

BBC iPlayer Competition Assessment

Final determination

Non-confidential version

STATEMENT:

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1. Overview

We have consulted on the BBC's plans to change BBC iPlayer from a service where programmes are available to 'catch-up' for 30 days after broadcast, to one where programmes are available for 12 months as standard, with some available for longer.

As required by the BBC Charter and Agreement, we have carried out a competition assessment, under which we: looked at the public value provided by the BBC's proposals, analysed the way in which they impact on competition, and considered whether that public value justifies the adverse impacts that we identified. We also reviewed how the BBC developed its proposals. We have decided that the BBC may continue to progress its plans, subject to conditions.

Our decisions

The way people watch programmes is changing rapidly and viewers' expectations are evolving.

They not only want to choose what they watch, but how and when they watch it. There have been significant developments in video on demand (VOD) programmes from services such as Netflix and Amazon Prime Video, as well as UK broadcasters. What viewers expect from the BBC is changing too, and this is particularly the case for young people.

The BBC proposed a change in strategy for BBC iPlayer; to turn it from a catch-up service into a destination for audiences. The proposals set out in its Public Interest Test (PIT) include making most BBC programmes available for 12 months, some for longer, and with all children's programming available for five years.

We have considered these proposals through a BBC Competition Assessment. Our role, under the BBC Charter and Agreement, includes reviewing how the BBC has developed its proposals and its assessment of their public value. We must also assess the impact of the BBC's proposals on competition. After this, we decide either that the BBC may carry out the proposed changes to BBC iPlayer; that it may do so subject to conditions; or that it may not proceed with its plans.

We have decided that the public value of the proposed changes to BBC iPlayer justifies the adverse impact on fair and effective competition we have identified; the BBC may therefore proceed with its proposals, subject to conditions. We considered responses to our consultation and have decided, in line with our provisional decision, that the BBC's proposed evolution of BBC iPlayer could generate significant public value. However, we remain concerned about the competitive challenges created, particularly for other PSBs' VOD services and potential UK entrants such as BritBox, and how this could impact audiences.

Our conclusion is subject to conditions and guidance to help ensure that the BBC delivers the public value and mitigates risks to fair and effective competition. We are imposing conditions on the BBC to support analysis of how the new BBC iPlayer will contribute to delivery of the BBC's mission and public purposes set out in the Charter. The BBC will be required to establish a revised performance measurement framework in consultation with Ofcom by 31 December 2019. We are also requiring the BBC to closely track the availability and consumption of programmes on BBC iPlayer, which will support greater transparency over the scale and impact of the service. This will make it easier for the BBC and Ofcom to consider the potential impact on competition of any future developments. We welcome the BBC's statement that the proposed changes to content availability on BBC iPlayer will be made available to audiences equally on standard and bespoke versions of BBC iPlayer; it remains important that the BBC observes its regulatory obligations in relation to distribution to ensure its services are available widely on a fair, reasonable and non-discriminatory basis.

There was significant criticism from stakeholders about the way the BBC developed its plans and carried out its PIT. In this case it has been possible to progress to a decision notwithstanding the fact there have been failings. Looking forward, we would stress that it is essential for the BBC to engage actively and transparently with stakeholders on an ongoing basis if it is to fulfil its obligations under the Charter to protect competition.

2. Background

The purpose of BBC Competition Assessments

- 2.1 The BBC's mission is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain. To ensure it continues to deliver programmes which fulfil its mission and public purposes,¹ over time the BBC will need to make changes to its existing activities or develop new services, to better meet the needs of audiences. As noted in the BCA Consultation,² given the risk of harm to competition from material changes the BBC makes, competition assessments (BCAs) exist in order to protect fair and effective competition.³
- 2.2 A key part of the background for this BCA is that the way in which people are watching television is changing rapidly. Viewers not only expect to be able to choose what they watch, but how, when and where they watch it. In response to these developments, there have been significant developments in recent years in video on demand (VOD)⁴ services from companies such as Netflix and Amazon Prime Video, as well as the UK's Public Service Broadcasters (PSBs).
- 2.3 The BBC has proposed to extend the availability of content on BBC iPlayer in order to keep pace with these evolving expectations; we agree the BBC should seek to meet viewers' expectations, but the changes it makes to do this must be considered under the framework of the Charter and Agreement. This will ensure that potential effects on other stakeholders, and particularly other UK broadcasters, can be properly considered and addressed through open consultation. As BBC iPlayer evolves over time, it will continue to be the case that proposed changes will need to be fully considered so that competition in the UK audio-visual (AV) sector is properly protected.

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

² Ofcom, 2019. [BBC iPlayer Competition Assessment: Consultation on Ofcom's provisional determination](#), paragraphs 2.2-2.4.

³ As we set out in Annex 1, the Agreement defines a material change as the carrying out of any activity as a new UK Public Service; and any change to a UK Public Service which may have a significant adverse impact on fair and effective competition: clause 7(7) of the Agreement.

⁴ For the purposes of this statement, VOD (video on demand) includes paid-for subscription video on demand (SVOD) (e.g. Netflix and Amazon Prime Video) and free broadcaster video on demand services (BVOD) (e.g. BBC iPlayer, All 4) but not online video content from services such as YouTube and Facebook (excluding short-form video clips).

Public Interest Test on the BBC's longer-term iPlayer proposals

BBC Public Interest Test (PIT)

- 2.4 Last year, we concluded that the changes the BBC proposed to make to BBC iPlayer up until April 2019 (the 2018/19 Interim Changes) represented a material change, given the potential impact on other UK VOD services. We therefore directed the BBC to undertake a PIT on the proposals and said it should consider including its longer-term plans for BBC iPlayer in the PIT.⁵ Although we found the proposed changes to be material, we also recognised the need for BBC iPlayer to continue to develop. We therefore allowed the BBC to partially implement its proposals and extend the availability of some types of content for longer than 30 days, under Interim Directions which applied from 2 November 2018.⁶
- 2.5 The BBC published a consultation on the longer-term changes it wants to make to BBC iPlayer (the BBC PIT Consultation) on 7 January 2019. In that consultation, it set out high-level proposals, indicating that it seeks to make all programmes available for at least 12 months.⁷ On 25 April 2019, the BBC published its PIT document,⁸ which set out its BBC iPlayer proposals (the Proposals)⁹ in more detail.

The Proposals that have been assessed in this BCA

- 2.6 The Proposals include making content available on BBC iPlayer for 12 months after the final episode has been published as standard, with some content available for a longer period of time. The BBC states that the Proposals will “transform BBC iPlayer from a catch-up service into a destination”.¹⁰ The main detail of the Proposals is set out in Chapter 4 of the BBC iPlayer PIT document.¹¹
- 2.7 For the purpose of this BCA, the Proposals¹² we have considered are as follows:¹³
- a) For drama and scripted comedy programmes:
 - i) all new programmes to be available on iPlayer for a standard 12 months from the first availability¹⁴ of the final episode in the current series;

⁵ Ofcom, November 2018. [Review of the BBC's Materiality Assessment of Proposed Changes to the BBC iPlayer.](#)

⁶ Ofcom, November 2018. [Review of the BBC's Materiality Assessment of Proposed Changes to the BBC iPlayer: Final interim directions.](#)

⁷ BBC, 2019. [BBC iPlayer proposals: Public Interest Test consultation.](#)

⁸ BBC, 2019. [BBC iPlayer Public Interest Test.](#)

⁹ For the purposes of this document the Proposals are the changes described in paragraphs 2.6-2.9.

¹⁰ BBC, 2019. [BBC iPlayer Public Interest Test](#), paragraph 21. As explained further in paragraph 78b of the BBC PIT, the BBC seeks to “change audience perceptions of BBC iPlayer to a destination in its own right” and turn it into “a place to discover great content, whether live or on-demand, brand new or archive. BBC iPlayer will no longer be just a catch-up service”.

¹¹ In particular, the scale and nature of the Proposals are outlined in Figure 16 of the [BBC's PIT document](#).

¹² This summarises the Proposals set out in the [BBC's PIT document](#), in particular Figure 16 on page 31.

¹³ The following exclude acquisitions and commissions for BBC Three.

¹⁴ As noted in the BBC PIT, this is availability from when the final episode in the current series is first published on BBC iPlayer. BBC, 2019. [BBC iPlayer Public Interest Test](#), paragraph 80.

- ii) up to 50% of current returning¹⁵ scripted titles available as full box sets¹⁶ (c.25 titles each year);¹⁷
 - iii) up to 50% of non-returning scripted titles available for a further¹⁸ 12 months (c.25 titles each year); and
 - iv) up to 35 scripted archive¹⁹ titles available at any one time.
- b) For children's programmes:
- i) all new programmes to have a standard 5-year availability;
 - ii) all previous series of returning titles available as full box set (c.30 titles at any one time); and
 - iii) c.50 children's archive titles available as full box sets (all series) at any one time.
- c) All other commissions:
- i) all new programmes to be available for a standard 12 months from the first availability of the final episode in the current series;
 - ii) returning titles available as full multi-series box sets (c.25 titles at any one time);
 - iii) a variable volume of predominantly non-commercial, non-returning singles²⁰ and one-off non-returning series available beyond the initial 12 months (c.100 individual series each year); and
 - iv) a variable volume of predominantly non-commercial archive titles (c.50 series each year).
- d) Linear repeats:
- i) All repeats, outside of the initial or extended VOD availability, are to be available on iPlayer for 30 days from the linear transmission of the final episode in the series.

Exclusivity of content after the initial 12 months

2.8 As part of the Proposals, we expect that most (if not at all) new programmes would be available on BBC iPlayer on an exclusive basis during the first 12 months (or the first five years for children's content). However, our understanding of the Proposals is that the vast

¹⁵ A 'returning series' is a TV title that is currently being commissioned, which was also broadcast (or otherwise made available) in previous years.

¹⁶ Being available as a 'full box set' means that all series (including previous series) of a TV programme title are made available on a VOD service. As explained in the BBC PIT, the BBC proposes "to make selected returning titles available as full box sets of all series, while the title is still being commissioned". BBC, 2019. [BBC iPlayer Public Interest Test](#), paragraph 91.

¹⁷ The BBC PIT indicates the volumes of programmes the BBC expects to make available as full box sets over the next three years in Figure 16. BBC, 2019. [BBC iPlayer Public Interest Test](#), paragraph 95.

¹⁸ As indicated in the BBC PIT, the BBC "will select a limited number to keep up for a further 12 months, beyond their initial window". BBC, 2019. [BBC iPlayer Public Interest Test](#), paragraph 96.

¹⁹ The BBC defines 'archive' titles as those that "that are no longer being commissioned". BBC, 2019. [BBC iPlayer Public Interest Test](#), paragraph 98.

²⁰ The term 'singles' refers to individual, one-off programmes which are not part of a series.

majority of returning series, non-returning series and archive series would not be exclusively available on BBC iPlayer after the initial 12-month period.²¹ [38].

Acquisitions

2.9 The BBC said in its PIT that as part of the Proposals, it would continue to acquire programmes in the secondary market²² for broadcast on its TV channels. It said it would seek to make these available on BBC iPlayer for at least 12 months, with the upper limit of their availability being dependent on what the BBC can secure in negotiation with sellers. Further to what the BBC said in its PIT,²³ we expect that as part of the Proposals, acquisitions²⁴ will make up no more than a “small proportion” of BBC iPlayer’s overall offering. We note, the BBC already has quotas in place requiring that 75% of hours on BBC One, Two and Four are original productions and that 90% of peak time hours on BBC One and Two are original.

Review of the BBC’s PIT and launch of the BCA

- 2.10 We decided that the Proposals were material and a BCA should be launched. We sought initial views from stakeholders on both the BBC’s PIT and the issues we would be examining in the BCA in our ‘First consultation on proposed changes to BBC iPlayer – call for evidence’ (First Consultation).²⁵
- 2.11 Several stakeholders expressed dissatisfaction with the level of detail published about the Proposals during the BBC’s PIT process in response to our First Consultation. In the BCA Consultation we said that it would have been preferable for the BBC to ensure that there is sufficient, transparent information on its proposals in any PIT consultation so that stakeholders can comment meaningfully on them.²⁶
- 2.12 However, our view was that the information provided by the BBC in its PIT publication of 25 April 2019 was sufficiently detailed to allow us to initiate a BCA. We also considered that, with the publication of the BBC’s PIT document, our First Consultation, and the BCA Consultation, stakeholders would have sufficient information to comment on the Proposals, and that we were able to make a determination.²⁷ We consider the BBC’s procedures during its PIT process, as well as the views of stakeholders on this matter, in more detail in Section 4.

²¹ Exclusive availability means the rights holder of the programme is not able to license the rights to the programme to another UK VOD service. This would not include programmes where the rights holder chooses not to license the programme elsewhere or where other VOD services choose not to acquire those rights.

²² By the ‘secondary market’, we refer to the sale of programme rights outside of the original commission – in this case, the BBC is buying the rights to show programmes that were originally commissioned by another broadcaster or SVOD service.

²³ BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 90.

²⁴ By acquisitions we mean programmes that were originally produced for and shown by another broadcaster or SVOD service before appearing on the BBC, rather than programmes made specifically for the BBC.

²⁵ Ofcom, 2019. [First Consultation](#)

²⁶ Ofcom, 2019. [BCA Consultation](#), paragraphs 2.14-2.15.

²⁷ Ofcom, 2019. [BCA Consultation](#), paragraphs 2.16.

Consultation on our provisional determination

- 2.13 Following the launch of the BCA, we followed the approach set out in our guidance²⁸ and we:
- a) reviewed the BBC's assessment of public value;
 - b) undertook our own assessment of whether the changes that would result from the BBC's proposals would have an adverse impact on fair and effective competition; and
 - c) concluded our assessment of whether the public value of the proposals justifies any adverse impact they may have on fair and effective competition.²⁹
- 2.14 Our role during the BCA process, as well as the issues that we are required to consider, are set out in more detail in Annex 1 (legal framework).
- 2.15 On 12 June 2019 we published our BCA Consultation which set out our provisional determination that the public value of the proposed changes to BBC iPlayer justifies the adverse impact on fair and effective competition we identified.³⁰ We therefore reached the provisional conclusion that the BBC could proceed with the Proposals. However, we had some concerns as to whether the public value that the changes could deliver would be realised. This is because the BBC provided limited explanation as to how it would ensure that this public value was delivered in its PIT.
- 2.16 We explained that we wanted the BBC to report in depth on how BBC iPlayer contributes to the delivery of its mission and public purposes. We proposed to impose conditions on the BBC requiring it to set out how the mission and public purposes would be delivered for people engaging with the BBC increasingly through BBC iPlayer; performance measures including availability, consumption and impact; and how the BBC has had regard to the effects of BBC iPlayer on competition in the UK.³¹

Structure of document

- 2.17 The remainder of this statement sets out the approach we have taken in this assessment:
- In Section 3, we explain stakeholders' views on our provisional conclusions in the BCA Consultation, as well as set out our final conclusions on the increase in BBC iPlayer viewing, the public value of the Proposals, and their impact on fair and effective competition.
 - In Section 4, in light of our analysis in the preceding section, we set out our final determination that the BBC may carry out the Proposals, subject to specified conditions and guidance.

²⁸ Ofcom, March 2017. [Assessing the impact of proposed changes to the BBC's public service activities](#) (the 'BCA guidance').

²⁹ Clause 10 of the Agreement. Section 5 of the BCA guidance explains the analytical approach we expect to apply.

³⁰ Our provisional determination is set out in more detail in Section 7 of the [BCA Consultation](#).

³¹ Ofcom, 2019. BCA Consultation, paragraph 7.18.

- 2.18 Except where noted, we continue to rely on the evidence and analysis in the BCA Consultation; this statement should be read alongside that document.

3. Consultation responses and our revised conclusions

- 3.1 In this section we recap on our provisional conclusions from our BCA Consultation and summarise consultation responses. We then explain the final conclusions we have reached in light of those responses. We have also published all non-confidential responses alongside this statement.
- 3.2 This section is structured as follows:
- Sector developments;
 - Increase in BBC iPlayer viewing and how this affects viewing of alternatives;
 - Review of public value; and
 - Assessment of market impacts.

Sector developments

- 3.3 In our BCA Consultation, we noted that in recent years the amount of live TV³² viewed by UK audiences has been in long-term decline, particularly among younger adults and children.³³ During this time, SVODs, including global offerings such as Netflix and Amazon, have entered the UK market and now attract millions of subscribers and take a growing share of total viewing time. Given these market developments, PSBs are seeking to strengthen their VOD platforms (these platforms, as well as other broadcaster-owned VOD services, are known as BVODs). Strategies include offering a wider range of content, such as archive series³⁴ and VOD exclusives, or (in the case of the commercial PSBs) offering advertising-free versions which are paid for by subscription. ITV has also announced plans for a new subscription VOD (SVOD) service, BritBox, in partnership with the BBC.³⁵

Stakeholder comments

- 3.4 Stakeholders generally agreed with our assessment of market developments in the UK AV sector. Pact said that PSBs have responded effectively to the changing demands of the UK market, as shown by the fact that the four main PSB VOD players remain in the top seven UK VOD players, and BBC iPlayer is the VOD service with the most users in the UK. Pact argued that the threat to PSBs from global SVOD services should therefore not be exaggerated.³⁶ Similarly, NBCUniversal argued that although SVOD providers are increasing

³² Also sometimes referred to as ‘scheduled TV’ or ‘linear TV’.

³³ Ofcom, 2019. [BCA Consultation](#), Section 3.

³⁴ ‘Archive series’ are series from programmes that are no longer being commissioned. For example, series from past programmes such as *Gavin and Stacey*, *Life on Mars* and *Shameless*.

³⁵ ITV Press Centre, July 2019. [Full stream ahead for BritBox in UK as ITV and BBC sign agreement](#).

³⁶ Pact, 2019. Pact’s response to the BCA Consultation, paragraphs 7.3-7.4.

their commissioning of UK-produced content, their spending is still modest compared to the amount spent by the main PSBs.³⁷

The increase in BBC iPlayer viewing and how this affects viewing of alternatives

Our provisional findings

- 3.5 In order to inform our assessment of the market impact and public value of the Proposals, we estimated the increase in BBC iPlayer viewing as a result of the Proposals and considered which other services would be affected by this growth in viewing.³⁸
- 3.6 We developed a model to estimate the future increase in BBC iPlayer viewing, starting from actual viewing data and extrapolating out to 2020 (the first year we assume the Proposals are implemented in full).³⁹ We built three different impact scenarios. We estimated that BBC iPlayer viewing in 2020 would increase by 15% to 44% (our central case was 34%) excluding children's content and by 21% to 52% (our central case was 41%) including children's content, compared to a case without the Proposals. The Communications Chambers (CC) model prepared for the BBC estimated that the Proposals would lead to a 27% increase in BBC iPlayer viewing in 2020.⁴⁰
- 3.7 We used market research and the CC model to estimate which services audiences were likely to spend less time viewing as a result of any increased viewing of BBC iPlayer. The evidence suggested audiences might switch from a range of activities, including BVOD and SVOD services, live TV and other activities. Excluding the proposed increase in children's content, our analysis suggested a loss in viewing minutes for BVODs of 0.6% to 3.4% and for SVODs of 0.1% to 1.1%, although we recognised that an individual BVOD or SVOD service might see a larger percentage change in viewing than implied by these overall figures. We also found that live TV viewing minutes might fall by up to 0.4%. We were not able to perform an equivalent exercise for the proposed increase in children's content availability due to a lack of suitable evidence. While the BBC assumed that the pattern of switching would be the same as for other content, we considered that children's viewing patterns are very different to those of adults.
- 3.8 In the remainder of this subsection, we set out stakeholder comments and our response to these. First, we respond to Pact's comment on the reliability of our evidence on viewing impacts. Second, we consider the evidence submitted by Channel 4 on the potential impact of the Proposals. Third, we consider the BBC's additional evidence on potential substitution from rival children's content providers. Finally, we set out the updates we have made to

³⁷ NBCUniversal, 2019. NBCUniversal's response to the BCA Consultation, paragraph 11.

