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## Original productions on CBBC

### Statement on the BBC's request to change the Operating Licence

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[Statement: Original productions on CBBC](#) – Welsh overview

**STATEMENT:**

Publication date: 19 May 2022

# Contents

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## Section

1. Overview	1
2. Stakeholder comments and our responses	3
3. Decision	10

## Annex

A1. Notice of Variation	11
A2. Legal framework	13

# 1. Overview

**This document sets out Ofcom’s decision on a request by the BBC to reduce the volume of original productions it must broadcast on CBBC, as set out under its Operating Licence.**

- 1.1 As young viewers increasingly turn to paid-for on demand and other online services, CBBC now reaches 14% of children aged 6-12 on broadcast TV each week, compared to 27% in 2015.<sup>1</sup> To better appeal to this rapidly declining young audience, the BBC has decided to invest in and show more UK animation on the CBBC channel. It also plans a modest increase in animation acquisitions. These plans require a small reduction to its CBBC original productions quota under the Operating Licence.<sup>2</sup> Currently, in each calendar year, 72% of all hours on CBBC need to be original productions. The BBC requests this is reduced to 66% in 2022 and 2023, and 68% for 2024 and onwards (the ‘Request’). The BBC’s quota for first-run original UK productions on CBBC is unaffected.
- 1.2 We publicly consulted on the Request between 10 March and 7 April 2022 and set out a preliminary view that we were minded to approve the Request, subject to consultation. We said we wanted to see the BBC innovate and considered it right that the BBC can vary its services to stay relevant to young audiences, given the decline in reach to CBBC. We also said that, while we would be concerned if acquisitions were to play too large a role in the CBBC content mix, the scale of change was modest and unlikely to negatively affect the quality of CBBC. Having carefully considered all responses to our consultation<sup>3</sup>, we are now confirming our preliminary view.
- 1.3 We are issuing our decision ahead of the forthcoming consultation on our wider review of how the whole of the BBC’s Operating Licence should evolve to reflect changing audience habits. Our proposals will look to incorporate the BBC’s online services into the Operating Licence and seek to give the BBC more scope to determine how best to meet audience needs. This would be supported through proposals to enable us to hold the BBC more effectively to account by requiring greater transparency from it. These proposals will also support our efforts to hold the BBC to account over the changes it is now making to CBBC.

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<sup>1</sup> BARB. Reach criteria: 3+ consecutive minutes, 28-day consolidated viewing on the TV set. Our recent [Children and parents: media use and attitudes report 2022](#) also confirmed that the trend of children watching TV content on paid for on demand services rather than on broadcast TV has continued.

<sup>2</sup> The reduction the BBC requested is also to take account of impacts which the BBC attributes to the launch of BBC Three.

<sup>3</sup> Consultation responses are published alongside this statement and are available on [our website](#).

### **What we have decided and why – in brief**

**We have decided to approve the BBC's request to reduce the CBBC original productions quota. We consider that the scale of the reduction is small but that it will enable the BBC to evolve and innovate to better reach young audiences.**

Investment in a broad range of UK content that appeals to children must be at the heart of what the BBC does. But we have consistently highlighted in our Annual Reports into the BBC's performance<sup>4</sup>, that it has struggled to attract and retain younger audiences. This poses a risk to its ability to deliver against its Mission and Public Purposes, namely to serve all audiences across the UK. The risks are also compounded by funding pressures and rising production costs affecting all UK public service broadcasters (PSB). The BBC and other broadcasters need to find ways to respond to these challenges – output cannot stay constant while audiences and budgets change.

Strategic and editorial decisions over how the Corporation evolves its programmes and services to better serve audiences, are for the BBC to make. It has decided to increase animation given the potential for this to build appeal with audiences. Our role, in respect of the BBC's request, is to determine whether reducing the original productions quota will impact delivery to audiences and its ability to fulfil its Mission and Public Purposes.

Overall, we continue to believe that the scale of the reduction that the BBC requested for the CBBC original productions quota is small. This is unlikely to, in itself, affect the quality and distinctiveness of CBBC.

