

News UK's response to Ofcom's consultation on assessing the impact of proposed changes to the BBC's public service activities

Introduction

News Corp UK and Ireland ('News UK') is one of the leading media businesses in the UK and Ireland. Spanning print and pixel, audio and video, our multi-format brands are home to a plurality of news, opinion, analysis and entertainment. Our news publishing brands include *The Times*, *The Sunday Times*, *The Sun* and *The TLS*. Our broadcasting brands sit under our News Broadcasting division and include talkSPORT, Talk, Times Radio and Virgin Radio UK, as well as a network of local stations across the island of Ireland.

News Broadcasting welcomes the opportunity to respond to this consultation on proposed changes to Ofcom's guidance on regulating the BBC's impact on competition. We have experience engaging with the BBC competition impact assessment process during this Charter Period. We have formally contested several proposed changes given concerns about the likely impact on our business, including plans to launch Radio 1 Anthems, Radio 2 Extra, an extended Radio 5 Sports Extra, and an extension to Radio 6 Music, as well as changes to quotas and transparency requirements for Radio 5 Live. To date, we are the only organisation to have formally requested that Ofcom undertake a BBC Competition Review (BCR).¹

Our view on the proposed changes to Ofcom's guidance

As technology and audience habits continue to evolve, all media companies must respond by making changes to the content and services they offer to audiences. But the BBC's unique funding model and significant scale means it stands apart in the UK media market, and changes it makes to its services can damage fair and effective competition.

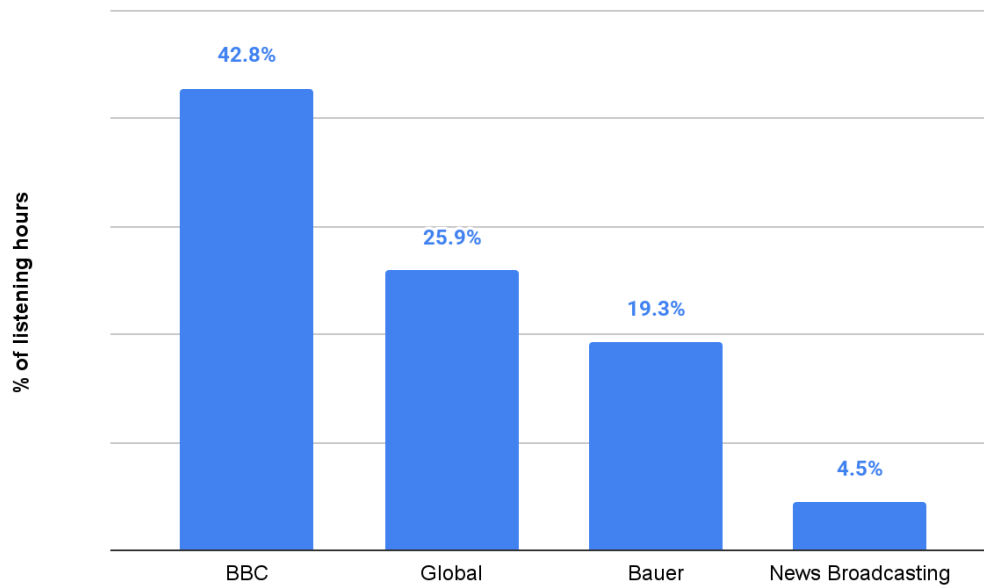
This risk is particularly acute in the audio and news publishing markets, where the BBC retains an outsized market share. In the audio market, the BBC remains the single biggest player with a 42.8% share of all listening hours (see Figure 1), and BBC Sounds is the most listened to broadcaster-owned audio platform in the UK.² In the news market, the BBC has the highest cross-platform reach of any news organisation and BBC News Online is the most used news source among UK adults who directly access news content online.³

¹ News Broadcasting (formally Wireless) requested a BCR on the BBC's position in the audio sports rights market. The request was declined in 2018. Ofcom, December 2018, [Consideration of a request from Wireless Group Media \(GB\) Limited for Ofcom to launch a BBC Competition Review](#).

