
Ofcom's annual report on the BBC: 2020-21

Annex 1: Compliance with regulatory requirements

Introduction and summary

- A1.1 This annex sets out our assessment of the BBC's compliance with the specified requirements set out in Clause 59 of the [Framework Agreement](#) (the Agreement). The specified requirements include the conditions and obligations found in:
- the [Operating Licence](#): which sets out the regulatory conditions that Ofcom considers appropriate for requiring the BBC to:
 - fulfill its Mission and promote the Public Purposes;
 - secure the provision of distinctive output and services; and
 - secure that all audiences in England, Scotland, Wales and Northern Ireland are well served.
 - Schedule 3 of the Agreement: which includes obligations relating to the BBC's commissioning activity, as well as other matters.
 - the [Operating Framework](#): which contains the provisions Ofcom considers appropriate to secure the effective regulation of the activities of the BBC as set out in the [Royal Charter](#) (the Charter) and Agreement.
 - other specified requirements: which include the information requirements in Article 47 of the Charter and clauses relating to complaints.
- A1.2 Our overall assessment is that in the 2020-21 reporting period, the BBC complied with the Operating Licence with the exception of 17 conditions. The BBC has provided Ofcom with detailed information explaining how Covid-19 impacted its ability to meet 15 of these conditions, including the mitigations it put in place to limit the impact of the non-compliance and to continue to meet its Mission and Public Purposes. After assessing this information, we are satisfied that the non-compliance for these 15 conditions was directly related to the exceptional circumstances of Covid-19 and we have decided not to take enforcement action against the BBC in relation to these conditions.
- A1.3 There were two additional conditions where we consider the BBC has not fully complied with its obligations. The first relates to a technical breach of its obligation to provide news each day on CBBC and the second relates to reporting annually to Ofcom on the extent to which it has made progress towards meeting its on-air representations and/or portrayal targets.
- A1.4 In relation to the other specified requirements, we have not found any instances of non-compliance. We note that our review of how the BBC has implemented its trading and separation requirements and guidance (BBC Studios review) is ongoing and we will set out our findings of this review in December 2021.
- A1.5 We set out further details of our assessment, and the information relied on, in the rest of this annex.

Information relied on in assessing compliance

- A1.6 Ofcom has the power under Article 47 of the Charter to require the BBC to provide information for the purpose of enabling Ofcom to carry out its functions. We sent the BBC an Article 47 information request on 14 July 2021 (14 July Notice) which required the BBC to provide information that we considered necessary to enable us to assess the BBC's compliance with the specified requirements.
- A1.7 The 14 July Notice requested information that would help determine whether the BBC met the obligations in the Operating Licence, Schedule 3 of the Agreement and the Operating Framework. This included requesting information that set out how the BBC had assessed its own compliance with the obligations.
- A1.8 Alongside the BBC's response to the 14 July Notice, we also relied on the following information in assessing the BBC's compliance with the specified requirements:
- The BBC's own review of its compliance in its Annual Report and Accounts 2020-21.
 - The information provided by the BBC in response to an Article 47 information notice of 26 January 2021 regarding its Public Service Broadcasting and Made Outside London activities.
 - Information provided by the BBC regarding the effects of Covid-19 on compliance.
 - Complaints and representations made to us between 1 April 2020 and 31 March 2021.
 - Our own analysis and assessment of publicly available information.
 - Information obtained as part of our regular and day to day engagement with the BBC.

Operating Licence conditions

- A1.9 This section outlines our assessment of the BBC's compliance with its Operating Licence conditions between 1 April 2020 and 31 March 2021. Any conditions set for the calendar year have been measured across the 2020 calendar year.

Our assessment of compliance with the Operating Licence conditions

- A1.10 In last year's compliance annex, we noted that the pandemic was likely to have a significant impact on the BBC's ability to comply with its regulatory requirements in the next reporting period and we committed to working with the BBC to understand the scale of the impact and the extent to which it will be able to fulfil the quotas and conditions.
- A1.11 As part of our dialogue with the BBC, where it failed to meet any of the Operating Licence conditions as a direct result of Covid-19, we asked it to provide us with detailed information as follows:
- The scale of the breach;
 - The specific reasons why the pandemic resulted in the breach of that condition;
 - What actions it had taken to meet the objective of the condition in another way and to minimise the impact on audiences; and
 - How it continued to deliver the Mission and Public Purposes.

Annex 1: Compliance with regulatory requirements

- A1.12 On 22 April 2021, the BBC wrote to Ofcom, explaining that it had failed to comply with 15 of its Operating Licence conditions and it set out the detailed information we had requested about why the non-compliance with each of these conditions was because of Covid-19. We note this was a small improvement on the situation the BBC presented to Ofcom in September 2020 where it had identified 18 Operating Licence conditions that it was not going to meet or was at risk of not meeting for 2020-21.
- A1.13 Following our assessment of the information provided by the BBC we are satisfied that non-compliance with these 15 Operating Licence conditions was due to the exceptional circumstances of Covid-19. We are also satisfied that the BBC took appropriate steps to mitigate the impact of the non-compliance where possible and to continue to meet its Mission and Public Purposes. We are therefore not taking any further action in relation to the failure to comply with these conditions. The effect of Covid-19 could continue into the next reporting period which covers April 2021 to March 2022. We will engage with the BBC regarding any impact on its compliance.
- A1.14 In the section immediately below, we set out the 15 Operating Licence conditions that the BBC has failed to meet as a direct result of Covid-19 and what it actually achieved. We also include short summaries of the information provided by the BBC which set out its reasons for the non-compliance and the mitigating actions it took in response to the pandemic.
- A1.15 In relation to the remaining Operating Licence conditions, based on the information provided by the BBC and our assessment of other available information, our assessment is that the BBC has complied with all but two of these Operating Licence conditions.
- A1.16 The first of these relates to condition 2.6.1 which requires the BBC to show news each day on CBBC. We note that the BBC makes seasonal changes to its CBBC schedule at Christmas which means that *Newsround* is not broadcast for approximately two weeks, although the BBC continues to update children on all the latest news daily via the Newsround website. While this would technically mean the BBC is non-compliant with condition 2.6.1 for those two weeks, we note the BBC's approach is consistent with other news conditions for which the Operating Licence allows such variations. As we consider the variations to the CBBC schedule are reasonable, we will not be taking any further action and are currently considering whether a licence variation to reflect these seasonal variations is appropriate.
- A1.17 The second of these relates to condition 2.43 which places an obligation on the BBC to report annually to Ofcom on the extent to which it has made progress towards meeting its on-screen and on-air representations and/or portrayal targets. We note that the BBC has reported to us on progress towards meeting its on-screen (TV) portrayal targets, but not its on-air (radio) targets. This means the BBC has not fully complied with condition 2.43. The BBC has told us that it was not able to implement the data-gathering approach initially envisaged, and subsequently failed to find an alternative way to measure on-air (radio) portrayal. Although there is evidence included in *The 50:50 Impact Report* and the BBC Annual Report and Accounts that the BBC is working to increase on-air representation, this information is not a substitute for the metrics required to judge whether the BBC has met its voluntary on-air (radio) portrayal targets. We will not be taking any further action at this time, but expect the BBC to provide us with detailed information on how it will measure

