



DEPARTMENT FOR CULTURE, MEDIA AND SPORT

Government Response to the Lords Select Committee Report “Further Issues for BBC Charter Review”

*Presented to Parliament by the
Secretary of State for Culture, Media and Sport
by Command of her Majesty
May 2006*

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GOVERNMENT RESPONSE TO THE LORDS SELECT COMMITTEE REPORT “FURTHER ISSUES FOR BBC CHARTER REVIEW”

The Government welcomes the Committee’s second report, and is grateful for the additional contribution it has made to the Charter Review process. The Committee can be assured that the Government considered very carefully the evidence presented at the further sessions as it drafted the White Paper.

As it made clear in the introduction to the last response, the Government has – with the assistance of the independent panel chaired by Lord Burns – placed a great emphasis on open and transparent consultation throughout the Charter Review process. That process continued with the public’s views on the White Paper, and associated draft Charter and Agreement, sought up until the end of April, and the Government will seek the views of both Houses with debates planned for the Houses of Lords and Commons before the end of the year.

The Select Committee’s report contained a number of key conclusions and recommendations:

172 We question whether the licence fee should be linked to RPI. We recommend that RPI should not be taken as a baseline for licence fee increases. We further recommend that, if the BBC is to launch new services, the Government should assess the BBC’s funding needs on the basis of careful and robust costings without necessarily accepting that the BBC will need a licence fee increase above RPI.

173 We therefore recommend that the BBC and the Government should work to minimise future licence fee rises. The licence fee should only rise significantly if there are exceptional and well substantiated reasons for it to do so.

(Joint Response)

The Government agrees that the level of the licence fee needs to be rigorously examined. The Government is currently conducting an open and robust review of the BBC’s funding needs to determine the level of the licence fee to apply from April 2007. The method of calculation will be considered as part of that review.

174 The National Audit Office should be involved in scrutinising the licence fee bid. Its report should be published in full. This would mean that for the first time the public and Parliament would have the information necessary to make an independent and informed judgement on the BBC’s plans. We also believe that the BBC and the DCMS should be doing more than industry consultations, the public should be consulted as well. Until these two things happen the public will continue to perceive the licence fee negotiations as secretive and opaque. The licence fee is rising at an unprecedented rate and it is time that it was open to proper scrutiny.

Government Response

The Government agrees that there should be independent analysis of the BBC’s proposals. It has commissioned PKF to examine the assumptions underlying the BBC’s future funding proposals. Subject to genuine issues of commercial confidentiality, the Government has published the findings. Given that exercise, it can see no need for asking the NAO to duplicate that work.

The Government has ensured that this Charter Review has been accompanied by an unprecedented level of public consultation, openness and transparency. This principle has extended to the process of setting the level of the licence fee. As well as making public the findings of its independent consultants, it has also invited interested organisations to submit evidence, that it intends to publish. The Government is holding a public seminar to debate the issues behind the settlement on 5 May, and is commissioning research into the public's willingness to pay for the BBC that will be published in due course. Taken together, this provides more information to assist public scrutiny of the licence fee settlement than ever before.

175 The reclassification of the licence fee as a tax, and of the BBC as a central government body, could therefore have significant implications for the BBC's independence. We urge the Department of Culture, Media and Sport to spell out what these implications are and to ensure that the BBC's independence is safeguarded in light of these changes.

176 As long as the licence fee is being recognised as, and treated as, a tax then our argument that Parliament should have a chance to properly scrutinise it becomes even stronger.

177 Parliament is not given any opportunity (beyond hearing a Government statement) to scrutinise the licence fee formula agreed by the BBC and the DCMS. We believe this is wrong. Parliament should be able to scrutinise the proposed licence fee agreement which forms the basis upon which it will be asked to increase the licence fee each year.

(Joint Response)

The Office for National Statistics made clear in announcing the reclassification that this was an issue of statistical classification only. It has no impact on the relationship between the Government and the BBC and will not, in any way, compromise the Corporation's independence.

Like the existing funding arrangements, the new licence fee formula will be established by the Government. However, television licence fees are set by regulations made under the Communications Act 2003, which must be laid before both Houses of Parliament before they can come into effect. The regulations are subject to the negative resolution procedure, but the opportunity exists for any increase to be debated by both Houses.

