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Culture, Media and Sport Committee

A public BBC

First Report of Session 2004–05

Volume I

Report, together with formal minutes

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The Culture, Media and Sport Committee

The Culture, Media and Sport Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Culture, Media and Sport and its associated public bodies.

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Foreword and summary

The BBC is subject to periodic review courtesy of the need to renew its Royal Charter and associated Agreement with the Secretary of State. Charter review and renewal provides the opportunity for all interested parties to examine all aspects of the Corporation and its performance and for the Department for Culture, Media and Sport to develop proposals for the BBC’s next mandate. The current Charter review is the most significant for a long time; perhaps since 1927 when the first Royal Charter was granted. This is for two reasons.

First, within the next ten years Britain is expected to “go digital”. The analogue TV signal will be switched off and the country will enter a brave new world of abundant spectrum with great potential for increased viewing choice. In addition to the quantitative leap that this represents, there is also the qualitative dimension of new routes and devices for receiving content; increased control over where, when and how that content is viewed or heard; and new capacity for tailoring content and interactivity between broadcaster and viewer. In addition to digital switchover affecting patterns of media consumption, Ofcom asserts it as “inescapable” that the return expected, in terms of public service broadcasting, from the commercial broadcasting sector will reduce significantly over the next decade with the BBC and Channel 4 left to pick up the burden.

Secondly, there is a strong perception, and some evidence, that the constitution of the BBC is unworkable and out-of-date in the light of developments such as: evolving governance elsewhere in both public and private sectors; economic and technological developments in the wider broadcasting ecology; changing audience, and licence fee payers’ expectations; devolution; the establishment of Ofcom; and the findings of the recent Hutton inquiry. It is unarguable that the BBC governance has evolved extremely slowly over the years with the Corporation itself citing significant innovation only in 1972—separate meetings of the Governors and the executive—and 1997 when the Governors’ precise functions and duties were set out in the Charter for the first time, 70 years after establishment. What is clear is that the BBC Governors’ dual role, as simultaneous champions and regulators of the Corporation, is, as the Secretary of State told us: “unsustainable”. Accordingly the Committee has identified four key inter-linked issues and one over-arching question, that must be tackled head-on. The over-arching question is whether, in the light of the potential upheaval surrounding digital switchover, the BBC requires a charter for change, or a strategy for stability? The key issues we believe must be settled are:

- The BBC’s scope and remit and the extent to which these need explicit refocusing to clarify the Corporation’s public service remit, and proper inter-relationship with other broadcasters, or whether its own Charter-inspired initiatives are enough.

- The level of the financial settlement and the prospect of an alternative to the licence fee (a good way of funding a national broadcaster but a very bad way of taxing people); if not, then what flexibility exists to be less regressive with those on low incomes and less aggressive with those who have no licence (especially when they have no television).
• Increasing the accountability of the BBC: in terms of responsiveness to licence fee payers; in terms of *ex post* openness and transparency with external bodies—such as this Committee—on performance against objectives and value for money granted via the licence fee; and in terms of *ex ante* challenge with regard to commercial activities.

• Dealing with the BBC’s creaking constitution: separating governance from regulation, judge from jury, champion from challenger; as well as the case for switching from a Royal Charter to a modern statute.

The status quo is not an option and the test is a crucial one for the Department and indeed the Government as a whole. Our work and recommendations are aimed at assisting with the development of proposals that will take a strong and properly independent BBC into the future as far as that future can be seen.
1 Introduction

1. On 11 December 2003, the Secretary of State for Culture, Media and Sport issued a written ministerial statement on the BBC Charter Review. This marked the launch of the first of three phases, each involving public consultation, though with the declared preemptive result of “a strong BBC, independent of Government”. The initial consultation, which closed on 31 March 2004, was supported by a “very broad” consultation document. A green paper—with ‘white edges’—is expected in the early part of 2005, with a conclusive white paper to follow later in the year. The Government will conclude the process with “a full and formal opportunity for both Houses to contribute their views.” Lord (Terry) Burns has been providing the Secretary of State with advice throughout the process, as chairman of the Independent Advisory Panel on Charter Review (IAP). He has been conducting a series of seminars aimed at exploring options and developing arguments, and earlier this month published a preliminary document on “emerging themes”.

2. The key questions posed by the Government were open-ended in nature. They solicited views on BBC services and how they might adapt to changes in technology and culture. The funding, organisation, regulation and accountability of the BBC were also covered.

3. Feeding into the Government’s Charter Review have been a number of parallel exercises, notably: the Office of Communications’ statutory review of public service television broadcasting (PSB); and independent reviews, commissioned by DCMS, of BBC Online (bbc.co.uk), digital television channels and digital radio services.

4. The Office of Communications (Ofcom) began the first of its quinquennial reviews into PSB, as required by the Communications Act, in November 2003. The review’s purpose was to examine the effectiveness with which the public service broadcasters – BBC, ITV, Channel 4, S4C, Five and Teletext – have, taken together, delivered their public service obligations, and to make recommendations for maintaining and strengthening these. A report on the first phase of this review was published in April 2004. A second phase report was published on 30 September, and contained a number of proposals for consultation. That consultation ended on 24 November and will inform Ofcom’s third and final report, containing firm recommendations which is expected in the coming weeks.

