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## Original productions on CBBC

Consultation on the BBC's request to change the  
Operating Licence

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

### **CONSULTATION:**

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# Contents

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## Section

1. Overview	1
2. BBC request for change	3

## Annex

A1. Proposed amended Operating Licence	9
A2. Legal framework	11
A3. Responding to this consultation	14
A4. Ofcom's consultation principles	16
A5. Consultation coversheet	17
A6. Consultation questions	18
A7. Equality impact assessment	19

# 1. Overview

**We are consulting on a request by the BBC to reduce the CBBC original productions quota in the BBC Operating Licence. This document sets out Ofcom’s provisional view and invites stakeholder comments.**

- 1.1 The BBC needs to adapt its services and the types of content it commissions to stay relevant to all audiences. The UK’s media industry is changing rapidly; there has been huge growth in the choice of services and content, developments in technology and significant shifts in audience behaviour. This is making it harder for public service broadcasters, like the BBC, to compete for audiences and is compounded by funding pressures.
- 1.2 The need to evolve is particularly acute in the children’s sector, where there have been fundamental shifts in viewing habits. Our research shows that children are increasingly consuming content online: in 2021, three-quarters of 3-17-year-olds watched paid-for on-demand services, compared to less than half watching programmes as they were broadcast on scheduled TV (i.e. live).<sup>1</sup> Decreases in viewing have been seen to most children’s TV channels. CBBC, the BBC’s dedicated TV channel for children aged 6-12, now reaches only 14% of its target audience on TV per week, compared to 27% in 2015.<sup>2</sup>
- 1.3 The BBC is having to respond to this decline. In doing so, it is important it builds and maintains strong relationships with younger audiences. As part of its plans for this, and to strengthen the appeal of CBBC, the BBC is seeking to invest in more UK animations and planning a small increase to acquisitions. This will impact its Operating Licence.
- 1.4 The BBC Operating Licence requires that at least 72% of all hours broadcast on CBBC in a calendar year are original productions (condition 2.32). In broad terms, these are programmes commissioned by or for a UK Public Television Service<sup>3</sup> with a view to their first showing in the UK being on that UK Public Television Service. Original productions can include repeats but not acquisitions.<sup>4</sup> Separately, CBBC also has quotas for first run UK originations. These are similar to original productions but do not include repeats (conditions 2.35 and 2.35A). The BBC is seeking a change to the original productions requirement (condition 2.32), but not the first-run UK originations requirements (conditions 2.35 and 2.35A). This is the focus of this consultation.

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<sup>1</sup> [Ofcom’s Children and parents media literacy, parents only survey 2021.](#)

<sup>2</sup> BARB. Reach criteria: 3+ consecutive minutes, 28-day consolidated viewing on the TV set. Note: BARB data for 2021 was run before BARB had completed their data reissue so they might change slightly.

<sup>3</sup> UK Public Services means the services included in the list maintained and published by the BBC under Part 1 of Schedule 1 to the Agreement, as amended by the BBC from time to time. UK Public Television Services means those UK Public Services which consist of television programme services.

<sup>4</sup> Paragraph 2.32 of the Operating Licence.

### **What we are proposing**

We propose to accept the BBC's request to reduce the original productions quota on CBBC from 72% of all hours to 66% for calendar years 2022 and 2023, and 68% for calendar year 2024 and onwards.

We recognise the audience challenge CBBC faces. Our preliminary view is it is right that the BBC is enabled to vary CBBC's service within the framework of its Mission and Public Purposes to stay relevant to its audience. The change would see the BBC investing in UK animations with the potential to contribute to CBBC's appeal and support its distinctiveness. Although we would be concerned if acquisitions were to play too large a role in CBBC's overall content mix, we consider the scale of the Operating Licence change and resulting scope for increased acquisitions is modest and would not negatively affect the quality of the CBBC service.

