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# Review of the interaction between BBC Studios and the BBC Public Service

Call for evidence

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[Review of the interaction between BBC Studios and the BBC Public Service](#) – Welsh overview

**CALL FOR EVIDENCE:**

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# 1. Overview

The BBC undertakes commercial activities to generate a return, which can be reinvested in BBC programmes and services and supplement income from the licence fee. These activities will need to adapt to the changing environment and respond to opportunities as they arise. Our role as regulator is to ensure that the relationship between the licence fee funded part of the BBC (the Public Service) and the commercial activities does not distort the market or create an unfair competitive advantage. We support the need for the BBC to innovate, grow and change as long as this is done fairly.

The vast majority of the BBC's commercial activities are undertaken through the commercial subsidiary BBC Studios. BBC Studios produces and distributes content for consumers to watch in the UK and around the world. It owns and operates channels (UKTV), has a joint venture international subscription video on demand service (BritBox in the US and Canada), sells programme formats internationally and consumer products such as DVDs and merchandise.

This document launches our review into the interaction between BBC Studios and the Public Service.

## **What we are inviting views on – in brief**

Given developments both in the media landscape and in BBC Studios over the past few years, it is important for us to enhance our understanding of how BBC Studios has implemented our rules and to provide additional transparency on this to stakeholders.

In this review we will consider concerns on the relationship between the Public Service and BBC Studios. This will allow us to assess whether our regulation remains effective and whether further work needs to be undertaken, including amending our rules. We invite views from stakeholders on the following key areas:

- Operational separation between BBC Studios and the Public Service;
- Supply and pricing of goods and services between BBC Studios and the Public Service; and
- Commercial rate of return earned by BBC Studios.

We also invite views on any other areas of concern stakeholders have about BBC Studios gaining an unfair advantage or market distortion as a result of its relationship with the Public Service.

- 1.1 We welcome evidence from stakeholders on the issues raised in this document including views on whether Mediatique's report (published alongside this document) represents a reasonable basis for us to consider the market context for this review. The deadline for responding to this document is 4 December 2020. We will consider all stakeholder representations and are planning to publish our findings from this review in Spring 2021.

## 2. Call for evidence

### Introduction

- 2.1 The last 10 years has seen unprecedented change in the media landscape, including how content is produced and distributed and consumed. The volume and spend on the production of programmes in the UK continues to grow,<sup>1</sup> although the coronavirus pandemic (Covid-19) has had a severe impact on the industry. Competition for viewers' time has intensified. People are watching more content online than ever before, and subscription video on demand services have grown significantly.
- 2.2 The BBC undertakes substantial production and distribution activities in the commercial arena. The vast majority of the BBC's commercial activities are undertaken by BBC Studios,<sup>2</sup> which produces programmes for the Public Service<sup>3</sup>, other UK and international broadcasters and subscription video on demand services (SVoDs). BBC Studios also sells programmes in the secondary market within the UK and around the world. In addition, BBC Studios carries out a range of other activities including owning and operating channels (UKTV), a joint venture international SVoD service (BritBox in the US and Canada),<sup>4</sup> sells programme formats internationally and consumer products such as DVDs and merchandise.
- 2.3 BBC Studios was established in 2017 as the majority of production activities<sup>5</sup> were moved from the Public Service to create BBC Studios. Since then there have been some significant changes. In 2018 BBC Studios merged with BBC Worldwide, the distribution subsidiary.<sup>6</sup> In 2019, BBC Studios took full ownership of seven of ten UKTV channels and agreed significant content deals, including with Discovery, Sky and BritBox UK.
- 2.4 The BBC's commercial subsidiaries exist to generate a return, which can be reinvested in BBC programmes and services and supplement income from the licence fee. These activities will need to adapt to the changing environment and respond to opportunities as

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<sup>1</sup>Independent TV production sector revenues reached a new record of £3.3 billion in 2019, driven by international revenues breaking £1 billion for the first time – an increase of 11% on 2018, and a rise of 30% over the past five years. [Pact UK Production Census, October 2020](#).

