



## **NUJ response to Ofcom's consultation, Modernising the BBC's Operating Licence**

September 2022

### **Introduction**

The NUJ welcomes the opportunity to take part in this Ofcom consultation. The licence requirements need updating to include online, iPlayer, BBC Sounds and any other BBC app to ensure that the quality and quantity of news and current affairs is protected, as people change their viewing and listening habits. The BBC's digital first policy is the corporation's response to the move away from linear viewing. However, the BBC has a unique role, set out in its mission, to serve all audiences across the UK. There are many people who do not access their news in digital form and others whose broadband connections are too poor to.

The consultation paper notes that the BBC faces significant pressures on its funding, with its income falling in real terms as TV production costs soar. The NUJ now believes we have got to the stage where the BBC is in great danger of failing to be able to provide news and current affairs of the highest quality. The union believes it is time for Ofcom to step in and safeguard the mission and public service broadcasting role the BBC must provide to all UK citizens. Ofcom cites financial pressures as a reason for granting the BBC greater flexibility, which suggests providing options for less or cheaper news and current affairs coverage. Without consultation with stakeholders nor licence fee payers, the BBC has decided to close the News Channel and BBC World News and create a hybrid rolling news channel of UK and international news, which will be funded by the licence fee payer, yet will show adverts to non-UK audiences. The union's arguments for the folly of this decision are set out below and we believe that Ofcom must challenge these plans.

The union has already communicated its worries about the axing of the investigative regional strand Inside Out and the fiasco of its replacement We are England, which was canned within a year of being launched. Our members had warned the BBC that its new plans, mainly because of the deep cuts to staff at BBC England, would not work. Tim Davie, during questions by the DCMS select committee, was unable to give guarantees of the amount of investigative programme making. Julie Elliot MP asked him if the BBC was abandoning its commitment to investigative journalism. Tim Davie said no, saying that the content "might be on the 6.30 programmes, or online, or a 30-minute programme – but not every week. The important thing is that we will have the investigations happening, and then we will decide where the content goes. I don't think that the approach of using large

amount of BBC One real estate for Inside Out or We Are England has worked.” Ms Elliot concluded by saying that she thought this may be in breach of the service licence and asked whether Tim Davie had spoken to Ofcom about abandoning or reducing the quota of required content. He replied: “I’ll have to get back to you on that, I don’t know where we are with Ofcom.”

The NUJ is also concerned that the BBC is looking at a proposal to move speech-based audio production teams – who make most of Radio 4 output and large amounts of output for the BBC World Service – to its commercial subsidiary BBC Studios. The NUJ believes there must be a separation of editorial and commercial departments, so while the BBC should be able to sell on programmes to other organisations there should be separation of the two functions to maintain the integrity and impartiality of editorial.

We are also concerned that BBC Studio programmes are not subject to the same level of regulations and scrutiny as BBC public service made output. This is because BBC Studios has a big focus on making output that is not the primary commissioner and so the output appears first on a non BBC platform. This output is only subjected to whatever scrutiny/regulation that is relevant for that platform, which is a lower bar than a BBC platform. By the time the output appears on a BBC platform it is too late. That means there is a serious risk of the lowering of standards. .

The NUJ notes that Ofcom’s research shows the BBC to be the most used news provider in the UK, and that audiences consistently rate the corporation’s performance highly for the quality, trustworthiness and accuracy of its news. The BBC is the cornerstone of the UK’s creative economy. The NUJ strongly believes in its remit of universality – as everyone pays, everyone gets something in return. It is important that the BBC reflects British life, provides a wealth of original and first-run productions, covers a wide range of genres and niches, is able to take risks, operates as an exemplary employer in the broadcasting industry, setting the benchmark for quality news, drama, sports and maintains a workforce that reflects the widest diversity of the UK population.

In this consultation the NUJ has responded to questions concerning stakeholder accountability, the regulation of news and current affairs and network radio and the diversity of the BBC’s workforce, however a quality news service needs to sit within a well-funded, universal and quality public service broadcaster.

