing STV2 coverage areas on Freeview including on-air dates



### What programmes Scottish audiences watch on television

- 3.11 All of the top 20 most popular programmes shown in Scotland in 2017 were shown on BBC One (14 out of 20) or on STV/ITV (6 out of 20). As in other parts of the UK, major entertainment, drama and factual programming such as *Strictly Come Dancing*, *Blue Planet 2*, *Mrs Brown’s Boys* and *Broadchurch* attracted the largest television audiences in Scotland during 2017.
- 3.12 The Scottish schedule of three of the UK’s main PSB services, BBC One, BBC Two and STV/ITV, include programming not available in other parts of the UK such as *Sportscene*, *River City* and *Scotland Tonight*. Two such programmes, *Only an Excuse?* and *Hogmanay Live*, both shown on BBC One, featured in the list of the 20 most popular programmes in 2017.<sup>28</sup>

### How we think the BBC’s proposal might affect viewing habits in Scotland

- 3.13 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 channel is likely to attract and where those viewers are likely to be drawn from.
- 3.14 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

<sup>28</sup> Source: BARB, individuals (4+). BBC Scotland area, 2017.

commercial television channels.<sup>29</sup> 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.

3.15 Table 1 below summarises our 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.

**Table 1: Summary of viewing share impacts on TV channels in 2019 if the new service is launched<sup>30</sup>**

	Predicted share of Scottish viewing (%)	Percentage point change in viewing share (pp)
BBC Scotland	1.65% to 3.65%	1.65pp to 3.65pp
BBC One	21.43% to 22.02%	-0.44pp to -1.03pp
BBC Two	5.47% to 5.65%	-0.20pp to -0.37pp
BBC Four	0.75% to 0.78%	-0.17pp to -0.20pp
Other BBC channels	1.62% to 1.66%	-0.02pp to -0.05pp
BBC channels (total)	31.76% to 32.93%	0.82pp to 1.99pp
STV/ITV	14.59% to 14.88%	-0.21pp to -0.50pp
STV2	0.19% to 0.20%	-0.006pp to -0.013pp
Other TV channels	52.29% to 53.15%	-0.60pp to -1.47pp

<sup>29</sup> 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](#). As discussed at paragraph 2.19, the BBC did not publish the full report, although this was supplied to Ofcom in confidence as part of the BBC’s PIT submission.

<sup>30</sup> Figures may not add up to 100% due to rounding. 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 take-up of BBC Scotland (1.65% to 3.65% share) and viewing from BBC Alba in line with its estimated market share (0.9%), we estimate that BBC Alba could lose about 1.6% to 3.5% of its viewing hours.

## Radio, print and online news media in Scotland

### Radio

- 3.16 Ofcom analysis for *Communications Market Report: Scotland* suggests the nation has the smallest proportion of radio listening in the UK, with 87% of the Scottish population listening to the radio each week, compared to 90% across the UK as a whole. Scottish audiences listen for less time than in other parts of the UK, an average of 20 hours 36 minutes each week, compared to 21 hours 24 minutes in the UK overall. BBC radio stations are also less popular in Scotland than the UK average, accounting for 44% share of listening, compared to 52% across the UK, with the majority of commercial listening going to local commercial services. Local commercial services account for 37% of total listening hours, compared to 29% across the UK.<sup>31</sup>

### Print & online news media

- 3.17 Scotland has a distinctive newspaper sector with a range of Scotland-only titles (such as the *Daily Record*, *The Herald* and *The Courier*) as well as Scottish editions of UK-wide titles (including the *Scottish Sun* and *Scottish Daily Mail*).
- 3.18 In line with the rest of the UK, however, the number of people reading newspapers has declined in recent years. As readership has fallen, so a decreasing number of people surveyed as part of our annual review of news consumption state that they use print newspapers as a source for news. In 2016, 26% of people in Scotland we spoke to said they used printed newspapers for news, compared to 48% in 2013.<sup>32</sup>
- 3.19 In contrast, online news sources, including newspaper websites and apps, have developed rapidly over the same period, with 48% claiming to use the internet for news in 2016, up from 32% in 2013.

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<sup>31</sup> Source: RAJAR. Ofcom, [Communications Market Report 2017 – Scotland](#), section 3.4, page 43-4.

<sup>32</sup> Ofcom, [News consumption in the UK: 2016](#), figure 11.1; [News consumption in the UK: research report \(2013\)](#), figure 47.