<sup>2</sup> The BBC has two other main commercial subsidiaries: BBC Studioworks which provides TV studios facilities, equipment, crew and post-production services from locations in the UK; and BBC Global News which operates the BBC's international 24-hour TV channel BBC World News and [bbc.com](#).

<sup>3</sup> Ofcom is required to set requirements to ensure that the BBC's commercial activities do not as a result of their relationship with the Public Service, trading activities or non-service activities, distort the market or create an unfair competitive advantage. We do not refer to trading activities or non-service activities in the remainder of this document. We note that trading activities are activities which are commercial in nature but are not to be treated as commercial activities as set out in Clause 31(1) and 31(2) of the Agreement. The "Agreement" we refer to in this document is the [Agreement between the Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation](#).

<sup>4</sup> The BBC's investment in BritBox UK is held by the Commercial Holdings Board.

<sup>5</sup> Production of news, sports and children's programmes remained within the Public Service.

<sup>6</sup> As part of this merger, the BBC provided commitments intended to preserve transparency over the relationship between the Public Service and the new BBC Studios. [The merger of BBC Studios and BBC WorldWide: The BBC's commitments](#). In 2019, the BBC reduced its lines of business within BBC Studios from five to two and subsequently withdrew this commitment replacing it with a revised commitment.

they arise. Our role as regulator is to ensure that the relationship between the Public Service and the commercial activities does not distort the market or create an unfair competitive advantage. We support the need for the BBC to innovate, grow and change as long as this is done fairly.

- 2.5 The BBC recently made clear, in Tim Davie’s introductory speech as BBC Director-General, that it plans to keep building major partnerships with the likes of FX, Discovery, ITV and Tencent so that it grows as a global provider of services and premium content. The BBC plans to build its commercial income and ensure the BBC is maximising financial value for licence fee payers.<sup>7</sup>
- 2.6 Given developments both in the media landscape and in BBC Studios over the past few years, it is important for us to enhance our understanding of how BBC Studios has implemented our rules and to provide additional transparency on this to stakeholders (where possible given commercial confidentiality). We will also consider concerns raised by stakeholders on the relationship between the Public Service and BBC Studios. This will allow us to assess whether our regulation remains effective and whether further work needs to be undertaken, including amending our rules.

## Regulatory background for BBC Studios

- 2.7 Under the Charter<sup>8</sup> and Agreement the BBC may only carry out commercial activities through commercial subsidiaries. The BBC must ensure that these commercial activities fit with its Mission and Public Purposes; are commercially efficient; do not jeopardise the BBC brand; and do not distort the market or gain an unfair competitive advantage as a result of their relationship with the Public Service. Together, these obligations are known as the commercial criteria.<sup>9</sup>
- 2.8 Ofcom’s regulation in relation to the BBC’s commercial activities is limited to issues concerning the interaction between the Public Service and the commercial subsidiaries. Under the Agreement,<sup>10</sup> Ofcom must set requirements it considers appropriate. Accordingly, in 2017 we put in place requirements and guidance to ensure that the BBC’s commercial activities do not, as a result of their relationship with the Public Service, distort the market or create an unfair competitive advantage. In February 2019 we revised these rules<sup>11</sup> (Requirements) following work undertaken to understand the process and practices around the operation of the BBC’s commercial subsidiaries and their relationship with the Public Service. Our Requirements cover four main areas which are shown in Figure 1.<sup>12</sup>

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<sup>7</sup> [Tim Davie's introductory speech as BBC Director-General](#), 3 September 2020.

<sup>8</sup> In “Charter” we refer to in this document is the [Royal Charter for the continuance of the British Broadcasting Corporation](#).