### **Question 1: What are stakeholder views on how Ofcom should assess and measure BBC performance?**

The BBC’s annual report should be more than the corporation marking its own homework and a glossy advert. It does report the figures on targets, for example gender pay gap and on and offscreen diversity targets, but we agree with Ofcom that there needs to be greater transparency and the BBC must publish its plans when its decisions “meaningfully alter how it delivers for audiences”. The consultation paper says: “A key example of such a change would be significantly reducing output in a certain area, either due to shifting content online or discontinuing it for cost-saving purposes.” We would hope that means that decisions such as ending the TV bulletins in Oxford and Cambridge will require greater consultation, rather than be a *fait accompli*. Councillors, police and fire chiefs have all objected to losing this local service.

We are also concerned over the BBC’s decision to close the News Channel and BBC World News. The NUJ believes this is a material change and must be subject to an inquiry and public consultation.

Similarly, if the BBC decides to move speech audio production into BBC Studios, the NUJ believes this would be a material change and must be subject to an inquiry and public consultation.

The NUJ echoes other stakeholders who have called for more transparency on how the BBC spends its licence fee revenue by English region and agrees that there should be more opportunities for viewers and listeners to be able to engage with the BBC at a local level. The NUJ believes that a change in governance is needed to strengthen stakeholder accountability and has advocated that the BBC board should have a staff member who can report on how BBC decisions affect newsrooms and the quality and quantity of news provided.

**Question 2: Do you agree with the proposals for Public Purpose 1 - to provide impartial news and information to help people understand and engage with the world around them? If not, please explain why.**

The NUJ supports Ofcom's proposal to "retain nearly all the existing Licence conditions, most of which relate to TV and radio, and introduce new Licence conditions for BBC Online, including BBC iPlayer and BBC Sounds".

While the BBC already provides news and current affairs online, on BBC iPlayer, BBC Sounds and the BBC website and apps, it is right to make it a condition of the licence to ensure that audiences can continue to access this content online. Should something that appears online and is not easily found or readily available be given the same weight as something that appears on terrestrial TV at peak time when it comes to quotas etc. We think not. Large parts of the BBC's audience are still unable to access digital services and for them terrestrial/linear services remain important.

Ofcom's research discovered that many people unsure of what to watch will go to Netflix because there is more choice and because it is easier to find programmes there than on iPlayer. The BBC must ensure that iPlayer and Sounds are much more user friendly if its intention is to shift more news and current affairs here. If local news is on Sounds or iPlayer, it must be easy to locate and navigate, otherwise it will not be fulfilling its remit.

There is a logic to allowing greater flexibility and moving away from rigid programme quotas. However, the NUJ would like to see Ofcom place more emphasis on and give a clearer definition of what is meant by "additional transparency". For example, the BBC Annual Report for 2021/22 referenced the BBC current affairs programme "We Are England" as fulfilling a promise previously made; yet by the time of publication the programme had been scrapped with no clear replacement announced. After autumn 2022, England will be the only home nation without a dedicated current affairs strand. The NUJ believes that the regulator should be more robust in its assessment and evaluation, to ensure continued, high quality regional current affairs output across England.

The NUJ is additionally concerned that the phrase for news bulletins "at intervals throughout the day" risks diminishing the news content on BBC Local Radio. Stations have recently increased the number of digital only bulletins (on BBC Sounds and Smart Speakers) to four per day, but without any additional resources. We ask that Ofcom explicitly states that BBC Local Radio retains its hourly bulletin, on linear services, as they are at present, to

ensure a universal service continues to all Licence Fee payers. (For reference these are generally 0600-1800 weekdays, 0700-1300 weekends and holidays).

In reducing the breakfast speech quota to 75 per cent, the NUJ would like Ofcom to provide a clearer definition of what is meant by “a significant amount of local news and information”. In the past three years, BBC Local Radio has largely abandoned its “in depth news” coverage at breakfast in favour of lighter speech and entertainment. While recognising that the regulator cannot be prescriptive, we would like greater clarity on “localness” from Ofcom – perhaps in line with its existing Localness Guidelines for Commercial Radio.

