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# Market position of BBC Sounds

## Statement

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**STATEMENT:**

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# 1. Overview

**In this statement we set out our findings on the market position and impact of BBC Sounds in the UK audio sector**

- 1.1 The UK audio sector is undergoing rapid change due to the evolution of online services and the growth of global streaming platforms. Commercial radio and the BBC have responded to this by developing their online offerings.
- 1.2 BBC Sounds is the BBC's audio streaming and download service, which includes live radio, on-demand music, speech content and podcasts. It is available on a range of devices, including smartphones, tablets, smart speakers and car audio systems.
- 1.3 In May 2021, we consulted on our provisional views on the market position and impact of BBC Sounds. This followed the call for evidence that we published in October 2020, in which we sought evidence and information from stakeholders.
- 1.4 Having considered the responses to the call for evidence, the consultation and other information about the sector, we set out in this statement our conclusions on the market position and impact of BBC Sounds in the UK audio sector.

### **Our conclusions – in brief**

- We have considered the ways in which BBC Sounds might have a significant adverse impact on fair and effective competition by crowding out online radio, including through the cross-promotion of BBC Sounds, or by negatively impacting commercial podcast revenues.
- We have concluded that we do not have reasonable grounds to believe BBC Sounds is having a significant adverse impact on fair and effective competition. There is strong evidence in particular that commercial radio has been more successful at attracting online listeners than BBC Sounds; that listeners to BBC Sounds tend to use multiple platforms; and that the UK podcast sector has a wide range of non-BBC content, with producers able to generate commercial revenue and advertising revenue having grown significantly in the past year.
- Consequently, we have reached a decision that the threshold is not currently met for proceeding to a competition review of BBC Sounds under the BBC Charter and Agreement.
- We recognise that the BBC holds a strong position in the UK audio sector. That has been the case for some time, with the BBC's radio stations and podcasts continuing to attract significant audiences. BBC Sounds has become a part of that strong position. It is therefore important that the BBC carefully considers how further changes in this area may affect competition. We will continue to monitor such changes.
- We therefore expect transparency and active engagement by the BBC with the sector about its plans and future strategy, to enable it to understand how its proposals might affect competition, and to take this into account when developing them. This is likely to mean the BBC providing more information about planned changes to BBC Sounds than commercial operators might disclose regarding their own plans.
- We think there could be scope for further collaboration between the BBC and other audio content providers in relation to BBC Sounds, which may help to support the future of UK radio in the context of the challenges faced by the sector.

## 2. Background to this statement

### Introduction

- 2.1 This section provides factual and regulatory context to our statement on the position of BBC Sounds within the sector. It sets out a factual description of BBC Sounds and the services that preceded it, and explains the regulatory framework for the BBC, before summarising the call for evidence on BBC Sounds that we published in October 2020, the consultation that we published in May this year, and the key points raised by respondents to the consultation. It concludes by noting other Ofcom projects that are relevant to BBC Sounds and the Government's review of digital radio and audio, which concluded in October.
- 2.2 The remainder of this statement is structured as follows:
- Section 3 sets out our understanding of the market context in which BBC Sounds has developed, based on information provided to us in response to the call for evidence, the consultation and our own market research. It informs our competition assessment in section 4 and the conclusions we set out in section 5.
  - In section 4, we provide our assessment of whether there are reasonable grounds to believe that BBC Sounds is having a significant adverse impact on fair and effective competition.
  - In section 5, we set out the conclusions we have reached on:
    - whether, in the light of our competition assessment, it would be appropriate for Ofcom to open a formal BBC competition review in relation to BBC Sounds;
    - when future changes to BBC Sounds might raise competition issues;
    - our expectations of the BBC regarding transparency and engagement with others as BBC Sounds evolves; and
    - the potential benefits of further collaboration between the BBC and third parties in relation to BBC Sounds.

### What is BBC Sounds?

- 2.3 BBC Sounds is an audio-streaming and download service from the BBC. The content available on it comprises: live broadcast radio stations (e.g. Radio 2); radio-like streams (e.g. Radio 1 Dance); catch-up radio (i.e. on-demand episodes of radio programmes, including in podcast format); off-schedule podcasts (i.e. podcasts which are not from radio programmes, e.g. *NewsCast*); and off-schedule music mixes.
- 2.4 It presents content to users in a personalised way; for example, it allows users to download content for use when they are not connected to the internet and enables live radio to be paused and rewound.
- 2.5 BBC Sounds was launched in October 2018, and brought together the functionality and content of iPlayer Radio and BBC Music (see below) under a single unified website and app,

with an increase in the volume of off-schedule podcasts and off-schedule music mixes, as well as enhanced functionality, which has included:

- personalised discovery – the prioritisation of content relevant to the particular user;
- continuous playback – the automatic playing of recommended content once a user’s selected content finishes playing; and
- auto-download – the automatic downloading of content deriving from series that users have ‘favourited’ or ‘followed’.

2.6 The development of BBC Sounds has included the launch of the Radio 1 Dance stream in 2020 and the launch of the Radio 1 Relax stream in 2021.

2.7 BBC Sounds is available as an app on operating systems such as Android and iOS, as well as through the BBC website. It can therefore be accessed through a wide range of connected devices, including mobile phones and tablets, personal computers, smart speakers,<sup>1</sup> car audio systems and smart TVs.

## **Pre-existing BBC online audio content**

2.8 Before the launch of BBC Sounds, audio content was available from the BBC through the iPlayer Radio website and through two proprietary apps, iPlayer Radio and BBC Music, for use on connected devices, as outlined below.

### **iPlayer Radio**

2.9 The content that was available via the iPlayer Radio website and app included the following:

- Broadcast radio programmes: all BBC network radio, nations radio, and English local radio stations and the World Service were available live and programmes could also be downloaded for later listening.
- Off-schedule episodes of BBC Radio programmes, which were available exclusively through iPlayer Radio and were not distributed via RSS.
- Off-schedule podcasts, which were not exclusive to iPlayer Radio and were available via RSS on third-party podcast platforms.

2.10 The functionality of the iPlayer Radio website and app enabled users to play and pause audio content and ‘scrub’, i.e. move the slider back and forth along the audio progress bar to play different parts of the audio. Users could also access “My Radio”, which provided access to programmes that they had chosen to ‘follow’ and algorithmically generated recommendations for other programmes they might enjoy.

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<sup>1</sup> To access BBC Sounds on Amazon smart speakers, users need to enable the BBC Sounds Skill in Amazon Alexa. Alexa Skills are voice-driven capabilities that can be downloaded to allow for more intuitive use of smart speakers.

## BBC Music

- 2.11 In addition to some broadcast content, the BBC Music website and app gave users access to the following content:
- Music previews: short (30-second) excerpts of individual music tracks which had been played on BBC Radio stations or which had appeared on BBC Music Playlists.
  - Music sessions: clips of exclusive BBC Music content, e.g. interviews, performances or programme clips.
  - Music playlists: lists of music tracks taken from a specific BBC Radio programme or curated according to theme, event, genre or recommendations from BBC talent, giving users access to a 30-second clip of each track.
  - Music mixes: on-demand versions of music programmes previously broadcast on BBC music radio stations. Generally, they would be ‘clipped’ to include a particular segment within a programme.
- 2.12 The BBC Music website and app offered the same playback functionality as iPlayer Radio. In addition, users that were registered and logged in to the BBC Music website or app could access ‘My Tracks’, which enabled users to save 30-second clips from individual tracks to a personal library and create a personalised playlist of clips.

## Regulatory framework for the BBC

- 2.13 The BBC’s Mission, according to the Royal Charter for the BBC (the “**Charter**”),<sup>2</sup> is to act in the public interest and serve all audiences through the provision of impartial, high-quality and distinctive output, and services which inform, educate and entertain.<sup>3</sup> The Charter also sets out the BBC’s Public Purposes.<sup>4</sup>
- 2.14 The BBC is required to fulfil its Mission and promote the Public Purposes when delivering its UK public services.<sup>5</sup> The BBC’s existing UK public services are specified in a list that is maintained and published by the BBC.<sup>6</sup> They include ‘BBC Online’, defined as “a comprehensive online content service, with content serving the whole range of the BBC’s Public Purposes and including the BBC’s news and sports websites, BBC iPlayer and BBC Three for younger adult audiences”. BBC Sounds is part of the BBC Online UK public service.

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<sup>2</sup> [Royal Charter for the continuance of the British Broadcasting Corporation](#), December 2016.

<sup>3</sup> Article 5 of the Charter.

<sup>4</sup> Article 6 of the Charter.

<sup>5</sup> Article 7(3) of the Charter.

<sup>6</sup> Article 7(3) of the Charter provides that UK public services shall include, among other things “the existing services specified in the Framework Agreement” (referring to the [Agreement between the Secretary of State for Culture, Media and Sport, and the BBC](#), December 2016). Clause 7(1) of the Agreement provides that the UK public services “consist of the services specified by or under Schedule 1”. Schedule 1 paragraph 1(1) requires the BBC to maintain and publish a list of the UK public services. The most recent list of UK public services (updated on 24 February 2019) is available at:

[http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/managementstructure/structureandgovernance/list\\_of\\_uk\\_public\\_services\\_feb\\_2019.pdf](http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/managementstructure/structureandgovernance/list_of_uk_public_services_feb_2019.pdf).

- 2.15 In the area of performance, the BBC Board must lead the BBC to fulfil the Charter’s aims.<sup>7</sup> The BBC is required to publish an Annual Plan for each financial year, in advance of the period to which it relates, which must include the creative remit and work plan for that year.<sup>8</sup> The BBC is also required to publish an annual report which must include how it delivered the creative remit and its work plan, and any significant changes to its activities.<sup>9</sup>
- 2.16 One of Ofcom’s central responsibilities in relation to the BBC is to hold it to account for fulfilling its Mission and promoting the Public Purposes. Ofcom has set the Operating Licence, which stipulates a range of regulatory conditions that the BBC must meet. The Operating Licence covers all UK public services, with some of the regulatory conditions referring to individual BBC services. Ofcom has also set measures to assess the performance of the UK public services in fulfilling the BBC’s Mission and promoting the Public Purposes.<sup>10</sup>
- 2.17 The Operating Framework<sup>11</sup> for the BBC contains the provisions that Ofcom considers appropriate to secure the effective regulation of the BBC’s activities set out in the Charter and the Agreement between the Secretary of State for Culture, Media and Sport and the BBC (the “**Agreement**”).<sup>12</sup>
- 2.18 The Charter requires Ofcom to publish an annual report that sets out how we have carried out our functions and assessed the BBC’s compliance with the Operating Licence and other regulatory requirements.<sup>13</sup> We are also required to carry out and publish two or more detailed periodic reviews during the Charter period on the extent to which the BBC is fulfilling its Mission and promoting each of the Public Purposes.<sup>14</sup>

## Transparency and accountability

- 2.19 The BBC is required to observe high standards of openness and seek to maximise transparency and accountability.<sup>15</sup> As part of that, it is required to ensure, among other things, that important decisions about changes to its creative remit and work plan, together with the reasons behind them and a summary of evidence supporting them, as well any other information that it is reasonable and proportionate to publish to comply with its transparency obligations, are made public as soon as possible. It must also have regard to the benefits of undertaking consultation with interested persons in relation to

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<sup>7</sup> Article 20(3)(a) and (b) of the Charter.

<sup>8</sup> Article 36 of the Charter.

<sup>9</sup> Article 37 of the Charter.

<sup>10</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0015/107070/bbc-performance-statement-annexes.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0015/107070/bbc-performance-statement-annexes.pdf)

<sup>11</sup> <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/bbc-operating-framework/operating-framework>

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/584329/57965\\_Cm\\_9366 Print 1 .pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/584329/57965_Cm_9366_Print_1.pdf)

<sup>13</sup> Article 50 of the Charter. Our latest annual report on the BBC is available at: <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/bbc-operating-framework/performance/bbc-annual-report>.

<sup>14</sup> Article 51 of the Charter.

<sup>15</sup> Article 12 of the Charter.



the principal functions of its Board, which include setting the strategic direction for the BBC.

## Collaboration

- 2.20 The BBC must work collaboratively and seek to enter into partnerships with other organisations, where to do so would be in the public interest.<sup>16</sup>

## The role of the BBC and Ofcom in relation to competition

- 2.21 As a large, publicly-funded organisation which operates across the television, radio and online sectors in the UK, the BBC can have a significant impact on competition in the media industry. This impact may be positive and stimulate demand or encourage innovation. But in fulfilling its objectives, the BBC may also harm the ability of others to compete effectively.
- 2.22 The BBC needs to evolve to continue to fulfil its Mission and promote the Public Purposes, especially in the light of sector developments. But it is important that developments in the BBC's offering do not stifle competition in a way that may harm audiences' interests. The BBC is therefore required to have regard to the effects of its activities on competition. As part of that, the BBC needs to consider the public value of its activities and seek to avoid unnecessary negative impacts on competition in the UK. It also needs to consider how it can promote positive impacts on the wider market.
- 2.23 Ofcom's role is to provide robust, fair and independent regulation of the BBC, having regard to the objective of the BBC to fulfil its Mission and promote the Public Purposes, as well as the desirability of protecting fair and effective competition.<sup>17</sup> Among other things, Ofcom must set requirements in the BBC's Operating Framework to protect fair and effective competition in the UK<sup>18</sup> and may, where appropriate, conduct a BBC competition review ("**BCR**").<sup>19</sup>
- 2.24 The Charter also places specific obligations on the BBC in relation to proposed changes to its UK public services, which are further specified in the Agreement and the Operating Framework.<sup>20</sup> In particular, the BBC must consider whether any proposed changes to its UK public services are material.<sup>21</sup> If it considers they are, the BBC must carry out a public interest test ("**PIT**"). Where the test is satisfied, the BBC must publish the changes and may only implement them if Ofcom has determined that it may proceed. In reaching a decision, Ofcom may carry out (i) a BBC competition assessment ("**BCA**"), which requires us to

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<sup>16</sup> Article 13 of the Charter.

<sup>17</sup> Article 45 of the Charter.

<sup>18</sup> 4 Article 46(5)(b) of the Charter.

<sup>19</sup> See below.

<sup>20</sup> See article 20(4) of the Charter and clauses 7 to 11 of the Agreement. See also:

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0028/99415/bbc-public-service-activities-proposed.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0028/99415/bbc-public-service-activities-proposed.pdf).

<sup>21</sup> The introduction of a new UK public service will always be material. To determine whether changes to existing UK public services are material, the BBC is required to consider whether the change "may have a significant adverse impact on fair and effective competition".

consider whether the public value of the proposed change justifies any adverse effects on fair and effective competition, or (ii) a shorter assessment.<sup>22</sup> Where the BBC has failed to publish a material change, Ofcom may, among other things, direct the BBC to carry out a PIT.

## BBC competition reviews

- 2.25 As part of our role in relation to competition, we may carry out a BCR if we have reasonable grounds for believing that the carrying out of a UK public service is having a significant adverse impact on fair and effective competition. A BCR must assess whether the public value of the relevant activity justifies any adverse impact on fair and effective competition. It might conclude that the BBC can continue the activity, or stipulate that it must make modifications, or continue subject to conditions.<sup>23</sup>
- 2.26 We have published guidance setting out the approach that we will adopt in deciding whether to launch and then undertake a BCR (our “**BCR guidance**”).<sup>24</sup> As set out in our BCR guidance, there are two aspects involved in a decision to initiate a BCR: (a) whether the minimum threshold that must be met before initiating a BCR has been met; and (b) whether it would be appropriate to initiate a BCR, in the light of matters including the scale of apparent impacts, any initial view of possible public value, and any measures that are potentially available to resolve the issue.
- 2.27 Our BCR guidance identifies a BCR as a tool for examining existing services to which the BBC has made incremental changes over time, or where market conditions have undergone significant change. It also outlines that a BCR is “not about looking at day-to-day business decisions made by the BBC”, nor about “revisiting historic matters settled in the Charter or the fundamental role of the BBC”.

## The regulatory framework and BBC Sounds

- 2.28 Before the launch of BBC Sounds, the BBC shared with us a materiality assessment of its proposals for the new service, which it concluded would not amount to a material change to its “BBC Online” UK public service. We agreed with the BBC that the proposals did not amount to a material change.
- 2.29 Since 2018, we have reviewed materiality assessments from the BBC in relation to the following proposed changes to BBC Sounds: the aggregation of third-party podcasts on the BBC Sounds platform; the launch of the Radio 1 Dance stream, and the launch of the Radio 1 Relax stream. In each case we agreed with the BBC that the proposal did not amount to a material change to its BBC Online public service.<sup>25</sup>

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<sup>22</sup> Clause 10 of the Agreement.

<sup>23</sup> Clause 12 of the Agreement.

<sup>24</sup> [Assessing the impact of the BBC’s public service activities](#), Ofcom, March 2017.

<sup>25</sup> In relation to Radio 1 Dance and Radio 1 Relax, we published letters setting out our views on the proposals, which are available at: <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/bbc-operating-framework/competition>.

- 2.30 As part of the BBC’s UK public services, BBC Sounds is subject to the relevant requirements in the Charter and Agreement, Ofcom’s Operating Framework, and the Operating Licence. There are no specific Regulatory Conditions attached to BBC Sounds in the Operating Licence, although many of the BBC Radio stations included on it are subject to specific Regulatory Conditions. There are also a limited number of Regulatory Conditions that relate specifically to BBC Online as a whole.
- 2.31 Under the Charter, the BBC must ensure that promotion of a UK public service within its other UK public services focuses on output that contributes substantially to the fulfilment of its Mission and promotion of the Public Purposes. The BBC is also required to publish information on such cross-promotion.<sup>26</sup> However, there are no provisions in the Operating Framework as to how the BBC cross-promotes its UK public services.

## **The contribution of BBC Sounds to the delivery of the BBC’s Mission and Public Purposes**

- 2.32 The BBC is required to fulfil its Mission and promote its Public Purposes when delivering its UK public services. The Public Purposes are:
- Public Purpose 1: to provide impartial news and information to help people understand and engage with the world around them.
  - Public Purpose 2: to support learning for people of all ages.
  - Public Purpose 3: to show the most creative, highest quality and distinctive output and services.
  - Public Purpose 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.
  - Public Purpose 5: to reflect the United Kingdom, its culture and its values to the world.<sup>27</sup>

### **BBC Annual Plan 2021/22**

- 2.33 The BBC’s Annual Plan 2021/22 sets out its strategic plans for audio, including BBC Sounds.<sup>28</sup> In Annex 2 of the Annual Plan, the BBC states how it intends to promote the Public Purposes across all its services. Set out below are extracts from Annex 2 relating specifically to BBC Sounds.

#### **Public Purpose 1**

*“BBC News will explore ways to enhance the news offer on BBC iPlayer and BBC Sounds, experimenting with new ways to deliver news bulletins and curate news content.”*

#### **Public Purpose 3**

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<sup>26</sup> Article 63 of the Charter.

<sup>27</sup> In practice, the UK public services are not the means by which the BBC fulfils Public Purpose 5.

<sup>28</sup> [BBC Annual Plan 2021/22](#), March 2021. See pages 22 and 23.

*“Radio 3 will broadcast distinctive mood and talent-led music show formats building on the success of Tearjerker; Downtime Symphony; commissioned with BBC Sounds, to drive discovery and bring classical music to new and young genre-fluid audiences who otherwise might never engage with it.*

*BBC Sounds will be an experience with live radio at its heart: with new collaborative approaches to commissioning that deliver exclusive content, standout events and regular listening moments joined up across linear and on-demand.*

*A creative engine for the UK: renewing the offer from our amazing radio stations to deliver value to all audiences, developing new diverse talent through the Sounds Lab scheme, exploring new ways of partnering with community radio, and showcasing the best new and growing British podcasts.*

*More local than ever: making it easier to discover Nations and local content on its own or as part of curated experiences.*

*Simple and relevant to you: more value by unlocking BBC Radio content from schedules to curate presentations tailored to your tastes and listening moments both on-demand and through a new scheduled stream of content to help young audiences in particular to manage stress and wellbeing through music and speech content.*

*Available everywhere: working with others across UK audio to keep radio evolving, relevant and prominent in-car and on new platforms like voice.”*

Public Purpose 4

[In relation to the BBC in Wales] *“We will attract younger audiences by creating bespoke podcasts and content for BBC Sounds – including The Hayley Pearce Podcast.”*

[In relation to the BBC in Wales] *“We’ll continue to expand our Welsh language content produced exclusively for BBC Sounds and will create more space for diverse voices and strengthen our offer for young audiences.”*

[In relation to the BBC in Northern Ireland] *“Develop the profile, reach and impact of locally produced output on BBC Sounds, including podcasts such as Year 21.”*

## **BBC Annual Report and Accounts 2020/21**

2.34 In July this year, the BBC published its Annual Report and Accounts 2020/21,<sup>29</sup> in which it set out the strategic progress it had made during 2020/21 within BBC Sounds. The BBC told us in its response to the consultation that the report contains significantly more performance data for BBC Sounds than any other online audio service data, giving a deep insight into the performance of BBC Sounds in terms of listeners’ experiences and perceptions. It also said that the report sets out considerable detail on the role that BBC Sounds has played in delivering the BBC’s creative remit through Public Purpose 3.

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<sup>29</sup> [BBC Annual Report and Accounts 2020/21](#)

## Ofcom's Annual Report on the BBC 2020/21

2.35 In parallel with this statement we are publishing our fourth annual report on the BBC,<sup>30</sup> in which we report on how the BBC has delivered its Mission and Public Purposes, including the contribution of BBC Sounds.<sup>31</sup>

### Call for evidence on the market position and impact of BBC Sounds

2.36 On 14 October 2020, we published a call for evidence, in which we sought evidence and information in relation to the market position and impact of BBC Sounds.<sup>32</sup> We said that it was the right time to consider the BBC's position in online audio, given that:

- the audio sector had been undergoing rapid change due to the evolution of streaming services, including the rapid growth of global players such as Spotify and Apple Music;
- audience expectations had also been changing, with people increasingly listening to audio content online;
- in response to these changes, there had been a number of incremental changes to BBC Sounds since its launch in 2018; and
- competitors in the commercial radio sector had raised concerns with us about the market position and evolution of BBC Sounds.

