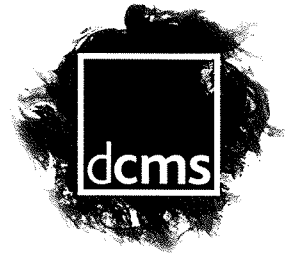


CMS 183117/DC

Lord Patten of Barnes
Chair
BBC Trust
180 Great Portland Street
LONDON W1W 5QZ

9 August 2011



department for
**culture, media
and sport**

Dear Chris,

I am writing to reach final agreement about the wording of the Value for Money section of the amended Agreement between the Government and the BBC.

I am very grateful for the suggestions you put forward for workable arrangements for NAO access to the BBC including the proposal that the Comptroller and Auditor General should have quarterly opportunities to review the NAO's programme. I put this to Amyas Morse who has responded saying he believes the arrangement can be made to work in practice. However, he does have significant reservations about some of the conditions you attach to this proposal as set out in your draft wording dated 13 July 2011.

I now want to move forward towards a final arrangement in place by November 2011 as set out in the DCMS Business Plan and on that basis I enclose with this letter a revised version of the Value for Money section which I believe deals with both your and C&AG's concerns. I would be grateful for your agreement to this wording as soon as possible so we can sign off the full Agreement by the end of this month and ensure that NAO has full access to the BBC from next year, in the interest of licence fee payers.

Specifically, the changes address two conditions in your last draft: first, that the NAO should not start work on a particular subject until the Trust has finished its work on the same subject and second, that the NAO must give the Trust 'reasonable notice' before it can start work. On the first, the wording now makes it quite clear that the Trust cannot veto NAO's work on the basis that it has not carried out its own study, but that where Trust studies are *already* underway, the NAO will not start work until they are completed to avoid two strands of work on the same area taking place in parallel (79 (7)(b)). Amyas was concerned that this could be used as a delaying device, but I do not believe that is the case if both sides act in a reasonable way. On the second point, I agree with Amyas that the requirement for 'reasonable notice' is too difficult to define to be useful in practice, so it has been replaced with a stipulation that the timings of the reviews should be included on the annual list (79 (3) and (4)).

As you know, I am committed to ensuring the NAO has full access to the BBC and I believe that the wording in the Agreement I am now proposing is the best possible way to deliver that to our timetable. I look forward to hearing from you by the beginning of September.

Yus ever

A handwritten signature in black ink, appearing to read 'Jeremy', with a long horizontal stroke extending to the right.

Rt Hon Jeremy Hunt MP
Secretary of State for Culture, Olympics, Media and Sport

9. Value for money

(1) As from 1 January 2012, for clause 79 of the 2006 Agreement substitute—

“79. Value for money examinations

- (1) The Trust must examine the value for money achieved by the BBC in using the sums paid to it under clause 75(1) or 78.
- (2) The ways in which the Trust will fulfil that responsibility include—
 - (a) adopting annually an audit programme specifying the subject-matter of value for money reviews it has decided should be conducted by or on behalf of the Trust, other than those to be conducted by the NAO (“NAO reviews”),
 - (b) conducting, or receiving and responding to reports of, such value for money reviews, and
 - (c) receiving and responding to reports of NAO reviews.
- (3) The subject-matter of NAO reviews shall be determined by the Comptroller and Auditor General (“CAG”); and accordingly, each year, the CAG shall send the Trust a written list of the value for money reviews the CAG has decided the NAO should conduct in the following calendar year and indicate when each review is expected to be conducted (but subject to paragraphs (5) to (7)).
- (4) The CAG shall consult the Trust before deciding the timing of such reviews, ~~and give the Trust reasonable notice of when each review is to be conducted.~~
- (5) If, in the course of a calendar year, the CAG considers that there are exceptional reasons that justify an alteration of the list for that year sent to the Trust pursuant to paragraph (3), the CAG may, on any one or more of the relevant dates, send the Trust a revised list accompanied by a statement of those reasons.
- (6) For the purposes of paragraph (5), “the relevant dates” are 31st March, 30th June and 30th September (or the first working day to fall after the date in question, as the case may be).
- (7) In the case of an NAO review that is to be conducted as a result of an alteration made under paragraph (5)—
 - (a) paragraph (4) applies, but
 - (b) in particular, an NAO review of any subject-matter cannot be commenced before the completion of any value for money study or other consideration of that subject-matter that is already being conducted by or on behalf of the Trust on the relevant date that the revised list mentioned in paragraph (5) is sent to the Trust by the CAG.

- (8) In adopting its audit programme under paragraph (2)(a), the Trust must take account of any notification it has received from the CAG under paragraph (2) or (5).
- (9) The CAG has a right of access to all such information as the CAG reasonably requires for the purpose of—
 - (a) enabling the CAG to decide which activities of the BBC may, or will, be included in the subject-matter of NAO reviews, or
 - (b) enabling the NAO to conduct such reviews.
- (10) The Trust must enter into suitable arrangements, including with—
 - (a) the NAO, and
 - (b) other suitable organisations,to carry out value for money reviews.
- (11) Such arrangements shall be on terms requiring that, on completion of any such review, the NAO or other organisation which carried it out shall submit a report on it exclusively to the Trust.
- (12) Arrangements made with the NAO under paragraph (10)(a) must be on terms which—
 - (a) require the factual content of any report to be submitted under paragraph (11) to be agreed by the BBC before submission, but
 - (b) allow the NAO to retain full discretion over the report's conclusions and recommendations.
- (13) On receiving a report submitted under paragraph (11), the Trust must—
 - (a) consider those matters in it that in the Trust's view ought to be taken into account in examining value for money for the purposes of paragraph (1);
 - (b) decide whether any action should be taken in the light of the report; and
 - (c) prepare a written response to the report, including specifying any action to be taken by virtue of sub-paragraph (b).
- (14) The action specified under paragraph (13)(c) may include requiring the Executive Board to set out how it intends to respond to—
 - (a) any aspects of the report, or
 - (b) any aspects of the Trust's response to the report, or
 - (c) any aspects of any other Trust examination of value for money which took the report into account,

so far as they are relevant to the functions of the Executive Board.

(15) The Trust shall, as soon as practicable, send any report submitted to it under paragraph (11) (whether by the NAO or by any other organisation), together with the Trust's written response to that report, to the Secretary of State. The Secretary of State must then lay the report, together with the Trust's response, before Parliament.

(16) Nothing in this clause entitles the CAG to question the merits of any editorial or creative judgment which is made by or on behalf of the BBC, or of any policy objective of the BBC relating to the manner in which BBC services are made or distributed.

(17) In this clause—

(a) "the Comptroller and Auditor General" means the officer appointed under section 6 of the Exchequer and Audit Departments Act 1866;

(b) "NAO" means the National Audit Office, and

(c) "working day" means any day that is not a Saturday, a Sunday or a public holiday in England."

(2) The activities which the CAG has decided will be subject to reviews conducted by the NAO in the calendar year 2012 shall be notified to the Trust in writing no later than 31 December 2011.