
BBC iPlayer Competition Assessment

Consultation on Ofcom's provisional determination

CONSULTATION:

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1. Overview

The BBC has proposed to change BBC iPlayer from a service where programmes are available to 'catch-up' for 30 days after broadcast, to one where programmes are available for 12 months as standard, with some available for longer.

As required by the BBC Charter and Agreement, we are carrying out a competition assessment, under which we: look at the public value provided by the BBC's proposals, analyse the way in which they impact on competition, and consider whether that public value justifies any adverse impacts that we identify.

This document sets out our analysis and provisional conclusions. We are consulting on our conclusions for four weeks and expect to publish our final conclusions by August 2019.

Our provisional conclusions

The way people watch programmes is changing rapidly. Viewers not only want to choose what they watch, but how, when and where they watch it. To meet these expectations, there have been significant developments in recent years in video-on-demand (VOD) services from companies such as Netflix and Amazon Prime Video, as well as the UK's Public Service Broadcasters (PSBs). What viewers expect from the BBC is therefore changing too, and this is particularly the case for young people.

The BBC has proposed a change in strategy for BBC iPlayer; to turn it from a catch-up service into a destination for audiences. Its proposals include making most BBC content available for 12 months, with children's programming available for five years, and some content available for longer.

We are considering these proposals through a BBC Competition Assessment. Our role, under the BBC Charter and Agreement, includes reviewing how the BBC has developed its proposals and its assessment of their public value. We must also assess the impact of the BBC's proposals on competition. After this, we decide either that the BBC may carry out the proposed changes to BBC iPlayer; or that it may do so subject to conditions; or that it may not proceed with its plans.

Our provisional conclusion is that the public value of the proposed changes to BBC iPlayer justifies the adverse impact on fair and effective competition we have identified. Over time, we consider the BBC's proposed evolution of BBC iPlayer could generate significant public value, through increased choice and availability of PSB content. To some extent, this reflects the fact that viewers' expectations have already changed and that the BBC needs to keep pace so that it remains relevant for audiences now, and in the future. We are, however, concerned about the competitive challenges created, particularly for other PSBs' VOD services and potential UK entrants such as BritBox. Viewers to these services could potentially feel the impact if there is less investment in those services as a result. Therefore, our provisional conclusion does not mean the BBC is able to extend and develop BBC iPlayer free from further regulatory control.

This conclusion is subject to conditions and guidance to ensure that the BBC delivers this public value and mitigates risks to fair and effective competition. We are proposing to impose conditions on the BBC to ensure it regularly reviews and reports on the way in which the new BBC iPlayer will contribute to delivery of the BBC's mission and public purposes under the Charter. We consider that BBC iPlayer should be able to evolve in line with the BBC's current proposed changes, but if it wants to make further significant changes, the BBC will first have to consider the potential impact on competition. Finally, it is important that the BBC observes its regulatory obligations in relation to distribution to ensure its services are available widely on a fair, reasonable and non-discriminatory basis.

Our provisional conclusions are therefore that the BBC may proceed with its proposal, subject to the conditions and guidance. We are now consulting for four weeks until 10 July on our provisional conclusions, and expect to publish a final decision by August.

This overview is a simplified high-level summary only. The provisional conclusions we are consulting on and our reasoning are set out in the full document.

2. Background and approach

The purpose of BBC Competition Assessments

- 2.1 The BBC's mission is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain. To ensure it continues to deliver programmes which fulfil its mission and public purposes, over time the BBC will need to make changes to its existing activities or develop new services, to better meet the needs of audiences.
- 2.2 Certain changes may be minor; for example, day-to-day editorial decisions about individual programmes or their scheduling. However, as a large, publicly-funded organisation, other changes the BBC might wish to make could have a significant impact on competition in the wider media market. Such changes could potentially affect those competing services which are subject to the uncertainty of commercial pressures in a way the BBC is not, given its unique funding model.
- 2.3 Impacts can be positive, and the BBC may enhance public value and encourage competition by offering more choice, stimulating demand, or promoting innovation to the benefit of UK audiences. However, some changes the BBC proposes may harm competition; for example, by crowding out investment from third parties, with ultimately negative consequences for audiences. Because of this, the BBC Charter and Agreement, which set the BBC's mission and duties, provide for first the BBC, and then Ofcom, to consider the effects on competition of significant changes to the BBC's TV, radio and online public services.
- 2.4 Competition assessments (BCAs) are not intended as a means of calling into question the fundamental role of the BBC, nor of preventing the BBC from evolving to ensure it continues to serve UK audiences. The BBC will have an impact on competition when it makes changes to its services, and our role is not to prevent the BBC from having *any* impact; rather it is to protect fair and effective competition when the BBC proposes to make material changes to services.¹
- 2.5 A key part of the background for this BCA is the fact that the way in which people are watching television is changing rapidly. To some extent the changes that the BBC has proposed reflect its objective to keep pace with those changes. In general we accept that the BBC needs to ensure that it does not fall behind viewers' expectations, but proposals for change need to be considered under the framework provided by the Charter and Agreement. That is the way to ensure that potential effects on other stakeholders, and particularly other UK broadcasters, can be properly considered and addressed through open consultation. As the BBC iPlayer evolves over time, it will continue to be the case that

¹ As we set out in Annex 1, the Agreement defines a material change as the carrying out of any activity as a new UK Public Service; and any change to a UK Public Service which may have a significant adverse impact on fair and effective competition. Clauses 7(6) and 7(7) of the Agreement.

proposals for change will need to be fully considered so that the UK broadcasting market is properly protected.

Public Interest Test on the BBC's longer-term iPlayer proposals

BBC PIT Consultation

- 2.6 Last year, we concluded that the shorter-term changes that the BBC proposed to make to BBC iPlayer (the 2018/19 Interim Changes) represented a material change, given the potential impact on other UK VOD services.² We therefore directed the BBC to undertake a PIT on the BBC iPlayer proposals, which we said should include wider changes the BBC may wish to make to BBC iPlayer in the future.³ We also directed that the BBC could only partially implement its proposals in the interim, limiting the BBC's ability to extend the availability of some types of content for longer than 30 days, from 2 November 2018 onwards.⁴
- 2.7 The BBC published a consultation on its iPlayer BBC proposals (the BBC PIT Consultation) on 7 January 2019 on the longer-term changes it wants to make to BBC iPlayer in the future. In this consultation, it set out high-level proposals, indicating that it seeks to make all programmes available for at least 12 months.⁵

BBC PIT document

- 2.8 On 25 April 2019, the BBC published its PIT publication,⁶ which set out its BBC iPlayer proposals (the Proposals)⁷ in more detail. We considered the Proposals to be larger in scale⁸ than the BBC's 2018/19 Interim Changes, while also being longer in duration (extending beyond the 2018/19 financial year) and "more far reaching" (as noted by the BBC in the BBC iPlayer PIT document, Annex 2).

The Proposals that have been assessed in this BCA

- 2.9 The Proposals include making content available on BBC iPlayer for 12 months after the final episode has been published as standard, with some content available for a longer period of time. The BBC states that the Proposals will "*transform BBC iPlayer from a catch-up service*

² VOD (video on demand) includes paid-for subscription video on demand (e.g. Netflix and Amazon Prime Video), free broadcaster video-on-demand services (e.g. BBC iPlayer, All 4) as well as online video content from services such as YouTube and Facebook (excluding short-form video clips).

³ Ofcom, November 2018. [Review of the BBC's Materiality Assessment of Proposed Changes to the BBC iPlayer.](#)

⁴ Ofcom, November 2018. [Review of the BBC's Materiality Assessment of Proposed Changes to the BBC iPlayer: Final interim directions.](#)

⁵ BBC, January 2019. [BBC iPlayer proposals: Public Interest Test consultation.](#)

⁶ BBC, April 2019. [BBC iPlayer Public Interest Test.](#)

⁷ For the purposes of this document the Proposals are the changes described in paragraphs 2.9-2.12.

⁸ In particular, the estimated number of series in the Proposals is more than was proposed in the 2018/19 Interim Changes, many series are now planned to be available for 2 or more years and the Proposals also include children's programming.

into a destination".⁹ The main detail of the Proposals is set out in Chapter 4 of the BBC iPlayer PIT document.¹⁰

2.10 For the purpose of this BCA, the Proposals¹¹ we have considered are as follows:¹²

- a) For drama and scripted comedy programmes:
 - i) all new programmes to be available on iPlayer for a standard 12 months from the first availability¹³ of the final episode in the current series;
 - ii) up to 50% of current returning¹⁴ scripted titles available as full box sets¹⁵ (c.25 titles each year);¹⁶
 - iii) up to 50% of non-returning scripted titles available for a further¹⁷ 12 months (c.25 titles each year); and
 - iv) up to 35 scripted archive¹⁸ titles available at any one time.
- b) For children's programmes:
 - i) all new programmes to have a standard 5-year availability;
 - ii) all previous series of returning titles available as full box set (c.30 titles at any one time); and
 - iii) c.50 children's archive titles available as full box sets (all series) at any one time.
- c) All other commissions:
 - i) all new programmes to be available for a standard 12 months from the first availability of the final episode in the current series;
 - ii) returning titles available as full multi-series box sets (c.25 titles at any one time);

⁹ BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 21. As explained further in paragraph 78b of the BBC PIT, the BBC seeks to "change audience perceptions of BBC iPlayer to a destination in its own right" and turn it into "a place to discover great content, whether live or on-demand, brand new or archive. BBC iPlayer will no longer be just a catch-up service".

¹⁰ In particular, the scale and nature of the Proposals are outlined in Figure 16 of the [BBC's PIT document](#).

¹¹ This summarises the Proposals set out in the [BBC's PIT document](#), in particular Figure 16 on page 31.

¹² The following exclude acquisitions and commissions for BBC Three.

¹³ As noted in the BBC PIT, this is availability from when the final episode in the current series is first published on BBC iPlayer. BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 80.

¹⁴ A 'returning series' is a TV title that is currently being commissioned, which was also broadcast (or otherwise made available) in previous years.

¹⁵ Being available as a 'full box set' means that all series (including previous series) of a TV programme title are made available on a VOD service. As explained in the BBC PIT, the BBC proposes "to make selected returning titles available as full box sets of all series, while the title is still being commissioned". BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 91.

¹⁶ As the BBC notes in the BBC PIT, it indicates the volumes of programmes it expects to make available as full box sets over the next three years in Figure 16. BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 95.

¹⁷ As indicated in the BBC PIT, it "will select a limited number to keep up for a further 12 months, beyond their initial window". BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 96.

¹⁸ The BBC defines 'archive' titles as those that "that are no longer being commissioned". BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 98.

- iii) a variable volume of predominantly non-commercial, non-returning singles¹⁹ and one-off non-returning series available beyond the initial 12 months (c.100 individual series each year); and
 - iv) a variable volume of predominantly non-commercial archive titles (c.50 series each year).
- d) Linear repeats:
- i) All repeats, outside of the initial or extended VOD availability, are to be available on iPlayer for 30 days from the linear transmission of the final episode in the series

Exclusivity of content after the initial 12 months

2.11 As part of the Proposals, we expect that most (if not at all) new programmes would be available on BBC iPlayer on an exclusive basis during the first 12 months (or the first five years for children's content). However, our understanding of the Proposals is that the vast majority of returning series, non-returning series and archive series would not be exclusively available on iPlayer after the initial 12-month period. [3<]²⁰

Acquisitions

2.12 The BBC has said in its PIT that as part of the Proposals, it would continue to acquire programmes in the secondary market²¹ for broadcast on its TV channels and seek to make these available on BBC iPlayer for at least 12 months, with the upper limit of their availability being dependent on what the BBC can secure in negotiation with sellers. Further to what the BBC notes in its iPlayer PIT,²² we expect that as part of the Proposals, acquisitions²³ will make up no more than a "small proportion" of BBC iPlayer's overall offering. The BBC already has quotas in place requiring that 75% of hours on BBC One, Two and Four are original productions and that 90% of peak time hours on BBC One and Two are original. We expect that these quotas will limit the number programmes that the BBC acquires for live broadcast and BBC iPlayer.

Review of the BBC's PIT and launch of the BCA

2.13 Given our materiality decision on the BBC's 2018/19 Interim Changes last year (2018 iPlayer Materiality Assessment),²⁴ we decided that the Proposals are material and that a BCA should be launched. We sought initial views from stakeholders on both the BBC's PIT

¹⁹ The term 'singles' refers to individual, one-off programmes which are not part of a series.

²⁰ By exclusive availability, this means the rights holder of the programme is not able to license the rights to the programme to another UK VOD service. This would not include programmes where the rights holder chooses not to license the programme elsewhere or where other VOD services choose not to acquire those rights.

²¹ By the 'secondary market', we refer to the sale of programme rights outside of the original commission – in this case, the BBC is buying the rights to show programmes that were originally commissioned by another broadcaster or SVOD service.

²² BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 90.

²³ By acquisitions we mean programmes that were originally produced for and shown by another broadcaster or SVOD service before appearing on the BBC, rather than programmes made specifically for the BBC.

²⁴ Ofcom, November 2018. [Review of the BBC's Materiality Assessment of Proposed Changes to the BBC iPlayer](#).

and the issues we would be examining in the BCA in our 'First consultation on proposed changes to BBC iPlayer – call for evidence' (First Consultation).

- 2.14 A number of stakeholders mentioned in their responses to our First Consultation that they were dissatisfied with the BBC PIT consultation process conducted early in 2019, and complained that there was insufficient detail about the scale and nature of the Proposals in the BBC PIT Consultation. For instance, Sky said that “the paucity of information provided by the BBC made it impossible for stakeholders to comment meaningfully on their likely impact”.²⁵ Directors UK said that the BBC PIT Consultation provided “minimal information” which made “any meaningful assessment and comments by stakeholders very difficult”.²⁶ Equity also complained that the BBC had provided “very limited information”.²⁷
- 2.15 It would clearly be preferable for the BBC to ensure that there is sufficient, transparent information on its proposals in any PIT consultation so that stakeholders can comment meaningfully on them. We observe in particular that the BBC did not make any mention of its proposal for children’s programming in its consultation.
- 2.16 We do not propose to require a reconsideration of the PIT under Clause 11(1)(a) of the Agreement as a result of such process concerns. We think it is important in the context of these Proposals to take a pragmatic approach to process issues given the risk of the BBC falling behind viewers’ expectations. The information provided by the BBC in its PIT publication of 25 April 2019 was sufficiently detailed to allow us to initiate a BCA. We also consider that, with the publication of the 25 April BBC PIT publication, our First Consultation, and this consultation document, stakeholders now have sufficient information to comment on the Proposals, and that Ofcom is able to make a determination.
- 2.17 In the confidential version of its PIT document, the BBC outlined its plans for functionality changes to BBC iPlayer, including to increase the extent of personalisation on the service, and to improve the experience of live content on iPlayer, amongst others.²⁸ Although in the 2018 iPlayer Materiality Assessment we asked the BBC to include its functionality proposals in the PIT we were directing it must carry out, the BBC has now decided that these changes do not themselves form part of its Proposals and are not relevant to the PIT.²⁹ We consider that this approach is not satisfactory as stakeholders do not have sufficient transparency over these types of changes. For pragmatic reasons we do not propose to address the process issues created as part of this assessment. However, we do consider that functionality changes may, in principle, be material changes and the BBC should therefore separately assess their potential impact on competition and consider whether a regulatory process is required.

²⁵ [Sky response](#) to our First Consultation, page 6.

²⁶ [Directors UK response](#) to our First Consultation, page 1.

²⁷ Equity response to our First Consultation, page 2.

²⁸ BBC, April 2019. [BBC iPlayer Public Interest Test](#), Annex 3.

²⁹ BBC, April 2019. [BBC iPlayer Public Interest Test](#), Annex 3, page 89.

Consultation on Ofcom's provisional determination

- 2.18 The purpose of this consultation is to set out our provisional conclusions on whether the Proposals should be allowed to proceed. It also seeks stakeholder views regarding our provisional conclusions.
- 2.19 We will follow the approach set out in our guidance,³⁰ which explains that, in accordance with our obligations under the Agreement, a BCA will include:
- a review of the BBC's assessment of public value;
 - our own assessment of whether the changes that would result from the BBC's proposals would have an adverse impact on fair and effective competition; and
 - a concluding assessment of whether the public value of the proposals justifies any adverse impact it may have on fair and effective competition.³¹
- 2.20 Our role during the BCA process, as well as the issues that we are required to consider, are set out in more detail in Annex 1 (legal framework).

Structure of document

- 2.21 The remainder of this consultation sets out the approach we have taken in this assessment:
- In Section 3, we summarise how VOD services are developing and the context for our assessment of the Proposals;
 - In Section 4, we set out the findings of our estimates for the increase in BBC iPlayer viewing as a result of the proposed changes, as well as how this growth in viewing is likely to impact other services;
 - In Section 5, we look at the approach the BBC has taken to its public value assessment. We set out the evidence the BBC has put forward and consider the extent to which the BBC has made compelling arguments for the benefits to public value which it believes the Proposals will deliver;
 - In Section 6, we summarise our own market impact assessment, setting out the main positive and negative effects we believe the Proposals could have on competition; and
 - In Section 7, we explain how we have assessed the public value and market impact identified in earlier sections to make our provisional determination that the BBC may carry out the Proposals, subject to proposed conditions and guidance.

³⁰ Ofcom, March 2017. [Assessing the impact of proposed changes to the BBC's public service activities](#) (the 'BCA guidance').

³¹ Clause 10 of the Agreement. Section 5 of the BCA guidance explains the analytical approach we expect to apply.

3. Sector developments

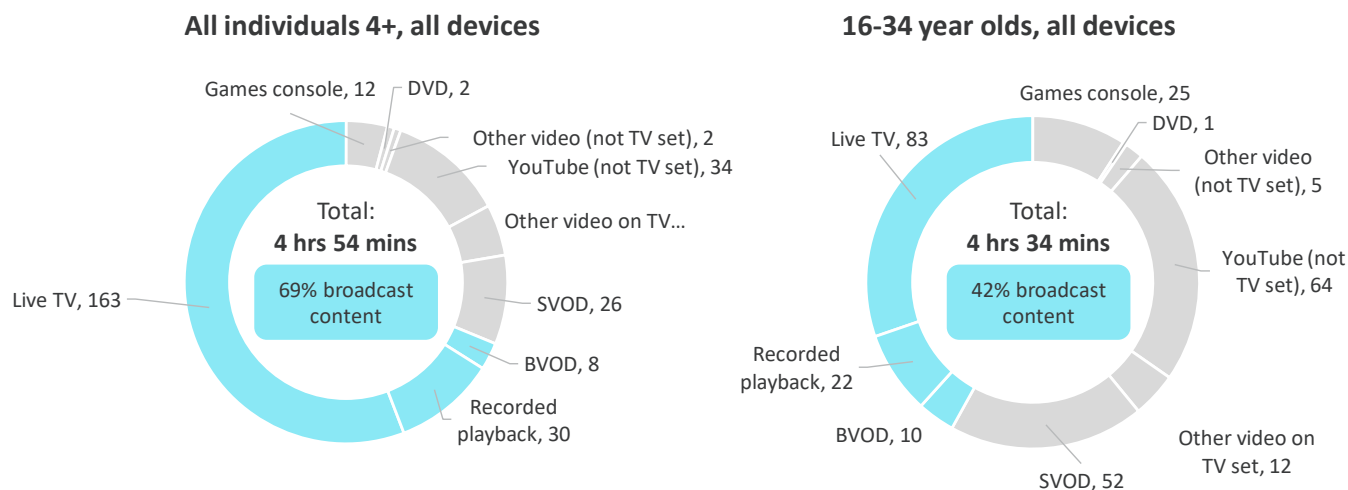
Background

- 3.1 This section summarises how VOD services are developing and the context for our assessment of the Proposals. We explain how audience behaviours are changing and how the available range of services is evolving. We also discuss changes to the production sector. More detail on some of the changes identified here is set out in our First Consultation.
- 3.2 We commissioned Ampere Analysis to undertake a study of the VOD market, exploring how UK VOD providers have evolved, the current state of the market and its likely evolution. We published the report from Ampere Analysis on 27 May 2019,³² and a summary is set out at the end of this section.

Audience Behaviour

- 3.3 As we explained in our First Consultation, the broadcasting landscape in the UK has been undergoing significant technological and structural changes and, as a consequence, audience behaviour has changed. Viewers now have a wealth of choice over how, where, when and what they watch. These developments bring opportunities for broadcasters, but also challenges, with many different TV and VOD services now competing for viewers.³³

Figure 3.1: Total audio-visual (AV) viewing time spent per day, all individuals vs. 16 - 34s, 2018



Source: BARB / TouchPoints / Comscore / Ofcom analysis

³² Ampere Analysis, 2019. [The UK VoD market - Current status and future developments](#).

³³ See footnote 4 for definitions of VOD.

3.4 Last year, we set out some of the significant challenges faced by PSBs as a result of these changes.³⁴ A particular challenge is the ability of PSBs to continue to attract younger adults and children, both of whom are reducing their live TV³⁵ viewing at a faster rate than older people.

The range of VOD services

3.5 The PSBs all have their own VOD services (also known as BVOD³⁶ services), which are well established in the UK. These services have traditionally relied upon the business models of their parent channels: BBC iPlayer is supported by licence fee funding; ITV, STV, Channel 4 and Channel 5's respective services are largely funded by advertising.

3.6 Initially these services primarily provided access to 'catch-up' content³⁷ in a short period following initial broadcast. Over time these services have started to expand to offer a wider range of content, including archive series³⁸ and VOD exclusives to varying degrees. Given the changing dynamics in the market place, the PSBs are seeking to strengthen their VOD platforms and diversify their business models, through advertising-free, paid-for versions and data-led approaches to advertising. ITV has also announced plans for a new subscription VOD (SVOD)³⁹ service, BritBox, in partnership with the BBC.⁴⁰

3.7 Advertising comprised around 90% of commercial PSB channels' total revenue of £2.2bn in 2017.⁴¹ However, advertising revenues for commercial PSBs are declining in real terms, at a five-year compound annual growth rate of -2.5% (2012 to 2017).

³⁴ Ofcom, 2018. [Public Service Broadcasting in the Digital Age](#).

³⁵ Also referred to as linear TV.

³⁶ BVOD (broadcaster video on demand) refers to free video-on-demand services from the major broadcasters, including BBC iPlayer, ITV Hub, All 4, My5, STV (as above, these services offer more than just on-demand but are referred to as BVOD for ease of reference).

³⁷ 'Catch-up' content refers to TV content made available on a VOD service, which is from a series that has been broadcast within the last 30 days.

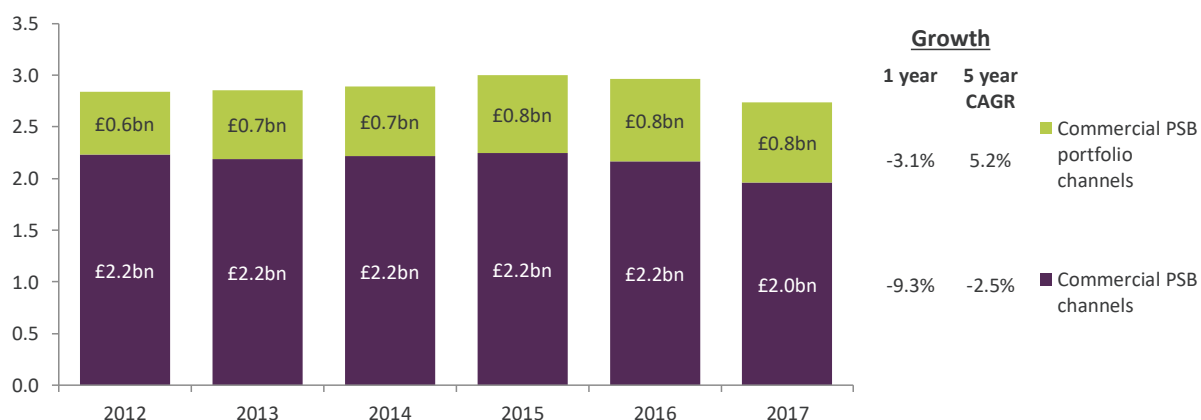
³⁸ 'Archive series' are series from programmes that are no longer being commissioned. For example, series from past programmes *Gavin and Stacey* and *The Office*.

³⁹ SVOD (subscription video on demand) refers to paid-for subscription video-on-demand services such as Netflix, Amazon Prime Video and NOW TV. While these services offer more than just video on demand (e.g. streaming, linear pay TV channels, as well as content to own or rent) they are categorised as SVOD in this report for ease of reference.

⁴⁰ BBC Media Centre, February 2019. [BBC and ITV confirm proposals for BritBox - a new transformational streaming service](#).

⁴¹ Not including commercial PSBs' portfolio channels. Note portfolio channel revenues are also dominated by TV advertising income. Ofcom/broadcasters. Ofcom, 2018. [Media Nations 2018](#).

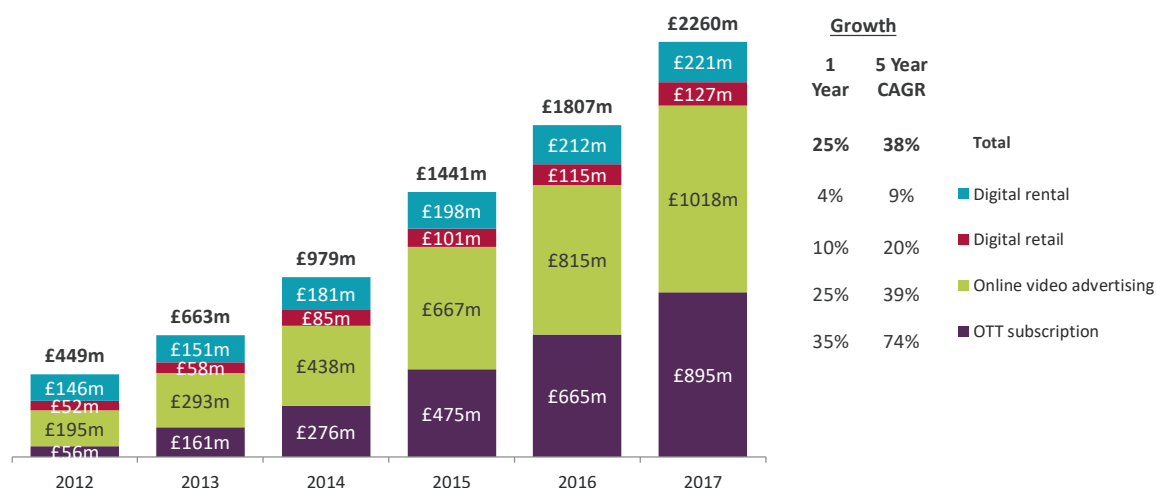
Figure 3.2: Commercial PSB net advertising revenues, by source, 2012-17



Source: Ofcom/broadcasters. Note: Figures expressed are in real terms and replace previous data published by Ofcom. Commercial PSB channels comprise ITV, STV, UTV, ITV Breakfast, Channel 4, Channel 5 and S4C (and their ‘+1’ channels); Commercial PSB portfolio channels include, where relevant, ITV2, ITV3, ITV4, CITV, ITVBe, ITV Encore, ITV Breakfast 2, E4, More 4, Film 4, 4Seven, Five USA, 5* and Spike (and their ‘+1’ channels). For previous years closed channels have also been included. Sponsorship revenue not included.

3.8 As live TV advertising declines, online audio-visual (AV) revenues are increasing to help offset PSBs’ lost income. Commercial PSBs face a high degree of competition for online advertising revenue from a wide range of online video services, including international services such as YouTube. Subscription revenue for online video services has also grown at a rapid rate.

Figure 3.3: Online AV revenues, 2012-17⁴²



Source: Ampere Analysis/ Zenith Media. Note: Ad-funded video includes catch-up services, YouTube and other ad-funded video spend. OTT Subscription includes Netflix, Amazon Prime Video DisneyLife and NOW TV. Digital rental includes one-off pay-per-view of films and video but excludes sport. Digital retail is based on British

⁴² Ofcom, 2018. [Media Nations 2018](#).

Association of Screen Entertainment spend figures exclusive of VAT and covers 'download to own' purchases. All figures are in real terms (2017 prices).

- 3.9 Over the past decade, SVODs such as Netflix and Amazon Prime Video have entered and expanded in the UK. Netflix and Amazon have attracted millions of subscribers in the UK, and significantly more internationally. In the UK, Sky launched its own streaming service, Now TV, which brings together various programmes from pay channels available on Sky's satellite platform including TV, film and live sports. A number of specialist SVOD services have also entered the UK, offering content such as overseas sports leagues, arthouse cinema or children's content. Collectively, more households now subscribe to SVOD services in the UK than to pay TV services from Sky, BT and Virgin Media and others.⁴³
- 3.10 Other companies are also launching their own, well-funded services. Major international companies, in particular Apple⁴⁴ and Disney,⁴⁵ have announced new services which are expected to launch in 2019 and are likely to be available in the UK.

Figure 3.4: Summary of KPIs for major VOD services in the UK

Company	Owner	Business Model	Launch Date	UK VOD revenue (2018 estimates)	UK Monthly Users
Netflix	Netflix	SVOD	Q1 2012	£693m	9.9m subs
Amazon	Amazon	SVOD	Q1 2014	£400m	7.7m subs
Now TV	Comcast	SVOD	Q3 2012	£170m	1.5m subs
BBC iPlayer	BBC	Public Funded	Q3 2007	-	13.4m homes
ITV Hub	ITV	BVOD (SVOD Tier)	Q4 2008	~£250m	8.8m homes
All 4	Channel 4	BVOD	Q4 2006	~£80m (2017)	6.8m homes
My5	Viacom	BVOD	Q2 2008	~£30m	4.0m homes

Source: Ampere Markets, Ampere Consumer, Ampere Analytics, Ampere Analysis estimates

Content libraries and production

- 3.11 The BBC has the largest TV content budget of any UK PSB. In 2017 it spent £1.2bn on network TV programmes. Including the BBC, UK PSBs spent £3.1bn in total on network TV programmes in 2017, £2.5bn of which was on first-run originated content. UK PSBs' spend on first-run originated content has declined by 28% (in real terms) from its 2004 peak.⁴⁶ Combined PSB programming spend is notably smaller than Netflix's reported \$12bn (approximately £9bn) 2018 content budget⁴⁷ and Amazon Prime Video's \$5bn (approximately £4bn) budget,⁴⁸ although these figures represent investment in content on a global basis, as opposed to for a single country.

⁴³ BARB Establishment Survey.

⁴⁴ Apple, March 2019. [Apple unveils Apple TV+](#).

⁴⁵ CNBC, November 2018. [Disney's new Netflix rival will be called Disney+ and launch late 2019](#).

⁴⁶ Ofcom/broadcasters. Ofcom, 2018. [Media Nations 2018](#).

⁴⁷ Advanced Television, February 2019. [Netflix to boost spend in 2019](#).

⁴⁸ Digital News Daily, February 2018. [Amazon Expected To Spend \\$5 Billion On Video Content This Year](#).

- 3.12 UK BVOD services draw heavily from their parent companies' broadcast output, which is aimed at UK audiences, and their catalogue has normally focussed primarily on series that have recently been broadcast on live TV channels. In contrast, Netflix and Amazon Prime have larger content libraries, with a smaller proportion of UK content and a lower proportion of unscripted content.⁴⁹
- 3.13 The UK catalogues of Netflix and Amazon include a mixture of acquired programmes (previously shown by broadcasters internationally or within the UK, including PSBs) and originals (content commissioned by the SVOD platform or where the SVOD platform has bought the rights to be sole distributor). The balance between acquired and original content is changing over time - original content now comprises a larger share of Netflix and Amazon Prime Video's catalogues than licensed content such as PSB content. PSB titles are estimated to make up 4% of available hours of content on Netflix, Amazon Prime Video and NOW TV taken collectively in December 2018.⁵⁰
- 3.14 As some global SVOD services have increased the numbers of their original commissions, they are commissioning from UK producers, both by themselves and through co-productions with UK broadcasters. VOD services spent £150m with UK producers in 2017,⁵¹ while PSBs have invested in a small number of high-profile collaborations with Netflix, Amazon and other high-profile producers, such as *Watership Down* (2018).⁵²
- 3.15 In order to facilitate having content available on their platforms for longer, some PSBs have negotiated new Terms of Trade⁵³ with PACT, the producers' trade association, in return for either offering extra payments to producers, or reducing the PSBs' 'holdbacks' – the time period in which content cannot be shown elsewhere.

Future trends

- 3.16 The Ampere Analysis study sets out how the volume of hours of content available on established SVOD services has grown significantly, at the same time as their spend on content has increased multiple times.⁵⁴ Creating a new service which can offer a competitive content library to match these now-established SVOD services may therefore become a more difficult prospect in future.
- 3.17 Exclusive content and flagship productions are important considerations for VOD services, as a means of attracting viewers and to differentiate their services from those of their rivals. Either acquired (i.e. existing content acquired from a third party) or commissioned content (i.e. original content created by the VOD company itself) can play that role.

⁴⁹ BVOD services typically have more UK content (80%+) and are broadly split 50/50 between scripted and unscripted programmes; SVOD services have a majority international content (with ~10-20% local UK content) and highly focused around scripted content. Ampere Analysis, 2019. [The UK VoD Market: Current status and future developments.](#)

⁵⁰ Ampere Analysis, 2019. [The UK VoD Market: Current status and future developments.](#)

⁵¹ PACT, 2018: [UK Television Production Survey: Financial Census 2018.](#)

⁵² A co-production between the BBC, Netflix, 42 and Biscuit Entertainment.

⁵³ Terms of Trade are agreements between individual PSBs and PACT that set out the duration and scope of rights licensed by PSBs when they commission programmes from qualifying independent producers.

⁵⁴ Netflix, Amazon and Now TV's collective library of content grew by 175% from Q2 2015 to Q1 2019. Ampere Analysis, 2019. [The UK VoD Market: Current status and future developments.](#)

Ampere Analysis suggests that content exclusivity will increase over time, making VOD services more distinct from one another in terms of the titles they offer.

- 3.18 VOD services such as Netflix and Amazon, which operate in multiple countries, can gain advantages of scale which allow them to spread their spending on content and technology across a wider base of viewers than services which are limited to one country (e.g. BVOD services such as BBC iPlayer and ITV Hub). In turn, this scale can allow international VOD services to spend more on content and technology, to make their services more attractive. It also can give them greater weight in negotiations with content owners or producers as they can offer a simpler route to global deals. These advantages may make it harder for single country VOD services to compete in future.
- 3.19 As more VOD services become available, consumers will be presented with greater choice. However, there is likely to be an upper limit on the number of separate services that viewers are prepared to use or subscribe to. This trend may present opportunities for services which can consolidate or aggregate content from different VOD services into a single service or interface.
- 3.20 Over the next five years, Ampere Analysis expects SVOD revenues to continue to grow in the UK, from £1.3bn in 2018 to £1.8bn by 2023. Growth in SVOD revenues will outstrip those of BVOD services, which are set to reach just under £0.6bn by 2023. Ampere Analysis estimates that the major commercial PSBs are now making between £1-£2 a month per regular user from advertising revenues, which will rise gradually to between £2-£3 a month in 2023, driven by improvements to advertising technology.⁵⁵

Question 3.1: Do you have any comments or other views on the sector developments and likely future developments we describe in Section 3?

⁵⁵ Ampere Analysis, 2019. [The UK VoD Market: Current status and future developments](#), pages 23 to 24.

4. Estimated increase in BBC iPlayer viewing

- 4.1 In order to inform our assessment of the market impact and public value of the Proposals, we have estimated the increase in BBC iPlayer viewing as a result of the Proposals and considered which other services would be affected by this growth in viewing.⁵⁶
- 4.2 This section summarises the consumer research we have undertaken and our approach to estimating changes in viewing which could occur as a result of the Proposals. More detail is available in Annex 2, alongside an overview of the BBC's approach.

Audience views of the proposed changes

- 4.3 The BBC conducted consumer research to ask audiences about their views of the Proposals and how their behaviour might change if the Proposals were implemented. It commissioned MTM, which conducted a series of 18 qualitative group discussions and an online quantitative survey of 2,200 people. MTM asked audiences about their views of BBC iPlayer and the reasons they use the service and other VOD services. It also asked people what they would think of BBC iPlayer following the changes, how their use of BBC iPlayer might change, and what this would mean for their use of other services.⁵⁷
- 4.4 We separately commissioned Kantar Media to conduct an online quantitative survey of 4,000 people and a face to face survey of 2,060 people (the Kantar Survey). The research asked people about the AV services they use, their views of those services and how they decide what services to watch, including what they choose to watch when programmes are not available on BBC iPlayer. It also asked people how their views of BBC iPlayer and their behaviour would change if programmes were available on BBC iPlayer for 12 months and if there was a wider range of programmes available on BBC iPlayer. We have published a summary of the research today.⁵⁸
- 4.5 Perhaps unsurprisingly, respondents viewed the proposed changes favourably.
- a) The MTM research found that following the changes, audiences ranked the BBC iPlayer with an average score of 7.6 out of 10 (up from 6.9 prior to the changes), giving it a better score than Netflix.⁵⁹ Those who did not use BBC iPlayer often or at all showed the highest absolute increases in scores, but following the changes would still rate BBC iPlayer worse than those who currently use it monthly or more often.⁶⁰ The research also suggested that audiences would use BBC iPlayer differently, becoming more likely

⁵⁶ In our assessment, we have had particular regard to the number of previous series of returning series and non-returning series (for each, up to 50% of scripted comedy and drama titles available as full box sets, c.25 titles each year); of scripted archive titles (up to 35 available at any one time) and to the position on exclusivity [3].

⁵⁷ The BBC published a summary of the research in April. MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#).

⁵⁸ Kantar Media, 2019. [BBC iPlayer Competition Assessment Research Report](#).

⁵⁹ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slide 23.