178 We therefore urge the Government to consider again covering the costs of providing targeted help with digital switchover from general taxation.

Government Response

The Government has taken note of the Committee's previous recommendation that the provision of targeted help with digital switchover should be funded from general taxation, but disagrees. A key outcome of digital switchover will be to ensure that the BBC's digital services are available to all licence fee payers. Therefore the Government strongly believes that it is right for the BBC, as part of its role in building digital Britain, to help establish and fund the costs of providing assistance as part of its wider leadership role in the completion of digital switchover.

179 It is our conclusion that it would be illogical and unfair for licence fee payers to pick up the costs of ensuring the BBC uses its spectrum efficiently. This is particularly true when it is acknowledged that the BBC already uses its spectrum efficiently. Although we recommend that the BBC's use of spectrum should be kept under review we do not believe that licence fee payers should pay a charge that goes straight to the Treasury.

180 We also recommend that Channel 4, as a not for profit public service broadcaster, should be exempt from spectrum charging.

181 The decision as to whether to charge the BBC and Channel 4 for spectrum will have a direct impact on the quality of public service broadcasting and on the level of taxation to which the public is subject. The Government should therefore use their powers under Section 156 of the Communications Act 2003 to direct Ofcom to exempt the BBC and Channel 4 from any charge for radio spectrum.

(Joint Response)

The Government notes the Committee's view. Ofcom is looking at how spectrum pricing should be applied to the broadcasting spectrum, but no decisions have yet been made.

182 We therefore recommend that the proceeds from sale of analogue spectrum, and any receipts from the charging of broadcasters for spectrum, should be used to cover the costs of digital switchover.

Government Response

The Government notes the view of the Committee that the proceeds from the sale of the spectrum should be used to cover the costs of digital switchover, but believes that these are broadcasting costs and therefore should be met by broadcasters.

The Government's established and declared policy since its response to the Cave review of radio spectrum management has been to favour technology-neutral auctions when considering mechanisms for assigning spectrum. This gives as much flexibility as possible to the market to decide on services, technologies and providers.

Of course, in approaching and designing any spectrum auction, Ofcom will need to consider all the issues including: the optimal use of the spectrum; the likely effect on competition; and the particular needs of all potential users of the spectrum – including, of course, broadcasters.

183 We recommend that under no circumstances should the BBC World Service be allowed to be treated or seen as a “tool” of public diplomacy or of governmental goals. Everything should be done to protect the editorial independence on which its reputation depends.

Government Response

The Government agrees that the BBC World Service should remain completely, editorially independent of Government, and that its reputation, and indeed its value, depend on this independence.

184 We do not believe it is appropriate for a representative of the BBC World Service to serve either as a member or as an observer on a board chaired by an FCO Minister under the proposed definition of public diplomacy. We are also against the proposal that BBC staff should be employed by a Government management unit. The independence of the BBC World Service could be compromised by the closeness of the relationship proposed by Lord Carter's review.

Government Response

The Government believes that it is appropriate for the BBC World Service to have observer status at the Public Diplomacy Board, as it did at the Public Diplomacy Strategy Board. It does not consider that this in any way compromises the BBC World Service's editorial independence. There are no plans for BBC World Service staff to be employed by a Government management unit.

185 A 12 hour limit on the Arabic language news channel's broadcasting time will mean the BBC competing for audiences with one hand tied behind its back. We recommend that the Government should immediately provide the BBC World Service with the required £6 million to establish a 24 hour Arabic channel.

Government Response

The Government disagrees. The BBC proposal to the FCO for Arabic TV made the case for a 12-hour service on launch. Polling evidence, which suggested a 12-hour service would succeed in attracting a significant audience, supported this. The Director of the World Service addressed this point in evidence to the Committee on 9 November. Lord Triesman has put on record his view that it is prudent to wait and see how successful 12-hour Arabic TV is before considering a 24-hour service. This approach has been endorsed by the House of Commons Foreign Affairs Committee Report on Public Diplomacy.

186 We therefore recommend that the BBC should comprehensively review its international activities and that a strategy outlining the future of its public and commercial television, radio and online services used overseas be published.