³⁸ We set out how we estimated the increase in BBC iPlayer viewing and the subsequent impact on the viewing of other services in more detail in Section 4 and Annex 2 of our [BCA Consultation](#).

³⁹ In addition, we modelled future viewing of BVOD and SVOD services.

⁴⁰ Communications Chambers, 2019. [Forecast of the viewing impact of proposed changes to BBC iPlayer](#), Figure 7.

our modelling and present our updated estimates of the impact of the Proposals on BBC iPlayer viewing and the viewing of rivals.

Pact's concern about the reliability of our evidence on viewing impacts

Stakeholder comments

3.9 Pact first expressed concern that we made our provisional decision without reliable evidence for the impact on the audiences of BVOD services beyond the first full year affected by the Proposals.⁴¹ Second, Pact also expressed disappointment that our assessment of the increase in BBC iPlayer viewing was based on the “very limited data” from the BBC on viewing of box sets⁴² added to BBC iPlayer as part of the 2018/19 Interim Changes.^{43,44}

Our response

3.10 In response to Pact's first concern, we refer to the reasoning we set out in our BCA Consultation.⁴⁵ Whilst we presented modelling estimates for 2020, we assessed the impact of the Proposals on a forward looking basis, not just in a single year, and our assessment also drew upon qualitative evidence.⁴⁶ We recognise that there is a degree of uncertainty inherent in modelling the actual impact of the Proposals. We consider that figures for 2020 (the first full year affected by the Proposals) are more reliable than for later years and hence we reported those. In brief, our reasoning for the impact on investment by SVOD and live TV services is unlikely to be affected by modest departures from the figures reported for 2020. However, looking over a longer time period, the impact on BVOD services and their incentives to invest may be larger or smaller than our 2020 estimates

⁴¹ Pact, 2019. Pact's response to the BCA Consultation, paragraph 4.2.

⁴² A 'box set' is a series of a TV programme title, which is made available for viewing on a VOD service in its entirety.

⁴³ Pact said the possibility cannot be excluded that the BBC specially selected popular titles on live TV between June 2018 and January 2019 in the knowledge that such content would also appeal to younger age groups and that this “heavily selective sample” would then exaggerate the benefits of increased availability on BBC iPlayer. See Pact, 2019. Pact's response to the BCA Consultation, paragraph 3.5.

⁴⁴ Pact also submitted a confidential report by Oliver & Ohlbaum Associates Limited (O&O) on the implications of the Proposals for the Terms of Trade intervention. O&O argued that, because the evidence provided by the BBC on the likely impact of the Proposals on consumption patterns and subsequent usage was only based on a small sample of programmes for a temporary window extension, this cannot be used to predict the impact when all programmes are available in the new windows and when consumer behaviour adapts to the certainty of the longer-term free access that brings. O&O considered it is also likely that, to maximise the value to licence fee payers of the 12-month window and the 60-month window for children's commissions, the BBC will start to heavily promote previous series' box sets prior to the launch of subsequent series, clustering even more of the consumption into the primary licence period. See Oliver & Ohlbaum Associates Limited, 2019. *The BBC's proposed extended iPlayer window and the implications for Terms of Trade intervention*, page 5.

⁴⁵ Ofcom, 2019. *BCA Consultation*, paragraphs 4.6-4.7, A2.17-A2.18 and A2.34.

⁴⁶ In the *BCA Consultation*, we recognised qualitatively that the impact would be smaller if the Proposals were not fully implemented (paragraph 4.8). While a sense of the scale of the impact of the Proposals did inform our assessment of the impact on investment, we also drew on other qualitative factors (see paragraphs A3.41-A3.44, A3.54-A3.58 and A3.62).

(although we have no basis to suggest the impact is more likely to be larger than smaller overall).⁴⁷

- 3.11 Regarding Pact's second concern, we consider that the BBC's viewing data from the 2018/19 Interim Changes represents a reasonable sample for the purposes of modelling the potential increase in BBC iPlayer viewing resulting from the Proposals.⁴⁸

Channel 4's analysis of the viewing impact of the Proposals

Stakeholder comments

- 3.12 Channel 4 considered that we had significantly underestimated the likely increase in BBC iPlayer viewing resulting from the Proposals and the impact on the viewing of other services, particularly viewing of All 4.⁴⁹ Channel 4 referred to the analysis it submitted in response to our First Consultation, which concluded that the Proposals will result in: a [3<] % uplift in BBC iPlayer viewing; and a [3<] % reduction in All 4 viewing.⁵⁰ In particular, Channel 4 noted that we assumed a much lower share of the increased BBC iPlayer viewing would come from All 4 compared to its analysis.⁵¹ While recognising that market forecasts of this kind are complex and there is an inevitable element of uncertainty to them, Channel 4 remained concerned that there is a highly credible scenario where its forecasts are proved to be accurate, with damaging financial consequences for Channel 4.⁵²

Our response

- 3.13 We have reviewed Channel 4's analysis again and considered the possible sources of the differences with our estimates. For the reasons set out below, we consider that Channel 4's estimates of the uplift in BBC iPlayer viewing and the reduction in All 4 viewing are too high and likely to overestimate the impact of the Proposals.

Comparison with Channel 4's estimates of the increase in BBC iPlayer viewing

- 3.14 Channel 4 estimated a higher increase in BBC iPlayer viewing than we did. As we set out in our BCA Consultation,⁵³ a key assumption made by Channel 4 was that none of the viewing of the additional content added to BBC iPlayer cannibalises existing BBC iPlayer viewing.

⁴⁷ In addition, as we explained in our BCA Consultation, we recognise that the impact on individual BVODs could be higher than the average impact across other BVODs, if a particular BVOD is a closer substitute to BBC iPlayer than the average. We have taken this into account when modelling possible revenue impacts on individual BVOD services. See Ofcom, 2019. [BCA Consultation](#), paragraphs 6.6, 6.11, A3.12-A3.13 and A3.39-A3.40.

⁴⁸ The BBC's 2018/19 Interim Changes data covered viewing of 254 series available on BBC iPlayer from 8 June 2018 to 31 January 2019, which included 79 new and latest series, 71 previous series, 67 archive series and 30 children's series.

⁴⁹ Channel 4, 2019. Channel 4's response to the BCA Consultation, page 3.

⁵⁰ This compares to the BBC's forecast of a 2.9% reduction in All 4 viewing and our estimated range for the reduction in viewing of other BVODs of 0.6%-3.4% (rising to 2.6%-5.1% when assessing the possible impact on individual BVODs) relative to the counterfactual in 2020. See Channel 4, 2019. Channel 4's confidential response to the BCA Consultation, pages 2-4. Frontier Economics, 2019. [Changes to BBC iPlayer: Competition assessment](#), Figure 28. Ofcom, 2019. [BCA Consultation](#), paragraph 7.5 b).

⁵¹ Channel 4, 2019. Channel 4's confidential response to the BCA Consultation, page 4.

⁵² Channel 4, 2019. Channel 4's response to the BCA Consultation, page 4.

⁵³ Ofcom, 2019. [BCA Consultation](#), paragraphs A2.33 and A2.66.

We still disagree with Channel 4's assumption. Rather, we consider it is likely that a considerable degree of cannibalisation will occur.⁵⁴ Therefore, we consider that Channel 4's estimate of the increase in BBC iPlayer viewing is too high.⁵⁵

Comparison with Channel 4's estimates of the reduction in All 4 viewing

- 3.15 Channel 4 also estimated a higher reduction in All 4's viewing than we did. Its key assumption was that the increase in BBC iPlayer viewing would come from All 4 in proportion to All 4's share of the "professional VOD market" (excluding BBC iPlayer).⁵⁶ Channel 4 considered that, while simplistic, this assumption balances the fact that some viewing will be taken from live TV (suggesting an overstatement of the impact on All 4) against the fact that the extra BBC iPlayer content will be a closer substitute for All 4 than ITV Hub and Netflix (suggesting an understatement of the impact on All 4).⁵⁷
- 3.16 We consider that Channel 4 has overestimated the proportion of the increase in BBC iPlayer viewing that would likely come from All 4. This is because, as we set out in our BCA Consultation,⁵⁸ we consider that some of this increased viewing is likely to be drawn from non-VOD services, such as live TV and other activities. As we set out in our BCA Consultation, the survey evidence we reviewed suggests that 46%-81% of the increase in BBC iPlayer viewing might come from services other than VOD services.⁵⁹

Comparison with BBC iPlayer's share of VOD viewing implied by Channel 4's analysis

- 3.17 The higher BBC iPlayer's share of VOD viewing, the higher will be the viewing impacts on rivals. Intuitively, if the BBC's share of VOD viewing were twice as large then, for a given percentage increase in BBC iPlayer viewing, twice as much needs to come from competing services.⁶⁰ We consider that Channel 4 has overestimated BBC iPlayer's share of VOD viewing, meaning it has overstated the impact on rival services.

⁵⁴ For example, in our 'medium' impact scenario we used a cannibalisation rate of 34%. This reflects consumer survey evidence. See Ofcom, 2019. [BCA Consultation](#), paragraph A2.48.

⁵⁵ In addition, Channel 4 applied its estimated percentage increase in BBC iPlayer viewing to an estimate of total BBC iPlayer views in 2018. It is unclear whether Channel 4 has removed from this total an estimate of the incremental viewing of the box sets from the 2018/19 Interim Changes. Failure to do so would result in an overestimate of the absolute increase in BBC iPlayer viewing. See information from excel spreadsheet titled 'Channel 4 Impact on viewing.xlsx', provided as part of Channel 4 response to Ofcom information request dated 26 April 2019.

⁵⁶ Channel 4 referred to the "professional VOD market", which it based on 3Reasons data on long-form TV programming VOD requests in 2017. See Channel 4, 2019. Channel 4's response to the First Consultation, page 6; information from excel spreadsheet titled 'Channel 4 Impact on viewing.xlsx', provided as part of Channel 4 response to Ofcom information request dated 26 April 2019; and information from excel spreadsheet titled '3Reasons VoD Data.xlsx', provided in email from Channel 4 to Ofcom dated 19 July 2019.

⁵⁷ Channel 4, 2019. Channel 4's response to the First Consultation, page 6.

⁵⁸ Ofcom, 2019. [BCA Consultation](#), paragraphs 4.19 and A2.95.

⁵⁹ Ofcom, 2019. [BCA Consultation](#), Table A2.12. Also, in terms of Channel 4's observation that some rival services may be particularly close substitutes for BBC iPlayer (and therefore more affected by the Proposals), we took this into account by uplifting viewing impacts on other BVODs in our 'high' impact scenario by 50%. See Ofcom, 2019. [BCA Consultation](#), paragraphs A3.13 and A3.39.

⁶⁰ To illustrate, suppose the BBC's share of VOD viewing were 10% and this increased by a fifth as a result of changes to its offering, i.e. from 10% to 12%. Assuming no market growth, rivals' share decreases from 90% to 88%. In contrast, if the BBC's share of VOD viewing were 20% then that increase of a fifth raises it from 20% to 24%, meaning rivals' share falls from 80% to 76%. In this latter scenario, the proportionate impact on rival services is (approximately) doubled.

- 3.18 Channel 4's analysis implies that BBC iPlayer had a [3<] share of VOD viewing.⁶¹ In contrast, we estimate that BBC iPlayer's share of VOD viewing minutes was 9% in 2018.⁶² We acknowledge that accurately estimating BBC iPlayer's share of VOD viewing is difficult. However, we prefer our estimates for the following reasons:
- a) They are based on 2018 data, while Channel 4 uses 3Reasons data from 2017 to inform its view on switching away from All 4. Given the recent rapid growth in SVOD, we consider that working from 2018 data gives a more accurate picture of the VOD market.
 - b) They are based on viewing minutes, which we consider to be more appropriate than viewing requests⁶³ for the purposes of estimating the impact on rivals' revenues.
 - c) We have carefully constructed estimates of viewing figures for BBC iPlayer and other VOD services. These are used in our Media Nations⁶⁴ and BBC Performance Report⁶⁵ publications. Use of these figures is also consistent with the modelling we have done in this BCA.⁶⁶

Our conclusion on Channel 4's analysis of the viewing impact of the Proposals

- 3.19 Overall, we consider that Channel 4's estimates of the uplift in BBC iPlayer viewing and the reduction in All 4 viewing are too high and likely to overestimate the impact of the Proposals.

The BBC's additional evidence on potential substitution for children's content

Stakeholder comments

- 3.20 Regarding children's content, the BBC undertook analysis of average weekly reach of non-BBC VOD services,⁶⁷ which it said suggested the pattern of reach of those services amongst children is similar to that of adults.⁶⁸ It claimed its analysis suggested the "lion's share" of additional BBC iPlayer viewing of children's content that comes from SVODs would come

⁶¹ [3<], based on 3Reasons data. See information from excel spreadsheet titled 'Channel 4 Impact on viewing.xlsx', provided as part of Channel 4 response to our information request dated 26 April 2019; and information from excel spreadsheet titled '3Reasons VoD Data.xlsx', provided in email from Channel 4 to our email dated 19 July 2019.

⁶² This is our starting figure, which is then adjusted downwards given the purpose of our modelling. In particular, we take out some BBC iPlayer viewing (since some aspects of the Proposals had already been partially implemented in 2018) and extrapolate to 2020 (since this is the year our modelling focuses on). For further details, see Annex 4 of this document and the [BCA Consultation](#), paragraphs A2.6-A2.29.

⁶³ The BBC defines 'requests' as the number of successful requests to stream or download a programme. Channel 4 defines a 'VOD view' as occurring when a clip or full-length programme is accessed on a VOD platform. See BBC, 2019. [Performance Report, January 2019](#), page 12. Channel Four, 2019. [Report and Financial Statements 2018](#), page 161.

⁶⁴ <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/media-nations>.

⁶⁵ <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/bbc-operating-framework/performance/bbc-annual-report>.

⁶⁶ Ofcom, 2019. [BCA Consultation](#), paragraphs A2.21-A2.27.

⁶⁷ This analysis was based on claimed weekly reach of non-BBC BVOD and SVOD services over the period Q4 2017 to Q4 2018, taken from CMM (a diary-based survey of respondents aged 16+) and Children's CMI. See BBC, 2019. BBC's response to the BCA Consultation, Section 2.3.

⁶⁸ BBC, 2019. BBC's response to the BCA Consultation, Section 2.3.

from Netflix, followed by Amazon Prime Video and then Now TV. Amongst BVOD services it would expect the impact to be spread across All 4 and ITV Hub, with the least additional viewing coming from My5.⁶⁹ The BBC also said that children spend a large amount of time online and a significant amount of this time is spent watching clips or user-generated content. In light of this usage data, the BBC concluded that the uplift in BBC iPlayer viewing of children's content is unlikely to come from other BVOD services.

Our response

- 3.21 We said in our BCA Consultation that we expected the pattern of switching to be different for children compared to adults since children's viewing habits are different to adults' and because children's programming on the BBC is different in character to that provided by other services.⁷⁰ Having considered the BBC's data, we continue to believe that this is the case. As we set out in our BCA Consultation, children spend less time viewing live TV than adults, and qualitative research suggests that YouTube and Netflix are particularly important to children.⁷¹ The BBC's data shows that some VOD services (particularly Netflix) have higher weekly reach amongst children than adults, while some PSB BVOD services have lower reach amongst children, suggesting that children's current viewing patterns are likely to be different to adults, as is their likely pattern of switching between services.
- 3.22 We do not go as far as the BBC, which concludes that switching is unlikely to come from other BVOD services. It might not be the case that the services that currently have highest reach see the largest reductions in viewing as a result of the changes, particularly as we do not have good evidence of time spent with different services. As explained in our BCA Consultation, there is limited data on substitution. That said, we agree with the BBC that it is plausible that impacts are likely to be distributed across a range of providers. We discuss the impact of the Proposals on investment in children's content in further detail below.

Updating our estimates of the viewing impacts of the Proposals

- 3.23 In response to points raised by stakeholders and as part of our consideration of the differences between our modelling and the analysis undertaken by Channel 4 and the BBC (set out earlier in Section 3), we have revisited our modelling of the potential impact on BBC iPlayer viewing resulting from the Proposals. This has led us to make two updates to our modelling, which we describe in Annex 4.

Updating our estimates of the increase in BBC iPlayer viewing

- 3.24 The combination of our two modelling updates has the effect of lowering the upper bound of our estimated range, which tightens our range for the increase in BBC iPlayer viewing from 15%-44% to 14%-24% (excluding children's content) and from 21%-52% to 20%-33% (including children's content). Figure 3.1 below⁷² breaks down the drivers of the revised

⁶⁹ The BBC assumed that reach is correlated with time spent viewing VOD services.

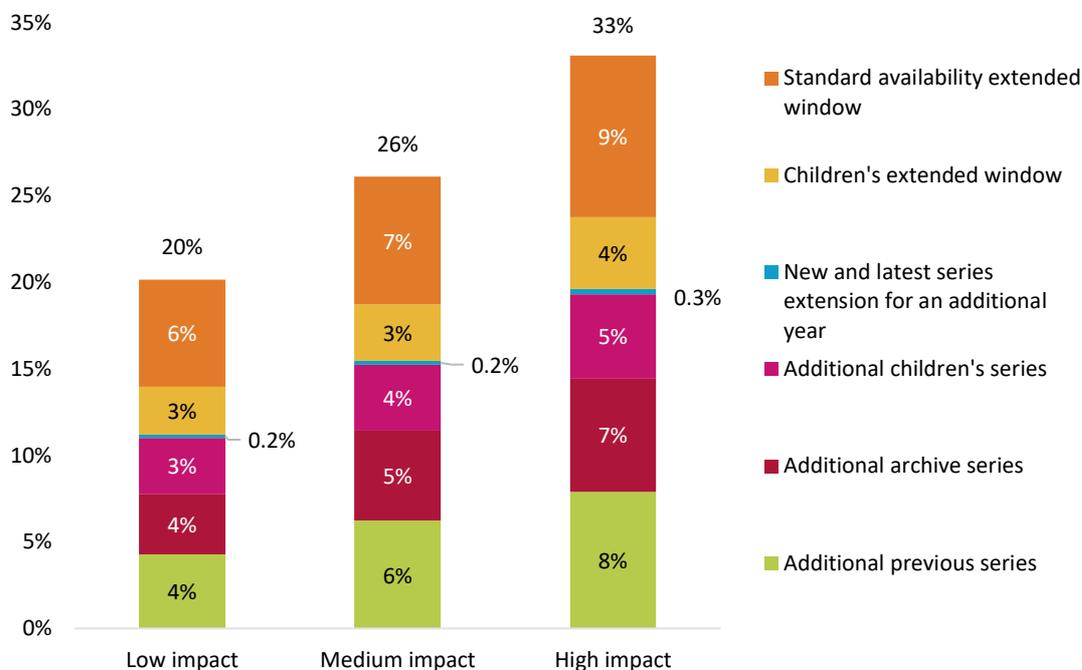
⁷⁰ Ofcom, 2019. [BCA Consultation](#), paragraphs 4.23 and A3.66-A3.68.

⁷¹ Ofcom, 2019. [BCA Consultation](#), paragraph A3.66.

