
BBC Three television channel competition assessment

Consultation on Ofcom's provisional determination

[Consultation on Ofcom's provisional determination](#) – Welsh overview

CONSULTATION:

Publication date: 16 September 2021

Closing date for responses: 14 October 2021

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1. Overview

As part of its strategy for better serving younger audiences, the BBC is proposing to bring back BBC Three as a broadcast television channel. Since February 2016, BBC Three content has only been available on-demand within BBC iPlayer.

As required by the BBC Charter and Agreement, we are considering the BBC's proposals through a BBC competition assessment (BCA). Our role includes reviewing how the BBC has developed its proposals and its assessment of their public value. We must also assess the impact of the BBC's proposals on competition and consider whether the public value justifies any adverse impacts that we identify. We have also taken account of feedback on the proposals that interested or affected parties, provided directly to the BBC and in response to our [invitation to comment](#).

This document sets out our analysis, and our provisional conclusions that the BBC should be permitted to re-launch BBC Three as a broadcast television channel.

Our provisional conclusions

These are relatively narrow proposals. The BBC intends for the new BBC Three broadcast TV channel to broadcast only in the evenings, from 7pm until 4am every day from January 2022. There is no increased content budget associated with these proposals.

We consider that the proposals could deliver additional public value. This is by increasing the availability and reach of BBC Three content to those who don't currently access it. This includes audiences who are currently relatively underserved by the BBC. Although these proposals are only likely to impact a relatively small number of people, those people are important to the BBC's future, and therefore we think that the proposals could contribute to its longer-term sustainability.

Our analysis shows that the changes are unlikely to have a significant adverse impact on competition. BBC Three is anticipated to be a relatively small linear channel. We estimate its viewing share (linear and BVOD) could reach 1.5% in 2022 for all individuals aged 4+. This represents a 0.8 percentage point increase in viewing share, compared to its remaining on BBC iPlayer only. Although we have identified the potential for a relatively small impact on ITV and Channel 4, we think it is unlikely to significantly change their incentives to innovate or to invest in new content.

Our provisional conclusion is that the public value of the proposal to relaunch BBC Three justifies the market impact that we have identified, and therefore that the BBC may proceed with its proposal. We are now consulting until 14 October 2021 on our provisional conclusions and expect to publish a final decision by December 2021.

We are proposing new Operating Licence conditions to require the BBC to deliver key parts of its proposals. We also expect the BBC to articulate transparently how it will deliver what it has committed to in being important for public value and then report on its performance.

The overview section in this document is a simplified high-level summary only. The provisional conclusions we are consulting on and our reasoning are set out in the full document.

2. Background

Purpose of BBC competition assessments

- 2.1 The BBC's mission is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain.¹ We expect the BBC to make changes to its services to adapt to changes in technology and changing audience needs. However, as a large, publicly funded organisation, some changes that the BBC might wish to make could have a significant impact on competition in the wider media market.
- 2.2 The impact may be positive in enhancing public value and encouraging competition by offering more choice, stimulating demand, or promoting innovation to the benefit of UK citizens and consumers. However, some changes that the BBC proposes may harm competition; for example, by crowding out investment from third parties, with ultimately negative consequences for audiences. Because of this, the Charter and Agreement, which set the BBC's Mission and duties, provides for Ofcom to consider the effects on competition of significant changes to the BBC's TV, radio and online public services.
- 2.3 Ofcom's BBC competition assessment ('BCA') role includes:
- a) a review of the procedures the BBC has followed in its public interest test (including consultation with third parties);
 - b) a review of the BBC's assessment of public value, testing the BBC's analysis and the range of evidence relied upon to demonstrate the additional public value the proposal will deliver over and above its existing services;
 - c) our own assessment of whether the changes that would result from the BBC's proposal would have an adverse impact on fair and effective competition, gathering additional evidence and considering matters raised by other stakeholders as appropriate; and
 - d) a concluding assessment of whether, based on the specific facts of the case and taking into account all of our relevant duties and obligations, the public value of the proposal justifies any adverse impact it may have on fair and effective competition.
- 2.4 At the end of a BCA process, we can reach one of four possible decisions:
- a) that the BBC may carry out the proposal in the form submitted to us;
 - b) that the BBC may not carry out the proposal;
 - c) that the proposal may go ahead, subject to any conditions or modifications that we require; or
 - d) that the BBC must reconsider elements of its public interest test, or follow any further procedures that we consider appropriate.

¹ [BBC Royal Charter and Framework Agreement](#). Referred to as "Charter" and "Agreement".

The BBC's Public Interest Test process

- 2.5 Under the terms of the Agreement, the BBC must assess whether any proposed change to its UK public services is “material”.² If it decides that a change is material, the BBC is then obliged to carry out a further assessment known as a ‘public interest test’ (‘PIT’) which is reviewed by the BBC Board. The PIT is a process used to assess the public value of a change and its impact on competition.
- 2.6 To meet the criteria set out in a PIT, the BBC Board must be satisfied that:
- a) the proposed change contributes to the fulfilment of the BBC's Mission and the promotion of at least one of the Public Purposes;
 - b) reasonable steps have been taken to ensure the proposal will have no unnecessary adverse impacts on fair and effective competition; and,
 - c) the public value of the proposed change justifies any adverse impact on fair and effective competition.
- 2.7 We have published [guidance](#) on how we will assess the impact of proposed changes to the BBC's public service activities.
- 2.8 The BBC published a [consultation](#) on its proposals for a new BBC Three broadcast channel (‘the BBC's consultation’) on 5 March 2021, indicating that it intended to launch a new BBC Three TV channel from January 2022 and seeking input from stakeholders.³

The BBC's final proposals for BBC Three

- 2.9 The BBC is proposing to relaunch⁴ BBC Three as a television channel in January 2022 to meet better the needs of 16-34 year old audiences who watch broadcast TV on a weekly basis but are light users of the BBC. The BBC considers that these viewers tend to be from C2DE socio-economic backgrounds, living outside London and the south-east as well as those less able to stream content.
- 2.10 As well as being a way of distributing scheduled programming to young people, the BBC believe it would give them a new lever to “build awareness and change perceptions of what BBC iPlayer (and the BBC) has to offer” amongst harder to reach younger audiences.⁵
- 2.11 The BBC's plan for the channel is:

² Agreement, Clause 7(5). As we set out in Annex 2, the Agreement defines a material change as the carrying out of any activity as a new UK Public Service; and any change to a UK Public Service which may have a significant adverse impact on fair and effective competition. Clauses 7(6) and 7(7) of the Agreement.

³ Responses from stakeholders to the BBC's consultation are published on the [BBC's website](#).

⁴ We note that many stakeholder responses to the BBC's consultation argued that the BBC's previous decision to close BBC Three as a broadcast channel, and the reasoning given by the BBC at the time, meant that it shouldn't be allowed to relaunch it. However, we consider that it is important to assess the BBC's proposal to relaunch BBC Three as a broadcast channel based on the BBC's reasoning and objectives as outlined in its PIT and within current market circumstances, and we do not consider the previous decision taken by the BBC Trust to be directly relevant to our consideration and analysis in this BCA.

⁵ [A new BBC Three channel: Public Interest Test](#), 24 June 2021 (hereafter referred to as ‘BBC PIT’)

- a) Broadcast hours from 7pm until 4am every day.
 - b) An annual content budget of £72.5m. There is no additional budget for the proposed BBC Three broadcast channel.⁶
 - c) A mix of genres, including factual entertainment, drama, UK and international current affairs, comedy, live sport, live music and films.
 - d) A nightly news bulletin.
 - e) Original BBC productions (i.e. programmes commissioned by the BBC but including first-run and repeats) will make up 70% of broadcast hours, with the rest being acquisitions.
- 2.12 As part of the proposal, the BBC has also said that:
- a) BBC Three will broadcast pre-watershed programming that will appeal to both 13-15 year olds and 16-34 year olds.
 - b) Two-thirds of BBC Three's programme spend will be outside of London.
- 2.13 The BBC has proposed that the new BBC Three channel should appear within the top 24 slots of electronic programme guides. It proposes that the channel will be available on the main terrestrial, satellite and cable platforms in all nations across the UK. The BBC is planning to launch the channel in January 2022 in standard definition ('SD') and high definition ('HD') on Freeview, except in Scotland where the HD capacity is used for the BBC Scotland channel, and in Wales where the HD capacity is used by S4C. On all other platforms, the channel would launch in SD and HD.
- 2.14 To accommodate BBC Three within current distribution capacity, the BBC is proposing to reduce the operating hours of CBBC so that broadcast ends at 7pm instead of 9pm. The proposal does not impact the Operating Licence conditions for CBBC.⁷

The BBC's final PIT

- 2.15 The BBC published the results of its PIT on 24 June 2021 which set out its proposals in more detail and responded to stakeholder comments on its consultation.⁸ This document confirmed the BBC Board's view "that the Public Interest Test is clearly met".
- 2.16 We are satisfied that potentially impacted parties were given a suitable opportunity to comment on the BBC's PIT, albeit there was only limited information set out in some areas of the BBC's consultation. We consider that this consultation will give stakeholders opportunity to comment on the detail of the final proposal. We are also satisfied that the BBC has carried out appropriate qualitative and quantitative market research and economic analysis to support its assessment of its proposals.

⁶ In its previous annual plan in May 2020, the BBC set out that as part of its strategy to attract and retain younger audiences, it was going to 'more than double' investment in BBC Three content by 2022/23. In March 2021 it reconfirmed this in its Annual Plan 2021/22.

⁷ All iterations of the [Operating Licence for the BBC's UK Public Services](#) are available on our website.

⁸ BBC, [A new BBC Three channel: Public Interest Test](#), 24 June 2021.

How we have approached our analysis in this competition assessment

- 2.17 During our initial assessment, and in the light of comments made by stakeholders in response to our [Invitation to Comment](#),⁹ we considered which aspects of the BBC's proposal could have an impact on competition and therefore required further analysis as part of our BCA. We identified the following factors in particular:¹⁰
- the risk of the new service impacting other broadcasters' revenues and profitability, potentially harming their willingness to invest and innovate if audiences switch to the new BBC Three channel;
 - the potential for increased viewing of the BBC iPlayer if the new BBC Three channel drives greater usage of BBC iPlayer;
 - the potential impact on other broadcasters from moving down the electronic programme guides, dependent on the electronic programme guide slot that the proposed BBC Three broadcast channel gets; and
 - consideration of the additional public value generated by the BBC's proposal and in particular 16-34-year olds.
- 2.18 The BBC's PIT notes that that the proposed changes that it has considered as part of the Public Interest Test relate to 'the launch of BBC Three as a broadcast TV channel, and not the increase in content budget and programming that had already been announced'.¹¹ We agree that this is the appropriate lens through which to consider the public value and market impact of this proposal, and our assessment is based on the same parameters. Our analysis focusses on those elements which are specific to the proposal to relaunch BBC Three as a broadcast television channel. These elements include the impact of the proposed changes to CBBC, and potential impacts of changes to the electronic programme guide ('EPG').
- 2.19 Our assessment is informed by the BBC's PIT, its economic modeling, research that it has commissioned from MTM with included focus groups and a survey ('the survey'), and a summary of roundtables that it conducted during the PIT with youth organisations and young people. We have also taken account of the consultation responses to the BBC's PIT consultation and our own consultation to inform our initial assessment findings.¹² In addition we have undertaken our own market data analysis of audience consumption and trends, content availability and BBC performance.

⁹ Clause 9 (1) of the Agreement requires that before undertaking a BCA that Ofcom must assess whether the change is a material change. To help to inform this decision, on 24 June 2021 we published an Invitation to Comment stating that we proposed to find that the BBC's proposal was material. We invited comments on our proposals and asked stakeholders and interested parties to provide us with further information explaining how the launch of a new BBC Three channel could affect them.

¹⁰ Ofcom, [Conclusion of initial assessment of proposed BBC Three television channel](#), July 2021.

¹¹ BBC PIT, p.26.

¹² Responses to our consultation are available on our website: see [our review of proposed BBC Three television channel](#).

- 2.20 We have recently published a consultation on [how Ofcom regulates the BBC](#), where we have indicated that we will be considering whether changes are need to the BBC PIT and Ofcom BCA processes.¹³ Our learnings from this BCA will feed into that review.

Related consultation on proposed changes to the EPG Code

- 2.21 If, ultimately, we approve the BBC's proposal to relaunch BBC Three as a broadcast television channel, it will become a designated channel under the provisions of the Communications Act 2003.¹⁴ This means that Ofcom will need to determine an appropriate level of prominence for the channel within the EPGs of all licensed providers.
- 2.22 Alongside this BCA consultation, we are [consulting separately](#) on proposed changes to Ofcom's EPG code and an appropriate timeframe for EPG providers to implement the changes. We are proposing that the BBC Three broadcast channel should have a minimum level of prominence of slot 24. We are proposing an 18-month implementation period. We set out our reasoning and supporting analysis in more detail in the EPG consultation.
- 2.23 If we conclude, ultimately, that the BBC should be permitted to relaunch BBC Three as a broadcast channel, we anticipate publishing our final decision on changes to the EPG code at a similar time.

Operating Licence for the BBC's UK Public Services

- 2.24 The BBC's PIT has highlighted elements that the BBC considers will be important to deliver public value and distinctiveness. We will hold the BBC to this and expect it to report in detail on how it has delivered against those plans. In addition, as well as consulting on our provisional determination that the public value of the proposal justifies any adverse impact on competition, we are also consulting on proposed changes to the [Operating Licence](#) that we consider it would be appropriate to impose in relation to BBC Three in the light of our duties if we approve the proposals in our final BCA determination.¹⁵

¹³ Ofcom, [How we regulate the BBC: A review](#), July 2021, p.17.

¹⁴ Section 310(2) of the Communications Act 2003 ('the Act').

¹⁵ Ofcom's function of setting conditions in the Operating Licence is set out in the BBC Charter at Article 46(3).

3. Market and audience context

The BBC's challenge to reach and to retain younger audiences

- 3.1 We have consistently highlighted in our [annual reports](#) into its performance, that the BBC has struggled to attract and retain younger audiences, pointing out that this posed a risk to its future sustainability and its ability to deliver its Mission and Public Purposes.
- 3.2 The BBC is taking steps to meet this challenge. For example, in its 2020/21 annual plan the BBC set out a two-year plan aiming to increase engagement with young people through a number of specific actions.¹⁶ The proposals that we are considering in this BCA are part of that plan.
- 3.3 As we have shown in our annual Media Nations reports,¹⁷ audiences have been in gradual decline across all broadcast TV for several years. This has largely been driven by technological changes and changing audience habits, with a wide range of different services from online streaming services to social media as well as online gaming platforms continuing to compete for audience.
- 3.4 Adults aged 16-34 still consume a significant amount of broadcast TV in their viewing but it now accounts for only around a third of their overall viewing. Time spent watching YouTube and SVoD content are both longer than the time spent viewing live TV for this age group, although when time-shifted viewing (including BVoD) is added to live TV, broadcast content is still the largest single source.¹⁸
- 3.5 Between 2017 and 2020, all audiences have spent on average 1 minute less watching BBC TV content per day (a drop of 2%). The figures for 16-34s are 2 minutes and 8% less for BBC TV content.¹⁹ Weekly reach between 2017 and 2020 to BBC TV among 16-34s has dropped from 61% to 51%.²⁰ The youngest adults aged 16-24 consume even less BBC TV content at around 20 minutes per day compared with 27 minutes for 16-34s overall. The underlying trend of decreasing BBC TV viewing has been masked by people watching more TV, and particularly BBC TV, during periods of lockdown in 2020.

¹⁶ BBC, [BBC Annual Plan 2020/21](#), May 2020, p.45.

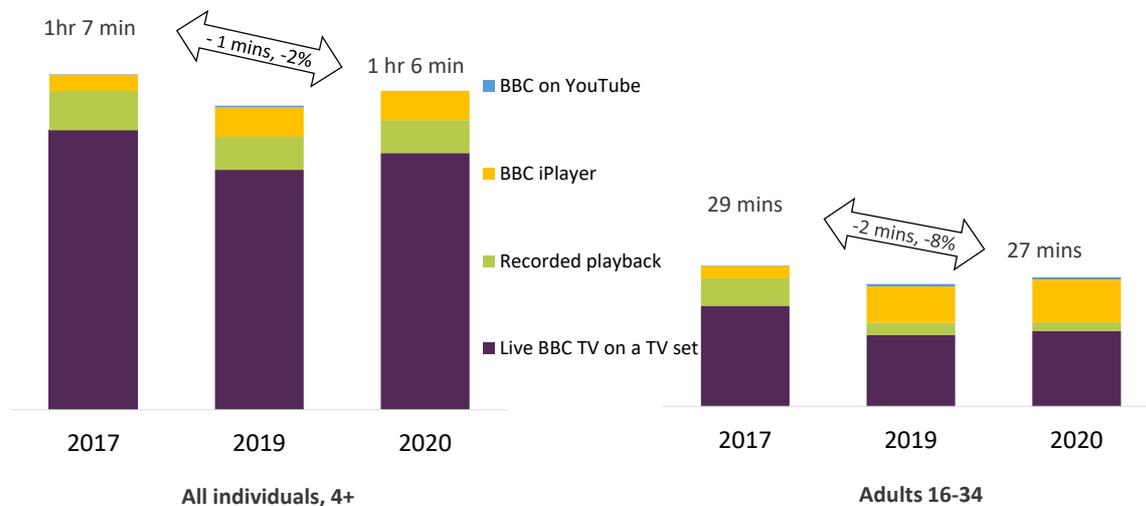
¹⁷ Ofcom, [Media Nations: UK 2021](#), August 2021, p.7.

¹⁸ By BVoD we mean Broadcaster Video on-Demand services such as BBC iPlayer, ITV Hub, All4, STV Player and My5. By SVoD we mean Subscription Video on-Demand services such as Netflix, Disney+, Amazon Prime and Britbox.

¹⁹ Ofcom modelling using BARB, Comscore and BBC's 4 screens data.

²⁰ BARB consolidated data 4+ individuals.

Figure 1: Estimated total BBC TV/video minutes per day 2017, 2019 and 2020 by all individuals and adults 16-34



Ofcom modelling using BARB, Comscore and BBC’s 4 screens data, BBC content on SVoD platforms not included.

- 3.6 The decline in time spent consuming BBC content is most evident amongst younger audiences where it is falling at a faster rate and is reflected in the increasing average age of audiences watching or listening to BBC broadcast services. A gradual transition to BBC iPlayer has made up for some of this lost time and this has been more pronounced for younger audiences.
- 3.7 As a proportion of their time spent watching BBC services, Figure 1 shows younger audiences depend increasingly on BBC iPlayer, but, overall, they still spend significantly more time watching BBC TV live on a TV set. This suggests that both broadcast TV and BBC iPlayer are important ways of engaging with this group for the BBC.
- 3.8 The BBC believes that there remains a significant and relatively stable cohort of young people who maintain a strong broadcast TV habit but are very light users of BBC TV.²¹ It identifies that part of this cohort are those with less access to on-demand services. It considers that re-establishing BBC Three as a broadcast channel would offer a means of establishing a connection with this group.
- 3.9 The BBC also notes in the PIT that it needs to do more for younger audiences, particularly those in Northern Ireland, Scotland, and the North and Midlands of England. The same is true for audiences from lower socio-economic groups.²² It believes launching BBC Three as a television channel will help it to do this.²³

²¹ BBC PIT, p.10.

²² BBC PIT, p.9.

²³ BBC PIT, p.3.

