

BBC Trust

Final decision on proposals for BBC Three, BBC One, BBC iPlayer, and CBBC

26 November 2015

BBC Trust

Contents

1. Introduction and key findings

- 1.1 Introduction
- 1.2 Summary of findings
- 1.3 Closure of BBC Three and its reinvention online
- 1.4 Launch of BBC One +1
- 1.5 Evolution of BBC iPlayer
- 1.6 Extended hours for CBBC

2. Application of the PVT

- 2.1 Introduction
- 2.2 Public value assessment
- 2.3 Market impact assessment

3. Summary of the provisional conclusions

- 3.1 Introduction
- 3.2 Closure of BBC Three and its reinvention online
- 3.3 Launch of BBC One +1
- 3.4 Evolution of BBC iPlayer
- 3.5 Extended hours for CBBC
- 3.6 Second consultation

4. Summary of the Executive's response

5. Summary of consultation responses

- 5.1 Introduction
- 5.2 Closure of BBC Three and its reinvention online
- 5.3 Launch of BBC One +1
- 5.4 Evolution of BBC iPlayer
- 5.5 Extended hours for CBBC

6. The Trust's final decision

- 6.1 Introduction
- 6.2 Closure of BBC Three and its reinvention online
- 6.3 Launch of BBC One +1
- 6.4 Evolution of BBC iPlayer
- 6.5 Extended hours for CBBC
- 6.6 The proposals as a package

Glossary of Terms

Annex I Background to the public value test

1. Introduction and key findings

1.1. Introduction

1.1.1. In December 2014, the BBC Executive (hereafter, the Executive) submitted proposals to the BBC Trust for a package of changes to the UK public services, comprising:

- the closure of BBC Three as a broadcast channel and its reinvention as an online-only offer¹
- the evolution of BBC iPlayer from primarily a catch-up service to one that also offers online-first BBC content and selected third-party content
- the launch of a +1 channel for BBC One
- extended hours for CBBC
- increased investment in drama on BBC One

1.1.2. While the drama investment is not subject to Trust approval, it is linked to the package of proposals. The investment was therefore reflected in the proposals and factored into our assessment. The Trust decided that the proposals constituted a significant change² to the UK Public Services and that it was required³ to conduct a [public value test](#) before deciding whether or not to approve the change. This document contains our final decision.

1.2. Summary of findings

1.2.1. In reaching its final decision, the Trust considered the PVA, the MIA, the response from the Executive to the provisional conclusions, the findings from the public consultations and the views expressed by stakeholders.

1.2.2. The Trust did not consider that the likely adverse market impact of BBC One +1 was justified by the likely public value. It therefore refused permission for the change. However, it concluded that the remaining proposals for BBC Three, BBC iPlayer and CBBC did pass the public value test and that it should approve them. The final decision reflects the provisional conclusions on each element of the package but includes amendments to the conditions for BBC Three and BBC iPlayer. The main amendments are summarised below and discussed in full at section six.

1.3. Closure of BBC Three and its reinvention online

1.3.1. The proposal to move BBC Three online was motivated by financial pressures and a structural shift in consumption of television services among young adults. But the closure of a service is a difficult decision and our assessment was finely balanced.

1.3.2. We acknowledge the strength of public opposition to closure but consider that the proposal has intuitive force. We have seen clear evidence of a growth in online

¹ The original proposal envisaged the changes taking effect from autumn 2015. This has since been revised.

² In deciding on the question whether the proposed changes are significant, the Trust had regard to the four considerations set out in clause 25(2) of the Framework Agreement, which are impact, financial implications, novelty, and duration.

³ See clause 25(1) of the Framework Agreement.

consumption and anticipate that this trend will continue as broadband access improves and the use of mobile devices to watch content grows (and we note [Government plans](#) in that direction). The long-term future of broadcasting seems likely to be online and the BBC needs to find innovative ways to support the audience move in that direction. The transition will be quicker for younger viewers who already watch less broadcast television, watch more online and use new digital services in different ways.

- 1.3.3. We consider there is clear potential in an online offer that promises to be more distinctive than the existing channel, with a focus on high quality output in areas where performance is strong, particularly within comedy and factual. We consider that fewer but more innovative titles will benefit the public, particularly as these genres lend themselves to on-demand viewing. Furthermore, the move will release c. £30m a year which can be reinvested elsewhere.
- 1.3.4. Nevertheless, we recognise that the move online is earlier than the Executive would ideally have planned. Not everyone has access to or can afford a reliable internet connection and for many young people, television remains important. We note furthermore that the loss of the linear platform may result in less exposure for new shows and that this could make it difficult for the BBC to attract and nurture new talent.
- 1.3.5. To address concerns about the loss of reach among young adults and the impact on creative risk-taking, we have therefore imposed the following conditions. These will be reflected in the relevant service licences as ongoing requirements:

Conditions

Use of slots on BBC One and BBC Two

- All BBC Three long-form content will be transmitted on slots on BBC One and BBC Two on an on-going basis, beginning as soon as the closure of BBC Three as a linear channel takes effect
- BBC Three long-form content will be made available on both BBC One and BBC Two at a variety of times across the schedule and throughout the UK

Commitment to creative risk-taking and appeal to younger audiences

- A commitment to providing risk-taking space will be incorporated in the service licences of BBC One and BBC Two such that both channels:

Should take creative risks and regularly experiment with new talent and new ideas

- A commitment to programmes targeted at younger audiences will be incorporated in the service licences of BBC One and BBC Two as follows:

While BBC One and BBC Two aim most programmes at audiences of all ages, they should offer some programmes with a distinctive approach that are designed for younger audiences. They should also show all long-form originated programmes from BBC Three. These should be

shown at a variety of times on both channels and made available across the UK.

A gradual transition

- There will be a brief phased migration online from January 2016 until the end of February 2016, using the vacated distribution capacity as a promotional transitional channel to run alongside BBC Three Online in that period. All cross-promotional activity must be platform neutral (with reference to the [BBC code on cross-promotion](#)) to ensure that no inappropriate activity occurs.

Accessibility

- The online offer should be required to have the same accessibility standards as linear television wherever practicable
- The Executive should encourage third party platforms that carry BBC Three content to work towards full accessibility

Additional guidance

- The Executive will be required to prepare a full proposal for the use of the vacated broadcast capacity within three months of this final decision, on which the Trust will obtain an independent assessment
- We will keep the negotiation of terms of trade under review and require an update from the Executive before the new service is launched

Ongoing compliance

- Monitoring adherence to these conditions will form part of our normal oversight of the performance of BBC services.⁴ The conditions are built into the service licence framework and bring them clearly within our on-going monitoring remit. They also place increased emphasis on the need to serve young audiences through mainstream linear television services as well as online.
- As part of this, we will undertake a review within 18 months of this final decision measuring the progress of the new service and the Executive's adherence to the conditions. If we consider performance against the new licence conditions to be unsatisfactory, the Trust has the power to impose quotas or formal targets (for example by including commitments to minimum levels of content with particular appeal to young and diverse audiences within the service licences).⁵ The review will have particular regard to:
 - audience numbers and reach among young and diverse audiences, in particular younger viewers (16-34 year olds), C2DE adults and those from black, Asian and ethnic minority groups

⁴ The Trust's key control is to monitor compliance with these new service licence requirements as part of our on-going oversight for BBC One and BBC Two.

⁵ The Trust is entitled to have recourse to a number of sanctions if the service fails to comply with the terms of its service licence or its performance is judged to be poor in other respects.

- the level of creative risk taking
 - the use of new talent and formats
 - the performance of BBC Three output on BBC One and Two
 - the level of accessibility for those with auditory and sensory impairments
- The Executive will also be required to report on the performance of the new offer as part of the quarterly performance updates to the Trust and the existing annual report and accounts.

1.4. Launch of BBC One +1

- 1.4.1. We recognise the need to deliver services in a flexible and convenient way but consider the proposal is at odds with a broader shift online. For those who want to watch programmes after they have been broadcast, BBC iPlayer offers much greater flexibility and encouraging audiences to catch up online is an important way to stimulate the online transition. Nevertheless, not everyone has broadband access and a +1 channel potentially provides a cost-effective catch-up option.
- 1.4.2. The proposal involves some difficult compromises however. The service would not be universally available on DTT from launch and c. 24% of UK households would need to upgrade their equipment in order to receive it. Of all the digital platforms, DTT is used by the highest proportion of DE households (34%) and those aged over 65 (29%) and internet access is lower than average for both of these groups. The PVA found that 33% of adults in the DE socio-economic group or 41% of those aged over 65 would need to upgrade their equipment in order to receive the service, but viewing of a +1 channel is proportionately lower among these groups. Given those aged over 65 are less likely to watch a +1 channel, even those with the means to upgrade may lack the incentive to do so. Among DE households meanwhile, many of which are the most economically disadvantaged in the country, some may choose not to incur the expense.
- 1.4.3. The absence (for technical reasons) of regional and national opt-out programmes also weakened the value of the overall offer. Part of the remit of BBC One is to reflect the whole of the UK in its output and this forms one of the aims and objectives of the service. Further, our assessment suggests that the channel would only minimally improve reach among young adults and would be unlikely to mitigate significantly the short-term impact of closing BBC Three as a linear channel.⁶
- 1.4.4. While the proposal does carry some public value, these small gains are outweighed by low reach among key audience groups and an adverse market impact on commercial channels. The market impact assessment concluded that the proposal would be likely to result in reduced profitability for commercial channels, due to either a decline in their audience, leading to an expected fall in advertising revenues or, more dynamically, to an increase in costs as a result of investment in content designed to recapture lost viewers.

⁶ We estimate an increase in reach of 0.2% for the total population and of 0.35% for those aged 16-34. Refer to the [PVA](#), annex II, 'assessment of reach'.

- 1.4.5. Taking account of these factors, the Trust concluded that the proposal did not pass the public value test and should not be approved.

1.5. Evolution of BBC iPlayer

- 1.5.1. We consider that there is public value in developing BBC iPlayer beyond its original remit. The proposals contribute to the BBC's digital purpose and may bring broader benefits in terms of their ability to stimulate creativity. Further, by enhancing a service that provides access to the full range of BBC content and broadening its appeal to all users, the changes will help to safeguard the delivery of all of the public purposes, in particular the sixth, in an online world. The proposals will build on the reputation of BBC iPlayer and help to maintain its reach among a younger audience. While incremental reach will be low, the overall impact is nevertheless positive, resulting in a stronger and more relevant offer on more flexible terms, delivered at minimal cost.
- 1.5.2. We are also satisfied that the proposed changes are too limited in scale to have a notable market impact. The MIA found that while BBC iPlayer is used increasingly to discover content, catch-up remains its core function. In Ofcom's view this limits the impact of the proposals, although it noted that, should the shift in consumer behaviour accelerate (for example as a result of the BBC Three online proposals) there could be a greater impact on commercial channels and on-demand providers.
- 1.5.3. The Trust was therefore satisfied that the likely adverse market impact was justified by the public value. It approved the proposal subject to a condition requiring the Executive to consult with industry on the formulation of the FRND criteria for the inclusion of third-party content in BBC iPlayer.⁷

1.6. Extended hours for CBBC

- 1.6.1. CBBC makes an important contribution to the public purposes with a range of distinctive UK programmes and a good balance between education and entertainment. It remains one of the most watched children's channels in the UK although performance is under pressure.⁸ The overall pattern in viewing of CBBC among those aged 6-12 is one of decline. Between 2010 and 2014, their average daily viewing minutes dropped from 10.9 to 7.1. This mirrors a broader trend in television consumption among younger viewers and can be traced to changing patterns of media consumption and greater choice.
- 1.6.2. While it is limited to some degree by the lack of new content investment, we consider that the proposal nevertheless may help to sustain viewing by offering greater choice at a time when children are more likely to watch. Extended hours may also help to support the transition of younger viewers to CBBC by offering programmes when Cbeebies closes at 7pm. While the proposal drew a mixed response from audiences and incremental reach is likely to be low it can be implemented at minimal cost and will not have a material adverse impact on commercial channels.⁹ The Trust considered that the likely adverse market impact was justified by the likely public value. It therefore approved the proposal.

⁷Third parties would be limited to not-for-profit and cultural and arts organisations, such as the Arts Council.

⁸BBC Trust (2013) *Review of BBC Children's Services*, pp6.

⁹We note that some consultees felt otherwise but Ofcom concluded that the impact of the proposal was likely to be very small.

2. Application of the public value test

2.1. Introduction

- 2.1.1. In December 2014, the Executive submitted proposals to the Trust for a package of changes to the UK public services, comprising:
- (i) the closure of BBC Three as a broadcast channel and its reinvention as an online-only offer¹⁰
 - (ii) the evolution of BBC iPlayer from primarily a catch-up service to one that offers online-first BBC content and selected third-party content
 - (iii) the launch of a +1 channel for BBC One
 - (iv) extended hours for CBBC
 - (v) increased investment in drama on BBC One of around £30m, part funded by savings from the closure of BBC Three as a broadcast channel
- 2.1.2. The Executive planned to use the savings from the closure of BBC Three as a linear channel to fund the other changes. While the drama investment is not subject to Trust approval, it is linked to the package of proposals: the Executive has confirmed that financially, the investment depends on the closure of BBC Three as a broadcast channel. The investment was therefore reflected in the proposals and factored into our assessment.
- 2.1.3. The Trust decided that the proposals constituted a significant change¹¹ to the UK Public Services and that it was therefore required¹² to conduct a [public value test](#) before deciding whether or not to approve the change.
- 2.1.4. The PVT is a key component of the BBC's system of governance. The Framework Agreement provides that the BBC should be able to alter its UK public services, for example to respond to changes in technology, culture, market conditions and public expectations.
- 2.1.5. However, any proposals from the Executive for a significant change must be subject to full and proper scrutiny, by means of a PVT.¹³ This is a rigorous, evidence-based process featuring two consultation periods, used to assess both the public value and the market impact of the proposals. It comprises:
- (i) a public value assessment which assesses the public value expected to be created by the offering, and is undertaken by the Trust; and
 - (ii) a market impact assessment which assesses the effect of the proposals on providers of alternative products and services, and is undertaken by [Ofcom](#).

¹⁰ The original proposal envisaged the changes taking effect from autumn 2015. This has since been revised.

¹¹ In deciding on the question whether the proposed changes are significant, the Trust had regard to the four considerations set out in clause 25(2) of the Framework Agreement, which are impact, financial implications, novelty, and duration.

¹² See clause 25(1) of the Framework Agreement.

¹³ BBC Charter and Agreement with Her Majesty's Secretary of State for Culture, Media and Sport (2006) clause 23, p p.11.

- 2.1.6. In deciding whether or not to approve the proposals, the Trust has to judge whether any adverse market impact likely to be generated by the proposals is justified by their likely public value.¹⁴ The MIA and PVA are published, and the Trust must reach provisional conclusions, and consult on them. The Trust will take account of all representations received before making its final decision on the proposed change, which of course may differ from its provisional conclusions. In performing its functions in relation to a PVT, the Trust acts in accordance with the requirements of the Royal Charter and the Framework Agreement. It must also comply with all its other legal duties including the general duties in Article 23 of the Charter and the general law, and accordingly must be satisfied that its decision is consistent with those duties.

2.2. The public value assessment

Closure of BBC Three and its reinvention online

- 2.2.1. The Executive stated that the proposal for BBC Three was designed to respond to three particular challenges:
- (i) Falling income
 - (ii) Changing television landscape
 - (iii) Changing audience consumption
- 2.2.2. The Executive did not believe that it could maintain the quality of its core services through marginal cuts to existing budgets and proposed the closure of a television channel. But the proposal was also motivated by evidence of a shift in consumption. The observable pattern is one of reduced linear viewing and it is most pronounced among those aged 16-34 and in particular those aged under-25.
- 2.2.3. Nevertheless, closure would reduce BBC reach among this group (at least in the short term) and the PVA needed to determine whether the shift in consumption was sufficiently strong and sustained to justify the consequent short term impact on reach and assess the longer term (and more fundamental) risk that a particular demographic is lost altogether.
- 2.2.4. The PVA recognised that there was value in responding to the structural shift, but identified three barriers to the broader use of an online offer:

Awareness: a successful video-on-demand site depends not only on the content it carries but also on the level of awareness. In this sense, brand matters. The broadcast schedule still plays a central role in directing viewers to on-demand offers that would otherwise struggle to compete.

Acceptability: for many younger people, television remains important, located in an experience and mode of viewing that is effortless, familiar and social. While younger people are more likely than other age groups to use on-demand services what is lacking is an experience that reproduces these essential characteristics of the broadcast service.

¹⁴ Agreement, clause 26(6).

Accessibility: over 90% of 16-34 year-olds has a household broadband connection but variations in speed and performance persist. The problem has both a socioeconomic and a geographic dimension and it raises issues of universality.

- 2.2.5. Taking these factors into account, the PVA forecast a reduction in overall BBC television reach of 1.3-1.5%. For those aged 16-24 the reduction was greater at 3-3.5%. Furthermore, 80% of the uniquely reached BBC Three audience would simply be lost.¹⁵ Unique reach is proportionately higher among younger viewers, C2DE adults and BAME communities and it is important, given a more general challenge for the BBC to reach these groups. The proposal could therefore unevenly affect this segment of the audience.
- 2.2.6. The PVA concluded that the proposal offered low value for money because of the smaller audience but recognised that the closure would generate a net saving of c.£30m per annum to offset financial pressures or for reinvestment in other areas.
- 2.2.7. It considered that although fewer, more innovative titles would benefit the public. It also acknowledged that the BBC had a proven record in developing digital offers and high-quality production values that it could bring to an online environment. However, it identified concerns that the closure of the broadcast channel may result in less exposure for new shows and make it more difficult for the BBC to attract and nurture new talent. It also raised concerns about the provision of access services for those with auditory and sensory impairments.
- 2.2.8. The PVA concluded that the proposal delivered a low to medium level of public value, considering the following factors:
- (i) the BBC Three service licence encourages digital innovation
 - (ii) its performance as a broadcast channel is under pressure
 - (iii) its audience has a high level of internet access and is more likely than other age groups to use online video services

However it also recognised that:

- (i) not everyone has access to or can afford a reliable broadband connection that is fast enough to deliver on-demand video services
 - (ii) for many younger people, broadcast television remains important
 - (iii) the linear schedule therefore still drives online consumption; and
 - (iv) because of this the use base for the new service was likely to be low
- 2.2.9. It concluded that it may be possible to reduce the barriers to broader use and mitigate concerns about access, universality and exposure for new talent with a well-managed transition and continued access to BBC Three output on the linear schedule.

