

Public Value Test (PVT): Guidance on the conduct of the PVT

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1. Summary

Purpose of the Public Value Test

- 1.1. The Public Value Test (“PVT”) is a key component of the BBC’s system of governance which took effect with the Charter and Agreement on 1 January 2007.¹ The PVT must be applied before a decision is taken to make any significant change to the BBC’s UK Public Services.
- 1.2. The Charter makes clear that the BBC should be able to alter its UK Public Services – for example to respond to changes in technology, culture, market conditions and public expectations. However, proposals from the BBC Executive for significant changes must be subject to full and proper scrutiny by the BBC Trust. The PVT is the means by which this scrutiny takes place prior to approval
- 1.3. The key duties of the BBC Trust (“the Trust”) include upholding the interests of licence fee payers and securing the effective promotion of the BBC’s Public Purposes.² In exercising these duties the Trust also has a general duty to have regard to the competitive impact of the BBC’s activities on the wider market. The PVT provides an evidence-based approach for the Trust to take all these factors into account when considering significant changes to the BBC’s UK Public Services.
- 1.4. This document outlines the process that will be followed by the Trust in conducting a PVT. It is intended to provide guidance and clarity on the PVT process and has been produced in light of experience so far. In some circumstances the Trust may decide to modify the application of aspects of this guidance, where not specifically required by the Charter and Agreement. In such cases the Trust will explain the steps taken. This document will be kept under review and amended accordingly.³

Summary of the Public Value Test process

- 1.5. This document outlines the detailed process that will normally be followed in undertaking the PVT. In summary:

¹ The Royal Charter for the continuance of the British Broadcasting Corporation of October 2006 (“Charter”) and An Agreement between Her Majesty’s Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation of July 2006 (“Agreement”); available at: www.bbccharterreview.org.uk/. Detailed information on the PVT process is contained in Clauses 23 to 33 of the Agreement

² The BBC Public Purposes are set out in Article 4 of the Charter and Section 5 of this guidance

³ The requirements of this document are set out in the Trust Protocol D5, available at: www.bbc.co.uk/bbctrust/framework/protocols/compliance.html. This guidance replaces the *Interim rules on the conduct of the PVT*

- Ø The BBC Executive must apply to the Trust for approval to make any potentially significant change to the BBC's UK Public Services.
- Ø The Trust will determine whether the proposals represent a significant change to the UK Public Services and whether the PVT should be applied.⁴
- Ø If a PVT is required, the process involves two elements:
 - A Public Value Assessment ("PVA"), which assesses the likely public value of the proposal. This is conducted by the Trust;⁵ and
 - A Market Impact Assessment ("MIA"), which assesses the extent of any likely impact on markets relevant to the proposed change. This is conducted by Ofcom.⁶
- Ø The Trust will consider the outcome of the PVA and MIA, both of which will be published, and reach provisional conclusions regarding the proposed change.
- Ø The Trust will consult on its provisional conclusions before reaching a final conclusion on the proposed change. The Trust must be satisfied that any likely adverse impact on the market is justified by the likely public value of the change before concluding that the proposed change should be made.
- Ø The PVT process must be completed within six months of the date on which the Trust determines that it is to be applied. Where justified by the circumstances, the Trust, in its discretion, may allow a longer period for completion of the PVT.

