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# **Ofcom's Annual Report on the BBC: 2019/20**

## Annex 1: Compliance with regulatory requirements

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## Introduction and summary

- A1.1 This annex sets out our assessment of the BBC's compliance with the specified requirements set out in Clause 59 of the [Framework Agreement](#) (the Agreement). The specified requirements include the conditions and obligations found in:
- The [Operating Licence](#): which sets out the regulatory conditions that Ofcom considers appropriate for requiring the BBC to:
    - fulfill its Mission and promote the Public Purposes;
    - secure the provision of distinctive output and services; and
    - secure that all audiences in England, Scotland, Wales and Northern Ireland are well served.
  - Schedule 3 of the Agreement: which includes obligations relating to the BBC's commissioning activity, as well as other matters.
  - The [Operating Framework](#): which contains the provisions Ofcom considers appropriate to secure the effective regulation of the activities of the BBC as set out in the [Royal Charter](#) (the Charter) and Agreement.
  - Other specified requirements: which include the information requirements in Article 47 of the Charter and clauses relating to complaints.
- A1.2 Our overall assessment is that the BBC complied with the specified requirements in the 2019/20 reporting period with the exception of three Operating Licence conditions that it did not meet in the last few weeks of the reporting period. The BBC has explained the reasons for the non-compliance, and we are satisfied that the reason for this was directly related to the exceptional circumstances of Covid-19. Therefore, we have decided not to take enforcement action against the BBC in relation to these conditions.
- A1.3 We note that Covid-19 is likely to have a more significant impact on the BBC's ability to comply with its regulatory requirements for the next reporting period. We are working with the BBC to understand the scale of the impact and the extent to which it will be able to fulfil the quota and conditions.
- A1.4 We set out further details of our assessment, and the information relied on, in the rest of this annex.

## Information relied on in assessing compliance

- A1.5 Ofcom has the power under Article 47 of the Charter to require the BBC to provide information for the purpose of enabling Ofcom to carry out its functions. We sent the BBC an Article 47 information request on 1 September 2020 (1 September Notice) which required the BBC to provide information that we considered necessary to enable us to assess the BBC's compliance with the specified requirements.
- A1.6 The 1 September Notice requested information that would determine whether the BBC met the obligations in the Operating Licence, Schedule 3 of the Agreement and the Operating Framework. This included requesting information that set out how the BBC had assessed its own compliance with the obligations. In addition, we asked the BBC to provide additional information relating to matters raised in [our second annual report on the BBC](#)

about how it is delivering against its requirements on diversity. This included information about how the [BBC Diversity Commissioning Code of Practice \(DCCoP\)](#) has contributed to meeting these conditions.

- A1.7 Alongside the BBC's response to the 1 September Notice, we also relied on the following information in assessing the BBC's compliance with the specified requirements:
- The BBC's own review of its compliance in its [Annual Report and Accounts 2019/20](#).
  - The information provided by the BBC in response to an Article 47 information notice of 16 January 2020 regarding its Public Service Broadcasting and Made Outside London activities.
  - Complaints and representations made to us between 1 April 2019 and 31 March 2020.

## Operating Licence conditions

- A1.8 The Operating Licence for the BBC sets out the regulatory conditions that Ofcom considers appropriate for requiring the BBC to fulfil its Mission and promote the Public Purposes. The BBC must comply with the regulatory conditions in the Operating Licence in providing the UK public services and we may take enforcement action in the event of non-compliance.
- A1.9 This section outlines our assessment of the BBC's compliance with its Operating Licence conditions between 1 April 2019 and 31 March 2020. Any conditions set for the calendar year have been measured across the 2019 calendar year.
- A1.10 The BBC Scotland channel was introduced in February 2019, at which point BBC Two Scotland was discontinued and the calendar year regulatory conditions were replaced with new conditions applicable to the BBC Scotland channel. We have therefore assessed the BBC's performance for the BBC's Scotland channel for the first time this year.

### Our assessment of compliance with the Operating Conditions

- A1.11 Table 1 contains summaries of the Operating Licence conditions and our assessment of the BBC's compliance with them. The full and authoritative text can be found in the Operating Licence at the regulatory condition indicated.
- A1.12 We have found that the BBC has complied with all but three of the Operating Licence conditions. The three conditions that the BBC has failed to meet are highlighted in red in Table 1:
- a) Condition 2.9.1, which places a requirement on BBC Radio 1Xtra to have at least one hour allocated to news during Daytime each weekday (excluding public holidays), including at least two extended bulletins;
  - b) Condition 2.15, which places a weekly requirement on BBC Asian Network to have at least 24 hours allocated to news and current affairs programming; and
  - c) Condition 2.87, which places a financial year requirement on BBC Two Wales to allocate at least 175 hours to non-news programmes.
- A1.13 For each of the three conditions the BBC has not met, it has provided detailed reasons as to why the Covid-19 crisis affected its ability to meet the quotas. This included details of the way in which the BBC responded to the Covid-19 crisis (including staff and schedule changes to account for social distancing restrictions) and the knock-on effect this had on its

ability to meet these conditions. The BBC has also provided details of the mitigations it put in place to minimise the impact on audiences during this time.

- A1.14 Having considered this information we are satisfied that the non-compliance was directly related to the exceptional circumstances of the Covid-19 crisis. We are therefore not taking any further action in relation to the failure to comply with these conditions. We remain engaged with the BBC in relation to the impact of Covid-19 on the BBC's ability to comply with its Operating Licence conditions for the 2020/21 period. This is consistent with our regulatory approach to all our regulated stakeholders including other broadcasters.
- A1.15 In addition to the three Operating Licence conditions that the BBC has failed to meet as a result of Covid-19, we note that there were five Operating Licence conditions where the BBC has reported an *average* weekly figure against a weekly quota. These are the conditions that relate to weekly news quotas for nations and regions radio services and are highlighted in blue in Table 1 (conditions 2.82.1 (BBC Radio Scotland), 2.88.1 and 2.89.1 (BBC Radio Wales and BBC Radio Cymru), 2.95.1 and 2.95.2 (BBC Radio Ulster and BBC Radio Foyle)).
- A1.16 We understand the reason for this is that each year, the BBC may make scheduling changes to its radio schedule around public holidays and seasonal events (including Christmas, and Eisteddfods for BBC Radio Cymru), which it considers in audiences' interests. There are therefore some weeks in which the BBC would not meet the weekly quota as a result. However, the BBC over-delivers against the quota in most other weeks of the year to make up for these seasonal variations in scheduling. Although this means that the BBC would technically be non-compliant against the weekly quota for a few weeks each year, we consider that the seasonal variations are reasonable, and we are considering a licence variation or other appropriate steps to take account of the circumstances. We have not therefore found the BBC non-compliant with these conditions and will not be taking any further action in relation to these specific weekly failures.
- A1.17 Similarly, we note that in addition to the five conditions above, the BBC did not request a temporary suspension to some of its news output requirements under condition 2.10.1 (Radio 2) during the Christmas, New Year and Easter bank holidays and condition 2.14 (Radio 6 Music) during the Christmas bank holidays and Christmas Eve. Therefore, the BBC was technically non-compliant with the weekly quotas during these periods. However, condition 2.16 specifically allows for such temporary suspensions and we would have agreed to these, had requests been made. We therefore consider this to be an administrative oversight and have not found the BBC non-compliant with these conditions. We will not be taking any further action; however, we remind the BBC of its obligations and expect it to submit a request if it wishes conditions to be temporarily suspended in future.
- A1.18 We also note the BBC's research in relation to conditions 2.44 and 2.45 of the Operating Licence that require the BBC to report to Ofcom on audience satisfaction with the BBC's reflection, representation and serving of the diverse communities of the UK, and to take steps to improve satisfaction among those groups which are dissatisfied with the BBC's performance in these areas.
- A1.19 The BBC's research indicates that there are no dissatisfied audiences, based on their measurement proxy for audience satisfaction ('effectiveness'). This shows that no audience groups rate the BBC more 'ineffective' than they rate it 'effective' on the statements the BBC uses to determine satisfaction. Therefore, the BBC is not required to set out steps to improve the perceptions of audience groups that are dissatisfied.