5. The independent review of the BBC online service by Philip Graf was commissioned by the Secretary of State as the second in a rolling programme of reviews of the BBC’s new services (the first was Richard Lambert’s review of BBC News 24 in 2002). The Graf review reported in May 2004. In October, Professor Patrick Barwise and Tim Gardam reported on, respectively, the BBC’s new digital television and radio services. Both reports were supported by a market impact assessment conducted by Ofcom.

6. All of the above reviews have involved the BBC preparing submissions, including the Corporation’s formal response to the DCMS consultation on Charter review, a document of 142 pages; many of which are understandably devoted to proclaiming the range and

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1 Review of the BBC’s Royal Charter, DCMS, December 2003
2 Ev 232, Q 588
3 HC Deb 11 December 2003 c99WS
4 Is television special?, Ofcom, April 2004
diversity of BBC output, on television, radio and the Internet. At the same time, the response does acknowledge some failures, for example in relation to specific programmes, while asserting that these are sometimes inevitable in any organisation charged with taking creative risks. The BBC argues that its ability to take such risks is important and is due, in part, to the security of licence fee funding. It recognises that the media landscape has arguably changed more radically and rapidly than ever before. At the time the BBC submitted its Charter review response, it published *Building public value*, its “manifesto for the future” and explicit bid for the renewal of its mandate and funding on broadly similar terms as currently apply.

7. On 11 March, the Committee issued a call for evidence to aid its own inquiry into BBC Charter review. On 25 May we held our first oral evidence session, involving a panel of engineers and policy academics who provided invaluable insights into the purpose, scope and remit of the BBC against a backdrop of accelerating technological change. This oral evidence, together with some of the written submissions we had at that stage received, was published on 16 June, so as to inform our future deliberations.5

8. Our inquiry has focused on four inter-linked issues: the scope and remit of the BBC in the context of the growth of digital TV and on-going technological developments in audio-visual communications; the funding mechanism for the BBC; its governance and regulation; and whether a Charter provides the most appropriate means of establishing the Corporation in a rapidly-changing communications environment. In considering the BBC’s remit, the Committee examined the role, definition and scope of public service broadcasting, both in terms of content and access to that content.6 Further context was provided by the public service obligations on other broadcasters, the growth of multi-channel television, the on-going roll-out of broadband networks, and the Government’s plans to switch off the analogue television signal – a necessary precursor to maximising the quality and geographical coverage of digital broadcasts. We welcome the undertaking of the Secretary of State to give “very serious consideration” to both the proposals and arguments mounted in this report.7 For our part, we intend to examine closely the Government’s green paper on the outcome of its Charter review process.

## 2 Context

9. The British Broadcasting Company, as it was first known, was formed in 1922 and its membership consisted of manufacturers of wireless equipment, including the Marconi Company. On 14 July 1926, the Postmaster General announced that as from 31 December 1926 the service provided by the British Broadcasting Company would pass over to the British Broadcasting Corporation which would derive its authority from a Royal Charter. This is the position of the BBC today: its constitution is set out in a Royal Charter while the

5 BBC Charter Renewal, Oral Evidence and Written Evidence, 2003-04, HC 598-i. For ease of reference this material is republished, with the subsequent evidence heard and received, in the volume of evidence that accompanies this Report; HC 82, 2004-05, Volume II.

6 The public evidence sessions held, and witnesses heard, are listed at the back of this volume. The visits conducted by the Committee are discussed in paragraphs 33 to 46 of the Report.

7 Ev 243, Q 636
rules under which it operates are set out in an associated Agreement between the BBC and the Secretary of State for Culture, Media and Sport (which is subject to intra-Charter amendment; most recently to take account of the Communications Act 2003).

10. The current BBC Charter, granted in 1996, comes to an end on 31 December 2006. This followed a recommendation from the National Heritage Committee that the BBC should continue to operate under Charter, and that a ten year period was appropriate. That Committee also concluded that the flat rate licence system had “the fewest objections to it” as a funding mechanism.\(^5\)

11. It was clear to the National Heritage Committee that, even on the figures available in 1993, viewing shares for BBC, and ITV, would come under increasing pressure as more homes gained access to extra channels via cable and satellite. Subsequent developments in digital broadcasting have provided for increased channel capacity, not to mention greater interactivity. Significantly, digital terrestrial television (“Freeview”) has become available to large parts of the country, its further growth in coverage being contingent on switching off conventional (analogue) broadcasts with which it competes for radio spectrum.

12. By the end of 2003, half of all homes had access to digital television and take-up has been extremely rapid. In comparison, Ofcom reports that this has occurred at twice the rate of colour TV take-up in its first five years.\(^9\) Some of the implications may be seen in changes to the viewing shares of the main (terrestrial) broadcasters, including the BBC.

**Viewing and listening figures**

13. Table 1 and Chart 1 show the annual shares of television viewing time across the UK’s five terrestrial channels and cable, satellite and digital network between 1993 and 2003.