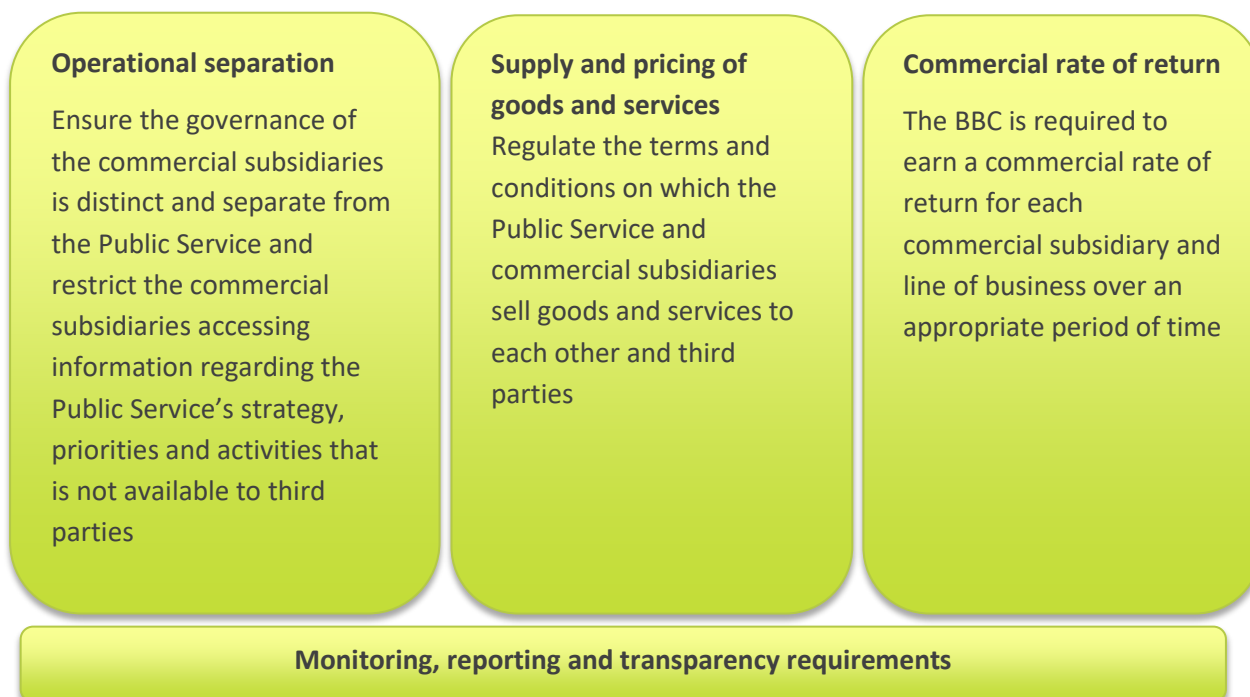
<sup>9</sup> The Agreement, Clause 23 (5).

<sup>10</sup> The Agreement, Clause 28.

<sup>11</sup> [The BBC’s commercial and trading activities: requirements and guidance: Ofcom’s requirements and guidance](#),<sup>11</sup> February 2019.

<sup>12</sup> As part of our Requirements we also set out procedures the BBC must follow to make a material change to its commercial activities and the procedures we will follow to determine whether such a change can go ahead.

Figure 1: Overview of Requirements



- 2.9 Under the Charter<sup>13</sup> Ofcom has powers to investigate areas of concern, including carrying out and publishing additional reviews addressing any specific issues relating to the activities of the BBC that are subject to regulation.
- 2.10 We are exercising our powers under the Agreement and Charter in conducting this review.<sup>14</sup> We have concerns relating to the interaction between the Public Service and BBC Studios and are aware that other stakeholders share those concerns. We set out those concerns in more detail in our proposed scope of this review. We must ensure our Requirements are not only currently effective, but also provide a robust regulatory framework that will be applicable as the market evolves. Given the recent changes to BBC Studios and the broader market developments it is timely to undertake this review.