2.37 We sought evidence from stakeholders about the impact of BBC Sounds on the sector, including information about the market context in which BBC Sounds operates. We also said we were keen to understand the BBC's strategy for BBC Sounds, the role it expects the service to play in fulfilling its Mission and promoting its Public Purposes, and how this might impact competition.

### Consultation on the market position and impact of BBC Sounds

2.38 On 4 May 2021, we published a consultation,<sup>33</sup> which set out our provisional views that:

- we did not have reasonable grounds to believe that BBC Sounds was having a significant adverse impact on fair and effective competition;
- the threshold was therefore not met for proceeding to a competition review of BBC Sounds under the BBC Charter and Agreement;
- we expect transparency and engagement by the BBC with the market about its plans and future strategy for BBC Sounds, to enable the BBC to understand how its proposals might affect competition, and to take this into account when developing plans;
- the BBC should adopt a more systematic approach to measuring the performance of BBC Sounds and publish more information on how listeners are using this service; and

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<sup>30</sup> [Ofcom Annual Report on the BBC 2020-21](#), Ofcom, November 2021

<sup>31</sup> See further section 5 of this statement.

<sup>32</sup> [Market position of BBC Sounds](#), call for evidence, Ofcom, October 2020.

<sup>33</sup> [Market position of BBC Sounds](#), consultation, Ofcom, May 2021.

- there are potential benefits to be had from further collaboration between the BBC and third parties in relation to BBC Sounds.

2.39 We noted that, as part of Ofcom’s review of how Ofcom regulates the BBC,<sup>34</sup> we would consider our regulatory framework for examining proposed changes to the BBC’s public service activities and how the BBC’s Operating Licence should evolve to ensure that it captures the BBC’s online services.

2.40 We asked stakeholders for comments on our provisional views.

## Key themes arising from responses to our consultation

2.41 We received 20 responses to our call for evidence and ten responses to our consultation, in each case from a range of stakeholders, including commercial radio groups, production companies and the BBC.<sup>35</sup>

2.42 We address the specific points raised by respondents in sections 3, 4 and 5 of this statement. The key themes that arise from the responses to the consultation are summarised below.<sup>36</sup>

### Market context

2.43 In our consultation we set out our understanding of the market context in which BBC Sounds has developed. We explained how the UK audio sector was undergoing rapid change due to the evolution of online services and the growth of global streaming platforms, and how BBC and commercial radio had responded to this.

2.44 A number of stakeholders commented on our view of the market. For example, Radiocentre said there were some areas in which our view was misinformed or incomplete and that we had downplayed how listeners are moving their radio listening online, the extent to which podcast listening is important and growing in importance, and the dominance of the BBC in online radio.

2.45 Both Radiocentre and Wireless told us that we should have compared the scale of the BBC with each individual commercial radio operator rather than with commercial radio as a whole. In addition, Wireless said that we had failed to consider concerns about the BBC’s position in the spoken-word audio sector and that we had not properly considered the impact of the BBC in podcasting.

### Our competition assessment

2.46 In our consultation, we considered whether BBC Sounds was having a significant adverse impact on fair and effective competition. We examined three ways in which BBC Sounds

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<sup>34</sup> See below.

<sup>35</sup> The responses to the call for evidence and the consultation are available at: <https://www.ofcom.org.uk/consultations-and-statements/category-3/bbc-sounds-market-position>.

<sup>36</sup> See section 2 of the consultation for a summary of the key themes that arose from responses to the call for evidence.

might have such an impact (theories of harm) to see if the evidence supported this, namely, whether:

- the BBC was crowding out online commercial radio;
- the BBC's extensive cross-promotion of BBC Sounds was harming commercial radio's ability to compete; and
- by supplying the UK podcast sector with a large amount of ad-free, 'archive' content, BBC Sounds was making it difficult for other podcast publishers to make money.

- 2.47 We provisionally concluded that the evidence did not support any of these theories of harm and therefore reached a provisional view that BBC Sounds was not having a significant adverse impact on fair and effective competition.
- 2.48 The BBC agreed with our provisional conclusions, as did the Community Media Association and the Writers' Guild of Great Britain.
- 2.49 While Radiocentre accepted there was "only limited evidence to show that BBC Sounds has had a significant adverse impact on fair and effective competition to date", it raised a number of concerns about our assessment of the competitive impact of BBC Sounds.
- 2.50 It argued that our competition assessment should look at potential future impacts of the BBC's current activities, not only the impact that had manifested to date.
- 2.51 With regard to the theories of harm, it said our assessment of the impact of cross-promotion of BBC Sounds should include external marketing spend, and that when assessing the impact of BBC Sounds on podcast publishers' ability to generate revenue, we should include the specific effect of top BBC podcasts, as well as listening to BBC podcasts on platforms other than BBC Sounds.
- 2.52 Radiocentre also disagreed with our interpretation of some of the evidence. It said the evidence shows that the cross-promotion of BBC Sounds (and additional external, paid-for promotion) is far beyond the means of the commercial radio sector, so it cannot be concluded that the BBC's cross-promotional activity has had no significant impact.
- 2.53 With respect to podcast advertising revenue, Radiocentre said the evidence shows that the UK podcast advertising market is underdeveloped, and it provided additional data in support of this.
- 2.54 Finally, it claimed that the BBC engages in anti-competitive practices which exacerbate the impact of BBC Sounds. It said these practices include making the online distribution of its radio stations conditional on supporting inter-app links that redirect users from Radioplayer to BBC Sounds, and granting BBC Sounds a period of exclusivity before making BBC podcasts available on other platforms.
- 2.55 Wireless disagreed with our assessment of the competitive impact of BBC Sounds. It argued that our analysis should have separated speech and music radio, which it said have distinct characteristics and competitive environments.

- 2.56 It also said that, in the absence of any data from the BBC to quantify the extent of the cross-promotional support of BBC Sounds, there is no rational basis for Ofcom to reach the conclusion we did on this topic. It said that in the assessment of the impact of BBC Sounds on podcast publishers' ability to generate revenue, Ofcom should have built an accurate counterfactual picture of what the UK podcast market might look like in the absence of the BBC.
- 2.57 Finally, it said there were some factors that we should have taken into account when interpreting the comparative data on BBC Radio and commercial radio listenership, including a more extensive FM/AM and DAB distribution of BBC Radio, and the differences between commercial radio players' portfolios, strategies, priorities and scale.

## **Our provisional views**

### **The test for opening a BCR in relation to BBC Sounds**

- 2.58 We asked stakeholders if they agreed with our provisional view that the test for opening a BCR in relation to BBC Sounds was not met.<sup>37</sup> While the BBC and the Community Media Association agreed with our provisional view, Radiocentre, Wireless and an individual respondent disagreed.
- 2.59 Radiocentre said that based on its analysis of our theories of harms, and the necessity of considering them in totality rather than individually, the threshold needed to initiate a BCR had been passed.
- 2.60 Wireless said that Ofcom had failed to understand the market, and that Ofcom had used imperfect insights as the basis for its market impact assessment. It said that Ofcom therefore has no reasonable grounds to believe that BBC Sounds is not having a significant adverse impact on fair and effective competition.

### **When future changes to BBC Sounds might raise competition concerns**

- 2.61 In our consultation, we asked respondents if they agreed with our view on when changes to BBC Sounds might raise competition issues. We said we considered that changes to functionality, and the addition of small amounts of content, similar to that already available on BBC Sounds, would be less likely to raise concerns than the addition of new types of content or of content pertaining to a new or embryonic area.
- 2.62 The BBC and Radiocentre broadly agreed with our view. Wireless disagreed that changes to BBC Sounds' functionality would be less likely to require closer scrutiny; it said that this would ignore an assessment of the research and development investment required to design and implement such updates, and a commercial operator's ability to justify such expenditure. It also said it was particularly concerned about the potential for new spoken-word content from the BBC to adversely impact the market.

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<sup>37</sup> See above for an explanation of BCRs.



## Transparency and engagement – planned changes to BBC Sounds

- 2.63 In our consultation, we said that we expected transparency and engagement by the BBC with the market about its plans and future strategy to enable the BBC to understand how its proposals might impact on competition, and to take this into account when developing them. We sought views on the information being provided by the BBC and what improvements might be made.
- 2.64 The BBC reiterated its commitment to engaging transparently with stakeholders about its plans, whereas Radiocentre, AudioUK, Wireless and the Writers' Guild of Great Britain considered that the BBC's plans need to contain more detail.

## Availability of Sounds performance data

- 2.65 In our consultation we said that we expected the BBC to adopt a more systematic approach to measuring the performance of BBC Sounds and to publish more information on how listeners are using BBC Sounds.
- 2.66 The BBC said that its Annual Report and Accounts for 2020/21 sets out the strategic progress that it had made during 2020/21 within BBC Sounds, and contains data which gives a deeper insight into the performance of BBC Sounds.
- 2.67 Radiocentre called for more performance data to be made available regarding BBC Sounds, including reach, total weekly plays, cost per listener hour and listener demographics. The Community Media Association said it would like to see *"...the facts, figures and tangible outcomes that BBC Sounds contributes to the stated commitment to support the UK creative industries, champion new audio, work with diverse talent, and establish meaningful partnerships with community radio."*

## Collaboration between the BBC and third parties

- 2.68 We asked stakeholders if they agreed that further collaboration between the BBC and other players could bring benefits to the UK audio sector.
- 2.69 We received a mixed response to this. Wireless in particular, as well as the Community Media Association and Writers' Guild of Great Britain, were supportive of further collaboration between the BBC and other players in the market.
- 2.70 Other stakeholders expressed reservations, notably Radiocentre, which said it did not feel that collaboration with commercial radio on BBC Sounds would be beneficial.

## Ofcom review of BBC regulation

- 2.71 In July this year we published a consultation, *How Ofcom regulates the BBC*, which marked the beginning of our review of BBC regulation, and will form the basis of our advice to government for its mid-term Charter review.<sup>38</sup>

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<sup>38</sup> [How Ofcom regulates the BBC](#), consultation, July 2021.

- 2.72 The review covers all areas of our regulation of the BBC, including how we hold the BBC to account for delivering its Mission and Public Purposes, and how we protect competition in relation to the BBC's public service activities.
- 2.73 As part of this we will consider how the Operating Licence should evolve to reflect changing audience habits and expectations in a digital world. This will include looking at the information the BBC provides to Ofcom and makes publicly available, e.g. through its annual plans and annual reports.

## **Government review of digital radio and audio**

- 2.74 In October 2021, the Department for Digital, Culture, Media and Sport published a report on its Digital Radio and Audio Review.<sup>39</sup> The review was commissioned in February 2020 with the objective of assessing likely future trends in listening and to make recommendations on ways of strengthening UK radio and audio. The review's main recommendations related to new rules to protect UK radio's presence on connected audio devices such as smart speakers, and said that there should be no mandated switch-off of analogue radio until at least 2030.
- 2.75 The Government has said that it will consider these recommendations as it prepares a Broadcasting White Paper and develops a new pro-competition regime for digital markets. The review did not make any recommendations with direct implications for our review of the position of BBC Sounds in the UK audio sector.

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<sup>39</sup> [Government report on digital radio and audio review](#), October 2021.

## 3. Market context

- 3.1 This section sets out our understanding of the market context in which BBC Sounds has developed. It is based on current Ofcom research and information provided to us in response to the call for evidence and the consultation.
- 3.2 BBC Sounds is part of a development in the BBC's strategy which, it claims, allows it to fulfil its Mission and promote the Public Purposes to audiences who are increasingly going online to consume audio content. As such, the development of BBC Sounds should be understood in the context of the traditional UK audio sector and the development of technologies and services that have given rise to the increase in online listening.
- 3.3 Below, we examine how the sector has evolved as audiences have moved more of their overall listening online, and how the BBC and commercial radio have developed their offerings to keep pace with this change. We also look at trends in radio listening and how BBC and commercial radio services are performing in the online space.

### **The UK audio sector is undergoing rapid change due to the evolution of streaming services**

- 3.4 The rise in online listening has allowed audiences to choose from a wider variety of content and services. Beyond traditional radio and personal music collections, listeners can use online streaming services and online radio stations to access personalised, on-demand services.
- 3.5 Radio broadcasters have responded to changing behaviours by developing new ways for listeners to access radio content online.

### **The growth of global streaming services**

- 3.6 Streaming services such as Spotify, Apple, Amazon and YouTube have become major players in the UK and are continuing to develop their offerings, including speech and, in some cases, radio-like content.
- 3.7 They offer free and paid-for options that encompass different types of audio content. Listeners can take control of their listening or can rely on streams, playlists and suggestions, tailored to them based on their previous listening, or grouped according to mood, activity or genre. Streaming services initially focused on music but are increasingly expanding into other types of audio including podcasts, audiobooks and features such as Spotify's 'daily drive', a personalised playlist targeted at commuters that combines music and short news podcasts, creating a radio-like experience.

- 3.8 In the UK, 45% of adults listened to online music streaming services in 2021, increasing to 82% of 15-24-year-olds.<sup>40</sup> Spotify and YouTube are the most-used online music services, each reaching around a quarter of adults.<sup>41</sup>

### **Streaming services use advertising and subscription models to generate revenue**

- 3.9 Spending on music streaming in the UK grew to £1.2bn in 2020, up 15.5% from the previous year.<sup>42</sup> Research indicates that 43% of adults now subscribe to music streaming services, increasing to 68% of adults 15-34. By far the most popular of these is Spotify,<sup>43</sup> with one in four adults subscribing, followed by Amazon Music with 14% of adults claiming to have a subscription.<sup>44</sup>
- 3.10 Amazon has multiple audio offerings. Amazon Music is available in Free, Prime, Unlimited and HD versions, each at a different price point, allowing listeners to access differently sized libraries and services at varying levels of audio quality. Amazon's Audible service is the leading audiobook subscription service and allows subscribers to purchase and stream audiobooks and original podcasts.

### **Global streaming services have considerable resources at their disposal**

- 3.11 Spotify reported global revenue of €7,880m (£6,980m) and a sales and marketing spend of €1,029m (£911m) in 2020. Most of this came from its subscription product. UK revenue was €836m (£740m) up from €444m (£393m) in 2017.<sup>45</sup> Its research and development spend was €837m (£741m) in 2020 and €2,548m (£2,257m) over the last five years.
- 3.12 For Amazon, Google and Apple, it is difficult to isolate the proportion of total company revenue that is generated by audio streaming.

### **The BBC has developed BBC Sounds to compete in this changing sector**

- 3.13 BBC Sounds provides more opportunities for the user to determine their own listening experience. This brings BBC Sounds more into line with the increasing trend of personalised and on-demand listening that can be seen with online streaming services such as Spotify, YouTube, Apple and Amazon Music.
- 3.14 By functioning both as a way to listen to live radio, and as an on-demand audio service, BBC Sounds competes both with broadcast radio providers and with online streaming services.

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<sup>40</sup> IPA TouchPoints, Ofcom Media Nations 2021.

<sup>41</sup> IPA TouchPoints.

<sup>42</sup> Entertainment Retailers Association, [2021 Yearbook](#).

<sup>43</sup> Spotify uses both a premium subscription model and a free advertising model.

<sup>44</sup> IPA TouchPoints.

<sup>45</sup>

## Commercial radio stations have also developed their online offerings

- 3.15 Commercial radio has also taken steps to adapt to an increasingly online sector.
- 3.16 The UK commercial radio sector has consolidated in recent years; most national and regional radio stations are now owned by Global, Bauer Media or Wireless. Global Media and Entertainment is a UK Media company; Bauer Media UK is part of Bauer Media Group which owns a range of media interests mainly across Europe, and Wireless is owned by News Corp UK which is primarily a newspaper company.
- 3.17 Global has developed Global Player, an online radio player that is available as an app, on web browsers and on smart speakers. It carries live and catch-up radio from Global's stations, such as the Heart and Capital brands, as well as its own and third-party podcasts and playlists. Many Global brands also have their own apps and are available on smart speakers.
- 3.18 Bauer Media has aggregated live streams, catch-up radio and podcasts for its stations on Planet Radio, which is available on web browsers but not as an app. Like Global, some Bauer Media brands have their own app and are also available on smart speakers. Bauer offers premium subscription versions of selected stations, offering 24-hour live radio with no ad-breaks.
- 3.19 Wireless does not have a single aggregator app or website for its radio stations but has individual apps and web players that allow listeners to listen to live and catch-up radio from Virgin Radio UK, talkSPORT and Times Radio. They are also available through smart speakers.
- 3.20 Listeners can also access radio online through aggregator apps and websites that curate links and streams to online radio stations from the UK and around the world. For example, the BBC, Global, Bauer Media and Radiocentre are shareholders in the online radio platform Radioplayer, which was designed to provide a single destination for online radio listening.
- 3.21 TuneIn is another notable example of an aggregator service. It allows users to access live radio stations and has an extensive podcast library. Last year it reported having 75 million monthly active users worldwide.<sup>46</sup>

## Radio advertising revenue fell by 14% in real terms in 2020 but forecasts suggest it will recover in 2021 and 2022

- 3.22 Pre-pandemic, UK national radio advertising revenues were relatively stable, although advertising revenue earned from local advertising had been declining. This decline had been more than made up for by growth in commercial sponsorship and other turnover,

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<sup>46</sup> [TuneIn news release](#), November 2020. We note that the BBC removed its radio stations from TuneIn in 2019 after the two parties failed to reach a data-sharing agreement, and that TuneIn removed access for UK listeners to the majority of radio stations based outside the country, for licensing reasons.

meaning overall radio revenue<sup>47</sup> rose between 2016 and 2019. During 2020, the downturn in advertising expenditure across the UK economy had a significant impact on radio advertising revenues. Overall reported radio revenues fell by 14% to £530m in 2020, and increases in other relevant turnover, such as income from premium-rate SMS, used to enter competitions, were not enough to offset an overall decline of 16% in advertising and sponsorship revenues.<sup>48</sup>

- 3.23 The changes in advertising revenues between 2019 and 2020 reflect an acceleration of previous trends for local advertising. Local advertising (down 33% year on year in real terms) continued to be less resilient than national spot advertising (down 6%).<sup>49</sup>
- 3.24 As the advertising industry as a whole begins to rebound from the 2020 declines linked to the pandemic, radio advertising is forecast to achieve strong growth in the next two years. AA/WARC forecasts that radio advertising revenue will increase by 17.7% in 2021 and 1.5% in 2022.<sup>50</sup>

## **Radio listening is declining but remains an important part of audience listening habits**

- 3.25 As services and technologies change and expand, so too do listening habits. Audiences still listen to the radio in large numbers with the most recent RAJAR indicating 89% of adults listen each week. As of Q1 2021, the majority (68%) of time spent listening to audio was to radio content (live radio on a radio set, online live radio, online catch-up radio and radio podcasts) (Figure 1).
- 3.26 In its consultation response, Radiocentre argued that radio listening has increased across all distribution channels as a result of the pandemic.<sup>51</sup> This was based on data released by RAJAR during the first lockdown. While there were shifts in listening behaviour during the lockdown period, our data indicates that radio's weekly reach declined slightly, although there have been increases in online listening.
- 3.27 In October 2021, RAJAR released its first data since the start of the first lockdown. We are unable to make comparisons due to the complete change in methodology, but this indicates that listening on a radio set is the primary way for people to listen, with less than a fifth (18%) of listening being through online platforms.

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<sup>47</sup> 'Radio revenues' defined as relevant turnover i.e. turnover generated by activities resulting from holding a broadcasting licence, including local and national spot advertising, sponsorship and other revenues with a link to the licences service, such as premium-rate phone and SMS revenue arising from an on-air call to action (such as a competition). It excludes income from events, promotions, the provision of services and other activities which have no direct or indirect link to the licensed service.

<sup>48</sup> [Media Nations](#) 2021.

<sup>49</sup> [Media Nations](#) 2021.

<sup>50</sup> [AA/WARC](#), October 2021.

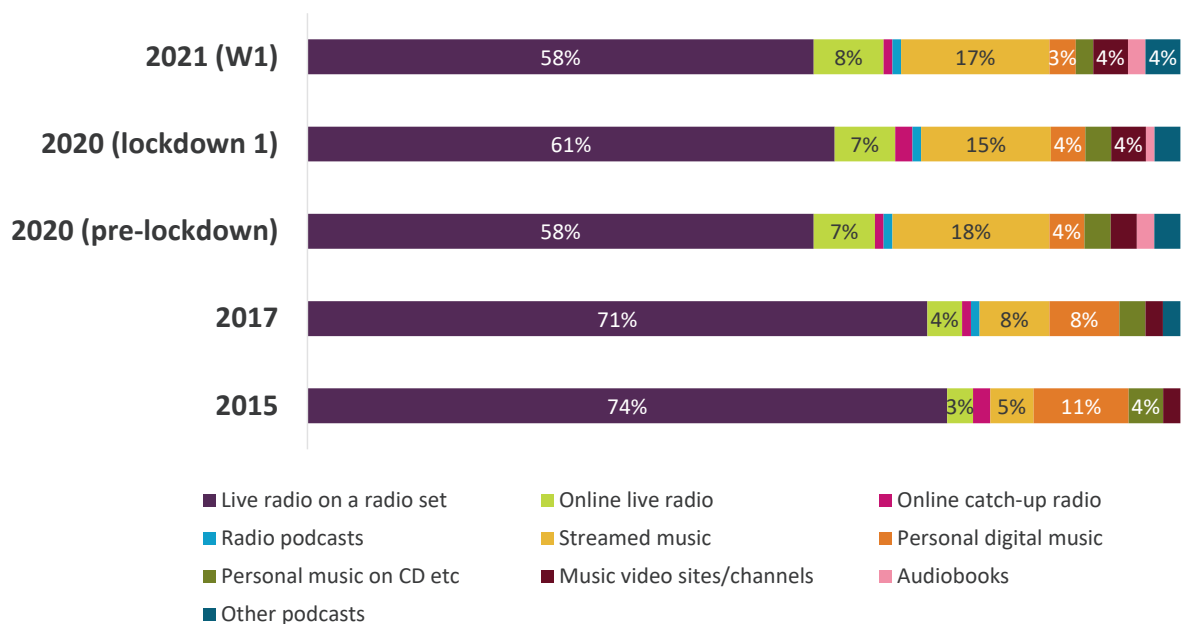
<sup>51</sup> Radiocentre consultation response, page 11.

