

# **BBC on-demand proposals: Public Value Test final conclusions**



# Foreword

This is the final decision by the BBC Trust on its first Public Value Test. It grants conditional approval for four new offerings proposed by the BBC Executive to provide audio and video content on-demand.

We published our provisional conclusions in January, having considered our own Public Value Assessment of the BBC Executive's proposals and Ofcom's Market Impact Assessment. Our provisional conclusions were subject to public consultation for eight weeks. We received more than 10,000 responses and are grateful to those who took time to make their submissions.

The BBC Trust replaced the BBC's Board of Governors on 1 January 2007. This was much more than a name change; the Trust is responsible for representing the interests of all licence fee payers. In this consultation, we heard considerable public support for expanding access to BBC content alongside industry concern that appropriate restrictions should be in place to reduce adverse impact on commercial providers. We have considered all the submissions in drawing our final conclusions. In assessing the BBC Executive's proposal, we were guided by the public interest in two senses. The first of these was to be satisfied that the new on-demand propositions would be genuinely valuable to the public. The second was to take care that, in providing new offerings, the BBC would not limit choice elsewhere.

In brief, we have not altered our view that each of the proposals is likely to deliver significant public value, enough to justify the likely market impact. We are allowing the proposals to proceed subject to certain modifications. In response to submissions received, we are changing our approach to defining the scope of series stacking from an editorial based definition to a volume quota. In response to a submission from the BBC Executive, we are dropping our two-year deadline for achieving platform neutrality on seven-day catch-up TV and will instead audit the Executive's progress every six months.

This has been the first Public Value Test, and we have been grateful for feedback on our management of the process. We have identified ways to improve the process in future. We outline our thoughts on this at the end of this document.

**Chitra Barucha**  
Acting Chairman



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# BBC on-demand proposals:

## Public Value Test final conclusions

### 1. Introduction

This document presents the BBC Trust's final conclusions in its Public Value Test of the BBC's on-demand proposals. We published our provisional conclusions in January, and then held a two-month public consultation.

We received 10,608 submissions – overwhelmingly from individual members of the public. We are publishing a report on these individual responses alongside this document.<sup>1</sup> We received a number of submissions from industry stakeholders. These include other broadcasters, independent producers, organisations representing consumers, the BBC audience councils and the BBC Executive. Except where the respondents requested confidentiality, we are publishing these responses in full.

In this document, we provide our view of the main issues arising from the public consultation and outline where we have consequently modified our provisional conclusions to ensure that the public interest is best served.

This has been our first Public Value Test. We have received useful feedback on how the process has been conducted. We are therefore also providing in this document our reflections on how we might improve the process in future.

### 2. Summary of the Trust's provisional conclusions

The following section provides a brief summary of the BBC on-demand proposals and our provisional conclusions which we published in January 2007. Ordinarily, a Public Value Test (PVT) comprises three elements: a Public Value Assessment (PVA), conducted by the BBC Trust, a Market Impact Assessment (MIA), conducted by Ofcom, and the PVT itself – in which the Trust evaluates the conclusions of the PVA and MIA and makes a decision about the proposal. In the case of this PVT, the process was begun by the BBC Governors under interim rules subsequently adopted by the BBC Trust after the new Charter came into effect on 1 January 2007. We drew provisional conclusions after considering a PVA conducted under the auspices of the BBC Governors and approved by the BBC Trust, and a Market Impact Assessment, conducted by Ofcom. Full details can be found on the BBC Trust website.<sup>2</sup>

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<sup>1</sup> 13 per cent of submissions were from overseas; since this was a consultation of the UK public, these submissions were accorded minimal weight. Generally, the comments received from overseas were similar to those received from the UK public.

<sup>2</sup> [http://www.bbc.co.uk/bbctrust/research/iplayer\\_public\\_value\\_test.html](http://www.bbc.co.uk/bbctrust/research/iplayer_public_value_test.html)

The BBC Executive's proposals include four elements:

- seven-day catch-up television over the internet;
- seven-day catch-up television over cable;
- simulcast television over the internet (live streaming of television networks);
- non-digital rights management (non-DRM) audio downloads over the internet (podcasting).

The Trust's Public Value Assessment considered that the proposals, subject to modification, would create public value. Ofcom's Market Impact Assessment concluded that the market creation effects of the proposals were likely to be considerable and to bring substantial benefits for consumers. Ofcom also noted possible negative impacts on the market and proposed modifications to limit these.

Having taken receipt of the MIA and the PVA, the Trust proceeded to the third stage of the process and drew provisional conclusions in the PVT. In doing so, the Trust made modifications aimed at reducing adverse market impacts and increasing the public value of the proposals. This was so that the Trust could be satisfied that any likely adverse market impacts would be justified by the likely public value. In particular:

- limitations were applied to the proposal to allow users to "stack series" – i.e. download all episodes of a series beyond the seven-day catch-up period;
- the length of time users could store a programme file before viewing it was reduced from 13 weeks to 30 days;
- seven-day catch-up television over the internet, which relies on digital rights management licensing provided by Microsoft, was required to be made available to users of Apple and Linux operating systems within a reasonable timeframe, which the Trust proposed should be two years;
- book readings and classical music were excluded from the proposals for audio downloads;
- provision was required to be made to help parents protect children from unsuitable content;
- content was required to be provided to third-parties on a fair, reasonable and non-discriminatory basis.

The Trust also considered whether third-party content providers should have access to offer their content on the BBC's iPlayer – through which content will be offered on-demand on the internet. It took account of Ofcom's Market Impact Assessment which noted that such an approach could have significant adverse market impact. The proposal was not part of the Executive's application and would have required further investigation not appropriate in this PVT. In the circumstances, the Trust decided not to include third-party access.

### 3. Considerations arising from the public consultation

Although some of the respondents to our public consultation had reservations about specific aspects of the on-demand proposals, there was overwhelming support for the proposals in general. 79 per cent of UK respondents (5,642) expressed agreement with the BBC Trust's provisional decision to approve the proposals subject to modification.

A large number of the responses from members of the public started from the presumption that BBC content was funded by the licence-payer whose access to on-demand content should therefore be as unrestricted as possible. Many of the industry stakeholders, by contrast, focussed on the impact on others in the market of releasing free BBC content and these respondents tended to be in favour of restricting access. While the number of responses objecting to restrictions far outweighed the number in favour of restricting access, the Trust must take full account of both positions. Our duties under the Charter include carefully and appropriately assessing the views of licence fee payers, having regard to the competitive impact on the BBC's activities on the wider market and ensuring that the BBC observes high standards of openness and transparency.

Below we examine the specific issues arising from the consultation and provide our final conclusions on the BBC Executive's proposals.