⁶⁰ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slide 27.

to search for 'new content' after the changes, compared to catching up on content from the past week or month.⁶¹

- b) Kantar Media's research for us also showed that audiences viewed the potential changes to BBC iPlayer favourably. When asked to rank the changes out of 10, respondents gave an average score of 7.3 to extending availability to 12 months and 7.1 to providing full box sets,⁶² although people aged 55+ and those who had low approval of the BBC were less favourable. Following the changes, BBC iPlayer also scored better amongst those who currently use BBC iPlayer on statements such as 'providing a wide range of programmes to choose from' and 'providing programmes that are relevant to me'.⁶³

The increase in BBC iPlayer viewing

- 4.6 We have assessed the impact of the Proposals on a forward looking basis. We have developed a model of BBC iPlayer viewing as a tool to inform our assessment of the impact of the Proposals. In this consultation, we report the results for 2020 (the first full year affected by the Proposals). We consider that these figures are more reliable than for later years. We have sought to consider the impact in other years. However, there are significant challenges to doing so, particularly in estimating the impact on other BVODs, and some uncertainty is unavoidable.⁶⁴ In brief, our reasoning in relation to the impact on investment by SVOD and live TV services is unlikely to be affected by modest departures from the figures reported for 2020. However, looking over a longer time period, the impact on BVOD services' and their incentives to invest may be larger or smaller than the ranges we report for 2020.
- 4.7 We explain below how we have estimated the increase in BBC iPlayer viewing as a result of the Proposals. This requires extrapolating from observed viewing and incorporates a number of assumptions. We recognise that there is uncertainty about the actual impact of the Proposals. For example, it depends on how appealing BBC programmes are to audiences.
- 4.8 We have assumed, for modelling purposes, that the Proposals are implemented in full by 2020. If the Proposals are *never* implemented in full because, for example, the BBC is unable to secure the content required, then the impact would tend to be permanently lower than we have estimated. If the Proposals are not implemented in full because, for instance, of *delays* in negotiating access to the necessary rights, then the actual increase in viewing would tend to be lower than we have estimated in 2020 but would eventually grow to our estimate.

⁶¹ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slide 29.

⁶² Kantar Media, 2019. [BBC iPlayer Competition Assessment Research Report](#), slide 59.

⁶³ Kantar Media, 2019. [BBC iPlayer Competition Assessment Research Report](#), slide 61.

⁶⁴ See Annex 2 for further details.

- 4.9 In order to calculate a base case (or counterfactual), to describe viewing of BBC iPlayer if the BBC did not implement the Proposals, we have started from current viewing data and extrapolated out to 2020.⁶⁵ We use this base case to compare against estimated levels of viewing following the changes.
- 4.10 To understand how BBC iPlayer viewing might change following implementation of the proposed changes, we used data from the BBC of daily viewing of box set series added to BBC iPlayer from June 2018 to January 2019, as part of the 2018/19 Interim Changes.⁶⁶ We built three different impact scenarios.⁶⁷ From this, we estimate that BBC iPlayer viewing in 2020 will increase by 15-44% (our central case is 34%). This excludes children's content. If we include children's content, this estimate rises to 21-52% (with a central case of 41%). Around 16% of the total uplift in our central impact scenario is accounted for the children's content proposals.⁶⁸
- 4.11 Figure 4.1 breaks down the drivers of the increase in BBC iPlayer viewing in each of our impact scenarios. The impact of the proposed extension of availability of all commissions to 12 months after broadcast of the final episode in the current series on BBC iPlayer drives most of the increase in viewing. This is due to the volume of material and the fact that, based on viewing data, new series attract considerably more viewing than older and children's series.

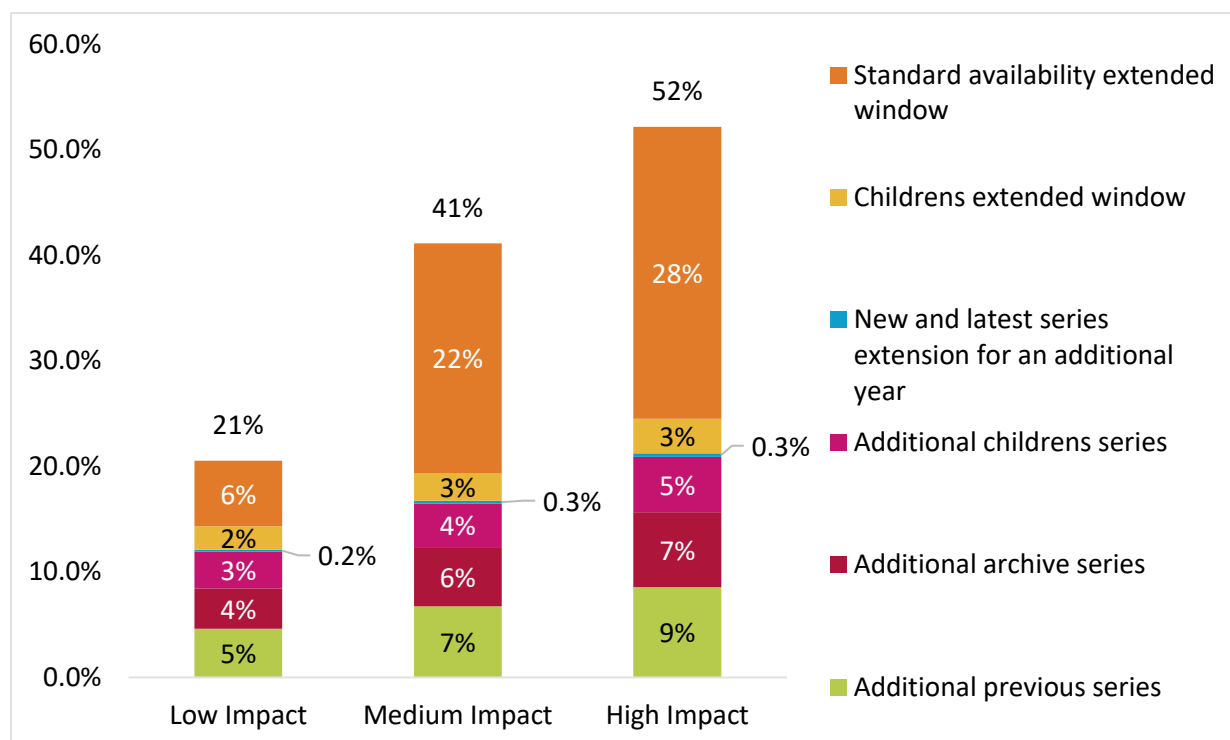
⁶⁵ We have assumed that minutes of viewing for SVOD services will grow markedly faster than for BVOD services (including BBC iPlayer). The former is assumed to grow by 20-40% pa whereas the latter is assumed to grow by 0-10% pa. We assume that minutes of live TV viewing will decline by 2.9% per year.

⁶⁶ See paragraph 2.6.

⁶⁷ Details of our analysis is set out in Annex 2.

⁶⁸ This rises to 28% in our low impact scenario.

Figure 4.1: Combined uplift results for each impact scenario, split by proposal



Figures may not sum due to rounding

4.12 The BBC also estimated how BBC iPlayer viewing would change following the Proposals, using a Communications Chambers (CC) model based on the viewing data referred to above. The CC model estimated that the Proposals would lead to a percentage increase in BBC iPlayer viewing of around 27% in 2020, which is within our range of estimates for the percentage increase, albeit towards the lower end.⁶⁹

4.13 There are three key differences between the CC model and ours.

- a) The first is that the CC model assumes higher base case viewing for BBC iPlayer than we do. We consider that our approach, which involves measuring viewing of BBC iPlayer and other BVODs on the same basis, is more robust. However, a consequence is that the percentage increases calculated by us and CC are being applied to different starting numbers.
- b) The second reason is that we have applied different assumptions to the CC model in our high impact scenario (e.g. about the extent to which extra content cannibalises other BBC iPlayer viewing). This is to reflect uncertainty. The effect is to increase the upper bound of our range of estimates.
- c) The third reason is that we project slower declines in viewing on BBC iPlayer over time compared to the CC model, in part because we have estimated viewing at a series level rather than an episode level. This increases the gains to viewing from adding content

⁶⁹ Channel 4 also estimated the impact of the Proposals on viewing of BBC iPlayer and All 4. We discuss Channel 4’s modelling in Section 6.

for a longer period of time. We have sought to adjust for this in our low impact scenario, by using the CC model's estimate of how viewing declines for new and latest series. This provides a lower bound to our estimates of the percentage increase in BBC iPlayer viewing.

Who watches BBC iPlayer more

- 4.14 Our model does not estimate which viewers would watch more BBC iPlayer content as a result of the Proposals. However, the MTM and Kantar surveys provide some insights on this. Both MTM and Kantar Media's research suggested that BBC iPlayer will be perceived more favourably and used more by all age groups following the changes. However, Kantar Media's research suggests that young audiences may be more likely to increase their viewing of BBC iPlayer.
- 4.15 MTM's research suggests that 26% of those aged 16-34 who do not use BBC iPlayer would start following the changes, and 70% of those who currently use BBC iPlayer would increase their viewing.⁷⁰ This compares to 21% and 71% respectively for those aged 35+, suggesting that the effect on younger and older viewers may be broadly similar (although those aged 25+ were more likely to say they would watch 'a lot more'). In contrast, Kantar Media's research suggests that 59% of 16-24s would watch more BBC iPlayer following an extension to 12 months, compared to 49% of all respondents and 41% of those aged 55+.⁷¹ These differences may reflect the difference in age groups covered as well as the difference in how the questions were worded.
- 4.16 Kantar Media's research also looked at the effect of the changes on other groups. For example, users of ITV Hub/ITV Hub+ and Netflix were more likely than other groups to increase their viewing of BBC iPlayer.⁷²

What audiences will watch less of

- 4.17 We have also undertaken work to understand which services audiences are likely to spend less time viewing as a result of any increased viewing to BBC iPlayer. To do this for the proposed increase in content,⁷³ we have looked at the Kantar Survey and the assumptions in the BBC's model (which, in turn, draws on the MTM survey and a BBC online self-selection survey of BBC iPlayer users).
- 4.18 In CC's modelling, approximately half the increase in BBC iPlayer viewing is at the expense of live TV viewing, a quarter is from VOD services and a quarter is from other activities.⁷⁴ Analysis for the BBC by Frontier Economics⁷⁵ concluded that VOD services are likely to be closer substitutes than live PSB TV channels and other AV services, based on a comparison

⁷⁰ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slides 44 and 45.

⁷¹ Kantar Media, 2019. [BBC iPlayer Competition Assessment Research Report](#), slides 35, 37 and 39.

⁷² Kantar Media, 2019. [BBC iPlayer Competition Assessment Research Report](#), slides 41 and 43.

⁷³ Excluding children's content.

⁷⁴ CC categorise these sources of substitution as "Other on TV set" and "Other on other device", respectively.

⁷⁵ Frontier Economics, 2019. [Changes to BBC iPlayer: Competition assessment](#)

of different characteristics. Frontier Economics also considered how the relative ‘strength of substitution’ may vary between services within each category of service (i.e. BVOD, SVOD and live TV) to inform its impact estimates.

- 4.19 The different pieces of evidence give a relatively consistent range of results for the proportion of BBC iPlayer viewing that might be substituted from other BVOD services. However, the evidence shows large differences in the proportion of BBC iPlayer viewing that may be substituted from the other categories of activity. In summary:
- a) 8%-16% of the increase in BBC iPlayer viewing might be substituted from other BVOD services;
 - b) 8%-39% of the increase in BBC iPlayer viewing might be substituted from SVOD services;
 - c) 6%-50% of the increase in BBC iPlayer viewing might be substituted from live TV viewing; and
 - d) 17%-75% of the increase in BBC iPlayer viewing time might be substituted from other activities (i.e. neither VOD nor live TV consumption).

4.20 In Table 4.1, we outline the estimated change in viewing that different VOD services as a result of the Proposals. The columns in the table show the results for the different rates of substitution implied by the different survey results. In the table we also show ranges reflecting our prediction of a 15-44% increase in viewing of BBC iPlayer as result of the Proposals (excluding children’s content).⁷⁶

Table 4.1: The impact on BVODs and SVODs under different scenarios (excludes children’s content)

	Estimated percentage reduction in VOD viewing minutes due to the Proposals			
	Kantar Survey: forced diversion ⁷⁷	Kantar Survey: extended window ⁷⁸	Kantar Survey: expanded offering ⁷⁹	CC model (2020) ⁸⁰
Other BVOD	1.2% - 3.4%	0.8% – 2.3%	0.9% - 2.7%	0.6% - 1.7%
SVOD	0.4% - 1.1%	0.1% - 0.2%	0.1% - 0.3%	0.2% - 0.5%

Source: Ofcom analysis. We describe these scenarios further in Annex 3 (see Tables A3.2 and A3.3 and accompanying paragraphs).

Note: Ranges reflect ‘low’ to ‘high’ scenarios for the increase in iPlayer viewing.

⁷⁶ In each of these scenarios, we have not included the impact of children’s content.

⁷⁷ Based on Ofcom analysis of questions BQ.1 and BQ.2Ai of the Kantar Survey. See Annex 2 for more detail.

⁷⁸ Based on Ofcom analysis of adjusted response data to questions CQ.1 and CQ.2B of the Kantar Survey.

⁷⁹ Based on Ofcom analysis of adjusted response data to questions DQ.1 and DQ.2B of the Kantar Survey.

⁸⁰ Based on the CC model. See Annex 2 for more detail.

- 4.21 The above results suggest a loss in viewing minutes for BVODs of 0.6% to 3.4% and for SVODs of 0.1% to 1.1%. We also estimated the impact on live TV and found that the Proposals are likely to result in a fall in live TV viewing minutes of up to 0.4%.
- 4.22 We recognise that an individual BVOD or SVOD service might see a larger percentage change in viewing than implied by these overall figures for SVODs and BVODs. We have taken this into account when we assess the implications for different VOD services in our assessment of potential market impacts in Section 6.
- 4.23 We have not been able to perform an equivalent exercise for the proposed increase in children's content due to a lack of available evidence. The BBC assumed that the pattern of substitution would be the same as for other content, but we doubt that this is the case as children's viewing patterns are very different to those of adults. In 2017, children only spent 2.5 hours a week viewing children's content on commercial television,⁸¹ and while comparable data on viewing is not available, qualitative research suggests that children are using Netflix and YouTube in preference to broadcast channels and BVOD players.⁸²

Question 4.1: Do you agree with our estimate of the likely increase in BBC iPlayer viewing as a result of the Proposals? Please provide evidence to support your views.

Question 4.2: Do you agree with our estimate of how the viewing of other services is likely to be affected by the Proposals? Please provide evidence to support your views.

⁸¹ Ofcom, 2019. [Children and parents: media use and attitudes report 2018, annex 1](#), figure 164.

⁸² Ofcom, 2019. [Children's media lives – Wave 5](#), page 5.

5. Our review of the BBC's public value assessment

Background

- 5.1 When developing proposals, the BBC must satisfy itself that any changes to its public services contribute to the fulfilment of its mission and the promotion of one or more of its public purposes:⁸³
- a) Purpose 1: To provide impartial news and information to help people understand and engage with the world around them;
 - b) Purpose 2: To support learning for people of all ages;
 - c) Purpose 3: To show the most creative, highest quality and distinctive output and services;
 - d) Purpose 4: To reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions and, in doing so, support the creative economy across the United Kingdom; and
 - e) Purpose 5: To reflect the United Kingdom, its culture and values to the world.⁸⁴
- 5.2 The BBC must consider the public value of the proposed change and be satisfied that it justifies any adverse impact on fair and effective competition.
- 5.3 When conducting a BCA, we review the BBC's assessment of the public value of a proposed change.⁸⁵ The nature of this review is different from our consideration of the impact on competition. In considering public value we are principally testing and reviewing the BBC's analysis, in contrast to our competition role where we carry out our own evaluation.
- 5.4 Our BCA guidance highlights a number of factors we are likely to consider when reviewing the BBC's public value assessment:⁸⁶
- a) whether the analysis conducted by the BBC is reasonable (e.g. relies on well-reasoned assumptions), complete and objective;
 - b) whether the BBC's assessment reflects a reasonable view of what constitutes public value;
 - c) whether the interpretation of the evidence presented is credible and relevant;
 - d) whether the assessment of public value is consistent with other elements of the assessment (e.g. the take-up assumptions, BCA scope); and

⁸³ Clause 8 of the Agreement.

⁸⁴ Article 6 of the Charter.

⁸⁵ Clause 10(3)(b) of the Agreement.

⁸⁶ Paragraph 5.22 of the BCA guidance.

- e) whether the analysis is robust under different scenarios.

The BBC's public value assessment

- 5.5 In its assessment⁸⁷ the BBC examines the benefits of the Proposals for individuals (personal value) and society more widely (social value), and considers any negative impacts on public value. The evidence base for its assessment is largely provided by audience quantitative and qualitative research commissioned from MTM, discussed in Section 4, and responses to the BBC's stakeholder consultation.
- 5.6 The BBC argues that the value to individuals created by its Proposals is likely to be high; as the changes would ensure the BBC continues to be relevant to all audiences in an increasingly VOD focused world, deliver better value for money for its online services, and increase the reach and time spent with BBC iPlayer.
- 5.7 When considering value to society, the BBC examines the extent to which the Proposals enable the delivery of its mission and promotion of its public purposes. The BBC cites audience views of how the Proposals would support the delivery of purposes two, three and four in particular and highlights a range of points made by stakeholders about how the changes enhance the availability of educational and UK focused content.
- 5.8 The BBC discusses the costs of the Proposals, although it does not provide an estimate of likely costs, and the consequences of audiences switching from other BBC services as potential areas where public value could be negatively impacted. It says the costs would not discernibly impact the offerings of its other services to audiences. It does not consider that audiences switching from BBC TV services to BBC iPlayer would forego public value as BBC iPlayer would have a broader range of content than live TV channels.
- 5.9 The BBC concludes that its Proposals would provide significant value to individuals, secure the continued relevance of the BBC with all audiences, and enable the BBC to better deliver the mission and public purposes.

Our approach to reviewing the BBC's PVA

- 5.10 We stated in our First Consultation that we would consider public value in terms of two key categories, while also having regard to any other relevant factors:
 - a) Personal value, the satisfaction gained by individuals as a direct result of the Proposals;
 - b) Social value, the wider societal benefits of the Proposals; and
 - c) Other sources of public value including those that may be more indirect or long-term.
- 5.11 We also stated that we will focus on the *additional* public value created by the BBC's Proposals, taking into account any reductions in public value as a result of the changes. For example, if the changes to BBC iPlayer result in people viewing less content from other

⁸⁷ The BBC's assessment of public value is in Section 5 of the [BBC PIT publication](#).

places, that reduction in viewing may offset the gains to personal or social value from increased viewing of BBC iPlayer.

- 5.12 We have considered arguments raised and analysis conducted by the BBC within our framework, and have also carried out additional analysis of the public value generated by the Proposals where we felt additional detail was necessary.

Personal value

- 5.13 In this section we set out our review of the value the Proposals could deliver to individuals.

BBC assessment

- 5.14 In its assessment of the personal value offered by the proposed changes, the BBC discusses how its plans to reinvent BBC iPlayer would allow the platform to better meet audience expectations. It states that viewing behaviours have been conditioned by SVOD providers and audiences expect more choice about what and when they watch.
- 5.15 The BBC's market research found there was significant audience support for extending content availability beyond the current 30-day catch-up window.⁸⁸ Audiences believed that the changes would allow them to watch content more flexibly and were more likely to view BBC iPlayer as a destination to browse for content they have not seen before.⁸⁹
- 5.16 The BBC argues that the Proposals would lead to BBC iPlayer reaching more people and people spending more time with it, demonstrating that high personal value would be delivered. Its quantitative research found that 71% of current users would expect to use BBC iPlayer slightly or a lot more following the proposed changes, while 22% of people who don't use BBC iPlayer will 'definitely' or 'probably' start to use it.⁹⁰ The BBC's analysis estimated that the reach⁹¹ of BBC iPlayer would increase by 11.5% and minutes of viewing would increase by 29.5% by 2024, compared to what would happen without the BBC's proposed changes.⁹²
- 5.17 Audiences also believed the BBC's Proposals signalled a desire to improve its online service and keep pace with the rest of the market.⁹³ Almost two thirds of those surveyed felt that the proposed changes would offer better value for money than BBC iPlayer's current offer.⁹⁴

⁸⁸ BBC, April 2019. [BBC iPlayer Public Interest Test](#), Para 133.

⁸⁹ 26% of current BBC iPlayer users said they use it to browse for new content, whereas 40% of those who would use BBC iPlayer after the changes said they would use it to browse for new content (making it the most popular use of BBC iPlayer following the changes). BBC, April 2019. [BBC iPlayer Public Interest Test](#), Para 132.

⁹⁰ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slides 64 and 65.

⁹¹ The 'reach' of BBC iPlayer in this context is the percentage of people who use it each week.

⁹² BBC, April 2019. [BBC iPlayer Public Interest Test](#), Para 129.

⁹³ BBC, April 2019. [BBC iPlayer Public Interest Test](#), Para 134.

⁹⁴ BBC, April 2019. [BBC iPlayer Public Interest Test](#), Para 141.

Our review

- 5.18 We agree with the BBC's assessment that the proposed changes to BBC iPlayer would increase personal value for users. The Proposals significantly increase the amount of content available on BBC iPlayer and, as a result, give audiences more choice over what, how and when they can watch. We think that the increase in BBC iPlayer viewing is a reasonable indicator of the magnitude of this benefit. We agree with the BBC that the Proposals would lead to increased viewing of BBC iPlayer by current users and some increased take up among current non-users. Our modelling suggests that total BBC iPlayer viewing would increase by 21%-52% including the children's Proposals, and by 15%-44% excluding them (see Section 4).
- 5.19 Reflecting this increase in personal value, the survey evidence indicates that audiences viewed the Proposals favourably. Kantar Media's research suggested that following the changes, BBC iPlayer would score better at 'providing a wide range of programmes to choose from' and 'providing programmes that are relevant to me' across all audiences.⁹⁵ MTM found that BBC iPlayer was seen more favourably by audiences following the changes, with higher increases amongst audiences under 35 and those who currently use BBC iPlayer less than once a month.⁹⁶
- 5.20 We believe personal value would be created by the likely increase in viewing of BBC iPlayer as a result of the Proposals, and that this shift would demonstrate that additional personal value is being delivered compared to alternative activities. We would note that the extent of the value delivered would depend on the quality of the content the BBC commissions and makes available, as well as how it makes people aware of the changes.

Social value

- 5.21 In this section we set out our review of the value the Proposals could deliver to society and whether the BBC's assessment is reasonable. Examples of wider social value include a better informed democracy and wider understanding of different parts of UK society.

BBC assessment

- 5.22 In its PIT, the BBC assesses the social value of its Proposals primarily by reference to how they would enable the BBC to better deliver its mission and promote its public purposes and concludes the proposed changes would safeguard its ability to deliver them.
- 5.23 The BBC's qualitative research⁹⁷ found that audiences believed the Proposals would help the BBC to deliver public purposes two, three and four:
- a) *Purpose 2: To support learning for people of all ages.* In MTM's qualitative research, audiences said that providing access to more new and archive educational and factual

⁹⁵ Kantar Media, 2019. [BBC iPlayer Competition Assessment Research Report](#), slide 61.

⁹⁶ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slides 23, 25 and 27.

⁹⁷ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slides 58-60.

content would deliver learning to people of all ages. Some stakeholders echoed this view in responses to the BBC's consultation.

- b) *Purpose 3: To show the most creative, highest quality and distinctive output and services.* Audiences considered that the enhanced content offer would enable the BBC to deliver more high-quality and distinctive content through BBC iPlayer. Some stakeholders also raised the importance of the availability of British content.
- c) *Purpose 4: To reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions and, in doing so, support the creative economy across the United Kingdom.* Audiences felt that offering more variety and choice on BBC iPlayer would help them access content that reflects their lives. Content representing and serving the Nations and regions, diverse ethnic backgrounds and different age groups in particular were highlighted.

5.24 The BBC also set out views from its qualitative research where some contributors did not consider the Proposals sufficient to change audience behaviour. Some noted that for the changes to be effective, the BBC would need to commission content to serve all age groups, and would need to promote the changes. Audiences also did not believe that the Proposals would support the BBC's ability to provide impartial news and information, due to "*perceived lack of fit with news content and on demand viewing*".⁹⁸

Our review

5.25 We consider that BBC content, on the whole, delivers social value through its contribution to the mission and public purposes. Our operating licence contains a range of requirements to safeguard this delivery and our performance measures allow us to hold the BBC to account on its performance each year in our BBC Annual Report.⁹⁹ As such, we consider that the likely increased reach and viewing of BBC content through BBC iPlayer, as discussed in the previous section, has the potential to deliver social value. However, whether the BBC is able to deliver this social value would be dependent on how the BBC implements its plans.

5.26 We agree that making the specific kinds of content highlighted by the BBC's research (summarised in paragraph 5.23) available for 12 months has the potential to contribute to the delivery of purposes two, three and four. However, the BBC has not been specific about what kinds of titles would be made available past the standard 12 month period or bought back from its archive. In relation to the 25 previous series of returning series and non-returning series, we note that for these titles any value would be incremental to that already delivered during the extended, standard period. We might also be concerned if the BBC selected titles simply to drive viewing to BBC iPlayer, rather than to deliver public

⁹⁸ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slide 68.

⁹⁹ Our [first Annual Report on the BBC](#), published in October 2018, identified four key areas where the BBC needed to go further – transparency, a commitment to UK originated programming, engaging young people and representing and portraying the whole of UK society.

value. We would expect the BBC to consider how this content supports the delivery of the mission and public purposes when exercising its editorial judgment in selecting those titles it makes available for longer than 12 months.

- 5.27 We highlighted the importance of the BBC's commitment to original UK content and representing UK society in our Annual Report on the BBC.¹⁰⁰ The Proposals would increase the range of UK content available on BBC iPlayer and may expose content made for niche audiences to a wider audience. However, the social value generated here is dependent on the BBC commissioning such content and audiences discovering it.
- 5.28 We also consider that the BBC's proposal to increase the availability of children's content to a period of five years has the potential to support the BBC's delivery of its second purpose, by providing children with better access to informal learning content.
- 5.29 Furthermore, both our and the BBC's research¹⁰¹ found that the Proposals would be likely to increase younger audiences' engagement with BBC iPlayer. Reaching and serving young people also contributes to the BBC's obligation to serve all audiences of the UK, and should help secure its future relevance. We discuss this in more detail in the next section.
- 5.30 The BBC's research identified a perceived "*lack of fit*" with news content and on demand viewing,¹⁰² and it is not clear how the proposed changes to BBC iPlayer would impact viewing of news. On BBC TV, news is provided at regular and widely recognised times, often adjacent to popular programming where audiences can passively come across it as part of their TV viewing experience. The BBC must consider the risk of audiences being less exposed to news content if they increasingly use iPlayer as a viewing destination and view less live BBC TV, and ensure that it is able to continue meeting the first public purpose through its range of news provision.
- 5.31 Overall, we consider that the BBC's assessment here is reasonable, but that there are questions as to how this value will be realised through implementation of its Proposals and the exercise of its editorial judgment with regard to BBC iPlayer.

Other sources of public value

- 5.32 In this section, we discuss other sources of public value and substitution from other services (which potentially offsets some of the gains to public value).

Resilience of the BBC

BBC assessment

- 5.33 In a number of places throughout its public value assessment, the BBC discusses the importance of the Proposals to allow it to secure its relevance and reputation among

¹⁰⁰ Ofcom, October 2018. [Ofcom's first Annual Report on the BBC](#), page 10.

¹⁰¹ As set out in Section 4.

¹⁰² MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slide 68.

audiences which, in turn, would safeguard the delivery of its mission and purposes, and therefore the long-term future of the BBC.

- 5.34 It notes that audience expectations are increasingly conditioned by SVOD providers and highlights the perception from its audience research that the BBC is “*falling behind other services*”.¹⁰³ The Proposals are seen by audiences as an effort to “*catch up*” and, as discussed above, increase people’s “*favourable impressions*” towards BBC iPlayer.¹⁰⁴

Our review

- 5.35 We believe that the BBC should strive to secure its relevance and reputation with audiences to ensure it can continue to deliver its mission and public purposes into the future. For the BBC to continue to provide audiences with both personal and social value over time, it must ensure that audiences continue to engage with its content. As discussed in the preceding sections, we consider that the proposed changes would allow BBC iPlayer to better meet audience expectations and drive viewing to the platform. As well as directly generating public value, these impacts are likely to bolster the relationship audiences have with the BBC.
- 5.36 In our first Annual Report on the BBC, which covered the period April 2017 to March 2018, we concluded that the BBC must do more to engage and retain young audiences, who are turning away from its services yet are critical to its future success.¹⁰⁵ The BBC’s research shows that its Proposals would increase favourability towards BBC iPlayer among 16-34s from 6.5 out of 10, to 7.4, a greater increase than for audiences overall.¹⁰⁶ Kantar Media’s research also suggests that 59% of 16-24s would watch more BBC iPlayer following an extension to 12 months, compared to around half of all internet users.
- 5.37 Also in our Annual Report on the BBC, we noted that while CBeebies was performing well with audiences, there was a significant decline in viewing to CBBC.¹⁰⁷ The update on our children’s content review highlighted children’s growing use of online sites such as YouTube, which may account in part for this decline.¹⁰⁸ The BBC’s plans to make all BBC commissioned children’s programmes available on BBC iPlayer for a period of five years represents an attempt to address our concerns and is a step towards re-engaging this audience. In our central scenario, we estimate that approximately 16% of the increase in BBC iPlayer viewing will be driven by the children’s content proposals.¹⁰⁹ We would also emphasise the importance of the BBC commissioning high-quality UK content that appeals to children in delivering these goals.
- 5.38 Given the likelihood that the Proposals to increase engagement with BBC iPlayer and the BBC more generally among audiences, including young people and children, we think it is

¹⁰³ BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraphs 130 and 134.

¹⁰⁴ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), page 53.

¹⁰⁵ Ofcom, October 2018. [Ofcom’s first Annual Report on the BBC](#), page 11.

¹⁰⁶ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slide 25.

¹⁰⁷ Ofcom, October 2018. [Ofcom’s first Annual Report on the BBC](#), page 26.

¹⁰⁸ Ofcom, July 2018. [Children’s content review: update](#), page 11.

¹⁰⁹ This rises to 28% in our low impact scenario.

reasonable to conclude that they would contribute to the BBC's ability to deliver the mission and public purposes over the longer term.

Substituted viewing

BBC assessment

5.39 When discussing the potential foregone public value in other services as a result of its Proposals, the BBC states that some of the expected uplift in usage of BBC iPlayer would happen as a result of people switching from live TV to VOD services. It says that this would be in line with existing trends but may increase the rate at which the transition occurs. However, it argues that audiences moving from one platform offering BBC TV programmes to another offering a broader range of BBC TV programmes is not likely to lead to foregone public value.

Our review

- 5.40 As explained in paragraph 5.11 above, our BCA guidance makes clear that the BBC should consider the *additional* public value created by its Proposals.
- 5.41 As discussed in paragraph 5.20, we agree that if audiences choose to spend more time with BBC iPlayer as a result of the changes, then it must offer them greater personal value than the alternative. However, we consider that the picture is more complex with regard to social value.
- 5.42 As previously mentioned in paragraph 5.30, we consider that there is a difference between how audiences find and view content on BBC iPlayer compared to BBC TV. As audiences are able to actively choose what content they want to watch on BBC iPlayer, there is a risk that the range of content individuals view is reduced. The BBC has not addressed this potential risk in its PIT. We would expect the BBC to consider how it can ensure audiences are exposed to a range of content through BBC iPlayer.
- 5.43 In its response to our initial consultation, Viacom raised the fact that as a PSB, Channel 5 delivers public value through its investment in UK-originated content across a range of genres. The BBC did not consider impacts on the public value generated by other broadcasters in its PIT. We consider that the PIT is therefore deficient in this respect, and this is an issue we have previously raised with the BBC. We consider that other PSBs in particular provide social value, given the PSB purposes and characteristics they are required to deliver,¹¹⁰ and that the fall in viewing to non-BBC PSB live TV and BVOD services would offset some of the gains to public value identified by the BBC. Both because of our own assessment of this issue and for pragmatic reasons, we do not consider that this is a matter that would lead us to reject the Proposals, but the BBC's failure on this element is a matter we will take forward separately.

¹¹⁰ In accordance with their public service remits and licences.

- 5.44 Our analysis of the likely impact of the Proposals on viewing can inform us about the potential scale of this offsetting effect. As outlined in paragraph 4.19, of the increase in BBC iPlayer viewing, between 8% and 16% might be substituted from other BVOD services (this is likely to mainly be PSB content); and between 6% and 50% might be substituted from live TV (this will be a mix of PSB and non-PSB channels).

Impact of the Proposals on funding for other BBC activities

BBC assessment

- 5.45 The BBC notes that the Proposals could negatively impact public value if it planned to curtail or divert significant funding from its existing services, impacting their offer to audiences. It explains that while the costs associated with the Proposal are uncertain, they would be a small proportion of the BBC's overall content spend. It considers that these costs are likely to be met by efficiencies from across the BBC and states that it has no plans to close or make any significant changes to its current services as a result of the Proposals.

Our review

- 5.46 The BBC has not set out the expected costs of the Proposals or the possible implications to its overall service if it has to pay more for rights associated with an extended window on BBC iPlayer and we note that it says the costs of the Proposals are still uncertain. We recognise the difficulty in providing full costings, though we would have expected more detail on the approach to funding than has been provided. If the BBC is not able to realise its Proposals fully due to higher costs, we would expect both the impacts of the Proposals and the associated public value to be less. This introduces some doubt around the amount of public value generated by the proposals.
- 5.47 In response to the BBC PIT Consultation, stakeholders expressed concern that the BBC had not shown how it will pay for extended availability. Stakeholders also noted that extended availability would be costly, and this would imply that the BBC would be less able to commission new content, which would in turn hinder the BBC's ability to meet its mission and public purposes.
- 5.48 If the BBC is only able to realise its Proposals by taking funding away from other services, we agree that this would also be likely to lead to a reduction of public value.¹¹¹ If a withdrawal of funding from other services led to a reduction of performance in other areas, this is therefore something we would examine through the Operating Licence¹¹² for the BBC, which sets requirements we consider appropriate for securing the delivery of the mission and public purposes, and our assessment of BBC performance more broadly through our Annual Reports on the BBC.

¹¹¹ We consider it was reasonable for the BBC not to assess the public value and competition impacts of the alternative things that the money being invested into iPlayer could have been spent on.

¹¹² Ofcom, 2017. [Operating Licence for the BBC's UK Public Services](#).

Provisional Conclusions

- 5.49 Overall, we consider that the BBC's view of the public value generated by the Proposals is reasonable. We are satisfied that the BBC's Proposals can deliver significant personal value by better meeting audience expectations and providing more choice over what, how and when they can watch. We are also broadly of the view that they could deliver social value by increasing viewing of content which delivers the BBC's mission and purposes as well as safeguarding the resilience of the BBC for the future.
- 5.50 However, while we believe that the Proposals are capable of delivering significant public value, we have concerns about the extent to which this value would be realised, as the BBC has provided limited explanation as to how it would ensure that this public value would be delivered. In particular, the BBC would need to consider the shift of viewing from live TV channels to BBC iPlayer, and the implications of this for the range of content that viewers watch and the delivery of the mission and public purposes. We therefore propose to put in place conditions to address these issues, as in the absence of further assurance on delivery of public value and its contribution to the mission and public purposes, it would be difficult to reach a conclusion on whether the public value of the Proposals justifies the adverse impact on competition we identify in Section 6.

Question 5.1: Do you agree with the findings from our review of the BBC's assessment of the public value of the Proposals? Please provide evidence to support your views.

6. Our assessment of potential market impacts

- 6.1 In this section, we summarise how we have assessed the potential impact of the Proposals on competition, based on the proposed changes to the BBC iPlayer as set out in paragraphs 2.9-2.12.¹¹³
- 6.2 In our First Consultation, we identified five potential ways that competition might be adversely impacted by the proposed BBC iPlayer changes:
- a) **Impact on rivals' viewing reduces investment** - Extending content availability on BBC iPlayer could increase viewing at the expense of other competing VOD providers, potentially distorting their incentives to invest and innovate;
 - b) **Less BBC content on other platforms** - Allowing the BBC to put more content on BBC iPlayer for longer could reduce the availability of attractive BBC content to other VOD providers after the BBC iPlayer window has passed;
 - c) **Reduced value of secondary rights** - Allowing the BBC to put more content on BBC iPlayer for longer could reduce the value of secondary rights in the UK and ultimately harm the production sector;
 - d) **Unfairly favour BBC Studios** - The BBC might favour BBC Studios when making commissioning decisions; and
 - e) **Restriction of access** - The BBC might not distribute BBC iPlayer on platforms and/or devices that wish to carry it.
- 6.3 In the First Consultation we explained that we would focus our assessment on the first two of these potential forms of harm, and would not consider the remaining concerns further unless we received evidence of harm to competition from stakeholders. In this assessment we again focus primarily on the two potential concerns that we identified in our First Consultation.¹¹⁴ We also set out our reasoning on the other concerns in light of the views expressed in stakeholder responses. Our analysis of these potential competition concerns is set out in greater detail in Annex 3.

Impact on rivals' viewing reduces investment

- 6.4 BBC iPlayer is not a commercial service – it is free of charge and free from advertising. As a result, it enjoys a competitive advantage that is not available to commercial providers. An expansion of BBC iPlayer thus risks harming fair and effective competition. We expect the

¹¹³ We have had particular regard to the number of previous series of returning series and non-returning series (for each, up to 50% of scripted comedy and drama titles available as full box sets, c.25 titles each year); of scripted archive titles (up to 35 available at any one time) and to the position on exclusivity [3<].

¹¹⁴ The first concern involves iPlayer 'crowding out' rivals by attracting their audiences. This second concern involves iPlayer 'crowding out' rivals by acquiring inputs that they use.