## Audience behaviour is changing – online listening is growing, particularly to music streaming services

### Listening to audio online is growing and this has mainly been driven by streaming services

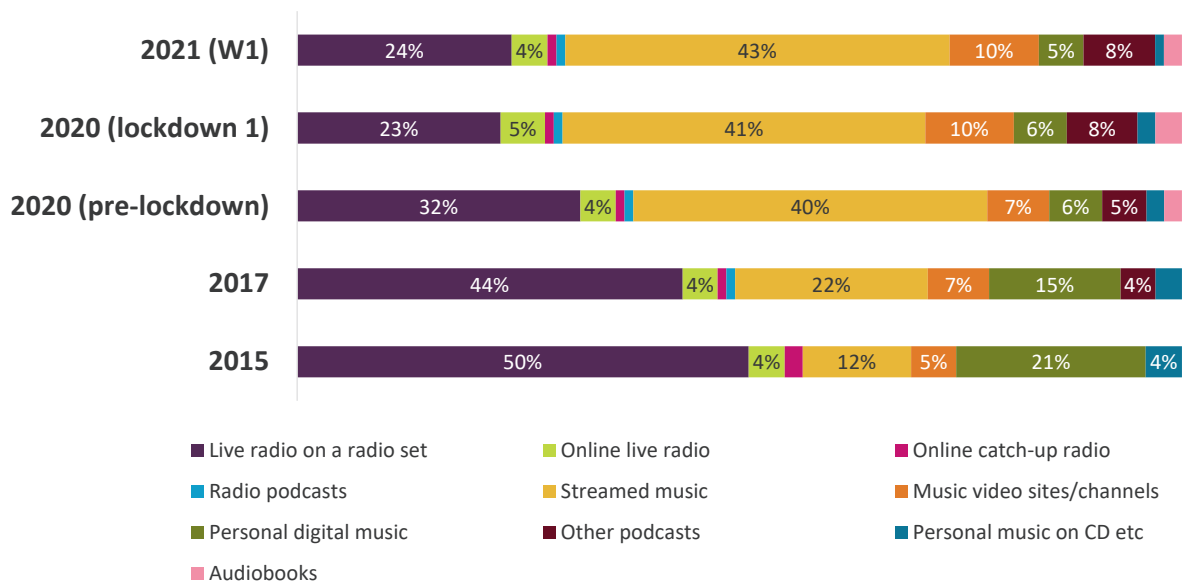
3.28 We have seen a steady increase in people spending time listening online. This has been driven mainly by streaming services and is more marked for young people. Forty-five per cent of adults use a streaming service on a weekly basis, rising to 73% of 15-34 year olds (Figure 3). Of the time that adults spend listening to audio, 17% is to music streaming services, up from 5% in 2015 (Figure 1). This rises to 43% for 15-34-year olds, up from 12% in 2015 (Figure 2).

Figure 1: Share of time spent each week on any audio over time: adults 15+



Source: IPA TouchPoints ('Other podcasts' refers to podcasts not based on a radio programme)

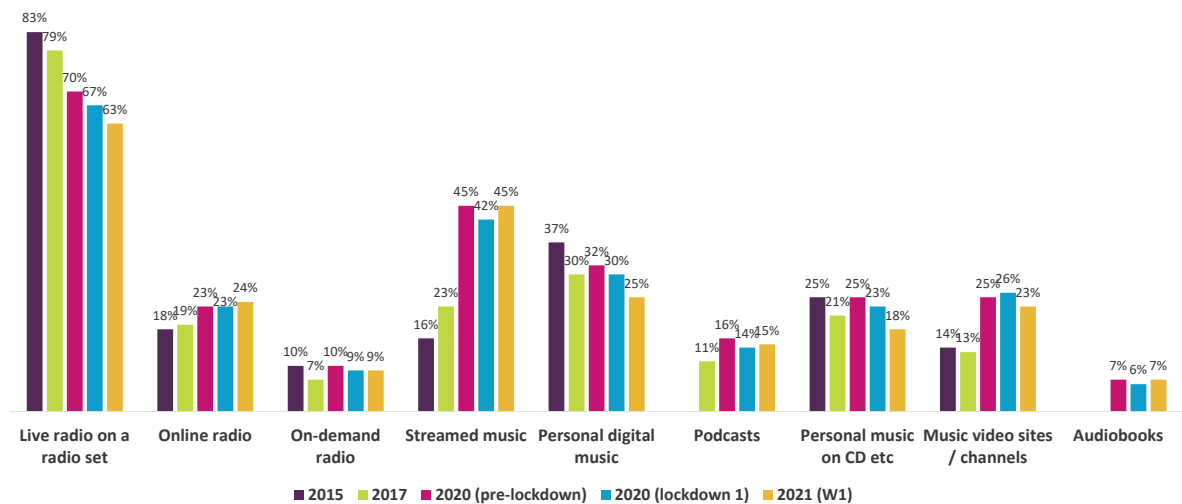
Figure 2: Share of time spent each week on any audio over time: adults 15-34



Source: IPA TouchPoints ('Other podcasts' refers to podcasts not based on a radio programme)

3.29 The growth in music streaming seems to have mainly replaced listening to personal digital music (e.g. iTunes) and physical music formats, such as CDs, but has also impacted radio listening (Figure 3). This trend is even more pronounced among younger audiences; the weekly reach of personal digital music declined from 52% in 2015 to 29% in 2021 (W1) while the weekly reach of music streaming increased from 28% to 73% (Figure 4).

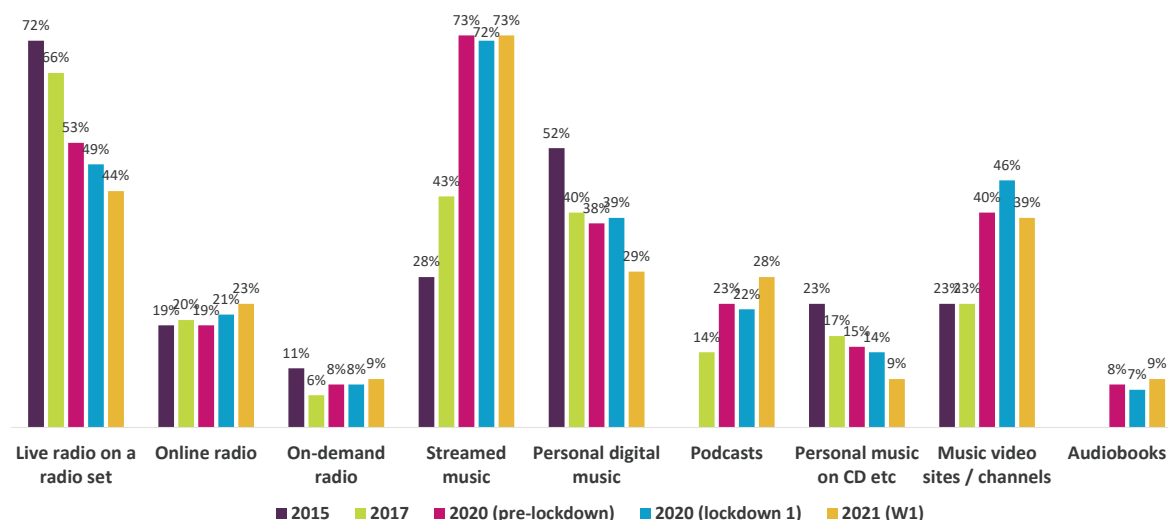
Figure 3: Weekly reach of different types of audio: adults 15+



Source: IPA TouchPoints



Figure 4: Weekly reach of different types of audio: adults 15-34



Source: IPA TouchPoints

### Online radio listening is growing, but not at the same rate as other online audio activities

3.30 We agree with Radiocentre that radio listening is steadily moving online,<sup>52</sup> with weekly reach through online platforms having risen from 19% in 2017 to 24% in 2021 (Figure 5).

3.31 However, the radio set is still the most popular way to listen to radio; 86% of time spent listening to radio is to live radio on a radio set.<sup>53</sup> Therefore, we think our description of listeners favouring the radio set remains justified despite Radiocentre’s comments in its response to our consultation.

3.32 Moreover, while there has been an increase in online listening to radio, this has not made up for the loss of listening through the radio set. The overall reach of radio has continued to fall: from 80% in 2017 to 69% in 2021 (Figure 5).

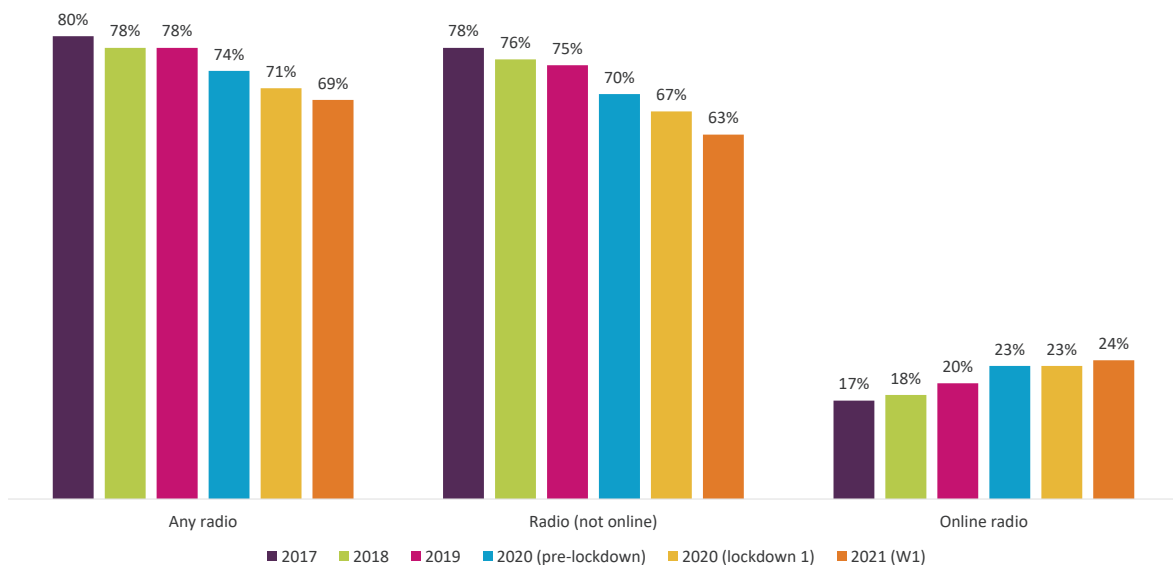
3.33 Radiocentre told us that both the BBC and commercial radio had seen a ‘significant increase’ in online radio listening since the start of the pandemic.<sup>54</sup> However, Ofcom research shows only a slight increase in online listening to radio since the first lockdown and not enough to offset the overall decline in radio listening (Figure 5).

<sup>52</sup> Radiocentre consultation response, page 10.

<sup>53</sup> IPA TouchPoints, W1 2021.

<sup>54</sup> Radiocentre consultation response, page 10.

Figure 5: Weekly reach to radio: online and other platforms (adults 15+)



Source: IPA TouchPoints

### New technology is likely to increase online listening, but it is not clear how much this will drive online radio listening, as opposed to online listening more generally

- 3.34 Connected devices such as smart speakers are becoming increasingly common. Half of all UK adults reported having a smart speaker in their home in Ofcom’s 2021 Technology Tracker. The top uses of smart speakers were: listening to music via a streaming service (with 67% of smart speaker users surveyed claiming to do this), and listening to live radio (which 60% claim to do), while 18% used their smart speaker for listening to podcasts.<sup>55</sup> As technology advances, it is also likely that new cars will increasingly be manufactured with connected devices installed. For instance, some car manufacturers are already integrating Android Audio or Apple Car Play systems, while others are providing hybrid radio, such as RadioPlayer, which combines broadcast and online radio.
- 3.35 We agree with Radiocentre that these advances in technology are likely to increase online listening, including to radio. What is not clear is by how much these changes will drive online listening to radio vs listening to streaming services.

<sup>55</sup> [Ofcom Technology Tracker 2021](#)

## Commercial radio has been more successful than the BBC in attracting online listeners, particularly younger listeners

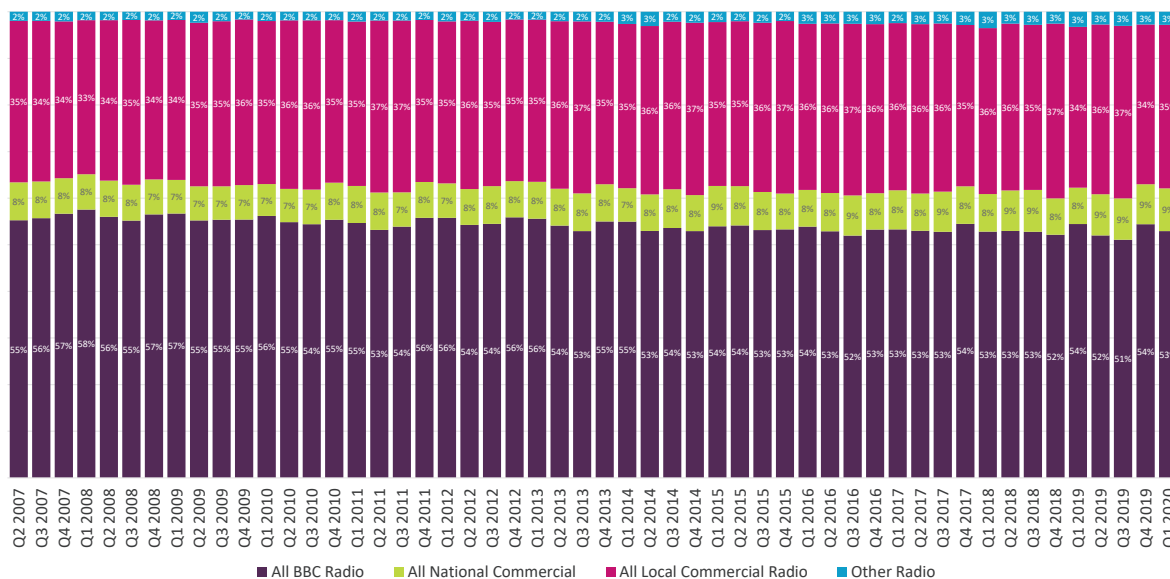
### The BBC has historically had a strong position in broadcast radio

- 3.36 Figure 6 shows that the BBC's share of analogue radio listening hours, while declining, has remained in excess of 50%. This may reflect the fact that, before the launch of DAB, the BBC had five national analogue stations (BBC Radio 1, BBC Radio 2, BBC Radio 3, BBC Radio 4 and BBC Radio 5 Live), compared to just three national commercial analogue stations (Classic FM, talkSPORT and Absolute Radio<sup>56</sup>).
- 3.37 The BBC was the first to develop digital radio, in 1995, and the first national DAB multiplex was for the five analogue BBC stations. The BBC launched five digital-only national stations in 2002 (e.g. Radio 6 Music). Commercial radio launched on DAB in 1998 and, although capacity was not unlimited, commercial radio operators were able to launch many more national radio stations over the subsequent years. In addition, many of the previously local stations gained national coverage on the commercial digital multiplexes (e.g. Capital Radio).
- 3.38 Over the subsequent years, commercial radio operators launched a portfolio of brand extensions, some of which are able to offer a playlist-like experience (e.g. Heart 90s, Absolute Classic Rock). Figure 7 shows that the BBC's share of DAB listening was 50% in Q1 2020, down from 66% ten years previously. In 2016, commercial radio launched its second national DAB multiplex, with new DAB-only stations, and has seen its share on DAB increase from 39% at the end of 2015 to 49% at the start of 2020, driven by the increase in listening to national commercial stations. Although not comparable, new data indicates a similar proportion.

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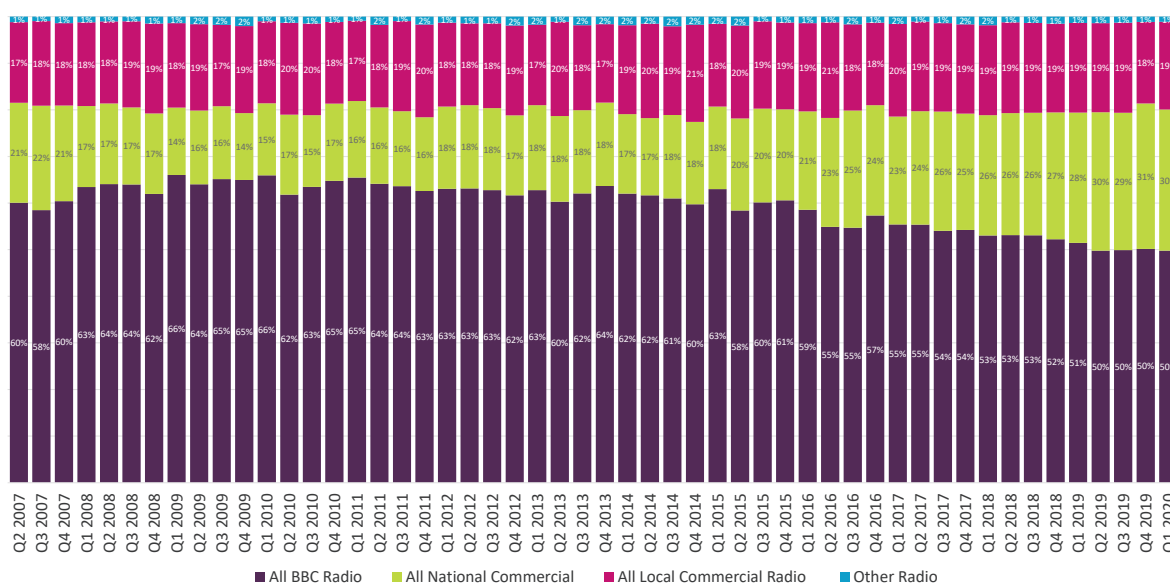
<sup>56</sup> Originally known as Virgin 1215AM.

Figure 6: Share of analogue radio listening hours, by sector: adults 15+



Source: RAJAR

Figure 7: Share of DAB radio listening hours, by sector: adults 15+



Source: RAJAR

### But commercial radio has been more successful than the BBC at gaining listeners online

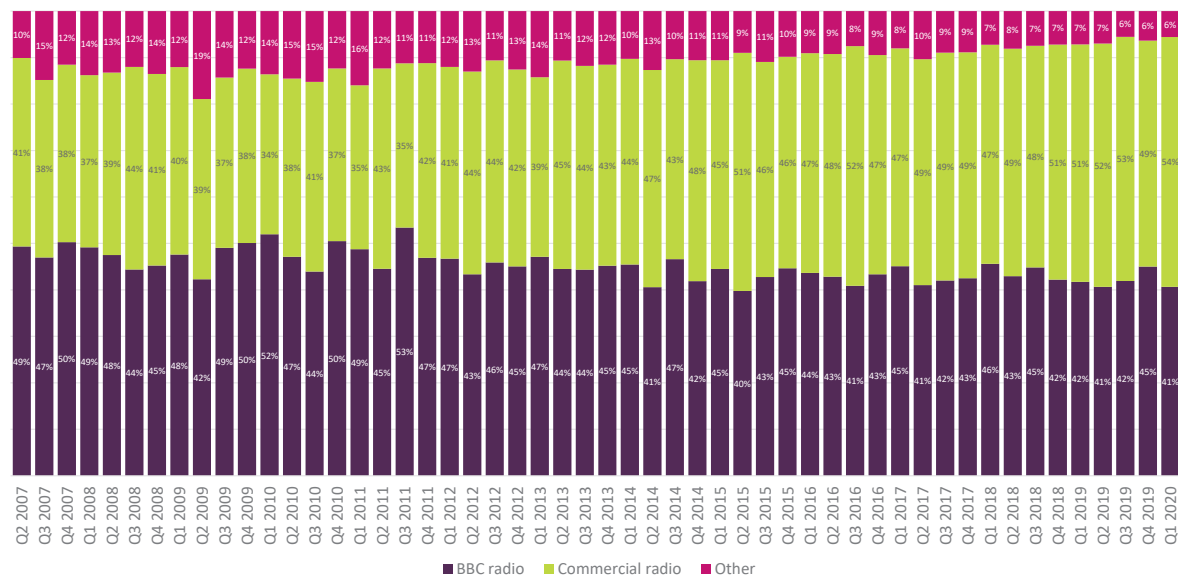
3.39 The evidence available suggests that commercial radio has been more successful than BBC Sounds at attracting listeners online, particularly among younger age groups. While overall live radio listening hours are relatively evenly split between the BBC and commercial radio (50% vs 48% in Q1 2020), commercial radio accounts for 54% of all live online radio

listening hours, compared to 41% for the BBC.<sup>57</sup> Among younger age groups, 67% of live online listening is to commercial radio, compared to 29% for the BBC.<sup>58</sup>

3.40 Moreover, this is a long-term trend: commercial radio continues to increase its share of live radio listening through online platforms, while the BBC’s has decreased (Figure 8).