### **3.1 The BBC's use of digital rights management**

A large number of responses, from individuals and from the Open Rights Group (an advocacy organisation), took issue with the BBC's intention to apply digital rights management (DRM) to seven-day catch-up television over the internet. Since we did not ask a specific question about this, we cannot provide a definitive figure for the number of respondents opposing DRM. However, extrapolation from responses to other questions would suggest that a significant majority of respondents took this view. Typically, respondents argued that licence payers – because they have already paid for BBC content – in some way “own” it and therefore should have unrestricted access to it, including the right to copy and modify it.

No industry stakeholders raised this as an issue. Indeed, their responses to questions on other aspects of the proposals, such as series stacking or the storage window, would imply that they take for granted the inclusion of digital rights management and consider it essential.

The issue of DRM underpins many other aspects of the catch-up television proposal. The issue is closely related to that of platform-neutrality, which we address later in this document. But, given the strength of feeling on DRM expressed in the public consultation, we think it worth explaining separately why the Trust supports the BBC's intention to apply DRM to catch-up television over the internet.

On the question of the assumed right of licence payers to have unrestricted access to BBC content, we recognise that digital technology presents opportunities to increase greatly access to BBC content and thereby provide greater value to licence payers. It should be noted, as we discuss below, that the BBC is not free to distribute content however it chooses since there are third parties who hold rights in BBC content. But where rights considerations allow, the BBC is actively exploring where it can provide unrestricted access to content – for example, through the proposal as part of the on-demand offerings to offer a significant volume of audio programmes without DRM controls, and through its release of unrestricted content in its trial of the Creative Archive. But the BBC must strike a balance between providing free access as part of the service funded by the licence fee, and exploiting the secondary value of content commercially in order to generate revenue to invest back into services that benefit the licence payer – including the future creation of new content. We expect DRM to play a role for some time, in the light of digital technology, in protecting the secondary value in BBC content. Some people argue that it is possible simultaneously to

provide content under an open licence while realising that content's commercial value, but we regard the business models for this approach to be unclear at present.

There are also market impact considerations which strongly favour the application of DRM. Ofcom's MIA as well as stakeholder submissions to our public consultation highlighted the risk that the provision of BBC content on-demand might reduce the commercial opportunities for other broadcasters, as well as for other providers of media content such as the recording industry, independent producers and commercial video-on-demand services. The Trust endorses the BBC's approach to limiting this impact through restricting the amount of time for which the BBC makes content available. A time-based restriction is proposed also to meet the concerns of those (for example, the music business, or independent producers) who hold rights in BBC content. The BBC is able to provide content on-demand only with the agreement of rights holders and this has been secured on the understanding that TV programmes will be provided for download on a public service basis only for a limited period. At the current time, the only way to meet this condition in the provision of content on-demand is through the application of DRM. Any approach that does not carefully address the interests and concerns of such rights holders could therefore lead to an uncertain position in the future, in respect of negotiations and further agreements with rights holders, which would ultimately not be in the best interest of licence payers.

### **3.2 Platform neutrality**

The BBC Trust is fully committed to the principle of platform neutrality in the provision of BBC services. There was evidence in our public consultation of great strength of feeling about our approach to this in our provisional conclusions. So we want to explain our thinking on this in some detail.

As discussed in the section above, the BBC Executive intends to apply DRM to one of its four proposed on-demand offerings: seven-day catch-up television over the internet. The DRM solution proposed relies on Microsoft technology, which would require users to have Windows XP (or above) and Windows Media Player 10 (or above). The Trust proposed in its provisional conclusions that the BBC should make the offering available to users of other operating systems within two years.

In our consultation, members of the public expressed strong feeling in large numbers that seven-day catch-up television over the internet should be available to consumers who are not using Microsoft software. 81 per cent (5,804) said this was very important and a further 5 per cent (355) said it was important. Such was the strength of feeling that respondents did not appreciate, or did not consider it relevant, that the Trust was proposing that the BBC achieves platform neutrality within a specified period. Any period of excluding other operating systems was apparently considered unacceptable by our public respondents.

By contrast, platform neutrality did not come through as a significant issue among industry stakeholders – in part because many of these strongly support restrictions that require DRM. However, organisations representing consumers – such as the Voice of the Listener and Viewer, and the BBC audience councils – expressed preferences for a platform neutral approach. The Open Rights Group pointed out that the BBC's DRM strategy would exclude not just Apple and Linux users but also users of older Microsoft systems. It suggested providing catch-up television over the internet through streaming programmes – as the BBC's Listen Again service for radio programmes currently does – rather than through

offering downloads. This would eliminate the need for DRM and would therefore facilitate provision to all operating systems including older Microsoft systems.

The BBC Executive provided a detailed response on this issue – pointing out that the BBC has always sought a platform-neutral approach for its internet services. It acknowledged the advantages of streaming but pointed out the downsides such as: less predictable and poorer quality playback; the need to be online to consume programming whereas downloads can be transferred to other devices and played offline; and the greater cost of streaming as a delivery mechanism. It told us that the BBC is exploring alternative DRM systems with Real Media, Adobe and Apple, and is also part of a consortium looking at developing an alternative, cross-platform DRM system. But at present the only system that meets the requirement of rights holders to restrict access to content on the basis of time is Microsoft Windows Media 10. The Executive concluded its submission on this issue by saying:

*“The BBC Executive has already deployed significant resources working towards a platform neutral solution for the catch-up television over the internet proposal. This is an inherently complex area that cuts across the BBC’s content strategy, relations with rights holders and involves dependencies on third parties. It is also an area that is rapidly evolving and where pragmatic flexibility is required. The BBC Executive is committed to continuing its efforts to solve the problem, but is unable to commit to a specific solution or time-frame.”*

We regard platform neutrality as a vitally important principle for the BBC – which is why we specified in our provisional conclusions that catch-up television over the internet should become platform neutral within a reasonable timeframe. It is important to emphasise that the other internet based offerings in the BBC’s on-demand proposals – live TV streaming and non-DRM audio downloads – will be available to users of all operating systems.

Compromising the principle of platform neutrality (for a time) arises in the instance of catch-up television over the internet because it makes the difference between the BBC providing a service, and thereby creating public value, or not doing so. Because of rights restrictions, there is very little television content that the BBC can make available without a time-based restriction on viewing. So in order to provide enough content, the BBC has to choose between offering streams of content for the duration of the catch-up period or offering downloads with DRM. We agree with the BBC Executive’s argument that viewing downloads is a better user experience than viewing video streams and also makes more efficient use of network resources. If we accept that the only way the BBC can offer such downloads at present is by applying a DRM system which requires Microsoft software, then we must accept that the BBC faces the choice between providing a service which will be unavailable to a minority (albeit significant) of users, or not providing the service at all.