and report on its delivery against its on-air target for the time this metric remains in place and will closely monitor all future reporting of this data.

A1.18 We also set out in more detail in paragraphs A1.28 to A1.31, visual examples of some of the conditions where the BBC has met or exceeded the requirements.

Non-compliance due to the impact of Covid-19 in 2020-21

A1.19 There were three Operating Licence conditions relating to news and current affairs radio output that the BBC failed to comply with:

Conditions 2.8.1 and 2.9.1: Daytime news on Radio 1 and 1Xtra each weekday

Figure A1.1

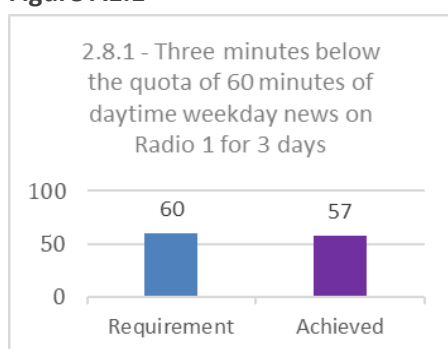
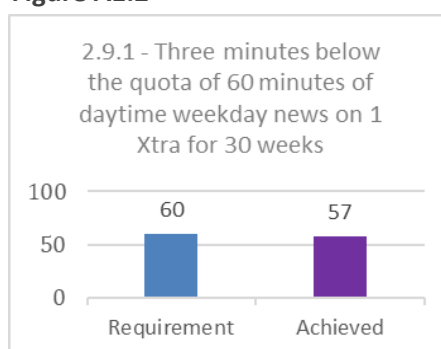


Figure A1.2



Condition 2.15: In each week at least 24 hours are allocated to news and current affairs on BBC Asian Network (graphs show hours and minutes achieved)

Figure A1.3



Figure A1.4

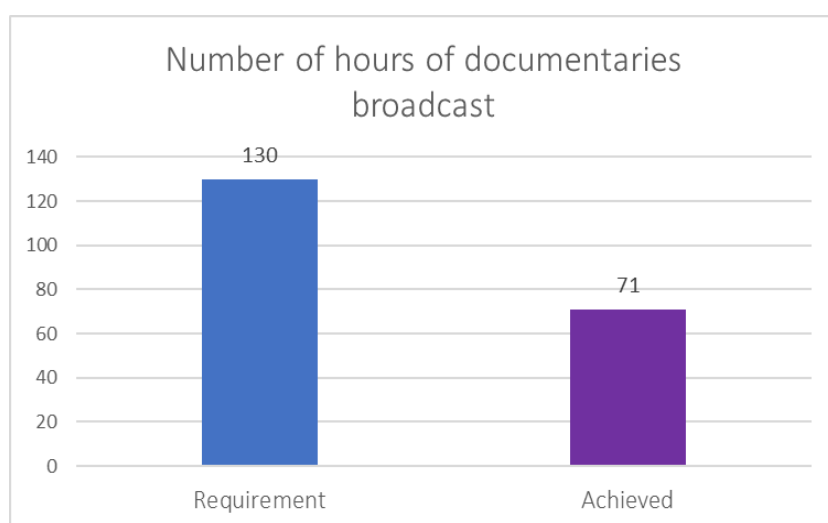


Reason: Specifically, the non-compliance occurred because of the impact of Covid-19 on staffing such as illness and restrictions on staffing numbers due to social distancing rules.

BBC mitigating actions: No mitigating actions were taken in relation to Radio 1 and 1Xtra due to the relatively minor scale of the non-compliance. In relation to BBC Asian Network, the BBC maintained its two key debate programmes, ensured continuity of news provision by simulcasting Newsbeat with Radio 1 and 1Xtra and extended the Big Debate slot.

A1.20 The BBC did not comply with one Operating Licence condition regarding documentaries:
Condition 2.27.2 – Documentaries on Radio 2

Figure A1.5



Reason: The impact of Covid-19 was felt across programme making, affecting production teams and talent. Access and travel restrictions impacted projects to an unprecedented degree. As an example, a planned documentary had to be cancelled as the artist became subject to Covid-19 related lockdown measures in the USA. Planned documentaries to accompany major live events (encompassing music, cultural and sport) also had to be postponed.

BBC mitigating actions: Radio 2 procured content when it could, but this was only possible on a smaller scale than necessary to meet the condition. To make up for the shortfall it scheduled repeat documentaries to serve all of the Radio 2 audience. Overall, it broadcast more than 130 hours of content including repeats.