3.41 In its consultation response, Wireless argued that in coming to our finding that commercial radio has been more successful than the BBC online, we did not take into account that the BBC has more extensive FM and DAB distribution.<sup>59</sup> It said that it is therefore unsurprising that BBC listeners favour traditional distribution platforms. We consider that the BBC’s more extensive broadcast network could mean that people are less likely to use BBC Sounds to access its services. However, we note that many of the commercial radio offerings are also available on analogue/DAB and that this has not limited the success of commercial providers online.

**Figure 8: Share of online radio listening hours: adults 15+**



Source: RAJAR

### BBC’s listeners tend to be older, are more likely to be male and to be in higher socio-economic groups

3.42 Where we do not refer to historical data, we are able to refer to the most recently published RAJAR data. This shows that the commercial radio groups generally attract younger audiences, particularly those who listen to live radio online: around 40% of both Global and Bauer’s online listeners are aged under 35, compared to just 23% of the BBC’s.<sup>60</sup>

<sup>57</sup> The remaining 5% is attributed to non-RAJAR subscribing stations which include community radio, international radio and some online-only UK stations.

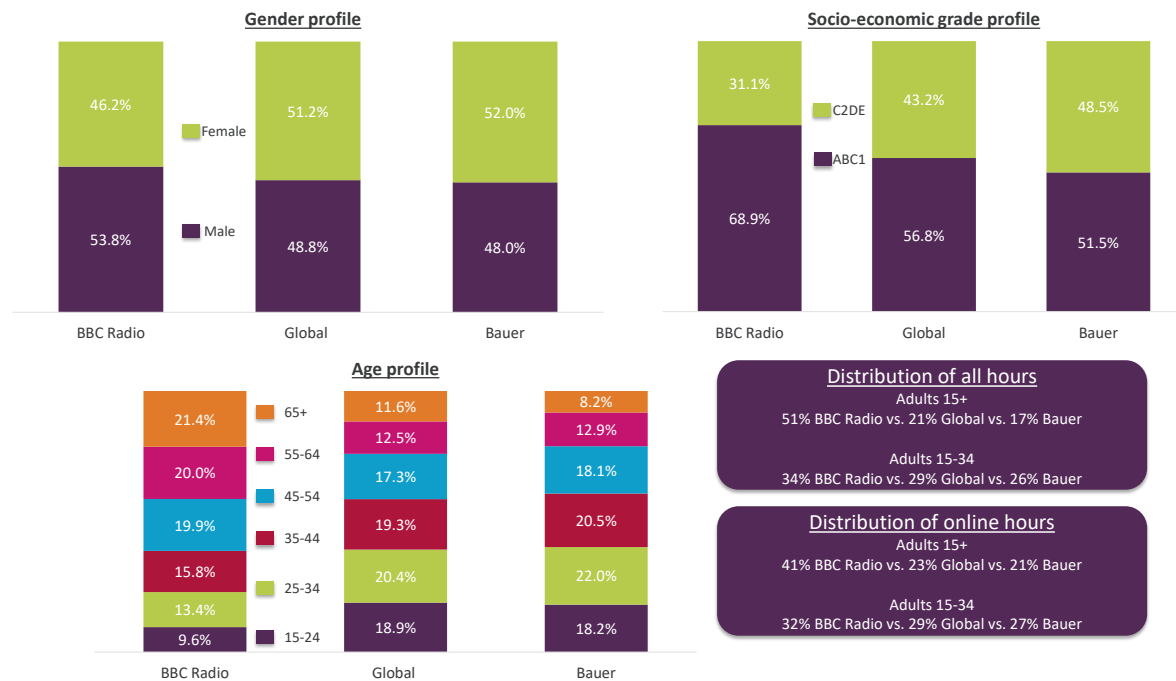
<sup>58</sup> RAJAR

<sup>59</sup> Wireless consultation response, page 2.

<sup>60</sup> RAJAR Q3 2021.

As well as being older, BBC online radio listeners are more likely to be male, and as noted by Radiocentre,<sup>61</sup> in the ABC1 socio-economic group (Figure 9).<sup>62</sup>

**Figure 9: Demographic profile of online listeners: BBC online radio vs commercial online radio**



Source: RAJAR Q3 2021

## BBC Sounds is the most-used app for online radio

- 3.43 Although RAJAR shows that commercial radio has a greater share of live online listening and is growing in reach, our research finds that BBC Sounds is the most used app/website for online radio (29% of those who listen to online radio listen to BBC Sounds weekly) followed by Spotify (26%) and YouTube (23%).<sup>63, 64</sup>
- 3.44 While BBC Sounds is a single destination for the BBC’s radio stations, the commercial radio groups such as Bauer and Global tend to provide multiple apps or browsers for their individual stations. This fragmentation makes it more challenging to measure through surveys overall online listening to commercial radio group portfolios compared to BBC Sounds. Around a fifth of those listening to online radio say they listen to Global Player or one of the main Global radio station apps/sites weekly, and just 12% say they listen to Planet Radio or one of the main Bauer Media radio station/apps weekly.<sup>65</sup>

<sup>61</sup> Radiocentre consultation response, page 3.

<sup>62</sup> Socio-economic group is determined by several factors including income and occupation. In general terms, the highest groups, A and B, are more likely to be well-off, the C1 and C2 groups are in the middle and the lowest groups, D and E, are less likely to be well-off.

<sup>63</sup> Ofcom Audio Survey, March 2021.

<sup>64</sup> Spotify includes a feature called ‘Radio’ which allows a user to create a collection /playlist based on an artist or type of song to which Spotify then adds new tracks. YouTube also offers video playlists referred to as ‘Radio’ as well as some international radio streams.

<sup>65</sup> Ofcom Audio Survey, March 2021.

3.45 Among users of the various online audio services, there are differences in how often these are used. Among the most loyal listeners are those who use Spotify; half listen to it daily and almost all (84%) listen weekly. Only a third (36%) of BBC Sounds users listen on a daily basis and 79% listen weekly.<sup>66</sup>

## Podcast listening in the UK

### Podcast listening has grown in the UK but its share of audio time remains relatively small

3.46 In its consultation response, Radiocentre disagreed that podcast listening is ‘growing steadily’, arguing instead that it is a medium that is ‘exploding in popularity’.<sup>67</sup> It cited evidence that weekly reach has been growing rapidly in recent years, at 25% per annum since 2016. However, we note that this growth is from a low base of 7% in 2016, growing to 18% in 2020.

3.47 Radiocentre also referenced Ofcom research which found that 25% of adults listen to podcasts weekly in 2021.<sup>68</sup> However, latest RAJAR data indicates that 17% of adults listen each week to podcasts.<sup>69</sup>

3.48 Before the first national lockdown in 2020, there were increases in listening to podcasts across all demographics. As seen in Figure 10, weekly reach among adults grew from 9% in 2017 to 15% in 2021, and growth was more dramatic among 15-34s, increasing from 14% to 22% in the same period. However, the pandemic appears to have also had an impact on those new to podcast listening; the previous increase in numbers of early adopters slowed in 2021.<sup>70</sup>

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<sup>66</sup> Ofcom Audio Survey, March 2021.

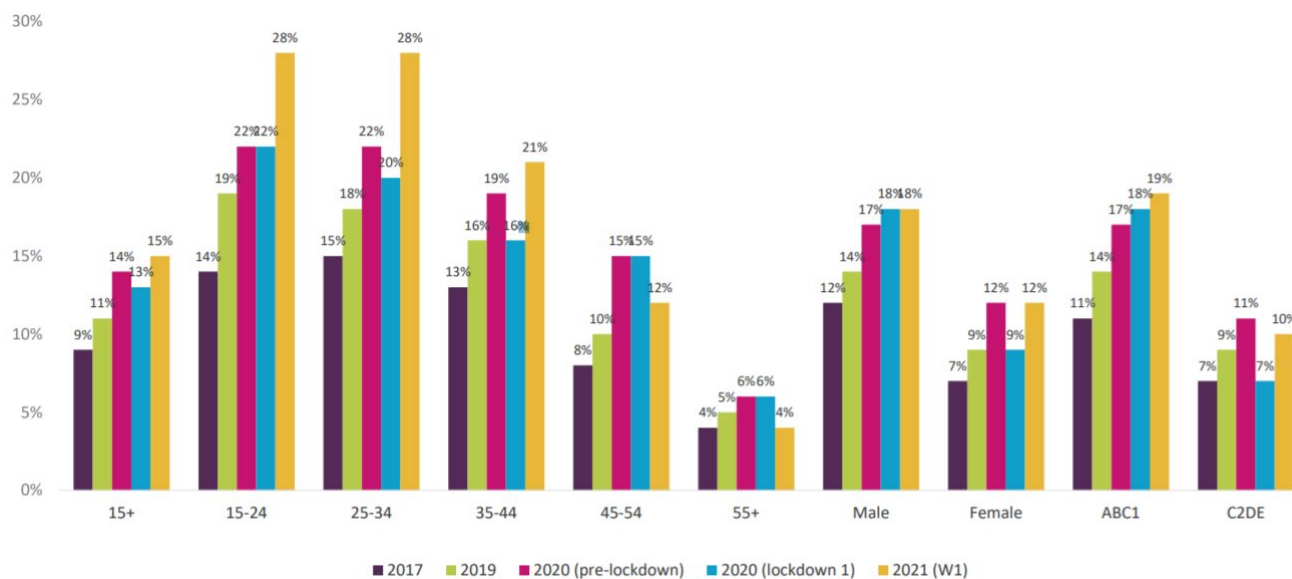
<sup>67</sup> Radiocentre consultation response, page 12.

<sup>68</sup> Ofcom Podcast Survey, March 2021. These weekly figures are likely to be larger than other surveys, including RAJAR, as this methodology is primarily based on an online sample.

<sup>69</sup> RAJAR Q3 2021.

<sup>70</sup> [Ofcom Media Nations](#), 2021.

Figure 10: Weekly listening to podcasts, by demographic



Source: IPA TouchPoints

3.49 Despite a bounce back to pre-lockdown levels in 2021, the latest data released by RAJAR indicates that the weekly reach of podcasts remains relatively low at 17% of adults.<sup>71</sup> Podcast listening generally skews towards younger and male demographics, and those in higher socio-economic groups.

## Podcast production and publishing

3.50 The podcast production and publishing sector is large and diverse, and the barriers to entry and the costs involved in podcast production and distribution are reasonably low. The technology to record and edit audio content has become readily available, and podcast platforms allow users to upload their podcasts at a low cost. This has meant that a wide range of organisations and individuals publish podcasts (Figure 11).

3.51 In its response to our call for evidence, AudioUK told us that the rise of podcasting has allowed audio producers to be less reliant on commissions from broadcasters as they can now distribute their own content through worldwide digital platforms e.g. Apple, Spotify, Acast and others.<sup>72</sup>

3.52 As noted by AudioUK in its response to our call for evidence<sup>73</sup>, BBC podcasts appear regularly in the podcast charts in the UK, and in a survey that we commissioned among regular podcast listeners in 2019,<sup>74</sup> the BBC had the highest reach of all podcast publishers. Our most recent survey indicates that half of regular podcast listeners prefer podcasts

<sup>71</sup> RAJAR Q3 2021.

<sup>72</sup> AudioUK call for evidence response, page 2.

<sup>73</sup> AudioUK call for evidence response, page 4.

<sup>74</sup> [Media Nations 2019](#), Ofcom, August 2019.



from the UK to those produced internationally, increasing to 60% of BBC Sounds podcast listeners.<sup>75</sup>

**Figure 11: Examples of UK-based podcast publishers and podcasts**

	Description	Examples
Radio broadcasters	Podcasts produced by radio broadcasters. These may include repurposed content and/or that which has not been previously broadcast on a radio station. Often monetised via advertising and sponsorship or funded via licence fee (BBC).	<i>Ellie &amp; Hannah Have Issues</i> (Heart), <i>Americast</i> (BBC) <i>Frank Skinner Show</i> (Absolute Radio), <i>Premier League Preview Show</i> (talkSPORT), <i>Tomorrow's Nerd</i> (Global)
TV broadcasters	Podcasts developed from or associated with TV programmes. Often monetised via advertising and sponsorship or funded via licence fee (BBC).	<i>Obsessed With Line of Duty</i> (BBC), <i>Love Island</i> (ITV), <i>Channel 4 News</i> (C4) <i>The Gary Neville Podcast</i> (Sky), <i>Ffit Cymru</i> (S4C)
News brands	Podcasts published by non-broadcaster news brands. Some of these podcasts are daily news shows, while others are more thematic. Often monetised via sponsorship and/or advertising or used as promotional material to gain subscriptions. These may sometimes sit behind the paywall as part of the overall offering to subscribers.	<i>Today in Focus</i> (Guardian), <i>Sun Football Podcast</i> (Sun), <i>Brexit Podcast</i> (Telegraph), <i>The Intelligence</i> (Economist), <i>FT Money Show Podcast</i> (Financial Times)
Other media businesses	Podcasts published by organisations with a significant presence in other types of media, e.g. magazine or book publishing. Podcasts may be used to supplement other types of content produced by the organisation, as a way of reaching new audiences, as a source of additional revenue and/or a promotional tool.	<i>Appearances</i> (British Vogue), <i>Wired UK Podcast</i> (Wired UK), <i>Empire Podcast</i> (Empire), <i>The Penguin Podcast</i> (Penguin)

<sup>75</sup> [Ofcom Podcast Survey](#), 2021.

	Description	Examples
Independent podcasts	Wide range of organisations and individuals in the UK whose activities are focused on production and publication of podcasts on both a commercial and non-commercial basis. Wide variation in genres, scale of operations and funding sources.	<i>Retro Hour Podcast</i> (retro gaming), <i>Wooden Overcoats</i> (drama / sitcom), <i>The Unseen Hour</i> (horror / drama), <i>The Guilty Feminist</i> (comedy), <i>The Football Ramble</i> (sport)
Non-media organisation podcasts	Podcasts produced by a wide range of for-profit, not-for-profit and public sector organisations whose primary purpose is not media production. These organisations may be using podcasts to engage with audiences to promote the organisation's broader objectives (for example in relation to education, outreach or health), as a promotional activity, or a service targeted specifically at the organisation's members. Depending on the purpose of the podcast, it might not be monetised directly and may run for a relatively limited number of episodes.	<i>Future Curious</i> (Nesta), <i>Strength and Flex plan</i> (NHS), <i>Big Idea</i> (Edinburgh University), <i>The British Museum Membercast</i> (British Museum), <i>PLT: Behind Closed Doors</i> (Pretty Little Thing), <i>FRS 102 Podcast</i> (Institute of Chartered Accountants of England and Wales)

### Podcast advertising revenue is still in nascent stages

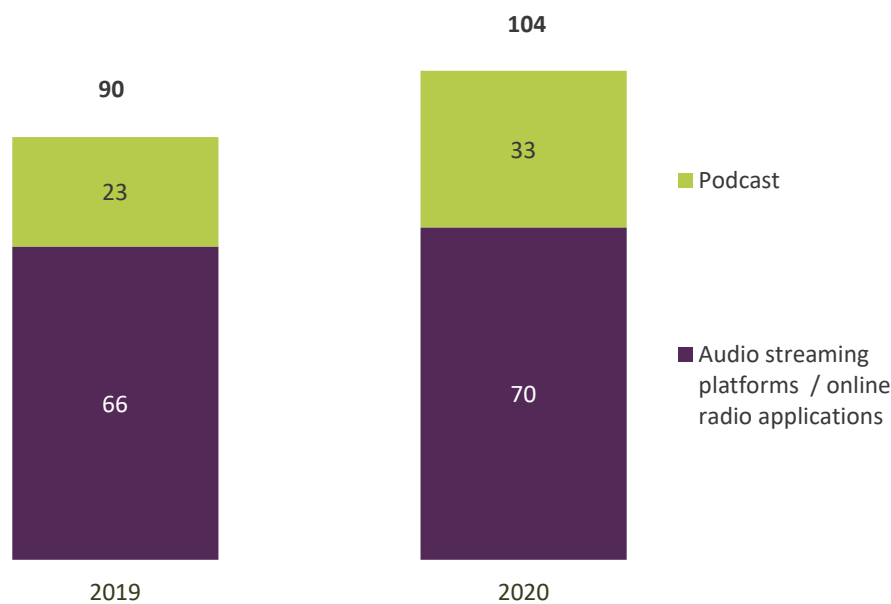
- 3.53 As shown in Figure 12, the majority (£70m) of UK digital audio advertising expenditure in 2020 was on audio streaming platforms and online radio apps. Advertising expenditure on podcasts was £33m, a year-on-year increase of 43% from a low base of £23m in 2019.<sup>76</sup>
- 3.54 The UK's digital audio advertising market is the largest in Europe, in absolute terms, with expenditure in 2020 more than double that of Germany, the second largest market.<sup>77</sup> On a per-capita basis, UK digital audio advertising expenditure lags behind that of Sweden, reflecting Sweden's developed digital audio market. Advertising revenue generated by UK podcasts appears broadly comparable to other markets, although the evidence is limited (see section 4).<sup>78</sup>

<sup>76</sup> Media Nations, page 85.

<sup>77</sup> IAB Europe.

<sup>78</sup> PwC and Ofcom calculation.

**Figure 12: Digital audio advertising expenditure (£m)**



Source: IAB UK / PwC Digital Adspend Study 2020 (adjusted for CPI at 2020 prices by Ofcom)

### Podcast platforms

- 3.55 UK listeners use a range of popular platforms to access podcasts, including the larger platforms such as BBC Sounds, Apple podcasts, YouTube and Spotify, and smaller platforms such as Soundcloud, Castbox, Global Player and Acast.
- 3.56 Most platforms carry a large variety of content from a range of producers and publishers. They have a substantially equivalent offering in terms of content but may vary in terms of functionality or usability. In some cases, e.g. Spotify and Audible, platforms have exclusive content to encourage listeners to subscribe. BBC Sounds hosts only BBC podcasts and catch-up radio content. BBC podcasts are also available on most of the other main podcast platforms, such as Apple podcasts and Global Player. There are some variations in functionality between platforms, but most provide similar core functions: listening, subscribing and downloading podcasts.
- 3.57 Looking at weekly podcast users, 40% say they use BBC Sounds, about the same amount who use Spotify (42%) but more than YouTube (31%), Apple (29%) and Amazon Prime Music (17%).
- 3.58 In its consultation response, Wireless cited evidence from Reuters which finds that BBC Sounds is now the most-used podcast app in the UK.<sup>79</sup> However, this research, which was carried out in the context of a digital news survey, and asks about the main way in which

<sup>79</sup> Wireless consultation response, page 1.

users listened to podcasts in the past month, is not comparable with Ofcom’s survey question about weekly use of any podcast service.

- 3.59 Ofcom research finds that listeners tend to use multiple platforms to access podcasts. Overall, regular podcast listeners use an average of 2.9 different platforms to access podcasts, increasing to 4.4 for those who use BBC Sounds to listen to podcasts.<sup>80</sup>

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<sup>80</sup> Ofcom Podcast Survey, March 2021.

## 4. Competition assessment

4.1 In this section, we set out our assessment of the impact of BBC Sounds on the UK audio sector. Specifically, we consider whether BBC Sounds is having a significant adverse impact on fair and effective competition, so that we can reach a conclusion on whether the legal test is met for Ofcom to consider whether it is appropriate to open a BCR in relation to BBC Sounds.

### What do we mean by ‘an adverse impact on fair and effective competition’?

4.2 In general, competition is valued because it can produce good outcomes for consumers, and for society in general. In the audio sector, if content producers and broadcasters compete for listeners, audiences are likely to benefit from a broad range of quality programming, as well as innovation through new content or services. A potential concern is that the BBC – as a licence fee-funded, public service broadcaster – could distort competition in the audio sector, ultimately reducing choice for listeners. What we need to consider, in this instance, is whether there are reasonable grounds to believe that BBC Sounds is having a significant adverse impact on fair and effective competition, to the potential detriment of listeners.

4.3 We would be likely to be concerned by evidence that indicated BBC Sounds might be ‘crowding out’ the activities of commercial providers as a result of any competitive advantages that follow from the BBC’s provision of public services.<sup>81</sup> Crowding out is not merely equivalent to the BBC providing some content and/or functionality similar to that of its commercial rivals.<sup>82</sup> What matters is whether there is evidence to suggest that the impact of BBC Sounds is causing the reduction of commercial providers’ revenues and profits, to such an extent that these providers: have significantly reduced their investment in new services or in improving the quality of existing services; have ceased providing services; or have been deterred from entering the sector. This in turn might ultimately harm consumers by reducing choice, quality and/or innovation.

4.4 The BBC must adapt to market trends and audience preferences to be able to fulfil its Mission and promote the Public Purposes. To do this it needs to stay relevant for listeners and offer services in ways that audiences prefer – increasingly online. It must therefore continue to innovate its online offering in terms of functionality and content, and offer a

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<sup>81</sup> We define crowding out in our BCR guidance, paragraphs 3.12 to 3.13.

<sup>82</sup> For example, Radiocentre in its response to our call for evidence (page 23) claimed that BBC Sounds is positioned to deliver content which is ‘almost indistinguishable’ from that provided by the commercial players. It presented the results of its research on the content of the BBC’s Radio 1 Dance stream, having found that in its first week of broadcast it duplicated 35.5% of Capital Dance’s repertoire and 31.5% of its airtime, while 11.3% of Radio 1 Dance’s repertoire was covered by Capital Dance, corresponding to 29.7% of Radio 1 Dance’s airtime. In its consultation response (page 16) Radiocentre further claims that the BBC’s Radio 1 Relax stream directly competes with, and duplicates services already available from, three commercial players: Magic Chilled, Virgin Chilled, and Smooth Chill.

wide range of programmes, although it must seek to do this in a way that does not have a significant adverse impact on fair and effective competition beyond what is necessary for the effective fulfilment of the Mission and Public Purposes.