Government Response

The Government agrees. The White Paper calls upon the BBC World Service to conduct a continuous evaluation of all its services to assess their impact and, where appropriate, carry out further re-prioritisation. The World Service has already outlined its medium-term aspirations and tri-media vision for the future in its publication "2010 And Beyond", which was published in December 2005. In addition, the White Paper makes clear that the BBC Trust will develop and consult on its priorities within each of its new purposes through new "purpose remits". This policy extends to the BBC's new international purpose.

187 We recommend that as part of the comprehensive review of the BBC's international services the BBC World Service should continue to consider the need to provide television services beyond the Arabic language service. Further expansion may prove to be important but should not be dependent on cuts to existing radio services.

Government Response

The Government broadly agrees. BBC World Service has already gone some way towards outlining its future aspirations in its "2010 and Beyond" paper. The demand for and likely impact of additional TV channels must be assessed on a case by case basis and take into account changing audience preferences. Radio services will continue to be at the core of BBC World Service output. But individual services should not be maintained where audiences fall below viable levels and where there is demand for access to World Service programmes via other means. Like all publicly funded bodies, the Government expects BBC World Service to prioritise its activities. Where possible, the BBC World Service should aim to fund new priorities by releasing resources from lower impact services.

188 We support the aims of the BBC's move to Greater Manchester and note that the area already has the making of a media hub. We believe that it is of utmost importance that the BBC establish an autonomous decision making centre in the area that is not forever referring back to the "main" London office. We also hope that staff working in the new centre will live locally to maximise the benefits of the move for the region.

189 We recommend that the BBC should do its utmost to maximise clustering arrangements with other media companies in the Greater Manchester area. Even though the BBC has ruled out participating in a media enterprise zone located at the ITV/Granada site, it is crucial that the BBC works together with ITV and the independent sector to make a success of the Greater Manchester media enterprise zone.

(Joint Response)

The White Paper sets out the Government's welcome in principle for the BBC's proposals to move a significant amount of production to cities outside London, in particular to the North West of England. It is a potentially powerful means of furthering the BBC's representative purpose and has the potential to stimulate the regional media industry enormously, with benefits for the wider economy. The Government agrees with the Committee that an important factor in realising the potential benefits of the proposal will be the commitment to developing a genuine hub in the region, drawing on the creative talent of the North West.

The White Paper also states that the BBC will wish to explore the scope for maximising the benefits of partnerships in the nations and regions, particularly with ITV and local coordinating bodies like the Regional Development Agencies, with a view to keeping to a minimum the cost to the licence fee payer.

190 We do not believe that the move to Greater Manchester, which will bring such obvious benefits, should be used as a bargaining gambit in BBC's licence fee negotiations. The BBC should fully commit to the move as soon as possible.

Government Response

One of the guiding principles for decisions in this area should be efficiency and value for money, and the Trust will need to satisfy itself that the BBC's current proposals represent the most cost-effective way of achieving the objectives of boosting the creative industries outside London, and giving the BBC a greater UK-wide focus.

191 We therefore welcome the BBC's commitment to subject the proposals for new local services to a public value test which will include the publication of a market impact assessment. As we recommended in our first report this market impact assessment should be carried out by a competent and reputable third party. The results of the Public Value test should be published and interested parties should be entitled to appeal against the findings of the Market Impact Assessment to Ofcom if they are able to show prima facie well reasoned and evidenced grounds for such an appeal.

Government Response

The White Paper sets out the Government's policy in this area. All new services and significant changes to existing services must undergo a public value test before approval by the Trust. Ofcom will be responsible for providing the market impact assessment in every case, commissioned by a steering group drawn jointly from Ofcom and the Trust.

The public value test will include consultation with interested parties and the results will be published.

192 We support this suggestion [that full financial accounts relating to the BBC's investments in local services should be published] and recommend that the BBC should publish full accounts of its investments in local services.

Government Response

The White Paper makes clear that at the heart of the new governance structure is a desire to make the BBC more transparent. This is reflected in Article 24 of the draft Charter published in March 2006, which clearly states that “in exercising its functions, the Trust must act in the public interest and, in particular, it must... ensure that the BBC observes high standards of openness and transparency.”

The new Charter and Agreement will place specific duties on the Trust to ensure that the Executive Board delivers financial efficiency and value for money. In doing so, the Trust must ensure that the Executive Board’s accounts are transparent.