**Stakeholders are invited to send us views by 7 April 2022.**

## 2. BBC request for change

### Background to the request

- 2.1 In the [BBC's Annual Plan 2021/22](#) (March 2021) and subsequent public announcements<sup>5</sup>, the BBC set out that “animation for the 6-12s will play an increased role in [its] future audience strategy for CBBC over the next few years and [that it is] launching a pilot initiative to develop new creative animation talent in the UK.” While these commissions are in the pipeline, the BBC set out it is planning to acquire more animated content for CBBC.
- 2.2 Since then, we have been in discussions with the BBC about these plans. We are currently reviewing how the whole of the BBC's Operating Licence should evolve to reflect changing audience habits and plan to consult on detailed proposals later in spring 2022.<sup>6</sup> Through the discussions with the BBC, however, it became clear that in respect of the CBBC change, the BBC was seeking to implement this sooner than our wider Licence review. We have therefore decided to consult now on the distinct matter of a reduction to the original productions quota on CBBC and set out below what the BBC has told us about the change.
- 2.3 The BBC seeks to increase original animation from 1 series / 8 hours to 4 series / 32 hours in the annual slate. It told us it wants to create animated content that is different from what is typically available to children in CBBC's age range across children's channels, by focusing on animations that are rooted in British culture rather than North American contexts. In 2021, it launched the 'Ignite' animation development scheme to develop new UK animation ideas,<sup>7</sup> but as animation development takes time, the BBC told us it wanted to acquire animation in the immediate term.
- 2.4 The BBC said this would not affect funding for UK first-run originated programming. It told us the CBBC budget will broadly remain the same, but the proportion of acquisition spend relative to total CBBC spend will increase by 2 percentage points (pp) on levels pre the Covid-19 pandemic in 2019/20. The BBC also told us it would maintain a wide genre mix on CBBC and, alongside animation, it would seek to boost live-action-comedy commissioning.
- 2.5 The BBC said this change is part of its plan to tackle the decline in viewing of CBBC, which has fallen significantly over the past few years. Although the BBC said there has been some growth in CBBC viewing on BBC iPlayer, it does not consider this is enough to offset linear losses. The BBC said it is seeing an elevated 'cost per user hour' and there is a possibility of this to climb still as the audience challenge further unfolds.
- 2.6 The BBC argued that animation could play a key part in delivering appeal, fun and entertainment to the CBBC audience. It said animation was the most consumed genre across CBBC and other similar children's channels combined, as well as that animation, as a

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<sup>5</sup> For example, a speech given by P. Hidalgo at the Manchester Animation Festival in November 2021.

<sup>6</sup> We sought views on the scope of this review in 2021. [Consultation: How Ofcom regulates the BBC](#) (July 2021).

<sup>7</sup> [BBC Ignite](#).

medium, could be used to deliver a range of genres. It also argued that animation has the largest appeal with C2DE households compared with other genres such as drama, whereas CBBC's audience is currently skewed towards the ABC1 socio-economic group.<sup>8</sup>

## The request

2.7 As part of our regulation of the BBC, we are required under the Charter and Agreement<sup>9</sup> to set an Operating Licence<sup>10</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.

2.8 The BBC told us it is seeking a reduction to condition 2.32 in the Operating Licence. This requires that in each calendar year, the time allocated to the broadcasting of original productions on CBBC is not less than 72% of all programming hours on CBBC. This is to accommodate the increase in animation on CBBC, which the BBC set out would reduce the time allocated to the broadcasting of original productions by 4% in 2022 and 2023, and 2% (compared to 2021) in 2024. To further take account of a permanent annual 2% reduction it attributes to the launch of BBC Three,<sup>11</sup> overall, the BBC requests the quota is reduced to:

- 66% of all programming hours for calendar years 2022 and 2023; and
- 68% of all programming hours for calendar years 2024 and onwards.

## Our assessment of the request

2.9 We consider variations to the Operating Licence within the framework of the relevant legal and regulatory requirements.<sup>12</sup> 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>13</sup> We further believe that such requirements contribute to ensuring distinctiveness and play an important role in supporting the UK creative economy. Our assessment of whether to vary the Operating Licence therefore considers, among other things, the likely implications of a reduction in the original productions quota on CBBC's quality, audience, its distinctiveness and the UK creative economy.

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<sup>8</sup> Socio-economic group is 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>9</sup> The [BBC Charter and Agreement](#).

<sup>10</sup> [BBC Operating Licence](#).

<sup>11</sup> The BBC said that due to the BBC Three launch and the resulting cut of broadcast hours on CBBC between 7pm and 9pm each day, taking account of the types of programmes usually scheduled for between that time, this would increase the proportion of acquisitions on CBBC by 2%.