## BBC Studios

- 2.11 BBC Studios is by far the largest of the BBC’s commercial subsidiaries and delivered a record turnover of £1.4bn in 2019/20<sup>15</sup> with EBITDA<sup>16</sup> of £181m, and returns to the BBC that included dividends and investment in programming of £276m.
- 2.12 There are currently two lines of business within BBC Studios:<sup>17</sup>

<sup>13</sup> The Charter, Article 51 (3).

<sup>14</sup> We are conducting this review under Clause 28 of the Agreement and Article 51(3) of the Charter.

<sup>15</sup> [BBC Group Annual Report and Accounts 2019/20](#), page 52.

<sup>16</sup> Earnings before interest, taxes, depreciation and amortisation.

<sup>17</sup> This structure was adopted in 2019 which we discuss in our accompanying consultation to this publication, [BBC Studios’ lines of business, Assessment of BBC Studios’ changes to its lines of business](#), 9 October 2020.

- a) **Production and distribution** – BBC Studios produces and distributes programmes commissioned and sold to broadcasters and platform owners globally. In addition, BBC Studios has joint venture and associate production companies, format sales, and consumer products. Titles produced for the BBC include successes such as *Top Gear*, *DIY SOS*, *Silent Witness* and *Seven Worlds, One Planet*. BBC Studios production was the UK's most commissioned creator of new content in 2019. A total of 77 new commissions were won in 2019/20. New long-term partnerships were secured in 2019/20 including a significant deal with Discovery. Production and distribution was the largest line of business within BBC Studios, with a turnover of £1.1bn and EBITDA of £75m in 2019/20.
- b) **Branded services** – BBC Studios has BBC-branded channels and digital consumer services outside the UK, UKTV, BBC Studios' joint venture and associate operations in BritBox US and Canada and BBC AMERICA and digital branded services including BBC Player in Asia. This line of business had a turnover of £385m and EBITDA of £111m in 2019/20.

2.13 BBC Studios has a number of shorter-term measures in place to mitigate the effects of Covid-19. BBC Studios' strategy is a long-term plan to grow revenue and EBITDA. It has a focus on three areas:<sup>18</sup>

- a) generating sustainable creative hits through early investment in new intellectual property (IP) and growing exploitation of successful formats and programmes;
- b) strengthening services – building on the success of BritBox internationally and UKTV, along with evolving global channel brands like BBC Earth and CBeebies; and
- c) growing existing and targeting new major customer partnerships, which take a long-term and strategic approach to financing and developing high quality content for audiences around the world.

## Market context

2.14 In order to better understand the sectors that BBC Studios operates in and how they might evolve over time, we commissioned Mediatique to undertake a report examining relevant sectors.<sup>19</sup> The report looks at how these sectors have developed and considers how they might evolve in the future. It also sets out an assessment of recent developments associated with Covid-19. Mediatique considers that in general, companies will continue to operate through these difficulties<sup>20</sup> however it is likely that some trends will continue once the pandemic is over such as an increased use of digital content by older demographics. On most fronts, Mediatique considers that Covid-19 appears to be confirmatory rather than transformative in effect. We recognise that there may be some changes to the sectors that are not yet clear given the ongoing uncertainty regarding Covid-19. Despite this, we

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<sup>18</sup> BBC Group Annual Report and Accounts 2019-20, page 52.

<sup>19</sup> [Mediatique: State of the markets in which BBC Studios operates](#), 9 October 2020.

<sup>20</sup> Based on there being no second comprehensive national lockdown.

consider it still valuable to set out the information and assessment we have at this time. We summarise the main findings of this report with respect to the two lines of business BBC Studios operates in below.