¹⁵ Those who do not watch any other BBC television service: unique reach is for television only, and does not include BBC radio or online services.

Launch of BBC One +1

- 2.2.10. The PVA recognised a need to deliver services in a flexible and convenient way but concluded that the proposal was at odds with a broader shift online and that BBC iPlayer was an important way to stimulate the transition.
- 2.2.11. It recognised that a +1 channel *could* provide a cost-effective catch up option but considered that those without access to BBC iPlayer were unlikely to benefit in practice. The new channel would not be available to everyone on DTT from launch and almost a quarter (24%) of all UK households would need to upgrade their television or set-top box in order to access the channel.¹⁶ However, of all the digital platforms, DTT is used by the highest proportion of DE households (34%) and those aged over 65 (29%) and internet access is lower than average for both of these groups. The PVA found that 33% of adults in the DE socio-economic group or 41% of those aged over 65 would need to upgrade their equipment in order to receive the service. But viewing of a +1 channel is proportionately lower among these groups. Given those aged over 65 are less likely to watch a +1 channel, even those with the means to upgrade, may lack the incentive to do so. Among DE households meanwhile, many of which are the most economically disadvantaged in the country, some may choose not to incur the expense.
- 2.2.12. The absence of opt-out programmes also weakened the value of the overall offer. Part of the remit of BBC One is to reflect the whole of the UK in its output and this forms one of the aims and objectives of the service. Audiences attach importance to national and regional output and it has a positive impact on the performance of BBC One. While the channel would make some contribution to share and reach, it would not satisfy the important criterion of distinctiveness, and the licence fee is specifically designed to liberate the BBC from the need to operate in a way that maximises share.
- 2.2.13. The PVA did however recognise that BBC One draws a large number of younger viewers and a +1 channel could therefore help to mitigate the short-term impact of closing BBC Three. However, the analysis found that a +1 channel would only minimally improve reach among young adults.
- 2.2.14. The PVA concluded that the proposal did carry some public value, given evidence of public support combined with (albeit small) potential gains in reach, the benefits of wider availability for BBC One content and minimal investment. However, these potential small gains were outweighed by the absence of national and regional opt-out programmes and low reach among key audience groups. Taking account of these factors, it concluded that the proposal offered a low to medium level of public value.

Evolution of BBC iPlayer

- 2.2.15. The PVA considered that there was value in developing BBC iPlayer beyond its original remit. The proposals contribute to the digital purpose and may bring broader benefits in terms of their ability to stimulate creativity. Further, by enhancing a service that provides access to the full range of BBC content, the changes will help to safeguard the delivery of *all* of the purposes in an online world.

¹⁶ This is because the channel would have to be carried on the PSB-3 multiplex, which uses a different transmission system to enable it to carry HD services.

- 2.2.16. The PVA found that the proposal would have a positive if modest impact on users of the service. Younger viewers are proportionally more likely to use catch-up and a well-curated selection of early releases may help to improve BBC reach among this group. Online premieres are a novel way of building an audience and the proposal is a practical, cost-effective way to generate interest with deeper engagement and more flexible access.
- 2.2.17. But while a new approach to scheduling can be instrumental in drawing new audiences to BBC content, the linear schedule drives online consumption and, without strong promotion, new titles may struggle to attract viewers. The PVA recognised that this area is new and for the BBC mostly untested, but the findings did indicate an interest in the proposition among a younger cohort and the potential for online debuts to complement linear viewing with greater choice and more control. Behavioural changes may also help: while catch-up remains the core function of BBC iPlayer and most people use it to find specific titles, it is used by a small number to browse programmes and discover new titles.
- 2.2.18. The PVA also considered other wider benefits. The directional trend for viewing is online and BBC iPlayer makes an important contribution to the delivery of the public purposes. In a crowded, competitive space, however, it is not enough to offer high-quality programmes. Audiences must be able to *find* content and be motivated to *watch* it. The ability of BBC iPlayer to curate content and guide people to titles they may value but would not otherwise find is instrumental in enabling the BBC to deliver its public service remit in an online environment. But in order to *guide* audiences to content, BBC iPlayer must first *attract* them. It must retain its relevance and its appeal. It must continue to evolve, taking full advantage of the internet to innovate and improve. The proposals aim to do exactly that and the PVA considered that they would help the BBC to deliver its mission in a challenging environment.
- 2.2.19. The impact of third-party content was somewhat more difficult to quantify and the PVA considered that it is likely to be of niche rather than mass-market interest.
- 2.2.20. The PVA did note concerns that those without broadband access would be penalised and foresaw a related risk that the widespread use of online premieres could undermine the concept of universality. Given the small scale of the proposals, it concluded that the second risk was minimal. It concluded that the changes would result in a stronger and more relevant offer delivered on more flexible terms at minimal cost. The overall assessment was one of medium public value.

Extended hours for CBBC

- 2.2.21. CBBC makes an important contribution to the public purposes with a range of distinctive UK programmes and a good balance between education and entertainment but performance is under pressure. The Executive wants to use the capacity made available by the closure of BBC Three to extend the broadcast hours for CBBC by two hours, from 7pm to 9pm and run repeats of programmes shown earlier in the day.
- 2.2.22. The PVA concluded that there was value in expanding choice for younger viewers but recognised that this was limited by a lack of new programme investment. It found a range of views and little consensus on the proposals. Consultation respondents were, on the whole, opposed to extended hours. Many objections were grounded in a

general concern about the effect on established routines but others saw value in offering programmes shown earlier in the day to school-aged children, who would not otherwise see them on television.

- 2.2.23. The overall conclusion therefore was one of medium public value. While the gains in reach are modest, the PVA considered that the impact of the two additional hours was likely to be positive. While limited to some degree by the lack of new content investment, the proposal nevertheless may help to sustain viewing, by offering children greater choice at a time when they are more likely to be watching. Extended hours may also help to support the transition of younger viewers to CBBC¹⁷ and will maximise the availability of content at minimal cost.
- 2.2.24. The PVA did however identify concerns about the impact of an extension on the watershed and asked the Executive to consider this area further in the event of an approval.

2.3. The market impact assessment

- 2.3.1. The MIA conducted by Ofcom assessed the effect of the proposals in the market on consumers and on other service providers (i.e. in terms of price and choice, competition and market development). It identified providers of the following products and services as the most relevant:
- (i) commercial broadcasting channels
 - (ii) video on demand and subscription video on demand services
 - (iii) pay television retailers
 - (iv) independent production companies
- 2.3.2. The MIA considered both **static impacts** (i.e. direct effects on those affected without considering how others in the market may respond) and **dynamic impacts** (i.e. effects resulting from changes in behaviour by others in the market). It also considered **wider impacts** (i.e. impacts higher up the value chain, such as in the market for content rights) but noted that such impacts were subject to uncertainty (i.e. because rights negotiations were on-going).

Changes to BBC Three and BBC iPlayer

- 2.3.3. The MIA concluded that the proposed changes to BBC Three were likely to have a positive market impact for rival television channels. It considered that the changes to BBC iPlayer would not have a noticeable market impact because of their limited scale.
- 2.3.4. The MIA noted that although BBC iPlayer was increasingly used to browse for content, typically consumers saw it primarily as a place to seek specific titles. Ofcom considered that this would limit the impact of the proposals for BBC iPlayer. However, if the shift in consumer behaviour towards browsing accelerates (and Ofcom noted that this could happen if the launch of BBC Three online changed the perception of BBC iPlayer) then there could be a greater impact on commercial channels and on-demand providers.

¹⁷ By offering programmes for younger viewers when Cbeebies closes.

- 2.3.5. MIA research indicated that BBC Three was perceived primarily as a 'flicking channel' where viewers stumbled across content. Given plans to transfer some BBC Three programmes to other BBC channels, the recently announced loss of popular shows (*Family Guy* and *American Dad*), and the availability of alternative 'flicking channels' (such as E4 or Dave), Ofcom considered that the BBC Three audiences may be less likely to follow BBC Three content online (or to BBC iPlayer).
- 2.3.6. As to the inclusion of selected third-party commissioned content on BBC iPlayer, Ofcom concluded that the criteria proposed by the Executive for selecting third-party partners were imprecise and subject to interpretation. Without a clearer proposal (and more precision around the criteria for selecting third-party partners), Ofcom identified a risk of discrimination which could result in content from potential partners being unfairly excluded from BBC iPlayer.

Launch of BBC One +1 and investment in drama

- 2.3.7. In the view of Ofcom, the introduction of a BBC One+1 channel, combined with increased investment in BBC One drama was likely to increase BBC audience share. Further, the MIA considered that the launch of BBC One+1 would create the greatest adverse market impact on commercial channels of all the proposed changes and was likely to reduce their profitability due either to a fall in audience share leading to an expected fall in advertising revenues or, more dynamically, to an increase in costs as a result of those channels choosing to invest in content designed to recapture lost audiences.¹⁸
- 2.3.8. Ofcom concluded that the impact was unlikely to be spread evenly over different channels. ITV, for example, was likely to be more affected because of the greater direct competition between its main channel and BBC One.
- 2.3.9. The MIA noted that the proposed investment in BBC One drama may lead to a complex mix of effects. The analysis found that it would heighten the impact of the proposed introduction of BBC One+1. Ofcom also noted historical data that in its view indicated that overall spending by BBC One and by ITV tend to track each other. An uplift in total BBC One spend on first run programmes may therefore cause ITV to follow suit, in order to maintain its advertising revenue, but not necessarily by increasing its spending on drama.

Extended hours for CBBC

- 2.3.10. Ofcom considered that the market impact of extended hours was likely to be very small.

Overall package

- 2.3.11. Ofcom concluded that the proposals (notably BBC One+1) would result in a net negative impact on commercial broadcasters, particularly commercial PSBs, and that this may have implications for investment in content. It made a series of recommendations:
- (i) commissioning of on-demand content production

¹⁸ Ofcom estimate that the impact of launching BBC One+1 could equate to about 0.3% to 0.6% of net advertising revenue.

- (ii) syndication of BBC on-demand content
- (iii) inclusion of third-party content on BBC iPlayer; and
- (iv) cross-promotion between BBC broadcast channels and on-demand content

On-demand content production: the existing BBC framework for commissioning content from independent production companies excludes on-demand only content. The shift of commissioning budgets from broadcast to on-demand could therefore lead to the loss of regulatory protection for independent production companies, which could result in less content being commissioned from the independent production sector and/or less favourable terms for independent production companies.

In addition, the current proposals for online commissioning fall outside the existing commercial arrangements for repeat showings. The proposals to reinvent BBC Three online could therefore result in content receiving increased online exposure, effectively increasing the number of repeat showings relative to broadcast, with a corresponding reduction in the value of secondary content rights.

The MIA noted that the terms of trade were established through commercial negotiation and new arrangements were still under negotiation. The MIA considered that these were important commercial negotiations and recommend that the Trust monitored progress carefully before considering whether further action was necessary.

BBC on-demand content syndication: the [distribution framework](#) advocates the use of standard BBC iPlayer products rather than the development of bespoke solutions for each platform. The MIA noted that in practice these standard products acted as a gateway to BBC content. While Ofcom considered that this approach may be more cost effective for the BBC, in some cases it could mean that BBC content was not fully integrated with other platforms, thereby making it more difficult for users to discover BBC content and navigate between this and other content.

Given the scope of the changes to BBC iPlayer, Ofcom considered that these risks were likely to be relatively limited. However, it considered that the terms on which platforms can access and integrate BBC on-demand content were likely to grow in importance. It noted that the Trust has recently opened a consultation on the distribution framework and drew attention to the importance of the review in ensuring that commercial platforms were not unfairly disadvantaged by the way in which the BBC made its content available.

Third-party content on BBC iPlayer: the MIA concluded that the proposals for third-party content on BBC iPlayer need to be developed further, particularly with regard to the criteria for selecting third-party partners, to ensure that these were clear, objective and did not result in prospective partners being unfairly excluded.

Cross-promotion of BBC services: the MIA assumed that cross-promotion between BBC broadcast and BBC iPlayer services fulfilled a similar role as at present. However, it stated that the Trust should note that extensive cross-promotion by the BBC may increase these impacts and encouraged the Trust to consider the role of cross-promotion as part of its assessment.

- 2.3.12. The MIA considered that the above recommendations would help the Trust to secure a balance between enabling the BBC to introduce enhanced and new services for the

benefit of licence fee payers while reducing the risk of adverse consequences for the development of commercial services. Ofcom did not recommend specific modifications to the proposals beyond the BBC clarifying its specific proposals for third-party content on BBC iPlayer. However if in the future the BBC wished to extend the scope of the BBC iPlayer proposals materially, Ofcom recommended that the Trust should consider the need to conduct a further PVT.

3. Summary of the provisional conclusions

3.1. Introduction

- 3.1.1. In reaching its provisional conclusions, the Trust was mindful that the BBC exists to serve the public interest and its main object is the promotion of the public purposes and that being funded by the licence fee it has a universal obligation to serve all audiences, including in particular hard-to-reach groups.
- 3.1.2. The Trust considered the PVA and MIA in full, and the conclusions and underlying matters addressed in both, and specifically applied the requirements of Clause 26(6) in the Framework Agreement, by considering whether the likely adverse impact on the market is justified by the likely public value of the change. The Trust concluded, provisionally, that all of the proposals satisfied the public value test, except for the proposal relating to BBC One +1, which the Trust provisionally decided it would not approve.

3.2. Closure of BBC Three and its reinvention online

- 3.2.1. The Trust provisionally approved the changes to BBC Three. It concluded that the proposal had intuitive force given clear evidence of a structural shift in consumption but it recognised that not everyone had an adequate broadband connection and that television remained important. It also considered the financial case, as the proposal had a financial context and was partly underpinned by a need to deliver savings.
- 3.2.2. The Trust recognised that the closure of BBC Three and its relaunch online would generate savings of c.£30m per annum.¹⁹ Its overall view was that the public value case was finely balanced but that the proposal was likely to deliver positive public value and that the market impact was likely overall to be positive and, therefore, the public value test was passed.
- 3.2.3. However, the Trust identified key risks relating to the loss of a hard-to-reach audience and the detrimental effect that the online channel may have on the ability of the BBC to nurture new talent. It noted the conclusions in the PVA that these risks could be ameliorated by addressing the barriers to success that had been identified and therefore proposed to attach the following conditions to its approval:
- (i) **A gradual and well-managed transition:** this would allow the BBC to build awareness of the move and the Trust would expect it to entail running the broadcast service and the new online offer in parallel for a period of time.
 - (ii) **Programmes for the BBC Three audience on broadcast television:** this would entail the use of broadcast slots for BBC Three long-form programmes on BBC One and/or BBC Two on a continuing basis and a clear commitment to programming that would particularly appeal to those aged 16-34 in the schedules of the remaining broadcast channels to help retain reach among this

¹⁹ After the costs of the online launch had been taken into account.

group and ensure those without adequate broadband access are catered for to the greatest extent possible within existing budgets.

- (iii) **A commitment to creative risk-taking space on television** where new talent and ideas can be tested and developed.
- 3.2.4. The Trust proposed to give effect to these conditions through amendments to services licences, which it consulted on in draft alongside the Provisional Conclusions.
- 3.2.5. The Trust also issued the following additional guidance for the Executive:
- (i) **Investment in drama:** if the Executive choose to invest some of the £30m savings in drama, to focus on output that would particularly appeal to a younger audience.
 - (ii) **Watershed protection:** to addresses concerns about the loss of 'watershed' protection and the risk that younger viewers may have access to unsuitable content.
 - (iii) **Attribution on third-party sites:** to give further information on how the Executive intends to tackle weak attribution to the BBC of its content on third-party platforms.
 - (iv) **Use of broadcast capacity:** to provide further information on how the capacity could be used to secure public value.
- 3.2.6. As part of its provisional conclusions, the Trust proposed a review within 12 months of its final decision to assess whether the Executive was succeeding in its appeal to younger audiences, with particular regard to the overall reach among young adults and to audience numbers for the new online service.
- 3.2.7. The Trust also wished to satisfy itself of the likely effectiveness of the proposed conditions and guidance and therefore requested further information from the Executive to address the financial, operational and audience impacts of the proposed conditions. The further information provided by the Executive was published with the provisional conclusions as part of the second round of consultation.

3.3. Launch of BBC One +1

- 3.3.1. The Trust concluded that the likely public value did not outweigh the potential negative impact on the market. Its provisional conclusion was therefore not to approve the proposal. Ofcom has concluded that the launch of BBC One +1 would have the greatest adverse market impact of any of the proposals, capturing viewing share for the BBC at the expense of commercial channels and reducing the profitability, in particular, of ITV and Channel 5.
- 3.3.2. The proposal would have limited public value given the need for 24% of UK television households would need to upgrade their equipment in order to receive it; the inability to offer 'opt-out' programmes for the nations and regions; the lack of distinctiveness; and the limited impact on reach among 16 to 34-year-olds, which means it would be unlikely to mitigate the impact of changes to BBC Three.

3.4. Evolution of BBC iPlayer

- 3.4.1. The Trust provisionally concluded that the proposal would result in a stronger offer on more flexible terms, delivered at minimal cost.
- 3.4.2. Audiences will benefit from the development of BBC iPlayer beyond its original remit to include more online-first and third-party content, delivered at minimal cost. The Trust was also satisfied with Ofcom's conclusion that the proposed changes are too limited in scale to have a notable market impact. Overall, it therefore approved the changes on the basis that the public value would be likely to outweigh any negative market impact.
- 3.4.3. Ofcom identified the possibility that any future acceleration in consumers' use of BBC iPlayer for browsing and discovering content (for example through the new online BBC Three service) rather than using it for catch-up viewing, could have a greater impact on commercial channels and on-demand providers. While this fell outside the Trust's assessment of its provisional conclusions, the Trust noted it as a point that it would need to consider in future, particularly if the BBC were to propose significant changes to iPlayer. In the meantime, the Trust noted that the amount of BBC Three content that would be available would be very limited compared to leading commercial on-demand services.
- 3.4.4. The Trust also agreed with Ofcom's recommendation that the BBC set clear, objective criteria in relation to any third-party content on BBC iPlayer, and therefore provisionally decided to make this a condition of their approval. The Trust also asked the Executive to clarify how it would moderate third-party content.