<sup>12</sup> See Ofcom's [Procedures for setting and amending the Operating Licence](#) 2017 (updated 2019). Further details on this legal and regulatory framework are set out at Annex A2.

<sup>13</sup> Paragraph 5 of Schedule 2 to the Agreement.

- 2.10 Overall, our preliminary view is that the scale of change is modest and will not negatively affect the quality of the CBBC service, and we are minded to accept the BBC's request to vary the Operating Licence. We agree the BBC needs to improve its performance with the CBBC audience and the change could help it do so. We expect the BBC would commission UK animations that support CBBC's distinctiveness, and this investment would maintain the BBC's important contribution to the UK creative economy and quality of the CBBC service. In the round, we consider the BBC's plan could enhance the delivery of Public Purpose 3 - by varying CBBC's offering and supporting distinctiveness - as well as Public Purpose 4 - by better serving a broader range of audiences and contributing to the UK creative economy.

## Impact on audiences and quality of CBBC

- 2.11 Our evidence indicates that reach to CBBC and most other linear children's channels continues to decline, as children increasingly choose to watch content online through video-on-demand services. Among the various platforms available for watching TV content, paid-for/subscription-video-on-demand services such as Netflix, Amazon Prime Video and Disney+ are by far the most popular among children.<sup>14</sup> CBBC now reaches only 14% of its target audience on TV each week, compared to 27% in 2015. This trend accelerated in the past two years, as CBBC reach declined by 4pp annually since 2019. The time children spend with CBBC is also declining.<sup>15</sup> As we said in our *Annual Report on the BBC 2020-21*, according to BBC data, around half of CBBC's total viewing is via BBC iPlayer but this has not changed substantially between April 2020 and March 2021.<sup>16</sup>
- 2.12 Our analysis also confirms the skewed reach of CBBC. In 2021, CBBC watched on the TV set reached 17% of its target audience in ABC1 households, but only 10% in C2DE households. The decline in reach to C2DE households is higher than to ABC1 households; in 2020 CBBC reached 21% of ABC1 households compared to 16% of C2DE households.<sup>17</sup>
- 2.13 The BBC told us that animation consumption was significantly higher among the target age range across other linear children's channels than other genres; and that animation appeals particularly to C2DE audiences. Our own analysis among 6–12-year-olds in 2021 shows that on other linear children's channels, as a group, animation accounted for 75% of the hours scheduled to programming, while minutes viewed to it accounted for 78% of the total programming consumption. For 6–12-year-olds in C2DE households, 83% of their viewing time was to animation compared to the 75% of the hours it takes up.<sup>18</sup> Our own research also shows that in 2021, on video-sharing platforms, a majority of children

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<sup>14</sup> Ofcom's Children's and Parents' Media Literacy Tracker 2021: Parents' data tables. [Children's Media Literacy Survey 2021 - Parents Data Tables](#).

<sup>15</sup> BARB. Reach criteria 3+ consecutive minutes, 28-day consolidated viewing on the TV set in CBBC broadcast hours (0700-2059). Note: BARB data for 2021 was run before BARB had completed their data reissue so they might change slightly.

<sup>16</sup> Ofcom (November 2021) [Ofcom's Annual Report on the BBC 2020-2021](#). BBC Data: AV Analytics.

<sup>17</sup> BARB. Reach criteria: 3+ consecutive minutes, 28-day consolidated viewing on the TV set in CBBC broadcast hours (0700-2059).

<sup>18</sup> BARB, 28-day consolidated. Other children's channels included in the group are CITV, Pop, Pop Max, Cartoon Network, Nickelodeon, NickToons and Boomerang and their +1 channels. While our analysis focuses on channels that mainly target children in the same age range as CBBC (6-12 year olds), we note that some children in this age range also consume content on channels targeted at younger ages such as Tiny Pop and Nick Jr.

between the ages of 5-7 (70%) watched animation type content.<sup>19</sup> We see how an increase in animation could potentially help CBBC engage with younger audiences, including retaining linear audiences and reaching C2DE audiences. We recognise however that the small scale of the change may not lead to substantial changes.