² RAJAR Q4 2025. Ofcom, 21 May 2025, [Audio listening in the UK](#), p. 6-7.

³ Ofcom, 21 July 2025, [News Consumption in the UK 2025](#), p. 9 and p. 14.

Figure 1: Share of listening hours in the radio market, Q4 2025



Source: RAJAR, Q4 2025.

The BBC undoubtedly plays an important role in the UK’s media market and wider society, particularly in providing distinctive content and services that no commercial media organisation could afford to offer. However even as a global media company, we have repeatedly experienced behaviour from the BBC that has made it challenging to compete in certain markets.

For example, the talkSPORT network (talkSPORT and talkSPORT 2) is the only direct competitor to the BBC’s 5 Live network (5 Live and the 5 Sports Extra stations) in the sports radio market. Both the talkSPORT and 5 Live networks provide free-to-access live sports commentary to audiences across the UK, which we consider to have public value. talkSPORT has spent decades trying to close the gap in listening hours with the 5 Live network⁴, and it has had some success. But talkSPORT has struggled to compete against the BBC given its continued, significant structural advantages in the market.

The BBC has historic scale and unrivalled brand recognition, while its funding model enables it to spend without considering commercial imperatives. We have seen this most acutely in the market for audio sports rights. Live commentaries of key mainstream sporting events (e.g. Premier League games) are key to driving listening in the sports radio market. In bidding for audio sports rights, talkSPORT needs to ensure it can make a commercial return on the amount it bids. The BBC is subject to no such constraints, and continues to overpay and outbid its only commercial rival for key rights packages. [CONFIDENTIAL].

Similarly, the BBC’s cross-platform scale enables it to promote its content and services to mass audiences for free; it can cross-promote the 5 Live network on *Match of the Day* and the BBC Sport app, and run pop-up advertisements promoting the 5 Extra stations on BBC

⁴ RAJAR Q4 2025 results indicate that the BBC 5 Live network delivered 35 million listening hours, compared to the talkSPORT network’s 24 million hours.

Sounds. It can offer rights holders this enhanced cross-platform coverage as part of its bids for rights packages. talkSPORT simply could not afford to run a continuous mass marketing campaign on this scale.

Across this Charter Period, we have seen the BBC expand its footprint in the sports audio market, with an increased sports quota for 5 Live, two new 5 Sports Extra streams on Sounds, and reduced transparency around the diversity of sports it covers on 5 Live. We have also seen it invest in providing coverage of mainstream, high-profile sports (such as Premier League football), over distinctive, undercovered sports that commercial media broadcasters struggle to cover sustainably (such as Olympic sports outside of the Olympic cycle). This view has been echoed by others, including UK Sport.⁵ [CONFIDENTIAL].

Our experience means we understand the importance of a regulatory framework that allows the BBC to evolve how it delivers distinctive content and services, while challenging proposals that lack distinctiveness and risk watering down the BBC's public value. Regulation should offer commercial operators the space and certainty to innovate and build commercially sustainable businesses despite the BBC's structural advantages, and ultimately ensure audiences benefit from a plural and diverse media market.

We are therefore concerned that the changes Ofcom proposes making to its guidance would weaken the existing regulatory framework. We disagree that the changes are necessary; the current regulatory framework does not impede the BBC's ability to innovate. However, we recognise that these changes were agreed by the last government during the Mid-Charter Review and that the Charter and Agreement have been amended by this government to enable Ofcom to change its guidance.

Our response therefore focuses on three areas where Ofcom should offer more clarity and detail in its guidance to provide confidence to stakeholders about its proposed new process. Please find a summary of those three key issues below, before we then answer the specific consultation questions in turn.

1) Reducing independent oversight of the BBC

Ultimately, the proposed approach allows the BBC to oversee more of its own regulation. Decisions will increasingly rely on the BBC's own analysis, which is predisposed to underestimate the likely competition impact of changes and to overstate the public value. There will be fewer opportunities to test the BBC's assumptions and analysis of likely competition impact and public value, which can be flawed. For example:

- **Inconsistencies in modelling:** During the materiality assessment for Radio 1 Anthems and Radio 3 Unwind, Ofcom had to adjust the BBC's analysis to correct for inconsistencies and inappropriate inputs.⁶
- **Unsubstantiated public value claims:** During the PIT and BCA process for the extended 5 Sports Extra, Ofcom criticised the BBC for failing to provide evidence that the service would actually reach its target audience or drive the discovery of sports

⁵ The Guardian, 2 February 2026, [UK Sport urges BBC to boost coverage of Olympic sports between Games](#).

