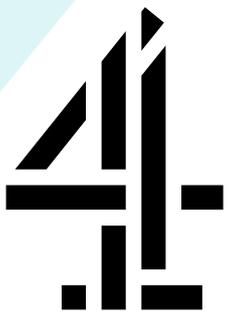


Channel 4's response to Ofcom's BBC Three competition assessment

October 2021



Key points

- 01** The BBC holds a privileged position as the recipient of a significant amount of public funding. It should use this privileged position to nurture and strengthen the provision of public service media, both by the BBC and by others in wider ecosystem.

- 02** The BBC should carefully consider the impact of any proposals it makes on the wider market, and in particular on the provision of public service media by others.

- 03** The BBC should be required to consider alternative means of delivering public value which do not damage wider provision.

- 04** The BBC claims it already does better with the 16-34 audience *“than any other brand in media”* and that these proposals are targeted at a small subset of this audience. The assessment of public value should therefore be based on the additional benefit being provided for this specific audience.

- 05** Crucially this specific group is small, and Ofcom recognises that the value provided with the relaunch of a linear channel *“could be relatively short term”*.

- 06** However, the impact on other providers of Public service media is significant – Ofcom’s own analysis shows that the relaunch of BBC Three as a linear channel could cost Channel 4 £10m p.a – funding that would otherwise be available to us for remit delivery.

- 07** The BBC has already committed to increase the budget for BBC Three regardless of the outcome of this process, so it is possible to avoid these negative impacts while ensuring viewers also benefit from increased investment in BBC Three content to be carried on iPlayer.

Introduction

Channel 4 believes it is vitally important that the UK maintains a strong and vibrant public service broadcasting (PSB) ecology. A strong BBC is central to the success of that ecology, but its decisions and actions can also have an adverse impact on its health to the detriment of viewers.

The UK's broadcasting ecology consists of a variety of different organisations with different remits, models and purposes. At the centre of this sits the UK's Public Service Broadcasters (PSBs) - the publicly owned and publicly funded BBC, the publicly owned and commercially funded Channel 4 and the privately owned and commercially funded ITV and Channel 5. The UK benefits significantly from this plurality of public service broadcasting.

As well as delivering a rich and diverse range of content, which reflects the lives and experiences of UK audiences, the PSBs invest c. £3bn p.a in content from UK independent production companies, supporting tens of thousands of jobs. The PSBs play a vital role in British public life, supporting British democratic values – helping to inform UK citizens' understanding of the world and each other, through investment in a wide range of genres from news and current affairs to film and drama. The role of the PSBs continues to be highly valued by audiences – particularly in a climate of 'fake news' and disinformation, the PSBs are hugely valued sources of trusted, impartial information.

As the biggest PSB, the BBC inevitably has an impact on the PSB ecology and the wider market. [Redacted]. It is therefore right that the BBC and Ofcom carefully consider the impact of material changes the BBC makes to its services and consider how these impacts can be minimised where possible.

Channel 4's role

Within the PSB ecology, Channel 4 plays a unique role for the British public and British creative industries. Channel 4 was created to be a disruptive, innovative force in UK broadcasting. We have a unique public service remit to serve younger audiences and champion diversity. As a publisher-broadcaster, we play a hugely important role in the success of the UK's creative industries, acting as a world-leading accelerator, investing in, and stimulating the production sector and pioneering innovation in digital.

Channel 4 is the only public service broadcaster, that attracts a larger share of viewing among 16-34s than the general population. Our strong relationship with this audience carries on throughout our programming, with Channel 4 News the youngest profiling PSB national news programme across 2020 and has only strengthened during the pandemic. Channel 4 was the only commercial public service broadcaster to have grown young audiences across both daytime and peak in 2020. Over the first lockdown, our peak-time share grew by +20% and +36% in peak time amongst young audiences –more than any other PSB.

In 2020, Channel 4 had 23 of the top 30 highest-profiling titles for 16-34-year-olds in peak on British television –and 18 of the top 30 profiling titles for 16-24-year-olds in peak. Our digital service, All 4 has 25 million registered users, including 80% of all 16-24 year olds in the UK and is the youngest-profiling public service broadcaster streaming service in the UK, with a 16-34 profile akin to Amazon Prime and Netflix.

