[GB] Ofcom becomes the BBC's first independent external regulator

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On 3 April 2017, pursuant to The Royal Charter for the Continuance of the British Broadcasting Corporation (BBC) Royal Charter (the "Charter") the communications regulator Ofcom will regulate the BBC, succeeding the role previously undertaken by the BBC Trust. Ofcom will be the first external and independent regulator of the BBC. The Charter took effect on 1 January 2017 and expires on 31 December 2027.

Prior to 3 April 2017, the BBC was already subject to certain Ofcom regulation, such as that concerning the protection of children, hatred and abuse, religion, and fairness issues. However, as from the 3 April 2017, the balance of the Ofcom rules will apply, including accuracy and impartiality, elections and referendums, and commercial references in programmes. The Charter stipulates that Ofcom must prepare and publish an Operating Framework that contains the provisions Ofcom consider appropriate to secure effective regulation of the activities of the BBC as set out in the Charter and the Agreement between the Her Majesty's Secretary of State for Culture, Media, and Sport and the BBC (the Framework Agreement).

Ofcom must set an operating licence for the BBC in accordance with the Operating Framework containing regulatory conditions appropriate to ensure the BBC fulfils its Mission; promotes the BBC's Public Purpose to secure distinctive output and services; and secures that audiences in Scotland, Wales, Northern Ireland, and England are well served. Further duties are placed upon Ofcom to consider the BBC's impact on fair and effective competition, as well as holding the organisation accountable (including the application of sanctions where necessary) for its output and services. This includes securing the observance of content standards in accordance with Ofcom's Standards and Fairness Codes. Ofcom plans to publish their final operating licence by the end of September 2017, although the actual timing is linked to the BBC's interim annual plan, which forms part of the regulator's overall consultation. Additionally, by the end of September 2017 Ofcom will publish their final statement on performance measures and procedures.

Pursuant to the Charter, Ofcom must ensure and enforce compliance by the BBC including content standards, competition requirements, and other requirements set out in the Agreement. Regarding competition Ofcom will consider the

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relationship between the BBC's public service activities and its commercial subsidiaries' activities to ensure their conduct does not distort the open market, or create unfair advantage for the BBC's commercial entities. The BBC will be subject to procedures implemented by Ofcom to deal with any complaints about the broadcaster's television, radio, and on-demand programmes, including procedures concerning how investigations are conducted and sanctions Ofcom can impose for any breach.

Ofcom must prepare and publish an annual report, in response to the BBC's own yearly report, to include the regulator's assessment of the broadcaster's compliance with specified requirements. Further, Ofcom must publish two or more detailed periodic reviews on the BBC's performance in fulfilling its Mission and promoting its Public Purposes. Any governance functions undertaken by the BBC Trust will be conducted by the BBC's new unitary board of directors, which will govern and run the broadcaster as well be ultimately responsible for editorial and management decisions.

Ofcom, Ofcom outlines plans for regulating the BBC's performance, 29 March 2017

https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2017/Regulating-the-BBC-performance

Royal Charter for the continuance of the British Broadcasting Corporation, December 2016

http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/2016/charter.pdf

The Agreement between the Her Majesty's Secretary of State for Culture, Media and Sport and the BBC, December 2016

http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/2016/agreement.pdf

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