⁶ Ofcom, 16 July 2024, [Review of the BBC's materiality assessment of proposed new streams on BBC Sounds](#), paragraph 3.7.

content on BBC Sounds.⁷ Similarly, during the process for Radio 1 Dance, Radio 1 Anthems and Radio 3 Unwind on DAB+, Ofcom had reservations about the BBC's public value claims for the three stations; Ofcom's view was that the value to underserved audiences, the likely social value of the stations and the industry value would likely be more limited than the BBC claimed.⁸

The new process relies more heavily on Ofcom reviewing and challenging the BBC's work. But we have concerns about Ofcom's capacity to ask difficult questions of the BBC, particularly in situations when the BBC exerts time pressure on Ofcom to conduct its reviews at pace. In the past, Ofcom has allowed the BBC to proceed with changes even when it had doubts about the public value of those changes; the music radio streams above were all allowed to proceed despite Ofcom recognising their limited public value.

In addition, Ofcom has repeatedly chosen not to intervene in markets where the BBC has an outsized role and may have a negative impact on competition, instead choosing to monitor its impact in those markets. For instance, in response to our BCR request about the BBC's role in the audio sports rights market, Ofcom said that it would monitor the sports radio sector and the distribution of audio sports rights, but seven years on, the BBC continues to overpay for audio sports rights.⁹ [CONFIDENTIAL].

In light of these issues, we encourage Ofcom to include more detail in its guidance about how it will be transparent with stakeholders under the proposed new process. In particular, we would welcome Ofcom explaining how it will demonstrate to stakeholders that it has robustly assessed the BBC's materiality and PIT assessments. For example, when consulting on whether a competition assessment is required, Ofcom should explain how it has tested the BBC's analysis, and share details of additional information requested from the BBC to help it assess the quality of the BBC's work. This would help stakeholders better understand Ofcom's analysis and the level of challenge offered to the BBC.

In addition, in instances where Ofcom allows a change to proceed without any competition assessment and commits to monitoring any resulting impact on competition as a mitigation to stakeholders, Ofcom should publicly report on the extent of its monitoring activities (e.g. in its Annual Report on the BBC) and proactively engage with stakeholders as part of that monitoring work.

More generally, we understand that Ofcom faces competing priorities, that BBC competition assessments are resource intensive, and that Ofcom takes its role in regulating the BBC's competition seriously. But we are concerned by the inclusion of Ofcom's resourcing as a factor it will formally consider when deciding whether to conduct a competition impact assessment. It risks sending a negative signal about the priority Ofcom places on BBC competition regulation and issues raised by stakeholders. It introduces a risk that the BBC

⁷ Ofcom, 2 July 2025, [Statement: Proposed new BBC DAB+ radio stations and proposed changes to Radio 5 Sports Extra](#), pages 11-12.

⁸ Ofcom, 2 July 2025, [Statement: Proposed new BBC DAB+ radio stations and proposed changes to Radio 5 Sports Extra](#), paragraphs 2.3 - 2.5, 2.13, 2.15, 2.23

⁹ Ofcom, December 2018, [Consideration of a request from Wireless Group Media \(GB\) Limited for Ofcom to launch a BBC Competition Review](#).

would be permitted to implement a change that would negatively impact fair and effective competition, because Ofcom cannot afford to prioritise a BCA or shorter assessment.

2) Greater weight placed on the flawed materiality process

If implemented, the new process would mean that Ofcom could approve a material change without either a BCA or a shorter assessment. Although the BBC would still have to conduct a PIT, the change would place greater weight on the materiality process. A critical deficiency is that at the materiality stage, the BBC is not required to consider the public value of a proposal; it must only consider the likely impact on fair and effective competition. Therefore an increasingly significant portion of the regulatory process would occur without any formal consideration of whether the potential competition impacts are justified by the public value of the proposal (i.e. whether the BBC should be making the change at all).