## 4. Public value review

- 4.1 The BBC has a remit to inform, educate and entertain the public, and to support the creative economy across the UK. 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.
- 4.2 In this section, we summarise the approach the BBC has taken to its assessment, and the evidence it has put forward to support the value it believes the service will provide, noting where relevant the views of stakeholders on the analysis. We also identify the main factors we have taken into account in reviewing the public value likely to be generated by the BBC's proposal.<sup>33</sup>
- 4.3 As set out in our Guidance,<sup>34</sup> and consistent with our duties under the applicable statutory framework and the Framework Agreement,<sup>35</sup> the nature of our public value review 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.

### The BBC's approach to assessing the public value of its BBC Scotland proposal

- 4.4 The BBC's assessment broadly considered three factors:
- a) How the proposal would contribute to the BBC's mission and public purposes;
  - b) The extent to which the proposal will benefit audiences in Scotland; and
  - c) The costs of the proposal.<sup>36</sup>
- 4.5 In this review, we have focused on the BBC's analysis of the first two factors.<sup>37</sup> In doing so, 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 overall value, including ways in which

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<sup>33</sup> Our detailed review of public value associated with the proposal is set out in Annex 1.

<sup>34</sup> [Guidance](#), paragraph 5.21

<sup>35</sup> [Framework Agreement](#), clause 10.3.

<sup>36</sup> [Public Interest Test submission](#), paragraph 114, page 33.

<sup>37</sup> The [Framework Agreement](#) allocates responsibility for value for money examinations, i.e. assessments of the efficiency and effectiveness with which the BBC uses its resources to deliver its mission and public purposes, to the National Audit Office.

the proposal may reduce public value through changes to other BBC or commercial services.

- 4.6 Although the BBC identifies a range of different types of value, considered in detail in Annex 1, its assessment broadly focuses on the following areas, each of which are discussed below:
- a) the benefit it identifies from its expanded news coverage in Scotland;
  - b) the improved creativity and distinctiveness the BBC believes its new channel will deliver;
  - c) the opportunities the new channel will offer to portray the lives of the people of Scotland;
  - d) the impact of the new channel and associated investment on the Scottish creative industries; and
  - e) the value the BBC expects the new service to deliver to individual viewers.

### **The benefits the BBC identifies from its expanded news coverage in Scotland**

- 4.7 The BBC’s PIT suggests that news and current affairs will be “at the heart of [the new channel’s] schedule.”<sup>38</sup> It states that the public policy agenda in Scotland “increasingly reflects devolved power” and there is therefore a need for “the news agenda... to adapt to reflect these changes.”<sup>39</sup> Qualitative research conducted on the BBC’s behalf notes that Scottish viewers would score the BBC’s current provision of news and information at 5/10, suggesting this is an area where the Scottish public perceives the BBC could improve its performance.<sup>40</sup>
- 4.8 In support of its proposal, the BBC cited quantitative research with adults in Scotland which shows that 63% of people questioned approved of the BBC’s proposals for an hour-long news programme at 9pm, with 13% disapproving. It also cited evidence from its qualitative research – which found that most participants thought the BBC’s plans to show news from a Scottish perspective would be slightly or much better than the current provision<sup>41</sup> – and some of the stakeholder responses it had received which suggested that the proposed 9pm news hour would address “a need for space where Scottish issues can be debated.”<sup>42</sup>
- 4.9 We accept BBC’s research evidence suggests broad public support in Scotland for more news reflecting Scottish perspectives. However, we also consider there to be less consensus than implied in the BBC’s assessment about the value of the news hour specifically. The BBC’s qualitative research report showed that nearly half of the

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<sup>38</sup> [Public Interest Test submission](#), section 1.2

<sup>39</sup> [Public Interest Test submission](#), paragraph 20, page 10

<sup>40</sup> [Public Interest Test submission](#), figure 4, page 36.

<sup>41</sup> [Public Interest Test submission](#), paragraph 132, page 37.