A1.21 The BBC failed to comply with two music conditions:

Conditions 2.28.2 and 2.39.4: Live or specially recorded performances on Radio 3 and new sessions on Radio 1

Figure A1.6

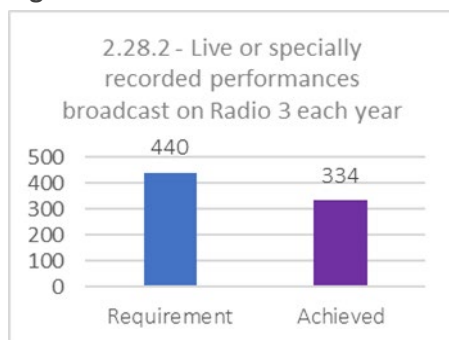
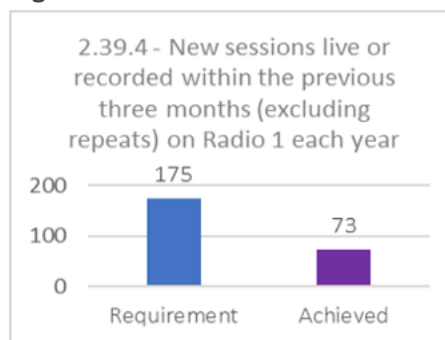


Figure A1.7



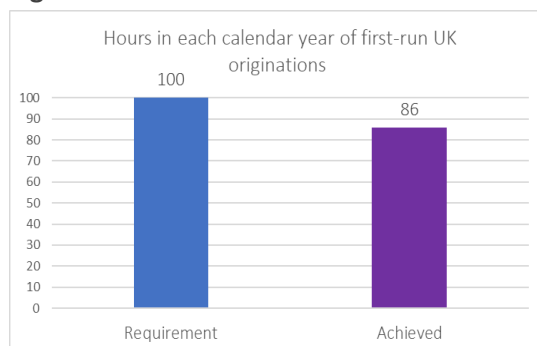
Reason: The BBC’s recording studios at Maida Vale and New Broadcasting House, where the vast majority of live sessions are broadcast or recorded, were shut due to social distancing rules and ventilation issues.

BBC mitigating actions: The BBC was able to broadcast 73 new sessions on Radio 1 due to artists recording at home or in other venues, such as Miley Cyrus recorded in Los Angeles. The BBC made use of archive material such as participating in its virtual Glastonbury in June and by mixing new and classic Live Lounge performances in September so that live music continued to have a high profile on Radio 1. For Radio 3, it ran repeats of concerts that had previously been specially recorded and broadcast live sessions when possible between lockdowns.

A1.22 The BBC failed to comply with one Operating Licence condition affecting originations for preschool children:

Condition 2.36: First-run UK originations for pre-school children on CBeebies and BBC iPlayer

Figure A1.8¹



¹ The figure of 86 is different from that of 82 published in the BBC’s Annual Report and Accounts as it has been updated since publication.

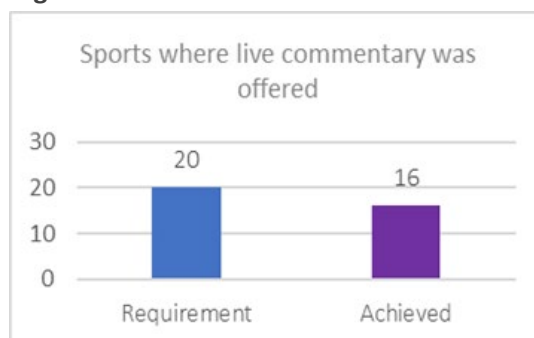
Reason: At the start of the pandemic nearly all TV production for CBBC and CBeebies was suspended for several months due to concerns around being able to produce programmes safely, especially as so many programmes featured child contributors and child audiences.

BBC mitigating actions: It managed the gaps in the planned schedule via some special Covid-19 commissions to provide new and original material for young children which reflected the new Covid-19 circumstances such as Mr Maker at Home and My Celebrity Supply Teacher. It also increased repeats of existing content.

A1.23 The BBC was non-compliant with one Operating Licence condition on live sport commentary:

Condition 2.41: Live sport commentary offered on BBC Radio 5 live

Figure A1.9



Reason: The sporting schedule suffered huge disruption due to Covid-19. For example, international sports which the BBC planned on providing live commentary for, such as The Olympics and Women’s Rugby World Cup and Six Nations, could not go ahead and limited the opportunities to provide live commentary.

BBC mitigating actions: The BBC took a number of steps to provide sports coverage to audiences including airing repeats of the coverage of well-known cricket test matches and the 2019 Cricket World Cup final, bringing back the 606 phone-in during lockdown so listeners could still talk about sport and broadcasting a range of sports programmes such as The Guest List and A Question of Sport as a radio programme.

A1.24 The BBC failed to comply with three Operating Licence conditions relating to expenditure in the nations and regions:

Conditions 2.53.3, 2.56.2 and 2.60.3: Network Programmes expenditure in the regions

Figure A1.10

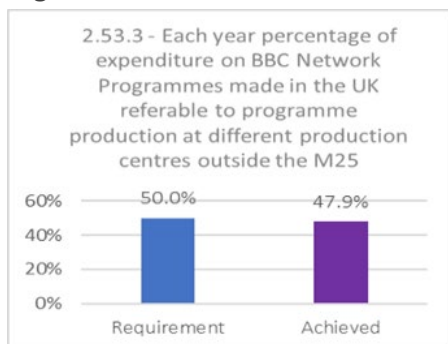


Figure A1.11

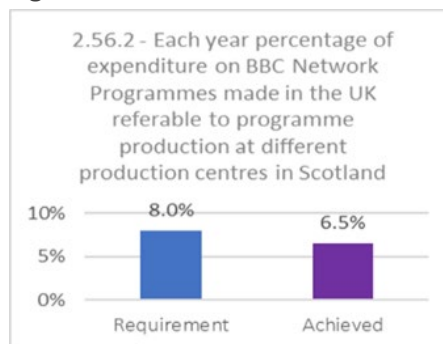
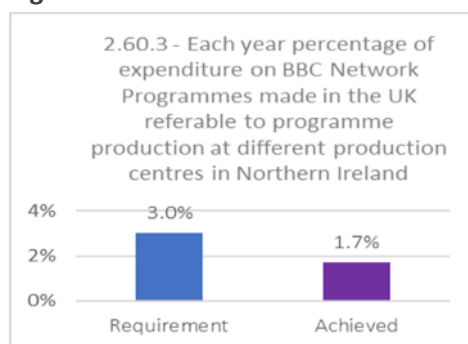


Figure A1.12



Reason: There was reduced spend on programming across all the UK nations and all genres as the BBC could not make or commission, or had to postpone, some programmes due to the impact of Covid-19. The impact of this on expenditure was different for each region and nation. Often this was due to the mix of the production and programme delivery profile such as having live sporting events cancelled or postponed to 2021, the production of certain programmes being scheduled for the latter part of 2020 and in the case of Northern Ireland, increased travel restrictions.