Furthermore, the lack of specific requirements as to the information the BBC must share with stakeholders during the materiality phase makes it exceptionally challenging to engage meaningfully at this stage. For example, the BBC has refused to provide us with information we consider relevant to understanding the materiality of the proposed 6 Music station¹⁰, because it does not consider that information relevant to the materiality of the proposed stream.

We are also concerned by the BBC's ability under the proposed new process to make incremental changes to its services, which cumulatively may have a material impact on fair and effective competition, without having to undergo any competition assessment at all. The BBC could break a material change into a series of smaller, non-material changes, and introduce those changes incrementally without having to go through any BCA or shorter assessment. Over recent years we have seen how the BBC has incrementally proposed changes to its audio sports services, which have all - bar one - been approved. This includes increasing the sports quota on 5 Live (2023 - approved), proposing an extended 5 Sports Extra (2024 - rejected), launching two new 5 Sports Extra streams on Sounds (2025 - approved), and removing the transparency requirements around its live sports coverage on 5 Live (2025 - approved).

We encourage Ofcom to include significantly more detail in its guidance about the information the BBC must provide to stakeholders at the materiality stage to allow meaningful and constructive engagement. Ofcom should also set out how it will consider the proposed materiality of changes holistically and in the context of previous changes, to avoid the BBC being able to make material changes in incremental stages without any competition assessment at all.

3) No incentive for the BBC to improve its approach to stakeholder engagement

As Ofcom notes in its consultation, allowing the BBC to proceed with a material change without a competition assessment would make both the timing and the quality of the BBC's

¹⁰ This included basic information such as the likely ratio of speech to music on the station, examples of 1980's music acts the station would play, and the likely percentage of repeat programming on the station.

engagement with stakeholders more important. But our experience of engaging with the BBC on changes to its services gives us little confidence.

The BBC's approach to stakeholder engagement across this Charter Period has been poor. For example, it failed to engage with us before publicly announcing its plans for the 6 Music station despite the clear likely material impact on Virgin Radio, and it has failed to share basic information relevant to the materiality of the proposed service. We had a similar experience throughout the 2024-25 regulatory process for the proposed music radio stations and the extended 5 Sport Extra; the BBC failed to engage meaningfully with stakeholders and shared very limited information throughout that process.

There is almost no incentive for the BBC to take issues raised by industry stakeholders seriously during the materiality or PIT processes, and to make mitigations to its proposals to reduce the likely competition impact. Only on very rare occasions has the BBC accepted mitigations and those have been very minor. For example, it added news bulletins to its proposed Radio 2 extension station to increase the public value case for the extension, and reduced the proposed hours of broadcast for the extended 5 Sport Extra by 6.5 hours a day. Neither of these changes would have substantially reduced the likely impact on competition, and Ofcom still rejected the proposals on competition grounds.

We are also concerned about the standard being set for meaningful industry engagement. In Ofcom's second Periodic Review of the BBC, it stated that the BBC "has improved its transparency in stakeholder engagement, for instance in its plans to make changes to its services".¹¹ This does not reflect our experience of engaging with the BBC on competition issues across this Charter Period, and leads us to question the message Ofcom is sending to both the BBC and commercial stakeholders about the standards for engagement.

We therefore encourage Ofcom to add more specificity to its guidance about how and when the BBC must engage with stakeholders, and how the BBC should demonstrate that it has meaningfully engaged with stakeholders' concerns and suggested mitigations.

Summary of suggested amendments

- **Setting higher standards for industry engagement:** Ofcom should add more specificity to its guidance about how and when the BBC must engage with stakeholders, and how the BBC must show it has meaningfully engaged with stakeholders' concerns and suggested mitigations.
- **Information sharing and transparency:** The proposed guidance should include more specific detail about the information the BBC must provide to stakeholders - particularly at the materiality stage - to allow stakeholders to understand the likely impact of a change on their business and to provide constructive feedback to the BBC.
- **Approach to incremental changes:** Ofcom should set out how it will consider proposed changes holistically, to avoid the BBC being able to game the proposed

¹¹ Ofcom, November 2025, [Annual Report on the BBC 2024-25](#), p. 5. See also p. 60.

new process to make material changes to its services incrementally without any competition impact assessment taking place.