BBC Three reached fewer adults aged 16-34 after it moved online

- 3.10 The BBC Trust approved a decision to stop broadcasting BBC Three in 2016. In 2015, the last full year of broadcasting for the channel, adults aged 16 to 34 spent four minutes per day viewing the channel and the weekly reach to BBC Three amongst this group was 22%.
- 3.11 Although it is difficult to compare metrics between broadcast TV and BBC iPlayer viewing, there are substantially fewer 16-34s watching BBC Three on BBC iPlayer now than were watching the broadcast channel in 2015, and the total amount of time 16-34s spend viewing BBC Three content on BBC iPlayer is also much lower. In this year's BBC Annual Report and Accounts, the BBC has reported a weekly reach of 6% among 16-34s, up from 5% the previous year. This equated to approximately two and a half hours viewing each week for each 16-34 BBC Three viewer, or 1.2 minutes per day among all 16-34s.²⁴

Our research shows that BBC services aimed at younger audiences can have a positive impact on their overall perceptions of the broadcaster

- 3.12 Overall, just over three quarters of 16-34 year olds (77%) consume some BBC content each week across any of its platforms, primarily BBC One and BBC iPlayer.²⁵ There are differences in attitudes towards the BBC among young people depending on the services they use, and there are indications that services more targeted at this age group do have a positive impact on their perceptions. For example, 62% of 16-34 year olds say the BBC is important to them, increasing to 74% of those who listen to Radio 1 and increasing still further to 82% of those who watch BBC Three content.²⁶
- 3.13 This is further highlighted when audiences are asked to think specifically about the content that the BBC provides. For example, around half (49%) of 16-34 year olds agree the BBC provides content that is different to other providers but this again increases to 66% among those who watch BBC Three content each week. When asked to say which provider they would go to first for TV or video content, 47% of 16-34 year olds choose Netflix with only 14% selecting the BBC. However, among those who watch BBC Three content, the gap narrows somewhat with 41% selecting Netflix and 26% choosing the BBC.²⁷
- 3.14 Research that we undertook for our recent review of public service media also found that those in their mid-20s to 30s sometimes fondly recall BBC Three being on TV and remember it for its younger and edgier content. However, it has lost that identity among many of the youngest audiences, who can overlook it or fail to understand what it represents if it can only be viewed on the BBC iPlayer.²⁸ 16-24s rarely notice or understand

²⁴ [BBC Annual Report and Accounts 2020-21](#), June 2021, p.169.

²⁵ Ofcom, [BBC Performance Tracker, 2020/21](#).

²⁶ Ofcom, [BBC Performance Tracker, 2020/21](#).

²⁷ Ofcom, [BBC Performance Tracker, 2020/21](#).

²⁸ Ofcom, [An exploration of people's relationship with PSB, with a particular focus on the views of young people](#), July 2020, p.36.

the BBC Three section, and the various categories of content can be confusing; possibly because they use Netflix as their point of reference.²⁹

How the BBC's proposal might affect viewing habits

- 3.15 In order to examine the potential benefits and market impact of the BBC's proposal it is important to consider the amount of viewing the channel is likely to attract and where those viewers are likely to be drawn from.
- 3.16 The BBC considers the closest comparator channels to BBC Three to be ITV2 and E4 as 'youth-oriented channels' and Sky One³⁰ as a channel skewing towards younger audiences.³¹ We broadly agree with this, and consider these to be the most relevant comparator channels that are aimed at a similar audience profile to BBC Three. ITV describes ITV2 as aimed at delivering 'quality entertainment to a young 16-34 audience'³² and Channel 4 describe E4 as its 'youth-focused channel'.³³ Figure 2 shows the overall audience profiles of the top 20 most viewed channels in 2020 in terms of age profile (channels with younger audiences will be to the left of the chart) and the extent to which they skew towards higher socio-economic audiences (towards the top of the chart) It indicates that BBC Three (based on its last full year of broadcast) ITV2 and E4 are heavily skewed to the under 35 population. Sky One has also been added for comparison; it is not one of the most viewed channels, but around a quarter of its audience are aged 16-34.

²⁹ Ibid, p.37.

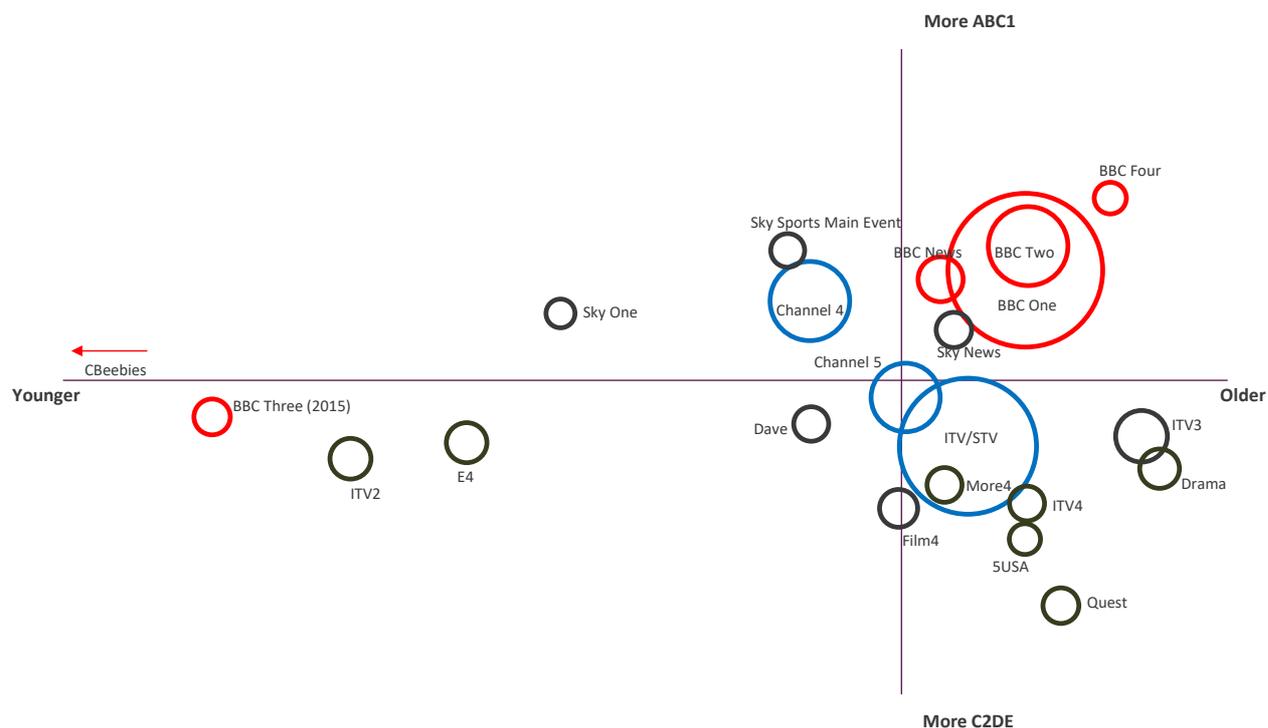
³⁰ We note recent reports that Sky One is due to close in September to be replaced by two new channels Sky Showcase and Sky Max. See Sky, [Sky One sclosing down and being replaced with Sky Showcase](#), July 2021.

³¹ BBC PIT, p.45.

³² As described in [ITV commissioning](#).

³³ [Channel 4 Annual Report](#) 2020, p.32.

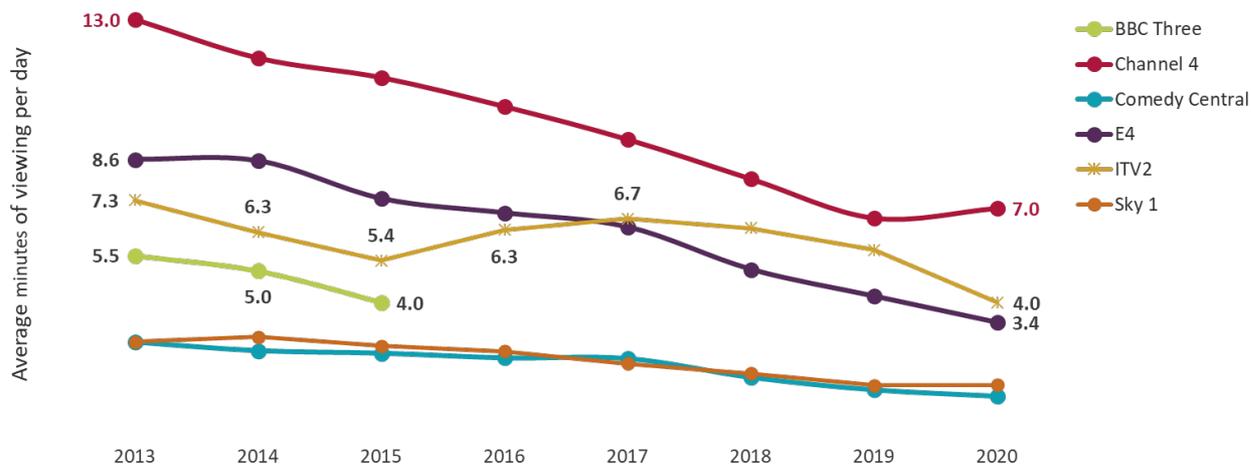
Figure 2: Age and socio-economic audience profile of the 20 most-viewed channels: 2020



BARB. Individuals 4+. Based on the top 20 channels ranked by share plus BBC Three and Sky 1 (which ranks 24 in terms of overall share). Size of bubble relates to share among individuals 4+. Profile based on age: % 35+, SEG: % ABC1. Axes cross at the average age/SEG profile of Total TV. Includes HD variants where applicable and +1 variants.

3.17 Since BBC Three ceased broadcasting in 2016, viewing to E4, ITV2 and Sky One has continued to decline, along with broadcast TV viewing in general. It is difficult to determine any clear impact on other channels due to BBC Three going off air. This reflects that: i) BBC Three was a relatively small channel and its viewing was likely spread across several channels; and ii) there are other factors affecting viewing shares which are difficult to disentangle from the impact of BBC Three going off air (e.g. the popularity of content). We note that viewing to ITV2 did increase after BBC Three came off air, although we consider that this was likely to be driven by content changes, notably the increasing popularity of *Love Island* and the start of ITV2 broadcasting *Family Guy*, formerly broadcast on BBC Three. After 2017, viewing of ITV2 has declined steadily, to its lowest levels of recent years in 2020 of an average of 4 minutes per day.

Figure 3: Average minutes of daily viewing of selected channels by adults aged 16-34



BARB consolidated data, 16-34.

- 3.18 BBC Three is anticipated to be a relatively small linear channel. The BBC projects that the BBC Three television channel could gain a live viewing share (excluding PVR and catch-up) of 0.7% for all audiences, and 1.5% for 16-34 year olds by 2022. It notes that this is below the live viewing shares of competitor channels ITV2 (4.9%) and E4 (3.9%) today.³⁴ As we set out in Section 5, we have decided to make some adjustments to the BBC’s model, so our estimates for viewing share are slightly higher than the BBC’s.
- 3.19 In its market impact assessment, the BBC modelled the likely sources of viewing for the BBC Three channel based on audience survey responses in its [research](#). It predicts the biggest source of viewers for the channel will be from the BBC itself, followed by ITV, Channel 4, Channel 5, and Sky.³⁵
- 3.20 Among all audiences, the BBC predicted a loss of 0.2 percentage points of viewing for ITV, 0.1 for Channel 4, and less for Channel 5 and Sky. For 16-34-year olds it predicts a loss of 0.3 percentage points for ITV, 0.2 for Channel 4 and 0.1 of viewing for Channel 5, Sky and all other broadcasters.³⁶
- 3.21 The BBC estimates that across linear and BBC iPlayer, BBC Three could attain an average weekly reach of 12.4% for all audiences and 16% for 16-34 year olds.³⁷ It predicts that this will grow by 0.8 percentage points to 2024 for all audiences, and one percentage point for 16-34s. We requested that the BBC split out the combined reach estimation to projected reach for the proposed broadcast channel and the BBC iPlayer. It has provided us with the information in the tables below.³⁸

³⁴ BBC’s PIT, p.6.

³⁵ BBC’s PIT, Figure 24, p.73.

³⁶ BBC’s PIT, p.68.

³⁷ BBC’s PIT, p.4.

³⁸ We have asked the BBC to provide an estimated forecast of the combined reach figures split out by linear viewing and viewing to BBC iPlayer. The BBC’s forecast has assumed that the relationship between viewing minutes and average weekly

3.22 For the broadcast channel only, the BBC estimates a reach starting at 4.8% for both audience groups and declining to 3.9% and 3.6% respectively over the same period between 2022 and 2024.³⁹

Figure 4: Projected BBC Three average weekly reach

| Linear-only reach | 2022 | 2023 | 2024 |
|-------------------|------|------|------|
| A4+ | 4.8% | 4.3% | 3.9% |
| A16-34 | 4.8% | 4.1% | 3.6% |

| BBC iPlayer-only reach | 2022 | 2023 | 2024 |
|------------------------|-------|-------|-------|
| A4+ | 6.2% | 7.2% | 8.1% |
| A16-34 | 12.7% | 13.6% | 14.6% |

Source: BBC.

reach is broadly similar for linear-only viewing and for on-demand-only viewing as it is for the two combined, and therefore it can estimate a separate reach split for linear and BBC iPlayer using this same relationship. However, we note that this is not what the BBC’s model was designed for and whilst we think it is important to show the figures split out, this should only be seen as an approximation.

³⁹ The BBC has told us that its weekly reach projection is drawn from the relationship between viewing minutes and average weekly reach for various channels and broadcaster portfolios, between 7pm and 4am, according to BARB C7 data. The relationship between viewing minutes and reach is non-linear, which means that the additional viewing minutes from BBC iPlayer added to linear does not increase the additional reach from BBC iPlayer added to linear by the same proportion - as viewing minutes increase, reach increases by a smaller and smaller amount. This explains the reason why the linear + BBC iPlayer combined reach (derived from linear + BBC iPlayer combined viewing minutes) yields a smaller reach figure than the sum of linear-only reach and BBC iPlayer-only reach.

4. Our review of the BBC's public value assessment

Background

- 4.1 When developing its proposals, the BBC must satisfy itself that any changes to its public services contribute to the fulfilment of its mission and the promotion of one or more of its public purposes,⁴⁰ which are:

Purpose 1: To provide impartial news and information to help people understand and engage with the world around them;

Purpose 2: To support learning for people of all ages;

Purpose 3: To show the most creative, highest quality and distinctive output and services;

Purpose 4: To reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions and, in doing so, support the creative economy across the United Kingdom; and

Purpose 5: To reflect the United Kingdom, its culture and values to the world.

How we have approached reviewing the BBC's assessment of public value

- 4.2 In considering public value we are principally testing and reviewing the BBC's analysis, in contrast to our competition role where we carry out our own evaluation. In this section, we summarise the approach that the BBC has taken to its assessment of public value and the evidence that it has put forward to support the value it believes the service will provide, noting where relevant the views of stakeholders on the analysis. We also identify the main factors that we have considered in reviewing the public value likely to be generated by the BBC's proposal, as well as our view overall on the case that the BBC has made.
- 4.3 Accordingly, we have not sought to determine whether the BBC could have delivered greater public value by changing aspects of its proposal. Instead, we have considered whether it has made a compelling, well evidenced, and methodologically sound assessment of the public value that it believes its proposals will deliver. We have not conducted our own additional research, although we have drawn on relevant existing research and data that we hold.
- 4.4 In this section, we have taken into account the factors set out in our guidance, insofar as we consider them to be relevant to our analysis.

⁴⁰ Clause 8 of the Agreement.

The approach that the BBC has taken

- 4.5 In developing its approach to considering public value, the BBC has worked over the past year with Professor Mariana Mazzucato and the University College London (UCL) Institute for Innovation and Public Purpose (IIPP) on developing a new framework for the assessment of public value at the BBC.⁴¹
- 4.6 The BBC has drawn on this research in its assessment of the public value of the BBC Three proposal. In its PIT, the BBC has examined the benefits of the proposal around the three levels of 'dynamic' public value:
- a) Individual/personal value;
 - b) Societal/social value; and
 - c) Industry value.
- 4.7 The PIT concludes that launching a new BBC Three broadcast television channel will result in both 'high' personal and 'high' social value, as well as 'significant potential' industry value.⁴²
- 4.8 The evidence base for the BBC's assessment of public value is largely provided by audience quantitative and qualitative research commissioned from MTM that comprised of focus groups and a survey,⁴³ responses to the BBC's own consultation, and roundtables that it held with a range of organisations representing young people, including The Prince's Trust, Youth Futures Foundation, National Citizen Service and Uprising.⁴⁴
- 4.9 We were consulted by the BBC in the set-up phase of the audience research they commissioned from MTM for the PIT and were given the opportunity to comment on aspects such as the most appropriate methodology, especially given limitations due to Covid-19 restrictions, research questions and sample requirements. We have independently scrutinised their interpretation and analysis of the survey data and qualitative findings and are satisfied that the overall approach used for the research was appropriate in assessing audience reactions to the proposed change to BBC Three.
- 4.10 The BBC's assessment of public value for BBC Three is contingent on its view that the channel should be given prominence in the top 24 slots of the EPG. As noted above, we are [consulting separately](#) on an appropriate level of prominence for BBC Three, and we have taken into account the potential public value of BBC Three as part of our analysis.

⁴¹ UCL Institute for Innovation and Public Purpose, [Creating and measuring dynamic public value at the BBC, A scoping report](#), December 2020.

⁴² The BBC's public value assessment is on pages 25-63 of its PIT.

⁴³ BBC, [BBC Three Public Interest Test: Audience Research](#), April 2021.

⁴⁴ BBC held three virtual roundtables. One in April with youth organisations and two in May and June with youth representatives of Youth Futures Foundation and Youth Voice Forum of National Citizen Service. These were semi-structured with areas for discussion shared in advance with a summary of the consultation document. The areas for discussion included their thoughts on how important TV is to them, how young people feel about the BBC and BBC Three and what could BBC Three do to provide more value.

Personal value

The BBC's view

4.11 In the BBC's assessment of public value, it argues the personal value⁴⁵ of the proposal is likely to be high for the following reasons:

A new BBC Three broadcast channel will provide underserved younger audiences with a deeper engagement through the sense of part of the BBC being "for me"

4.12 The BBC's survey found that, for many young audiences, the BBC is not "an organisation that they feel produces content for them" and it is not "a provider that they look to".⁴⁶ The BBC's research also identified mixed awareness of the BBC Three brand, and that favourability towards BBC Three among younger audiences increased following exposure to BBC Three channel materials.⁴⁷ Furthermore, the BBC's survey suggested that the appeal of the proposition was strongest amongst 16-34 year old minority ethnic⁴⁸ audiences.⁴⁹

4.13 The BBC believes that the BBC Three broadcast TV channel "will provide younger audiences with a dedicated BBC channel, broadcasting programming that is relevant to them and their lives. It will also help to shift perceptions of the BBC being 'traditional' and 'stuffy' held by younger and under-represented (e.g. people from minority ethnic backgrounds, LGBTQ+) audiences".⁵⁰

A BBC Three broadcast TV channel will provide an additional, convenient way for younger audiences to watch programmes they value

4.14 The BBC argues that the BBC Three TV channel will be a key route to discovering BBC Three programming. The BBC's survey notes that over half of 16-34s agreed that it would make BBC Three programmes easier to watch and find and they were more likely to look for new programmes on the channel.⁵¹

The BBC Three broadcast TV channel will provide a BBC Three shop window which will fuel discovery of its content, including onward journeys to BBC iPlayer

4.15 The BBC's research suggests that young people are currently confused about the relationship between BBC Three and BBC iPlayer, leading to mixed brand awareness and difficulty identifying BBC programmes as being made by the BBC.⁵² However, the

⁴⁵ This is the value that an individual will get by watching/consuming a piece of content.

⁴⁶ BBC PIT, p.28.

⁴⁷ As part of the MTM research, a short showreel was used to give audiences a sense of what the linear BBC Three channel could look and feel like.

⁴⁸ The BBC's PIT refers to audiences from minority ethnic backgrounds as BAME.