- 2.14 Overall, we consider the small reduction in the original productions quota and increase in animation is unlikely to negatively impact the quality of CBBC's offering for its audience, given the BBC's continued commitment to a wide genre mix, and the prospect of new quality UK animations that contribute to CBBC's distinctiveness, as set out further below. We also recognise that the BBC has not requested changes to the Operating Licence requirement for CBBC to broadcast at least 350 hours of first-run UK originations (conditions 2.35 and 2.35A).<sup>20</sup> This continued commitment to first-run UK originations will help maintain the quality of the CBBC service despite a reduction to the original productions quota.

## Impact on distinctiveness

- 2.15 Looking at CBBC's offering in the round, the BBC said it will maintain the distinctiveness of CBBC's genre mix. CBBC output has consistently covered a wide range of genres including factual, drama, children's news, entertainment and some animation.<sup>21</sup> Our own analysis, covering the whole of 2021 (at which point the BBC had already begun to introduce more animation on CBBC), suggests animation made up a significant proportion of other children channels' schedules (75%), while CBBC's proportion of animation was 22% and part of a much wider mix of genres.<sup>22</sup>
- 2.16 The BBC argued that animation aimed at CBBC's age group is typically North American focused and told us that its new UK animation commissions would focus on showcasing and portraying British culture. Our own research confirms that greater portrayal of the diverse communities of all of the UK's nations and regions is needed in children's programmes. In 2020, more than a third of children aged 8-15 who watched TV felt that there were not enough TV programmes that showed children from the same part of the country as them. A quarter of this age group also felt that there were not enough programmes that showed children that looked like them.<sup>23</sup> We note that new UK animations could cover multiple genres as animation is both a format and a genre. However, in line with conclusions we drew in our 2017-2019 [Children's content review](#) we

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<sup>19</sup> [Children's Media Literacy Survey 2021 - Online Behaviours and Attitudes Combined Wave 1 and 2 Data Tables](#).

<sup>20</sup> Condition 2.35 states that in respect of CBBC and BBC iPlayer taken together, the BBC must ensure that in each Calendar Year it provides at least 350 hours of first-run UK originations for pre-teen children. In complying with condition 2.35, the BBC must ensure that in each Calendar Year at least 175 hours of first-run UK originations are broadcast on CBBC (condition 2.35A). In respect of CBBC, "first-run UK originations" means programmes which are commissioned by or for a UK Public Service and have not previously been shown on television or made available online in the United Kingdom (condition 2.37A.1).

<sup>21</sup> Ofcom analysis of BBC data.

<sup>22</sup> BARB. The proportion of hours is out of the total hours for all programming so does not include any commercial time for the other children's channels.

<sup>23</sup> Children and parents: media literacy tracker 2020, [Ofcom's Children's Media Literacy 2020 Aged 5-15 data tables](#). This survey question asked about TV programmes and films on any device, and via live TV, recorded content, or iPlayer or Netflix. This research did not focus on animated programmes but highlights wider priorities for children's content.



also consider the BBC should not lose sight of and continue to invest in original live action children's content on CBBC, to support a well-rounded and distinctive offering for children. In this respect, the BBC has told us that it would seek to boost live-action-comedy commissioning also.

- 2.17 As we set out in our *Annual Report on the BBC 2020-21*, alongside original commissions, the BBC may use acquired content to appeal to different audiences and to attract new ones. However, we would be concerned if acquisitions were to play too large a role in the BBC's overall content mix. A reduction in the original productions quota would give the BBC more scope to broadcast acquisitions and more scope to compete for animation acquisitions - we recognise that animation makes up a key part of other children channels' schedules. Our preliminary view is, however, that the increase in the acquisition volume and spend is very modest. This is unlikely to lead to acquisitions playing too large a role in the BBC's overall content mix nor to significantly impact the distinctiveness of CBBC. Further, we consider this is too small to substantially impact the competition for children's animation acquisitions.
- 2.18 To further illustrate the modest scale, we note that in terms of acquisition volumes, the change the BBC has requested would give it scope to acquire and broadcast 6% (2022 and 2023) and 4% (2024 and onwards) more hours of acquisitions relative to total hours on CBBC. For spend, the BBC projects the acquisition budget proportion to increase by only 2pp relative to total CBBC spend when compared to pre Covid-19 pandemic levels in 2019/20. We also note that the BBC has said it will apply editorial criteria to acquisitions and that it overall, does not intend to replicate the market.

