

*Championing
excellence and diversity
in broadcasting*



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VLV RESPONSE TO THE OFCOM CONSULTATION: MODERNISING THE BBC'S OPERATING LICENCE

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INFORMATION ABOUT THE VLV

The Voice of the Listener & Viewer (VLV) is an independent, not for profit membership-based charity, free from political and sectarian affiliations. VLV supports high quality broadcasting which maintains the democratic and cultural traditions of the UK. We support the independence and integrity of the BBC and encourage work which demonstrates commitment to the principles of Public Service Broadcasting (PSB). VLV is a charitable company limited by guarantee (registered in England and Wales No 4407712 - Charity No 1152136).

Executive Summary

1. VLV's aim is to ensure that the interests of UK citizens, who are the intended beneficiaries of BBC services, are represented in the policy debate.
2. VLV does not believe the changes proposed in this consultation will *benefit audiences* for a number of reasons which include the following:
 - There is a risk that as a result of the removal of quotas the volume of 'at risk' genres on broadcast platforms will decline further than it already has.
 - The relationship between Ofcom and the BBC will be put under increased stress by annual negotiations over the amount of content the BBC intends to provide which could be detrimental to the overall regulatory process.
 - Despite proposed new transparency requirements on the BBC, VLV believes that **independent assessment** of BBC performance is essential and that the BBC should not be allowed to 'mark its own homework'.
3. VLV is **very** concerned that the proposed changes set out in this consultation will lead to less rigorous regulation of the BBC because Ofcom is proposing it 'steps back' from detailed regulation of the BBC¹ in return for greater transparency on the part of the BBC.
4. VLV considers that as a publicly funded corporation the BBC should be fully transparent and its transparency should not be a matter for negotiation.
5. While VLV supports the BBC being given greater creative freedom, VLV generally opposes the proposals in this consultation because it is crucial that BBC regulation is carried out by a fully independent body in order to maintain integrity and public trust in the regulatory process.
6. VLV's concerns are compounded by the fact that these proposals come at a time when the BBC is under considerable financial pressure which is forcing it to prioritise commercial considerations. The below inflation funding settlement announced in January 2022 means the BBC is now receiving 25% less public funding in real terms for its UK services than it did in 2010². This comes at a time when production costs are rising significantly and competition for audiences has risen due to the rise in subscription services. VLV is concerned

¹ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 1.7c

² <https://www.vlv.org.uk/news/bbc-funding-cut-in-licence-fee-settlement/>

that the BBC is being forced to increase commercial income to make up the deficit in its public funding. It is likely to do this by commissioning content which it can broadcast for UK audiences as well as sell to overseas markets. This could lead to a reduction in key public service content for British audiences which is culturally specific to the UK. It is therefore more important than ever that the BBC is held to account to deliver the Public Purposes set out in the Charter.

7. VLV also considers that Ofcom should not reduce its oversight of the BBC at a time when the BBC is in the process of digital transformation in response to changing audience habits. VLV is concerned that the BBC's Digital First strategy will favour those who consume content online and discriminate against those who do not have access to the internet (6% of UK households). In this context it is crucial that Ofcom ensures that audiences who do not have internet still have access to a wide range and volume of key PSB content. It is crucial that all Licence Fee payers, including those who do not use the internet, receive value for money from the TV Licence.
8. Under the new proposed system the delivery of the BBC's Mission is dependent on BBC targets which have not yet been published. It is therefore impossible to assess whether these proposals will maintain the BBC's delivery of provisions set out in the BBC Charter. On this basis, VLV recommends that Ofcom should not allow a significant variance between the new BBC-set targets from existing quotas.
9. VLV **strongly opposes** the complete removal of the quotas for 'at risk' factual genres on radio and television (religion, arts, childrens etc). The volume of this type of content has been in decline for the past decade and it is predicted that it will continue to decline in an ever more competitive market³. Instead VLV recommends that alongside BBC-set targets Ofcom sets a minimum volume level for each of these genres to be broadcast on BBC TV and radio channels to safeguard their delivery on free to air platforms which do not require internet access. These minimum levels can be lower than the existing quotas in order to provide the BBC with greater flexibility.
10. VLV also **strongly opposes** the removal of the condition for the BBC News channel to provide more regional/local news than other equivalent channels. The BBC plans to merge BBC News with BBC World News imply that international news will be maintained, however there is much doubt that the level of local/regional news will be maintained on the new channel. VLV questions why a condition which ensures the channel is distinctive and provides an important public service in the form of local/regional content has been removed.
11. VLV **strongly opposes** the removal of quotas for documentaries, social action campaigns, arts and religious programmes on network radio for the reasons set out above. As with TV quotas, VLV would be prepared to allow the BBC greater editorial flexibility, but we believe that minimum volume

³ *Future models for the delivery of public service broadcasting*, Mediatique, December 2020, paragraph 4.22

quotas set by Ofcom are required for each of these genres to safeguard their delivery.