## **We have considered the effect of BBC Sounds on competition in the UK online radio and podcast sectors**

- 4.5 It is important to identify the range of products and services affected by BBC Sounds in order to evaluate its potential impact on competition. In our consultation, we considered the impact of BBC Sounds in the context of two areas: live online radio in the UK and podcasts, and we maintain that focus in this assessment.<sup>83</sup> In its response to our consultation, Radiocentre agreed with this approach,<sup>84</sup> and other stakeholders did not object.
- 4.6 In our consultation we noted that the concerns expressed by many respondents to our call for evidence related to the impact that BBC Sounds is having on online radio and podcasts. This was reiterated in responses to our consultation. The focus of the theories of harm that we are considering in this statement is therefore on online radio and podcasts.<sup>85</sup>

## **It is important to isolate the effect that BBC Sounds has on competition**

- 4.7 In assessing whether there are reasonable grounds to believe that a BBC activity is having a significant adverse impact on fair and effective competition, we need to focus on the impact of the activity in question. In this case, we are seeking to isolate the impact of BBC Sounds on the sector and to do this, we need to consider what the BBC would be offering if BBC Sounds did not exist.
- 4.8 One way to approach this is to consider what the BBC was offering in terms of online listening before the launch of BBC Sounds. As described in section 2, the BBC was providing live and on-demand online speech and music radio content and podcasts (both repackaged radio and off-schedule content) before the launch of BBC Sounds and prior to the current Charter period, via iPlayer Radio and BBC Music. Further, as noted in our Annual Report on

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<sup>83</sup> By 'live radio' we mean radio services delivered over apps, websites or smart speakers, excluding personalised music streaming.

<sup>84</sup> "We are pleased Ofcom agrees that the market impact of BBC Sounds should be assessed in relation to commercial UK online radio and UK podcasts, rather than against a larger global online streaming market." Radiocentre consultation response, page 14.

<sup>85</sup> We have not separately considered the impact that BBC Sounds may have on broadcast radio, because it appears unlikely that BBC Sounds' activities could have an adverse impact on competition in that area without also affecting online radio. In the consultation, we acknowledged that BBC Sounds and UK commercial radio are competing with global players for listening hours. However, we consider that the impact that BBC Sounds may have on all online listening (beyond online radio and podcasts) is likely to be small, because of the limited ability of BBC Sounds to affect competition at the level of global audio platforms such as Spotify or YouTube. In its consultation response, Radiocentre suggested that we regard all audio services not transmitted 'conventionally' as competing in a single 'online audio' market (Radiocentre consultation response, page 15). In fact, our analysis does focus on two specific market segments – UK online radio and podcasts – rather than all online audio as a whole.

the BBC 2019/20, we recognise that the BBC will need to deliver its output and services differently to meet changing audience needs.<sup>86</sup> This will include making its audio content available using a range of technologies.

- 4.9 We therefore consider that, in the absence of BBC Sounds, the BBC would continue to supply online its full range of live radio stations and would be providing access to its radio programmes on an on-demand basis. In addition, we assume that BBC live radio and on-demand podcasts would continue to be available online on non-BBC platforms, as they currently are.
- 4.10 Compared to this scenario, we consider that the relevant features of BBC Sounds are its improved functionality and ability to personalise the experience, as well as the provision of increased amounts of off-schedule content (including music streams and new podcasts), all under a single unified website and app.<sup>87</sup>
- 4.11 We have considered three ways in which BBC Sounds might have an adverse impact on competition (theories of harm). We have developed these theories of harm to capture the main concerns raised by stakeholders, and to articulate the steps that we consider are needed for crowding out to be happening. For each, we set out the way in which the impact might occur, in theory, then examine the current evidence from the online radio and podcast sectors to see if it supports the theory.

## **Theory of harm 1: BBC Sounds is ‘crowding out’ online commercial radio**

### **The theory**

- 4.12 This theory of harm explores whether BBC Sounds is crowding out online commercial radio listening, to the longer-term detriment of listeners, and has the following elements:
- a) BBC Sounds expands the range of content available on the service (e.g. new music streams or exclusive podcasts) to win more listeners (and/or listening hours). BBC Sounds is also able to use individuals’ listening data to deliver a personalised experience and to keep people on the service for longer;<sup>88</sup>
  - b) commercial radio cannot respond effectively to this development and loses online audience time and reach, especially among younger listeners who are more likely to listen online; and

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<sup>86</sup> Ofcom’s Annual Report on the BBC [2019/20](#), page 3.

<sup>87</sup> In its response to our consultation, Radiocentre agreed with this characterisation of the relevant features of BBC Sounds, while also highlighting “the launch of new services within Sounds (i.e. Radio 1 Dance, and Radio 1 Relax)” and “expanding the scope of these relevant features” by the BBC. Radiocentre consultation response, page 14.

<sup>88</sup> Radiocentre in its consultation response, page 17 also complains that the BBC has not agreed to make its radio stations available in the Sky TV Radioplayer app because Sky could not support inter-app links and the BBC wanted any users wishing to listen to BBC content via Radioplayer to be redirected to BBC Sounds. We consider that any such refusal by the BBC to make its radio stations available to third parties needs to be addressed in the context of BBC distribution policy rather than via a BBC competition review (see section 5).

c) this in turn leads to a loss of revenue and reduced profitability. This could lead to a reduction in quality or range of services, or deter new entry or innovation, to the detriment of listeners.

- 4.13 In this regard, Radiocentre claimed that BBC Sounds ‘dominates’ listening time among its users for music and speech radio, and that it is expanding into areas where it duplicates commercial provision, such as music mixes or the Radio 1 Dance and Radio 1 Relax streams.<sup>89</sup> It also pointed to the results of its commissioned survey showing that BBC Sounds users spend a high proportion of their radio listening time on this service.<sup>90</sup>
- 4.14 Wireless claimed that a combination of the BBC’s existing market position, technology investment and content resources have made BBC Sounds an audio product which is highly challenging for independent providers to compete against, having become ‘an effective walled garden’ for UK listeners.<sup>91</sup>
- 4.15 As explained above, it is necessary to evaluate the effect of BBC Sounds in comparison to the scenario in which BBC Sounds does not exist. Without BBC Sounds, it is reasonable to assume that the BBC would continue to provide online radio as well as other online audio content, given that BBC audio was available online before BBC Sounds, and that the BBC has a duty to provide content in the ways that people want to access it (as explained above). As such, in evaluating the impact of BBC Sounds, we need to focus on the impact on competition of both the improved functionality and the personalisation of BBC Sounds, compared to an alternative online radio offering, as well as any content which would have been specifically produced or curated for BBC Sounds, and the fact this is all available under a single unified website and app . We do not consider that a scenario in which the BBC does not provide online delivery of its audio content to be an appropriate or relevant comparison.

## The evidence

### **BBC Sounds has developed additional functionality and offers increased off-schedule content, but the budget is small and the new streams have low listenership**

- 4.16 BBC Sounds offers various elements of design that help the listener access and discover content, such as the ability to download shows to listen to offline, and to subscribe to podcasts, mixes and programmes. It also offers personalised recommendations to discover new audio and allows the listener to find songs they have heard on the radio or, as part of a music mix, on Spotify or Apple Music, by being directed to those sites. We note that the websites and apps of some commercial radio stations offer similar functionality. For example, Global Player has a download function on its app, as well as offering mood-based playlists and podcasts (including those from other producers). Bauer Media’s online

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<sup>89</sup> Radiocentre call for evidence response, pages 27-28 and 30. Radiocentre consultation response, page 16.

<sup>90</sup> Radiocentre call for evidence response, pages 27-28.

<sup>91</sup> Wireless call for evidence response, page 1. We interpret a ‘walled garden’ to mean a platform where only BBC content is available, which therefore may make audiences more likely to continue listening to BBC content once they arrive on BBC Sounds, to the detriment of alternative content on other platforms.



offering, Planet Radio, contains aggregated live streams, catch-up radio and podcasts for its stations.

- 4.17 The BBC told us that its design and engineering budget for BBC Sounds was  $\pounds 10m$ .<sup>92</sup> This spend includes the technical aspects of uploading and maintaining content on the app and further development of the app, including improvements in design and functionality.
- 4.18 We note that some of the functionality on BBC Sounds is not particularly sophisticated (especially when compared to that of the global tech companies). For example, users cannot select to play an individual song from the themed music mixes on BBC Sounds: they can either scrub through the timeline to roughly point to the correct position, or click on the song and be taken through to Spotify to listen to the selected track.
- 4.19 BBC Sounds includes an increasing amount of content that is not part of the BBC's live radio schedule. It includes themed music mixes (e.g. *Classical Focus*), two new music streams (Radio 1 Dance and Radio 1 Relax) which are only available on BBC Sounds, as well as some original podcasts (e.g. *Newscast*) which are also available on third-party platforms.<sup>93</sup> This additional content does not make up a large volume of the offering of BBC Sounds. The music mixes account for about 1% of the total number of plays of all content on BBC Sounds,<sup>94</sup> and BBC Sounds releases about 1,500 off-schedule podcast episodes per year (i.e. those not previously broadcast on radio), compared to around 300,000 newly-published audio episodes based on broadcast material.<sup>95</sup>
- 4.20 BBC Sounds had a budget for content of  $\pounds 10m$ .<sup>96</sup> A quarter of this content spend is on staff costs within the BBC relating to editorial, curation and production of content. The remaining three-quarters are external expenditure on content.
- 4.21 To put this expenditure into context, the budget for BBC Sounds content is significantly less than  $\pounds 10m$  (around  $\pounds 10m$ ) of BBC Radio content spend, which was  $\pounds 474m$  in 2020/2021.<sup>97</sup> And the combined spend on BBC Sounds content and functionality is the equivalent of less than  $\pounds 10m$  (around  $\pounds 10m$ ) of the total commercial radio industry revenues, which were  $\pounds 530m$  in 2020.<sup>98</sup> In contrast, Spotify spent  $\pounds 722m$  on podcasts in the previous two years,<sup>99</sup> and can leverage revenue from global subscriptions to invest in developing functionality, with a research and development spend of  $\pounds 837m$  in 2020 alone.<sup>100</sup>

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<sup>92</sup> Letter from the BBC to Ofcom, 21 September 2021.

<sup>93</sup> A limited number of BBC original podcasts are available exclusively on BBC Sounds for a limited time before becoming available on third-party platforms. The BBC told us that this applied to less than 1% of podcast episodes published in the last year. BBC letter to Ofcom, 10 September 2021.

<sup>94</sup> BBC Sounds Quarterly Report Q2 2021.

<sup>95</sup> BBC letter to Ofcom, 10 September 2021. The episodes are based on broadcast material from the BBC's network, national and local radio stations, as well as the World Service. Approximately 50,000 of these are tagged as podcasts (across about 250 titles).

<sup>96</sup> Letter from the BBC to Ofcom, 21 September 2021.

<sup>97</sup> BBC Annual Report and Accounts 2020/21, page 50.

<sup>98</sup> [Media Nations](#) 2021.

<sup>99</sup> [Spotify Annual Report 2020](#), page 36.

<sup>100</sup> [Spotify Annual Report 2020](#), page 5.

- 4.22 The BBC launched Radio 1 Dance in October 2020 and Radio 1 Relax in April 2021. Radiocentre, in its consultation response, suggests that these streams have attracted more young listeners to BBC Sounds at the expense of commercial players, pointing out the BBC’s statement in its Annual Plan 2021/22 that 900,000 more 16-24 year-old account-holders had used BBC Sounds for the first time in the past six months.<sup>101</sup> We note that these streams have attracted modest listening figures compared to commercial dance music and chill radio stations. For the week of 7 June 2021, Radio 1 Dance had achieved 38 weekly hours, and Radio 1 Relax had achieved 36 weekly hours.<sup>102</sup> This compares to weekly online listening hours of 1.1 million for Kiss Fresh and 1.7 million for Heart Dance; and to 1.7 million for Smooth Radio Chill, 1.0 million for Magic Chilled and 846,000 for Virgin Chilled.<sup>103</sup> BBC Sounds is therefore achieving much lower listening to its music streams than commercial stations which offer content similar to Radio 1 Dance or Radio 1 Relax. Data provided by the BBC also shows that listening to these music streams is stable, rather than growing.<sup>104</sup>
- 4.23 As we explain above, a platform which offers additional content and functionality, and aggregates BBC audio content in a single place, provides a benefit for consumers and does not, in itself, entail a harm for competitors. What matters is whether this content, improved functionality or aggregation attracts listeners away from commercial radio providers and leads to a reduction in their revenues and profits to such an extent that it reduces investment, causes services to cease, or deters entry. If so, this could reduce overall choice and quality for listeners.

#### **Listeners use multiple audio services alongside BBC Sounds**

- 4.24 BBC Sounds users tend to use a wider variety of audio services than listeners do on average. The results of a consumer survey conducted by Yonder suggest that BBC Sounds’ users listen to various types of audio content on about four different services (i.e. BBC Sounds plus three other services), whereas overall, listeners use less than two services on average.<sup>105</sup>
- 4.25 Also, BBC Sounds is used less regularly than most other platforms, including commercial radio platforms, as shown in Figure 13.

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<sup>101</sup> Radiocentre consultation response, page 15. BBC Annual Plan 2021/22, page 8.

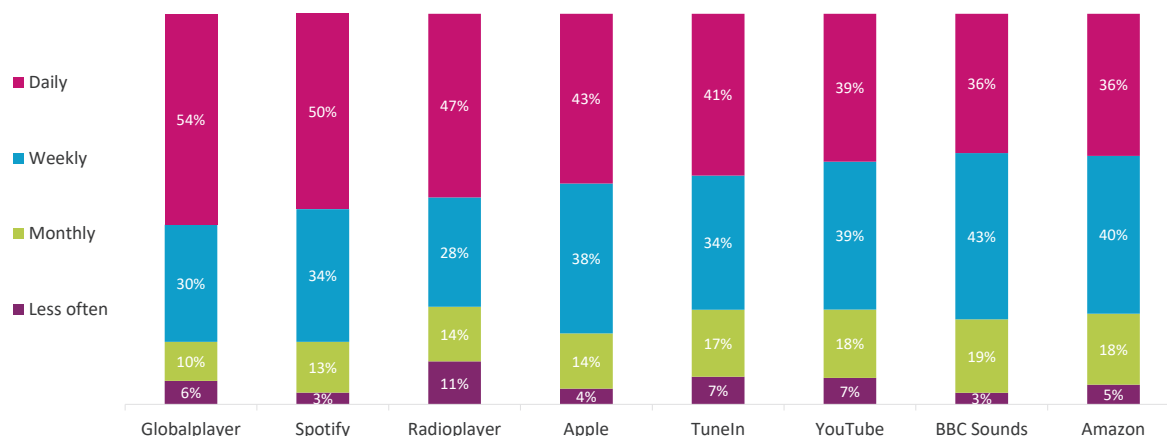
<sup>102</sup> See [https://www.ofcom.org.uk/data/assets/pdf\\_file/0019/222643/Letter-from-Ofcom-to-BBC-and-RC.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0019/222643/Letter-from-Ofcom-to-BBC-and-RC.pdf) for more details on R1 Dance.

<sup>103</sup> RAJAR Q3 2021.

<sup>104</sup> Letter from the BBC to Ofcom, 10 September 2021.

<sup>105</sup> Ofcom Audio Survey, March 2021.

**Figure 13: Frequency of audio platform use among users**



Source: Ofcom Audio Survey, March 2021

4.26 This suggests that the use of BBC Sounds does not make listeners less likely to use other services, and that BBC Sounds is not attracting listeners away from commercial radio operators and keeping them on its own platform. It also suggests that the BBC has not built an “effective walled garden”, as claimed by Wireless; although listeners can find only BBC content on BBC Sounds, they also listen to content on several other audio services.

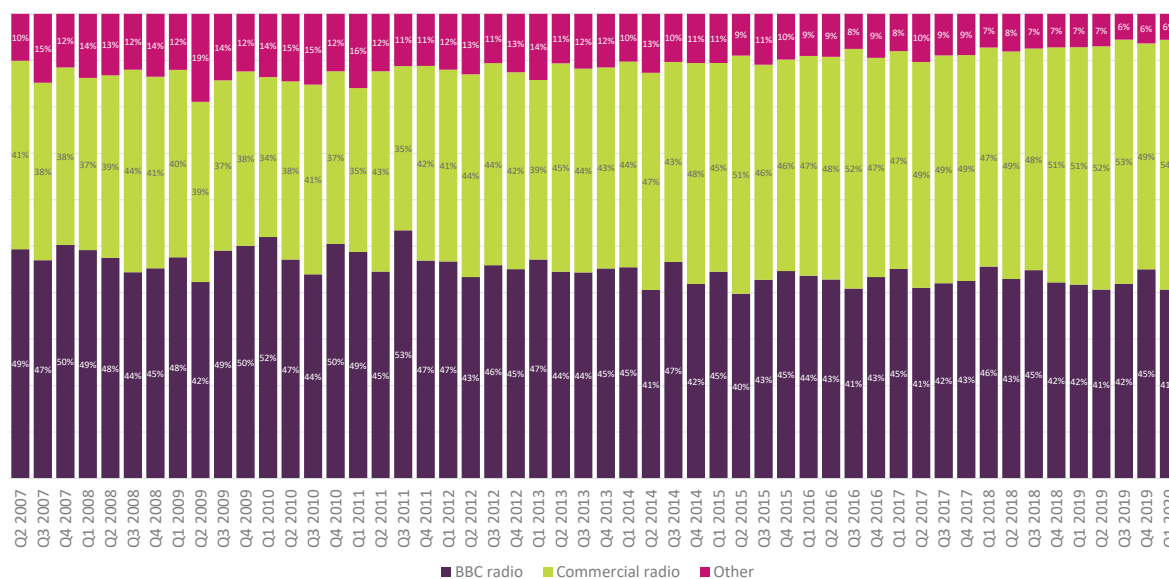
**Commercial radio has continued to outpace the growth of BBC Radio online since the launch of BBC Sounds**

4.27 The BBC’s share of live online radio listening has remained relatively stable for several years among UK adults (Figure 14) and has been declining with the 15-34 age group (Figure 15). The trends shown in Figures 14 and 15 do not suggest that the launch of BBC Sounds (in October 2018) has resulted in an increased share of online live radio listening for the BBC.

4.28 Although we cannot directly compare the data, RAJAR has recently published its first new data using a different methodology. It indicates that in Q3 2021, listening to BBC Radio accounted for 41% of listening to live online radio, compared to 53% for commercial radio.<sup>106</sup> For younger listeners (aged 15-34), the RAJAR data indicates that listening to BBC Radio accounted for 31% of listening to live online radio, compared to 66% for commercial radio in Q3 2021.

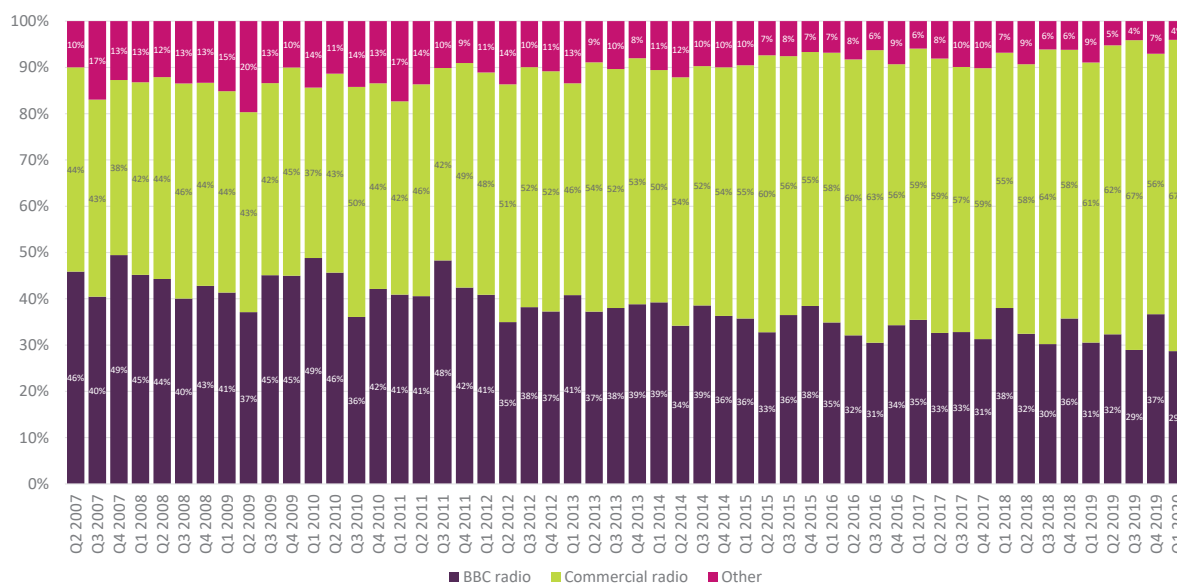
<sup>106</sup> RAJAR Q3 2021.

Figure 14: Share of online live radio listening hours: adults 15+



Source: RAJAR

Figure 15: Share of online live radio listening hours: adults 15-34



Source: RAJAR

4.29 We note that the BBC's share of live online radio listening hours (41%) is lower than its share of overall live radio listening hours (51%), suggesting that it has not been able to fully translate its historically strong position in broadcast radio to the online space, and that commercial radio has been more successful at attracting listeners online.