## Impact on UK creative economy

- 2.19 We recognise that the BBC has not requested changes to the first-run UK originations quota in the BBC Operating Licence. The BBC said that while hours of original productions will fall, it projects spend in real terms for first-run UK originations on CBBC to remain broadly the same for years to come, and in line with spend figures in 2019/20 (pre Covid-19 pandemic). We welcome the BBC's ongoing commitment to investing in new UK content.
- 2.20 The BBC said it considers there has not been significant investment in commissions of new UK animations for non-preschool ages to-date. The BBC's focus on animation in this age range could be positive for animation producers in the UK. The scale of interest that was expressed in the BBC's first iteration of the 'Ignite' scheme, which received more than 1,000 entries with over 64% from individual creatives, suggests that further investment by the BBC in this area is likely to be welcomed by established producers and emerging creative talent.
- 2.21 More broadly, investment in and the availability of original children's content is already considered at-risk across public service media and this is compounded by increasing funding pressures, rising production costs and challenges with retaining children's

audiences.<sup>24</sup> This further underlines the BBC's important role in safeguarding its provision. However, requirements on the BBC also need to be proportionate to its own challenges. It is therefore our preliminary view that a modest increase in acquisitions would be reasonable provided the BBC continues to invest in new content and maintains the distinctiveness of CBBC, as suggested by the spend it has allocated to first-run UK originations.

- 2.22 We note that the BBC told us the increase in animations on CBBC is part of its plans to counter the decline in viewing to CBBC and acknowledge it had previously sought other Operating Licence changes for CBBC in 2019.<sup>25</sup> It is important that the BBC provides transparency on its wider plans and the 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. As part of our consultation on how to evolve the whole of the BBC Operating Licence to reflect changing audience habits, planned for spring 2022, we will consider in further detail how the BBC can develop its reporting to explain how its activities contribute to its Mission and Public Purposes.
- 2.23 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. In particular, we will want to see the BBC maintain distinctiveness on CBBC, provide a wide genre mix and invest in a range of new original UK content including in live action, alongside animation.

## Next steps

- 2.24 We propose to amend condition 2.32 in the BBC Operating Licence as set out in Annex A1, with the amendment applying for calendar year 2022 and onwards.

- 2.25 We invite stakeholders to provide comments on the following until 7 April 2022:

Question 1: Do you agree with Ofcom's provisional assessment and the proposal to reduce the original productions quota (condition 2.32) on CBBC from 72% of all hours to 66% for each of the calendar years 2022 and 2023, and 68% for calendar year 2024 and for each subsequent calendar year? If not, please explain why, providing appropriate supporting evidence where possible.

- 2.26 Subject to consultation, we aim to issue a statement and the amended BBC Operating Licence in Spring 2022.

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<sup>24</sup> We note the [recently announced conclusion](#) to the DCMS funded 'Young Audience Content Fund' pilot, administered by the BFI, which supported the development and production of original UK programmes for young audiences aged 18 and under.

<sup>25</sup> Ofcom (November 2019), [Consultation: BBC Children's news and first-run UK originations](#).

## A1. Proposed amended Operating Licence

A1.1 This annex sets out the existing Operating Licence condition concerning original production requirements on CBBC; and contrasts this with the proposed amended condition.

A1.2 The existing condition 2.32 in the Operating Licence reads as follows:

<b>Original Productions</b>		
<p>2.32 The BBC shall ensure that in each Calendar Year the time allocated to the broadcasting of original productions by each UK Public Television Service set out in column I below:</p> <p>2.32.1 is not less than the percentage of the total time allocated to the broadcasting of all the programmes for that service specified in column II; and</p> <p>2.32.2 is not less than the percentage of the total time allocated to the broadcasting of all the programmes for that service in Peak Viewing Time specified in column III.</p> <p>“Original productions”, in relation to the UK Public Television Services taken together, has the same meaning that is specified by the Broadcasting (Original Productions) Order 2004 or any subsequent order under section 278(6) of the Communications Act 2003 in relation to a licensed public service channel.</p>		
<b>Column I</b>	<b>Column II</b>	<b>Column III</b>
<b>Service</b>	<b>Original productions as a percentage of the hours of all programming</b>	<b>Original productions in Peak Viewing Time as a percentage of the hours of all programming in Peak Viewing Time</b>
BBC One	75%	90%
BBC Two	75%	90%
BBC Four	75%	60%
BBC Parliament	90%	-
BBC News Channel	90%	-
CBBC	72%	-
CBeebies	70%	-
BBC Alba	75%	-
BBC Scotland	75%	-

