

# BBC Scotland news provision

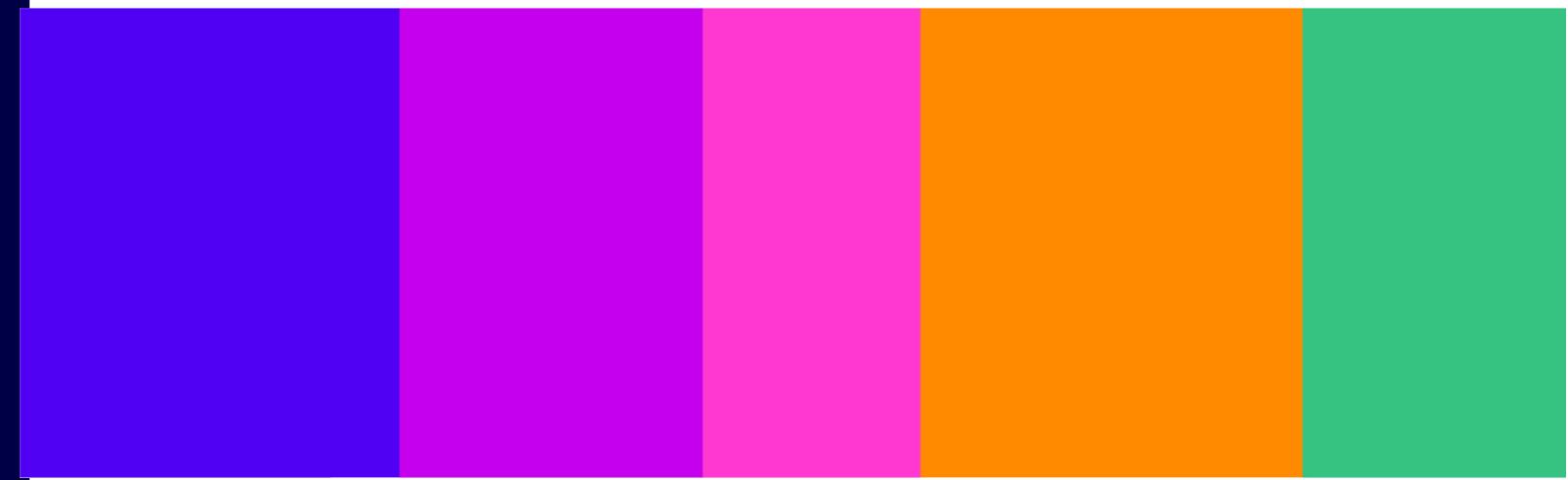
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Consultation on BBC's request to change its  
Operating Licence

## Consultation

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# 1. Overview

- 1.1 This document sets out Ofcom’s provisional view on a request from the BBC to change the news quota in its Operating Licence for the BBC Scotland channel. The BBC seeks a decrease in the number of hours of news required during peak time from 250 hours per calendar year to 125 hours. It suggests this will enable it to better serve audiences with news and current affairs content, by reshaping its provision.
- 1.2 Providing high-quality, trusted news and current affairs is central to the BBC’s remit. In today’s world, it is particularly important for the BBC to engage audiences to help them understand complex, regional, national and international issues.
- 1.3 The BBC has proposed to launch a new 30-minute regional news programme to be shown at 7pm, five days a week on the BBC Scotland channel, replacing the current nightly one hour news programme, *The Nine*.<sup>1</sup> It also proposes a number of other changes to news provision in Scotland which are relevant to our consideration of the BBC’s request, but are not subject to our regulatory approval. These include: an extension of *Reporting Scotland* on BBC One Scotland to one hour at multiple times throughout the year; a new Scotland-focused current affairs podcast series which will be available on BBC Sounds, BBC iPlayer and broadcast on TV; an enhanced BBC Scotland online news service; and extending the run of the *Debate Night* programme during 2024.<sup>2</sup>
- 1.4 Our evidence suggests that audiences in Scotland value news and current affairs, however how they chose to consume this content continues to change. In Scotland, in line with the behaviour of audiences across the UK, there has been a gradual decrease in broadcast TV viewing. Reach to UK national news and regional news on TV has also fallen, although regional news viewing in Scotland is generally higher than across the UK as a whole. The total number of adults watching the BBC Scotland channel has declined since 2019 while its flagship news programme *The Nine* has lost viewers every year since 2020. In contrast, the proportion of adults in Scotland who use news online continues to increase, with around two thirds of adults getting their news this way.<sup>3</sup>
- 1.5 In considering the BBC’s request we have assessed, among other factors, how the proposed changes will affect the BBC’s delivery of its Mission and promotion of the Public Purposes, including ensuring that audiences in Scotland are well-served with regards to news and current affairs content. We have also considered the potential impact of the BBC’s proposed changes on fair and effective competition.

## What we are proposing -

To approve the BBC’s request to reduce the number of hours of peak time news required on the BBC Scotland channel. We consider that the revised news quota would be appropriate for requiring the BBC to fulfil its Mission and promote its Public Purposes and the Request has the potential to meet audience needs in Scotland given changing viewing habits.