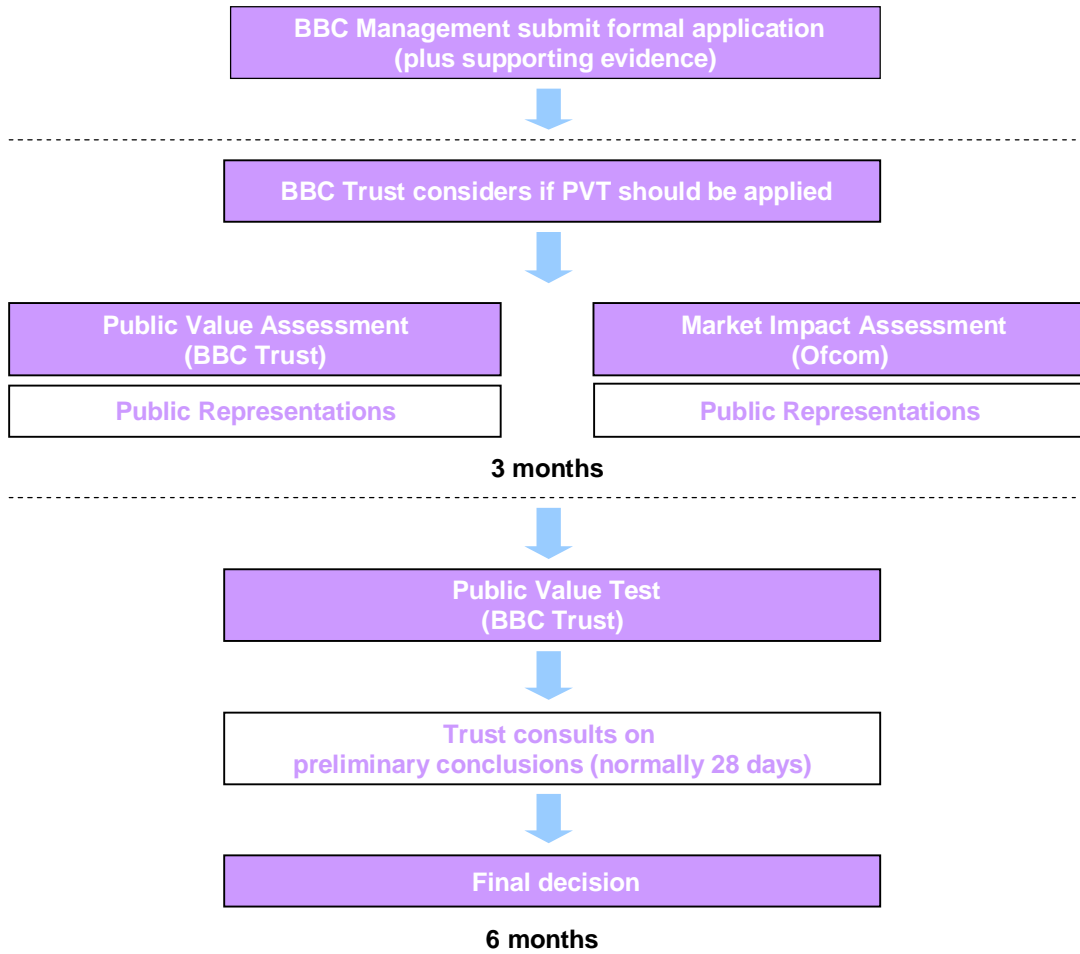
1.6. This process is summarised in Diagram 1 overleaf.

⁴ The Trust can delegate authority to the PVT Steering Group, a sub-committee of the Trust, to decide whether a PVT should be applied and to carry out other related tasks. Section 5 provides further details.

⁵ The Trust is supported by the Trust Unit in this task. The Trust Unit is a separate team responsible for supporting and assisting the Trust and is administratively separate from the rest of the BBC's organisation. The Trust Unit also assists the Trust in the administration of the PVT process.

⁶ Ofcom is the regulator for the UK communications industries.

Diagram 1: Summary of the PVT process



2. Application of the Public Value Test

When the PVT will be applied

- 2.1. The Trust is required to apply the PVT before a decision is taken to make any significant change to the BBC's UK Public Services. This can include introducing a new service or discontinuing an existing service.
- 2.2. The Trust is not required to apply the PVT to other "non-service" activities.⁷ However, the Trust may still decide that it would be appropriate to apply a PVT in certain cases. This guidance will be applicable in such instances.
- 2.3. For these purposes the BBC's UK Public Services refers to all the services provided by the BBC in promoting its Public Purposes. It includes all the BBC television and radio channels broadcast in the UK and the BBC's online services. It excludes any services which are:
 - Commercial services
 - Form part of the BBC World Service
 - Services performed at the request of, and funded by, any Department of Her Majesty's Government in the UK
 - Aimed primarily at users outside the UK
- 2.4. Each of the BBC's UK Public Services is also governed by a service licence. Service licences contain a description of the characteristics of the service, including its remit, scope, aims and headline budget.⁸

Criteria for applying the PVT

- 2.5. Whether any proposals for change meet the criterion of significance is a matter of judgment for the Trust. In exercising that judgment the Trust must have regard to the following considerations:⁹
 - a) impact – the extent to which the change is likely to affect relevant users and others;

⁷ Clause 22 of the Agreement provides further detail on non-service activities

⁸ A full list of the BBC's UK Public Services and a description of Service Licences can be found at: www.bbc.co.uk/bbctrust/framework/bbc_service_licences/index.html