BBC mitigating actions: It broadcast repeats on its channels and programming on BBC iPlayer which it considered portrayed the relevant region or nation. It also commissioned new shows deliverable in Covid-safe conditions to support regional based companies in Scotland and Northern Ireland. It put in place a number of initiatives to support the creative sector such as helping smaller and out-of-London companies get back up and running and covering Covid-19-related costs of production. It also supported 96 companies through its [Small Indie Fund](#), two thirds of which were based in the nations and regions.

A1.25 There were three Operating Licence conditions relating to hours of national and regional programming which the BBC failed to comply with:

Conditions 2.67.2, 2.67.6 and 2.87: Hours of national and regional programming

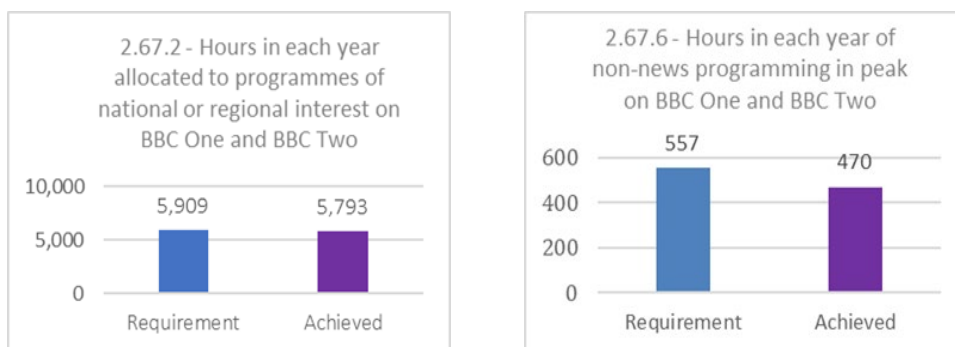


Figure A1.15



Reason: Much of the overall shortfall to programmes of national or regional interest was due to the temporary suspension of regional breakfast news bulletins in each nation at the outset of the pandemic and the reduction of programming in peak viewing periods driven by required staffing changes to implement social distancing. For instance, in England, social distancing rules prevented the production of the autumn run of *Inside Out*. Production in Scotland, Northern Ireland and Wales all faced similar issues with filming needing to be suspended for a number of productions and there was a temporary suspension at the start of the pandemic of BBC Two Northern Ireland and BBC Two Wales to prioritise the respective BBC One channels. Further, live sports and events such as the Edinburgh Tattoo were cancelled.

BBC mitigating actions: The steps the BBC took in relation to regional news were taken to ensure its newsrooms remained operational and it was able to continue providing most of its news output. In relation to non-news programmes, it broadcast repeats that it considered fulfilled a public purpose and which suited audience needs and moods. Where possible, it quickly commissioned programmes such as *Socially Distanced* with Susan Calman and *Shelf Isolation*.

A1.26 The BBC did not comply with one scheduling Operating Licence condition:

Condition 2.81: Live news programmes on BBC Alba

Figure A1.16



Condition 2.81: BBC Alba must include live news programmes each weekday evening, including during Peak Viewing Time, and a longer news review at the weekends

Reason: Programming was affected by restrictions on staffing numbers due to social distancing requirements and Gaelic News lost a significant number of staff for Covid reasons. This impacted on BBC Alba's ability to maintain its weekend news review, Seachd Ià. The programme was off-air for 22 weeks.

BBC mitigating actions: It took steps to maintain its Gaelic output as much as possible, including removing the review programme rather than taking originations off air, while increasing the number of archive religious programmes and broadcasting two hours of originations (Alleluia) in that slot.

Other conditions

A1.27 The graphs and infographics below illustrate a selection of the remaining licence conditions which the BBC met or exceeded this year. The BBC has set out in full its performance against all the conditions on pages 126 to 133 of its [Annual Report and Accounts 2020-21](#). As part of the 14 July Notice, to check the basis of the BBC's reporting in the Annual Report and Accounts, we obtained information from the BBC that set out how it reported its performance against all the conditions.

Public Purpose 1: to provide impartial news and information

A1.28 The BBC met or exceeded its obligations to provide impartial and accurate global and local news and current affairs for all parts of the UK.

Figure A1.17

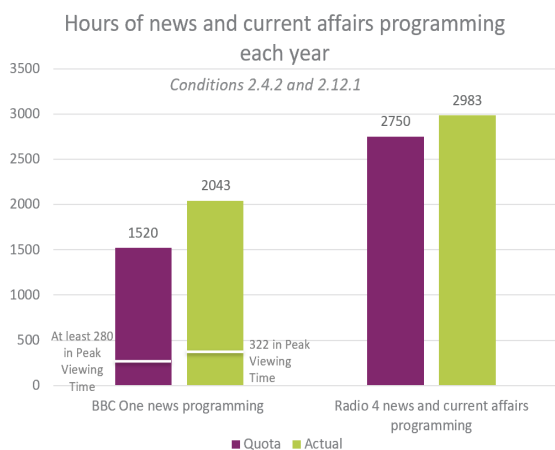


Figure A1.18²

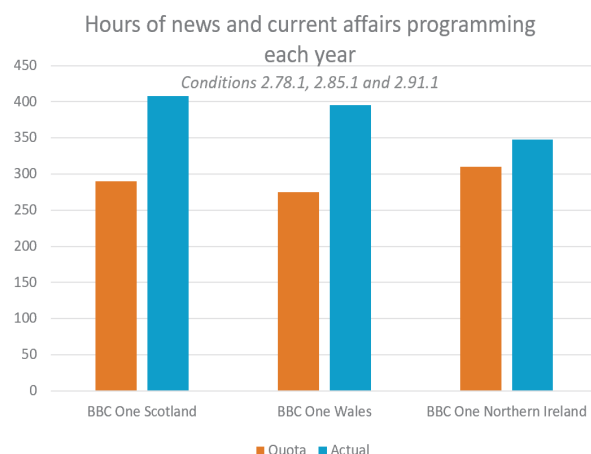


Figure A1.19

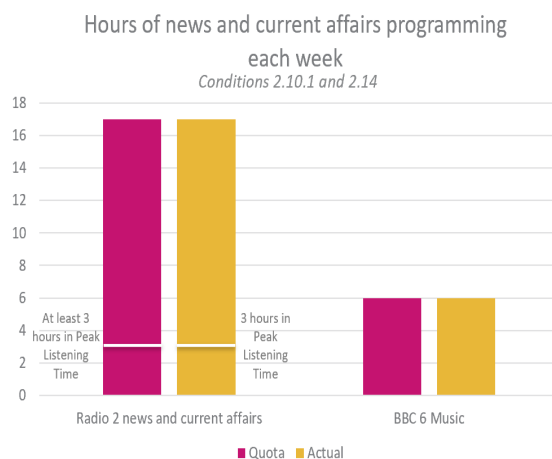
BBC News...