<sup>42</sup> [Public Interest Test submission](#), paragraph 131, page 37.

participants placed low or medium-low value on the 9pm news programme “when thinking about society as a whole”, with around two-thirds taking a similar view “[when] thinking personally about you and your household”. In both cases, the 9pm news bulletin was the second lowest ranked element out of nine asked about.<sup>43</sup>

- 4.10 The BBC also supplied relatively little evidence to substantiate the benefits it ascribed to other aspects of the news proposal. For example, although the BBC's assessment stated that the proposal would “improve coverage of Scotland in network news programmes broadcast across the UK”, that “the new channel's availability via iPlayer will help build people's understanding of Scotland in other parts of the United Kingdom” and referred to “increased investment in Scottish journalism”, there were only limited details in the BBC's PIT submission about how this would work in practice.<sup>44</sup>
- 4.11 Finally, the BBC's public purposes state its news coverage should “offer a range and depth of analysis and content not widely available from other United Kingdom news providers.” In this context, we welcome the BBC's commitment that its news hour will be “different to that offered by the commercial sector.”<sup>45</sup> However, we agree with STV plc's comment that the BBC does not explain, beyond a brief reference to the introduction of “new on-screen talent,”<sup>46</sup> how it will seek to distinguish its service from other available services, such as STV2's own weekday news bulletin.<sup>47</sup>

## How the BBC intends to deliver a creative and distinctive service for Scotland

- 4.12 The BBC's PIT stated that the new channel would deliver new formats, genres, and content focused on Scottish audiences, including a substantial proportion of new programming and a broad range of Scottish sport, including minority sports.<sup>48</sup> The PIT referred to quantitative research conducted by the BBC in which 70% of Scottish respondents approved of the proposed focus on Scottish audiences, with over three-quarters (76%) welcoming the range of content proposed. The BBC also referred to its qualitative research, which found that new formats and talent and the mix of shows were two of the most highly valued areas.
- 4.13 We acknowledge the evidence of support for the proposed BBC service to feature new formats and programming across genres. We are also conscious of the challenges involved in demonstrating the appeal and distinctive nature of programming on a channel yet to receive regulatory approval. However, we also note the concerns expressed in the BBC's

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<sup>43</sup> [BBC qualitative research report](#), slide 14 and slide 12.

<sup>44</sup> Further information about the BBC's news offer was supplied by the BBC to Ofcom on 26 January 2018, in response to an information request.

<sup>45</sup> [Public Interest Test submission](#), box 4, page 29.

<sup>46</sup> [Public Interest Test submission](#), paragraph 80, page 25.

<sup>47</sup> [STV response to invitation to comment](#), page 2

<sup>48</sup> [Public Interest Test submission](#), paragraph 138, page 38.

research and from stakeholders about the BBC's ability to deliver its stated objectives within the available budget.<sup>49</sup>

- 4.14 Further, we consider some elements of the proposal which have the potential to lead to reductions in public value have not been sufficiently explored by the BBC. For example, the BBC proposes that, on many platforms, the new channel take the electronic programme guide slot currently occupied by BBC Four – a channel with a remit to provide innovative, and high-quality output, and quotas for original productions.<sup>50</sup> Our analysis suggests changing the EPG slot for BBC Four could lead to a reduction in the channel's total audience share from 0.95% to 0.77%.<sup>51</sup>

## How the BBC considers its approach will better represent and serve Scottish audiences and support Scottish creative industries

- 4.15 The BBC's PIT stated that the new channel would help to ensure the BBC better reflects the diversity of the United Kingdom by accurately and authentically representing and portraying the lives of the people of Scotland. The BBC quantitative research found that 70% of Scottish adults approved of the channel's proposed focus on audiences in Scotland,<sup>52</sup> including a third (32%) who spontaneously mentioned the Scottish focus as the feature they most liked about the new channel.<sup>53</sup>
- 4.16 The BBC's PIT also stated that the new channel would support the Scottish creative industry through its additional content investment of £18 million within the channel's overall budget of £32 million.<sup>54</sup> The BBC argued that the new channel could bring additional work for broadcast production companies and for the Scottish creative sector in general as well as providing more opportunities to develop talent on- and off-screen.<sup>55</sup> It cited stakeholder support for the benefits to the creative economy of additional production as well as high approval from participants in its qualitative research of the likely impact of the new channel on the creative economy in Scotland.<sup>56</sup>

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<sup>49</sup> [BBC qualitative research report](#), slide 11; [BBC quantitative research report](#), slide 17; [PACT response to our Invitation to Comment](#), page 4; [Directors UK response to our Invitation to Comment](#), page 3; and [Professor Robert Beveridge's response to our Invitation to Comment](#), page 3.