Making news and current affairs quotas on network radio annual rather than daily or weekly (while retaining an obligation on the BBC to make news available regularly throughout the day) Firstly, we propose to amend the quotas in Public Purpose 1 which require the BBC to deliver a set amount of news and current affairs each day or week, so that they apply across the year instead. This will mean changing the quotas for BBC Radio 1, BBC Radio 1Xtra, BBC Radio 2, BBC 6 Music and BBC Asian Network.<sup>107</sup> We propose to take the same approach for the weekly nations and regions radio news quotas in Public Purpose 4, which will affect the conditions for BBC Radio Scotland, BBC Radio Wales, BBC Radio Cymru, BBC Radio Ulster and BBC Radio Foyle.<sup>108</sup> For consistency, we also propose to change the other, non-news weekly quotas in the Licence to apply across the year. This will affect the original, locally-made programming quotas for BBC local radio in Public Purpose 4<sup>109</sup> and the weekly specialist music quota for BBC Radio 1 in Public Purpose 3

However, there is a potential risk that by moving to annual quotas the BBC could provide news less frequently than now. To mitigate this risk, we propose to introduce conditions for each relevant service to provide news bulletins at intervals throughout the day.<sup>112</sup> The BBC has also told us that it has no plans to change its news output on the affected network radio stations and we expect the BBC to continue with its current provision.

Ofcom admits that its proposal to move to annual quotas risked leading to “news less frequently than now”. Despite assurances from the BBC that it has “no plans to change its output”, the NUJ is concerned that this may change because of financial constraints. Audiences have told Ofcom that the BBC could improve its delivery of local/regional/nations news content to truly reflect and represent news of the wider area which suggests the BBC must do more to shore up its responsibility under Article 6 of the BBC Charter to “offer a range and depth of analysis and content not widely available from other United Kingdom news providers, using the highest calibre presenters and journalists, and championing freedom of expression, so that all audiences can engage fully with major local, regional, national, United Kingdom and global issues and participate in the democratic process, at all levels, as active and informed citizens”.

The decision to close the BBC News Channel and BBC World News and create a new rolling news service in April 2023, with 70 fewer journalists, is, the NUJ believes, a major mistake. Both TV channels have crucial and distinctive roles which will be watered down in a combined service. Creating a new channel will inevitably diminish the overall breath and diversity of content, and for UK licence-fee payers this could have a direct effect on democracy. The current BBC News channel has provided viewers with up-to-date coverage of UK elections, party conferences, by-elections and domestic and international breaking

news. Such reportage may be lost in a combined channel where global events are competing for airtime. On the proposed channel, most daily UK news would come from programmes audiences can already access elsewhere: Nicky Campbell's phone-in on 5Live, BBC1 bulletins, Breakfast Time and Newsnight. The BBC News Channel is a 24-hour impartial and independent service offering breaking news, analysis and insight. It provides fast and comprehensive coverage of local, UK and international events as they unfold. Its news packages and interviews are used throughout the BBC's network. The BBC News Channel reflects the Nations and Regions of the UK more than any other national platform. BBC World News has a weekly audience of about 364 million people around the globe – so why close it? Under the proposals, for overseas viewers it will still carry adverts. BBC managers have not been willing to spell out exactly how they can blend licence fee funding with commercial income. Competitor broadcasters would no doubt have questions about this. **The NUJ is calling for the BBC News Channel and BBC World News to remain as two distinct channels and for Ofcom to hold an inquiry into what must be viewed as material change. This needs to go out to public consultation.**

The NUJ agrees that Ofcom should retain the existing licence condition requiring the BBC to link through to third party online material on its news website. This has long been a source of frustration for local newspapers and journalists not to have their stories credited.

Ofcom says that a recipient of public funding, the BBC “should set the standards for the rest of the industry by producing news and current affairs of the highest quality”, adding: “We consider this is particularly important for current affairs, where the BBC has the opportunity to go further than other providers by drawing on its journalists and experts across the UK and around the world”. This has been undermined by the axing of Inside Out, the regional investigative strand and the failure of its replacement We are England which was pulled after a matter of months. The NUJ had warned BBC management that the plans would not work following the loss of 450 posts at BBC England – this proved to be correct. The greater sharing of local radio packages to ever-wider areas is also diluting the “localness” of local radio.