⁴⁹ BBC PIT, p.30.

⁵⁰ BBC PIT, p.29.

⁵¹ BBC PIT, p.32.

⁵² BBC PIT, p.28.

qualitative research also suggests that once people are shown the BBC Three page on the BBC iPlayer they are surprised by the breadth of BBC Three content on the BBC iPlayer.⁵³

- 4.16 The BBC believes that a BBC Three channel will increase discoverability and address issues regarding awareness and understanding of the brand. It found over 40% of younger audiences agreed that as a result of the channel, they would go to BBC iPlayer to 'catch up on programmes, watch future episodes or shows they had watched on BBC Three, as well as going to BBC iPlayer to find similar shows'.⁵⁴

The BBC Three broadcast channel can provide a home for live music and sporting events that might not otherwise get a linear showing

- 4.17 The BBC argues that the proposal could allow it to provide an additional platform for content such as live music and sporting events, which may not otherwise be broadcast. It considers that the ability to provide a home for content that is unlikely to be shown on BBC One or Two – and which audiences wouldn't necessarily think to seek out on BBC iPlayer, could create 'occasion TV moments' for audiences.⁵⁵

A BBC Three broadcast channel will increase reach and time spent with the target audience

- 4.18 The BBC's economic modelling and its survey exploring people's likelihood to watch the new channel concludes that the broadcast channel will increase the reach and consumption of BBC Three content, both on linear TV and on BBC iPlayer, to 12.4% for all audiences and 16% 16-34s in 2022, rising to 13.2% and 17% respectively by 2024.

The BBC Three broadcast TV channel will provide more value for money from the licence fee

- 4.19 The BBC considers that the proposal will provide more value for money for the licence fee. Based on the viewing forecasts for both linear and BBC iPlayer, it estimates that the 'cost per viewer hour' will reduce.⁵⁶ It also draws on the survey which suggests that over half of 16-34s surveyed feel that they will be getting better value for money with the launch of the new channel.⁵⁷

Our view

- 4.20 We agree with the BBC's assessment that the proposed introduction of a broadcast channel for BBC Three would increase personal value. The proposals will create an additional way for audiences to access BBC Three content, which has the potential to deliver high personal value for those viewers who don't, or can't, currently access BBC Three content on BBC iPlayer, but who do use linear services.

⁵³ BBC PIT, p.33.

⁵⁴ BBC PIT, p.34.

⁵⁵ BBC PIT, p.35.

⁵⁶ BBC PIT, Figure 11, p.38 estimates cost per viewer in 2022 of BBC Three linear and BBC iPlayer of 9p, compared to 17p without the channel.

⁵⁷ BBC PIT, p.38.

- 4.21 We think that the evidence provided of the projected increase in BBC Three viewing is a reasonable indicator of the magnitude of the likely increase in personal value from the proposals. BBC Three is anticipated to be a relatively small linear channel in terms of viewers.⁵⁸ Whilst in some cases overall audience size is an important factor determining public value, we also consider which audiences the BBC are trying to reach to be an important factor in the delivery of public value. These proposals are an attempt by the BBC to reach an audience – namely younger people – which is currently underserved by the BBC, and, as outlined in Section Three, it is important that the BBC is able to engage this audience for its future sustainability. Therefore, although the proposed channel's target audience is a relatively small group, we consider it to be a particularly important one. Our view is that if the proposals are successful in widening access of BBC content to younger audiences and in particular to the specific groups within that that the BBC has identified: such as C2DE audiences, minority ethnic audiences, people outside of metropolitan centres and people with less access to digital on-demand services, it could create both significant personal and social public value (we set out our views on the social value of the proposal in the next section). We also note that the BBC's research and modelling also suggests that there could also be some personal value derived by people outside of the direct target audience, for example older audiences interested in topical issues.⁵⁹
- 4.22 While we consider the proposals could deliver high personal value to those that will watch the channel, it is also our view that it is likely that part of this enhanced personal value directly related to watching the television channel could be relatively short term, as overall trends in declining linear viewing are likely to continue, and we don't envisage these being reversed. As noted above, the BBC's estimate suggests a decline in reach to the broadcast channel amongst 16-34s of 1.2 percentage points (4.8% - 3.6%) between 2022 and 2024. In our Media Nations 2021 report, we referenced findings from Ampere Analysis conducted in Q1 2021 which found that 42% of SVoD users said they could envisage not watching broadcast TV at all in five years' time, with the proportion highest among 18-34 year olds with almost half (46%) agreeing with this statement.⁶⁰
- 4.23 Therefore, we also agree with the BBC that a further part of the personal value delivered by the proposals will be through the potential for the 'shop window' effect of the proposed broadcast channel to deliver increased viewing to BBC Three content, and other BBC content, on BBC iPlayer. If the proposals are successful in establishing a connection to the BBC Three brand, the BBC brand in general, and by driving greater viewing to the BBC iPlayer, they are likely to also deliver longer term benefits for the BBC's ability to deliver its Mission and Public Purposes. We note that whilst the BBC's estimate projects a decline in reach to the broadcast channel between 2022 and 2024, it also predicts an increase in reach to BBC Three on BBC iPlayer over the same period of 12.7% - 14.6% for 16-34-year olds.

⁵⁸ We estimate its viewing share (linear and BVoD) could reach 1.5% in 2022 for all individuals aged 4+.

⁵⁹ BBC PIT, p.51.

⁶⁰ Ofcom, [Media Nations 2021](#), August 2021, p.15.

Social value

The BBC's view

4.24 The BBC argues that the proposals will deliver high social value, which it defines principally by "how well the proposals will help the BBC to better deliver its Mission and Public Purposes".⁶¹ In doing so, it sets out under Public Purposes 1 to 4 how the proposed launch of the new broadcast channel contributes to social value through amplifying the consumption and awareness of pre-existing BBC Three content as well as by reaching a range of audiences, particularly 16-34s and those less engaged with the BBC. Where relevant, the BBC's analysis also indicates the social value that it believes will be generated by elements specific to the proposal, such as the proposal for a nightly news bulletin, and the opportunity for additional live sport and music coverage which wouldn't exist absent the proposals.

A BBC Three broadcast channel will help the BBC to fulfil its Mission

4.25 The PIT draws from the research, feedback to the consultation and verbatim comments from the roundtables to highlight how it considers that the proposals will contribute to fulfilment of the Mission. It notes that the channel will enable more people to access BBC Three content, particularly those who may not have internet access.⁶²

4.26 The BBC's research also suggests that an average of 47% of the population were in agreement with the statement that new BBC Three broadcast TV channel will have societal benefit, rising to 59% for 16-34s. It also draws on what it identifies as social benefits from the qualitative research including extra content for Freeview households and a new platform for under-represented groups.

A BBC Three broadcast channel will promote the BBC's Public Purposes

4.27 The BBC has assessed the social value of its proposals against the first four Public Purposes.

Public Purpose 1: provide impartial news and information

4.28 The BBC acknowledges in the PIT that evidence from the research didn't find that audiences thought that BBC Three would contribute greatly to delivery of Public Purpose 1. It attributes this to the fact that the show reel in its research didn't show any news content. However, the research did find that almost two-thirds of audiences from minority ethnic backgrounds (compared to 42% of all respondents) felt that the channel will help people in the UK understand and engage more in the world around them.⁶³

4.29 The BBC's PIT confirmed that BBC Three will include international news and current affairs, which stakeholders had considered to be an important part of the previous BBC Three channel. In response to feedback from its roundtables about the value of providing news

⁶¹ BBC PIT, p.38.

⁶² BBC PIT, p.39.

⁶³ [MTM audience research](#), p.69.

tailored specifically for younger audiences, the BBC confirmed that the channel will contain a nightly news bulletin, presented by young people, currently planned for each weekday evening.

Public Purpose 2: support learning for people of all ages

- 4.30 The BBC's proposal sets out that the proposed BBC Three broadcast TV channel will provide factual programming at peak-time slots that the BBC says will help younger audiences learn about a wide range of subjects in an accessible and engaging way and explore new subjects.⁶⁴ The audience research cited by the BBC indicated that audiences felt the channel would provide learning through its range of documentaries and highlighting topical issues such as mental health and the challenges of the job market.

Public Purpose 3: show the most creative, highest quality and distinctive output and services

- 4.31 The PIT concludes that the BBC Three broadcast TV channel will provide a "greater platform for distinctive, high quality programming for younger audiences, driving reach and discoverability of this content", as well as improving [the BBC's] engagement and connection with younger audiences'.⁶⁵ The BBC cites its survey where half of 16-34s agreed with the statement that "the new BBC Three channel would be unique – no other TV channel is like this".⁶⁶
- 4.32 To demonstrate how the BBC Three broadcast channel will be distinctive, the PIT compares BBC Three's proposed content mix with what it considers to be other similar services in the market: E4, ITV2 and Sky One.⁶⁷ The BBC concludes that what will distinguish BBC Three from the other services will be both tone – it considers ITV2 and E4 to be more "light hearted and entertainment led" – and the genre mix – it considers that a key difference will be the presence of more "thought provoking" factual content and drama and less comedy and film compared to ITV2 and E4. It considers that BBC Three will be distinct from Sky One because of the presence of more serious factual content and documentaries specifically targeting young audiences.⁶⁸
- 4.33 The BBC is proposing that 70% of BBC Three's broadcast hours will be made up of UK original productions. It uses a comparison of the top 10 performing programmes on BBC Three on BBC iPlayer with those on E4, ITV2 and Sky One television channels to demonstrate that BBC Three will have more first-run commissions and fewer acquisitions than comparable services, although it acknowledges that it has not made a like-for-like comparison.
- 4.34 To illustrate how the channel will deliver 'quality of output' and 'level of risk-taking, innovation, challenge and creative ambition', the BBC gives examples of 'award-winning'

⁶⁴ BBC PIT, p.43.

⁶⁵ BBC PIT, p.52.

⁶⁶ Ibid.

⁶⁷ The BBC characterises E4 and ITV 2 as 'youth oriented channels' and Sky One as a channel 'skewing to younger audiences' albeit not 'specifically targeted at youth audiences'.

⁶⁸ BBC PIT, pp.45-46.

BBC Three content as well as evidence from its own audience panel and audience engagement on social media to measure the quality of its programmes.⁶⁹

- 4.35 The audience research is also used to support the BBC's assessment of the 'quality of output' and the 'range of audience it serves'. 60% of 16-34s in its research felt that the channel would offer a broader choice of high-quality content. The research also demonstrates the range of audiences the channel will appeal to,⁷⁰ that, on learning of the proposals, favourability towards BBC Three increases among people of C2DE socio-economic backgrounds, minority ethnic groups and those with a weaker internet connection,⁷¹ and that older audiences recognised the benefits for younger audiences of content that would interest them.⁷²

Public Purpose 4: reflect, represent, and serve the diverse communities across the UK and support the creative economy

- 4.36 The BBC argues that BBC Three will provide a greater platform for content that represents the lives and experiences of under-represented young people and portrays issues relevant to them. The PIT sets out specific examples of content that it considers to represent and portray the target audience with authentic voices and experiences across the UK.⁷³ It cites its survey, responses from stakeholders and verbatim evidence from the roundtables which found that audiences agree that a key part of the proposals is that they will help to provide a greater platform for under-represented groups.⁷⁴

Our view

- 4.37 We agree with the BBC that its content delivers social value through its contribution to the Mission and Public Purposes. This is the framework through which we have assessed social value in previous BCAs. As such, we agree with the BBC that the likely increased reach and viewing of BBC Three content, both through the new broadcast channel and through increased viewing to BBC iPlayer, has the potential to deliver social value.
- 4.38 To that extent, we agree that the proposals could contribute positively to the BBC fulfilling its Mission, both now and in the future. We have previously pointed out that with increased choice and strong competition in the market, there is a clear risk to the BBC that as children and young people age, they do not come to engage with the BBC as previous generations once did.⁷⁵ This risk has implications for the BBC's ability to continue to deliver its Mission and Public Purposes and to serve all audiences.
- 4.39 We therefore consider that if the proposed broadcast channel were successful in increasing positive awareness of the BBC brand amongst younger and harder to reach

⁶⁹ BBC's PIT, pages 47, 48 and 50.

⁷⁰ It specifically references 16-34 year olds, people of C2DE socio-economic backgrounds or minority ethnic groups, and those living in non-metropolitan areas.

⁷¹ MTM research, p.40.

⁷² MTM research, p.61.

⁷³ BBC PIT, p.53.

⁷⁴ BBC PIT, p.54.

⁷⁵ Ofcom, [Ofcom's Annual Report on the BBC, 2018/19](#), October 2019, p.13.

audiences, it could play an important part in contributing to the BBC's future sustainability. However, we do not share the BBC's conclusion that the proposed changes would, in and of themselves, "safeguard [its] ability to deliver the Mission and Public Purposes to all audiences".⁷⁶ We note 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.

- 4.40 We agree with the basis of the BBC's premise that if more people watch BBC Three content then the societal value derived from the content will be amplified. The obvious corollary of this is the ability of the new channel to increase social value is directly related to the content commissioned and made available and the amount of people watching it. The BBC's PIT cites existing BBC Three content to help to articulate its case that the proposals will help to deliver the Mission and Public Purposes. We agree that this is an appropriate way of considering the potential social value of its proposals in this case.
- 4.41 We welcome the BBC's commitment, following its consultation, to include a nightly news bulletin in the schedule for the new broadcast channel. Our research consistently shows that high-quality trustworthy and accurate news is one of the most important aspects of public service broadcasting on both a personal and societal level. As we have noted elsewhere,⁷⁷ the Covid-19 pandemic reinforced the importance of high-quality, trusted and accurate news to combat widespread misinformation. However, our annual reports have consistently found that younger audiences remain less likely than other adults to use BBC TV for news.⁷⁸ Our news consumption survey found 16-24s and people from minority ethnic groups are more likely to get their news from the internet than TV, which is more popular for older adults and people from a ABC1 socio-economic background.⁷⁹ Nine in ten younger people aged 16-24 follow news stories online, compared with under two-thirds who get their news from TV.⁸⁰ We also know from our [2019 review of the BBC's news and current affairs output](#) that young people perceived BBC news as less relevant to them as it did not give enough coverage to the issues that they were interested in. Although the BBC has not set out any detail in the PIT as to how exactly this news content will be delivered, if news content that appeals to young audiences on BBC Three can make the BBC's journalism more available, engaging and relatable for younger audiences we consider that could deliver high social value for audiences against Public Purpose 1. Having daily news content on the channel will also support its overall distinctiveness.
- 4.42 We think it is important to hold the BBC to its commitment to provide news. In Section 7, we have set out our proposals for Operating Licence conditions we would intend to impose in respect of BBC Three, assuming that we ultimately decide in our final BCA determination to approve the proposals. We are proposing that it would be appropriate for there to be an

⁷⁶ BBC PIT, p.38.

⁷⁷ Ofcom, [Covid-19 news and information: consumption and attitudes research](#), 2020.

⁷⁸ [Ofcom's Annual Report on the BBC, 2019/20](#), p.35 and [Ofcom's Annual Report on the BBC, 2018/19](#), p.8.

⁷⁹ Ofcom, [News Consumption in the UK: 2021](#), July 2021.

⁸⁰ Ibid.

Operating Licence condition which will ensure that the BBC is required to provide news content every weekday on BBC Three. We set out our reasoning in Section 7.

- 4.43 We also see that the opportunity presented by the new channel to show live sport and music coverage that is unlikely to be shown on BBC One or BBC Two, or sought out on BBC iPlayer, has the potential to contribute positively to Public Purposes 2, 3 and 4. However, the contribution of this content to the delivery of these purposes, as well as to the distinctiveness of the channel in general, will depend on what exactly the BBC chooses to show. For example, we think that if the proposed BBC Three broadcast channel is able to provide a home for coverage of sporting and music events that aren't readily available elsewhere then this could have high social value, and could be a useful method for building a connection with new audiences.
- 4.44 The BBC has not been specific in the PIT about what kinds of events it is planning to show, which means it is hard for us to make a judgement on the likely impact of this element of the proposal. Given the lack of detail, we also don't think that there is sufficient evidence provided to support the BBC's claim that it is likely that this output will deliver "weekly appointment viewing that has wide appeal",⁸¹ and that this claim is therefore overstated. This statement also seems to be contradicted by the BBC's previous assertion that this content wouldn't have a natural home on BBC One or Two, which we consider are more likely services to deliver wide appeal 'appointment viewing' because they attract a broader and larger range of audiences.
- 4.45 We note that stakeholder feedback to the BBC consultation questioned whether the BBC's proposals would be unique given the range of other channels that appeal to 16-34s in the market. We 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, and therefore the extent to which it contributes to the delivery of Public Purpose 3.
- 4.46 We think that the BBC's method of using the 'five pillars' of distinctiveness from Schedule 2 of the Agreement⁸² is a sensible way of articulating how the proposals will deliver public value through Public Purpose 3, and that it has made a reasonable case for how the channel could be distinctive from comparable services. For example, we think that its comparative study of output between the proposed BBC Three channel and other similar services is a useful starting point in considering the distinctiveness of the service. Key to the BBC demonstrating that it is delivering additional public value beyond what audiences can get elsewhere is the range of programming shown on the channel, as described above.
- 4.47 The BBC's illustration of the differences in genre mix in the PIT⁸³ appeared to show relatively similar distribution at a genre level between BBC Three, Sky One and E4, with a greater difference with ITV2. We requested that the BBC provide us the underlying data used in the chart that it published and found that some E4 factual entertainment / reality

⁸¹ BBC PIT, p.35.

⁸² [Agreement](#) Schedule 2, paragraph 1(2).

⁸³ Figure 13 on p. 46.

programmes such as Rude Tube, Naked Attraction, Gogglebox and Tattoo Fixers had been inaccurately categorised by the BBC as factual.⁸⁴ We have recategorised these programmes accordingly which shows that the BBC’s proposals actually contain a wider range of genres than E4 than shown by the evidence in the BBC’s PIT.

Figure 5: Comparison of hours of genre 7pm-midnight by channel (2019) and BBC Three proposal



Source: BARB / BBC data.

4.48 We do not expect that the BBC’s output across a service, or series of services, must be wholly distinct from content offered by other broadcasters and acknowledge there may be some crossover. However, given the requirements that it has under the Charter and Agreement to offer distinctive output and services, the BBC has a responsibility to ensure that its output and services are substantially different to others, including through the breadth of its output (i.e. ensuring a mix of different genres and output). This is important to the public value of the proposals. Therefore, the BBC would need to ensure it genuinely delivers a mix of content on BBC Three that is both distinctive from other comparable services and genuinely representative of diverse and under-represented young people in order to ensure that this element of social public value is realised. In Section 7, we have

⁸⁴ We have taken the view that the ‘factual (including current affairs and news)’ group is better suited to documentaries, consumer affairs, current affairs, news and specialist programmes like history, religion, natural history etc, whilst programmes such as those listed that present topics in a lighter way are better placed in the ‘entertainment / factual entertainment’ group.

explained how we would expect the BBC to set out its concrete proposals for BBC Three in its Annual Plan, assuming that we approve its proposals. We consider that having a clear articulation in its next Annual Plan of how it would deliver high-quality distinctive output across different genres on the BBC Three broadcast channel and BBC iPlayer would help to achieve this.