<sup>50</sup> See [Operating Licence for the BBC's UK Public Services](#), paragraphs 2.21 and 2.32.

<sup>51</sup> These figures also take into account the substitution between channels that occurs as a result of the BBC's proposals. The direct impact of reducing the prominence of BBC Four (and excluding substitution effects) is to lower its audience share in Scotland from 0.95% to 0.80%. See Take-up and Substitution Annex, Table A2 9 and Public Value Annex paragraph A1.45 for more detail.

<sup>52</sup> [Public Interest Test submission](#), paragraph 199, page 50.

<sup>53</sup> [Public Interest Test submission](#), paragraph 149, page 40.

<sup>54</sup> In its [Public Interest Test 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])."

<sup>55</sup> [Public Interest Test submission](#), paragraph 171, page 41.

<sup>56</sup> [Public Interest Test submission](#), paragraph 173, page 42.

- 4.17 All audiences should feel that the BBC offers something for them, and that it adequately represents their interests or lives, portraying people and their interests in a manner that feels authentic. As the BBC received only an average rating of 4 out of 10 from Scottish participants in its qualitative research for its current performance in 'reflecting the nations and regions', it seems there is an appetite from Scottish audiences for it to provide more content reflecting Scotland and Scottish perspectives. We consider the range of evidence provided by the BBC – e.g. that 72% of adults in Scotland are interested in more Scottish news<sup>57</sup> – supports the case that there is demand among Scottish audiences for more programming which accurately represents Scotland.
- 4.18 However, the BBC's proposal would also mean the end of separate programming for Scotland on BBC Two. As a result, viewing of programming made for Scottish audiences currently shown on BBC Two would be likely to fall when this content moves to the new channel.
- 4.19 The new service may also have an impact on BBC Alba. BBC Alba plays an important role in reflecting and representing Gaelic culture and language for speakers and other audiences in Scotland. We estimate that BBC Alba may lose between 1.6% and 3.5% of its viewing, suggesting that any loss of public value associated with a lower audience for content on Alba is likely to be moderate.
- 4.20 Further, some viewing of BBC Scotland is likely to be at the expense of viewing of content with a Scottish focus on rival commercial channels (such as STV and STV2). Again, however, our modelling suggests the decline in viewing of STV and STV2 is likely to be relatively small (-0.28pp and -0.008pp respectively).
- 4.21 Nevertheless, our analysis indicates that the BBC's proposal is likely to lead to an overall increase in viewing of content aimed at Scottish audiences, with positive effects on public value.
- 4.22 Finally, as discussed in section 5 below, our analysis also indicates that while there is likely to be some public value generated by the BBC's investment in Scotland, the effects on the creative economy overall are uncertain.

### The value the BBC expects the new service to deliver to individual viewers

- 4.23 In addition to the contribution that the proposal would make to the BBC's mission and public purposes, the BBC's PIT also sought to assess '*the aggregate value that the proposal will generate for viewers as individuals.*'<sup>58</sup> It noted that more participants in the qualitative research said the proposals would be of value to society than would be of value to them on a personal level.<sup>59</sup>

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<sup>57</sup> See our [Summary of research findings, BBC Competition Assessment: Scotland, Ofcom](#), slide 30.

<sup>58</sup> [Public Interest Test submission](#), paragraph 114, page 33.

<sup>59</sup> [Public Interest Test submission](#), paragraph 207, page 51.

- 4.24 The BBC also cited evidence from its qualitative research that, on a personal level, participants were most positive about the potential for new talents and formats, the contribution of the proposal to Scottish industry and the channel showing a mix of different shows.<sup>60</sup>
- 4.25 However, the BBC also noted that many participants in the qualitative research were unsure about the quality of the proposed content, expressing concerns that the budget would not be sufficient to deliver a high standard of programming.<sup>61</sup> The changes in the proposal to BBC2 Scotland and BBC Four were the second and third most unpopular features of the channel among participants in the quantitative research, although the numbers who either approved of, or had no strong feeling about the changes to these channels were higher than those who disapproved.<sup>62</sup>
- 4.26 Analysis undertaken by both the BBC and Ofcom suggests it is likely that 'take-up' of the BBC Scotland channel may be relatively small.<sup>63</sup> Although we welcome the increased choice for audiences which the proposal will provide, the value which individual viewers in Scotland place on the channel will depend on how attractive audiences find the content as well as the BBC's ability to deliver creative and distinctive output.