- A1.20 In response to the concerns we raised last year on this issue, the BBC has identified some 'less satisfied' audience groups, which are largely in line with those we have highlighted as underserved in each of our annual reports on the BBC, including those from lower socio-economic backgrounds, audiences in Scotland and disabled people. However, the BBC has not set out clearly how it has met, or intends to meet, their needs. This approach is at odds with the ambition of the Director-General who has made clear that he wants the BBC to deliver for all audiences.
- A1.21 It is our view that the metrics the BBC uses to measure audience satisfaction are too narrow. To achieve the Director-General's ambition for the BBC to connect with all audiences, we encourage the BBC to consider a more holistic range of measures to understand audience satisfaction and to ensure it provides output and services that meet the needs of all the UK's nations, regions and communities.
- A1.22 As well as broadening its definition of dissatisfied audiences to include viewers who are 'less satisfied' with how they have been reflected, represented, and served, the BBC could be much clearer on the steps it has taken or will take to improve these audiences' perceptions. We encourage the BBC to use a more holistic range of measures for evaluating audience perceptions in future.

Table 1: Assessment of all conditions

## Purpose 1: to provide impartial news and information

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from the BBC Annual Report and Accounts information notice responses)
2.4.1	BBC One	Network news at intervals throughout the day	Complied	Schedule provided
2.4.2	BBC One	Calendar year quota: at least 1,520 hours of network news with 280 hours in peak time (not including overnight simulcasts on BBC News channel)	Complied	1,697 hours (293 hours in peak)
2.4.3	BBC One	Calendar year quota: at least 45 hours of network current affairs in peak time	Complied	63 hours
2.5	BBC One and BBC Two	Calendar year quota: at least 450 hours of current affairs, at least 106 hours in peak time	Complied	569 hours (127 hours in peak)
2.6.1	CBBC	News at intervals throughout the day	Complied	Schedule provided
2.6.2	CBBC	Financial year quota: at least 85 hours of news	Complied	92 hours
2.7.1	BBC News channel	Must include more international news than other main continuous news channels in the United Kingdom	Complied	Monitoring provided to demonstrate that it covered more international news than other main continuous news channels in the UK
2.7.2	BBC News channel	Must include more local/regional news than other main continuous news channels in the United Kingdom	Complied	Monitoring provided to demonstrate that it covered more local/regional news than other main continuous news channels in the UK

2.8.1	Radio 1	Weekly daytime quota: at least one hour of news (except public holidays) including at least two extended bulletins, at least one in peak	Complied	Delivered at least 60 minutes per day, including two extended bulletins with one in peak listening time <sup>1</sup>
2.8.2	Radio 1	Bulletins at regular times during daytime weekends	Complied	Schedule provided
2.9.1	1Xtra	Weekly daytime quota: at least one hour of news (except public holidays) including at least two extended bulletins	Did not comply	Delivered 60 minutes per day, including two extended bulletins, with the exception of two days at the end of March 2020 when it only delivered 57 minutes per day for two days due to Covid-19
2.9.2	1Xtra	Bulletins at regular times during daytime weekends	Complied	Schedule provided
2.10.1	Radio 2	Weekly quota: at least 17 hours of news and current affairs, at least three hours in peak time	Complied	17 hours (three hours in peak) <sup>2</sup>
2.10.2	Radio 2	News bulletins at regular times	Complied	Schedule provided
2.11	Radio 3	News at intervals throughout the day	Complied	Schedule provided
2.12.1	Radio 4	Financial year quota: at least 2,750 hours of news and current affairs (including repeats)	Complied	3,557 hours
2.12.2	Radio 4	Daily reports when Parliament is sitting	Complied	<i>Today in Parliament</i> schedule provided
2.13.1	BBC Radio 5 live	Financial year quota: at least 75% of output in each must be news and current affairs	Complied	76% of output was news and current affairs <sup>3</sup>

<sup>1</sup> Condition 2.16 of the Operating Licence allows the BBC to request that the requirements in conditions 2.8.1, 2.9.1, 2.10.1, 2.14 or 2.15 be suspended for a specified period. Over the Christmas period of 2019 the BBC requested a temporary suspension of the news condition for Radio 1 (condition 2.8.1), 1Xtra (condition 2.9.1), and BBC Asian Network (condition 2.15). As noted in paragraph A1.17 above, the BBC amended its schedules but did not request the necessary temporary suspensions for Radio 2 (condition 2.10.1) during the Christmas and Easter periods and Radio 6 Music (condition 2.14) during the Christmas period.

<sup>2</sup> As noted in paragraph A1.17 and footnote 1, the BBC did not request a temporary suspension for this condition

<sup>3</sup> Calculated as the hours of news programmes and news content within other programmes (e.g. news bulletins), excluding any non-news content in news programmes (e.g. promotional material)

2.13.2	BBC Radio 5 live	Extensive coverage of local/general/devolved chamber elections, and regular coverage of European and international politics	Complied	Evidence provided of news programmes that cover these subjects
2.14	Radio 6 Music	Weekly quota: at least six hours of news	Complied	Six hours
2.15	BBC Asian Network	Weekly quota: at least 24 hours of news and current affairs	Did not comply	24 hours (22hr 50min for the final two weeks of the year due to Covid-19)
2.17	BBC Online	Adequate links to material provided by third parties	Complied	Evidence provided of BBC's approach to ensuring that it provides adequate links to material provided by third parties

**Purpose 2: to support learning for people of all ages**

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.18	BBC One	Financial year quota: at least 45 hours of arts and music, some in peak time (including repeats and acquisitions)	Complied	55 hours (19 hours in peak)
2.19	BBC One and BBC Two	Financial year quota: at least 115 hours of religious programmes, some in peak time (including repeats and acquisitions, but not output broadcast overnight in the Sign Zone)	Complied	146 hours (13 hours in peak)
2.20	BBC Two	Financial year quota: at least 175 hours of arts and music, some in peak time (including repeats and acquisitions, but not output broadcast overnight in the Sign Zone)	Complied	227 hours (68 hours in peak)
2.21	BBC Four	Financial year quota: at least 175 hours of new arts and music (including acquisitions)	Complied	224 hours
2.22	CBeebies	Each financial year it delivers content to support pre-school children in their learning	Complied	Evidence of content provided
2.23.1	CBBC	Financial year quota: at least 1,000 hours of drama (including repeats and acquisitions)	Complied	1,961 hours
2.23.2	CBBC	Financial year quota: at least 675 hours of factual programmes (including repeats and acquisitions)	Complied	1,483 hours
2.24.1 and 2.24.2	BBC ALBA	Weekly quota for originated programming for learners of the Gaelic language: five hours. 2.24.1 does not include news; 2.24.2 includes	Complied	12 hours on average

		programming first shown on other UK public services		
2.25	Radio 1	Financial year quota: at least 40 new documentaries (including those first broadcast on 1Xtra)	Complied	46 new documentaries
2.26	1Xtra	Financial year quota: at least 40 documentaries (including repeats)	Complied	47 documentaries
2.27.1	Radio 2	Financial year quota: at least 100 hours of arts (including repeats)	Complied	121 hours
2.27.2	Radio 2	Financial year quota: at least 130 hours of documentaries (not including repeats)	Complied	130 hours
2.27.3	Radio 2	Financial year quota: at least 170 hours of religious output covering a broad range of faiths (including repeats)	Complied	191 hours
2.28.1	Radio 3	Financial year quota: at least 45% of music output consists of live or specially recorded music	Complied	50% of output was live or specially recorded
2.28.2	Radio 3	Financial year quota: at least 440 live or specially recorded performances	Complied	942 live or specially recorded performances <sup>4</sup>
2.28.3	Radio 3	Financial year quota: commission at least 25 new musical works (excluding repeats)	Complied	40 new musical works
2.28.4	Radio 3	Financial year quota: broadcast at least 35 new documentaries on arts and cultural topics (excluding repeats)	Complied	42 new documentaries

<sup>4</sup> The BBC changed its methodology for assessing compliance with this condition for 2019/20 to include recorded performances on Afternoon Concert and New Generation Artists towards the total. Using the previous methodology, the total would be 485.