- 4.49 Whilst we consider that social value will be provided by the range of output on the channel, in addition, the BBC has put specific weight on the fact that what will distinguish BBC Three from similar services is the amount of factual content and documentaries in prominent peak-time slots.⁸⁵ It also describes this as being “an important contribution to the BBC’s informal learning output”.⁸⁶ We agree that access to this content could deliver social value, particularly where content is highlighting topical issues to young people that could help to deliver social cohesion (examples given in the BBC’s PIT were mental health and the challenges of the job market). This is an important part of the public value of the proposals and we would expect the BBC to explain in more detail in its Annual Plan how factual content on the channel will help younger audiences learn about a wide range of subjects in an accessible and engaging way and explore new subjects. We would also expect it to report on delivery against this in its Annual Report.
- 4.50 Another way of delivering public value by distinguishing itself from other services is through the overall level of original content on the channel. In general, we agree with the BBC that if, as described in the PIT, “the key focus of the new BBC Three channel [is] high-quality original British programming focused on the target audience of 16-34s”, this will deliver public value in terms of distinctiveness.⁸⁷ However, stakeholders have raised concerns about the proposed level of acquisitions in the BBC’s proposals.
- 4.51 We consider that much greater public value would be delivered to audiences through original UK productions as opposed to acquired, predominantly American, content. However, we do think that carefully chosen acquisitions within the schedule could play a role in drawing audiences to the channel, who then may be exposed to higher public value from original BBC content. There is a lack of clarity, however, of how and when the BBC plans to deploy acquired content in the schedule, and the extent to which the BBC would use high-profile content previously acquired for other BBC services within the BBC Three schedule.
- 4.52 In Section 7, we set out our reasoning for why we consider that, should we approve the BBC’s proposals, the amount of original BBC content on the channel should be at least 75% as opposed to the BBC’s proposed 70%, and we therefore propose to set a condition in the Operating Licence requiring the BBC to deliver this.
- 4.53 As well as the importance of UK originated content, we continue to hold the view that the BBC’s provision of first-run UK content is also important for distinctiveness. In our third annual report on the BBC, we said “high quality, distinctive, innovative, and original output

⁸⁵ BBC PIT, p.45-p.46.

⁸⁶ BBC PIT, p.43.

⁸⁷ BBC PIT, p.17.

by the BBC that represents the whole of the UK and appeals to a wide range of audiences is important if the BBC is to attract and retain these audiences".⁸⁸ Therefore another key factor in securing the distinctiveness of the proposal would be the amount of first-run UK originations. The BBC's PIT sets out that 24% of output between 7pm and 12pm will be first run programming. It is important to note that when we asked the BBC for clarification as to what this covered, it told us that in its consultation and in its PIT it has used the phrase "first-run programming" to include both first-run BBC commissions and what it describes as "first-run acquisitions". We consider that this could have been misleading to stakeholders and it was unlikely to have been clear that the use of this term in their consultation and the PIT was intended to refer to acquisitions in addition to first-run BBC commissioned originations. Our view is that the relevant metric here is BBC commissioned first-run UK originations as per the definition of in 2.37.1 of the Operating Licence.⁸⁹

- 4.54 We explain in Section 7, that whilst we consider imposing an Operating Licence condition to secure first-run content on the channel is important, we have proposed not to set a quota for a minimum level at this stage, although we will keep this under review. We are, however, proposing to impose an Operating Licence condition which would require the BBC to provide a range of newly commissioned first-run UK content across a mix of different genres. We have also explained that we would expect the BBC to set out detail in its next Annual Plan around the volume of new UK content that it is commissioning for the channel, and report on delivery of this, and we would be monitoring this carefully.
- 4.55 We consider that the BBC has made a good case for how the proposal can generate social value through contributing to the delivery of Public Purpose 4. We agree that the channel has the potential to engage underserved and under-represented audience groups through making content that reflects and portrays different young voices and experiences more available and discoverable. The BBC's research shows a higher level of agreement with the statements of social impact among under-represented groups such as those from a minority ethnic background.
- 4.56 In our view, the proposals could also benefit the representation and portrayal of audience groups more widely. In our 2018 thematic review of representation and portrayal on the BBC, we noted that our findings suggested the BBC may need to consider the impact that changes to BBC Three as it went online had on audience perceptions of representation and portrayal by the BBC.⁹⁰ Some viewers of BBC Three claimed to watch the channel less or not at all following the move and regretted the change, with some interpreting it as reflecting a dismissive attitude towards diversity.⁹¹ Content analysis in our review found that BBC Three represented a wider range of people than BBC One and Two.⁹²

⁸⁸ Ofcom, [Ofcom's Annual Report on the BBC, 2019/20](#), November 2020, p.51.

⁸⁹ Ofcom, [Operating Licence for the BBC's Public Services](#), March 2021, p.17.

⁹⁰ Ofcom, [Representation and portrayal on BBC television: Thematic Review](#), October 2018, p.40.

⁹¹ Ofcom, [Representation and portrayal on BBC television: Thematic Review](#), October 2018, p.4.

⁹² Our content analysis in our 2018 review found people from a minority ethnic background made up 21.5% of the total BBC Three population, compared to 12.5% of the total TV population on BBC One and BBC Two.

4.57 Our recent review of Public Service Media found that programming that accurately reflects the diversity of the UK was identified as one of the main contributions of public service broadcasting in our audience research, particularly among younger viewers.⁹³ Therefore, we agree with the BBC that social value could be generated by accurately reflecting and authentically portraying young people and underserved audience groups such as young people from C2DE socio-economic backgrounds and minority ethnic backgrounds.

Industry value

The BBC's view

- 4.58 The BBC's PIT argues that industry value will be created through benefits to the independent production sector, the redistribution of programme spend from London to the nations and regions, and in supporting the development of talent.
- 4.59 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.⁹⁴ The PIT demonstrates that the BBC currently commissions approximately 60% of BBC Three content by spend and hours from independent producers and, therefore, the BBC considers that the proposals will be of particular benefit to them.⁹⁵
- 4.60 The PIT also sets out the proposal for two-thirds of BBC Three's programme budget to be spent outside of London. The proposal does not set a target for the percentage of hours to be delivered outside of London. Since the channel closed in 2015, an average of 74% of spend and 77% of hours have been within London.
- 4.61 The BBC considers that industry value will also be created by the proposed channel providing a "bigger platform for emerging talent and producers to reach a broader audience and increase engagement with younger audiences across both television and BBC iPlayer".⁹⁶ It provides examples of talent involved in BBC Three programmes who have won awards and had successful careers, to illustrate how BBC Three could provide a bigger platform for talent, increasing their reach and exposure.⁹⁷

Our view

- 4.62 In our Small Screen: Big Debate statement we said that public service broadcasters are central to the UK creative economy, particularly across the nations and regions.⁹⁸ The proposed increase in the percentage of programming to be made outside of London by

⁹³ Ofcom, [Public Service Broadcasting: omnibus survey findings](#), July 2020, p.6-7. Participants were asked to name three benefits of the PSBs which they felt were the most valuable to society overall.

⁹⁴ BBC PIT, p.57.

⁹⁵ Ibid. Figure 16.

⁹⁶ BBC PIT, p.58.

⁹⁷ BBC PIT, p.59.

⁹⁸ Ofcom, [Small Screen: Big Debate – recommendations to Government on the future of Public Service Media](#), July 2021, p.2.

BBC Three is therefore to be welcomed. The BBC has said that the commitments to spend two-thirds outside of the M25 are a core part of its proposal. The BBC included its aim for two-thirds of BBC Three's spending to be outside of London in its *The BBC across the UK* strategy.⁹⁹ It has told us that if the channel were not approved that it would need to reconsider its editorial strategy for BBC Three. We don't fully agree that the BBC are unable to deliver more BBC Three programming outside of London absent the proposals, the increased content budget isn't contingent on the proposed broadcast channel, and there seems to be no reason why BBC Three in its current form could not commission more outside of London. As such, we think that whilst committing to greater expenditure across the UK is important, the public value claimed here as a direct result of the proposals is overstated.

- 4.63 To the extent that greater exposure and increased reach is generated for BBC Three content by the proposals, we also agree that there could potentially be some additional value accruing to independent producers. However, the BBC has not provided any evidence to substantiate how exactly, and by how much, this will increase the value of secondary or ancillary rights. Pact's response to our initial consultation questioned whether the proposals would enable producers to realise this value.¹⁰⁰
- 4.64 As such, we consider the creation of industry value to independent producers through the proposals is unclear. However, we expect that the BBC will continue to have an incentive to ensure that there is a healthy production sector able to supply the content it needs to help it to deliver both the personal and social value that it identifies in the proposals.
- 4.65 We think that there is a stronger case made in the PIT that a BBC Three broadcast channel could act as a "bigger shop window" that could provide benefits for talent contributing to BBC Three commissions, and that this could deliver public value. Whilst we consider that the schemes and partnerships that the PIT references are happening absent the proposals, we agree with the premise that the channel will provide a bigger platform for BBC Three content which should increase their reach and exposure.

Costs of the proposals and potential foregone public value

- 4.66 Our BCA guidance makes clear that the BBC should consider the additional public value created by its proposals, taking into account any reductions in public value as a result of the changes.¹⁰¹ By this we mean the BBC should consider whether its proposals have the potential to impact negatively on public value both in terms of that provided by the BBC and by other broadcasters.¹⁰²

⁹⁹ BBC, [The BBC across the UK](#), March 2021, p.5.

¹⁰⁰ [Pact consultation response](#), p.5

¹⁰¹ Ofcom, [Assessing the impact of proposed changes to the BBC's public services: Ofcom's procedures and guidance](#), March 2017, p.30.

¹⁰² In our [consultation of the preliminary determination for BBC iPlayer changes](#) (p.29) we explained that other PSBs in particular provide social value, given the PSB purposes and characteristics they are required to deliver, and that the fall in viewing to non-BBC PSB live TV and BVOD services would offset some of the gains to public value identified by the BBC.

- 4.67 The BBC considers that the additional cost of operating the proposed channel is low, with an incremental cost of approximately £2m per year, which the PIT states will be met through the expected BBC Three budget of £79m per year.¹⁰³
- 4.68 The BBC acknowledges that the proposed decrease in CBBC's broadcast hours could have a negative impact on public value. The PIT shows that CBBC live viewing between 7pm and 9pm comprised 16% of CBBC's live viewing in 2020, and less than 0.1% of total BBC viewing (including BBC iPlayer).¹⁰⁴ It notes however that CBBC content is available on BBC iPlayer at all hours. Whilst it proposes to reduce its operating hours, the BBC plans to maintain the same budget for CBBC, which it suggests means that it will be able to invest in higher value programming.¹⁰⁵ The proposals also note that in the same 7pm-9pm slot on BBC Three the BBC is planning pre-watershed content suitable for and appealing to audiences over the age of 13, which it says will provide older children with an opportunity to discover and watch BBC content as they transition to later teenage years.¹⁰⁶
- 4.69 The research for the BBC's modelling suggests that 30% of the viewing hours gained by BBC Three will come from other BBC services. Its view is that the fact that these audiences are choosing to switch from other BBC channels to BBC Three means that these audiences consider themselves to be better served by BBC Three which it considers to indicate a net increase in personal value, although it doesn't consider this in terms of social value.¹⁰⁷ The PIT notes that the BBC has no plans to close any current services, or to make any significant changes to such services, as a result of the proposals.¹⁰⁸ As such, it does not consider that these changes will lead to any reduction in public value.
- 4.70 The BBC takes the same view on diversion from non-BBC services. From a personal value perspective, it considers that the fact that these audiences are choosing to switch from alternative sources to BBC Three means that these audiences consider themselves to be better served by BBC Three. It considers this to indicate a net increase in personal public value, although, again, it doesn't consider this in terms of social value.¹⁰⁹

Our view

- 4.71 We agree that the scale of the ongoing operational costs of the channel appear unlikely to lead to material forgone public value across the BBC services.
- 4.72 In terms of CBBC, we agree that there could be some foregone public value by closing the channel 2 hours earlier than present and have examined both the output and the viewing of CBBC between 7pm and 9pm. Most of the content shown during this time is repeats and the size of audience watching at that time likely to be affected is relatively small. We

Regarding the BBC, we also said on page 30 that if a proposal takes funding away from other services it would be likely to lead to a reduction of public value.

¹⁰³ BBC PIT, p.61.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ BBC PIT, p.62.

¹⁰⁹ Ibid.

therefore think that the reduced public value for children is likely to be small and agree with the BBC's premise that this impact is justified by the wider additional public value of the proposal. As part of its reporting on the performance of the new channel, we would expect the BBC to report on the extent to which audiences aged 13-15 feel well served by pre-watershed BBC Three content.

- 4.73 We also agree with the BBC's position that if audiences choose to spend more time with BBC Three because of the proposed changes, then it must offer them greater personal value than whatever their alternative was, whether BBC or non-BBC services.
- 4.74 However, we consider that the position is more complex regarding social value. Beyond its assessment of personal value, the BBC did not consider impacts on the public value generated by other broadcasters in its PIT. Other Public Service Broadcasters (PSBs)¹¹⁰ deliver public value through investment in UK originated content across a range of genres. We consider that this provides social value, given the PSB purposes and characteristics they are required to deliver. In addition, other commercial broadcasters investing in UK content also make a significant contribution to the UK broadcasting sector. Therefore, reduced viewing to other PSBs due to the BBC's proposals could offset some of the gains to public value identified by the BBC. However, as our assessment of the market impact of the BBC's proposals shows, we consider there is not likely to be a significant impact on other broadcasters, and this is unlikely to alter their incentives to invest in content. Therefore, we don't consider that any lost public value caused by reduced viewing of other PSB content is likely to be material.

Provisional conclusions

- 4.75 Overall, we consider that the BBC's assessment of public value in this proposal is more detailed than in its previous PITs, and that the BBC has taken on board some of our previous comments on needing to reflect in greater detail, and with greater evidence, the potential public value of its proposals. We welcome this.
- 4.76 We consider that the BBC's view of public value is reasonable. Overall, our view is that the proposal has potential to contribute significant public value in some areas, notably in personal value and social value. The extent of this benefit will correlate with the size of the audience the BBC Three channel attracts, and viewing projections suggest that this is likely to be limited to a relatively small group of people. However, we also consider that this is a particularly important group of people for the BBC to reach, and we have given weight to that in our assessment. As explained above, there are also some areas of its assessment where we don't agree fully with the BBC's conclusions, where we consider that there is less consensus from the cited evidence than implied by the BBC, or where we consider that the value is likely to be relatively limited.

¹¹⁰ The existing public service broadcasters are the BBC, the Channel 3 licensees (ITV and STV), the Channel 4 Corporation, S4C and the Channel 5 licensee.

4.77 We welcome the increased choice on linear television that the new channel will offer to audiences, particularly if it delivers on its aims to do more for the younger audiences that it has identified that it needs to deliver greater value for: audiences outside of London and the south-east, from lower socio-economic groups, and those with less access to on-demand services.¹¹¹ As such, the proposals have the potential to form an important part of the BBC's overall strategy for younger audiences.

Securing the public value of the proposals

4.78 Our assessment of the public value case that the BBC has made is based on what it has committed to in its PIT. The extent of the public value which would be realised by the proposals will depend to a large extent on the content that the BBC commissions for BBC Three and how it balances its archive content and acquired content to deliver a genuinely distinctive offer.

4.79 As set out in Section 7, should we reach a final determination in line with our provisional conclusion we propose to put in place some Operating Licence conditions to hold the BBC to account for key aspects of the proposals.

4.80 As explained in this section, in Section 7, there are also areas of the public value assessment on which the BBC has put significant weight where we are proposing not to set specific conditions at this stage. However, we expect the BBC to set out detail in its next Annual Plan about how it intends to ensure BBC Three will deliver the public value it has identified in the PIT, and how the proposals promote the Mission and Public Purposes, and then to report on its delivery against this in its Annual Report. This will give assurance on the delivery of public value and the contribution of the proposed channel to the delivery of the Mission and Public Purposes.

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.

¹¹¹ BBC PIT, p.10.

5. Our assessment of potential market impacts

- 5.1 In accordance with our duties under the Charter and Agreement, we are required to make an assessment of the potential impact on fair and effective competition of the changes proposed by the BBC. Our detailed assessment is included at Annex 1. In this section, we summarise:
- a) the potential competition concern;
 - b) the conclusions of the BBC's assessment;
 - c) how we approached our competition assessment; and iv) our assessment of the impacts of the proposal.

Potential competition concern

- 5.2 As a large publicly-funded organisation which operates across the television, radio and online sectors in the UK, the launch of a new service by the BBC has an impact on competition in the media sector. This impact may be positive and stimulate demand or encourage innovation.
- 5.3 However, in fulfilling its objectives, there is a risk that the BBC may harm the ability of others to compete effectively. An adverse impact on competition could arise if the relaunch of BBC Three would reduce commercial operators' revenues and profits to such an extent that it undermines their willingness to invest in new services or in improving the quality of their existing services. It may also result in some commercial operators ceasing to provide services or being deterred from entering the market, if it is no longer profitable to do so. This could harm audiences in the long run by reducing choice, quality or innovation.

The BBC's conclusions on market impact

- 5.4 The BBC's assessment considered the possible impact of relaunching the BBC Three linear channel on a range of different competitors. These included free-to-air television services (including BVoD), pay TV services such as Sky and Virgin Media, and subscription video-on-demand (SVoD) services such as Netflix.
- 5.5 The BBC concluded that there would be no meaningful impacts on pay TV or SVoD providers. However, it found that there was likely to be an impact on viewing and advertising revenues for free-to-air services. The BBC considered that viewing diverted to a BBC Three linear channel could reduce advertising revenues across all commercial channels

by £11-23 million in 2022.¹¹² It found the largest impact to be on ITV and Channel 4 – the BBC estimated that each might lose at most 0.6% and 0.7% of their advertising revenues (~£11 million and £7 million, respectively in 2022). The remaining revenue loss of at most £5 million was split between all other commercial broadcasters.¹¹³

- 5.6 The BBC noted that the estimated revenue impact was small in relation to total TV advertising revenues which are forecast to be over £4 billion in 2022. The BBC considered that commercial channels “will have various strategies open to respond dynamically to the launch of BBC Three to mitigate any viewing and therefore revenue losses, e.g. in programming strategies”.¹¹⁴ The BBC suggested the launch of a BBC Three linear channel would be unlikely to affect its rivals’ incentives to invest and innovate.

How we approached our assessment

- 5.7 In our assessment, we have examined the impact that relaunching BBC Three as a linear channel would have on the viewing and revenue of rival commercial broadcasters (‘static impacts’).¹¹⁵ We have considered whether this could affect their incentives to invest and innovate (‘dynamic impacts’). We have also considered potential impacts for pay TV and SVoD services.
- 5.8 We consider there are two possible ways to approach the assessment: i) we could look at what happened when BBC Three went off-air in 2016 (and consider what this might tell us about its reinstatement in 2022 and beyond); or ii) we could model the impact.
- 5.9 Our analysis suggests that it is difficult to determine a clear impact on other channels due to BBC Three going off-air. This reflects that BBC Three was a relatively small linear channel in 2016, so the consequent viewing released was small and likely spread across several channels. There may have been an impact on individual channels, but it is difficult to disentangle the impact of BBC Three going off-air from other factors such as general trends in viewing and idiosyncratic factors that affect individual channels (like the popularity of content shown at particular points in time).
- 5.10 In the light of this we have focused on an approach which models the impact of relaunching BBC Three as a linear channel. The modelling uses the following approach:
- a) it assesses the current and future prospects of affected services in the absence of the BBC’s service proposals (the counterfactual);
 - b) it considers the likely changes to the BBC’s viewing as a result of the service proposals; and

¹¹² The quantitative modelling exercise looks at a three-year period (2022-2024), and 2022 is used as an illustrative year to demonstrate the likely per annum revenue impact. We would expect the reintroduction of a BBC Three linear channel to have an effect beyond 2024, although the impact is less certain further in the future.

¹¹³ BBC PIT, p.74-75.

¹¹⁴ BBC PIT, p.6.

¹¹⁵ Our assessment of the impact on commercial broadcasters considers the combined linear TV, PVR and VoD viewing.

- c) it assesses the impact of the change in BBC viewing on affected services (so assessing where the change in viewing of BBC services is likely to come from or flow to). Where appropriate, we assess the financial implications of the change in viewing on the affected services.