## Our overall view of the BBC's public value assessment

- 4.27 We consider that the BBC's PIT does provide evidence that the proposal will contribute to the delivery of public value through the provision of news and content for audiences in Scotland. Although viewing estimates for the new channel are modest,<sup>64</sup> 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.

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<sup>60</sup> [Public Interest Test submission](#), paragraph 196, page 49.

<sup>61</sup> [Public Interest Test submission](#), paragraph 192, page 48.

<sup>62</sup> [Public Interest Test submission](#), paragraph 203-205, pages 50-51.

<sup>63</sup> See Annex 2 - Take-up and Substitution, paragraph A2.89.

<sup>64</sup> As noted in paragraph A2.89 of Annex 2, we estimate a range of 1.65% to 3.65% (including the BBC Two simulcast) for the audience share of the BBC Scotland channel (our base case is 2.14%). This is higher than the BBC's estimated audience share of 0.95% (or 1.09% including the BBC Two simulcast). To put this into context, BBC Four obtained a viewing share of 0.95% in 2017.

## 5. Market impact assessment

- 5.1 We believe competition is good for audiences 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.
- 5.2 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.<sup>65</sup>
- 5.3 Under the Framework Agreement, the BBC is required to consider the scale and likelihood of such impacts when developing its proposals. In this case, the BBC's PIT concluded that its proposal to launch a new channel in Scotland was unlikely to have adverse effects.<sup>66</sup>
- 5.4 However, the Framework Agreement requires us to make our own assessment of the potential impact on fair and effective competition of changes proposed by the BBC. In this section, we summarise the conclusions of the BBC's assessment, explain how we approached our own, and the main positive and negative effects we believe the proposal could have.<sup>67</sup>

### The BBC's conclusions on market impact

- 5.5 The BBC's assessment considered the possible impact of the new channel on a range of different competitors. These included free-to-air television services such as STV, pay-TV channels such as Sky Atlantic, and subscription video-on-demand services such as Netflix.
- 5.6 The BBC concluded that, although there would be no meaningful impacts on pay TV channels or video-on-demand services, rival free-to-air services were more likely to be affected by BBC Scotland. The BBC considered that, as viewers moved to the new channel, advertising revenues across all commercial channels could fall by between £1m and £2m in 2019, with the largest individual impact on STV.
- 5.7 Nevertheless, the BBC concluded that this impact would not deter STV from continuing to invest in programming of specific interest to audiences in Scotland. The BBC also considered its proposals would not have an adverse impact on other broadcasters' ability to obtain the content and people they require.

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<sup>65</sup> 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.

<sup>66</sup> [Public Interest Test submission](#), paragraph 337, pages 75.

<sup>67</sup> Our detailed assessment of market impact is set out in Annex 3.

- 5.8 In addition, the BBC looked at the possible effects on other stakeholders, including news providers. The BBC recognised that its proposals to expand its news operation in Scotland could have some adverse impacts “under limited circumstances... (e.g. if there were a shortage of journalists).”<sup>68</sup> However, it considered that it would not be possible to mitigate these impacts without diminishing public value and concluded that, overall, its plans would have little if any impact on commercial rivals’ ability to attract and retain news journalists. The BBC also argued that its online news content would be sufficiently distinctive that it would be unlikely to harm other online news providers.

## How we approached our assessment

- 5.9 In our market impact assessment, we have examined the likelihood that the new channel would have a direct effect on the revenue and profitability of competitors, such as rival commercial broadcasters and news providers. We have considered the risk that additional news content, either on BBC Radio Scotland or online, harms commercial operators. We have also looked at the potential for the BBC’s proposal to make it harder for competitors to recruit talent or source content. In particular, this included the proposal by the BBC to create 80 new ‘journalism-related’ roles and the impact of the BBC’s investment on the Scottish production sector and rivals’ ability to acquire rights to Scottish content (e.g. Scottish sports rights).
- 5.10 As part of this work, we have undertaken our own economic modelling as well as specifically commissioned consumer research across Scotland.<sup>69</sup> We have also taken account of the views of respondents to our Invitation to Comment and further information received from the BBC and STV plc following formal information requests.<sup>70</sup>

## Audience switching from commercial TV broadcasters to the BBC Scotland channel

- 5.11 The launch of a new channel for Scotland is most likely to have an impact on other commercial TV broadcasters showing content aimed at Scottish audiences. Free-to-air broadcasters, notably STV, have expressed concerns about the potential impact of the new BBC Scotland channel on advertising revenues.
- 5.12 Our analysis suggests the new BBC Scotland channel would achieve a relatively modest share of viewing by Scottish audiences in 2019. Table 2 summarises our estimates of the impacts.