...provided more international news than other UK news channels

...provided more local/regional news than other UK news channels

*Condition 2.7.1: The BBC News channel must include more international news than other main continuous news channel in the UK.
Conditions 2.7.2 The BBC News channel must include more local/regional news than other main continuous news channels in the UK.*

Figure A1.20



² Conditions 2.78.1, 2.85.1 and 2.91.1 fall under Public Purpose 4 in the Operating Licence, however, we have included them here as they also relate to news and current affairs programming.

Public Purpose 2: to support learning for people of all ages

A1.29 The BBC met or exceeded its obligations to provide: religious, arts and music programming on BBC One, BBC Two and BBC Four; drama and factual programming on CBBC; documentaries on Radio 1, Radio 1Xtra and Radio 3; and online content to support children with their learning.

Figure A1.21

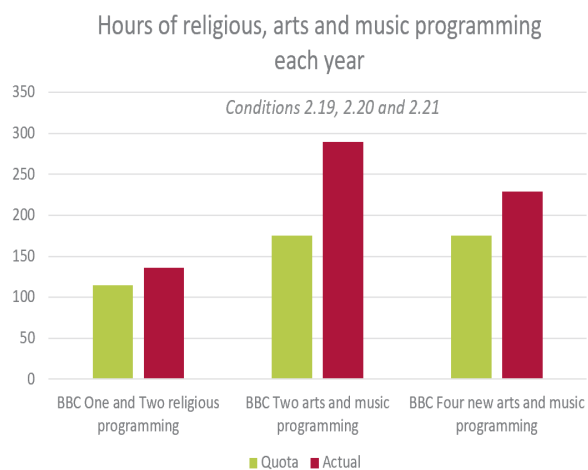


Figure A1.22

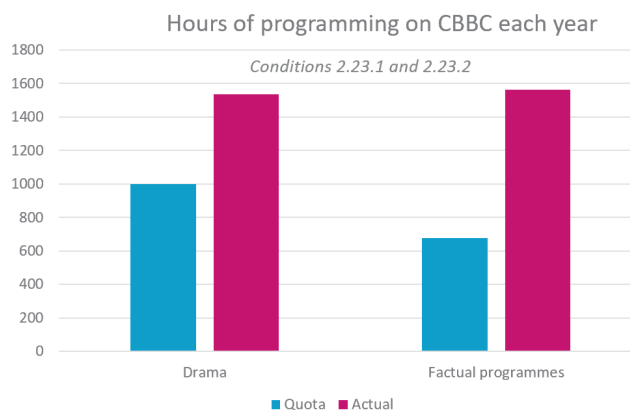


Figure A1.23

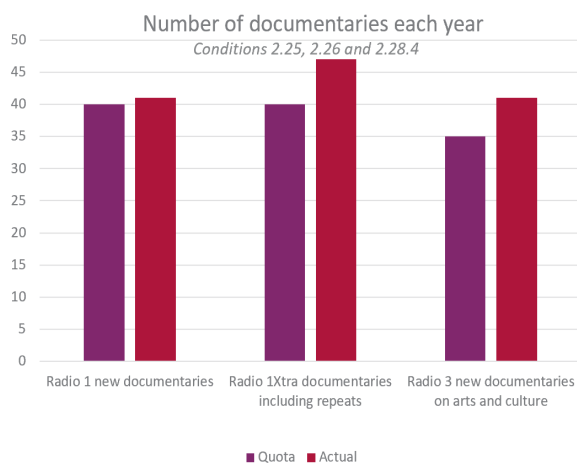


Figure A1.24



Public Purpose 3: to show the most creative, highest quality and distinctive output and services

A1.30 The BBC met or surpassed its obligations to provide first-run UK originations, comedy, music programming and to offer two social action campaigns.

Figure A1.25

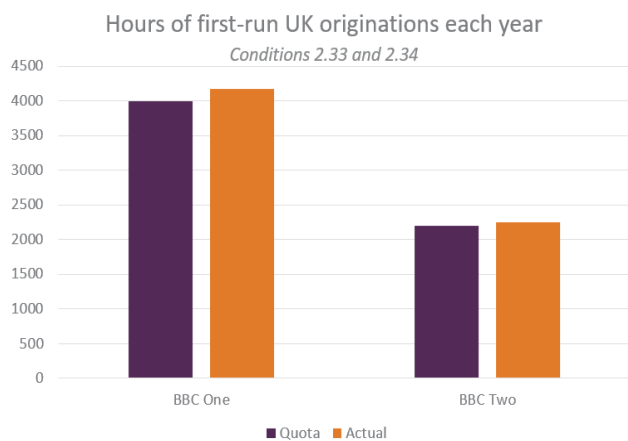


Figure A1.26

BBC One and Two: hours allocated to comedy programming each year



Condition 2.38: in each Financial Year at least 300 hours are allocated to comedy programmes, some of which must be in Peak Viewing Time.

Figure A1.27

Each calendar year Radio 1 must offer at least two social action campaigns
Condition 2.39.6

Step to Everest Challenge March 2020

raised awareness and funds for Comic Relief

“Minute of Me” November 2020

gave Radio 1’s young audience 60 seconds to speak to the UK

Figure A1.28

Radio 2

 24% new music	 261 hours of live music	 1249 hours of specialist music
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Condition 2.40.2: at least 20% of daytime music must be New Music, with a significant proportion coming from new and emerging UK artists.
Condition 2.40.3: it must broadcast at least 260 hours of live music.
Condition 2.40.4: it must broadcast at least 1,100 hours of specialist music programmes.