5.11 As part of its assessment the BBC produced a model to estimate the viewing and revenue impact on commercial broadcasters. We have used this model as a starting point for our assessment of static impacts. There are two main elements which inform our view of the static impacts:

- **Gain in BBC viewing.** We estimate expected viewing for the BBC Three linear channel. To do so, we start with live viewing of the BBC Three channel when it was on air in 2015/16 and make adjustments to reflect anticipated differences in 2022. These adjustments include, for example, changes in the budget and the decline in linear viewing over this period.¹¹⁶ We also estimate the increase in viewing on iPlayer as a result of greater awareness of content due to the launch of a BBC Three linear channel. Taken together, this provides the estimated increase¹¹⁷ in viewing minutes for the BBC compared to the counterfactual situation absent the launch of a BBC Three linear channel.
- **Diversion from competing services.** We estimate where viewing gained by the BBC comes from. This is based on its survey which asked viewers what they would do less of to accommodate additional time spent watching BBC Three.¹¹⁸ We assume the additional BBC Three viewing is drawn from linear and on-demand video services only. This will include cannibalisation from existing BBC services. This allows us to estimate a reduction in viewing for commercial broadcasters (and SVoD) due to the BBC's proposal. We then estimate the reduction in advertising revenues for commercial broadcasters due to the reduction in viewing.

5.12 We have considered the BBC's modelling inputs and assumptions and made changes where we deem this is appropriate (see Annex 1). Where modelling assumptions are uncertain, we have tended to lean towards overestimating BBC Three's impact rather than underestimating it. This is a conservative approach as it means that the projected impact on rivals will tend to be higher. The result is that in our modelling, BBC Three is expected to account for a higher share of total viewing than it had previously achieved in 2015. This is likely to be an overstatement of the viewing it is likely to receive in practice. We have also performed some sensitivity analysis on a few assumptions where there is most uncertainty.

¹¹⁶ The BBC plans to increase the budget of BBC Three irrespective of the proposal to relaunch it as a linear channel. The increase in budget is likely to increase viewing of BBC Three and this is reflected in our assessment of market impact.

¹¹⁷ We also estimate the reduction in CBBC viewing due to the CBBC broadcast finishing at 7pm rather than 9pm to accommodate BBC Three.

¹¹⁸ We have cross checked the research results with the viewing profile of BBC Three 'heavy viewers'. The results for the main channel portfolios are very similar across the research and the BBC Three 'heavy viewing' metric.

Impact on BBC viewing

- 5.13 In our base case we estimate that relaunching BBC Three as a linear channel will increase BBC Three’s linear plus BVoD viewing share in 2022 by 0.8 percentage points for all individuals aged 4+, and by 1.7 percentage points for 16-34s. The forecast viewing share for BBC Three is relatively modest for all individuals aged 4+ (up to 1.5%), and somewhat higher for the 16-34 target audience (up to 4.6%).
- 5.14 Our forecast viewing shares are higher than those estimated by the BBC because of the adjustments we have made to the assumptions in the model. The changes we have made to the model have increased the estimate for BBC Three’s viewing share from the BBC’s original figure of 1.3% to 1.5% (for all individuals aged 4+ in 2022). The main reason for this is we removed the assumption that having a ‘BBC iPlayer first’ commissioning strategy for BBC Three will reduce viewing on the proposed linear channel by 25% (see paragraphs A1.74 to A1.78).

Figure 6: Projected BBC Three viewing share in 2022

| | All individuals 4+ | | 16-34s | |
|-----------------------|---------------------|-----------------------|---------------------|-----------------------|
| | With linear channel | Absent linear channel | With linear channel | Absent linear channel |
| Ofcom estimate | 1.5% | 0.7% | 4.6% | 2.9% |
| BBC estimate | 1.3% | 0.7% | 4.3% | 2.9% |

Source: Ofcom and BBC analysis. Notes: Share of all UK broadcast linear and BVoD viewing (i.e. excludes subscription video on demand). This includes all BBC Three viewing on BBC iPlayer (which differs from BARB C7 shares since it includes all BBC iPlayer content irrespective of its broadcast date, viewed through any device).

- 5.15 We also incorporate in our estimate the reduction in CBBC viewing due to the CBBC broadcast ending at 7pm rather than 9pm to accommodate BBC Three. The loss of CBBC viewing due to ending the CBBC broadcast earlier is relatively small - around 1bn minutes (~0.1% of total BBC viewing) in 2022 for all individuals (aged 4+) and 0.06bn minutes for 16-34s.
- 5.16 In total, we estimate that the BBC’s proposals will increase the BBC portfolio viewing share by 0.5 percentage points for all individuals aged 4+, and 1.06 percentage points for 16-34s.

Figure 7: Projected BBC portfolio viewing share in 2022

| | All individuals 4+ | | 16-34s | |
|-----------------------|---------------------|-----------------------|---------------------|-----------------------|
| | With linear channel | Absent linear channel | With linear channel | Absent linear channel |
| Ofcom estimate | 32.3% | 31.8% | 30.4% | 29.3% |

Source: Ofcom analysis. Notes: Share of all UK broadcast linear and BVoD viewing (i.e. excludes subscription video on demand).

Impact on commercial broadcasters

Static impact

5.17 We have estimated the impact on commercial broadcasters viewing and advertising revenues due to the BBC proposals. Our methodology is provided in Annex 1 and the results are shown in the Figure below.

Figure 8: Impact on commercial broadcasters, 2022 ¹¹⁹

| | Change in viewing | 2022 TV and VoD advertising revenue, £m | £m revenue impact (low and high) | | Impact as a % of advertising revenues (low and high) | |
|-------------------------------------|-------------------|---|----------------------------------|------------|--|--------------|
| ITV portfolio ¹²⁰ | -0.8% | 1904 | -8 | -15 | -0.4% | -0.8% |
| Channel 4 portfolio | -0.9% | 1102 | -5 | -10 | -0.4% | -0.9% |
| Other commercial | -0.4% | 1461 | -3 | -5 | -0.2% | -0.4% |
| Total | | 4467 | -15 | -30 | -0.3% | -0.7% |

Source: Ofcom analysis, ITV annual reports, STV annual reports, Channel 4 annual reports, Group M TV ad revenue forecasts.

5.18 We estimate that for all individuals, viewing will fall by 0.8% and 0.9% for the ITV and Channel 4 portfolios. ¹²¹ As explained in paragraphs A1.108 to A1.118, translating the anticipated fall in viewing into a revenue impact is not straightforward. While the BBC will draw audiences away from commercial broadcasters, it does not directly compete for advertising with commercial broadcasters. Because it is difficult to determine the precise relationship between viewing and revenue, we consider it appropriate to model a plausible range. We have assumed revenue would fall by one-third to two-thirds ¹²² of the estimated decline in viewing.

5.19 Based on this range, we have estimated that the total loss in revenues could be between £15m and £30m per annum. This represents less than 1% of estimated national TV advertising in 2022. This is likely to be most felt by ITV and Channel 4, who might lose up to 0.8% (~£15 million per annum), and 0.9% (~£10 million per annum) of their advertising

¹¹⁹ ITV portfolio includes ITV, ITV2, ITV3, ITV4, ITVBe, CITV, ITV Hub and +1 and HD variants are included where applicable. This includes STV and UTV. Channel 4 portfolio includes Channel 4, E4, E4, More4, Film4, 4Music, 4seven, All4 and 1+ and HD variants are included where applicable. Other commercial includes all other channels not included in the BBC, ITV or Channel 4 portfolios.

¹²⁰ STV holds the Channel 3 licences in North and Central Scotland and operates the STV Player across the UK. BARB measurement includes STV viewing within ITV viewing. Therefore, the changes in viewing for STV arising due to the linear relaunch of BBC Three are included in the ITV portfolio.

¹²¹ This estimate is for all individuals. As shown in Annex 1, for 16-34s, viewing is estimated to decrease by 1.7% for the ITV portfolio and by 1.3% for the Channel 4 portfolio.

¹²² The scenario where revenue falls by one-third corresponds to the price offset scenario of 67%, while the scenario where revenue falls by two-thirds corresponds to the price offset of 33%. This range is consistent with the approach that was adopted in the 2015 Market Impact Assessment which considered proposed changes to BBC Three, BBC iPlayer, BBC One and CBBC, as well as in the 2018 BBC Scotland Competition Assessment with respect to regional advertising.

revenues in 2022.¹²³ This is also relatively small in comparison to content spend – in 2020 ITV's scheduling costs were £935m¹²⁴ and Channel 4's total content spend was £522m.¹²⁵ The remaining revenue loss of up to £5 million per annum is split across all other commercial broadcasters.

- 5.20 A fall in Channel 4's overall portfolio revenues is more likely to have a direct impact on its content investment than for other commercial public service broadcasters. This is because Channel 4 operates on a not-for-profit basis, such that net of any running costs, all revenues are generally returned back into content investment. However, we consider that any impact is unlikely to be substantial based on the estimated up to £10 million reduction in revenues compared to total predicted revenue of over £1bn in 2022.
- 5.21 As noted above, for the most subjective or uncertain assumptions we have tested how the model outputs change when the assumptions change. This includes the expected uplift in iPlayer viewing because of greater exposure of content¹²⁶ and the estimated viewing reduction per downward EPG slot move for the new BBC Three linear channel relative to the old channel.¹²⁷ The results show that none of the sensitivity tests materially change the viewing or financial impact on broadcasters. In all cases, BBC Three's viewing share is 1.6% or less¹²⁸ and the revenue impact for ITV and Channel 4 remains 1% or less.
- 5.22 ITV and Channel 4 noted that, in future, the BBC may want to swap the EPG slots of BBC Four and BBC Three, in order to gain a more prominent position for BBC Three. We performed a sensitivity analysis which suggests this would have a small positive impact on BBC Three's viewing share – increasing it by 0.1 percentage point to 1.6% for all individuals aged 4+ in 2022, and 0.2 percentage points to 4.8% for 16-34s. We do not consider that this affects our provisional conclusions on market impact. We note that in the PIT the BBC stated that it has no current plans to swap BBC Three and BBC Four's EPG slots.
- 5.23 ITV and Channel 4 argued respectively that ITV2 and E4 would be disproportionately impacted by the relaunch of a BBC Three linear channel given their similar target audiences.¹²⁹ Sky made a similar point – suggesting the impacted channels would include Sky One, Sky Comedy, ITV2 and Comedy Central.¹³⁰ We recognise that within the channel portfolios those channels that attract younger audiences are likely to be more affected than others. We have considered the impact on some specific channels that they are likely to be closer competitors to BBC Three. We have estimated the viewing minutes that each

¹²³ Even in the unlikely worse-case scenario where advertising revenue falls in proportion to the fall in viewing, we note that this would not change our conclusion. In this scenario, total revenue would fall by £45m per annum which remains relatively small in the context of national TV advertising revenues.

¹²⁴ ITV, [ITV annual report and accounts for the year ended 31 December 2020](#), p.181 [accessed 7 September 2021].

¹²⁵ Channel 4, [Channel Four Television Corporation Report and Financial Statements](#), p.218 [accessed 7 September 2021].

¹²⁶ Our base case assumes a 5% uplift, which we double in our sensitivity analysis.

¹²⁷ We adjust viewing of BBC Three in 2015/16 downwards to reflect the fact that is likely to be at a lower EPG position compared to its previous EPG slot. Our base case assumes a viewing reduction of 1.5% for each slot. We decrease this to a 0.5% reduction per downward slot in the sensitivity analysis.

¹²⁸ For all individuals aged 4+.

¹²⁹ [Channel 4 response to Public Interest Test consultation](#), p.9; ITV confidential response to Invitation to Comment, p.6.

¹³⁰ [Sky response to the Public Interest Test consultation](#), p.9.

channel could lose to BBC Three in 2022 and compared these to total viewing minutes for each channel in 2019.¹³¹

¹³¹ This is based on seven-day consolidated viewing from BARB. We did not use 2020 viewing minutes as these may have been affected by the Covid-19 pandemic.

Figure 9: Estimated lost viewing minutes by channel

| | Channel | Mins lost to BBC Three (2022), bn | As % of total 2019 viewing mins |
|-------------------------|---------|-----------------------------------|---------------------------------|
| All individuals aged 4+ | ITV2 | 1.5 | 1.6% |
| | E4 | 0.9 | 1.5% |
| | Sky One | 0.9 | 3.0% |
| 16-34s | ITV2 | 0.3 | 1.1% |
| | E4 | 0.2 | 1.0% |
| | Sky One | 0.2 | 2.1% |

Source: BARB data and Ofcom analysis.

5.24 The largest proportionate impact is for Sky One which is predicted to lose 0.9bn viewing minutes to BBC Three, which represents 3% of its total minutes in 2019 (all individuals aged 4+). The impact on ITV2 and E4 is smaller, ranging from 1-1.6% of 2019 viewing minutes. We have not presented a revenue impact because we do not have information on advertising revenues for each individual channel. However, based on the relatively small potential reduction in viewing minutes, the impact on advertising revenues is likely to be relatively small. Further, for Sky, advertising revenues are a relatively small part of total revenues.¹³²

Dynamic impact

5.25 In order for the launch of BBC Three to harm fair and effective competition, it would need to lead rivals to reduce their investment and offerings to audiences. We have considered whether the linear relaunch of BBC Three could have longer term impacts on commercial broadcast channels' incentives to innovate and invest.

5.26 This is inherently difficult to assess because it is difficult to predict how broadcasters will respond to the relaunch of a BBC Three linear channel. Broadcasters may respond by investing and/or innovating to reduce the viewing shift to the BBC. On the other hand, broadcasters may respond to lower audiences by reducing investment to reduce costs and maintain profitability. This could have a negative impact on consumers if it reduces overall choice and quality. Another possibility is that commercial rivals reposition themselves to provide greater differentiation relative to BBC Three. This could affect consumers differently, with some having more programmes that suit their tastes and some having less.

5.27 It is difficult to know which (if any) of these approaches commercial broadcasters will follow, indeed, different broadcasters may adopt different approaches. However,

¹³² Sky's UK & Ireland revenues in 2018 show that advertising revenues only make up 6% of Sky's total revenue. Source: [Sky annual report 2018](#), p 91 [accessed 7 September 2021].

indicators are that significant harmful impacts on investment and fair and effective competition in the long run are unlikely.

5.28 The dynamic effects flow from the static impacts we have estimated. As set out above, our modelling predicts that for both ITV and Channel 4 the revenues loss is less than 1% of total advertising revenues in 2022. For all other commercial broadcasters combined we estimate a revenue impact of at most £5 million in 2022, which is 0.4% of total combined advertising revenues. We consider that the revenue impacts are small in relative terms. It is unclear whether these revenues impacts would affect incentives to invest, however, to the extent that they do, we consider that any impact is unlikely to be significant. We also consider it unlikely that the BBC's proposal by itself would significantly impact on the viability of those commercial TV services that are more likely to be affected.

5.29 Beyond the static effects, the broader competitive dynamics further suggest that it is unlikely that there will be a significant adverse impact on fair and effective competition.

- Commercial TV broadcasters have increased their advertising revenues from video-on-demand services (e.g. ITV player and All4). BVoD viewing is seen as important to help drive future advertising revenues, and commercial TV broadcasters are strengthening their digital strategies and putting increased emphasis on their on-demand services to make this happen. Growing BVoD services is a priority area for ITV and Channel 4 as audiences increasingly shift to consuming content online. While we anticipate some BBC Three viewing will be diverted from commercial PSB BVoD services, this is a small part of BBC Three's viewing gain.¹³³ We do not consider that the relaunch of a BBC Three channel will materially slow take-up of BVoD services or undermine commercial broadcasters' long-term strategic aspirations to grow BVoD revenues.
- The strategic changes by broadcasters reflect the changing market context and are a competitive response to the growing popularity of online video services. The incentives of SVoD competitors to invest and innovate will not be affected by the relaunch of a BBC Three linear channel. We consider that competition from online video services will continue to drive future investment and innovation by broadcasters.
- We recognise that the target audience of BBC Three (i.e. 16-34s) are tending to watch less free-to-air-broadcast TV over time (and more online video services). This is making it more challenging for both the BBC and commercial broadcasters to reach younger audiences. Younger audiences represent an important demographic for broadcasters and are more valuable to advertisers. A further loss of younger audiences by free-to-air-commercial broadcasters to BBC Three is likely to impact commercial broadcasters. However, because younger audiences represent a key target demographic, we consider that broadcasters will be incentivised to invest and will continue to compete to retain younger audiences.

¹³³ We estimate that less than 5% of BBC Three's viewing will come from the three main commercial PSB BVoD services.

Impact on SVoD and Pay TV services

5.30 A BBC Three linear channel is likely to divert some viewing from SVoD and Pay TV channels. However, we do not consider that a BBC Three linear channel is likely to result in a material number of households altering their SVoD or Pay TV subscriptions, therefore the impact on revenues is likely to be minimal. For this reason, we do not anticipate that incentives of SVoD and pay TV services to invest and innovate will be materially affected by the relaunch of a BBC Three linear channel.¹³⁴

Wider impacts

5.31 In this context 'wider impacts' concerns how the BBC distributes the linear channel and how it acquires content. We consider that the relaunch of BBC Three as a linear channel is unlikely to result in significant adverse impacts elsewhere in the vertical value chain. As discussed at A1.160-A1.165, the BBC is subject to obligations under the Charter and the Agreement regarding its distribution activities which restrict it from acting in a way which adversely affects competition, and these would also apply in respect of BBC Three.

5.32 We also do not consider that the BBC's procurement of content to develop the BBC Three linear channel would significantly harm rival broadcasters' ability to acquire rights to content for a number of reasons:

- a) The increase in BBC Three's content budget is not contingent upon BBC Three relaunching as a broadcast TV channel. Therefore, any impact in the input market may not be directly attributable to the Proposal, but instead reflect the higher content budget.
- b) The BBC have proposed that UK originations should be a minimum of 70% of output.¹³⁵ This would naturally limit the amount of international content the BBC would be able to acquire.¹³⁶
- c) A large amount of popular international content is available for acquisition by commercial broadcasters. Even if the BBC acquires some international content that is then not available to rivals, commercial operators will be able to acquire other popular content to fill their programming schedule.¹³⁷

¹³⁴ We note that Sky may also lose advertising revenues but as a subscription broadcaster, this represents a relatively small portion of total revenue. We consider that a limited loss in UK advertising revenue is unlikely to have an impact on its overall incentives to invest.

¹³⁵ In Section 7 of the consultation we are proposing that a higher percentage (75%) of output should be UK originations.

¹³⁶ ITV has argued that the BBC will be using public money to increase the price for commercial broadcasters when acquiring content. It has argued that the BBC should be required to commission and acquire UK content instead of making US acquisitions. ITV confidential response to the Invitation to Comment, p 2-3.

¹³⁷ Two popular acquisitions previously shown on BBC Three (*Family guy* and *American Dad!*) are now shown on ITV2.

Provisional conclusions on market impact

- 5.33 BBC Three is anticipated to be a relatively small linear channel. We estimate its viewing share (linear and BVoD) at up to 1.5% in 2022 for all individuals aged 4+, which represents a 0.8 percentage point increase in viewing share compared to the situation if BBC Three remains BBC iPlayer only. We expect BBC Three to have a higher viewing share (up to 4.6%) within its target 16-34s audience (a 1.7 percentage point increase compared with BBC Three on BBC iPlayer only).
- 5.34 The increased viewing which BBC Three attracts due to the linear relaunch is likely to reduce viewing of other free-to air-broadcast channels (and BVoD), SVoD and pay TV channels. However, we consider the market impact of the proposed changes is unlikely to have a significant adverse impact on fair and effective competition.
- 5.35 For commercial free-to-air broadcast channels the loss in viewing is likely to translate into a loss in advertising revenues. We estimate the total loss in revenues could be between £15m and £30m in 2022. This is relatively small compared to total advertising revenues of over £4 billion. The impact is largest for ITV and Channel 4, each of which might lose at most 0.8% and 0.9% of their advertising revenues (~£15 million and ~£10 million), respectively.
- 5.36 Given the relatively small overall effect on the revenues of commercial TV broadcasters and the broader competitive market dynamics, we do not consider the BBC's proposal by itself is likely to have an impact on the viability of commercial TV services, significantly affect the incentives of commercial broadcasters to invest and innovate or impact on the choice of services offered to audiences.
- 5.37 We do not consider that a BBC Three linear channel is likely to result in a material number of households altering their SVoD or pay TV subscriptions purchasing decisions; therefore the impact on these services is likely to be minimal and it is unlikely that they will reduce their investment or offer to audiences.