14. Over the period, the share of non-terrestrial channels has increased from 6.0% to 23.6%. This gain has largely been at the expense of BBC One and ITV1. The proportion of total viewing time accounted for by BBC One has fallen from 33.0% to 25.6%, while ITV1’s share has fallen from 40.0% to 23.7%. Shares for BBC Two, Channel 4 and, following an initial growth after its launch, Channel 5 have remained relatively flat in recent years.

| Table 1: Annual share of viewing: UK individuals\(^1\) |
|---|---|---|---|---|---|
| percentage | BBC One | BBC Two | ITV1 | CH4 | CH5 (Cable/Sat/RTE) |
| 1993 | 33.0 | 10.0 | 40.0 | 11.0 | - | 6.0 |
| 1994 | 32.0 | 11.0 | 39.0 | 11.0 | - | 7.0 |
| 1995 | 32.0 | 11.0 | 37.0 | 11.0 | - | 9.0 |
| 1996 | 33.5 | 11.5 | 35.1 | 10.7 | - | 10.1 |
| 1997 | 30.8 | 11.6 | 32.9 | 10.6 | - | 10.8 |
| 1998 | 29.5 | 11.3 | 31.7 | 10.3 | 4.3 | 11.8 |
| 1999 | 28.4 | 10.8 | 31.2 | 10.3 | 5.4 | 13.9 |
| 2000 | 27.2 | 10.8 | 29.3 | 10.5 | 5.7 | 15.0 |
| 2001 | 26.9 | 11.1 | 26.7 | 10.0 | 5.8 | 16.1 |
| 2002 | 26.2 | 11.4 | 24.1 | 10.0 | 6.3 | 22.1 |
| 2003 | 25.6 | 11.0 | 23.7 | 9.6 | 6.5 | 23.6 |

Note: \(^1\)Universe of 55.47 million individuals aged 4+ living in TV household as at 31 October 2004.  
Source: BARB

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\(^5\) Second Report, 1993-94, HC 77  
\(^9\) Is television special?, Ofcom, April 2004 p 62
15. Table 2 and Chart 2 repeat the analysis of viewing shares only among individuals with access to multi-channel television.

16. Again, the figures show a decline in BBC One and ITV1 shares between 1998 and 2003, and a corresponding increase among non-terrestrial channels. Whereas non-terrestrial channels accounted for less than one-quarter of total viewing time among all individuals in 2003, they made up over two-fifths of viewing time among multi-channel individuals. This does not augur well for the BBC’s gross viewing figures as take-up of digital services proceeds, but it may be fair, as Lord Burns “suspects”, to say that those who have actively sought more choice in their viewing of television—early adopters—are likely to exercise that choice more assiduously, and to have been less interested in BBC services anyway, than those who go digital later.10

Table 2: Annual share of viewing: UK multi-channel individuals only1

<table>
<thead>
<tr>
<th>Year</th>
<th>BBC One</th>
<th>BBC Two</th>
<th>ITV1</th>
<th>CH4</th>
<th>CH5 (Cable/Sat/RTE)</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>21.5</td>
<td>6.7</td>
<td>24.5</td>
<td>6.8</td>
<td>3.2</td>
<td>37.2</td>
</tr>
<tr>
<td>1999</td>
<td>20.8</td>
<td>6.5</td>
<td>24.5</td>
<td>6.9</td>
<td>4.3</td>
<td>37.0</td>
</tr>
<tr>
<td>2000</td>
<td>20.0</td>
<td>6.6</td>
<td>22.3</td>
<td>7.2</td>
<td>4.2</td>
<td>39.8</td>
</tr>
<tr>
<td>2001</td>
<td>20.2</td>
<td>6.8</td>
<td>20.5</td>
<td>7.0</td>
<td>4.3</td>
<td>41.2</td>
</tr>
<tr>
<td>2002</td>
<td>20.0</td>
<td>7.1</td>
<td>19.7</td>
<td>7.1</td>
<td>4.6</td>
<td>41.5</td>
</tr>
<tr>
<td>2003</td>
<td>19.3</td>
<td>7.0</td>
<td>19.2</td>
<td>6.9</td>
<td>4.7</td>
<td>42.9</td>
</tr>
</tbody>
</table>

Note: 1Universe of 34.77 million individuals aged 4+ living in multi-channel TV household as at 31 October 2004

Source: BARB
17. Table 3 provides more detail regarding viewing shares in multi-channel households. In October 2004, the combined BBC One and BBC Two share was 25.1%, compared with 31.3% for the three commercial terrestrial stations. Sky channels accounted for 10.3% of the total viewing time, with BBC digital channels totalling 6.2%. ITV digital channels made up 2.2% of total viewing time.
Table 3: Monthly viewing share in multi-channel homes: UK\(^1\)

