

The response from the Advisory Committee for England to Ofcom's consultation on the draft operating licence for the BBC.

In our responses we will be referring to the accompanying document – *The BBC's Services: Audiences in England*. We welcome the production of this document.

Ofcom's Advisory Committee for England (ACE) broadly supports the approach taken by Ofcom in developing a regulatory framework for the performance of the BBC under its new charter. We welcome the emphasis on distinctive programming and the need for the BBC to set itself apart in delivering its public purposes. ACE particularly welcomes the many references to diversity of output.

The Committee does have some concerns over the need for Ofcom to examine qualitative factors alongside quantitative measures. Ofcom's position is that quality is largely in the domain of the BBC, however we believe it will often be difficult to separate out those measures.

We also feel that the mechanism whereby the BBC's annual strategy development is accepted by Ofcom as a suitable vehicle for delivery of the purposes could be more explicit in the document.

ACE is supportive of the drive to increase diversity of output and distinctiveness in what might be deemed "market failure" content, however, we know from past charter periods that that approach can lead to a reduction in audiences. With ever more channels to market available to content producers, performance as measured by audience numbers is the principle metric of success. Should the delivery of the purposes lead to a reduction in audience numbers for the BBC, how will the position of the Corporation be defended against accusations of decreasing value for money for the majority of audience?

**Do you agree with the approach we have proposed for public purpose 1, including the high-level objectives and regulatory conditions we are proposing?**

The Advisory Committee for England support the approach for public purpose 1, with the following observations:

4.32.1 Fully supportive of this requirement.

4.32.2 While we are supportive of this requirement, we refer to Section 2 references 1.31.1 to 1.31.4 and 1.32 to 1.34 of *The BBC's services: audiences in England*. The Committee would like to see a definition of what constitutes a region. England's geographical regions are large, with several being larger than the devolved nations from an audience perspective. We would urge a statement demonstrating that the BBC (and Ofcom) understand that there are large and distinct, diverse groups within many of the regions, who are currently underserved by the BBC's News, Current Affairs and Factual programming output.

4.32.3 Fully supportive of this requirement.

4.32.4 and 4.36. ACE is unsure what this actually means. Whilst we welcome the reference to online activity, particularly since the proposed purpose 6 did not make it into the final charter, we are unclear what is intended here. Is this a veiled attempt to force the BBC to engage with social media or to use other online news sources, or simply to make it clear that other news sources are available? Has thought been given to the editorial and balance overlay required? We believe this could be better and more explicitly drafted. It is worth noting that we believe the Trust's prior condition was also unclear and simply led to the BBC using Twitter as an apparently verified news source.

4.39. We feel that maintaining existing targets in relation to news services for young people is a lost opportunity to compel the BBC to innovate, particularly in the crossover between broadcast radio and online, which is almost a separately defined medium for young audiences. By that we mean broadcast radio services, consumed online with the opportunity to link more extensive news coverage targeted at that audience.

**Do you agree with the approach we have proposed for public purpose 2, including the high-level objectives and regulatory conditions we are proposing?**

The Advisory Committee for England support the approach for public purpose 2, with the following observations:

- As mentioned under public purpose 1, the regions of England contain distinct, diverse communities for whom English is not a first language. There is no requirement here for the BBC to consider these audiences, however, we note that in Scotland and in Wales, there is a requirement to deliver educational content in Gaelic and Welsh.
- Although the desire for the BBC to be seen as innovative is a message spread throughout the document, this is one area where an explicit requirement may have value.

**Do you agree with the approach we have proposed for public purpose 3, including the high-level objectives and regulatory conditions we are proposing?**

The Advisory Committee for England is particularly welcoming of the sentiments of Ofcom's approach, which sets the conditions for the very highest quality and diverse content, however we have the following observations:

We would reiterate the risk highlighted in our opening, of the potential for decreasing audience numbers with increased "risk taking" and innovation in programming styles and genres. We would caution that the owner of this responsibility be identified and Government made aware of the potential impacts of the approach.

4.85 (and related sections). ACE considers spend to be a very blunt measure of quality and we feel that expenditure on production will need complex analysis by Ofcom. Production costs may well decline at a time of increased casualisation of the BBC workforce, in line with that of independent producers. Technical costs may also decline, but talent costs increase. Spend is, thus, a very volatile measure of quality, especially as BBC production costs are historically opaque.

**Do you agree with the approach we have proposed for public purpose 4, including the high-level objectives and regulatory conditions we are proposing?**

The Advisory Committee for England has, over the past few two years, sought to understand and champion diversity as we believe England is the most diverse of all the UK nations. We are heartened by the depth and detail of Ofcom's approach to the regulation of public purpose 4. The Committee would like to offer the following supporting comments:

4.101, 4.102 and 1.31.1 to 1.32.4 of *The BBC's services: audiences in England*. We welcome the independent scrutiny of the BBC's assessment of its own performance and we would be interested in the methodology that will be employed to achieve this. We would like to see more transparency about how the audience feedback will be gathered, and what safeguards will be in place to ensure that the feedback itself is gathered from a suitably diverse population sample.

4.109.2. The Committee welcomes the explicit reference to production across the regions of England. We would like to see this theme explicitly carried across to all paragraphs referencing outside M25 production to ensure that production in Salford isn't seen as the means by which this condition is satisfied. We would also like to ensure that "production" means the employment of programming making staff in the region and not simply the opening of a short term production office, which is often the case currently.

4.124 to 4.134. The Committee is unclear where responsibility lies for the BBC's off-screen diversity plans. Does Ofcom have a regulatory duty in this regard? We would like to understand how reporting will be separated out for on screen portrayal and representation and off-screen diversity of the staff base. We note that Ofcom awaits the BBCs own proposals (4.124, 4.125) before finalising proposals, but would urge that the same objective scrutiny with clear measurements be employed as is proposed for other targets, otherwise the point at which ad hoc review of the BBC's performance on diversity (1.19.5) is triggered will not be clear. In addition, the Committee would like to understand how the BBC's drive for improved diversity will feed through to independent commissions and thus improve the position across the supply chain and if there is an appropriate mechanism for this to be included in regulation.

**Do you agree with Ofcom's approach to how we will set and amend the operating licence, as set out in Annex 5?**

ACE supports the approach

**Do you agree with our proposed overall approach to performance measurement?**

The Advisory Committee for England is supportive of the overall approach. One observation we have made is to ensure ad hoc measurement of availability or impact under public purpose 4, does not take place immediately following a special “season” eg, Black History Month, to avoid skewed results.

**Do you agree with the proposed framework of: availability; consumption; impact; contextual factors?**

ACE supports the approach

**Do you agree with Ofcom’s approach to how we will set and amend the performance measures?**

ACE supports the approach

John Varney  
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