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.

6. Our provisional conclusions

- 6.1 Our role in this BCA is to review the BBC's assessment of public value and to assess the impact of the proposal on fair and effective competition. We must then assess whether the public value of the proposed change justifies any such adverse impact on fair and effective competition we have identified.
- 6.2 In reaching our provisional determination, we have had regard to the objective of the BBC to fulfil its Mission and promote the Public Purposes as well as our relevant duties under the Communications Act 2003 and the Charter and Agreement, including those concerning protection of fair and effective competition and support for public service media.
- 6.3 We have carried out our assessment taking into account the continuing challenges that the BBC has in reaching and retaining younger audiences. The BBC has acknowledged the challenges that it is facing and is trying different things to try to ensure that it serves all audiences as per its Mission.¹³⁸ We note that other UK broadcasters are in a similar position to the BBC in having to respond to changing market conditions and the fact that younger audiences are either turning away from, or not forming an initial connection with, traditional broadcast TV. In reaching our provisional conclusions about the likely effects of the proposal, we have exercised our judgment in this context, taking into account the available evidence from the BBC's public interest test, our own analysis and research, as well as information and views offered by stakeholders.

Our provisional conclusions

- 6.4 We agree with the BBC that there is personal and social public value associated with the proposals. If the BBC can achieve the aims of the proposal of providing underserved younger audiences with a deeper engagement with BBC content, we consider that it could have significant short and longer-term benefits. However, as we have explained, we expect the BBC to set out more detail in its Annual Plan as to how the delivery of this public value would be ensured.
- 6.5 We consider the market impact of the proposed changes to be unlikely to have a significant adverse impact on fair and effective competition. We anticipate some loss in viewing for commercial broadcasters which could translate into a loss in advertising revenues. However, as discussed in Section 5 this loss is relatively small compared to total advertising revenues. The impact is largest for ITV and Channel 4, each of which might lose at most 0.8% and 0.9% of their advertising revenues.
- 6.6 Given the relatively small overall effect on the revenues of commercial TV broadcasters, we do not consider the BBC's proposal by itself is likely to have an impact on the viability of commercial TV services, significantly affect the incentives of commercial broadcasters to invest and innovate or impact on the choice of services offered to consumers.

¹³⁸ BBC, [BBC Annual Plan 2021/22](#), March 2021, p.45.

- 6.7 We do not consider that a BBC Three linear channel is likely to result in a material number of households altering their SVoD or pay TV subscriptions purchasing decisions, therefore the impact on these services is likely to be minimal.
- 6.8 Overall, we have provisionally concluded that the additional public value created by the proposals justifies the limited adverse impact on fair and effective competition.

Provisional determination

- 6.9 In making our provisional determination, we have considered the scope of the proposal and whether it would be appropriate to impose any conditions as part of an approval of the change.

Scope of the proposal we are proposing to approve

- 6.10 The BBC has set out in its PIT document the scope of the changes it wishes to make to relaunch BBC Three as a broadcast channel. We have summarised these in paragraphs 2.9-2.14. We do not consider that it is necessary to impose any specific conditions in relation to the proposal by way of a condition of approval. However, in relation to paragraph 2.11 (v), as we explain in Section 7, if we approve the proposal in our final BCA determination, we propose to impose an Operating Licence condition to ensure that the minimum level of BBC originated content on the BBC Three broadcast channel is 75%, for the reasons set out in that section.

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.

7. Conditions and reporting

Operating Licence

Our approach

- 7.1 Under the Charter and Agreement, Ofcom is required to set an Operating Licence for the BBC's UK Public Services. The [Operating Licence](#) contains a set of regulatory conditions that Ofcom considers appropriate for requiring the BBC to fulfil its Mission¹³⁹ and promote the Public Purposes,¹⁴⁰ to secure the provision of distinctive output and services and to secure that audiences across the UK are well served.¹⁴¹ The Agreement creates obligations on Ofcom to set certain licence conditions for the BBC, and confers a wide discretion on us to impose such further regulatory conditions as we consider appropriate for requiring the BBC, in carrying out the UK Public Services, to fulfil the Mission and promote the Public Purposes, and to secure that the audiences in the UK's nations are well served.¹⁴² We have the power to amend the Operating Licence following consultation with the BBC and any person we consider appropriate. The operating framework for BBC regulation includes the 'Procedures for setting and amending the Operating Licence' ('the Procedures'),¹⁴³ which explain how we set and administer the Operating Licence regime and the procedures to be followed.
- 7.2 Under the Charter,¹⁴⁴ the BBC must publish an Annual Plan and Annual Report and Accounts for each financial year. Its Annual Plan must include (among other things): the creative remit for that year; the work plan for that year; and provision for the UK's nations and regions. It must then report the following year on how it has delivered on these plans. Among other things, in relation to the BBC's Annual Report and Accounts, the BBC must set out whether and how it has complied with our regulatory requirements.¹⁴⁵ Following the receipt of the BBC's Annual Report and Accounts, Ofcom must publish an Annual Report which (among other things) assesses the BBC's performance and its compliance with our Operating Licence.¹⁴⁶ In our most recent Annual Report on the BBC, we explained that we expected the BBC to include more detail in its Annual Plan on how it would deliver its strategy, its Mission and Public Purposes and ensure that audience needs are met, including what targets or objectives it would set to hold itself to account, how it would

¹³⁹ The BBC's mission is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain (article 5 of the Charter).

¹⁴⁰ The Public Purposes of the BBC are 1) to provide impartial news and information to help people understand and engage with the world around them; 2) to support learning for people of all ages; 3) to show the most creative, highest quality and distinctive output and services; 4) to reflect, represent and serve the diverse communities of all of the UK's nations and regions and, in doing so, support the creative economy across the UK; and 5) to reflect the UK, its culture and values to the world (article 6 of the Charter).

¹⁴¹ As required by Article 46 of the Charter.

¹⁴² Agreement, clause 13.

¹⁴³ Ofcom, [Procedures for setting and amending the BBC operating licence](#), October 2017.

¹⁴⁴ Articles 36 and 37 of the Charter.

¹⁴⁵ Article 37(2)(c) of the Charter.

¹⁴⁶ Article 50 of the Charter.

measure and report on the impact of its services on audiences and its progress against targets.¹⁴⁷

7.3 In our recent consultation '[How Ofcom regulates the BBC](#)' we said that our experience of regulating the BBC over the last four years shows there are some areas of the Operating Licence that need updating to ensure that our regulation remains effective. Specifically, we highlighted that our key considerations were to:

- a) Expand the licence to cover the BBC's online services, such as BBC iPlayer, more comprehensively with a view to ensuring that the licence enables Ofcom to hold the BBC to account for delivery across all its services;
- b) Move away from primarily requiring compliance with quantitative conditions and output reporting and instead make qualitative requirements more central, to ensure the BBC has scope to determine how best to fulfil its licence obligations across its platforms and services; and
- c) Potentially require the BBC – through enforceable reporting obligations – to make specific commitments in its Annual Plan for the year ahead for how it plans to deliver our regulatory requirements, and potentially to explain how they will deliver the Mission and Public Purposes, and how it will monitor their impact, so as to ensure the licence enables Ofcom to hold the BBC more effectively to account by requiring greater transparency and more effective reporting.¹⁴⁸

7.4 We will be consulting on specific proposals on how we propose to update the Operating Licence in Spring 2022, with a view to having a new Operating Licence in place by April 2023.

7.5 In the light of our provisional determination that the BBC should be permitted to relaunch BBC Three as a new UK Public Service television channel, we have considered, and are consulting on here, what Operating Licence conditions are appropriate in light of our duties and the requirements of the Charter and Agreement (see further Annex 2: Legal Framework). In considering this, we have had particular regard to the need for the BBC to secure the provision of distinctive output and services,¹⁴⁹ and for it reach all audiences. We have also had regard to the objective (as outlined above) of securing that audiences in all of the nations are well-served. In doing so, we have also taken into account, as noted above, our view that our overall approach to the Operating Licence needs to evolve to ensure our regulation remains effective.

¹⁴⁷ Ofcom, [Ofcom's Annual Report on the BBC 2019,20](#), November 2020, p.12.

¹⁴⁸ Ofcom, [How Ofcom regulates the BBC: a review](#), July 2021, p.10.

¹⁴⁹ The Agreement, Schedule 2, paragraph 1. "Distinctive output and services" are defined as output and services, taken as a whole, that are substantially different to other comparable providers across each and every UK Public Service both in peak time and overall, and on television, radio and online, in terms of: (a) the mix of different genres and output; (b) the quality of output; (c) the amount of original output produced in the UK; (d) the level of risk-taking, innovation, challenge and creative ambition; and (e) the range of audiences it serves; Agreement, Schedule 2, paragraph 2.

Proposed amendments to the Operating Licence

News and current affairs

- 7.6 In its public value assessment, the BBC has noted that, following stakeholder responses and insights provided by younger people, it has decided that the channel will broadcast a nightly news bulletin to keep young audiences informed of national and global events and issues that are of interest to them. The PIT sets out that these bulletins will be presented by “young people for young people”.¹⁵⁰ The BBC's PIT also notes that the Covid-19 pandemic has meant that it has not been able to formulate specific plans in relation to current affairs programming for the channel, but that it intends to broadcast a range of current affairs content, which would include international current affairs content.¹⁵¹
- 7.7 We are required by the Agreement to consider what, if any, conditions would be appropriate for securing the programmes included in the UK Public Television Services include news and current affairs programmes. We are also required to consider what appears to Ofcom to be an appropriate level and that news programmes are broadcast for viewing at intervals throughout the period for which UK Public Television Services are provided.¹⁵² We have therefore considered whether it would be appropriate to include a condition in the Operating Licence to ensure that the BBC delivers news content and/or current affairs on the channel, in line with its proposals. In doing so we have had regard to Public Purpose 1, which requires the BBC to provide impartial news and information to help people understand and engage with the world around them, and Public Purpose 4, which requires the BBC to reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions.
- 7.8 As explained in paragraph 4.41, we agree with the BBC that news content will contribute to the public value of the service. In addition, we noted in our [2019 review of the BBC's news and current affairs output](#) that the BBC was struggling to reach younger audiences with news content and that they perceived BBC news as less relevant to them. In 2020, news on BBC TV channels reached only 26% of 16-24s a week on average, but reached 62% of all adults aged 16+,¹⁵³ and in 2019/20 BBC network radio news programming reached only 16% of 15-24s each week but a third of all adults aged 15+.
- 7.9 We think it is important to hold the BBC to its commitment to provide news on BBC Three. Our provisional view is that it would be appropriate for there to be an Operating Licence condition which will ensure that the BBC is required to provide news on BBC Three. We have considered whether to require the BBC to broadcast a minimum number of hours of news content on BBC Three over a year. Setting an hours condition for news content on BBC Three would be consistent with our current approach to other BBC network television channels containing news content, for example the BBC is required to ensure that at least

¹⁵⁰ BBC PIT, p.43.

¹⁵¹ BBC PIT, p.42.

¹⁵² Agreement, Schedule 2, paragraph 4.

¹⁵³ BARB. Reach criteria 3+ consecutive minutes to national/international news genre.

35 hours of news are broadcast on CBBC each year.¹⁵⁴ We note that when it was previously a broadcast channel, BBC Three used to have a series of 60 second bulletins throughout the evening. We asked the BBC for more detail on how it is planning to deliver news content on the channel. The BBC has told us that it is currently planning a single bulletin of 3-4 minutes each weekday at 7pm on the proposed BBC Three broadcast channel. Whilst important for Public Purpose 1 and Public Purpose 4, news programming is not likely to constitute a significant proportion of its overall programming mix given the nature of the service, and so we think giving the BBC greater flexibility to determine the number of hours of news as part of that mix is appropriate.

- 7.10 We consider the regularity of news to be important and therefore, we are proposing to set a condition requiring BBC Three to provide news content at least daily during the week (Monday to Friday), on the broadcast channel.¹⁵⁵ We will discuss the specific terms of this condition with the BBC during the consultation period. We think that a regular news bulletin will secure fulfilment of Public Purpose 1. We also consider that it will contribute to Public Purpose 4. Whilst we consider that it is important that the BBC provides news content aimed at younger audiences on BBC Three regularly, how it does so is a matter for the BBC, and this may change over time as it experiments with what works best for audiences. This approach will allow the BBC to experiment with different ways of achieving this successfully. We expect the BBC to set out more detail in its Annual Plan regarding its plans to deliver news content on BBC Three. We consider that engagement with news content on BBC Three by younger audiences should be reported on by the BBC in its Annual Report and monitored carefully by the BBC and Ofcom through performance measurement.
- 7.11 We have also considered whether to set a specific condition relating to current affairs. Whilst we consider that current affairs coverage would contribute to both the delivery of Public Purpose 1 and the general distinctiveness of BBC Three in accordance with Public Purpose 3, we do not propose to set a separate condition for current affairs at this point. As set out at paragraph 7.6 the BBC has committed to providing current affairs content as part of the mix of genres on BBC Three. As we have noted in paragraph 4.48, we consider that it is important that the BBC Three channel contains a range of different genres, of which we expect current affairs to form a part, in line with the BBC's proposals, but we would expect the precise proportion of current affairs programming on BBC Three to vary year on year. We consider that allowing the BBC flexibility to determine the number of hours of current affairs programming as part of the mix of different genres that will appeal to younger people could overall help promote distinctiveness of BBC Three, for the reasons explained in paragraph 7.32. We therefore do not consider a quantitative condition would be appropriate. We also do not consider it would be appropriate to require the BBC to deliver a particular frequency of current affairs programming (unlike in relation to news), as we consider that it is important that the BBC can schedule its current affairs

¹⁵⁴ See condition 2.6.2.

¹⁵⁵ Like other weekday Operating Licence conditions this would exclude Public Holidays. A 'Public Holiday' means Christmas Day, Good Friday, or a bank holiday under the Banking and Financial Dealings Act 1971.

programming at times which appeal to the BBC Three target audiences, as part of the mix of different genres throughout each year, which it has committed to provide (see paragraph 7.32). Therefore, we do not consider that a qualitative condition requiring the provision of current affairs would be necessary to promote the delivery of Public Purpose 1 in this case. We expect the BBC to provide additional clarity on its plans for current affairs on BBC Three in its Annual Plan.

Original Productions

- 7.12 Under the Agreement¹⁵⁶ we must set a quota for the time to be allocated, in each year, for the broadcasting of UK original productions¹⁵⁷ for each of the BBC's UK public service television channels. Therefore, if we reach a final decision in line with our provisional determination that the BBC should be allowed to relaunch BBC Three, we will be required to set an original productions quota for BBC Three. We have also had particular regard to Public Purpose 3, namely the need to show the most creative, highest quality and distinctive output and services.
- 7.13 In the BBC's PIT, the BBC proposed that at least 70% of the broadcast hours of the new BBC Three broadcast channel should comprise BBC original productions (i.e. programmes commissioned by the BBC including both first-run content and repeats).
- 7.14 We note that stakeholder responses to the BBC's consultation raised concerns about the proposed level of acquisitions. For example, Channel 4 argued that having up to 30% of acquisitions would significantly drive the viewing share of BBC Three at the expense of other channels like Channel 4 and E4, as well as potentially increasing prices for other organisations.¹⁵⁸ Another, unnamed respondent to the BBC's consultation asked the BBC to commit to having no US acquisitions on the proposed broadcast channel on the grounds that this "could dilute UK cultural touchpoints and exert unnecessary competitive strains on other broadcasters".¹⁵⁹ The BBC did not amend its proposals in response to these concerns.
- 7.15 When we consulted on setting the original Operating Licence, we were clear that original productions - the content commissioned by the BBC for broadcast on its channels - were a key contributor to the overall distinctiveness of the BBC's output and services.¹⁶⁰ As we have described at paragraph 4.50 we also consider the level of original BBC content on the channel will be key to the overall distinctiveness of the service.

¹⁵⁶ The Agreement, Schedule 2, paragraph 5

¹⁵⁷ We explained in the Operating Licence that "Original productions", in relation to the UK Public Television Services taken together, has the same meaning that is specified by the Broadcasting (Original Productions) Order 2004 or any subsequent order under section 278(6) of the Communications Act 2003 in relation to a licensed public service channel. This means they are programmes which are commissioned by the BBC with a view to their first being shown on television in the United Kingdom on the relevant channel or service and are also a 'European programmes' within the meaning of article 5 of the Order.

¹⁵⁸ See [Channel 4's response to the BBC PIT](#).

¹⁵⁹ BBC PIT, p.102.

¹⁶⁰ Ofcom, [Holding the BBC to account for the delivery of its mission and public purposes](#), March 2017.

- 7.16 Whilst we don't agree that it is appropriate for the channel to be prevented from containing any acquisitions, as was argued by Channel 4 in its response to the BBC's consultation,¹⁶¹ striking the correct balance between BBC originations and acquisitions is clearly important both in terms of the distinctiveness of the channel and in mitigating potential impacts on other broadcasters which are not necessary for the public value to be delivered. We agree with the BBC that well-chosen acquisitions could play an important role in the overall makeup of the channel and that they could both compliment original BBC content and act to draw audiences to the channel. As we have set out below, we expect the BBC to reflect on the role of acquisitions when it reports on the overall performance of BBC Three.
- 7.17 Having considered an appropriate level of original productions, our view is that the level of original productions for the BBC Three broadcast channel should be a minimum of 75% of output. In determining an appropriate figure, we have had regard to the level of original productions that we have required to be provided on other BBC Services – which are set at 75% for BBC One, BBC Two, BBC Four, BBC Alba and BBC Scotland. We have also reviewed the reported performance of BBC Three when it was previously broadcasting. In its application to the BBC Trust to close the previous channel the BBC reported the channel had delivered 83% original productions in all hours in 2010, falling to 76% in 2013.¹⁶² We therefore think that it is appropriate to propose a condition of 75%, which reflects previous performance, is consistent with the other nationwide network channels which have a level of 75%, and takes into account stakeholder concerns in this area.
- 7.18 The Agreement requires us to consider that the time allocated to the broadcasting of original productions is split in what appears to Ofcom to be an appropriate manner between peak viewing times and other times.¹⁶³ Therefore, as part of this assessment we have also considered whether we should set a separate quota for original productions in peak viewing times.¹⁶⁴
- 7.19 The BBC has argued in its PIT that given the uncertainty about viewing patterns on the new channel and the need for the new BBC Three broadcast channel to adapt and respond to audience needs, it considers that identifying a peak viewing time for the new channel is not appropriate.¹⁶⁵ We note, however, that in several places it does refer to a 'peak-time' or 'peak broadcast hours' when describing when certain content is envisaged to broadcast. For example, when discussing the proposed mix of genres, it describes peak broadcast hours as '7pm to midnight'.¹⁶⁶
- 7.20 We consider that we do not have enough information about the likely viewing behaviour of the specific target audience at this stage to be able to determine whether a relaunched BBC Three is likely to have a conventional 'peak time', where most of the target audience

¹⁶¹ See [Channel 4's response to the BBC PIT](#).

¹⁶² BBC, [Public Value Assessment of BBC Three online and related proposals](#), January 2015, p. 21, Table 2.