Public Purpose 4: to reflect, represent and serve the diverse communities of all the United Kingdom’s nations and regions and, in doing so, support the creative economy across the United Kingdom

A1.31 The BBC met or exceeded its obligations for online content and radio and television programming to serve the nations and regions of the UK.




Figure A1.29

BBC Parliament: hours allocated to proceedings of the Scottish Parliament, Northern Irish Assembly and Welsh Assembly



Condition 2.70: in each Financial Year at least 300 hours must be allocated to proceedings of the Scottish Parliament, Northern Irish Assembly and Welsh Assembly

Figure A1.31

<p>BBC Online England... </p> <p>...provided news and information for the English regions</p> <p>...provided dedicated coverage of sports for the English regions</p> <p></p>	<p>BBC Online Scotland... </p> <p>...provided news and information for Scotland</p> <p>...provided content in Gaelic</p> <p>...provided dedicated coverage of sports for Scotland</p> <p></p>
<p>BBC Online Wales... </p> <p>...provided news and information for Wales</p> <p>...provided content in Welsh</p> <p>...provided dedicated coverage of sports for Wales</p> <p></p>	<p>BBC Online Northern Ireland...</p> <p>...provided news and information for Northern Ireland</p> <p>...provided content in Irish and Ulster-Scots</p> <p>...provided dedicated coverage of sports for Northern Ireland</p> <p></p>

Conditions 2.77.1, 2.77.2, 2.84.1, 2.84.2, 2.84.3, 2.90.1, 2.90.2, 2.90.3, 2.96.1, 2.96.2 and 2.96.3

Figure A1.30

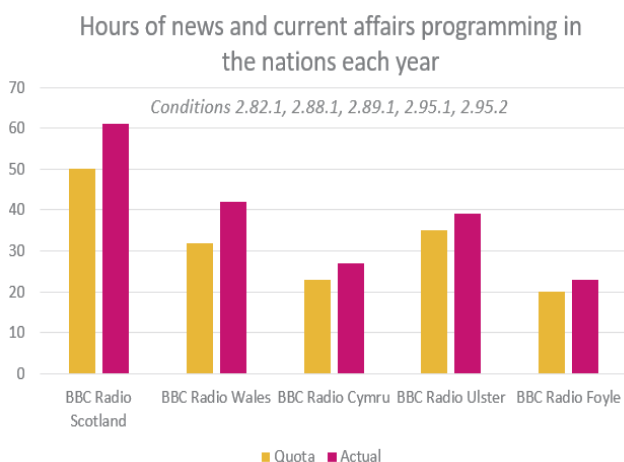


Figure A1.32

BBC Radio Ulster and BBC Radio Foyle: hours allocated to indigenous minority language programming



Condition 2.95.4: in each Financial Year at least 240 hours must be allocated to indigenous language programming, including Irish and Ulster-Scots

Schedule 3 obligations

A1.32 The following section sets out our assessment of the BBC’s compliance in 2020-21 with the applicable regulatory obligations in Schedule 3 of the Agreement. Paragraph 2 of Schedule 3 to the Agreement is not a specified requirement on which Ofcom must report – see Clause 59 of the Agreement.

A1.33 Table 1 contains the regulatory obligations in Schedule 3 of the Agreement and our assessment of the BBC's compliance with them. We have found that the BBC was compliant with all the applicable regulatory requirements in Schedule 3 of the Agreement. We also provide further detail on Schedule 3 Paragraph 7, which is about competition in commissioning, at the end of this section.

Table 1: Schedule 3 obligations

Regulatory obligation	2020-21 assessment
Paragraph 1: No charge to be made for reception of UK public services and associated content	We required the BBC to report to us if, and in which cases, it charged for reception. It confirmed in its response to the 14 July 2021 Notice that it made no such charges.
Paragraphs 3 – 5: Content standards, fairness code and party political broadcasts	These are reported on separately in the content standards section of our 2020-21 Annual Report on the BBC.
Paragraph 6: Programmes to be reserved for independent production	<p>The BBC has an obligation that 25% of the hours of qualifying programming in each year across its television public service channels are allocated to broadcasting a range and diversity of independent productions. It must also meet similar quotas for each of BBC One and BBC Two.</p> <p>The BBC reported that it exceeded each of these quotas (achieving 33.7% of hours across all channels in 2020 and 29.7% and 46.7% of hours on BBC One and BBC Two respectively). The BBC provided these figures to Ofcom in response to a formal information notice as part of our annual broadcaster data returns process.</p>
Paragraph 7: Television, radio and online production – securing competition between BBC producers and external producers	There were no specific obligations this year. Further detail on our assessment of the BBC's compliance with Paragraph 7 is provided below this table.
Paragraph 8: Code relating to programme commissioning	The BBC confirmed it has not made any revisions to the Code during the relevant period. It has provided the data fulfilling the reporting requirements under section 13.1 of the Code to Ofcom.
Paragraph 9: Code relating to provision for the hearing and visually impaired	In 2020, channels continued to meet or exceed their requirements to provide access services. As set out in the Ofcom Television Access services report 2020 the BBC maintained and applied the Code on Television Access Services and achieved all of its annual quotas for subtitling, signing and audio description and also promoted the availability of access services on the EPG.