Proposals to negatively affect commercial competitors as audiences switch from them to BBC iPlayer. As a result, these competitors may reduce investment, change what they invest in, go out of business or be deterred from launching in the first place. Such outcomes can disadvantage audiences.¹¹⁵

- 6.5 As noted in Section 4, after modelling the likely impact of the Proposals, we estimate that they would be likely to result in a 15% to 44% increase in BBC iPlayer viewing (excluding changes to children's programming). As a result of this increased viewing, it is likely there would be a reduction in the viewing of other BVOD (0.6% to 3.4%), SVOD (0.1% to 1.1%) compared to what would happen in the absence of the Proposals. For live TV services, the highest estimated impact would be a reduction of up to 0.4%.
- 6.6 We recognise, however, that individual BVOD services may be closer substitutes to BBC iPlayer than others. Hence, we cannot rule out a larger percentage decrease in viewing for individual services than seen in aggregate across all BVOD services; we have taken this into account when modelling possible revenue impacts on these BVOD services.
- 6.7 Below we discuss the impact of the Proposals in relation to content for other BVODs, SVODs and live TV channels.¹¹⁶ We then discuss the impact of the Proposals in relation to children's content.

BVODs

- 6.8 STV, Viacom and Channel 4 (respectively the providers of STV Player, My5 and All 4) highlighted their concerns that the Proposals could increase BBC iPlayer viewing at the expense of their VOD services. Viacom remarked that a "loss in revenue on My5 will naturally lead to pressure on content investment". Channel 4 believed that the Proposals are "likely to disproportionately impact the PSBs" and that the BBC underestimated the commercial impact on competitors in its PIT. It stated that All 4 plays an increasingly important role for Channel 4, in terms of the revenue that it brings, and that Channel 4 has little scope to absorb even relatively small reductions in revenue without there being an impact on the delivery of its remit.
- 6.9 The case for investing in the content and functionality of a commercial BVOD service relies primarily on the viewing that can be attracted and the additional advertising revenues that viewing generates. If there is a reduction in revenue and profitability, there is a risk that competitors may invest less in their BVOD services. In particular, a fall in revenue for Channel 4 is more likely to have a direct impact on investment (compared with ITV and Viacom), given that it operates on a not-for-profit basis, so any net revenues are generally returned back into content production. This means in the medium to long-term, any loss of revenues would result in lower overall budget available for content and functionality investment.

¹¹⁵ The potential for positive impacts on investment may be limited. VOD is not a novel service where the BBC can kickstart audience interest. Nor is VOD a sector where competition is currently weak and therefore the BBC can provide a major spur to investment.

¹¹⁶ This excludes the impact of children's content.

6.10 In Table 6.1, we set out our estimated potential revenue impacts based on individual BVODs each seeing a decrease in viewing of between 0.6% to 3.4% due to the Proposals. This suggests a revenue loss of between £1.4m to £8.2m for ITV Hub; £0.6m to £3.4m for All 4 and £0.2m to £1.3m for My5, relative to the base case in 2020.

Table 6.1: Estimates of revenue impacts for BVODs

BVOD	Estimate of VOD revenues (£m) in the absence of the Proposals	Revenue impact (£m)
ITV Hub	241.5	-1.4 to -8.2
All 4	102	-0.6 to -3.4
My5	38.3	-0.2 to -1.3
Other	81.9	-0.5 to -2.8

Source: Ofcom analysis – further details in Annex 3. Revenue estimates taken from Frontier Economics report for the BBC.

6.11 We recognise, however, that some BVODs might be closer substitutes to BBC iPlayer, hence we consider in our modelling an ‘uplift’ to the range applied above.¹¹⁷ This uplift scenario would imply an annual revenue loss of between £6.2 to £12.2m for ITV Hub; £2.6m to £5.2m for All 4 and £1.0m to £1.9m for My5. We consider these very much as an upper bound to the potential impact on an individual BVOD.¹¹⁸

6.12 We consider that the reductions in revenue we estimate as a result of the Proposals above are not trivial. They do represent an adverse impact on fair and effective competition. These reductions in revenues could reduce BVODs’ incentives to invest in their services which, in turn, could have some detrimental impacts for their audiences.

6.13 However, given the scale of the estimated reductions, they are unlikely to result in as significant an impact on incentives to invest and innovate as the potential effects of wider industry trends (e.g. the challenge from prospective new SVOD services that may launch).

SVODs

6.14 We examined whether the Proposals could lead to a sufficient decline in SVOD revenues such that SVODs would reduce their investment. However, we considered this to be unlikely, given that the impact on these services’ revenues is likely to be insignificant. This is because the increase in BBC iPlayer viewing is small relative to the high level of total UK viewing of SVOD services. In addition, a significant number of consumers are unlikely to give up their SVOD subscription(s) even if their viewing declines.¹¹⁹

¹¹⁷ See Annex 3, paragraphs A3.12 to A3.13

¹¹⁸ As discussed in Annex 3, if an individual BVOD has a higher rate of substitution our survey evidence (i.e. substitution from all BVODs on average), then it implies that some other BVODs would see a lower rate of substitution than the average.

¹¹⁹ See Annex 3, paragraph A3.53.

- 6.15 Furthermore, the content investment strategies for international SVOD services (such as Netflix and Amazon) are less likely to be affected by UK developments, given that their commissioning decisions are often made on a global basis.
- 6.16 We recognise that Now TV has a greater focus on UK content (than Netflix and Amazon), so in principle, there could be more of an impact on its investment incentives from the Proposals. However, Sky's investment incentives, at least in terms of content, are still likely to be largely driven by its pay TV services, which are also then distributed on the Now TV platform.
- 6.17 We are also concerned about the potential for the Proposals to limit the scope for entry by new UK-focused SVOD services. In order to consider this issue we have looked at how the Proposals might impact on the take-up of the proposed BritBox¹²⁰ service. In assessing this impact we have considered the Proposals as set out in paragraphs 2.9-2.12. We therefore have had particular regard to the number of previous series of returning series and non-returning series (for each, up to 50% of scripted comedy and drama titles available as full box sets, c.25 titles each year); scripted archive titles (up to 35 available at any one time); and [redacted].
- 6.18 In the case of BritBox, its positioning as a 'best of British' SVOD service means that its potential subscriptions may be more susceptible to being reduced by the Proposals than other SVODs. We consider that the Proposals could materially increase the challenges faced by a service such as BritBox and they could therefore result in an adverse impact on fair and effective competition. However, ITV has told us that it is "willing to invest in BritBox, in partnership with the BBC, as long as an acceptable formal agreement is signed before any expansion of BBC iPlayer is agreed". [redacted]. We have taken into account that ITV has made a judgment that it can invest in the new venture on the basis of the scope of the Proposals. Accordingly, we consider that, under the existing scope of the Proposals, there is unlikely to be substantial harm to audiences as a result of the impact on the prospects of UK-focused SVOD services such as BritBox.

Broadcast linear TV channels

- 6.19 The Commercial Broadcasters Association (COBA) and Viacom also expressed concerns about the potential impact BBC iPlayer would have on live TV channel viewing. However, our analysis shows that the expected increase in BBC iPlayer viewing due to the Proposals would result in a small reduction in the viewing of live TV channels (a reduction of less than 0.5% in 2020). Given that the likely reduction would be low, we think that incentives to invest in content for these channels are unlikely to be appreciably affected. We also expect that given the sector is evolving and live TV viewing is declining, as discussed in Section 3, irrespective of the Proposals broadcasters will need to adapt to meet audience expectations of being able to watch more of what they want on demand.

¹²⁰ This is the proposed joint venture from BBC and ITV, which will be a SVOD service, described as providing "an unrivalled collection of British boxsets and original series". BBC press release, February 2019. [*BBC and ITV confirm proposals for BritBox – a new transformational streaming service.*](#)

Impact on rivals' investment into children's programming

- 6.20 Viacom was particularly concerned about the impact of the Proposals on the children's TV market, given the "disproportionate effect on Milkshake" (Channel 5's pre-school television slot).
- 6.21 We have not analysed the impact from increased viewing of children's content in the same way that we have assessed the market impact from the increased availability of general content (i.e. non-children's content). As set out in Section 4, we suspect that because of differences in children's content and viewing, any switching would be likely to be from different sources than for adults.
- 6.22 Where this switching does take place, we believe it would have less significant impacts on the revenues of those services affected and their propensity to invest, compared to a reduction in viewing by adults. This is because for subscription services, individuals and families may not give up their subscriptions even if their viewing declines. Advertiser funded services face a number of restrictions already on the advertising that they show to children, which may mean any potential impacts might be lower, and PSBs are subject to regulatory obligations on their programming so we would not expect them to cut back their children's programming in response to the Proposals. We therefore think, on the basis of the evidence we have available at this stage, the Proposals in relation to children's content are unlikely to affect investment incentives.

Our provisional conclusions

- 6.23 As a result of the Proposals making BBC iPlayer more attractive, the revenue and viewing of rival services would be likely to be reduced. We consider that this represents an adverse impact on fair and effective competition. The investment incentives of the main SVOD services and live TV channels are unlikely to be appreciably affected. There may however be some impact on BVOD services' incentives to invest. Under the existing scope of the Proposals, there is unlikely to be substantial harm to audiences as a result of the impact on the prospects of UK-focused SVOD services such as BritBox.

Less BBC content on other platforms

- 6.24 As a result of its licence fee funding, when the BBC adds content to BBC iPlayer, it does not face the same constraints as other commercial competitors who have to consider earning a profit from that content. There is therefore the potential to adversely affect fair and effective competition by reducing the amount of appealing content available to other VOD services, which could ultimately make those VOD competitors less attractive.

- 6.25 In particular, competing SVOD providers' ability to attract and retain subscribers could be harmed because:¹²¹
- a) by providing content on BBC iPlayer for longer, BBC content may be less attractive to audiences of competing SVOD services (compared to now) since more people have already watched it; and
 - b) BBC content that would otherwise have been supplied to other VOD services may only be supplied with a delay (compared to now)¹²² or not supplied at all (if made available on BBC iPlayer on an exclusive basis).
- 6.26 We consider that extending the BBC iPlayer window is likely to reduce the availability of attractive BBC content to providers. However, the adverse impact would be unlikely to be large.
- 6.27 We found that UK PSB content only makes up a modest proportion of the content on existing SVOD services.¹²³ Furthermore, market research indicates that UK PSB content is not a key driver of SVOD subscriptions.¹²⁴ SVODs will also have access to alternatives to BBC content (such as acquiring content from other broadcasters, including the PSBs, or commissioning new content). It is also worth noting that, while several stakeholder responses agreed that we should consider this issue, no SVOD providers responded to the First Consultation to say the Proposals would adversely impact their ability to provide attractive content on their SVOD services.
- 6.28 We also considered how the Proposals could affect the entry and sustainability of a UK-focused SVOD service. To do this we have considered the potential impact on the proposed BritBox service. We understand that BritBox will look to acquire some BBC content after it has been available on BBC iPlayer. However, having content available on BBC iPlayer for longer may reduce its subsequent attractiveness to BritBox (as more people may have already seen the content for free) and if some of this content is made available on an exclusive basis, this may further reduce the amount of attractive BBC content available for

¹²¹ As BVOD services provided by the other PSB broadcasters (i.e. ITV Hub, All 4, STV Player and My5) do not tend to acquire BBC commissioned content, we would not expect the reduction in its availability to negatively affect these platforms.

¹²² As a part of its primary licence with independent producers/BBC Studios, the BBC normally has exclusive use of its content for up to 18 months after initial broadcast (i.e. the holdback period). However, in practice, independent producers/BBC Studios are able to negotiate with the BBC to reduce the holdback period and release the secondary rights earlier than 18 months after initial broadcast in some cases, particularly when the programme has been partly funded by the producer or other sources (such as in a co-production). Extending the availability of content on BBC iPlayer to 12 months – and longer in some cases – could therefore delay rival VOD providers' and linear channels' access to some content in the secondary rights market (compared to the base case where that content becomes available after 18 months or sooner if a shorter holdback period is negotiated).

¹²³ Ampere Analytics data suggests that in Q1 2019 UK broadcaster TV content comprised 7% of TV seasons on Prime Video and 9% on Netflix (with the overall volume of UK PSB content on these two platforms accounting for around 3,500 hours). Ampere Analysis, May 2019. *The UK VoD market: Current status and future developments*, pages 18-19.

¹²⁴ Survey evidence suggests that original and exclusive content that is not available elsewhere in the UK is a key driver of take-up and viewing on the three main UK SVOD platforms. Relevant findings from the GfK SVOD Tracker survey are set out in Annex 3.

BritBox to acquire.¹²⁵ Furthermore, BBC content is likely to be more important to a UK-focused SVOD proposition than the main existing SVOD services (such as Netflix).

- 6.29 However, given the scope of the Proposals, where there is a limit on the amount of content that can be made available on BBC iPlayer, and the vast majority of returning series, non-returning series and archive series would not be made available on an exclusive basis after the initial 12-month period ([<]), we think the impact on competition is unlikely to be large. As noted above, ITV is willing to invest in BritBox (alongside the BBC), under the scope of the Proposals, as long as it is able to conclude a formal agreement before the expansion of BBC iPlayer is agreed.

Our provisional conclusions

- 6.30 The reduction in the availability of appealing BBC commissioned content for the main SVOD services is unlikely to adversely impact on fair and effective competition. For UK-focused SVOD services, under the existing scope of the Proposals the impact on fair and effective competition is unlikely to be large.

Reduced value of secondary rights

- 6.31 We said there was a concern that allowing the BBC to put more content on BBC iPlayer for longer could reduce the value of secondary rights in the UK. This could in turn result in producers who rely on these rights becoming less profitable, increasing the risk that they go out of business. However, we did not consider it likely that competition would in practice be harmed.

Stakeholder responses

- 6.32 Several stakeholders asserted that this competition concern was worth considering in further detail.¹²⁶ The most substantive arguments were put forward by Pact, which said that the Proposals for extended standard availability to 12 months would reduce the value of secondary rights, resulting in less income from secondary rights for producers (including BBC Studios). It argued that this would in turn impact producers' budgets, resulting in a lower quality product.
- 6.33 Pact considered that the Proposals would particularly affect small and medium sized producers, as well as children's content producers, who would find it more difficult to finance productions. STV also believed that the Proposals could make it harder to finance productions. It also expressed dissatisfaction that the BBC is seeking longer availability windows, without offering to pay producers any more.

¹²⁵ In its [PIT document](#), the BBC argued that: (i) if a programme performs well on the BBC's UK public services (including BBC iPlayer), it may make the programme more attractive to buyers overseas; and (ii) making programmes available for longer on BBC iPlayer enables programmers to attract a larger audience, thus leading to a greater chance of a recommission.

¹²⁶ Responses to the First Consultation from [Pact](#), [Sky](#), [Viacom](#), Equity, [Directors UK](#), [PRS for Music & MCPS](#) and [UK Music](#).

6.34 Similar to Pact's concerns, several responses from owners of underlying rights outlined concerns about a potential reduction in their income, due to reduced revenue from the commercial exploitation of BBC content after the primary window, as a result of the Proposals. These included Directors UK and Equity, as well as several bodies representing those in the music industry (BPI, UK Music, PRS for MUSIC and MCPS). Broadly speaking, most argued that the Proposals could result in their members receiving lower residuals and royalties,¹²⁷ which they regarded as unfair. Some implied the Proposals would harm their industry, such as by resulting in the acting profession becoming the preserve of the independently wealthy (Equity) or endangering the ability of companies to invest in new music artists (BPI).

Re-evaluation of concern and conclusion

6.35 Having considered the arguments put forward by stakeholders, as well as the available evidence,¹²⁸ our provisional conclusion is that the Proposals would be unlikely to significantly harm competition in the production sector. We have not seen any compelling evidence that suggests any change in revenue flows is likely to be large enough to reduce the intensity of competition in the production sector. Indeed, such a shift in competition has not previously occurred despite fluctuations in the total production sector revenues over time. We have also considered the following mitigating factors:

- a) Even if the Proposals were to reduce secondary rights values, this would be likely to be at least partially offset by a rise in primary rights payments and/or a rise in other sources of funding to ensure programmes get made;
- b) We would not expect the value of international secondary rights to be significantly affected by a longer BBC iPlayer window as the availability of international content remains unaffected;
- c) We consider that producers generally have alternatives to supplying the BBC (other UK PSBs, broadcasters and SVOD companies) and it is unclear why the Proposals would improve the BBC's bargaining position when negotiating content deals.

6.36 While we do not think the Proposals would adversely affect fair and effective competition in the production sector, we do appreciate that the UK AV sector has undergone a variety of developments over the past few years (e.g. shifting consumer preferences / behaviour, technological change, changing commissioning structures, etc). We recognise these may have presented new opportunities, as well as new challenges for those in the production sectors. To the extent that there are broader underlying issues in the production sector, we

¹²⁷ Residuals and royalties are payments to either performers, writers or other rightsholders for reuse of any work that is included in a piece of media content (e.g. a song, film, TV programme, radio broadcast). For the reuse of a TV programme outside of its primary window in any form of secondary rights exploitation (e.g. DVDs, streaming on a SVOD service, broadcasts on a different TV channel), additional payments to such rightsholders may typically be required.

¹²⁸ As outlined in Annex 3, we have considered Oliver & Ohlbaum Associates' estimates of producer revenues (commissioned by Pact), as well as [§<].

have ongoing PSB duties and can therefore consider these separately in the future if appropriate.

- 6.37 In addition, we do not consider that the Proposals would have an effect on the owners of underlying rights (e.g. directors, actors and owners of music copyright) such that there would be an adverse impact on fair and effective competition that could ultimately affect audiences. Some rightsholders implied that creators of content could leave their profession due to the overall reduction in income (thereby presumably affecting the nature of the content produced). However, we have not yet seen any evidence to suggest that the likely reduction in revenue from BBC content would be sufficient for this to occur and why revenue from alternative sources would be unable to prevent this.

Our provisional conclusions

- 6.38 The Proposals are unlikely to adversely affect fair and effective competition in the production sector or other creative industries.

Unfairly favour BBC Studios

- 6.39 In our First Consultation, we considered whether the BBC might favour BBC Studios when making commissioning decisions (e.g. the BBC may consider it easier to secure the extended availability of content to go on BBC iPlayer from BBC Studios, whereas external producers may resist).¹²⁹ If the BBC did so unfairly, we said this could reduce the potential range and diversity of ideas from external producers and adversely affect competition. However, we considered that existing regulation already addresses this concern and we therefore said we did not propose to investigate it any further.¹³⁰

Stakeholder responses

- 6.40 Sky said that “it is self-evident that the proposals will increase the BBC’s incentives to commission programmes from BBC Studios to give greater control over distribution rights and reduce costs”. Sky said that we should evaluate this as part of the BCA, as “only Ofcom has access to the necessary data to evidence such risks.”
- 6.41 Pact also considered that we should assess the ability of the BBC to unfairly favour BBC Studios as part of this BCA. It argued that the advertising income that BBC Studios will obtain from its merger with UKTV, will put it in a financial position to accept the reduced secondary rights revenues from new commissions with a 12-month minimum exclusive BBC iPlayer window. However, it argued that smaller production companies would be

¹²⁹ We considered several incentives for the BBC to favour its own producers, or particular external producers in our [Consultation on commissioning for the BBC Public Services](#).

¹³⁰ In particular, Schedule 3, paragraph 7(2) of the Agreement requires the BBC to ensure there is genuine competition between BBC and external producers on a fair, reasonable, non-discriminatory and transparent (FRNDR) basis for the right to make relevant TV programmes and to evaluate any such bids on a FRNDR basis.

unable to accept such terms, and as a result they would not be able to compete for BBC commissions.¹³¹

Assessment and conclusion

6.42 We have considered the responses from stakeholders. Although we did not receive any evidence to suggest that the Proposals would raise novel issues in relation to BBC commissioning, we remain concerned to ensure that commissioning decisions are not taken in a way that distorts competition. There is existing regulation in this area in relation to both the commissioning process and also the relationship between the BBC public service and its commercial activities. We consider that these provide appropriate ways to address any concerns that could arise in this area (including in relation to the cross-subsidy of production activities and any increase in the BBC's incentives to commission from BBC Studios). We will continue to monitor these areas and if we identify compliance issues we would take these forward through enforcement processes. On this basis we conclude that there are sufficient protections to prevent the Proposals from adversely affecting fair and effective competition in relation to commissioning.

Distribution of BBC iPlayer

6.43 In our First Consultation, we considered whether there was a risk that the BBC could restrict access to BBC iPlayer on other platforms and/or refuse to create bespoke arrangements, which could place other platforms at a disadvantage or distort overall competition, reducing choice for audiences. We said we considered that existing regulation already addresses this concern and we proposed to not investigate it any further.

Stakeholder responses

6.44 Sky suggested that due to the proposed changes to BBC iPlayer, the BBC has an increased incentive to favour its own 'standard' BBC iPlayer app over any bespoke solution it currently provides to other platforms (namely, Sky's integrated PDL service).¹³² Sky considered that the Proposals could exacerbate the pre-existing issues it has experienced with securing access to BBC iPlayer content and functionality across all of Sky's platforms. For example, it said that the BBC has refused to allow Sky to include its catch-up content on its Sky Go and Sky Q apps, or to distribute UHD versions of the FA Cup final and Wimbledon tennis finals via satellite.

Assessment and conclusion

6.45 If the disparity between what is available on the standard BBC iPlayer app and what is available on bespoke services (such as Sky's integrated service) were to widen, then this

¹³¹ [Pact First Consultation response](#), paragraphs 9.5-9.6.

¹³² Since 2012, Sky has provided BBC iPlayer content to its customers via their set-top box using its own bespoke VOD service (as opposed to the standard iPlayer app), which utilises progressive download (PDL) technology. More detail on Sky's integrated service can be found in Sky's [2018 response to BBC's consultation on its distribution policy](#).

could potentially affect competition. However, this would depend on the specific facts and circumstances (e.g. the level and extent of content and functionality withheld etc).

- 6.46 We consider that the existing distribution framework is the appropriate way of addressing potential competition concerns arising from any existing disparities. The BBC has specific obligations under the Agreement to ensure its services, and elements of its services, are widely available.¹³³ It must also observe the requirement in the Operating Framework for it to offer services to third parties in response to reasonable requests for supply (unless it has an objective justification for not doing so) and to do so in a way that is fair, reasonable and non-discriminatory.¹³⁴
- 6.47 We therefore consider that provided the existing regulatory framework works effectively, the Proposals are unlikely to adversely affect fair and effective competition as a result of distribution of BBC iPlayer being restricted.

Our provisional conclusions on market impact

- 6.48 As a result of the Proposals making BBC iPlayer more attractive, the revenue and viewing of rival services would be likely to be reduced. We consider that this represents an adverse impact on fair and effective competition. The investment incentives of the main SVOD services and live TV channels would be unlikely to be appreciably affected. There may however be some impact on BVOD services' incentives to invest. We also consider that, under the existing scope of the Proposals, there is unlikely to be substantial harm to audiences as a result of the impact on the prospects of UK-focused SVOD services such as BritBox.
- 6.49 On the basis of the evidence we have available at this stage, we think the proposals in relation to children's content are unlikely to affect investment incentives.
- 6.50 The reduction in the availability of appealing BBC commissioned content for the main SVOD services is unlikely to adversely impact on fair and effective competition. For UK-focused SVOD services, under the existing scope of the Proposals the impact on fair and effective competition is unlikely to be large.
- 6.51 With regard to the other potential competition concerns we discussed, we consider that the existing regulatory framework should be sufficient to prevent the Proposals from leading to adverse effects on fair and effective competition in relation to commissioning or to distribution.
- 6.52 We take into account these conclusions on our concerns in the next section where we consider whether the public value of the Proposals justifies the adverse impact on competition identified, and what conditions and guidance it would be appropriate to impose in that context.

¹³³ Under clause 61 of the [BBC Framework Agreement](#), the BBC is required to act on a fair, reasonable and non-discriminatory basis in supplying its public services (including BBC iPlayer).

¹³⁴ Ofcom, March 2017. [Distribution of BBC public services: Ofcom's requirements and guidance](#).

Question 6.1: Do you agree with our assessment of the likely impact of the Proposals on fair and effective competition? Please provide evidence to support your views.

7. Our provisional conclusions

Overview

- 7.1 Our role in this BCA is to review the BBC's assessment of public value and to assess the impact of the Proposals on fair and effective competition. We must then assess whether the public value of the proposed change justifies any such adverse impact on fair and effective competition we have identified.
- 7.2 In reaching our provisional determination, we have had regard to the objective of the BBC to fulfil its mission and promote the public purposes as well as our relevant duties under the Communications Act, Charter and Agreement, including those concerning protection of competition and support for public service broadcasting.
- 7.3 We have carried out our assessment in light of the evolving nature of the UK broadcasting sector and the way audiences' behaviours and expectations are changing. The BBC is trying to keep pace with those changes. In reaching our provisional conclusions about the likely effects of the Proposals, we have exercised our judgment in that context, taking into account the available evidence from the BBC's public interest test, our own analysis and research, as well as information and views offered by stakeholders.

Our provisional conclusions

- 7.4 We think there could be significant public value associated with the Proposals. The scale of these potential benefits is illustrated by the likely increase in BBC iPlayer viewing. We have estimated that the Proposals would increase viewing by 21% – 52%, of which, in our central scenario, approximately 16% is accounted for by the increase in children's content.¹³⁵ Making content available for longer on BBC iPlayer would provide audiences with more choice. It would also give them access to a greater volume of PSB content, including both high quality children's programming and content with a UK focus. However, as explained in Section 5, we have concerns as to how the delivery of this public value would be ensured.
- 7.5 We consider there would be an impact on fair and effective competition. BBC iPlayer is free of charge and free from advertising and, as a result of its licence fee funding, it enjoys a competitive advantage that is not available to commercial providers. The increase in BBC iPlayer viewing due to the Proposals would have an effect on competing commercial services.¹³⁶ We think this impact would be spread across a number of different offerings:
- a) For broadcast linear TV channels and the main existing SVOD services, the effects are likely to be limited. The Proposals could however materially increase the challenges faced by a service such as BritBox, but we note that ITV has told us that it is willing to invest in BritBox, in partnership with the BBC, as long as an acceptable formal

¹³⁵ This proportion of a 16% rises to 28% in our lower impact scenario.

¹³⁶ Viewing will also come at the expense of some other BBC services and other non-TV activities.

agreement is signed before any expansion of BBC iPlayer is agreed. We therefore consider that, under the existing scope of the Proposals, there is unlikely to be substantial harm to audiences as a result of the impact on the prospects of UK-focused SVOD services such as BritBox.

- b) The position for other BVODs is likely to be different. In our central estimate they lose 0.6% - 3.4% of their viewing and when assessing the impact on individual BVODs (as an upper bound to any viewing impact) we have used a range of 2.6% to 5.1% for the loss in viewing. This could somewhat reduce their incentives to invest in these services which, in turn, could have some detrimental impacts for users.
- 7.6 Other UK broadcasters are in a similar position to the BBC in having to respond to rapidly changing market conditions. The development of BBC iPlayer will be only one of the challenges they face, and they are all developing strategies to help them compete over the longer term.
- 7.7 We have provisionally concluded that the intensity of competition in the production sector is unlikely to be significantly harmed by the Proposals. While we do not rule out an impact on the price of secondary rights, there are likely to be offsetting effects. In any event, a modest change in the revenues flowing into the production sector is unlikely to significantly change its competitive intensity.
- 7.8 Concerns have also been raised about the distribution of BBC iPlayer as the BBC may have incentives to favour its standard BBC iPlayer service over a bespoke version of BBC iPlayer. This could adversely impact consumers. We discuss this further in paragraph 7.20-7.22 below.
- 7.9 The Proposals should help safeguard the ability of the BBC to deliver the public purposes in the longer term, particularly given changing audience viewing behaviour. We think it is important for the BBC to be able to develop a stronger relationship with younger audiences and the Proposals may help attract them to the BBC. However, as the BBC itself notes in its PIT,¹³⁷ adding content for longer won't necessarily achieve this alone. The BBC also needs to provide the right content that attracts these viewers.
- 7.10 Regarding the children's part of the Proposal, we consider there is significant public value in having more children's content available for longer. Based on the evidence before us, we think the Proposals in relation to children's content are unlikely to substantially affect investment incentives. However, we have not considered the potential market impacts of this aspect of the Proposals in as much detail. Our provisional conclusion in relation to children's therefore, based on the analysis we have completed, is that the public value would justify the adverse impact on fair and effective competition. However, we are open to considering further evidence stakeholders may want to provide in this consultation.

¹³⁷ BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 240.

- 7.11 Overall, subject to the conditions and guidance we propose below, we provisionally conclude that the public value of the Proposals justifies the adverse impact on fair and effective competition.

Provisional determination and conditions

- 7.12 In making our provisional determination, we have considered the scope of the Proposals and whether it would be appropriate to impose any conditions as part of an approval of the change.

Scope of the Proposals we are proposing to approve

- 7.13 The BBC has set out in its PIT document the scope of the changes it wishes to make to BBC iPlayer. We have reproduced these changes in paragraphs 2.9-2.12,¹³⁸ including the percentage and number of titles the BBC plans to add in various categories. These are the proposed changes we are provisionally approving.
- 7.14 In its PIT, the BBC opposed any limits being placed on BBC iPlayer and said they would become out of date and would need to be replaced. However, our proposed approval does not mean the BBC is able to extend and develop BBC iPlayer free from further regulatory control. We identify in section 6 the adverse effects that the expansion of BBC iPlayer could have on competition, in particular with regard to BVODs and entrants such as BritBox. We therefore consider that the Proposals (if approved) will, together with the existing BBC iPlayer service, represent a new baseline for BBC iPlayer. If the BBC wants to further evolve BBC iPlayer, the BBC Board will need to consider whether any changes it wishes to make are material compared to this baseline position. We expect to consult with the BBC on the current position of BBC iPlayer and set out this baseline in our final statement.
- 7.15 We understand from the BBC that the vast majority of returning series, non-returning series and archive series would not be made available on an exclusive basis after the initial 12-month period. [3<] We consider that this forms part of the baseline. Accordingly, we do not expect the BBC to increase the number of exclusive titles it makes available on BBC iPlayer without carefully considering the potential impact on competition.
- 7.16 We propose to require the BBC to keep a record of changes it makes to BBC iPlayer which could move it away from the baseline and to make this available to Ofcom on request.

Imposing other conditions

- 7.17 In Section 5 we identified concerns as to whether the public value that the changes could deliver will be realised. The BBC has provided limited explanation as to how it will ensure that this public value will be delivered. We are also conscious that the existing provisions of the Operating Licence focus on what the BBC's linear broadcast channels must achieve; the

¹³⁸ These changes are also set out in Annex 4.

impact of the Proposals may be that increasing numbers of people will primarily experience the BBC through BBC iPlayer.

- 7.18 We therefore want the BBC to develop its strategy and report in depth on how BBC iPlayer contributes to the delivery of its mission and public purposes. We propose to impose conditions on the BBC requiring it to set out how the mission and public purposes will be delivered for people engaging with the BBC increasingly through BBC iPlayer; performance measures including availability, consumption and impact; and how the BBC has had regard to the effects of iPlayer on competition in the UK. We will consult with the BBC on the details of these conditions.
- 7.19 We monitor the BBC in relation to competition and performance on an ongoing basis. This encompasses the BBC and its activities, and also market developments and the BBC's place in the wider PSB sector and beyond. We expect to continue with this programme and include consideration of BBC iPlayer within it. If we identify evidence of concerns, we have the ability to step in and act should we consider it appropriate. In addition, to the extent that the changing market conditions threaten the quality of public service broadcasting, that is something we will continue to assess as part of our ongoing PSB duties.

Guidance on other concerns

- 7.20 In relation to distribution, the BBC has specific obligations under the Agreement to ensure its services, and elements of its services, are widely available. It must also observe the requirement in the Operating Framework for it to: (a) offer services to third parties in response to reasonable requests for supply, except where the BBC has an objective justification for not doing so, and (b) to do so in a way that is fair, reasonable and non-discriminatory. We have issued guidance on our approach to enforcement of this requirement.¹³⁹
- 7.21 The Proposals mean that the BBC iPlayer will carry significantly more content than it currently does, which might give rise to new challenges as the BBC thinks about how to distribute BBC iPlayer content. However, the requirements in the Agreement and the Operating Framework will continue to apply, and we consider the principles discussed in the distribution guidance are sufficiently flexible to adjust to implementation of the Proposals.
- 7.22 We continue to consider that, to a large extent, the incentives of the BBC should be aligned with platform operators, and we expect both should focus on ensuring that consumers benefit from being able to watch a full range of BBC content in the way that they want to, across a variety of platforms.
- 7.23 Finally, the BBC is subject to requirements relating to the way it commissions programming. The BBC must comply with its obligations to commission its BBC iPlayer content on a fair, reasonable, non-discriminatory and transparent basis consistent with the existing commissioning and commercial and trading activities requirements. We will

¹³⁹ Ofcom, 2017. [Distribution of BBC public services: Ofcom's requirements and guidance](#).

continue to monitor its activities so that we are in a position to enforce against breaches of these requirements.

Question 7.1: Do you agree with our provisional conclusion that the public value associated with the BBC's iPlayer proposals justifies the adverse impact on fair and effective competition we have identified? Please provide evidence to support your views.

Question 7.2: Do you agree with our provisional conclusions on the conditions and guidance that should apply to the BBC? Please provide evidence to support your views.

A1. Legal framework

- A1.1 Ofcom's principal duty, in section 3 of the Communications Act 2003, is to further the interests of citizens and consumers in relation to communications matters, where appropriate by promoting competition. In performing our duties we must have regard, among other things, to the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the UK and of promoting competition in relevant markets.
- A1.2 The BBC Charter¹⁴⁰ and Agreement¹⁴¹ set the BBC's mission and public purposes and the framework for Ofcom's regulation of the BBC.¹⁴²
- A1.3 The Charter provides that we must have regard, in carrying out our functions, to such of the following as appear to us to be relevant in the circumstances:
- a) the object of the BBC to fulfil its mission and to promote the public purposes;
 - b) the desirability of protecting fair and effective competition in the United Kingdom;
 - c) the requirement for the BBC to comply with its duties under the Charter, including its general duties.¹⁴³
- A1.4 The Charter and Agreement recognise that, in order fulfil its mission and promote the public purposes, the BBC may need to make changes to the UK Public Services. However, to protect fair and effective competition, the BBC may only make a material change to the UK Public Services where:
- a) it has carried out a public interest test and determined that test is satisfied; and
 - b) Ofcom determines that the BBC may carry out the proposed change.¹⁴⁴

The BBC's analysis

- A1.5 The BBC must therefore initially assess whether a proposed change is material. The Agreement defines a material change as:
- a) the carrying out of any activity as a new UK Public Service; and
 - b) any change to a UK Public Service which may have a significant adverse impact on fair and effective competition.¹⁴⁵

¹⁴⁰ [*Royal Charter for the continuance of the British Broadcasting Corporation \(December 2016\)*](#).

¹⁴¹ [*An Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation \(December 2016\)*](#).

¹⁴² Section 198 of the Communications Act 2003 provides that it is a function of Ofcom to regulate the BBC. Our general duties under section 3 of that Act therefore apply to the exercise of our functions in relation to the BBC.

¹⁴³ Article 45(2) of the Charter.

¹⁴⁴ Clause 7(6) of the Agreement.

¹⁴⁵ Clause 7(7) of the Agreement.

- A1.6 If the BBC considers that a proposed change is not material, it may carry out the change, unless Ofcom disagrees with the BBC on materiality. If we consider that the proposed change is material, we may direct the BBC to:
- a) carry out a public interest test and, if the test is satisfied, publish the change; or
 - b) stop carrying out the change in accordance with such directions as we consider appropriate.¹⁴⁶
- A1.7 In order for a public interest test to be satisfied, the BBC must determine that:
- a) the proposed change contributes to the fulfilment of the BBC's mission and promotion of one or more of the public purposes;
 - b) it has taken reasonable steps to ensure that the proposed change has no unnecessary adverse impact on fair and effective competition; and
 - c) the public value of the proposed change justifies any adverse impact on fair and effective competition.¹⁴⁷
- A1.8 If the test is satisfied and the BBC wishes to implement the proposal, it must publish the proposed change and provide a copy to Ofcom.¹⁴⁸

Ofcom's role

- A1.9 Ofcom must then assess whether the proposed change is material and, if so, decide what type of further assessment to conduct.¹⁴⁹
- A1.10 Paragraph 4.33 of Ofcom's guidance document *Assessing the impact of proposed changes to the BBC's public service activities* (the BCA guidance)¹⁵⁰ sets out a non-exhaustive list of factors we may take into account when assessing the potential significant adverse impact of a change.
- A1.11 If we conclude a proposed change is not material, or six weeks pass without our informing the BBC of our view, the BBC may carry out the change.
- A1.12 If we conclude that the proposal is material, we may decide to carry out a BBC competition assessment (BCA) under clause 10 of the Agreement or a shorter assessment drawing on elements of the BCA procedure. Paragraph 4.35 of the BCA guidance explains when each type of assessment might be appropriate.
- A1.13 In carrying out a BCA or shorter assessment, Ofcom must:
- a) review the procedures the BBC has followed in carrying out the public interest test;

¹⁴⁶ Clause 9(6) of the Agreement.

¹⁴⁷ Clause 8 of the Agreement.

¹⁴⁸ Clause 8(3) of the Agreement.

¹⁴⁹ Clause 9 of the Agreement.

¹⁵⁰ Ofcom, 2017. [Assessing the impact of proposed changes to the BBC's public service activities: Ofcom's procedures and guidance](#).

- b) review the BBC's assessment of the public value of the proposed change to the UK Public Services;
 - c) assess any adverse impact of the proposed change on fair and effective competition; and
 - d) assess whether the public value of the proposed change justifies any adverse impact on fair and effective competition.¹⁵¹
- A1.14 Ofcom must consider the scale and likelihood of any public value relative to the scale and likelihood of any adverse impact on fair and effective competition. The Agreement recognises that the determination will require qualitative assessments to be made and that direct comparison of factors relating to public value and factors relating to risks to fair and effective competition may not be possible.¹⁵²
- A1.15 At the end of the process, we will make one of four possible determinations:
- a) that the BBC may carry out the proposed change;
 - b) that the BBC may not carry out the proposal;
 - c) that the proposal may go ahead subject to conditions or modifications that we consider appropriate; or
 - d) that the BBC must reconsider elements of its public interest test or follow any further procedures we consider appropriate.¹⁵³
- A1.16 Ofcom may only make determinations (b) and (c) above where we have carried out a BCA and not following a shorter assessment.¹⁵⁴
- A1.17 Ofcom must complete a BCA within six months¹⁵⁵ and a shorter assessment in less than six months.¹⁵⁶ In either case we will consult stakeholders before making our final determination.