<table>
<thead>
<tr>
<th></th>
<th>Jul-04</th>
<th>Aug-04</th>
<th>Sep-04</th>
<th>Oct-04</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Terrestrial</td>
<td>57.7</td>
<td>57.8</td>
<td>55.9</td>
<td>56.4</td>
</tr>
<tr>
<td>Total BBC One/BBC Two</td>
<td>25.7</td>
<td>30.3</td>
<td>25.4</td>
<td>25.1</td>
</tr>
<tr>
<td>BBC One</td>
<td>19.3</td>
<td>22.6</td>
<td>19.2</td>
<td>18.6</td>
</tr>
<tr>
<td>BBC Two</td>
<td>6.4</td>
<td>7.7</td>
<td>6.3</td>
<td>6.6</td>
</tr>
<tr>
<td>Total commercial terrestrial</td>
<td>32.0</td>
<td>27.5</td>
<td>30.5</td>
<td>31.3</td>
</tr>
<tr>
<td>ITV1</td>
<td>16.9</td>
<td>15.4</td>
<td>18.6</td>
<td>19.6</td>
</tr>
<tr>
<td>Channel 4/S4C</td>
<td>10.3</td>
<td>7.4</td>
<td>6.7</td>
<td>6.4</td>
</tr>
<tr>
<td>Five</td>
<td>4.7</td>
<td>4.7</td>
<td>5.2</td>
<td>5.2</td>
</tr>
<tr>
<td>Total Satellite</td>
<td>42.3</td>
<td>42.2</td>
<td>44.1</td>
<td>43.6</td>
</tr>
<tr>
<td>Total Sky</td>
<td>8.9</td>
<td>9.8</td>
<td>11.8</td>
<td>10.3</td>
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<tr>
<td>Sky1</td>
<td>2.0</td>
<td>1.9</td>
<td>2.3</td>
<td>2.7</td>
</tr>
<tr>
<td>All Sky Movies</td>
<td>3.2</td>
<td>3.1</td>
<td>2.8</td>
<td>2.7</td>
</tr>
<tr>
<td>All Sky Sports</td>
<td>2.2</td>
<td>3.2</td>
<td>5.0</td>
<td>3.5</td>
</tr>
<tr>
<td>Total BBC digital</td>
<td>3.0</td>
<td>3.0</td>
<td>5.8</td>
<td>6.2</td>
</tr>
<tr>
<td>BBC3</td>
<td>0.6</td>
<td>0.6</td>
<td>0.7</td>
<td>0.8</td>
</tr>
<tr>
<td>BBC4</td>
<td>0.3</td>
<td>0.2</td>
<td>0.2</td>
<td>0.3</td>
</tr>
<tr>
<td>BBC News 24</td>
<td>0.5</td>
<td>0.6</td>
<td>0.7</td>
<td>0.6</td>
</tr>
<tr>
<td>BBC Parliament</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CBBC</td>
<td>0.6</td>
<td>0.6</td>
<td>0.6</td>
<td>0.6</td>
</tr>
<tr>
<td>CBeebies</td>
<td>1.0</td>
<td>1.0</td>
<td>1.2</td>
<td>1.5</td>
</tr>
<tr>
<td>Total ITV digital</td>
<td>1.6</td>
<td>1.8</td>
<td>2.0</td>
<td>2.2</td>
</tr>
<tr>
<td>ITV News</td>
<td>0.1</td>
<td>0.1</td>
<td>0.1</td>
<td>0.1</td>
</tr>
<tr>
<td>ITV2</td>
<td>1.5</td>
<td>1.7</td>
<td>1.9</td>
<td>2.1</td>
</tr>
</tbody>
</table>

Notes: \(^1\)Universe of 13.51 million multi-channel homes as at 31 October 2004.

Figures for BBC Parliament are greater than zero but less than 0.1.

Source: BARB

18. Table 4 and Chart 3 detail third quarter radio listening shares among UK adults between 2000 and 2004. The weekly reach measures the total number of people listening to the station for at least five minutes during the course of an average week, while the audience share details the proportion of total listening time accounted for by each station.

19. The total BBC share has increased slightly over the period, from 51.4% to 54.4%. Within this total, however, the share of local and regional BBC stations has fallen slightly, from 11.1% to 10.9%. This trend is repeated among commercial stations, with national commercial stations increasing their combined share from 8.0% in 2000 to 9.6% in 2004, while local commercial stations accounted for 38.7% in 2000 and 34.1% in 2004.

20. The growth in BBC Network share has been caused chiefly by increased audiences for BBC Radio 2 and BBC Radio Five Live. Over the same period, the audience share for BBC Radio 1 has fallen quite significantly.
Table 4: Quarterly share of listening: UK adults

<table>
<thead>
<tr>
<th></th>
<th>Weekly reach (000s)</th>
<th>Audience share (percentage)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sep-00</td>
<td>Sep-01</td>
</tr>
<tr>
<td>All BBC</td>
<td>31,168</td>
<td>32,363</td>
</tr>
<tr>
<td>All BBC Network Radio</td>
<td>27,085</td>
<td>28,173</td>
</tr>
<tr>
<td>BBC Local/Regional</td>
<td>9,741</td>
<td>10,191</td>
</tr>
<tr>
<td>All commercial</td>
<td>31,148</td>
<td>32,076</td>
</tr>
<tr>
<td>All National Commercial</td>
<td>11,095</td>
<td>11,286</td>
</tr>
<tr>
<td>All Local Commercial</td>
<td>26,510</td>
<td>27,321</td>
</tr>
<tr>
<td>Other Listening</td>
<td>2,773</td>
<td>2,950</td>
</tr>
<tr>
<td>All BBC Network Radio</td>
<td>27,085</td>
<td>28,173</td>
</tr>
<tr>
<td>BBC Radio 1</td>
<td>11,449</td>
<td>11,200</td>
</tr>
<tr>
<td>BBC Radio 2</td>
<td>10,233</td>
<td>12,222</td>
</tr>
<tr>
<td>BBC Radio 3</td>
<td>2,012</td>
<td>2,068</td>
</tr>
<tr>
<td>BBC Radio 4</td>
<td>9,179</td>
<td>9,342</td>
</tr>
<tr>
<td>BBC Radio Five Live</td>
<td>5,373</td>
<td>5,717</td>
</tr>
<tr>
<td>Five Live Sports Extra</td>
<td>:</td>
<td>:</td>
</tr>
<tr>
<td>BBC 6 Music</td>
<td>:</td>
<td>:</td>
</tr>
<tr>
<td>1Xtra from the BBC</td>
<td>:</td>
<td>:</td>
</tr>
<tr>
<td>BBC7</td>
<td>:</td>
<td>:</td>
</tr>
<tr>
<td>BBC World Service</td>
<td>:</td>
<td>:</td>
</tr>
<tr>
<td>BBC Asian Network UK</td>
<td>113</td>
<td>145</td>
</tr>
</tbody>
</table>

Note: Weekly reach measures the number of people listening to station for at least five minutes during course of average week.