193 We recommend that the BBC should consider the provision of ultra-local services as an opportunity to demonstrate its partnering skills by working alongside a range of local organisations. The BBC may have a contribution to make to such grass roots initiatives by facilitating and partnering rather than by controlling and directly supplying new local services. Accordingly, we believe that any implementation of the BBC’s proposals for ultra-local services should be preceded by further pilot initiatives involving strong local, grass roots, participation.

Government Response

The Government agrees that the BBC has a significant role to play in developing partnerships with other organisations across a range of sectors. It will be for the BBC to decide whether it undertakes further pilot studies in addition to those currently under way.

194 We therefore recommend that there should be more transparency in the commissioning process. The BBC Trust should give clear guidance to BBC management on the desired amount of regional production. Management should have to report regularly to the Trust on its progress in this area. The Trust should publish an annual account showing how much regional commissioning has taken place. If regional commissioning does not increase then the Trust should report fully and transparently what measures it has required management to take to address the situation.

Government Response

The White Paper makes it clear that the BBC has a responsibility to adopt the most meritocratic commissioning process possible.

The Communications Act 2003 requires that a suitable proportion of programmes are made outside the M25, that these constitute a suitable range of programmes, and that a suitable proportion of money is spent in a suitable range of production centres. The BBC must obtain Ofcom’s agreement to quotas for original productions (total and in peak); out of London production; the amount, range and expenditure of network programmes made outside the M25, and the range of production centres outside the M25.

The new Window of Creative Competition should also deliver genuine opportunities for all types of independent producers (as well as for the BBC itself) from across the UK. The Trust will be required to review the WOCC regularly.

195 We therefore support the Green Paper’s vision that the BBC must continue to play a prominent role in bringing audiences together for shared experiences of nationally important sporting events.

Government Response

The Government notes and welcomes the support of the Committee for the vision set out in the Green Paper regarding the BBC's role in bringing audiences together through nationally important sporting events.

Like the Committee, the Government recognises the importance of national identity within the sporting arena, for example the shared pride and expectation felt watching our sports men and women compete in and perform well at Olympic and Commonwealth Games.

That is why the Government emphasised in the White Paper the BBC's special capacity to foster national cohesion and confirmed that the BBC's mission will continue to embrace this prominent role.

196 We recommend that the BBC should promote participation in sport through local and accessible sports. We also recommend that within the limits of its broadcasting schedule, the BBC should provide a national platform for coverage of minority sports. The BBC should be congratulated on the work it has done in this area so far and should continue to work in partnership with sports' governing bodies to develop its role in the field of grassroots local and youth sport.

Government Response

The Government agrees that the BBC should continue to provide content for niche audiences and help raise the profile of minority sports. The section of the main BBC Sport website dedicated to disability sport is a good example. Such access has the potential to help develop a new following, not only among audiences, but also potential participants.

197 We believe the approach of breaking up exclusive sports rights into packages is the right one to take. We are clear it is in the benefit of the consumer if there is more than one significant provider of sports coverage. However, with regard to the football Premier League's live television rights we have concerns that the number of packages; the quantity of games contained within them; and the ability of one broadcaster to purchase five out of six of the packages, will not create a competitive market. Our primary interest is in the creation of a market that provides fair and genuine choice for the consumer. It is in the public interest to ensure there is competition for sports rights and that free to air broadcasters, including the BBC, have a real chance to acquire a significant share of major sports rights packages.

Government Response

The Government agrees with the Committee that free-to-air broadcasters, such as the BBC, have to have the opportunity to acquire rights to major sporting events. The market for sports rights is highly competitive; therefore, whilst the Government would expect the BBC to compete and fight its corner as robustly as possible, it is in the interests of licence fee payers that it should ensure it maintains value for money.

In response to the Committee's concerns about the Premier League competition case, the Government has always been clear that the outcome of this case should be one that is consistent with competition policy and good for football at all levels and good for fans, both those watching television and those in grounds across the country.

198 Accordingly we recommend that the BBC be subject to the same regulatory framework as all UK broadcasters when acquiring listed events.

Government Response

Under the Communications Act 2003, Ofcom has extensive regulatory powers over the BBC in respect of programme standards and quotas. The Government has made clear that it will not consider any changes to the current arrangements until at least five years into the new Charter.

The Government does not consider the current arrangements regarding listing to have caused a problem, and intends that the same principle should apply.