<p>Paragraph 10: Retention and production of recordings</p>	<p>Ofcom has set the periods of time that the BBC must retain recordings in its published complaint handling procedures. On the basis that the BBC has provided recordings to Ofcom upon request, we are satisfied that it has complied with this requirement.</p>
<p>Paragraph 11: International obligations</p>	<p>We have not specifically notified the BBC of any international obligations during 2020-21.</p>
<p>Paragraph 12: Equal opportunities</p>	<p>The BBC provided information setting out some of the actions it has taken to meet its equal opportunities obligations including setting out workforce targets of 50% gender, 20% BAME and 12% disability representation and publishing its three-year diversity and inclusion plan which includes 10 main actions for achieving the targets. The BBC also reported meeting some of its 2020 workforce targets: its 8% LGBTQ+ target for all staff and for leadership; its 8% disability target for all staff and leadership and its 15% ethnicity target for all staff. It reported that it made progress towards meeting its 50% target for women for all staff and leadership, and its 15% ethnicity target for leadership.</p> <p>In response to Ofcom’s 2020-21 Diversity and Equal Opportunities in Television and Radio information request, the BBC highlighted additional initiatives in place to promote equal opportunities. These include the Mentor Up inclusion programme for senior leaders, piloting “We Need to Talk about Race” workshops and the LGBTQ+ Allies programme.³ Ofcom’s 2021 report “<i>Five Year Review: Diversity and Equal Opportunities in UK Broadcasting</i>” acknowledged that further work across the sector is needed to improve, among other things, inclusion, retention and diversity at senior levels, and encouraged broadcasters including the BBC to take steps to address this. Having assessed this information, we are satisfied that the BBC has complied with this obligation in 2020-21.</p>
<p>Paragraph 13: Training</p>	<p>The BBC has provided information regarding how it met these obligations on pages 51-54 of its Annual Report and Accounts and has provided additional information in response to the 14 July Notice, including information relating to its partnerships with others in the audio-visual industry. Having assessed</p>

³ The BBC’s qualitative responses to the 2020-21 Diversity and Equal Opportunities in Television and Radio information request can be found on our [website](#).

	this information we are satisfied that the BBC has complied with this obligation for 2020-21.
Paragraph 14: General provisions about arrangements under paragraphs 12 and 13	The BBC has reported on the arrangements under paragraphs 12 and 13 in its Annual Report and Accounts. In addition, the BBC has provided information to Ofcom that sets out how it has reviewed the arrangements and has ensured that those affected by the arrangements are aware of them. Having assessed this information we are satisfied that the BBC has complied with this obligation for 2020-21.

Competition in commissioning

A1.34 Ofcom has two roles in relation to competition in the BBC’s commissioning activity. First, to consider whether any additional intervention is necessary in the Operating Framework to protect fair and effective competition. Second, to assess the BBC’s compliance with the requirements placed on it under Schedule 3 Paragraph 7 of the Agreement, and if necessary, to enforce them. Those requirements mean that the BBC must open up more commissioning opportunities to competition between producers and that, where it does so, competition must be on a fair, reasonable, non-discriminatory and transparent (FRNDT) basis.

Schedule 3 Paragraph 7 requirements

- A1.35 The specific quota requirements imposed on the BBC under Schedule 3 Paragraph 7 of the Agreement are, firstly in relation to making relevant television programmes,⁴ that it must:
- secure competition for the commissioning of at least 40% of the in-house guarantee for drama, comedy, entertainment and factual programmes by 31 December 2018, alongside maintaining existing levels of competition;
 - remove the in-house guarantee for children’s, sport and non-news related current affairs programmes by 31 December 2019; and
 - secure competition for 100% of relevant TV programmes by 31 December 2027.
- A1.36 There are separate quotas for radio and online public services. The BBC must secure competition in commissioning for at least 60%⁵ of relevant radio programmes⁶ by 31

⁴ ‘Relevant television programmes’ means all television programmes included in the UK public services except: (a) Programmes reserved for independent productions; (b) News and news-related current affairs programmes; (c) Any programme where the BBC considers that complying with the obligation would not secure value for money

⁵ Of the total time allocated to broadcasting relevant radio programmes on the UK public broadcast services

⁶ ‘Relevant radio programmes’ means all network radio programmes included in the UK public services except: (a) news programmes; and (b) repeats, continuity, simulcasts, EBU material and autoplayed music

December 2022, and it must secure competition for the commissioning of 100% of relevant online material⁷ by 31 December 2027.

BBC's progress in meeting quota requirements

- A1.37 The BBC set out in its [Annual Report and Accounts 2018-19](#), and its [first TV commissioning supply report](#), that it had ensured that, for relevant television programmes, 43% of the previous in-house guarantee for drama, comedy, entertainment and factual had been opened up to competition. It also removed its in-house guarantee for children's, sport and non-news-related current affairs programmes.
- A1.38 In its [TV Commissioning Supply Report for 2020](#), the BBC reported that it had increased the percentage of hours of relevant TV programmes contested from 62% in 2019 to 64% in 2020. While this is still moving it towards the 2027 target of 100% it is a smaller increase than in other years. We note that the BBC put on hold plans for competitive tenders during the pandemic to reduce strain on both production and commissioning teams.
- A1.39 The BBC has continued to work towards its target to secure competition in commissioning for at least 60%⁸ of relevant radio programmes by December 2022. In its Annual Report and Accounts 2020-21 it reported contesting 53% of relevant broadcast hours.
- A1.40 The BBC also reported that in 2020-21, 59% of its spend on relevant online material had been contested. This is a fall in the percentage of relevant spend on content that has been contested. While there is a significant amount of time before the BBC will need to meet its target of 100% of relevant online spend to be contested, the BBC will need to consider how it progresses towards its target.
- A1.41 We will continue to monitor and report on the BBC's progress in working towards its upcoming quota requirements.

The fair, reasonable, non-discriminatory and transparent (FRNDT) requirement

- A1.42 Schedule 3 Paragraph 7 is clear that, in meeting the quota, the BBC is required to ensure that there is genuine competition between BBC producers and external ones (whether independent producers or not) on a FRNDT basis.
- A1.43 Ofcom has not received any complaints from stakeholders about those processes failing to meet the requirement to be FRNDT and we have not opened any investigations into non-compliance.
- A1.44 We have met a range of producers as part of our ongoing stakeholder engagement. While they did not express significant concerns about the FRNDT requirement, they raised a number of points about the commissioning process. In particular, some producers wanted to see more information about the BBC's longer-term commissioning plans and the

⁷ 'Relevant online material' means all online material included in the UK public services except: (a) programmes included in the UK public on-demand programme services; (b) news and news-related current affairs material; and (c) any material where the BBC considers that complying with the obligation would not secure value for money

⁸ Of the total time allocated to broadcasting relevant radio programmes on the UK Public Broadcast Services

outcomes of commissioning rounds. Information about the BBC's commissioning plans and outcomes allows producers to pitch the most appropriate ideas to support the BBC's objectives, regardless of whether they are a BBC producer or an external one. We will discuss with the BBC whether more information about its plans for commissioning and the outcomes of commissioning rounds could be made available. No other significant issues about the FRNDT nature of the BBC commissioning process were raised with us.