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<sup>1</sup> *The Nine* is currently broadcast at 9pm on Monday to Thursday on the BBC Scotland channel, with an earlier bulletin - *The Seven* – being broadcast at 7pm on Friday evenings.

<sup>2</sup> [BBC Scotland: Request for changes to BBC's Operating Licence](#)

<sup>3</sup> Ofcom News Consumption Survey 2023

We would look to the BBC to monitor the impact of any changes on audience engagement, to ensure that where necessary it continues to adapt to better serve audiences. We also note our ongoing ability to step in should concerns arise about the BBC's performance in this area.

We are now seeking views from interested or affected parties on the proposals set out in this consultation by 4 June 2024.

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

# 2. Background

## The BBC's Request

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- 2.1 The BBC has submitted a request to Ofcom for changes to be made to its Operating Licence in relation to its provision of news on the BBC Scotland channel ('the Request'). A non-confidential version of the Request is set out in full as an annex to this consultation (Annex 8).
- 2.2 The BBC [publicly announced](#) its intention to make these changes in February 2024 before submitting the formal Request to Ofcom in March 2024.<sup>4</sup>
- 2.3 In summary, the BBC would like the following changes to be made to its Operating Licence:
- a) a reduction in the amount of peak time news that it is required to broadcast on the BBC Scotland channel during each calendar year, from 250 hours to 125 hours. These proposed changes are set out in Annex 2.
- 2.4 The BBC says the reduction would allow it to [implement a number of other changes](#) to its news and current affairs offering, which it states will better serve audiences across all its services.
- 2.5 It proposes the following changes to its news and current affairs output:
- a) Subject to regulatory approval to reduce the Operating Licence quota, replace *The Nine* (an hour-long news programme broadcast Monday to Thursday, and *The Seven* (broadcast on Friday, Saturday and Sunday) with a new, 30-minute BBC Scotland channel news programme at 7pm on weekdays.
  - b) Trial a visualised, Scotland-focused current affairs podcast which will exist on multiple platforms (BBC One Scotland, BBC Scotland channel, BBC Radio Scotland, BBC Sounds and BBC iPlayer);
  - c) Strengthen the *Reporting Scotland* programme on BBC One Scotland by extending from a 30-minute to an hour-long programme multiple times throughout the year;
  - d) Increase funding for *Debate Night* on the BBC Scotland Channel during this election year to increase the number of episodes and;
  - e) Build capability to deliver more innovative online reporting about Scotland on the BBC News website and the BBC News app.
- 2.6 The format of *The Nine* is defined by the BBC, as "*focussed on delivering daily news programming featuring international, UK and national stories told from a Scottish perspective*". In contrast the proposed new news programme is noted in the BBC's submission as aiming "*to be more local and get around Scotland more, as opposed to focusing largely on National-level Scotland stories, giving us more opportunities to help our audiences see themselves reflected in our news coverage*". The BBC further notes the distinction between the new news programme and its regional programme on BBC One Scotland, *Reporting Scotland* "*Our intention is for the new BBC Scotland Channel news programme to have a different editorial brief to Reporting Scotland in both tone and story*

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<sup>4</sup> To inform our assessment of the Request, we asked the BBC to provide some additional information through a series of exchanges. The BBC submitted an updated version of the Request in April 2024 to incorporate the further information it had provided, and this is the proposal on which we've based our assessment.

*selection. The tone of the new programme will aim to be more informal and accessible to enable us to appeal ‘beyond the heartland’ to more C2DE audiences.”<sup>5</sup>*

- 2.7 Further, the BBC states that, *“Moving to a 30-minute 7pm news programme presents an opportunity for the BBC Scotland Channel schedule. It gives us the option to bring programmes currently played in the 10pm slot forward, which we consider would attract more viewers at this earlier time. Titles include the likes of Murder Trial, Body on the Beach, Only Child, Designing the Hebrides and Debate Night. Ideally we will pair programmes from 9pm to 11pm – for example Debate Night followed by a topical documentary, a drama succeeded by a comedy, new factual titles into companion archive titles, and live sport into sport-related content such as A View from the Terrace. We anticipate that programmes like River City, where viewers have established a habit of watching at 10pm, would remain in this slot.”*
- 2.8 Finally, the BBC states that the proposals would be cost-neutral, with savings made from ending *The Nine* being put into the wider suite of news and current affairs provision proposed by the BBC.