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2.29.1	Radio 4	Financial year quota: at least 375 hours of original documentaries (excluding repeats) covering a range of subjects	Complied	484 hours
2.29.2	Radio 4	Financial year quota: at least 200 hours of original religious programming (excluding repeats), covering a broad range of faiths	Complied	203 hours
2.30	Radio 6 Music	Each week, on average across each financial year, at least ten hours (520 per year) of one or more of speech-based features, documentaries and essays	Complied	542 hours for the year
2.31	BBC Online	Deliver content which supports children and teenagers in their formal learning in all parts of the United Kingdom	Complied	Hyperlinks to BBC Bitesize section of the website provided

**Purpose 3: original productions**

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.32.1	BBC One, BBC Two, BBC Four, BBC Alba, BBC Scotland	Calendar year quota for original productions: 75% of all programmes	Complied	BBC One 85% BBC Two 90% BBC Four 88% BBC Alba 94% BBC Scotland 98%
2.32.1	BBC Parliament, BBC News channel	Calendar year quota for original productions: 90% of all programmes	Complied	BBC Parliament 97%, BBC News channel 98%
2.32.1	CBBC	Calendar year quota for original productions: 72% of all programmes	Complied	81%
2.32.1	CBeebies	Calendar year quota for original productions: 70% of all programmes	Complied	74%
2.32.2	BBC One, BBC Two	Calendar year quota for original productions: 90% of all programmes in peak	Complied	BBC One 99% BBC Two 95%
2.32.2	BBC Four	Calendar year quota for original productions: 60 % of all programmes in peak	Complied	86%

**Purpose 3: first-run UK originations**

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.33	BBC One	Calendar year quota for first-run UK originations across daytime and peak: 4,000 hours	Complied	4,258 hours
2.34	BBC Two	Calendar year quota for first-run UK originations across daytime and peak: 2,200 hours	Complied	2,749 hours
2.35	CBBC	Calendar year quota for first-run UK originations across daytime and peak: 400 hours	Complied	406 hours
2.36	CBeebies	Calendar year quota for first-run UK originations across daytime and peak: 100 hours	Complied	120 hours

**Purpose 3: distinctiveness**

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.38	BBC One and BBC Two	Financial year quota: at least 300 hours of comedy, some in peak (including repeats and acquisitions)	Complied	354 hours (218 hours in peak)
2.39.1	Radio 1	Financial year quota: at least 45% of daytime music is from United Kingdom acts	Complied	52%
2.39.2	Radio 1	Financial year quota: at least 50% of daytime music is New Music, a significant proportion must come from new and emerging United Kingdom artists	Complied	52% (41% of additions to the playlist in 2019 came from 'new and emerging UK artists')

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.39.3	Radio 1	Weekly quota: at least 60 hours of specialist music	Complied	Between 64-67.5 hours per week with 66 average
2.39.4	Radio 1	Financial year quota: at least 175 new sessions live or recorded within the previous three months (excluding repeats)	Complied	182 qualifying sessions
2.39.5	Radio 1	Plays a broader range of music than comparable providers, taking into account the number of plays and the size of the playlist, at peak and daytime	Complied	Evidence provided to demonstrate compliance
2.39.6	Radio 1	In each calendar year it offers at least two major social action campaigns	Complied	Two campaigns (Radio 1's <i>24-Hour LOL-a-thon with Scott &amp; Chris</i> and Radio 1's <i>Teen Heroes</i> )
2.40.1	Radio 2	Financial year quota: at least 40% of daytime music is from United Kingdom acts	Complied	51%
2.40.2	Radio 2	Financial year quota: at least 20% of daytime music is New Music, of which a significant proportion must come from new and emerging United Kingdom artists	Complied	26% (20% of additions to the playlist in 2019 came from 'new and emerging UK artists')
2.40.3	Radio 2	Financial year quota: at least 260 hours of live music	Complied	260 hours
2.40.4	Radio 2	Financial year quota: at least 1,100 hours of specialist music programmes (which appeal to specific groups of listeners, and focus on a specific genre or cutting-edge music from a range of genres)	Complied	1,249 hours

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.40.5	Radio 2	Plays a broader range of music than comparable providers, taking into account the number of plays and the size of the playlist, at both peak and daytime	Complied	Evidence provided to demonstrate compliance
2.41	BBC Radio 5 live	Financial year quota: live commentary offered on at least 20 sports	Complied	21 different sports <sup>5</sup>

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<sup>5</sup> The sports were athletics, para-athletics, boxing (men's and women's), cricket (men's and women's), road cycling, football (men's and women's), Formula One, golf (men's and women's), horse racing, MMA, netball, rugby union (men's and women's), rugby league, snooker, swimming and tennis

**Purpose 4: diversity**

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts /EIR/Diversity Commissioning CoP and information notice response)
2.42	Diversity, audience portrayal and representation	The BBC must report to Ofcom annually on how the UK public services as a whole have reflected, represented and served the diverse communities of the whole of the United Kingdom during the previous Financial Year. In particular, the BBC must demonstrate how it has:	Complied	Relevant information to support compliance with this condition is found throughout the BBC Annual Report and Accounts and its DCCoP Progress Report.
2.42.1	Diversity, audience portrayal and representation	had regard to the range of diverse communities of the whole of the United Kingdom including age, disability, gender reassignment, race, religion and belief, sex, sexual orientation and socio-economic background	Complied	Relevant information to support compliance with this condition is found throughout the BBC Annual Report and Accounts and its DCCoP Progress Report
2.42.2	Diversity, audience portrayal and representation	served and delivered content for the range of the diverse communities of the whole of the United Kingdom	Complied	Relevant information referenced from the BBC Annual Report and Accounts (pages 30-39, 140, 144, 149 and 153)
2.42.3	Diversity, audience portrayal and representation	accurately represented the diverse communities of the whole of the United Kingdom	Complied	Relevant information referenced from the BBC Annual Report and Accounts (pages 30-39) and throughout its DCCoP Progress Report
2.42.4	Diversity, audience portrayal and representation	authentically portrayed the diverse communities of the whole of the United Kingdom	Complied	Relevant information referenced from the BBC Annual Report and Accounts (pages 30-39) and throughout its DCCoP Progress Report (in particular, pages 11-15 on 'Authentic Portrayal')

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts /EIR/Diversity Commissioning CoP and information notice response)
2.42.5	Diversity, audience portrayal and representation	raised awareness of the different cultures and alternative viewpoints of the diverse communities of the whole of the United Kingdom	Complied	Relevant information referenced from the BBC Annual Report and Accounts (pages 30-39) and throughout its DCCoP Progress Report
2.43	UK public services	The BBC must report on its progress towards meeting its on-screen and on-air representation and/or portrayal targets	Complied	Relevant information referenced from the BBC Annual Report and Accounts (page 38) and in its DCCoP Progress Report (pages 25-26)
2.44	UK public services	The BBC must measure and report to Ofcom annually on audience satisfaction during the previous financial year with the reflection, representation and serving of the diverse communities of the whole of the United Kingdom across the UK public services, with particular regard to first-run content across all genres. This must include audience satisfaction in the following areas:	Complied	The BBC provided Ofcom with survey data showing audiences' opinions relating to this condition. However, our view is that the metrics the BBC uses are too narrow. We encourage the BBC to consider a more holistic range of measures to understand audience satisfaction and meet the needs of all the UK's nations, regions and communities. See A1.19 above
2.44.1	Diversity, audience portrayal and representation	how the BBC represents, portrays and serves diverse audiences	Complied	The BBC provided Ofcom with survey data showing audiences' opinions relating to this sub-condition and has referenced its Annual Report and Accounts (pages 30-39 and 119)
2.44.2	Diversity, audience portrayal and representation	how the BBC reflects the whole of the United Kingdom population on-screen and on air, with particular regard to first-run content across all genres	Complied	The BBC provided Ofcom with survey data showing audiences' opinions relating to this sub-condition and has referenced its Annual Report and Accounts (pages 30-39 and 119)