**We understand concerns raised by stakeholders about acquisitions but consider that carefully chosen acquisitions within the overall content mix of CBBC can play an important part in making CBBC more appealing to audiences.** The increase in acquisitions resulting from the decrease in the original productions quota is small. So, we consider it unlikely to lead to acquisitions playing too large a role in CBBC's content mix, or to negatively affect the quality and distinctiveness of CBBC. The BBC will continue to be expected to deliver a distinctive output and service, but how it structures the content mix and investment in new productions for CBBC is for the BBC.

**The BBC will need to be transparent about how it is delivering for younger audiences, and we will hold it to account. We expect it to publicly evaluate the success of changes to CBBC and be ready to continue to adapt as necessary.** We agree with stakeholders that transparency over changes to the BBC's public service output is important. As part of our forthcoming consultation on the wider review of the BBC Operating Licence, we will seek additional transparency from the BBC on how it is delivering its Mission and Public Purposes, including how it is delivering for younger audiences.

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<sup>4</sup> Ofcom's annual reports on the BBC are available on [our website](#).

## 2. Stakeholder comments and our responses

- 2.1 As part of our regulation of the BBC, we are required under the Charter and Agreement<sup>5</sup> to set an Operating Licence<sup>6</sup> for the BBC, including regulatory conditions which we consider appropriate to secure that the BBC fulfils its Mission and Public Purposes. We have the power to amend the Operating Licence following consultation with the BBC and any person we consider appropriate. Between 10 March and 7 April 2022, we consulted on the Request to reduce the original productions quota on CBBC from 72% of all programming hours to 66% in 2022 and 2023, and 68% in 2024 and each subsequent year.
- 2.2 We consider variations to the Operating Licence within the framework of the relevant legal and regulatory requirements, which are set out in Annex A2. The Agreement requires us to set appropriate original productions requirements for each of the UK Public Television Services (including CBBC) to ensure that the service is consistently of a high quality.<sup>7</sup> We consider that such requirements make an important contribution to distinctiveness and play a key role in supporting the UK creative economy. Our assessment of whether to vary the Operating Licence therefore considered, among other things, the likely implications of a reduction in the original productions quota on CBBC's audience, quality and distinctiveness, and the UK creative economy. We also carried out an equality impact assessment of proposed variations, which we set out in the consultation document.<sup>8</sup>
- 2.3 We received eight responses, most of which raised concerns about the changes the BBC is making. We consider concerns below - first by covering comments relating to the impact on audiences, CBBC's quality and distinctiveness; followed by comments on the UK creative economy. We also discuss other comments which sought greater transparency and assurances in respect of CBBC's genre mix and budget.

### Impact on audiences and CBBC quality and distinctiveness

#### What we said previously

- 2.4 Our consultation set out our provisional view that the small reduction in the original productions quota is unlikely to negatively impact the quality of CBBC, noting that the BBC would still be required to include first-run UK originations. We set out the continued decline and socio-economic skew in reach to CBBC, as children increasingly choose to watch content on video-on-demand services and enjoy a much broader range of entertainment including on video-sharing platforms. We recognised how changes to the original productions quota could allow the BBC to implement a strategy to help slow this

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<sup>5</sup> The [BBC Charter and Agreement](#).

<sup>6</sup> [BBC Operating Licence](#).

<sup>7</sup> Paragraph 5 of Schedule 2 to the Agreement.

<sup>8</sup> See Annex A7 in [Consultation: Original Productions on CBBC](#), March 2022.

decline and better meet audience expectations, including audiences from C2DE households.<sup>9</sup>

- 2.5 We said that the BBC may use acquired content to appeal to a wider range of audiences but that we would be concerned if this were to play too large a role in the overall content mix. Our preliminary view was that the reduction in the original productions quota and therefore increased scope for acquisitions on CBBC was modest and unlikely to significantly impact the distinctiveness of CBBC.
- 2.6 We reflected that the genre mix on CBBC has consistently covered a wide range of genres and much more so than on other children’s channels in 2021. We set out that we expect the BBC would commission UK animations that support CBBC’s distinctiveness and that alongside this it would continue to invest in new live action content also.