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<sup>68</sup> [Public Interest Test submission](#), paragraph 366, page 81.

<sup>69</sup> [Summary of research findings, BBC Competition Assessment: Scotland, Ofcom](#) and [BBC Scotland research - data tables](#).

<sup>70</sup> Non-confidential responses to our Invitation to Comment can be found on our [website](#).



**Table 2: Summary of Scottish viewing share and revenue impacts on TV channels in 2019**

	Percentage point change in Scottish viewing share (2019)	Change in advertising revenue (total and as % of 2016 revenues)
BBC Scotland channel	1.65pp to 3.65pp	N/A
All BBC channels	0.82pp to 1.99pp	N/A
All commercial channels	-0.82pp to -1.99pp	−£2.77m to −7.05m (-1.14% to -2.89%)
STV*		−£1.25m to −£3.17m (-1.24% to -3.15%)
ITV Border (Scotland)*	-0.21pp to -0.50pp	−£0.15m to −£0.39m (-1.26% to -3.17%)
STV2	-0.006pp to -0.013pp	−£0.01m to −£0.05m (-0.93% to -4.34%)

\*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. As STV plc and ITV plc are separate companies, we have reported changes to their advertising revenue separately.

5.13 Although it is the case that the business decisions of some rivals who lose viewers to the new service, may be affected, the overall effect on the revenues of commercial TV broadcasters is likely to be relatively small. As a result, we do not consider the BBC's proposal by itself is likely to have an impact on the viability of commercial TV services in Scotland or substantially affect the incentives of commercial broadcasters to invest and innovate.

### **Audience switching from other commercial media providers to the BBC Scotland channel**

5.14 We have also assessed the extent to which other commercial media services (in particular newspapers, online websites and radio) could be affected if their audiences switched to the new channel. Our view is that the impact on other commercial media providers is likely to be limited. Differences in the characteristics of different media, as well as how and when they are accessed by consumers, suggest that any impact on their audience is likely to be very small.

5.15 As a sensitivity check, we also undertook some illustrative modelling. We found that, even if most of the viewing of BBC Scotland occurred at the expense of time spent consuming other media, the impact would be spread across many media providers – for individual newspaper publishers, radio stations or websites the impact would likely be very small.

## The risk that additional news content causes audiences to switch from commercial news providers

- 5.16 The BBC's PIT noted the potential for its strengthened news-gathering team to produce further material for use on BBC Radio Scotland or BBC Online News Scotland. This raised concerns from stakeholders including STV plc and the Scottish Newspaper Society, who suggested that the BBC's re-versioned online material would too closely resemble their own content.
- 5.17 In the case of radio, we consider it is unlikely that changes arising from the BBC's proposal would significantly affect the output of BBC Radio Scotland, particularly as only part of its schedule is devoted to news. As commercial radio stations are predominantly music-based with only limited news bulletins, we consider any impact on commercial audiences is likely to be quite limited.
- 5.18 In relation to online news, we recognise that some of the content produced for the BBC Scotland channel could be re-versioned for use on the BBC's news website. We therefore sought further information from the BBC about its online plans.
- 5.19 The BBC said that additional investment in news in Scotland would allow for more frequent reporting at weekends, as well as providing more source material for its existing team to draw upon, rather than funding extra online journalists. It 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."<sup>71</sup>
- 5.20 We consider the proposal as presented to Ofcom would be unlikely to lead either to a substantial expansion or change in the focus of the BBC's online news offering. Having assessed a detailed staffing breakdown supplied to us by the BBC, we note that only a proportion of the 80 posts which the BBC proposed in its PIT relate to news-gathering, with the remainder in production roles.<sup>72</sup> We think the BBC's assessment, that the additional staff will be focussed on the delivery of an hour-long weekday bulletin and weekend coverage, is reasonable. We would particularly welcome specific evidence from stakeholders on this point during the consultation period to inform our final assessment.
- 5.21 Accordingly, we consider that, in their current form, the BBC's proposals would be unlikely to have a significant adverse impact on print and online news provision. However, the BBC's PIT may overstate the differences between its online news offer and that of commercial providers. For example, although the BBC website is most likely to overlap with other providers in its coverage of Scotland-wide issues as well as news and sport, it would certainly be possible for the BBC to deepen its entertainment coverage or regional news. In our view, a significant increase in the scale and scope of the BBC's online news provision,

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<sup>71</sup> BBC response to Ofcom information request, 26 January 2018.