To further build on our strong foundation, Channel 4 announced its Future 4 strategy late last year, which sets out a newly defined vision for Channel 4 as a digital-first PSB with a vision to represent unheard voices, challenge with purpose and reinvent entertainment. This new strategy and vision are designed to ensure we can continue to resonate with young audiences from across the UK and reflect their lives and experiences in our programming.

In September 2021 we updated this strategy with an ambition to:

- Excel as the young people’s PSB streamer, investing £50 million more in content for younger viewers across genres, focused on streamed and social content
- Expand as a publisher-broadcaster internationally, increasing our Global Format Fund to help indies create new formats with global potential; and launching an advertiser-funded international streaming service
- Accelerate our role as a public service catalyst across the UK, with £5 million of investment to reach 15,000 young people annually with training and development initiatives from 2022; including a new digital academy for young people from lower socio-economic backgrounds.

Channel 4 has always had a strong relationship with younger audiences, and we intend to continue to build on this in our next 40 years.

Given the focus of the BBC Three channel on the 16-34 audience, Channel 4 has a direct interest in the BBC’s proposals. Ofcom’s analysis of the impact on the BBC’s proposals on the wider market has demonstrated that it will have the most detrimental impact on Channel 4 and ITV, costing Channel 4 c. £10m p.a in lost advertising revenue.

We have set out our responses to Ofcom’s specific questions below.

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

No. Ofcom and the BBC’s analysis of the benefits of relaunching BBC Three as a linear channel appear to be based on broad benefits that will be delivered for the entire 16-34 audience. However, the BBC claims it already does better with the 16-34 audience *“than any other brand in media”* and that these proposals are specifically targeted at a subset of that audience. The assessment of public value should therefore be based on the additional value being provided for the specific audience the BBC uses as a justification for its proposals.

The BBC identifies the target audience as 16-34s who watch TV but do not currently engage with the BBC – this group is estimated to include around 3.5m people. However, as this group can already access BBC Three’s content via iPlayer, the BBC also applies a further filter to this group of those who do not have access to the internet, are from lower socioeconomic groups, and live in Northern Ireland, Scotland, the North and Midlands of England. It is unclear what the ultimate size of their target audience is once these numerous filters have been applied.

Channel 4 believes it is more reasonable that those in the group the BBC has identified, who watch TV but not the BBC, are more likely to have made that choice due to a lack of awareness or appeal, not because BBC Three is not available on a linear channel. Ofcom also notes that the public value generated by the relaunch of BBC Three *“could be relatively short term”* given shifting viewing habits – particularly for the young audience the BBC is trying to reach.

Whilst there may be public value generated by the relaunch of BBC Three as a linear channel the key question is whether this value is additional or substitutional for activities already undertaken by other PSBs and whether that same public value could be generated in a way which is longer lasting and less damaging to those organisations which compete with the BBC for viewers. We have expanded on this point in our answer to question 3.

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

No. We think that the assessment does not take into account the impact of a likely move of BBC Three up the EPG and the inflationary effect of BBC3 in the acquisitions market.

Channel 4 believes that the Ofcom assessment has underestimated the impact of a change in the EPG position of BBC Three. The BBC has failed to give assurances that it will not seek to swap BBC Three with BBC Four in the EPG. Channel 4 believes this is a likely outcome and would entail a rise of 14 places in the EPG. Based on Ofcom’s figures, the modelling of the impact of this change in EPG positioning estimates a cost of [redacted]. As highlighted below, this is a significant sum of money that represents over 40% of our annual News budget.

Furthermore, the Ofcom assessment does not fully consider the impact of the BBC’s presence in the acquisitions market. Whilst it is evident that there is a large amount of international content available for acquisition, BBC Three often bids for programmes which other PSBs pitch for and this can have an inflationary effect on the market. The BBC CEO highlighted at a DCMS Select



Committee appearance (2021) that the BBC hadn't always "made the most economic choices" with regards to acquisition. [Redacted]. This outbidding is pushing the price up for content which would have already been shown in the UK without the BBC.

Channel 4 agrees that acquisitions can play a role in bringing an audience to UK originated content. However, if the BBC is going to include acquisitions as part of its content mix then Channel 4 believes there should be a high bar set for the BBC to justify the inclusion of such content. In particular, the BBC must demonstrate that they have not unnecessarily inflated market pricing for content that could have found a home elsewhere. The BBC's acquisition strategy for BBC Three must not be overtly commercial and should instead seek out programming which is high in public service value and would likely prove loss-making for commercially funded channels.