## Our approach

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- 2.9 As part of our regulation of the BBC, we are required under the [BBC Charter](#) and [Agreement](#) to set an Operating Licence for the BBC. The Operating Licence contains a set of regulatory conditions which we consider appropriate to secure that the BBC fulfils its Mission<sup>6</sup> and promotes the Public Purposes,<sup>7</sup> the provision of distinctive output and services, and that audiences across the UK are well-served.<sup>8</sup> We issued the first Operating Licence in October 2017 and it has subsequently been amended on several occasions. In March 2023 we published a [new Operating Licence](#) for the BBC.
- 2.10 We have the power to amend the Operating Licence following consultation with the BBC and any person we consider appropriate. The Operating Framework for BBC regulation includes the [‘Procedures for setting and amending the Operating Licence’](#) (‘the Procedures’), which explain how we set and administer the Operating Licence regime, including setting out the considerations we take into account when varying the Operating Licence, and the procedures to be followed.
- 2.11 As well as requesting a reduction to the news quota, the BBC’s submission also sets out proposals relating to scheduling and editorial changes to its news and current affairs output. We have taken these proposals into account, but scheduling and editorial decisions are not a matter for Ofcom under the BBC Charter and Agreement. The BBC Board is responsible for ensuring the BBC delivers its remit and for setting the BBC’s strategic and creative direction. It is also solely responsible for all editorial, budgetary and scheduling decisions.

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<sup>5</sup> [BBC Scotland: Request for changes to BBC’s Operating Licence](#), para 2.4.1.

<sup>6</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>7</sup> The Public Purposes of the BBC are 1) to provide impartial news and information to help people understand and engage with the world around them; 2) to support learning for people of all ages; 3) to show the most creative, highest quality and distinctive output and services; 4) to reflect, represent and serve the diverse communities of all of the UK’s nations and regions and, in doing so, support the creative economy across the UK; and 5) to reflect the UK, its culture and values to the world (article 6 of the Charter).

<sup>8</sup> Article 46(3) of the Charter.

- 2.12 Our role is to ensure the BBC is delivering for all audiences and to hold it to account for fulfilling the BBC’s Mission and promoting the Public Purposes. We also regulate the BBC’s editorial standards and complaints, and work to protect fair and effective competition.
- 2.13 The BBC notes in its submission that the way audiences in Scotland consume their news is changing, with online consumption growing and broadcast television viewing falling. It says that *“it must therefore adapt to ensure that audiences are still being informed and educated in a way that best serves them”*. The submission contains proposals which the BBC says cannot go ahead for budgetary reasons, unless the news quota is reduced; it has therefore submitted the Request to Ofcom.
- 2.14 We have not taken a view as to whether the BBC could afford to provide the other proposals in its submission, in addition to the linear news content it already provides under its current licence obligations.
- 2.15 We recognise that the BBC needs to be able to evolve and innovate to meet its requirements – in particular, to deliver its Mission and promote the Public Purposes – as audiences’ media habits change, and that this may on occasion involve changes to the Operating Licence. This was one of the reasons behind changes made to the Operating Licence in March 2023. We updated the Licence to incorporate three objectives which were to provide the BBC with greater flexibility to meet audience needs, to incorporate online provision, and to increase transparency.
- 2.16 To give the BBC greater flexibility we retained some service specific quotas but replaced others with new conditions and transparency requirements. We retained news and current affairs quotas to ensure that the BBC continued to provide a substantial amount of this content on broadcast TV and radio and set new conditions to make it easily discoverable on BBC iPlayer and BBC Sounds. Further details on the legal and regulatory framework are set out in Annex 1.
- 2.17 In reaching our provisional view on the BBC’s Request we have considered the impact on audiences and on fair and effective competition. Proposals that negatively affect fair and effective competition can result in reduced investment and/or firms leaving or not entering the market. Such outcomes can disadvantage audiences by leading to reduced choice and quality.
- 2.18 Section 7 of the Communications Act 2003 requires us to carry out and publish an assessment of the likely impact of implementing a proposal which would be likely to have a significant impact on businesses or the general public, or when there is a major change in Ofcom’s activities. Our assessment of the impact is set out in this consultation and in particular in chapter 3.
- 2.19 We have also carried out an equality impact assessment, set out in Annex 3.

## This consultation

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We have considered the Request and set out our initial assessment and proposed variations to the Operating Licence in this document (should we approve the Request). We are seeking stakeholders’ views on our initial assessment and the proposed changes to the Operating Licence and invite responses by 4 June 2024. Please see Annex 4 for further information about responding to this consultation.

# 3. Assessment of the BBC's Request

## Introduction

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### Media habits are changing

- 3.1 Audiences' [media habits continue to change](#) with broadcast TV viewing continuing to decline. In 2023 an average of 85% of UK adults (44 million) watched broadcast TV each week, a fall of 8% from 2019.<sup>9</sup>
- 3.2 These habits extend to news and our analysis of viewing data shows that in 2023, 57% of adults in the UK (29 million) watched any news on broadcast TV. This is a 19% decline compared to 2019, even greater than the overall broadcast TV decline.<sup>10</sup> In comparison, use of online sources has increased over time with 68% of adults getting their news this way in 2023.<sup>11</sup>
- 3.3 In a [recent speech](#), the BBC's Director-General noted that the BBC's budget had reduced by 30% in real terms over the last 14 years. We recognise that while the BBC has a steady income from the licence fee, rising production costs, the 2022 licence fee settlement and general inflation means it has less money at its disposal. However, it must still ensure it remains relevant to all audiences and continue to provide a broad range of high-quality UK content. Therefore, it is important that as viewing habits continue to change, the BBC has flexibility to innovate its services and content provision, so that it can continue to meet audiences' needs in different ways.