**Question 4: Do you agree with the proposals for Public Purpose 3 - to show the most creative, highest quality and distinctive output and services? If not, please explain why.**

The NUJ supports Ofcom's intention to retain some quotas for network radio output, but we have serious concerns about some of the proposals to discontinue quotas, specifically the ones applying to Radio 3 and documentaries.

Radio 3: in the last two financial years the budget for live and specially recorded music on Radio 3 has been subject to progressive and swingeing cuts. In May 2022 the BBC created a new role of Director of Music with responsibilities for all BBC radio music output, to whom the Controller of Radio 3 (among others) has since reported. The Director of Music appointed is Lorna Clarke, a very experienced and respected programme maker but one who has no experience in the field of classical music. On 12 September 2022 the incumbent Controller of Radio 3, Alan Davey, announced his decision to leave the BBC in March 2023; recruitment for his successor has not yet commenced. Alan Davey has been a strong supporter of live and specially recorded music and of commissioning new musical works - it is during his tenure that new music commissions have increased, as Ofcom notes. However,

the recent events described mean that the outlook regarding these matters is now extremely uncertain. The NUJ therefore believes that this is the wrong time to substitute transparency requirements for two Radio 3 quotas: namely, the quota for the number of live or specially recorded performances Radio 3 must broadcast, and the quota for the number of new musical works it must commission each year. The NUJ believes that these quotas should be retained for the time being, at least until the new structure applying to Radio 3 has bedded in and demonstrated its continuing commitment to these important matters.

Documentaries: crafted radio features and documentaries have long been, and remain, one of the most distinctive features of BBC network radio output. Very little such output is available from non-BBC sources. However, this crafted output - while very cheap in comparison with television output - is expensive in relation to other audio output, and in recent years the BBC has shown a desire to reduce significantly the amount of such crafted output, replacing it with simpler (often live) interview formats to cut costs. Crafted features, which used to dominate the broadcast time in daily strands such as Woman's Hour, You and Yours and Front Row, have been all but eliminated. Documentaries are the sole remaining outlet for crafted output of this kind. There is a serious risk that substituting transparency requirements for the documentary's quotas for the various network radio stations will lead to an inexorable reduction in crafted output. This risk is particularly acute at the present time when the BBC is undertaking a review of speech audio production, especially as it is likely that this review will decide to move some or all speech audio production into the commercial subsidiary BBC Studios (a preliminary decision on this is expected by 30 September 2022). The NUJ therefore believes that quotas should be retained for documentaries on the various network radio stations.

**Question 6: Do you agree with the proposals for Public Purpose 4 - to reflect, represent and serve the diverse communities of all the United Kingdom's nations and regions and, in doing so, support the creative economy across the United Kingdom? If not, please explain why.**

The NUJ supports Ofcom's intention to retain quotas for national and regional news and current affairs, as well as for production in the nations and regions and its proposal to strengthen the transparency requirements that seek to hold the BBC to account for how it represents the diverse communities of the UK, both on- and off-screen.

The NUJ agrees that improvements in the diversity of the BBC's workforce should contribute to better representation and portrayal on-screen and on-air. Targets are set to have a workforce make-up of 50 per cent women, 25 per cent from low socio-economic groups, 20 per cent from Black, Asian and minority ethnic groups and 12 per cent disabled people. These targets are yet to be reached, but what is also important is monitoring retention and career progression of these groups of journalists, and density in different areas of the organisation. A report in the Voice, based on data from the BBC's 2022 annual report, showed that only 95 black individuals were working within the News and Affairs department - so out of 2,840 news staff members, black people only made up 3.3 per cent.

**Question 7: Taken together, do you agree with the proposals for a new Operating Licence? If not, please explain why.**

The NUJ would like to see Ofcom place more emphasis on and give a clearer definition of what is meant by "additional transparency". As a trade union we have serious concerns

about some of the proposals to replace quotas with transparency requirements. We believe that a change in BBC governance is needed to strengthen stakeholder accountability and that the BBC Board should include a staff member.