3.5. Extended hours for CBBC

- 3.5.1. The Trust provisionally approved the proposal. It concluded that the market impact was likely to be small and that the changes would allow the BBC to secure greater public value from existing content with minimal investment and may help to militate against a general decline in viewing.
- 3.5.2. The proposal would expand choice for younger viewers, could be implemented at minimal cost and represented a good use of the licence fee. This proposal is dependent (for spectrum) on BBC Three moving online and the Trust's provisional approval was therefore also dependent on the final decision about BBC Three.

3.6. Second consultation

- 3.6.1. The Trust published its provisional conclusions in June and requested further information from the Executive to address the impact of proposed conditions that were attached to the closure of BBC Three. The information submitted by the Executive was published on 12 August, alongside draft service licence amendments, and is summarised in the section that follows.²⁰ This constituted the start of the public

²⁰ Each element of the package required changes to the relevant service licences and we proposed to give effect to these conditions through amendments to service licences. The proposed wording of the amendments was published at the start of the second consultation on 12 August 2015.

consultation on the provisional conclusions, which ran for 50 days until 30 September.²¹

- 3.6.2. We note that the overall assessment process should normally be completed within a six-month period, but that this may be extended where justified by the circumstances. In light of the complexities of this PVT, given the number of proposals, the need to secure and publish further information from the Executive, and to extend the consultation period, we have decided that these circumstances justify an extended timetable for the PVT process.

²¹ The Trust normally consults on provisional conclusions for a period of 28 days, but decided to extend the period in this instance to reflect the fact that part of the consultation period fell over the summer.

4. Summary of the Executive's response

4.1. Introduction

4.1.1. The Executive welcomed the overall provisional conclusions, and agreed with much of the analysis but expressed disappointment about BBC One +1. A summary of its response is provided below; the full paper is published alongside this document.

4.2. Closure of BBC Three and its reinvention online

4.2.1. With regard to the BBC Three proposal, the Executive confirmed its view that moving BBC Three online would allow it to redefine public service broadcasting in the internet age by reacting to significant changes in technology and audience behaviour, and would allow it to innovate and build new forms of content and to expand the market for providers of youth focussed digital entertainment, information and education. As regards the conditions suggested by the Trust and its proposed amendments to the service licences, the Executive considered three options for parallel running of BBC Three's linear and online offering, namely:

- (i) run BBC Three in its current form in parallel with BBC Three Online until the end of FY 2015/16 (31 March 2016)
- (ii) run a lower cost version of BBC Three with fewer hours of first run originated content in parallel with BBC Three Online until the end of FY 2015/16
- (iii) have a phased transition based on closure of BBC Three as a broadcast channel in January 2016 and use the vacated distribution capacity for a promotional transitional channel until the end of February 2016²²

4.2.2. It considered that option (iii) was the optimal way to move audiences to the online offer without materially affecting the cost savings generated by the proposal or audience perceptions of BBC Three. It also outlined its plans to develop BBC Three online within the remit of the existing service licences and set out a budgeted marketing plan for launch.

4.2.3. The Executive also wanted sufficient flexibility in the BBC Three service licence to enable the new service to evolve in response to audience feedback. It reaffirmed its commitment to a younger audience and supported the use of slots on BBC One and BBC Two with transmission (generally) after 10.30pm.²³ However, it cautioned against the use of quotas, which it suggested would limit creative freedom and undermine the editorial remit of the channel.

4.2.4. The Executive recognised the need to maintain a creative risk-taking space for new talent and ideas, but considered that the new online BBC Three was an enhanced

²² The Executive's transition plans, published in August 2015 as part of its response, were based on the assumption that the Trust would publish its final conclusions in October 2015.

²³ The rights framework that the Executive has been discussing with rights holders for the BBC Three online service would allow for a transmission on BBC One or BBC Two currently anticipated to be after 10.30pm within an online and broadcast rights package.

commitment in this area due to the use of short-form and new form content, combined with the transmission of BBC Three long-form originations on BBC One and BBC Two.

- 4.2.5. The Executive asked the Trust to consider whether changes to the BBC Online Service Licence are required to ensure that there is clarity on how online-only content (in addition to that commissioned by BBC Three) is considered within the service licence framework.
- 4.2.6. The Executive provided further information on watershed protection, including the use of parental lock features and appropriate labelling. It also indicated that it is producing branding guidelines for commissioning new form and short-form content and on brand attribution.
- 4.2.7. The Executive explained that it had considered a number of channel service options for the broadcast capacity vacated by the closure of BBC Three, including using that capacity for other BBC services or releasing it to the market. The Executive indicated that there were some complexities with the latter option, due to the restrictive nature of the 9pm start time and the fact that multiplex 1 (where BBC Three SD is currently located) has restrictions about non-BBC use of the capacity due to it being a dedicated BBC multiplex. It therefore has not yet made a decision about the future use of the broadcast capacity on DTT or satellite.

4.3. Launch of BBC One +1

- 4.3.1. The Executive expressed disappointment at the provisional conclusions on BBC One +1 and suggested that Ofcom had overstated the impact on commercial broadcasters.²⁴ It argued that the launch of BBC One +1 would help to mitigate some of the short-term impact of the closure of BBC Three and pointed to strong support for a simple, cost-effective alternative to BBC iPlayer.

4.4. Evolution of BBC iPlayer

- 4.4.1. The Executive agreed with the provisional conclusion that there is public value in developing BBC iPlayer beyond its original remit. It outlined plans to offer online premieres, which it considered would help to bring audiences to programmes that they would not otherwise watch, as well as offer more choice and enhance the overall offer. The Executive also underlined its view that premiering would better serve a young and hard to reach audience.
- 4.4.2. As regards third party content, the Executive outlined its experience of partnering with cultural organisations and indicated that this aspect of the proposal would provide a wider range of content and foster growth in the creative industries. It recognised the need to establish clear, objective criteria for selecting that third party content and provided a draft set of criteria in its response.

4.5. Extended hours for CBBC

- 4.5.1. The Executive welcomed the provisional conclusions and noted that extended hours would provide younger viewers with a further opportunity to watch the channel.

²⁴ BBC Executive (2015) response to the BBC Three PVT provisional conclusions.

5. Summary of consultation responses

5.1. Introduction

5.1.1. The Trust consulted publicly on its provisional conclusions for 50 days, from 12 August until 30 September 2015. The consultation received:

- (i) 12 substantive responses from industry stakeholders²⁵
- (ii) three submissions from the Audience Councils (for England, Wales and Northern Ireland)
- (iii) c.13k letters from the SaveBBCThree campaign and a further 28,768 signatories to the petition, which brings the total to over 300k
- (iv) 5383 responses to the public consultation from members of the public²⁶

5.1.2. We have taken into consideration all of these responses in reaching our final decision. Responses from the audience councils, non-confidential submissions from stakeholders and a report from ICM on the public consultation responses are published alongside this document. An analysis of individual responses to each proposal is set out below.

5.2. Closure of BBC Three and its reinvention online

5.2.1. Consultation responses fell into eight broad categories. These are summarised below at table 1.

Table 1: *summary of responses to proposal for BBC Three*

PROPOSAL	MAIN POINTS
BBC Three	
Use of slots on BBC One and BBC Two	<ul style="list-style-type: none"> • Endorsement of a gradual transition • Support for the use of slots But • Concern that the BBC is preoccupied with share and will relegate BBC Three programmes to less visible and unpopular slots in the schedule • Concern that the requirement to use the slots is not permanent • Concern about the impact on nations opt-out programmes • Concerns that the transfer of shows to BBC One and BBC Two will result in a dramatic drop in viewing figures • Concern that programmes that transfer are reformatted for an older audience (based on a reformatted <i>Don't tell the Bride</i>)
Commitment to programmes with particular appeal to 16-34s	<ul style="list-style-type: none"> • Support for a greater commitment to a younger audience But • General concern the about the reduction in programmes for this audience, in particular factual output and the loss of <i>60 Second News</i>

²⁵ Including a letter from Avalon received on 9 September 2015, which we have classified as a submission although it forms part of a line of correspondence.

²⁶ Including responses to the online Delib consultation, emails and letters.

	<ul style="list-style-type: none"> • Concern that the service licence amendments are substantially weaker than the provisional conclusions • Calls for the Trust to define and monitor the requirement • Calls for programme quotas
Commitment to creative risk-taking	<ul style="list-style-type: none"> • Support for a commitment to creative risk taking • But • A general concern that the formulation in the draft service licence is inadequate, and unlikely to achieve a greater commitment to creative risk-taking on the remaining broadcast channels
Well-managed transition	<ul style="list-style-type: none"> • Support for a longer transition amid concerns about abrupt closure • But • Suggestion that the Executive prove the effectiveness of the new service before it is allowed to close the linear channel • Calls for the Trust to put in place measures to review the new service • A request that all cross promotional activity is platform neutral
Use of spectrum	<ul style="list-style-type: none"> • Calls for the BBC to explain how it will use vacated spectrum • Calls for a comprehensive independent review to ascertain the potential market value of this spectrum if it were to be commercialised
Financial case	<ul style="list-style-type: none"> • Concerns that the financial case is (still) weak and involves significant risk for a relatively small saving • Doubts that the £30m saving can be substantiated • Criticisms that the proposals are cost-neutral and involve significant spend in other areas • Calls for greater precision about how the saving can be used • Concerns that IP distribution is more expensive than DTT • Concerns that closure would either increase the cost of reaching the existing audience or reduce the size of the audience • Criticism that the proposal entails higher costs to market the new service when the Executive could reduce marketing to find a saving • Concerns that the proposal will result in less commercial income from the exploitation of BBC Three content
Accessibility	<ul style="list-style-type: none"> • Concerns about the impact on viewers with audio and sensory impairments who watch during the sign zone or use audio description • Call for the Executive to provide details and timeframes for matching the accessibility that is currently available on broadcast television • Call for the Trust to require that third party platforms that host BBC content either have or are working towards full accessibility • Concerns that the move will penalise the poorest households in Britain (around 18% of UK adults does not have household access to the internet), a large number of young people in rural

	and some urban areas are without an adequate connection while others may have usage caps ²⁷
Terms of Trade	<ul style="list-style-type: none"> Concerns that the move online will have an adverse impact on independent producers who may lose certain regulatory protections Calls for the final decision to be contingent on reaching agreement with PACT

Consideration of the main issues

- 5.2.2. The section that follows provides an overview of the substantive issues raised in the public consultation. The main issues are broadly consistent with those identified in the first consultation. There was continued opposition to the closure of BBC Three, with only a minority of respondents in favour of the proposal.
- 5.2.3. Both stakeholders and consultation respondents remained particularly concerned about universality, the potential impact on those without access to a reliable internet connection and the loss of reach among a younger audience. Respondents underlined earlier concerns that audiences generally prefer to watch programmes on television due partly to its communal aspect but also because they are more likely to discover new shows and British talent.
- 5.2.4. Some suggest that an online offer will not be equal in status to a broadcast channel and that the BBC will not cater for those aged 16-34. PACT argued that closure is a 'strategic error... which undermines the relationship between the BBC and a large proportion of its current and future audiences.' Many contend that the loss of the linear platform will result in less exposure for new shows and make it difficult for the BBC to attract talent, while others suggest that the transition to digital media has been overplayed and the move online is premature.
- 5.2.5. The main campaign body, SaveBBC3²⁸ argued that insufficient weight had been applied to viewers' opinions and that the provisional conclusions had little regard to a younger and more diverse audience. It remained 'unconvinced' by evidence of a shift in viewer behaviour and was critical that the move was 'gambling' with the future of BBC Three.
- 5.2.6. Several stakeholders and a proportion of the consultation respondents suggested that there would be a loss in viewers due to the move online and that this would particularly affect the young, C2DE and BAME audiences and those with disabilities. Others were concerned about the representation of minority groups:

To throw away BBC Three as a television channel is to throw away any sense of value of the young, female, disadvantaged, ethnic minority, good-humoured or simply the conscientious and bold - and this reflects horribly on the BBC as a whole.

(Female, 16-24)

²⁷ As set out in the PVA.

²⁸ The campaign group that submitted the 270,000+ signature petition in response to the Trust's first consultation.

- 5.2.7. There was some support from stakeholders for the provisional conclusions, although this was often tempered with concerns about access and reach. Audience Council for Northern Ireland understood the strategic rationale of the decision but underlined concerns about the impact on young adults and called for the prompt and full delivery of conditions to help to mitigate the risk.
- 5.2.8. ☒ agreed with various aspects of the provisional conclusions and noted that the PVA in particular was clear and analytically rigorous but expressed concerns about the efficacy of the proposed conditions for BBC Three.
- 5.2.9. The Children's Media Foundation concluded that the decision was 'reasonable under the special circumstances of the 16-24 year-old audience,' but argued that the savings should be invested in programmes for older children, rather than drama on BBC One.
- 5.2.10. The financial case attracted considerable attention. Avalon was critical about the level of disclosure by the Executive of the financial impact of its plans and a failure to explain how the savings have been calculated. It maintained that the Trust had failed to provide sufficient information for consultees to comment meaningfully on the proposals. Other stakeholders claimed that closure was a strategic error that would alienate the audience but deliver only limited savings.
- 5.2.11. But some individual respondents were critical about the quality of the broadcast offer and a few argued that BBC Three was simply not good enough to be kept open, as one noted:
- There is not enough quality content to fill the programming time on BBC Three*
- (Male, 35-44)
- 5.2.12. Other stakeholders argued that the Executive had not considered alternatives to closure and a number were doubtful of the savings and critical that they did not justify the potential loss in reach.
- 5.2.13. Most respondents favoured the *principle* of conditions and some believed they addressed earlier concerns. Audience Council for England supported the conditions noting that they:
- Take the audience perspective into account and accommodate [our] earlier concerns and observations effectively.*
- 5.2.14. However several (including ☒, Voice of the Listener and Viewer and SaveBBC3) argued that they were not sufficiently clear or specific and a few were critical that the Executive response lacked commitment.
- 5.2.15. The proposed use of slots on BBC One and Two attracted a mixed response. Some stakeholders argued that BBC Three output would be relegated to less visible slots in the schedule while others expressed concerns that programmes would be reformatted to attract a wider (and older) audience on the main channels.²⁹ While conditions provided some limited reassurance, they did not effect a change in public opinion.

²⁹ The relaunch of *Don't tell the Bride* was a point of confusion for some respondents who assumed that all BBC Three programmes would be reformatted to attract a wider audience on the main channels. We note that this is not the Executive's intention.

- 5.2.16. A few respondents raised regulatory issues. PACT suggested that the move would have an adverse impact on independent producers,³⁰ while Sky noted that BBC Three content should be available across all outlets and platforms.
- 5.2.17. The section that follows considers the main themes arising from the consultation in turn:
- (i) The financial case
 - (ii) Alternatives to closure
 - (iii) Accessibility
 - (iv) Proposed conditions
 - (v) Terms of trade
 - (vi) Lack of information

(a) The financial case

- 5.2.18. The Executive maintains that the move is motivated by financial necessity and earlier than it would ideally plan.³¹ A number of stakeholders however were highly critical of the financial case, arguing that it did not justify the loss of reach among a young and under-served audience.
- 5.2.19. Some stakeholders were critical of the rationale behind the proposal - SaveBBC3 suggested that savings come not from the closure of the linear channel but from halving its programme budget.³² Along with other respondents it called for savings to be made elsewhere and pointed to Executive pay and marketing expenditure.
- 5.2.20. The thrust of the argument articulated by Avalon (but shared by others) was that the Executive was asking the Trust to approve plans to deliver less content to fewer people at an increased cost on an untried platform that was not universally available, and to write off £1bn of public investment in a successful channel. Avalon queried the cost of establishing the new service and distributing its content. It questioned the commercial market for short-form content and was critical of the proposed marketing expenditure (we deal with these points in turn below).

Cost of establishing the online operation

- 5.2.21. Avalon queried whether the Executive had included in its calculations of expected savings the cost to establish the online operation and whether this would be amortised.

Distribution costs

- 5.2.22. Some stakeholders were concerned that linear broadcasting was more efficient than IP delivery and that the BBC would have to spend more to reach an online audience. Both SaveBBC3 and Avalon maintained that the cost per user and per hour would increase (from 8.1p to 23p) due to the drop in audience and change in delivery methods.

³⁰ PACT raised a particular concern about changes to the terms of digital content rights for the new online offer and called for new collective terms, which include a licence period for the online syndication of content which is commissioned for BBC Three.

³¹ BBC Executive (2015) Public Value Assessment of the Reinvention of BBC Three online and Related Proposals, pp.2.

³² This observation is somewhat beside the point, we feel. While essentially true – linear distribution costs, for example, will not be ‘saved’ but will be borne elsewhere in the BBC – the point is that the online version of BBC Three will be a different kind of service that is viable with a smaller content budget than the linear service requires.

- 5.2.23. One of the factors that the PVA considered was the cost of delivering content online. While distribution costs are (broadly) fixed for linear broadcast, they vary for IP, driven by consumption levels. According to the Executive, at launch, the majority of online video content will be available *on-demand* rather than *live*.³³ There will be a curated stream of video content available on a continuous loop.³⁴ The Executive has forecast an annual distribution cost of around £ by 2017-18 but this will vary depending on usage.

Commercial market for short-form content

- 5.2.24. Avalon suggested that there is no commercial market for short-form content and that the Trust should have regard to the consequent reduction in BBC Worldwide revenues from the exploitation of BBC Three content when assessing the £30m saving.
- 5.2.25. Short-form content will account for around 20% or £6m of the proposed overall content budget for BBC Three online. While it *may* have limited commercial potential, the Executive has not factored this into its analysis because – it maintains – the c.£30m investment in BBC One drama is likely to more than compensate for any loss in commercial revenues from BBC Three.³⁵ It points to research by Ofcom that the vast majority of value generated by secondary rights (e.g. through sales of DVDs and programme exports) appears to lie in drama output.³⁶ For this reason it does not anticipate a substantial overall reduction in secondary revenues as a result of the closure of BBC Three.