⁷² Figure 3.1 below updates Figure 4.1 in our [BCA Consultation](#).

estimated increase in BBC iPlayer viewing in our three impact scenarios. The CC model's estimate of a 27% increase in BBC iPlayer viewing in 2020 is still within our range of estimates (including children's content), towards the middle of this range.

Figure 3.1: Updated BBC iPlayer viewing increase for each impact scenario, split by proposal



Figures may not sum due to rounding

Updating our estimates of the viewing impact on BVODs and SVODs

3.25 In our BCA Consultation,⁷³ we set out our provisional view on the proportion of BBC iPlayer viewing that might switch from each type of service (i.e. BVOD, SVOD, live TV and other activities).⁷⁴ Stakeholders did not comment on this evidence and we have not changed our view on these patterns of substitution.

3.26 However, the two modelling updates we have made (described in Annex 4) affect our previous estimates of the increase in BBC iPlayer viewing and therefore also the impact on different VOD services. Table 3.1 below⁷⁵ presents the revised estimated change in viewing that different VOD services might face as a result of the Proposals. The columns in the table show the estimates for the different rates of switching implied by the different survey results we have relied on. In the table, we also show ranges reflecting our revised forecast range for the increase in BBC iPlayer viewing (excluding children's content).

⁷³ Ofcom, 2019. [BCA Consultation](#), paragraph 4.19.

⁷⁴ As explained in our BCA Consultation, we commissioned Kantar Media to conduct an online quantitative survey of 4,000 people and a face-to-face survey of 2,060 people (the Kantar Survey). Our provisional view on the proportion of BBC iPlayer viewing that might switch from each type of service was based on evidence from the Kantar Survey and the assumptions in the CC model prepared for the BBC. See Ofcom, 2019. [BCA Consultation](#), paragraph 4.4. Kantar Media, 2019. [BBC iPlayer Competition Assessment Research Report](#). Communications Chambers, 2019. [Forecast of the viewing impact of proposed changes to BBC iPlayer](#).

⁷⁵ Table 3.1 below updates Table 4.1 in our [BCA Consultation](#).

Table 3.1: Updated impact on BVOD and SVOD viewing under different scenarios (excludes children’s content)

	Estimated percentage reduction in VOD viewing minutes due to the Proposals			
	Kantar Survey: forced diversion ⁷⁶	Kantar Survey: extended window ⁷⁷	Kantar Survey: expanded offering ⁷⁸	CC model (2020) ⁷⁹
Other BVOD	1.2% - 2.0%	0.8% - 1.4%	0.9% - 1.6%	0.6% - 1.0%
SVOD	0.4% - 0.7%	0.1% - 0.1%	0.1% - 0.2%	0.2% - 0.3%

Source: Ofcom analysis. We describe these scenarios further in Annex 4 (see Table A4.4 and Table A4.5).

Note: Ranges reflect ‘low’ to ‘high’ impact scenarios for the increase in BBC iPlayer viewing.

Our conclusion on the viewing impacts of the Proposals

- 3.27 In conclusion, following our modelling updates we estimate that BBC iPlayer viewing in 2020 will increase by 14%-24% (our central case is 19%) excluding children’s content, rising to 20%-33% (with a central case of 26%) including children’s content.⁸⁰ Around 27% of the total uplift in our central impact scenario is accounted for by the children’s content proposals.
- 3.28 We estimate a reduction in viewing minutes for BVODs of 0.6%-2.0% and for SVODs of 0.1%-0.7%. We also estimate a fall in live TV viewing minutes of up to 0.2%. We present more details on the viewing impacts on BVODs, SVODs and live TV in each of our impact scenarios in Annex 4. We recognise that the impact on individual BVODs could be higher than seen for overall substitution from BVODs, if a particular BVOD is a closer substitute to BBC iPlayer than the average. If we uplift our ‘high’ impact case by 50%, this would result in a reduction in viewing minutes for an individual BVOD of 1.5%-3.0%. We have taken this into account when we assess the implications for different VOD services in our assessment of potential market impacts later in Section 3.

Review of public value

- 3.29 In the BCA consultation, we carried out a review of the BBC’s public value assessment, as set out in its PIT. We considered:
- Personal value, the satisfaction gained by individuals as a direct result of the Proposals;
 - Social value, the wider societal benefits of the Proposals; and
 - Other sources of public value including those that may be more indirect or long-term.

⁷⁶ Based on our analysis of questions BQ.1 and BQ.2Ai of the Kantar Survey. See Annex 2 of our [BCA Consultation](#) for more detail.

⁷⁷ Based on our analysis of adjusted response data to questions CQ.1 and CQ.2B of the Kantar Survey.

⁷⁸ Based on our analysis of adjusted response data to questions DQ.1 and DQ.2B of the Kantar Survey.

⁷⁹ Based on the CC model. See Annex 2 of the [BCA Consultation](#) for more detail.

⁸⁰ We built three different impact scenarios. Details of our analysis are set out in Annex 2 of our [BCA Consultation](#).

- 3.30 We also focused on the *additional* public value created by the BBC's Proposals, taking into account any reductions in public value as a result of the changes.
- 3.31 We considered the arguments raised and analysis conducted by the BBC within our framework, and also carried out additional analysis of the public value generated by the Proposals where we felt additional detail was necessary.
- 3.32 We concluded that the BBC's view of the public value generated by the Proposals was reasonable. We were satisfied that the Proposals could deliver significant personal value by better meeting audience expectations, and social value by increasing viewing of content which delivers the BBC's mission and public purposes and safeguarding the BBC's resilience for the future. However, while we believed that the potential to deliver this value was present in the Proposals, we had concerns about the extent to which this value would be realised. We therefore proposed to put in place conditions to address these issues.
- 3.33 Below we consider stakeholder responses to our review of the BBC's public value assessment, stepping through the three categories we set out above. The BBC, ITV and two individuals were supportive of our review and Directors UK, Equity and Pact echoed the concerns we raised, broadly in the context of social value and other sources of value.⁸¹ There was broad support for the introduction of conditions to provide additional assurance that public value will be delivered.

Personal value

Our provisional findings

- 3.34 In its assessment of the personal value offered by the proposed changes, the BBC discussed how its Proposals would allow BBC iPlayer to better meet modern audience expectations, which have been conditioned by SVOD providers. Its market research found that the Proposals had significant support from audiences who would spend more time with BBC iPlayer as a result. Almost two thirds of those surveyed felt that the Proposals would offer better value for money than the BBC's current offer.
- 3.35 We agreed with the BBC's assessment that the Proposals could increase personal value for users and could give audiences greater choice over what, how and when they can watch. Both the BBC's and our market research suggested that audiences would see BBC iPlayer more favourably after the changes. We believed the likely increase BBC iPlayer viewing as a result of the Proposals indicated the magnitude of the additional personal value that could be delivered. We said the extent of the value would depend on the quality of content the BBC commissions and its success in making people aware of BBC iPlayer improvements.

Stakeholder responses

- 3.36 The BBC noted that our provisional decision would allow it to deliver significant public value through BBC iPlayer.⁸² It stated that a standard programme availability of 12 months

⁸¹ [Responses to the BCA Consultation](#).

⁸² BBC, 2019. BBC's response to the BCA Consultation, pages 1-2.

would offer audiences a clearer proposition with fewer gaps, building confidence in BBC iPlayer as a destination, and would allow bolder commissioning decisions as programmes would have more time to find an audience. The BBC said that audiences expect VOD services to include box sets and their inclusion would provide greater value for the licence fee, and that its proposals for archive series enabled a “modern day repeats strategy”.⁸³

- 3.37 ITV was supportive of the BBC’s proposals and said that it recognised the importance of audiences getting value for money for their licence fee as technology changes. It stated that an extension of BBC iPlayer would enhance the service further.⁸⁴

Our response

- 3.38 Given respondents’ broad agreement on our review of the personal value created by the Proposals, and the additional assessment provided by the BBC, we confirm our provisional findings on this aspect of public value.⁸⁵

Social value

Our provisional findings

- 3.39 In its PIT, the BBC assessed the social value of the Proposals primarily by reference to how they would enable the BBC to better deliver its mission and promote its public purposes, and concluded that the Proposals would safeguard its ability to deliver them. The BBC’s qualitative research⁸⁶ found that audiences believed the Proposals would help the BBC to deliver public purposes two, three and four. The BBC also set out some risks identified in its research: that the changes must be communicated clearly, that the BBC must commission content to serve all age groups, and that the Proposals did not support the BBC’s ability to provide impartial news and information.
- 3.40 We considered that BBC content, on the whole, delivers social value through its contribution to the mission and public purposes. We believed that the Proposals have the potential to deliver social value through the estimated increase in viewing, but that there is some uncertainty around the kinds of titles the BBC would make available for longer than 12 months or bring back from its archive. We said that we would be concerned if the BBC selected titles simply to drive viewing to BBC iPlayer, and set out our expectation that the BBC consider its mission and public purposes when selecting those titles.
- 3.41 We also stated that the BBC’s proposal to increase the availability of children’s content to a period of five years had the potential to support the BBC’s delivery of its second purpose⁸⁷, by providing children with better access to informal learning content. We noted that the

⁸³ BBC, 2019. BBC’s response to the BCA Consultation, pages 1-2.

⁸⁴ ITV, 2019. ITV’s response to the BCA Consultation, page 1.

⁸⁵ As explained above, we have updated our range for the estimated increase in BBC iPlayer viewing as a result of the Proposals. As footnoted in Section 4, this also alters the range for the likely increase in public value.

⁸⁶ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slides 58-60.

⁸⁷ The BBC’s second public purpose is to support learning for people of all ages, as set out in paragraph 6.(1) of [Royal Charter for the continuance of the British Broadcasting Corporation \(December 2016\)](#).

BBC must consider the risk of audiences being less exposed to a broad range of content (and to news content in particular) as they shift from live TV to BBC iPlayer. Overall, we considered that the BBC's assessment was reasonable, but that there were questions as to how the potential social value would be realised through implementation of the Proposals and the BBC's exercise of editorial judgment with regard to BBC iPlayer.

Stakeholder responses

- 3.42 The BBC set out further details on how its proposal to extend the availability of children's programming to five years would deliver public value, including:⁸⁸
- a) The BBC stated that children are more likely than average to watch the same content multiple times and the small cohort children's programmes appeal to refreshes quickly as children get older.
 - b) The BBC noted our Children's Content Review finding that it plays an important and distinct role in children's programming given the limited offering of other broadcasters.
- 3.43 Pact⁸⁹ agreed that children's content tends to have a longer lifecycle than other genres as it is watched over the years by different generations, but along with Directors UK⁹⁰ expressed concerns about the impact of the proposals on the price of secondary rights.⁹¹ We did not receive any other comments on the social value created by the BBC's proposals around children's programming.
- 3.44 Directors UK⁹², Equity⁹³ and Pact⁹⁴ agreed with some of the concerns we raised in the BCA Consultation about the extent to which the potential public value of the Proposals would be realised. Directors UK and Pact both echoed our concerns about the BBC selecting titles to be available for longer than 12 months based on their popularity, rather than their public value. Directors UK and Equity agreed with our concerns about the risk of audiences being less exposed to a broad range content as they shift from live TV to BBC iPlayer, and less news content in particular. Directors UK also agreed with the importance of the BBC commissioning relevant content that reaches audiences, alongside its distribution.

Our response

- 3.45 We have taken into account the BBC's further assessment of the public value offered by its proposal to extend the availability of children's programmes. We remain of the view that the extended availability of children's programming in particular offers high social value, both with regard to the delivery of the BBC's mission and public purposes and the reputation of the BBC among younger audiences.

⁸⁸ BBC, 2019. BBC's response to the BCA Consultation, pages 6-9.

⁸⁹ Pact, 2019. Pact's response to the BCA Consultation, paragraph 6.4.

⁹⁰ Directors UK, 2019. Directors UK's response to the BCA Consultation, paragraphs 58-59.

⁹¹ Any impact of the proposals on secondary rights is discussed below in 'the Reduced value of secondary rights' section.

⁹² Directors UK, 2019. Directors UK's response to the BCA Consultation, paragraphs 11-18.

⁹³ Equity, 2019. Equity's response to the BCA consultation, pages 5-6.

⁹⁴ Pact, 2019. Pact's response to the BCA Consultation, paragraph 5.2-5.8.

- 3.46 We remain mindful of the concerns echoed by Directors UK, Equity and Pact as they represent a risk that the public value of the Proposals will not be fully realised by the BBC. However, we do consider that there is the potential for significant public value to be delivered through the increased viewing of BBC content, which contributes to the delivery of its mission and public purposes. As such, we believe it is appropriate to place conditions on the BBC to address our concerns and promote this delivery. These conditions are discussed further in Section 4.

Other sources of public value

Resilience of the BBC

Our provisional findings

- 3.47 In a number of places throughout its public value assessment, the BBC discussed the importance of the Proposals in allowing it to secure its relevance and reputation among audiences which, in turn, would safeguard the delivery of its mission and purposes, and therefore the long-term future of the BBC.
- 3.48 In the BCA Consultation, we said that for the BBC to continue to provide both personal and social value over time, it must ensure that audiences continue to engage with its content. Both our survey research and that of the BBC suggested that the Proposals could increase younger adults' engagement with BBC iPlayer. Overall, we concluded that the Proposals would contribute to the BBC's ability to deliver the mission and public purposes over the longer term. This is particularly relevant for younger audiences who are turning away from the BBC's services yet are critical to its future success.

Stakeholder responses

- 3.49 Pact argued that it was questionable whether 16-24 year olds would take advantage of the increased availability of content associated with the Proposals. It stated that the biggest difference in opinion between over 55 year olds and 16-24 year olds found in the Kantar Survey was in their views on whether BBC iPlayer provided content relevant to them, with 63% of over 55 year olds scoring it favourably in this regard compared to 42% of 16-24 year olds. It stated that there was a similar difference in views on the range of programmes available on BBC iPlayer and that all age groups scored it least favourably out of a range of performance statements for making content available for a long time.⁹⁵

Our response

- 3.50 In response to Pact's concern about the benefits of the proposals for 16-24 year olds, both improving content availability and commissioning relevant content are important ways the BBC can appeal to younger audiences. While it is unclear what inference Pact is seeking to draw from the particular survey results it highlights, our view remains that the Proposals are likely to make BBC iPlayer more attractive to younger audiences. Kantar Media's

⁹⁵ Pact, 2019. Pact's response to the BCA Consultation, paragraphs 3.2-3.4.

research suggests that 16-24 year olds are more likely than the average internet user to watch more BBC iPlayer following the proposed changes.⁹⁶ Furthermore, the Proposals may help address 16-24 year olds' less favourable views on the range of programmes available on BBC iPlayer and the length of time content is available. The Proposals are one step the BBC can take to attempt to retain and grow younger audiences; however, we agree that it must also commission high-quality content that appeals to them.⁹⁷

Substituted viewing

Our provisional findings

- 3.51 In its PIT, the BBC stated that some of the expected uplift in usage of BBC iPlayer would occur as a result of people switching from live TV. It argued that audiences moving from one platform offering BBC TV programmes to another offering a broader range of BBC TV programmes is not likely to lead to foregone public value. The BBC did not consider the impact of the Proposals on the public value generated by other broadcasters, and as such we found it deficient in this respect.
- 3.52 We stated that other PSBs in particular provide social value, given the PSB purposes and characteristics they are required to deliver,⁹⁸ and that the fall in viewing to non-BBC PSB live TV and BVOD services would offset some of the public value gains identified by the BBC in its PIT. We did not consider this issue would lead us to reject the Proposals but stated that we would take the BBC's failure on this element forward separately with the BBC.

Stakeholder responses

- 3.53 The BBC noted our finding that it did not consider impacts on the public value generated by other broadcasters in its PIT. It argued that any public value generated by other PSBs would be through the content they commission and make available to audiences. As its analysis found that any adverse impact on the viewing of other PSB services would be insufficient to reduce investment incentives, it argued that it would therefore be insufficient to reduce any potential public value offered by other PSBs. While it stated that this consideration was implicitly accounted for within its analysis, it says that it will more specifically set out this dimension of public value in future PITs.⁹⁹
- 3.54 Sky welcomed our stance in relation to BBC's failure to address impacts on the public value generated by other broadcasters and asked us to clarify what action we intended to take as a result.¹⁰⁰ Channel 4 did not believe we had fully considered the potential for the Proposals to weaken the overall PSB ecology.¹⁰¹ Directors UK was disappointed that the BBC had not considered this to be a critical factor and asked that it be reviewed after one to two years if the Proposal was approved. Pact stated that it could not understand how

⁹⁶ Kantar Media, 2019. [BBC iPlayer Competition Assessment Research Report](#), slides 37 and 50.

⁹⁷ We highlighted the importance of the BBC engaging young people in our Annual Report on the BBC and will continue to assess its performance in this area. Ofcom, 2018. [Ofcom's first Annual Report on the BBC](#), page 11.

⁹⁸ In accordance with their public service remits and licences.

⁹⁹ BBC, 2019. BBC's response to the BCA Consultation, page 15.

¹⁰⁰ Sky, 2019. Sky's response to the BCA Consultation, paragraph 2.4.

¹⁰¹ Channel 4, 2019. Channel 4's response to the BCA Consultation, page 3.

we provisionally approved the BBC's proposals without this aspect of public value being considered in the BBC's PIT.

Our response

- 3.55 We note the BBC's statement that it will consider this aspect of public value more specifically in its future PITs. However, we expect the BBC to consider the public value created by other broadcasters and VOD services, and not just the UK PSBs. In our view, the public value generated by other providers is not solely through the content they commission and make available to audiences, as the BBC suggests, but also through the viewing of that content. The BBC must consider the impact on audiences' viewing of other providers as well as the impact on their investment incentives when assessing the additional public value created by its future proposals.
- 3.56 We have engaged with the BBC on this issue and will continue to do so as and when future PITs are conducted. However, we remain of the view that we can conduct and conclude this BCA, given our own analysis of the matter. We consider the likely shift in viewing to BBC iPlayer from other broadcasters and VOD services, and any resulting impact on their investment incentives, could offset some of the public value created by the Proposals.¹⁰² However we believe the overall level of public value the Proposals could offer is significant.
- 3.57 We will continue to assess the impact of the BBC's activities on the wider market through our ongoing monitoring work (discussed further in Section 4).

Impact of the Proposals on funding for other BBC activities

Our provisional findings

- 3.58 In the BCA Consultation, we noted that the BBC had not set out in its PIT the expected costs of the Proposals or the possible implications to its overall services if it had to pay more for rights associated with an extended window on BBC iPlayer. It stated that these costs were likely to be met by efficiencies from across the BBC and it had no plans to make any significant changes to its current services as a result of the Proposals. While we recognised the uncertainty and difficulty of providing full costings at this stage, we expected more detail on the BBC's approach to funding.
- 3.59 We stated that if a withdrawal of funding from other services led to a reduction in performance, we would be able to examine and address this through the BBC Operating Licence¹⁰³ and our assessment of BBC performance more broadly through our Annual Reports on the BBC.

¹⁰² For example, survey evidence suggests that between 8% and 16% of the increase in BBC iPlayer viewing might be substituted from other BVOD services (this is likely to mainly be PSB content) and between 6% and 50% might be substituted from live TV (this will be a mix of PSB and non-PSB channels). Ofcom, 2019. [BCA Consultation](#), paragraph 5.44.

¹⁰³ Ofcom, 2017. [Operating Licence for the BBC's UK Public Services](#).