On balance, we believe that proceeding with catch-up television over the internet creates public value – even if this one element of the on-demand offerings is not available to all users in the first instance. The BBC has applied this principle before – for example, in the provision of colour television, digital television and digital radio. Digital television is a good analogy since, as with computing, there are competing standards (terrestrial, satellite and cable) and the BBC serves different platforms in different ways.

The question for the Trust is whether setting a deadline for achieving platform neutrality achieves a useful purpose. In drawing our provisional conclusions, we understood that the

BBC Executive was making good progress towards platform neutrality and that it was reasonable to expect a solution within two years. We still hold to this view, but accept that success is dependent on the actions of third parties (such as Adobe, Apple and Real Media)<sup>3</sup> over whom the BBC has no control. We do not consider it useful to impose conditions that could tie the Executive's hands in commercial negotiations.

In summary, we recognise and share the strength of feeling on platform neutrality. We do not consider it practicable to offer catch-up television over the internet on a platform neutral basis immediately. We consider it preferable to allow the BBC to provide value to a majority of users now rather than to wait until full platform neutrality can be achieved before providing catch-up television. We still require platform neutrality for seven-day catch-up television over the internet within a reasonable timeframe, but we have decided not to specify a deadline for achieving this. To counter-balance this, the Trust will take a more active role in holding the Executive to account on the issue by auditing its progress every six months.

### **3.3 Series stacking**

Our provisional conclusions proposed allowing a series stacking feature for catch-up television through both cable and the internet. This would allow users to catch up with all episodes of a series for the duration of its run, and not just for the seven days following transmission of each episode. We proposed restrictions on the types of content that could be offered for series stacking – to reduce adverse market impact and to protect the value of the BBC's secondary rights. We defined stackable series as those with a distinct run, with a beginning and end, and a narrative arc or those that are landmark series with exceptionally high impact.

Responses from members of the public were overwhelmingly in favour of series stacking – with 84 per cent (5,997) agreeing that this facility should be offered. Some respondents went further and called for no or few restrictions on what could be offered or for how long.

Some industry stakeholders – including both Sky and the BBC Executive – said that our definition for stackable series was unworkable. Content producers suggested greater clarity was needed in order to inform their negotiations with the BBC over digital rights, and suggested the term “landmark series” was meaningless. There were some calls to exclude series stacking, to limit the period for which episodes are available, to exclude particular types of series such as those that attract very high viewing figures, or to set a fixed limit as to the percentage of content that could be stacked within a given time period.

We continue to see public value in series stacking but accept that we need to revise our limitation on series stacking to make it workable. Given the difficulty of setting operating principles, we are adopting a pragmatic approach. Instead of an editorial definition, we intend to set an annual quota for series stacking of 15 per cent of all television content offered on-demand. As explained in our provisional conclusions, 15 per cent is an estimate of the maximum percentage of on-demand television content that we would have expected to be available as a result of applying our editorial definition of stackable series and we consider this to be an appropriate volume to apply as an annual quota. Further, limiting

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<sup>3</sup> The BBC Trust would like to invite providers of other commercial solutions which may meet the BBC's requirement of a time-based approach to DRM to contact the BBC Executive.

series stacking to a specific volume of BBC content over a given timeframe was one of the recommendations made by Ofcom in its Market Impact Assessment. While we are prepared to accept some flexibility on this from one week to another, we would generally expect the quota to be applied as an average throughout the year and not concentrated in particular periods. We will work with the BBC Executive to establish processes for accountability on the quota, and will monitor the effectiveness of the quota approach after 12 months.

Within the 15 per cent limit, we still require the Executive to continue to consider the public value of its choices. We intend to retain our editorial description of series that are stackable so that it may serve as a guideline as to the type of series appropriate for stacking. We recognise that the term “landmark series” is confusing so we will revise the guideline thus: stackable series are those with a distinct run, with a beginning and end, and a narrative arc or those with exceptionally high impact. We will review the continuing need for such a guideline after 24 months.

Although we are setting a quota based on volume of content, we are mindful of industry concerns that this could be abused by including within this quota only the most popular series and that this would have a more significant impact than the 15 per cent figure would otherwise suggest. We think the editorial guideline described above should help address these concerns. But for clarity, we are making clear that decisions on which series to stack should not be based primarily on viewing figures and there should be a mix including some programmes, such as educational and original drama, that are not expected to achieve high ratings on linear television.

We have considered setting a particular time limit on the period for which episodes can be made available within series stacking, as requested by some industry stakeholders, but have concluded that this would significantly decrease the public value in series stacking. As explained in our provisional conclusions, much of the value lies in making available the whole series throughout its run. The run will normally be less than 13 weeks. We do not consider this period excessive given the limit on the volume of content that we are permitting to be stacked.

We said in the provisional conclusions that series stacking must be limited to new series. Sky sought clarification that series stacking would only apply to the first broadcast of a particular series on any BBC public service. For the avoidance of doubt, series stacking applies only to the first transmission of the individual episodes of a series on any BBC television public service.

### **3.4 The storage window**

In our provisional conclusions, we proposed a limit of 30 days as the period for which users could store a TV programme downloaded to their computer before opening the file to view. This was a reduction from the 13 weeks the BBC Executive had proposed.

Responses from the public indicated widespread support for the idea of a storage window but fell into two broad groups on the appropriate duration: 39 per cent (2,817) agreed that 30 days was about the right length of time while 37 per cent (2,608) wanted no limitation on storage before viewing.

Industry respondents tended to want the storage window reduced to seven days. Some, including Sky and ITV, commented that the 30-day storage window would have an impact on developing on-demand models by creating an expectation among consumers that on-demand offerings should be available for 30 days. They said this could be considered unfair, since commercial operators cannot compete on the same terms as the BBC. The BBC Executive, on the other hand, argued that 30 days was the minimum length of storage window for BBC content that offered public value. It noted that audiences tend to think that, since they have funded BBC content through the licence fee, they should have access to it for a reasonable length of time. It also pointed to evidence from its cable on-demand trial to suggest that four weeks is the minimum length window to capture 95 per cent of potential catch-up usage.

There were signs that some stakeholders were confused about the length of the total catch-up window implied by a 30-day storage window. For clarity, we intended in our provisional conclusion that the 30-day storage window would apply to the period for which a programme could be held on a user's PC before being opened to view. This is on top of the seven days that the programme would be available to download<sup>4</sup> and the seven days that it would be able to be viewed once the file had been opened for the first time.

We have considered the responses received and still think that the 30-day storage window strikes the right balance between public value and any adverse market impacts. We note the research from the BBC's original trial of on-demand, which suggested that viewers found a simple seven-day catch-up download window to be too short. The storage window was developed as a feature in response to this finding and, in our view, helps to strengthen users' perceptions of the quality and value.