A1.3 We propose to amend and add to condition 2.32 of the Operating Licence so that it reads as follows (changes are underlined):

### Original Productions

2.32 The BBC shall ensure that in each Calendar Year the time allocated to the broadcasting of original productions by each UK Public Television Service set out in column I below:

2.32.1 is not less than the percentage of the total time allocated to the broadcasting of all the programmes for that service specified in column II; and

2.32.2 is not less than the percentage of the total time allocated to the broadcasting of all the programmes for that service in Peak Viewing Time specified in column III.

“Original productions”, in relation to the UK Public Television Services taken together, has the same meaning that is specified by the Broadcasting (Original Productions) Order 2004 or any subsequent order under section 278(6) of the Communications Act 2003 in relation to a licensed public service channel.

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.

Column I	Column II	Column III
<b>Service</b>	<b>Original productions as a percentage of the hours of all programming</b>	<b>Original productions in Peak Viewing Time as a percentage of the hours of all programming in Peak Viewing Time</b>
BBC One	75%	90%
BBC Two	75%	90%
BBC Four	75%	60%
BBC Parliament	90%	-
BBC News Channel	90%	-
<del>CBBC</del>	<del>72%</del>	
CBeebies	70%	-
BBC Alba	75%	-
BBC Scotland	75%	-

## A2. Legal framework

- A2.1 Ofcom's power to regulate the BBC is derived from the Communications Act 2003 (the Act)<sup>26</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>27</sup> and the Agreement between the Secretary of State for Culture, Media and Sport, and the BBC (the Agreement).<sup>28</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>29</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>30</sup>
- a) the object of the BBC to fulfil its mission<sup>31</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>32</sup>
- A2.4 We consider that out of the five public purposes<sup>33</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>26</sup> Section 198 of the Act.

<sup>27</sup> [The Charter](#).

<sup>28</sup> [The Agreement](#).

<sup>29</sup> Article 45(1) of the Charter.

<sup>30</sup> Article 45(2) of the Charter.

<sup>31</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>32</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>33</sup> Article 6 of the Charter.

such information as is necessary to assess the performance of the UK Public Services<sup>34</sup> in fulfilling the mission and promoting the public purposes.<sup>35</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>36</sup> In addition, Ofcom may require the BBC to collect such information as we consider necessary for the performance measures.<sup>37</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>38</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>39</sup>

A2.8 The duty to secure the provision of distinctive output and services<sup>40</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>41</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>42</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>43</sup>

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<sup>34</sup> The UK Public Services are set out in a list maintained and published by the BBC: [List of the UK Public Services](#).

<sup>35</sup> Clause 14(1) of the Agreement.

<sup>36</sup> Clause 14(2) of the Agreement.

<sup>37</sup> Clause 14(4) of the Agreement.

<sup>38</sup> Under the Charter and the Agreement, Ofcom is required to set an operating licence for the BBC's UK Public Services.

<sup>39</sup> Article 46(3) of the Charter.

<sup>40</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>41</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>42</sup> Paragraph 5(1) of Schedule 2 to the Agreement

<sup>43</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>44</sup> and it has been subsequently amended a few times since 2017.<sup>45</sup>
- A2.12 In addition to setting an Operating Licence, we are also required to publish an operating framework.<sup>46</sup> The operating framework for BBC regulation includes the ‘Procedures for setting and amending the Operating Licence’ (the Procedures).<sup>47</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>48</sup> This consultation follows the Procedures (and applies the considerations it lists) together with Ofcom’s consultation principles (see Annex A4).

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<sup>44</sup> Ofcom, 2017 (updated February 2022). [Operating licence for the BBC’s UK Public Services \(ofcom.org.uk\)](https://www.ofcom.gov.uk/consult/condocs/operating/operating-licence-for-the-bbc-uk-public-services/)

<sup>45</sup> For changes to the Operating Licence see [The Operating Framework webpage](#).