¹⁶³ Agreement, Schedule 2, paragraph 5(1)(b).

¹⁶⁴ 'Peak viewing time' is presently defined in the Operating Licence as 18:00 – 22:30 for all UK Public Television Services except for BBC Four, and as 19:00 to 24:00 for BBC Four.

¹⁶⁵ BBC PIT, p.20.

¹⁶⁶ BBC PIT, p.45.

are likely to be watching, such as peak viewing times that we have defined for other services in the Operating Licence. The most watched time for BBC Three when it was previously broadcast was 11pm in 2014 and 9pm - 11pm in 2015.¹⁶⁷ But for 16-34 year olds (i.e. the key target audience in the BBC's proposals) it peaked between 11pm and midnight¹⁶⁸ and the second highest time for viewing for 16-34s was between midnight and 1am.¹⁶⁹ Given that, we do not propose to set a separate condition for original content at a defined 'peak viewing time' at this stage. We consider that it could work against the BBC making appropriate scheduling decisions to respond to specific audience preferences as the new service beds in, although clearly we would be concerned, and would step in, if the BBC were to fill the slots with the highest audience viewing figures with acquisitions.

- 7.21 We expect the BBC to set out transparently in its next Annual Plan how it is proposing to deploy content on BBC Three, including originations, first run programming and acquisitions, to ensure that it is best serving its target audiences.

First Run UK Originations

- 7.22 When we first set the Operating Licence, we noted that the BBC's high level of investment in first-run UK originations¹⁷⁰ was one of the key factors that set it apart from other broadcasters. To safeguard that, we set minimum hour requirements for first-run UK originations on BBC One and BBC Two, to ensure that investment was secured and that new commissions were made available to the largest audiences. Further to this, we set first-run UK originations conditions on CBBC and CBeebies specifically to address the decline we had identified in new UK-commissioned children's programming.¹⁷¹
- 7.23 We are of the view that the BBC's investment in new content for BBC Three will be a key determinant of its distinctiveness, and whether the proposal secures the public value that the BBC envisages. We have therefore considered whether it is appropriate to impose an Operating Licence condition relating to the amount of first-run UK originations on BBC Three, in order to secure distinctiveness (in line with Public Purpose 3).
- 7.24 The PIT commits to "at least 24% of the hours between 7pm and midnight of the new BBC Three broadcast channel comprising first run productions".¹⁷² We calculate that 24% of hours between 7pm and midnight across a year is 438 hours. It is important to note that, as we pointed out in our assessment of public value at paragraph 4.53, when we clarified this with the BBC, it told us that in its consultation and in its PIT it has used the phrase "first-run programming" to include both first-run BBC commissions and what it describes as first-run acquisitions.

¹⁶⁷ BARB live viewing (excluding catch-up and recorded viewing).

¹⁶⁸ 251,000 average audience in 2014 and 198,000 in 2015.

¹⁶⁹ 195,000 average audience in 2014 and 146,000 in 2015.

¹⁷⁰ As defined in the Operating Licence, this means programmes which are commissioned by or for a UK Public Television Service and have not previously been shown on television in the United Kingdom. This therefore excludes repeats.

¹⁷¹ Ofcom, [Holding the BBC to account for delivering for audiences: the BBC's performance](#), October 2017.

¹⁷² BBC PIT, pp.17-18.

- 7.25 We only have limited information about what level of first-run UK originations, distinct from first-run acquisitions, the BBC expects to broadcast on BBC Three. The BBC has told us that as of July 2021, the current level of first-run BBC originations on its core commissioning slates¹⁷³ for 2022 was approximately 165 hours, and the current level of what it describes as 'first-run acquisitions' was 44 hours. As it is still commissioning titles for 2022, these numbers will increase, and we expect the hours of core BBC first run originations to also be supplemented by hours of additional content of e.g. news, music, sport.
- 7.26 As such, we have considered carefully whether to include a condition requiring a minimum amount of hours of first-run BBC content on the broadcast channel, and whether, given the nature of the service that is proposed, that is the best way to secure distinctive and high-quality output on the channel. In doing so, we have considered whether having a minimum hours requirement could act against the delivery of high-quality output on the channel. We are aware through discussions with the BBC, that it considers that first-run quotas that require a minimum number of hours can be detrimental to its ability to fulfil Public Purpose 3. It argues that fixing output in terms of hours is inflexible and can lead to a lower cost per hour of programming which can act against creativity, quality and distinctiveness.
- 7.27 We do not propose to include a first-run originations quota for BBC Three at this stage. However, instead, we propose to set a condition requiring BBC Three to provide a range of newly commissioned first-run UK content across a mix of different genres. As part of the information that we would expect the BBC to provide to Ofcom for the purpose of enabling us to assess the BBC's compliance with this proposed new qualitative condition,¹⁷⁴ we would expect to ask the BBC to provide to us information demonstrating how its first-run content has been delivered across a mix of genres, and how it has appealed to its target audience of 16-34 year olds. We would also expect the BBC to set out detail in its next Annual Plan about the volume of new UK content that it is commissioning for the channel as well as the range it expects to deliver across different genres, and report on delivery of this in its Annual Report.¹⁷⁵ We would expect to monitor this carefully. We consider that this approach will strike the right balance between ensuring that the BBC continues to produce a range of high-quality original content aimed at younger audiences, as well as providing transparency on an annual basis of the amount of first-run originations that it will make for the channel.
- 7.28 Ensuring an appropriate balance between securing investment in new content and ensuring that the BBC continues to commission distinctive and high quality output at scale is something that we will need to consider carefully in the round in our review of the Operating Licence. Depending on the outcome of our wider Operating Licence review, we

¹⁷³ For example, comedy and entertainment.

¹⁷⁴ Ofcom is required to report annually on our assessment of the BBC's compliance with its regulatory requirements. As part of this, we may require the BBC to provide additional information to us that we consider necessary to enable us to assess the BBC's compliance with the specified requirements, which include the Operating Licence conditions.

¹⁷⁵ The BBC plans to launch the channel in January 2022. Its first full year of reporting will be in 2023/24.

will consider whether to propose a quantitative first-run originations condition for BBC Three, encompassing both linear and online as part of that process.

Our proposed conditions are:¹⁷⁶

- In respect of **BBC Three**, the BBC must ensure it shows news every weekday (except Public Holidays).
- In respect of **BBC Three**, the BBC shall ensure that in each Calendar Year the time allocated to broadcasting of original productions is not less than 75% of the hours of all programming.
- In respect of **BBC Three**, the BBC must ensure that in each Calendar Year it provides first-run UK originations that are intended to appeal to 16 to 34-year olds across a mix of different genres.

Other considerations

- 7.29 We have considered whether it would be appropriate to impose any other Operating Licence conditions on BBC Three at this stage, in order to secure that the BBC fulfils its Mission and promotes the Public Purposes, that it provides distinctive output and services, and that audiences in each of the nations are well-served.
- 7.30 In particular, we have considered whether specific genre quotas would be appropriate to secure the distinctiveness of the channel and Public Purpose 3, taking into account, as explained in Section 4, that the BBC has emphasised that BBC Three will be a multi-genre channel, including factual entertainment, drama, current affairs, comedy sport, live music and films. We note that the BBC Trust's Service Licence for BBC Three (set in 2013) contained quantitative conditions for music and arts programmes, for factual programmes and for current affairs programmes.¹⁷⁷ However, we are of the view, as expressed in our recent consultation, that our regulation should move away from primarily requiring compliance with quantitative conditions and output reporting. As we stated, we think instead that our regulation should combine quantitative requirements with requirements which focus on how the BBC delivers for audiences, using measures such as the quality, reach and impact of programming (qualitative requirements).¹⁷⁸ We also expect the BBC's content mix on BBC Three to vary to a certain extent year on year, which may ultimately help ensure distinctiveness of BBC Three over time. Therefore, we don't consider it appropriate to set any quantitative genre quotas at this stage.
- 7.31 We have also considered whether it would be appropriate to impose a qualitative condition on any specific genres, along the lines of those that we are proposing for news content and first-run content. Given the particular emphasis that the BBC has placed on the importance of factual content in contributing to the distinctiveness of the channel (as explained in Section 4), we have considered whether it may be necessary to include a

¹⁷⁶ See Annex 3 for a full description of proposed changes to the Operating Licence.

¹⁷⁷ BBC, [BBC Trust's Service Licence for BBC Three](#), September 2013.

¹⁷⁸ Ofcom, [How Ofcom regulates the BBC: A review](#), July 2021, p.10 and 11.

specific condition around factual programming. However, we are of the view that it is the range and mix of genres, and the quality of programming that will determine the distinctiveness of BBC Three rather than securing the delivery of any specific genre compared to any other genre.

- 7.32 We have also considered whether it would be appropriate to impose a condition requiring the BBC to provide a mix of different genres across all content on BBC Three, in addition to the proposed condition for UK first-run originations, as discussed above, for example in order to ensure that BBC Three would achieve a mix of different genres across repeats and acquisitions that are shown in addition to first-run commissions. We consider that the BBC's proposal sets out quite clearly that it envisages this to be a multi genre service. The BBC has told us that that, if we were to approve the service, at the channel's launch it would amend the list of services that it maintains within Schedule 1 of the Agreement to include BBC Three with the following definition: "BBC Three: a mixed-genre channel aimed at younger audiences (16-34) across the UK, with a particular focus on innovative entertainment, comedy, drama and factual programmes." Given that the need to provide a mix of different genres would therefore be reflected in the definition of BBC Three as a UK Public Service, we do not consider it would be necessary to also include a separate Operating Licence condition that seeks to secure this.
- 7.33 In addition, in line with the BBC's current requirements in the Charter to report in its Annual Plan on how it is going to meet its Mission and promote the Public Purposes, we would expect the BBC in respect of BBC Three to set out clearly in its next Annual Plan how it will secure a mixture of different genres, and in what proportions, across originations, first-run programming and acquisitions, to ensure that its target audiences are well served, including how it is delivering a range of genres to audiences at a time when they are watching. We would also expect it to then report on the delivery against this in its Annual Report. We would monitor this closely and may reconsider whether specific conditions are needed in the light of this.
- 7.34 As set out above, we also consider that the emphasis that the BBC has put on factual programming as a key determinant of the distinctiveness of the channel is an important part of the public value of the proposals. We expect the BBC to explain in more detail in its Annual Plan how factual content on the channel will help younger audiences learn about a wide range of subjects in an accessible and engaging way and explore new subjects. We expect it to then report on delivery against this in its Annual Report.
- 7.35 If we ultimately approve the BBC's proposals, we would also intend to consider whether it might be appropriate to impose any further qualitative conditions for any other types of programming that may be shown on BBC Three as part of our wider review of the Operating Licence. In that review we expect to consider, for example, whether it may potentially be desirable to allow the BBC greater flexibility across its television services more generally, and across BBC iPlayer as well as broadcast channels, and we would take BBC Three into account as part of those wider considerations, along with the existing BBC UK Public Services. As we are not currently anticipating a new Operating Licence being in place following our review until April 2023, we acknowledge that there will potentially be a

gap of over a year from the proposed launch of the service on linear before any potential further conditions would come into place. However, for the reasons set out at paragraph [7.30] above, we are not persuaded that there is a need for such conditions now.

- 7.36 We have also considered whether any other conditions in support of Public Purpose 4 are required. The Agreement¹⁷⁹ requires us to set a quota for a suitable proportion of hours and expenditure of “network programmes”.¹⁸⁰ Programmes on BBC Three will be “network programmes” and so will be captured by the existing quotas set out in the Operating Licence, which we consider remain appropriate.¹⁸¹ The BBC has committed to two-thirds of new content for BBC Three being made outside of London, we think that it would be appropriate for the BBC to report against this target on an annual basis in its Annual Report.
- 7.37 Equally, we don't consider that it is appropriate to set any other conditions in relation to diversity or nations and regions. However, consistent with what we have said in our previous annual reports, we would expect the BBC to set out in detail in its Annual Plan how the BBC Three broadcast channel will drive reach and discoverability of content which authentically represents and portrays diverse, under-represented young people as claimed in the proposal, as well as how it will increase engagement in general with younger underserved and under-represented audiences. We would expect the BBC to report on how it has delivered against this in its Annual Report.

Performance reporting and monitoring

- 7.38 The BBC has a responsibility for meeting its Mission and Public Purposes and clearly demonstrating this. In particular, the BBC Board is required under the Charter to set performance measures (and targets for those measures where appropriate) to assess the performance of the UK Public Services in fulfilling the Mission and promoting the Public Purposes.¹⁸²
- 7.39 We pointed out in our third Annual Report on the BBC that there was limited reporting in the BBC's Annual Report and Accounts on how well BBC Three is delivering for audiences.¹⁸³ We particularly noted that the BBC had been reporting on average weekly minutes viewed among audiences aged 16-34 rather than a weekly reach figure, which we considered to be a more meaningful measure of performance as it would indicate how many young people were watching BBC Three content. In its most recent [Annual Report](#), the BBC has acted on the point we raised last year and added reach to 16-34s, and the BBC has additionally added time spent by 16-34s in its reporting. We think that this detail is

¹⁷⁹ Agreement, Schedule 2, paragraph 7(1). “Network programmes” is defined as “programmes made for viewing on any of the UK Public Television Services, other than programmes made for viewing only on a variation of such a service that relates to one of the following- (a) Northern Ireland, (b) Scotland, (c) Wales, (d) any region of England”.

¹⁸⁰ Conditions 2.53.1 and 2.53.2 of the [Operating Licence](#).

¹⁸¹ See Operating Licence conditions 2.53 – 2.63.

¹⁸² Article 20(3)(d) of the Charter.

¹⁸³ Ofcom, [Ofcom's Annual Report on the BBC](#), November 2020, p.13.

useful and expect to see this continue to be reported like this in the BBC's performance framework going forward.

- 7.40 We note that there is no detail provided in the BBC's PIT on how it plans to monitor or report on the performance of the proposed BBC Three broadcast channel. Given that we are provisionally approving a new service that, as set out in the PIT, the BBC sees contributing positively to its strategy to reach younger audiences, we consider that it is particularly important for the BBC to have effective metrics in place to measure how well BBC Three content is contributing to meeting the Mission and Public Purposes across both the proposed BBC Three broadcast channel and the BBC iPlayer.
- 7.41 In addition to the BBC Board's requirement under the Charter to set performance measures, we have the power to set measures that we consider appropriate in order to assess the performance of the UK Public Services in fulfilling the Mission and promoting the Public Purposes.¹⁸⁴ We also have powers to require the BBC to collect information for our performance measures.¹⁸⁵ Our performance measurement framework was consulted on and agreed upon as part of our development of the first Operating Licence in 2017 and comprises four main performance measures: availability; consumption; impact; and contextual factors.¹⁸⁶
- 7.42 Given that we are proposing to approve a new BBC public service, we believe that it is appropriate for Ofcom to monitor the impact of these changes closely. The table below sets out some examples of the type of metrics that we would expect to report on to monitor the BBC's performance in this area. Where relevant we will be asking the BBC to provide information to support this.

¹⁸⁴ Article 46(4) of the Charter and clause 14(2) of the Agreement.

¹⁸⁵ Clause 14(4) of the Agreement.

¹⁸⁶ Ofcom, [Holding the BBC to account for delivering for audiences](#), October 2017.

Figure 10: Performance reporting for BBC Three

| Measure | Metric |
|---------------------|--|
| Availability | <p>Spend on first-run UK originated content for BBC Three (by platform)</p> <p>Spend on acquisitions (by platform)</p> <p>Total hours of first-run UK originated content on linear, also broken down by genre</p> <p>Total hours of UK originations on linear</p> <p>Total hours of acquisitions on linear</p> <p>Split of hours of content by genre on linear</p> <p>Mix of genres between 7pm and midnight</p> |
| Consumption | <p>Reach and share of BBC Three broadcast channel split by demographic groups, in particular those that the BBC has defined in the PIT as targets of the proposals: all audiences split by age, C2DE socio-economic background audiences, minority ethnic audiences, and 16-34s split by C2DE socio-economic backgrounds and minority ethnic backgrounds.</p> <p>Weekly reach and time spent for BBC Three on BBC iPlayer, split by relevant demographic groups as above where possible.</p> |
| Impact | <p>Research to understand the impact of BBC Three TV channel and BBC Three content on BBC iPlayer, split by demographic groups with focus on the demographic groups defined in the BBC’s PIT as targets for the proposal (age, C2DE socio-economic background audiences, minority ethnic audiences, audiences outside of London, non-metropolitan audiences, those with less access to digital on-demand services.</p> |

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.

A1. Assessment of market impacts

A1.1 This annex has been [published separately](#) on Ofcom's website.

A2. Legal framework

- A2.1 Ofcom's principal duty, in section 3 of the Communications Act 2003 ('the Act'), is to further the interests of citizens in relation to communications matters and of consumers in relevant markets, where appropriate by promoting competition. In performing our duties we must have regard, among other things, to the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the UK and of promoting competition in relevant markets.
- A2.2 Ofcom's power to regulate the BBC is derived from section 198 of the Act, which sets out that for the purposes of the carrying out of regulation of the BBC, we will have such powers and duties as may be conferred on us by or under the Royal Charter for the continuance of the British Broadcasting Corporation (the Charter)¹⁸⁷ and the Agreement between the Secretary of State for Culture, Media and Sport, and the BBC (the Agreement).¹⁸⁸ The Charter and Agreement set the BBC's Mission and Public Purposes and the framework for Ofcom's regulation of the BBC.
- A2.3 The Charter provides that we must have regard, in carrying out our functions, to such of the following as appear to us to be relevant in the circumstances:¹⁸⁹
- a) the object of the BBC to fulfil its Mission¹⁹⁰ and to promote the Public Purposes;
 - b) the desirability of protecting fair and effective competition in the United Kingdom; and
 - c) the requirement for the BBC to comply with its duties under the Charter, including its general duties.¹⁹¹
- A2.4 The Charter and Agreement recognise that, in order fulfil its Mission and promote the Public Purposes, the BBC may need to make changes to the UK Public Services. However, to protect fair and effective competition, the BBC may only make a material change to the UK Public Services where:
- a) it has carried out a public interest test and determined that test is satisfied; and
 - b) Ofcom determines that the BBC may carry out the proposed change.¹⁹²

¹⁸⁷ [The Charter](#).

¹⁸⁸ [The Agreement](#).

¹⁸⁹ Article 45(2) of the Charter.

¹⁹⁰ The BBC's mission is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain (Article 5 of the Charter).

¹⁹¹ The BBC's general duties are set out at Articles 9 to 18 of the Charter. The Agreement also imposes certain general obligations on the BBC. These include, at Clause 61, a requirement for the BBC to do all that is reasonably practicable to ensure that viewers, listeners and other users (as the case may be) are able to access the UK Public Services that are intended for them, or elements of their content, in a range of convenient and cost effective ways which are available or might become available in the future. These could include (for example) broadcasting, streaming or making content available on demand, whether by terrestrial, satellite, cable or broadband networks (fixed or wireless) or via the internet.

¹⁹² Clause 7(6) of the Agreement.