We are aware of the BBC's confidential negotiations with rights holders as to the appropriate storage window for on-demand or new-media content. While we acknowledge that the BBC may have some agreements in place with rights holders which allow for storage windows that are greater than 30 days, we consider that it would be contrary to the best interests of licence payers to set this approval by reference to existing commercial agreements. We are also mindful that this approval may itself impact future negotiations with rights holders and conclude that the most appropriate way to proceed is to set the storage window by reference to our views on public value and taking into account the responses received from industry stakeholders, regardless of what might be achieved in negotiations. Our final conclusion is therefore to allow a 30-day storage window.

### **3.5 Non-DRM audio downloads**

In our provisional conclusions, we proposed excluding two categories of content from non-DRM audio downloads: book readings and classical music.

In the case of book readings, 85 per cent (6,052) thought that book readings should be included in non-DRM audio downloads – although many respondents acknowledged that such content was not particularly of interest to them.

Among industry stakeholders, there was support for the Trust's proposal to exclude book readings – in order not to harm the market for audio books.

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<sup>4</sup> Longer where the programme is part of a stacked series.

We continue to believe that the inclusion of book readings would create insufficient public value to justify the potential adverse market impact. Our final conclusion is to exclude them from non-DRM audio downloads. However, we would like to clarify that book readings are and will continue to be available for seven-day catch-up listening as audio streams on [bbc.co.uk](http://bbc.co.uk)

In the case of classical music, there was some confusion about what the Trust proposed in its provisional conclusions. Because of rights restrictions, the BBC's proposals for non-DRM audio downloads would include very little full-track music of any sort. Classical music was a potential exception because it is largely out of copyright and classical broadcasts on BBC radio are often performed by BBC ensembles. This means the BBC faces fewer restrictions in offering classical music for download. The Trust proposed to exclude it after considering concerns raised by Ofcom's Market Impact Assessment that offering downloads of classical music could harm CD sales. For the avoidance of doubt, it was not the Trust's intention to exclude short excerpts of classical music when used as incidental music to programmes or as signature tunes in the context of a broader radio programme.

In our consultation, 66 per cent of respondents (4,676) felt that the BBC should be allowed to offer either all or some radio broadcasts of classical music as downloads over the internet. Many regarded the MP3 format of audio downloads as inferior in quality to CDs and therefore unlikely to serve as a substitute for CD purchases.

This view was echoed by organisations representing consumers, such as the Friends of Radio 3 who suggested setting an annual limit on the number of downloads of classical works (an option we considered in our provisional conclusions). The Voice of the Listener and Viewer pointed to the unique role of BBC ensembles in presenting unfamiliar repertoire and new music.

There was a mixed response from industry stakeholders. Some supported the exclusion of classical music – although, among these, British Music Rights and the BPI were prepared to allow very short extracts in limited circumstances. The Association of British Orchestras similarly was prepared to allow downloads of the lesser of three minutes or 25 per cent of a work. The Musicians' Union was against exclusion of classical music and asked the Trust to re-visit allowing some classical music to be included. It pointed out that there is little classical music being recorded by the major record companies, with most new recordings coming from labels set up by musicians themselves – who were also working closely with the BBC to secure their rights in on-demand offerings. The Radio Independents Group suggested the BBC could partner with specialist record labels to co-ordinate free downloads of performances of BBC orchestras and follow-on commercial CDs.

The BBC Executive presented a revised proposal to offer, subject to rights clearances, taster pieces of classical music no longer than 10 minutes in duration. These would be short examples contained within a complete radio programme such as Radio 3's *Building a Library*, or stand-alone examples linked to classical music special events or seasons such as A Bach Christmas or the British Composer Awards.

We have considered these submissions very carefully. We acknowledge that the provision of classical music as audio downloads may offer a significant public value gain. But we are

mindful that the market for classical recordings is in a precarious state, and to allow the BBC to offer free classical downloads may risk a loss of consumer value in the commercial market which could outweigh the public value gain. So we are carrying forward our Provisional Conclusion, that classical music should be excluded from non-DRM audio downloads – except insofar as it is used in contexts such as incidental music to programmes or as signature tunes. As with book readings, we would like to clarify that broadcasts of classical music are and will continue to be available for seven-day catch-up listening as audio streams on [bbc.co.uk](http://bbc.co.uk)

In our consultation, some industry stakeholders expressed concern about the unrestricted nature of non-DRM audio downloads. British Music Rights said that audio downloads should be restricted to BBC licence fee payers and should not be made available outside the UK. The Radio Independents Group also expressed concern that allowing non-DRM downloads of a large volume of documentaries, features and series would have a negative impact on the emerging market for selling downloads commercially, which independent producers have developed in partnership with BBC Worldwide and other distributors. In order to restrict audio downloads to UK audiences, the BBC would need to apply DRM and we believe this would result in a loss of public value. We do not consider that the possible market impact is sufficient to warrant this reduction in public value. Releasing audio without DRM, when the BBC has the necessary rights, offers users the flexibility of podcasting, and the ability to listen to programmes on a wide variety of devices. We have noted above that public respondents are already concerned about the amount of DRM the BBC already proposes to use. We do not think this should be extended to the audio downloads proposition.

At least one respondent appears to have been confused about which of the proposals apply to radio programmes. For the avoidance of doubt, we should note that it is only the non-DRM audio downloads proposals that applies to radio programmes and not the cable or internet catch-up proposals. Further, the BBC will be able to offer radio programmes as non-DRM downloads only if it has acquired all the necessary rights. The BBC will have full regard for the position of rights-holders.

### **3.6 Protection of children**

In our provisional conclusions, we noted the heightened risk of children being exposed to post-watershed material and required the BBC Executive to report back to us on how they could give parents greater controls to protect children from unsuitable on-demand content.

This was not an issue with great saliency in the public consultation. Only 27 per cent (1,909) regarded it as important to them that the BBC provides parental controls and nearly a half (3,434) thought it was more a matter for parents to exercise control over how their children use the internet.

Neither did this issue attract much comment from industry stakeholders, although it was an issue which was considered important by the BBC audience councils.

The Trust considers that the BBC has a responsibility to assist parents in controlling the kinds of content to which children have access. The BBC Executive has provided further information on its approach to parental controls based on proven methods of content labelling and the provision, as an extra optional level of control, of PIN protection of on-

demand content. These measures are detailed in the BBC Executive's submission to our consultation, which we are publishing alongside this document.

We accept that these measures should provide sufficient control to parents. We will review their effectiveness as part of our wider review of the proposals after 24 months.

### **3.7 Access for third-party content to the BBC iPlayer**

In our provisional conclusions, we declined to modify the proposals to allow third-party content providers access to the BBC iPlayer – the online application through which programmes will be offered on-demand. We were sceptical that this would create public value, since it could obscure the non-commercial nature of the BBC's proposition, and we were mindful of Ofcom's view that opening up the BBC iPlayer in this way could have adverse market impacts.