⁹ Agreement, Clause 25(2)

- b) the financial implications of the change;
 - c) novelty – the extent to which the change would involve the BBC in a new area of activity, as yet untested; and
 - d) duration – how long the activity will last.
- 2.6. In addition, the Trust should presume that any change which requires a new service licence or any amendment of the key characteristics described in a service licence ought to be subject to a PVT. Where this presumption applies, the Trust may still decide that there is no need for the PVT to be applied, but the Trust must justify its reasoning in departing from this presumption.¹⁰
- 2.7. If a change to a service or new service is approved following the PVT, the terms of the approval will be contained in the relevant service licence(s). A further PVT would not be required unless the BBC Executive proposes a further significant change to that service.
- 2.8. The Trust can decide that a PVT should be applied to any sufficiently significant change to a UK Public Service that was not formally notified to the Trust before the change was made. These are expected to be exceptional circumstances and the Trust might consider it appropriate to suspend the service pending the completion of the PVT.

¹⁰ Agreement, Clause 25(3)

3. Submitting an application

Preparing an application

- 3.1. The PVT will generally be applied in response to an application from the BBC Executive. The BBC Executive is responsible for seeking approval for any potentially significant changes it wishes to make to the UK's Public Services and for co-ordinating and submitting all such applications to the Trust.
- 3.2. For planning purposes the Trust should be kept updated on the progress of all potential applications. Applications should normally be separated by 6-8 weeks.

Supporting evidence

- 3.3. Proposals for a significant change must be supported by appropriate evidence. This evidence will be considered by the Trust and Ofcom in assessing the proposal. The Trust will seek to agree the evidence base with the BBC Executive in advance of any application to ensure that sufficient evidence is provided.
- 3.4. The BBC Executive is required to submit the following documents to the Trust before collecting the evidence to support an application:
 - Service Proposal – providing an outline of the proposed change. This provides a framework for determining research requirements and should include:
 - a summary of the new service or proposed change, including its aims, objectives and potential scale;
 - a brief outline of the strategic rationale for the proposal; and
 - an indicative timetable of service launch.
 - Research Terms of Reference – outlining the research that will be undertaken in support of a proposal. This should provide details on:
 - the primary and secondary research (including pilots) that will be used to evaluate public value and market impact; and
 - existing BBC or external services against which the proposal will be benchmarked. While direct comparisons may not always be possible, high level comparisons should be provided where possible.

- 3.5. These documents will be discussed with Ofcom. The Trust will normally respond to the BBC Executive within two weeks of their receipt. Once approved, the BBC Executive should gather the necessary evidence.
- 3.6. Any pilots undertaken in support of an application must comply with the terms of the Trust Protocol on the handling of public service pilots and trials.¹¹
- 3.7. It is possible that proposals may develop in light of responses to trials and pilots or evidence gathered. In such cases the BBC Executive will be responsible for ensuring that final proposals submitted for approval are supported by appropriate evidence.

Applications to the Trust

- 3.8. The BBC Executive Board must approve all applications before they are submitted to the Trust. Applications must include a detailed description of the proposed change, including its likely scale and budget. This should be accompanied by detailed evidence in support of the application.
- 3.9. On receipt of an application, an agreed understanding of the proposal will normally be produced with the BBC Executive. This will serve as the basis for any assessment by the Trust and by Ofcom. Features not explicitly covered in the agreed service description will not be considered for approval as part of the PVT.
- 3.10. Following this process the BBC Executive's application will be considered by the Trust.

¹¹ Available at www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/d8_handling_of_pilots_trials.pdf

4. The Public Value Test process

Consideration of an application

- 4.1. The Trust will consider any proposed changes to determine whether the PVT should be applied, taking into account the factors outlined in Section 2 of this guidance. Depending on the nature of the proposal, the Trust may decide to undertake an initial investigation before making this judgment to inform itself of any facts or considerations which it considers potentially relevant to the exercise of its judgment.
- 4.2. The Trust may determine that a specific proposal does not require a PVT. Depending on the scale and nature of the proposal, in such cases the Trust may either:
 - refer the proposed change back to the BBC Executive for approval; or
 - consider the proposed change through the appropriate Trust approvals route for that service. Details of the various approvals process are contained in the relevant Trust Protocols.¹²