<sup>72</sup> BBC response to Ofcom information request, 26 January 2018. This information was supplied by the BBC to Ofcom on a confidential basis.

could draw readers away from Scottish print and online news providers. In line with the regulatory approach set out in the Framework Agreement, we would expect the BBC Board to look closely at any further expansion.

### **The impact on Scottish newspapers' ability to attract/retain journalists**

- 5.22 In its PIT, the BBC stated it would recruit 80 additional journalists to support its news coverage on the new Scotland channel. The Scottish Newspaper Society argued that this additional recruitment had the potential to limit the ability of Scottish newspapers to attract and retain staff, particularly as a certain number of senior recruits would be likely to come from existing Scottish news organisations.
- 5.23 We subsequently asked the BBC for a detailed breakdown of its recruitment plans, which we have reviewed closely. Given the level of news-gathering recruitment proposed, and the fact that this group may be recruited from a range of sources, including the BBC itself as well as the wider broadcasting sector, we do not consider that the BBC's proposal poses a significant threat to the ability of Scottish newspapers to attract or retain journalists. We therefore think the BBC's initial estimate of 80 roles does not reflect the number of 'front-line' journalists they are likely to recruit from commercial news organisations.

### **The impact on the Scottish production sector**

- 5.24 In its PIT, the BBC argued the additional investment it proposed to make in the new channel would provide opportunities for the production sector in Scotland, including STV's own production arm. However, a potential consequence of increased demand from the BBC for original content produced in Scotland, is that it could limit the ability of rival channels like STV to access the production capacity and facilities they need for their own programming.
- 5.25 Our analysis is that demand from the BBC is unlikely to have a significant impact. Although the £11.25m p.a. investment proposed by the BBC in non-news programming is not insignificant, it remains relatively small when looked at in the context of the total Scottish original production sector, representing 6% of its value in 2014 – the last year for which nation-specific figures are available.<sup>73</sup> Moreover, only some of this additional budget will be invested in original commissions made in Scotland, as a proportion will be spent on repeats and acquisitions from further afield. We also do not consider there are any significant barriers that would prevent producers from expanding capacity in response to an increase in demand for original programming made in Scotland.
- 5.26 The BBC's investment also has the potential to create efficiency benefits for the Scottish production sector. A larger sector may enjoy greater economies of scale, improved knowledge-sharing and offer more scope for specialisation. However, it is uncertain at this time whether these efficiency benefits would actually arise and how large they might be.

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<sup>73</sup> [Public Interest Test submission](#), paragraph 305, page 69.

## The impact on commercial broadcasters' ability to acquire content rights

- 5.27 In addition to original programmes commissioned from producers, the BBC Scotland channel will also include acquired content aimed at audiences in Scotland (e.g. rights to sports and other Scottish events). We think an increase in the BBC's demand for acquired content aimed at Scottish audiences is unlikely to significantly harm rival broadcasters.
- 5.28 The major Scottish sports rights are typically acquired by specialist sports channels. For example, BT and Sky together spend over £19m p.a. on football rights. Given the relatively high cost of such rights, the BBC Scotland channel is unlikely to be a significant bidder for this type of content.
- 5.29 Some minority Scottish sport content is already shown on BBC Two in Scotland (e.g. live bowls from the Scottish International Open) and STV2 (e.g. live horse racing from Hamilton and Ayr) Some sport is also shown on BBC Alba.<sup>74</sup> However, we consider that, even if the BBC were to expand the range of minority Scottish sports it showed on the BBC Scotland channel, this would be unlikely to have a material impact on STV2. This type of content accounts for only a very small share of STV2 viewing and therefore does not appear to be a core part of the channel's proposition.<sup>75</sup>

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<sup>74</sup> In 2017 this included sport documentaries and coverage of football, rugby and shinty matches.