12. VLV considers the reform of the BBC's Operating Licence presents an opportunity to also reform the way the BBC consults with Licence Fee payers. Currently the BBC conducts virtually no engagement with Licence Fee payers, unlike the BBC Trust which ran consultations to which thousands of citizens responded. VLV considers that Ofcom should require the BBC to consult with Licence Fee payers, those who fund the BBC, on a regular basis, especially when it is making significant changes to services, such as those proposed in the new Digital First strategy whereby whole TV channels will be moved online.

13. If these proposals go ahead despite VLV's opposition, VLV would recommend the following:

- The BBC should be required to commit to maintain or increase existing volumes of 'at risk' content and the percentage of spend on this content when it sets its targets.
- The volume of 'at risk' content should be maintained at existing levels on existing broadcast platforms to ensure that Licence Fee payers who do not have access to the internet continue to receive value for money from the TV Licence.
- The BBC should provide its planned targets well in advance of publication of the Annual Plan, allowing Ofcom adequate time to approve them.
- Ofcom should have the power to require changes to be made to proposed BBC set targets if it has concerns. When reviewing the BBC's plans Ofcom should ensure that the BBC's strategy promotes key PSB genres and does not allow content which might be considered less popular to be moved off mainstream channels or onto the iPlayer where it will be less prominent and have less impact.
- In its analysis of its performance the BBC should be required to provide details of when programmes were broadcast, the number of viewers who watched them, analysis of how each genre performed and audience demographics.
- The BBC should publish an annual report on audience satisfaction with regard to the 'at risk' genres, in the same way as it does for delivery of Purpose 4.
- Ofcom should put in place a programme of work to assess how prominent and easily discoverable⁴ PSB content is on the iPlayer and other online BBC platforms.

⁴ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, page 5

- One of the conditions required as part of the BBC's greater transparency should be that it conducts (and publicises) regular consultations with Licence Fee payers to assess its performance and when it proposes changes to services.

Introduction

14. VLV welcomes the opportunity to contribute to Ofcom's consultation *Modernising the BBC's Operating Licence*.
15. VLV's aim is to ensure that the interests of UK citizens, who are the intended beneficiaries of BBC services and public service broadcasting (PSB) more generally, are represented in the policy debate.
16. VLV considers that as part of the process of modernising the BBC's Operating Licence there is an opportunity, which is being overlooked, to improve an aspect of BBC regulation – engagement with the public. VLV has repeatedly expressed concern that BBC transparency and accountability have reduced since 2017 when Ofcom took over regulation of the BBC. This is as a result of the lack of engagement with Licence Fee payers which was extensive under the BBC Trust model. Ofcom hasn't taken on this role and focuses its stakeholder engagement with industry rather than audiences. Thousands of Licence Fee payers responded to consultations and reviews which the BBC Trust ran from 2007 onwards which they advertised on TV, radio and online. This process allowed the public to express views about the BBC's delivery of its mission and represented a real step forward in audience engagement and transparency. VLV would welcome greater engagement with citizens by both Ofcom and the BBC with regard to BBC regulation and the assessment of its performance. One of the conditions required as part of the BBC's greater transparency should be that it conducts (and publicises) regular consultations with Licence Fee payers to assess its performance and when it proposes changes to services.
17. The consultation document⁵ highlights that the BBC is under considerable financial pressure. As it competes in an increasingly competitive market with 25% less public funding in real terms than it received in 2010⁶, the BBC is under pressure to increase commercial income from international sales. VLV is concerned that the BBC will be forced to increasingly focus on commissioning and producing content which appeals to global audiences, rather than UK culturally specific content, such as religion and arts programmes, which attract smaller audiences and are in market failure. VLV notes Mediatique research which predicts that investment in these genres is only likely to decline further in coming years⁷.