Source: RAJAR

Chart 3: Quarterly share of listening: UK adults

National radio listening shares have increased at the expense of local stations

21. Table 5 below shows recent trends in BBC audience reach.11 In radio “reach” is defined as the average number of people who listened to a station for a specified period (usually five minutes) throughout a day or week.12 This can be expressed in numbers of listeners or

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11 Note that: a) the Broadcasters’ Audience Research Board (BARB) introduced methodological changes in January 2002 which could have had some downward impact on subsequent figures, and b) the data are shown as last, rather than first published - original figures are often revised in the next Annual Report. The total TV, total radio and total TV/radio figures were not published prior to the 2000/01 Annual Report.

12 In more detail, the radio reach relates to 5 minutes of cumulative listening in a 15-minute slot. Note that the combined radio and TV reach in table 5 is not a simple sum, but is based on a formula designed to express the total reach of BBC services (radio and TV).
as a percentage of the population. In television the formula is the same except that reach is calibrated as consecutive viewing for a fixed period, usually three or 15 minutes on an average day or week. The trend in BBC TV reach has undoubtedly been downwards. The experience in radio varies between stations, but in general audience reach has increased.

22. Figures for reach are higher than those for share, since the former is merely a measure of viewing (or listening) for a period – here 15 minutes – during the course of a week.

Table 5:

**BBC: Average 15 minute weekly reach by service 1996/97 - 2003/04**

<table>
<thead>
<tr>
<th></th>
<th>96/97</th>
<th>97/98</th>
<th>98/99</th>
<th>99/00</th>
<th>00/01</th>
<th>01/02</th>
<th>02/03</th>
<th>03/04</th>
</tr>
</thead>
<tbody>
<tr>
<td>BBC 1</td>
<td>90.5</td>
<td>89.4</td>
<td>88.1</td>
<td>87.6</td>
<td>85.7</td>
<td>83.1</td>
<td>82.9</td>
<td>83.7</td>
</tr>
<tr>
<td>BBC 2</td>
<td>74.4</td>
<td>72.9</td>
<td>71.8</td>
<td>70.1</td>
<td>69.1</td>
<td>66.1</td>
<td>67.0</td>
<td>67.0</td>
</tr>
<tr>
<td>BBC TV</td>
<td>90.0</td>
<td>88.4</td>
<td>86.8</td>
<td>87.1</td>
<td>88.2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Radio 1</td>
<td>22.2</td>
<td>19.7</td>
<td>19.8</td>
<td>24.1</td>
<td>23.5</td>
<td>23.5</td>
<td>22.6</td>
<td>20.7</td>
</tr>
<tr>
<td>Radio 2</td>
<td>16.3</td>
<td>16.3</td>
<td>16.6</td>
<td>16.6</td>
<td>16.6</td>
<td>19.5</td>
<td>22.9</td>
<td>24.2</td>
</tr>
<tr>
<td>Radio 3</td>
<td>4.7</td>
<td>4.6</td>
<td>4.7</td>
<td>3.7</td>
<td>3.6</td>
<td>3.7</td>
<td>3.8</td>
<td>4.0</td>
</tr>
<tr>
<td>Radio 4</td>
<td>15.3</td>
<td>15.4</td>
<td>14.9</td>
<td>16.7</td>
<td>16.8</td>
<td>17.7</td>
<td>18.1</td>
<td>17.7</td>
</tr>
<tr>
<td>Radio 5</td>
<td>9.7</td>
<td>9.8</td>
<td>9.7</td>
<td>11.5</td>
<td>10.6</td>
<td>11.2</td>
<td>11.9</td>
<td>11.6</td>
</tr>
<tr>
<td>BBC radio</td>
<td>60.7</td>
<td>60.9</td>
<td>63.5</td>
<td>63.4</td>
<td>63.4</td>
<td>62.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BBC TV and radio</td>
<td>94.9</td>
<td>94.4</td>
<td>93.0</td>
<td>92.7</td>
<td>92.7</td>
<td>92.9</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: BBC Annual Report and Accounts, various

23. The figures for audience share and reach underline one of the potential dilemmas facing the BBC. As the BBC Chairman told us, “Governors in their stewardship of the public’s money are not in the business of endlessly granting money to the management to spend on services that clearly nobody wants to watch or to listen to or to use online.” At the same time, the BBC has often been accused of chasing audience ratings at the expense of its wider public service obligations. In attempting to reconcile these conflicting factors, the Director-General referred to the BBC’s current “manifesto”, *Building public value*, which suggests a metric which is not just looking at audience size but also “reach, quality, impact and value for money with a large number of parameters for a more balanced assessment about whether or not we are driving public value.”