A quarter (1,846) of respondents in our public consultation thought this was a good idea, with a slightly smaller proportion (1,658) opposing such a move.

This did not emerge as a significant issue in submissions from stakeholders although one industry respondent strongly opposed including third party content.

We continue to believe it is not appropriate at this stage to allow access to the BBC iPlayer for third-party content providers.

### **3.8 Syndication**

In our provisional conclusions, we proposed to make provision for the syndication of content to providers other than just those proposed in the BBC Executive's Public Value Test application.

Responses from members of the public on this proved hard to analyse, partly because the way we phrased our question in the consultation document caused confusion among respondents. There was, however, significant support or demand for BBC on-demand content to be made available across multiple platforms.

Among industry stakeholders, there was support for our view that limiting the potential negative market impact of the proposals necessitated giving clear, fair and non-discriminatory access to BBC content for third-party distributors. One industry stakeholder argued that the syndication criteria should embody the principle of reasonable cost recovery to enable operators of video-on-demand platforms to recover the costs of carrying and serving BBC catch-up content. We have developed syndication criteria which will be subject to further consultation. However, our current view is that we do not consider it appropriate for BBC on-demand content, which is available free of charge via the BBC iPlayer, to be provided on a pay-per-view basis through other platforms. To the extent that the platform in question is a subscription platform we consider that, as with other BBC content, BBC on-demand content should be available at the entry-tier subscription level. We do not consider it appropriate to be directive with regard to cost recovery for carrying and serving BBC catch-up content, or at least not at this time. There will undoubtedly be discussions between the BBC Executive and relevant stakeholders and we would not wish to pre-judge those discussions. Some form of cost recovery may or may not prove to be appropriate and we would expect the BBC Executive to consider such negotiations if appropriate and in the best

interests of licence-fee payers. In any event, each application will be considered against the developed syndication criteria and all the material available.

Another stakeholder, the Mobile Broadband Group, expressed "disappointment" that syndication was not being offered to mobile platforms; this has not, in fact, been ruled out.

We are publishing a draft of our on-demand syndication policy alongside this document. We are intending to conduct a short consultation on this, principally with those industry parties who have already expressed possible interest in syndication.

### **3.9 Bookmarking**

In our provisional conclusions, we clarified that the PVT had not assessed a possible feature of the BBC iPlayer that would allow internet users to mark a programme in advance of transmission date to be downloaded following transmission. The BBC Executive had not included this proposal in its application and had been asked specifically if it wanted to do so. Because we had not assessed it, it could not be included in our proposed service approval.

As part of the consultation, we received representations from the BBC Executive asking us to assess bookmarking and include it in the final approval. We took some soundings among stakeholders on the evidence presented by the Executive, but have been unable to consult properly on this. We have noted indications from internet service providers that bookmarking could help them manage more effectively the peaks in traffic that the BBC on-demand offerings could create. However, we have concluded that it would not be right for the Trust to take any decision now on this issue when it has not been considered as part of the PVA nor MIA.

On completion of the PVT, we will ask the BBC Executive to return with a formal proposal to include bookmarking in its on-demand offerings. In response to such a proposal, we would consider whether offering this feature would constitute a significant change to the service and would take stakeholders views on this. Were such a proposal to be made, and subject to any stakeholder views to the contrary, it may be that we form the view that it is not a significant change requiring a further PVT, but the Trust has to reserve its position.

### **3.10 DRM audio downloads**

The BBC Executive's response to our provisional conclusions included a note that it now intended to include some DRM-controlled material in its provision of audio downloads.

We have assessed neither the public value nor the market impact of such a proposal and are therefore clarifying that this is not covered by our approval in this PVT.

Again it is open to the BBC Executive to return with a formal proposal following completion of the PVT.

### **3.11 Service licences**

We indicated in the provisional conclusions that we had formed the provisional view that it would not be appropriate to issue any new service licence and that we would, instead, amend existing service licences. Over 40 per cent of individual respondents agreed that the proposed revisions to the service licences looked appropriate, albeit with some varying caveats, and only about five per cent thought that the revisions did not look appropriate.

One industry stakeholder expressed a strong view that there should be a separate service licence for the BBC iPlayer so that there is more clarity as to its strategic direction. Our view is that the BBC iPlayer is not the service offering in itself but is an interface through which a number of services will be provided, including some existing services as well as the offerings provided subject to approval in this PVT. The views of licence fee payers and other operators in the market on the boundaries between different services are a relevant consideration in deciding how activities should be covered by service licences, but our views on this issue have not changed. We continue to believe that a new licence is not appropriate given the nature of the offerings to be provided and their overlap with existing services.

### **3.12 BBC iPlayer**

Some responses from industry stakeholders demonstrated a degree of confusion about what the BBC iPlayer will consist of and how it relates to the proposals being considered in this PVT. This may be partly due to the fact that the BBC iPlayer has been used by some as shorthand for the on-demand offerings considered in this PVT. They are not one and the same.

As we tried to explain in the provisional conclusions, the BBC iPlayer is a user interface with an associated download manager and branding. It allows access to certain content and certain technical features. The BBC iPlayer is not a service in its own right and we have determined that it does not need approval by the Trust. Some of the technical features it will include, such as seven-day catch-up television, receive approval as part of this PVT. Other technical features, such as the Listen Again for BBC radio content, are already permitted by prior approvals. The BBC Executive would have been able to provide some kind of BBC iPlayer bringing together existing services (such as the Radio Player and Weather Player) even without going through this PVT.

We do not anticipate that provision of the BBC iPlayer will require any further approval or approvals from the Trust. If, however, the technical features change substantially then it is possible that these will be sufficiently significant to require a new PVT.

As regards the look and features of the BBC iPlayer, and the timing for its deployment, quite a lot of information was provided in the BBC Executive's application and in the PVA. We understand that the Executive will provide further details in due course.

### **3.13 Review after 24 months**

Although this was not an issue on which consultation responses were specifically sought, some industry stakeholders (including ITV and Sky) expressed the view that the proposed review of performance should happen earlier than 24 months after launch. Review after 12 months was proposed to take account of the speed at which the on-demand market is developing. The BBC Executive supported review after 24 months but proposed that the 24 month period should only start from November 2007 given that launch would be gradual.

Our view has remained unchanged. We consider that it is appropriate to conduct a performance review about 24 months after the proposals' launch. We do not consider that it is appropriate to conduct the review earlier as there will be some informal ongoing review anyway, particularly in connection with syndication arrangements, and this PVT has itself been a thorough review. To review too frequently will represent a use of administrative

resources that we do not feel is justified even though we acknowledge that the market may develop quickly. The Trust considers, however, that a progress review of the use of series stacking after 12 months is appropriate.