Stakeholder responses

- 3.60 The BBC did not provide further detail on the costs associated with the Proposals or how they will be funded in its response.
- 3.61 Equity and PRS for Music expressed concerns about whether the BBC had the budget to pay for the rights associated with the Proposals, and stated that paying for these extended rights could reduce the BBC's ability to commission new content.^{104,105} Directors UK stated that the lack of a cost estimate made an assessment of the public value generated by the proposals impossible.¹⁰⁶ Both Equity and Directors UK stated that our examination of any impact on BBC services more broadly as a result of funding the Proposals was essential.
- 3.62 Pact believed that any loss of BBC services or content would mean a much greater reduction of public value than that offered by the Proposals.¹⁰⁷ It questioned our provisional approval of the Proposals without detailed costings from the BBC.

Our response

- 3.63 We understand stakeholders' concerns about the uncertain costs of the Proposals. However, we also appreciate the difficulty in providing full costings for such proposals before regulatory approval has been granted and new rights agreements have been finalised. Notwithstanding the lack of a cost estimate for the Proposals, we consider that we have sufficient information to reach a decision on whether the BBC may proceed with them.
- 3.64 As stated above, we are able to identify and examine any potential reduction in the performance of BBC services through the Operating Licence¹⁰⁸ for the BBC and our Annual Reports on the BBC. We are satisfied that, through these frameworks, we can address any reductions in the public value delivered by the BBC's other services, should they occur.

Final conclusions

- 3.65 Having considered the responses to our consultation, we remain of the view that the BBC's assessment of the public value generated by the Proposals is reasonable. We are satisfied that the BBC's Proposals could deliver significant personal value by better meeting audience expectations and providing viewers more choice over what, how and when they can watch. We also believe that the Proposals could deliver social value through increased viewing of content which delivers the BBC's mission and public purposes as well as safeguarding the resilience of the BBC for the future.
- 3.66 However, our concerns about the extent to which this value could be realised still hold. In its response to the BCA Consultation, the BBC provided a further assessment of the public value created by the Proposals. This assessment largely concerned the value the Proposals

¹⁰⁴ Equity, 2019. Equity's response to the BCA Consultation, page 4.

¹⁰⁵ PRS for Music, 2019. PRS for Music's response to the BCA Consultation, page 2.

¹⁰⁶ Directors UK, 2019. Directors UK's response to the BCA Consultation, paragraphs 11-13.

¹⁰⁷ Pact, 2019. Pact's response to the BCA Consultation, paragraphs 5.6-5.7.

¹⁰⁸ Ofcom, 2017. [Operating Licence for the BBC's UK Public Services](#).

offered to individuals. The primary focus of the BBC must be on delivery of the mission and public purposes, and any change it makes to its services must have societal value at its core. The BBC must also consider the shift of viewing from live TV channels to BBC iPlayer and the implications of this for the range of content that viewers are exposed to. To address these concerns, we will be putting in place conditions on the BBC; these are discussed further in Section 4 of this document.

Assessment of market impacts

3.67 In our First Consultation, we identified five potential ways that competition might be adversely impacted by the Proposals.¹⁰⁹ In our BCA Consultation, we focussed our assessment primarily on two potential concerns,¹¹⁰ but also set out our reasoning on the other concerns in light of the views expressed in stakeholder responses to our First Consultation. We then set out in our BCA Consultation our provisional conclusions on the market impact of the Proposals.¹¹¹ Our analysis of all five potential competition concerns is set out in greater detail in Annex 3 of our BCA Consultation.¹¹² Below we consider stakeholder responses to our assessment of the potential impact of the Proposals on competition, taking each potential concern in turn.

Impact on rivals' viewing reduces investment

Our provisional findings

3.68 In our BCA consultation,¹¹³ we provisionally concluded that as a result of the Proposals, it was likely that the viewing and revenue of rival services would reduce. We considered this represented an adverse impact on fair and effective competition. We assessed the implications for audiences by considering whether investment and/or the viability of rival services was likely to be threatened. We thought the investment incentives of the main SVOD services and live TV channels were unlikely to be appreciably affected, but there might be some impact on BVOD services' incentives to invest. Under the existing scope of the Proposals, we found there was unlikely to be substantial harm to audiences as a result of the impact on the prospects of UK-focused SVOD services such as BritBox. On the basis of the evidence we had available at that stage, we thought the Proposals in relation to children's content were unlikely to affect investment incentives.

Stakeholder comments

3.69 The BBC disagreed with our characterisation of BBC iPlayer as being free of charge and therefore enjoying a competitive advantage that is not available to commercial providers.

¹⁰⁹ Ofcom, 2019. [BCA Consultation](#), paragraphs 6.1-6.3.

¹¹⁰ The first concern involves BBC iPlayer 'crowding out' rivals by attracting their audiences. The second concern involves BBC iPlayer 'crowding out' rivals by acquiring inputs that they use.

¹¹¹ Ofcom, 2019. [BCA Consultation](#), paragraphs 6.48-6.52.

¹¹² Ofcom, 2019. [BCA Consultation](#), Annex 3.

¹¹³ Ofcom, 2019. [BCA Consultation](#), paragraphs 6.22-6.23.

Rather, the BBC argued that BBC iPlayer is offered as part of a package that is paid for by the licence fee.¹¹⁴

- 3.70 The BBC welcomed our examination of the effect that any changes to BBC iPlayer have on rivals' incentives to invest and innovate, and our consideration of wider industry trends before reaching any conclusions.¹¹⁵ The BBC argued that investment in BBC iPlayer will not necessarily be detrimental to its competitors. Instead, it considered that the Proposals were likely to lead to greater innovation to the benefit of UK consumers, as well as the whole TV sector. It added its involvement in BritBox demonstrated the confidence it had that the Proposals would not risk crowding out commercial VOD services.¹¹⁶
- 3.71 ITV noted that a binding agreement it has reached with the BBC mitigated its concerns about the Proposals which, if made in isolation, had the potential to negatively impact its current services and to limit the potential of BritBox.¹¹⁷
- 3.72 Channel 4 considered that the impact of the Proposals on All 4's revenues would be significantly higher than our estimates.¹¹⁸ Channel 4 referred to the analysis it submitted in response to our First Consultation, which concluded that All 4's VOD advertising revenues would reduce by [3<]% as a result of the Proposals, equating to a reduction of £[3<]m in 2020 (compared to the BBC's forecast of £2.4m and our estimated range of £0.6m to £5.2m)¹¹⁹ and reaching a reduction of £[3<]m by 2024 (compared to the BBC's forecast of £4.5m).¹²⁰
- 3.73 Channel 4 disagreed with our conclusion that the impact on revenues for BVODs (including All 4), and therefore investment, was likely to be relatively small.¹²¹ It stated that this was due to the use of different assumptions between Channel 4 and ourselves. Firstly, it noted that we had used inaccurate figures regarding All 4's revenues. Our analysis was based on revenues of £100m in 2020. However, Channel 4's analysis used an actual revenue figure of £[3<]m in 2019, which it expects will grow to over £[3<]m in 2020, and which it argued would increase our estimates significantly.¹²² Secondly, it said we believed a much lower share of the increased BBC iPlayer viewing will come from All 4 than its analysis, which is based on All 4's share of VOD viewing.¹²³ Channel 4 also noted that All 4 revenues are the

¹¹⁴ BBC, 2019. BBC's response to the BCA Consultation, pages 4-5.

¹¹⁵ BBC, 2019. BBC's response to the BCA Consultation, page 14.

¹¹⁶ BBC, 2019. BBC's response to the BCA Consultation, page 3.

¹¹⁷ ITV, 2019. ITV's response to the BCA Consultation, page 1.

¹¹⁸ Channel 4, 2019. Channel 4's response to the BCA Consultation, pages 2-3.

¹¹⁹ Our estimated range for the reduction in revenues of All 4 was £0.6m-£3.4m (rising to £2.6m-£5.2m if we uplift our 'high' impact case by 50%) relative to the counterfactual in 2020. Ofcom, 2019. [BCA Consultation](#), paragraphs 6.10-6.11.

¹²⁰ Channel 4, 2019. Channel 4's confidential response to the BCA Consultation, pages 2-4. Frontier Economics, 2019. [Changes to BBC iPlayer: Competition assessment](#), Figure 2 and Figure 30. Ofcom, 2019. [BCA Consultation](#), paragraphs 6.10-6.11 and A3.38-A3.39 and Tables 6.1 and A3.6.

¹²¹ Channel 4, 2019. Channel 4's response to the BCA Consultation, page 2.

¹²² [3<] Channel 4, 2019. Channel 4's confidential response to the First Consultation, page 8. Channel 4, 2019. Channel 4's confidential response to the BCA Consultation, page 4.

¹²³ Channel 4, 2019. Channel 4's confidential response to the BCA Consultation, page 4.

fastest growing source of revenue for Channel 4, and are therefore crucial to ensuring Channel 4's financial sustainability in the future.¹²⁴

- 3.74 Pact was concerned that the viewing and revenue of competing services might be reduced as a result of the Proposals.¹²⁵ In particular, it was concerned by Channel 4's evidence which suggested that the BBC's analysis "significantly underestimates" the impact of the Proposals on other PSB VOD services and in particular All 4. Pact said that Channel 4 had little scope to absorb even relatively small revenue falls without potentially being forced to cut its content spend and, if this occurred, the independent production sector might be affected. This is because, as a major commissioner of content from small and medium sized independent producers, any content spend cuts that Channel 4 made would further reduce revenues for these producers.

Our response

- 3.75 As we explained in our BCA Consultation,¹²⁶ BBC iPlayer is not a commercial service – it is free of charge and free from advertising. As a result, it enjoys a competitive advantage that is not available to commercial providers.¹²⁷ An expansion of BBC iPlayer thus risks harming fair and effective competition. We expect the Proposals to negatively affect commercial competitors as audiences switch from them to BBC iPlayer. As a result, these competitors may reduce investment, change what they invest in, go out of business or be deterred from launching in the first place. Such outcomes can disadvantage audiences.¹²⁸
- 3.76 The BBC disagreed with our characterisation of BBC iPlayer as being free of charge as it draws its funding from the licence fee. However:
- a) Normally, people only need to pay a price where they use a service. Suppliers compete on price (amongst other factors) to win customers (and the revenues associated with them) from their rivals. In contrast, the BBC is funded through the licence fee, which is collected on a mandatory basis; it is not a subscription service. Those that watch or record live TV programmes must acquire a TV licence, even if they choose not to use BBC iPlayer (or indeed not to watch any BBC programmes at all).¹²⁹

¹²⁴ Channel 4, 2019. Channel 4's confidential response to the BCA Consultation, page 4.

¹²⁵ Pact, 2019. Pact's response to the BCA Consultation, paragraphs 1.28-1.29.

¹²⁶ Ofcom, 2019. *BCA Consultation*, paragraph 6.4.

¹²⁷ BVOD services are typically advertising-funded and free-to-air. Although people do not pay a subscription fee to watch those BVOD services, they must tolerate advertisements placed within and between programmes. To the extent that viewers find those advertisements intrusive – such that they place a negative value on watching them – then the presence of advertisements can be seen as an implicit 'price' to viewers of BVOD services. By contrast, BBC iPlayer is free from any advertisements.

¹²⁸ The potential for positive impacts on investment may be limited. VOD is not a novel service where the BBC can kickstart audience interest. Nor is VOD a sector where competition is currently weak and therefore the BBC can provide a major spur to investment.

¹²⁹ Individuals that do not watch or record live TV do require a TV licence if they watch BBC iPlayer and cease to require a TV licence if they cease to use BBC iPlayer. We accept that the TV licence is more akin to a price for these individuals. However, they only account for a small proportion of licence holders. See <https://www.tvlicensing.co.uk/check-if-you-need-one/topics> and <https://www.tvlicensing.co.uk/check-if-you-need-one/topics/bbc-iplayer-and-the-tv-licence>.

b) The BBC itself has drawn a contrast between the objectives of a licence fee-funded BBC and a subscription model, for example in recent evidence given by Tony Hall to the Digital, Culture, Media and Sport Committee.¹³⁰ This reflects the position under the Charter, with the BBC's objectives being to fulfil its mission and the public purposes, rather than an aim explicitly linked to the licence fee.

3.77 In the remainder of this subsection, we focus on our response to Channel 4's comments on the revenue impacts on All 4 and its incentives to invest. Pact's comments also relate to the potential impact on All 4's revenues and Channel 4's content investment. Other stakeholders did not raise concerns about the impact on existing rival SVODs or other services. ITV further considered that it would proceed with its investment in and launch of BritBox in the knowledge of the Proposals.¹³¹

3.78 We have amended our estimates of All 4's revenues, as suggested by Channel 4. We have also updated our estimates of the revenue impacts on BVODs to reflect our revised forecasts of the increase in BBC iPlayer viewing and switching away from BVODs (described earlier in Section 3). Following these two changes, we consider that the impact on BVODs' revenues remains non-trivial (albeit smaller than the figure estimated by Channel 4) and represents an adverse impact on fair and effective competition.

Updated estimated impact on BVODs' revenues

3.79 As set out earlier in this section, we have produced revised estimates of the increase in BBC iPlayer viewing and the viewing impacts on competing services resulting from the Proposals. As explained in our BCA Consultation, we have assumed that a change in viewing minutes would translate into a similar percentage reduction in revenues for each BVOD.¹³² In Table 3.2 below,¹³³ we present our revised estimates of potential revenue impacts on BVODs, based on individual BVODs each seeing a decrease in viewing and revenue of 0.6%-2.0% (see Table 3.1 above and Table A4.4). We have also taken into account Channel 4's estimate of All 4 revenues and used a figure of £[<]m in 2020 (which is [<] Channel 4's total digital revenues of £138m in 2018).¹³⁴ This suggests an annual revenue reduction of £1.5m-£4.9m for ITV Hub, £[<]m for All 4 and £0.2m-£0.8m for My5, relative to the case without the Proposals in 2020.

¹³⁰ In oral evidence to the Digital, Culture, Media and Sport Committee on 17 July 2019, Tony Hall said: "You could decide that the BBC is a subscription service. It would be very, very different to the sort of BBC you have now because you would be giving the subscribers what they want, not the breadth of the population, which is what the current system does. The licence fee is a secure way of paying for the BBC because it guarantees universality. It guarantees everybody access to news, to big sporting occasions, to dramas that bring people together, to local radio, to the national services we have. If you decide to say, "Is this the first step to subscription?" you might decide that is right for the BBC, but you have a very different BBC and you would not have a universal BBC." See Digital, Culture, Media and Sport Committee, 2019. [Oral evidence: BBC Annual Report 2018-19, TV Licences for over-75s and Reality TV, HC 2432](#), 17 July 2019, Q112.

¹³¹ ITV, 2019. ITV's response to the BCA Consultation, page 1.

¹³² Ofcom, 2019. [BCA Consultation](#), paragraph A3.33.

¹³³ Table 3.2 below updates Table A3.6 in our [BCA Consultation](#).

¹³⁴ Channel Four, 2019. [Report and Financial Statements 2018](#), pages 10, 40, 156-157, 160, 207 and 232.

Table 3.2: Updated estimates of revenue impacts for BVODs (based on estimated fall in viewing minutes of 0.6%-2.0%)

BVOD	Updated estimate of VOD revenues (£m) in case without the Proposals	Updated estimate of revenue impact (£m)
ITV Hub	241.5	-1.5 to -4.9
All 4	[£<]	[£<]
My5	38.3	-0.2 to -0.8
Other BVOD	81.9	-0.5 to -1.6

Source: Ofcom analysis – further details in Annex 3 of our [BCA Consultation](#). Revenue estimates for ITV Hub, My5 and Other BVOD taken from [Frontier Economics report](#) for the BBC (Figure 29). Revenue estimate for All 4 derived from Channel 4's response to our First Consultation and Channel 4's response to our BCA Consultation.

- 3.80 As we explained in our BCA Consultation,¹³⁵ we recognise that the impact on individual BVODs could be higher than the average level of switching from BVODs to BBC iPlayer due to the Proposals. If a particular BVOD, such as All 4, is a closer substitute to BBC iPlayer than the average, then its viewers could have a greater tendency to switch away compared to BVODs overall.
- 3.81 To represent this, we therefore present an 'uplift' scenario, where we apply a 50% uplift to the 1.0%-2.0% range generated in our 'high' impact scenario for the viewing impact on other BVODs (see Table A4.4).¹³⁶ This would result in a predicted decrease in viewing for an individual BVOD of 1.5%-3.0% (although as noted in our BCA Consultation, we considered this to be very much an upper bound to the possible impact on an individual BVOD).¹³⁷ This 'uplift' scenario would imply an annual revenue decrease of £3.7m-£7.3m for ITV Hub, £[£<]m for All 4 and £0.6m-£1.2m for My5, relative to the case without the Proposals in 2020.
- 3.82 The revised revenue impacts on BVODs, including All 4, in our 'uplift' scenario are within the upper bound of the ranges we estimated in the 'uplift' scenario in our BCA Consultation.¹³⁸ The difference between our estimated potential revenue impact compared to Channel 4's £[£<]m is driven by its view of the increase in BBC iPlayer viewing and switching away from All 4 (we discussed earlier in Section 3 why we do not agree with Channel 4's estimates).

¹³⁵ Ofcom, 2019. [BCA Consultation](#), paragraphs 6.6, 6.11, A3.12-A3.13 and A3.39-A3.40.

¹³⁶ Our estimated range for the reduction in other BVOD viewing in our 'high' impact scenario is 1.0%-2.0% (see Table A4.4). This range is based on our 'high' impact scenario for the increase in BBC iPlayer viewing and reflects the range of different rates of switching from other BVODs implied by the different survey results. If we apply a 50% uplift to this 'high' impact scenario range, this would result in a predicted decrease in viewing to other BVODs of 1.5%-3.0%.

¹³⁷ This is because this 'uplift' scenario assumes: (a) the highest BVOD substitution implied by our survey results is representative of overall substitution from BVODs to BBC iPlayer due to the Proposals; and (b) the individual BVOD considered would have an even higher rate of substitution than seen for BVODs overall (this would also imply that the rest of the other BVODs would have a lower than average rate of substitution).

¹³⁸ Our BCA Consultation modelling implied an annual revenue reduction of £0.6m-£3.4m for All 4 (increasing to £2.6m-£5.2m in our 'uplift' scenario). See Ofcom, 2019. [BCA Consultation](#), paragraphs 6.10-6.11 and A3.38-A3.39.

- 3.83 Our revised estimates of revenue impacts on BVOD competitors are lower than the upper bound of the range we previously estimated in our BCA Consultation, but still indicate a non-trivial impact on BVOD rivals.
- 3.84 The above estimates provide our view of the potential revenue impact to the other BVOD services relative to the case without the Proposals in 2020. However, as we discussed above, we recognise that the Proposals would also lead to viewing and revenue impacts beyond 2020. In later years, the absolute revenue impacts of the Proposals on an individual BVOD may increase compared to the 2020 impacts presented above, even if the percentage revenue impact remains constant, if that BVOD's revenues continue growing. Indeed, as noted above, Channel 4 said growth in VOD services is among the main sources of revenue growth for its business.¹³⁹ For example, Channel 4's calculations suggest forecast growth of nearly [X]%¹⁴⁰ for All 4 revenues between 2020 and 2024, which gives an idea of VOD's growing importance to Channel 4.