### Audiences in Scotland consume more news online

- 3.4 In line with audience behaviours across the UK, broadcast TV viewing in Scotland has also been in gradual decline, particularly following a peak in viewing in 2020 due to the Covid-19 pandemic. In 2023, an average of 84% of adults in Scotland watched broadcast TV each week, a decline of 9 percentage points from 2019.
- 3.5 Our analysis shows that in 2023 the proportion of adults in Scotland who consumed any news via broadcast television was 58% (2 million). This was a fall of 18% since 2019 – similar to that of the UK as a whole.<sup>12</sup>
- 3.6 Use of different platforms for consuming news in Scotland is broadly comparable to use across the UK, though the proportion of adults in Scotland using online sources for news has increased from 55% in 2019 to 65% in 2023.<sup>13</sup>

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<sup>9</sup> Barb adults 16+, 28-day consolidated, TV sets only. Average weekly reach 3+ consecutive minutes.

<sup>10</sup> Barb adults 16+, 28-day consolidated, TV sets only for any news. Average weekly reach 3+ consecutive minutes.

<sup>11</sup> Ofcom News Consumption Survey. Online sources include use of social media, podcasts and all other websites/apps accessed via any device.

<sup>12</sup> Barb adults 16+, 28-day consolidated, TV sets only. Average weekly reach 3+ consecutive minutes.

<sup>13</sup> Ofcom News Consumption Survey. Use of online sources for news across the UK was 66% in 2019 and 68% in 2023.

- 3.7 The BBC provides a broad range of news and current affairs content in Scotland, across all its services, which it notes in its submission.<sup>14</sup> It states that on television around 985 hours of news and current affairs programming is broadcast, and over 4,000 hours on radio and over 7,500 stories in English and Gaelic are made available to users on the BBC website and app.
- 3.8 Last year in [our Annual Report on the BBC](#) we reported that the BBC continues to deliver well against its Mission and Public Purposes, specifically around Public Purpose 1, to provide impartial news and information to help people understand and engage with the world around them. The BBC also [exceeded its quota](#) of 250 hours of peak time news provision on the BBC Scotland channel and broadcast 278 hours.

## The BBC Scotland channel launched in 2019

- 3.9 In 2018 we carried out a regulatory assessment in advance of the launch of the BBC Scotland channel. As part of our [BBC Scotland competition assessment](#) (BCA), we noted that the BBC identified a range of different types of value it believed the new channel would provide. The benefit it identified from its expanded news coverage in Scotland was given particular importance by the BBC.
- 3.10 We approved the launch of the new channel in 2018. We said that we agreed with the BBC that the proposed channel would provide a greater Scottish focus in its news coverage, but we noted our reservations about the original one-hour daily news proposition put forward by the BBC prior to launch. We noted in our statement that while we accepted that the BBC's research evidence suggested broad public support in Scotland for more news reflecting Scottish perspectives, we considered there to be less consensus than implied in the BBC's assessment about the value of the news hour specifically.
- 3.11 In January 2019 we published a [statement](#) on a variation to the Operating Licence, prior to the launch of the BBC Scotland channel. Having regard in particular to Public Purposes 1 and 4, we set a Licence condition requiring the BBC Scotland channel to provide at least 250 hours of news programming in peak viewing time.
- 3.12 In our decision to introduce a quota, we said at paragraph 2.63 of [The new BBC Scotland channel: Decision on the variation to Ofcom's Operating Licence for the BBC's public services](#), "Having regard in particular to the Public Purposes of providing impartial news and information to help people understand and engage with the world around them, and to reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions, we proposed to include in the Licence a condition requiring the BBC Scotland channel to provide the volume of news hours that the BBC has proposed".

## Our assessment

### Impact on audiences

#### Reduction of the news quota

- 3.13 Overall, the BBC news services on TV, radio and online reach 67% of audiences in Scotland.<sup>15</sup> On the BBC Scotland channel, the BBC is overdelivering in terms of hours against its current

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<sup>14</sup> [BBC Scotland: Request for changes to BBC's Operating Licence](#), para 2.2

<sup>15</sup> Ofcom News Consumption Survey 2023

news quota, and in its submission it sets out its commitment to continuing to deliver news content on the channel.

