

Response to the consultation on the draft Operating Licence for the BBC's UK public services

Ofcom's Advisory Committee for Wales

The ACW welcomes the approach taken by Ofcom towards regulating the performance of the BBC under its new Charter. It does provide overall for an effective regulatory regime that will hold the BBC to account against delivery of the public purposes set out in the Charter. We welcome in particular the emphasis on first-run original content, on the need for distinctiveness against other broadcasters and the requirement on the BBC to invest in and reflect the whole of the United Kingdom.

We wish in this response to consider the objectives and regulatory conditions particular to Wales, referring in detail to the document entitled *The BBC's services: audiences in Wales* dated March 29, 2017. We have sought throughout to maintain the important distinction between the role of the regulator and the role of the BBC management. Our concern is to ensure that the regulatory conditions make practical sense, that they are internally consistent and that they are sufficiently challenging while not being unduly onerous.

1.31 We welcome the inclusion of the requirement that BBC programming for the nations should include 'a wide range of genres, including drama, comedy, sports and indigenous language broadcasting', as this reflects the BBC's stated intentions in relation to Wales. We suggest that this phrase should be used consistently where relevant through the regulatory conditions (see 2.67). The assumption here is that this clause is a reference to television services, but that is not explained.

2.42 We welcome the requirement that the BBC spends a minimum of 5% in terms of both hours and expenditure on network television programmes made in Wales. It is important to maintain the requirement in terms of hours as well as expenditure to ensure a sufficient diversity of output. It is important also that the 5% is seen as a floor not a ceiling, so as to avoid the possibility of a regulatory requirement leading to an actual reduction in the volume of network production in Wales. We welcome the reference to programme production at different centres in Wales, but we must beware of the risk of productions being badged as made in Wales while in reality the work is being done – and the money spent – elsewhere. We therefore see the term 'is referable to' as too weak in this context. Since the reference in this sentence is to expenditure, we suggest instead '*is spent on* programme production at different production centres in Wales'.

2.46/2.48 We find this section on UK Public Radio Services unnecessarily timid. The comparison with television services is stark. The requirement relating to expenditure outside the M25 is less than for network television and there is no requirement at all for radio production in the nations. While we accept that there is no history of nations' quotas for radio, that is not sufficient reason for not introducing them now. It is an argument instead for setting targets which can be reached over a given number of years. We recommend that the BBC's UK radio services should be required to ensure that at least 5%

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of their programmes made in the United Kingdom should be made in Wales by 2022, and that each year the BBC should report on their progress towards that target.

2.49/2.50 We find the data in these sections baffling and in considerable need of clarification. We guess that it is the result of lumping all the programme hours for the nations and the English regions together, although that is indeed guesswork. There is no benefit, regulatory or otherwise, in combining the nations and the English regions together, as these will not be figures which anybody is going to find useful.

2.66/2.68 We presume that these two sections refer to programming produced for the audience in Wales, although it does not say so. We suggest that after the words programmes/programming, the term '*specifically for Wales*' should be inserted. While we understand that the minimum hours each year for non-news programming on BBC 1 Wales and BBC 2 Wales have been based on those in previous service licence services, there is now an opportunity to update them to reflect the level of programming the BBC has now undertaken to provide. The minimum requirement for BBC 1 Wales in this section is 65 hours against 175 for BBC 2 Wales. The comparison with Scotland and Northern Ireland is instructive – the minimum requirement for non-news programming for BBC 1 Scotland is 155 hours, more than double that for BBC 1 Wales, whereas the requirement for BBC 2 Scotland, including Gaelic language output, is 200 hours – only just above that for BBC 2 Wales. The relevant figure for BBC 1 Northern Ireland is 90 hours, and for BBC 2 Northern Ireland is 60 hours. The balance for Wales is out of kilter compared with the other two nations, when there should be more of an incentive to transmit programmes for Welsh audiences on the channel with the bigger audience. We suggest that the minimum hours on BBC 1 Wales should be more in line with Scotland with a corresponding decrease in the minimum hours on BBC 2 Wales.

2.67 The wording in this section should replicate the wording in 1.31 in order to avoid the regulatory requirement appearing inconsistent. In other words, it should refer to 'a wide range of genres, including drama, comedy, sports and indigenous language broadcasting'.

2.69 Radio Wales and Radio Scotland are equivalent services and there is no particular justification for the minimum weekly hours requirement for news and current affairs programming to be less for Radio Wales than for Radio Scotland (32 against 50). We suggest that equivalent services should meet equivalent regulatory obligations.

2.70 While we accept that Radio Cymru is referred to in Schedule 4 as being available with programming in the Welsh language, it might be helpful here to specify that Radio Cymru is required to be 'a dedicated Welsh language service'.

2.71 The proposed requirements for the BBC online service for Wales are now out of date, and do not reflect the objectives of the current provision. We suggest the following formulation:

'In respect of BBC Online, the BBC must ensure that:

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It provides a separate service for Wales, which –

Provides news and information about Wales,

Provides coverage of sport in Wales,

Provides educational support for the devolved curriculum in Wales,

Provides a dedicated service in the Welsh language which meets the same requirements’.

The issue of educational support is particularly important because of the extent to which the curriculum in Wales has now diverged from the English curriculum. The BBC Bitesize service is highly valued in Welsh schools.

2.78-2.81 We strongly support the objectives of these sections, which are intended to hold the BBC to account on the issues of diversity, representation and portrayal around the United Kingdom. Some of the wording, however, does not carry enough weight (eg ‘have regard to’). The BBC will certainly be collecting data on these matters, so we suggest that the wording be strengthened where relevant to require the BBC to report annually ‘*how it has delivered*’ the various requirements in 2.78. This will be a stronger regulatory tool than any surveys of audience satisfaction.

Related questions

We note the reference in 1.31 to indigenous language broadcasting as one of the regulatory requirements. BBC Wales is currently obliged by statute to provide a minimum of ten hours of programming per week to S4C. The question is whether this should be acknowledged in the regulatory conditions in the Operating Licence.

BBC public radio services are obliged in sections 2.53/54 to ensure that 100% of programme content during breakfast peak hours is speech content. We support that as a regulatory requirement of existing services. We understand that Radio Cymru is considering launching a separate breakfast service on digital which would contain a considerable proportion of music content. This service would presumably require a separate Ofcom licence, but it is important to understand whether such a licence would be possible under the provision of sections 2.53/54.

One of the key problems in securing a greater audience for news and information about Wales is the percentage of radio listeners who tune into the BBC’s UK stations and thus get only English news – especially Radio 2 which has a stronger signal across much of Wales on FM than Radio Wales. We understand that the BBC is considering placing opt-out Welsh news bulletins on Radio 2 in Wales (although no decision has yet been made). If this is given the go-ahead, we would like to consider whether it can be captured in the regulatory conditions.

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We would be grateful if the Operating Licence Team could respond to the points we have raised in this paper, either at a meeting or in writing.

Glyn Mathias, Chair, Ofcom Advisory Committee for Wales

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