⁵ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 3.9

⁶ <https://www.vlv.org.uk/news/bbc-funding-cut-in-licence-fee-settlement/>

⁷ *Future models for the delivery of public service broadcasting*, Mediatique, December 2020, paragraph 4.22

18. VLV also has concerns about the BBC's Digital First plans⁸ because licence fee payers who do not have access to digital platforms⁹ will miss out on new content if it is only provided on online platforms. 6% of UK households do not have access to the internet at home, rising to 14% in lower socio-economic groups and 20% of those aged over 65. In order to maintain universal availability of BBC output, all content commissioned or produced by the BBC should be made available on a broadcast platform, although VLV does not oppose certain content being premiered online if that supports the BBC's digital strategy.
19. In this context it is more important than ever that Ofcom ensures that the BBC continues to be properly held to account. VLV is concerned that Ofcom's proposals will lead to less robust regulation of the BBC by allowing the BBC to set its own targets and assess its delivery of them.
20. Since this proposed new approach tasks the BBC with setting its own targets for many genres of content in its Annual Plan and this detail has not been published, it is impossible to assess whether the proposals being consulted on will maintain universal delivery of key PSB genres.
21. While VLV acknowledges that the BBC needs to be allowed flexibility to have creative freedom and to innovate to meet audience needs and expectations, we do not believe this should be at the expense of robust regulation to ensure it delivers the missions and purposes set out in the Charter for the benefit of licence fee payers.

Consultation Questions

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

22. VLV understands the most significant changes being proposed in the new system are that regulation should be platform-neutral in approach and that existing Ofcom-set quotas which do not change annually will be replaced by BBC-set annual targets (the equivalent of quotas) for most non-news/non-current affairs content. The BBC will then report on its delivery of these targets in its Annual Report which will be published approximately 14 months later.

Response to the three main principles of the updated Licence

Online services

23. VLV agrees that as the distinction between content broadcast on TV and radio channels and that provided on the digital platforms diminishes, Ofcom should

⁸ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 3.11

⁹ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 3.5

take a more platform neutral approach to its regulation of the BBC, therefore VLV agrees that *the Licence must incorporate the BBC's online services*¹⁰.

24. However, VLV would not wish a platform neutral approach to provide an opportunity for the BBC to move content which is considered less popular onto less prominent platforms or into time slots when fewer people watch linear broadcasting. The BBC and Ofcom need to ensure that public service content remains prominent, both on linear and online platforms, and is easily discoverable if it is to be considered as contributing to the BBC's public purposes.

Flexibility to meet audience needs

25. While VLV agrees that *the Licence should give the BBC more scope to determine how to meet audience needs*¹¹, VLV does not support the proposal to transfer responsibility for setting quotas (or targets) and assessing performance from Ofcom to the BBC.

26. VLV questions how the BBC will assess *audience needs*¹² when setting its targets. If a genre is less popular, does this mean the BBC will consider that it is not *needed* as much as content which is more popular since it is viewed by fewer people? If it is considered to be *needed* less, will the BBC target for this genre be reduced or will the BBC decide such content be moved into a less prominent slot in the linear schedule or online?

27. While VLV recognises that the BBC has to evolve to ensure it is delivering content which attracts audiences on the platforms where they wish to consume it, it is crucial that it continues to provide an adequate amount and wide range of content for all audiences, including that which may be considered less mainstream or popular.

28. In order for VLV to support the proposal to allow the BBC to set its own targets, we will need to be assured that Ofcom will not allow a reduction in the volume of key PSB genres and that Ofcom will ensure the BBC makes PSB content prominent.

Transparency in return for Ofcom stepping away from detailed regulation

29. VLV supports Ofcom's ambition for *the Licence* to require *greater transparency from the BBC* however we are surprised that this greater transparency is being *traded in return* for 'Ofcom [stepping] away from detailed regulation' of the BBC¹³. VLV does not understand why Ofcom should need to 'step away from detailed regulation of the BBC' in order to allow the *BBC greater scope to determine how to meet audience needs*.

¹⁰ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 1.7a

¹¹ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 1.7b

¹² *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 4.9

¹³ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 1.7c

30. VLV does not consider that asking for greater transparency from the BBC should be a matter for negotiation. As a publicly funded body the BBC should be fully transparent.
31. Ever since 2017 when the existing regulatory model was introduced, VLV has complained about the lack of detail in the BBC's Annual Plan. We have sent queries to the BBC on a number of occasions, seeking clarification on statements in the Annual Plan, and have not always been fully satisfied with the BBC's responses. In VLV's opinion the BBC Annual Plan will have to be improved significantly if it is to serve the purpose set out in these proposals.
32. Ofcom asserts that as a result of greater BBC transparency, it will be able to better 'hold the BBC to account on behalf of audiences' and this new system will enable Ofcom to 'step in more quickly if [it] has concerns¹⁴'. VLV questions why this will be the case when it will be as dependent on the BBC for data and information as it is today, but will have 'stepped back' from detailed regulation of the BBC.