- 3.14 However, overall viewing to the BBC Scotland channel has been declining. g. The average number of people who watch the channel each week has fallen by 14% since 2019, to 710,000 in 2023 (14.4% of the population in Scotland).<sup>16</sup>
- 3.15 Viewing of news content on the BBC Scotland channel has also fallen. Audience numbers were relatively stable for three years following its launch in 2019 (average adult weekly reach of 27% 2019-2021), this subsequently dropped and in 2023 the average stood at 21%, a decline of 6 percentage points.<sup>17</sup>
- 3.16 Our own analysis of viewing data shows that the average audience to *The Nine*, the channel's flagship news programme, has fallen year on year since 2020, from an average of 17,000 viewers in 2020 to 10,000 in 2023. Research conducted by the BBC which asked audiences their opinions on *The Nine*, indicated that some viewers felt that the programme wasn't focussed enough on Scottish news.<sup>18</sup>
- 3.17 Even though viewing of news content via broadcast TV is declining, BBC One remains the most used news source across platforms for audiences in Scotland. Consumption of regional news content is also higher among audiences in Scotland compared to the UK as a whole.<sup>19</sup> In terms of overall satisfaction with the BBC, audiences who say they watch the BBC Scotland channel weekly are significantly more satisfied than the average adult in Scotland. However, when asked to rate the BBC on 'news coverage of what is going on in my local area', audiences in Scotland, including viewers of BBC Scotland channel, rate this less satisfactorily compared to other aspects of the BBC's output.
- 3.18 [Research](#) conducted for our *Small Screen: Big Debate* found that Public Service Broadcasters (PSBs) are considered particularly important for providing news and current affairs for the nations and regions, and that TV remains the most used and trusted platform for news.<sup>20</sup>
- 3.19 The BBC's proposal to deliver more news content online, whilst at the same time continuing to provide content on broadcast TV, is consistent with market wide audience consumption shifts from traditional news channels to online platforms. It is also consistent with the objectives we set for the new Operating Licence. [We said](#) the BBC needed more flexibility to be able to deliver to audiences where they wanted to watch and listen to content.<sup>21</sup>

### **Consideration of the other proposed changes to the BBC's news and current affairs output**

- 3.20 The BBC proposes to increase the duration of BBC One Scotland's *Reporting Scotland's* 18:30 bulletin at multiple times throughout the year, from half an hour to an hour duration. Although the overall viewing trend to *Reporting Scotland* is down,<sup>22</sup> our analysis shows that the appetite for regional news among adults in Scotland is higher than across the UK as a

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<sup>16</sup> Barb: 15+ mins reach criteria and all individuals aged 4+ (figures for adults 16+ who watched the channel each week fell by 14% since 2019, to 692,000 adults in 2023 (16.3% of the adult population in Scotland).

<sup>17</sup> Barb adults 16+, 28-day consolidated, TV sets only. Average weekly reach 3+ consecutive minutes.

<sup>18</sup> [BBC Scotland: Request for changes to BBC's Operating Licence](#), page 12.

<sup>19</sup> Barb adults 16+, 28-day consolidated, TV sets only.

<sup>20</sup> in terms of trustworthiness, TV news was rated more trustworthy than newspapers, radio and social media

<sup>21</sup> Paragraph 7.43

<sup>22</sup> The average number of adults in Scotland who watch *Reporting Scotland* was 248,000 in 2023, down 37% since 2020.

whole, with 44% watching it each week in 2023 compared to 40% across the UK.<sup>23</sup> The BBC also proposes to extend the current episode run of the current affairs programme, *Debate Night* from 24 to 30 episodes in 2024. The average audience to *Debate Night* has increased from 19,000 in 2019 to 36,000 in 2023<sup>24</sup> indicating a growing appetite from viewers in Scotland for relevant current affairs programming, which is likely to increase in a General Election year.

- 3.21 A new Scotland-focused current affairs visualised podcast is also proposed by the BBC, it says: *“We believe this podcast will resonate with audiences. Firstly, because audience appetite already exists with Newscast overperforming in Scotland relative to the population size. 11% of Newscast television audiences are in Scotland, despite the nation representing 8.5% of the total UK population.”* Our own analysis indicates that podcast listeners in Scotland are more likely than listeners across Great Britain to listen to news and current affairs and government and politics podcasts.<sup>25</sup>
- 3.22 The BBC’s proposal to enhance its online news offering in Scotland, is in line with general audience news consumption trends, with the BBC News website/app remaining the top online source mentioned by respondents in Scotland for news.<sup>26</sup> The BBC notes in its submission that *“we also plan to diversify our online offer to ensure Scottish audiences receive the same depth and frequency of live reporting, explainers and fact checking as audiences elsewhere in the UK.”*

### **Holding the BBC to account for delivering to audiences in Scotland**

- 3.23 When the BBC Scotland channel was [proposed](#) in 2017, news and current affairs provision was positioned as being of particular importance and central to the channel’s remit. The BBC, in its submission to Ofcom, dismissed the idea of moving the proposed news programme to an alternative slot where it would be adjacent to another BBC news bulletin, citing increased costs due to operational implications. It also considered the option of a 30-minute programme instead of an hour long one, but rejected this based on the fact that it would achieve limited cost savings alongside reducing the benefit for audiences the hour slot was designed to produce. Since then, the BBC notes that things have changed. In its submission it highlights that research it conducted in March 2024 indicates a change in audience preference for a shorter bulletin, scheduled earlier in the evening and focused more on regional stories.<sup>27</sup>
- 3.24 The proposed new 7pm time slot and changed format of the new programme, with more of a focus on Scottish news stories<sup>28</sup> appears to be more in line with what audiences have said they want.
- 3.25 The BBC references in its submission that it believes that the changes proposed for the new news programme - shortened length and moving to earlier in the schedule - would better serve audiences in Scotland by better meeting audience programme needs and expectations: *“we anticipate that broadcasting the new 7pm news programme will provide a better flow to BBC Scotland channel’s schedule, beginning with news from 7pm to 7.30pm, and then*

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<sup>23</sup> Barb adults 16+, 28-day consolidated, TV sets only. Average weekly reach 3+ consecutive minutes.