Proposed marketing expenditure

- 5.2.26. SaveBBC3 argued that a short transition would increase advertising and promotional costs while Avalon was critical of the level of marketing spend. It suggested that the marketing budget, and not BBC Three, should be subject to cuts.

Sunk investment in the linear channel

- 5.2.27. Some stakeholders argued that the provisional conclusion was irrational because the proposal did not represent value for money. Avalon claimed that c.£1bn of investment would be wasted and that the licence fee payer was entitled to a fair return. We have assumed that Avalon calculated this figure by combining the annual content cost of BBC Three since its inception in 2003, and treating the total as a 'brand investment'.

(b) Alternatives to closure

- 5.2.28. SaveBBC3 and Avalon were concerned that the Executive had not exhausted all alternatives to closure and that the Trust had not considered these in its assessment. SaveBBC3 listed a number of alternative options, including the merger of BBC Two and Four; the redistribution of funds from other channels; a reduction in the broadcasting hours of BBC Three; the sale of spare capacity; show-casing online content or

³³ Live streaming relies on multicast technology, which is more expensive, whereas catch up does not.

³⁴ The video elements of BBC Three online will be akin to an on-demand service (similar to BBC iPlayer) rather than a live streaming service.

³⁵ The Executive suggests that irrespective of whether it generates any commercial revenues from secondary exploitation of short-form content, the commercial revenues generated from its combined investment in long-form programmes across BBC Three online and extra drama on BBC One is expected to compensate for any reduction in commercial revenues previously generated by content commissioned for BBC Three as a linear channel.

³⁶ Ofcom (2014) Public Service Content in a Connected Society.

repackaging archive material on BBC Three; working with other organisations to run the channel; or reducing costs elsewhere.

- 5.2.29. Avalon put forward a proposal to acquire BBC Three for fair value, which it reiterated as part of this phase of consultation. The Executive had responded to the proposal during the first consultation in an [open letter](#) which explained that the proposal was not viable because:
- (i) it could not sell to Avalon the BBC Three brand name as it is a UK public service BBC-branded channel;
 - (ii) it could not sell the EPG slot, as it is reserved for public service channels;
 - (iii) it could not give Avalon access to the majority of its programme rights, which are either owned by independent production companies and distributors or are already licenced to other digital channels; and
 - (iv) it could not be cross promoted on any other BBC service.

(c) Accessibility

- 5.2.30. A number of stakeholders were concerned about the impact of the proposals on viewers with auditory and sensory impairments. SaveBBC3 suggested that the move would alienate those who watch during the sign zone or use audio description, while RNIB called on the Executive:

To confirm that it intends to comply with the same accessibility standards, codes and quotas for BBC Three online as it did for the linear service (including the Ofcom code).

- 5.2.31. RNIB expressed concern about the ability of third party platforms to meet the same accessibility standards as the BBC and suggested that the provision of BBC content should be subject to the platform providing, or demonstrably working towards, full accessibility and that this would be in line with the BBC's duties under section 149 of the Equalities Act 2010. A number of respondents pointed to uneven provision of subtitles and audio description on different platforms, while others were concerned about the lack of subtitles for short-form content.³⁷
- 5.2.32. SaveBBC3 went on to argue that the move would penalise the poorest households and those without an adequate broadband connection. It suggested that the equality analysis had given little consideration to these groups.
- 5.2.33. The Executive has confirmed that all long-form video would be subtitled along with a selection of short-form video content.³⁸ However, it would not be possible to offer subtitles for short-form news content (because it is produced, published, and updated on very short time scales). Audio description meanwhile would only be available for a selection of long-form video content after broadcast on BBC One or Two.

(d) Proposed conditions

- 5.2.34. The provisional conclusions identified key risks relating to these areas and proposed a number of conditions in mitigation:

³⁷ While most of the programmes on BBC iPlayer have subtitles, due to technical limitations, the availability of subtitles and audio described programmes varies between the different versions of BBC iPlayer.

³⁸ That is expected to attract a large audience.

Use of slots on BBC One and BBC Two

- 5.2.35. The use of slots would ensure continued access to BBC Three output on broadcast television. It was intended to help to retain reach among a younger audience and ensure those without adequate broadband access were catered for to the greatest extent possible.
- 5.2.36. Some respondents however questioned the likely effectiveness of this condition, arguing that the Executive was preoccupied with maximising share and that without effective protections, BBC Three programmes would be relegated to less visible (and much later) slots in the schedule. SaveBBC3 argued that the draft conditions did not provide effective safeguards for younger audiences and that the timeslots proposed by the Executive were too late and would be subject to change. ☒ meanwhile noted that the Executive:

Does not inspire any confidence that the BBC Three content that is shown on the mainstream channels will be shown in particularly visible slots and there is no guarantee that any will be shown on BBC One. In essence, the Executive is seeking as free a hand as possible to continue what it is doing, maximizing share of viewing at all costs and avoiding any obligation to alter its approach in the light of the end of BBC Three.

- 5.2.37. Some stakeholders suggested that performance suffers when shows transfer to BBC One and BBC Two. Individual respondents argued that late nights slots amounted to relegation. Reflecting a fairly common view, one suggested that programmes would be hard to find:

In previous iterations of content for a younger audience, BBC One and Two have typically only shown these programmes in late night slots, or inconsistent slots, meaning that many younger viewers may miss them and stop looking for that form of content altogether.

(Male, 25-34)

- 5.2.38. Some respondents feared that the use of slots would distort programme-making incentives and result in less creative risk-taking. Many pointed to *Don't tell the Bride*, which was reformatted following its transfer to BBC One, while others were concerned that the condition would simply result in fewer innovative productions. One respondent argued that BBC Three shows will be 'side-lined for ratings winners' while another cautioned that programmes 'lose their appeal' when they are repurposed.
- 5.2.39. Other stakeholders were concerned that the Executive had not committed to the use of slots on a permanent basis, while Audience Council Wales cautioned that slots would coincide with national opt-out programmes.

A commitment to creative risk taking on television

- 5.2.40. During the first consultation, stakeholders argued that the closure of the broadcast channel would result in less exposure for new shows and make it difficult for the BBC to attract and nurture talent. A commitment to creative risk-taking on television where new talent and ideas could be tested and developed was therefore a key condition of the provisional conclusions, designed to mitigate this risk.

- 5.2.41. While many consultation respondents welcomed the commitment some expressed concerns that the proposed service licence formulation was inadequate:

BBC One and BBC Two should also deliver their remit by taking creative risks and experimenting with new talent and new ideas.

- 5.2.42. BBC Three is valued for its distinctive output and a major theme to emerge from the consultation was that closure would leave a gap in provision. Reflecting a widely held view, one respondent noted:

BBC Three is the only channel committed to showing programmes aimed at the younger generations, and is also much more creative and experimental with the type of programmes broadcast.

(Female, 16-24)

- 5.2.43. ☒ meanwhile found it implausible that creative risk taking was intrinsic to BBC One and argued this was problematic given the channel had 'a budget approaching half the entire licence fee'. It denounced the Executive's response as generic and meaningless and (given repeated concerns about distinctiveness expressed by the Trust) called for specific conditions that were demanding, clear and measurable.

Commitment to programmes with a particular appeal to those aged 16-34

- 5.2.44. The Trust required a clear commitment to programmes with a particular appeal to those aged 16-34 in the schedules of the remaining broadcast channels. The service licences for BBC One and BBC Two were amended to reflect the new commitment and published as part of the second consultation:

While BBC One and BBC Two aim most programmes at audiences of all ages, they should devote some of their schedule to programmes with particular appeal to younger audiences, including (for reasons of accessibility) broadcasting all long-form originated programmes from BBC Three. BBC One and BBC Two should also deliver their remit by taking creative risks and experimenting with new talent and new ideas.

- 5.2.45. Many stakeholders and respondents to the public consultation welcomed a commitment to younger audiences. Audience Council England considered that the proposed conditions for BBC Three:

Took both the audience concerns and future expectations of the service for younger audiences appropriately into consideration.

- 5.2.46. However, stakeholders several were concerned that the proposed conditions were insubstantial, unclear or un-measurable. Others argued that the service licence amendments were substantially weaker than the provisional conclusions. ☒ suggested that the Executive had 'dug its heels in against any sort of clear commitment' and wanted to preserve its share of viewing rather than properly serve a young audience. It argued that the current licence formulation was inadequate and inconsistent with the provisional conclusions:

Unless the Trust carefully defines and then monitors the concept of 'devoting some of their schedule' then we would not expect much to happen as a result of

the inclusion of this condition. In addition, of course, in order to be effective, there would also need to be more detail around which part of the schedule the Trust would expect to see the content in, what 'particular appeal' means etc.

- 5.2.47. Stakeholders were concerned about the loss of investment and doubtful that the remaining services would match the current output on BBC Three. This traced to a more general concern about the reduction in programmes for younger viewers (most notable in factual output, such as the potential loss of *60 Second News*). We note that while BBC Three online will operate on a much smaller content budget (of £30m in 2017/18),³⁹ the Executive wants to refocus this on a smaller number of high-quality programmes, particularly within serious factual and plans to double the budget for this genre. The online service will also offer daily online news bulletins aimed at younger audiences (in collaboration with Newsbeat).
- 5.2.48. Many stakeholders called for the introduction of programme quotas while others wanted the c. £30m savings to be invested in programmes for young adults. SaveBBC3 argued:

If Lord Hall truly wants to spend the budget on programming that leaves a legacy he would invest in long-form content for BBC Three – rather than focusing on short-form content – which has an impact around the world, is award winning, and in the case of drama and documentaries receives great praise. The government's green paper has called for the BBC to be distinctive in its offering – which is exactly what BBC Three does. Increasing budgets for BBC One drama in the name of ratings is what the green paper advises against, especially as the BBC admits it is being done to compete with pay services.

- 5.2.49. The Executive is resistant to quotas and reluctant to ring-fence funds on the basis that a specific commitment would undermine the remit and editorial approach of BBC One and BBC Two. It argues that it needs to retain creative freedom, and points to the popularity of shows such as *EastEnders* and *The Great British Bake Off* with younger viewers.⁴⁰

Well-managed transition

- 5.2.50. The provisional conclusions required a gradual and well-managed transition to build awareness of the move. The Trust recognised that this may entail a period of parallel running and requested further detail from the Executive on the operational and financial implications. In its response, the Executive considered the following options:⁴¹
- (i) Running BBC Three in its current form in parallel with BBC Three online until the end of 2015/16
 - (ii) Running a lower cost version of BBC Three with fewer hours of first run originated content in parallel with BBC Three Online until the end of 2015/16
 - (iii) Having a broad based phased transition based on closure of BBC Three as a broadcast channel in January 2016 and using the vacated distribution capacity

³⁹ The proposed service will offer one to two hours of new long-form programmes on average a week (based on budget for long-form programmes of c.£24m). This compares with the current BBC Three linear service, which has on average around four hours a week of long-form new commissions.

⁴⁰ BBC Executive (2015) response to the BBC Three PVT provisional conclusions, pp.10.

⁴¹ BBC Executive (2015) response to the BBC Three PVT provisional conclusions, pp.5.

for a promotional transitional channel to run alongside BBC Three Online until the end of February 2016.

5.2.51. It concluded that option III was the optimal way to move audiences to the new online offer and, given the current financial climate, planned a phased migration which entailed:

- (i) A gradual increase in BBC Three online activity starting in summer 2015⁴²
- (ii) More BBC Three programmes on BBC One and Two in autumn 2015
- (iii) Increased marketing and greater use of social media
- (iv) A transitional channel to run from January until the end of February 2016⁴³

5.2.52. A number of stakeholders however remained concerned about abrupt closure and argued that the Executive proposals did not go far enough. Some called for a longer period of parallel running or for fewer broadcasting hours and one suggested the use of archive content to fill the schedule given that budgets were under pressure. SaveBBC3 argued that many young people were unaware of the move⁴⁴ and that any attempt to hasten the transition would penalise the poorest households and those in rural and some urban areas without an adequate broadband connection.

5.2.53. The Executive argued that a longer transition would increase the reliance on repeats and acquisitions which might damage the brand, hasten the decline in audience share and potentially reduce the number of viewers who transition to the new online offer.

5.2.54. The Executive prepared high-level cost estimates for each of the three options, which were included in its response to the provisional conclusions (table 2). A period of parallel running will attract additional content costs (row one). However, a significant proportion of those costs will be met by the content budget for the new online offer (row two). Therefore the *net* additional cost varies between c£4m for option I to ∞ for option III (row three).

Table 2: *approximate content cost impact for each of the options*⁴⁵

£m	Option I	Option II	Option III
Linear channel content cost for parallel run	∞ (less than £15m)	c. ∞	c. ∞
Long-form content commissioned for BBC Three online to be used on linear parallel run	∞ (less than £11m)	c. ∞	zero
Additional cost	c.4.0	c. ∞ (c. 25% of the cost of option 1)	c. ∞ (c. 5% of the cost of option 1)

5.2.55. The Executive has subsequently suggested that its ability to commission new titles for broadcast in early 2016 at short notice is limited and it may therefore be more reliant

⁴² The Executive now plans to postpone further 'business as usual' development of the BBC Three website (which formed the first phase of transitioning audiences online) until after the final conclusions to avoid any audience confusion.

⁴³ Subject to compliance with relevant television platform policies.

⁴⁴ We accept the point but note that the first consultation on the proposed changes was widely publicised with on-air trails on BBC services. It received 23,849 responses from members of the public and a 272,000 signature petition from the SaveBBC3 campaign.

⁴⁵ The Executive has confirmed that the costs shown in the table are in addition to the costs previously provided to the Trust covering e.g. rights for BBC Three on BBC One and BBC Two, one off costs and IP distribution costs. The table focuses on BBC Three content costs and excludes allocated costs (e.g. copyright), which are shared across BBC services.

on repeats and acquisitions than it originally anticipated under option 1.⁴⁶ The extra content costs in such a situation would be slightly lower at c. ₤ rather than the £4m forecast above.

- 5.2.56. The additional costs exclude marketing expenditure and some stakeholders suggested that a longer transition would incur lower costs in this area. SaveBBC3 argued that a shorter transition:

Will cost the BBC an extortionate sum in advertising as it tries to communicate the message over social media to attract the widest possible audience. Had it been done over a longer period of time, more viewers would be aware of the changes, and might have been won over without requiring the bigger spend. Having existing television services, which serve young audiences well already would be a good catalyst to transporting the BBC Three audience online.

- 5.2.57. The Executive did not undertake detailed analysis but suggests that the overall level of marketing expenditure would be the same for each option. It argues that a synchronised approach is the most effective way to transition viewers to the new service and options for parallel running dilute this significantly. The Trust requested further clarification of the proposed marketing expenditure and the Executive subsequently confirmed that it remains broadly the same under each option.⁴⁷

Use of vacated broadcast capacity

- 5.2.58. The use of vacated broadcast capacity attracted considerable attention but the utility of the slots is likely to be limited by the 9pm start time and by restrictions on alternative non-BBC use. The Executive has no firm plans on the potential future use of the vacated capacity and wants to wait until the Trust has reached its final decision before appraising the costs and benefits of different options. However, some stakeholders expressed a desire to acquire the vacated capacity or called for a comprehensive independent review of the spectrum that would be released and its potential market value (including the costs of using the vacant capacity for BBC services, versus the cost savings from closing the channel).

(e) Terms of trade

- 5.2.59. PACT raised a particular concern about changes to the terms of digital content rights for the new online offer:

One of the primary issues which would need to be agreed would be changes to the terms of digital content rights, which at present are assigned in perpetuity for digital content. As this goes against the requirements of the terms of trade, the BBC will need to agree new collective terms which include a licence period for the online syndication of content which is commissioned for BBC Three.

- 5.2.60. PACT also opposed the use of slots on BBC One or BBC Two arguing that the BBC should not be able to use BBC Three to fund content primarily aimed at late-night audiences on BBC One and BBC Two:

⁴⁶ Because of the time it takes for new programmes to be made e.g. three to four months for factual content.

⁴⁷ Total 2015-16 BBC Three marketing expenditure will be around ₤, of which approximately ₤ will be launch costs.

This method of 'back door commissioning', where content budgets would be stretched and therefore presumably equate to lower licence fees – could be used as a means of cutting costs by the BBC, but this would not best serve the interests of viewers, nor of the BBC's suppliers.

- 5.2.61. PACT suggested that if the BBC wishes to transmit content originally commissioned for BBC Three on BBC One or BBC Two, then it must negotiate additional rights packages with producers in order to do so.

(f) Lack of information

- 5.2.62. A number of respondents raised procedural and timetable points in their submissions. Some were critical about the level of disclosure and the timing of the consultation. Avalon and SaveBBC3 argued that the Executive had not been sufficiently transparent about the financial impact of its proposals and how the saving had been calculated, while others objected to the fact that some figures had been redacted from the published document.

5.3. Launch of BBC One +1

- 5.3.1. There was strong support from industry and audience councils for the provisional conclusions to reject the proposal along with a modest shift in public opinion. This was underpinned by a general view that +1 was not the best use of the licence fee, particularly given the lack of opt-outs, the fact that it would not be universally available at launch, the widespread availability of other catch-up services⁴⁸ and the potential market impact.
- 5.3.2. ✂ noted that the service would take audience share from commercial broadcasters and inhibit their ability to invest in new content. It pointed to dynamic factors and the impact of a +1 channel on the scheduling decisions of the smaller PSBs:

Currently, the scheduling of news programmes at 10pm by the two most popular channels, BBC One and ITV, provides a scheduling window for the smaller PSB channels, such as Channel 5 and Channel 4, to satisfy demand for high quality entertainment content. A BBC One +1 service could diminish the value of such scheduling options and lead to a less fertile PSB ecology.

- 5.3.3. Stakeholders raised some additional concerns over the financial viability of the proposal and whether it should be a priority in circumstances where the BBC has to make savings. Audience Council Wales underlined its support for the provisional conclusions and agreed that there was inadequate evidence of public value. As noted in its previous submission, it was 'implacably opposed' to any service that did not include the nations variants within it.
- 5.3.4. While individual respondents were divided, many ultimately agreed with the provisional conclusions. For some, the service was redundant given alternative methods of catch-up, such as BBC iPlayer, Sky+ and TiVo. Others were critical of the lack of universality on DTT from launch. Nevertheless, there was moderate support for BBC One +1 and this was anchored in flexibility and a preference for watching on a television set.