VLV Concerns about the new model

33. While VLV agrees that that the BBC should be allowed to determine how best to fulfil its Licence obligations, we have concerns about the proposed new system for a number of reasons which we have set out below.

Annual negotiations

- If targets are changed annually there is greater risk that the volume of important PSB content which is in decline will be further eroded.
- Annual negotiations could lead to the relationship between Ofcom and the BBC becoming more adversarial.

Platform-neutral regulation

- There is a risk that important PSB content will have less reach and impact if there are no requirements for any such content to be broadcast in 'peak' slots on linear radio and TV channels.
- The draft Operating Licence requires that all audiences should be able to *easily discover*¹⁵ UK content. This is too vague a requirement. Ofcom needs to take on responsibility to track the prominence of PSB content on BBC online platforms.

Timescale

- VLV is concerned that since Ofcom is taking a more passive role in BBC regulation and there will be a 14 month gap between the announcement of the targets and reporting, Ofcom may not be aware that it needs to respond to a drop in provision of a genre.

¹⁴ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 5.7

¹⁵ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, page 11, Objective 4

BBC control

- VLV believes the proposed approach will lead to less robust regulation of the BBC because assessment of the BBC's performance in the first instance will be provided by the BBC in its Annual report and will not be conducted independently.
 - As Ofcom gives up control of setting the BBC's quotas and assessing their delivery, there is a greater risk that key PSB genres could decline.
 - It's crucial that assessment of BBC performance is carried out by an independent body in order to maintain the integrity of regulation of the BBC and to ensure trust is maintained in the regulatory process.
34. VLV's primary concern is that the following genres and types of programming will be at risk of further decline under the new system because they will no longer be required by conditions in the new Operating Licence:
- Local/regional news on the BBC News Channel which no longer has any conditions at all
 - Religious programmes on television which no longer has a quota
 - Arts and music programmes on television which no longer have a quota
 - Comedy programmes on television which no longer have a quota
 - Drama programmes on CBBC which no longer have a quota
 - Factual programmes on CBBC which no longer have a quota
 - Documentaries on Radio 1, Radio 2, Radio 3 and Radio 4 which no longer have any quotas
 - Arts programmes on Radio 2 which no longer have a quota
 - Religious programmes on Radio 2 and Radio 4 which no longer have a quota
 - The commissioning of new musical works by Radio 3 which no longer has a quota

Quotas

35. There is incontrovertible evidence that the availability of content declines if a specific volume of content or spend on a genre is not required of broadcasters. After quotas were removed for arts, religious and children's programmes the volume of such programmes on the PSBs declined dramatically. These declines in valuable PSB content are detrimental for audiences and society as a whole.
36. While VLV supports quotas in principle, because of their proven success in ensuring the delivery of PSB content, we acknowledge that the disadvantage of them is that they can incentivise broadcasters to focus on meeting quotas in a tick box exercise, rather than on how 'services meet the needs of audiences'¹⁶. They also don't tell us about quality or the impact content has had on the audience.
37. VLV does not consider that the proposed new system solves the problems of the existing quota system because effectively the new proposed BBC set

¹⁶ *How Ofcom regulates the BBC: A review*, Ofcom, 21 July 2021, para 3.15

targets are so similar to quotas. The proposed new conditions in the draft Operating Licence require the BBC to set out the planned volume of each 'at risk' genre (as listed above) and the platforms it will be delivered on; the only differences are that the BBC is setting its these targets, rather than Ofcom, and they are being set annually, rather than on a multi-year basis. While this will allow the BBC greater flexibility to change its targets annually, this also increases the possibility that the BBC will be able to reduce the volume of key PSB genres.

38. A weakness of the conditions in the draft Operating Licence is that they don't require the BBC to provide any evidence of the impact of content or how effectively the BBC delivered the public purpose it is designed to fulfil. This weakness should be addressed by requiring the BBC to provide evidence of impact on audiences.
39. Ofcom plans to use the total volume of first-run originations as a proxy to measure the delivery of Purpose 3. While this is only slightly lower than the existing requirement for first run originations (6700 hours vs 6650 hours), it will not guarantee that this content is high quality, distinctive or creative. It will not guarantee that there is a range of content in each genre. It will only guarantee that this content has been commissioned or made by the BBC and not been transmitted before.