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts /EIR/Diversity Commissioning CoP and information notice response)
2.44.3	Diversity, audience portrayal and representation	how the BBC raises awareness of different cultures and viewpoints	Complied	The BBC provided Ofcom with survey data showing audiences' opinions relating to this sub-condition and has referenced its Annual Report and Accounts (pages 30-39 and 119)
2.45	Diversity, audience portrayal and representation	Where in any particular financial year the BBC's measurement of audience satisfaction indicates that specific audience groups are dissatisfied with the BBC's performance in these areas, it must:	Complied	The BBC did not identify any dissatisfied audience groups based on its audience satisfaction research. The research shows no audience groups that rate the BBC more 'ineffective' than 'effective' on any of the metrics used to determine audience satisfaction. As a result, the BBC has not responded to condition 2.45 with steps to improve satisfaction among audience groups that are dissatisfied
2.45.1	Diversity, audience portrayal and representation	identify the steps that it will take to seek to improve audience satisfaction among those particular audience groups	Complied	The BBC did not identify any dissatisfied audience groups
2.45.2	Diversity, audience portrayal and representation	include in its report an account of the steps it has taken and the effect that those steps have had on audience satisfaction in those particular audience groups	Complied	N/A

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts /EIR/Diversity Commissioning CoP and information notice response)
2.46	Diversity, audience portrayal and representation	The BBC must comply with an Ofcom approved code of practice setting out the steps it will take when commissioning content across all genres to ensure that such content accurately represents, authentically portrays and reflects the diverse communities of the whole of the United Kingdom. It must cover commissions produced by the BBC in-house and externally	Complied	The Code was approved by Ofcom and published by the BBC on 28 March 2018. The BBC's annual progress report on the Code demonstrates compliance. We explain in Section 8 of our Annual Report the steps we would like the BBC to take to improve its compliance reporting
2.47	Diversity, audience portrayal and representation	The code of practice must set out the steps that the BBC will take, when commissioning content in respect of:	Complied	The code includes these specified matters
2.47.1	Diversity, audience portrayal and representation	on-screen portrayal and casting	Complied	The code includes these specified matters
2.47.2	Diversity, audience portrayal and representation	workforce diversity of commissioned production teams	Complied	The code includes these specified matters
2.47.3	Diversity, audience portrayal and representation	the production and commissioning decision process	Complied	The code includes these specified matters

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts /EIR/Diversity Commissioning CoP and information notice response)
2.48	Diversity, audience portrayal and representation	It must monitor its compliance with the code of practice and report annually to Ofcom on compliance with the code of practice during the previous financial year	Complied	Report provided to Ofcom
2.50	Diversity, audience portrayal and representation	The BBC must monitor and report to Ofcom annually on the diversity of all staff (employees and freelance) of the BBC who are employed in connection with the provision of the UK public services. The report must be in a form specified by Ofcom and must include the following information:	Complied	Data on total diversity workforce has been provided in response to our request for information
2.50.1	Diversity, audience portrayal and representation	the number of such staff by age, disability, gender reassignment, race, religion and belief, sex, sexual orientation and socio-economic background	Complied	Data on total diversity workforce has been provided in response to our request for information
2.50.2	Diversity, audience portrayal and representation	the job level of such staff by the following categories: Board members and nonexecutives; senior managers; middle/junior managers; and non-management	Complied	Data on total diversity workforce has been provided in response to our request for information
2.50.3	Diversity, audience portrayal and representation	the job type of such staff by the following categories: programming; commissioning; technical/engineering; sales/marketing; and support functions/administrative	Complied	Data on total diversity workforce has been provided in response to our request for information

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts /EIR/Diversity Commissioning CoP and information notice response)
2.50.4	Diversity, audience portrayal and representation	how it has made progress towards meeting its diversity workforce targets	Complied	Data on total diversity workforce has been provided in response to our request for information

**Purpose 4, nations and regions: Programme making in the nations and regions: network programmes**

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.53.1	Network programmes United Kingdom (outside the M25 Area)	Calendar year quota: at least 50% of the hours of network programmes made in the United Kingdom are made outside the M25 Area	Complied	62%
2.53.2	Network programmes United Kingdom (outside the M25 Area)	Calendar year quota: the network programmes that are made in the United Kingdom outside the M25 Area constitute a suitable range of programmes	Complied	Evidence of suitable range provided through PSB returns
2.53.3	Network programmes United Kingdom (outside the M25 Area)	Calendar year quota: at least 50% of BBC expenditure on network programmes made in the United Kingdom refers to programme production at different production centres outside the M25 Area	Complied	51%

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.54.1	Network programmes England (outside the M25 Area)	Calendar year quota: at least 30% of the hours of network programmes made in the United Kingdom are made in England (outside the M25 Area)	Complied	38%
2.54.2	Network programmes England (outside the M25 Area)	Calendar year quota until 31 December 2019: at least 28% of BBC expenditure on network programmes made in the United Kingdom refers to programme production at different production centres in England (outside the M25 Area)	Complied	29%
2.56.1	Network programmes Scotland	Calendar year quota: at least 8% of the hours of network programmes made in the United Kingdom are made in Scotland	Complied	15%
2.56.2	Network programmes Scotland	Calendar year quota: at least 8% of BBC expenditure on network programmes made in the United Kingdom refers to production at different production centres in Scotland	Complied	9%
2.58.1	Network programmes Wales	Calendar Year quota: until 31 December 2021, at least 4% of the hours of network programmes made in the United Kingdom are made in Wales	Complied	5%

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.58.3	Network programmes Wales	Calendar year quota: at least 5% of BBC expenditure on network programmes made in the United Kingdom refers to production at different production centres in Wales	Complied	8%
2.60.1	Network programmes Northern Ireland	Calendar year quota: until 31 December 2021, at least 2% of the hours of network programmes made in the United Kingdom are made in Northern Ireland	Complied	3%
2.60.3	Network programmes Northern Ireland	Calendar year quota: at least 3% of BBC expenditure on network programmes made in the United Kingdom refers to production at different production centres in Northern Ireland	Complied	4%
2.62	Network programmes' production centres	The expenditure referred to in conditions 2.53, 2.54, 2.56, 2.58 and 2.60 must be referable to a suitable range of production centres	Complied	The data on different productions and different locations used is provided as part of the Made Out of London data returns

**Purpose 4: nations and regions: Programme making in the nations and regions: radio services**

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.64 and 2.65.1 - 2.65.5	UK public radio services	(2.64) in each financial year at least one third (33.3%) of relevant expenditure is incurred outside the M25 Area. 'Relevant expenditure' means expenditure on programme production (not including centrally-funded costs) (2.65) In meeting the requirement in condition 2.64, the BBC must ensure that some of the relevant expenditure is incurred in respect of each of the following radio services: (2.65.1) Radio 1; (2.65.2) Radio 2; (2.65.3) Radio 3; (2.65.4) Radio 4; (2.65.5) BBC Radio 5 live	Complied	38% of expenditure was incurred outside the M25 Area, with some of that expenditure incurred in respect of each of Radio 1, Radio 2, Radio 3, Radio 4 and BBC Radio 5 live
2.66	Radio 3	Financial year quota: at least 40% of relevant expenditure is incurred outside the M25 Area. 'Relevant expenditure' means expenditure on programme production (not including expenditure on centrally funded costs) and Radio 3's allocation of the central orchestras' subsidy	Complied	44%