**BBC programming expenditure**

24. Table 6 details transmitted programme spend for BBC channels and stations in 2003 and 2004. Charts 4 and 5 compare the expenditure on different BBC outputs with the audience share figures already discussed.

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13 Ev 218, Q 533
14 Ibid.
25. In terms of television, there appears to be a general correlation between expenditure and viewers.

26. With respect to radio, however, the correlation is not so obvious. Audience shares for BBC Radio 1 and BBC Radio 2 are higher than programming expenditure would suggest, while BBC Radio Five Live has a much smaller audience share than would be predicted in relation to expenditure.

Table 6: UK Public Service Broadcasting Group expenditure

<table>
<thead>
<tr>
<th>Service</th>
<th>£million 2003</th>
<th>£million 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Analogue services</td>
<td>1,767.2</td>
<td>1,716.0</td>
</tr>
<tr>
<td>BBC One</td>
<td>859.4</td>
<td>812.3</td>
</tr>
<tr>
<td>BBC Two</td>
<td>372.2</td>
<td>365.2</td>
</tr>
<tr>
<td>National and regional television</td>
<td>209.9</td>
<td>212.3</td>
</tr>
<tr>
<td>National, regional and local radio</td>
<td>130.0</td>
<td>133.4</td>
</tr>
<tr>
<td>BBC Radio 1</td>
<td>17.1</td>
<td>17.6</td>
</tr>
<tr>
<td>BBC Radio 2</td>
<td>21.5</td>
<td>21.7</td>
</tr>
<tr>
<td>BBC Radio 3</td>
<td>32.8</td>
<td>32.1</td>
</tr>
<tr>
<td>BBC Radio 4</td>
<td>70.5</td>
<td>69.9</td>
</tr>
<tr>
<td>BBC Radio Five Live</td>
<td>53.8</td>
<td>51.5</td>
</tr>
<tr>
<td>Digital services</td>
<td>292.7</td>
<td>312.2</td>
</tr>
<tr>
<td>The CBBC Channel, CBeebies</td>
<td>44.7</td>
<td>46.2</td>
</tr>
<tr>
<td>BBC Three</td>
<td>75.3</td>
<td>99.4</td>
</tr>
<tr>
<td>BBC Four</td>
<td>41.0</td>
<td>35.2</td>
</tr>
<tr>
<td>BBC News 24</td>
<td>23.8</td>
<td>23.5</td>
</tr>
<tr>
<td>BBC Parliament</td>
<td>2.7</td>
<td>2.5</td>
</tr>
<tr>
<td>BBCi</td>
<td>9.5</td>
<td>15.3</td>
</tr>
<tr>
<td>1Xtra</td>
<td>4.0</td>
<td>5.1</td>
</tr>
<tr>
<td>BBC Five Live Sports Extra</td>
<td>1.7</td>
<td>1.7</td>
</tr>
<tr>
<td>BBC 6 Music</td>
<td>4.0</td>
<td>4.1</td>
</tr>
<tr>
<td>BBC 7</td>
<td>2.8</td>
<td>4.3</td>
</tr>
<tr>
<td>BBC Asian Network</td>
<td>3.0</td>
<td>4.1</td>
</tr>
<tr>
<td>bbc.co.uk</td>
<td>75.0</td>
<td>66.7</td>
</tr>
<tr>
<td>Digital Curriculum</td>
<td>5.2</td>
<td>4.1</td>
</tr>
<tr>
<td>Transmitted programme spend</td>
<td>2,059.9</td>
<td>2,028.2</td>
</tr>
</tbody>
</table>

Source: BBC, Annual Report and Accounts 2003/04
Chart 4: BBC TV audience share and programming expenditure

Per channel expenditure broadly in line with viewing figures for television

0% 2% 4% 6% 8% 10% 12% 14% 16% 18% 20%

BBC One
BBC Two
BBC3
BBC4
BBC News 24
BBC Parliament

0 100 200 300 400 500 600 700 800 900

Transmitted programme spending 2004 (£million)

Share of total TV viewing time among multi-channel individuals Oct-04 (percentage)

Chart 5: BBC radio audience share and programming expenditure

Less correlation between expenditure and listening figures for radio

BBC Radio 1
BBC Radio 2
BBC Radio 3
BBC Radio 4
BBC Radio 5
Five Live Sports Extra
BBC Radio Five Live
BBC 6 Music
1Xtra from the BBC
BBC Radio 7
BBC Asian Network

0% 2% 4% 6% 8% 10% 12% 14% 16% 18% 20%

Transmitted programme spending
Audience share among radio listeners

Share of total radio listening time among UK adults Q3 2004 (percentage)

BBC resources

27. Table 7 shows BBC staff and payroll costs by division for the period April 2004 to October 2004. It provides an indication of the BBC’s scale and the distribution of the Corporation’s resources at a time when the Director-General is planning efficiency improvements brought about, in part, by cuts in staffing. We take the view that the
detailed allocation of resources is an operational matter for the BBC, but substantial changes should be conducted in a transparent manner and in such a way that maintains the Corporation’s core mission as a public service broadcaster.