⁴⁸ Notwithstanding concerns about broadband access.

5.4. Evolution of BBC iPlayer

5.4.1. Consultation responses fell into two broad categories, summarised at table 3 and discussed in full below.

Table 3: *summary of responses to proposal for BBC iPlayer*

PROPOSAL	MAIN POINTS
BBC iPlayer	
Selection criteria for third party content	<ul style="list-style-type: none"> Concerns about how the BBC will curate and monitor third party content Calls for the definition of 'suitable third parties' to be appropriately included in the scope of the licence Calls for clear detail on the objective criteria and a clear process for complaints Calls for the Executive to engage with industry on the formulation of the criteria Suggestion that Ofcom opine on proposed criteria in due course Calls for the criteria to be clear, objective, and subject to regular, independent review Calls for the Executive to publish for consultation and Trust approval, the 'objective criteria' by which the BBC will select third party institutions and their content Concerns that if not carefully circumscribed, the BBC could be free to host all kinds of third party content and become an aggregator
Online only content	<ul style="list-style-type: none"> Calls for greater precision in the service licence about how much 'online only' content is permitted and concern about the volume of content that is currently made available Calls for the Trust to revisit the framework within which BBC iPlayer operates and develops

5.4.2. While many stakeholders supported the provisional conclusions a similar number were indifferent to the proposals.

5.4.3. The FRND criteria for the selection of partners was a key issue for many stakeholders. While the Executive published proposed criteria in its response,⁴⁹ only one or two stakeholders address these and most appear unaware of them. Some called for engagement with industry on their formulation while others suggested that Ofcom should be involved. Sky expressed concerns about incremental changes to BBC iPlayer and their impact on the wider market. It urged the Trust to require the Executive to publish and consult upon the proposed criteria.

5.4.4. Development permitted under the terms of the BBC online service licence that did not form part of the PVT was a particular concern of RadioCentre which pointed to the volume of non-broadcast content on BBC iPlayer and asked the Trust to revisit the framework within which it operates. ☒ meanwhile was concerned about a lack of clarity in the service licence for BBC online as regards the purpose and scope of '*some non-broadcast content and selected content from third parties*':

⁴⁹ As at page 16.

Clearly, if not carefully circumscribed, that freedom could enable the BBC to host all kinds of third party content and become an aggregator of content.

- 5.4.5. ✂ suggested that the service licence should include at paragraph two a footnote to specify that only content of not-for-profit and cultural and arts organisations was envisaged.
- 5.4.6. Two stakeholders questioned what regulatory regime would apply to third party content, for instance whether the BBC's editorial guidelines would apply to third party content and how complaints would be assessed.
- 5.4.7. VLV welcomed the proposal but noted that the BBC should not 'focus its primary efforts online' given the platform was not universally available:

It needs to be constantly stressed that only just over 80% of the population have access to broadband ...the BBC should produce content which is universally available, in accordance with the Charter and Agreement. This is the basis upon which licence fee payers support the BBC.

- 5.4.8. Individual respondents tended to be more ambivalent. While many favoured further improvements, others were confused about the inclusion of third party content and what this would mean in practice and some were concerned that online premieres would not be broadcast on television. While many supported the provisional conclusions, there were concerns about universality and a perception that online premieres were discriminatory. Others argued that third-party content should adhere to BBC guidelines. Reflecting a commonly held view, one noted:

Content needs to meet standards that the BBC is comfortable with to retain and maintain brand integrity.

(Male, 35-44)

5.5. Extended hours for CBBC

- 5.5.1. The decision attracted near-unanimous opposition from industry stakeholders. Many argued that while the aggregate impact on the market may be small, it was unevenly distributed and could be more significant for individual broadcasters.
- 5.5.2. Some queried whether the Trust had given adequate consideration to the lack of new programme investment while one noted that the current schedule contained a high volume of acquired content and pointed to commitments in the service licence, which state that part of the channel's distinctiveness should lie in a high proportion of UK-produced content and its low proportion of acquired programmes. Others called for the Trust to reconsider its decision given the change of context, the unquantified risk to other channels and lack of clear additional public value.
- 5.5.3. PACT however welcomed the decision but argued that the extension was limited by a lack of new investment. It expressed disappointment that the proposal did not include a commitment to protect the existing budget:

Children's programming sits at the heart of the BBC's remit and it is therefore very important that it remains properly financed in the future.

- 5.5.4. Its concerns were echoed by the Children’s Media Foundation, which considered lack of funding to be an important issue and a reasonable reflection of what audiences expect:

The only way to expand choice in a meaningful fashion is to provide some new programming in this airtime.

- 5.5.5. COBA was also critical of the decision concluding that:

Extending linear hours, and in the process diluting the quality of the service with more repeats, is a backwards looking and ultimately desultory response.

- 5.5.6. Audience Council England was critical of the decision and its members took ‘the emphatic view’ that the extension was neither valuable nor appropriate. However, it recognised a minority view:

That for children whose parents consider that this extension would provide a useful service, offering quality BBC children’s content at this time would provide a choice and potentially be of benefit to children and to their parents, carers or guardians as licence fee payers.

- 5.5.7. Audience Council Wales was ambivalent but understood the desire to extend provision at a time when the range and number of programmes for children from public service broadcasters was diminishing sharply.

- 5.5.8. The decision received a mixed response from members of the public and support tended to be weaker among those opposed to the closure of BBC Three. Many were critical about the lack of new investment and the use of repeats which some argued was at odds with a commitment to distinctiveness. Stakeholders and consultation respondents considered that greater public value would be unlocked if the proposal committed to new content, targeted at teens or for family viewing.

- 5.5.9. There was a strong sense from consultation respondents that the proposal would disrupt established family routines. A majority was opposed to the provisional conclusions although opposition to the closure of BBC Three largely drove this view, rather than any fundamental objection to extended hours. There was however some support for the decision. Many respondents valued CBBC and pointed out that older children in particular would benefit from an extension. The overarching view however was that extended hours should not be used for repeats.

- 5.5.10. Some stakeholders argued that even minimal investment was difficult to justify given the current financial context. A smaller number took issue with the MIA and suggested that the impacts, while unevenly distributed, could nevertheless prove significant for individual broadcasters. Ofcom clarified the relevant sections of the MIA but did not undertake further analysis.

- 5.5.11. COBA argued that there was insufficient clarity as to the impact of the extension on commercial channels. The MIA acknowledged the relevance of audience share on advertising revenues and the fees paid by pay television platforms. Ofcom was unable to quantify the potential impact because of insufficient information, but concluded that any impact was likely to be small. Going further than its existing analysis to calculate the potential financial impact would require additional work and Ofcom did not

consider that this was proportionate. It maintains that the MIA provides a reasonable indication that the likely impact of the proposal on any individual broadcaster – including children’s broadcasters – would be limited considering the magnitude of the overall impact of the proposal.

- 5.5.12. The MIA also discussed the impact on further investment in children’s programmes of any financial losses to commercial channels and considered the relationship to be uncertain because of the different strategies broadcasters could take to respond, but perceived the risk to investment to be low because of the small scale of the potential impact.
- 5.5.13. COBA suggested an alternative approach to modelling the distribution of viewing. Ofcom suggests that this approach would not affect the magnitude of the overall potential impact on viewing share, although it would affect the distribution of the impact.⁵⁰ In its view, the size of the overall impact of the CBBC proposals reduces the significance of any potential concerns about its distribution.
- 5.5.14. ☒ argued that the impact of the extension would be unevenly distributed. The MIA acknowledged that children’s channels may be affected by the proposal but given the scale of the forecasted impact on overall audience shares it did not expect the magnitude of this impact to be significant. Ofcom was unable to comment on the specifics of ☒’s anticipated revenue loss as it did not have access to its underlying analysis but noted that its submission to the MIA also made reference to a revenue loss of ☒. It noted that this figure was close to the higher end estimate of the overall loss of producer surplus for the CBBC proposal, across all channels (which was £1.1m overall). Ofcom expects children’s channels to lose a *share* of the overall decline in the potential audience (total 0.04%) but only anticipates a financial loss of the scale ☒ expressed if the relationship between pay television platform fees and a pay channel’s share of viewing was especially sensitive to changes.⁵¹

⁵⁰ For example, it would not affect the relevant modelling assumptions or indicate that CBBC would attract more viewers.

⁵¹ ☒’s point about the relationship between share of viewing and pay television platform fees is covered in paragraph 10.33, p.104 of the MIA.

6. The Trust's final decision

6.1. Introduction

- 6.1.1. Before concluding that any of the proposals should be approved, either with or without conditions, the Trust 'must be satisfied that any likely adverse impact on the market is justified by the likely public value of the change' (Clause 26(6) of the Framework Agreement). The Trust also has other legal duties including those in Article 23 of the Charter and its obligations in the general law, and accordingly must be satisfied that its decision would be consistent with those.
- 6.1.2. We have taken into account the PVA, the MIA, the Executive's response, and the public responses to both phases of the consultation. Our final conclusions are set out below. We first look at each element of the proposals individually, but the proposals were presented as a package, so it is also necessary for us to consider all the elements together, in the round. Our consideration of this question is set out at section 6.6.

6.2. Closure of BBC Three and its reinvention online

- 6.2.1. In our provisional conclusions, we recognised the strength of the proposal as a response to a structural shift in consumption. The trend has been towards a shift online with young adults at the vanguard. It is underpinned by evidence of a sharp decline in viewing of the television set by the under-35s, most pronounced among those aged under 25. This group has a high level of internet access and is more likely than other demographics to regularly use online video services.
- 6.2.2. The proposal was also motivated by a need to deliver savings. A downward pressure on funding has generated a corresponding need to find savings within the existing portfolio. The Executive does not believe that it can maintain the quality of the main television services through marginal cuts to existing budgets. Alongside continued efficiencies, it suggests that sufficient savings within the portfolio can be found only by the closure of a television service. A saving is therefore important, and the closure of BBC Three and its relaunch online will generate an estimated net saving of £30m per annum.
- 6.2.3. While endorsing the strategic rationale for the proposal, however our provisional conclusions were tempered by uncertainty as to how quickly the trend towards online viewing would progress, particularly as broadcast television remains important to young people, and given the risk that reach among younger audiences would fall, at least in the short term. We were also particularly concerned about whether those who do not have a reliable internet connection (whether for affordability or geographical reasons) would be marginalised and whether the creative-risk taking that has characterised BBC Three as a broadcast channel would be retained online.
- 6.2.4. We concluded that the public value case was finely balanced but that the proposal was likely to deliver public value and, weighed against the likely positive market impact; our provisional conclusion was that the test was passed. However, we were minded to impose conditions to mitigate concerns about the loss of reach among young adults and the impact on creative risk-taking and safeguard public value. We therefore

requested further information from the Executive to address the financial, operational and audience impacts of the proposed conditions.

- 6.2.5. We consider below our assessment of the public value case, starting with the rationale that underpinned our provisional conclusions.

Shift in viewing trends

- 6.2.6. There is a growing trend towards online viewing, particularly among young adults, and the proposal is a reasonable response to that shift.
- 6.2.7. The BBC must find a way to modernise its portfolio in a financially challenging environment and we consider that there is public value in focusing on high quality output in areas where performance is strong, particularly within factual and comedy. We consider that fewer but more innovative titles will benefit the public, particularly as these genres lend themselves to on-demand viewing.
- 6.2.8. We can see further potential value for BBC Three Online to act as a gateway to the full range of BBC content and improve its connection with a younger audience whose consumption patterns are rapidly changing. The proposals will allow the BBC to build a direct relationship with audiences to ward against the effects of disintermediation. Furthermore the BBC has a proven record in developing digital offers (notably BBC iPlayer) and high-quality production values that it can bring to an online environment.
- 6.2.9. On the other hand, we acknowledge the strength of the public opposition to the proposal, particularly due to the risk of a short-term loss of reach among a younger and more diverse audience, the continued importance of television and the potential impact on the ability of the BBC to attract and develop talent. We share these concerns, and recognise the need to safeguard an important audience, but consider that the risks can be mitigated through the use of conditions (which we consider in more detail below). We have had particular regard to those who do not have access to reliable broadband (for instance, due to living in a rural location or living in a poorer household) and recognise that no condition can be imposed that will provide this audience with access to the full range of BBC Three content once it transfers online.
- 6.2.10. We anticipate that the number of households without adequate broadband access will diminish over time and note recent [Government plans](#) to put access to broadband on a similar footing to other basic services such as water and electricity. The Government wants [95% of homes and businesses](#) to have access to superfast broadband by the end of 2017 as part of its long-term economic plan to generate growth.⁵² We recognise however that this commitment does not necessarily mean that lower income households will be able to afford high speed broadband.
- 6.2.11. We also have concerns about the impact of the proposals on viewers with auditory and sensory impairments, including the issues raised by respondents to the consultation about the uneven provision of subtitles and audio description on different platforms and for different types of content. The online offer should be required to have the

⁵² The Government is investing £530 million to stimulate commercial investment and bring high speed broadband to rural communities reaching 90% of UK homes and businesses and a further £250 million to extend the benefits of superfast broadband to 95% of the UK and exploring approaches to deliver superfast broadband to the remaining hardest to reach areas, initially through a new £10 million competitive fund.

same standards as linear television, wherever possible, and the Executive should encourage third party platforms which carry BBC Three content to work towards full accessibility.

The financial case

- 6.2.12. Part of the rationale for transitioning BBC Three to an online offer at this stage (rather than waiting for a greater shift to on-demand viewing) is the financial context and the need for the BBC to deliver savings. This was therefore a significant factor in our decision-making. This aspect of our provisional conclusions came under scrutiny by stakeholders in the second phase of consultation, particularly Avalon, which raised a number of concerns over the reliability of the financial case and the estimated savings of £30m. We analyse the detail of those arguments below.

Distribution costs

- 6.2.13. Some respondents argued that the Executive will have to spend more to reach an online audience, due to the efficiencies of linear broadcasting compared with IP delivery, and that the estimated savings will therefore be much lower. Distribution costs are (broadly) fixed for linear broadcast, but vary for IP delivery. The key driver of distribution cost is predicted usage and the Executive based this on modelling work by Communications Chambers. It then multiplied predicted usage by a unit cost of distribution to forecast an annual distribution cost of ₤ by 2017-2018.⁵³ We note that this is a very minor percentage of the estimated £30m savings by 2017-18, and therefore not significant. Furthermore, even a substantial increase in usage may not necessarily lead to a corresponding uplift in IP distribution costs, as the BBC is generally able to negotiate lower unit prices for large changes in online traffic.
- 6.2.14. SaveBBC3 and Avalon suggest that the cost per hour and per user of the service will increase if there is a drop in audience levels. While we accept that this could happen in the short term, we would expect the cost to fall as the audience grows, thereby delivering better value for money over time.

Sunk investment in the linear channel

- 6.2.15. Some stakeholders consider that the provisional conclusion is irrational because the proposal does not represent value for money. Avalon claims that c.£1bn of investment (i.e. the total annual content cost of BBC Three since its inception in 2003) will be wasted and that the licence fee payer is entitled to a fair return.
- 6.2.16. We do not agree that historical expenditure will be 'wasted' with a transition online. Rather, the benefits and value of BBC Three have already been realised when programmes are broadcast and enjoyed by audience.⁵⁴ There are no BBC Three 'brand' assets to be written off as a result of the closure of the linear channel. The savings generated therefore represent absolute savings that can be redistributed elsewhere.

⁵³ This formed the basis of the analysis in the PVA and we consider it a reasonable approach.

⁵⁴ in line with standard industry accounting practice it has therefore been expensed at the time of broadcast and not carried forward as an investment asset.

Cost of establishing BBC Three as an online operation

- 6.2.17. Avalon queried whether the forecast savings were overestimated, for instance, because the Executive had failed to include in its calculations the cost of establishing the online operation and whether it had failed to consider how this would be amortised. However, we note that the Executive calculated the one-off implementation costs, including the amortisation charges, and factored them into its estimated savings.

Commercial market for short-form content

- 6.2.18. Avalon suggested that there is no commercial market for short-form content (which accounts for around 20% or £6m of the proposed BBC Three online budget) and that the Trust should have regard to the consequent reduction in BBC revenues from the exploitation of BBC Three content when assessing the estimated £30m savings. Conversely, the Executive maintains that, irrespective of whether it generates any commercial revenues from secondary exploitation of short-form content, its combined investment in long-form programmes across BBC Three online and BBC One will be roughly the same as it was on BBC Three as a linear channel (and therefore there will not be a negative impact on the savings). It also anticipates that its planned investment in drama, including by generating secondary rights (e.g. sales of DVDs and programme exports), will compensate for any loss in commercial revenues from BBC Three.
- 6.2.19. We agree with Avalon that the commercial market is untested. That is not to say that one will not develop – we note for example the existence of markets for news clips. Nevertheless, the Executive has considered ways to mitigate any losses in revenues from the exploitation of BBC Three content. Furthermore, even if there were reductions in BBC revenues as Avalon suggests, there is a non-financial value in short-form content because it lends itself to creative risk-taking (which we are seeking to protect). We therefore consider that this content has public value in and of itself, as well as direct and indirect commercial value.

Proposed marketing expenditure

- 6.2.20. SaveBBC3 argued that a short transition from linear to online will increase advertising and promotional costs, while Avalon was critical of the level of marketing spend. It suggested that the marketing budget, and not BBC Three, should be subject to cuts.⁵⁵
- 6.2.21. There are two elements to BBC marketing spend:
- (i) **Paid for media spend:** this can include digital promotion of marketing content on YouTube, Twitter, Facebook and outdoor promotion such as bus and hoarding posters
 - (ii) **In-house spend:** such as television trailers on BBC services
- 6.2.22. Though subject to possible further cuts because of overall budget constraints, the total 2015-16 budgeted marketing spend for the BBC is £100m. This consists of both paid for and in-house activity. Of this total, £4m (around 4%) is currently allocated to BBC Three,

⁵⁵ We consider in more detail below the costs associated with the different transitional options, including the advertising and promotional costs.

including a ₤ (around 2%) launch budget. Excluding the launch budget, which can be treated as a one-off, the on-going marketing expenditure currently budgeted for BBC Three is ₤. This is not materially different from the current 'business as usual' marketing budget for the linear channel, reported by the Executive to be ₤. Therefore we do not believe that the marketing spend for the proposed online channel is likely to reduce the anticipated savings arising from the closure of the linear channel.