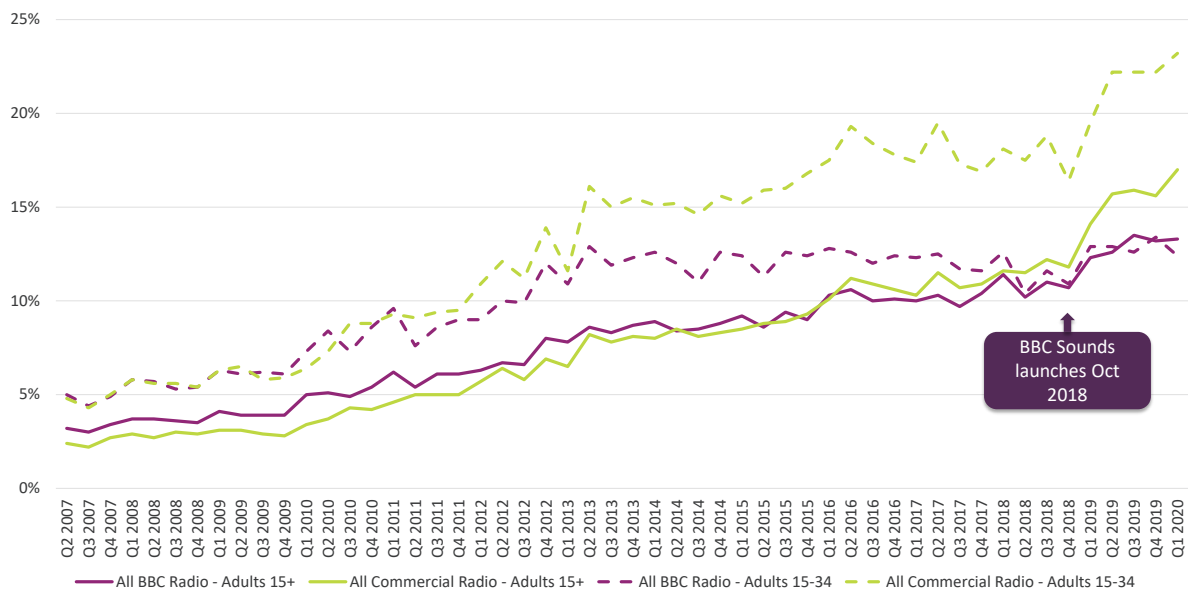
4.30 In its response to the call for evidence, Radiocentre said that the BBC is by far the largest participant in the online radio listening segment, accounting for 43% of listening hours in Q1 2020, almost twice as much as the largest commercial group. It also showed that the BBC had a similar share of listening hours to that of Global and Bauer Media in the 15-34

age group, and a much higher share in the older age groups.<sup>107</sup> While this may be true, we note again that the BBC’s share has remained relatively flat over several years among UK adults and has been on a declining path for the 15-34 age group, and that the BBC has not increased its share of online radio listening hours since the launch of BBC Sounds. This does not suggest that BBC Sounds has been crowding out commercial radio stations.

4.31 Wireless, in its consultation response, pointed out that BBC Radio is doing better in broadcast than online, relative to commercial radio, because it is available more widely: on multiple platforms, and with more extensive FM and DAB distribution.<sup>108</sup> While this may be the case, the focus of our analysis has been on the dynamics of online radio listening, which has been shifting towards commercial radio in recent years, including after the launch of BBC Sounds.

4.32 As shown in Figure 16, the average online weekly reach to UK adults has been growing steadily for the BBC and for commercial radio, but the pace of growth has accelerated markedly for commercial radio since the launch of BBC Sounds. Among younger age groups, the BBC’s reach has remained relatively flat over the past eight years, while commercial radio’s reach has grown dynamically over the same period and has reached almost twice the BBC’s level. This does not suggest that commercial radio has been crowded out by the launch of BBC Sounds. The latest RAJAR data indicates that commercial radio reaches more listeners through online platforms compared to the BBC (21% vs 16%) and reaches twice as many 15-34 year-olds as the BBC (24% vs 12%).<sup>109</sup>

**Figure 16: Average weekly reach of live radio through online platforms**



Source: RAJAR

<sup>107</sup> Radiocentre call for evidence response, page 27.

<sup>108</sup> Wireless consultation response, page 2.

<sup>109</sup> RAJAR Q3 2021. Because of a change in methodology, the data is not comparable with previous periods.

- 4.33 Radiocentre, in its consultation response, argued that our analysis understated listening to BBC Sounds, because it did not take into account listening to audio content beyond broadcast radio content, such as music mixes, which in Radiocentre’s view is listening time that commercial radio might otherwise enjoy.<sup>110</sup> We have not seen any evidence that music mixes – without the live interaction and news bulletins of radio – are a close substitute to online radio listening. In any case, music mixes represent only a very small proportion of listening on BBC Sounds, about 1% of the total number of plays of all content.<sup>111</sup> We do not consider that including the listening hours for online music mixes would make a significant difference to the BBC’s share of online radio listening.<sup>112</sup> If we include listening to music mixes when assessing the distribution of online radio listening between different operators, then arguably, we might also want to include players such as Spotify and Apple Music, which offer output that is closer to themed music mixes than to live radio (albeit with a more sophisticated functionality). This would significantly reduce the listening share for BBC Sounds.
- 4.34 In its response to our call for evidence, Radiocentre presented a projection of the BBC’s share of online radio listening until 2025, arguing that the BBC’s share would increase from 43% to 47% between 2020 and 2025.<sup>113</sup> The projection was based on an extrapolation of the average growth of total online radio listening hours since Q3 2015, and the BBC’s online radio listening hours since Q1 2019. In its consultation response, Radiocentre explained that this approach reflected “trends in commercial radio online listening over a longer timeframe than Ofcom has considered, featuring the impact of the steady launch and development of online services over an extended time period, and a shorter-term view of BBC Sounds only since its launch”.<sup>114</sup> However, the difference between the average historical growth rates in Radiocentre’s analysis, which show higher growth for the BBC than for online radio overall, is driven by Radiocentre’s choice of different periods to calculate the BBC’s growth versus that of the market. If both are compared over the period since Q1 2019, overall online radio listening has grown faster than the BBC’s, driven by an increase in commercial radio listening. On this basis, we do not consider it reasonable to assume that commercial radio would grow at a slower rate than the BBC going forward. Figures 14 and 15 show that commercial radio’s share on online live listening hours is growing faster than that of the BBC, especially for younger listeners.
- 4.35 Radiocentre argued that over the period from the launch of BBC Sounds in October 2018 to the decommissioning of BBC iPlayer Radio in September 2019, BBC online radio listenership saw little real growth as the BBC focused on migrating audiences from iPlayer Radio to BBC Sounds. Radiocentre said this means that the BBC online radio listening growth rate since Q1 2019 has been lower than otherwise might be expected.<sup>115</sup> We

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<sup>110</sup> Radiocentre consultation response, page 15.

<sup>111</sup> BBC Sounds Quarterly Report Q2 2021.

<sup>112</sup> Also, we note that RAJAR data includes all online listening to BBC Radio, not just on Sounds, so including the total online listening hours to BBC Radio can be considered a conservative approach as it overstates the impact of BBC Sounds.

<sup>113</sup> Radiocentre call for evidence response, page 36.

<sup>114</sup> Radiocentre consultation response, page 15.

<sup>115</sup> Radiocentre consultation response, pages 15-16.

disagree with this view, as the growth profile of BBC online radio weekly reach increased at a greater rate while iPlayer Radio and BBC Sounds were operating in parallel, and flattened out after the withdrawal of iPlayer Radio in Q3 2019 (Figure 16).

- 4.36 In Q3 2021, listening to BBC Radio accounted for 41% of listening to live online radio.<sup>116</sup> In its consultation response, Radiocentre noted that a market share above 40% is considered *prima facie* evidence of dominance under UK and EU competition law case law.<sup>117</sup> We are currently assessing the likelihood of BBC Sounds having a significant adverse impact on fair and effective competition, in line with the framework set out in the Agreement. The concept of dominance is not relevant to this assessment.<sup>118</sup>
- 4.37 In its consultation response, Wireless argued that we should separately consider the effect of BBC Sounds on the spoken word audio market.<sup>119</sup> We have considered in detail the effect of BBC Sounds on the podcast market (see theory of harm 3, below) which is where the thrust of Wireless's argument appears to be focused.
- 4.38 Radiocentre argues that crowding out is happening mostly in speech radio, and that no new stations have been able to compete with the BBC in this area.<sup>120</sup> In the consultation, we invited any evidence on the competitive effect of BBC Sounds (not BBC Radio *per se*) on speech radio (not podcasts) in the commercial sector, but we did not receive any such evidence.
- 4.39 While we recognise that the BBC has a strong position in speech radio overall, we have not seen any suggestions of how any theory of harm relating to online speech radio is likely to differ from the theories of harm we have considered for online radio in general (including music). In addition, even if we could separate out the effect of BBC Sounds on commercial operators in speech and music radio, we have not seen any evidence that would suggest that crowding out is likely to be greater in speech radio than in music radio.
- 4.40 We recognise that speech radio may be more challenging than music radio for commercial players to enter, and in which to compete, as the BBC has a strong presence in this area. But this is not attributable to BBC Sounds, as the BBC would still produce a wide range of speech radio, and offer this online in some form, if BBC Sounds did not exist. Furthermore, we have seen speech radio stations, such as Podcast Radio and Times Radio, enter the sector since the launch of BBC Sounds.

#### **There is no evidence of a significant shift in listeners from commercial radio to BBC Sounds**

- 4.41 Radiocentre claims that more than 5% of BBC Sounds listeners have reduced their listening to commercial radio, by an average of 3.32 hours per week, as a result of using BBC

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<sup>116</sup> RAJAR Q3 2021.

<sup>117</sup> Radiocentre consultation response, page 13.

<sup>118</sup> We also do not accept that a share of live online radio listening hours of 41% would automatically mean the BBC would be found to be dominant under a market definition and market power analysis conducted as part of a competition law assessment.

<sup>119</sup> Wireless consultation response, pages 2-3.

<sup>120</sup> Radiocentre call for evidence response, pages 23-24.

Sounds, on the basis of a survey it commissioned from FlyResearch.<sup>121</sup> We have not been able to assess the scope and phrasing of the questions asked in the survey to fully interpret the results quoted by Radiocentre. However, as only about 5% of respondents claimed to have reduced their listening to commercial radio, this implies that the remaining almost 95% of respondents have not reduced their listening to commercial radio as a result of using BBC Sounds.

- 4.42 Using this survey data, Radiocentre further claims that a shift of listening patterns towards BBC Sounds has resulted in an annual loss of over £4m of advertising revenues to commercial radio operators, due to a weekly loss of 3.79 million listening hours, corresponding to a fall in online listening hours and revenue by 3%.<sup>122</sup> It says this estimate is based on scaling up the numbers from the survey to account for the whole UK population. We do not consider this conclusion plausible in the light of the evidence above, which shows that the growth of online listening to commercial radio has outpaced the growth of online listening to BBC Radio; a trend which has accelerated since the launch of BBC Sounds.
- 4.43 The numbers presented by Radiocentre imply that the survey results were extrapolated to a population of 3 BBC Sounds users. We do not consider this to be a realistic assumption: our own research indicates that BBC Sounds is used by 18% of UK adults, corresponding to 9.58 million listeners<sup>123</sup>, with an average weekly audience of 3.7 million users during Q2 2021.<sup>124</sup> Using this base of BBC Sounds listeners would imply a much smaller financial impact on commercial radio operators.
- 4.44 Also, it does not follow from the evidence that the changes in listening patterns only favour BBC Sounds, nor that they are permanent and irreversible. The survey commissioned by Radiocentre does not capture the amount of listening time gained by commercial radio online, which has been able to respond effectively to BBC Sounds, as shown below.

### **Commercial radio has generated a steady revenue stream and is expecting a strong recovery from the impact of Covid-19**

- 4.45 The finances of the major commercial radio groups appear robust, generating a steady revenue stream (pre-Covid-19). Although 2019 saw a drop in radio advertising spend, commercial radio groups have been able to more than offset this by other income, such as competition entries, achieving year-on-year revenue growth (see section 3). Moreover, despite a significant drop in ad spend in 2020, caused by the Covid-19 pandemic, a strong recovery is forecast for 2021 2022 (see also section 3).

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<sup>121</sup> [Radiocentre call for evidence response](#), Figure 10.

<sup>122</sup> [Radiocentre call for evidence response](#), page 29.

<sup>123</sup> Based on data from Ofcom Audio Survey and extrapolated to UK population using ONS: Internet Users, 2020. Allowing for sample error, the 95% confidence range is 8.7 to 10.4m people will make use of BBC Sounds.

<sup>124</sup> BBC Sounds quarterly reporting pack, Q2 2021.



## Commercial radio has been adding new stations and expanding its online presence

- 4.46 We have seen radio stations and online streams on commercial radio platforms expand their offerings recently, for example:
- Seven new online streams launched by Bauer Media in August 2019, including brand extensions from KISS, Kerrang! and Heat.<sup>125</sup>
  - Seven new radio stations launched by Global in 2019-20, including LBC News and other stations on the Heart, Capital and Smooth networks.<sup>126</sup>
  - Podcast Radio launched in February 2020, with plans to create original podcast content announced in December 2020 and international content partnerships in Canada, New Zealand and the US.<sup>127</sup>
  - Times Radio, a national digital news radio station, launched by News UK in June 2020.<sup>128</sup>
  - The launch of Capital Dance in October 2020, just after the BBC announced the launch of its Radio 1 Dance stream.<sup>129</sup>
- 4.47 The evidence shows that commercial radio has continued to launch new services and expand since the launch of BBC Sounds. Moreover, we have not been presented with any evidence of commercial radio services being cancelled, or the launch of new services aborted, as a result of BBC Sounds.

## Conclusion

- 4.48 Having considered the evidence and arguments submitted in response to our consultation, we remain of the view that the evidence does not appear to show that BBC Sounds is crowding out the commercial radio sector online.
- 4.49 Recalling the steps in the theory of harm, the additional content and functionality on BBC Sounds does not appear to have resulted in a significant increase in the audience share for BBC Sounds, especially not among younger listeners. In addition, although BBC Sounds includes only BBC content, audiences listen extensively to BBC content elsewhere and tend to use a range of audio platforms. Commercial radio operators have introduced new services since the launch of BBC Sounds and their share of online radio listening has been steadily increasing. We have not seen any evidence that commercial radio operators have lost revenue as a result of BBC Sounds, or have needed to reduce their offerings, to the detriment of listeners.

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<sup>125</sup> [RadioToday, 15 August 2019.](#)

<sup>126</sup> [Global Annual Report 2019-20, page 4.](#)

<sup>127</sup> [RadioToday, December 2020.](#)

<sup>128</sup> [News UK, 2 June 2020.](#)

<sup>129</sup> [RadioToday, 1 October 2020.](#)

## Theory of harm 2: The BBC's extensive cross-promotion of BBC Sounds is harming commercial radio's ability to compete

### The theory

- 4.50 This theory of harm relies on the following:
- a) that the BBC extensively promotes BBC Sounds on TV, radio and online, at a level that could not be matched by rivals on commercial terms;
  - b) that BBC Sounds wins listeners and increases its share of listening time, even though it may not offer a better service than other platforms; and
  - c) that this reduces the ability of other platforms to effectively compete on quality, choice or innovation, ultimately harming listeners, as outlined in our first theory of harm.
- 4.51 This is not in itself a stand-alone theory of harm, rather an input into the first theory of harm (crowding out). Cross-promotion is an activity that the BBC can engage in, and which might attract additional listeners to BBC Sounds, in the same way that new content or functionality could.<sup>130</sup>
- 4.52 There are no specific obligations in the Operating Framework as to how the BBC cross-promotes its UK public services. Nonetheless, we could consider cross-promotion between BBC services as part of our competition analysis if we considered it to be of such a nature or extent that it could potentially cause a significant impact on competition. As such, we consider the extent of the BBC's cross-promotion of BBC Sounds in the context of our first theory of harm, i.e. in its potential to crowd out commercial radio.<sup>131</sup>

### The evidence

#### Cross-promotion does not appear to have significantly driven listeners to BBC Sounds, away from commercial radio

- 4.53 If the theory of harm were correct, the cross-promotion of BBC Sounds would be likely to result in more people using the service, listeners spending more time on the service, and/or listeners using the service more often relative to other services. However, the evidence considered in relation to Theory of harm 1 suggests that none of this has happened. Although BBC Sounds might have been even less successful without this level of

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<sup>130</sup> It is important to note that cross-promotion activities regarding BBC Sounds can only reach audiences who are already consuming BBC content. It may, therefore, expand the potential audience for BBC Sounds, but only among those who already listen to BBC Radio through other means, or who watch BBC television programmes. It will not attract listeners who do not currently engage with BBC services. We do, however, accept that a large percentage of the population engages with BBC services. Radiocentre in its consultation response (page 18) pointed out that 91% of UK adults use BBC television, radio or online per week on average, according to BBC Annual Report 2019/20 (page 3). Our most recent BBC Annual Report for 2020/21 finds that 87% of UK adults consume some BBC content each week.

<sup>131</sup> Radiocentre, in its consultation response (page 17), argues that Ofcom has failed to take full account of "potential competition issues beyond crowding out". However, Radiocentre does not specify any additional sources of potential harm to competition that would arise out of the BBC's cross-promotion of BBC Sounds. Our analysis is thus focused on crowding out, which we have identified as the most relevant potential competition issue in this context.

cross-promotion, the evidence does not suggest that the cross-promotion of BBC Sounds is harming the ability of rival broadcasters to attract and maintain listening hours to their services.

### **Radiocentre may have over-estimated the commercial value of the cross-promotion of BBC Sounds**

- 4.54 Radiocentre, in response to the call for evidence, presented an estimate of the commercial value of the BBC's cross-promotion of BBC Sounds amounting to £392m per year,<sup>132</sup> which was based on monitoring the amount of cross-promotion received by BBC Sounds over a single week from 23 to 29 October 2020 and then annualising its estimated value. Radiocentre argued that the level of promotion received by BBC Sounds, including the estimated value of cross-promotion, in addition to external marketing spend of £2.4m per year,<sup>133</sup> was the equivalent of as much as 66% of total UK radio industry advertising revenues, and was therefore anti-competitive.<sup>134</sup>
- 4.55 Radiocentre said, based on a monitoring exercise, that during the period 23 to 29 October, BBC Sounds received 602 minutes of cross-promotion in total, across radio and TV.<sup>135</sup> Annualising this would imply 31,304 minutes per year of cross-promotion of BBC Sounds alone. We do not consider that this estimate is plausible, as a total of 11,060 minutes of cross-promotion was received by BBC Radio and BBC Sounds combined in 2019/20, increasing to 11,532 minutes in 2020/21.<sup>136</sup> Radiocentre, in its consultation response, argues that the large disparity between the BBC's reported figures and Radiocentre's estimate must be due to 'definitional differences', hypothesising that the BBC might not have counted certain categories of cross-promotion or airtime, but admitting that it can "only speculate" why the discrepancy exists. Radiocentre claims that it has used the same approach as was accepted by the Government as input into the 2016 Charter Review.<sup>137</sup> However, the figures reported by the BBC came from its own Annual Report and Accounts, which are subject to audit.
- 4.56 Furthermore, the amount of cross-promotion received by BBC Sounds to date may not necessarily be a reliable indication of the amount of cross-promotion it will receive going forward. The BBC incurs an opportunity cost by cross-promoting BBC Sounds, in that other

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<sup>132</sup> Radiocentre call for evidence response, page 21.

<sup>133</sup> Radiocentre's estimate of the annual spend based on Nielsen data covering the year 2020 up until 19 October.

<sup>134</sup> Radiocentre, in its consultation response (page 18), argued that the effect of external (paid-for) marketing of BBC Sounds must be added to the effect of cross-promotion. It claims – with reference to Nielsen 2020 data – that external marketing spend by the BBC on BBC Sounds increased from £3.2m in 2020 to £4.5m in the first five months of 2021. We note this is small relative to the value they have estimated for cross-promotion and that the issues are different here. As pointed out by Radiocentre (consultation response, page 19), the opportunity cost of using commercial airtime for cross-promotion would typically amount to lost advertising revenue (whereas for the BBC the opportunity cost of cross-promoting a given service is the cost of not promoting another service). In contrast, the BBC and commercial providers seem on a more similar footing when it comes to external (paid for) marketing.

<sup>135</sup> [Intelligent Media report](#), included in Radiocentre response to the call for evidence.

<sup>136</sup> BBC Annual Report and Accounts 2019/20, page 135; BBC Annual Report and Accounts 2020/21, page 152. Cross-promotion received by BBC Sounds was not reported separately in 2019/20 and 2020/21. In 2018-19, BBC Sounds received 1,475 minutes of cross-promotion on BBC Radio and 582 minutes on BBC TV (BBC Annual Report and Accounts 2018/19, page 165).

<sup>137</sup> Radiocentre consultation response, pages 20-21.

services cannot be promoted in these slots. The BBC may wish to use this airtime to promote other services in the future.

### **Commercial radio stations have substantial cross-promotion opportunities**

- 4.57 Finally, many commercial radio stations have substantial cross-promotion opportunities, in addition to being able to cross-promote their online platforms on their own portfolio of radio stations. For example, the Global group also owns outdoor media, the Bauer Media owns magazine publishing, and Wireless is owned by News Corp UK. Each of these groups promotes its online radio services through its other channels, although we do not have data on how the amount of this compares with the cross-promotion of BBC Sounds.
- 4.58 Radiocentre, in its consultation response, argues that cross-promotion between commercial radio stations is ineffective because they typically serve distinct audience segments.<sup>138</sup> While this may be the case for one radio station cross-promoting another, we note that, for example, the Global Player website and app carry all the radio stations operated by the Global group, so cross-promoting Global's online services (and the off-schedule content they carry, such as podcasts or music playlists) is still relevant to the listeners of any of those stations.