Table 7: Equivalent Full Time (EFT) Headcount and Total Payroll Costs for the financial periods April 2004 to October 2004

<table>
<thead>
<tr>
<th>Division</th>
<th>Headcount (monthly average)</th>
<th>Payroll cost (£million)</th>
<th>Cost per head (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>News</td>
<td>3,590</td>
<td>104.0</td>
<td>28,971</td>
</tr>
<tr>
<td>Sport</td>
<td>513</td>
<td>15.0</td>
<td>29,293</td>
</tr>
<tr>
<td>Factual &amp; Learning</td>
<td>1,941</td>
<td>48.1</td>
<td>24,774</td>
</tr>
<tr>
<td>Drama, Entertainment &amp; CBBC</td>
<td>1,737</td>
<td>44.7</td>
<td>25,748</td>
</tr>
<tr>
<td>New Media &amp; Technology</td>
<td>593</td>
<td>16.9</td>
<td>28,567</td>
</tr>
<tr>
<td>Radio &amp; Music</td>
<td>1,750</td>
<td>42.3</td>
<td>24,165</td>
</tr>
<tr>
<td>Television</td>
<td>306</td>
<td>11.3</td>
<td>36,747</td>
</tr>
<tr>
<td>Nations &amp; Regions</td>
<td>6,065</td>
<td>144.2</td>
<td>21,638</td>
</tr>
<tr>
<td>Finance, Property &amp; Bus Affairs</td>
<td>1,214</td>
<td>28.6</td>
<td>23,534</td>
</tr>
<tr>
<td>Marketing, Communications &amp; Auds</td>
<td>447</td>
<td>12.2</td>
<td>27,219</td>
</tr>
<tr>
<td>BBC People</td>
<td>1,058</td>
<td>25.1</td>
<td>23,764</td>
</tr>
<tr>
<td>Strategy &amp; Distribution</td>
<td>54</td>
<td>2.4</td>
<td>44,595</td>
</tr>
<tr>
<td>DG Office/Gov &amp; Acc</td>
<td>123</td>
<td>4.7</td>
<td>37,834</td>
</tr>
<tr>
<td>Policy &amp; Legal</td>
<td>101</td>
<td>4.6</td>
<td>45,136</td>
</tr>
<tr>
<td>UK PSB</td>
<td>20,092</td>
<td>504.1</td>
<td>25,087</td>
</tr>
<tr>
<td>BBC Broadcast Ltd</td>
<td>1,002</td>
<td>24.0</td>
<td>23,999</td>
</tr>
<tr>
<td>BBC Vecta Ltd</td>
<td>17</td>
<td>0.9</td>
<td>55,954</td>
</tr>
<tr>
<td>BBC Resources Ltd</td>
<td>1,274</td>
<td>33.9</td>
<td>26,619</td>
</tr>
<tr>
<td>BBC World Service</td>
<td>2,317</td>
<td>46.2</td>
<td>19,954</td>
</tr>
<tr>
<td>BBC World Ltd</td>
<td>140</td>
<td>2.6</td>
<td>18,730</td>
</tr>
<tr>
<td>BBC Worldwide Ltd</td>
<td>2,165</td>
<td>46.5</td>
<td>21,501</td>
</tr>
<tr>
<td>Total</td>
<td>27,007</td>
<td>658.3</td>
<td>24,377</td>
</tr>
</tbody>
</table>

Source: Correspondence from BBC

28. Finally, as Lord Burns’s Independent Advisory Panel has noted, the expansion of channel choice has resulted in a declining audience share for the main free-to-air channels and this trend is likely to continue even if the estimated rate of change is open to debate. This will put pressure on commercial channels to include more commercially dependable programming as a decline in spectrum scarcity reduces the value of a public licence to broadcast.

3 Technological development

Overview

29. If there is a distinction between engineering and technology, it is probably that the former is about making things, whereas the latter is more to do with making things happen. Anticipating the impact of developments in technology on broadcasting, and the BBC in particular, over the next decade will involve focusing less on what is possible, and more on what is likely. A third vital element is the means to make things pay. In terms of market penetration, the twin developments of broadband TV and digital take-up are the most significant. The latter presents more imminent challenges, given that over 50% of homes now have digital television. Ofcom has indicated that it should be feasible to complete analogue switch-off by 31 December 2012, in a programme of phased switch-off,
one ITV region at a time.\textsuperscript{15} This target date is consistent with that proposed by the BBC in \textit{Building public value}.

30. The main platforms for delivering digital television are currently: satellite, terrestrial, and cable. However, the advent of digital subscriber line (DSL) television – delivered through existing copper telephone lines – provides another option for rolling out digital television, while at the same time suggesting that broadcast-quality broadband TV, from the Internet, may not be so far away. Sir Christopher Bland, former BBC Chairman and current Chairman of BT, told us: “I believe that broadband will become, at some stage in the next five to ten years, a very significant means of distributing television, film and moving pictures, and that is already starting.”\textsuperscript{16}

31. Both digital and broadband TV offer greater interactivity, though often this will extend no further than allowing viewers to “time-shift” their TV – watching what they want, when they want. Personal video recorders and video on demand seem likely to grow in importance. Time-shifting TV challenges the conventional paradigm of broadcasting, empowering individuals to personalise their viewing. While the traditional video recorder has always offered this in principle, the newer technologies are far better automated and easier to use, and much more material is now accessible, whether by internet, multi-channel TV or video on demand libraries. In effect, the logical extension of the new paradigm is a situation where viewers are offered a huge range of library and “live” content from which they can construct their own schedule: “pulling” in content rather than relying on choices between various channels being “pushed” out.