## Summary of stakeholder views

- 2.7 Stakeholders were concerned that a reduction in the original productions quota and increase in acquisitions would impact CBBC’s quality, as these are likely to be international as opposed to UK-made<sup>10</sup> and become too substantial or permanent over time.<sup>11</sup> A few respondents said CBBC’s original productions quota is already lower than other BBC services<sup>12</sup> and that a further reduction and increase in animation would more closely align CBBC with commercial children’s channels and impact its distinctiveness.<sup>13</sup>
- 2.8 Most respondents expressed concern that increasing the focus on animation would reduce the BBC’s commitment to a range of genres and live-action programming on CBBC, and impact the delivery of indigenous content.<sup>14</sup> Some said audiences would see less of themselves and the diversity of the UK, including the nations and regions, on screen.<sup>15</sup> A few respondents also said that UK animation can be distinctively British when balanced with live-action<sup>16</sup> but that it was unclear how they will be ‘rooted in British culture.’<sup>17</sup>

## Our response

- 2.9 The original productions quota sets the volume of BBC commissioned original content it must show, including repeats. The principal outcome from a reduction in the original productions quota is an increase in acquisitions. A reduction to the original productions quota does not alter our expectation for the BBC to deliver the most creative, highest

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<sup>9</sup> C2DE refers to a socio-economic group. These are determined by several factors including income and occupation. In general terms, the highest groups, A and B, are more likely to be well-off, the C1 and C2 groups are in the middle and the lowest groups, D and E, are less likely to be well-off.

<sup>10</sup> Teledwyr Annibynnon Cymru/Welsh Independent Producers (TAC), Children’s Media Foundation (CMF).

<sup>11</sup> TAC, PACT.

<sup>12</sup> TAC, CMF.

<sup>13</sup> The British Film Institute (BFI), CMF and Professor Steemers and Dr Carter of KCL (Professor Steemers and Dr Carter).

<sup>14</sup> BFI, TAC, Three Stone Media (TSM), Voice of the Listener and Viewer (VLV), Professor Steemers and Dr Carter, CMF.

<sup>15</sup> TSM, VLV, BFI, TAC, Professor Steemers and Dr Carter, CMF.

<sup>16</sup> BFI, CMF.

<sup>17</sup> Professor Steemers and Dr Carter.

quality and distinctive output and services<sup>18</sup>, including on CBBC. It will also continue to be obliged under the Operating Licence to deliver first-run UK originations on CBBC, which will ensure a continued supply of fresh new original UK children's content for audiences. This is the context in which we consider the impact on audiences, quality and distinctiveness.

- 2.10 We agree with stakeholder concerns about international acquisitions and their potential impact on the quality and distinctiveness of CBBC where they play a large role in the overall content mix. However, we remain of the view that carefully chosen acquisitions could play an important role in the makeup of CBBC and help draw and build relationships with audiences. They can also help renew schedules where the BBC is financially constrained. We consider the scale of the decrease to the original productions quota and resulting scope for more acquisitions is small and unlikely to damage the quality and distinctiveness of CBBC.
- 2.11 We also consider a lower original productions quota on CBBC, compared to other BBC services, is proportionate given the potential for this to drive better engagement with its audience. CBBC's audience is declining rapidly and the BBC thinks it can better reach and serve this audience through an output mix that includes a slightly larger proportion of acquisitions than on other services.
- 2.12 Most respondents raised concerns specific to the BBC's decision to increase animation and its impact on the genre mix, in particular live action, on CBBC.<sup>19</sup> We expect the BBC to deliver a wide range of genres and output on CBBC and that this will include a considerable mix of live action alongside animation. Specific commissioning and acquisitions choices, however, are editorial and strategic decisions for the BBC to make. Yet, we consider that high-quality UK animation could support the distinctiveness of CBBC and represent UK diversity, including through the use of UK languages and dialects. Animation could also help better attract audiences, in particular C2DE audiences, which would contribute to the distinctiveness of the service by diversifying reach across its target audience. We note our most recent [Children and parents: media use and attitudes report 2022](#) found that cartoons and animation were the second most watched video content type amongst 3-17 year olds across video-sharing platforms. Provided the BBC continues to deliver a range of content on CBBC, we consider increasing the amount of animation in itself is unlikely to negatively impact the quality and distinctiveness of CBBC.
- 2.13 We have also considered the equality impact assessment that we set out in the consultation document. Respondents to the consultation did not raise any points on this assessment, and our assessment of the equality impacts of the variation is unchanged. In particular, we consider that the changes are unlikely to have a negative impact on children in general or on children with protected characteristics.