Distribution

- A1.18 The BBC is required under clause 61 of the Agreement to act in a fair, reasonable and non-discriminatory manner in supplying its public services (including BBC iPlayer).
- A1.19 In addition, due to the potential for the way the BBC supplies services to undermine competition and innovation, we require that the BBC offers its public services to third parties on a fair, reasonable and non-discriminatory basis under the Operating Framework. These requirements are set out in our distribution guidelines: *Distribution of BBC public services: Ofcom's requirements and guidance*.¹⁵⁷

¹⁵¹ Clause 10 of the Agreement. Section 5 of the BCA guidance explains the analytical approach we expect to apply.

¹⁵² Clause 10(4) of the Agreement.

¹⁵³ Clause 11(1) of the Agreement.

¹⁵⁴ Clause 11(2) of the Agreement.

¹⁵⁵ Clause 10(2) of the Agreement.

¹⁵⁶ Clause 9(2) of the Agreement.

¹⁵⁷ Ofcom, 2017. [*Distribution of BBC public services: Ofcom's requirements and guidance*](#).

A2. BBC iPlayer viewing and substitution

Introduction

- A2.1 Understanding both the public value and the market impact of the Proposals requires an estimate of:
- what would happen to BBC iPlayer viewing absent the Proposals (the counterfactual);
 - what the viewing would be of other video-on-demand (VOD) platforms and live TV in the counterfactual;
 - how much BBC iPlayer viewing might increase as a result of the Proposals, relative to the counterfactual; and
 - where any extra BBC iPlayer viewing might come from (e.g. BVOD¹⁵⁸ services, SVOD¹⁵⁹ services, live TV or elsewhere).
- A2.2 This annex covers the following topics. First, to put the Proposals in context, we estimate the number of hours of content being added to BBC iPlayer. We then explain our modelling of the potential increase in BBC iPlayer viewing as a result of the Proposals, compared to the counterfactual. Finally, we present consumer survey evidence on substitution between BBC iPlayer and BVOD, SVOD and live TV. The aim of this analysis is to assess where any increase in BBC iPlayer viewing might come from.

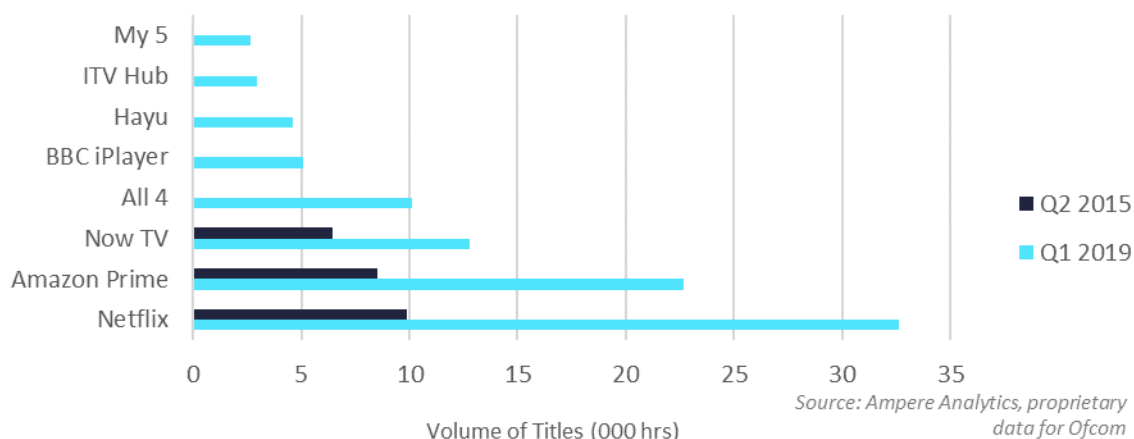
The amount of content being added to BBC iPlayer

- A2.3 Figure A2.1 shows the number of hours of content currently available on a range of VOD services.

¹⁵⁸ Broadcaster video on demand (BVOD) refers to free VOD services from the major broadcasters, including BBC iPlayer, ITV Hub, All 4, My5 and STV Player.

¹⁵⁹ Subscription video on demand (SVOD) refers to paid-for subscription VOD services such as Netflix, Amazon Prime Video and Now TV.

Figure A2.1: Volume of content (000 hrs) of VOD services in the UK



Source: Ampere Analysis, May 2019. [The UK VoD market: Current status and future developments](#), Graph 2.1.1.

A2.4 By way of context, we have estimated how many additional hours of content the Proposals would add to BBC iPlayer. To do this, we estimated the total number of hours of content that would be available on BBC iPlayer following the Proposals. We calculated this using the following methodology:

- a) to estimate the number of hours of general content (i.e. all content excluding children’s content) added by the 12-month standard availability, we used the number of hours of non-news first-run UK-originated content that were broadcast across BBC TV on average over the last five years (i.e. about 7,000 hours of content);^{160,161}
- b) to estimate the amount of children’s content added by the five-year standard availability, we used the number of hours of first-run UK-originated content on CBBC and CBeebies (about 500 hours);¹⁶²

¹⁶⁰ Ofcom, October 2018. Ofcom’s annual report on the BBC: [Annex 2: BBC Performance Report](#), Figure 35.

¹⁶¹ These estimates exclude any acquisitions made by the BBC and include live sport content.

¹⁶² This estimate is for the first full year of implementation of the Proposals. However, due to the five-year standard availability for all children’s commissions, the volume of children’s content on BBC iPlayer will grow. Ofcom, October 2018. Ofcom’s annual report on the BBC: [Annex 2: BBC Performance Report](#), Figures 26 and 27.

- c) for general and children’s content being made available outside the extended standard availability period, we used the indicative number of series provided by the BBC in its PIT¹⁶³ and assumptions about the number of hours per series:¹⁶⁴ for returning, non-returning and archive titles across general content (around 3,200 hours); and for returning and archive titles in children’s content (around 1,100 hours).¹⁶⁵

A2.5 Overall, we estimated that the BBC iPlayer library would more than double from its current size of around 5,100 hours¹⁶⁶ to an estimated 11,800 hours (see Table A2.1). This would make the BBC iPlayer library larger than the All 4 library (around 10,100 hours) and similar in size to the Now TV library (around 12,800 hours).¹⁶⁷

Table A2.1: Estimated hours of content available on BBC iPlayer following the Proposals

Type of content	Estimated hours
Standard availability on all new commissions (12 months)	7,000
Returning, non-returning and archive titles (12 months)	3,200
Standard availability on all new children’s commissions (five years)	500
Returning and archive children’s titles (12 months)	1,100
Total content	11,800

Source: BBC, April 2019. [BBC iPlayer Public Interest Test](#); and Ofcom analysis.

Counterfactual

A2.6 The first step in our modelling is to set out what we think would happen to viewing patterns in the absence of the Proposals. We need a clear idea of what BBC iPlayer, other BVOD, SVOD and live TV viewing would be like in the absence of the Proposals so that we have a scenario against which to assess the impact of the Proposals.

¹⁶³ In particular, we have assumed 100 returning scripted, 100 returning non-scripted, 125 non-returning (scripted and non-scripted or other content), 150 archive scripted, 50 archive non-scripted, 120 children’s returning and 150 children’s archive series. BBC, April 2019. [BBC iPlayer Public Interest Test](#), Figure 16 and page 74.

¹⁶⁴ For general content, we have assumed an average of six hours of content per series for returning (scripted and non-scripted), non-returning (scripted and non-scripted) and archive (scripted and non-scripted). For children’s content, we have assumed an average of four hours per series for returning and archive based on shorter episode length but a larger number of episodes.

¹⁶⁵ The existing primary rights for children’s content provide a significantly larger set of broadcast rights to the BBC than for other types of content. This means that children’s programmes are often already available on BBC iPlayer for longer than other programming and implies that the Proposals might have a more limited impact on the availability of children’s content compared to the counterfactual.

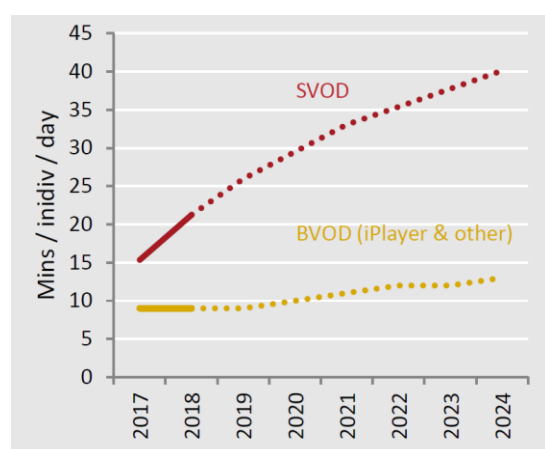
¹⁶⁶ Ampere Analysis, May 2019. [The UK VoD market: Current status and future developments](#), Graph 2.1.1 (underlying data in the graph provided separately by Ampere Analysis).

¹⁶⁷ Ampere Analysis, May 2019. [The UK VoD market: Current status and future developments](#), page 12 (numbers for the graph provided separately).

Overview of the BBC’s approach

- A2.7 The BBC commissioned Communication Chambers (CC) to forecast the viewing impact of the Proposals.¹⁶⁸ CC estimated viewing in the counterfactual over the period 2017 – 2024 for each of BBC iPlayer, BVOD, SVOD, live TV and “time online”.¹⁶⁹ It used a combination of data from Enders Analysis,¹⁷⁰ Ofcom data and the BBC’s own data.
- A2.8 The BBC made available on BBC iPlayer a number of additional series of different types (new, previous, archive and children’s) in 2018/19 (henceforth the ‘2018/19 Interim Changes’,¹⁷¹ and the viewing data obtained from these changes will be referred to as the ‘2018/19 Interim Changes data’). The BBC noted that some of the BBC iPlayer viewing in 2018 would be from the addition of series as part of the BBC’s 2018/19 Interim Changes, so it removed much of this viewing of additional series (adjusting for the fact that some of this viewing replaced other BBC iPlayer viewing).¹⁷²
- A2.9 Overall, CC estimated that BVOD viewing (which includes, among others, BBC iPlayer, ITV Hub, All 4, My5, STV Player and UKTV player) would increase by 44% from 2017 to 2024 in the counterfactual. For SVODs, it estimated an increase of more than double (and an annual growth rate of around 13%). For live TV, it estimated a decline of 16% from 2017 to 2024.
- A2.10 CC’s estimates of VOD viewing in the counterfactual are set out in Figure A2.2.

Figure A2.2: CC estimates of VOD viewing in the counterfactual



Source: CC, April 2019. [Forecast of the viewing impact of proposed changes to BBC iPlayer](#), Figure 2.

- A2.11 CC’s estimates of live TV viewing in the counterfactual are set out in Figure A2.3.

¹⁶⁸ Communications Chambers, April 2019. [Forecast of the viewing impact of proposed changes to BBC iPlayer](#).

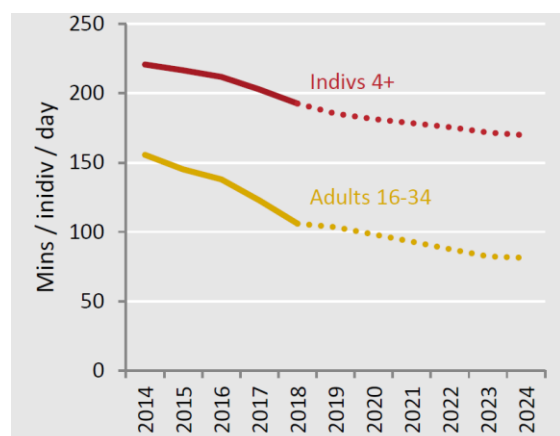
¹⁶⁹ Time online refers to the amount of time an individual uses the internet, and is used by CC as an input to split viewing by TV vs other devices.

¹⁷⁰ Enders Analysis, March 2019. [The future of video viewing: forecasts to 2028](#).

¹⁷¹ The 2018/19 Interim Changes are defined in Section 2 of this consultation.

¹⁷² Communications Chambers, April 2019. [Forecast of the viewing impact of proposed changes to BBC iPlayer](#), section 2.4, Figure 4.

Figure A2.3: CC estimates of live TV viewing in the counterfactual



Source: CC, April 2019. [Forecast of the viewing impact of proposed changes to BBC iPlayer](#), Figure 3.

Our approach

Estimating VOD viewing in the counterfactual

- A2.12 We used a two-step approach to estimate VOD viewing in the counterfactual. Our starting point was to use viewing data for different VOD services in 2018 and derive VOD viewing shares. Second, we made assumptions about the growth rates in viewing of these services to project VOD viewing shares forward to 2020.
- A2.13 For the first step, we used BARB, Touchpoints and other industry data on the total minutes of viewing and the proportion accounted for by BVOD and SVOD services in 2018. Viewing of BBC iPlayer was calculated from this using BARB and BARB Dovetail data. We estimated what total BBC iPlayer viewing would have been absent the viewing attributable to the 2018/19 Interim Changes. To do this, we took total BBC iPlayer viewing, stripped out viewing of the boxsets from the 2018/19 Interim Changes, but added back in a portion of that boxset viewing that would have replaced other BBC iPlayer viewing (i.e. we made an assumption that a portion of the boxset viewing cannibalised existing BBC iPlayer viewing).
- A2.14 Second, for the growth rates to 2020, we used a number of sources:
- Enders Analysis forecasts from 2017 to 2020;
 - 3 Reasons data from 2014 to 2017; and
 - our internal estimates of how much each VOD provider grew from 2017 to 2018.
- A2.15 We calculated the Compound Annual Growth Rate (CAGR) for each category of VOD service (BVOD and SVOD) using each of these different sources.¹⁷³ This produced three estimates of the growth rate for BVOD and SVOD. We rounded these growth rates to the nearest 5% in the case of BVOD and the nearest 10% in the case of SVOD (as the growth rates are higher). We then applied these growth rates to our 2018 viewing figures and

¹⁷³ The formula for the CAGR is $(End\ Value/Start\ Value)^{(1/Years)}-1$.

extrapolated out viewing estimates for BBC iPlayer, other BVOD, and SVOD to 2020. This generated three scenarios for our counterfactual. The growth rate assumptions for each of these three counterfactual scenarios are presented in Table A2.2.

Table A2.2: Assumptions for BVOD and SVOD growth rates from 2018 to 2020 in our three scenarios for the counterfactual

Category of VOD service	Low	Central	High
BVOD	0%	5%	10%
SVOD	20%	30%	40%

Source: Assumptions based on Enders analysis, 3 Reasons data and internal Ofcom estimates.

- A2.16 For BBC iPlayer growth, we used the BVOD growth assumptions.
- A2.17 We have assessed the impact of the Proposals on a forward-looking basis. We have developed a model of BBC iPlayer viewing as a tool to inform our assessment of the impact of the Proposals. In this consultation, we report the results for 2020 (the first full year affected by the Proposals). We consider that these figures are more reliable than for later years.¹⁷⁴ We have sought to consider the impact in other years, as explained in the next paragraph. However, there are significant challenges in doing so, particularly in estimating the impact on other BVODs, so some uncertainty is unavoidable.
- A2.18 In Annex 3, we consider the crowding out of commercial rivals as a result of their audiences switching to the improved BBC iPlayer service.
- a) In other years, the impact on SVOD and live TV services is likely to depart from our estimates for 2020. This is a consequence of both the assumptions embedded in our model¹⁷⁵ and because of the potential for other impacts that are not captured in our modelling.¹⁷⁶ However, our reasoning in relation to the impact on investment by SVOD and live TV services is unlikely to be affected by modest departures from the figures reported for 2020.¹⁷⁷

¹⁷⁴ Two examples illustrate this point. First, it is unclear to what extent the impact of adding content to BBC iPlayer grows in line with the general increase in BVOD viewing (i.e. if historically adding a piece of content to BBC iPlayer increased viewing by 100, should this figure be uplifted in later years to reflect the 5% growth in BVOD viewing assumed in our central scenario). Second, minutes of viewing has grown very strongly for SVOD services in recent years. Growth in the number of households that purchase SVOD services has contributed to this. However, this growth in SVOD take-up will eventually slow as the market becomes saturated. As a result, the rate of growth in viewing minutes is also likely to slow. While the timing and extent of this is uncertain, our estimates for 2020 are less likely to be affected.

¹⁷⁵ Since SVOD viewing is assumed to grow strongly in the counterfactual (see Table A2.2), the proportion of SVOD viewing that is lost as a result of the Proposals will tend to be smaller in later years. The opposite occurs in the case of live TV viewing, since this is assumed to decline in the counterfactual.

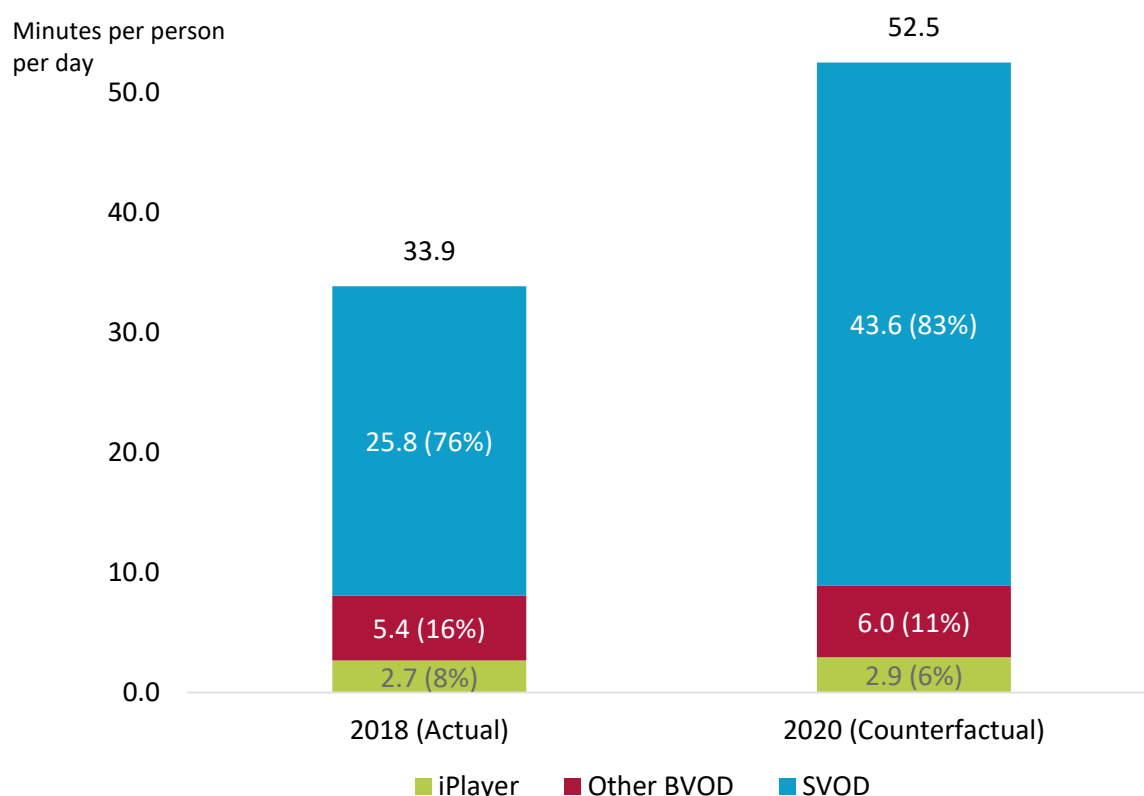
¹⁷⁶ For example, the entry of major SVOD services such as Disney or if it takes time for consumers to learn about the extra content available on BBC iPlayer and to change their habits.

¹⁷⁷ For example, that reasoning depends on the main SVOD services’ investment being shaped by factors outside of the UK and the much larger scale of live TV viewing compared to BBC iPlayer viewing.

b) In other years, the impact on other BVOD services is also likely to depart from our estimates for 2020. This is less to do with the assumptions embedded in our model¹⁷⁸ and more because of the potential for other impacts that are not captured in our modelling.¹⁷⁹ This is somewhat addressed by presenting a range for our estimated impacts. That said, looking over a longer time period, the impact on BVOD services’ and their incentives to invest may be larger or smaller than the ranges we report for 2020.

A2.19 Our estimates of VOD viewing in the central counterfactual scenario in 2020 are shown in Figure A2.4.

Figure A2.4: VOD viewing in 2018 and in the central counterfactual scenario in 2020



Source: BARB and Touchpoints for 2018 viewing; Enders Analysis, BARB and 3Reasons for viewing growth assumptions. Figures may not sum due to rounding.

Estimating live TV viewing in the counterfactual

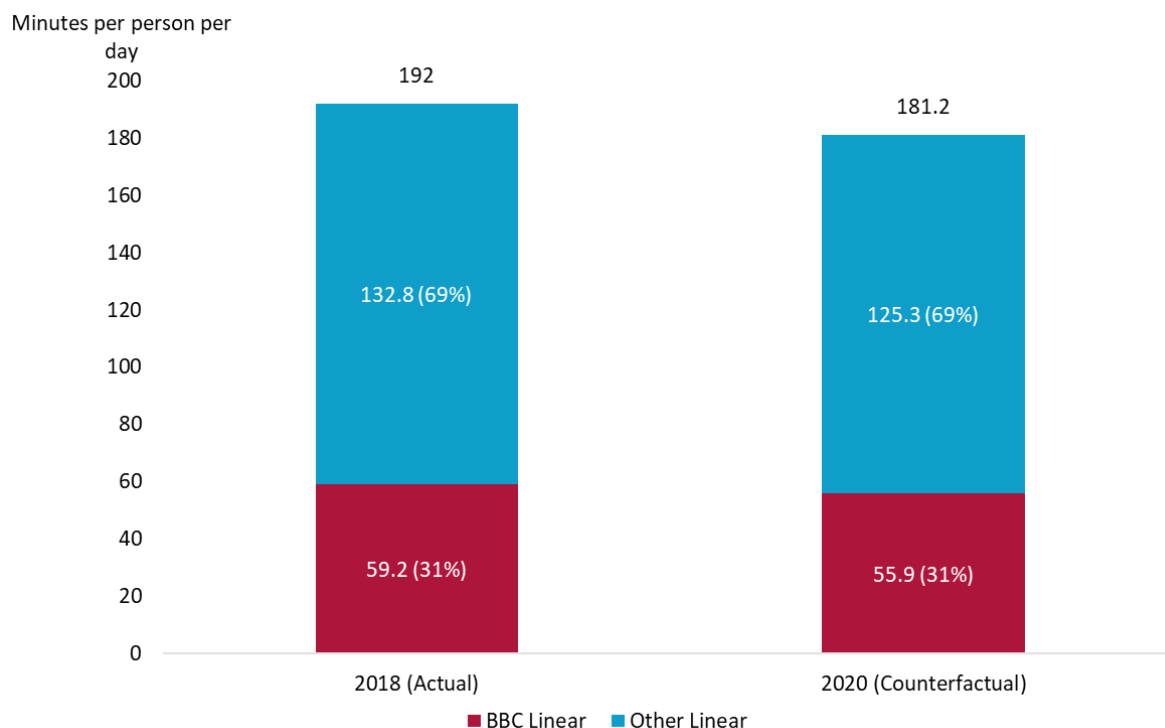
A2.20 We also estimated the amount of live TV viewing in 2020. We used live TV viewing data from BARB for 2010 to 2018 and calculated the CAGR to be -2.9%. We then extrapolated

¹⁷⁸ If the impact of adding additional content to iPlayer grows in line with the general increase in BVOD viewing then, applying our model mechanically, the proportionate loss in viewing by other BVOD services will not change over time. Intuitively, this is because both BVOD viewing and the size of the BBC iPlayer impact are growing at the same rate. However, if this assumption does not hold then the proportionate impact on BVOD services in later years might be lower than in 2020.

¹⁷⁹ For example, an individual BVOD might decline relative to its peers either because it fails to maintain the attractiveness of its service or because it is particularly affected by other market developments (such as new entry).

this out to 2020. Our estimates of live TV viewing in the counterfactual are shown in Figure A2.5. We only used one scenario for live TV viewing in the counterfactual, because: (i) we have a long time-series of live TV viewing data to inform our projected growth rate; and (ii) existing live TV viewing is so large relative to VOD viewing that under any plausible live TV growth rate it would continue to dwarf VOD viewing in 2020.

Figure A2.5: Live TV viewing in 2018 and in the counterfactual in 2020



Source: BARB for 2018 viewing and for assumed growth rate of -2.9% based on average growth since 2010.

Why our approach produces different results to the BBC

- A2.21 At a high level, our approach is essentially the same as the BBC’s. However, our approach produces very different counterfactual results to the CC approach for BBC iPlayer and other BVOD viewing. CC estimates a higher level of counterfactual viewing for BBC iPlayer than we do because of the methodology it used.
- A2.22 Here we need to draw a distinction between streaming and viewing. ‘Streamed minutes’ are measured electronically by broadcasters and reflect the number of minutes of viewing transmitted to devices by servers. Streamed minutes do not account for multiple viewers per screen. ‘Viewed minutes’ take into account the fact that for some streamed minutes, more than one viewer is in front of the screen.
- A2.23 We are using industry data from BARB. Our BARB data already accounts for the discrepancy between streamed and viewed minutes by applying multipliers when viewing

occurs on phones, tablets and PCs. When viewing is on the TV set, BARB data is already measured on a per person basis.¹⁸⁰

- A2.24 CC did not have access to the BARB figures for BBC iPlayer, and therefore used internal BBC data on streaming minutes and applied some assumed multipliers from BARB to convert this into viewing minutes.¹⁸¹ Its methodology was not in line with the BARB methodology. It thus appears that there is a discrepancy between the BARB estimates of BBC iPlayer viewing and CC's.
- A2.25 We have decided to use the BARB figures in combination with Touchpoints. The most important reason for this decision is that BARB calculates viewing for BBC iPlayer and other BVODs on a consistent basis. In contrast, when CC used its own calculation for BBC iPlayer viewing and BARB figures for other BVOD viewing, it was not comparing like with like, and therefore its calculations are internally inconsistent.
- A2.26 A final, more minor issue is the growth rates used by Ofcom and CC differ slightly, leading to different 2020 counterfactuals. Specifically, assumed annual growth rates for 2018 to 2020 are: around 5% for BBC iPlayer and other BVODs in CC's modelling and between 0% and 10% in our modelling; and around 18% for SVODs in CC's modelling and between 20% and 40% in our modelling.
- A2.27 Our estimates are preferable to the BBC's because the viewing figures for BBC iPlayer, other BVODs and SVODs are all calculated on the same basis and are therefore consistent. The BBC used a different methodology for its figure for the BBC compared with other BVODs. The growth rates we used are based on multiple sources rather than just one.

Conclusion

- A2.28 Our modelling focuses on viewing in 2020 as our counterfactual and presents three scenarios. We use internal data to obtain the existing amount of viewing of BVODs and SVODs and use published BARB data on the amount of current live TV viewing. We then apply three scenarios of growth rates for BVODs (including BBC iPlayer) and SVODs to obtain the amount of viewing of each in 2020.
- A2.29 We estimate that, in our central scenario in 2020, BBC iPlayer will have a 6% share of VOD viewing, other BVODs will have around 11%, and SVODs will have around 83%.

Estimating the increase in viewing as a result of the Proposals

- A2.30 Below we provide an overview of the BBC's and Channel 4's approaches to estimating the increase in BBC iPlayer viewing as a result of the Proposals. We then set out our approach.

¹⁸⁰ Standard BARB data measures viewed minutes since it measures viewing by different viewers on the TV set. BARB Dovetail data is built using multipliers to convert streamed minutes to viewed minutes for viewing on computers, tablets and smartphones.

¹⁸¹ By 'assumed multipliers' we mean assumptions on how many people, on average are watching a streamed programme on, for instance, a TV set.

Overview of the BBC's approach

- A2.31 CC used the 2018/19 Interim Changes data to assess the likely increase in BBC iPlayer usage. It analysed average viewing of different types of series (e.g. 'new and latest', 'previous' and 'archive') and how that viewing decays over time. This was used to extrapolate the percentage increase in viewing that comes from extending availability for different types of series. It also adjusted for various factors, such as the number of series the BBC proposes to extend availability for and 'cannibalisation'¹⁸² of existing BBC iPlayer¹⁸³ and BBC live TV viewing.
- A2.32 Overall, CC estimated a net viewing uplift to BBC iPlayer (net of cannibalisation) of 27.0% relative to the counterfactual in 2020, of which the proposed increase in children's content accounts for 3.4 percentage points.¹⁸⁴

Overview of Channel 4's approach

- A2.33 Channel 4 submitted evidence on the extent of the increase in BBC iPlayer viewing as a result of the Proposals. It provided a spreadsheet model that suggests that the increase in BBC iPlayer viewing would be substantially above the BBC's own analysis (it concluded that the Proposals would result in a [3<] uplift in BBC iPlayer viewing).¹⁸⁵ Its key assumptions include that:
- a) extending availability to 12 months would increase BBC iPlayer by the same proportion as it would increase All 4 viewing; and
 - b) none of the viewing of the additional content on BBC iPlayer cannibalises existing BBC iPlayer viewing.

Our approach

Introduction

- A2.34 We explain below how we have estimated the increase in BBC iPlayer viewing as a result of the Proposals. This requires extrapolating from observed BBC iPlayer viewing and incorporates a number of assumptions. We recognise that there is uncertainty about the actual impact of the Proposals. For example, it depends on how appealing BBC programmes are to audiences.

¹⁸² Other factors CC adjusted for included: 'diminishing returns' if the BBC has to dig deeper into less popular programming to increase the number of series available, usage on Sky and Virgin Media VOD platforms, critical mass, timing effects and exclusivity. Communications Chambers, April 2019. [Forecast of the viewing impact of proposed changes to BBC iPlayer](#), pages 11-14.

¹⁸³ Cannibalisation refers to viewing of BBC iPlayer programmes as a result of the Proposals that simply replaces viewing of other BBC iPlayer (or BBC live TV) programmes.

¹⁸⁴ Communications Chambers, April 2019. [Forecast of the viewing impact of proposed changes to BBC iPlayer](#), Figure 7.

¹⁸⁵ Information from excel spreadsheet titled 'Channel 4 Impact on viewing.xlsx', provided as part of Channel 4 response to Ofcom information request dated 26th April 2019.

- A2.35 We have assumed, for modelling purposes, that the Proposals are implemented in full by 2020.¹⁸⁶ If the Proposals are *never* implemented in full because, for example, the BBC is unable to secure the content required, then the impact will permanently be lower than we have estimated. If the Proposals are not implemented in full because, for instance, of *delays* in negotiating access to the necessary rights, then the actual increase in viewing will tend to be lower than we have estimated in 2020 but would eventually grow to our estimate.
- A2.36 We have split our estimation of the increase in BBC iPlayer viewing into three parts, reflecting the three different aspects of the Proposals (for ease of exposition, we start with the additional general content, before moving on to the extended standard availability on general content and finishing with the children's content proposal):
- a) First, the addition of 200 previous series and 200 archive series of general content each year for 12 months, and the further extension of availability for 125 new series from 12 to 24 months – henceforth the 'boxsets and further extension of new series proposal for general content'. We assess these together because they both relate to general content and the number of series affected can be readily specified;
 - b) Second, the extension of the standard availability to 12 months on all new commissions of general content – henceforth the 'standard availability proposal for general content'. This involves the BBC extending the availability of all commissions to 1 year. As explained in paragraph A2.52, because of the sheer diversity of content, it is not feasible to provide an estimate of the number of series affected or to model this in the same way as for other types of series affected by the Proposals; and
 - c) Third, for children's content, the extension of the standard availability on all new commissions to 5 years and the addition of 270 previous and archive series each year for 12 months – henceforth the 'children's content proposal'.
- A2.37 We then provide our estimate of the combined increase in BBC iPlayer viewing resulting from the Proposals.

Estimating the impact on BBC iPlayer viewing of the 'boxsets and further extension of new series proposal for general content'

- A2.38 The BBC provided us with data on total monthly viewing of BBC iPlayer and daily viewing on BBC iPlayer of the boxsets that the BBC released as part of its 2018/19 Interim Changes. This data covers the period from 8 June 2018 to 31 January 2019 (the '2018/19 Interim Changes period'). To estimate the impact on BBC iPlayer viewing of the 'boxsets and further extension of new series proposal for general content', we took the following steps:

¹⁸⁶ While the further extension to 24 months availability for selected titles may not be fully implemented by 2020, as explained in paragraph A2.17 we consider that our estimates for 2020 are more reliable than for later years. In addition, as we set out in Table A2.5, the incremental impact on BBC iPlayer viewing of the further extension from 12 to 24 months is very small.

- Step 1: As noted in paragraph A2.13, we estimated what BBC iPlayer viewing would have been in 2018 without the 2018/19 Interim Changes;
- Step 2: We then calculated the amount of BBC iPlayer viewing over time for each type of series in the 2018/2019 proposal period, and estimated how much viewing there would be in a year (referred to below as estimated total annual BBC iPlayer viewing);
- Step 3: We then calculated the average incremental viewing for each type of series over the time period;
- Step 4: We then extrapolated the viewing for these series to match availability periods in the Proposals: up to 12 months for previous and archive series; and up to 24 months for selected new series. We only take into account the second year of impact for these new series in this step because the impact of the first year is already captured by our modelling of the 'standard availability proposal for general content' (see paragraph A2.43);
- Step 5: We then multiplied the average incremental impact by the number of series of each type, and made several adjustments, including a cannibalisation assumption to reflect that some of this incremental viewing will replace other BBC iPlayer viewing; and
- Step 6: We then compared the incremental viewing from the Proposals to estimated total annual BBC iPlayer viewing in 2018 to obtain a percentage uplift figure. We apply this percentage uplift to our 2020 counterfactual.

A2.39 We provide further detail on some of these steps in the remainder of this section.

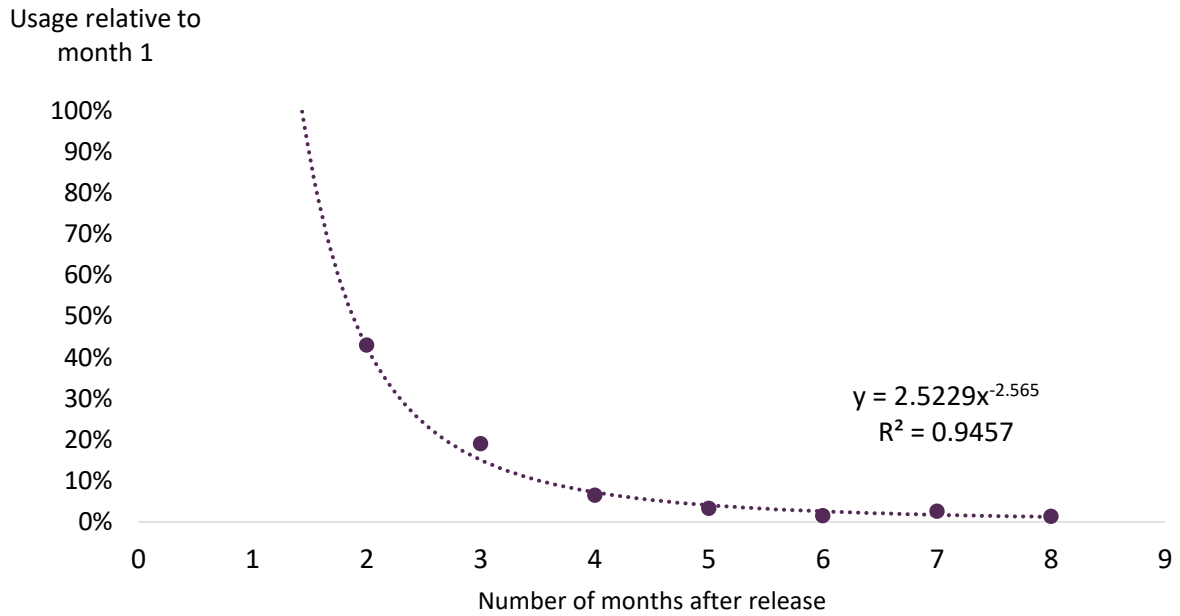
A2.40 Similar to CC's approach, we have estimated the average monthly viewing for each type of series in each month of availability. For each type of series, we plotted the percentage decrease in viewing for each month relative to the first month. We find a line of best fit¹⁸⁷ for each type of series, and use the formulae of these lines to project the viewing up to 12 months for previous and archive series and 24 months for new and latest series.¹⁸⁸ The decay curves for viewing over time for each type of series ('new and latest', 'previous' and 'archive') are set out in Figure A2.6, Figure A2.7 and Figure A2.8.

A2.41 We note that the decay curves developed by CC are different to the curves that we have calculated. The data used by CC is based on BBC viewing data provided at an episode level and the data we have relied on for our calculation is based on BBC viewing at a series level.

¹⁸⁷ A line of best fit refers to a line through a scatter plot of data points that best expresses the relationship between those points. A regression analysis is typically used to arrive at the equation for the line.

