

## Consultation response form

<b>Consultation title</b>	<b>How Ofcom regulates the BBC's impact on competition</b>
<b>Organisation Name</b>	AudioUK
<b>Date</b>	February 2023

Question	Your response
<p><b>Question 1: Do you agree with our proposals to:</b></p> <ul style="list-style-type: none"> <li>place a requirement on the BBC to publicise its planned changes to public services?</li> <li>provide further guidance on how the BBC should set out information about its planned changes?</li> </ul> <p>If not, please explain which changes, if any, should be made to the guidance and where appropriate, provide relevant evidence supporting your view.</p>	<p>We agree in principle with all of Ofcom's proposals to place greater responsibility on the BBC to inform and consult on proposed changes.</p> <p>However while these may be framed as guidance, it is important for the guidance to have minimum standards of transparency and to among other things require the BBC to encompass the appropriate range of stakeholders in any consultation in a meaningful way, i.e. which could genuinely lead the BBC to alter or cancel its plans.</p> <p>The proposals state that the BBC's annual plan should provide information in "sufficient detail" and this is crucial to stakeholders having an adequate understanding of what is being proposed and how it may impact on their industry.</p> <p>We recognise that Ofcom is already proposing steps in this direction but any further moves to make the annual plan published by the BBC as metrics-based as possible and corresponding low on the use of single ad-hoc programme examples would be appreciated by stakeholders.</p> <p>We very much welcome the proposal to have a more consistent approach to the BBC announcing plans for significant change. An example of this last year was BBC DG Tim Davie announcing a review of speech radio and audio production during a speech<sup>1</sup>. This development, if it came to pass, would have a profound impact on our sector and while the BBC has since had a meeting with AudioUK on the matter, there was no clear formal process set out with a publicly available timeline for stakeholders to assess or provide early input.</p>

**1**

See A digital-first BBC: BBC Director-General Tim Davie's speech to staff on 26 May 2022. <https://www.bbc.co.uk/mediacentre/speeches/2022/digital-first-bbc-director-general-tim-davie>. Accessed 2 Feb 2023

<p><b>Question 2: Do you agree with our proposals to put in place more guidance about how stakeholders and the BBC should engage during the assessment of materiality by the BBC?</b></p>	<p>Yes.</p> <p>Where the proposed new guidance states that “The BBC should make reasonable efforts to seek dialogue with parties who may be affected...” It would be useful for Ofcom to consider how ‘reasonable’ is defined.</p>
<p><b>Question 3: Do you agree with our proposals to include further guidance on what the BBC should include in its public interest test consultation?</b></p>	<p>We broadly agree, however while the proposed new guidance states that any PIT consultation must make clear “the target demographic(s);” we would suggest also that there is a requirement for the BBC to describe the “target <b>market</b>”. In audio as well as in television, the BBC is looking to commercialise more of what it does and widen its income streams and this is the key aspect of concern to other businesses which may be operating in those areas already.</p>
<p><b>Question 4: Do you agree with our proposals to provide more detail in our guidance about the materiality assessment process?</b></p>	<p>We agree there needs to be more clarity on this aspect.</p> <p>However we are not sure the new guidance goes far enough and would welcome clarification on whether it is within Ofcom’s power to ‘require’ - as opposed to ‘expect’ - the BBC to act as the proposed changes state.</p> <p>The clearer Ofcom can be and the firmer lines it can draw, the more stakeholders will be reassured the BBC is undergoing all due scrutiny.</p>
<p><b>Question 5: Do you agree with our proposal for additional flexibility for Ofcom to determine whether it is necessary to consult on materiality following a PIT in which the BBC has determined the change is material?</b></p>	<p>We have concerns about increasing the BBC’s ability to alter or introduce services or parts of its organisational activity which currently would incur a PIT.</p> <p>We would welcome clarification on whether Ofcom has looked at other ways of improving turnaround of PIT processes without impacting on due stakeholder consultation but to help the BBC enact changes more swiftly.</p> <p>Increasingly audio production markets are an opportunity for independent production companies to grow their businesses and gain investment and revenue. Any changes which the BBC makes which could impact upon this must be subject to a high level of scrutiny to determine whether proposals are sufficiently in the overall public interest.</p>
<p><b>Question 6: Do you agree with our proposals to add further guidance on our expectations for the BBC’s public value assessment?</b></p>	<p>Yes</p>

**Question 7: Do you agree with our proposal to make it clear that the transfer pricing rules apply when the public service is supplying content or IP for secondary exploitation?**

Yes

**Question 8: Do you agree with our proposal to add a requirement that allows Ofcom to direct the BBC to undertake a review of its internal controls and accounting processes to ensure they are adequate and enable the BBC to comply with the transfer pricing requirements?**

Yes