Launching the PVT

- 4.3. In the event that the Trust determines that a PVT should be applied, it will publicly announce the launch of the process and inform the Joint Steering Group ("JSG") of the need for a MIA.¹³
- 4.4. Around the launch of the process the Trust will aim to publish as much relevant information about the proposal as possible, including the application from the BBC Executive and the agreed service description.
- 4.5. In some cases it may be necessary to make some redactions before publishing this information, for example if the application includes information which may be commercially sensitive to the BBC, third parties or suppliers; includes a level of cost detail beyond that normally published by the BBC; or could have an impact on wider policy considerations. The Trust will aim to keep such redactions to a minimum and will ensure that any information not open to external scrutiny is rigorously assessed during the PVT process.
- 4.6. At the start of the PVT process the Trust will outline the proposed timetable for completion of the process. Where necessary, this timetable may be revised during the PVT process. The process must be completed within six months. In some cases

¹² The Trust's Protocols can be found at: www.bbc.co.uk/bbctrust/framework/protocols/index.html

¹³ See Section 6 of this guidance for detail on the purpose and composition of the Joint Steering Group.

the Trust, following discussions with Ofcom over the MIA, may agree with Ofcom that it is appropriate to conduct the PVT process in a shorter period.

- 4.7. At its discretion, where justified by the circumstances, the Trust may also allow a longer period than six months for the completion of the PVT. Likewise, the JSG, where justified by the circumstances, may allow for a longer period than three months within which to complete the MIA. Possible amendments to the required timetable or process are discussed in the following sections and will be outlined at the outset of the PVT process.
- 4.8. In conducting the PVT process the Trust will take account of both the PVA and MIA. These assessments are considered in the following Sections and are normally conducted in parallel during the PVT process.

5. The Public Value Assessment (PVA)

The PVA process

- 5.1. The Public Value Assessment (PVA) provides an assessment of the likely public value that will be created by the proposed change. The PVA is a Trust document that is produced with the support and assistance of the Trust Unit and adopted by the Trust. Conduct of the PVA may be supervised by the PVT Steering Group.¹⁴
- 5.2. The PVA normally commences at the launch of the PVT process. By law, the BBC is required to promote equality positively and work to eliminate unlawful discrimination across race, disability and gender in respect of its public functions. An Equality Impact Assessment will be conducted at the start of the PVA process to identify the potential impact on different people.
- 5.3. During the PVA process appropriate public consultation will be carried out, as one method to assess the aspects of public value that are relevant to the proposal. Consultation will normally involve seeking representations on the proposal from licence fee payers, stakeholders, and any particular groups for whom the subject of the proposals may warrant specific input. The Trust is also required to consult with its regional Audience Councils during the PVT process.¹⁵
- 5.4. Representations will normally be sought for a period of 28 days. This period may be longer or shorter taking into account matters such as the nature and complexity of the relevant proposals and the need for adequate consultation. The Trust will also consider, in relation to the proposals, whether it should undertake research of its own and/or obtain any external expert or professional input. At least an analysis of all inputs received from the consultation will normally be published.
- 5.5. The PVA will normally be completed within 12 weeks. However, as noted in Section 4, it can be conducted within a shorter or longer period. The Trust will consider matters such as the nature and complexity of the proposals in deciding whether a different timescale is appropriate for completion of the PVA.
- 5.6. The Trust and Ofcom will aim to publish the final PVA and MIA at the same time. An advance copy of the reports will be shared in confidence with the BBC Executive one working day in advance of publication.

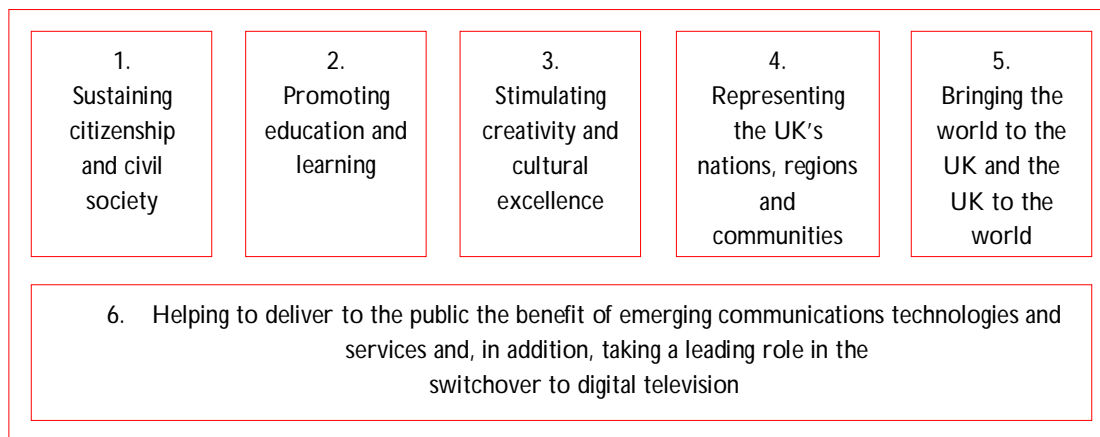
¹⁴ Terms of reference for the Trust's sub-committees are available at: www.bbc.co.uk/bbctrust/about/meetings_and_minutes/bbc_trust_committees.html