### **Conclusion**

- 4.59 For the reasons set out above (in relation to both theory of harm 1 and theory of harm 2) we do not consider that the cross-promotion of BBC Sounds is crowding out commercial radio.

## **Theory of harm 3: BBC Sounds supplies the UK podcast sector with a large amount of ad-free 'archive' content, making it difficult for other podcast publishers to make money**

### **The theory**

- 4.60 Given its speech radio archive and access to existing BBC presenters/journalists, the BBC may be able to produce a large quantity of podcasts for relatively little cost. In addition, the BBC provides its podcasts free of advertising, which may encourage listeners to choose podcasts without adverts. This could potentially make it difficult for commercial podcast producers in the UK to earn revenue from their content, which might lead to less choice for listeners.
- 4.61 However, as explained above, we are assessing the specific impact of BBC Sounds on the podcast sector, rather than the overall impact of BBC speech radio. We therefore need to consider what the BBC would be providing if BBC Sounds did not exist, which we believe would include radio programmes repackaged as podcasts, as well as some off-schedule podcasts (i.e. not previously broadcast on radio), made available on a dedicated BBC

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<sup>138</sup> Radiocentre consultation response, page 19.

platform and on third-party platforms. As explained in section 2, the BBC provided this before the launch of BBC Sounds and we think it is reasonable to assume that it would continue to provide (at least some of) its speech radio content as podcasts on third-party platforms in the absence of BBC Sounds.

- 4.62 It is also reasonable to assume that the BBC might produce more off-schedule podcast content, in the current scenario, in order to promote BBC Sounds. We note, however, that the BBC's share of off-schedule content is currently modest. BBC Sounds provides around 300,000 newly published audio episodes each year, based on broadcast material from the BBC's network, national and local radio stations, as well as the World Service. Of these, approximately 50,000 are tagged as podcasts (across about 250 titles).<sup>139</sup> The BBC releases around 1,500 off-schedule podcast episodes each year.<sup>140</sup>
- 4.63 This theory of harm, focused on the impact of BBC Sounds, therefore relies on the following steps:
- a) the BBC has a large number of attractive, advertising-free podcasts, some of which are off-schedule (i.e. not based on broadcast radio programmes). Listeners interested in BBC podcasts go to BBC Sounds, which currently features only BBC content;
  - b) by spending more time on BBC Sounds, users are driven to additional BBC content and have less opportunity to discover non-BBC content. This makes it harder for rival podcast publishers, or other radio stations, to reach this audience;
  - c) this in turn reduces the ability of rival podcast producers or platforms to generate revenue from their podcasts; and
  - d) this may result in less investment in new podcasts, the withdrawal of some rival podcast publishers from the sector, or entry deterrence, ultimately reducing innovation and consumer choice.
- 4.64 Radiocentre, in its consultation response, raised a concern that independent podcast producers' access to talent had been limited, and the cost of that talent increased, due to the large volume of podcast content produced by the BBC, often celebrity-led and with high production values.<sup>141</sup> We consider this to be a potential issue relevant to the BBC as a whole rather than specifically to BBC Sounds. In that context, we note that the share of off-schedule content (i.e. not previously broadcast on radio stations) published on BBC Sounds is relatively modest, as outlined above.

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<sup>139</sup> Not all of the BBC's broadcast radio programmes are repurposed as podcasts.

<sup>140</sup> BBC letter to Ofcom, 10 September 2021.

<sup>141</sup> Radiocentre consultation response, page 22.

## The evidence

### UK podcast listeners are offered a broad range of content, not only from the BBC but also from the independent sector and international producers

- 4.65 Although the amount of podcast listening is difficult to measure reliably, and we must treat the podcast charts with caution,<sup>142</sup> the evidence suggests that BBC podcasts are popular but have not ‘flooded’ the sector. Other podcast producers, in the UK and elsewhere, are producing content which UK listeners can, and do, access. Figure 13 shows the range of podcast producers in the UK.
- 4.66 The Chartable podcasts chart showed just five podcasts published by the BBC within the top 100 podcasts on Spotify in Great Britain, with none from the BBC in the top 30, as of 8 November 2021.<sup>143</sup> In this chart, there were 55 podcasts from independent UK-based producers, as well as three from Australian producers, 30 from US producers and five which appear to be co-productions between UK- and US-based producers.<sup>144</sup>
- 4.67 Chartable showed 21 podcasts published by the BBC within the top 100 podcasts on Apple Podcasts in Great Britain as of 5 November 2021.<sup>145</sup> The BBC only had two podcasts in the top 20 of this chart, and 7 in the top 50. Of these top 100 Apple podcasts, over half (56) were from independent UK producers (including UK print media); 17 were produced in the US; two were from Australia and four were UK/US co-productions.
- 4.68 AudioUK presented a *Podcast Insights* chart of the top 100 podcasts on Apple Podcasts (iTunes) in the UK as of 29 October 2020, which featured 18 podcasts published by the BBC.<sup>146</sup> On 12 April 2021, this chart featured 24 podcasts published by the BBC within the top 100.<sup>147</sup>
- 4.69 Over the past year the iTunes UK top 100 chart featured on average about 22 podcasts published by the BBC.<sup>148</sup>
- 4.70 The barriers to entry in podcasting are very low: podcasts can be produced with minimal equipment and easily distributed on a number of third-party platforms, though as a result new podcasts need to compete with very many titles to gain audiences. Listeners based in the UK appear to be consuming a range of podcasts from different producers, as well as the BBC. Non-BBC producers of podcasts in the UK are doing well in the charts, with over half of the top podcasts on Apple podcasts and Spotify. These independent producers include UK print media, comedians, and people known from TV, YouTube and sports.

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<sup>142</sup> It is not always clear how these charts are compiled. For example, some may be driven by marketing concerns.

<sup>143</sup> [Chartable](#), viewed on 08 November 2021.

<sup>144</sup> It was not possible to ascertain the provenance for two of the podcasts in the chart.

<sup>145</sup> [Chartable](#), viewed on 05 November 2021.

<sup>146</sup> [AudioUK call for evidence response](#), pages 8-10.

<sup>147</sup> [Podcast Insights](#), viewed on 21 April 2021.

<sup>148</sup> [iTunes Charts](#), accessed on 8 April 2021. Based on the charts as of each calendar month end from April 2020 to March 2021.

- 4.71 Radiocentre suggests looking at the share of listening taken by foreign versus UK-based producers and the BBC on all platforms.<sup>149</sup> Similarly, Wireless states that confidential data, prepared by RAJAR and circulated in the spring of 2021 (not presented in the response), set out the comparable listenership achieved by UK radio broadcasters' podcasts in January 2021, and shows a vastly superior scale of the BBC as a source of podcast listeners, compared with independent providers.
- 4.72 The BBC is the largest single producer in the podcast charts, but independent producers also feature strongly. Various UK-based producers have a number of podcasts in the top 100 of the Apple podcasts chart (according to Chartable), including The Guardian, Keep It Light Media, Noiser and the Financial Times. Global Media has one podcast at number 66 in the Chartable Apple podcasts chart<sup>150</sup> and one at number 49 in the Chartable Spotify chart.<sup>151</sup> Podcasts produced in other English-speaking countries also feature in the UK charts discussed above, most notably the US (including by some large producers, such as Spotify) but also Australia. This may make it difficult for commercial UK producers of podcasts to gain share in this market, but not as a result of BBC activity.

#### **Listeners access BBC podcasts on multiple platforms, not just BBC Sounds**

- 4.73 It is also important to note that listening to BBC podcasts takes place on multiple platforms. The BBC reported over 257 million downloads of its podcasts on third-party platforms between April and June 2021, an increase of 6% year on year and 23% on pre-Covid-19 levels in Q1 2020.<sup>152</sup> The BBC reported 146 million plays of on-demand radio and podcast content on BBC Sounds during the same period. Although these two figures are not directly comparable (the former is downloads, rather than plays, and includes international audiences), it suggests that a significant amount of listening to BBC podcasts occurs outside BBC Sounds, on platforms where listeners can easily discover content from other podcast producers.
- 4.74 Podcast listeners use BBC Sounds in addition to, rather than instead of, other podcast listening platforms. Although BBC Sounds is the most popular platform for podcast listening in the UK,<sup>153</sup> podcast listeners tend to use multiple podcast platforms. In total, BBC Sounds users use 4.4 podcast listening platforms on average, while podcast listeners in general use an average of 2.9 platforms.<sup>154</sup> This suggests that BBC Sounds is used in addition to, rather than instead of, other podcast listening platforms and casts doubt on the idea that BBC Sounds makes it harder for rival podcast publishers, or other radio stations, to reach audiences.

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<sup>149</sup> Radiocentre consultation response, page 24.

<sup>150</sup> Spencer and Vogue. [Chartable](#), viewed on 05 November 2021.

<sup>151</sup> Where should we begin? with Esther Perel, co-production with Gimlet. [Chartable](#), viewed on 08 November 2021.

<sup>152</sup> BBC Sounds Quarterly Report, Q2 2021.

<sup>153</sup> Wireless in its consultation response pointed out that BBC Sounds as extended its lead as the most used podcast app, as per Reuters Digital News Report 2021. Wireless consultation response, page 2.

<sup>154</sup> [Ofcom Podcast Survey](#), March 2021.

### Adverts in podcasts do not appear to put off listeners to a significant extent

- 4.75 The absence of adverts in podcasts does not appear to be a decisive factor in listeners' choice. Podcast listeners overall do not appear to find adverts in podcasts particularly intrusive: only 37% of podcast listeners report that the podcasts they listen to contain too many adverts, while 32% disagree with this statement and 30% are neutral.<sup>155</sup> Moreover, a significant percentage of podcast listeners (41%) consider advertising to be the best way of keeping podcast content free and accessible to all.<sup>156</sup>
- 4.76 Radiocentre, in its consultation response, suggests that listeners no longer feel they hear too many adverts because they have switched to BBC Sounds or paid platforms that are ad-free.<sup>157</sup> As noted above, users of BBC Sounds who listen to podcasts tend to use multiple podcast platforms, i.e. they generally do not listen exclusively on BBC Sounds. And if consumers choose to pay for subscriptions instead of listening to adverts, this enables podcasts to be monetised through alternative routes. We also note that the vast majority of podcasts that people listen to are not from the BBC, meaning that audiences are accustomed to podcasts with adverts and continue to listen to content delivered in that way.

### The BBC's share of on-demand speech listening has increased only slightly since the launch of BBC Sounds, reversing a steep decline

- 4.77 The BBC's share of on-demand speech listening, which includes BBC-produced podcasts and catch-up radio, was 39.4% in Q1 2020.<sup>158</sup> It has grown modestly since the launch of BBC Sounds, from 37.7% in Q4 2018, i.e. by less than two percentage points, following a period of steep decline from more than 45% in Q4 2017.<sup>159</sup>
- 4.78 While the share of BBC-produced podcasts had gone up from 17.1% of all on-demand speech listening in Q4 2018 to 23.6% in Q1 2020, the share of BBC catch-up radio had declined from 20.6% in Q4 2018 to 15.9% in Q1 2020.<sup>160</sup>
- 4.79 Furthermore, it appears that the presence of BBC Sounds has led to a reduction in listening to other audio platforms for only a small percentage of podcast listeners. Radiocentre said, in its response to the call for evidence, that, according to its research, 3% of BBC Sounds users have reduced their listening to free podcasts by an average of 2.28 hours per week as a result of listening to BBC Sounds, while 3.5% have reduced their listening to paid podcasts by an average 1.64 hours per week.<sup>161</sup> We consider that this is unlikely to significantly harm the ability of rivals to compete: according to these figures, over 96% of

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<sup>155</sup> [Ofcom Podcast Survey](#), March 2021. Those who do not use BBC Sounds for podcasts are less likely than those who do listen to BBC Sounds to disagree with this statement but this was still in line with the overall findings.

<sup>156</sup> 4DC, [The Business of UK Podcasting](#), page 12.

<sup>157</sup> Radiocentre consultation response, page 25.

<sup>158</sup> BBC Sounds Phase 1 Materiality Assessment, Performance Report for Q1 2020, BBC Analysis of MIDAS Winter 2019.

<sup>159</sup> BBC Sounds Phase 1 Materiality Assessment, Performance Report for Q4 2018, BBC Analysis of RAJAR/MIDAS Winter 2017 – Winter 2018.

<sup>160</sup> BBC Sounds Phase 1 Materiality Assessment, Performance Report for Q4 2018, BBC Analysis of MIDAS Winter 2018; BBC Sounds Phase 1 Materiality Assessment, Performance Report for Q1 2020, BBC Analysis of MIDAS Winter 2019.

<sup>161</sup> Radiocentre call for evidence response, Figure 10.



listeners to BBC Sounds did not reduce their listening to alternative podcasts. Also, the survey results presented by Radiocentre do not capture the amount of audience time lost by BBC Sounds due to its listeners' use of other platforms.

- 4.80 Radiocentre, in its consultation response, argued that the BBC's 39.4% share of on-demand audio listening indicates that it has leveraged its position in linear audio to on-demand.<sup>162</sup> In addition, it cited as evidence that the BBC's share of speech radio listening was 85% in 2019.<sup>163</sup>
- 4.81 The on-demand speech sector is a relatively new development, as a result of listeners being able to access audio content online. Given its historically strong position in speech radio, the BBC has been able to repurpose some of its broadcast content as podcasts and generate additional off-schedule podcasts. However, the BBC's share of on-demand audio listening is less than half of its share of speech radio (39% compared to 85%). This suggests that other producers have been much more successful at entering the new, on-demand speech audio (podcast) market than the traditional speech radio market.
- 4.82 As explained above, it is not appropriate to assess the competitive impact of BBC Sounds in comparison to a scenario in which the BBC does not make its audio content (including speech radio) available online, and in an on-demand format. We have therefore assessed the competitive impact of BBC Sounds, not all of the BBC's provision of speech radio.
- 4.83 As noted above, the BBC's share of on-demand speech listening has grown modestly between the launch of BBC Sounds in October 2018 and Q1 2020, reversing a period of steep decline, while the growth of the share of BBC podcasts has been to a large extent offset by a decline of the share of BBC on-demand speech radio. This suggests that BBC Sounds has not produced a large shift in listening to BBC on-demand audio content.

#### **Advertising revenue in the UK podcast sector has more than doubled over the past two years**

- 4.84 There is no universally accepted way of measuring or reporting podcast advertising revenues. There may be differences in terms of definition (e.g. what type of content is considered to be a 'podcast', or what advertising formats are included in the podcast revenue calculation), and differences in the attribution of revenues to a particular national market (e.g. the country where the platform is based, where the podcast publisher is based or where the podcast is being listened to). This makes the interpretation of podcast advertising revenue data, and comparison across different countries, subject to a large degree of uncertainty.
- 4.85 Advertising revenue from UK podcasts is showing dynamic growth, up by 72% year on year in real terms in 2019,<sup>164</sup> and by 43% in 2020, having outpaced the 8% growth of UK advertising spend on audio streaming platforms and online radio applications by a factor or

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<sup>162</sup> Radiocentre consultation response, page 24.

<sup>163</sup> Radiocentre call for evidence response, page 23.

<sup>164</sup> PwC *Global Entertainment & Media Outlook 2020-2024*, United Kingdom, page 4; adjusted by Ofcom using ONS CPIH annual rate for 2019.

five.<sup>165</sup> This does not support the conclusion that the presence of BBC Sounds – or indeed BBC content in general – is stifling the development of the UK podcast advertising market.

4.86 In our consultation, we noted that advertising revenue generated by UK podcasts, measured by the total actual revenue in 2019, appeared to be broadly comparable with other markets; lower than France and less than half the level of Germany, but higher than Italy and Spain.<sup>166,167</sup> Radiocentre presented an updated comparison of podcast advertising revenue in the UK and other countries, focusing on Australia, France, Germany, Italy, Spain and the US, and using actual spend in 2019 and *forecast* spend in 2020.<sup>168</sup> It concluded that the UK is lagging behind all these countries in terms of advertising spend per monthly listener – which it considers the most important metric – in both years. We consider this comparison is subject to a large degree of error and uncertainty:

- Radiocentre has chosen to present *forecast* figures for 2020, which are based on zero year-on-year growth of total podcast advertising spend in the UK.<sup>169</sup> However, actual data shows a 43% year-on-year growth.<sup>170</sup> The figures presented by Radiocentre thus significantly understate podcast advertising spend in the UK.
- The above point further highlights the uncertainty in forecasting advertising spend during a pandemic year, as mentioned in our consultation.
- Other points mentioned in our consultation have a bearing on the accuracy of country-by-country benchmarking, such as the inclusion or exclusion of catch-up radio in podcast listening; different frequencies of measuring podcast listenership, such as weekly or monthly; or the assignment of advertising revenue to the country where the revenue accrues, regardless of where the listening takes place.

4.87 Radiocentre argues that advertising revenue per monthly podcast listener is the most important metric for assessing the health of the commercial podcasting sector.<sup>171</sup> However, to assess the ability of podcasts to generate revenue, it is important to consider the amount of advertising revenue per hour of podcast content that carries advertising. To this end, the metric chosen by Radiocentre can only ever serve as a proxy, which in the case of the UK is diluted by the fact that a large proportion of listening is to (BBC) podcasts that do not carry advertising. This probably understates the advertising revenue per hour of podcasting that commercial producers are able to obtain, and consequently the relative value of the UK podcast advertising revenue compared to other markets.

4.88 Radiocentre also argues that podcast listenership and revenue are highly concentrated in a small percentage of podcasts – the top 1% to 15% of podcasts, according to different

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<sup>165</sup> [Ofcom Media Nations 2021](#), August 2021, page 85.

<sup>166</sup> [PwC Global Entertainment & Media Outlook 2020-2024](#), page 2. Figures reported by PwC in USD. Converted to GBP using an exchange rate of 0.786 GBP/USD.

<sup>167</sup> Advertising revenue is assigned to the country where the revenue accrues (generally the country where it is produced), regardless of where the listening actually occurs.

<sup>168</sup> Radiocentre consultation response, pages 26-27.

<sup>169</sup> [PwC Global Entertainment & Media Outlook 2020-2024](#), page 62.

<sup>170</sup> [Ofcom Media Nations 2021](#), August 2021, page 85.

<sup>171</sup> Radiocentre consultation response, pages 26-27.

sources<sup>172</sup> – and that the BBC is squeezing out smaller UK commercial podcast players by dominating listenership with its highest-profile podcasts.<sup>173</sup> As discussed above, the BBC is not dominating podcast listening: for example, all of the podcast charts cited above had the BBC’s share as less than 25% of the top 100 podcasts (considerably less in the case of Spotify), and more than half of the podcasts in the top 100 Apple podcasts and Spotify charts are from UK independent producers.<sup>174</sup>

4.89 Finally, advertising is not the only way of generating revenue from podcasts in the UK. Our survey results show that a significant percentage of podcast listeners (34%) would be happy to pay to subscribe to their favourite podcasts.<sup>175</sup>

## Conclusion

4.90 For the reasons set out above, we have concluded that the distribution of BBC podcasts through BBC Sounds is not significantly hampering other podcast publishers’ ability to generate revenue.

## The evidence does not show that BBC Sounds is having a significant adverse impact on fair and effective competition

4.91 We have considered above detailed evidence for the effect of BBC Sounds on the online radio sector, and the implications for its commercial rivals. We have assessed this evidence against three theories of harm: that BBC Sounds is crowding out commercial radio operators, that the cross-promotion of BBC Sounds is contributing to this crowding out, and that BBC Sounds makes it difficult for commercial podcast producers in the UK to earn sufficient revenue.

4.92 The evidence suggests that commercial radio is increasing its online audience faster than BBC Sounds. This implies that, if current trends continue, commercial radio will continue to have a strong online listenership.

4.93 The relevant features of BBC Sounds for this assessment are its additional functionality and content. BBC Sounds has a fairly limited budget for these two elements, and listening to the new music streams on BBC Sounds has been relatively small, certainly set against comparable commercial offerings.

4.94 In terms of podcasts, the BBC produces a number of popular titles, but UK-based independent producers have a strong position in the charts, as do titles from the US and Australia. The BBC’s share of on-demand speech listening has grown only slightly since the

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<sup>172</sup> [Buzzsprout](#): top 1% of podcasts achieve 15k downloads per episode, which drops to 1k downloads per episode for the top 10% and 100 downloads per episode for the top 50%; [Altman Solon](#): reach and ad revenue are highly concentrated in the top 15% of podcasts.

<sup>173</sup> Radiocentre consultation response, page 23.

<sup>174</sup> As accessed on [Chartable](#) on 05 and 08 November 2021.

<sup>175</sup> Populus 2020, Table 516.

launch of BBC Sounds, and there has been dynamic growth in advertising revenue for UK podcasts.

- 4.95 Listeners to BBC Sounds tend to listen to other platforms as well: on average, users of BBC Sounds listen to two or three other platforms, which is more than the number of platforms used by listeners who do not use BBC Sounds. This suggests that BBC Sounds does not operate as a 'walled garden', retaining listeners once they arrive on the app to the detriment of other platforms.
- 4.96 In its response to our consultation, Radiocentre acknowledged that there was limited evidence of the negative impact of BBC Sounds on competition to date but said there might be a significant risk of future impact.<sup>176</sup>
- 4.97 The legal test for initiating a BCR is whether we have reasonable grounds to believe that BBC Sounds is currently having a significant adverse impact on fair and effective competition, and not simply whether concerns might arise in the future. In any case, the trends and structure of online radio listening, as summarised above, do not suggest that BBC Sounds is likely to significantly increase its audience reach in a way which would crowd out the online provision from commercial competitors, to the detriment of consumers.
- 4.98 As we discuss in section 3, the audio sector is developing rapidly, both in terms of listening habits (increasingly online) and the range of players and their offerings. The BBC and commercial radio are likely to face increasingly strong and direct competitive challenges from global players such as Spotify, Apple, YouTube and Amazon/Audible, which have far more sophisticated functionality than BBC Sounds and have invested heavily in new content, including podcasts. An important factor to consider as part of our ongoing monitoring of the sector will be how UK audio providers, including the BBC, respond to global competition.