Question 2: Do you agree with the proposals for Public Purpose 1? If not, please explain why.

40. VLV supports the proposals for Public Purpose 1, namely:

- The retention of quotas for news and current affairs across BBC TV and radio services.
- Reflecting the trend for citizens to access news and information online, the requirements for the BBC to make news and current affairs available on the iPlayer and BBC Sounds and to provide a broad range of in-depth news on the BBC website and apps.
- Replacing daily and weekly news and current affairs quotas which apply to some BBC radio services with annual quotas.
- New transparency requirements for the BBC to set out its plans to provide news and current affairs on its online services and report on the outcome of those plans.

Discoverability

- VLV questions how the BBC and Ofcom will assess the BBC's performance in delivering Objective P1(2), which is to ensure that news and current affairs

content is *easily discoverable*¹⁷. As stated above, Ofcom needs to take on responsibility to track the prominence of this content on BBC online platforms.

BBC News Channel

41. VLV would welcome an explanation from Ofcom as to why there are no conditions for the BBC News Channel in the new draft Operating Licence.

42. The existing conditions state:

The BBC must ensure that the BBC News channel includes

2.7.1 more international news, and

*2.7.2 more local/regional news than other main continuous news channels in the United Kingdom.*¹⁸

43. VLV understands the BBC plans to merge BBC News with BBC World News, in which case we assume that international news will be provided, however there is much doubt that the level of local/regional news will be maintained on the new channel. VLV questions why a condition which ensures the channel is distinctive and provides an important public service in the form of local/regional content has been removed and **strongly opposes** the removal of this obligation.

44. The consultation document states that 'we expect to monitor its performance as we do for other BBC services'. VLV would welcome further detail from Ofcom on how it plans to monitor the News Channel. VLV would specifically like to know whether Ofcom expects the News Channel to continue to provide the same amount of local/regional content as it does currently and how it will monitor this output.

Question 3: Do you agree with the proposals for Public Purpose 2? If not, please explain why.

45. With the removal of most factual genres from Purpose 2 to Purpose 3, VLV notes that Purpose 2 now covers a narrower range of content than the existing Operating Licence.

46. VLV welcomes increased transparency requirement on how the BBC is supporting learning for all audiences and how it is using its online services to facilitate learning.

47. As stated with reference to Purpose 1, VLV questions how Ofcom will assess the BBC's performance in ensuring that learning content is *easy to discover* online. As stated above, Ofcom needs to take on responsibility to track the prominence of this content on BBC online platforms.

¹⁷ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 6.14

¹⁸ *Operating licence for the BBC's UK Public Services*, Ofcom, 13 October 2017 Clause 2.7

Children's content

48. VLV opposes the removal of conditions for CBBC which currently require 1000 hours of drama and 675 hours of factual content each year. We are especially concerned these genres are more at risk of decline because of the BBC's current drive to commission more animation.
49. While VLV acknowledges that allowing the BBC to set its own targets for CBBC drama and factual content will mean it has greater creative freedom, we are concerned that there should be minimum volume quotas for each genre in the new Operating Licence to ensure that children continue to be provided with a suitable range of content which is educational regardless of their age. Content available for children in UK which is culturally specific and relevant to their lives has been in decline for the past two decades. The BBC is the main provider of such content and therefore it is especially crucial that it maintains its provision for **all** younger audiences.
50. We note that the condition for CBeebies has been retained although it sets no quotas, which is in line with the existing Operating Licence.

Question 4: Do you agree with the proposals for Public Purpose 3? If not, please explain why.

51. As stated above, this is the section of the draft Operating Licence which most concerns VLV because it removes quotas for all 'at risk' genres of programming. All the genres included under this Purpose are crucial PSB genres and they are in decline across PSB platforms.
52. One of the key challenges with Purpose 3 is that it requires BBC services to be 'distinctive'. Despite this characteristic being introduced into the Charter in 2016, VLV considers it has still not been adequately defined and is a subjective term.
53. The existing Operating Licence requires that the BBC fulfils quotas for the volume of arts, music and religious programmes, original UK content, first-run UK originations and comedy on TV¹⁹. For network radio there are quotas for new music, music from UK acts, live music, recorded sessions, specialist music, breadth of music compared with comparable providers, social action and sports commentary.
54. As stated above, with reference to News and Current Affairs content, VLV would welcome more detailed information on how Ofcom and the BBC will demonstrate the BBC's delivery of the objective under Purpose 3 'to ensure all audiences in the UK can easily discover .. content'²⁰. VLV recommends that Ofcom takes on responsibility for tracking the prominence of this content.