Impact on BVODs' investment

- 3.85 In terms of the impact on BVODs' investment, we maintain our view from the BCA Consultation.¹⁴¹ We consider that the reductions in revenues in 2020 and beyond as a result of the Proposals (see above) are not trivial. These revenue reductions could reduce BVODs' incentives to invest in their services, which could in turn have a detrimental impact on their audiences.
- 3.86 In the BCA Consultation we also observed that, given the scale of the estimated reductions, they were unlikely to result in as significant an impact on incentives to invest and innovate as the potential effects of wider industry trends (e.g. the challenge from prospective new SVOD services that may launch).¹⁴² In response, Channel 4 said that, because there is a potentially bigger threat to the UK commercial PSBs, this does not imply that a smaller additional threat should be allowed.¹⁴³ We accept Channel 4's logic. Our point is simply that BVODs will face pressure from commercial rivals and trends in consumer behaviour that will require them to adapt, regardless of our decision in relation to the Proposals, and adapting to these market challenges would also help BVODs respond to the Proposals if they are implemented.¹⁴⁴

Impact on investment by SVODs and live TV channels

- 3.87 We did not receive any substantive stakeholder comments on the impact of the Proposals on investment by SVOD providers and live TV channels. Our view therefore remains that,

¹³⁹ Channel 4, 2019. Channel 4's confidential response to the BCA Consultation, page 4

¹⁴⁰ Based on Channel 4's estimates of a revenue impact on All 4 of £[X]m in 2024 compared to £[Y]m in 2020. See Channel 4, 2019. Channel 4's confidential response to the BCA Consultation, page 3

¹⁴¹ Ofcom, 2019. [BCA Consultation](#), paragraphs 6.12-6.13, A3.20-A3.23 and A3.41-A3.44.

¹⁴² Ofcom, 2019. [BCA Consultation](#), paragraph 6.13.

¹⁴³ Channel 4, 2019. Channel 4's response to the BCA Consultation, page 3.

¹⁴⁴ As discussed in our BCA Consultation: "Other UK broadcasters are in a similar position to the BBC in having to respond to rapidly changing market conditions. The development of BBC iPlayer will be only one of the challenges they face, and they are all developing strategies to help them compete over the longer term." Ofcom, 2019. [BCA Consultation](#), paragraph 7.6.

as set out in our BCA Consultation, the investment incentives of the main SVOD services and live TV channels are unlikely to be appreciably affected.¹⁴⁵ We consider there is likely to be an adverse competition impact on potential new UK-focused SVOD services such as BritBox,¹⁴⁶ although under the existing scope of the Proposals this is unlikely to be large and there is unlikely to be substantial harm to audiences, as reflected in ITV's decision to proceed with its investment in BritBox.¹⁴⁷

Impact of the Proposals on investment in children's content

- 3.88 The discussion above related to the impact of the Proposals on investment in general content. In relation to the proposed increase in children's content on BBC iPlayer, our updated modelling (described earlier in this section and in Annex 4) suggests that the children's content proposals could increase BBC iPlayer viewing by 6.0%-9.0% relative to the case without the Proposals in 2020, which is very marginally higher than our estimates in the BCA Consultation.¹⁴⁸
- 3.89 We set out in the BCA Consultation our assessment of why we thought the proposals for children's content were unlikely to affect investment incentives.¹⁴⁹ We provisionally concluded the limited evidence available to us suggested that, where switching from other services does take place, it would be unlikely to diminish the revenues of those services to such an extent that investment in children's content was reduced.
- 3.90 We did not receive any response from children's broadcasters or VOD services.¹⁵⁰ In addition, on 3 July 2019 we endorsed a range of commitments by ITV, Channel 4 and Channel 5 to invest more in original UK content for children, following Ofcom's review of this area.¹⁵¹ These commercial PSBs communicated their plans to us by 31 March 2019, before the BBC announced its proposed changes to children's content in its PIT on 25 April 2019, and have not sought to amend them. Based on these existing plans and the lack of response from children's broadcasters to our BCA Consultation, we continue to consider that the proposals in relation to children's content are unlikely to affect investment incentives.

Our conclusions

- 3.91 As a result of the Proposals, BBC iPlayer is likely to attract extra viewing, which we expect will reduce the viewing and revenue of competing services. We consider that this

¹⁴⁵ Ofcom, 2019. [BCA Consultation](#), paragraphs 6.14-6.16, 6.19, 6.23, 6.48, A3.54, A3.62 and A3.72.

¹⁴⁶ Given the competition concerns set out in the first two sentences of Ofcom, 2019. [BCA Consultation](#), paragraph 6.18.

¹⁴⁷ Ofcom, 2019. [BCA Consultation](#), paragraphs 6.17-6.18, A3.55-A3.58 and A3.73.

¹⁴⁸ We previously estimated a range of 5.7%-8.5% for the impact on BBC iPlayer viewing of the children's content proposals. See Ofcom, 2019. [BCA Consultation](#), Table A2.10.

¹⁴⁹ Ofcom, 2019. [BCA Consultation](#), paragraphs A3.64-A3.70.

¹⁵⁰ Pact said that it did not understand our position; however, its stance is based on a misrepresentation of the reasoning in the BCA Consultation. Pact said that "Ofcom have acknowledged that [they] have not considered the potential market impacts of the BBC's iPlayer proposals on children's content but claim that the proposals are unlikely to "substantially affect investment incentives"." Pact, 2019. Pact's response to the BCA Consultation, paragraph 6.3. However, in our BCA Consultation, we said we had not analysed the impact from increased viewing of children's content *in the same way* that we had assessed the market impact from increased availability of general content. We did set out an assessment of the potential market impacts – see Ofcom, 2019. [BCA Consultation](#), paragraphs 6.21-6.22 and A3.64-A3.70.

¹⁵¹ Ofcom, 2019. [Children's content review: Our response to ITV, Channel 4 and Channel 5's plans](#).

represents an adverse impact on fair and effective competition. There may be some impact on BVOD services' incentives to invest. There is also likely to be an adverse competition impact on potential new UK-focused SVOD services such as BritBox, although under the existing scope of the Proposals there is unlikely to be substantial harm to audiences. However, the investment incentives of the main SVOD services and live TV channels are unlikely to be appreciably affected.

Less BBC content on other platforms

3.92 We provisionally concluded in our BCA Consultation that the reduction in the availability of appealing BBC commissioned content for the main SVOD services was unlikely to adversely impact fair and effective competition. For UK-focused SVOD services, we said that under the existing scope of the Proposals the impact on fair and effective competition was unlikely to be large.¹⁵²

Stakeholder comments

3.93 No SVOD providers responded to say the Proposals would adversely impact their ability to provide attractive content. Pact was concerned that the Proposals would restrict the availability of BBC content in the UK secondary market and “reduce the ability for new SVOD entrants into the UK market to access sufficient content to make their services attractive”. Furthermore, it believed that BritBox would only be successful if there was a limited number of titles that could be exclusively available on BBC iPlayer and that the exclusivity period should be no longer than 12-months.¹⁵³ However, ITV noted that the binding agreement it has reached with the BBC mitigates the concerns it has of the Proposals limiting the potential of BritBox.¹⁵⁴

Our response

3.94 We maintain the view set out in the BCA Consultation that the reduction in the availability of appealing BBC commissioned content for the main SVOD services is unlikely to adversely impact on fair and effective competition. This is because we consider that the main SVOD providers have a range of alternatives to BBC commissioned content. We consider that there is likely to be an adverse impact on fair and effective competition in relation to UK-focused SVOD services such as BritBox,¹⁵⁵ although the scale of this is unlikely to be large, given there will be a limit on the amount of content that can be made available on BBC iPlayer, and the vast majority of returning series, non-returning series and archive series would not be made available on an exclusive basis ([<]).

¹⁵² Ofcom, 2019. [BCA Consultation](#), paragraphs 6.24-6.30 and A3.75-A3.99.

¹⁵³ Pact, 2019. Pact's response to the BCA Consultation, pages 4, 10 and 11.

¹⁵⁴ ITV, 2019. ITV's response to the BCA Consultation, page 1.

¹⁵⁵ Given the potential impacts set out in Ofcom, 2019. [BCA Consultation](#), paragraph 6.28.

Reduced value of secondary rights

Our provisional findings

- 3.95 In our BCA Consultation, we considered whether allowing the BBC to put more content on BBC iPlayer for longer could reduce the value of secondary rights in the UK. This could in turn result in producers who rely on these rights becoming less profitable, increasing the risk that they go out of business. We recognised that the UK AV sector has undergone a variety of developments over the past few years which have presented new opportunities and challenges for those in the production sector. We recognise that, as part of this transformation, the market for secondary rights may change and affect the level of revenue producers and rights holders make from secondary exploitation.
- 3.96 However, we provisionally concluded that the Proposals were unlikely to adversely affect fair and effective competition in the production sector or other creative industries. We said we had not seen any compelling evidence that suggested any change in revenue flows was likely to be large enough to reduce the intensity of competition in the production sector. To the extent that there are broader underlying issues in the production sector, we noted we have an ongoing role in relation to PSB and can therefore consider these separately in future if appropriate.

Stakeholder comments

- 3.97 ITV considered that the Proposals as set out in the PIT were consistent with a healthy secondary market.¹⁵⁶ However various other stakeholders remained of the view that extended programme availability on BBC iPlayer would harm production companies and underlying rights holders by reducing their income from secondary programme sales. We summarise below the main themes emerging from stakeholder responses.¹⁵⁷

First theme: BBC compensating for falls in secondary rights prices

- 3.98 Pact said that we had not recognised the importance of secondary rights revenue,¹⁵⁸ and profit from it, in allowing production companies to develop content. Pact argued that the BBC should fully compensate producers for any loss in secondary rights revenue due to the

¹⁵⁶ ITV, 2019. ITV's response to the BCA Consultation, page 1.

¹⁵⁷ In its response, Pact made several comments that we consider do not properly reflect our position in the BCA Consultation. In the interests of brevity, we have not separately addressed all these comments. For example, Pact said it "does not understand why Ofcom has placed so much credence on the findings from Frontier Economics". However, in our BCA Consultation, we said that "there are limitations associated with Frontier Economics' analysis, some of which it recognised" and "[o]verall, we do not consider the analysis is robust enough to conclude that increasing BBC iPlayer availability would increase the value of secondary rights". In addition, "Pact [and other stakeholders] requests that Ofcom list these 'important [other] sources of revenue'". However, we explained in our BCA Consultation that "producers do have sources of revenue other than the BBC" and "producers could react by seeking commissions from: (i) commercial PSBs and other broadcasters (although we recognise the choice of alternative PSB buyers may be limited for a given project or genre); and/or (ii) from global SVOD providers". See Pact, 2019. Pact's response to the BCA Consultation, paragraphs 1.5 and 1.27; and Ofcom, 2019. [BCA Consultation](#), paragraphs A3.125 and A3.133.

¹⁵⁸ Pact, 2019. Pact's response to the BCA Consultation, paragraph 1.22.

Proposals.¹⁵⁹ Equity said the Proposals represent a fundamental change to the market and Pact noted that, in the past, PSBs have compensated producers for greater VOD exploitation (e.g. when the 30-day catch up window was introduced).^{160,161} [X].¹⁶²

Second theme: Impact of the Proposals on revenue and investment

- 3.99 Pact considered that the Proposals, if implemented, would result in increased uncertainty over secondary rights revenue. Stakeholders thought the production of children’s programmes was particularly at risk,^{163,164,165} and that the Proposals would harm incentives to invest in this content¹⁶⁶ without a justification for why longer availability was necessary for children’s content.¹⁶⁷ Equity was concerned that requests from broadcasters and VOD providers for content exclusivity could limit sources of secondary revenues,¹⁶⁸ and a strict 5-year holdback on children’s content threatened secondary rights sales to SVODs.^{169,170,171}
- 3.100 Pact and Directors UK considered that, if the BBC did not compensate producers and creative talent for the reduction in secondary rights revenue via higher primary commission tariffs, this would adversely impact the volume and quality of AV content produced in the UK. As a result, some producers and creative talent could exit the market¹⁷² harming competition.

Third theme: Specific comments about other revenue sources

- 3.101 In our BCA Consultation, we highlighted other revenue sources for producers. In response:
- a) Pact, Directors UK and Equity argued that the Proposals may limit the secondary market for UK-produced content and its appeal for international buyers.^{173,174,175} They suggested that global rights deals that include the UK are more valuable, and with the UK VOD rights affected by the extended BBC iPlayer availability, this may reduce demand, and the value of UK AV content globally. They argued lower secondary rights revenue risks reducing programme budgets and harming quality of content.
 - b) Equity noted that our BCA Consultation did not consider the impact of the Proposals on co-productions.¹⁷⁶ They said that if producers must commit to 12-month exclusivity on

¹⁵⁹ Pact, 2019. Pact’s response to the BCA Consultation, paragraph 1.24.

¹⁶⁰ Equity, 2019. Equity’s response to the BCA Consultation, page 4.

¹⁶¹ Pact, 2019. Pact’s response to the BCA Consultation, paragraph 1.26.

¹⁶² [X].

¹⁶³ Pact, 2019. Pact’s response to the BCA Consultation, paragraph 1.32-1.38.

¹⁶⁴ Equity, 2019. Equity’s response to the BCA Consultation, pages 6-7.

¹⁶⁵ Directors UK, 2019. Directors UK’s response to the BCA Consultation, paragraphs 58-60.

¹⁶⁶ Pact, 2019. Pact’s response to the BCA Consultation, paragraph 1.38.

¹⁶⁷ PRS Music, 2019. PRS Music’s response to the BCA Consultation, page 5.

¹⁶⁸ Equity, 2019. Equity’s response to the BCA Consultation, page 4.

¹⁶⁹ Equity, 2019. Equity’s response to the BCA Consultation, pages 6-7.

¹⁷⁰ Pact, 2019. Pact’s response to the BCA Consultation, paragraph 1.34.

¹⁷¹ Content exclusivity limits the number of VOD platforms/live TV channels a programme is available on.

¹⁷² NBCU, 2019. NBCU’s response to the BCA Consultation, paragraph 20.

¹⁷³ Pact, 2019. Pact’s response to the BCA Consultation, paragraph 1.10.

¹⁷⁴ Directors UK, 2019. Directors UK’s response to the BCA Consultation, paragraph 5.

¹⁷⁵ Equity, 2019. Equity’s response to the BCA Consultation, page 7.

¹⁷⁶ Equity, 2019. Equity’s response to the BCA Consultation, page 7.

BBC iPlayer, this may make co-production deals with UK partners less appealing, reducing programme budgets and quality of programming. Equity considered this would harm the creative industry and audiences.¹⁷⁷

- c) Pact and Directors UK argued that the BBC has considerable buyer power in the content production market.¹⁷⁸⁻¹⁷⁹ Pact referred in particular to comedy and children's content,¹⁸⁰ where the BBC has a key commissioning role.¹⁸¹ Pact also maintained that the Proposals risked increasing the BBC's buyer power but did not elaborate further. Finally, Pact said we had not considered the two confidential Oliver & Ohlbaum (O&O) reports it submitted, that argued there is an underlying competition issue relating to the Terms of Trade.¹⁸²

Our response

- 3.102 Having assessed stakeholder responses to our BCA Consultation, we do not consider that the available evidence or arguments changes our provisional conclusion that the Proposals would be unlikely to adversely affect fair and effective competition in the production sector or other creative industries. Below we group our observations to reflect the three themes raised by stakeholders.

Our response to stakeholders' first theme: Our role in relation to the price the BBC pays for rights

- 3.103 In terms of the first theme set out above, as the Proposals represent a significant change in the way the BBC proposes to use producers' and other rights holders' content on BBC iPlayer, we would expect the BBC to negotiate updates to its Terms of Trade with Pact.¹⁸³ We would also expect the BBC to reach new agreements with other producers and rights holders not covered by the Terms of Trade.
- 3.104 Our role in relation to the Proposals is to determine whether to permit the BBC to proceed. Any approval we give to the BBC to proceed in a BCA does not in itself impose a requirement on the BBC to implement all aspects of its proposal. It is for the BBC and its suppliers to negotiate mutually agreeable arrangements to secure the different rights needed to put its plans into action. Any approval gives the BBC the scope to pursue new arrangements, not the power to dictate the terms of a commercial negotiation.

Our response to stakeholders' second theme: Assessment of the impact on secondary rights revenues and competition

¹⁷⁷ Equity, 2019. Equity's response to the BCA Consultation, page 8.

¹⁷⁸ Pact, 2019. Pact's response to the BCA Consultation, paragraphs 1.12-1.17.

¹⁷⁹ Directors UK, 2019. Directors UK's response to the BCA Consultation, paragraph 47.

¹⁸⁰ Pact, 2019. Pact's response to the BCA Consultation, paragraphs 1.13 and 1.32.

¹⁸¹ Pact, 2019. Pact's response to the BCA Consultation, paragraphs 1.13 and 1.25.

¹⁸² Pact, 2019. Pact's response to the BCA Consultation, paragraph 7.

¹⁸³ [The Terms of Trade](#) set out the minimum business terms agreed between Pact and the BBC that enable the BBC to license independent producers' content and make it available to its UK audience via its live channels and BBC iPlayer. The terms are currently under review as the BBC is in negotiations with Pact.

- 3.105 We recognise that the ongoing changes in the production sector may increase the uncertainty associated with certain revenue streams (such as secondary rights revenue), potentially adversely impacting some producers and rights holders. However, as set out in our BCA Consultation,¹⁸⁴ we have not seen any compelling evidence that suggests any change in revenue flows as a result of the Proposals is likely to be large enough to reduce the intensity of competition in the production sector. Indeed, we considered that such a shift in competition has not previously occurred despite fluctuations in the total production sector revenues over time. Stakeholders did not engage with this point in their responses. In addition, we have not seen any evidence to suggest that any potential reduction in revenue from BBC content would be sufficient for creators of content to leave their profession and why revenue from alternative sources would be unable to prevent this.
- 3.106 We consider that it is in the BBC's interest to adequately compensate producers for their rights, to ensure they continue to offer it their best ideas across genres and it can continue to meet the mission and public purposes. If longer BBC iPlayer availability impacts the value of secondary rights, we would expect the price of primary rights to rise or other terms to improve, or producers to find other sources of funding to cover the shortfall and make the production viable.
- 3.107 Further, as noted in our BCA Consultation,¹⁸⁵ producers generally have alternatives to supplying the BBC (albeit in some cases these options may be limited). Evidence from producers suggests that SVOD investment in original UK programming has grown in recent years.^{186,187} To secure extended availability of content on BBC iPlayer, the BBC has acknowledged that it may have to pay a higher price for primary commissions.¹⁸⁸
- 3.108 Despite stakeholder suggestions, we do not consider children's content to be different or more at risk from the Proposals compared to other types of content. We recognise that the BBC is the largest buyer amongst the PSBs of children's content¹⁸⁹; children's content is expected to be available for longer on BBC iPlayer; the BBC currently has a different approach to allowing secondary exploitation; and the balance of the funding sources is different to other genres. However, we consider that the combination of these factors is unlikely to significantly alter the competitive dynamics in the market for producing children's content, as we would expect the reasoning we set out above to apply to both children's and other content.
- 3.109 For these reasons, and in light of the available evidence, we do not consider that the Proposals will significantly harm the competitive dynamics in the production sector or in the wider creative industries.

Our response to stakeholders' third theme: Appeal of international secondary rights

¹⁸⁴ Ofcom, 2019. [BCA Consultation](#), paragraphs 6.35 and 6.37.

¹⁸⁵ Ofcom, 2019. [BCA Consultation](#), paragraph 6.35.

¹⁸⁶ Broadcast, 2019. [Industry thrives in changing market](#), *Indie Survey 2019*.

¹⁸⁷ Pact, 2018. [Pact Census](#).

¹⁸⁸ BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 221.

¹⁸⁹ Ofcom, 2018. [Children's content review: update](#), paragraph 1.14.