- **Increased transparency from Ofcom:** It would be helpful for Ofcom to set out how it plans to be transparent with stakeholders when it is considering whether or not to allow a change to proceed without any competition assessment. For example, when consulting on whether a competition assessment is required, Ofcom should explain how it has challenged the BBC's analysis and share details of additional information requested from the BBC to help it assess the robustness of the BBC's work. This would help stakeholders better understand the level of analysis Ofcom has conducted, and the extent to which Ofcom has challenged the BBC.
- **Approach to Ofcom resourcing:** We encourage Ofcom to reconsider the inclusion of its own resourcing as a factor it will consider when determining whether a BBC proposal should be subject to a competition impact assessment. While we understand that there are resource limitations and BCAs can be resource intensive, we are concerned that the BBC could be allowed to proceed with a change that would impact fair and effective competition because Ofcom cannot allocate the necessary resources.

Responses to specific consultation questions

Question 1: Do you agree with our proposals to add guidance on how we will consider the BBC's engagement with stakeholders as a factor in determining whether a competition assessment is required?

We would welcome Ofcom providing more prescriptive guidance about how the BBC should engage with stakeholders to improve its current approach to engagement. The proposed phrasing is simply too vague. Ofcom should clearly define what constitutes "effective and meaningful engagement" to ensure that this has any effect in practice and to ensure the BBC, Ofcom and industry stakeholders are aligned in their expectations of how the BBC should behave.

We have been repeatedly disappointed by the BBC's approach to stakeholder engagement. Our recent experience during the materiality assessment for the 6 Music extension highlights the BBC's failure to engage relevant stakeholders and its refusal to share relevant information with stakeholders. When stakeholders do raise concerns or suggest mitigations to the BBC, in practice there is no obligation on the BBC to take those points seriously.

In summary, Ofcom's guidance should be amended to provide more detail and clarity to encourage the BBC to improve how it engages with the sector, including setting out:

- Precisely when and how the BBC must engage with relevant stakeholders before a proposed change is publicly announced.
- More detail about the information the BBC must, at a minimum, share with stakeholders at the materiality stage to allow stakeholders to provide informed and constructive feedback.

- Expectations as to how the BBC must demonstrate that it has meaningfully engaged with stakeholders' concerns and suggested mitigations.

Question 2: Do you agree with our proposals to add guidance on how we will consider the BBC's assessment as a factor in determining whether a competition assessment is required?

The criteria for reviewing the BBC's assessments should be significantly more robust to provide the necessary confidence that the assessments would be subject to sufficiently rigorous analysis. As drafted, the proposed guidance is too ambiguous.

There should be more detail on what Ofcom would need to see in the BBC's assessment for it to be considered "appropriately balanced and robust". For example, there should be more detail in the guidance about how the BBC's public value case for a change could be considered balanced and robust. We have long held concerns about the quality of the BBC's public value arguments. During the regulatory process for the extended 5 Sports Extra, the BBC made unsubstantiated claims about the likely public value of the extended station. Its core rationale for the proposal was that the extended station would help the BBC better reach and serve younger, C2DE audiences living outside of London. But during the PIT process it did not provide qualitative or quantitative evidence showing how the proposed service would appeal to the tastes of the target audience. Instead, the evidence suggested that the service would appeal to older, ABC1 audiences. There should be a higher bar to test the BBC's public value claims during the regulatory process, including a requirement that such claims must be evidenced.

In addition, Ofcom should strengthen the language around the BBC's engagement with stakeholders in the draft paragraph 4.43. Rather than considering whether the BBC has "taken into account stakeholder concerns in its analysis and modified its plans where appropriate", Ofcom should require the BBC to address stakeholder concerns in its analysis and modify its plans where appropriate, and where it is not possible to do so, the BBC should have to explain why. Otherwise, it is unlikely that the BBC will improve its approach to stakeholder engagement.