**Purpose 4: nations and regions: Programming for the nations and regions**

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.67.1	BBC One and Two	Calendar year quota 2019, at least 5,969 hours of programmes of national or regional interest	Complied	6,334 hours
2.67.3	BBC One and Two	Of the programmes in condition 2.67.1 there must be a suitable range of programmes (including regional news programmes)	Complied	Evidence provided as part of the PSB return process. Genres included news, current affairs, arts, children's, drama, comedy, factual and sport, among others
2.67.4	BBC One and Two	Calendar year quota: at least 95% are made in the nation or region where they are of national or regional interest	Complied	99%
2.67.5	BBC One and Two	Calendar year quota 2019: at least 579 hours consist of non-news programming in peak time	Complied	616 hours
2.67.7	BBC One and Two	Calendar year quota 2019: at least 195 hours consist of non-news programming at times immediately before or after peak	Complied	297 hours
2.68	BBC One	Calendar year quota: the time allocated to programmes of national or regional interest includes at least 4,300 hours of news of national or regional interest to be broadcast at intervals throughout the day on BBC One, at least 2,100 hours in peak time	Complied	4,790 hours (2,309 hours in peak)
2.70	BBC Parliament	Financial year quota: at least 300 hours of proceedings of the Scottish Parliament, Northern Ireland Assembly and Welsh Assembly	Complied	518 hours

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.71.1 and 2.71.2	UK public radio service Each BBC local radio station BBC Radio Scotland BBC Radio nan Gàidheal BBC Radio Wales BBC Radio Cymru BBC Radio Ulster and BBC Radio Foyle	For each service the BBC must ensure: that every financial year, the proportion of speech content on that service is: 2.71.1 - on average at least 60% in core hours, except for BBC Radio nan Gàidheal for which it is on average at least 40% in core hours; and 2.71.2 - 100% during breakfast peak	Complied	90% in core hours for BBC Radio Scotland 49% in core hours for BBC Radio nan Gàidheal 71% in core hours for BBC Radio Wales 68% in core hours for BBC Radio Cymru 71% in core hours for BBC Radio Ulster and Radio Foyle 100% in breakfast peak for all
2.74.1	BBC local radio England	Provide news and information of particular relevance to the area and communities it serves at intervals throughout the day	Complied	Evidence provided of editorial approach to ensure it provides news and information relevant to its area and communities. Compliance notes were provided for a sample of stations which provided information on how the station provided news and information relevant to its area <sup>6</sup>

<sup>6</sup> The 1 September Notice requested the BBC to provide compliance notes for 12 local radio stations covering each of the BBC's 12 English regions and including a mix of urban and rural areas

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.74.2	BBC local radio England	Provide other content of particular relevance to the area and communities it serves	Complied	Evidence provided of editorial approach to ensure it provides content relevant to its area and communities. Compliance notes were provided for a sample of stations which provided information on how the station provided other content relevant to its area
2.75	BBC local radio England	Weekly quota: at least 95 hours on each BBC local radio station to be original, locally-made (includes programming shared with neighbouring stations broadcast between 06:00 and 19:00)	Complied	124 hours
2.76	BBC local radio England	The requirement in condition 2.75 applies to the following BBC local radio stations: BBC Radio Guernsey - 80 hours BBC Radio Jersey - 80 hours BBC Radio Somerset - 70 hours	Complied	BBC Radio Guernsey - 112 hours  BBC Radio Jersey - 91 hours  BBC Radio Somerset - 107 hours
2.77.1	BBC Online England	Provide news and information for the English regions	Complied	Relevant hyperlinks provided to pages on the BBC website
2.77.2	BBC Online England	Provide dedicated coverage of sport for the English regions	Complied	Relevant hyperlinks provided to pages on the BBC website
2.78.1	BBC One Scotland	Financial year quota: at least 290 hours of news and current affairs	Complied	367 hours
2.78.2	BBC One Scotland	Financial year quota: at least 155 hours of non-news (includes repeats and acquisitions but not current affairs)	Complied	237 hours

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.79	BBC One Scotland	Provide a range of genres in its programming that reflects Scotland's culture	Complied	Evidence provided of the range of genres and its editorial approach to representing the nations and regions including in its Annual Report and Accounts (pages 32-35, 107 & 108 and 140-156)
2.80.1	BBC Scotland	Provide a range of genres in its programming that reflects Scotland's culture	Complied	Evidence provided of the range of genres and its editorial approach to representing the nations and regions including in its Annual Report and Accounts (pages 32-35, 107 & 108 and 140-156)
2.80.2	BBC Scotland	Every calendar year provide a suitable range of programmes, including programmes with news from across Scotland or reflecting a Scottish perspective	Complied	Evidence provided of the range of programmes and its editorial approach to representing the nations and regions including in its Annual Report and Accounts (pages 32-35, 107 & 108 and 140-156)
2.80.3	BBC Scotland	Calendar year quota: at least 90% of first-run UK originations are made in Scotland	Complied	99%
2.80.4	BBC Scotland	Calendar year quota 2019: at least 212 hours of news in peak time	Complied	273 hours
2.81	BBC ALBA	Includes live news each weekday evening, including during peak time, and a longer news review at weekends	Complied	Schedule provided
2.82.1	BBC Radio Scotland	Weekly quota: at least 50 hours of news and current affairs (including repeats)	Complied	63 hours on average <sup>7</sup>

<sup>7</sup> Paragraph A1.15 sets out why this condition, along with conditions 2.88.1, 2.89.1, 2.95.1 and 2.95.2, are highlighted in blue

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.82.2	BBC Radio Scotland	Provide several regional opt-outs each weekday, offering news, sport and information, and some regional opt-out community programming in the evenings	Complied	Schedule provided
2.82.3	BBC Radio Scotland	Provide content and music of particular relevance to Scotland	Complied	Evidence provided about BBC's editorial approach to representing the nations and regions including examples in its Annual Report and Accounts (pages 32-35, 107 & 108 and 140-156)
2.83.1	BBC Radio nan Gàidheal	Include news frequently across the day, particularly 07:30 to 08:30 and 16:00 to 19:00 on Mondays to Fridays and 09:00 to 11:00 on Saturdays and Sundays	Complied	Schedule provided
2.83.2	BBC Radio nan Gàidheal	Provide content and music of particular relevance to Scotland	Complied	Evidence provided about BBC's editorial approach to representing the nations and regions including examples in its Annual Report and Accounts (pages 32-35, 107 & 108 and 140-156)
2.84.1	BBC Online Scotland	Provide news and information for Scotland	Complied	Relevant hyperlinks provided to pages on the BBC website
2.84.2	BBC Online Scotland	Provide content in Gaelic	Complied	Relevant hyperlinks provided to pages on the BBC website
2.84.3	BBC Online Scotland	Provide dedicated coverage of sport for Scotland	Complied	Relevant hyperlinks provided to pages on the BBC website