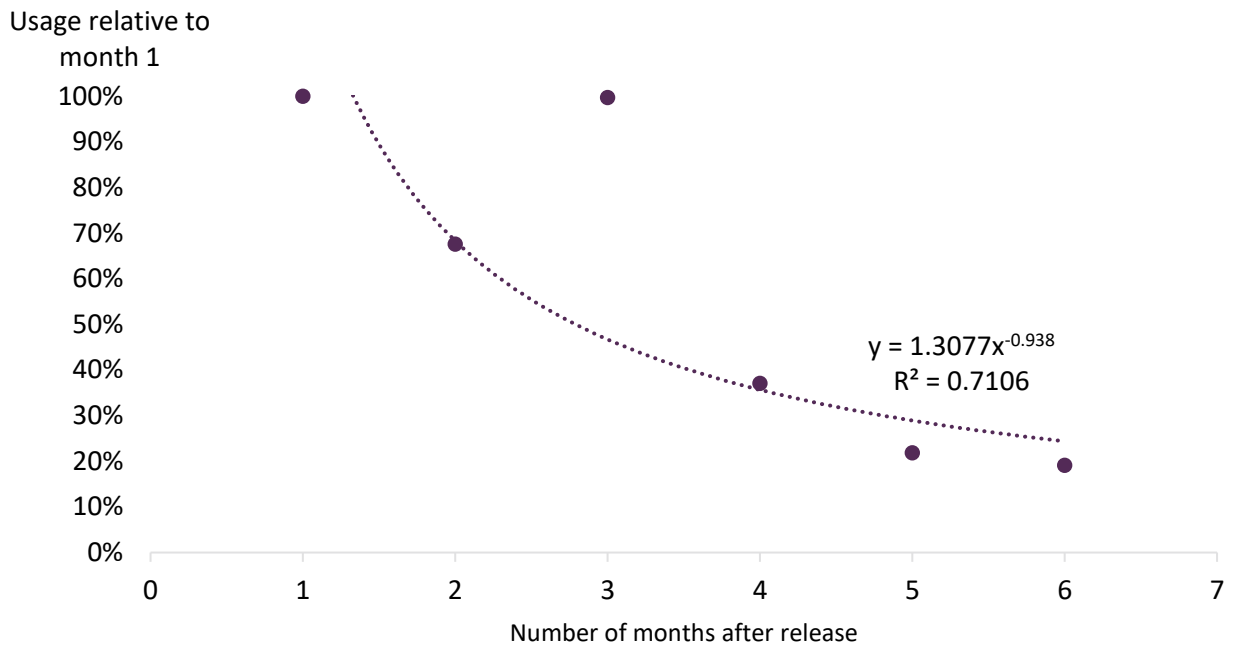
¹⁸⁸ We have stripped out the first 30 days of viewing from the new and latest series. This is because we assume that these would have been available on BBC iPlayer in the counterfactual for 30 days.

Figure A2.6: New series viewing decline by month compared to month 1



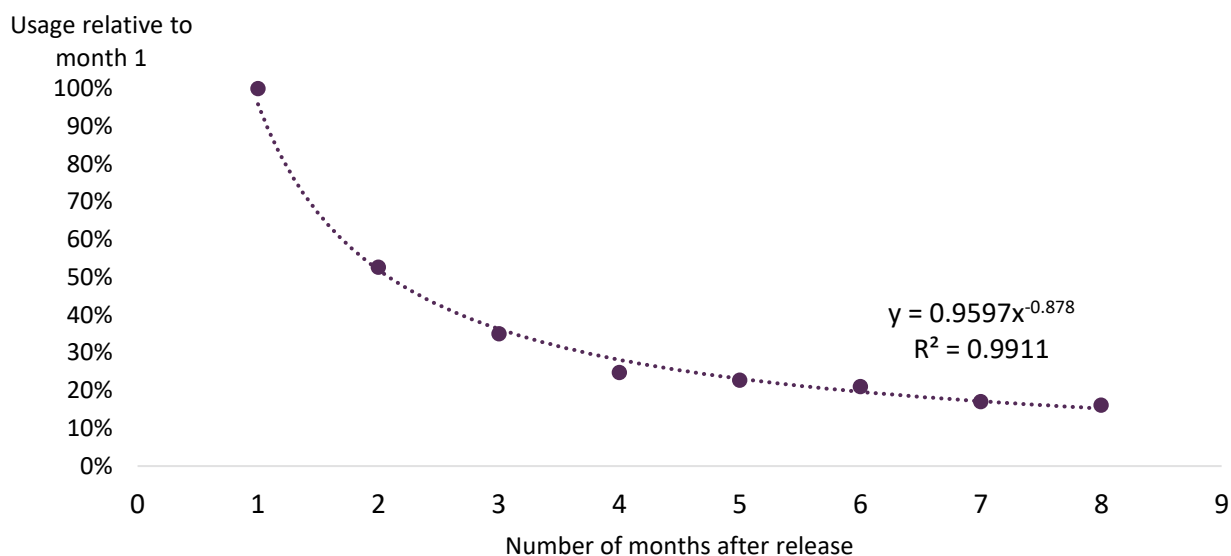
Source: Ofcom analysis of BBC iPlayer viewing data provided by the BBC.

Figure A2.7: Previous series viewing decline by month compared to month 1



Source: Ofcom analysis of BBC iPlayer viewing data provided by the BBC.

Figure A2.8: Archive series viewings decline by month compared to month 1



Source: Ofcom analysis of BBC iPlayer viewing data provided by the BBC.

A2.42 The very high R-squared¹⁸⁹ on the fitted curves for ‘new and latest’ and ‘archive’ series and the high R-squared on the fitted curve for ‘previous’ series provide some confidence that they are a reasonable measure of the extent of the monthly decline in viewing for different types of series.^{190,191}

A2.43 For previous and archive series, we used these formulae to estimate the impact on BBC iPlayer viewing of one series of each type being available for 12 months. We then multiplied this by the specified number of series in the Proposals (200 previous series and 200 archive series).¹⁹² For new and latest series, we use the formulae to estimate the incremental impact of keeping these series on BBC iPlayer for an extra year beyond the first year (i.e. from months 13 to 24 of availability). We then multiplied this by the specified number of series in the Proposals (125 series new and latest series).¹⁹³

A2.44 We then applied the following adjustments (we explain these in further detail below):

- a) an uplift for viewing on Sky and Virgin Media;

¹⁸⁹ An R-squared (R^2) is a statistical measure that represents the proportion of the variance for a dependent variable that is explained by an independent variable(s) in a regression model. In this case, the dependent variable is BBC iPlayer viewing relative to month 1 and the independent variable is the number of months after release on BBC iPlayer.

¹⁹⁰ Our estimated decline in viewing is slower than CC’s estimate because we have estimated viewing over time at a series level, whereas CC estimated it at an episode level.

¹⁹¹ The anomalous result for month 3 of viewing of previous series is due to the particularly popular episodes of one series in this month. This also results in a lower R-squared.

¹⁹² For previous series, this consists of c.25 returning drama and scripted comedy titles (i.e. c.100 series) and c.25 titles in other genres (i.e. c.100 series). For archive series, this consists of 35 drama and scripted comedy archive titles (i.e. c.150 series) and c.50 archive series in other genres. See paragraph 2.10 of this consultation.

¹⁹³ This consists of c.25 non-returning drama and scripted comedy series titles (i.e. c.25 series) and c.100 individual series in other genres. See paragraph 2.10 of this consultation.

- b) an adjustment for the potential for diminishing returns;¹⁹⁴
- c) a cannibalisation adjustment; and
- d) an uplift for the possibility that as BBC iPlayer becomes more of a destination, viewing of other (non-boxset) programming on BBC iPlayer will increase.

A2.45 We construct three different scenarios for the impact on BBC iPlayer viewing by varying these adjustments. The assumptions in each impact scenario are set out in Table A2.3.

Table A2.3: Summary of assumptions in each of our three impact scenarios for BBC iPlayer viewing

Assumptions	Low impact scenario	Central impact scenario	High impact scenario
Sky and Virgin Media viewing uplift	[X]%	[X]%	[X]%
Diminishing returns factor	0.8	1	1
Cannibalisation rate	44%	34%	24%
Critical mass	3%	3.5%	14%

A2.46 As noted in the CC report, data from the BBC’s 2018/19 Interim Changes on streamed volumes does not include usage on the Sky and Virgin Media VOD platforms.¹⁹⁵ The BBC estimates that these platforms account for a further [X]% of BBC iPlayer viewing. We have therefore increased the BBC’s 2018/19 Interim Changes data by this percentage.

A2.47 We have included an adjustment for diminishing returns. The BBC may have made available some of the most popular series in the 2018/19 Interim Changes, and so further increases in the number of series may draw on the long tail of less popular series. This might generate diminishing returns in viewing and lower the average viewing per series. CC assumed an exponent of 0.8, which implies that doubling the number of series added to BBC iPlayer leads to an increase in viewing of less than double (specifically, doubling the number of series leads to $2^{0.8} = 1.74$ times the viewing impact). In our medium and high impact scenarios, we assume a constant returns factor (i.e. equal to 1).

A2.48 With regard to cannibalisation, a consumer survey we commissioned from Kantar Media asked consumers that have used BBC iPlayer in the past three months what they would do if the programmes they have watched had not been available on BBC iPlayer;¹⁹⁶ 34% said they would have found something else to watch on BBC iPlayer.¹⁹⁷ This is in line with the

¹⁹⁴ ‘Diminishing returns’ means that as more content is added, average viewing of all content might go down. This might be, for instance, because the BBC places the most popular content on BBC iPlayer first.

¹⁹⁵ Communications Chambers, April 2019. *Forecast of the viewing impact of proposed changes to BBC iPlayer*, pages 12-13.

¹⁹⁶ The specific phrasing in this question (question BQ.1) is presented in footnote 223. As explained below, this is based on substitution from BBC iPlayer, rather than to BBC iPlayer.

¹⁹⁷ For the reasons outlined in paragraph A2.76, this is calculated using a base that excludes respondents that said they do not know what they would do.

30% cannibalisation assumption used by CC.¹⁹⁸ In our central impact scenario, we therefore use a cannibalisation rate of 34%, with an increase and decrease of ten percentage points respectively for the low impact and high impact scenarios.

A2.49 The critical mass assumption deals with the possibility that BBC iPlayer viewing could increase as BBC iPlayer becomes more of a ‘destination’, i.e. that it has sufficient critical mass of content that users are likely to turn to BBC iPlayer as one of their first options when they want to watch something. The BBC’s MTM survey found an additional 14 percentage points of respondents said they would use BBC iPlayer to browse for new content as a result of the proposed changes.¹⁹⁹ CC then scaled this down by 75%, leading to a critical mass adjustment of 3.5% (= 25% x 14%).²⁰⁰ It is not clear why this survey result translates into the critical mass assumption in the way assumed by CC.²⁰¹ However, in the absence of other evidence, we have applied CC’s 3.5% assumption in our medium impact scenario. In our low impact scenario, we assume a critical mass adjustment of 3%. In our high impact scenario, we assume a critical mass adjustment of 14%, i.e. the full figure from the BBC’s survey.

A2.50 We combined the above assumptions to estimate the incremental absolute (i.e. in viewing minutes) increase in BBC iPlayer viewing. We then compared this to our estimate of total BBC iPlayer viewing in 2018 to derive a percentage increase in BBC iPlayer viewing (see Table A2.4). We then apply this percentage increase to BBC iPlayer viewing in the counterfactual.

Table A2.4: Estimated increase in BBC iPlayer viewing relative to the counterfactual from the ‘boxsets and further extension of new series proposal for general content’

Scenario	Estimated percentage increase in BBC iPlayer viewing
Low impact	8.6%
Medium impact	12.6%
High impact	16.0%

A2.51 We have broken down the viewing impact of each individual component of the ‘boxsets and further extension of new series proposal for general content’ in Table A2.5.

¹⁹⁸ This assumption is based on two BBC iPlayer user surveys (we describe the 2018 BBC iPlayer user survey in footnote 214 and paragraph A2.94). In 2017 and 2018, these surveys found that (respectively) 28% and 27% of respondents said they “watched these programmes instead of programmes already on BBC iPlayer” (CC, [Forecast of the viewing impact of proposed changes to BBC iPlayer](#), 16 April 2019, page 13). The Frontier Economics report also referred to this evidence (Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), page 44).

¹⁹⁹ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slide 29. This is based on comparing the reasons respondents that said they would use BBC iPlayer following the changes gave for why they would use BBC iPlayer against the reasons BBC iPlayer users gave for using BBC iPlayer in its current form.

²⁰⁰ This adjustment is applied to the increase in BBC iPlayer inferred from the extra content added to BBC iPlayer.

²⁰¹ We note that using survey evidence to measure this impact is inherently challenging. For example, the survey explained the Proposals in isolation, whereas, in reality, a wide range of factors, such as the type of additional content and potential reactions from rivals, would be likely to influence a consumer’s behaviour. Moreover, while the survey explained the changes in a relatively detailed way, these changes might not be as clear to consumers in practice, which may dampen the proportion that would change their behaviour.

Table A2.5: Estimated increase in BBC iPlayer viewing relative to the counterfactual from the ‘boxsets and further extension of new series proposal for general content’

Scenario	Estimated percentage increase in BBC iPlayer viewing			
	125 new series extended for a second year	200 previous series added for 1 year	200 archive series added for 1 year	Total
Low impact	0.2%	4.6%	3.8%	8.6%
Medium impact	0.3%	6.7%	5.6%	12.6%
High impact	0.4%	8.6%	7.1%	16.0%

Figures may not sum due to rounding.

Estimating the impact on BBC iPlayer viewing of the ‘extended standard availability proposal for general content’

- A2.52 The BBC proposes to make all new commissions available on BBC iPlayer for 12 months. As noted in paragraph A2.36b), it is not straightforward for the BBC to provide meaningful estimates of the precise number of series that would be affected by this extended standard availability, or for us to model the viewing impact from standard extended availability in the same way as the other category of series above. The key reason is because the types of boxsets made available in the 2018/19 Interim Changes period are unlikely to be representative of all the content available on BBC iPlayer. For example, many types of programmes, even if made available on BBC iPlayer for 12 months, would likely attract low incremental viewing beyond 30 days (e.g. soap operas). Applying the viewing decay curve uplifts from the 2018/19 Interim Changes to all new programmes is therefore unlikely to be appropriate.
- A2.53 CC estimated that 38% of all BBC iPlayer viewing hours would be affected by the extended standard availability proposal for general content. Based on the decay curve for new and latest series (see Figure A2.6), we have estimated that the viewing uplift for new and latest series from extending availability from 1 month to 12 months is [≈75%-80%] (i.e. viewing in months 2-12 is [≈75%-80%] of viewing in month 1).²⁰²
- A2.54 Applying our [≈75%-80%] decay curve uplift to the 38% of all BBC iPlayer viewing hours affected leads to a percentage viewing increase of [≈25%-30%]. We then apply the assumptions set out in Table A2.3 to this increment to create, low, central and high impact scenarios for the ‘extended standard availability proposal for general content’ (see Table A2.6. In addition, for our low impact scenario, we used CC’s estimate of the increase in viewing per series that would result from extending standard availability to 12 months. This is because we recognise that our use of series level data (rather than episode level data) may lead to us overstating the impact on BBC iPlayer viewing (see paragraph A2.65c)).

²⁰² This viewing uplift is for the extension of the availability of all new commissions as opposed to an uplift from adding the various boxsets listed in paragraph A2.36(a).

Table A2.6: Estimated increase in BBC iPlayer viewing relative to the counterfactual from the 'extended standard availability proposal for general content'

Scenario	Estimated percentage increase in BBC iPlayer viewing
Low impact	6.2%
Medium impact	21.8%
High impact	27.6%

Source: Ofcom analysis of BBC iPlayer viewing data provided by the BBC.

Total viewing impact on BBC iPlayer of the general content proposals

A2.55 Table A2.7 summarises the total impact on BBC iPlayer viewing from the general content proposals, i.e. the 'extended standard availability proposal for general content' and the 'boxsets and further extension of new series proposal for general content'.

Table A2.7: Estimated combined increase in BBC iPlayer viewing relative to the counterfactual from the general content proposals

Scenario	Estimated percentage increase in BBC iPlayer viewing				
	Extending standard availability for all new commissions to 1 year	125 new series extended for a second year	200 previous series added for 1 year	200 archive series added for 1 year	Total
Low impact	6.2%	0.2%	4.6%	3.8%	14.9%
Medium impact	21.8%	0.3%	6.7%	5.6%	34.4%
High impact	27.6%	0.4%	8.6%	7.1%	43.6%

Figures may not sum due to rounding.

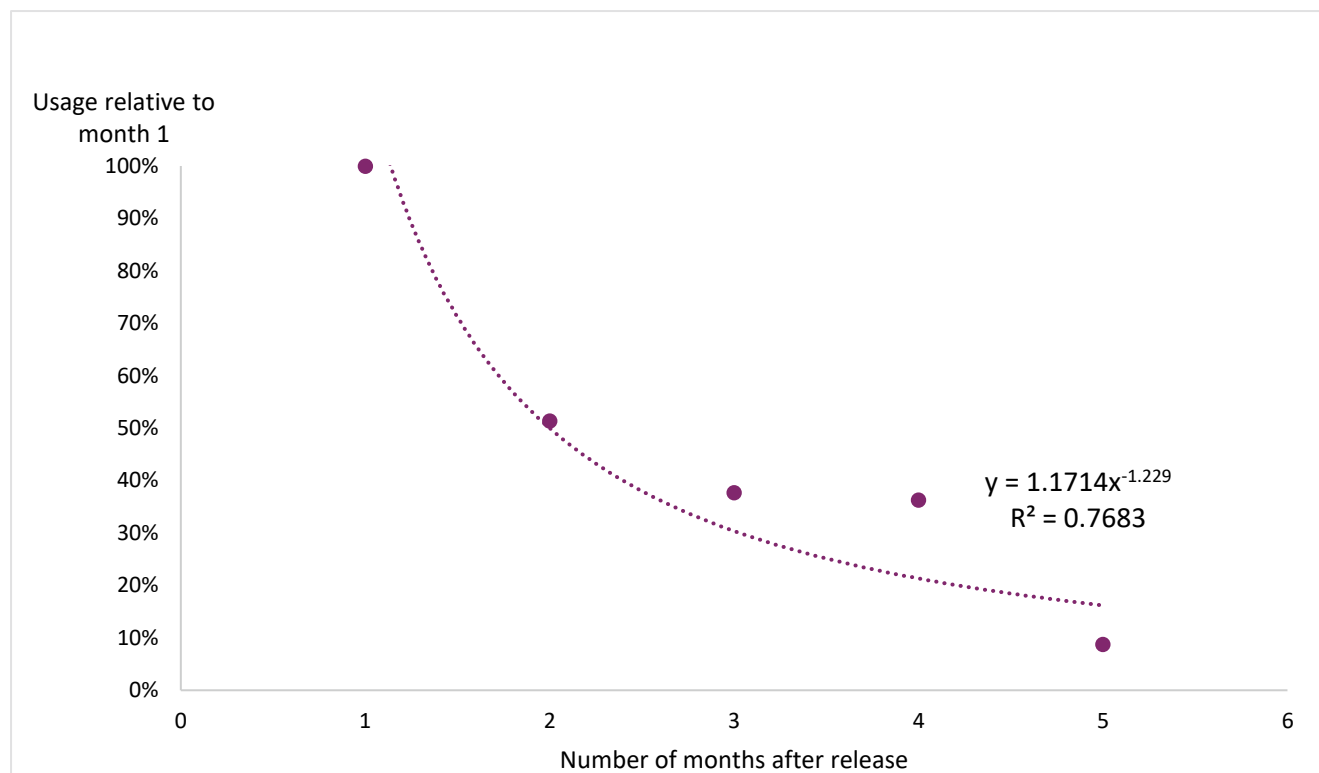
A2.56 As a final step, we applied these percentage uplifts to the 2020 counterfactual for BBC iPlayer viewing to obtain an absolute incremental increase in BBC iPlayer viewing in 2020.

Children's content proposal

A2.57 We also have BBC iPlayer viewing data provided by the BBC for children's content that it made available on BBC iPlayer as part of the 2018/19 Interim Changes from 7th August to 31st December 2018. For children's content, we have not split our analysis of the increase in BBC iPlayer viewing by type of series.

A2.58 First, we estimated the increase in BBC iPlayer viewing resulting from the addition of previous and archive children's series using the same methodology described in paragraphs A2.38 to A2.51. We assumed the addition of 270 previous and archive series each year for 12 months. We present the decay curve in BBC iPlayer viewing for children's content over the 2018/19 Interim Changes period in Figure A2.9.

Figure A2.9: Children’s series viewing decline by month compared to month 1



Source: Ofcom analysis of BBC iPlayer viewing data provided by the BBC.

A2.59 Applying the same assumptions to children’s content as we did for general content (see Table A2.3), we estimated the additional increase in BBC iPlayer viewing resulting from the addition of previous and archive children’s series (see Table A2.8).

Table A2.8: Estimated increase in BBC iPlayer viewing relative to the counterfactual from the addition of previous and archive children’s series

Scenario	Estimated percentage increase in BBC iPlayer viewing
Low impact	3.5%
Medium impact	4.1%
High impact	5.2%

A2.60 Second, we estimated the increase in BBC iPlayer viewing resulting from the extension of the standard availability on all new children’s commissions. The BBC estimated that children’s content represents 1.6% of total BBC iPlayer viewing. We estimated that extending the availability of children’s content from 1 month to 2 years²⁰³ would increase viewing by [210%-220%]. Figure A2.9 shows the viewing decline for months 1-5. After

²⁰³ As noted in paragraph A2.17, we report the results of our modelling for 2020 (the first full year affected by the Proposals). We have therefore focused our analysis on the first two years of viewing for new children’s commissions.

extrapolating this to month 24, we find that viewing in months 2-24 is [210%-220%] higher than in month 1.

A2.61 Applying our [210%-220%] decay curve uplift to the 1.6% of all BBC iPlayer viewing hours affected leads to a percentage viewing uplift of [0%-5%].²⁰⁴ We then apply the assumptions set out in Table A2.3 to this increment to create, low, central and high impact scenarios for the extended standard availability for children’s content (see Table A2.9).²⁰⁵

Table A2.9: Estimated increase in BBC iPlayer viewing relative to the counterfactual from the extended standard availability for children’s content

Scenario	Estimated percentage increase in BBC iPlayer viewing
Low impact	2.2%
Medium impact	2.6%
High impact	3.3%

A2.62 Table A2.10 presents the total impact on BBC iPlayer viewing from the children’s content proposal, i.e. the extended standard availability for children’s content and addition of previous and archive children’s series.

Table A2.10: Estimated combined increase in BBC iPlayer viewing relative to the counterfactual from the children’s content proposal

Scenario	Estimated percentage increase in BBC iPlayer viewing
Low impact	5.7%
Medium impact	6.7%
High impact	8.5%

A2.63 The children’s content proposal is also somewhat incremental to how the BBC currently treats children’s programming on BBC iPlayer. Currently, the BBC typically gets a much larger set of primary rights when it commissions children’s content (compared to when it commissions content for adults), allowing it to show the programmes on live TV channels a greater number of times, including making the programme available on BBC iPlayer every time the programme is broadcast.²⁰⁶ This means that in practice under its current rights

²⁰⁴ As noted in paragraph A2.17 we report the results of our modelling for 2020. We recognise that the impact of the five-year extended standard availability for new children’s commissions will not be fully realised until 2024. In addition, while we recognise that a two-year viewing uplift for new children’s commissions will not be fully realised in 2020, for modelling purposes we have assumed that it is. We estimated that increasing the impact to take into account the full five-year period, rather than two years, might yield an additional uplift to BBC iPlayer viewing of less than 1%.

²⁰⁵ We recognise that CC used a higher cannibalisation rate of 50% for children’s content, which is outside of our range for the cannibalisation assumption. However, in the absence of evidence on the extent of cannibalisation for this type of content, we use the same assumption as for general content.

²⁰⁶ The typical children’s programme the BBC commissions allows for two packages, each of up to 20 days transmission on CBBC. Each of these transmissions allows the BBC to put the programme on BBC iPlayer for 30 days following the transmission and seven days in advance. These uses are set out in the BBC’s *Code of Practice*.

arrangement, the BBC can already have children’s programmes available on BBC iPlayer for a much longer period than most other programming.²⁰⁷ As a result, our estimates may overstate the increase in BBC iPlayer viewing from the children’s content proposal.

Our overall conclusions

A2.64 Overall, we estimated a combined percentage increase in BBC iPlayer viewing from the Proposals of between 21% and 52%, relative to the counterfactual in 2020.

Table A2.11: Estimated combined increase in BBC iPlayer viewing relative to the counterfactual from the Proposals

Scenario	Estimated percentage increase in BBC iPlayer viewing
Low impact	21%
Medium impact	41%
High impact	52%

Comparison with CC’s estimates of the increase in BBC iPlayer viewing

A2.65 CC estimated a percentage increase in BBC iPlayer viewing of 27.0% in 2020, rising to 29.4% in 2024. Our estimated percentage increases in our medium and high impact scenarios set out in Table A2.11 are considerably higher (and, as discussed in paragraph A2.54, we have constructed a low impact scenario to reflect CC’s lower estimate). We consider that there are three key reasons why our modelling differs from CC’s:

- a) First, CC has a higher counterfactual viewing for BBC iPlayer than we do, and lower viewing for other BVODs (see paragraphs A2.21-A2.27). We consider that our approach, which involves measuring viewing of BBC iPlayer and other BVODs on the same basis, is more robust. However, a consequence is that the percentage increases calculated by us and CC are being applied to different starting numbers.
- b) Second, in our high impact scenario, we have adopted different assumptions to CC. For example, we assumed that ‘critical mass’ creates an uplift of 14% (rather than CC’s figure of 3.5%) and used a cannibalisation rate of 24% (rather than CC’s figure of 30% for general content and 50% for children’s content). This is to reflect uncertainty. The effect is to increase the upper bound of our range of estimates.

²⁰⁷ In theory, children’s programmes could be on BBC iPlayer for 80% of the 5 year programme licence, if the BBC scheduled live TV broadcasts to maximise the time available on BBC iPlayer, although in practice programmes are available for much shorter periods of time than this. We calculated this figure as follows, using the numbers from the immediately preceding footnote: (i) each programme can be broadcast $2 \times 20 = 40$ times; (ii) on each of these occasions, it could be available on BBC iPlayer for $7 + 30 = 37$ days; and (iii) combining these numbers, $40 \times 37 = 1,480$ days which is approximately 80% of the days in a 5 year period.

- c) Third, we have analysed the BBC iPlayer 2018/19 Interim Changes data at a series level, rather than at an episode level. This leads to 'shallower' viewing decay curves. This is because if a series has e.g. six episodes, then the viewing for episodes 5 and 6 would be in month 2 using a series-level approach, whereas viewing of episodes 5 and 6 would be in month 1 under an episode level approach. Therefore, analysing the data at a series level as we have done may overstate the viewing impact relative to an episode level approach. CC's model did not include the underlying episode level data. In the absence of this, we have used series level data.²⁰⁸ However, we sought to take this difference into account by constructing a low impact scenario using CC's lower estimates of the increase in viewing that might come about from extending standard availability to one year. This provides a lower bound to our estimates of impact.

Comparison with Channel 4's estimates of the increase in BBC iPlayer viewing

A2.66 Channel 4 estimated²⁰⁹ a higher increase in BBC iPlayer viewing than we did. We do not consider that we should adjust our estimates based on this analysis because:

- a) Channel 4 assumes that adding further content to BBC iPlayer does not cannibalise existing BBC iPlayer at all, which we do not consider to be realistic; and
- b) the assumption of strong similarities between BBC iPlayer's viewing patterns and All 4's is not borne out in the actual BBC iPlayer data that we have obtained.

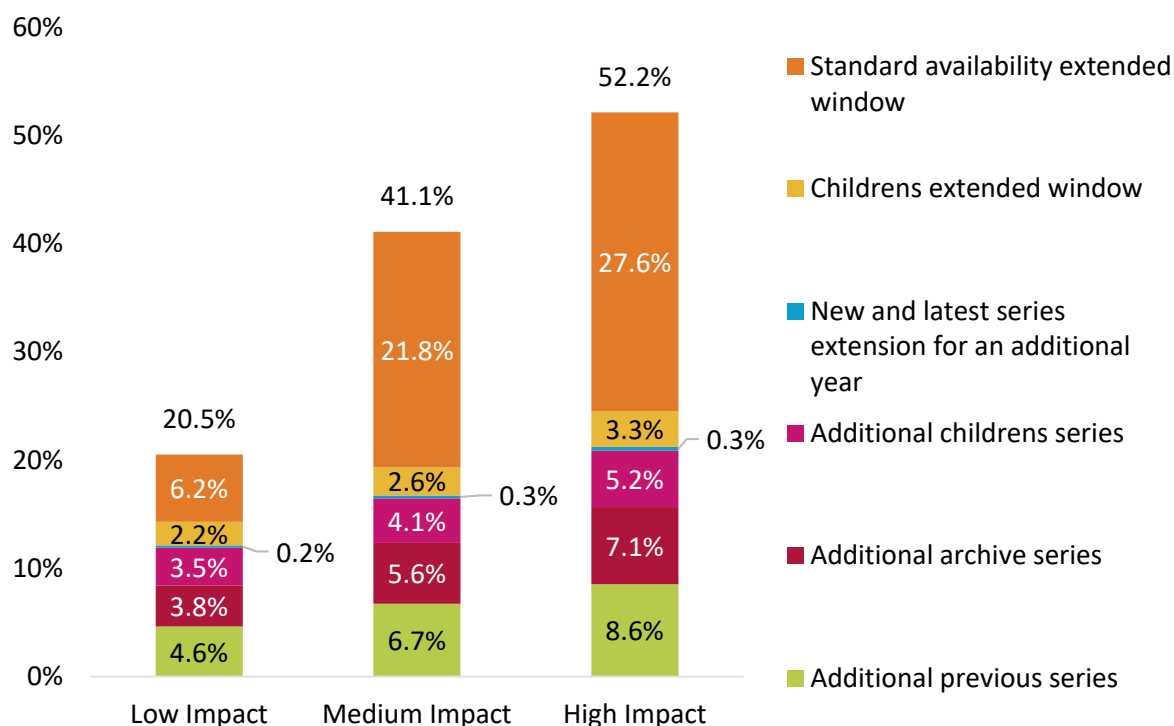
Our provisional conclusion

A2.67 In conclusion, we estimate that the increase in BBC iPlayer viewing could be between 14.9% and 43.6% for general content and between 5.7% and 8.5% for children's content, with an overall increase in BBC iPlayer viewing from the Proposals of between 21% and 52%, relative to the counterfactual in 2020. Our estimates under all three impact scenarios are set out in Figure A2.10.

²⁰⁸ We also note that the series included in our analysis are slightly different to those used by CC because: (i) the CC analysis excluded series where some episodes had less than 30 days viewing; and (ii) our sample of series was based on data covering the period 8th June 2018 to 31st January 2019, whereas the CC analysis was based on data taken from mid-May 2018 to early January 2019.

²⁰⁹ Information from excel spreadsheet titled 'Channel 4 Impact on viewing.xlsx', provided as part of Channel 4 response to Ofcom information request dated 26th April 2019.

Figure A2.10: Estimated combined increase in BBC iPlayer viewing relative to the counterfactual from the Proposals, under all three impact scenarios



Source: Ofcom analysis

Substitution from rivals

A2.68 In this subsection, we assess which activities consumers may substitute away from as a result of the proposed increase in general content on BBC iPlayer.²¹⁰

A2.69 This section does not cover substitution as a result of the proposed increase in children’s content on BBC iPlayer.²¹¹

BBC iPlayer substitution: survey evidence

A2.70 For consumers who choose to increase their viewing of BBC iPlayer as a result of the Proposals, there must be a fall in the time they devote to another activity, i.e. they must substitute away from another activity to view BBC iPlayer. Our analysis has drawn on the following sources of evidence:

- a) a survey that we commissioned from Kantar Media;²¹²

²¹⁰ We have already accounted for BBC iPlayer cannibalisation (see paragraph A2.48). Therefore, we only consider substitution from other VOD services (i.e. excluding BBC iPlayer), live TV channels and other activities.

²¹¹ As explained in Section 2, the BBC did not consult on this part of the Proposals and thus we did not cover this topic in our consumer research.

²¹² In the discussion below, we only consider the online quantitative survey of 4,000 people (see Section 4).

- b) a survey that the BBC commissioned from MTM;²¹³ and
 - c) a BBC online pop-up survey of active BBC iPlayer users,²¹⁴ which together with the MTM survey informed a forecast model built by CC, which was used to inform the impact of the proposals in the BBC's PIT.
- A2.71 Broadly speaking, the survey questions examined four categories of activity:
- a) consumption of BVOD services (e.g. ITV Hub, STV Player, All 4 and My5);
 - b) consumption of SVOD services (e.g. Netflix, Amazon Prime Video and Now TV);
 - c) consumption of live TV services (e.g. BBC channels, other free-to-air channels and pay TV subscription channels); and
 - d) all other activities (e.g. listening to music, social media, reading etc.).²¹⁵
- A2.72 In interpreting survey results, a degree of caution is necessary. Responses to hypothetical questions, some of which ask respondents to provide their reactions to service features that do not yet exist, will necessarily be speculative and may not reflect their actual behaviour.²¹⁶ Caution should also be applied when comparing results across survey questions, since a number of important aspects – such as the question asked and the respondent base for the question – often differs.
- A2.73 Table A2.12 outlines the potential patterns of BBC iPlayer substitution, based on the pieces of evidence outlined above.²¹⁷ The figures represent estimates of the proportion of the increase in BBC iPlayer viewing time that may be substituted from different sources.²¹⁸

²¹³ In the discussion below, we only consider the online quantitative survey of 2,200 people (see Section 4).

²¹⁴ This was an online self-selection survey of over 2,500 active users watching BBC iPlayer on a device (i.e. not on a TV set), run in December 2018 (the BBC iPlayer user survey). At the end of the programme they had viewed, users who agreed to take part were redirected to the survey.

²¹⁵ Responses categorised under this category capture responses that are not covered by BVOD, SVOD or live TV; this is based on different survey responses depending on the specific question.

²¹⁶ Also, when answering survey questions, respondents may have an imperfect knowledge of their own viewing habits.

²¹⁷ We present aggregated results for BVOD, SVOD and live TV, i.e. we do not present results for individual services. We aggregate across individual services in the Kantar results, for reasons outlined below. CC did not consider individual services. We note that Frontier Economics considered how the relative 'strength of substitution' may vary between individual services within each category (BVOD, SVOD and live TV) to inform its impact estimates. Frontier Economics, April 2019. *Changes to BBC iPlayer: Competition assessment*, page 49-51.

²¹⁸ These proportions sum to 100%, meaning all of the increase in BBC iPlayer viewing time (excluding BBC iPlayer cannibalisation) is attributed to these sources. The results in column 1 do not sum to 100% due to rounding errors.

Table A2.12: Sources of substitution as a share of the increase in BBC iPlayer viewing

Source of substitution to BBC iPlayer	Kantar survey: forced diversion (column 1) ²¹⁹	Kantar survey: extended window (column 2)	Kantar survey: expanded offering (column 3)	CC model (2020) (column 4) ²²⁰
BVOD	16%	11%	12%	8%
SVOD	39%	8%	9%	18%
Live TV	29%	6%	6%	50% ²²¹
Other activities	17%	75%	73%	24% ²²²

Sources: column 1: Ofcom analysis of questions BQ.1 and BQ.2Ai of the Kantar survey; column 2: Ofcom analysis of adjusted response data to questions CQ.1 and CQ.2B of the Kantar survey; column 3: Ofcom analysis of adjusted response data to questions DQ.1 and DQ.2B of the Kantar survey; column 4: CC model.

A2.74 Below, we outline the details of the surveys underlying these results, and how we have calculated the results from the Kantar survey. It has not been necessary for us to come to a more precise view on the pattern of substitution in order to reach our provisional determination on the impact of the Proposals. Given the various limitations of each approach outlined below, we do not rely on just one set of results. Rather, we draw upon all of this evidence and make use of all four sets of estimates.

Kantar survey: forced diversion questions (column 1)

A2.75 The Kantar survey investigated the preferences of respondents that have used BBC iPlayer in the past three months. These respondents were asked what they would do if the programmes they had watched had not been available on BBC iPlayer.²²³ Respondents who said they would switch to a VOD service were then asked which VOD service they would most likely turn to first.²²⁴

A2.76 We use the responses from these questions to calculate the pattern of substitution. We exclude the ‘Don’t know’ responses (since they did not shed light on substitution), and those that said they would have found something else to watch on BBC iPlayer (since cannibalisation has already been taken into account), from the first question. Our base for calculating substitution is therefore respondents that would switch to another service

²¹⁹ As outlined below, these figures are based on a survey question about substitution *from* BBC iPlayer.

²²⁰ As outlined below, these figures are based, in part, on a survey question about substitution *from* BBC iPlayer.

²²¹ This is not strictly “Live TV” in the CC Model; the CC figure is labelled as “Other on TV set”.

²²² This is not strictly “Other activities” in the CC Model; the CC figure is labelled as “Other on other device”.

²²³ Question BQ.1: A lot of BBC programmes are not available on the BBC iPlayer service. This might be because: They have not been on TV recently (within the last month); They are older programmes that are not being made available on iPlayer at the moment. Thinking about programmes that you have watched on iPlayer recently or in the last three months, if those programmes had not been available on iPlayer, which of these do you think you would likely to have done instead? Base: All those who selected “BBC iPlayer” at A6A – Weighted (n=2,814).

²²⁴ Question BQ.2Ai: You said that if a programme you wanted to watch was not available on BBC iPlayer you would turn to another video on demand service. Which service would you most likely turn to first? Base: Those who selected Code 2 at BQ.1 – Weighted (n=903).

(either VOD or live TV), and respondents that would do something else entirely (i.e. neither VOD nor live TV). We categorise those that would do something else entirely as substituting from other activities. We use the results from the follow-up question to inform the BVOD and SVOD breakdown. This gives the results presented in Table A2.12, column 1.

- A2.77 The forced diversion questions have a number of limitations. These questions asked which sources respondents would substitute to if BBC iPlayer content was unavailable, which poses two related issues. First, this is not specific to the Proposals under consideration; it is about BBC iPlayer content being unavailable. Second, this substitution is directionally opposite to what we are trying to model, i.e. it captures substitution *from* BBC iPlayer, rather than *to* BBC iPlayer.
- A2.78 We asked which service respondents would turn to *first* and this is reflected in the results presented in Table A2.12, column 1. We have thus not reflected the other services that consumers might switch to.²²⁵
- A2.79 Further, these questions asked respondents about their viewing behaviour over the past three months, rather than about a specific viewing 'event', and to state their first preference alternative. This raises issues around consumers who would substitute to a number of different alternatives depending on the type of viewing, which we cannot account for.
- A2.80 Finally, these questions were asked only to a subset of the sample – recent BBC iPlayer users.²²⁶ Therefore, it does not capture the views of consumers that have not recently used BBC iPlayer but might increase viewing as a result of the Proposals. The preferences of recent BBC iPlayer users may differ from those that have not recently used BBC iPlayer.
- A2.81 However, the forced diversion questions could be argued to be more direct and less hypothetical.²²⁷ The reported behaviour may therefore more closely reflect understood choices.