Question 3: Do you agree with our proposal to add guidance on how we will consider the impact of the scale of a change?

As above, we have concerns about the quality of public value claims the BBC has made in the past. We strongly encourage Ofcom to provide more detail or set out examples of what it would consider to be a "large and compelling public value case", which would warrant approving a material change without a competition assessment. It should also include guidance on the evidence the BBC should provide to support public value arguments.

Question 4: Do you agree with our proposal to set out in guidance how we will consider a range of factors in determining whether a competition assessment is required for a BBC change?

News UK disagrees with the proposed guidance regarding how Ofcom will consider the range of factors set out in paragraph 4.43.

It is disappointing that the BBC would not need to fulfill expectations relevant to each of these factors to allow it to proceed with any competition assessment, but rather would be evaluated “in the round” and on a “case-by-case” basis. We question how seriously the BBC will engage with each of the factors - engaging with Ofcom, engaging with stakeholders, and producing a high-quality, balanced assessment - if meeting them all is not a requirement. At a minimum, the BBC should be required to meet all of these basic conditions before Ofcom can determine that a BCA or shorter assessment is not required. Otherwise, it casts doubt on Ofcom’s commitment to take the BBC’s stakeholder engagement and the robustness of the BBC’s work seriously.

As above, we have concerns about Ofcom’s intention to amend the guidance to include its own resourcing as a factor it will consider when determining whether the BBC can implement a change without a competition assessment. While BCAs can be resource intensive and there are limits to Ofcom’s resources, we are concerned that the BBC would be allowed to proceed with changes that would have a negative impact on competition because Ofcom cannot allocate the necessary resources. Although we know Ofcom takes its role in regulating the BBC seriously, this change risks sending a signal to stakeholders about the priority Ofcom places on BBC competition regulation and issues raised by stakeholders. If resourcing BBC competition processes is an ongoing issue for Ofcom, we question whether liberalising the regulatory framework, which may require more ongoing monitoring of the BBC’s activities, is the appropriate approach.

Question 5: Do you agree with our proposal to set out, in light of our new option to not undertake a competition assessment, when we will invite third party comment on our determination?

News UK supports the proposal to invite third-party comments on Ofcom’s determinations. However, for this process to be effective, Ofcom should be required to publish a detailed account of the process it followed to reach its provisional determination in its invitation for comment. This should include details on how Ofcom has challenged the BBC’s analysis.

We would also encourage Ofcom to lengthen the proposed two week window as the suggested standard length for consultation. It is likely that such a short window would often be insufficient for organisations to analyse the proposed determinations, conduct additional analysis, and draft a response - particularly if the BBC has not engaged meaningfully with stakeholders or if the consultation window coincides with holiday periods. Given the importance to the commercial sector of changes to the BBC’s services, we recommend that the standard window be extended to at least four weeks. This will ensure that a consultation on the proposed determination provides a sufficient opportunity to engage.

Question 6: Do you agree with our proposed revisions to our guidance to clarify when a shorter assessment may be appropriate?

Again, Ofcom should set out in more detail the factors it would consider when deciding if a BBC PIT had been thorough, of high quality and appropriately balanced. Given that the BBC’s PITs will now carry more weight, it is important for stakeholders to be able to understand in more detail the factors Ofcom will consider in evaluating the BBC’s PITs.

Question 8: Do you agree with our proposed revisions to the guidance to reflect the change to the Agreement (at Clause 9)?

Our view is that any new service launched by the BBC in a market where it already has an outsized market share, such as in radio and news publishing, should be considered material by default. In those cases, a new BBC service would represent a significant new entry. As such, it should always be required to undergo a full regulatory process to explore the likely impact on the commercial sector before it is permitted to expand its footprint.

In the current draft of the guidance, Ofcom should provide more clarity on how it defines 'novelty' in this context. In our view, the 'novelty' of a change should refer to both the novelty of the proposal compared to what the BBC already provides, and the novelty of the proposal compared to what the commercial market already provides.

3 March 2026