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<sup>18</sup> The Charter and Agreement define *distinctive output and services* as "substantially different to other comparable providers across each and every UK Public Service both in peak time and overall, and on television, radio and online, in terms of a) the mix of different genres and output; b) the quality of output; c) the amount of original output produced in the UK; d) the level of risk-taking, innovation, challenge and creative ambition; and e) the range of audiences it serves."

<sup>19</sup> Animation is a genre and also a format through which other genres can be delivered. When we refer to *genre and content mix* in this document, we are referring to both meanings of animation.

## Impact on UK creative economy

### What we said previously

- 2.14 Our consultation recognised that original UK children’s content is already “at-risk” across the UK broadcasting sector more broadly. This is compounded by increasing budgetary pressures, rising productions costs and challenges in retaining children’s audiences. We also said that requirements need to be proportionate to the challenges the BBC faces and therefore considered a modest increase in acquisitions to be reasonable.
- 2.15 We acknowledged that the BBC did not also request changes to the first-run UK originations requirements for CBBC, which guarantees investment in the UK creative economy each year. We also said that the scale of interest in the BBC’s ‘Ignite’ scheme suggested further investment in animation is likely to be welcomed by established producers and emerging creative talent.

### Summary of stakeholder views

- 2.16 Respondents were concerned about the state of the children’s content sector, and continued decline to new content over the last 10+ years.<sup>20</sup> They referred to changes that the BBC made to Newsround on CBBC in 2020<sup>21</sup> and the closure of the Young Audiences Content Fund (YACF), which could impact the availability of original UK children’s content across the UK broadcasting sector more broadly.<sup>22</sup> A few respondents argued that children’s producers are heavily reliant on the BBC<sup>23</sup> and that changes to CBBC could compound issues in the sector.<sup>24</sup>
- 2.17 Respondents were concerned about the impact of more animation on the CBBC budget.<sup>25</sup> Some argued animation production is more expensive than live-action and that, as a result, the BBC would need to seek co-funding, most likely from international companies, which would dilute the UK focus.<sup>26</sup> Some were also concerned this would mean resources would be reallocated from other genres to fund UK animation<sup>27</sup> and impact production in the UK nations and regions.<sup>28</sup>
- 2.18 Some respondents raised concerns about the BBC’s commissioning practices and the implications, including for independent producers and the UK focus of animations, from the closer alignment between BBC Studios and BBC Children’s.<sup>29</sup> The BBC said it was

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<sup>20</sup> TSM, VLV, Pact, CMF.

<sup>21</sup> CMF, TAC, PACT.

<sup>22</sup> CMF, Professor Steemers and Dr Carter, TAC.

<sup>23</sup> CMF, Professor Steemers and Dr Carter.

<sup>24</sup> CMF, VLV.

<sup>25</sup> VLV, Professor Steemers and Dr Carter, CMF, TAC, BFI, TSM, Pact.

<sup>26</sup> VLV, BFI, CMF.

<sup>27</sup> CMF, VLV.

<sup>28</sup> BFI, TAC, VLV.

<sup>29</sup> CMF, Professor Steemers and Dr Carter and TSM.

committed to increasing the volume of homegrown animated content and invested £800,000 in its 'Ignite' scheme to develop new UK animation talent.