¹⁵ Information on the Trust's Audience Councils is available at www.bbc.co.uk/bbctrust/about/audience_councils/index.html

Methodology for the PVA

- 5.7. This section provides an overview of the methodology for conducting the PVA.
- 5.8. The BBC's main object is the promotion of its Public Purposes. The PVA should therefore consider the value which the proposed change would deliver through its contribution to the BBC's Public Purposes. These are presented below.

Diagram 2: The BBC's Public Purposes



- 5.9. In considering the Public Purposes the Trust will also assess the proposal in terms of the BBC's wider strategy, including the expectations of licence fee payers and external market developments.
- 5.10. At the outset of each PVA the Trust will consider carefully the aspects of public value which may be relevant to the assessment of the proposal and how those aspects should be explored and evaluated. In general terms, a PVA should include an assessment of:
- the value which licence fee payers would place on the proposed change as individuals;
 - the value which the proposed change would deliver to society as a whole through its contribution to the BBC's Public Purposes; and
 - the value for money of the proposed change and its cost (including the potential financial implications if the proposed change were not to be made).
- 5.11. More specifically, the extent to which a proposed change promotes the Public Purposes and creates public value will usually be assessed with reference to certain key drivers of public value. However, depending on the proposal the Trust may decide to consider other factors if this is more appropriate. An explanation of the steps taken will be provided in the PVA.

- 5.12. The four drivers of public value that the Trust will usually consider are outlined below.

Diagram 3: Drivers of public value

| Public Value Assessment – Broad description of the drivers of Public Value | | | |
|--|--|---|---|
| <i>Reach</i> | <i>Quality</i> | <i>Impact</i> | <i>Cost & value for money</i> |
| How far will the proposal extend the BBC's reach and usage? | Is the proposal of high quality and distinctive? | Will the proposal create consumer and citizen benefit (i.e. for individuals and/or society as a whole)? | How much will the proposal cost to deliver and will it provide value for money? |

- 5.13. The exact definition of each of these drivers of public value will be determined in the PVA and may vary depending on the nature of the relevant proposals. The following however provides a broad guide on the drivers that may be used in the PVA.

Reach

- 5.14. Reach assesses the projected usage of the service over a given period of time (for example, the number or percentage of adults who would use the service at least once in an average week).
- 5.15. Taking into account its duties under the Charter and Agreement and the particular proposal under consideration, the Trust may in some cases wish to focus on a particular consideration of reach, for instance reach by specific audiences and regions or programme genres.

Quality and Distinctiveness

- 5.16. The PVA may consider the likely quality of the proposal. This may include the quality of any content to be supplied by the service or possibly technical issues in some cases. The PVA will also consider the extent to which the proposal is distinctive from other existing or proposed services.
- 5.17. Distinctiveness may be particularly difficult to assess in nascent markets which need to take into account the emergent nature of the market. The PVA would need to consider what features could make a proposal distinctive in such markets.

Impact

- 5.18. The impact of a proposal can consist of two components which may be considered separately:

- a) Consumer benefit – this refers to the benefit that an individual user would directly gain from using the proposed service, for example, whether individuals find a proposed new service engaging or challenging. This would also include an assessment of the value which licence fee payers would place on the proposed change as individuals.
- b) Citizen benefits – this refers to benefits which the proposal may create for society as a whole, for example, whether a service would result in a better functioning democracy or understanding and respect between different communities

Cost and Value for Money

- 5.19. This driver assesses the value for money of the proposed change and the cost to the BBC of the proposals (including the potential financial implications if the proposed change were not to be made). This may involve consideration of the relative efficiency of delivering the proposed change, for instance through comparison with similar services where possible.