The BBC's analysis

- A2.5 The BBC must therefore initially assess whether a proposed change is material. The Agreement defines a material change as:
- a) the carrying out of any activity as a new UK Public Service; and
 - b) any change to a UK Public Service which may have a significant adverse impact on fair and effective competition.¹⁹³
- A2.6 If the BBC considers that a proposed change is not material, it may carry out the change, unless Ofcom disagrees with the BBC on materiality. If we consider that the proposed change is material, we may direct the BBC to:
- a) carry out a public interest test and, if the test is satisfied, publish the change; or
 - b) stop carrying out the change in accordance with such directions as we consider appropriate.¹⁹⁴
- A2.7 In order for a public interest test to be satisfied, the BBC must determine that:
- a) the proposed change contributes to the fulfilment of the BBC's mission and promotion of one or more of the public purposes;
 - b) it has taken reasonable steps to ensure that the proposed change has no unnecessary adverse impact on fair and effective competition; and
 - c) the public value of the proposed change justifies any adverse impact on fair and effective competition.¹⁹⁵
- A2.8 If the test is satisfied and the BBC wishes to implement the proposal, it must publish the proposed change and provide a copy to Ofcom.¹⁹⁶

Ofcom's role

- A2.9 Ofcom must then assess whether the proposed change is material and, if so, decide what type of further assessment to conduct.¹⁹⁷
- A2.10 Paragraph 4.33 of Ofcom's guidance document *Assessing the impact of proposed changes to the BBC's public service activities* ('the BCA guidance')¹⁹⁸ sets out a non-exhaustive list of factors we may take into account when assessing the potential significant adverse impact of a change.

¹⁹³ Clause 7(7) of the Agreement.

¹⁹⁴ Clause 9(6) of the Agreement.

¹⁹⁵ Clause 8(1) of the Agreement.

¹⁹⁶ Clause 8(3) of the Agreement.

¹⁹⁷ Clause 9 of the Agreement.

¹⁹⁸ Ofcom, [Assessing the impact of proposed changes to the BBC's public service activities](#), March 2017.

- A2.11 If we conclude a proposed change is not material, or six weeks pass without our informing the BBC of our view, the BBC may carry out the change.¹⁹⁹
- A2.12 If we conclude that the proposal is material, we may decide to carry out a BBC competition assessment (BCA) under clause 10 of the Agreement or a shorter assessment drawing on elements of the BCA procedure. Paragraph 4.35 of the BCA guidance explains when each type of assessment might be appropriate.
- A2.13 In carrying out a BCA or shorter assessment, Ofcom must:
- a) review the procedures the BBC has followed in carrying out the public interest test;
 - b) review the BBC's assessment of the public value of the proposed change to the UK Public Services;
 - c) assess any adverse impact of the proposed change on fair and effective competition; and
 - d) assess whether the public value of the proposed change justifies any adverse impact on fair and effective competition.²⁰⁰
- A2.14 Ofcom must consider the scale and likelihood of any public value relative to the scale and likelihood of any adverse impact on fair and effective competition. The Agreement recognises that the determination will require qualitative assessments to be made and that direct comparison of factors relating to public value and factors relating to risks to fair and effective competition may not be possible.²⁰¹
- A2.15 At the end of the process, we will make one of four possible determinations:
- a) that the BBC may carry out the proposed change;
 - b) that the BBC may not carry out the proposal;
 - c) that the proposal may go ahead subject to conditions or modifications that we consider appropriate; or
 - d) that the BBC must reconsider elements of its public interest test or follow any further procedures we consider appropriate.²⁰²
- A2.16 Ofcom may only make determinations (b) and (c) above where we have carried out a BCA and not following a shorter assessment.²⁰³
- A2.17 Ofcom must complete a BCA within six months²⁰⁴ and a shorter assessment in less than six months.²⁰⁵ In either case we will consult stakeholders before making our final determination.

¹⁹⁹ Clauses 9(3) and (4) of the Agreement.

²⁰⁰ Clause 10(3) of the Agreement. Section 5 of the BCA guidance explains the analytical approach we expect to apply.

²⁰¹ Clause 10(4) of the Agreement.

²⁰² Clause 11(1) of the Agreement.

²⁰³ Clause 11(2) of the Agreement.

²⁰⁴ Clause 10(2) of the Agreement.

²⁰⁵ Clause 9(2) of the Agreement.

Operating Licence

A2.18 Under the Charter and the Agreement, we are required to set an operating licence (the Operating Licence) containing a set of regulatory conditions with which the BBC must comply.²⁰⁶ The Charter states that the Operating Licence must contain regulatory conditions Ofcom considers appropriate for requiring the BBC to:

- a) fulfil its Mission and promote the Public Purposes;
- b) secure the provision of distinctive output and services; and
- c) secure that audiences in Scotland, Wales, Northern Ireland and England are well served.²⁰⁷

A2.19 The Agreement provides that:

- a) Ofcom must impose on the BBC the regulatory conditions set out in, and in accordance with, Schedule 2 to the Agreement;
- b) Ofcom may impose such further regulatory conditions we consider appropriate for requiring the BBC, in carrying out the UK Public Services, to fulfil the mission and promote the public purposes; and
- c) Ofcom may impose further regulatory conditions we consider appropriate for requiring the BBC to secure that the audiences in Scotland, Wales, Northern Ireland and England are well served.²⁰⁸

A2.20 Schedule 2 of the Agreement contains some further requirements regarding the regulatory conditions that Ofcom must impose through the Operating Licence. Amongst other things, it provides that:

- a) Ofcom must have particular regard, in imposing the regulatory conditions, to the need for the BBC to secure the provision of distinctive output and services;²⁰⁹
- b) In respect of news and current affairs, we must impose requirements, in the Operating Licence, that we consider appropriate for securing:
 - i) the programmes included in the UK Public Television Services²¹⁰ include news programmes and current affairs programmes at an appropriate level (as determined by Ofcom); and

²⁰⁶ Under the Charter and the Agreement, Ofcom is required to set an operating licence for the BBC's UK Public Services. Charter, Article 46(3) and Agreement, Clause 13.

²⁰⁷ This duty is reiterated in paragraph 1(1) of Schedule 2 to the Agreement, which states that "[i]n imposing the regulatory conditions Ofcom must have particular regard to the need for the BBC to secure the provision of distinctive output and services".

²⁰⁸ Agreement, Clause 13.

²⁰⁹ Agreement, Schedule 2, paragraph 1(1). "Distinctive output and services" is defined in paragraph 1(2) as "output and services, taken as a whole, that are substantially different to other comparable providers across each and every UK Public Service both in peak time and overall, on television, radio and online, in terms of: (a) the mix of different genres and output; (b) the quality of output; (c) the amount of original output produced in the UK; (d) the level of risk-taking, innovation, challenge and creative ambition; and (e) the range of audiences it services".

²¹⁰ Clause 75 and part 1 of Schedule 1 to the Agreement taken together define 'UK Public Television Services'.

- ii) the news programmes so included are broadcast for viewing at intervals throughout the period for which the UK Public Television Services are provided;²¹¹
- c) In relation to each of the UK Public Television Services, Ofcom must impose on the BBC the requirements they consider appropriate for securing:
 - i) The time allocated, in each year, to the broadcasting of original productions²¹² included in that service is no less than what appears to them to be an appropriate proportion²¹³ of the total amount of time allocated to the broadcasting of all the programmes included in that service; and
 - ii) The time allocated to the broadcasting of original productions is split in what appears to them to be an appropriate manner between peak viewing times and other times.²¹⁴

A2.21 We may amend the Operating Licence under our published procedures for setting and amending the operating licence following consultation with the BBC and any person we consider appropriate.²¹⁵ We issued the first Operating Licence in October 2017 and it has been subsequently amended a few times since 2017.²¹⁶

²¹¹ Agreement, Schedule 2, paragraph 4(1).

²¹² "Original productions", in relation to the UK Public Television Services taken together, has the same meaning that is specified by the Broadcasting (Original Productions) Order 2004 or any subsequent order under section 278(6) of the Communications Act 2003 in relation to a licensed public service channel (Agreement, Schedule 2, paragraph 5(4)).

²¹³ This proportion must, in the case of each service, be such proportion as Ofcom consider appropriate for ensuring the service is consistently of high quality (Agreement, Schedule 2, paragraph 5(2)(a)).

²¹⁴ Agreement, Schedule 2, paragraph 5(1).

²¹⁵ Agreement, Clause 13(5).

²¹⁶ Changes to the [Operating Licence](#) are available on our website. For our procedures for setting and amending the Operating Licence, see our [procedures for setting and amending the operating licence](#).

A3. Proposed Operating Licence conditions

- A3.1 This annex contains the following details:
- a) the existing Operating Licence conditions concerning the provision of news, original productions, and first-run UK originations for BBC UK Public Television Services, as set out in Schedule 1 to the Operating Licence (the [current consolidated version](#) of which is available on our website);
 - b) the proposed new Operating Licence conditions for BBC Three.

Existing Operating Licence conditions

- A3.2 There are presently no existing Operating Licence conditions for BBC Three. For context, we set out below the existing Operating Licence conditions concerning the provision of news, original productions and first-run UK originations for BBC UK Public Television Services.

News

- A3.3 The existing Operating Licence conditions for news on UK Public Television Services are as follows:

- 2.4 In respect of **BBC One**, the BBC must ensure that:
- 2.4.1 it shows network news programmes at intervals throughout the day;
 - 2.4.2 in each Calendar Year, at least 1,520 hours are allocated to network news programmes, of which at least 280 hours must be in Peak Viewing Time. For the purpose of this requirement, “network news programmes” does not include programmes which are overnight simulcasts of programmes on the BBC News channel; and
 - 2.4.3 in each Calendar Year, at least 45 hours are allocated to network current affairs programmes during Peak Viewing Time.
- 2.5 In respect of **BBC One** and **BBC Two** taken together, the BBC must ensure that in each Calendar Year at least 450 hours are allocated to current affairs programmes, of which at least 106 hours must be in Peak Viewing Time.
- 2.6 In respect of **CBBC**, the BBC must ensure that:
- 2.6.1 it shows news each day; and
 - 2.6.2 in each Financial Year at least 35 hours are allocated to news.
- 2.7 The BBC must ensure that the **BBC News channel** includes
- 2.7.1 more international news, and
 - 2.7.2 more local/regional news
- than other main continuous news channels in the United Kingdom.

Original productions

A3.4 The existing Operating Licence conditions for original productions on UK Public Television Services are as follows:

2.32 The BBC shall ensure that in each Calendar Year the time allocated to the broadcasting of original productions by each UK Public Television Service set out in column I below:

2.32.1 is not less than the percentage of the total time allocated to the broadcasting of all the programmes for that service specified in column II; and

2.32.2 is not less than the percentage of the total time allocated to the broadcasting of all the programmes for that service in Peak Viewing Time specified in column III.

“Original productions”, in relation to the UK Public Television Services taken together, has the same meaning that is specified by the Broadcasting (Original Productions) Order 2004 or any subsequent order under section 278(6) of the Communications Act 2003 in relation to a licensed public service channel.

| Column I | Column II | Column III |
|------------------|---|---|
| Service | Original productions as a percentage of the hours of all programming | Original productions in Peak Viewing Time as a percentage of the hours of all programming in Peak Viewing Time |
| BBC One | 75% | 90% |
| BBC Two | 75% | 90% |
| BBC Four | 75% | 60% |
| BBC Parliament | 90% | - |
| BBC News channel | 90% | - |
| CBBC | 72% | - |
| CBeebies | 70% | - |
| BBC Alba | 75% | - |
| BBC Scotland | 75% | - |

First-run UK originations

A3.5 The existing Operating Licence conditions for first-run UK originations are as follows:

- 2.33 In respect of **BBC One**, the BBC must ensure that in each Calendar Year at least 4,000 hours are allocated to the broadcasting of first-run UK originations across Daytime and Peak Viewing Time.
- 2.34 In respect of **BBC Two**, the BBC must ensure that in each Calendar Year at least 2,200 hours are allocated to the broadcasting of first-run UK originations across Daytime and Peak Viewing Time.
- 2.35 In respect of **CBBC** and **BBC iPlayer** taken together, the BBC must ensure that in each Calendar Year it provides at least 350 hours of first-run UK originations for pre-teen children.
- 2.35A In complying with condition 2.35, the BBC must ensure that in each Calendar Year at least 175 hours of first-run UK originations are broadcast on **CBBC**.
- 2.36 In respect of **CBeebies** and **BBC iPlayer** taken together, the BBC must ensure that in each Calendar Year it provides at least 100 hours of first-run UK originations for pre-school children.
- 2.36A In complying with condition 2.36, the BBC must ensure that in each Calendar Year at least 50 hours of first-run UK originations are broadcast on **CBeebies**.
- 2.37 For the purposes of conditions 2.33 to 2.34:
- 2.37.1 "first-run UK originations" means programmes which are commissioned by or for a UK Public Television Service and have not previously been shown on television in the United Kingdom; and
- 2.37.2 references to hours mean hours measured in slot times for programmes with a slot time of 10 minutes or more, or hours measured in running times for programmes with a slot time of less than 10 minutes.
- 2.37A For the purposes of conditions 2.35 to 2.36A:
- 2.37A.1 "first-run UK originations" means programmes which are commissioned by or for a UK Public Service and have not previously been shown on television or made available online in the United Kingdom; and
- 2.37A.2 references to hours in respect of a UK Public Television Service mean hours measured in slot times for programmes with a slot time of 10 minutes or more, or hours measured in running times for programmes with a slot time of less than 10 minutes, and in respect of programmes made available only on BBC iPlayer mean hours measured in running times.

Proposed Operating Licence conditions

News

A3.6 We propose to introduce new condition [2.5A] of the Operating Licence as follows:

“2.5A In respect of **BBC Three**, the BBC must ensure it shows news every weekday (except Public Holidays).”

Originations

A3.7 We propose to amend condition 2.32 of the Operating Licence by inserting at the bottom of the table, after the row for BBC Scotland, the following text:

| Column I | Column II | Column III |
|-------------|--|--|
| Service | Original productions as a percentage of the hours of all programming | Original productions in Peak Viewing Time as a percentage of the hours of all programming in Peak Viewing Time |
| ... | ... | ... |
| “BBC Three” | “75%” | - |

First-run UK originations

A3.8 We propose to introduce new condition 2.34A of the Operating Licence as follows:

“2.34A In respect of **BBC Three**, the BBC must ensure that in each Calendar Year it provides first-run UK originations that are intended to appeal to 16 to 34 year olds across a mix of different genres.”

A3.9 We propose to amend condition 2.37 by removing the reference to condition “2.34” and replacing it with a reference to condition “2.34A”, so that it would read as follows:

“2.37 For the purposes of conditions 2.33 to 2.34A:

2.37.1 “first-run UK originations” means programmes which are commissioned by or for a UK Public Television Service and have not previously been shown on television in the United Kingdom; and

2.37.2 references to hours mean hours measured in slot times for programmes with a slot time of 10 minutes or more, or hours measured in running times for programmes with a slot time of less than 10 minutes.”

A4. Impact assessment

- A4.1 Ofcom has a legal duty to carry out impact assessments where our policy decisions are likely to have a significant effect on businesses or the public, or when there is a major change in Ofcom's activities.²¹⁷
- A4.2 Within this BCA we have considered the impact on the BBC, other broadcasters, the production sector and audiences. We have also had regard to this in considering our view on the appropriate the BBC Operating Licence conditions to impose on the BBC Three television channel.

Equality Impact Assessment

- A4.3 We are required by statute to assess the potential impact of all our functions, policies, projects and practices on people with any of the following protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.²¹⁸ We refer to groups of people with these protected characteristics as 'equality groups'.
- A4.4 We fulfil these obligations by carrying out an equality impact assessment ("EIA"), which examines the potential impact our policy is likely to have on people, depending on their personal circumstances. EIAs also assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers, regardless of their background and identity.
- A4.5 We have assessed the impact on audience groups in our review of the BBC's assessment of the public value of its proposal. We consider the BBC's proposals are likely to have a positive personal impact on young audiences, and particularly those from C2DE and minority ethnic backgrounds, those living outside of London and those with limited ability to stream content, through the greater availability and awareness of BBC Three content. We have provisionally concluded that the proposal provides additional social value for this audience through the content's delivery of the Mission and Public Purposes. There may also be some adults outside of the target audience who watch the channel and are positively impacted by the proposal.
- A4.6 Children may be negatively impacted by the proposal as it requires a reduction in the operating hours of the CBBC channel to allow for distribution capacity. However, our analysis found that this negative impact is likely to be very small. The BBC plans to maintain the budget for CBBC from the lost hours so the resources will remain in the service. There may be a small positive impact on children aged 13-15 years old as the proposed BBC Three channel plans to broadcast programmes suitable and appealing to them and young audiences pre-watershed.

²¹⁷ Section 7 of the Communications Act 2003.

²¹⁸ As defined in the Equality Act 2010.

Operating Licence conditions

- A4.7 Ofcom is required under the Charter and Agreement to put in place an Operating Licence. In setting the first Operating Licence for the BBC, Ofcom conducted an EIA considering the effects of our proposed approach for holding the BBC to account for the delivery of its Mission and Public Purposes.²¹⁹ We concluded that securing delivery of the BBC's Mission and Public Purposes through this regulatory regime will bring benefits to all consumers of BBC output including equality groups.
- A4.8 In considering whether to impose Operating Licence conditions for BBC Three, we have had particular regard to the need for the BBC to secure the provision of distinctive output and services.²²⁰ We have also had regard to the objective of securing that audiences in each of the nations is well-served, and securing the public value of the BBC's proposals in respect of BBC Three. We consider that the proposed Operating Licence conditions will have additional positive impact on equality groups.
- A4.9 In respect to our proposed condition for news, we consider this is likely to have a positive impact on younger audiences by securing the provision of news programming for them and in helping them understand and engage with the world around them.
- A4.10 In respect to our consideration of the proportion of UK originations to be broadcast on the channel, we consider that the proposed Operating Licence condition of 75% is likely to have a positive impact by providing young audiences with distinctive original output and contributing towards the BBC's delivery of its Public Purposes.
- A4.11 We consider that a qualitative Operating Licence condition for first-run content broadcast on the channel is likely to have a positive impact by securing distinctive original output appealing to younger audiences and gives the BBC the flexibility in how best to deliver this to them.

²¹⁹ [BBC Performance](#), October 2017, paragraphs A6.11 to A6.25.

²²⁰ The Agreement, Schedule 2, paragraph 1. "Distinctive output and services" are defined as output and services, taken as a whole, that are substantially different to other comparable providers across each and every UK Public Service both in peak time and overall, and on television, radio and online, in terms of: (a) the mix of different genres and output; (b) the quality of output; (c) the amount of original output produced in the UK; (d) the level of risk-taking, innovation, challenge and creative ambition; and (e) the range of audiences it serves; Agreement, Schedule 2, paragraph 2.

A5. Responding to this consultation

How to respond

- A5.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 14 October.
- A5.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/review-bbc-three-television-channel>. You can return this by email to the address provided in the response form.
- A5.3 If your response is a large file, or has supporting charts, tables or other data, please email it to bbcthree.assessment@ofcom.org.uk, as an attachment in Microsoft Word format, together with the [cover sheet](#). This email address is for this consultation only, and will not be valid after 30 April 2022.
- A5.4 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.
- A5.5 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A5.6 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.
- A5.7 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A5.8 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 8. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposal would be.
- A5.9 If you want to discuss the issues and questions raised in this consultation, please contact bbcthree.assessment@ofcom.org.uk.

Confidentiality

- A5.10 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 [the Ofcom website](#) as soon as we receive them.

- A5.11 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.
- A5.12 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.
- A5.13 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

- A5.14 Following this consultation period, Ofcom plans to publish a statement in December 2021.
- A5.15 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

Ofcom's consultation processes

- A5.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 6.
- A5.17 If you have any comments or suggestions on how we manage our consultations, please email us at 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.
- A5.18 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary by email: corporationsecretary@ofcom.org.uk

A6. Ofcom's consultation principles

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

Before the consultation

- A6.1 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 proposal, shortly after announcing the consultation.

During the consultation

- A6.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A6.3 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.
- A6.4 We will consult for up to ten weeks, depending on the potential impact of our proposal.
- A6.5 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.
- A6.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A6.7 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.

A7. 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? _____

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)

A8. Consultation questions

A8.1 This consultation is seeking views from stakeholders on our preliminary determination of the BBC's proposal to launch BBC Three as a linear television channel and the conditions we may impose if the channel is permitted to proceed.

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.

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.

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.

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.