<sup>75</sup> Based on BARB data, sport accounted for only 3% of total viewing on STV2 in 2017. See Annex 3, paragraph A3.197.

## 6. Regulatory assessment

- 6.1 Having reviewed the procedures the BBC followed and the BBC's assessment of the public value of the proposed change, and assessed any adverse impact of the proposed change on fair and effective competition, Ofcom must determine whether the public value of the proposed change justifies any adverse impact on fair and effective competition.
- 6.2 In reaching our provisional determination, we have had 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 to protect fair and effective competition.
- 6.3 As we explained in our Guidance, a quantitative comparison of the factors relating to public value and risks to competition is unlikely to be possible as part of a BCA.<sup>76</sup> Therefore, consistent with this, in reaching our provisional determination about the likely effects of a proposal, we have 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.
- 6.4 Ofcom wants to see Scottish audiences well served by the BBC. 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 expanding the range of programming available in Scotland and providing a greater Scottish-focus in the BBC's news coverage.
- 6.5 Further, we acknowledge the concerns of a range of stakeholders that they may experience negative effects as a result of the BBC's proposal. However, in examining the overall competition effects, it appears to us that 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.
- 6.6 Taking these factors into account, we are minded to make a determination allowing the BBC to proceed with its proposal.
- 6.7 We recognise there is a risk that either the channel or the BBC's associated online output might change substantially after launch. We have reached our provisional determination on the basis of the information supplied by the BBC on a range of factors including: the budget which it has allocated to its proposal; that much of the content on the new channel will focus on varied aspects of life in Scotland; the detailed staffing plans the BBC has submitted for news programming; and the scale and focus which any additional online content will have.
- 6.8 Given the proposal submitted by the BBC, we do not think that it is necessary to impose specific limitations at this time. However, we will review any changes to the BBC's output as part of our performance monitoring programme. We also expect the BBC Board to

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<sup>76</sup> [Guidance](#), paragraph 5.27.

consider closely the wider effects on other BBC services and third parties of any further expansion to the proposal we have reviewed. In the event that the BBC's offering changes substantially, we will consider whether further competition assessment is necessary.

- 6.9 In response to our provisional decision, we would particularly welcome evidence and argument from stakeholders about the analysis and the assumptions we have made. We will take careful account of stakeholder responses we receive before making a final determination whether to approve, reject, modify or require further amendments to the BBC's proposal.

# A1. Review of Public Value

Published separately on [Ofcom website](#)

## A2. Channel Take-up and Substitution

Published separately on [Ofcom website](#)



## A3. Assessment of Market Impacts

Published separately on [Ofcom website](#)

## A4. Responding to this consultation

Delete these annexes if your document is not a consultation

### How to respond

- A4.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 18 May 2018.
- A4.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/bbc-scotland-television-channel>. You can return this by email or post to the address provided in the response form.
- A4.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [BBCScotland.Assessment@ofcom.org.uk](mailto:BBCScotland.Assessment@ofcom.org.uk), as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>). This email address is for this consultation only, and will not be valid after 31 July 2018.
- A4.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Glenn Preston  
Ofcom  
125 Princes Street  
Edinburgh EH2 4AD
- A4.5 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.
- A4.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A4.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A4.8 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.
- A4.9 If you want to discuss the issues and questions raised in this consultation, please contact Glenn Preston by email to [BBCScotland.Assessment@ofcom.org.uk](mailto:BBCScotland.Assessment@ofcom.org.uk)

## Confidentiality

- A4.10 Consultations are more effective if we publish the responses before the consultation period closes. In particular, 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 all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), as soon as we receive them.
- A4.11 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.
- A4.12 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.
- A4.13 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 at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

## Next steps

- A4.14 Following this consultation period, Ofcom plans to publish a statement in July 2018
- A4.15 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

## Ofcom's consultation processes

- A4.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex x.
- A4.17 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto: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.
- A4.18 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Steve Gettings  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA  
Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

## A5. Ofcom's consultation principles

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

#### Before the consultation

- A5.1 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

- A5.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A5.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A5.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A5.5 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.
- A5.6 If we are not able to follow any of these seven principles, we will explain why.

#### After the consultation

- A5.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. 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.

## A6. Consultation coversheet

### BASIC DETAILS

Consultation title: organisation realise

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 there is no separate annex, which parts? \_\_\_\_\_

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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)?

### 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 seeks to publish responses on receipt. 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)