### **3.14 Content for the nations and regions**

Concerns were raised by the BBC's audience councils concerning the extent to which content for the nations and regions will be made available as part of the on-demand offerings. We are advised by the BBC Executive that about 40 hours per week will be available for catch-up television over the internet. The focus will be on non-news content, due to rights restrictions on sport in regional news bulletins, and this will represent about one third of BBC Nations and Regions TV programming. The intention is to build up the volume of nations and regions content later, and to include news.

Where programmes offered in the on-demand schedule have different transmission dates in different nations, they will have catch-up windows specific to their transmission times - i.e. they will be available for catch-up viewing for seven days from transmission in the respective nations, regardless of whether this is before or after the rest of network television. This facility is expected to be available from late 2007 or early 2008.

The Audience Council for Wales raised the issue of the BBC iPlayer interface being available in a Welsh-language version. This is under consideration for development but no delivery date has been agreed yet. Welsh-language search should be available by late 2007. This is also the date for the inclusion (subject to rights agreements) of a selection of BBC Welsh-language programmes shown on S4C, with the remainder expected to follow later.

### **3.15 Assessment methodology**

Two industry stakeholders expressed concern about the approach we took in the provisional conclusions with respect to "reach". One expressed the view that it was inappropriate to give primacy to "reach" as we defined it because it would "invariably lead to the conclusion that public value will always outweigh any market impact". It said that, as total viewing hours are not expected to increase, there would be a negative market impact directly proportionate to reach.

We respectfully disagree with these criticisms. As noted in our Public Value Assessment, consumption of the on-demand offerings is expected to be largely substitutational – i.e. some consumption of BBC programmes on linear television and radio will switch to on-demand. As such, we would expect the proposals to help maintain the total volume of consumption of BBC programmes. So we would not accept that any negative market impact of the on-demand offerings would be in direct proportion to their reach. Furthermore, reach was only one component of public value considered in this PVT, albeit that *maintaining reach* was seen to be particularly important as an aspect of the value of these particular proposals. Reach will not necessarily be as important a consideration in other PVTs nor will maintaining or increasing reach necessarily ensure approval of future proposals.

The same respondent expressed the view that, in our provisional conclusions, we should have quantified the gain from the proposals and should only have given approval if the quantified gain exceeded the quantified loss of consumer and producer surplus as shown in Ofcom's MIA. The PVT process is not an accounting exercise, however. In our view, such an approach would give a spurious impression of the scope to quantify the potential public

value in any particular figure or range. The test we must apply is set out in the Framework Agreement and it does not set out this kind of narrow cost-benefit approach.

### **3.16 Broadband costs**

One industry stakeholder raised concern about the impact of the BBC's proposals on broadband networks and costs. It was said that the PVT "barely considered" these issues. However they were very clearly referred to in the provisional conclusions. We repeat that we considered all the views expressed in the MIA and PVA. We concluded that any potential capacity constraints should be only a medium term issue in a competitive broadband market, as capacity increases in response to rising consumer demand for broadband services. Further, it is anticipated that the BBC content will represent only a relatively small proportion of the total available content as the market for audio and video over the internet continues to expand.

How the networks adjust and how the costs are met is ultimately a matter for the market. Undoubtedly, the BBC Executive may be involved in discussions with ISPs and network providers but we do not consider it appropriate to issue any directions to management on this issue in this approval.

### **3.17 Non-broadcast content**

Industry stakeholders have asked us to clarify that the BBC iPlayer will not be permitted to include specially edited or specially commissioned content. We covered this in the provisional conclusions and our position has not changed. Save with respect to non-DRM audio downloads, as explained, we are not granting any new approval for specially edited or specially commissioned content to be provided. To the extent such material can be provided under existing approvals, we do not consider it appropriate to prohibit its provision through the BBC iPlayer.

### **3.18 "Commercial" iPlayer**

Several industry stakeholders asked about the publicly stated intention of BBC Worldwide, the BBC's commercial arm, to launch a commercial version of the BBC iPlayer and about the relationship more generally between the proposals and access to BBC content through licensing arrangements with BBC Worldwide. The BBC Executive made it clear in its on-demand application that the proposals which are the subject of this PVT relate only to the primary consumption window but let the Trust know that the BBC intends to offer on-demand content within the secondary window on a commercial basis. The Trust's decision in this PVT is focussed on the public service on-demand proposals submitted to it by the BBC Executive. Any proposal to launch a commercial version of the BBC iPlayer, and BBC Worldwide's licensing arrangements more generally, are subject to separate scrutiny – for example, pursuant to the Trust's Commercial Services Protocol and the Trust's Fair Trading Framework.

## **4. Approval**

With the modifications previously proposed in the provisional conclusions, amended as discussed above, we have concluded that the likely adverse impacts of the proposals are justified by the likely public value. We have gone on to consider our general duties under Article 23 of the Charter and our other legal duties. In our view, approval of these

proposals would be consistent with these duties. We refer back to the comments we made in the provisional conclusions.

The Trust has also received and considered privileged legal advice on the proposals' compliance with competition law (including state aid law). It concludes on the basis of this advice that the proposals are compliant. Acting in the public interest considering these, and all other relevant matters, we conclude that each of the proposed offerings should be approved in the form in which they were set out in management's application subject to the following modifications:

- a. Seven-day catch-up television over the internet:
  - The storage window for catch-up television over the internet will be set at 30 days from the day of download.
  - Series stacking will be limited to an annual quota of 15 per cent of all television content offered on-demand. As guidance to the BBC Executive, series most appropriate for stacking are those with a distinct run, with a beginning and end, and a narrative arc or those with exceptionally high impact. This will be reviewed in the form of a progress report at 12 months.
  - Catch-up television over the internet will be provided on a platform-neutral basis within a reasonable timeframe of launch. The Trust will hold the Executive to account on the issue by auditing its progress every six months.
- b. Seven-day catch-up television over cable:
  - Series stacking will be offered on the same basis as described above for seven-day catch-up television over the internet.
- c. Simulcast television over the internet
  - No modifications.
- d. Non-DRM audio downloads over the internet:
  - Book readings will be excluded entirely from non-DRM audio downloads.
  - Classical music will also be excluded, except insofar as it is used in contexts such as incidental music to programmes or as signature tunes.

In addition to the above modifications, the Trust will conduct a performance evaluation of all the on-demand offerings at 24 months from launch. This will include a review of the effectiveness of the parental control methods, of content labelling and PIN protection, proposed by the BBC Executive.

The Trust is also publishing alongside this document a draft of its on-demand syndication policy, which will be subject to a separate short consultation.