¹⁹ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 8.6

²⁰ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 8.19

Original productions and first run UK originations

55. VLV welcomes the retention of the existing quota for UK original productions because we share Ofcom's concern that acquisitions should not *play too large a role in the BBC's overall content mix*²¹.
56. VLV agrees that first-run UK originations play an important role in ensuring originality and innovation are maintained and therefore we welcome the retention of the first-run UK originations quota at 6,650 hour per year.
57. VLV supports the BBC being afforded greater flexibility to decide where and when to show its first-run content, although, as stated above, VLV considers that all content funded by Licence Fee Payers should be available on broadcast platforms because 6% of UK households do not have internet access.

'At risk' genres

58. VLV agrees with Ofcom²² that valuable content which attracts smaller audiences should be maintained by the BBC. The range of content the BBC provides is valued by audiences, however provision of these 'at risk' genres has declined significantly across broadcast platforms since 2017²³.
59. As stated above, VLV is concerned that because BBC public funding has declined by 25% in real terms since 2010 and the cost of productions is rising due to inflation, the BBC is under considerable pressure to raise additional income through international distribution. This could mean the amount of content in these 'at risk' genres which is culturally specific to the UK may be reduced in favour of more globally attractive content.
60. We are also concerned that in an effort to attract larger audiences, less popular, 'at risk' content will be moved into the margins of the schedule or be put on the iPlayer where it will have less reach and impact and will not be available to those who do not have internet access.
61. In this context, as stated above, VLV **strongly** opposes the complete removal of the quotas for these 'at risk' genres. Instead VLV recommends that alongside BBC-set targets Ofcom sets a minimum volume level for each of these genres (as set out above) to be broadcast on BBC TV and radio channels to safeguard their delivery on free to air platforms which do not require internet access. These minimum levels can be lower than the existing quotas in order to provide the BBC with greater flexibility.

Network Radio

62. With regards to network radio VLV supports the retention of the quotas which are set out for Radio 1, 2 and 3.

²¹ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 8.24

²² *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 8.32

²³ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, page 52, Figure 7

63. However, VLV is concerned about the removal of quotas for Radio 3 live/ specially recorded performances and commissioning of new musical works. As with the removal of quotas for 'at risk' genres, VLV is concerned that the removal of these quotas will allow the BBC to reduce its commitment to these aspects of its work. These quotas provide important support for emerging artists and classical music performers as well as providing audiences with access to new work and classical performances which otherwise they would not be able to enjoy. VLV opposes the removal of these quotas.
64. VLV **strongly** opposes the removal of quotas for documentaries, social action campaigns, arts and religious programmes on network radio for the reasons set out above. As with TV quotas, VLV would be prepared to allow the BBC greater editorial flexibility, but we believe that minimum volume quotas set by Ofcom are required for each of these genres to safeguard their delivery on linear platforms.
65. VLV supports the retention of the existing BBC Radio 5 Live quota for it to provide commentary on at least 20 different sports throughout the year. This coverage is important because it includes sports which often are not covered elsewhere.

BBC Annual Plan

66. As stated above, VLV has long been concerned with the lack of detail and information in the BBC's Annual Plan, therefore it welcomes Ofcom's proposed new transparency requirements.
67. VLV welcomes the requirement for the BBC to set out how it will ensure *all audiences ...benefit from a range of new, quality UK content that appeals to them*²⁴ in an effort to ensure that all audiences benefit from first-run UK originations, including those who do not have internet access and children' audiences.
68. VLV welcomes that as part of its performance assessment of the BBC Ofcom will consider audience perceptions of the discoverability of the breadth of the BBC's original UK content across its services, however VLV recommends that Ofcom should also consistently track the prominence of such content on the iPlayer and Sounds throughout the year.

Question 5: Do you agree with our preliminary view on the BBC's request to change Operating Licence conditions 2.21 and 2.32 for BBC Four, including our proposal to remove BBC Four's peak original productions quota and set the 'all hours' quota at 65% instead of 60% as requested by the BBC? If not, please explain why.