<sup>24</sup> Barb adults 16+, 28-day consolidated, TV sets only.

<sup>25</sup> IPA TouchPoints 2023 Superhub. 25% of weekly podcast listeners across Great Britain listen to news and current affairs podcasts compared to 32% in Scotland.

<sup>26</sup> Ofcom News Consumption Survey 2023

<sup>27</sup> [BBC Scotland: Request for changes to BBC's Operating Licence](#)

<sup>28</sup> [BBC Scotland: Request for changes to BBC's Operating Licence](#), para 2.4.1

*offering audiences factual, comedy and drama content for the rest of the evening. We have found that retaining viewers after The Nine has been challenging...".<sup>29</sup>*

- 3.26 Given the BBC's proposals for the new news programme are to provide Scottish-focused regional news, BBC Scotland channel audiences would no longer be provided with international, national and regional news on the channel. However, this news is available to audiences in Scotland on other BBC services such as BBC One, BBC radio and BBC online services. If we approve the Request, we would expect the BBC to monitor this aspect of the proposal closely, to ensure it was delivering for audiences in Scotland. We would also monitor via our performance framework and should we require further information from the BBC to enable us to assess performance, we would request it.
- 3.27 Transparency requirements included as part of the Operating Licence would further help to ensure that the BBC continues to meet the needs of audiences in Scotland. These requirements mean that the BBC would need to evidence how, for example, its approach to online news provision promotes engagement with audiences in Scotland, and which we would monitor through our performance programme.
- 3.28 We note that some of these proposed changes are temporary in nature, for example the BBC's plan to extend the episode run of the *Debate Night* programme for the remainder of 2024 only. While we acknowledge that during an election year audiences may be more likely to seek out such programming, news and current affairs programming are important all year round and not only during an election year. We would therefore expect the BBC to ensure that it meets audience expectations on an ongoing basis.

### Impact on competition

- 3.29 The BBC states in its Request that it does not consider that there will be an adverse market impact as a result of replacing *The Nine* with a 7pm news programme and filling the 9pm slot with varying content. It notes that the new 7pm news programme will be broadcast at the same time as at least three other news programmes.<sup>30</sup> However, it states that this new programme will focus on Scottish news unlike any of the other programmes shown at this time and the audience demographics for the various news programmes are different.<sup>31</sup> Our view is that the risk to fair and effective competition as a result of the Request is low.

## Our provisional view

- 3.30 We propose to accept the proposal to vary the level of the news quota from 250 hours to 125 hours. The proposed wording of the varied licence condition is in Annex 2.
- 3.31 Overall, in light of the changing news consumption habits of audiences in Scotland, with a continual shift to online, we agree that the BBC should be innovating in order to adapt to audience's expectations and to engage Scotland's audiences with its news and current

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<sup>29</sup> [BBC Scotland: Request for changes to BBC's Operating Licence](#), page 13

<sup>30</sup> One from the BBC News channel and two from other broadcasters (Channel 4 and ITV). Channel 4's *Channel 4 News* is broadcast from 7pm – 8pm Monday to Friday while the *ITV Evening News* regularly runs from 6.30pm to 7.30pm on STV and ITV for viewers in Scotland.

<sup>31</sup> The BBC notes in its submission that "59% of *The Nine's* audience is from a C2DE demographic compared to 63% of *Channel 4 News's* audience being ABC1 and only 37% being C2DE. We intend for the new 7pm news programme to have a similar audience demographic as *The Nine*".

affairs output. We are mindful that in innovating and experimenting to deliver to audiences in new ways, the BBC may not always be successful. However, we remain of the view that it is important the BBC does this.

- 3.32 News is integral to the BBC's offering and provision is important all year round (not just in an election year). Our evidence suggests that audiences in Scotland value news and current affairs and we would expect the BBC to ensure it continues to meet audience needs post-election. The BBC is required, under its Operating Licence, to ensure that it provides content of interest and relevance to audiences in Scotland. Also, transparency requirements in the existing Operating Licence, would ensure that the BBC publishes its plans around how it proposes to meet Scotland's audience's needs, which would enable us to track its performance in this area and hold it to account, as part of our annual report on the BBC's performance. We would pay particular attention to how the BBC says it is going to meet Scotland's audience's needs for news in its Annual Plan next year.

Consultation question: Do you agree with Ofcom's provisional assessment and the proposal to reduce the news quota on the BBC Scotland channel by 50% from the current 250 hours in peak time per calendar year to 125 hours? If not, please explain why, providing appropriate supporting evidence where possible.