## Our response

- 2.19 Changes in audience habits and pressures on revenues mean PSBs need to experiment with content types and ways to reach audiences to find the optimal way to build and maintain audience connections. These challenges are particularly acute in the children's content sector as these audiences are rapidly moving away from linear TV, towards a much broader range of entertainment including on-demand services and video-sharing platforms.<sup>30</sup> Secondary rights and the role of merchandise also play a unique role in the funding of original children's content. It is in this context that the BBC made changes in 2020 to its Newsround provision on CBBC, to deliver more news online.<sup>31</sup> We also note the conclusion to the DCMS funded 'Young Audience Content Fund' pilot, which supported the development and production of new original UK programmes for young audiences. We recognise these wider challenges in the children's content sector and the need for broadcasters to innovate and make strategic choices in response to them.
- 2.20 In respect of concerns respondents raised if the BBC were to seek international co-funding to finance expensive animations, we reiterate that decisions about the BBC budget are up to the BBC Board. However, we would note that co-production and co-financing can be an important means to bring high-value content to UK audiences. We will be monitoring the BBC's performance closely to ensure there is no reduction in the quality of UK productions, including audience attitudes research, and CBBC will also remain obliged to deliver first-run UK originations. The BBC's most recent Annual Plan 2022/23 and consultation response reiterated its commitment in this respect, including to commission across genres and from across the nations and regions.
- 2.21 In respect of concerns about the cost of animation, it is true that with a flat budget, investing in more animation will likely mean less money is available for other children's content genres. However, we consider that the change is small, and the overall volume of new animations limited. Respondents commented that much animation today is co-produced outside of the UK and we think there is potential for increased BBC commissions of UK animation to support the UK animation production sector and nurture new UK creative animation talent.
- 2.22 We note concerns about the BBC's commissioning practices. The BBC is obliged to commission on a fair, reasonable, non-discriminatory and transparent (FRNDT) basis.<sup>32</sup> We monitor this. The BBC is also subject to operational separation requirements between BBC Studios and the BBC's public services.<sup>33</sup> We expect the BBC to invest in and champion a UK focus in its public service output, including on CBBC.

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<sup>30</sup> See [Children and parents: media use and attitudes report 2022](#), March 2022.

<sup>31</sup> See [Statement: BBC children's news and first-run UK originations](#), July 2020.

<sup>32</sup> See our [Statement: Commissioning for the BBC's Public Services](#), February 2019.

<sup>33</sup> We are currently [undertaking a review](#) of the interaction between BBC Studios and the BBC Public Service and will publish this shortly.

## Other comments and transparency

### What we said previously

- 2.23 We said it is important that the BBC provides transparency on its wider plans and supporting changes it is making to CBBC in its Annual Plan, and that it reports publicly on how it has achieved what it had set out to do. We said that our consultation on how to evolve the whole of the BBC Operating Licence, planned for later in 2022, will consider in further detail how the BBC can develop its reporting to explain how its activities contribute to its Mission and Public Purposes.
- 2.24 We also said we will monitor the impact of the CBBC change on audiences, distinctiveness, and the UK creative economy as part of our annual assessment of the BBC's performance.

### Summary of stakeholder views

- 2.25 Most stakeholders requested more transparency and assurances from the BBC regarding its wider strategy for CBBC and the impact of its changes on the quality, distinctiveness, genre mix (including live-action) and budget allocations, as well as the impact on the production sectors in the nations and regions.<sup>34</sup> A few respondents queried the role of BBC iPlayer in this change, with one noting that there is already a lot of low-cost imported animated series on iPlayer.<sup>35</sup> The BBC said it was committed to developing the right mix of content on iPlayer for each age group.
- 2.26 A few respondents sought assurances from Ofcom for how it will monitor the impact of the changes and called on Ofcom to interrogate the BBC's budget allocation for other genres.<sup>36</sup> A few respondents also commented on the timing and interplay of this consultation with our forthcoming wider review of the BBC Operating Licence.<sup>37</sup>

### Our response

- 2.27 We agree with stakeholders that transparency over how the BBC is delivering for audiences across its services, including online, and how it is working with the UK creative economy is important. At its best, the BBC can be a catalyst for innovation and diversity through the content it commissions and where it commissions it from. As part of our forthcoming consultation on the wider review of the BBC Operating Licence, we will seek greater transparency on how the BBC is delivering its Mission and Public Purposes, including in respect of its online services.
- 2.28 Some respondents sought assurances from the BBC about the balance of spend across genres, and the impact on the genre mix and CBBC's distinctiveness before we take a decision. We welcome the commitments the BBC has set out publicly as part of its Annual

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<sup>34</sup> BFI, TAC, CMF, Professor Steemers and Dr Carter, VLV, PACT.

<sup>35</sup> BFI, Professor Steemers and Dr Carter.

<sup>36</sup> VLV, CMF, Professor Steemers and Dr Carter, VLV, TAC.

<sup>37</sup> TAC, Professor Steemers and Dr Carter.