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.85.1	BBC One Wales	Financial year quota: at least 275 hours of news and current affairs	Complied	341 hours
2.85.2	BBC One Wales	Financial year quota: at least 65 hours of non-news (includes repeats and acquisitions, and does not include current affairs)	Complied	223 hours
2.86	BBC One Wales and BBC Two Wales	Provide a range of genres in its programming that reflects Wales's culture	Complied	Evidence provided of the range of genres and its editorial approach to representing the nations and regions including in its Annual Report and Accounts (pages 32-35, 107 & 108 and 140-156)
2.87	BBC Two Wales	Financial year quota: at least 175 hours of non-news (includes repeats and acquisitions, and does not include current affairs)	Did not comply	172 hours (cancellation of sporting events at short notice due to the Covid-19 crisis led to this shortfall)
2.88.1	BBC Radio Wales	Weekly quota: at least 32 hours of news and current affairs (including repeats and acquisitions)	Complied	42 hours on average
2.88.2	BBC Radio Wales	Provide content and music of particular relevance to Wales	Complied	Evidence provided about BBC's editorial approach to representing the nations and regions including examples in its Annual Report and Accounts (pages 32-35, 107 & 108 and 140-156)
2.89.1	BBC Radio Cymru	Weekly quota: at least 23 hours of news and current affairs (including repeats)	Complied	25 hours on average
2.89.2	BBC Radio Cymru	Provide content and music of particular relevance to Wales	Complied	Evidence provided about BBC's editorial approach to representing the nations and regions including examples in its Annual Report and Accounts (pages 32-35, 107 & 108 and 140-156)

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.90.1	BBC Online	Provide news and information for Wales	Complied	Relevant hyperlinks provided to pages on the BBC website
2.90.2	BBC Online	Provide content in Welsh	Complied	Relevant hyperlinks provided to pages on the BBC website
2.90.3	BBC Online	Provide dedicated coverage of sport for Wales	Complied	Relevant hyperlinks provided to pages on the BBC website
2.91.1	BBC One Northern Ireland	Financial year quota: at least 310 hours of news and current affairs	Complied	410 hours
2.91.2	BBC One Northern Ireland	Financial year quota: at least 90 hours of non-news programmes (includes repeats and acquisitions but not current affairs)	Complied	108 hours
2.92	BBC One Northern Ireland and BBC Two Northern Ireland	Provide a range of genres in its programming that reflects Northern Ireland's culture	Complied	Evidence provided of the range of genres and its editorial approach to representing the nations and regions including in its Annual Report and Accounts (pages 32-35, 107 & 108 and 140-156)
2.93	BBC Two Northern Ireland	Financial year quota: at least 60 hours of non-news (includes repeats and acquisitions and does not include current affairs)	Complied	177 hours
2.94	BBC Two Northern Ireland	Provide Irish language programming and Ulster-Scots programming	Complied	Evidence in BBC Annual Report and Accounts. There were 29 hours of Irish language programming and 16 hours of Ulster-Scots programming

Condition number	Service	Summary of regulatory condition	Compliance assessment 2019/20	Further evidence (from BBC Annual Report and Accounts and information notice response)
2.95.1	BBC Radio Ulster	Weekly quota: at least 35 hours of news and current affairs (including repeats) on Radio Ulster	Complied	40 on average
2.95.2	BBC Radio Foyle	Weekly quota: at least 20 hours of news and current affairs (including repeats) on Radio Foyle	Complied	23 on average
2.95.3	BBC Radio Ulster and BBC Radio Foyle	Provide content and music of particular relevance to Northern Ireland	Complied	Evidence provided about BBC's editorial approach to representing the nations and regions including examples in its Annual Report and Accounts (pages 32-35, 107 & 108 and 140-156)
2.95.4	BBC Radio Ulster and BBC Radio Foyle	Financial year quota: at least 240 hours of indigenous minority language programming, including Irish and Ulster-Scots output (includes repeats and acquisitions)	Complied	264 hours
2.96.1	BBC Online	Provide news and information for Northern Ireland	Complied	Relevant hyperlinks provided to pages on the BBC website
2.96.2	BBC Online	Provide content in Irish and Ulster-Scots	Complied	Relevant hyperlinks provided to pages on the BBC website
2.96.3	BBC Online	Provide dedicated coverage of sport for Northern Ireland	Complied	Relevant hyperlinks provided to pages on the BBC website

## Schedule 3 obligations

- A1.23 The following section sets out our assessment of the BBC's compliance in 2019/20 with the applicable regulatory obligations in Schedule 3 of the Agreement. Paragraph 2 of Schedule 3 to the Agreement is not a specified requirement on which Ofcom must report – see Clause 59 of the Agreement.
- A1.24 **Table 2** contains the regulatory obligations in Schedule 3 of the Agreement and our assessment of the BBC's compliance with them. We have found that the BBC was compliant with all the applicable regulatory requirements in Schedule 3 of the Agreement. We also provide further detail on Schedule 3(7), which is about competition in commissioning, at the end of this section.

**Table 2: Schedule 3 obligations**

Regulatory obligation	2019/20 assessment
Paragraph (1): No charge to be made for reception of UK public services and associated content	We required the BBC to report to us if, and in which cases, it charged for reception. It confirmed in its response to the 1 September Notice that it made no such charges.
Paragraphs (3) – (5): Content standards, fairness code and party political broadcasts	These are reported on separately in the content standards section of the report.
Paragraph (6): Programmes to be reserved for independent production	The BBC must meet the quota that 25% of the hours of qualifying programming in each year across its television public service channels are allocated to broadcasting a range and diversity of independent productions. It must also meet similar quotas for each of BBC One and BBC Two.  The BBC reported that it exceeded each of these quotas (achieving 32.2% of hours across all channels in 2019 and 29.7% and 38.2% of hours on BBC One and BBC Two respectively). The BBC provided these figures to Ofcom in response to a formal information notice as part of our annual broadcaster data returns process.
Paragraph (7): Television, radio and online production – securing competition between BBC producers and external producers	We are satisfied that the BBC met its obligation to remove the in-house guarantee for children's, sport and non-news related current affairs television programmes by 31 December 2019. Further detail on our assessment of the BBC's compliance with Paragraph (7) is provided below this table.
Paragraph (8): Code relating to programme commissioning	The BBC has maintained and confirmed it continues to apply its existing <a href="#">code relating to programme commissioning</a> , previously agreed with Ofcom. It has confirmed that it did not make any revisions to the code in 2019. It also provided Ofcom with data which showed, to Ofcom's satisfaction, that it had fulfilled the reporting requirement in its code for 2019 and that its previous responses for 2018/19 remain valid. The main change it made in 2019 was to its <a href="#">programme release policy</a> in

	October 2019. Further details on competition in commissioning is set out under this table.
Paragraph (9): Code relating to provision for the hearing and visually impaired	As set out in the <a href="#">Ofcom Television Access Services report for 2019</a> the BBC maintained and applied the Code on Television Access Services and achieved all of its annual quotas for subtitling, signing and audio description and also promoted the availability of access services on the EPG.
Paragraph (10): Retention and production of recordings	Ofcom has set the periods of time that the BBC must retain recordings in its published <a href="#">complaint handling procedures</a> . On the basis that the BBC has provided recordings to Ofcom upon request, we are satisfied that it has complied with this requirement.
Paragraph (11): International obligations	There are currently no such arrangements in place.
Paragraph (12): Equal opportunities	<p>In response to the 1 September Notice, the BBC provided information setting out some of the actions it has taken to meet its equal opportunities obligations including: the Senior Leadership Team Advisers programme; the launch of BBC Elevate; anti-racism training; and developing a language guide for staff to use, across all protected characteristics.</p> <p>In response to Ofcom's 2019/20 Diversity and Equal Opportunities in Television and Radio information request, the BBC highlighted additional initiatives in place to promote equal opportunities. These include the RISE mentoring programmes for minority ethnic group colleagues<sup>8</sup> and the LGBTQ+ Allies programme. Having assessed this information, we are satisfied that the BBC has complied with this obligation in 2019/20.</p>
Paragraph (13): Training	The BBC has provided information regarding how it met these obligations in its Annual Report and Accounts and has provided additional information in response to the 1 September Notice, including information relating to its partnerships with others in the audio-visual industry. Having assessed this information we are satisfied that the BBC has complied with this obligation for 2019/20.
Paragraph (14): General provisions about arrangements under paragraphs 12 and 13	The BBC has reported on the arrangements under paragraphs 12 and 13 in its Annual Report and Accounts (see pages 59-62). In addition, it has provided information to Ofcom that sets out how it has ensured that those affected by the arrangements are aware of them. Having assessed this information we are satisfied that the BBC has complied with this obligation for 2019/20.