## 5. Service Licences

In the light of the modifications we have made to our provisional conclusions, it is necessary to make some minor modifications to the draft service licence amendments that we published with the provisional conclusions. New versions are set out below showing the

minor changes that have been made. We are publishing the formally amended licences alongside this document.

## 6. Reflections on the Public Value Test process

The Public Value Test is a new instrument for public investment decisions. As such, we have had to create the process in this first PVT. We are grateful for feedback received on how we have conducted the process and welcome acknowledgements from stakeholders of our efforts to improve transparency.

The on-demand PVT was conducted under interim rules adopted by the BBC Governors which we adopted and which we will amend in due course in the light of learning from the process.

In the meantime, we would like to give a brief indication of the changes we intend to apply in future PVTs.

At the start of the process, we intend to publish as much information as possible about the proposal under discussion – consistent with considerations of commercial sensitivity. In practice, this will mean a presumption in favour of publishing the BBC Executive’s full application with necessary redactions, as opposed to a short description of the proposals. Alongside this, we will also publish a service description - jointly drafted by the BBC Trust and Ofcom – which will specify the scope of the assessment. There will also be a clear administrative timetable setting out the periods when the Trust and Ofcom will be seeking representations from stakeholders.

We have agreed with Ofcom that the Trust’s Public Value Assessment and Ofcom’s Market Impact Assessment should be published at the same time – and in advance of the Trust publishing its provisional conclusions. We would expect the publication of the provisional conclusions to follow within a month of publication of the PVA and MIA.

While the on-demand PVT lasted eight months, we would normally expect to conclude PVTs within six months, in line with the timescale specified in the BBC Charter and Agreement. This will mean keeping the two periods of consultation in the process to 28 days each. We extended the on-demand PVT partly in response to concerns raised by stakeholders during this new process, and in view of the large volume of material it was necessary to publish later on, at the start of our consultation on the provisional conclusions.

We hope the changes we have described above will facilitate the release of information and the conduct of consultations in a way that is more manageable for stakeholders.

# Annex: Variations to BBC Service Licences

## Introduction

Our approval of the on-demand proposals means the Trust needs to vary many of the BBC's Service Licences to cover the four new offerings. The Trust has concluded that this should be achieved by making variations to the Service Licences for the relevant television and radio services and by creating a new annex for the Service Licence for bbc.co.uk.

The BBC Trust has recently consulted publicly on the contents of Service Licences for the UK Public Services. The Trust's variation to these licences to enable the on-demand proposals to be implemented does not take into account its consideration of the outcome of that consultation. A further set of variations to the Service Licences is expected later in 2007 which will reflect the outcome of the Trust's public consultation.

## Service Licences to be amended

The Trust is varying the following Service Licences to reflect its approval of the four on-demand offerings.

Service Licence	Seven-day catch-up television over the internet	Seven-day catch-up television over cable	Simulcast television over the internet	Non-DRM audio downloads over the internet
BBC One	✓	✓	✓	
BBC Two	✓	✓	✓	
BBC Three	✓	✓	✓	
BBC Four	✓	✓	✓	
CBBC	✓	✓	✓	
CBeebies	✓	✓	✓	
BBC News 24	✓	✓	✓	
BBC Parliament	✓	✓	✓	
BBCi				
Radio 1				✓
Radio 2				✓
Radio 3				✓
Radio 4				✓
BBC Radio Five Live				✓
1Xtra				✓
BBC Five Live Sports Extra				✓
BBC 6 Music				✓
BBC 7				✓
BBC Asian Network				✓
BBC Radio Scotland				✓
BBC Radio nan Gaidheal				✓
BBC Radio Wales				✓

BBC Radio Cymru				✓
BBC Radio Ulster/Foyle				✓
BBC English Local Radio				✓
bbc.co.uk	✓		✓	✓
BBC Jam				

Details of the variations to these Service Licences are described below. The amended Service Licences are being published separately at the same time as this document.

## Variations to the Service Licence for [bbc.co.uk](http://bbc.co.uk)

Three of the four on-demand offerings will be accessed through the BBC iPlayer on [bbc.co.uk](http://bbc.co.uk). An Annex to the Service Licence for [bbc.co.uk](http://bbc.co.uk) describes the remit, scope and aims and objectives for the iPlayer as a whole.<sup>5</sup> In drafting the Service Licence variation by reference to the iPlayer, we aim to capture without repetition all the matters that are common to the three internet-based on-demand offerings.

The Annex includes a budget which covers central expenditure on these offerings – technology costs, etc. – but the bulk of expenditure, which is on programme rights, will be allocated appropriately among the television and radio services which actually incur these costs.

The new Annex to the [bbc.co.uk](http://bbc.co.uk) Service Licence is set out below.

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<sup>5</sup> [bbc.co.uk](http://bbc.co.uk) does not include reference to the cable on-demand offering as this is not internet-based.

# BBC iPlayer

## **Part I: Key characteristics of the service**

### **1. Remit**

BBC iPlayer should aim to maintain the reach, consumption levels and value for money of the BBC's public service radio and television output, and should also increase the output's impact. It should do this by offering licence fee payers greater choice and control over how they consume BBC content. It should aim to increase the audience to niche and specialist broadcast content. In so doing, it should help maintain the perceived relevance of the BBC to licence payers as their patterns of media consumption change.

### **2. Scope of this Licence**

BBC iPlayer is accessed via [bbc.co.uk](http://bbc.co.uk). It may simulcast the BBC's broadcast television and radio services over fixed and mobile internet protocol networks. It may also offer BBC broadcast television and radio content on the internet for seven days after it has been broadcast, and give users 30 days after download during which they may first access the content. It may allow users retrospectively to download multiple episodes of up to 15% of on-demand television content (known as 'series stacking'),<sup>6</sup> for first access within 30 days of download. It may allow users to repeatedly consume downloaded content for up to seven days after first access.

It may also offer broadcast radio content for download for an unlimited period of time after broadcast, although this must not include unabridged readings of published works nor full track commercial music nor classical music (even if recorded by the BBC).<sup>7</sup> It is noted that the BBC iPlayer will also be used to provide output already provided by [bbc.co.uk](http://bbc.co.uk) on 1 January 2007 which was not subject to the approval given by the BBC Trust on April 2007. The provisions of this Annex do not extend to that existing output.

### **3. Budget**

BBC iPlayer has a service budget of £4.0 million in 2007/08. This includes the central operating costs of the service, which are primarily technology-related. In addition to this budget, BBC iPlayer is budgeted to spend a total of £4.8 million in the four-year period to 2010/11 on build-out/service development

The service budget may be adjusted annually for Retail Price Inflation. Any planned or actual change in annual expenditure on the service of more than 10% in real value requires approval from the BBC Trust and may entail variation of this Service Licence.