- 3.110 Given BBC iPlayer is generally available only in the UK, we consider that the availability of BBC content outside the UK is likely to remain unaffected and we would expect this content to retain its value to foreign audiences until released on international live TV channels or VOD platforms. Therefore, we would not expect the value of non-UK rights to be significantly affected by the Proposals.
- 3.111 We recognise the possibility that including UK secondary rights in an international rights package may be more valuable to a buyer (e.g. a VOD platform) than a package that excludes UK rights. If UK rights are not available, this could reduce the overall demand for and value of a rights package. However, SVODs frequently acquire global rights to BBC programmes with UK availability following later due to the BBC's current rights arrangements, and there are examples of programmes where SVODs have taken only non-UK rights (e.g. 'The A List').¹⁹⁰ Therefore, we would expect global SVODs and international broadcasters to continue to pay for non-UK rights to high quality UK programming.

Our response to stakeholders' third theme: Impact on co-production

- 3.112 As recognised by some stakeholders, co-production deals offer PSBs an opportunity to provide more expensive content to their audiences without paying the full cost of the production upfront.^{191,192} The BBC has a track record of agreeing to different rights arrangements for co-productions.¹⁹³ We would expect the BBC to continue to engage in co-productions where appropriate, even if this may mean not having this content on BBC iPlayer for the extended standard 12 months availability.

Our response to stakeholders' third theme: The BBC's buyer power

- 3.113 We recognise that the BBC is one of the key buyers, and in some cases the only buyer, for content with specific UK appeal. In response to our First Consultation, Pact submitted a confidential O&O report assessing the impact of the Proposals¹⁹⁴ and also referred to an earlier confidential O&O report assessing the impact of the Proposals on production finance.¹⁹⁵ However, neither this research nor any other evidence that we have seen has demonstrated how the Proposals, if implemented, would *increase* whatever buyer power the BBC may enjoy when dealing with content producers or other underlying rights holders.

¹⁹⁰ Broadcast, 2019. [Netflix joins The A List](#).

¹⁹¹ Equity, 2019. Equity's response to the BCA Consultation, page 7.

¹⁹² The primary licence conditions between the BBC and independent producers/BBC Studios normally give the BBC exclusive use of its content for up to 18 months after initial broadcast (i.e. the holdback period). However, in practice, independent producers/BBC Studios can negotiate with the BBC to reduce the holdback period and release the secondary rights earlier than 18 months after initial broadcast in some cases, particularly when the programme has been partly funded by the producer or other sources (such as in a co-production).

¹⁹³ For example, programmes such as *Watership Down* and *Bodyguard* have appeared on Netflix's UK service within 6 months of being originally broadcast on BBC television, and *Good Omens* was released on Amazon Prime ahead of BBC Two.

¹⁹⁴ Oliver & Ohlbaum Associates Ltd, May 2019. *Proposed changes to the BBC iPlayer: Supporting Pact's response to Ofcom's call for evidence, A report for Pact*. This report has not been published in full.

¹⁹⁵ Oliver & Ohlbaum Associates Ltd, April 2019. *The impact of the BBC iPlayer proposals on production finance, A report for Pact*. This report has not been published.

3.114 If stakeholders consider buyer power to be a significant concern or wish to raise any other broader underlying issues in the production sector, we have ongoing PSB duties and can therefore consider these separately in the future if appropriate. We recently published a document on ‘The Future of Public Service Media’, which noted how the changing media landscape is affecting PSBs in the UK; as part of this we will engage with stakeholders to understand their views about these developments.^{196,197}

Our conclusions

3.115 We remain of the view, set out in our BCA Consultation,¹⁹⁸ that the Proposals are unlikely to adversely affect fair and effective competition in the production sector. While we do not rule out an impact on the price of secondary rights, there are likely to be offsetting effects. We have not seen any compelling evidence that suggests any change in revenue flows is likely to be large enough to reduce the intensity of competition in the production sector. In addition, we do not consider that the Proposals are likely to affect the owners of underlying rights such that there would be an adverse impact on fair and effective competition in the wider creative industries.

Unfairly favour BBC Studios

3.116 The BBC commissions a significant amount of content from its main commercial subsidiary, BBC Studios. There are existing ex ante rules in place to ensure that commissioning decisions are not taken in a way that distorts the market.

3.117 The BBC is required to ensure there is genuine competition between BBC and external producers on a fair, reasonable, non-discriminatory and transparent (FRNDT) basis for the right to make relevant TV programmes and to evaluate any such bids on a FRNDT basis.¹⁹⁹ We considered the BBC’s incentives to favour its own producers in our Statement on commissioning for the BBC Public Services.²⁰⁰

3.118 There are also provisions in our Trading and Separation requirements²⁰¹ to ensure appropriate separation between the BBC and its commercial activities, for example in relation to the sharing of information across that boundary.

3.119 We are responsible for the enforcement of the FRNDT commissioning requirements, and we also carry out monitoring activities to ensure compliance with the Trading and Separation requirements.

¹⁹⁶ Ofcom, 2019. [The Future of Public Service Media](#).

¹⁹⁷ In addition, the BBC has a Commissioning Code of Practice, agreed with Ofcom, that governs the relations between the BBC and independent producers (BBC, [Code of Practice](#)). This Code of Practice includes a dispute resolution mechanism as well as a requirement for the BBC to report on complaints to Ofcom.

¹⁹⁸ Ofcom, 2019. [BCA Consultation](#), paragraphs 6.35-6.38 and 7.7.

¹⁹⁹ Schedule 3, paragraph 7(2) of the Agreement.

²⁰⁰ Ofcom, February 2019. [Commissioning for the BBC Public Services: A statement of Ofcom’s approach to assessing the BBC’s compliance with its requirements](#).

²⁰¹ Ofcom, February 2019. [The BBC’s commercial and trading activities: requirements and guidance](#).

3.120 We have assessed the potential impact of the Proposals in light of this existing regulation. In our BCA Consultation, we considered whether the BBC might favour BBC Studios when making commissioning decisions and, if the BBC did so unfairly, whether this could reduce the potential range and diversity of ideas from external producers and adversely affect competition.²⁰² We said we remained concerned to ensure that commissioning decisions are not taken in a way that distorts competition. However, given there is existing regulation in relation to both the commissioning process and the relationship between the BBC public service and its commercial activities, we provisionally concluded that there are sufficient protections to prevent the Proposals from adversely affecting fair and effective competition in relation to commissioning.²⁰³

Stakeholder comments

3.121 No responses to the BCA Consultation raised this as a concern. However, Directors UK²⁰⁴ raised a general concern regarding the relationship between the BBC, BBC Studios, UKTV and BritBox, remarking that there is “not enough clarity as to how the relationships for the BBC, as a creator, seller and buyer of content, will operate in practice”.

Our response

3.122 Although we did not receive any evidence to suggest that the Proposals would raise novel issues in relation to BBC commissioning, we remain concerned to ensure that commissioning decisions are not taken in a way that distorts competition. We consider that the existing regulation provides appropriate ways to address any concerns that could arise in this area (including in relation to the cross-subsidy of production activities and any increase in the BBC’s incentives to commission from BBC Studios). We will continue to monitor these areas and act to ensure that regulation is effective, where necessary by taking forward enforcement processes. On this basis we conclude that there are sufficient protections to prevent the Proposals from adversely affecting fair and effective competition in relation to commissioning.

Distribution of BBC iPlayer

3.123 There is also existing regulation in place to address the way in which the BBC distributes its services. We require that the BBC must offer its public services to third parties in response to reasonable requests for supply, except where the BBC has an objective justification for not doing so. In offering the public services for supply, and in supplying those services, the BBC must act on a fair, reasonable and non-discriminatory basis. We have published guidance to explain how we consider these requirements and on our approach to

²⁰² Ofcom, 2019. [BCA Consultation](#), paragraphs 6.39-6.42 and A3.136-A3.144.

²⁰³ In particular, Schedule 3, paragraph 7(2) of the Agreement requires the BBC to ensure there is genuine competition between BBC and external producers on a fair, reasonable, non-discriminatory and transparent (FRNDR) basis for the right to make relevant TV programmes and to evaluate any such bids on a FRNDR basis.

²⁰⁴ Directors UK, 2019. Directors UK response to the BCA Consultation, paragraph 50.

enforcement.²⁰⁵ We also noted in our BCA Consultation that the BBC has specific obligations under the Agreement to ensure its services, and elements of its services, are widely available.²⁰⁶ We have assessed the potential impact of the Proposals in light of this existing regulation.

- 3.124 In our BCA Consultation we considered whether there was a risk that the BBC could restrict access to BBC iPlayer on other platforms and/or refuse to create bespoke arrangements, which could place other platforms at a disadvantage or distort overall competition, reducing choice for audiences.
- 3.125 We said that the Proposals would mean that the BBC iPlayer would carry significantly more content than it currently does, but that the principles discussed in our distribution guidance would be sufficiently flexible to adjust to implementation of the Proposals. We thought that the incentives of the BBC should be aligned with platform operators, with both focussing on ensuring that consumers benefit from being able to watch a full range of BBC content in the way that they want to, across a variety of platforms.
- 3.126 We therefore provisionally concluded that, provided the existing regulatory framework works effectively, the Proposals were unlikely to adversely affect fair and effective competition as a result of distribution of BBC iPlayer being restricted.

Stakeholder comments

- 3.127 Sky said it welcomed our statement that the BBC and platforms should focus on ensuring that consumers benefit from being able to watch a full range of BBC content in the way they want to, across a variety of platforms. However, it disagreed with us that to a large extent, the incentives of the BBC should be aligned with platform operators. It suggested that we should use the opportunity of the BCA process to provide guidance that there should be parity of content availability across BBC iPlayer and other platforms.²⁰⁷
- 3.128 The BBC has told us that the Proposals will apply equally to both its standard OTT app and bespoke implementation (e.g. on Sky's set-top boxes).²⁰⁸

Our response

- 3.129 As we set out in the BCA Consultation, we consider that audiences should be able to watch BBC content in a way that suits them. While there is some alignment of incentives between platform operators and the BBC, in that both parties should have common aims in wanting to put audiences first and providing them with an attractive service, we accept that this is not always the case. This is the reason why the existing regulation in relation to distribution is in place. It remains important that the BBC is held to its regulatory

²⁰⁵ Ofcom, March 2017. [Distribution of BBC public services: Ofcom's requirements and guidance](#).

²⁰⁶ Under clause 61 of the [BBC Framework Agreement](#), the BBC is required to act on a fair, reasonable and non-discriminatory basis in supplying its public services (including BBC iPlayer).

²⁰⁷ Sky, 2019. Sky's response to the BCA Consultation, page 2.

²⁰⁸ This information is contained in an email from BBC to Ofcom, dated 31 May 2019, entitled '20190531 BBC iPlayer follow up note STO'.

obligations in relation to distribution to ensure its services are available widely on a fair, reasonable and non-discriminatory basis.

- 3.130 Given the BBC's statement that the Proposals "...will apply equally to both standard and bespoke implementations...", and that we will ensure the BBC complies with our existing distribution requirements and guidance as part of the Operating Framework, we have concluded that the Proposals will not have an adverse effect on fair and effective competition.

Our conclusions on market impact

- 3.131 Having reconsidered the analysis as set out in the BCA Consultation, as well as stakeholder responses, we conclude that as a result of the Proposals making BBC iPlayer more attractive, the revenue and viewing of rival services would be likely to be reduced. As a result, there could be some impact on BVOD services' incentives to invest. We consider that this represents an adverse impact on fair and effective competition. We also consider there is likely to be an adverse competition impact on potential new UK-focused SVOD services such as BritBox, although under the existing scope of the Proposals this is unlikely to be large and there is unlikely to be substantial harm to audiences.
- 3.132 We think the proposals in relation to children's content are unlikely to affect investment incentives. Furthermore, the investment incentives of the main SVOD services and live TV channels are unlikely to be appreciably affected.
- 3.133 We also consider that the reduction in the availability of appealing BBC commissioned content for the main SVOD services is unlikely to adversely impact on fair and effective competition. For UK-focused SVOD services, under the existing scope of the Proposals the impact on fair and effective competition is unlikely to be large.
- 3.134 We remain of the view that the Proposals are unlikely to have an adverse effect on fair and effective competition: in the production sector or other creative industries; on how the BBC commissions content; or as a result of distribution of BBC iPlayer being restricted. These conclusions take into account the presence of existing regulation on the BBC through the Operating Framework.
- 3.135 We take into account these conclusions in the next section where we consider whether the public value of the Proposals justifies the likely adverse impact on competition identified, and what conditions and guidance it would be appropriate to impose in that context.

4. Final determination

- 4.1 In this section, we set out our decision that the BBC may continue to progress its plans subject to conditions and guidance. We also comment on issues raised concerning the BBC's procedures.
- 4.2 Our role in a BCA is to review the BBC's assessment of public value and to assess the impact of the Proposals on fair and effective competition. We must then assess whether the public value of the proposed change justifies any adverse impact on fair and effective competition we have identified. In addition, we are also required to review the procedures the BBC has followed in carrying out the public interest test.²⁰⁹
- 4.3 In reaching our final determination, we have had regard to the objective of the BBC to fulfil its mission and promote the public purposes as well as our relevant duties under the Communications Act, Charter and Agreement, including those concerning protection of competition and support for public service broadcasting.
- 4.4 We have completed our assessment cognisant of the evolving nature of the UK broadcasting sector and the way audiences' behaviours and expectations are changing. We note that the BBC is trying to keep pace with those changes. In reaching our final conclusions on the Proposals, we have exercised our judgment in that context, taking into account the available evidence from the BBC's public interest test, our own analysis and research, as well as information and views offered by stakeholders.

The BBC's procedures

Stakeholder comments

- 4.5 As discussed in Section 2, stakeholders raised concerns during the BBC PIT Consultation and our First Consultation about the BBC's procedures during the PIT process. In their responses to our BCA Consultation, a number of stakeholders were also critical about the BBC's PIT procedures.
- 4.6 Sky stated that the BBC had failed to provide sufficient clarity on its Proposals and it was over five months after publication of the BBC PIT Consultation that stakeholders finally had clarity on their scope. It was concerned that this clarity had come from us, rather than the BBC, and that we were compensating for the BBC's failings rather than sending the Proposals back to the BBC to reconsider.²¹⁰
- 4.7 Sky raised other points, including that Ofcom had failed to hold the BBC to account for its procedural failings, which risked setting a dangerous precedent for the approval of future

²⁰⁹ See Annex 1.

²¹⁰ Sky, July 2019. Sky's response to the BCA Consultation, Section 2.2.

proposals. It also said we should make a clear statement that the BBC's consultation process was inadequate and that we should set out our expectations as to how the BBC should conduct future PITs.²¹¹

- 4.8 COBA was deeply concerned that the BBC Board had not been objective in reviewing the market impact of the Proposals. It noted a number of areas where it said the BBC Board's process had fallen short, including failure to provide detailed information to external stakeholders about its plans and failing to communicate to licence fee payers that there would inevitably be costs for the BBC. It also highlighted that the BBC did not announce proposals to extend the availability of children's content until the final stages of the BBC consultation. It asked us to review the BBC Board's procedures and to state whether the BBC has fulfilled its duties under the Charter and Agreement.²¹²
- 4.9 Pact said the BBC Board had so far shown a lack of concern for the impact on the market and competition. As a result, it had reservations that the BBC Board would properly review the impact of any BBC executive decision on further BBC iPlayer changes.²¹³
- 4.10 The BBC agreed that its impact on the market must be carefully considered and that the BBC's funding is an important factor. It stated that the BBC Board takes its responsibility to consider the market impact of the BBC's proposals and promote positive impacts in the wider market very seriously. It said it recognised that Ofcom has an important role in scrutinising the BBC Board's decisions around materiality. However, it argued that where Ofcom reviews the BBC's decisions, we should do this quickly, and that we took significantly longer to consider the materiality of the proposed changes than to reach a provisional decision on this BCA.²¹⁴ The BBC noted our finding that the BBC did not consider impacts on the public value generated by other broadcasters in its PIT. It said that in future PITs it will more specifically set this out for other PSBs.²¹⁵

Our response

- 4.11 In order for the BBC to meet its obligations in relation to protection of competition, it must engage actively and openly with stakeholders. Positive engagement can enable swifter resolution of potential concerns. We therefore agree with respondents that the BBC needs to ensure that there is sufficiently detailed and transparent information on proposals in its PIT consultations to enable stakeholders to comment meaningfully on its proposals. As we set out in the BCA Consultation, the BBC did not make any mention of the proposal for children's programming in its PIT consultation and did not provide adequate detail more generally on the Proposals. We also said the BBC had not set out the expected costs of the Proposals and we had expected more detail on the approach to funding than was provided.²¹⁶

²¹¹ Sky, July 2019. Sky's response to the BCA Consultation, Section 2.3-2.4.

²¹² COBA, July 2019. COBA's response to the BCA Consultation, pages 3-4.

²¹³ Pact, July 2019. Pact's response to the BCA Consultation, paragraph 2.8.

²¹⁴ BBC, July 2019. BBC's response to the BCA Consultation, page 4.

²¹⁵ BBC, July 2019. BBC's response to the BCA Consultation, page 15.

²¹⁶ Ofcom, 2019. [BCA Consultation](#), paragraphs 2.15 and 5.46.

- 4.12 In this case, however, we have been able to proceed to a decision. Nevertheless, in future BBC PITs we would expect the BBC to consult with stakeholders about proposals at a comparable level of detail to the BBC's final PIT document. Proposals should be clearly set out including their scope, scale and information on potential costs so that stakeholders can provide their views in a meaningful way. This should benefit both stakeholders and the BBC by enabling impacts to be more easily and robustly considered, and mitigate the risk of a longer process.
- 4.13 We consider that the BBC Board made an error in concluding that these important changes did not require a public debate. We explained it was appropriate that stakeholders had a proper chance to comment on the Proposals, and in particular how they affect the broader PSB ecology, in the evidence we provided to the House of Lords Select Committee.^{217,218} The delaying of the public debate made the process of considering changes under the Charter and Agreement lengthier than it might otherwise have been.

Functionality

- 4.14 Sky and Directors UK said the BBC did not provide stakeholders with sufficient transparency over its future functionality changes during its PIT process.²¹⁹ Directors UK supported the BBC being required to consider functionality changes as part of a separate assessment, while Sky said that we should not approve the Proposals until the BBC had completed the assessment of the proposed functionality changes.
- 4.15 We explained in the BCA Consultation that functionality changes are not being considered as part of the Proposals.²²⁰ We therefore do not think it is appropriate to delay assessment of the Proposals until an assessment on functionality has been carried out. In relation to future functionality changes, the BBC asserted that it had provided a "significant degree of transparency about [its] BBC iPlayer functionality proposals".²²¹ We do not agree and consider the BBC did not engage substantively with stakeholders about the nature of the BBC's future functionality changes or its approach to considering potential competition effects.²²² We will engage further with the BBC to gain more clarity over its planned functionality changes and how it will go about considering the materiality of such changes; we also note that the BBC accepts that in principle functionality changes can be material.

²¹⁷ House of Lords Select Committee on Communications, July 2019. [*Uncorrected oral evidence: Public service broadcasting in the age of video on demand, Tuesday 9 July 2019 3.30 pm.*](#)

²¹⁸ Further, we noted that before reaching our decision on materiality, the BBC was able to proceed with its proposals and, rather than 'freezing' them or rolling them back when we found it was a material change, we permitted the BBC to make further changes under the Interim Directions.

²¹⁹ See responses to the BCA Consultation from Sky (pages 6 and 7) and Directors UK (paragraph 64).

²²⁰ Ofcom, 2019. [*BCA Consultation*](#), paragraph 2.17.