## Production and distribution

### UK and international production

- 2.15 Production includes the origination, creation and physical production of content. This content and the underlying rights drive revenue generation in related sectors such as content sales, DVD sales and merchandising. Public service broadcasters remain the largest commissioners of content in the UK but their spend has been reducing – in real terms commissioned spend has reduced by approximately £1 billion since 2004.<sup>21</sup> However, this decline has been more than offset by increased demand from UK multichannel groups (e.g. Sky), greater commitment to original production by international channel groups and other integrated studio players (e.g., Disney, Discovery, NBCUniversal, WarnerMedia) as well as commissions from Netflix and Amazon.<sup>22</sup> The UK has become one of the central hubs for TV IP generation worldwide.
- 2.16 As a result of this increased competition for original content from international SVoDs and large UK and international channel groups there has been production cost inflation in key genres in recent years. Mediatique considers that this has led to increased reliance on co-production<sup>23</sup> and deficit financing<sup>24</sup> for certain types of productions as the primary commissioners could no longer afford to fund the entire cost of production.<sup>25</sup> Mediatique argues that these trends favour a model with production and distribution under the control of a single corporate entity as such model allows these integrated players to optimise returns across the value chain.
- 2.17 Covid-19 has had a huge impact on the production sector which initially led to the shutdown of production around the world with a significant short-term impact on output, revenue and jobs. Many productions have resumed in the UK, with social distancing measures in place, which is driving up costs and lead-times have lengthened. It may take some time to catch up following the shutdown (and much depends on whether subsequent lockdowns are imposed).

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<sup>21</sup> [Small screen: Big Debate – a five-year review of Public Service Broadcasting \(2014-2018\)](#), Ofcom, February 2020, page 34.

<sup>22</sup> The increased demand has largely been confined to commercially attractive genres such as drama, comedy and high-end factual.

<sup>23</sup> Involving more than one commissioning broadcaster or platform.

<sup>24</sup> In this context deficit financing means the primary commissioners only pay part of the cost of making the programme with the rest funded by producers and distributors (in lieu of the revenue they will receive from secondary sales) and for high end dramas (over £1m per hour) tax credits.

<sup>25</sup> It is important to note that the increase in the value that producers and distributors can receive from secondary rights has also been a factor in the use of deficit funding.



## Content sales and distribution

- 2.18 Content sales involves the licensing of finished content or format rights to third parties. The UK market comprises of a handful of large international players that typically have a production arm. Having a strong content pipeline is key to the success of distributors in secondary markets. Smaller production companies do not generally have the commercial and management resources to sell their content in secondary markets and rely on one of the large distributors or a specialist to undertake these activities on their behalf.
- 2.19 The increasingly global nature of demand for TV content has led to changes in rights windows, as many SVoDs are active globally, they have sought exclusive global rights placing pressures on windowing conventions in domestic markets, including the UK. There are trends towards upfront content exclusivity and long availability windows.
- 2.20 Mediatique considers that in the medium term the strongest market position will be held by distributors that have both production and distribution capabilities, access to capital and where there is an English language or genre advantage. As with TV production in the UK, Mediatique found that the distribution market has seen new demand emanating from global SVoD streamers and traditional domestic and international broadcasters alike.
- 2.21 Content sales saw a spike given Covid-19 as broadcasters and streamers purchased secondary content to fill their schedules as production was halted. This spike in demand is likely to be temporary as normal production resumes. However, it is expected that the price of some content will remain higher in the longer-term.

## Consumer products

- 2.22 The consumer products sector includes the creation and sale of merchandise, gaming, magazines and other products and services associated with the underlying media rights (such as theme parks). BBC Studios' main activities in this area are physical product sales via DVDs, retail apparel, board games, gifts, figures, stationery and other merchandise.
- 2.23 Mediatique considers that the DVD market is likely to continue to decline over the next five years as consumers increasingly switch to on-demand content including SVoD, a trend likely to have been made worse by Covid-19. This market may still remain relevant due to inertia, demographics and enduring role of gifting. Mediatique argues that other consumer product segments have specialised appeal (books, gaming, merchandising) and are likely to continue to perform in line with (moderate) historical rates and margins.