<sup>8</sup> A BBC employee mentoring scheme which aims to inspire and engage with under-represented staff from a BAME background, to help development and potential progression into higher bands within the organisation.

## Competition in commissioning

A1.25 Ofcom has two roles in relation to competition in the BBC's commissioning activity. First, to consider whether any additional intervention is necessary in the Operating Framework to protect fair and effective competition. Second, to assess the BBC's compliance with the requirements placed on it under Schedule 3(7) of the Agreement, and if necessary, to enforce them. Those requirements mean that the BBC must open up more commissioning opportunities to competition between producers and that, where it does so, that competition must be on a fair, reasonable, non-discriminatory and transparent (FRNDT) basis.

### Schedule 3(7) requirements

- A1.26 The specific quota requirements imposed on the BBC under Schedule 3(7) of the Agreement are, firstly in relation to making relevant television programmes<sup>9</sup>, that it must:
- secure competition for the commissioning of at least 40% of the in-house guarantee for drama, comedy, entertainment and factual programmes by 31 December 2018, alongside maintaining existing levels of competition;
  - remove the in-house guarantee for children's, sport and non-news related current affairs programmes by 31 December 2019; and
  - secure competition for 100% of relevant TV programmes by 31 December 2027.
- A1.27 There are separate quotas for radio and online public services. The BBC must secure competition in commissioning for at least 60%<sup>10</sup> of relevant radio programmes<sup>11</sup> by 31 December 2022, and it must secure competition for the commissioning of 100% of relevant online material<sup>12</sup> by 31 December 2027.

### BBC's progress in meeting quota requirements

- A1.28 The BBC set out in its [Annual Report and Accounts 2018/19](#), and its [first TV commissioning supply report](#), that it had ensured that, for relevant television programmes, 43% of the previous in-house guarantee for drama, comedy, entertainment and factual had been opened up to competition. It also removed its in-house guarantee for children's, sport and non-news-related current affairs programmes.
- A1.29 As noted in our previous report, having analysed this information, we are satisfied that the BBC met its obligation to secure competition for at least 40% of the in-house guarantee for television drama, comedy, entertainment and factual programmes by 31 December 2018. We are also satisfied it has met its obligation to remove the in-house guarantee for children's, sport and non-news related current affairs programmes by 31 December 2019.

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<sup>9</sup> 'Relevant television programmes' means all television programmes included in the UK public services except: (a) Programmes reserved for independent productions; (b) News and news-related current affairs programmes; (c) Any programme where the BBC considers that complying with the obligation would not secure value for money

<sup>10</sup> Of the total time allocated to broadcasting relevant radio programmes on the UK public broadcast services

<sup>11</sup> 'Relevant radio programmes' means all network radio programmes included in the UK public services except: (a) news programmes; and (b) repeats, continuity, simulcasts, EBU material and autplayed music

<sup>12</sup> 'Relevant online material' means all online material included in the UK public services except: (a) programmes included in the UK public on-demand programme services; (b) news and news-related current affairs material; and (c) any material where the BBC considers that complying with the obligation would not secure value for money

- In its [TV Commissioning Supply Report for 2019](#), the BBC reported that it had increased the percentage of hours of relevant TV programmes contested from 56% in 2018 to 62% in 2019, moving it towards the 2027 target of 100%.

- A1.30 The BBC has continued to work towards its target to secure competition in commissioning for at least 60%<sup>13</sup> of relevant radio programmes by December 2022. In its Annual Report and Accounts 2019/20 it reported contesting 48% of relevant broadcast hours.
- A1.31 The BBC also reported that in 2019/20 62% of its spend on relevant online material had been contested.
- A1.32 We will continue to monitor and report on the BBC's progress in working towards its upcoming quota requirements.

## The FRNDT requirement

- A1.33 Schedule 3(7) is clear that, in meeting the quota, the BBC is required to ensure that there is genuine competition between BBC producers and external ones (whether independent producers or not) on a FRNDT basis.
- A1.34 The BBC has provided Ofcom with evidence about the outcomes of its competitive commissioning processes. Ofcom has not received any complaints from stakeholders about those processes failing to meet the requirement to be FRNDT and we have not opened any investigations into non-compliance.
- A1.35 Ofcom has met a range of producers as part of our regular stakeholder engagement and no significant issues about the FRNDT basis of the BBC commissioning process have been raised with us.
- A1.36 We will continue to monitor whether the BBC is meeting its obligations regarding FRNDT commissioning. This will include ongoing engagement with production companies to understand more about the BBC commissioning process.

## Operating Framework requirements

- A1.37 Ofcom is required by Article 46 of the Charter to set an Operating Framework to secure effective regulation of the BBC's activities as set out in the Charter and Agreement.
- A1.38 The Operating Framework must include requirements to protect fair and effective competition in relation to:
- material changes the BBC proposes to the UK public services and non-service activities;
  - the effect of UK public services, trading activities and non-service activities on fair and effective competition; and
  - agreements with, and conduct affecting, third parties in relation to UK public services, trading activities and non-service activities.
- A1.39 We must also include requirements about the relationship between the BBC and its commercial and trading activities. These are described in more detail below.

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<sup>13</sup> Of the total time allocated to broadcasting relevant radio programmes on the UK Public Broadcast Services

- A1.40 In March 2017, we published a statement (updated October 2017), [Introduction to Ofcom's Operating Framework for the BBC](#). In it, we explained our and the BBC's roles under the new regulatory scheme and detailed how our Operating Framework is structured.
- A1.41 We have set out the Operating Framework in a series of documents which impose requirements on the BBC and provide guidance on our regulatory approach. Most of these applied from 3 April 2017. Table 3 below summarises the position in relation to the requirements we have set in the Operating Framework.

**Table 3: Operating Framework requirements**

Relevant Charter/ Agreement provision	Operating Framework requirement	Assessment of BBC compliance
The impact of proposed changes to the BBC's public service activities (Articles 11 and 20 of the Charter and Clauses 7 to 11 and 15 to 20 of the Agreement)	Specified requirements contained within: <a href="#">Assessing the impact of proposed changes to the BBC's public service activities: Ofcom's procedures and guidance</a>	We have set out in this annex and the main body of this report more detailed comments on what we and the BBC have done in these areas
The impact of the BBC's ongoing public service activities (Article 11 of the Charter and Clauses 12, 15, 21 and 22 of the Agreement)	Specified requirements contained within: <a href="#">Assessing the impact of the BBC's public service activities: Ofcom's procedures and guidance</a>	
The impact of the BBC's commercial and trading activities (Clauses 23 to 27, 28, 31 and 32 of the Agreement)	Specified requirements contained within: <a href="#">The BBC's commercial and trading activities: requirements and guidance</a>	
The impact of the distribution of BBC public services (Article 11 of the Charter and Clauses 15 and 61 of the Agreement)	Specified requirements contained within: <a href="#">Distribution of BBC public services: Ofcom's requirements and guidance</a>	

## Commercial and trading activities

- A1.42 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. To protect fair and effective competition, we put [trading and separation requirements and guidance in place in 2017](#) and [updated these in February 2019](#). This includes reporting requirements, both in relation to publishing information and some confidential provision to Ofcom. This reporting allows us to monitor the BBC's compliance with our trading and separation regulation.
- A1.43 Overall, the BBC has complied with our reporting requirements and we have not, as a result of our review of this information, opened any investigations.
- A1.44 Given the changes to BBC Studios and the markets that it operates in, we would like to understand better how the BBC has implemented our rules and provided additional transparency to stakeholders. We are therefore undertaking a review of the interaction between BBC Studios and the public service. We recently published a [call for evidence](#), on this review, asking stakeholders for their views on the work we are planning to undertake

and for evidence of any issues they have encountered about the interaction between BBC Studios and the public service.