²²¹ BBC, 2019. BBC's response to the BCA Consultation, page 13.

²²² The limited insight provided to us on the future functionality changes in the confidential version of the BBC's PIT document was redacted from the published PIT document.

Our conclusions

- 4.16 In our BCA Consultation, we provisionally determined that the BBC could proceed with its Proposals subject to conditions and guidance. We explained that we considered there could be significant public value associated with the Proposals, but were concerned about potential impacts on competition we had identified on BVODs and potential UK focused SVODs, such as BritBox, entering the marketplace.
- 4.17 We also set out that we had concerns about whether the public value of the Proposals would be realised, as the BBC had provided little detail on how it would ensure its delivery. As a result, we proposed to impose conditions on the BBC to require it to set out: how the mission and public purposes would be delivered for people increasingly engaging with the BBC through BBC iPlayer; performance measures including availability, consumption and impact; and how the BBC has had regard to the effects of BBC iPlayer on competition in the UK.
- 4.18 In Section 3 of this document, we provided a summary of stakeholder responses and set out our revised conclusions on the public value and impact on competition of the Proposals, taking into account the issues raised by stakeholders.²²³
- 4.19 We remain of the view that there could be significant public value associated with the Proposals. Audiences will have more choice and access to a greater volume of PSB content, including content with a UK focus and more high-quality children’s programming. Our main concern remains ensuring that the BBC delivers the public value the Proposals could generate after implementation. We cover this further in our discussion on conditions below.
- 4.20 Overall with regard to competition impacts, we continue to believe it is likely there will be an adverse impact on fair and effective competition, and particularly in relation to BVOD services such as All 4, because BBC iPlayer is likely to attract viewing away from these services and there could be some impact on their incentives to invest. We also consider there is likely to be an adverse competition impact on potential new UK-focused SVOD services such as BritBox, although under the existing scope of the Proposals there is unlikely to be substantial harm to audiences. We also note ITV’s support for the Proposals and its recent announcement to launch BritBox with the BBC.²²⁴ We do not consider there will be an adverse impact on fair and effective competition in relation to the other potential competition concerns we discussed in Section 3.

²²³ As explained in Section 3, we have updated our estimates of the impact of the Proposals on BBC iPlayer viewing. Our updated range is narrower than in the BCA Consultation and the upper end is lower. However, it remains the case that we believe the Proposals will have a substantial impact on BBC iPlayer viewing (we estimate an increase of 20%-33% in 2020, compared to the situation absent the Proposals). The upper end of the range we set out in the BCA Consultation was associated with larger gains to public value (since there was greater viewing of BBC content) but also a larger impact on fair and effective competition. While we now believe these more extreme outcomes are unlikely, it does not alter our view that the adverse impacts on fair and effective competition are justified by the public value created by the Proposals.

²²⁴ ITV Press Centre, July 2019. [Full stream ahead for BritBox in UK as ITV and BBC sign agreement.](#)

- 4.21 Overall, taking into account the conclusions we have reached, the broader evolving market context, and subject to the conditions and guidance we set out below, we have concluded that the public value of the Proposals justifies the adverse impact on fair and effective competition we have identified. The BBC is therefore permitted to proceed with implementing its Proposals in accordance with the following conditions and guidance.

Scope of approval and conditions we are imposing on the BBC

Scope of the Proposals we are approving

- 4.22 We have reproduced the BBC's Proposals in Section 2, paragraphs 2.6 to 2.9. They set out the percentage and number of titles the BBC plans to make available on BBC iPlayer in various categories. We are approving the Proposals as set out in Section 2. However, the upper limit on the number of titles in some categories under the Proposals is not clear: in some cases there is either an estimate²²⁵ of the maximum number of titles (derived as a proportion of a specified category) or an imprecise²²⁶ maximum number of titles in a category.
- 4.23 Wherever the BBC has set out the maximum number of titles as "circa" a particular number,²²⁷ we do not expect the BBC to exceed that specific number without considering whether this would entail a material change under the Agreement.²²⁸ Furthermore, we expect the BBC to be able to explain its consideration of materiality in any such case.
- 4.24 In addition, the BBC has told us that the vast majority of returning series, non-returning series and archive series would not be made available on an exclusive basis after the initial 12-month period. [X]. This statement forms part of the Proposals we are approving and, accordingly, we do not expect the BBC to further increase the number of titles it makes exclusive to BBC iPlayer without considering whether this would entail a material change under the Agreement.
- 4.25 We consider that these Proposals, together with the other categories of content currently available, represent a new 'baseline' for BBC iPlayer.²²⁹ If the BBC wants to further evolve and develop its approach to BBC iPlayer, it will need to consider whether any developments it wishes to make are a material change. As we discussed in the BCA Consultation, we confirm that our approval in this document does not mean the BBC is able to extend and develop BBC iPlayer free from further regulatory oversight. We also

²²⁵ For example, in the Proposals, for drama and scripted comedy programmes, "c.25" current returning scripted titles are to be available as full box sets, which reflects "up to 50% of current returning scripted titles available as full box sets".

²²⁶ For example, in the Proposals, "c.50" children's archive titles are to be available as full box sets (all series) at any one time.

²²⁷ Whether or not in conjunction with a percentage.

²²⁸ For example, the Proposals include a "variable volume of predominantly non-commercial archive titles", which will be "c.50 individual series each year (estimate)". If the BBC wished to make more than 50 available, we would expect the BBC to consider whether this was a material change.

²²⁹ This baseline is set out in Annex 3.

note that our approval of the Proposals only permits the BBC to proceed if it wishes to do so. It is then for the BBC, Pact and any other parties to agree relevant commercial terms.

Conditions and guidance we are imposing on the BBC

- 4.26 As part of our approval of the Proposals, we are imposing a number of conditions which are specified requirements for the purposes of clause 59 of the Agreement. These conditions are set out in Annex 2.
- 4.27 In line with our BCA Guidance, we are introducing reporting requirements to enable us to monitor the implementation and impact of the Proposals. The BBC will be required to keep a record of the content made available on BBC iPlayer and to make this available to us on request. This condition is to ensure that we are always able to ascertain what is on BBC iPlayer at any time, to understand any further changes, and to aid any competition assessment we may undertake in the future.
- 4.28 The new baseline is set out in detail in Annex 3 and includes the different categories of content included within the Proposals and those that exist currently on BBC iPlayer. As part of the new baseline, the BBC will be required to provide to us the current volume of content in each category by 30 August 2019. To aid transparency for stakeholders, we expect to publish this updated baseline with content volumes shortly afterwards.
- 4.29 We discussed above that we had concerns about whether the BBC would deliver the public value set out in the Proposals and that we are therefore imposing conditions on the BBC specifically relating to this. We are requiring the BBC to retain data on viewing of BBC iPlayer by different categories and genres of content, and by demographic group.
- 4.30 It is for the BBC to take the lead on securing the effective fulfilment of its mission and public purposes. We are therefore requiring the BBC to propose revised performance measures, and targets where appropriate, to assess the performance of BBC iPlayer and how it contributes to the mission and public purposes. It must consult with us on its proposals by 31 October 2019 and establish these performance measures by 31 December 2019. The BBC will need to consider how to measure the availability, consumption and impact of content on BBC iPlayer effectively and how these measures should be reported in the BBC Annual Report, starting with the report covering the year 2019/2020.
- 4.31 In addition, we expect the BBC to set out in its Annual Plan how it intends BBC iPlayer will contribute to the mission and public purposes over the forthcoming year, particularly as individuals increasingly access BBC content through BBC iPlayer rather than live TV channels.
- 4.32 In the Charter, the BBC is required to have particular regard to the effects of its activities on competition in the UK. As discussed above, we therefore expect the BBC to consider the potential competition effects of any changes it may wish to make to BBC iPlayer in the future and to consider the materiality of those changes.
- 4.33 We also monitor the BBC in relation to competition and performance on an ongoing basis. This encompasses the BBC and its activities, and includes market developments and the

BBC's place in the wider PSB sector and beyond. We expect to continue with this programme and include consideration of BBC iPlayer within it, as well as reporting on BBC iPlayer performance in our BBC annual report from next year. The condition requiring the BBC to report on what is available on BBC iPlayer will help us to determine whether we consider that further changes to BBC iPlayer are material and therefore whether it is necessary to intervene to require the carrying out of a PIT, or potentially, for us to initiate a BBC competition review.²³⁰

- 4.34 We explained in Section 3 our position on distribution following consultation responses and the applicability of existing regulation. In summary, we consider that the BBC in its arrangements for distribution of BBC iPlayer should:
- a) focus on ensuring that audiences benefit from being able to watch a full range of BBC content in the way that they want to, across a variety of platforms; and
 - b) maintain its approach to ensure that the implementation of the Proposals applies equally to both standard and bespoke implementations of BBC iPlayer.
- 4.35 As part of the 2018/2019 Interim Changes, we imposed Interim Directions on the BBC permitting it to make a limited amount of additional content available on BBC iPlayer.²³¹ Given our approval of the Proposals, we have decided to remove the Interim Directions; therefore, these are no longer in effect as of 1 August 2019.

The Overview section in the document is a simplified high-level summary only. The decisions we have taken, and our reasoning, are set out in the full document.

²³⁰ Under clause 12 of the Agreement.

²³¹ Ofcom, November 2018. [*Review of the BBC's Materiality Assessment of Proposed Changes to the BBC iPlayer: Final interim directions.*](#)

A1. Legal framework

- A1.1 Ofcom’s principal duty, in section 3 of the Communications Act 2003, is to further the interests of citizens and consumers in relation to communications matters, where appropriate by promoting competition. In performing our duties we must have regard, among other things, to the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the UK and of promoting competition in relevant markets.
- A1.2 The BBC Charter²³² and Agreement²³³ set the BBC’s mission and public purposes and the framework for Ofcom’s regulation of the BBC.²³⁴
- A1.3 The Charter provides that we must have regard, in carrying out our functions, to such of the following as appear to us to be relevant in the circumstances:
- a) the object of the BBC to fulfil its mission and to promote the public purposes;
 - b) the desirability of protecting fair and effective competition in the United Kingdom;
 - c) the requirement for the BBC to comply with its duties under the Charter, including its general duties.²³⁵
- A1.4 The Charter and Agreement recognise that, in order fulfil its mission and promote the public purposes, the BBC may need to make changes to the UK Public Services. However, to protect fair and effective competition, the BBC may only make a material change to the UK Public Services where:
- a) it has carried out a public interest test and determined that test is satisfied; and
 - b) Ofcom determines that the BBC may carry out the proposed change.²³⁶

The BBC’s analysis

- A1.5 The BBC must therefore initially assess whether a proposed change is material. The Agreement defines a material change as:
- a) the carrying out of any activity as a new UK Public Service; and
 - b) any change to a UK Public Service which may have a significant adverse impact on fair and effective competition.²³⁷

²³² [*Royal Charter for the continuance of the British Broadcasting Corporation \(December 2016\)*](#).

²³³ [*An Agreement Between Her Majesty’s Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation \(December 2016\)*](#).

²³⁴ Section 198 of the Communications Act 2003 provides that it is a function of Ofcom to regulate the BBC. Our general duties under section 3 of that Act therefore apply to the exercise of our functions in relation to the BBC.

²³⁵ Article 45(2) of the Charter.

²³⁶ Clause 7(6) of the Agreement.

²³⁷ Clause 7(7) of the Agreement.

- A1.6 If the BBC considers that a proposed change is not material, it may carry out the change, unless Ofcom disagrees with the BBC on materiality. If we consider that the proposed change is material, we may direct the BBC to:
- a) carry out a public interest test and, if the test is satisfied, publish the change; or
 - b) stop carrying out the change in accordance with such directions as we consider appropriate.²³⁸
- A1.7 In order for a public interest test to be satisfied, the BBC must determine that:
- a) the proposed change contributes to the fulfilment of the BBC's mission and promotion of one or more of the public purposes;
 - b) it has taken reasonable steps to ensure that the proposed change has no unnecessary adverse impact on fair and effective competition; and
 - c) the public value of the proposed change justifies any adverse impact on fair and effective competition.²³⁹
- A1.8 If the test is satisfied and the BBC wishes to implement the proposal, it must publish the proposed change and provide a copy to Ofcom.²⁴⁰

Ofcom's role

- A1.9 Ofcom must then assess whether the proposed change is material and, if so, decide what type of further assessment to conduct.²⁴¹
- A1.10 Paragraph 4.33 of Ofcom's guidance document 'Assessing the impact of proposed changes to the BBC's public service activities' (the BCA guidance)²⁴² sets out a non-exhaustive list of factors we may take into account when assessing the potential significant adverse impact of a change.
- A1.11 If we conclude a proposed change is not material, or six weeks pass without our informing the BBC of our view, the BBC may carry out the change.
- A1.12 If we conclude that the proposal is material, we may decide to carry out a BBC competition assessment (BCA) under clause 10 of the Agreement or a shorter assessment drawing on elements of the BCA procedure. Paragraph 4.35 of the BCA guidance explains when each type of assessment might be appropriate.
- A1.13 In carrying out a BCA or shorter assessment, Ofcom must:
- a) review the procedures the BBC has followed in carrying out the public interest test;

²³⁸ Clause 9(6) of the Agreement.

²³⁹ Clause 8 of the Agreement.

²⁴⁰ Clause 8(3) of the Agreement.

²⁴¹ Clause 9 of the Agreement.

²⁴² Ofcom, 2017. [Assessing the impact of proposed changes to the BBC's public service activities: Ofcom's procedures and guidance.](#)

- b) review the BBC's assessment of the public value of the proposed change to the UK Public Services;
 - c) assess any adverse impact of the proposed change on fair and effective competition; and
 - d) assess whether the public value of the proposed change justifies any adverse impact on fair and effective competition.²⁴³
- A1.14 Ofcom must consider the scale and likelihood of any public value relative to the scale and likelihood of any adverse impact on fair and effective competition. The Agreement recognises that the determination will require qualitative assessments to be made and that direct comparison of factors relating to public value and factors relating to risks to fair and effective competition may not be possible.²⁴⁴
- A1.15 At the end of the process, we will make one of four possible determinations:
- a) that the BBC may carry out the proposed change;
 - b) that the BBC may not carry out the proposal;
 - c) that the proposal may go ahead subject to conditions or modifications that we consider appropriate; or
 - d) that the BBC must reconsider elements of its public interest test or follow any further procedures we consider appropriate.²⁴⁵
- A1.16 Ofcom may only make determinations (b) and (c) above where we have carried out a BCA and not following a shorter assessment.²⁴⁶
- A1.17 Ofcom must complete a BCA within six months²⁴⁷ and a shorter assessment in less than six months.²⁴⁸ In either case we will consult stakeholders before making our final determination.

Distribution

- A1.18 The BBC is required under clause 61 of the Agreement to act in a fair, reasonable and non-discriminatory manner in supplying its public services (including BBC iPlayer).
- A1.19 In addition, due to the potential for the way the BBC supplies services to undermine competition and innovation, we require that the BBC offers its public services to third parties on a fair, reasonable and non-discriminatory basis under the Operating Framework. These requirements are set out in our distribution guidelines: 'Distribution of BBC public services: Ofcom's requirements and guidance'.²⁴⁹

²⁴³ Clause 10 of the Agreement. Section 5 of the BCA guidance explains the analytical approach we expect to apply.

²⁴⁴ Clause 10(4) of the Agreement.

²⁴⁵ Clause 11(1) of the Agreement.

²⁴⁶ Clause 11(2) of the Agreement.

²⁴⁷ Clause 10(2) of the Agreement.

²⁴⁸ Clause 9(2) of the Agreement.

²⁴⁹ Ofcom, 2017. [*Distribution of BBC public services: Ofcom's requirements and guidance*](#).

A2. BBC iPlayer conditions

In these conditions:

- (a) BBC iPlayer Types means the types of content (excluding Radio) set out in column 2 of Annex 3 to Ofcom's BBC iPlayer Competition Assessment dated 1 August 2019; and
 - (b) Retained Data means the data retained under conditions (3), (4) and (5).
- (1) The BBC must by 30 August 2019 provide the volume of hours of content currently made available on BBC iPlayer by reference to each BBC iPlayer Type.
- (2) The BBC must by 31 October 2019 consult with Ofcom on proposals for, and by 31 December 2019 set, revised performance measures (and targets for those measures where appropriate) to assess the performance of BBC iPlayer in fulfilling the Mission and promoting the Public Purposes. In making those proposals the BBC must consider:
- a) how to achieve effective measurement of the availability, consumption and impact of content on BBC iPlayer; and
 - b) what measures of performance for BBC iPlayer will be reported in each BBC Annual Report beginning with the Annual Report for 2019/2020.
- (3) Unless Ofcom consent otherwise, from 1 August 2019 the BBC must retain data recording:
- a) the dates between which programme titles are or were made available by reference to each of the following BBC iPlayer Types:
 - i. Returning series
 - ii. Archive series
 - iii. Extended availability for non-returning titles
 - iv. Network acquisitions.
 - b) which of those programme titles the BBC determined were to be exclusively available on BBC iPlayer in that period.
- (4) Unless Ofcom consent otherwise, from 1 August 2019 the BBC must retain data recording the volume of hours of content made available on BBC iPlayer over time by reference to each of the following categories:
- a) BBC iPlayer Type;
 - b) genre: covering children's, comedy, drama, entertainment, factual, learning, music, news (including current affairs), religion and ethics, sport, weather and other;
 - c) genre (as listed above) within each BBC iPlayer Type.
- (5) Unless Ofcom consent otherwise, from 1 August 2019 the BBC must retain data recording:
- a) the consumption (by weekly reach) of content made available on BBC iPlayer as a whole; and
 - b) the consumption (by time spent) of content made available on BBC iPlayer by reference to each of the following categories:
 - i. BBC iPlayer Type;
 - ii. genre: covering children's, comedy, drama, entertainment, factual, learning, music, news (including current affairs), religion and ethics, sport, weather and other;
 - iii. demographic: including age, ethnicity and social grade.

- (6) The BBC must provide Ofcom such information as they request in relation to the Retained Data, at such intervals as they request.
- (7) The Retained Data must be of sufficient standard to a) support reporting under condition (2), and b) provide clarity to Ofcom so that it can monitor the content and consumption of BBC iPlayer.

A3. BBC iPlayer baseline

- A3.1 The purpose of this annex is to establish a baseline of content that is available on BBC iPlayer. Setting out this baseline enables stakeholders and us to understand the scale of BBC iPlayer as well as any changes to it in the future. The baseline assumes that the BBC fully implements the Proposals and is able to secure appropriate rights to programmes to do so – it may be that not all programmes are available for the full time periods set out below.
- A3.2 Table A3.1 was provided to us by the BBC and lists the different categories of programming on BBC iPlayer, along with information on their definitions and availability. It includes both the categories that make up the Proposals, their current availability and their availability following approval of the Proposals, as well as other categories of content, the availability of which is not affected by the Proposals.
- A3.3 Condition 1 (see Annex 2) requires the BBC to provide us by 30 August 2019 with the volume of hours of content currently made available on BBC iPlayer in each category. Shortly after this information is provided, we will publish an updated table with this additional information.