# A1. Legal Framework

- A1.1 Ofcom's power to regulate the BBC is derived from the Communications Act 2003 (the Act),<sup>32</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>33</sup> and the Agreement between the Secretary of State for Culture, Media and Sport, and the BBC (the Agreement).<sup>34</sup>
- A1.2 Ofcom's general duties under section 3 of the Act also apply to the exercise of our functions in relation to the BBC.<sup>35</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. In performing our duties, we must have regard to the principles under which regulatory principles must be proportionate, consistent and targeted only at cases in which action is needed. The Act also requires us to have regard, as appropriate, to certain other principles we consider relevant. We consider the following principles in the Act to be relevant to this consultation:
- a) The desirability of promoting the fulfilment of the purposes of public service television broadcasting in the UK;
  - b) The needs of persons with disabilities, of the elderly, and those on low incomes;
  - c) The opinions of consumers in relevant markets and of members of the public generally; and
  - d) The different interests of persons in the different parts of the UK, of the different ethnic communities within the UK and of persons living in rural and urban areas.<sup>36</sup>
- A1.3 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>37</sup>
- a) The object of the BBC to fulfil its Mission<sup>38</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>39</sup>

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<sup>32</sup> Section 198 of the Act.

<sup>33</sup> [The Charter](#).

<sup>34</sup> [The Agreement](#).

<sup>35</sup> Article 45(1) of the Charter.

<sup>36</sup> Section 3(4) of the Act.

<sup>37</sup> Article 45(2) of the Charter.

<sup>38</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>39</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.

- A1.4 Out of the five Public Purposes,<sup>40</sup> the following are particularly relevant to this consultation:<sup>41</sup>
- A1.5 Public Purpose 1: To provide impartial news and information to help people understand and engage with the world around them; and
- A1.6 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.
- A1.7 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 such information as is necessary to assess the performance of the UK Public Services<sup>42</sup> in fulfilling the mission and promoting the public services.<sup>43</sup>
- A1.8 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>44</sup> In addition, Ofcom may require the BBC to collect such information as we consider necessary for the performance measures.<sup>45</sup>
- A1.9 In addition to setting performance 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>46</sup> The Charter states that the Operating Licence must contain regulatory conditions Ofcom considers appropriate for requiring the BBC to:
- a) Fulfil its Mission and promote the Public Purposes;
  - b) Secure the provision of distinctive output and services; and
  - c) Secure that audiences in Scotland, Wales, Northern Ireland, and England are well served.<sup>47</sup>
- A1.10 Schedule 2 of the Agreement contains some further rules regarding the regulatory conditions that Ofcom must impose through the Operating Licence.
- A1.11 We may amend the Operating Licence following consultation with the BBC and any person we consider appropriate.
- A1.12 In addition to setting an Operating Licence, we are also required to publish an operating framework.<sup>48</sup> The operating framework is a series of documents that cover the full range of our regulatory duties in the three areas of content standards, competition, and performance. The operating framework for BBC regulation includes the 'Procedures for

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<sup>40</sup> Article 6 of the Charter.

<sup>41</sup> The BBC's delivery of its fifth Public Purpose, reflecting the UK to the world, will be achieved primarily through the BBC World Service and BBC Worldwide. The second Operating Licence does not cover the BBC World Service; responsibility for setting a Licence for the BBC World Service lies with the BBC (clause 34 of the Agreement).

<sup>42</sup> The UK Public Services are set out in a list maintained and published by the BBC: [List of the UK Public Services](#).

<sup>43</sup> Clause 14(1) of the Agreement.

<sup>44</sup> Clause 14(2) of the Agreement.

<sup>45</sup> Clause 14(4) of the Agreement.

<sup>46</sup> Under the Charter and the Agreement, Ofcom is required to set an Operating Licence for the BBC's UK Public Services.

<sup>47</sup> Article 46(3) of the Charter.

<sup>48</sup> Article 46(2) of the Charter and Clause 5(1) of the Agreement.

setting and amending the Operating Licence' (the 'Procedures')<sup>49</sup> which explain how we set and administer the Operating Licence regime and the procedures to be followed.

- A1.13 The Procedures set out considerations to which Ofcom will have regard when setting or 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>50</sup>

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<sup>49</sup> Ofcom, [Holding the BBC to account for delivering for audiences: Procedures for setting and amending the operating licence](#), 2017.

<sup>50</sup> [The Procedures](#), paragraphs 1.11 to 1.20.

## A2. Proposed amended Operating Licence condition

A2.1 This Annex sets out the existing Operating Licence condition concerning the news quota requirements on the BBC Scotland channel; and contrasts this with the proposed amended condition.

A2.2 The existing condition **4.47.2** in the Operating Licence reads as follows:

- a) In respect of BBC Scotland, the BBC must ensure that: in each Calendar Year, at least **250 hours** are allocated to news in Peak Viewing time.

A2.3 We propose to amend the condition, so it reads as follows:

- a) In respect of BBC Scotland, the BBC must ensure that, in each Calendar Year, at least **125 hours** are allocated to news in Peak Viewing time.