Alternatives to closure

- 6.2.23. Some respondents suggested alternative options to the proposal, which they argued would deliver significant savings without the need to close BBC Three as a linear channel. Avalon also put forward a proposal to acquire BBC Three for fair value (the details of these suggestions have been summarised above).
- 6.2.24. As part of the PVT process,⁵⁶ it is the Executive's responsibility to submit strategic or financial proposals to the Trust for approval where they have significant implications for the fulfilment of the purpose remits or strategies, or for the overall financial position of the BBC.⁵⁷ It is the Trust's role to evaluate and scrutinise proposals from the Executive and decide whether or not to approve them. The PVT process strikes a balance securing the Executive's freedom to exercise its editorial and operational responsibilities for delivering BBC services in accordance with the strategic priorities of the BBC (as set by the Trust) subject to the Trust's oversight and scrutiny to ensure a proposal has sufficient public value and to prevent unjustified or disproportionate market impact.
- 6.2.25. The Executive did not put forward the alternatives suggested by Avalon or by Save BBC3 as part of its application. It did however consider some alternative options to closure prior to submitting its proposals, which included closing another service (or services) or implementing cuts across a range of services, but rejected these due to the effect on the performance of BBC television channels and because BBC Three audiences are more likely than other groups to make the transition online.⁵⁸ We also note that the Executive considered Avalon's proposal to purchase BBC Three, and rejected it in an [open letter](#) for viability reasons.
- 6.2.26. In circumstances where the Executive submits a proposal that passes the PVT process to which it is subjected, there would have to be very clear reasons, supported by evidence, for the Trust to decide not to approve that proposal on the basis that an alternative approach were available that the Trust concluded might better secure the desired goals. The Trust also notes that it could not, in such circumstances, require the Executive to submit an alternative specific proposal to it. Any alternative proposal from the Executive would in any event have to be subject to a further PVT process for approval.
- 6.2.27. The Trust noted and took into account the essential submission of Avalon and SaveBBC3 that the proposal should be refused because there were obviously better ways of achieving the BBC's objectives. While we did not scrutinise in the same detail alternative proposals suggested by stakeholders because they were not the subjects of an application, we note that in respect of Avalon's proposal, for example, the Executive

⁵⁶ Which is provided for in the BBC's Charter and Framework Agreement and relevant guidance.

⁵⁷ Clause 38(1)(f) of the BBC's Royal Charter.

⁵⁸ Paragraph 2.2.6 of the service description.

raised a number of points as to its viability which appear to be reasonable and we also note that Avalon's alternative proposal did not address the whole of the strategic rationale and future direction underpinning the Executive's proposals.

Lack of information

- 6.2.28. Several respondents were critical about the level of disclosure by the Executive, particularly regarding the transparency of the financial information; how the savings had been calculated; and the level of redactions made to published figures. While consultees were able to see the overall costs, some line items were removed for reasons of commercial prejudice (e.g. where it revealed the BBC's budget, either for rights or a piece of work it planned to source from the external market). However, the descriptions of these items were left in, so that consultees could see what was included in the calculation.
- 6.2.29. Having considered these concerns, our view is that consultees were provided with sufficient information through the un-redacted figures. We also note that several of the consultees engaged extensively with the Executive's financial case, which demonstrates that they were not precluded from giving an informed response to the consultation by virtue of the redactions and they were only precluded from seeing a very small proportion of the overall costs figures.

Overall assessment of public value

- 6.2.30. Our overall view is that the proposal offers public value by meeting the needs of young adults and responding to the structural shift in their consumption and viewing patterns. Taking the above considerations into account, we also conclude that the estimated savings support the rationale for closing BBC Three at this stage (rather than waiting for a greater shift to on-demand viewing). While we recognise that the closure of a service is a difficult decision, we accept that the BBC must continue to find ways to deliver its services while reducing its budgets.
- 6.2.31. We consider that the modernisation of the BBC portfolio and development of a distinctive digital offer, coupled with the anticipated financial savings, will benefit the audience and meet the public purpose remit of the BBC. While we retain concerns over loss of reach among a young audience and the impact of the proposal on creative risk-taking, we consider these short-term risks are justified by the long-term value that will be delivered, and that our conditions can help to mitigate them in the interim.
- 6.2.32. We note that in the MIA Ofcom considered that future developments of BBC Three online over the longer term, alone or cumulatively, would represent a material change to the proposals assessed in the MIA, and the Trust should therefore set clear boundaries on what the BBC is permitted to do and at what stage further approval is required. We consider that the service licence regime is an effective way of defining the scope of any BBC service, and hence of helping to identify significant change. In amending the service licence for BBC Online, we have therefore considered Ofcom's recommendation and decided to establish appropriate boundaries.
- 6.2.33. Our overall conclusion therefore is that the proposal is likely to deliver positive public value. Taking into account Ofcom's assessment that there is likely to be a positive market impact, we consider that the public value test is passed and the proposal should be approved.

Proposed conditions

- 6.2.34. In the provisional conclusions we identified risks relating to the loss of an important but under-served audience and the impact of the move on the ability of the BBC to nurture talent. We went on to provisionally conclude that these risks could be attenuated with conditions targeted at the barriers to broader use of an online offer, which the PVA categorised as:
- (i) **Awareness:** high visibility, strong brand, ability to attract users in the absence of a linear schedule to drive online consumption
 - (ii) **Acceptability:** familiarity, ease of use, ability to satisfy different moods and enable shared viewing and a communal, social experience
 - (iii) **Accessibility:** a reliable, affordable internet connection or continued access to programmes on the linear schedule for those who do not have this
- 6.2.35. We retain concerns following the second phase of the consultation and consider that the proposal could impact under-served audiences, including those with without reliable broadband access or those who have accessibility requirements. This is particularly so given the audience profile of BBC Three, which skews towards younger, more ethnically diverse and lower-income groups. We also want to ensure that the BBC maintains risk-taking space on linear television in order to retain new talent.
- 6.2.36. We explain below the conditions that we have decided to impose in order to mitigate these concerns, taking into account the responses to both phases of the consultation.

Slots on BBC One and BBC Two

- 6.2.37. The use of slots for BBC Three content on BBC One and BBC Two was an important condition designed to ensure that those without a reliable internet connection (whether for geographical or financial reasons) or who preferred to watch programmes on television had continued access to BBC Three output on broadcast television.
- 6.2.38. We accept that no condition will wholly address the problem of broadband access, but consider that the use of slots will mitigate the issue. It will also raise awareness of the online offer and may help to preserve some of the BBC Three unique viewers who would otherwise be lost to the BBC. There is some evidence from BARB to suggest that uniquely reached viewers continue to watch BBC Three programmes when they transfer to the main channels. Over time, the use of slots may therefore be one way to introduce this group to the broader BBC portfolio.
- 6.2.39. Our provisional conclusions anticipated the use of later night slots that are generally popular with younger audiences. Their viewing tends to peak between 9-10pm but – in contrast to other viewers – remains high between 10-11pm. We share concerns raised by some consultees that in practice BBC Three content could be broadcast in less visible and unpopular slots, or that programmes may be broadcast on BBC Two but not BBC One (or vice versa). Some stakeholders also suggested that performance suffers when shows transfer from BBC Three although the performance data reveal mixed results.⁵⁹

⁵⁹ For example, the audience for *Family Guy* fell by over 40% following its transfer to BBC Two, while *Russell Howard's Good News* increased viewing by almost 60%. A reformatted *Don't tell the Bride* meanwhile has performed well following its move to BBC One, with a larger audience and higher share among those aged 16-34.

- 6.2.40. Accordingly the Trust has decided to tighten the condition by mandating that BBC Three programmes are available at a variety of times *across* the schedule (including peak and 'shoulder peak'⁶⁰ times). We consider that tightening this condition in the service licence will strengthen the public value of the proposal, as BBC Three programmes are likely to reach a wider audience. We will also ensure that the condition requires the Executive to use broadcast slots on both BBC One and BBC Two, though we do not consider it necessary to go further by imposing requirements about the proportion of slots to be shown on each channel (for instance, whether it should be 50% on each), because we consider that this could restrict the Executive's editorial discretion in scheduling content. If the aim of reaching younger viewers is not achieved, we will review whether stricter conditions in the service licences are required.
- 6.2.41. A number of respondents feared that the use of slots on the main channels would result in less creative risk-taking while others were concerned that BBC Three programmes would be reformatted for an older audience (many pointed to *Don't tell the Bride*, which was repurposed when it transferred to BBC One). While we understand that this is not the Executive's intention we do foresee a related risk that this condition could distort programme-making incentives and result in output that is more suited to an older audience. This concern will be addressed as part of the review of the service (discussed below).
- 6.2.42. We also share concerns raised by Audience Council Wales about BBC Three content coinciding with national opt-out programmes. While we consider that this is an editorial matter for the Executive, it is important that BBC Three output is made available throughout the UK. We also agree with the sentiment expressed by stakeholders that the use of slots should be on an on-going basis and have decided to address these points in the service licences as explained below.
- 6.2.43. Taking the above into account, we have therefore decided to strengthen the condition to use slots on BBC One and BBC Two by making clear in the relevant service licences that:
- (i) All BBC Three long-form content will be transmitted on slots on BBC One and BBC Two on an on-going basis, beginning as soon as the closure of BBC Three as a linear channel takes effect
 - (ii) BBC Three long-form content will be made available on both BBC One and BBC Two at a variety of times across the schedule and throughout the UK
- 6.2.44. This condition will ensure continued access to BBC Three output on broadcast television and help to allay concerns about awareness and acceptability. It will also support the transition of the channel⁶¹ and help to retain reach among younger viewers. The condition also embeds the principle that BBC One and BBC Two must make space in and across their schedules to test new talent and ideas and ensure that there is space on broadcast television for creative risk-taking.

⁶⁰ Shoulder peak is a period that precedes or follows regular peaks of viewing.

⁶¹ By offering programmes for younger viewers when Cbeebies closes.

Commitment to creative risk-taking on television

- 6.2.45. In our provisional conclusions, we decided to impose a commitment to providing creative risk-taking space on television where new talent and ideas can be tested and developed, in order to mitigate concerns raised in the first consultation over the loss of talent as a result of the move online. Our proposed service licence formulation (for BBC One and Two) was as follows:

BBC One and BBC Two should also deliver their remit by taking creative risks and experimenting with new talent and new ideas

- 6.2.46. We note that a number of consultation respondents welcomed this commitment in principle, but expressed concerns that it was not sufficiently clear or measurable. While we recognise that consultees would prefer us to impose quotas (such as minimum hours of content) within the service licences, we consider that the current formulation is sufficiently robust, in the context of the other conditions: in particular through the use of broadcast slots, which embeds the principle that BBC One and BBC Two must accommodate a creative risk-taking space in and across their schedules.
- 6.2.47. Nevertheless, we consider that stakeholder concerns could be further allayed by extending the scope of the proposed review of the new service (described below) to consider this specific area, to ensure the Trust is monitoring how this is operating in practice. To the extent that the Trust is dissatisfied with the level of creative risk-taking, it could then consider whether to impose more stringent requirements, including quotas.

Commitment to programmes with a particular appeal to those aged 16-34

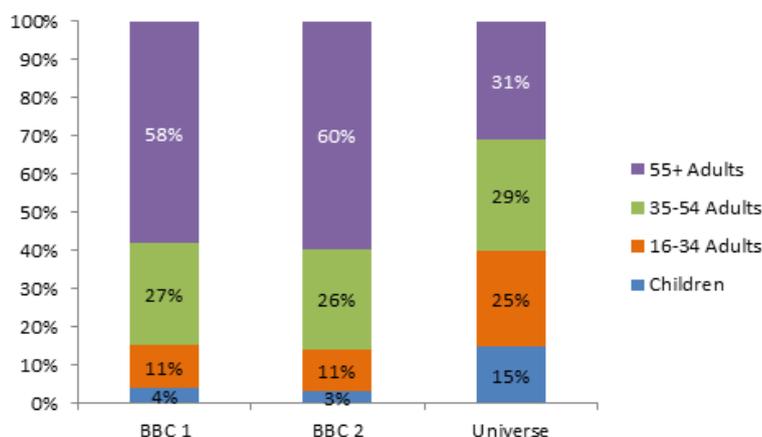
- 6.2.48. In our provisional conclusions, we suggested that the Executive should be required to provide a clear commitment to programming that will particularly appeal to those aged 16-34 in the schedules of the remaining broadcast channels, to help retain reach among this group and ensure those without adequate broadband access are catered for to the greatest extent possible within existing budgets. We therefore proposed that the service licences for BBC One and Two be amended to include the following formulation:

While BBC One and BBC Two aim most programmes at audiences of all ages, they should devote some of their schedule to programmes with particular appeal to younger audiences, including (for reasons of accessibility) broadcasting all long-form originated programmes from BBC Three.

- 6.2.49. We note that many respondents to the public consultation welcomed this commitment to younger audiences, but some called for greater precision in the wording of the service licence and the introduction of quotas, or for the c. £30m savings to be ring-fenced for investment in programmes for young adults. Stakeholders also voiced strong concerns about the reduction in programmes for younger viewers (most notably in factual output, such as the potential loss of *60 Second News*).
- 6.2.50. The Executive is resistant to quotas and reluctant to ring-fence funds on the basis that a specific commitment would undermine the remit and editorial approach of BBC One and BBC Two. It argues that it needs to retain creative freedom, and points to the popularity of shows such as *EastEnders* and *The Great British Bake Off* with younger

viewers.⁶² The Executive's argument that BBC One and BBC Two exist to serve all audiences overlooks the fact that all audiences are not equally served, given the older profile of the main channels (figure 1).⁶³

Figure 1: UK population versus age profile of BBC One and BBC Two



6.2.51. While it is inarguably the case that shows with broad appeal will de-facto attract a younger audience, the closure of the broadcast channel and the reduction in programme budget will make it more difficult for the BBC to reach those aged 16-34. This is a strategically important but under-served segment of the audience and we share stakeholder concerns that the Executive response does not go far enough.

6.2.52. We have therefore decided to amend the service licences for BBC One and BBC Two to make the commitment more clear and measurable:

While BBC One and BBC Two aim most programmes at audiences of all ages, they should offer some programmes with a distinctive approach that are designed for younger audiences. They should also show all long-form originated programmes from BBC Three. These should be shown at a variety of times on both channels and made available across the UK.

6.2.53. We share concerns raised by consultees about protecting reach among younger audiences, and consider that it is crucial to sustain and grow that part of the audience and to hold the Executive to account for it. We note calls from stakeholders for the introduction of specific obligations or quotas but consider that our amended condition is sufficiently robust, enforceable and measurable without resort to quotas, particularly taking into account the review outlined below.

Well-managed transition

6.2.54. The provisional conclusions suggested a gradual and well-managed transition to build awareness of the move online. The Trust recognised that this may entail a period of parallel running and requested further detail from the Executive on the operational and

⁶² BBC Executive (2015) response to the BBC Three PVT provisional conclusions, pp.10.

⁶³ There are around 15 million 16-34 year-olds in the UK (c. 25% of the population) of whom just under seven million are aged 24 or under. BARB (2015).

financial implications of such arrangements. In its response, the Executive considered the following options, together with high-level cost estimates for each option:⁶⁴

- (i) Running BBC Three in its current form in parallel with BBC Three online until the end of 2015/16 (31 March 2016).
- (ii) Running a lower cost version of BBC Three with fewer hours of first run originated content in parallel with BBC Three Online until the end of 2015/16.
- (iii) Having a broad based phased transition based on closure of BBC Three as a broadcast channel in January 2016 and using the vacated distribution capacity for a promotional transitional channel to run alongside BBC Three Online until the end of February 2016.

6.2.55. The Executive considers that option III is the optimal way to move audiences to the new online offer, given the need to make savings, and planned a phased migration which entails:

- (i) A gradual increase in BBC Three online activity starting in summer 2015⁶⁵
- (ii) More BBC Three programmes on BBC One and Two in autumn 2015
- (iii) Increased marketing and greater use of social media
- (iv) A transitional channel which will run from January 2016 until the end of February 2016⁶⁶

6.2.56. Stakeholders remain concerned about abrupt closure; a number argue that the Executive proposals do not go far enough. Some have called for a longer period of parallel running or for fewer broadcasting hours and one suggested the use of archive content to fill the schedule given that budgets were under pressure. However, the Executive argues that a greater reliance on repeats and acquisitions would dilute the offer and may damage the brand, hasten the decline in audience share and potentially reduce the number of viewers who transition to the new online offer.

6.2.57. Given these risks, we consider that a longer transition is not necessarily in the best interests of the audience and agree that a short synchronised approach is preferable. Furthermore, we note the additional costs of running BBC Three in its current form in parallel with the online offer until the end of 2015/16.⁶⁷ Overall, we therefore consider that option III is appropriate, taking into account the adverse impact of abrupt closure and the costs of maintaining the linear offer (in whatever shape).

6.2.58. We consider that the Executive's plan for a phased migration, together with the use of slots on BBC One and BBC Two, will ameliorate our concerns about awareness of the online offer. Appropriate cross-promotion will also help to build awareness of the new offer but we are conscious of the need to have regard to its impact on the wider market, as noted by Ofcom in its MIA. The Trust has in place a code of practice on cross-promotion which is designed to ensure that no inappropriate cross-promotion

⁶⁴ BBC Executive (2015) response to the BBC Three PVT provisional conclusions, p p.5.

⁶⁵ The Executive now plans to postpone further 'business as usual' development of the BBC Three website (which formed the first phase of transitioning audiences online) until after the final conclusions to avoid any audience confusion. We note that a gradual increase in online activity is within the terms of the existing service licence and would be necessary under each option.

⁶⁶ Subject to compliance with relevant television platform policies.