²⁴ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, paragraph 8.53

69. On the basis of the BBC doubling its arts and music spend on BBC Two, VLV agrees with Ofcom's preliminary view on the BBC's request to change Operating Licence condition 2.21 for BBC Four. VLV agrees with the BBC's strategy to maximise the impact of its spend by investing in content on BBC Two, rather than on BBC Four, because BBC Two has a wider and larger audience.
70. With reference to condition 2.32, which requires 75% of programmes across all hours and 60% across peak hours to be original productions, VLV agrees with Ofcom's preliminary view to remove BBC Four's peak original productions quota. With regard to the 'all hours' quota, VLV understands both the BBC's request for a reduction to 60% as well as Ofcom's concern that this may be too low when compared with other BBC TV services, therefore suggesting it should be 65%. VLV does not have a strong view on this issue because there could be benefits either way. While on principle VLV generally prefers original UK content over acquisitions, because original UK content is likely to be more culturally specific to audiences, there is the possibility that an acquisition might be first-run which would be preferable to a repeat of an original programme.

Question 6: Do you agree with the proposals for Public Purpose 4? If not, please explain why.

71. VLV shares concerns expressed in response to Ofcom's initial consultation about the quality of the BBC's local content and the lack of transparency on strategy, spending and performance in the different nations and regions of the UK. VLV notes that it was also highlighted by stakeholders that content relevant to audiences in the nations and regions is not easy to find on iPlayer and Sounds.
72. VLV welcomes the proposed requirement that the BBC should report on its representation and portrayal obligations **publicly** rather than to Ofcom only. This will increase its transparency and accountability to Licence Fee payers.
73. As stated above, while VLV supports platform neutral regulation, we would not want this to provide an opportunity for the BBC to reduce the volume of non-news, non-current affairs regional or national content on broadcast platforms because this will undermine the universality of its offering for those who do not have internet access.
74. As with our response to the removal of other TV quotas, VLV would recommend quotas should be retained to safeguard a minimum level of delivery of such content, however these could be reduced to allow the BBC greater creative freedom.
75. VLV supports the proposed changes for workforce diversity reporting to allow Ofcom the flexibility to modify the categories of data Ofcom collects.
76. VLV welcomes the BBC's commitment to deliver a more detailed report on progress against its Diversity Commissioning Code of Practice and supports

Ofcom's proposed reforms to ensure that the BBC is holding producers to account.

Production in the nations and regions

77. VLV supports Ofcom's proposals regarding production outside the M25, co-commissions between network and opt-out services and radio production.
78. VLV welcomes the retention of requirements on BBC local radio in England.
79. Going forward we support Ofcom's monitoring of the sharing of locally-made content with 'neighbouring stations' since VLV would not wish for the 'localness' of content to be diluted by it being shared over too wide a geographic area.

Programming for the nations and regions

80. VLV welcomes the new requirement for the BBC to set out the total hours of news and current affairs programming it plans to provide on its TV opt-out services in England. This will increase transparency and accountability to audiences.
81. VLV **strongly** opposes the proposal to remove quotas for non-news programming for the nations and regions that apply to the BBC's opt-out services. We also oppose the proposal to remove quotas for non-news, non-current affairs on the opt-out services in Scotland, Wales and Northern Ireland.
82. Non-news regional and national content is essential to provide audiences with content which is relevant to their lives. Not all audiences enjoy watching the news, but they might be engaged by non-news content about the area or nation in which they live. VLV believes that this is exactly the type of content which the BBC should be held to account to deliver on behalf of citizens but which may be less attractive to the broadcaster because it is viewed by smaller audiences than network content and is unlikely to raise money through international distribution.
83. VLV believes, as with other TV quotas, that Ofcom should set a minimum volume quota for such content to safeguard its delivery on linear platforms.

Indigenous languages

84. VLV welcomes the retention of existing conditions for the BBC to provide Irish and Ulster Scots programming on TV and radio. VLV supports the proposed change to the existing condition to show this content on BBC One Northern Ireland as well as BBC Two Northern Ireland.
85. VLV can understand the reasoning for replacing the quota for BBC ALBA to provide content aimed at those learning Gaelic with a condition allowing greater flexibility so that this content can be provided across platforms,

however VLV would recommend that Ofcom does not allow the volume of this content to be reduced.

86. As with other online content, VLV recommends that Ofcom tracks the discoverability of content in Scots Gaelic and Welsh on on demand and online BBC platforms to ensure that audiences can easily find it since there were concerns about its discoverability expressed by stakeholders in the first consultation.