A1.45 We will continue to monitor whether the BBC is meeting its obligations regarding FRNDT commissioning. This will include ongoing engagement with production companies to understand more about the BBC commissioning process.

Operating Framework requirements

A1.46 Ofcom is required by Article 46 of the Charter to set an Operating Framework to secure effective regulation of the BBC's activities as set out in the Charter and Agreement.

A1.47 The Operating Framework must include requirements to protect fair and effective competition in relation to:

- material changes the BBC proposes to the UK public services and non-service activities;
- the effect of UK public services, trading activities and non-service activities on fair and effective competition; and
- agreements with, and conduct affecting, third parties in relation to UK public services, trading activities and non-service activities.

A1.48 We must also include requirements about the relationship between the BBC and its commercial and trading activities. These are described in more detail below.

A1.49 In March 2017, we published a statement (updated October 2017), [Introduction to Ofcom's Operating Framework for the BBC](#). In it, we explained our and the BBC's roles under the new regulatory scheme and detailed how our Operating Framework is structured.

A1.50 We have set out the Operating Framework in a series of documents which impose requirements on the BBC and provide guidance on our regulatory approach. Most of these applied from 3 April 2017. Table 2 below summarises the position in relation to the requirements we have set in the Operating Framework. We have set out in this annex and the main report more detailed comments on what we and the BBC have done in these areas.

Table 2: Operating Framework requirements

Relevant Charter/ Agreement provision	Operating Framework requirement
The impact of proposed changes to the BBC's public service activities (Articles 11 and 20 of the Charter and Clauses 7 to 11 and 15 to 20 of the Agreement)	Specified requirements contained within: Assessing the impact of proposed changes to the BBC's public service activities: Ofcom's procedures and guidance
The impact of the BBC's ongoing public service activities (Article 11 of the Charter and Clauses 12, 15, 21 and 22 of the Agreement)	Specified requirements contained within: Assessing the impact of the BBC's public service activities: Ofcom's procedures and guidance
The impact of the BBC's commercial and trading activities (Clauses 23 to 27, 28, 31 and 32 of the Agreement)	Specified requirements contained within: The BBC's commercial and trading activities: requirements and guidance ⁹
The impact of the distribution of BBC public services (Article 11 of the Charter and Clauses 15 and 61 of the Agreement)	Specified requirements contained within: Distribution of BBC public services: Ofcom's requirements and guidance

Commercial and trading activities

A1.51 As set out in our main report, we are currently undertaking a review of how the BBC has implemented its trading and separation requirements and guidance (BBC Studios review). This has involved us requiring significantly more information from the BBC than it usually provides as part of its reporting requirements and looking in detail at the processes and procedures the BBC has put in place to ensure it is meeting its requirements in relation to operational separation, transfer pricing and rate of return. We will set out our findings on this review in December 2021, including an assessment of how the BBC's processes meet our requirements in the different areas.

Other specified requirements and relevant matters

A1.52 We are also required to report on the BBC's compliance with the additional specified requirements set out in Table 3 below. We have found that the BBC complied with all of

⁹ This is the unofficial consolidated version of the trading and separation requirements and guidance. For the avoidance of doubt, in the case of any difference between texts, the text set out in the 11 February 2019 publication and any subsequent documents published on Ofcom's website shall take precedence. Modifications were made to the trading and separation requirements in the BBC Studios' line of business statement, 30 April 2021. The trading and separation requirements should be read alongside the subsequent documents published on Ofcom's website.

these obligations between 1 April 2020 and 31 March 2021. We have also provided further information regarding complaints made to Ofcom at the end of this section.

Table 3: Other specified requirements

Relevant Charter/ Agreement provision	Requirement	Assessment of BBC compliance
Provision of information to Ofcom (Article 47, the Charter)	The BBC must provide information that Ofcom formally requires under Article 47.	The BBC responded to all the Article 47 requests we made in 2020-21
BBC complaints handling (Clause 56, the Agreement)	<p>In September 2017, Ofcom published its determinations in relation to the BBC's complaints handling which set out:</p> <ul style="list-style-type: none"> - the period for which the BBC must retain records of its handling of relevant editorial complaints; - the form and intervals at which the BBC must report editorial complaints to Ofcom; and - the form and intervals at which the BBC must publish information about the operation and effectiveness of its procedures for editorial complaints. <p>Ofcom published revised determinations on 3 July 2020, requiring more transparent publication of BBC Executive Complaints Unit findings on relevant editorial complaints.</p> <p>In October 2018, Ofcom published its equivalent determinations in relation to the BBC's non-editorial (competition and other regulatory) complaints handling.</p>	The BBC has complied with the determinations Ofcom set in relation to editorial complaints handling and non-editorial (competition and other regulatory) complaints handling

Complaints made to Ofcom

- A1.53 In enforcing compliance by the BBC with ‘competition requirements’¹⁰ and other ‘relevant requirements’¹¹, Ofcom may consider complaints and carry out investigations into compliance as we consider appropriate.
- A1.54 In 2020-21, we received one complaint relating to the BBC’s 2019 decision to withdraw its live radio streams from TuneIn on certain service platforms in the UK. The complaint had already been assessed by the BBC before being referred to us. We had already received several complaints about this decision in 2019/20 and our assessment for the complaint received this year was the same. We appreciated the extent of the inconvenience that some listeners had experienced as a result of the BBC’s decision. However, none of the companies involved, including TuneIn itself, have raised any concerns with us about the impact on fair and effective competition. Therefore, we decided it would not be appropriate to open an investigation into compliance with the distribution requirements.¹²

¹⁰ A ‘competition requirement’ is any requirement placed on the BBC by Ofcom to regulate the impact of the BBC’s activities on competition. These requirements are set out in Ofcom’s [Procedures for enforcement of BBC competition requirements](#).

¹¹ A ‘relevant requirement’ is a specified requirement placed on the BBC by Ofcom or the Charter and Agreement, which is not covered by a more specific Ofcom enforcement procedure. These requirements are set out in Ofcom’s [Procedures for enforcement of requirements in the BBC Agreement and compliance with Ofcom enforcement action](#).

¹² The decisions were made in line with our enforcement procedures.