Kantar survey: Proposals questions (columns 2 and 3)

- A2.82 The Kantar survey also investigated how consumers would react to two elements of the Proposals, namely the extended catch-up window from 30 days to 12 months (the 'extended window'), and the expanded offering of previous and archive series (the 'expanded offering').

²²⁵ Respondents were also asked which other services they might consider. However, this follow-up question limited the options that they could select (e.g. they could only select VOD services and not live TV if they first said they would turn to VOD). We thus do not take these further responses into account.

²²⁶ Of the total sample (4,028 - Weighted), 70% of respondents said they have used BBC iPlayer in the past 3 months.

²²⁷ Respondents may have experienced a programme not being available on BBC iPlayer and may therefore be able to more accurately report what they might have done instead, compared to their reaction to BBC iPlayer features that are yet to exist.

- A2.83 All respondents were first asked what they would do if the catch-up window was extended (question CQ.1).²²⁸ Those that reported they would watch BBC iPlayer more, and other services less than before (i.e. substitute viewing from another VOD service or live TV channel to BBC iPlayer) were then asked what services they would be likely to watch less of (question CQ.2B).²²⁹ Respondents were presented with a list of individual BVOD, SVOD and live TV services, and were allowed to select multiple responses. These questions were repeated for the expanded offering element (questions DQ.1 and DQ.2B).²³⁰
- A2.84 In terms of the extended window questions (CQ.1 and CQ.2B), we focus on the subset of respondents that would watch BBC iPlayer more; this is the base for our calculations.²³¹ We use the results from question CQ.2B to inform our BVOD, SVOD and live TV breakdown. In doing this, we give each respondent an equal weighting to account for respondents that gave multiple responses.²³² Respondents who would watch BBC iPlayer more, but other VOD services and live TV channels the same, would have to substitute away from other activities. We allocate respondents that reported they do not know which service(s) they would watch less of, or that the service they would watch less of was not listed as an option (i.e. the response "None of these"), in the same proportions as those who explicitly reported the services they would watch less of. This gives the results presented in Table A2.12, column 2.²³³
- A2.85 We then repeat this exercise for the responses to the questions about the expanded offering (DQ.1 and DQ.2B). This gives the results presented in Table A2.12, column 3.
- A2.86 These questions have several strengths. They are specifically about the Proposals and were phrased to clearly explain the implications of each element to try to ensure that

²²⁸ Question CQ.1: You said earlier that you watch <INSET GENRES FROM A7> programmes. BBC iPlayer plans to extend the catch-up window on all programmes to at least 12 months, up from the current 30 days. If this happened, which of the following is most likely for you? Base: All respondents – Weighted (n=4,028). Note, this question (and question DQ.1) outlined the implications of the Proposals to position the scenarios as clearly as possible for the respondents.

²²⁹ Question CQ.2B: You said you would watch the iPlayer more and watch other services or channels less than before. Which services would you be likely to watch less as a result of the changes? Base: Those who selected Code 3 at CQ.1 – Weighted (n=488).

²³⁰ Question DQ.1: You said earlier that you watch <INSET GENRES FROM A7> programmes. The BBC is planning to include a wider range of existing programmes on its iPlayer service. This might include: full box sets for selected titles made up of new returning series and their previous series; Old 'classic' shows and other programmes that currently aren't available on iPlayer. If this happened, which of the following is most likely for you? Base: All respondents – Weighted (n=4,028).

Question DQ.2B was phrased the same as CQ.2B. Base: Those who selected Code 3 at DQ.1 – Weighted (n=553).

²³¹ We are interested in consumers that would increase BBC iPlayer viewing time. Therefore, we exclude those that reported they would not change their viewing behaviour, since they would not increase their viewing of BBC iPlayer. We also exclude those that reported they don't know what they would do in response to the element of the Proposals, for the reasons outlined in paragraph A2.76.

²³² In the absence of additional information to inform the weighting, we have equally spread each respondent's 'vote' across the number of options they selected. For example, if a respondent selected only one response, this response would be allocated 1; if a respondent selected two responses, each response would receive 0.5, etc. This implicitly assumes that each respondent would substitute an equal amount of time away from each service they would substitute from.

²³³ We do not present results for substitution from individual BVOD or SVOD services (e.g. ITV Hub). As outlined above, we spread each respondent's 'vote' equally across the options they selected. However, in practice viewing time is unlikely to be substituted equally. This assumption is more likely to distort estimates of substitution for individual services. For example, a respondent might say that they would substitute from BVOD services X and Y. For that respondent, the 'equal vote' assumption will not distort the estimate of total BVOD substitution but it might distort the estimate of substitution for individual service X.

respondents understood the proposed change. Further, these questions capture substitution to BBC iPlayer, which is consistent with our assessment and modelling approach. Finally, these questions were asked to all respondents. This captures the consumers that might start watching BBC iPlayer as a result of the Proposals.

- A2.87 However, there are also limitations to these questions. First, since the features of the Proposals do not yet exist, respondents may have difficulty reporting how the changes would impact their behaviour. Second, these questions do not require respondents to say what 'other activities' they would sacrifice in order to watch more BBC iPlayer; respondents may not fully appreciate the implications of increasing overall viewing time by substituting time from other activities.²³⁴ Third, where respondents reported multiple responses, we have had to assume that they would substitute equal proportions of viewing time from each service. Finally, these questions consider individual elements of the Proposals, rather than the Proposals collectively, which limits our ability to infer what the overall impact of the Proposals on substitution might be.

BBC evidence: the CC model, MTM survey and BBC iPlayer user survey (column 4)

- A2.88 The BBC commissioned the MTM survey and conducted the BBC iPlayer user survey. The results from these surveys were reflected in the CC model.
- A2.89 In its analysis, CC modelled substitution between BBC iPlayer and other activities. CC approximated the pattern of substitution in its start year (2019) based on the MTM survey and BBC iPlayer user survey; the figures for BVOD and SVOD are broadly in line with the two surveys. CC forecast forwards from this year to 2024. It allowed for changes in the consumption of different VOD services (e.g. the proportion of people that use BBC iPlayer, other BVOD and SVOD), and changes in viewing minutes, to affect the pattern of substitution over time. The 2020 results are reported in Table A2.12, column 4.²³⁵
- A2.90 In the MTM survey, respondents who would watch BBC iPlayer more were asked what they would be likely to do to find the time to watch BBC iPlayer more. Respondents were then asked a follow-up question which asked what they would do less of if they had to choose one thing.²³⁶
- A2.91 The BBC also ran an online pop-up survey of consumers who were actively using BBC iPlayer.²³⁷ At the end of the programme they had viewed, users that had agreed to take

²³⁴ Specifically, the response to CQ.1 and DQ.1 "I would watch the BBC iPlayer more, and other catch up services or TV channels the same amount" does not make explicit that some other activity will need to be sacrificed.

²³⁵ The CC forecast suggests modest changes in the pattern of substitution. In 2024, it forecasts that other BVOD and SVOD substitution will account for a larger share of the increase in BBC iPlayer viewing (12% and 21%, respectively) than in 2020, and 'Other on TV set' and 'Other on other device' substitution will account for a smaller share of the increase in BBC iPlayer viewing (46% and 21%, respectively).

²³⁶ MTM, 2019. [BBC iPlayer Public Interest Test Audience research debrief](#), slide 47.

²³⁷ BBC, April 2019. [BBC iPlayer Public Interest Test](#), page 73.

part ere redirected to the survey. They were asked what they would have most likely done if the programme they had just watched on BBC iPlayer had not been available.²³⁸

A2.92 The underlying MTM and BBC iPlayer user surveys, which the CC figures are based on, face many of the strengths and limitations outlined above.²³⁹

A2.93 The MTM survey question is akin to the Proposals questions in the Kantar survey; it has the same strengths of being targeted at the Proposals and captures substitution to BBC iPlayer. It also considered the proposals collectively. However, as outlined above, respondents may have difficulty reporting how the hypothetical changes would impact their behaviour and respondents were not required to say what 'other activities' they would sacrifice in order to watch more BBC iPlayer.²⁴⁰ Moreover, the MTM question reflected in the CC model asked respondents which one thing they would do less of; this does not reflect that respondents may watch less of multiple services.

A2.94 The BBC iPlayer user survey is similar to the forced diversion questions in the Kantar survey; it faces the same limitations in that it does not consider the Proposals and captures substitution from BBC iPlayer. Moreover, the survey only captures the responses of active BBC iPlayer users watching on a device, and not those of non-iPlayer users or those watching BBC iPlayer on a TV set.²⁴¹ However, the BBC iPlayer user survey has the advantage of being asked immediately after consuming BBC iPlayer content and is therefore based on a specific viewing event.

Summary of key findings

A2.95 We have drawn on all the above survey evidence in assessing the impact of the Proposals. The different pieces of evidence give a relatively consistent range of results for the proportion of BBC iPlayer viewing that might be substituted from other BVOD services. However, the evidence shows large differences in the proportion of BBC iPlayer viewing that may be substituted from the other categories of activity. In summary:

- a) 8%-16% of the increase in BBC iPlayer viewing might be substituted from other BVOD services;
- b) 8%-39% of the increase in BBC iPlayer viewing might be substituted from SVOD services;
- c) 6%-50% of the increase in BBC iPlayer viewing might be substituted from live TV viewing; and

²³⁸ The results of the BBC iPlayer user survey are presented in the Frontier Economics report. Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), page 45, Figure 19.

²³⁹ The Frontier Economics report also comments on the relative pros and cons of the MTM and BBC iPlayer user survey. Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), pages 41-43.

²⁴⁰ The most popular response when asked what they would do less of was "Something else – I'd just fit it in". Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), page 45.

²⁴¹ Frontier Economics reports that around half of BBC iPlayer streams are on a device. Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), page 42.

- d) 17%-75% of the increase in BBC iPlayer viewing time might be substituted from other activities (i.e. neither VOD nor live TV consumption).

A3. Market Impact

Introduction

- A3.1 This annex sets out the possible ways that the Proposals²⁴² could harm fair and effective competition and our assessment of whether they would. We start by combining the analysis in Annex 2 to see how much viewing rivals to BBC iPlayer might lose (i.e. crowding out commercial rivals) and then analyse how this might affect investment and ultimately audiences.
- A3.2 We then move on to analyse the extent to which the Proposals might mean that rivals have less access to content, that producers might be negatively impacted or that platforms that carry BBC iPlayer might be negatively impacted.

Crowding out of commercial rivals²⁴³

- A3.3 BBC iPlayer is not a commercial service – it is free of charge and free from advertising. As a result of its licence fee funding, it enjoys a competitive advantage that is not available to commercial providers. It thus risks harming fair and effective competition.²⁴⁴ In particular, we expect the Proposals to increase the risk that commercial alternatives are ‘crowded out’²⁴⁵ as audiences switch from other services to BBC iPlayer. As a result of this crowding out, commercial rivals may reduce investment, change what they invest in, exit the marketplace or be deterred from launching in the first place. Such outcomes can disadvantage consumers.
- A3.4 In order to assess this risk and the implications for audiences, we have:
- a) estimated the impact of the proposals in relation to general content²⁴⁶ on the various substitute activities; and
 - b) considered whether investment and/or the viability of services is likely to be threatened. After some general observations, we do this in turn for: (i) other BVODs; (ii) SVODs; (iii) linear TV; and (iv) other activities.
- A3.5 We have also considered the impact on other services’ investment and/or whether their viability is likely to be threatened by the proposals in relation to children’s content.

²⁴² Defined in paragraphs 2.9-2.12 of Section 2.

²⁴³ This is the same competition concern described as a ‘impact on rivals’ viewing reduced investment’ in Section 6.

²⁴⁴ For example, audiences may favour the BBC service simply because it is free.

²⁴⁵ The risk that the BBC may ‘crowd out’ other suppliers is discussed in further detail in paragraphs 3.7-3.10 of our BCA guidance.

In summary, a new BBC service may diminish commercial rivals by drawing audiences away from them or acquiring scarce inputs (such as content or talent) that they would otherwise use. This may reduce commercial rivals’ revenue and profitability, potentially harming their willingness to innovate and invest. It may result in some firms ceasing to provide services and others being deterred from starting to do so.

²⁴⁶ By ‘general content’, we mean all the content under the Proposals, with the exception of children’s content. We have considered the impact of the proposed changes to children’s content separately.

Impact on substitutes

Overview of the BBC's assessment

A3.6 In Annex 2, we discuss CC's estimates of the impacts of the Proposals on viewing and of the pattern of substitution. By 2020, CC estimated that the proportion of the increase in BBC iPlayer viewing that comes from other BVOD and SVOD is 8% and 18% respectively. Overall, other BVOD are estimated to face a reduction in viewing of just over 2.5% by 2020, whereas SVODs and CC's 'Other' category (which includes live TV) face a reduction of less than 1%.²⁴⁷ CC's highest estimated reduction in viewing for other BVOD over its forecast period is around 3.5% in 2024, but the results are similar for SVOD and 'Other' services.

Our assessment of the impact on rivals' viewing

A3.7 Similar to CC's approach, we have combined our estimates of the increase in BBC iPlayer viewing with survey evidence on substitution. We find that the increase in BBC iPlayer viewing is between 14.9% and 43.6% relative to the counterfactual²⁴⁸ if children's programming is not included. We have then estimated the proportion of the increase in BBC iPlayer viewing that might come from different rivals using the survey results discussed in Annex 2.

A3.8 Our survey results suggest that the increase in viewing of BBC iPlayer is likely to come from a range of services (other BVOD, SVOD and live TV) in quite different proportions. But even if viewing came from these services in equal proportions, the gain in BBC iPlayer captured from each service will have a proportionally greater impact on a small service than a large one. For example, viewing of BVOD services is small relative to SVOD and live TV viewing. Hence, an increase in viewing of BBC iPlayer needs to be seen in this context. The counterfactual shares of supply²⁴⁹ are shown in Table A3.1 below.

²⁴⁷ Communications Chambers, 2019. [Forecast of the viewing impact of proposed changes to BBC iPlayer: Report for the BBC](#), section 4.3.

²⁴⁸ To assess the impact of any changes as a result of the Proposals we need to model a counterfactual or baseline scenario that estimates the market without the proposed changes to BBC iPlayer in 2020.

²⁴⁹ This table shows estimates of the share of average VOD viewing for different services. We also show shares of average viewing across all VOD and live TV viewing.

Table A3.1: Share of supply of different services under the counterfactual in 2020

	Counterfactual share of supply of VOD viewing minutes	Counterfactual share of VOD and linear viewing minutes
BBC iPlayer	5.6%	1.3%
Other BVOD	11.3%	2.5%
SVOD	83.1%	18.7%
Live TV – BBC	-	23.9%
Live TV - Other	-	53.6%

Source: Ofcom estimates

A3.9 Based on our estimated changes in viewing of BBC iPlayer in Annex 2 (Figure A2.10), and the different survey results, we have estimated the following changes in shares of viewing minutes for other BVODs (see Table A3.2 below) and SVODs (see Table A3.3 below).

Table A3.2: Change in other BVOD viewing under different modelling scenarios

BBC iPlayer scenario (% increase in viewing) ²⁵⁰	Estimated change in BVOD viewing minutes based on different survey results			
	Kantar Survey: forced diversion ²⁵¹	Kantar Survey: extended window ²⁵²	Kantar Survey: expanded offering ²⁵³	CC model (2020) ²⁵⁴
Low = 14.9%	-1.2%	-0.8%	-0.9%	-0.6%
Medium = 34.4%	-2.7%	-1.8%	-2.1%	-1.4%
High = 43.6%	-3.4%	-2.3%	-2.7%	-1.7%

Note: See footnotes to Table A3.2 for information on the survey questions the substitution scenarios are based on. Further details on the different pieces of evidence on substitution are set out in Annex 2.

²⁵⁰ We present these results relative to our central counterfactual where BVOD's have an 11.3% share in 2020. We have also estimated alternative counterfactual scenarios where other BVOD's share of viewing could be either marginally lower or higher, but using these alternative counterfactuals would not affect the results presented in Table A3.2.

²⁵¹ Based on Ofcom analysis of questions BQ.1 and BQ.2Ai of the Kantar Survey. See Annex 2 for more detail.

²⁵² Based on Ofcom analysis of adjusted response data to questions CQ.1 and CQ.2B of the Kantar Survey.

²⁵³ Based on Ofcom analysis of adjusted response data to questions DQ.1 and DQ.2B of the Kantar Survey.

²⁵⁴ Based on CC model. See Annex 2 for more detail.

- A3.10 In our medium scenario for the increase in BBC iPlayer viewing, we estimate viewing of other BVODs could fall by 1.4% to 2.7%. This would imply that other BVODs’ share of VOD viewing in 2020 would fall to between 10.9% and 11.0% relative to the counterfactual share of 11.3%.
- A3.11 Our high scenario for the increase BBC iPlayer viewing, implies a 1.7% to 3.4% fall in other BVOD viewing. Other BVODs’ share of VOD viewing in 2020 would fall to between 10.8% and 10.9%.
- A3.12 We recognise that particular BVOD services may be closer substitutes to BBC iPlayer than others. Hence, we cannot rule out a larger percentage decrease in viewing for particular BVOD services;²⁵⁵ we have taken this into account when modelling possible revenue impacts on individual BVOD services below.
- A3.13 We apply an uplift to the estimates of changes in viewing shown in Table A3.2 above. We have used a 50% uplift, which we apply to the 1.7% to 3.4% range generated in our ‘high’ scenario above. This ‘uplift’ scenario would imply a decline in viewing for individual BVODs of between 2.6% to 5.1% given that a particular BVOD may see more substitution to BBC iPlayer than the average impact across other BVODs. As we apply this uplift to our ‘high’ case, the ‘uplift’ scenario is intended to show an upper bound to the possible impacts on an individual BVOD.

Table A3.3: Change in SVOD viewing under different modelling scenarios

BBC iPlayer scenario (% increase in viewing)	Estimated change in SVOD viewing minutes based on different survey results			
	Kantar Survey: forced diversion	Kantar Survey: extended window	Kantar Survey: expanded offering	CC model (2020)
Low = 14.9%	-0.4%	-0.1%	-0.1%	-0.2%
Medium = 34.4%	-0.9%	-0.2%	-0.2%	-0.4%
High = 43.6%	-1.1%	-0.2%	-0.3%	-0.5%

Note: See footnotes to Table A3.2 for information on the survey questions the substitution scenarios are based on. Further details on the different pieces of evidence on substitution are set out in Annex 2.

²⁵⁵ As explained in Annex 2, we have also only used our survey results to estimate substitution from BVODs as a whole (this is also the case for SVODs and live TV viewing). This is because of limitations in the available data.

- A3.14 In our medium scenario for the increase in BBC iPlayer viewing, we estimate viewing of SVOD services could fall by 0.2% to 0.9%. SVODs’ share of VOD viewing in 2020 would fall to between 81.6% to 81.7% relative to the counterfactual share of 83.1%.
- A3.15 Our high scenario for the increase in BBC iPlayer viewing, implies a 0.2% to 1.1% fall in total SVOD viewing.²⁵⁶
- A3.16 As discussed in Annex 2, the substitution from SVODs implied by different surveys varies. However, this does not translate into large variations in the percentage fall in SVOD viewing. This is because, the forecast increase in BBC iPlayer viewing is relatively modest compared to total SVOD viewing.
- A3.17 Table A3.4 shows the results for live TV under different scenarios.

Table A3.4: Change in live TV viewing under different modelling scenarios

BBC iPlayer scenario (% increase in viewing)	Estimated change in live TV viewing minutes based on different survey results			
	Kantar Survey: forced diversion	Kantar Survey: extended window	Kantar Survey: expanded offering	CC model (2020)
Low = 14.9%	-0.07%	-0.01%	-0.01%	-0.12%
Medium = 34.4%	-0.16%	-0.03%	-0.03%	-0.28%
High = 43.6%	-0.20%	-0.04%	-0.04%	-0.35%

Note: See footnotes to Table A3.2 for information on the survey questions the substitution scenarios are based on. Further details on the different pieces of evidence on substitution are set out in Annex 2.

- A3.18 In relation to the impact on live TV, as shown in Table A3.4 above, BBC iPlayer viewing is much lower than live TV viewing. Hence, any impact is likely to be relatively small compared to total live TV viewing across all scenarios. Even in our ‘high’ scenario for increases in BBC iPlayer viewing, based on highest substitution scenario (i.e. the CC model), live TV falls by 0.4%.

²⁵⁶ We do not consider it appropriate to apply an uplift scenario to our modelling for individual SVODs, as we consider the survey results vary quite widely and, in some scenarios, imply a very high proportion of the increase in BBC iPlayer viewing would come from these services. Therefore, a further uplift applied to the high implied substitution from SVODs would essentially imply nearly all BBC iPlayer viewing would come from one individual SVOD, which we do not consider would be plausible.

A3.19 The above figures are based on the impact on all live TV viewing (including viewing of BBC Live TV channels). If increased BBC iPlayer viewing were disproportionately drawn from the BBC's own channels, then the reduction in viewing for non-BBC live TV channels could be even lower.

General comments on investment

A3.20 We now consider how these viewing impacts might affect the revenues of rival commercial VOD, linear and pay TV services and how this might impact their investment. Before assessing the impacts of the Proposals on rivals' investment, we make three general comments.²⁵⁷

A3.21 First, the wider industry developments discussed in Section 3 are having a profound effect on the incentives of TV channels and VOD providers. Providers are responding to trends such as: the growth of Netflix; the anticipated entry of further SVOD services (such as Disney and BritBox); the shift of audiences (including younger audiences) from linear towards online services, etc. In the longer term, some of the services that are currently available may decline in size or cease to operate. While this BCA seeks to understand the impact of the Proposals on investment, we need to recognise that these wider trends may be a bigger influence on investment.

A3.22 Second, we consider that the crowding out of rivals by BBC iPlayer can have a negative impact on investment.

a) We recognise that competition can spur investment. However, it is crucial to recognise that BBC iPlayer is not a 'normal' commercial service. BBC iPlayer can provide additional content for free to users, without needing to consider the profitability of its actions.

b) The potential for positive impacts on investment may be limited. In 2019, VOD is not a novel service where the BBC can kickstart audience interest. Nor is VOD a sector where competition is currently weak and therefore the BBC can provide a major spur to investment.²⁵⁸

²⁵⁷ See also paragraphs A2.17-A2.18 where we discuss how the modelling results for 2020 shed light on later years.

²⁵⁸ For example, Netflix and Amazon Prime Video had worldwide content budgets of approximately £9bn and £4bn in 2018 (see Section 3). While Netflix is estimated to have a high share of UK VOD viewing (around 45% based on Touchpoints data on average daily viewing in 2017/18), entry is anticipated by well-placed rivals (Disney, Apple) likely to launch in the UK.

- c) The Proposals will tend to reduce the revenue that rival services can generate and may also diminish the amount of viewers attracted/retained by rivals' investments. As a result, commercial firms may respond to the Proposals by reducing investment. For example, they could produce fewer programmes in expensive genres such as drama. By reducing the audience they can attract, the viability of individual services (including potential new services) could be diminished. This could have a negative impact on consumers if it reduces overall choice. Another possibility is that commercial rivals reposition themselves to be less similar to BBC iPlayer. This could affect consumers differently, with some having more programmes that suit their tastes and some having less.

A3.23 Third, we have not tried to quantify the dynamic impacts resulting from the Proposals, as we consider there is too much uncertainty to have sufficient confidence in any quantitative estimates. However, we identify the potential dynamic effects, and where possible give our view on their likelihood and scale.

Impact on BVOD providers' investment

Overview of the BBC's assessment

- A3.24 The BBC commissioned Frontier Economics to provide an analysis of the impact of the Proposals on fair and effective competition, taking into account CC's modelling.²⁵⁹ Frontier Economics' modelling suggested that the percentage impact on revenues and profit margins for BVOD rivals would be small relative to the counterfactual. Table A3.5 below summarises Frontier Economics' estimates of the impacts on BVOD revenues and profitability in 2020 (we have used this year to be consistent with our own modelling).²⁶⁰
- A3.25 Frontier Economics argued that for BVOD providers, which largely rely on advertising funding, a change in viewing would have a less than one-to-one impact on advertising revenues due to the way in which the TV advertising market works.²⁶¹

²⁵⁹ Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#).

²⁶⁰ Frontier Economics used its analysis of the relative 'strength of substitution' within each category (BVOD, SVOD and live TV) to inform its estimates of the impact on individual providers.

²⁶¹ Most TV advertising is sold in annual deals, where buyers of advertising (i.e. media buying agencies) commit a share of their clients' advertising budgets to different channels, based on expectations about which channels can best deliver the target audiences for the advertising campaigns. Within this framework, a decrease in the number of viewers (i.e. commercial "impacts") is offset to an extent by increases in the price of advertising. As such, a decline in viewing share for a particular channel does not necessarily translate into a proportionate decline in advertising revenues for that channel.

Table A3.5: Frontier Economics estimates of impacts on BVOD revenue and profitability in 2020

BVOD	Estimated impact on revenues in 2020 (%) <i>Counterfactual revenues in brackets (£m)</i>	Change in profit margins in 2020 (percentage points) <i>Counterfactual profit margin in brackets (%)</i>
ITV Hub	-1.6% (288.2)	-1.2pp (26.5%)
All 4	-2.0% (121.8)	-2.1pp (-2.6%)
My5	-2.8% (45.7)	-2.5pp (11.8%)
Other	-1.5% (97.7)	[Not calculated in Frontier Economics' report]

Source: Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), Figures 3-4, 29, 31, 33 and 35.

Note: Estimated revenues relate to Frontier Economics' calculations of VOD services based on publicly available information (see Frontier Economics notes to Figure 29 for the basis for these calculations). The estimated profit margin based on overall ITV, Channel 4 and Channel 5 reported margins, which Frontier Economics assumes are similar between providers' services including live TV and VOD.

A3.26 Overall, Frontier Economics estimated revenue would fall by 1.5% to 2.8% for different BVODs. Frontier Economics estimated the fall in profit margins in 2020 would be 1.2pp for ITV Hub, 2.1pp for All 4 and 2.5pp for My5. Frontier Economics estimated that the Proposals would reduce revenues by £4.7m for ITV Hub, £2.4m for All 4 and £1.3m for My5 in 2020.²⁶²

A3.27 Frontier Economics did not consider that a small change in margins will significantly impact suppliers' incentives to invest or innovate in their content or digital platform. It argued that any small decline in revenues should be more than offset by the strong forecast growth of 63% in digital advertising revenues from 2018 to 2024. Furthermore, it argued that there are a number of profound changes to the sector which are driven by changing consumer behaviour and advancing technologies. Frontier Economics considered these changes will encourage all broadcasters (including the BBC) to invest in their digital offerings.²⁶³

Overview of stakeholder responses to our First Consultation

A3.28 The main rival BVOD providers that commented on the potential viewing impacts were Viacom (owner of Channel 5), Channel 4 and STV.

A3.29 Channel 4 estimated higher take-up of BBC iPlayer than the BBC's PIT and a higher consequent loss of viewing to All 4 than the BBC modelling. Channel 4's estimates suggested the loss of viewing would result in a reduction in its VOD advertising revenue. It considered that these losses would affect their content budget and their ability to deliver

²⁶² Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), Figures 2 and 30.

²⁶³ Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), pages 14 and 73-74.

PSB programming. Viacom and STV also argued that the Proposals would affect investment. Viacom said the proposals would reduce Channel 5's revenues from advertising by reducing viewing to Channel 5 services, and that this would affect Channel 5's ability to make strategic investments.²⁶⁴ STV pointed to the BBC's estimate in its PIT that the profitability of ITV, Channel 4 and Channel 5 would decline as a result of the proposals, and said that although the BBC had not made reference to STV in its PIT it was reasonable to assume that STV too would be subject to a decline in profitability.²⁶⁵

Our assessment of the impact on BVOD providers' investment

Estimated impact on BVODs' revenues

- A3.30 In our assessment of the impact on BVOD providers, we have focused on the largest BVODs, namely ITV Hub, All 4 and My5, which according to Ampere Analysis each reach well over 5% of households in the UK each month.²⁶⁶ The next largest BVOD service is UKTV Play, which features catch-up content from channels such as Dave, and is watched monthly by just under 5% of UK homes.²⁶⁷ There are also BVOD services for broadcasters in the Nations such as STV Player. As we have used a range of scenarios in Table A3.2 reflecting potential substitution, and also looked at uplift scenarios, we do not consider the impact on other BVODs, such as STV and UKTV Play, is likely to fall outside the ranges we have considered. We therefore we have not discussed these individually below.
- A3.31 BVOD providers predominantly rely on advertising for their funding, alongside revenue they can generate from sponsorship, their share of revenues from the sale of content rights, and online revenues.
- A3.32 In its report, Frontier Economics assumed that a 1% change in BVOD viewing would result in a 0.67% change in BVOD advertising revenues. We adopted the same assumption for Scotland-focused 'regional' TV advertising in our BBC Scotland BCA.²⁶⁸ The rationale for this approach was that a change in overall audiences will change the total amount of 'commercial impacts' supplied, which in turn may cause an offsetting change in the price of those commercial impacts.
- A3.33 For this BBC iPlayer assessment, we have assumed that a 1% change in BVOD viewing would result in a 1% change in BVOD revenues. This is because we consider it is unlikely that the falls in BVOD viewing we have modelled will increase the scarcity of BVOD advertising and thereby drive up its price. Our approach is in line with stakeholder

²⁶⁴ [Viacom response to our First Consultation](#), page 1.

²⁶⁵ [STV response to our First Consultation](#), page 1.

²⁶⁶ ITV Hub, All 4 and My5 reach 8.8m, 6.8m and 4.0 UK homes each month respectively. See Ampere Analysis, May 2019. [The UK VoD market: Current status and future developments](#), page 7 and Table 1.2.3.

²⁶⁷ See Ampere Analysis, May 2019. [The UK VoD market: Current status and future developments](#), pages 7-8.

²⁶⁸ Specifically, we assumed in our "low offset scenario" that each 1% fall in a channel's audience decreases its regional advertising revenues by 0.67%. In other scenarios, we assumed that the impact of a fall in viewing on regional advertising revenues was more muted. For UK-wide national advertising, we assumed a one-to-one relationship between viewing and advertising revenue. See Ofcom, June 2018. [BBC Scotland Competition Assessment; Final Determination Annex 3: Assessment of Market Impacts](#), paragraph A3.18.

responses to our First Consultation.²⁶⁹ Adopting a less conservative approach would not change our provisional conclusions.

- A3.34 Table A3.6: below provides our modelling estimates of potential impacts on BVOD advertising revenues for each BVOD provider, based on estimates of their current revenues.
- A3.35 For our estimates of the current revenues BVODs, we have used Frontier Economics' estimates for 2019.²⁷⁰ We recognise that there is a degree of uncertainty associated with these revenue estimates, as they rely on publicly reported revenue data from company annual reports (which do not explicitly report revenue for individual BVOD services). There is, in any case, a degree of uncertainty inherent in determining revenues attributable to linear and VOD services. This is because VOD advertising may be packaged with linear advertising by advertising sales houses, so any revenues from advertising cannot always be directly linked to VOD services.
- A3.36 Nevertheless, Frontier Economics' estimates of BVOD revenues are broadly consistent with estimates from Ampere Analysis (see Figure 3.4).²⁷¹ This should not be surprising as both Frontier Economics' and Ampere Analysis' estimates are based on publicly available information on revenues of VOD services. Following our own review of company annual reports, we are satisfied to rely on Frontier Economics' revenue based on public data. However, we have seen [redacted].
- A3.37 We have not presented estimates of profit margins as the information contained in companies' annual reports used to generate revenue estimates – as used by Frontier Economics and Ampere Analysis – do not separately report profits for VOD services.²⁷²

²⁶⁹ Channel 4 shared modelling with us which assumed a one-to-one relationship between changes in VOD viewing and VOD revenues. This reflects its views of the longer-run relationship between viewing and advertising. In addition, broadcasters that operate BVOD services currently sell and deliver advertising as a package across their linear and VOD services. Moreover, with VOD offering better customer data, BVODs may be able to sell more targeted advertising, which may alter the relationship between the quantity of VOD advertising supplied and any price offset.

²⁷⁰ We have used 2019 estimates in this consultation to avoid the need to reconcile Frontier Economics' assumptions about revenue growth with our own forecasts of the growth in viewing in the counterfactual (as set out in Annex 2).

²⁷¹ See Ampere Analysis, May 2019. [The UK VoD market: Current status and future developments](#), Table 1.2.3.

²⁷² Frontier Economics presented impacts on profit margins using profits for overall ITV, Channel 4 and Channel 5 businesses (i.e. across all services, including live TV and VOD services).

Table A3.6: Estimates of revenue for BVODs based on estimated fall in viewing minutes of between 0.6% and 3.4% (Table A3.2 above)

BVOD	Estimate of VOD revenues (£m) in counterfactual based on latest reports	Estimate of revenue impact (£m) <i>(Frontier Economics estimate in brackets)</i>
ITV Hub	241.5	-1.4 to -8.2 <i>(-4.7)</i>
All 4	102.0	-0.6 to -3.4 <i>(-2.4)</i>
My5	38.3	-0.2 to -1.3 <i>(-1.3)</i>
Other BVOD	81.9	-0.5 to -2.8 <i>(-1.5)</i>

Source: Ofcom analysis; Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), Figures 4, 29, 33 and 35.

- A3.38 Given our estimate of a 0.6% to 3.4% reduction in other BVOD's viewing minutes relative to the counterfactual (based on our 'low' to 'high' scenarios in Table A3.2), we assume a corresponding 0.6% to 3.4% fall in VOD advertising revenues. This would imply an annual revenue loss of between £1.4m to £8.2m for ITV Hub; £0.6m to £3.4m for All 4 and £0.2m to £1.3m for My5, relative to the counterfactual in 2020.
- A3.39 As discussed above, the impact on individual BVODs could be higher than seen for overall substitution from BVODs, if a particular BVOD is a closer substitute to BBC iPlayer than the average. If we uplift our 'high' case by 50% this would result in predicted decrease in viewing for an individual BVOD of 2.6% to 5.1%. This uplift scenario would imply an annual revenue loss of between £6.2m to £12.2m for ITV Hub; £2.6m to £5.2m for All 4 and £1.0m to £1.9m for My5.²⁷³
- A3.40 We consider however these to be very much an upper bound to the potential impact on individual BVODs. The high revenue impact assumes (a) the highest BVOD substitution implied by our survey results is representative of overall substitution from BVODs to BBC iPlayer due to the Proposals; and (b) the individual BVOD considered would have an even higher rate of substitution than seen for BVODs overall (this would also imply that the rest of the other BVODs would have lower than average substitution).

²⁷³ [X]. As explained in Annex 2, we have identified weaknesses in the way Channel 4 modelled the increase in BBC iPlayer viewing and thus have not adjusted our estimates of increases in BBC iPlayer viewing to account for Channel 4's higher estimates. [X]

Impact on BVODs' investment

A3.41 The case for investing in the content and functionality of a BVOD service relies primarily on the level of viewing that can be attracted and the additional advertising revenues that this viewing generates. In this section we first discuss the impact on ITV Hub and My5. We then make a few additional points in relation to the impact on All 4. Our assessment of the impact on a potential future UK-focused SVOD service (i.e. BritBox) is discussed in paragraphs A3.55 to A3.58 below.

A3.42 Given the potential reduction in the revenue of ITV Hub and My5 set out in Table A3.6 above, the Proposals may mean that ITV and Channel 5 invest less in these BVOD services relative to the counterfactual. In terms of the practical implications of this:

- a) ITV and Channel 5's BVOD services offer catch-up services, and ITV Hub in particular operates primarily as a short window catch-up services for content broadcast on its linear channels. There is likely to be limited change at least in terms of the availability of catch-up content shown on their own BVOD services.²⁷⁴
- b) While these two PSBs are unlikely to cease investing in their catch-up services entirely, in principle they could reduce any additional content²⁷⁵ and their ambitions for these services in the long-run.²⁷⁶ For example, they may decide to invest less in the functionality of their services, continue to distribute content on rival VOD services outside of the primary window (rather than making that content available on their BVOD service beyond the initial catch-up window) and refrain from making content exclusively available on these services beyond the initial catch-up window.²⁷⁷
- c) PSBs commission content primarily for their linear TV services. With VOD advertising revenues also contributing an increasing proportion of the revenues of these two PSBs, decreased VOD viewing and VOD advertising revenues would ultimately affect the amount of budget available for content commissioning. However, given the relatively modest scale of the viewing and revenue impacts we have estimated, and set against the relatively large scale of linear TV viewing and revenues, we consider the impact on commissioning is likely to remain negligible.

²⁷⁴ ITV has tended to keep ITV Hub as a 30-day catch-up service, preferring instead to sell secondary rights to its IP to other VOD services after the primary window has passed. ITV Hub+ is a subscription-based VOD service, which shows identical catch-up content to the standard ITV Hub service. It does not include any exclusive content, instead attracting subscribers by offering advertising-free content and some increased functionality (such as the ability to download and watch certain programmes outside the UK). Channel 5 offers short window catch-up services, but also some additional content.

²⁷⁵ For example, in addition to catch-up services from Channel 5's channel portfolio, it includes extended window content for those registering details on the My5 site or app; content from some of its partner channels each month, including BLAZE, BET, PBS America, Together, Real Stories and Spark; and in March 2019 it [launched a new partner channel NEXT by HOT](#) bringing foreign language dramas to My5.

²⁷⁶ This discussion relates to ITV's and Channel 5's incentives to invest in existing services. We specifically address the possible impacts on BritBox below.