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<sup>6</sup> Details of the type of programmes which may be included in series stacking are given in the Service Licences for each television service.

<sup>7</sup> Download of classical music, in the form of incidental music or signature tunes is permitted.

#### **4. Overview of aims and objectives**

BBC iPlayer should enable licence fee payers to access BBC programming quickly, easily and in a high quality format. In doing so, it should aim to be regarded as a high quality BBC service by its users and so contribute to their approval of the BBC.

BBC iPlayer should aim to maintain the BBC's overall reach and consumption levels, as usage of the BBC's linear services is replaced over time by on-demand consumption. In doing so, it should contribute in the long term to the BBC's ambition to provide services that are of value to all licence fee payers. It should aim at least to maintain consumption of BBC content by younger adults (those aged 16-34).

BBC iPlayer's user interface and contextual offerings should aim to promote public service content, including that which is of niche interest, and help the BBC increase the reach and consumption of these programmes. It should seek to achieve this in a variety of ways including search, navigation and recommendation functions, the series stacking function and promotional activities.

The series stacking function should be focussed on series which have a distinct run, with a beginning and end and a narrative arc, or those with exceptionally high impact. It should cover a broad range of output.

It should aim to enable the BBC to maintain the value for money of its investment in content at a higher level than if programming was not offered on-demand.

Content should be offered free at the point of use with no advertising. BBC iPlayer should incorporate functions which ensure that children can be protected from unsuitable content. It should also provide adequate access for those with sensory, cognitive or physical impairments within a reasonable timescale.

In fulfilling its other aims and objectives, BBC iPlayer should aim to contribute to the growth in the usage of rich media in broadband households. Within a reasonable timescale, it should aim to make the seven-day catch-up offering available on a platform-neutral basis, or at the least to be available on all major platforms subject to value for money considerations and as technology allows.

### **Part II: Performance measurement framework**

#### **Introduction**

[As in other Service Licences.]

#### **Performance measurement framework**

##### Reach:

BBC iPlayer should contribute towards the maintenance of combined BBC weekly reach<sup>8</sup> at over 90% by aiming to build its own weekly reach. This will be measured by reference to:

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<sup>8</sup> For all BBC services.

- seven-day television catch-up over the internet – weekly reach amongst all television households;
- simulcast television over the internet – weekly reach amongst all television households;
- non-DRM audio downloads over the internet – weekly reach amongst all UK households;
- BBC iPlayer’s reach amongst younger adults (those aged 16-34) should contribute to BBC’s weekly reach being maintained;
- reach and consumption of niche, specialist programmes, relative to their reach and consumption on linear services.

Quality:

Audience approval of BBC iPlayer and perceptions of it as a high quality service, based on its technical quality and the functionality of its user interface.

Impact:

Audience awareness of BBC iPlayer overall, and its specific functions, will be tracked.

Value for money:

The cost per user hour of the broadcast services should include on-demand usage and a total service spend including on-demand costs. Overall cost per user hour of BBC iPlayer will not be tracked.

## Variations to the Service Licences for television services

The Trust is varying each linear television Service Licence to enable broadcast television programming to be offered on-demand. The Scope section of each Licence will describe the varied distribution mechanisms and the service budget will include expenditure on additional rights which are required to simulcast programming and offer it on-demand.

The amendments being made to the Scope section of each television Service Licence are shown in bold below.

### 2. Scope of the Licence

[Name of service] should be available for 24 hours every day. It should be transmitted free to air for general reception in the UK as a live broadcast on analogue and digital television **and it may be simulcast on fixed and mobile internet protocol networks. It may**

also offer its broadcast content on fixed and mobile internet protocol networks or via other platforms<sup>9</sup> for seven days after it has been broadcast. On the same platforms, it may allow users retrospectively to download multiple episodes of first-run series (known as 'series stacking')<sup>10</sup> until a date no later than seven days after the last episode in the relevant series. The aggregate volume of such "series stacked" content must represent no more than 15% of all television content offered on demand. On the internet, it may give users 30 days after downloading the content to access it for the first time and may allow users to repeatedly consume downloaded content for up to seven days after first access. It should offer programme-related content on [bbc.co.uk](http://bbc.co.uk).<sup>11</sup> Some programmes should have interactive television features available on digital platforms.

Performance measurement framework

(Additions only)

**[Name of service] should contribute towards on-demand consumption of content. This will be measured by reference to:**

- **seven-day television catch-up over the internet - weekly reach amongst all television households;**
- **simulcast television over the internet - weekly reach amongst all television households;**
- **seven-day television catch-up over cable - weekly reach amongst all television households.**

In addition to these targets, overall reach of the TV services should in future include estimated on-demand usage.

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<sup>9</sup> Provision by particular providers over certain platforms has been specifically approved by the Trust in its Public Value Test final conclusions of April 2007. Content may also in future be syndicated to other providers and platforms, whether over the internet or otherwise, in accordance with the Trust's Syndication Policy for BBC on-demand content.

<sup>10</sup> The Trust's guidelines for which programmes may be included in series stacking are those where the series has a distinct run, with a beginning and an end and a clear 'narrative arc' or those with exceptionally high impact. These should cover a broad range of programmes, in terms of genre and appeal.

<sup>11</sup> This includes the offer of some news and current affairs output on-demand for an unlimited time period after initial broadcast. Any expansion of this offering will require the approval of the BBC Trust.

## Variations to the Service Licences for radio services

The Trust is varying the Scope section of each radio Service Licence to enable radio programming as non-DRM download.

### 2. Scope of the Licence

[Name of service] should be available every day for general reception in the UK on FM, Medium Wave in some parts of the UK, DAB digital radio and digital television platforms and it may be simulcast on the internet.

The service may offer its programmes streamed on-demand for a limited period after broadcast.<sup>12</sup> **It may also offer broadcast radio content for download for an unlimited period of time after broadcast, although this must not include unabridged readings of published works nor full track commercial music nor classical music (even if recorded by the BBC)<sup>13</sup>**, and other interactive station and programme-related content via [bbc.co.uk](http://bbc.co.uk). Broadcast audio programmes may be visually enhanced.<sup>14</sup>

Performance measurement framework

(Additions only)

**[name of service] should contribute towards on-demand consumption of content. This will be measured by reference to:  
Non-DRM audio downloads over the internet – weekly reach amongst all UK households**

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<sup>12</sup> [Service name] currently offers a limited amount of mainly speech content on-demand for an unlimited time period after initial broadcast. Any expansion of the scope of this requires the approval of the BBC Trust.

<sup>13</sup> Download of classical music in the form of incidental music or signature tunes is permitted

<sup>14</sup> This may include video related to output created for BBC broadcast, but should not include the commercial purchase of unrelated video rights.