## A3. Equality Impact assessment

- A3.1 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 protected characteristics under the 2010 Act.<sup>51</sup> 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.
- A3.2 Ofcom has separate but complementary duties under Northern Ireland’s equality legislation.<sup>52</sup> This requires Ofcom to screen policies for their impact on equality of opportunity and/or good relations in each of the nine equality categories identified for Northern Ireland.
- A3.3 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.
- A3.4 As the BBC’s proposals affect the BBC Scotland channel and, therefore, the people of Scotland, we also considered the impact on this region. We considered that overall, the proposals are likely to have a neutral to positive impact on the people of Scotland for the reasons set out in this consultation. Further, the BBC’s proposal may have positive impacts for C2DE audiences for the reasons set out in the BBC’s request.
- A3.5 While the BBC’s proposals would continue to deliver news provision on linear services, some of the changes propose to move a proportion of news content away from linear broadcast and on to other platforms and forms of media, such as online and podcasts. Therefore, we considered the equality impact on groups that may favour traditional, linear services, especially those from an older age demographic. Analysis carried out by Ofcom, along with data provided in the BBC’s submission, showed that while older age demographics watched the content being provided on the BBC Scotland channel, they did so at a decreasing rate. Therefore, we considered that any adverse impact on this group is likely to be minimal, and is likely to be mitigated by the BBC’s proposed plans to provide a package of news and current affairs content which it suggests will enable it to better serve all audiences. We would welcome responses to our consultation on the potential equality impacts.
- A3.6 Ofcom can provide information in a [variety of formats](#) on request, e.g. accessible PDF, large print, easy read, audio recording or braille. If you let us know what information you require and in what format, we will consider the request and respond within 21 days.

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<sup>51</sup> These protected characteristics are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation

<sup>52</sup> Section 75 of the Northern Ireland Act 1998.

# A4. Responding to this consultation

## How to respond

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- A4.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 4 June 2024.
- A4.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/bbc-scotland-news-provision>. You can return this by email or post to the address provided in the response form.
- A4.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [BBCScotlandchannelconsultation@ofcom.org.uk](mailto:BBCScotlandchannelconsultation@ofcom.org.uk), as an attachment in Microsoft Word format, together with the cover sheet. This email address is for this consultation only and will not be valid after 4 June 2024.
- A4.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Content Policy Team  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London  
SE1 9HA
- A4.5 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.
- A4.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A4.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt of a response submitted to us by email.
- A4.8 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.
- A4.9 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 7. 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.
- A4.10 If you want to discuss the issues and questions raised in this consultation, please contact [BBCScotlandchannelconsultation@ofcom.org.uk](mailto:BBCScotlandchannelconsultation@ofcom.org.uk).

## Confidentiality

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- A4.11 Consultations are more effective if we publish the responses before the consultation period closes. 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 responses on the Ofcom website at regular intervals during and after the consultation period.
- A4.12 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.
- A4.13 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.
- A4.14 To fulfil our pre-disclosure duty, we may share a copy of your response with the relevant government department before we publish it on our website.
- A4.15 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

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- A4.16 Following this consultation period, Ofcom plans to publish a statement before the end of June 2024.
- A4.17 If you wish, you can register to receive mail updates alerting you to new Ofcom publications.

## Ofcom's consultation processes

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- A4.18 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 5.
- A4.19 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.
- A4.20 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:
- A4.21 Corporation Secretary  
Ofcom  
Riverside House  
2a Southwark Bridge Road

London SE1 9HA

Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

# A5. Ofcom's consultation principles

A5.1 Ofcom has seven principles that it follows for every public written consultation:

## Before the consultation

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A5.2 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

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A5.3 We will be clear about whom we are consulting, why, on what questions and for how long.

A5.4 We will make the consultation document as short and simple as possible, with an overview of no more than two pages. We will try to make it as easy as possible for people to give us a written response.

A5.5 We will consult for up to ten weeks, depending on the potential impact of our proposals.

A5.6 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.

A5.7 If we are not able to follow any of these seven principles, we will explain why.

## After the consultation

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A5.8 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish the responses on our website at regular intervals during and after the consultation period. 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.

# A6. Consultation coversheet

## Basic details

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Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

## Confidentiality

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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 you selected 'Part of the response', please specify 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)?

Yes       No

## Declaration

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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 aims to publish responses at regular intervals during and after the consultation period. 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)

# A7. Consultation question

A7.1 This consultation explains Ofcom’s provisional view on a request by the BBC to change its Operating Licence, in order to reduce the quota for news programming shown on the BBC Scotland channel. We would welcome views from others on this. The information collected will be used to publish a statement setting out the final outcomes of our assessment which we plan to complete before the end of June 2024.

Consultation question: Do you agree with Ofcom’s provisional assessment and the proposal to reduce the news quota on the BBC Scotland channel by 50% from the current 250 hours in peak time per calendar year to 125 hours? If not, please explain why, providing appropriate supporting evidence where possible.

# A8. BBC's submission

A8.1 [BBC Scotland: Request for changes to BBC's Operating Licence](#)