Report 2022/23 for first-run UK originations on CBBC. Accordingly, CBBC will broadcast 12 new factual titles, 14 new drama titles, 10 new comedy and entertainment titles and 2 animation series on CBBC in the coming year. This indicates a continued commitment to delivering a mix of genre and outputs on CBBC, and investment in a range of original UK children's content. Some respondents also called for Ofcom to interrogate the underlying budgetary implications from an increase in animation. Budgetary decisions and allocations are the responsibility of the BBC Board under the provisions of the BBC Charter. We included information on changes in CBBC's funding circumstances in the consultation to ensure transparency and to put all contextual evidence to stakeholders.

- 2.29 We consider a key way to hold the BBC to account over its changes is to closely monitor its performance, and we will continue to do so as part of our annual performance assessments. While programme by programme choices are for the BBC to make, we look at trends in its performance and consider how it has delivered against expectations associated with its Mission and Public Purposes. As part of this, we also expect that the BBC builds on its reporting to illustrate how its changes are helping it deliver for audiences and to evaluate their successes. The BBC needs to explore with young audiences the impact of changes to the output and genre mix on CBBC, and must be prepared to amend plans should changes not achieve what it had hoped for.

## 3. Decision

- 3.1 We have consistently highlighted in our Annual Reports into the BBC's performance, that it has struggled to attract and retain younger audiences. This poses risks to its future sustainability and ability to deliver its Mission and Public Purposes. Reaching younger audiences is a vital part of the BBC's challenge to serve all audiences across the UK.
- 3.2 We consider the scale of the reduction that the BBC has requested for CBBC's original productions quota small and unlikely to negatively impact the quality and distinctiveness of CBBC. We do not consider the change would mean acquisitions will play too large a role in the overall content mix on CBBC, and carefully chosen acquisitions within a wider content mix could play an important role in helping the BBC build relationships with young audiences. While the strategic choice to focus more on animation is for the BBC to make, we can see how this could potentially help the BBC better attract and engage with young audiences, including audiences from C2DE households. A focus on commissioning quality UK animation could also support CBBC's distinctiveness, as well as the animation productions sector in the UK.
- 3.3 In respect of the change the BBC has requested to the original productions quota on CBBC, it is important to delineate the impact of a reduction to this quota from the wider challenges in the children's content market. We understand stakeholder concerns about the state of the children's content market, but we consider that this small reduction in the CBBC original productions requirements is unlikely to materially affect this.
- 3.4 Overall, having considered stakeholders' responses, **we have decided to agree to the Request. This means that the original productions quota for CBBC will reduce from 72% of all hours to 66% in 2022 and 2023; and 68% in 2024 and each subsequent year.** We have issued a notice of variation to the BBC Operating Licence alongside this statement as at Annex A1.
- 3.5 We **expect the BBC to provide transparency on how its changes are helping it deliver for audiences on CBBC.** As part of this, the BBC needs to evaluate the success of the changes to CBBC and reflect on whether it has achieved what it set out to do. It must be ready to evolve should its changes not deliver for audiences. We will consider transparency requirements as part of our forthcoming consultation on the wider Operating Licence.

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

# A1. Notice of Variation

NOTICE NUMBER 6 DATED 19 MAY 2022

TO THE OPERATING LICENCE FOR THE BBC'S UK PUBLIC SERVICES ISSUED ON 13 OCTOBER 2017  
("THE LICENCE")

## RECITALS

- (A) On 15 December 2016, the Government published the Royal Charter for the continuance of the BBC ("the Charter") and the agreement between the Secretary of State for Culture, Media and Sport, and the BBC (the "Agreement") which required Ofcom to set a licence for the BBC's UK Public Services. On 13 October 2017, Ofcom issued the Licence. The Licence has subsequently been amended from time to time. The current consolidated version of the Licence is available on our website.
- (B) In accordance with Clause 80 and 13(5) of the Agreement, Ofcom's "Procedures for setting and amending the operating licence" published on 13 October 2017 (the "Procedures") and its consultation principles, Ofcom considered it appropriate in the circumstances to consult publicly on the BBC's request and proposed consequential amendments to the licence on 10 March 2022. Ofcom has considered all the responses to the consultation.
- (C) Following consultation, on 19 May 2022 Ofcom published a statement setting out our decision to approve the BBC's request to reduce CBBC's original productions quota (the "Statement").
- (D) For the reasons set out in the Statement, Ofcom has decided that it is appropriate to amend the Licence.