⁶⁷ The Executive originally estimated this would cost £4m but subsequently suggested that its ability to commission new titles for broadcast in early 2016 at short notice is limited and it may therefore be more reliant on repeats and acquisitions than it originally anticipated under scenario 1. The extra content costs in such a situation would be slightly lower at ₤ rather than the £4m forecast.

occurs. The code makes clear that that the BBC should promote the ways in which viewers can access BBC services on-demand, but that in doing so it must ensure that it does not favour any particular platform over others.⁶⁸

Ongoing compliance

- 6.2.59. Monitoring adherence to these conditions will form part of our normal oversight of the performance of BBC services.⁶⁹ The conditions are built into the service licence framework and bring them clearly within our on-going monitoring remit. They also place increased emphasis on the need to serve young audiences through mainstream linear television services as well as online.
- 6.2.60. As part of this the Trust will undertake a review within 18 months of its final decision which will focus on measuring the progress of the new service and the Executive's adherence to the conditions. If we consider performance against the new licence conditions to be unsatisfactory, the Trust has the power to impose quotas or formal targets (for example by including commitments to minimum levels of content with particular appeal to young and diverse audiences within the service licences).⁷⁰
- 6.2.61. The review will have particular regard to:
- (i) audience numbers and reach among young and diverse audiences, in particular younger viewers (16-34 year olds), C2DE adults and those from black, Asian and ethnic minority groups
 - (ii) the level of creative risk taking
 - (iii) the use of new talent and formats
 - (iv) the performance of BBC Three output on BBC One and Two
 - (v) the level of accessibility for those with auditory and sensory impairments
- 6.2.62. The review will also consider whether the requirement to air programmes on BBC One and BBC Two has skewed BBC Three output towards an older audience.
- 6.2.63. The Executive will also be required to report on the performance of the new offer as part of the quarterly performance updates to the Trust and the existing annual report and accounts.

Additional guidance

- 6.2.64. As part of our provisional conclusions, we issued additional guidance for the Executive, which falls outside the proposed conditions.

Use of broadcast capacity

- 6.2.65. The closure of BBC Three will release broadcast capacity, some of which can be used to extend the broadcast hours of CBBC. The Executive has considered a range of

⁶⁸ The Trust is currently reviewing its fair trading framework, which includes the code.

⁶⁹ The Trust's key control is to monitor compliance with these new service licence requirements as part of our on-going oversight for BBC One and BBC Two.

⁷⁰ The Trust is entitled to have recourse to a number of sanctions if the service fails to comply with the terms of its service licence or its performance is judged to be poor in other respects.

options for the remaining unutilised capacity and we asked for further detail on how it could be used to secure public value.

- 6.2.66. The use of vacated broadcast capacity has attracted considerable attention from stakeholders but the utility of the slots is likely to be limited by the 9pm start time and by restrictions on alternative non-BBC use. The Executive has no firm plans on the potential future use of the vacated capacity and wants to wait until the Trust has reached its final decision before appraising the costs and benefits of different options. However, some stakeholders expressed a desire to acquire the vacated capacity or called for a comprehensive independent review of the spectrum that would be released and its potential market value (including the costs of using the vacant capacity for BBC services, versus the cost savings from closing the channel).
- 6.2.67. Given the complexities and trade-offs involved and the fact that closing the linear channel does not result in any reduction in the BBC's distribution costs (they are simply reallocated across the BBC) we considered whether the BBC should continue to broadcast BBC Three if the capacity is available and can be utilised at no extra cost. We concluded however that this would incur additional costs (even if there is a reduced programme budget) due to parallel running and would degrade the service while at the same time diminishing any incentive for viewers to switch to the online offer.
- 6.2.68. While the financial case put forward by the Executive did not rely on the commercialisation of spare capacity, spectrum is an important resource and we need to be satisfied that its plans for that capacity are appropriate. We therefore require the Executive to return to the Trust with a full proposal for the use of the vacated capacity within three months of this final decision, which the Trust will ensure is independently assessed.

Terms of trade

- 6.2.69. The MIA considered that the 'reinvention' of BBC Three online could have an adverse impact on independent producers who may lose certain regulatory protections over their terms of trade with the BBC and recommended that negotiations in relation to content-related contracts should be monitored closely, and responses to the consultation considered carefully, and the Trust should consider whether further action is required. We also note that this issue was raised by PACT in the consultation process. The negotiation of terms of trade is essentially an operational matter but unless the Executive reaches agreement with rights holders, it will not be able to fully implement its long-term plans for BBC Three.
- 6.2.70. While this is a separate issue to the policy decision, it is central to the move online. We will therefore monitor the negotiation of terms of trade and require an update from the Executive before the new service is launched.

Investment in drama

- 6.2.71. Although not a condition of approval, if the Executive choose to invest some of the £30m saved in drama, then we would encourage them to focus on drama that would particularly appeal to a younger audience.

Watershed protection

- 6.2.72. We recommended in our provisional conclusions that the Executive addresses concerns about the loss of 'watershed' protection and the risk that younger viewers may have access to unsuitable content. We asked the Executive to provide further information on this, and any other ways in which it can ensure that younger viewers are not exposed to unsuitable content.
- 6.2.73. We note from the Executive's response that it intends to ensure that all BBC Three video content viewable in BBC iPlayer will benefit from the standard parental lock features and that all online content which has more adult material will have a 'G for guidance' label, which will provide information about the type of content (e.g. offensive language and sexual scenes). Furthermore, the BBC Three site will carry clear information about content and will take care about positioning content near to shows which attract higher levels of children. It also confirmed that all BBC Three online content will abide by editorial guidelines and the Ofcom Code.
- 6.2.74. We are satisfied that these safeguards address our concerns about the risk of younger viewers having access to unsuitable content.

Attribution on third-party sites

- 6.2.75. In our provisional conclusions, we asked the Executive to provide further information on how it intends to tackle weak attribution to the BBC of its content on third-party platforms. In its response, the Executive explained that it intended to optimise BBC Three branding for digital platforms, including third party sites, and that it was producing branding guidelines for commissioning and production teams particularly of new form and short-form content on how to increase brand attribution within content through verbal and visual branding cues.
- 6.2.76. We are satisfied that its approach addresses our concerns about weak attribution to the BBC on third party sites.

Conclusions

- 6.2.77. The proposal to move BBC Three online was motivated by financial pressures and a structural shift in consumption of television services among young adults. But the closure of a service is a difficult decision and our assessment was finely balanced.
- 6.2.78. We can see that the proposal has intuitive force but we recognise that the move online is earlier than the Executive would ideally plan. Not everyone has a reliable internet connection and for many young people, television remains important. Furthermore the loss of the linear platform may result in less exposure for new shows and make it difficult for the BBC to attract and nurture talent.
- 6.2.79. We consider however that the modernisation of the BBC portfolio and the development of a distinctive digital offer, with a focus on high quality output in areas where performance is strong (particularly within factual and comedy) coupled with the anticipated financial savings will benefit audiences and advance the public purposes. We therefore conclude that the public value of the proposal outweighs any negative market impact and the public value test is passed.

- 6.2.80. However, to address concerns about the loss of reach among young adults and the impact on creative risk-taking, we have imposed the following conditions. These will be reflected in the relevant service licences as ongoing requirements:

Conditions

Use of slots on BBC One and BBC Two

- All BBC Three long-form content will be transmitted on slots on BBC One and BBC Two on an on-going basis, beginning as soon as the closure of BBC Three as a linear channel takes effect
- BBC Three long-form content will be made available on both BBC One and BBC Two at a variety of times across the schedule and throughout the UK

Commitment to creative risk-taking and appeal to younger audiences

- A commitment to providing risk-taking space will be incorporated in the service licences of BBC One and BBC Two such that both channels:

Should take creative risks and regularly experiment with new talent and new ideas

- A commitment to programmes targeted at younger audiences will be incorporated in the service licences of BBC One and BBC Two as follows:

While BBC One and BBC Two aim most programmes at audiences of all ages, they should offer some programmes with a distinctive approach that are designed for younger audiences. They should also show all long-form originated programmes from BBC Three. These should be shown at a variety of times on both channels and made available across the UK.

A gradual transition

- There will be a brief phased migration online from January 2016 until the end of February 2016, using the vacated distribution capacity as a promotional transitional channel to run alongside BBC Three Online in that period. All cross-promotional activity must be platform neutral (with reference to the [BBC code on cross-promotion](#)) to ensure that no inappropriate activity occurs.

Accessibility

- The online offer should be required to have the same accessibility standards as linear television wherever practicable
- The Executive should encourage third party platforms that carry BBC Three content to work towards full accessibility

Additional guidance

- The Executive will be required to prepare a full proposal for the use of the vacated broadcast capacity within three months of this final decision, on which the Trust will obtain an independent assessment
- We will keep the negotiation of terms of trade under review and require an update from the Executive before the new service is launched

Ongoing compliance

- Monitoring adherence to these conditions will form part of our normal oversight of the performance of BBC services.⁷¹ The conditions are built into the service licence framework and bring them clearly within our on-going monitoring remit. They also place increased emphasis on the need to serve young audiences through mainstream linear television services as well as online.
- As part of this, we will undertake a review within 18 months of this final decision, measuring the progress of the new service and the Executive's adherence to the conditions. If we consider performance against the new licence conditions to be unsatisfactory, the Trust has the power to impose quotas or formal targets (for example by including commitments to minimum levels of content with particular appeal to young and diverse audiences within the service licences).⁷² The review will have particular regard to:
 - audience numbers and reach among young and diverse audiences, in particular younger viewers (16-34 year olds), C2DE adults and those from black, Asian and ethnic minority groups
 - the level of creative risk taking
 - the use of new talent and formats
 - the performance of BBC Three output on BBC One and Two
 - the level of accessibility for those with auditory and sensory impairments
- The Executive will also be required to report on the performance of the new offer as part of the quarterly performance updates to the Trust and the existing annual report and accounts.

6.3. Launch of BBC One +1

Introduction

- 6.3.1. In our provisional conclusions, we concluded that the proposal for BBC One +1 offered low to medium public value and were not satisfied that the likely public value

⁷¹ The Trust's key control is to monitor compliance with these new service licence requirements as part of our on-going oversight for BBC One and BBC Two.

⁷² The Trust is entitled to have recourse to a number of sanctions if the service fails to comply with the terms of its service licence or its performance is judged to be poor in other respects.

generated by the proposal justified the potential negative impact on the market. Our provisional conclusion was therefore not to approve the proposal.

- 6.3.2. The proposal involved some difficult compromises. The service would not be universally available on DTT from launch and c. 24% of UK households would need to upgrade their equipment in order to receive it. Of all the digital platforms, DTT is used by the highest proportion of DE households (34%) and those aged over 65 (29%) and internet access is lower than average for both of these groups.
- 6.3.3. The PVA found that 33% of adults in the DE socio-economic group or 41% of those aged over 65 would need to upgrade their equipment but viewing of a +1 channel is proportionately lower among these groups. Given those aged over 65 are less likely to watch a +1 channel, even those with the means to upgrade may lack the incentive to do so. Among DE households meanwhile, many of which are the most economically disadvantaged in the country, some may choose not to incur the expense.
- 6.3.4. BBC One +1 would of necessity reflect the editorial values of its parent channel but the absence (for technical reasons) of regional and national opt-out programmes also weakened the value of the overall offer. Part of the remit of BBC One is to reflect the whole of the UK in its output and this forms one of the aims and objectives of the service.
- 6.3.5. Because of these factors, we concluded that the channel would only minimally improve reach among young adults and would be unlikely to mitigate the short-term impact of closing BBC Three or better serve those without access to BBC iPlayer.⁷³
- 6.3.6. Furthermore, Ofcom identified the proposal as having the greatest negative market impact of any element of the package. We accepted that the channel would create adverse market impact on commercial channels, likely resulting in reduced profitability, due either to a decline in their audience leading to an expected fall in advertising revenues or, more dynamically, to an increase in costs as a result of investment in content designed to recapture lost viewers.
- 6.3.7. Taking into account the PVA, the MIA, the Executive's response, and the public responses to both phases of the consultation, we have considered once again whether the public value of the proposal outweighs any negative market impact.

Consideration and decision

- 6.3.8. As part of the second phase of consultation, the Executive expressed disappointment at the provisional conclusions and suggested that Ofcom had overstated the impact on commercial broadcasters.⁷⁴ The Trust therefore asked Ofcom to consider the Executive's assertion that implicit assumptions about the relationship between changes in commercial impacts and changes in advertising slot prices were towards the high end of previous studies and that lower levels would have indicated a materially lower impact on commercial broadcasters
- 6.3.9. Ofcom accepted that a different range of price offset scenarios would have resulted in different values for the potential financial impact, but considered that the range it had

⁷³ We estimate an increase in reach of 0.2% for the total population and of 0.35% for those aged 16-34. Refer to the PVA, annex II, 'assessment of reach'.

⁷⁴ BBC Executive (2015) response to the BBC Three PVT provisional conclusions.

chosen appropriately reflected a realistic range of plausible scenarios and took into account several factors, one of which was the elasticity of demand for television advertising.⁷⁵

- 6.3.10. Other stakeholder responses indicated strong support from industry and audience councils for the provisional conclusions along with a modest shift in public opinion towards also supporting the provisional conclusions. This was underpinned by a general view that a +1 channel was not the best use of the licence fee, particularly given the lack of opt-outs, the widespread availability of other catch-up services (notwithstanding concerns about broadband access), the potential market impact and the need to make savings.
- 6.3.11. We share the stakeholder concerns that the public value is weakened by a failure to provide opt-out programmes and ensure the service is universally available at launch on DTT and remain of the view that BBC One +1 would not reach key audience groups in sufficient numbers to deliver public value. Accordingly, we remain of the view that the likely public value does not outweigh the market impact of this proposal and therefore do not approve a BBC One + 1 channel launch.
- 6.3.12. Stakeholders also expressed concerns that the proposal would resurface and the Trust would once again be asked to give its approval. In this regard, any new proposal in the future would most likely need to go through a new PVT process, which the Trust or its successor would be required to evaluate at that point in time. Though the Trust must always approach any new application with an open mind, it seems unlikely that a One+1 channel would be approved in the near future unless there was a material change in circumstances.

6.4. Evolution of BBC iPlayer

Introduction

- 6.4.1. The Trust provisionally concluded that the BBC iPlayer proposal would result in a stronger offer on more flexible terms, delivered at minimal cost. It therefore provisionally approved the changes subject to one condition - the creation by the Executive of clear, objective criteria for the selection of third-party partners. The Trust also asked the Executive to clarify how it would moderate third-party content.
- 6.4.2. We were satisfied that the proposed changes are too limited in scale to have a notable market impact. The MIA found that while BBC iPlayer is used to discover content, catch-up remains its core function. In Ofcom's view this limits the impact of the proposals although should the shift in consumer behaviour accelerate (for example as a result of the BBC Three online proposals) there could be a greater impact on commercial channels and on-demand providers. In relation to the inclusion of third-party content, we agreed with Ofcom's recommendation regarding the need to set clear, objective criteria in relation to third-party content, and considered that it was appropriate to make this a condition of our approval.

⁷⁵ Ofcom used various external sources to inform its analysis, including the studies referred to in the Executive response. Pages 14-17 of the MIA statement provide more detail on the basis for its approach and explain why it considered these ranges appropriate. See in particular paragraph 3.28 and footnote 26, pp.17.

- 6.4.3. We were also satisfied that there is sufficient public value in the proposal by virtue of its contribution to the digital public purpose and its potential to stimulate creativity. By enhancing a service that provides access to the full range of BBC content, we considered that the changes would help to safeguard the delivery of all of the purposes in an online world. While the changes are likely to have a relatively modest impact on usage and reach, we recognised that they would help to maintain BBC iPlayer's appeal in a competitive environment. This aspect of reach was particularly relevant and we considered that the introduction of premieres would help to maintain reach and sustain the ability of BBC iPlayer to deliver public value. Younger viewers are proportionally more likely to use catch-up and a well-curated selection of early releases may help to improve BBC reach among this group. Online premieres are a novel way of building an audience and we thought the proposal was a practical, cost-effective way to generate interest with deeper engagement and more flexible access.
- 6.4.4. We did have some concerns however that those without an adequate broadband connection will be disadvantaged and we foresaw a related risk that the widespread use of online premieres could undermine the concept of universality and the importance of live viewing. Given the small scale of the proposals, we considered this second risk to be minimal.
- 6.4.5. Our provisional conclusion to approve the proposal was subject to the following condition:

Third-party commissioned content on BBC iPlayer - the Executive should clarify to the satisfaction of the Trust the clear, objective criteria it will use for selecting third-party partners and explain how it will guard against the risk of third-party partners being unfairly excluded.

Consideration and decision

- 6.4.6. As part of the second phase of consultation, stakeholder responses fell into two broad categories - while many supported the provisional conclusions, a similar number was indifferent to the proposal.
- 6.4.7. The criteria for the selection of partners were a key issue for many stakeholders amid concerns that unless they were carefully circumscribed, the BBC would be free to host all types of content. While the Executive published proposed selection criteria in its response, only one or two stakeholders acknowledged this and many appeared to be unaware. Some called for engagement with the industry on the formulation of the criteria while others argued that Ofcom should be involved. Two stakeholders questioned what regulatory regime would apply to third party content (e.g. in the context of complaints). Another suggested that the service licence should include a footnote to specify that only content of not-for-profit and cultural and arts organisations was envisaged. Individual respondents tended to be more ambivalent – while many favoured further improvements, others were confused about what the inclusion of third party content would mean in practice.
- 6.4.8. Development under the terms of the BBC Online service licence that did not form part of the PVT was raised as a concern in the context of the volume of non-broadcast content on BBC iPlayer and stakeholders asked the Trust to revisit the framework in which it operates. There was an additional concern about the lack of clarity in the

service licence in respect of the purpose and scope of what 'some non-broadcast content and selected content from third parties' would amount to.