²⁷⁷ If broadcasters keep content on their own BVOD service for a long period of time (particularly if it is exclusive to their BVOD service), this will potentially sacrifice or erode the revenues that they could otherwise earn from secondary rights sales. Broadcasters must therefore trade-off this opportunity cost against the value of keeping content on their own BVOD service (primarily through the greater BVOD viewing and hence higher advertising revenues this might generate).

- A3.43 Notwithstanding the above risks, we are mindful of the evidence on the scale of viewing and revenue impacts set out in Table A3.6: above, and therefore consider that the Proposals may lead to some negative impacts on BVOD's incentives to invest.
- A3.44 In relation to All 4, we consider:
- a) A fall in Channel 4's revenues (across its linear and VOD services) is more likely to have a direct impact on its content investment than for other PSBs. This is because Channel 4 as a whole operates on a not-for-profit basis, such that net of any running costs, all revenues are generally returned back into content investment. Channel 4 has some cash reserves in place²⁷⁸ (e.g. to manage any temporary cyclical fluctuations in advertising revenues), but ultimately lower profits are likely to feed into lower content investment.
 - b) Indeed, in the face of wider industry trends, Channel 4's business planning under the counterfactual is likely to include a focus on additional efficiency and cost reductions and strategies to change its revenue mix in order to maintain its content spend and share of viewing.²⁷⁹ Therefore, Channel 4 is unlikely to have significant potential to maintain content spend in the face of additional loss of revenues due to the Proposals by finding savings elsewhere.
 - c) Thus, it is probable – in the medium to long term – that any loss of revenues would result in lower overall budget available for content investment and functionality for All 4. However, the Proposals would primarily affect All 4 viewing rather than viewing of Channel 4's linear services, which still remains the largest proportion of revenues.²⁸⁰ In this wider context, the impact on revenues and therefore investment is likely to be relatively small.

Impact on SVOD providers' investment

Overview of the BBC's assessment

- A3.45 Frontier Economics' modelling suggested that the percentage impact on revenues for SVOD rivals would be small relative to the counterfactual. Table A3.7 below summarises Frontier Economics' estimates of the impacts on SVOD revenues in 2020 (we have used this year to be consistent with our own modelling).

²⁷⁸ Channel 4 had £190m of cash reserves in 2017. [Channel Four Television Corporation Report and Financial Statements 2017](#), page 9.

²⁷⁹ For example, in response to the significant decline in advertising spend in 2009 (-14% relative to 2007), Channel 4 had to cut its content budgets, but was able to offset most of the effects by cutting costs and changing its revenue sources. A recent EY report prepared for Channel 4 showed that Channel 4 cut back on its original content spend in 2009 and 2010 in response to the reduction in its advertising revenues. See Ernst & Young LLP, March 2016. [The future of Channel 4 in a changing market environment](#), Figure 2.

²⁸⁰ All 4 contributed around £80m to revenues in 2017, which was less than 10% of Channel Four Corporation revenues, so to the extent the Proposals would primarily affect All 4 viewing rather than viewing of Channel 4's linear services, the impact on Channel 4's investment might be more modest. According to Ampere Analysis, All 4 achieved UK VOD revenues of around £80m in 2017. This compares to Channel Four Corporation revenues of £960m in 2017. Ampere Analysis, May 2019. [The UK VoD market: Current status and future developments](#), Table 1.2.3; [Channel Four Television Corporation Report and Financial Statements 2017](#), page 103.

A3.46 Frontier Economics argued that, for SVODs, any change in viewing would not necessarily entail a proportionate reduction in subscriptions, which is the main source of revenue for these providers.

Table A3.7: Frontier Economics estimates of impacts on SVOD revenue relative to the counterfactual in 2020

SVOD	Counterfactual UK revenues in 2020 (£m)	Estimated impact on revenues in 2020 (%) <i>(Absolute change in brackets, £m)</i>
Netflix	1,056.1	-1.4% (-15.1)
Amazon Prime Video	525.0	-2.1% (-10.8)
Now TV	258.3	-2.4% (-6.1)
ITV Hub+	14.7	-1.6% (-0.2)

Source: Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), Figures 5-6 and 38-40.

A3.47 Frontier Economics estimated that the SVODs revenue would fall by between 1.4% and 2.4% in revenues relative to the counterfactual in 2020.²⁸¹ Frontier Economics estimated that the Proposals would reduce revenues by £15.1m for Netflix, £10.8m for Amazon Prime Video, £6.1m for Now TV and £0.2m for ITV Hub+ in 2020.²⁸²

A3.48 Frontier Economics did not consider that a small change in revenues would significantly impact SVOD providers’ incentives to invest or innovate in their content or digital platform. Frontier Economics argued that Netflix and Amazon’s incentives to invest in content and technology are made on a global basis and the small change in UK revenues would only have a minor impact on global investment decisions. Similarly, it argued that Now TV (now part of Comcast) is expected to monetise investments across Comcast’s global customer base.²⁸³

Overview of stakeholder response to our First Consultation

A3.49 SVOD providers did not comment directly on the impacts of the Proposals on revenue and investment.

A3.50 The O&O report commissioned by Pact (the ‘O&O Report’) said that the Proposals would squeeze BritBox and reinforce the position of the global SVOD players in the UK.²⁸⁴

Our assessment of the impact on SVOD providers’ investment

²⁸¹ Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), Figures 6 and 40.

²⁸² Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), Figures 5 and 39.

²⁸³ Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), pages 14 and 74-75.

²⁸⁴ O&O, May 2019. Proposed changes to the BBC iPlayer: Supporting Pact’s response to Ofcom’s call for evidence, A report for Pact, pages 22-25. This report has not been published in full.

Estimated impact on the main SVODs' revenues

- A3.51 In our assessment of the impact on SVOD providers, we have focused on the largest, namely Netflix, Amazon Prime Video, Now TV and ITV Hub+.²⁸⁵ There is a longer tail of smaller SVOD services, including Disney Life and Hayu and numerous other movie and sports VOD services, but we have not assessed those individually due to their smaller scale.²⁸⁶
- A3.52 The main impact that could arise for SVODs is if some consumers decide, as a result of spending more time viewing BBC iPlayer and less time on their SVOD service(s), to cancel their SVOD subscription(s).²⁸⁷
- A3.53 In Table A3.3 above, we have forecast a decline in viewing between 0.1% and 1.1% in total SVOD viewing. We consider it unlikely that a significant number of consumers would cancel their SVOD subscription(s).²⁸⁸ The Kantar Survey asked respondents about how likely they would be to cancel their SVOD subscription as a result of watching less SVOD in response to the Proposals. However, the base for the relevant questions was very low, meaning we cannot reliably use our survey results to estimate cancellation rates for individual services.²⁸⁹

Impact on the main SVODs' investment

- A3.54 We do not consider the Proposals would have an appreciable impact on the main SVODs' investment for the following reasons:²⁹⁰

²⁸⁵ According to Ampere Analysis, ITV Hub+ reaches less homes (1% of homes per month) than Disney Life (1.5%), but we have reported results for ITV Hub+ given it is part of ITV's suite of VOD services. Ampere Analysis, May 2019. [The UK VoD market: Current status and future developments](#), page 7.

²⁸⁶ According to Ampere Analysis, there are a multitude of other video services, centered around movies/TV (BFI Player, Curzon Home Cinema, Mubi, Starz Play) and sports (NBA League Pass, NFL League Pass, Eurosport Player), all of which are used by under 1% of homes. Ampere Analysis, May 2019. [The UK VoD market: Current status and future developments](#), page 7.

²⁸⁷ In principle, the Proposals could also result in a reduction in SVOD revenues if the increase in the amount of content available for free on BBC iPlayer limited the price that rival SVOD providers could charge for their services. This might not necessarily mean that SVODs would decrease their prices, but those prices might not rise as quickly as they would have done in the counterfactual. We have not attempted to model this additional effect due to the small scale of the impacts we have estimated resulting from the Proposals.

²⁸⁸ There are a range of reasons why changes to viewing would not correspond to a proportionate reduction in SVOD subscriptions and revenues. While some individuals watching SVOD services might decrease viewing much more, these predicted changes are on average very small (as noted in Section 3, the average user currently spends 26 minutes with SVOD each day). In addition, as set out in Frontier Economics' report, many UK households subscribe to multiple SVOD services, so even if a proportion of subscribers did decide to cancel an SVOD subscription, they would not necessarily cancel all of their SVOD services. Finally, in multi-person households the decision to subscribe to a given SVOD service may well be based on the viewing habits across all people with access to the SVOD service.

²⁸⁹ A relatively small proportion said they would watch BBC iPlayer more and other services less; and a smaller subset said they would specifically watch less Netflix, Amazon Prime Video or Now TV. Kantar Media, 2019. [BBC iPlayer Competition Assessment Research Report](#), slides 35 and 36.

²⁹⁰ This is not to rule out the possibility of any impact. The UK remains an important market for SVOD providers. To the extent that BBC iPlayer reduces UK SVOD subscriptions, there could in principle be a small decrease in UK-specific investment from SVODs, including third party content acquired primarily for the UK and UK-specific markets.

- a) First, we do not expect a significant reduction in revenues for SVOD services. Even if we did assume revenues for SVODs fell in line with viewing, the decrease in revenues would only be between 0.1% and 1.1% of estimated UK revenues.
- b) Second, Netflix and Amazon Prime Video have a global base of subscribers, which drives their investment in content and functionality that is attractive across multiple countries.²⁹¹ The impact of BBC iPlayer in this context is very small. Even decisions to invest in content likely to have a strong UK appeal (e.g. *The Crown* or *The Grand Tour*) will be partially driven by likely consumer demand outside of the UK. For global SVODs, we therefore consider decisions to invest in content are likely to be largely unaffected by the Proposals. Similarly, some improvements in platform functionality (e.g. the algorithms used to recommend content) are likely to be determined by global factors.
- c) Third, Now TV is unique among the major SVOD services as the UK represents its largest market:
 - i) Sky does not generally commission content specifically for its Now TV service, but as part of the wider Sky pay TV group. Sky's content investment decisions will be driven by how original commissions and high-quality acquisitions drive subscriptions of both its pay TV services and Now TV.²⁹²
 - ii) Nevertheless, Now TV is an important part of Sky's future strategy, as its pay TV service faces increased competition. Hence, Now TV may be an increasing contributor to Sky's revenues and content investment decisions.
 - iii) Further, given Now TV's greater focus on UK content, there is likely to be more of an impact on its investment incentives, compared with other SVOD providers with global presence.²⁹³ Furthermore, some investments by Now TV (e.g. in its platform functionality or marketing activity) may be specific to the UK SVOD business, rather than being shared with the wider Sky pay TV business.
 - iv) However, based on our estimates of the scale of the viewing and revenue impacts, we do not consider there would be a large impact on Now TV's investment, even with its greater UK focus.

Impact on a new UK-focused SVOD service

²⁹¹ In the case of Amazon Prime Video, its incentives to invest in content to attract and retain subscribers are not driven solely by the subscription revenues it generates. Amazon also bundles, within its Prime service, free shipping for its shopping services. In this context, a loss of subscribers would be more costly to Amazon as fewer Amazon Prime Video subscribers would lower not only its subscription revenues but may also reduce revenues from its wider shopping services.

²⁹² Based on Ampere Analysis, Sky's Now TV subscriber base was 1.5 million in 2018, compared to a total Sky TV customer base of 11.7 million, which implies a Sky pay TV subscriber base of around 10 million. Sky's 2018 annual results report an average revenue per user (ARPU) from its UK and Ireland operations of £45 per month. This implies its pay TV revenues are many times higher than those for Now TV (which had annual revenues of £170 million from a base of 1.5 million subscribers in 2018). Ampere Analysis, May 2019. [The UK VoD market: Current status and future developments](#), Table 1.2.3; and Sky, 26 July 2018. [Results for the twelve months ended 30 June 2018](#).

²⁹³ Now TV operates in other territories such as Italy and Ireland.

- A3.55 The BBC and ITV intend to launch a commercial SVOD service called BritBox. It is described as providing “an unrivalled collection of British boxsets and original series”. The aim is to launch the service in the second half of 2019.²⁹⁴ We have considered the impact of the Proposals on a new UK-focused SVOD service.
- A3.56 A new UK-focused SVOD service is likely to face challenges, given the presence of established rivals (Netflix, Amazon Prime Video) and the prospect of further large entrants (such as Disney).²⁹⁵ If the scale of the Proposals was large enough to lead to the exit of a UK-focused SVOD service, then we consider this would reduce consumers’ choice of both content and VOD provider.
- A3.57 In the case of BritBox, its positioning as a ‘best of British’ SVOD service means that its potential subscriptions may be more susceptible to being reduced by the Proposals than other SVODs.²⁹⁶ We consider that the Proposals could materially increase the challenges faced by a service such as BritBox and they could therefore result in an adverse impact on fair and effective competition.
- A3.58 However, ITV has told us that it is “willing to invest in BritBox, in partnership with the BBC, as long as an acceptable formal agreement is signed before any expansion of BBC iPlayer is agreed”. [3<]. We have taken into account that ITV has made a judgment that it can invest in the new venture on the basis of the scope of the Proposals. Accordingly, we consider that, under the existing scope of the Proposals, there is unlikely to be substantial harm to audiences as a result of the impact on the prospects of UK-focused SVOD services such as BritBox.²⁹⁷

Impact on live TV services’ investment

Overview of the BBC’s assessment

- A3.59 Frontier Economics also estimated impacts on live TV revenues, which by 2024 are projected to be approximately 0.4% to 0.5% lower than in the counterfactual.²⁹⁸ The BBC also argued that broadcasters such as ITV, Channel 4, Channel 5 and Sky all offer both linear and video services, they will consider whether to invest and innovate by looking at both their digital and linear advertising revenues (and any subscriptions) collectively. Frontier Economics therefore also considered the impact of the Proposals on the combined revenues and profits of ITV, Channel 4, Channel 5 and Sky (revenues only), as set out in Table A3.8 below.

²⁹⁴ BBC press release, 27 February 2019. [BBC and ITV confirm proposals for BritBox – a new transformational streaming service](#).

²⁹⁵ For example, see the recent Berenberg and Morgan Stanley research notes on ITV plc, which include analysis of the business case for BritBox. See Berenberg, “ITV plc, Plus minus”, 5 March 2019; and Morgan Stanley, “Remembering ITV Digital”, 28 February 2019.

²⁹⁶ Given that BritBox has not launched in the UK yet, it was not included in the Kantar Survey we commissioned to inform our view on substitution resulting from the Proposals. As a result, we have not attempted to quantify the impact of the Proposals on BritBox.

²⁹⁷ [3<]

²⁹⁸ Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), Figure 8.

Table A3.8: Frontier Economics estimates of impacts of the Proposals on revenue and profitability of rivals across VOD and linear services relative to the counterfactual in 2020

PSB live TV / Pay TV / VOD service	Estimated impact on revenues in 2020 (%)	Change in profit margins (percentage points)
ITV	-0.5%	-0.4pp
Channel 4	-0.6%	-0.6pp
Channel 5	-0.7%	-0.6pp
Sky	-0.2%	[Not calculated in Frontier Economics' report]

Source: Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), Figures 10-11 and 48-49.

Note: Estimated revenues relate to combined UK services (including revenues for VOD and live TV services). The estimated profit margin relates to across each business in the UK.

A3.60 Frontier Economics' estimates suggested that the fall in revenues in 2020 across live FTA TV, live pay TV and VOD services for different providers would be less than 1% (range of 0.2% to 0.7% for different providers). Frontier Economics calculated an implied reduction in profit margins of 0.4pp to 0.6pp for different providers.²⁹⁹

Overview of stakeholder response to our First Consultation

A3.61 The Commercial Broadcasters Association (COBA) and Viacom expressed concerns about the potential impact BBC iPlayer would have on live TV channel viewing.

Our assessment of the impact on live TV services' investment

A3.62 Given our estimate of the fall in live TV viewing due to the Proposals is less than 0.4%, we do not consider there would be a significant impact on the revenue and investment of commercial live TV services.³⁰⁰

Impact on wider activities

A3.63 In addition to substitution of viewing from BVOD, SVOD and live TV services, consumers might choose to give up wider activities (e.g. listening to music, using social media, reading etc.). As discussed in Annex 2, consumer survey evidence suggests quite a wide range (17%-75%) for the proportion of the increase in BBC iPlayer viewing time that might be

²⁹⁹ Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), Figures 10-11 and 48-49

³⁰⁰ The estimate of the fall in live TV is based on the impact on all live TV viewing (including viewing of BBC Live TV channels). If increased BBC iPlayer viewing were disproportionately drawn from the BBC's own channels, then the reduction in viewing for non-BBC live TV channels could be even lower.

substituted from other activities.³⁰¹ Given any substitution is likely to be dispersed across a large range of wider activities, we do not consider this impact any further.

Proposed changes to children's content

- A3.64 The discussion above related to general content. We now consider the proposed increases in the availability of children's content on BBC iPlayer. As set out in Annex 2, the proposals in relation to children's content accounts for approximately 16% of the estimated increase in BBC iPlayer viewing.³⁰²
- A3.65 The BBC proposes to make all BBC commissioned children's programmes available on BBC iPlayer for five years. This five-year period reflects the scope of the BBC's current five-year exclusive licence period for children's content, which enables the BBC to broadcast more repeats of children's content than is possible for general content.³⁰³ In its response to our First Consultation, Viacom was particularly concerned about the impact of these proposals on the children's TV market, given the "disproportionate effect on Milkshake" (Channel 5's pre-school television service). We have not analysed the impact from increased viewing of children's content in the same way that we have assessed the market impact from the increased availability of general content, due to the lack of suitable data.
- A3.66 Children's viewing patterns are very different to those of adults and vary depending on the age of the child.³⁰⁴ In 2017, children aged 4-15 watched 86 minutes of broadcast TV per day, compared to 203 minutes for all individuals.³⁰⁵ Much of this viewing is to general programming, or to the BBC's children's channels, with only 25% of viewing, or 2.5 hours a week, going to commercial children's TV.³⁰⁶ While directly comparable data on viewing time is not available, quantitative and qualitative research into children's media time suggests that SVOD services and YouTube are very popular with children, with 49% of children watching paid-for streaming services³⁰⁷ and 80% watching YouTube.³⁰⁸ Qualitative research also suggests that children are using Netflix and YouTube in preference to broadcast channels and BVOD players.³⁰⁹
- A3.67 Children's programming on the BBC is also generally different in character to that provided by other linear TV channels, which in many cases tends to have more animated content

³⁰¹ In Annex 2, we discuss a number of caveats and limitations associated with these survey results. The results are also drawn from different surveys, so they are not directly comparable as they asked slightly different questions with different bases.

³⁰² In our low scenario, children's share of BBC iPlayer viewing increases to 28%.

³⁰³ BBC, April 2019. *BBC iPlayer Public Interest Test*, page 27.

³⁰⁴ For example, children across all age groups between 5-15 use YouTube, including the separate YouTube Kids app (70% of 5-7s vs 89% of 12-15s), although the type of YouTube content most commonly viewed is dependent on age and gender. Children who watch YouTube who are given the choice tend to prefer it to watching TV programmes. Also, about half of children aged 5-15 consume SVOD services such as Netflix or Amazon Prime. BARB data shows children aged 4-6 years watch an average of 89 minutes per day and those aged 6-12 watch 76 minutes per day on the TV set.

³⁰⁵ Ofcom, July 2018. *Media Nations 2018*, figure 10.

³⁰⁶ Ofcom, January 2019. *Children and parents: media use and attitudes report 2018, annex 1*, figure 164.

³⁰⁷ Ofcom, January 2019. *Children and parents: media use and attitudes report 2018, annex 1*, figure 23.

³⁰⁸ Ofcom, January 2019. *Children and parents: media use and attitudes report 2018, annex 1*, figure 26.

³⁰⁹ Ofcom, January 2019. *Children's media lives – Wave 5*, page 5.

and fewer new, UK-made or UK-focussed programmes – for example, in 2017, CITV had only 1% of programming being first-run UK-originated content.³¹⁰ YouTube content is also often different to TV content – although children watch TV programmes through YouTube, they also watch a range of other types of content, with 71% of children watching funny videos, 61% watching music videos and 45% watching 'how to' videos in 2018.³¹¹

A3.68 Although neither MTM nor Kantar surveyed children on how they might change their viewing following the proposed changes, we suspect that children are unlikely to mirror adults' switching behaviour. This is because of children's different viewing habits, including their lower viewing of broadcast TV. Children are less likely to reduce their viewing of general programming for adults as a result of the Proposals since this tends to be watched with the family.

A3.69 From the limited evidence available to us, where substitution from other services does take place, it may not diminish the revenues of those services to such an extent that investment in children's content is reduced.

a) For those services that are funded (either in whole or in part) by subscription revenues, as set out above, individuals and families may not give up their subscriptions even if their viewing declines.

b) The PSBs are subject to a range of regulatory obligations on their programming and we would not expect them to cut back their children's programming in response to the Proposals. In addition, for those services funded by advertising, they are subject to a wider set of restrictions (such as a restriction in advertising of HFSS foods³¹² on TV, and on interest-based targeting on YouTube Kids). The advertising restrictions may mean impacts on revenue may be lower. Indeed some children's programming offered by commercial broadcasters does not have advertising (such as Channel 5's Milkshake!).

A3.70 On the basis of the evidence we have available at this stage, we think the proposals in relation to children's content are unlikely to affect investment incentives.

Our provisional conclusions

A3.71 As a result of the Proposals making BBC iPlayer more attractive, the revenue and viewing of rival services would be likely to be reduced. We consider that this represents an adverse impact on fair and effective competition.

A3.72 The investment incentives of the main SVOD services and live TV channels would be unlikely to be appreciably affected. There may however be some impact on BVOD services' incentives to invest.

³¹⁰ Ofcom, July 2018. [Children's content review: update](#), para 5.22.

³¹¹ Ofcom, January 2019. [Children and parents: media use and attitudes report 2018, annex 1](#), figure 28.

³¹² High fat, salt and sugar foods.

- A3.73 We also consider that, under the existing scope of the Proposals, there is unlikely to be substantial harm to audiences as a result of the impact on the prospects of UK-focused SVOD services such as BritBox.
- A3.74 On the basis of the evidence we have available at this stage, we think the proposals in relation to children's content are unlikely to affect investment incentives.

Impact on rivals' access to content³¹³

- A3.75 In our First Consultation, we set out a potential concern that allowing the BBC to put more content on BBC iPlayer for longer could reduce the availability and range of attractive BBC commissioned content to other VOD providers (or other secondary rights users, such as linear multichannel providers) after the BBC iPlayer primary window has passed.

Overview of the BBC's assessment

- A3.76 The BBC considered whether, as a result of the Proposals, it could use its position as a commissioner of programmes to disadvantage VOD competitors by restricting access to BBC-controlled intellectual property (IP) on other VOD services.³¹⁴
- A3.77 The BBC argued that, while it may have mixed commercial incentives to restrict access to BBC-controlled IP on other VOD service as a result of the Proposals,³¹⁵ it does not have the ability to harm competitors through the restriction of supply of the secondary rights to its IP. It argued that it does not have market power over content as BBC content does not drive subscriptions or switching decisions of its competitors.³¹⁶ It concluded that, even if the BBC were to retain certain titles for BBC iPlayer and as a result they were unavailable to competitor VOD services, or if the BBC were to stop selling some of its IP to competitors, this would not harm these competitors as they could instead replace BBC programmes with other programming from a wide range of sources or self-supply content.³¹⁷

³¹³ This is the same competition concern described as 'less BBC content on other platforms' in Section 6.

³¹⁴ The BBC examined: (i) whether the BBC might have an increased incentive to restrict access to BBC-controlled IP on other VOD services; and (ii) whether the BBC has an ability to harm competition. BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 222.

³¹⁵ The BBC recognised that its plans to turn BBC iPlayer into a VOD destination potentially creates an incentive to restrict supply of BBC IP to other VOD services if the BBC considers these compete with BBC iPlayer for viewers. However, it also argued that it is highly incentivised to enable BBC Studios to generate commercial revenues from the exploitation of BBC programmes, as the BBC benefits from this commercial activity (both by directly receiving a share of revenue from exploitation of its programmes, and in receiving an annual dividend from the profits of BBC Studios). BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 223.

³¹⁶ For example, the BBC argued that: (i) it does not control the IP of a large proportion of the content it distributes and therefore cannot restrict its supply; (ii) UK content competes with US content so there are substitutes for BBC content; (iii) BBC-controlled IP forms a small part of the SVOD services' overall catalogue of titles; (iv) there are other routes to sourcing content for the BBC's competitors (e.g. own commissions and co-productions); and (v) BBC-controlled IP does not form part of the major SVOD services' key strategy which is to source their own original content as this drives subscriptions. BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 224.

³¹⁷ BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 222.

A3.78 A report by Frontier Economics for the BBC made similar points.³¹⁸

Overview of stakeholder responses to our initial assessment

A3.79 Stakeholders did not raise any concerns that extending the BBC iPlayer window would adversely restrict access to BBC content. In particular, no UK SVOD providers said that the Proposals would adversely impact their ability to provide attractive content on their SVOD services.

Our assessment

A3.80 As a result of its licence fee funding, when the BBC adds content to BBC iPlayer, it does not face the same constraints as other commercial competitors who have to consider earning a profit from that content. There is therefore the potential to adversely affect fair and effective competition by reducing the amount of appealing content available to other VOD services, which could ultimately make those VOD competitors less attractive.

A3.81 In particular, competing SVOD providers' ability to attract and retain subscribers could be harmed because:³¹⁹

- a) by providing content on BBC iPlayer for longer, BBC content may be less attractive to audiences of competing SVOD services (compared to now) since more people have already watched it; and
- b) BBC content that would otherwise have been supplied to other VOD services may only be supplied with a delay (compared to now)³²⁰ or not supplied at all (if made available on BBC iPlayer on an exclusive basis).³²¹

A3.82 This competition concern involves iPlayer 'crowding out' rivals by acquiring inputs that they use (whereas the concern discussed in paragraphs A3.3 to A3.74 on crowding out of commercial rivals) above involves BBC iPlayer 'crowding out' rivals by attracting their audiences). We have thus approached this issue in a slightly different way to the BBC, who

³¹⁸ Frontier Economics also observed that there are regulatory constraints on how the BBC exploits rights (e.g. Ofcom's guidance on the commissioning of television programmes by PSBs and the BBC's Code of Practice for the commissioning of independent producers). It also noted that by foregoing revenues from the exploitation of its IP, the BBC could potentially increase the brand value of BBC iPlayer. Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), pages 78-79 and 84.

³¹⁹ As BVOD services provided by the other PSB broadcasters (i.e. ITV Hub, All 4, STV Player and My5), do not tend to acquire BBC commissioned content license BBC rights, we would not expect the reduction in the availability of BBC commissioned content to negatively affect these platforms.

³²⁰ As a part of its primary licence with independent producers/BBC Studios, the BBC normally has exclusive use of its content for up to 18 months after initial broadcast (i.e. the holdback period). This means that even in the absence of the Proposals, this content would only be available to BBC iPlayer rivals 18 months after broadcast. In practice, independent producers/BBC Studios are able to negotiate with the BBC to reduce the holdback period and release the secondary rights earlier than 18 months after initial broadcast in some cases, particularly when the programme has been partly funded by the producer or other sources (such as in a co-production). Extending the availability of content on BBC iPlayer to 12 months – and longer in some cases – could therefore delay rival VOD providers' and linear channels' access to some content in the secondary rights market (compared to the counterfactual where that content becomes available after 18 months or sooner if a shorter holdback period is negotiated).

³²¹ Our understanding is that the vast majority of returning series, non-returning series and archive series would not be exclusively available on iPlayer after the initial 12-month period. [3<].

focused on whether it had the incentive and ability to disadvantage VOD competitors by restricting their access to BBC-controlled IP.

- A3.83 To assess the impact of this 'crowding out' on SVOD services, we considered:
- a) the importance of this BBC commissioned content to the main SVOD providers;
 - b) the drivers of take-up of SVOD subscriptions;
 - c) the extent to which greater BBC iPlayer viewing under the Proposals diminishes the attractiveness of older content;
 - d) the options available to SVOD providers (e.g. acquiring content from other broadcasters and commissioning their own content); and
 - e) how these changes may affect UK-focused SVOD services such as BritBox.
- A3.84 As BVOD services provided by the other PSB broadcasters (i.e. ITV Hub, All 4, STV Player and My5), do not tend to acquire BBC commissioned content we would not expect the reduction in its availability to negatively affect these platforms. Given that respondents to our First Consultation did not claim that linear channels that acquire BBC commissioned content are likely to be adversely affected, we do not consider them further.

Importance of PSB content to the main SVOD providers

- A3.85 Across the existing three main SVOD services in the UK (Netflix, Amazon Prime Video and Now TV), PSB content accounted for around 4% of total library hours available in Q4 2018. This PSB content share has fallen since early 2016 when it peaked at around 6.6%, despite the number of total PSB hours available growing.³²² This reflects the significant growth in the hours of non-PSB content across the three main UK SVODs (as shown by the rise in the volume of content depicted in Figure A2.1 in Annex 2). Ampere Analytics data also suggests that the number of PSB titles (BBC, Channel 4 and ITV)³²³ across Netflix and Amazon Prime Video has increased over time.³²⁴
- A3.86 Aggregating the viewing time spent on the main SVOD services, 9% of total viewing of content was to PSB content – slightly higher than the share of content, but still a small share of overall viewing.^{325,326} In general, the BBC is the main source of UK PSB content (in terms of hours available) for the main SVOD services in the UK.³²⁷ BBC-commissioned

³²² Ampere Analytics, December 2018. Netflix, Amazon Prime Video and NOW TV combined libraries.

³²³ We are not able to account for Channel 5 titles as the reporting covers the whole Viacom group.

³²⁴ When comparing content libraries in December between 2016 and 2018 the number of titles has increased. However, including Now TV the picture is different; the number of titles in December 2018 is higher than in December 2016 but lower compared to 2017.

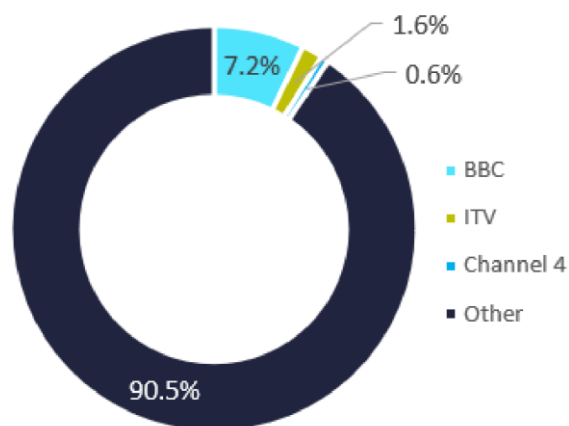
³²⁵ GfK SVOD Tracker, Q3 2018 weighted streamed minutes by respondents. Note: Based on rights holder in the UK, PSB content includes BBC Worldwide, ITV, Channel 4 and Viacom who own Channel 5.

³²⁶ The data showing the share of PSB content as a proportion of total library hours on SVOD platforms is from Ampere Analytics, while the data showing the share of viewing time to PSB content as a proportion of total viewing on SVOD platforms is from the GfK SVOD Tracker.

³²⁷ Ampere Analytics, December 2018. Netflix, Amazon Prime Video and Now TV combined libraries.

content³²⁸ made up the largest share of viewed PSB content on Netflix (see Figure A3.11 below).³²⁹ In contrast to Netflix and Amazon Prime Video, Now TV relies more on ITV content.

Figure A3.11: Content from UK PSBs on Netflix UK (March 2019)



Source: Ampere Analytics

Source: Ampere Analysis, May 2019. [The UK VoD market: Current status and future developments](#), Graph 2.3.1.

A3.87 More recent Ampere Analytics data suggests that in Q1 2019, UK PSB content comprised 7% of TV series on Amazon Prime Video and 9% on Netflix (with the overall volume of UK PSB content on these two platforms accounting for around 3,500 hours).³³⁰ Considering individual distinct titles, UK-produced titles on Netflix UK accounted for around 12% of Netflix’s UK-based overall library of content.³³¹

A3.88 Overall, PSB content accounts for a small proportion of the total of the main SVOD services’ libraries. BBC content tends to be the most common source of PSB content on these platforms. Despite its falling share of total UK SVOD library hours, viewing of UK PSB content has held up over time.³³²

Drivers of take-up of SVOD subscriptions

A3.89 2018 survey evidence from GfK suggests that UK SVOD consumption is largely driven by US TV series and increasingly by original content (where the content is commissioned by the SVOD platform or where the SVOD platform has bought the rights to be the sole distributor).³³³ 40% of Netflix and 20% of Amazon Prime Video users responding to the

³²⁸ BBC-commissioned content in this context refers to both BBC-produced and third-party-produced content commissioned by the BBC.

³²⁹ Ampere Analytics White Paper and GfK SVOD Tracker, Q3 2018.

³³⁰ Ampere Analysis, May 2019. [The UK VoD market: Current status and future developments](#), pages 18-19.

³³¹ Ampere Analytics, December 2018.

³³² GfK SVOD Tracker, Q3 2018 weighted streamed minutes by respondents. Note: Based on rights holder in the UK, PSB content includes BBC Worldwide, ITV, Channel 4 and Viacom who own Channel 5.

³³³ GfK SVOD Tracker, Q3 2018. Original content as labelled by the SVOD platform it is on rather than licensed content from other studios after first being made available elsewhere.

survey said that 'to be able to watch original series made by the provider' influenced their decisions to subscribe, and these scores have increased between Q4 2016 and Q3 2018. Another important factor was 'to watch something different to what is on the main TV' (40% of Netflix, 22% of Amazon Prime Video and 19% of Now TV users).³³⁴ Key individual titles can help drive take-up of SVOD platforms³³⁵ – 45% of respondents that used Amazon Prime Video cited that *The Grand Tour* was one of the reasons why they signed up for the service, while 49% of Now TV users mentioned *Game of Thrones*.^{336/337}

- A3.90 The importance of original content and exclusive US titles is also reflected in viewing data – nine out of the Top 10 programmes on SVOD based on viewing by GfK's SVOD tracker panel in Q3 2018, were US-made and the most viewed PSB-origination (*Love Island*) only ranked 22nd.³³⁸ Furthermore, even though the SVOD original titles account for 10% of all titles,³³⁹ they make up almost a third of all viewing made by GfK's SVOD panel.³⁴⁰
- A3.91 Overall, the survey evidence would suggest that original and exclusive content that is not available elsewhere in the UK is a key driver of take-up and viewing on the three main UK SVOD platforms. This would imply that having access to the additional BBC content may only provide a limited benefit to current SVOD providers, and hence not having access to it is unlikely to significantly affect them.

Impact on the attractiveness of older content

- A3.92 As explained above, the Proposals may make BBC content less attractive to audiences of competing SVOD services (compared to now) since more people have already watched it.³⁴¹ However this is unlikely to result in a fundamental shift in the attractiveness of this content. This is because older content is already less appealing to viewers than more recent content.
- A3.93 Our modelling of BBC iPlayer viewing (see Annex 2) suggests that most VOD viewing tends to take place soon after first broadcast and after three months the additional viewing is limited. Channel 4 also provided information on how the viewing profile of All 4 content tends to vary by genre, but generally most of the content is viewed within 30 days of first broadcast (e.g. 55% of lifestyle content is viewed within 30 days of broadcast compared to 95% of sports content).

³³⁴ GfK SVOD Tracker, Q3 2018, reasons for signing up/using service.

³³⁵ Ofcom, *Media Nations 2018*, page 51, "UK-produced *The Crown* and *The Grand Tour* are among the most-watched programmes on SVOD".

³³⁶ GfK SVOD Tracker data, Base: users of selected SVOD platform who signed up to watch a particular programme (respondents can choose several reasons for signing up).

³³⁷ *Media Nations 2018* provides further examples of individual titles influencing consumers' subscription decisions. The Q1 2018 Top 20 SVOD programmes in the UK included five UK originated titles, out of which four were in the top 10.

³³⁸ GfK SVOD Tracker, Q3 2018, Netflix and Amazon Prime Video.

³³⁹ Ampere Analysis, December 2018.

³⁴⁰ GfK SVOD Tracker, Q3 2018, Netflix, Amazon Prime Video and NOW TV users only.

³⁴¹ There may also be a fall in the value of the secondary rights as a result of the Proposals. We consider this topic further from paragraph 3.100 below.

Alternatives available to the main SVOD providers

- A3.94 In the absence of BBC content, SVOD providers could potentially acquire more content originally commissioned by the other UK or international broadcasters. Alternatively, SVOD providers can commission their own content. Since 2015, the three main SVOD platforms in the UK have increasingly commissioned their own content³⁴² in an effort to be less reliant on licenced content. In December 2018, original content accounted for around 6% of all content hours available on the three UK platforms combined.³⁴³
- A3.95 The viewing share of SVOD original content has also risen.³⁴⁴ In Q3 2018, it made up almost a third of all content viewing across the three main SVOD platforms, up from 15% in Q4 2015.³⁴⁵ However, most of the viewing (around 60%) of the content on the three main UK SVOD platforms remains to licensed content.³⁴⁶ The largest proportion of distinct titles on Netflix and Amazon Prime Video are produced in the US (in December 2018, 46% of titles available on Netflix UK were produced in the US), although the share of this has fallen over time (Netflix library held 64% US produced content in January 2016).³⁴⁷
- A3.96 In summary, we consider that the main SVOD providers have a range of alternatives to BBC commissioned content.

Impact on UK-focused SVOD services such as BritBox

- A3.97 We also considered how the Proposals could affect the entry and sustainability of a UK-focused SVOD service, such as the proposed BritBox service. Such an entrant would likely be more reliant on BBC content than the main existing SVOD services (such as Netflix).
- A3.98 We describe BritBox in paragraphs A3.55 to A3.58 in our sub-section on crowding out commercial rivals above. We understand that BritBox will look to acquire some BBC content after it has been available on BBC iPlayer. However, given the scope of the Proposals, where there is a limit on the amount of content that can be made available on BBC iPlayer [§<] we think the impact on competition is unlikely to be large. As noted above, ITV appears willing to invest in BritBox (alongside the BBC), under the scope of the Proposals, as long as it is able to conclude a formal agreement before the expansion of BBC iPlayer is agreed.