NOW THEREFORE the Licence shall be varied in the following manner:

1. Amend the table at condition 2.32 to remove row 8 from the top labelled 'CBBC' (Column I).
2. Insert after paragraph 2.32 and before the table, new condition 2.32A as follows:

*2.32A In respect of **CBBC**, the BBC must ensure that:*

*2.32A.1 in each of the Calendar Years 2022 and 2023, the time allocated to the broadcasting of original productions must be no less than 66% of the total time allocated to the broadcasting of all the programmes for CBBC; and*

*2.32A.2 in the Calendar Year 2024, and in each subsequent Calendar Year, the time allocated to the broadcasting of original productions must be no less than 68% of the total time allocated to the broadcasting of all the programmes for CBBC.*

This variation to the Licence shall come into force with immediate effect on 19 May 2022.

Statement: Original productions on CBBC

SIGNED FOR OFCOM ON 19 MAY 2022



Kei Balchour .

Broadcasting and Online Content Group Director, Ofcom

## A2. Legal framework

- A2.1 Ofcom's power to regulate the BBC is derived from the Communications Act 2003 (the Act)<sup>38</sup>, which sets out that for the purposes of the carrying out of regulation of the BBC we will have such powers and duties as may be conferred on us by or under the Royal Charter for the continuance of the British Broadcasting Corporation (the Charter)<sup>39</sup> and the Agreement between the Secretary of State for Culture, Media and Sport, and the BBC (the Agreement).<sup>40</sup>
- A2.2 Ofcom's general duties under section 3 of the Act also apply to the exercise of our functions in relation to the BBC.<sup>41</sup> These include our principal duty to further the interests of citizens in relation to communications matters, and to further the interests of consumers in relevant markets, where appropriate by promoting competition.
- A2.3 Under the Charter, Ofcom is required to have regard, in carrying out its functions in relation to the BBC, to such of the following as appear to us to be relevant in the circumstances:<sup>42</sup>
- a) the object of the BBC to fulfil its mission<sup>43</sup> and promote the public purposes;
  - b) the desirability of protecting fair and effective competition in the UK; and
  - c) the requirement for the BBC to comply with its general duties.<sup>44</sup>
- A2.4 We consider that out of the five public purposes<sup>45</sup>, the following are particularly relevant to the BBC's proposed changes:
- a) Public Purpose 3: To show the most creative, highest quality and distinctive output and services; and
  - b) Public Purpose 4: To reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions and, in doing so, support the creative economy across the United Kingdom.
- A2.5 We note that, by virtue of article 20(3)(d) of the Charter, the BBC is required to set performance measures (and targets for those measures where appropriate) and to collect

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<sup>38</sup> Section 198 of the Act.

<sup>39</sup> [The Charter](#).

<sup>40</sup> [The Agreement](#).

<sup>41</sup> Article 45(1) of the Charter.

<sup>42</sup> Article 45(2) of the Charter.

<sup>43</sup> The BBC's mission is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain (article 5 of the Charter).

<sup>44</sup> The BBC's general duties are set out at Articles 9 to 18 of the Charter and include, amongst others, the duty to promote technological innovation, including by focusing on technological innovation to support the delivery of the UK Public Services. The Agreement also imposes certain general obligations on the BBC. These include, at Clause 61, a requirement for the BBC to do all that is reasonably practicable to ensure that viewers, listeners and other users (as the case may be) are able to access the UK Public Services that are intended for them, or elements of their content, in a range of convenient and cost effective ways which are available or might become available in the future. These could include (for example) broadcasting, streaming or making content available on demand, whether by terrestrial, satellite, cable or broadband networks (fixed or wireless) or via the internet.

<sup>45</sup> Article 6 of the Charter.

such information as is necessary to assess the performance of the UK Public Services<sup>46</sup> in fulfilling the mission and promoting the public purposes.<sup>47</sup>

