

Parliamentary Briefing

From the Leeds and West Yorkshire branch of the National Union of Journalists
Embargo: 0001bst, Monday June 19, 2023.

Yorkshire journalists call for halt to BBC local radio plans

The National Union of Journalists (NUJ) is the voice for journalism and journalists in the UK and Ireland. It was founded in 1907 and approximately 28,000 members working in broadcasting, newspapers, news agencies, magazines, book publishing, public relations and communications, photography, videography and digital media. The NUJ is not affiliated to any political party. The Leeds and West Yorkshire branch has about 500 members, across these professional sectors, and is also represented on the TUC Yorkshire and Humber Creative and Leisure Industries Committee.

Summary

Based on substantial research into the history of the BBC's operating licence and the relationship between regulator Ofcom and the BBC (especially regarding a licence review that began in 2021), NUJ members in Leeds and West Yorkshire call on parliamentarians and others in public life in the region to put serious questions to the chief executive of Ofcom, Dame Melanie Dawes, and the Secretary of State at the Department for Culture, Media and Sport, Lucy Frazer MP, about:

- the performance of the regulator in this context, with the recommendation that the BBC is immediately required to delay any and all changes to local radio and regional television until credible research to justify the strategy has been carried out, with well promoted public (licence fee payer "stakeholder") involvement, clear "equality proofing", and;
- how the operating licence should be adequately reviewed and renegotiated after identified anomalies have been resolved, taking into account high quality quantitative and qualitative research and a through, well publicised, probably independent, consultation exercise.

Given the BBC's public fee funding, getting clear statements on these issue into the public domain is important.

Background

In October 2022, the BBC announced plans to significantly reduce the broadcast output from its 39 local radio stations in England as part of a strategy to put "digital first".

That decision – and the work to introduce them going on since then – have provoked major public and political concern. For a day in March and 48 hours in June 2023, NUJ members working for BBC Local – which covers local radio and regional television in England – have taken several days of industrial action to protest against the cuts and the way they were being imposed.

BBC managers have appeared several times before MPs and, in early June, did meet 11 MPs from the Yorkshire and Humber region, but not before Dame Diana Johnson MP said publicly it was easier arranging a meeting with Prime Minister Rishi Sunak than BBC director general Tim Davie.

Simultaneously, the controversy around outgoing BBC chairman Richard Sharp over his proximity to former Prime Minister Boris Johnson reinforced concerns about BBC decision making.

Following an unrepentant appearance before the House of Commons DCMS committee in June, Mr Davie and his senior management colleagues seem determined to impose schedules with far less immediately local and more regional radio output will be introduced in September 2023.

Concerns

NUJ members in Leeds and West Yorkshire have become increasingly concerned that, regarding the BBC:

- The changes appear to be based on management dogma rather than professional quantitative, and especially qualitative, research;
- Consultation with audiences (licence fee payer “stakeholders”) was absent. This is particularly ironic and galling as the announcement coincided with the BBC’s centenary when the Corporation’s TV channels were informing viewers that “This is Your BBC”, when current plans mean that this clearly is not the case for many local broadcast viewers and listeners.
- Despite repeated requests, no BBC manager has divulged what the plans are to replace the radio output or how the staff whose work disappears will be retrained and redeployed other than in vague terms of “digital streaming” replacing “linear output”.
- Reducing local radio output will deprive thousands of local organisations, especially voluntary organisations, as well as local community leaders and less enfranchised groups of effective and significant communication with communities, clients and audiences, effectively gagging them and stifling local democracy at a time of devolution and great political turmoil, in stark contrast to some (acknowledged and applauded) positive moves made by the BBC elsewhere.

Regarding Ofcom:

- The regulator gives the impression of not having paid sufficient attention to the detailed wording of the BBC operating licence, especially with regard to local radio output. Evidence of acknowledgement of inconsistencies and irregularities is minimal, in saying that others did not notice them during a two-stage two-year consultation process that was not made public; the first stage of which being carried out at the same time as the DCMS consultation into potential changes to the corporate status of Channel 4.
- That the regulator appears to have been willing to allow a review of equal, if not greater importance, than the future of Channel 4 to be carried out without involving licence fee payers as key “stakeholders” can be regarded as a critical failure.
- While the DCMS Channel 4 consultation generated more than 60,000 responses while Ofcom received just 12 to the second (detailed) stage of its review of the BBC operating licence.

Research, findings and questions

(Suggested questions follow each in italics.)

In April and early May 2023, Leeds and West Yorkshire NUJ branch members expressed concerns that broadcasting regulator Ofcom – which assumed responsibility for the BBC operating licence when the BBC Trust was abolished in 2017 – had been almost entirely “noticeable by its absence” from the public debate since the decision to change local radio was announced in October 2022.

Journalistic curiosity inspired significant research by branch members into the history of the BBC operating licence and the role of Ofcom. Clarification of particular points and concerns was sought from the regulator – but responses to some questions took three to five weeks.

1. Until 2012, original licence documents from the BBC Trust required each local radio station to “provide 85 hours per week of original, locally-made programming”. However, the May 2012 operating licence included a change: **“Programming shared with neighbouring stations broadcast between 6am and 7pm can be included in the total.”** The BBC Annual Report of July 2012 explained this. “All local radio stations exceed the average minimum weekly hours of

original locally made programming, except Lincoln. Lincoln's originated hours appear lower because it shares origination of the mid-morning show with Humberside, but for service licence purposes these are all listed under Humberside." This appears to have been a special, one-off, arrangement to allow Radio Humberside's 12-2pm *Peter Levy Show* also to be broadcast by Radio Lincolnshire. The May 2012 change remains in the current operating licence.