Table A3.1: BBC iPlayer baseline (including the Proposal and other content categories)

Category	Type and definition	Currently (including Ofcom’s Interim Directions)	Following approval of the BBC’s proposals
Normal Business Standard availability of programmes on BBC iPlayer	Network: BBC One / Two / Four / News / Parliament All new programmes published to BBC iPlayer from BBC Network channels, and to which new standard availability will apply, including commissions and acquisitions	<ul style="list-style-type: none"> • Commissions available for 30 days • Repeats available for 30 days • Acquisitions available for 30 days, subject to rights • Some programmes (e.g. News, Sport & some acquired available for shorter period due to rights reasons) 	<ul style="list-style-type: none"> • Most programmes will be available for 12 months from first availability of the final episode in the current series • Some programmes (e.g. News, Sport & some acquired) available for shorter period due to rights and relevance reasons • Repeats available for 30 days from first availability of the final episode of a series (if the repeat is outside the BBC’s Normal Business or Extended Availability proposals)
	Children’s	<ul style="list-style-type: none"> • Commissions available for 30 days • Repeats available for 30 days 	<ul style="list-style-type: none"> • Most programmes (including online only) available for full public service licence period (i.e. 5 years from

Category	Type and definition	Currently (including Ofcom’s Interim Directions)	Following approval of the BBC’s proposals
	All new children’s content published to BBC iPlayer, including commissions and acquisitions	<ul style="list-style-type: none"> • Acquisitions available for 30 days, subject to rights • Small volume of BBC iPlayer only commissions (e.g. for 12-15 year olds) 	<p>first availability of the final episode in the current series)</p> <ul style="list-style-type: none"> • Some programmes (e.g. some acquired) available for shorter period due to rights reasons • Repeats available for 30 days from first availability of the final episode of a series (if the repeat is outside Normal Business or Extended Availability proposals)
Extended Availability (beyond Normal Business) [38]	Returning series Past series of returning titles made available to provide full series box sets on BBC iPlayer	<ul style="list-style-type: none"> • Small number from trial²⁵⁰ available for varying periods 	<ul style="list-style-type: none"> • Drama and scripted comedy: Up to 50% of current returning titles available as Box sets (c.25 titles each year) • Children’s: Returning titles available as Box sets (c.30 titles each year) • Other genres: Returning titles available as Box sets (c.25 titles each year)
	Archive series Titles brought back to BBC iPlayer that are no longer in commission	<ul style="list-style-type: none"> • Small number from trial available for varying periods 	<ul style="list-style-type: none"> • Drama and scripted comedy: Up to 35 scripted archive titles available at any one time • Children’s: c.50 Children’s archive titles available as full box sets (all series) at any one time • Other genres: Variable volume of predominantly non-commercial²⁵¹ titles (c.50 individual series each year)

²⁵⁰ The “trial” that the BBC refers to is the same as what we refer to as the ‘2018/19 Interim Changes’ in Section 2.

²⁵¹ Non-commercial in this context means content that is typically, currently, not likely to be of interest to commercial VOD services. It excludes scripted comedy and drama, as well as commercial factual content (factual content which is likely to be watched by a broad section of the public and therefore likely to have commercial appeal).

Category	Type and definition	Currently (including Ofcom’s Interim Directions)	Following approval of the BBC’s proposals
	<p>Extended availability for non-returning titles</p> <p>12 months further BBC iPlayer extension beyond first 12 months (i.e. 24 consecutive months) for selected non-returning titles</p>	<ul style="list-style-type: none"> • Small number from trial available for varying periods 	<ul style="list-style-type: none"> • Drama and scripted comedy: Up to 50% of non-returning scripted titles available for a further 12 months (c.25 titles each year) • Children’s: N/A – due to 5 year standard • Other genres: Variable volume of predominantly non-commercial singles and one-off series available beyond initial 12 months (c.100 individual series each year)
	<p>Network acquisitions</p> <p>A small number of acquisitions may be available for more than 12 months (in line with market practice)</p>	<ul style="list-style-type: none"> • Acquisitions are a small part of the BBC’s overall content offer and are generally available in line with Normal Business 	<ul style="list-style-type: none"> • The availability for acquired programmes will vary, as the BBC has to buy acquisitions in an open market and the terms are set by the seller. Acquired content may be available on BBC iPlayer for different periods, including longer than 12 months
<p>Pre-existing regulatory approvals for extended availability outside of Normal Business and Extended Availability</p>	<p>Permanent collection - “from the archive”</p> <p>A small selection of additional archive BBC content available “permanently” (i.e. until the BBC decides to take it down) from BBC iPlayer</p>	<ul style="list-style-type: none"> • Small number of titles are published to BBC iPlayer as permanent collections, historically under the BBC Four brand but now branded as “From the Archive”²⁵² • This low level of volume and activity focuses primarily on knowledge, culture and arts. In addition, some programmes are chosen to showcase exceptional public service content from the past to a new generation 	<ul style="list-style-type: none"> • No change. The BBC will continue to publish on BBC iPlayer a small number of titles “From the Archive” • This will continue to be distinct from the BBC’s proposals for extended availability for archive BBC content

²⁵² The BBC Four service licence set out that BBC Four could “offer...some news and current affairs output on-demand for an unlimited time period after initial broadcast” and “offer programming including archive, for an unlimited time period after initial broadcast as part of a permanent collection of on demand content”. On average the BBC releases 70 programmes a year under this Trust permission. BBC, April 2016. [BBC Four Service Licence. Issued April 2016](#), page1.

Category	Type and definition	Currently (including Ofcom’s Interim Directions)	Following approval of the BBC’s proposals
		<p>across a range of genres and to ensure the overall offer is reflective of all BBC TV output</p>	
	<p>BBC Three programmes</p> <p>Both commissions and acquisitions made available on BBC iPlayer under the BBC Three brand</p>	<ul style="list-style-type: none"> • BBC Three is an online only channel that offers a range of innovative and distinctive content created especially for 16-34 year olds in the UK, including long and short form video. • New commissions are available for at least 24 months, with the ability to extend further. Acquisitions are made available in line with what the BBC can secure in the market 	<ul style="list-style-type: none"> • No change to current availability patterns for BBC Three
<p>Non-network programmes available through BBC iPlayer outside of Normal Business and Extended Availability</p>	<p>Nations only</p> <p>Content specifically commissioned for the BBC in the UK’s nations, often in national languages, which only receives a linear transmission in each nation (e.g. Alba, S4C, BBC Scotland, BBC One/Two national opts) not on network TV</p>	<ul style="list-style-type: none"> • The majority of Nations content, including S4C/BBC Alba is available in line with Normal Business • Some selected content has extended availability to reflect different commissioning strategies within the nations.²⁵³ 	<ul style="list-style-type: none"> • The majority of Nations content will be available in line with the new Normal Business; a small amount will continue to be available for an extended period

²⁵³ The BBC has formal partnerships with MG Alba and S4C to provide content on BBC iPlayer. The BBC Trust BBC Online Service licence set out the BBC iPlayer "may offer access to programming from S4C". BBC, June 2016. [BBC Online and Red Button Service Licence. Issued June 2016](#), page 11.

Category	Type and definition	Currently (including Ofcom's Interim Directions)	Following approval of the BBC's proposals
	<p>BBC iPlayer only short and long form commissions (excluding Children's, Nations and BBC Three)</p>	<ul style="list-style-type: none"> • Some BBC commissions published to BBC iPlayer with no linear transmission • Availability varies by programme but is generally longer than 30 days, reflecting commissions for VOD rather than for linear transmission • This includes short and long form content 	<ul style="list-style-type: none"> • No change. The BBC will continue to experiment with BBC iPlayer only commissions but has no current plans for significant changes
	<p>BBC iPlayer/online only coverage of seasonal events (e.g. Wimbledon)</p>	<ul style="list-style-type: none"> • On-demand content published around seasonal events, with availability in line with the rights the BBC can secure for this content • As this is events based, this content is often available for limited time periods around these events when it is most relevant 	<ul style="list-style-type: none"> • No change. The BBC will continue to use BBC iPlayer to provide coverage of seasonal events
	<p>Third party (not for profit) programmes</p>	<ul style="list-style-type: none"> • As set out in the BBC Online service licence from the BBC Trust, BBC iPlayer may carry a "small selection of editorially suitable content commissioned by other third parties" which must be "Not-for-profit cultural and arts organizations, which can support the delivery of the public purposes"²⁵⁴ 	<ul style="list-style-type: none"> • No change. The BBC expects to continue to publish small volumes of third-party content in line with its pre-existing BBC Trust approval

²⁵⁴ BBC, June 2016. *BBC Online and Red Button Service Licence. Issued June 2016*, page 11.

Category	Type and definition	Currently (including Ofcom's Interim Directions)	Following approval of the BBC's proposals
	Content from BBC website made available on BBC iPlayer	<ul style="list-style-type: none"> • A small volume of short and long form content from the BBC website that is also made available on BBC iPlayer if there is an audience need (e.g. clips from programmes, trailers for BBC programmes, other content such as BBC Stories) • This content has different patterns of availability based on rights 	<ul style="list-style-type: none"> • No change. The BBC will continue to use BBC iPlayer to publish some BBC website content where it may benefit audiences
	Radio: Audio-visual content commissioned by BBC Radio with no linear (TV) transmission	<ul style="list-style-type: none"> • Typically commissioned alongside Radio events. Includes, for example, live performances 	<ul style="list-style-type: none"> • No change. The BBC will continue to publish some audio-visual BBC Radio content to BBC iPlayer, some of which may be available for longer than Normal Business

A4. Updates to our modelling

A4.1 As noted in Section 3, in response to points raised by stakeholders, as well as part of our consideration of the differences between our modelling and the analysis undertaken by Channel 4 and the BBC, we have revisited our estimates of the impact on BBC iPlayer viewing resulting from the Proposals. This has led us to make two updates to our modelling, which we describe in this annex. We also set out our revised estimates of the increase in BBC iPlayer viewing and the impact on rivals' viewing (BVODs, SVODs and live TV) resulting from the Proposals.

BBC iPlayer viewing in the counterfactual (i.e. if the BBC did not implement the Proposals)

- A4.2 In our BCA Consultation,²⁵⁵ in order to estimate BBC iPlayer viewing in 2018 in our counterfactual (i.e. the case without the Proposals), we estimated what total BBC iPlayer viewing would have been in 2018 absent the viewing attributable to the 2018/19 Interim Changes.²⁵⁶ To do this, we took total BBC iPlayer viewing and removed all viewing of the box sets from the 2018/19 Interim Changes.²⁵⁷
- A4.3 On reflection, we consider that, instead of removing all viewing of the box sets from the 2018/19 Interim Changes, it would be preferable to take out only incremental viewing of those box sets (i.e. viewing that would not have occurred absent the 2018/19 Interim Changes). This involves leaving in viewing of new and latest series in the 2018/19 Interim Changes that took place in the first 30 days of availability, as this viewing would have occurred even absent the 2018/19 Interim Changes.
- A4.4 Making this update has the effect of slightly increasing our estimate of BBC iPlayer viewing in our counterfactual (i.e. leading to a slightly higher starting number) and slightly decreasing our estimates of the percentage increase in BBC iPlayer viewing resulting from the Proposals.

Decline in viewing over time for new and latest series

A4.5 As we set out in our BCA Consultation,²⁵⁸ in order to estimate the increase in BBC iPlayer viewing that would result from extending the availability of a particular type of series, it is useful to examine how viewing of that type of series declines over time. We constructed 'decay curves' for viewing over time for each type of series ('new and latest', 'previous' and

²⁵⁵ Ofcom, 2019. [BCA Consultation](#), paragraph A2.13.

²⁵⁶ The 2018/19 Interim Changes are the short-term changes that the BBC proposed to make to BBC iPlayer in the 2018/19 financial year. See Ofcom, 2019. [BCA Consultation](#), paragraph 2.6.

²⁵⁷ We then added back in a portion of that box set viewing. This is because some of the viewing of the box sets added under the 2018/19 Interim Changes is likely to have been cannibalised from other BBC iPlayer viewing.

²⁵⁸ Ofcom, 2019. [BCA Consultation](#), paragraphs A2.40-A2.43 and A2.52-A2.54.

'archive').²⁵⁹ We then used these decay curves to estimate a viewing uplift from extending their availability. For new and latest series, we estimated the viewing uplift from extending availability from 1 month to 12 months by calculating viewing in months 2 to 12 as a proportion of viewing in month 1. We then used these viewing uplifts to estimate the impact on BBC iPlayer viewing of the proposed changes to each type of series.

- A4.6 It is possible to estimate the impact on BBC iPlayer viewing using either episode or series level viewing data.²⁶⁰ In our BCA Consultation,²⁶¹ we used CC's estimate that 38% of all BBC iPlayer viewing hours would be affected by extending the standard availability of general content to one year; we understand this was effectively based on episode-level data. We then applied this to our estimate of the viewing uplift from extending availability of new and latest series of general content to one year; this was based on series-level data. This created a potential inconsistency in our use of viewing data for new and latest series. We sought to adjust for this in our 'low' impact scenario by using the CC model's estimate of how viewing declines for new and latest series of general content (CC's estimate of viewing decline was based on episode-level data).
- A4.7 On reflection, we consider that it would be preferable to also adjust for this potential inconsistency in our 'medium' and 'high' impact scenarios. We have therefore updated our modelling by using the CC model's estimate of viewing declines over time (which is based on episode-level data) for new and latest series of general content and children's content²⁶² in all our impact scenarios.²⁶³
- A4.8 Making this update has the effect of lowering our estimates of the percentage increase in BBC iPlayer viewing in our 'medium' and 'high' scenarios (our 'low' scenario remains the same). This tightens our range for the estimated impact of the Proposals by lowering the upper bound.

Our conclusion on the increase in BBC iPlayer viewing

- A4.9 In conclusion, after making the updates described above, we estimate that the increase in BBC iPlayer viewing could be 14%-24% for general content and 6%-9% for children's

²⁵⁹ As explained in our BCA Consultation, in order to construct decay curves for viewing over time for each type of series, we followed the following steps. First, we estimated the average monthly viewing for each type of series in each month of availability. Second, for each type of series, we plotted the percentage decrease in viewing for each month relative to the first month. Third, we found a line of best fit for each type of series, and used the formulae of these lines to project the viewing up to 12 months for previous and archive series and 24 months for new and latest series. Ofcom, 2019. [BCA Consultation](#), paragraph A2.40.

²⁶⁰ Series-level data measures the amount of daily viewing for a series, whereas episode-level data breaks this down by episode.

²⁶¹ Ofcom, 2019. [BCA Consultation](#), paragraphs 4.13c), A2.53-A2.54 and A2.65c).

²⁶² In our BCA Consultation, we also used CC's estimate that 1.6% of all BBC iPlayer viewing hours would be affected by the extended standard availability of children's content; we understand this figure was also effectively based on episode-level data. We applied this to our estimate of the viewing uplift for new and latest series of children's content from extending availability to 2 years; this was based on series-level data. See Ofcom, 2019. [BCA Consultation](#), paragraphs A2.60-A2.61.

²⁶³ For the avoidance of doubt, we consider it remains appropriate to use our estimates of the viewing decline over time for previous and archive series of general and children's content in all our impact scenarios, as we have consistently used series-level data in those cases.

content, with an overall increase in BBC iPlayer viewing from the Proposals of 20%-33%, relative to the counterfactual in 2020. Our estimates under all three impact scenarios are set out in Figure 3.1 and our conclusions on the impact of the Proposals on BBC iPlayer viewing are set out in Section 3.

Our conclusion on the impact on rivals' viewing

A4.10 The updates we have made to BBC iPlayer viewing in our counterfactual (described above) result in the revised counterfactual shares of VOD viewing minutes in 2020 that are shown in Table A4.3 below.²⁶⁴

Table A4.3: Updated shares of VOD viewing of different services under the counterfactual in 2020

	Counterfactual share of VOD viewing minutes	Counterfactual share of VOD and linear viewing minutes
BBC iPlayer	6.0%	1.4%
Other BVOD	11.3%	2.5%
SVOD	82.7%	18.6%
Live TV – BBC	-	23.9%
Live TV – Other	-	53.5%

Source: Ofcom estimates

A4.11 The updates we have made to our forecasts of the increase in BBC iPlayer viewing also affect our estimates of the impact of the Proposals on the viewing of other services (i.e. other BVODs, SVODs and live TV). Based on our updated forecasts for the increase in BBC iPlayer viewing of 14%-24% for general content, and the different rates of switching implied by the different survey results, we have calculated the following revised changes in viewing minutes for other BVODs (see Table A4.4), SVODs (see Table A4.5) and live TV (see Table A4.6).²⁶⁵ We estimate a reduction in viewing minutes for BVODs of 0.6%-2.0%; for SVODs of 0.1%-0.7%; and for live TV of up to 0.2%. Our conclusions on the viewing impact of the Proposals on other services are set out in Section 3.

²⁶⁴ Table A4.3 updates Table A3.1 in our [BCA Consultation](#).

²⁶⁵ Tables Table A4.4, Table A4.5 and Table A4.6 in this document update Tables A3.2, A3.3 and A3.4 in our [BCA Consultation](#).

Table A4.4: Updated change in other BVOD viewing under different modelling scenarios

BBC iPlayer scenario (% increase in viewing) ²⁶⁶	Estimated change in other BVOD viewing minutes based on different survey results			
	Kantar Survey: forced diversion ²⁶⁷	Kantar Survey: extended window ²⁶⁸	Kantar Survey: expanded offering ²⁶⁹	CC model (2020) ²⁷⁰
Low = 14.2%	-1.2%	-0.8%	-0.9%	-0.6%
Medium = 19.0%	-1.6%	-1.1%	-1.2%	-0.8%
High = 24.1%	-2.0%	-1.4%	-1.6%	-1.0%

Note: See footnotes to this table for information on the survey questions the substitution scenarios are based on. Further details on the different pieces of evidence on substitution are set out in Annex 2 of our [BCA Consultation](#).

Table A4.5: Updated change in SVOD viewing under different modelling scenarios

BBC iPlayer scenario (% increase in viewing)	Estimated change in SVOD viewing minutes based on different survey results			
	Kantar Survey: forced diversion	Kantar Survey: extended window	Kantar Survey: expanded offering	CC model (2020)
Low = 14.2%	-0.4%	-0.1%	-0.1%	-0.2%
Medium = 19.0%	-0.5%	-0.1%	-0.1%	-0.2%
High = 24.1%	-0.7%	-0.1%	-0.2%	-0.3%

Note: See footnotes to Table A4.4 above for information on the survey questions the substitution scenarios are based on. Further details on the different pieces of evidence on substitution are set out in Annex 2 of our [BCA Consultation](#).

²⁶⁶ We present these results relative to our central counterfactual, where other BVODs have an 11.3% share of VOD viewing minutes in 2020. We have also estimated alternative counterfactual scenarios where other BVODs' share of VOD viewing could be either marginally lower or higher, but using these alternative counterfactuals would not affect the results presented in Table A4.4 above.

²⁶⁷ Based on our analysis of questions BQ.1 and BQ.2Ai of the Kantar Survey.

²⁶⁸ Based on our analysis of adjusted response data to questions CQ.1 and CQ.2B of the Kantar Survey.

²⁶⁹ Based on our analysis of adjusted response data to questions DQ.1 and DQ.2B of the Kantar Survey.

²⁷⁰ Based on CC model.

Table A4.6: Updated change in live TV viewing under different modelling scenarios

BBC iPlayer scenario (% increase in viewing)	Estimated change in live TV viewing minutes based on different survey results			
	Kantar Survey: forced diversion	Kantar Survey: extended window	Kantar Survey: expanded offering	CC model (2020)
Low = 14.2%	-0.07%	-0.02%	-0.01%	-0.12%
Medium = 19.0%	-0.10%	-0.02%	-0.02%	-0.17%
High = 24.1%	-0.12%	-0.03%	-0.02%	-0.21%

Note: See footnotes to Table A4.4 above for information on the survey questions the substitution scenarios are based on. Further details on the different pieces of evidence on substitution are set out in Annex 2 of our [BCA Consultation](#).