



Ofcom - BBC Three Television Channel: Preliminary Determination

About us

1. Directors UK is the professional association of UK screen directors. It is a membership organisation representing the creative, economic and contractual interests of over 7,800 members — the majority of working TV and film directors in the UK.
2. Directors UK collects and distributes royalty payments and provides a range of services to members including campaigning, commercial negotiations, legal advice, events, training and career development. Directors UK works closely with fellow organisations around the world to represent directors' rights and concerns, promotes excellence in the craft of direction and champions change to the current landscape to create an equal opportunity industry for all.

Question 1: Do you agree with the findings from our review of the BBC's assessment of the public value of the proposals? Please provide evidence to support your views.

3. We agree with the findings from the review and the conclusion that *"the extent of the public value delivered will depend on the quality and range of the content that the BBC commissions and makes available for the BBC Three channel"*.
4. We also agree that *"a key part of the social value delivered by the proposals is the extent to which the BBC Three broadcast channel will genuinely be distinctive from other services in the market."*
5. Requiring the BBC to set out its intentions for delivering certain types of content for BBC Three through its annual reporting will be important in ensuring delivery of and assessing public value.
6. Like Ofcom, we believe that *"much greater public value would be delivered to audiences through original UK productions as opposed to acquired"* and agree that the metric for this should be based on BBC-commissioned originations. We share the concerns of other stakeholders about not wanting the channel to be filled with overseas acquisitions and would welcome the channel focus on broadcasting distinctive UK-originations.
7. Ofcom is right to highlight that the increase to BBC Three content budget isn't based on it being a linear channel, so it won't necessarily lead to more investment in the production industry than if it remained a digital channel. However, as the BBC has made a commitment to considerably more out of London spend on BBC Three content than it currently delivers, if honoured this commitment will result in more investment in the nations and regions. We agree that the delivery of this commitment is not dependent on the channel and should be implemented regardless.

Question 2: Do you agree with our assessment of the likely impact of the proposals on fair and effective competition (including as set out in Annex 1)? Please provide evidence to support your views.

8. This seems a fair assessment of the impact on fair and effective competition.
9. Ofcom notes that *“The BBC’s assessment considers that the impact of increased reach of BBC Three content will be to provide a bigger ‘shop window’ which it believes may increase the potential commercial value of secondary rights.”* As highlighted in our earlier responses, in order for this to be achieved the BBC must enter into fair negotiations over terms of trade with the producers, and also with underlying rights holders (e.g. writers, directors) to ensure that creators are genuinely in a position to benefit from the repeat use of their work across linear and VOD channels. Residual payments to creators for the use of their work is a key part of their income as freelancers and is increasingly being affected by changes to the secondary rights market. If the BBC is to genuinely provide value to the production sector this is a key part of the value chain. This is particularly important with the changes to use and extended use, and an increase in iPlayer first commissioning, which has an impact on rights and royalties - a critical part of a freelance creators’ income.
10. We welcome that the BBC has recognised in the consultation that its plans for the use of works on the channel are dependent on discussions with Pact and other rightsholders. As one of those rightsholders, we look forward to engaging with the BBC regarding this on behalf of our members.

Question 3: Do you agree with our provisional conclusion that the public value associated with the BBC’s proposals justifies the adverse impact on fair and effective competition that we have identified? Please provide evidence to support your views.

11. We agree with this conclusion.

Question 4: Do you agree with our proposals on the Operating Licence conditions that should apply to BBC Three? Please provide evidence to support your views

12. We agree with proposals on the operating licence conditions for BBC Three. We support the proposal to create an operating licence requirement for delivering daily News as part of its content offering, as broadcast news is a particularly under-performing area for younger audiences.
13. We agree with the recommendation that BBC Three should allocate the same proportion of time to the broadcasting of original productions as the other BBC channels (i.e. a minimum of 75%) and that first-run UK originations aimed at 16-34 year olds should be across a range of genres.
14. We understand why Ofcom is not setting quotas for specific genres within the operating licence, but would welcome this being kept under-review should a key genre area be found to be under-delivered on.

15. Monitoring and assessing performance will be an important part of assessing whether the channel is reaching its target audience and delivering on its Mission and Public Purposes. The proposed reporting criteria seems appropriate.

Directors UK
13 October 2021
www.directors.uk.com