- A1.45 In addition, we published our [provisional views on BBC Studios' decision](#) to reduce its number of lines of business from five to two. We consider that the new lines of business appear appropriate and consistent with market practice for production companies of a similar size and scope. However, we are proposing that BBC Studios provides additional information to Ofcom, so that we can monitor performance of the activities within the production and distribution line of business. Given the number of changes there have been to BBC Studios since its inception, we are also proposing that BBC Studios gives us three months' notice of any future changes to the composition of its lines of business, and that Ofcom is able to step in if it considers future changes to be inconsistent with the requirements, the Charter or the Agreement (subject to consultation).
- A1.46 We have also continued to engage with the Fair Trading Committee, a BBC Board sub-committee, which is responsible for overseeing the BBC's compliance with its regulatory obligations for trading and separation between the public service and the commercial subsidiaries. This engagement helps us to better understand the way in which the Fair Trading Committee assists the BBC Board in ensuring compliance with the trading and separation requirements. We plan to continue this engagement over the next year.

## Operational separation

- A1.47 The BBC is required to ensure that there are measures and controls in place to restrict commercial subsidiaries' access to information about the public service that could give them an unfair advantage or distort the market. The subsidiaries should also have distinct and separate governance from the public service.
- A1.48 As we noted in our report last year, the BBC has improved the transparency of its governance arrangements. In its [Statement on Operational Separation](#) the BBC set out at a high level some of the steps it has taken to ensure that its commercial activities are undertaken on commercial terms at arm's length from the public service. We will look in more detail within our review of BBC Studios at how the BBC has implemented our rules to ensure that BBC Studios does not have access to information about the BBC public service that its competitors do not have, putting it at an unfair advantage. We also plan to look at whether any staff have responsibilities within both the public service and BBC Studios, and if so, what processes the BBC has put in place to ensure there is no unfair advantage.

## Supply and pricing of goods and services between BBC Studios and the public service

- A1.49 We regulate the terms and conditions on which the public service and the commercial subsidiaries sell goods and services to each other (and goods and services the public service sells to third parties). Where possible, this should be on terms and prices consistent with normal market principles (aside from business support services which should be based on their long-run costs of provision).
- A1.50 Based on the information we have received to date, we do not have any concerns in relation to transfer pricing. However, as part our review of BBC Studios, we will assess a sample of transfer pricing methodologies to ensure they are consistent with the principles set out in the Requirements. We also intend to look at the associated transfer charges to establish how these goods and services are charged in practice.

## Rate of return

- A1.51 The BBC is required to earn a commercial rate of return over an appropriate period of time for each of its commercial subsidiaries and lines of business. This requirement is to ensure that the commercial activities are undertaken in accordance with normal market principles, so that the BBC does not undertake economically unviable activities that are supported by the licence fee.
- A1.52 In addition, the BBC is required to publish the financial performance of each of its commercial subsidiaries and lines of business. It must also provide to Ofcom its target rates of return before the start of the financial year and notify us if it considers that a subsidiary or line of business will not earn a commercial rate of return.
- A1.53 The BBC provided the target rates of return for 2020/21 after the start of the financial year to give it a chance to take account of the impact of the Covid-19 crisis on its commercial subsidiaries. Given the significant impact of Covid-19 on the sectors in which the BBC's commercial activities operate, we did not open an investigation about the late provision of the target information for this financial year.
- A1.54 We have not identified any significant issues with the BBC's reporting of the rates of return for its commercial subsidiaries and lines of business in 2019/20. As part of our review of BBC Studios, we will consider what constitutes a commercial rate of return, and a reasonable period of time over which it should be earned, for BBC Studios and the lines of business.
- A1.55 We recognise that Covid-19 will have a significant impact on the rates of return for the BBC's commercial subsidiaries and lines of business in 2020/21, along with their competitors. We will take this into account, both in terms of our monitoring for 2020/21 and our review of BBC Studios.

## Other specified requirements and relevant matters

- A1.56 We are also required to report on the BBC's compliance with the additional specified requirements set out in Table 4 below. We have found that the BBC complied with all of these obligations between 1 April 2019 and 31 March 2020. We have also provided further information regarding complaints made to Ofcom at the end of this section.

Table 4: Other specified requirements

Relevant Charter/ Agreement provision	Requirement	Assessment of BBC compliance
Provision of information to Ofcom (Article 47, the Charter)	The BBC must provide information that Ofcom formally requires under Article 47.	The BBC responded to all the Article 47 requests we made in 2019/20
BBC complaints handling (Clause 56, the Agreement)	<p>In September 2017, Ofcom published its <a href="#">determinations in relation to the BBC's complaints handling</a> which set out:</p> <ul style="list-style-type: none"> <li>- the period for which the BBC must retain records of its handling of relevant editorial complaints;</li> <li>- the form and intervals at which the BBC must report editorial complaints to Ofcom; and</li> <li>- the form and intervals at which the BBC must publish information about the operation and effectiveness of its procedures for editorial complaints.</li> </ul> <p>Ofcom published revised determinations on 3 July 2020, requiring more transparent publication of BBC Executive Complaints Unit findings on relevant editorial complaints.</p> <p>In October 2018, Ofcom published its equivalent <a href="#">determinations in relation to the BBC's non-editorial (competition and other regulatory) complaints handling</a>.</p>	The BBC has complied with the determinations Ofcom set in relation to editorial complaints handling and non-editorial (competition and other regulatory) complaints handling

## Complaints made to Ofcom

A1.57 In enforcing compliance by the BBC with 'competition requirements'<sup>14</sup> and other 'relevant requirements'<sup>15</sup>, Ofcom may consider complaints and carry out investigations into compliance as we consider appropriate.

A1.58 In 2019/20, we received several complaints relating to the BBC's decision to withdraw its live radio streams from TuneIn on certain service platforms in the UK. Some of the complaints had already been assessed by the BBC before being referred to us. We

<sup>14</sup> A 'competition requirement' is any requirement placed on the BBC by Ofcom to regulate the impact of the BBC's activities on competition. These requirements are set out in Ofcom's [Procedures for enforcement of BBC competition requirements](#).

<sup>15</sup> A 'relevant requirement' is a specified requirement placed on the BBC by Ofcom or the Charter and Agreement, which is not covered by a more specific Ofcom enforcement procedure. These requirements are set out in Ofcom's [Procedures for enforcement of requirements in the BBC Agreement and compliance with Ofcom enforcement action](#).

appreciated the extent of the inconvenience that some listeners had experienced as a result of the BBC's decision. However, none of the companies involved, including TuneIn itself, raised any concerns with us about the impact on fair and effective competition. Therefore, we decided it would not be appropriate to open an investigation into compliance with the distribution requirements.<sup>16</sup>

- A1.59 We also received several complaints related to the BBC's withdrawal of its Red Button TV text service, some of which had already been assessed by the BBC before being referred to us. We found that the complaints did not indicate a breach of the BBC's competition requirements or other relevant requirements and therefore did not require further investigation. We note that the BBC has since announced its decision to retain basic key news services on its Red Button TV text services, although the scope of the platform will be reduced from 2021.
- A1.60 As noted in its Annual Report and Accounts, the BBC received a complaint in August 2019 regarding the acquisition of sports rights for Radio 5 live and Radio 5 live sports extra, which it deemed not to have breached its competition requirements. The complaint was not subsequently referred to Ofcom.

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<sup>16</sup> The decisions were made in line with our enforcement procedures