## Branded services

- 2.24 BBC Studios' branded services involves the key consumer-facing activities and the sector includes pay and free-to-air channel brands, broadcaster-VoD services and SVoD services from global players. As noted by Mediatique, these services are at the forefront of changes to technology and consumer behaviour. The global decline in consumption of linear TV channels (pay and free to air) has been driven by increased broadband connectivity, the growing scale of connected device ownership and shifts in audience behaviours. Mediatique considers that the emergence of SVoD and spectacular growth of the

streaming model was the most significant development in this sector. During Covid-19, SVoD services have enjoyed a spike as consumers (many with additional time on their hands) look for new content to consume.

- 2.25 In terms of linear TV, the impact of Covid-19 has been mixed, there was initially more viewing as audiences were more available (particularly for news and daytime viewing), however, given the lack of new productions, broadcasters have been filling their schedules with repeats (and cheaper acquired programmes) and this may accelerate the pace of linear TV decline, at least in the short term.
- 2.26 Advertising has been severely affected by Covid-19 with significant declines in April and May following the national lockdown and an overall impact of between 10 to 20% expected for this year. It is unlikely that the advertising market will recover to pre-Covid-19 levels in real terms even after five years. The pay TV market is more nuanced, whilst overall take up of pay TV is growing globally, led by trends in emerging economies, there is increased pressure on revenues in mature markets, which in turn risks eroding the carriage fees paid by pay-TV operators to channels.
- 2.27 Mediatique argues that content providers need to be flexible as markets (and consumer preferences) shift but considered that BBC Studios was in a good position to change its strategy from branded channels (e.g. UKTV) to potentially its own branded SVoD service (or supplying other SVoDs) or ensuring the channels remain in smaller Pay TV bundles.

## Purpose and scope of review

- 2.28 The objective of our review is to enhance our understanding of how BBC Studios has implemented our Requirements and to provide additional transparency on this to stakeholders. We will set out our concerns and consider concerns raised by stakeholders on the relationship between the Public Service and BBC Studios. In doing so, we will assess whether we ought to amend our rules.
- 2.29 Our review will build on other work undertaken in this area, including our ongoing monitoring of the BBC's compliance with the Requirements. We will also take account of other work by stakeholders as part of our review including the BBC's commercial review, which concluded in December 2018<sup>26</sup> and the NAO's recent review of BBC Studios.<sup>27</sup>

## Operational separation

- 2.30 The BBC is required to operate its commercial subsidiaries at arms' length from the Public Service. The regulatory obligations are in place to address the concern that BBC Studios might have access to information about the Public Service that its competitors do not and this could distort competition by giving BBC Studios an unfair advantage. The Requirements on this topic cover two main areas:

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<sup>26</sup> The BBC reviewed whether the commercial activities carried out by the commercial subsidiaries met the four commercial criteria. See: [BBC Commercial Review, December 2018](#).

<sup>27</sup> [NAO Report by the Comptroller and Auditor General, BBC Studios](#), 9 January 2020.

- a) Exchange of information – there are restrictions on information the Public Service holds that is not available to third parties which can be accessed by BBC Studios and could give it a competitive advantage, and mechanisms to ensure that any information shared is only used for the specific purposes for which it was obtained; and
  - b) Governance arrangements – the requirements set out that the governance of BBC Studios must be distinct and separate from the Public Service, with measures in place to ensure that any potential conflicts of interest that arise from cross-directorships are identified and managed.
- 2.31 The BBC Board is responsible for the overall oversight of the BBC Studios. The Fair Trading Committee, a BBC Board sub-committee, is responsible for overseeing the BBC’s compliance with its regulatory obligations for trading and separation between the Public Service and the commercial subsidiaries. The Commercial Holdings Board is the main governance body for the commercial subsidiaries and is ultimately accountable to the BBC Board.
- 2.32 Stakeholders have expressed concerns about the overlap in governance responsibilities between the BBC Board and the Commercial Holdings Board questioning whether this is sufficiently distinct and separate. The Commercial Holdings Board is currently comprised of nine members including two independent non-executive directors. Of the remaining seven members, six have roles that contain both Public Service and commercial responsibilities.
- 2.33 As part of this review, we will assess how the BBC has implemented our Requirements to address concerns that BBC Studios might have access to Public Service information not available to others, which gives it an unfair advantage or distorts the market. We will consider whether there are appropriate safeguards in place to ensure our Requirements are being met including the information set out in the BBC’s Annual Statement on operational separation.<sup>28</sup> We also plan to look at whether any staff have responsibilities within the Public Service and BBC Studios and, if so, what processes the BBC has put in place to ensure no information is shared that could harm fair and effective competition.