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<sup>176</sup> Radiocentre consultation response, page 17.

## 5. Conclusions

- 5.1 In this section, we set out our conclusions on: whether the threshold is met for initiating a BCR in relation to BBC Sounds; when future changes to BBC Sounds might be likely to raise competition issues; and our expectations of the BBC regarding transparency and engagement with third parties. We also make some observations about the scope for further collaboration between the BBC and other players in the radio and wider audio sector.

### The legal test for initiating a BCR

#### Our provisional view and stakeholder comments

- 5.2 In our consultation, we consulted on our provisional view that the threshold is currently not met for proceeding to a BCR of BBC Sounds under the BBC Charter and Agreement. As we explain in section 2, the BBC and the Community Media Association agreed with our provisional view. Radiocentre, Wireless and an individual respondent disagreed.

#### Our conclusions

- 5.3 In section 4, we consider the potential ways in which competition might be adversely impacted by the presence of BBC Sounds in the sector, and conclude that none of the theories of harm we have identified provide us with reasonable grounds to believe that BBC Sounds is having a significant adverse impact on fair and effective competition. Accordingly, we have concluded that the test for launching a BCR in relation to BBC Sounds is currently not met.
- 5.4 Notwithstanding this conclusion, we note that the competition analysis we have carried out for this review uses a similar level of detail that we would expect to apply in the context of a BCR.

#### Monitoring of BBC Sounds

- 5.5 Although we have decided not to launch a BCR, we will continue to monitor the development of BBC Sounds, and we may carry out a further review of its market position and impact if there is a significant change in market conditions. Indicators of a significant change in market conditions could include commercial radio companies scaling back their presence in online radio and/or audio, or a sustained reversal of the trend we have seen in the BBC's and commercial radio's share of online radio listening hours.<sup>177</sup>

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<sup>177</sup> See section 2.

## When planned changes to BBC Sounds might raise competition issues

### Our provisional views

- 5.6 In our consultation, we asked respondents if they agreed with our view on when planned changes to BBC Sounds might raise competition issues.
- 5.7 We said we expected that most changes to BBC Sounds' functionality would be less likely to require closer scrutiny, and that while changes to the content available on BBC Sounds might be more difficult to assess, it would be unlikely that the addition of small amounts of content, similar to that already available on BBC Sounds, would raise concerns. In contrast, we expected the addition of new types of content, or content pertaining to a new or embryonic area, would be more likely to require closer scrutiny.

### Stakeholder comments

- 5.8 The BBC and Radiocentre agreed with our view that changes to functionality and additions of small amounts of content are less likely to raise concerns than the addition of new types of content or of content pertaining to a new or embryonic area.<sup>178</sup>
- 5.9 Radiocentre also said that materiality must be assessed on the basis of objective factors, so as to provide a rigorous approach and certainty to the wider industry, and that such factors would include the content of the service, its projected listener numbers, how it is presented, and the extent to which it competes with existing services.<sup>179</sup>
- 5.10 Wireless disagreed that changes to BBC Sounds' functionality and greater personalisation would be less likely to require closer scrutiny, as it said this ignores any assessment of the R&D investment required to design and implement such updates, or a commercial operator's ability to justify such expenditure.<sup>180</sup>
- 5.11 It also disagreed with our view that any "changes to the content available on BBC Sounds may be more difficult to assess", as it considered that Ofcom should have the capability to undertake sophisticated assessments.<sup>181</sup>
- 5.12 AudioUK said the wording "small amounts of content" sounded vague and ignored the fact that introducing a small amount of content could have significant impact further down the line.<sup>182</sup>
- 5.13 In response to both the call for evidence and the consultation, Radiocentre and others expressed concerns about the BBC making small incremental changes that in themselves might have limited impact but taken together would be significant, which they term 'scope

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<sup>178</sup> BBC consultation response, page 4 and Radiocentre consultation response, page 33.

<sup>179</sup> Radiocentre consultation response, page 34.

<sup>180</sup> Wireless consultation response, page 4.

<sup>181</sup> Wireless consultation response, page 4.

<sup>182</sup> AudioUK consultation response, page 4.

creep'.<sup>183</sup> AudioUK, in its consultation response, said it was not clear whether our proposed approach would be sufficient to guard against this,<sup>184</sup> while Radiocentre said that the net effect of smaller changes should be taken into account on a periodic basis.<sup>185</sup>

## Our conclusions

- 5.14 The process for assessing changes to the BBC's existing UK public services, such as BBC Online, is discussed in section 2. The BBC is required under the Agreement to consider whether material changes to its UK public services "may have a significant effect on fair and effective competition". Whether any change is material must be assessed on its own merits.
- 5.15 In our guidance on assessing the impact of proposed changes to the BBC's public service activities ("**BCA guidance**"),<sup>186</sup> we set out the factors that we expect the BBC to consider when making this assessment. We say that changes which leave the existing character and scale of a service essentially unchanged are less likely to be 'material' in the specific sense of the term set out in the Agreement, and we refer to individual programme scheduling decisions as an example of such changes.
- 5.16 Changes to both the functionality of BBC Sounds and the content it carries may in principle be material changes. Not every change to the BBC's services will be subject to a regulatory process; that would stifle its ability to evolve, and the BBC, like other players in the UK audio sector, needs to find different ways of reaching audiences, as the ways in which content is consumed change.
- 5.17 While noting the comments from Wireless, we remain of the view that most functionality changes to BBC Sounds, such as additional features (e.g. alarms and the ability to subscribe) and greater personalisation, are less likely to require closer scrutiny. This is because such changes tend to be aimed at enhancing the user experience and are more likely to leave the existing character and scale of BBC Sounds essentially unchanged.
- 5.18 Changes to the content available on BBC Sounds may have a greater potential than changes to functionality to attract users to BBC Sounds, but may also be more difficult to assess. The key reason for this is that assessing the extent to which listeners are likely to switch to BBC Sounds following changes to the content available is inherently difficult to predict before such changes are implemented.
- 5.19 It is unlikely that the addition of small amounts of content, similar to that already available on BBC Sounds, would raise concerns. We would also not expect the re-versioning or curation of content that already exists in the BBC's audio content catalogue (e.g. re-versioned broadcast content) to raise concerns. In contrast, we would expect that the

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<sup>183</sup> See, for example, Radiocentre consultation response, page 34.

<sup>184</sup> AudioUK consultation response, page 4.

<sup>185</sup> Radiocentre consultation response, page 34.

<sup>186</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0028/99415/bbc-public-service-activities-proposed.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0028/99415/bbc-public-service-activities-proposed.pdf)

addition of new types of content, or content pertaining to a new or embryonic area, would be more likely to require closer scrutiny.

- 5.20 Notwithstanding the above, it is important to keep in mind that the materiality of each proposal from the BBC needs to be considered on its own facts. With reference to the point raised by AudioUK, this means that what constitutes small amounts of content will depend on the nature of the proposal in question.
- 5.21 On the issue of ‘scope creep’, raised by some stakeholders, the Charter and the Agreement set out a specific framework for the assessment of proposed individual changes to the BBC’s UK public services, and the assessment of a proposed change must be made in the context of the relevant activity as has been developed up to that point in time.
- 5.22 It is also in recognition of the potential cumulative impact that individual changes to BBC Sounds may have had on the market that we have carried out this review of the market position of BBC Sounds. As noted above in this section, if it is appropriate, we may decide to carry out a further review of BBC Sounds during the current Charter period.<sup>187</sup>

## **BBC transparency and engagement**

### **Planned changes to BBC Sounds**

#### **Our provisional views**

- 5.23 In our consultation we said we expect transparency and engagement by the BBC with the sector about its plans and future strategy for BBC Sounds, to enable the BBC to understand how its proposals might affect competition, and to take this into account when developing them.
- 5.24 We asked stakeholders what further detail, if any, they would expect to see in the BBC’s Annual Plans and public announcements to enable stakeholders to meaningfully comment on its plans for BBC Sounds.

#### **Stakeholder comments**

- 5.25 The BBC reiterated its commitment to engaging transparently with stakeholders about its plans, and it explained how in its view it had acted transparently in relation to its proposals for the Radio 1 Dance and Radio 1 Relax streams on BBC Sounds.<sup>188</sup>
- 5.26 Radiocentre told us that BBC Annual Plans and public announcements needed to be more complete, and that it would like to see true indications of plans from the BBC, with timelines, and that where significant plans were included in the Annual Plan or Annual Report, they should have a concurrent press release.<sup>189</sup>

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<sup>187</sup> See above on monitoring the development of BBC Sounds.

<sup>188</sup> BBC consultation response, pages 3 and 4.

<sup>189</sup> Radiocentre consultation response, page 35.



- 5.27 AudioUK said that the BBC Annual Plans should be far more focused on precise agreed actions, specific outcomes and deadlines for delivery,<sup>190</sup> while Wireless said that announcements of planned changes by the BBC were “vague and not clearly defined”.<sup>191</sup> It said an example of this was the reference in the BBC’s Annual Plan 2021/22 to the curation of news content within BBC Sounds, which Wireless said which could imply that the BBC is seeking to create a new news channel experience that aggregates BBC news audio content.
- 5.28 The Writers’ Guild of Great Britain said that the BBC’s current Annual Plans and public announcements are insufficiently detailed to allow for a meaningful assessment of its plans and/or performance.<sup>192</sup>

### **Our conclusions**

- 5.29 As set out in section 2, it is the responsibility of the BBC to have particular regard to the effects of its activities on competition in general, and to have regard to promoting positive impacts on the wider sector. The BBC must also understand the potential impact of proposed changes to its UK public services.
- 5.30 In order to meet its obligations, the BBC must assess how stakeholders might be affected by planned changes, and take this into account in developing its proposals, consistent also with its broader obligations as to transparency, openness and accountability.
- 5.31 The BBC’s Annual Plans and public announcements are a good way for the BBC to provide stakeholders with information about its future plans and strategy; using these consistently will help the BBC to ensure greater transparency. The BBC’s Annual Plans need to contain sufficient detail to allow stakeholders to comment meaningfully on the potential impact of the BBC’s plans, including those for BBC Sounds.
- 5.32 As well as proactive engagement by the BBC with stakeholders at a sufficiently early stage in the development of proposals, and an explanation of the broad timeframe for its consideration of them, we expect stakeholders to engage with the BBC in good faith and to provide any input to the BBC in a timely manner.
- 5.33 It is also important that the BBC looks beyond its Annual Plans and public announcements to seek comments from stakeholders on potential changes to its services, particularly when plans are developed outside the Annual Plan cycle.
- 5.34 The BBC should be prepared to disclose sufficient information to allow stakeholders to comment fully on its plans. This is likely to mean the BBC providing more information about planned changes to BBC Sounds than commercial operators might disclose regarding their own plans. The BBC’s unique funding model and insulation from commercial risk puts it in a very different position to commercial operators, so the standard of information that a commercial operator might provide is not a relevant benchmark for the approach that the BBC should take.

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<sup>190</sup> AudioUK consultation response, pages 4 and 5.

<sup>191</sup> Wireless consultation response, page 4.

<sup>192</sup> Writers’ Guild of Great Britain consultation response, pages 2 and 3.

5.35 In that context, where appropriate, the information we expect the BBC to share with stakeholders regarding planned changes to BBC Sounds includes:

- identification and description of the content or functionality that is new;
- where possible, take-up forecasts of new content or functionality;<sup>193</sup>
- the target demographics that the change is aimed at; and
- timescales for implementation of the change.

5.36 By making more information available to stakeholders, the BBC can understand more clearly the potential impact it might have on competition, which in turn can help it to make informed decisions about its strategy to deliver its Mission and the Public Purposes. We recognise, however, that expectations about the level of information to be provided by the BBC need to be proportionate to the scale of proposals in question.

## Availability of BBC Sounds performance data

### Our provisional views

5.37 In our consultation we reiterated the view we set out in our 2019/20 Annual Report on the BBC: that the BBC needs to adopt a more systematic approach to measuring the performance of BBC Sounds, and that it should publish more information on how listeners are using BBC Sounds.

5.38 We said that we were continuing to explore with the BBC the additional information that it can make available regarding the performance of BBC Sounds, and we will report on this in our 2020/21 Annual Report on the BBC.

### Stakeholder comments

5.39 Radiocentre raised concerns about the level of information on the performance of BBC Sounds that is publicly available, and said that, as a minimum, the BBC should include in its Annual Reports the same metrics by which it measures the performance of other services, which it said were:

- content costs (split out between talent, production and rights/royalty spend);
- reach;
- total weekly plays;
- time spent listening to service each week;
- cost per listener hour;
- listener demographics;
- listening by content type (live/ on-demand; music/ speech); and
- most popular content (live radio shows; podcasts; music mixes).<sup>194</sup>

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<sup>193</sup> We recognise there may be some cases where take-up is difficult to forecast.

<sup>194</sup> Radiocentre consultation response, pages 35 and 36.

- 5.40 It said it would also like to see improved performance reporting in the BBC’s quarterly Sounds performance press releases, and that such reporting should include clearer definitions, monthly active listeners, and total listener hours, across all audio types. It said these reporting requirements should be set by Ofcom and included in the Operating Licence.
- 5.41 The Community Media Association told us that it would like to see “the facts, figures and tangible outcomes that BBC Sounds contributes to the stated commitment to support the UK creative industries, champion new audio, work with diverse talent, and establish meaningful partnerships with community radio”.<sup>195</sup>
- 5.42 The BBC noted our expectation of improved performance reporting in relation to BBC Sounds, and said that its Annual Report 2020/21 sets out the strategic progress the BBC made during 2020/21 within BBC Sounds, and contains data which gives a deeper insight into the performance of BBC Sounds, which it expanded on in its response.<sup>196</sup>

### **Our conclusions**

- 5.43 As we explain in our 2020/21 annual report on the BBC, we have seen some improved reporting this year on BBC Sounds; for example, by bringing all the metrics together into one place in the BBC’s Annual Report and Accounts, and by publishing additional metrics on registered users and usage to BBC Sounds. However, there is further to go to fully embed the contribution of BBC Sounds to the Mission and Public Purposes in the BBC’s performance reporting.
- 5.44 As noted in our 2020/21 annual report on the BBC, effective measurement of online delivery is not an issue that is unique to the BBC and we are working with public service broadcasters to develop future measurement approaches.
- 5.45 As part of our consideration of how the Operating Licence should evolve to reflect changing audience habits and expectations,<sup>197</sup> we are exploring what requirements may be needed in relation to the information the BBC provides, e.g. about the contribution BBC Sounds makes to the Mission and Public Purposes, or about its performance, to ensure greater accountability.

## **Collaboration with third parties**

### **Our provisional views**

- 5.46 In our consultation, we asked stakeholders if they agreed that further collaboration between the BBC and other players could bring benefits to the UK audio sector.

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<sup>195</sup> Community Media Association consultation response, page 5.

<sup>196</sup> BBC consultation response, page 5.

<sup>197</sup> See below.

## Stakeholder comments

- 5.47 Wireless said it strongly agreed that further collaboration between the BBC and other players could bring benefits, referring to its response to our call for evidence, in which it said that the BBC’s decision on radio aggregation was a missed opportunity for the BBC to have engaged positively with the independent audio sector, and that conversations with stakeholders should be revisited.<sup>198</sup> Other stakeholders, such as the Community Media Association and the Writers’ Guild of Great Britain, were also broadly supportive of collaboration, although the Writers’ Guild of Great Britain said that the aggregation of third-party content risks destabilising other areas of the industry and has the potential to have a detrimental impact on writers, in particular.<sup>199</sup>
- 5.48 Radiocentre said that, on balance, it did not feel that collaboration with commercial radio on BBC Sounds would be beneficial. Specifically, it said it would not be in the interests of the industry to have commercial players operating under a BBC-branded and controlled platform. However, it said that if the BBC were open to data sharing, allowing integration of commercial content, not restricting advertising, and agreed to promote all content equally, then collaboration could be appealing.<sup>200</sup> This was a view similarly shared by AudioUK.<sup>201</sup>

## Our conclusions

- 5.49 As set out in section 2, the BBC has a general duty under the Charter to “work collaboratively and seek to enter into partnerships with other organisations, particularly in the creative economy, where to do so would be in the public interest.”
- 5.50 Further, as we explained in our December 2020 consultation on the future of public service media, strategic partnerships between public service broadcasters and other companies could help to support long-term sustainability in the public service media system.<sup>202</sup>
- 5.51 The BBC has collaborated with partners in the audio sector. For example, during the recent Covid-19 crisis, BBC England signed a Memorandum of Understanding with the Community Media Association, in which it agreed to share some of its local radio content, including its news bulletins, to help support local populations and community radio.
- 5.52 While we are not in a position to require the BBC to enter into collaborative arrangements (it is the BBC Board that is responsible for the strategic direction of the BBC), we remain of the view that in relation to BBC Sounds, collaboration between the BBC and other audio content providers might be strengthened or extended.

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<sup>198</sup> Wireless consultation response, page 5.

<sup>199</sup> Community Media Association consultation response, pages 6 and 7 and Writers’ Guild of Great Britain consultation response, page 4.

<sup>200</sup> Radiocentre consultation response, page 37.

<sup>201</sup> AudioUK consultation response, page 5.

<sup>202</sup> [Small Screen: Big Debate, The Future of Public service Media](#), Ofcom, December 2020.

- 5.53 Collaboration could take many forms, and might relate to such areas as distribution, content production, the sharing of information, data or research. It might not necessarily involve the presence of third parties on the Sounds platform, although, as we stated in our consultation, there may be benefits in this.
- 5.54 Further collaboration in relation to BBC Sounds may help to secure the future of UK radio in the context of the challenges that the sector faces from changes in listener habits and the growth of global streaming services.

## Regulatory process for assessing proposed changes to BBC Sounds

- 5.55 Stakeholders raised concerns in response to both the consultation and the call for evidence about the regulatory process for assessing the materiality of proposed changes to the BBC's UK public services, including BBC Sounds.<sup>203</sup>
- 5.56 As explained in the consultation that we published in July this year, *How Ofcom regulates the BBC*,<sup>204</sup> we are considering the process for planned changes to the UK public services and whether there ought to be any changes to the process.
- 5.57 In spring 2022, we will deliver a report that will include recommendations to the Department for Digital, Culture, Media and Sport to inform its mid-term Charter review, and any changes we intend to make to our own processes.

## Inclusion of BBC Sounds in the Operating Licence

- 5.58 In response to the call for evidence and the consultation, stakeholders raised concerns that there is no effective regulatory oversight of BBC Sounds, as it is not listed as a UK public service and is not subject to regulatory conditions in the Operating Licence.<sup>205</sup>
- 5.59 As we note in section 2, it is the responsibility of the BBC, and not Ofcom, to maintain the list of UK public services. However, we are considering how the Operating Licence should evolve to reflect changing audience habits and expectations. The licence is currently focused on linear services, and we are looking to evolve it so that it reflects the BBC's delivery of content across TV, radio and online.
- 5.60 We explain in our consultation, *How Ofcom regulates the BBC*, that the Operating Licence should enable us to hold the BBC to account for its delivery across all its services, not just its television and radio services. By expanding the Operating Licence to cover the BBC's online services, such as BBC iPlayer and BBC Sounds, more comprehensively, we would seek to achieve greater transparency as to how the BBC uses those services to deliver for audiences, as well as give the BBC more recognition for the contribution these services make to the delivery of the Mission and Public Purposes.

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<sup>203</sup> See, for example, Radiocentre consultation response, page 34.

<sup>204</sup> See above.

<sup>205</sup> See, for example, Radiocentre consultation response, page 7.

5.61 We aim to publish a detailed consultation on a new Operating Licence for the BBC's UK public services in spring 2022.

## **BBC distribution issues**

- 5.62 Radiocentre, in its response to the consultation, raised two issues in relation to the distribution of BBC podcasts and radio stations. First, that the BBC has used 'windowing' to first publish podcasts on its own platform – favouring the development of Sounds as a destination, rather than maximising reach and convenience for licence-fee payers.<sup>206</sup> Second, it told us that  $\propto$  which it said indicates an overall BBC desire to direct listening towards Sounds, to control first-party data, and to ensure that BBC Sounds becomes the go-to destination for all audio listening.<sup>207</sup>
- 5.63 These issues fall outside the scope of our review of BBC Sounds, given that they relate to the distribution of the BBC's UK public services. However, distribution issues are subject to the BBC's distribution policy,<sup>208</sup> as well as to Ofcom requirements and guidance.<sup>209</sup>
- 5.64 Under our requirements, the BBC must offer the UK public services to third parties in response to reasonable requests for supply, except where the BBC has an objective justification for not doing so. Where it offers and supplies the UK public services, it must act on a fair, reasonable and non-discriminatory basis. Any complaints about distribution of the UK public services must be made to the BBC in the first instance, and we expect the majority to be resolved by this process, although if they are not resolved, Ofcom can consider them.

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<sup>206</sup> Radiocentre consultation response, pages 29 and 30.

<sup>207</sup> Radiocentre consultation response, page 17.

<sup>208</sup> [BBC distribution policy](#), June 2018.

<sup>209</sup> [Distribution of BBC public services](#), requirements and guidance, Ofcom, March 2017.