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

No. As set out in our answer to question 1. The public benefit that will result from a relaunch of BBC Three will be small, because of the limited target audience the BBC is aiming to reach, and will diminish rapidly, because of the changing viewing habits of this audience.

Given the BBC's role as a publicly funded PSB, Channel 4 believes it has a unique responsibility to work to strengthen the wider public service ecology and should properly consider the impact of its actions on the wider market and especially on other providers of public service. Where the BBC's actions are likely to be detrimental to the wider provision of public service, the BBC should be obliged to consider alternative means of delivering the same public value while minimising that negative impact.

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

Ofcom also makes it clear that the BBC has not done so, despite this clear guidance: *"the BBC did not consider impacts on the public value generated by other broadcasters in its PIT."*

This is despite Channel 4 and other organisations responding to the BBC's PIT consultation to highlight the potential impact of the proposals. There does not appear to be any consequence for the BBC ignoring this guidance and no incentive for the BBC to adhere to it in the future.

Ofcom's own consideration of impacts dismisses the £10m p.a. in lost advertising revenue for Channel 4 alone as *"a relatively small impact"* and *"unlikely to significantly change their incentives to innovate or to invest in new content."* Whilst simultaneously acknowledging that due to Channel 4's model this lost revenue is likely to directly impact programming spend. These two statements cannot both be true.

Channel 4 also disagrees with Ofcom's characterisation of this lost advertising revenue. £10m is a material sum of money, and the impact we can create with that amount of money is significant. It is more than 5 times the amount Channel 4 has committed to invest in our new online Teens strand. £10m represents 40% of our annual News or Film budgets with which we create significant and lasting public value.

The relaunch of BBC Three will directly impact the ability of Channel 4 to innovate and to invest in new content for the very audience that Ofcom describes as *"particularly important"*. The relaunch of BBC Three as a linear channel will therefore directly harm the diversity and breadth of content available for this audience.

Furthermore, Channel 4 notes that neither the BBC nor Ofcom have considered alternative means of delivering the same public value that will be generated by a relaunch of BBC Three whilst minimising the detrimental impact on others. As set out in our response to the BBC's PIT, Channel 4 believes that increased investment in an online only BBC Three, including increased marketing of BBC Three content on iPlayer and an increased use of BBC One and Two to cross promote and "shop window" BBC Three content would be likely to deliver similar public impact without harming the public impact delivered by others.

The damage that will be done to other providers of public service media is not a necessary outcome in order to secure increased investment from the BBC. The BBC has already committed to increasing investment on BBC Three, regardless of the outcome of this proposal. It is therefore possible for audiences to benefit both from this increased investment, and from the continued investment from existing providers.

Channel 4 considers the lack of consideration of how to minimise the disruptive nature of the BBC's activities, especially when it directly impacts on other public service provision, is a fundamental flaw in the process of considering this and other BBC's proposals.

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

Channel 4 agrees with Ofcom's overarching approach that it should move away from a purely quota-based measurement system. However, we believe that in order to achieve optimal public service outcomes it is important to retain a mix of both qualitative and quantitative measures. With quantitative measures remaining in place to measure important genres like News, or policy interventions like the percentage or programming spend outside of London.

Channel 4 also believes that it is reasonable, given the BBC's privileged position as the recipient of £3.5bn of public funding that the BBC is subject to a more formal, more quantitative system of measurement than other non-publicly funded PSBs.

Ofcom proposes to retain just one quantitative measure for BBC Three – we believe this is the wrong balance. Channel 4 believes that BBC Three's licence should broadly reflect the obligations placed on other BBC services – including quotas for first run originations (including in peak time), spend and volume of programming made outside of London, and News (in peak time).

The BBC's description of "first run programming" as including acquisitions should represent a clear warning signal that without these licence obligations it is possible that BBC Three will be filled with repeats and acquisitions – vastly reducing the public service value of the channel. This inclusion of acquisitions also raises important competition issues. Channel 4's license stipulates that originations don't include acquisitions. This discrepancy is marked and would have an adverse impact on competition given the unlevel playing field.

Ofcom says it will require the BBC to set out its vision for BBC Three in its annual plan and will assess their delivery of this but Channel 4 is concerned that without the existence of these anchoring quantitative measures, the BBC will be able to significantly alter the make-up of BBC Three over time (perhaps to less first run originated content or placing more acquisitions in peak time) without triggering a review by Ofcom.