199 We strongly encourage the BBC to make a genuinely competitive bid for live TV rights of home Test cricket when negotiations begin with the ECB in 2009.

200 We strongly believe that some live home Test cricket should be available on free-to-air television. We support the House of Commons recommendation and believe this is the most hopeful way forward.

(Joint Response)

As the Government made clear in its response to the House of Commons Select Committee Report on cricket broadcasting rights, it shares the disappointment that the universal terrestrial broadcasters did not secure any coverage of test match cricket, live or otherwise.

However, it must be for the BBC to decide which sporting events to bid for, as they are best placed to balance the differing needs of their audiences. It is for them to judge what audience they can achieve against what the costs would be of that broadcast in comparison with other programming. And it is for them to decide their bidding strategies. The Government is encouraged however by the BBC's acquisition of the rights to broadcast television highlights of the 2007 Cricket World Cup.

201 We recommend that while editorial decisions are an internal matter for the BBC, it should seek to maximise the full potential of its sports rights portfolio. One possible option would be to utilise its existing digital channels more imaginatively and flexibly in the broadcasting of sport.

Government Response

As stated in the White Paper, the Government believes that the BBC should be able to compete for sports rights, but must ensure that their acquisitions represent value for money. Maximising the potential of its sports rights portfolio is crucial to achieving best-value for money, but how the BBC does this is, as the Committee notes, an editorial decision for the BBC.

202 We support a wide definition of broadcasting about religion and other beliefs. It encourages all broadcasters, including the BBC, to find new, innovative and informative ways of tackling issues of religion, spirituality, ethics and values through all the different programming genres. Evidence we have received shows that by approaching religion in this way viewers and listeners engage with it.

203 We are eager to see more high quality, innovative and thought-provoking programmes emerging from the BBC Religion and Ethics Department.

204 We recommend that if the BBC is going to continue to provide the high quality of current affairs coverage for which it is known it must provide its viewers and listeners with the background knowledge they require to understand the context of the story. This is as true for stories related to religion and other belief systems as it is for any other subject area. We therefore recommend that the BBC should ensure that its correspondents are competent to report in a knowledgeable way in all areas on which they will be asked to report.

205 We therefore recommend that the BBC should be given a duty within the Agreement with the Secretary of State to make sure viewers and listeners have a better understanding of the different religions and other belief systems through the objective portrayal of their different beliefs, practices and forms of worship.

(Joint Response)

The Green Paper proposed that the BBC should provide a range of religious programming. This should include coverage of acts of worship and key events in the religious calendar as well as drama and current affairs programming that explores religious issues and other belief systems in different ways, for different audiences. The Government looked to ensure that religious programming remained a feature of the BBC's output.

The White Paper notes that the representation purpose, which encompasses the need to reflect religious and other beliefs, received broad general support in the public consultation. Against this background, the draft Agreement stipulates that, in developing the remit for the representation purpose, the Trust must (among other requirements) have regard to the importance of reflecting different religious and other beliefs.

The Government expects the BBC to set standards in terms of both accuracy of reporting and quality of analysis. That must, of course, apply as much to programmes dealing with religion as to any other subject-matter.

206 It is our recommendation that the BBC should review its programme output to ensure that it complies with the Communications Act 2003 by providing services of a suitable quality and range dealing with religion and other beliefs.

Government Response

The BBC's public service remit and the means of ensuring that it is fulfilled will continue to be defined by the Charter and Agreement, rather than by the Communications Act. However, the new Agreement will place an obligation on the Trust, in performing its functions in relation to the UK Public Television Services, to have regard to the purposes of public service television broadcasting as set out in section 264(4) of the Communications Act 2003.

207 We were surprised at the differing perceptions of CRAC's role that we observed between the BBC, CRAC's members and Ofcom. Indeed, it is not at all clear what the role of CRAC is or whether it adds value to the broadcasting of religion. We therefore recommend that the position of CRAC be reviewed and clarified by the BBC in consultation with Ofcom.

Government Response

It is for the BBC, in conjunction with Ofcom, to consider whether any reviews of the Central Religious Advisory Committee (CRAC) are necessary.



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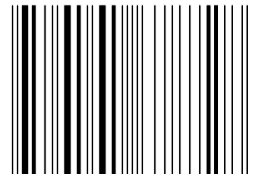
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