## Supply and pricing of goods and services

- 2.34 BBC Studios receives a number of goods and services from the Public Service. This includes business support services, such as HR, IT, legal and finance.<sup>29</sup> These goods and services must be provided at arm’s length and any sharing of services must be carried out on commercial terms. These obligations are in place to guard against a distortion to fair and effective competition. This could include, for example, instances where the Public Service sets prices for inputs supplied to its commercial subsidiaries which are too low, providing them with an unfair advantage over their rivals.
- 2.35 The Public Service is required to set prices for goods and services based on the relevant market price or market benchmark as appropriate. Where market information is not

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<sup>28</sup> [Statement of Operational Separation](#).

<sup>29</sup> The Public Service also receives goods and services from BBC Studios.

available, or it would be disproportionate to undertake specific benchmarking, the Public Service is required to set prices based on costs where there is no available, reliable, market information. Where the Public Service provides business support services such as HR, IT, legal and finance, prices should be based on long-run incremental costs.

- 2.36 The BBC publishes the pricing methodologies of each of its transfer charges each year.<sup>30</sup> In the financial year ended 31 March 2020, the Public Service charged its commercial subsidiaries £108m for goods and services supplied. This charge included a total of £67m for the goods and services provided to BBC Studios.<sup>31</sup> As part of the BBC’s reporting requirements, Ofcom receives a breakdown of the charges at a Key Category level, such as HR, Finance, and Property.
- 2.37 Stakeholders have in the past expressed concerns about the transparency of these charges. In this review, we will assess a sample of transfer pricing methodologies to ensure they are consistent with the principles set out in the Requirements and the associated transfer charges to establish how goods and services are provided.

## Commercial rate of return

- 2.38 The rate of return requirements, in conjunction with our transfer pricing rules, act as an important safeguard to prevent the commercial subsidiaries from gaining an unfair competitive advantage or distorting the market due to their relationship with the Public Service. The Requirements also help to ensure that commercial activities are undertaken in accordance with normal market principles including making a commercial rate of return.
- 2.39 The BBC is required to earn a commercial rate of return over an appropriate period of time for each of the commercial subsidiaries and lines of business. If it determines that a subsidiary or line of business will not earn a commercial rate of return, it must notify Ofcom and take appropriate steps to return to earning a commercial rate of return over an appropriate period. To demonstrate compliance, the BBC provides us with its target rates of return before the start of each financial year and actual rates of return for its subsidiaries and lines of business biannually.
- 2.40 Following the conclusion of the BBC’s commercial review, in December 2018 the BBC Board published targets for its commercial subsidiaries. The Board decided that EBITDA margin was the appropriate metric for target setting and set a target of 9-11% for BBC Studios to achieve over a three to five year period.<sup>32</sup>
- 2.41 In this review we intend to provide more clarity in this area. In particular, we plan to evaluate and provide guidance to stakeholders on what we consider represents a commercial rate of return and the appropriate period BBC Studios should earn this rate over.

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<sup>30</sup> [BBC Fair Trading: Consolidated Group Trading Manual, 15 September 2020.](#)

<sup>31</sup> [BBC Commercial Holdings Limited Annual Report and Consolidated Financial Statements, Year end 31 March 2020](#), page 92.