Nations and local radio programming

87. VLV welcomes the retention of the existing news conditions on BBC local and nations' radio stations and the revision of conditions so that there is a requirement that news bulletins are made available regularly.

88. VLV welcomes the retention of the core hours speech quotas on BBC local stations in England. We agree to the proposed change to reduce the breakfast peak time speech quota on English local radio from 100% to 75%.

Range of content across TV, radio and online

89. VLV supports the expansion of conditions to incorporate BBC iPlayer, BBC Sounds, the BBC website and BBC ALBA to require them to provide relevant content in a broad range of genres which reflects a given nation's culture.

90. VLV welcomes the retention of obligations for the BBC to provide news and information, indigenous language content and sports content for the nations and English regions on BBC Online.

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

91. As set out in response to Question 1, VLV generally opposes replacing Ofcom-set quotas with conditions whereby the BBC sets its own targets and is responsible for assessing its delivery of them.

92. VLV considers that these proposals shift the responsibility for aspects of BBC regulation from Ofcom to the BBC. VLV considers that Ofcom's 'step back' from detailed regulation of the BBC represents a reduction in the robustness of oversight of the BBC's delivery of its Mission as set out in the Charter.

93. While requirements for greater transparency on the part of the BBC are welcome, VLV does not consider that these should come at the cost of less rigorous regulation on Ofcom's part. Greater transparency should be provided in any case.

94. VLV does not believe these changes will *benefit audiences* for the following reasons:

- There is a risk that the volume of ‘at risk’ genres on broadcast platforms will decline further than it already has.
 - The relationship between Ofcom and the BBC will be put under increased stress by annual negotiations over the amount of content the BBC intends to provide which could be detrimental to the overall regulation process.
 - Despite proposed new transparency requirements on the BBC, VLV believes that **independent** assessment of BBC performance is essential and that the BBC should not be allowed to ‘mark its own homework’.
95. Conversely, VLV considers that these changes are likely to instead benefit the BBC in the form of less rigorous regulation; this will especially be the case in its delivery of genres which are less popular and take up valuable slots on broadcast platforms. Our concern is that investment in this content could decline and such content could be moved on the iPlayer which will mean its public value is likely to decline. The BBC will be able to justify the reduction in the volume of such content on broadcast platforms on the basis that they have ‘assessed audience needs’.
96. As stated above, VLV is most concerned about ‘at risk’ content. VLV would recommend that instead of changing existing quotas for this content into ‘conditions’, the total quotas for these genres of programming are retained but their delivery is allowed to be platform-neutral so that the BBC decides where to transmit the content. Back-stop quotas for broadcast platforms should be set to ensure that the BBC continues to deliver its public purposes on broadcast platforms where it has the greatest reach and which are universally accessible without the need for internet access.

VLV Recommendations

If these proposals go ahead, VLV would recommend the following:

97. The BBC should be required to maintain or increase existing levels of and percentage of spend on ‘at risk’ content (as specified above) when it sets its targets.
98. The volume of ‘at risk’ content should be maintained at existing levels on broadcast platforms to ensure that Licence Fee payers who do not have access to the internet continue to receive value for money from the TV Licence.
99. The BBC should provide its planned targets well in advance, allowing Ofcom adequate time to review them. As VLV understands it, the Annual Plan is usually prepared quite close to its publication date which means that if Ofcom is not happy with BBC targets this will lead to negotiations which will have an impact on production schedules.
100. Ofcom should have the power to require changes to be made to proposed BBC targets if it has concerns. A primary concern of Ofcom when reviewing the BBC’s plans should be to ensure that the BBC’s strategy promotes key PSB genres and does not allow content which might be

considered less popular to be moved off mainstream channels or onto the iPlayer where it will be less prominent and have less impact.

101. In its analysis of its performance the BBC should be required to provide details of when programmes were broadcast, the number of viewers who watched them, analysis of how each genre performed and audience demographics.
102. The BBC should publish annually, at the same time as it publishes its Annual Report, a report on audience satisfaction with regard to the 'at risk' genres, in the same way as it does for delivery of Purpose 4.
103. One of the conditions required as part of the BBC's greater transparency should be that it conducts (and publicises) regular consultations with Licence Fee payers to assess its performance and when it proposes changes to services.
104. Ofcom should put in place a programme of work to assess how prominent and easily discoverable²⁵ PSB content is on the iPlayer and other online BBC platforms.

²⁵ *Modernising the BBC's Operating Licence*, Ofcom, 22 June 2022, page 5