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

<sup>47</sup> Ofcom, 2017. [Holding the BBC to account for delivering for audiences: Procedures for setting and amending the operating licence](#).

<sup>48</sup> [The Procedures](#), paragraphs 1.11 to 1.20.

## A3. Responding to this consultation

### How to respond

- A3.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 07 April 2022.
- A3.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/cbbc-original-productions>. You can return this by email or post to the address provided in the response form.
- A3.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [cbbcconsultation@ofcom.org.uk](mailto:cbbcconsultation@ofcom.org.uk) as an attachment in Microsoft Word format, together with the [cover sheet](#).
- A3.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Caroline Gobena  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- A3.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
  - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A3.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A3.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A3.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A3.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex A6. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A3.10 If you want to discuss the issues and questions raised in this consultation, please contact the team by email to [cbbcconsultation@ofcom.org.uk](mailto:cbbcconsultation@ofcom.org.uk).



## Confidentiality

- A3.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on [the Ofcom website](#) as soon as we receive them.
- A3.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A3.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A3.14 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

## Next steps

- A3.15 Following this consultation period, Ofcom plans to publish a statement in spring 2022.
- A3.16 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

## Ofcom's consultation processes

- A3.17 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex A4.
- A3.18 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A3.19 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA  
Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

## A4. Ofcom's consultation principles

### Ofcom has seven principles that it follows for every public written consultation:

#### Before the consultation

- A4.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

#### During the consultation

- A4.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A4.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A4.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A4.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A4.6 If we are not able to follow any of these seven principles, we will explain why.

#### After the consultation

- A4.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

## A5. Consultation coversheet

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? \_\_\_\_\_

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## A6. Consultation questions

### Original Productions on CBBC

- A6.1 We are consulting on a request by the BBC for a reduction to the CBBC original productions quota in the BBC Operating Licence.
- A6.2 Our preliminary view is that the scale of the Operating Licence change is modest and we are minded to accept the BBC's request to reduce the original productions requirement on CBBC from 72% of all hours to 66% for each of the calendar years 2022 and 2023, and 68% for calendar year 2024 and for each subsequent calendar year.

Question 1: Do you agree with Ofcom's provisional assessment and the proposal to reduce the original productions quota (condition 2.32) on CBBC from 72% of all hours to 66% for each of the calendar years 2022 and 2023, and 68% for calendar year 2024 and for each subsequent calendar year? If not, please explain why, providing appropriate supporting evidence where possible.

## A7. Equality impact assessment

- A7.1 Section 149 of the Equality Act 2010 (the “2010 Act”) imposes a duty on Ofcom, when carrying out its functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and other prohibited conduct related to the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation. The 2010 Act also requires Ofcom to have due regard to the need to advance equality of opportunity and foster good relations between persons who share specified protected characteristics and persons who do not.
- A7.2 Section 75 of the Northern Ireland Act 1998 (the “1998 Act”) also imposes a duty on Ofcom, when carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity and regard to the desirability of promoting good relations across a range of categories outlined in the 1998 Act. Ofcom’s Revised Northern Ireland Equality Scheme explains how we comply with our statutory duties under the 1998 Act.
- A7.3 To help us comply with our duties under the 2010 Act and the 1998 Act, we assess the impact of our proposals on persons sharing protected characteristics and in particular whether they may discriminate against such persons or impact on equality of opportunity or good relations.
- A7.4 In setting our first Operating Licence for the BBC, Ofcom examined the potential equality impacts of our proposed approach for holding the BBC to account for the delivery of its mission and public purposes. We concluded that securing delivery of the BBC’s mission and public purposes through this regulatory regime will bring benefits to all consumers of BBC output. We have assessed the equality impacts for subsequent changes to the Licence.
- A7.5 CBBC is a channel for children and so we have considered the impact of the proposed changes on children. Overall, for the reasons set out in this consultation, we consider that the changes are unlikely to have a negative impact on children in general or on children with protected characteristics.
- A7.6 We consider that the proposed changes do not have implications for our duty to have regard to the desirability of promoting good relations across a range of categories outlined in the 1998 Act or our duty to have due regard to the need to foster good relations between persons who share specified protected characteristics and persons who do not under the 2010 Act.

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