Overall assessment

- 5.20. The PVA will consider the relative strength with which the proposed change supports the relevant drivers of public value and the cost of delivering that value. The outcome will take account of all the factors, although consideration may also be given to isolate those factors which specifically drive the Public Purposes for the proposal in hand.
- 5.21. The PVA may also consider any conditions which would alter the public value of the proposals. Finally, the assessment may also take some account of alternative methods of delivering the stated aims of the proposal. However, this would be unlikely to involve an assessment of any alternative options in detail.

Sources of evidence

- 5.22. The Trust will always include appropriate public consultation in exploring and evaluating public value. The Trust may draw on a range of other evidence during the PVA. This includes, but is not limited to:
- Forecasts of demand
 - Results from trials or pilots
 - Qualitative and quantitative research including consumer research and deliberative juries
 - Internal and external market analysis
 - Independent expert advice

- 5.23. The Trust will assess the evidence submitted by the BBC Executive and may question the BBC Executive further where necessary. If required, the Trust may also commission additional research.

Coordination with Ofcom

- 5.24. The Trust will liaise with Ofcom throughout the PVA process. Information will be shared between both parties, except where submitted in confidence or where otherwise overtly commercially sensitive, as set out in the JSG constitution.¹⁶
- 5.25. The Trust and Ofcom will work to ensure that the PVA and MIA provide a consistent basis on which the Trust can assess the proposal. However, the PVA and MIA perform different roles and the Trust's conclusions on the PVA will be developed independently and without the input of Ofcom, and vice-versa.

¹⁶ Available at: www.bbc.co.uk/bbctrust/assets/files/pdf/about/ofcom_trust_mou.pdf

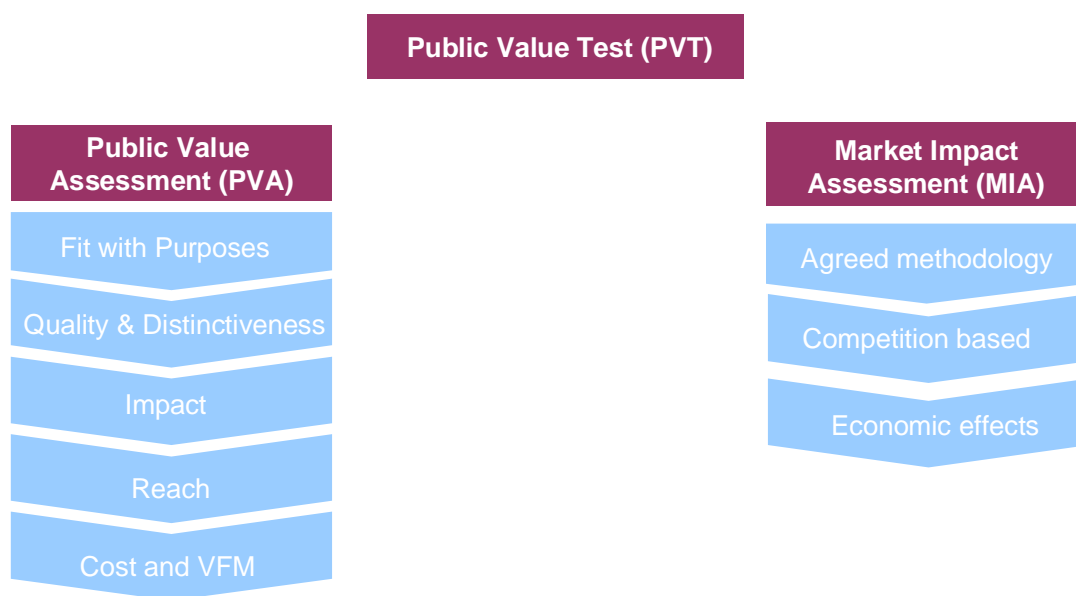
6. The Market Impact Assessment (MIA)