Our provisional conclusion on the potential impact on other VOD providers

- A3.99 We consider that the Proposals are likely to reduce the availability of attractive BBC content to SVOD providers. However, we consider that the adverse impact on fair and effective competition would be unlikely to be large for the following reasons:

³⁴² For example, Netflix reportedly made about 40 productions and co-productions in the UK last year. The Guardian, 2019. [*Netflix close to long-term UK studio space deal at Pinewood.*](#)

³⁴³ Ampere Analytics, December 2018, aggregate: Netflix, Amazon Prime Video and NOW TV combined.

³⁴⁴ This may also include co-productions with the UK PSBs.

³⁴⁵ GfK SVOD Tracker, Q3 2018 and Q4 2015.

³⁴⁶ GfK SVOD Tracker, Q3 2018.

³⁴⁷ Ampere Analytics.

- a) the main SVOD providers use only modest amounts of BBC commissioned content;
- b) BBC commissioned content is not a key driver of subscriptions for the main SVOD providers;
- c) there is unlikely to be a fundamental shift in the attractiveness of older BBC commissioned content that is subsequently shown on the main SVOD services, as a result of more viewers having seen it during a longer BBC iPlayer viewing window;
- d) there are alternative sources of content available to SVOD providers; and
- e) While a UK-focused SVOD service such as BritBox may consider BBC content more important than the main SVOD providers, given the scope of the Proposals we think the impact on fair and effective competition is unlikely to be large.

Harm to UK producers from a reduction in secondary rights prices³⁴⁸

A3.100 In our First Consultation, we outlined a potential concern that allowing the BBC to put more content on BBC iPlayer for longer could reduce the value of secondary rights³⁴⁹ in the UK, as this content has already been widely watched during that first BBC iPlayer window. This might in turn result in producers who rely on these rights becoming less profitable, increasing the risk that they go out of business. However, we did not consider it likely that competition would in practice be harmed.

A3.101 Below we provide an overview of the BBC's assessment, set out stakeholder responses and discuss our assessment. We then set out our provisional conclusions on whether there could be harm to fair and effective competition.

Overview of the BBC's assessment

A3.102 The BBC said that Pact's concerns about the potential impact of the Proposals on content production financing rest on the premise that changes to BBC iPlayer will result in a decrease in the value of programmes in the UK secondary market.³⁵⁰ The BBC suggested that this premise is likely to be unfounded for three reasons.

A3.103 First, the BBC argued³⁵¹ that the potential impacts on programme funding are likely to be limited to a subset of programmes for which UK secondary revenues are an important factor in raising upfront investment in the programme:

³⁴⁸ This is the same issue that we consider under the 'Reduced value of secondary rights' heading in Section 6.

³⁴⁹ Programme rights can be divided into 'primary rights' (those taken by the original commissioner of a programme, such as linear broadcast or BVOD distribution) and 'secondary rights', (other distribution rights not licensed to the original commissioner, which might include merchandising rights or SVOD distribution). Producers are able to exploit secondary rights as a source of revenue.

³⁵⁰ BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraphs 214-221.

³⁵¹ BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 216.

- a) over half of BBC network hours in 2018 that were commissioned from independent producers were fully funded by the BBC³⁵² so the continued funding of these programmes is unlikely to be affected by the proposed changes;
- b) a proportion of programmes that receive third-party investment have not been licensed in the UK secondary TV or SVOD markets, so their funding is not dependent on revenues from UK secondary rights; and
- c) a number of programmes (particularly in drama) fully recoup their upfront investments from international revenues.

A3.104 Frontier Economics also noted that in aggregate secondary rights make up a small proportion of producers' revenues (though this will vary by title and producer). Further, it said that incremental viewing on BBC iPlayer will have a relatively small negative impact on the potential number of viewers of the content on SVOD services.³⁵³

A3.105 Second, the BBC argued that having programmes available for longer on BBC iPlayer would not necessarily reduce the potential to earn commercial revenues in the UK. The BBC pointed to analysis by Frontier Economics³⁵⁴, which modelled the relationship between availability of content on BBC iPlayer and the value of the content in secondary rights markets, based on an analysis of 109 series that were first broadcast by the BBC between 2008 and 2017.³⁵⁵ The BBC suggested this could be because increasing the availability of a programme on BBC iPlayer enables it to have a greater reach than otherwise might have been the case, and argued this analysis suggested that producers are able to achieve higher commercial revenues in the UK when the series is shown on BBC iPlayer for longer.

A3.106 The BBC also argued that: (i) if a programme performs well on the BBC's UK public services (including BBC iPlayer),³⁵⁶ it may make the programme more attractive to buyers overseas; and (ii) making programmes available for longer on BBC iPlayer enables programmers to attract a larger audience, thus leading to a greater chance of a recommission.³⁵⁷

A3.107 Third, the BBC noted that, even if increasing the availability of programmes on BBC iPlayer were to lead to a reduction in future commercial revenues, in a competitive market, a reduction in the value of the secondary window could, all other things being equal, lead to an increase in the price of primary rights.³⁵⁸

³⁵² Fully funded programmes are those where the commissioner (in this case the BBC) covers the full cost of production. This compares to deficit funded programmes where the commissioner only makes a partial contribution to the cost of production, requiring the producer to make up the shortfall or seek alternative sources of funding.

³⁵³ Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), page 91.

³⁵⁴ Frontier Economics found, after allowing for the genre of content, the popularity and quality of the content, and other factors (such as whether it was a new or returning series), that availability of BBC iPlayer had a positive "spillover" impact on the revenues earned in secondary markets. Specifically, Frontier Economics found that longer availability on BBC iPlayer leads to higher cumulative revenue being generated across the UK and the Rest of World (ROW). Frontier Economics noted that, while care should be taken in interpreting the results, this relationship is statistically significant and robust. Frontier Economics, April 2019. [Changes to BBC iPlayer: Competition assessment](#), page 89.

³⁵⁵ BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 219.

³⁵⁶ See Schedule 1 of the Agreement for a list of BBC UK public services. In addition, BBC Scotland launched in 2019.

³⁵⁷ BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 220.

³⁵⁸ BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 221.

Overview of stakeholder responses to our First Consultation

- A3.108 Several organisations with an interest in UK secondary rights argued that extending the BBC iPlayer window will reduce the value of UK secondary rights, and this in turn will reduce the revenue that creative talent and other rightsholders receive.
- A3.109 Pact argued that the Proposals will cause considerable harm to the content production market and commissioned O&O to undertake an impact assessment of the BBC's planned extension of the BBC iPlayer window.³⁵⁹ This involved a survey of Pact's members (UK independent production companies ranging from multinationals to SMEs).³⁶⁰
- A3.110 Pact argued that the extension of the BBC iPlayer window would reduce the value of secondary rights (which may in turn reduce the value of international rights), making it harder for independent producers to complete their production financing and harm their cashflow.³⁶¹ It considered that Frontier Economics' conclusion is contrary to empirical evidence it has gathered from its member companies, who stated that the value (revenues) of the secondary rights would be reduced by the Proposals.³⁶²
- A3.111 Pact said that the BBC's buyer power would enable it to dictate to smaller, independent production companies the tariff for each commission, regardless of any decline in the value of either UK secondary rights or international rights following the Proposals.³⁶³ It concluded that extending the BBC iPlayer window on the same tariff terms would reduce production companies' profit margins, which would stifle innovation and reduce investment in the programme supply market.³⁶⁴
- A3.112 Pact considered that a five-year exclusive window for children's content would foreclose any secondary rights recoupment and would result in fewer companies developing children's IP for potential BBC commissions or lead companies to take their IP directly to other buyers such as SVOD providers.³⁶⁵

³⁵⁹ O&O, Proposed changes to the BBC iPlayer: Supporting Pact's response to Ofcom's call for evidence, A report for Pact, May 2019.

³⁶⁰ [Pact First Consultation response](#), paragraphs 9.35 and 9.41.

³⁶¹ The O&O report also found that the BBC's 12 months minimum window will mean that secondary rights are not available in a timely manner for multichannel companies and SVODs (including for multimarket deals where UK rights are important). Pact also considered that BBC Studios' revenues would fall. See [Pact First Consultation response](#), paragraphs 9.21, 9.23 and 9.35-9.36.

³⁶² See [Pact First Consultation response](#), paragraphs 1.30 and 2.25; and O&O, The impact of the BBC iPlayer proposals on production finance, A report for Pact, April 2019, pages 21-22.

³⁶³ The O&O report did not find that the BBC was offering higher primary commission tariffs to independent producers in return for an extension of the BBC iPlayer window from 30 days to a minimum of 12 months. See [Pact First Consultation response](#), paragraphs 1.18-1.19 and 9.41.

³⁶⁴ Pact considered that reduced access to financing will mean that producers may be forced to produce programmes on small budgets, which will affect the programme's quality and thus how attractive it is in secondary markets. See [Pact First Consultation response](#), paragraphs 1.19 and 9.43-9.44.

³⁶⁵ [Pact First Consultation response](#), paragraphs 9.24-9.34.

- A3.113 It also argued that secondary rights are an important component of production finance³⁶⁶ and that the negative impact on secondary revenues could be large.³⁶⁷ It also argued that the value of primary commissions would not adjust to compensate.³⁶⁸
- A3.114 Other stakeholders called on us to consider the impact on rights and royalty income for other underlying rightsholders (such as writers, directors and performers) as well as several bodies representing those in the music industry (BPI, UK Music, PRS for MUSIC and MCPS). Broadly speaking, most argued that the Proposals could result in their members receiving lower residual and royalty payments, which they regarded as unfair.³⁶⁹ Some implied that the Proposals would harm their industry, such as by resulting in the acting profession becoming the preserve of the independently wealthy (Equity) or endangering the ability of companies to invest in new music artists (BPI).

Our assessment

Our framework for considering this issue

- A3.115 As discussed in Annex 1, in a BCA, we need to consider any adverse effects on fair and effective competition of the proposed change to the BBC's public service activities. However, we do not consider that the issue raised by stakeholders (essentially a claim that the revenue earned by producers or by other underlying rightsholders will fall) necessarily reflects an adverse effect on fair and effective competition. In particular, it does not involve one supplier obtaining an advantage over a competitor:
- a) It does not involve a subsidised BBC service crowding out commercial rivals supplying substitute services;
 - b) It does not involve the BBC favouring its own in-house services or subsidiaries over commercial competitors;³⁷⁰
 - c) It does not involve the BBC limiting the availability of products or services to its competitors; and

³⁶⁶ [Pact First Consultation response](#), paragraph 9.18. This is because: (i) in several important genres, secondary revenues make production viable; (ii) the margins earned on secondary revenues are much higher than primary revenues; (iii) without these revenues, some productions will not be made for the BBC. See O&O report (May 2019), pages 11-12.

³⁶⁷ [Pact First Consultation response](#), paragraphs 9.21-9.22. This is because: (i) the impact on iPlayer consumption cannot be extrapolated from the BBC's trial and there are other uncertainties around the forecast impact; (ii) a small impact on SVOD viewing of this content could motivate decreased investment and uncertainty could exaggerate any negative impact on investment; (iii) UK secondary rights are extremely important to secure global rights deals; and (iv) any benefit from additional promotion on BBC iPlayer will largely be realised by the BBC. See O&O report (May 2019), pages 12-15.

³⁶⁸ [Pact First Consultation response](#), paragraph 2.9. This is because significant buyer leverage still exists in the UK primary commissioning market. Smaller producers and/or those making the most UK orientated content are likely to be the most disadvantaged. See O&O report (May 2019), pages 17-21.

³⁶⁹ Residuals and royalties are payments to either performers, writers or other rightsholders for reuse of any work that is included in a piece of media content (e.g. a song, film, TV programme, radio broadcast). For the reuse of a TV programme outside of its primary window in any form of secondary rights exploitation (e.g. DVDs, streaming on a SVOD service, broadcasts on a different TV channel), additional payments to all such rightsholders may typically be required.

³⁷⁰ In another part of this annex we address the separate concern raised by Pact (amongst others) that the BBC might unfairly favour BBC Studios when commissioning content.

d) It does not involve the BBC supplying important services in an unfair, unreasonable or discriminatory manner which might place some providers at a disadvantage compared with others.³⁷¹

A3.116 Further, we do not believe that the Proposals would *increase* whatever buyer power the BBC may enjoy when dealing with content producers or other underlying rightsholders (and no stakeholder has claimed that this is the case).

A3.117 However, Ofcom does have regard to the BBC's object to fulfil its mission and to promote the public purposes, and we note that this includes supporting the creative economy across the UK. We are also conscious of our own duties in relation to public service broadcasting. Accordingly, in relation to this particular competition concern, the question we have asked ourselves is whether the Proposals are likely to significantly harm the competitive dynamics in the production sector. This might occur, for example, if the Proposals resulted in significant numbers of producers exiting, such that the intensity of competition was subsequently diminished.

Overview of our analysis

A3.118 As explained below, our provisional conclusion is that the Proposals would be unlikely to significantly harm competition in the production sector for the following reasons:

- a) such an impact would require a significant change in overall revenue flowing into the production sector;
- b) there are conflicting influences on the price of secondary rights (although we do not exclude the possibility that the Proposals will reduce their price);
- c) the importance of secondary rights varies across the production sector;
- d) the value of international secondary rights is unlikely to be significantly affected;
- e) rises in primary rights prices are likely to at least partially offset any fall in secondary rights prices; and
- f) producers have other important sources of revenue.

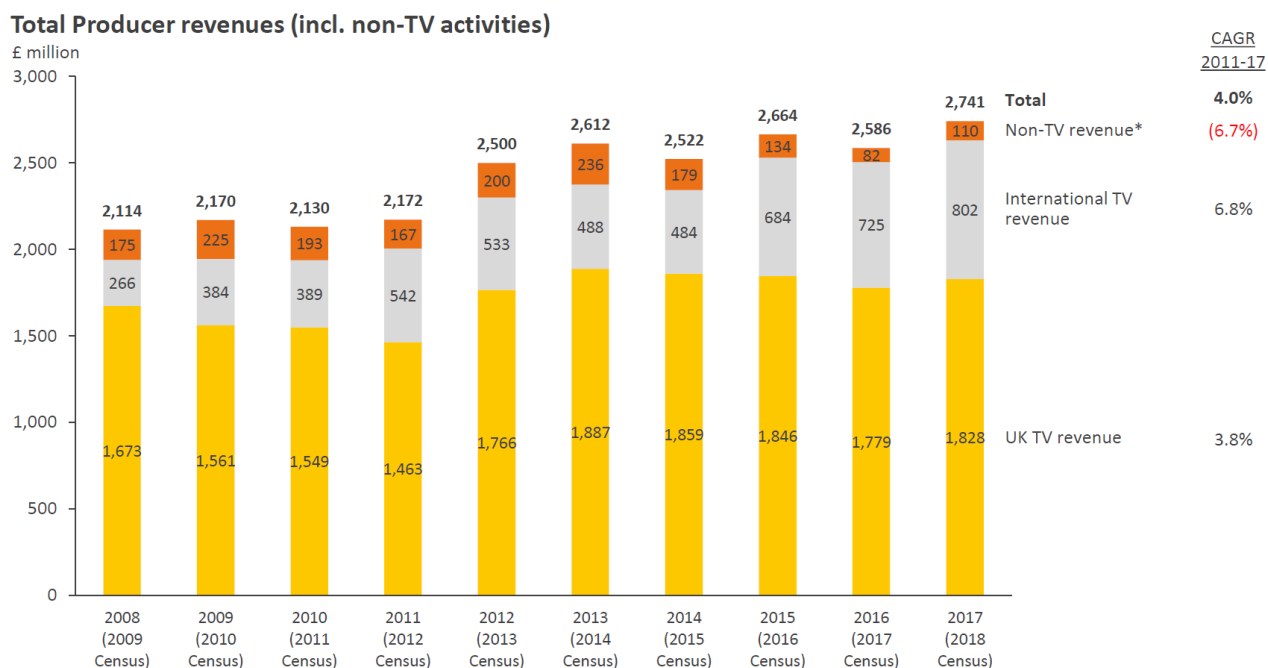
Overall production sector revenue would need to change significantly

A3.119 In order for the Proposals to significantly harm the competitive dynamics in the production sector, we consider that the overall level of revenue flowing into the sector would need to change significantly. A modest change in revenue is unlikely to harm the competitive dynamics in the sector. Indeed, despite recent changes in industry revenue (see Figure A3.12 and Figure A3.13 below), the production sector remains competitive, with the BBC alone commissioning from 328 producers in 2018, up 14% since 2016.³⁷²

³⁷¹ These are all given as examples in our BCA guidance: Ofcom, March 2017. [Assessing the impact of proposed changes to the BBC's public service activities: Ofcom's procedures and guidance](#), paragraphs 3.3-3.12.

³⁷² BBC, 2019. [BBC Commissioning Supply Report 2018](#), page 23.

Figure A3.12: Total producer revenues (including non-TV activities)

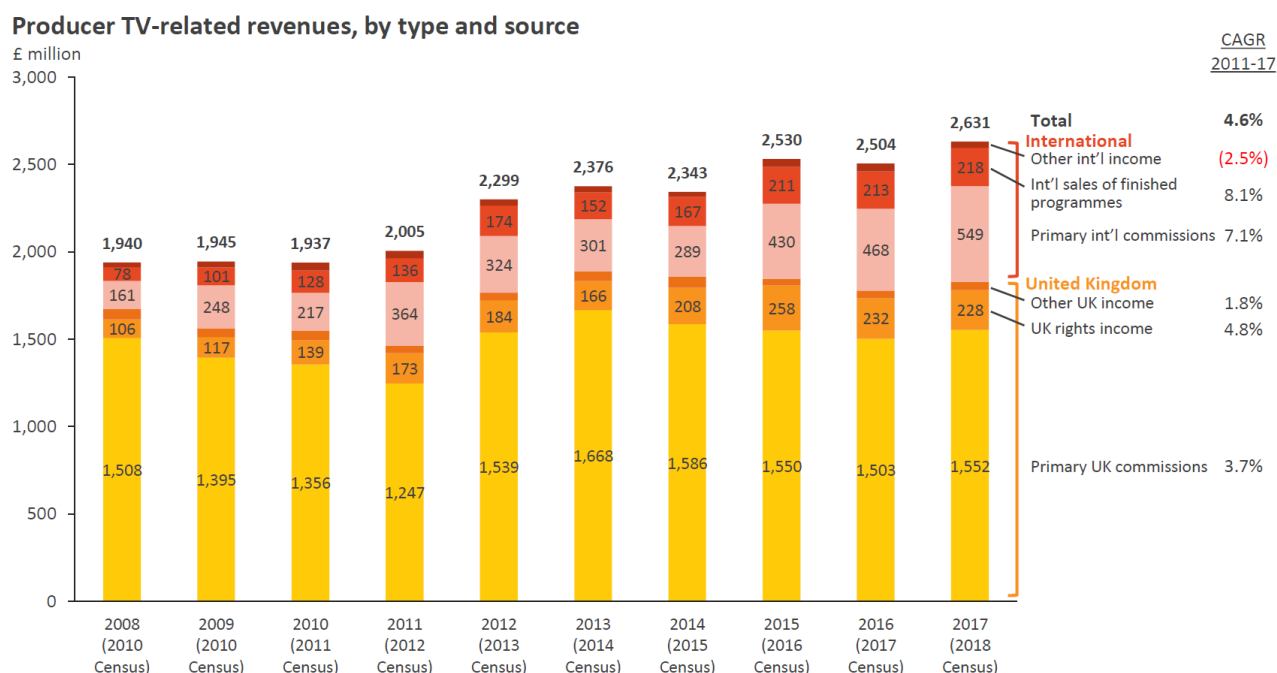


Note: *Non-TV revenue includes corporate production, new media and other non-TV activities such as online publishing, talent management, promotions, public relations and feature films

Source: Pact UK Television Production Census 2018, Oliver & Ohlbaum analysis

Source: [UK Television Production Survey: Financial Census 2018](#), A report by Oliver & Ohlbaum Associates Ltd for Pact, August 2018, slide 9.

Figure A3.13: Producer TV-related revenues, by type and source



Note: 'UK rights income' – UK secondary sales, merchandising, formats, home entertainment etc.; 'Other UK income' – pre-production and other TV-related revenue; 'Other int'l income' – international rights (excluding finished programme sales), pre-production and other TV-related revenue
 Source: Pact UK Television Production Census 2018, Oliver & Ohlbaum analysis

Source: *UK Television Production Survey: Financial Census 2018*, A report by Oliver & Ohlbaum Associates Ltd for Pact, August 2018, slide 10.

Impact on the value of secondary rights

- A3.120 The Proposals may impact the value of secondary rights in different ways.
- A3.121 First, extending the BBC iPlayer window may reduce the attractiveness of some content for secondary exploitation if more viewers watching the programme in the primary window results in fewer potential viewers in the secondary window. We recognise the risk that the extended availability of content in the BBC iPlayer window may erode some of that content’s potential future usage as more viewers see the content. However, we would not expect the value of international secondary rights to be significantly affected by a longer BBC iPlayer window as the availability of international content remains unaffected.
- A3.122 Second, the extended BBC iPlayer window effectively means that there is an additional purchaser of older content. Producers can choose to sell archive content or previous series to BBC iPlayer instead of, or as well as, to existing outlets such as Netflix. This may push up the price of secondary rights for this type of content.
- A3.123 It is not clear which of these two conflicting effects would dominate in practice.
- A3.124 We have considered the BBC’s argument, based on Frontier Economics’ analysis, that producers are able to achieve higher commercial revenues in and outside the UK when series are shown on BBC iPlayer for longer.

A3.125 However, there are limitations associated with Frontier Economics' analysis, some of which it recognised. Overall, we do not consider the analysis is robust enough to conclude that increasing BBC iPlayer availability would increase the value of secondary rights.

- a) Firstly, the sample size is relatively small, as acknowledged by Frontier Economics. It covered 109 series that were first broadcast by the BBC between 2008 and 2017.³⁷³ Given the nature of the sample, it is unclear how representative it is of the full range of series covered by the Proposals. In addition, there may be sample selection effects [redacted].
- b) Secondly, [redacted]. This is different to the extended availability in the Proposals.

A3.126 In summary, there are conflicting influences on the price of secondary rights and it is not clear which effect would dominate.

The importance of secondary rights varies across the production sector

A3.127 Even if the Proposals reduced the price of secondary rights, we accept the BBC's argument that any impact would be focussed on a subset of programmes. As the BBC noted (see paragraph A3.103 above), over half of BBC network hours in 2018 that were commissioned from independent producers were fully funded by the BBC.³⁷⁴ Some programmes are not licensed in the UK secondary TV or SVOD markets. Furthermore, a number of programmes (particularly in drama) fully recoup their upfront investments from international revenues.^{375 376}

A3.128 We recognise that programmes that are viable without secondary rights revenue could still be affected. However, we would consider this to be a smaller concern as it is less likely to influence the production company's decision whether to go ahead with production or not.

A3.129 While secondary rights revenue accounts for a relatively small proportion of total programme financing,³⁷⁷ we accept that these revenues contribute towards making certain types of productions financially viable (e.g. deficit funding of high-end drama).

A3.130 As noted above, Pact argued that children's content producers would be among those most affected by the Proposals. We recognise that children's content is more heavily deficit-funded than some other genres. However:

³⁷³ [redacted]

³⁷⁴ Over 50% of 2018/19 network hours commissioned from independent producers were fully funded by the BBC public service. See BBC responses to Ofcom follow up questions on BBC iPlayer proposals, 13 May 2019.

³⁷⁵ Also, we would not expect the value of international secondary rights to be significantly affected by a longer BBC iPlayer window. That window only affects the extent to which the content is viewed in the UK.

³⁷⁶ [redacted] BBC responses to Ofcom follow up questions on BBC iPlayer proposals, 13 May 2019.

³⁷⁷ Pact noted that, under the current BBC financing structure, primary commission tariffs account for between 20% to 100% of the cost of the programme. [redacted] [Pact First Consultation response](#), paragraph 9.28; and BBC responses to Ofcom follow up questions on BBC iPlayer proposals, 13 May 2019.

- a) under the BBC's Programme Release Policy³⁷⁸, the BBC normally has a five-year exclusive window for children's content, during which programmes are not generally available for exploitation elsewhere.³⁷⁹ Therefore, we consider that the ability of children's producers to exploit their secondary rights would remain broadly unchanged following the Proposals.
- b) it is less clear whether higher viewing of children's content on BBC iPlayer will reduce the price of the secondary rights. Some of the children that watch it during the proposed five-year BBC iPlayer window would anyway have aged past the content, and no longer be interested in it by the time the content became available via other outlets. More generally, children may be more willing than adults to watch content multiple times.

Rises in Primary rights prices are likely to offset any fall in the price of secondary rights

A3.131 In order for a programme to be created in the first place, producers need to expect that it will generate sufficient revenue over its lifetime to cover its costs (including the cost of any debt) and earn a suitable profit. Accordingly, we consider it is likely that any fall in the value of UK secondary rights due to the Proposals would be, at least partially, offset by: (i) a rise in primary rights payments by the commissioning broadcaster; and / or (ii) a rise in other sources of funding (e.g. investment in international rights or a rise in self-funding by the production company).

A3.132 Pact said that given the BBC's buyer power it would be able to dictate the terms of commissioning to independent small producers and extend the BBC iPlayer window regardless of any decline in the value of either UK secondary rights or international rights. However, we consider that if the BBC had buyer power then this should already be reflected in the current tariffs paid by the BBC, and it is not clear how the Proposals would worsen these terms.

Other sources of revenues for producers

A3.133 The BBC is the largest PSB buyer in the UK.³⁸⁰⁻³⁸¹ However producers do have sources of revenue other than the BBC.³⁸² In response to any expected changes in the revenue streams from primary and secondary rights as a result of the Proposals, producers could

³⁷⁸ BBC, 2017. [BBC's Release Policy for Secondary Television and Commercial Video-on-demand Programming in the UK](#), page 2.

³⁷⁹ The BBC's Programme Release Policy does set out that programmes may be available for release in some circumstances after 2 years, with the permission of the relevant Channel Controller. (*ibid*, page 4).

³⁸⁰ The Pact Census of 2018 found that the BBC remains the largest commissioner of original UK content with 50% of PSB commission spending. For children's content, the BBC share of PSB spending rises to 95%. See [Pact First Consultation response](#), paragraph 1.19.

³⁸¹ According to Ofcom's Media Nations 2018, in 2017 the BBC accounted for 47% of PSB network spend on first-run UK originations and 69% of PSB first-run UK-originated network hours. See Ofcom, 2018. [Media Nations 2018](#), Figures 24 and 32.

³⁸² According to the 2018 Pact Census, in 2017 the BBC spent £453 million on commissioning new content (equivalent to 29% of all UK primary commissioning revenues to producers from broadcasters, while ITV accounted for 23%, Channel 4 for 23%, Channel 5 for 9% and other UK broadcasters for 17%). See Pact, 2018. [UK Television Production Survey, Financial Census 2018](#), slides 17 and 19.

react by seeking commissions from: (i) commercial PSBs and other broadcasters (although we recognise the choice of alternative PSB buyers may be limited for a given project or genre); and/or (ii) from global SVOD providers.

Impact on other creative industries

A3.134 In addition, we note that owners of underlying rights in the wider creative industry (e.g. directors, actors and owners of music copyright) claimed they could receive lower residual and royalty payments as a result of the Proposals. In responses to our First Consultation, some rightsholders implied that creators of content could leave their profession, due to the overall reduction in rights income (thereby also affecting the nature of the content produced). However, we have not yet seen any evidence to suggest that the likely reduction in revenue from BBC content would be sufficient for this to occur and why revenue from alternative sources would be unable to prevent this. For these reasons, we have insufficient evidence to support the conclusion that the Proposals would have a detrimental impact on fair and effective competition in the wider creative industries.

Our provisional conclusion on the impact of the Proposals on the production sector and other creative industries

A3.135 For the reasons described above, we have provisionally concluded that the Proposals are unlikely to significantly harm the competitive dynamics in the production sector or in the wider creative industries. While we do not rule out an impact on the price of secondary rights, there are likely to be offsetting effects. In any event, a modest change in the revenues flowing into the production sector is unlikely to significantly change its competitive intensity.

The BBC unfairly favouring BBC Studios when commissioning content³⁸³

A3.136 In our First Consultation, we considered whether, as a result of the Proposals, the BBC might favour BBC Studios when making commissioning decisions (e.g. the BBC may consider it easier to secure the extended availability of content to go on BBC iPlayer from BBC Studios, whereas external producers may resist). If the BBC did so unfairly, we said this could reduce the potential range and diversity of ideas from external producers and adversely affect competition. However, we considered that existing regulation already addresses this concern and we therefore said we did not propose to investigate it any further.

Overview of the BBC's assessment

A3.137 The BBC did not directly consider whether extending the availability of content on BBC iPlayer might change its commissioning decisions. It argued that the Proposals are unlikely

³⁸³ This is the same issue that we consider under the 'Unfairly favour BBC Studios' heading in Section 6.

to affect its incentives to commission the best quality content from independent producers to fulfil its mission and public purposes or the range of content that it currently commissions.³⁸⁴ The Frontier Economics report did not consider this.

Overview of stakeholder responses to our First Consultation

- A3.138 Sky asserted that it is self-evident that the Proposals will increase the BBC's incentives to favour BBC Studios when making commissioning decisions, in order to give it greater control over distribution rights and to reduce costs.³⁸⁵ It added that Ofcom should consider this concern as part of this BCA and should not just rely on ex post regulation.
- A3.139 Pact also considered that we should assess the ability of the BBC to unfairly favour BBC Studios as part of this BCA. It argued that the advertising income that BBC Studios will obtain from its merger with UKTV, will put it in a financial position to accept the reduced secondary rights revenues from new commissions with a 12-month minimum exclusive BBC iPlayer window. However, it argued that smaller production companies would be unable to accept such terms, and as a result they would not be able to compete for BBC commissions.³⁸⁶

Our assessment

- A3.140 We have considered the responses from stakeholders and did not receive any evidence to suggest that the Proposals would raise novel issues in relation to BBC commissioning.
- A3.141 The risk that the BBC may have an incentive to favour BBC Studios' production arm is already reflected in the existing regulatory framework.³⁸⁷ In relation to commissioning, the BBC is required under the Agreement to ensure there is genuine competition between BBC and external producers on a fair, reasonable, non-discriminatory and transparent (FRNDT) basis for the right to make relevant TV programmes and to evaluate any such bids on a FRNDT basis.³⁸⁸ We have published guidance setting out the factors we would consider in assessing the BBC's compliance with these requirements.³⁸⁹
- A3.142 We have also imposed commercial trading and separation requirements on the BBC aimed at addressing competition concerns that could arise from the relationship between the BBC Public Service and its commercial subsidiaries and to ensure that its subsidiaries do not, as a result of their relationship with the BBC Public Service, distort the market or gain an unfair competitive advantage.³⁹⁰

³⁸⁴ BBC, April 2019. [BBC iPlayer Public Interest Test](#), paragraph 212.

³⁸⁵ [Sky First Consultation response](#), page 11.

³⁸⁶ [Pact First Consultation response](#), paragraphs 9.5-9.6.

³⁸⁷ We considered several incentives for the BBC to favour its own producers, or particular external producers in our consultation on [Commissioning for the BBC Public Services](#).

³⁸⁸ [BBC Framework Agreement](#), Schedule 3, paragraph 7(2).

³⁸⁹ Ofcom, February. [Commissioning for the BBC Public Service: A Statement of Ofcom's approach to assessing the BBC's compliance with its requirements](#).

³⁹⁰ Ofcom, February 2019. [The BBC's commercial and trading activities: Ofcom's requirements and guidance](#).

- A3.143 We consider that these measures provide appropriate ways to address any concerns that could arise in this area (including in relation to the cross-subsidy of production activities by other parts of BBC Studios and any increase in the BBC's incentives to commission from BBC Studios). We will continue to monitor these areas and if we identify compliance issues we would take these forward through enforcement processes.
- A3.144 Overall, our view is that existing regulation should be able to address any concerns, if they were to arise. We therefore basis we conclude that there are sufficient protections to prevent the Proposals from adversely affecting fair and effective competition in relation to commissioning.

The BBC restricting platforms' access to BBC iPlayer³⁹¹

- A3.145 In our First Consultation, we considered whether there was a risk that, as a result of the Proposals, the BBC might restrict access to BBC iPlayer on other platforms and/or refuse to create bespoke arrangements. This could place other platforms at a disadvantage or distort overall competition, reducing choice for audiences. We said we considered that existing regulation already addresses this concern and we proposed to not investigate it any further.

Overview of the BBC's assessment

- A3.146 The BBC considered that the Proposals did not contravene the BBC's Distribution Policy or imply additional restrictions on the availability of the UK Public Services, including BBC iPlayer. It also said that BBC iPlayer is widely available.³⁹² The BBC argued that it will continue to seek to distribute the UK Public Services in full to any platform that meets the conditions of its Distribution Policy. Frontier Economics did not explicitly consider the distribution of BBC iPlayer to platforms.

Overview of stakeholder responses to our First Consultation

- A3.147 Sky suggested that due to the Proposals, the BBC has an increased incentive to favour its own 'standard' BBC iPlayer app over any bespoke solutions it currently provides to other platforms (namely Sky's integrated PDL service).³⁹³ Sky added that, given the BBC is seeking to make BBC iPlayer a "*destination in its own right*", there is material risk that the Proposals will reduce the BBC's incentives to make its content available outside of its own BBC iPlayer app. Sky considered that the Proposals could exacerbate the pre-existing issues it has experienced with securing access to BBC iPlayer content and functionality across all of Sky's platforms. For example, it noted that the BBC has refused to allow Sky to include its catch-up content on its Sky Go and Sky Q apps, or to distribute UHD versions of the FA Cup final and Wimbledon tennis finals via satellite.

³⁹¹ This is the same issue that we consider under the 'Distribution of BBC iPlayer' heading in Section 6.

³⁹² BBC, April 2019. [BBC iPlayer Public Interest Test](#), page 83.

³⁹³ [Sky First Consultation response](#), pages 3 and 10-11.

A3.148 Sky argued that any Ofcom approval of the Proposals should be conditional on the BBC allowing platforms such as Sky's access to the expanded catalogue of content and enhanced functionality. It also argued that Ofcom should not rely on subsequent regulatory procedures to redress this issue.

Our assessment

A3.149 The BBC currently makes a 'standard' version of BBC iPlayer widely available. If the disparity between what is available on the standard BBC iPlayer app and what is available on bespoke services (such as Sky's integrated service) were to widen, then this could potentially affect competition. However, this would depend on the specific facts and circumstances (e.g. the level and extent of content and functionality withheld etc).

A3.150 We consider that the existing distribution framework is the appropriate way of addressing potential competition concerns arising from any existing disparities. The BBC has specific obligations under the Agreement to ensure its services, and elements of its services, are widely available.³⁹⁴ It must also observe the requirement in the Operating Framework for it to offer services to third parties in response to reasonable requests for supply (unless it has an objective justification for not doing so) and to do so in a way that is fair, reasonable and non-discriminatory.³⁹⁵

A3.151 We therefore do not consider that the Proposals are likely in themselves to adversely affect fair and effective competition in relation to platforms' access to BBC iPlayer, but we do agree it is important that the existing distribution framework continues to work well.

³⁹⁴ The BBC is required under clause 61 of the [BBC Framework Agreement](#) to act on a fair, reasonable and non-discriminatory basis in supplying its public services (including BBC iPlayer).

³⁹⁵ Ofcom, March 2017. [Distribution of BBC public services: Ofcom's requirements and guidance](#).

A4. Consultation questions

A4.1 We are seeking stakeholder views on our provisional conclusions regarding the Proposals. Our provisional conclusions are set out in Section 7, and our reasoning for these conclusions is discussed throughout this consultation.

Question 3.1: Do you have any comments or other views on the sector developments and likely future developments we describe in Section 3?

Question 4.1: Do you agree with our estimate of the likely increase in BBC iPlayer viewing as a result of the Proposals? Please provide evidence to support your views.

Question 4.2: Do you agree with our estimate of how the viewing of other services is likely to be affected by the Proposals? Please provide evidence to support your views.

Question 5.1: Do you agree with the findings from our review of the BBC's assessment of the public value of the Proposals? Please provide evidence to support your views.

Question 6.1: Do you agree with our assessment of the likely impact of the Proposals on fair and effective competition? Please provide evidence to support your views.

Question 7.1: Do you agree with our provisional conclusion that the public value associated with the BBC's iPlayer proposals justifies the adverse impact on fair and effective competition we have identified? Please provide evidence to support your views.

Question 7.2: Do you agree with our provisional conclusions on the conditions and guidance that should apply to the BBC? Please provide evidence to support your views.

A5. Responding to this consultation

Delete these annexes if your document is not a consultation

How to respond

- A5.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 10 July.
- A5.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/proposed-changes-bbc-iplayer>. You can return this by email or post to the address provided in the response form.
- A5.3 If your response is a large file, or has supporting charts, tables or other data, please email it to BBCiplayerbca@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>). This email address is for this consultation only, and will not be valid after 1st August 2019.
- A5.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Samuel Westwood
Content Policy
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A5.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
 - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A5.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A5.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A5.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.

- A5.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A5.10 If you want to discuss the issues and questions raised in this consultation, please contact Samuel Westwood by email to Samuel.Westwood@ofcom.org.uk

Confidentiality

- A5.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on our website, www.ofcom.org.uk, as soon as we receive them.
- A5.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A5.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A5.14 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

Next steps

- A5.15 Following this consultation period, Ofcom plans to publish a statement by August 2019.
- A5.16 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

Ofcom's consultation processes

- A5.17 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 6.
- A5.18 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A5.19 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Email: corporationsecretary@ofcom.org.uk

A6. Ofcom's consultation principles

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

Before the consultation

- A6.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A6.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A6.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A6.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A6.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A6.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A6.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A7. Consultation coversheet

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? _____

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)