<sup>32</sup> [Targets for the BBC’s commercial subsidiaries, December 2018.](#)

2.42 To inform this work, we have assessed the BBC’s changes to its lines of business within BBC Studios, and our consultation is published alongside this call for evidence.<sup>33</sup> We provisionally conclude that BBC Studios’ decision to combine its production and distribution activities into one line of business is appropriate. However, we consider it is also important for Ofcom to be able monitor the rates of return within this new line of businesses so we propose some amendments to our rules.

## Other areas

2.43 We are aware stakeholders may have additional concerns about other ways that BBC Studios might gain an unfair advantage as a result of its relationship with the Public Service e.g. through the Public Service’s commissioning.<sup>34</sup> We are interested in hearing from stakeholders whether there are any such concerns and if so, we invite evidence to support these concerns.

2.44 In September 2019, we concluded that there was not a significant risk that the BBC’s involvement in BritBox would distort the market or create an unfair competitive advantage.<sup>35</sup> We welcome views and supporting evidence from stakeholders on whether there is new information on how BBC has implemented its involvement in BritBox such that there are concerns that we should be considering as part of this review.<sup>36</sup>

## Next steps

2.45 We welcome evidence from stakeholders on the issues raised in this document and any other issues relating to the boundary between the Public Service and BBC Studios. We also invite views on whether Mediatique’s report (published alongside this document) represents a reasonable basis for us to consider the market context for this review. The deadline for responding to this call for evidence is 4 December 2020.

2.46 We will consider all stakeholder representations, undertake analysis, which we expect will require some further information gathering. We are planning to publish our findings from this review in Spring 2021.

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<sup>33</sup> [BBC Studios’ lines of business, Assessment of BBC Studios’ changes to its lines of business](#), 9 October 2020.

In 2019, the BBC simplified its lines of business (a group of activities that the BBC combines for target setting and reporting purposes) from five lines of business which included: UK television production, International production and formats, Content sales, Consumer products and Branded Services to integrated production and distribution and branded services.

<sup>34</sup> The BBC is required to comply with the Commissioning Requirements, including the requirement to commission on a fair, reasonable, non-discriminatory and transparent basis.

<sup>35</sup> [Britbox materiality assessment - final determination, Relationship between BritBox and the BBC’s Public Service activities](#), Ofcom, 19 September 2019.

<sup>36</sup> We said in our statement on the BBC’s involvement in BritBox that we would continue to monitor its relationship with BritBox so that we could step in if required.

# A1. Responding to this consultation

## How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 4 December 2020.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-2/review-of-interaction-bbc-studios-and-bbc-public-service>. You can return this by email to [BBC.studiosreview@ofcom.org.uk](mailto:BBC.studiosreview@ofcom.org.uk).
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [BBC.studiosreview@ofcom.org.uk](mailto:BBC.studiosreview@ofcom.org.uk), as an attachment in Microsoft Word format, together with the [cover sheet](#).
- A1.4 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
  - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.5 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A1.6 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.7 You do not have to answer all the issues in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.8 It would also help if you could explain why you hold your views, and what you think the effect of Ofcom’s proposals would be.
- A1.9 If you want to discuss the issues and questions raised in this consultation, please contact the team by email to [BBC.studiosreview@ofcom.org.uk](mailto:BBC.studiosreview@ofcom.org.uk).

## Confidentiality

- A1.10 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](#), as soon as we receive them.

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

## Next steps

- A1.14 Following this consultation period, Ofcom plans to publish initial findings in Spring 2021.
- A1.15 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

## Ofcom's consultation processes

- A1.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.17 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.
- A1.18 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

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

## A2. Ofcom's consultation principles

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

#### Before the consultation

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

#### During the consultation

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with 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.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

#### After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish 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.



## A3. Consultation coversheet

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

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

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If 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)