- 6.1. The MIA assesses the effect of the proposed service on other services in the market, both now and in the future. The MIA is provided by Ofcom and overseen by the Joint Steering Group (JSG). The JSG consists of three members from Ofcom and three from the Trust. The JSG is responsible for:
- Setting and publishing terms of reference for the MIA.
 - Agreeing the potential relevant markets for the assessment after considering advice from Ofcom. Where there are a number of potential markets identified by the JSG, the MIA will report on each potential market in the absence of agreement to do otherwise.
 - Ensuring that the MIA is conducted in a manner appropriate to the nature of the PVT and to a suitable schedule.
- 6.2. The JSG will also establish a timetable for completion of the MIA. The MIA process itself begins with the publication of the terms of reference for the MIA. The MIA must be completed within three months, although the JSG, where justified by the circumstances, may allow a longer period. The JSG may also determine, after public consultation, that a simplified approach is appropriate to be used for a particular assessment.
- 6.3. The MIA will be undertaken in accordance with the methodology agreed between Ofcom and the Trust. This is available at www.ofcom.org.uk/research/tv/bbcmias/statement/.
- 6.4. While the provision of the MIA will be overseen by the Trust, the substantive findings of the assessment remain a matter for the judgment of Ofcom.
- 6.5. The final MIA report will be published by Ofcom. The Trust and Ofcom will aim to publish the MIA and PVA at the same time, and in any event at least one week before the provisional PVT findings are published by the Trust.

7. Conclusion of the PVT

- 7.1. The Trust will consider the final PVA and MIA reports. In deciding whether to grant approval for the proposal, the Trust must satisfy itself that any likely adverse impact on the market is justified by the likely public value to be created. In arriving at its decision, the Trust will also take into account whether any approval would be consistent with the Trust's duties under the Charter and Agreement and competition law (including state aid law).¹⁷
- 7.2. The broad considerations the Trust will generally take into account in the PVT are outlined in the diagram below.

Diagram 4: PVT considerations



- 7.3. In assessing the proposal the Trust may also consider whether any possible amendments to the proposal could increase the public value created or reduce the impact on the wider market. Having considered the PVA and MIA the Trust will draw provisional conclusions on the proposed change.
- 7.4. At least one week after the publication of the PVA and MIA reports, the Trust will publish its provisional conclusions. The Trust will also publish any proposed amendments to service licences, if required by the proposal. Where the proposal requires a new service licence the Trust will publish for consultation, at this time or

¹⁷ The Trust will satisfy itself in this regard on the basis of advice received. Ofcom has no responsibility for providing the Trust with advice on compliance with competition law, either as part of the Market Impact Assessment or otherwise

shortly thereafter, a new draft service licence in relation to new services. The amended or new service licence will come into effect as a result of the decision.

- 7.5. The Trust will publicly consult on its provisional conclusions, normally for a period of 28 days. The Trust may, however, consider holding a longer or shorter consultation period, depending on matters such as the nature and complexity of the proposal and the volume of information published at this stage of the process. The Trust will consider and take account of responses received during the consultation before making its final decision.
- 7.6. Following the consultation and having taken account of the responses, the Trust will publish its final decision. Depending on the view reached, the Trust can either:
 - approve a proposed change to the BBC's UK Public Services; or
 - reject a proposed change to the BBC's UK Public Services; or
 - approve a proposed change to the BBC's UK Public Services with conditions.
- 7.7. The Trust will publish its final decision and at least an analysis of all inputs received in connection with the public consultation. It will also publish any amendments to service licences, or new service licences if required, reflecting the Trust's decision and which were consulted on as part of the PVT process. The final decision will be shared in confidence with the BBC Executive one working day in advance.
- 7.8. The Trust's decision is the last stage in the PVT process and the Trust's decision in relation to the PVT is final.
- 7.9. Proposals for the introduction of a new service¹⁸ are, however, also subject to a procedural veto by the Secretary of State for Culture, Media and Sport, as set out in Clause 33 of the Agreement. Where the Trust considers that the proposal will involve a new service licence, and will therefore be subject to confirmation from the Secretary of State that the procedural veto will not be exercised, the Trust will take this into account in the PVT process.

¹⁸ The "introduction of a new service" for the purposes of the Secretary of State's procedural veto means anything which the Trust proposes to authorise by a new service licence rather than the amendment of an existing licence (Clause 33(4) Framework Agreement).

8. Sources of further information

Further information on the PVT can be found at:

www.bbc.co.uk/bbctrust/framework/public_value_test/index.html

Or by contacting:

The Head of Finance, Economics and Strategy
BBC Trust
211 Marylebone High Street
London
W1U 4AA

Information on the MIA can be found at:

www.ofcom.org.uk/research/tv/bbcmias/

The BBC's Charter and Agreement can be found at:

www.bbc.co.uk/bbctrust/framework/charter.html