When Ofcom assumed responsibility for the operating licence after the abolition of the BBC Trust in 2017, they increased the weekly quota to 95 hours per station per week, (presumably to increase genuinely local output). The BBC responded by cancelling the 7-10pm *All England Evening Show*, replacing it with local programmes, increasing output by 15 hours per week.

The proposed changes envisage most output shared regionally or across the entire network. Local output will only be from 6am-2pm on weekdays (just 40 hours per station per week, plus sport).

Lower quota arrangements have also been retained for Radios Bristol and Somerset, reflecting a time when Somerset took weekday afternoon and most weekend output from Bristol. In the Channel Islands, Radios Jersey and Guernsey shared the afternoon programme (from Jersey) and the evening programme (from Guernsey).

Ofcom justified this: **"Under the licence, programming shared with neighbouring stations broadcast between 6am and 7pm can be counted towards each BBC local station's quota for original, locally-made programming. As such, it is the case that after 7pm the BBC cannot count shared programming towards this quota.** This time condition for shared programming and the variations to the original, locally-made programming quotas for Jersey, Guernsey and Somerset were first introduced by the BBC Trust and inherited when Ofcom introduced the first operating licence. Any shared programming that counts towards the quota can do so for the station which shared that programming (ie the sharing station) and the neighbouring station with which that programming was shared (ie the receiving station)."

Asked for the rationale, Ofcom said: " ... the variations to the original, locally-made programming quotas for Jersey, Guernsey and Somerset were first introduced by the BBC Trust and adopted by Ofcom when we introduced the first operating licence. These conditions have not been amended as no specific questions or concerns were raised about them, either in our initial work on the first Operating Licence or in our recent review."

Why, when they took over the licence, didn't Ofcom notice this and seek clarification? Surely this is the regulator's job?

2. Ofcom now interprets the operating licence so that BBC is effectively under no obligation to originate any local output whatsoever between 6am and 7pm, 7 days a week. The regulator has said: "Programming shared with neighbouring stations broadcast between 6am and 7pm can be counted towards each BBC local station's quota for original, locally-made programming, amounting to 13 hours a day, 91 hours a week or 4,745 hours a year", 4 hours a week less than the 95-hour quota. Ofcom added: "While shared programming provided by another station cannot be used to meet the quota for original, locally made programming after 7pm, the stations can include their own original programming after 7pm, including if they have shared their original content with another station", ironically toughening the requirement for "locally made" output after 7pm, usually music-based output for smaller audiences. Ofcom further added: "The 6am to 7pm time-slot used for each BBC local station's quota for original, locally-made programming is a well-established time descriptor used to denote daytime programming, with evening programming beginning after 7pm. This time period was first introduced by the BBC Trust and retained when Ofcom introduced the first operating licence in 2017. It was not amended as no specific questions

or concerns were raised about them, either in our initial work on the first operating licence or in our recent review.”

Despite being questioned, Ofcom have not explained why and how the licence places no obligation on the BBC to originate any local output between 6am and 7pm while stating that “locally made programming is an important part of the BBC’s delivery”?

3. Asked for further clarification, Ofcom replied: “**The operating licence does not contain a specific requirement for a set number of hours to be made and broadcast by a particular local radio station.** However, as ‘original, locally-made programming’ can include programming shared with neighbouring stations broadcast between 6am and 7pm (which as noted in our previous email amounts to 4,745 hours a year) the BBC must ensure that at least a further 209 hours of original, locally-made programming are broadcast outside of these hours on each BBC local radio station.” Therefore the only obligation on the BBC is for four local hours of output per week, after 7pm.

The BBC’s “digital first” schedules will likely include “all England” programming from 10pm to 1am, seven days a week and from 2pm on Sundays. Ofcom said: “We would not expect All England programming to count as original, locally made programming as an All England show could not be described as being shared with neighbouring stations. We recognise that the BBC’s planned changes to local radio involve broadcasting some ‘all- England’ programming during daytime hours (eg, on Sunday afternoons). It will therefore need to ensure it broadcasts enough original programming in the evenings across the course of the year, in addition to the 209 hours mentioned above, to meet the overall local programming quota.”

This implies that **the only way local radio stations can meet the requirement for 95 hours per week is to broadcast the obligatory 9 hours of genuinely local output per week between 7-10pm. If they do not, then the BBC will not comply with the operating licence.**

How will the BBC do this and how will Ofcom police compliance?

4. Ofcom’s consultation document (July 21, 2021), said the regulator wanted the operating licence to “give the BBC more scope to determine how best to fulfil its ... obligations, albeit with strong oversight from Ofcom”.

The document “requested stakeholders’ views” and evidence to answer six questions – about the scope of the review, the proposed approach, measuring the BBC’s performance, the scope of the review regarding content standards, the issues identified to assessing competitive impact of changes to BBC public service obligations and concerns about the regulatory framework for the BBC’s commercial activities. It was insufficiently publicised.

Why have licence fee payers (as “stakeholders”) been ignored throughout this process by both the BBC and Ofcom?

Conclusion

This evidence suggests that both the BBC and Ofcom are/were unaware of the implications of the operating licence details and that both the operating licence review and the BBC’s proposed local radio changes were based on insufficient evidence and public involvement and input.

Therefore, West Yorkshire NUJ members are call on Ofcom to require the BBC to suspend all planned changes to local radio until the operating licence has been adequately reviewed and revised (following high-quality quantitative and qualitative input from licence fee paying “stakeholders”) to establish realistic and achievable output quotas for local radio.

Leeds and West Yorkshire Branch NUJ, June 2023