- A2.6 Separately, by virtue of article 46(4) of the Charter, Ofcom may set performance measures (further to those set by the BBC), and may collect such information as is necessary, to assess the performance of the UK Public Services in fulfilling the mission and promoting the public purposes.<sup>48</sup> In addition, Ofcom may require the BBC to collect such information as we consider necessary for the performance measures.<sup>49</sup>
- A2.7 In addition to setting performing measures, we are required to set an operating licence (the Operating Licence) containing a set of regulatory conditions with which the BBC must comply.<sup>50</sup> The Charter states that the Operating Licence must contain regulatory conditions Ofcom considers appropriate for requiring the BBC to:
- a) to fulfil its mission and promote the public purposes;
  - b) to secure the provision of distinctive output and services; and
  - c) to secure that audiences in Scotland, Wales, Northern Ireland and England are well served.<sup>51</sup>
- A2.8 The duty to secure the provision of distinctive output and services<sup>52</sup> is particularly relevant to the BBC's proposed reduction to the CBBC original productions quota because the amount of original output produced in the UK is one of the elements of distinctiveness.<sup>53</sup>
- A2.9 Schedule 2 of the Agreement contains some further rules regarding the regulatory conditions that Ofcom must impose through the Operating Licence. Amongst other things, it provides that: Ofcom should have particular regard, in imposing the regulatory conditions, to the need for the BBC to secure the provision of distinctive output and services.
- A2.10 We are also required to set original productions requirements for each of the UK Public Television Services.<sup>54</sup> The proportion determined by Ofcom for the purposes of the original productions requirement must, in the case of each service, be such proportion as Ofcom consider appropriate for ensuring the service is consistently of a high quality.<sup>55</sup>

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<sup>46</sup> The UK Public Services are set out in a list maintained and published by the BBC: [List of the UK Public Services](#).

<sup>47</sup> Clause 14(1) of the Agreement.

<sup>48</sup> Clause 14(2) of the Agreement.

<sup>49</sup> Clause 14(4) of the Agreement.

<sup>50</sup> Under the Charter and the Agreement, Ofcom is required to set an operating licence for the BBC's UK Public Services.

<sup>51</sup> Article 46(3) of the Charter.

<sup>52</sup> This duty is reiterated in paragraph 1(1) of Schedule 2 to the Agreement, which states that "[i]n imposing the regulatory conditions Ofcom must have particular regard to the need for the BBC to secure the provision of distinctive output and services".

<sup>53</sup> This is confirmed by paragraph 1(2) of Schedule 2 to the Agreement, which states that distinctive output and services means "output and services, taken as a whole, that are substantially different to other comparable providers across each and every UK Public Service both in peak time and overall, and on television, radio and online, in terms of- (a) the mix of different genres and output; (b) the quality of output; (c) the amount of original output produced in the UK; (d) the level of risk-taking, innovation, challenge and creative ambition; and (e) the range of audiences it serves."

<sup>54</sup> Paragraph 5(1) of Schedule 2 to the Agreement.

<sup>55</sup> Paragraph 5(2) of Schedule 2 to the Agreement.

- A2.11 We may amend the Operating Licence following consultation with the BBC and any person we consider appropriate. We issued the first Operating Licence in October 2017<sup>56</sup> and it has been subsequently amended a few times since 2017.<sup>57</sup>
- A2.12 In addition to setting an Operating Licence, we are also required to publish an operating framework.<sup>58</sup> The operating framework for BBC regulation includes the ‘Procedures for setting and amending the Operating Licence’ (the Procedures).<sup>59</sup> which explain how we set and administer the Operating Licence regime and the procedures to be followed.
- A2.13 The Procedures set out considerations to which Ofcom will have regard when amending the Operating Licence, including the relevant legal framework, enforceable nature of operating licence conditions and the desirability of ensuring that regulatory conditions are clear and capable of enforcement in the event of non-compliance.<sup>60</sup> Our consultation followed the Procedures (and applied the considerations it listed) together with Ofcom’s consultation principles.

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<sup>56</sup> Ofcom, 2017 (updated February 2022). [Operating licence for the BBC’s UK Public Services \(ofcom.org.uk\)](https://www.ofcom.org.uk/consult/condocs/operating/operating-licence-for-the-bbc-uk-public-services/)

<sup>57</sup> For changes to the Operating Licence, see [The Operating Framework](#) page on our website.

<sup>58</sup> Article 46(2) of the Charter and Clause 5(1) of the Agreement.

<sup>59</sup> Ofcom, 2017. [Holding the BBC to account for delivering for audiences: Procedures for setting and amending the operating licence.](#)

<sup>60</sup> [The Procedures](#), paragraphs 1.11 to 1.20.