- 6.4.9. The service licence framework recognises that most BBC services evolve continually in order to serve licence fee payers better and respond to changes in technology and market conditions, without recourse to a PVT. The service licence for BBC Online and Red Button allows 'some non-broadcast audio and video, interactive and downloadable applications and content'⁷⁶ and we are satisfied that the amount of non-broadcast content is consistent with service licence permissions.
- 6.4.10. We note the mixed views of consultees, but consider that there is sufficient public value in the proposal due to its ability to deliver all of the public purposes in an online environment and to stimulate creativity. We also note Ofcom's view that the proposed changes are too limited in scale to have a notable market impact on commercial providers.
- 6.4.11. We therefore consider that the public value outweighs any negative market impact and the public value test is passed. As a condition of our approval, the Executive must engage with industry on the formulation of the selection criteria for the inclusion of third-party content, and publish those criteria. We also agree with the suggestion raised by one stakeholder that there should be a footnote included in the service licence to specify that the third party organisations envisaged are to be not-for-profit, and arts and cultural organisations.
- 6.4.12. We do not consider that further service licence amendments to specify the amount of non-broadcast content are necessary because of the low volume of online only content. However, if the Executive wants to materially increase the volume of online only content, it will have to return to the Trust for permission.
- 6.4.13. We further note that any future ideas regarding partnerships as set out in *British, Bold and Creative*, will need to be submitted to the Trust or its successor for regulatory consideration.

Additional guidance

- 6.4.14. In the provisional conclusions, we asked the Executive to clarify to our satisfaction how it would moderate third-party content in the event of final approval being given. The Executive has clarified that it has editorial responsibility for all content carried on its services. It also confirmed that all content must meet the BBC editorial guidelines and will carry appropriate labelling. We are satisfied with this response and expect the Executive to adhere to this.
- 6.4.15. Ofcom recommended that if the Executive wanted to make further enhancements to BBC iPlayer, it should consider whether these changes could, alone or cumulatively, result in a potentially significant change, thereby triggering a PVT. While beyond the scope of this assessment, we appreciate that such enhancements could raise the question of significance. We take the view however that the regime of service licences is an effective way of defining the scope of any BBC service, and hence of helping to identify any significant changes.

⁷⁶ BBC Online and Red Button service licence, pp.1.

- 6.4.16. Given the prevalence of BBC iPlayer, Ofcom concluded that the precise detail of how BBC content is syndicated is likely to become more important. It therefore called on the Trust to consider how to ensure that commercial platforms were not unfairly disadvantaged as part of its consultation on the [distribution framework](#). We note that the framework is now in place and is underpinned by the general presumption that BBC distribution arrangements should aim to serve licence fee payers by enabling convenient access to the full range of BBC services where audiences expect to find them.⁷⁷
- 6.4.17. Ofcom also drew attention to the impact of cross-promotion activity on the wider market. As noted above, The Trust has in place a code of practice on cross-promotion which is designed to ensure that no inappropriate cross-promotion occurs.

6.5. Extended hours for CBBC

Introduction

- 6.5.1. Our provisional conclusion on the changes proposed to CBBC was that the likely public value generated by the proposals outweighed the potential negative impact on the market. Central to this provisional conclusion was the likely net benefit generated for audiences by this proposal. We were satisfied that the market impact of the proposal to extend CBBC broadcast hours was likely to be small (as concluded by Ofcom in the MIA). We were also satisfied that there was sufficient public value in the proposal by expanding choice for younger viewers, made possible only by the spare capacity that results from the closure of BBC Three as a broadcast channel.
- 6.5.2. We recognised that in the absence of a new programme budget, the value that obtains may be more limited but it provides a further opportunity to schedule distinctive and high-quality programmes at a time when children are more likely to watch. While the proposal tended to polarise opinion, we considered that it secures greater public value from existing content with minimal investment. The impact on reach, while minimal, also helps to some extent to militate against a general decline in viewing to CBBC and may support the transition of younger viewers from CBeebies to the channel.
- 6.5.3. After weighing up the small adverse market impact of the CBBC proposal against the public value in it, our provisional conclusion was that we should approve the proposal.

Consideration and decision

- 6.5.4. As part of the second phase of consultation, the provisional conclusions attracted near-unanimous opposition from industry stakeholders. Many argued that while the aggregate impact on the market may be small, it was unevenly distributed and could be more significant for individual broadcasters. Some queried whether the Trust had given adequate consideration to the lack of new programme investment while another noted that the current schedule contains a high volume of acquired content in opposition to the service licence, which states that part of the channel's distinctiveness should lie in a high proportion of UK-produced content and its low proportion of

⁷⁷ When considering which third party platforms and devices to make its services available on, the Trust requires the BBC to comply with all relevant legal and regulatory requirements, including state aid law and the BBC Editorial Guidelines and fair trading policy. In particular, while seeking to pursue distribution opportunities, the BBC should ensure that it acts on a fair, reasonable and non-discriminatory basis when entering into any arrangement.

acquired programmes. Others called for the Trust to reconsider its decision given the change of context, the unquantified risk to other channels and lack of clear additional public value (particularly given the BBC's need to achieve savings).

- 6.5.5. The decision received a mixed response from members of the public and support tended to be weaker among those opposed to the closure of BBC Three. Many were critical about the lack of new investment and the use of repeats which some argued was at odds with a commitment to distinctiveness. Stakeholders and consultation respondents considered that greater public value would be unlocked if the proposal was committed to new content. There was a strong sense from audience councils and consultation respondents that the proposal might disrupt established family routines.
- 6.5.6. A number of consultation responses raised concerns about the conclusions made by Ofcom in its MIA, which we shared with Ofcom. Ofcom did not undertake further analysis but clarified the relevant sections of the MIA, which can be briefly summarised as follows:
- (i) COBA argued that there was insufficient clarity as to the impact of the extension on commercial channels. The MIA acknowledged the relevance of audience share on advertising revenues and the fees paid by pay television platforms. Ofcom was unable to quantify the potential impact because of insufficient information, but concluded that any impact was likely to be small. Going further than its existing analysis to calculate the potential financial impact would require additional work and Ofcom did not consider that this was proportionate. It maintains that the MIA provides a reasonable indication that the likely impact of the proposal on any individual broadcaster – including children's broadcasters – would be limited considering the magnitude of the overall impact of the proposal.
 - (ii) The MIA also discussed the impact on further investment in children's programmes of any financial losses to commercial channels and considered the relationship to be uncertain because of the different strategies broadcasters could take to respond, but perceived the risk to investment to be low because of the small scale of the potential impact.
 - (iii) COBA suggested an alternative approach to modelling the distribution of viewing. Ofcom suggests that this approach would not affect the magnitude of the overall potential impact on viewing share, although it would affect the distribution of the impact.⁷⁸ In its view, the size of the overall impact of the CBBC proposals reduces the significance of any potential concerns about its distribution.
 - (iv) ☒ argued that the impact of the extension would be unevenly distributed. The MIA acknowledged that children's channels may be affected by the proposal but given the scale of the forecasted impact on overall audience shares it did not expect the magnitude of this impact to be significant. Ofcom was unable to comment on the specifics of ☒'s anticipated revenue loss as it did not have access to its underlying analysis but noted that its submission to the MIA also made reference to a revenue loss of ☒. It noted that this figure was close to the higher end estimate of the overall loss of producer surplus for the CBBC proposal, across all channels (which was £1.1m overall). Ofcom expects children's channels to lose a share of the overall decline in the potential audience (total 0.04%) but only anticipates a financial loss of the scale ☒

⁷⁸ It would not affect the relevant modelling assumptions or indicate that CBBC would attract more viewers.

expressed if the relationship between pay television platform fees and a pay channel's share of viewing was especially sensitive to changes.⁷⁹

- 6.5.7. We acknowledge the strong opposition to the proposal from both industry stakeholders and consultees, but consider that there is public value in the proposal. CBBC is a distinctive strand in the BBC portfolio and the extension is an opportunity to make its programmes reach further. While limited to some degree by the lack of new investment, we recognise that the proposal nevertheless may help to sustain viewing by offering greater choice at a time when children are more likely to watch. Extended hours may also support the transition of younger viewers to CBBC.⁸⁰ While incremental reach is likely to be low, it can be implemented at minimal cost and will not have a material adverse impact on commercial channels.
- 6.5.8. We have also considered the MIA and Ofcom's further clarification in response to stakeholder in the second phase of the consultation and remain of the view that the adverse market impact of this proposal is relatively small.
- 6.5.9. We therefore conclude that the public value outweighs the negative market impact identified by Ofcom and approve this proposal.

Additional guidance

- 6.5.10. **Future developments to CBBC:** as set out in our provisional conclusions, in response to Ofcom's recommendation in the MIA, the Trust considered that (similar to the BBC Three and BBC iPlayer proposals) the Executive should bear in mind that if it proposes to make further changes to CBBC, it should consider whether these changes could result in a potentially significant change to the BBC's UK public services. If so, it should refer the proposals to the Trust, which will determine whether the proposed changes are indeed significant and require a PVT.

Equality and diversity

- 6.5.11. In relation to all of the proposals, we took into account the equality impact assessment conducted as part of the PVA.⁸¹ The EIA found that some groups had more relevance than others:
- (i) **Age** was particularly relevant, as the BBC is closing a broadcast service primarily aimed at young people (BBC Three), and it is likely that not all BBC Three viewers will migrate across to the new online service (partly because of issues around broadband internet access) or other BBC channels, such as BBC One and Two (which have a much older average viewer).
 - (ii) **Ethnicity** was also a potentially relevant group, as BBC Three has better reach to BAME audiences than any other channel, and as with younger viewers, BAME viewers will likely not all migrate across to other BBC services (because of issues around broadband internet access). The viewer profiles of other BBC services are also a concern in this group.

⁷⁹ Our point about the relationship between share of viewing and pay TV platform fees is covered in paragraph 10.33, pp.104.

⁸⁰ By offering programmes for younger viewers when Cbeebies closes.

⁸¹ It was not clear that the public sector equality duty applied to this PVT, as our function in deciding whether or not to approve the proposals is 'a function relating to the provision of a content service' (Equality Act 2010, Schedule 19). Nevertheless, given the importance of properly evaluating how, and to what extent, the proposals would, if approved, affect particular sections of the audience we decided to evaluate this.

- (iii) **Disability** was also particularly relevant, because accessing online content is more difficult for viewers with some disabilities. There were also concerns that the quotas for subtitling, signing and audio description, which currently apply to broadcast television channels, would not cover some online content.
 - (iv) The EIA also identified a potential impact on viewers in **rural areas** and in the **C2DE socioeconomic group** because issues with broadband access (including affordability) and speed may prevent these groups from successfully viewing online content, and it is less likely that the latter group will have the right equipment to receive the proposed BBC 1+1 channel.
- 6.5.12. The EIA made a number of recommendations to attenuate the risk that an online offer posed to those with a disability or without access to an adequate broadband connection and minimise the potential adverse impacts on these groups.
- 6.5.13. On access to the services, we have imposed conditions (set out above) to our decision to encourage migration of young and BAME audiences online and ensure (for those without an adequate broadband connection) that BBC Three programmes are still available on the broadcast schedule.
- 6.5.14. In relation to the accessibility issues an increased focus on online content may pose difficulties for people with no (or a limited) broadband connection and those without access to the latest technology. However, our condition makes available on an ongoing basis BBC Three programmes on either BBC One or BBC Two should address these concerns. We do not therefore believe further conditions are necessary.
- 6.5.15. Overall, we are satisfied that any potential adverse impacts on diverse groups are balanced by the overall public value of the proposals, which includes value for members of these groups (and which was calculated in the PVA paying due regard to their best interests) and by the imposed conditions.

6.6. The proposals as a package

Introduction

- 6.6.1. In our provisional conclusions, we considered it necessary to consider all four elements of the proposal as a package given they were presented to us as a package. In particular, we considered it necessary to be satisfied that the PVT test would still be passed if we decided to provisionally reject the proposed new BBC One+1, but approve the other elements (in some cases, with conditions).
- 6.6.2. In our provisional view, taken as an overall package, the gains and losses were unevenly distributed. The impact on the market would be broadly neutral but is skewed by the BBC One+1 proposal because this element is likely to have a negative impact on the market and also delivers limited public value, while the other elements of the package offer more public value. Our provisional view was that the package as a whole generated public value, which would justify the market impact. Rejecting the BBC One +1 proposal did not affect this conclusion in our view as doing so would only reduce the market impact, such that the package would pass the test more readily.
- 6.6.3. We concluded that, while finely balanced, the BBC Three proposal does deliver public value and the other proposals offer clearer public value, e.g. the proposal to extend the broadcasting hours for CBBC provides greater flexibility and a transition path for 6-

9 year old viewers while the evolution of iPlayer enhances the current offer with greater choice and more content. We therefore took the view that the package was separable, and we were satisfied that the test would still be passed if we detached the proposed new BBC One+1.

Consideration and decision

- 6.6.4. In our final decision, taken as an overall package, the gains and losses of the proposals as a package remain unevenly distributed. The impact on the market, which is broadly neutral, remains negatively skewed by the BBC One+1 proposal and also delivers limited public value, while the other elements of the package offer more public value.
- 6.6.5. The BBC Three proposal, while finely balanced, delivers public value. The evolution of BBC iPlayer delivers clear public value and the proposal to extend the broadcasting hours for CBBC, delivers public value. We remain of the view that the proposals are separable, and we are satisfied that the package, minus the proposal for BBC One +1, generates public value which justifies the market impact.
- 6.6.6. The Trust has reached its final conclusions on the proposals having considered the PVA and MIA in full, the Executive's response, the public responses to both phases of the consultation including their conclusions and the evidence and other matters underlying them. We have taken the view that the package is separable and have assessed both the individual elements and the package as a whole (in the sections above). In applying clause 26(6) and generally in reaching our decision, we have also considered our general duties under Article 23 of the Charter and our other legal duties. In our view, particularly given the matters considered in the PVT, our final conclusions are consistent with these duties. In particular (but non-exhaustively), we are satisfied that we have:
- (i) represented the interests of licence fee payers in considering the value that would accrue to them from the proposals,
 - (ii) secured the independence of the BBC through the proper application of the PVT process
 - (iii) assessed carefully and appropriately the views of licence fee payers through formal consultation
 - (iv) exercised rigorous stewardship of public money through the value for money analysis we conducted in the PVA. This was also a reason for requesting further information from the BBC Executive
 - (v) had regard to the competitive impact of the BBC's activities on the wider market through our consideration of Ofcom's MIA
 - (vi) ensured that the BBC observes high standards of openness and transparency through the publication of this and other documents arising from the PVT process; and
 - (vii) had due regard to the findings and conclusions of the EIA and to the requirements of the public sector equality duty.³⁴

Glossary of terms

BAME	Black, Asian and minority ethnic groups
Broadband	Always on, high-speed connection to the internet, capable of supporting high bandwidth services such as video
Curation	The way in which content is organised and displayed by a content provider such as the BBC
DTT	Digital terrestrial television (known also as Freeview)
FRND	Fair, reasonable and non-discriminatory terms
HD	High-definition
IP	Internet protocol, a method by which data (e.g. email, video) is sent from one computer to another on the internet
iPlayer	Online, on-demand catch-up BBC service, which allows users to watch BBC programmes from the previous 30 days
Linear content	Refers to scheduled broadcast television content
Long-form content	Full-length programmes or episodes, typically more than 30 minutes in duration (also known as long-form programmes)
MIA	Market impact assessment undertaken by Ofcom to assess the market impact of new BBC proposals. This forms part of the public value test (see PVT)
Multiplex	A multiplex is a bundle of television services that has been digitised, compressed and combined into a data stream for transmission to viewers over a single channel
New-form content	New-form content includes but is not limited to text-based content (articles, blogs, tweets), images, video clips, animation, and interactive content that, for example, allow users to vote for or comment on programmes

On demand	Allows users to select, stream, download, store and view film and television programmes, usually within a certain timeframe, using a digital cable box or online service
PVA	Public value assessment undertaken by the Trust to assess the value of BBC proposals including value to licence fee payers, value for money and wider societal value. This forms part of the public value test or PVT (see PVT).
PVR	Personal video recorder
PVT	Public value test. Any significant proposals for change from the BBC Executive must be subject to full and public scrutiny. The means by which this scrutiny takes place is the public value test. A PVT is a thorough evidence-based process, which considers both the public value and market impact of proposals. During PVTs, the BBC Trust will consult the public to ensure its decisions are properly informed by those who pay for the BBC.
SD	Standard definition
Service licence	The Trust aims to ensure that the BBC offers high quality and original services for all licence fee payers. To help deliver this, it sets out the remit and expectations for each BBC service – and how that service will create public value – in a published licence.
Short-form content	Short audio-visual programmes which have a narrative arc
Simulcast	Simultaneous broadcast, the broadcasting of programmes across more than one medium at exactly the same time
Smart television	A stand-alone television set with inbuilt internet functionality. Users connect to the internet via a broadband router or modem.
VOD	Video-on-demand

Annex I, the public value test

The BBC's Charter and Agreement came into effect on 1 January 2007. The Charter makes clear that the BBC should be able to alter its UK public services – for example, to respond to changes in technology, culture, market conditions and public expectations. However, any significant service-related proposals for change from the Executive, including proposed new services, must be subject to full and proper scrutiny. The means by which this scrutiny takes place prior to approval is the Public Value Test (PVT).

If the Executive proposes to launch a new UK public service or make significant changes to an existing UK public service, the Trust will consider the proposal and decide whether to launch a PVT. The BBC's UK public services include all the BBC television and radio channels broadcast in the UK and the BBC's online services. They do not include the BBC's overseas services or its commercial services, such as the publication of magazines or sale of videos by the BBC subsidiary BBC Worldwide.

Where a PVT is undertaken the new service or change must not happen until that process is complete. The PVT has several elements. A Public Value Assessment (PVA) is prepared by the Trust to ascertain the likely public value of the proposed change. In making this assessment, the BBC Trust acts in accordance with the requirements of a Framework Agreement concluded between the BBC and the Secretary of State for Culture, Media and Sport (Framework Agreement). It also must comply with all its other legal duties including the general duties in Article 23 of the Charter.

At the same time, the communications regulator Ofcom prepares a Market Impact Assessment (MIA) examining the extent of any likely adverse impact on markets relevant to the proposed change.

The Trust then considers these two assessments and reaches provisional conclusions on the proposed change. In order to conclude that the proposed change should be made, granting approval either with or without conditions, the Trust must be satisfied that any likely adverse impact on the market is justified by the likely public value of the proposed change. It also must be satisfied that approval would be consistent with the Trust's duties under Article 23 of the Charter and its other legal duties. The Trust's provisional conclusions are the subject of public consultation.

The Trust will review and take account of, as appropriate, all representations received before making its final decision on whether or not to approve the proposed change. This document represents the Trust's final decision.