32. This is the technological backdrop to consideration of the BBC Charter review; it indicates an examination of the role of the Corporation as a national broadcaster and programme-maker. The justification of licence fee funding needs to be reassessed in the face of audience fragmentation. The existing governance and regulation of the BBC, and the length of any future settlement, can no longer be considered in isolation from a rapidly changing technological environment. This seems clear even with ongoing and predictable change. Whether any unforeseen technology will have a significant impact in the next ten years remains to be seen. The odds are long, given traditional barriers to take-up,\textsuperscript{17} but the explosive (and unexpected) growth of text messaging provides one example of communications technologies’ capacity to surprise. It is one example, salutary for the BBC, of the consumer dictating which technology, and which application of technology, is to prevail.

\section*{Visits}

33. In addition to the formal evidence sessions held in Westminster and in Glasgow, the Committee has sought advice, with a particular focus on the future shape and pace of technological change, from a wide range of organisations and individuals including via a programme of visits.

\textsuperscript{15} Statement: Digital Replacement Licences offered to Channels 3, 4, 5 and Public Teletext, 29 November 2004
\textsuperscript{16} Ev 91, Q 46
\textsuperscript{17} Ev 239, Q 616
34. In May, we visited BBC Research and Development at Kingswood Warren in Surrey, and witnessed demonstrations of the BBC’s work on delivering information on programmes across a range of different digital platforms. This “metadata” is needed for effective access to content, allowing the viewer more control. We also learned of the BBC’s work on the delivery of broadband content as well as the Corporation’s central contribution towards driving digital switchover. A brief indication of the BBC’s investment in “blue-sky” research was afforded by the experimental studio. Even here, the methods for mixing virtual graphics with real TV images has short-term application; for example in elucidating sporting tactics.

35. At Kingswood Warren, we also saw demonstrations of audio description and signing technologies. These provided an indication of services particularly relevant to people with sensory impairments, even if such services have at times taken too long to become widely available. Nevertheless, we were impressed by the technical progress being made. **It should be regarded as a duty that the BBC continue to pursue practical methods to improve the enjoyment of its services by people with sensory impairments.**

36. In Dublin, Media Lab Europe provided the Committee with an indication of the way communications might develop in the longer term. As Lord Burns acknowledged at a meeting of the Westminster Media Forum, it is very important to look beyond the period of the next BBC settlement to develop a “route map”. Underpinning the work of Media Lab is a recognition of the convergence of communications technologies, and we saw how many of these could be combined and adapted to enrich viewing and listening experiences, improve interactivity and facilitate information assimilation. **Media Lab Europe has been an independent, not-for-profit, international research institute.** It would be appropriate for both the DCMS and the BBC to take account of the work undertaken there.

37. A key question issue raised during the Committee’s oral evidence sessions was the nature of the entertainment platform or platforms in 2012 and beyond. This necessarily involves an appreciation of the interaction of content and technology. We obtained a wide range of perspectives on this during meetings in July, in Los Angeles, San Francisco and Silicon Valley. Whereas the last of these is associated with technologies of networks and platforms, Los Angeles is perhaps better known for content creation; and we were interested in assessing how content might drive, or respond to, new platforms.

38. In July we held meetings with Sony Pictures and Paramount Studios in Los Angeles. At Sony Pictures we discussed the importance to content producers of distributing that content as widely, on as many platforms, as possible; and the related question of safeguarding intellectual property rights in an era of consumer demand for immediate access. Paramount Studios provided us with demonstrations of emerging technologies, and their relationship with content, particularly in enabling greater involvement and control by consumers; examples included gaming and time-shifting of television programmes.

39. A visit to the American Film Institute’s Enhanced TV Laboratory provided an international perspective of interactive television, which complements the more traditional

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18 Ev 30
passive TV paradigm. Interest in interactive TV was being driven in part by the appeal of computer gaming and competition between cable and satellite TV operators. We later visited the Fox Network Center, holding informal discussions with engineers engaged in upgrading the facilities to accommodate high definition TV. This is the key driver in the USA for the adoption of digital broadcasting, in contrast to the UK where multi-channel and interactive services are more to the fore.

40. The San Francisco Bay Area is recognised as a leader in technical innovation, notably in communications technologies. We visited Global Business Networks and UT Starcom, and also met with Rachelle Chong, a former Commissioner on the Federal Communications Commission and Member of the Board of the Association of Public Television Stations. With Ms Chong we discussed a wide variety of technical and regulatory issues, including those associated with a movement away from (predominantly passive) television viewing towards interactive behaviours, internet use and gaming. We were told that US public service broadcasters were often abjuring high definition TV in favour of providing more channels, catering for niche interests.

41. Our discussions with Peter Schwartz of Global Business Networks highlighted the possible scenarios that might develop as a result of increased bandwidth and improved compression techniques; enabling consumers to “pull”, manipulate and store more and more content. We discussed the challenge that piracy posed to content providers’ ability to earn income from their intellectual property. At UT Starcom, we were briefed on developments in broadband infrastructure, including the further potential offered by adaptation of existing telephone lines, and broadband’s role as a distribution route for broadcasters. The Committee was given demonstrations of Internet Protocol Television and other broadband products.

42. We also were hosted by Apple, KPIX and Kasenna. The development of Apple’s iPod has been notably rapid, and provided one creative response to music piracy by facilitating high quality, legal, music downloads from the Internet with associated, but comparatively low, payments. The unauthorised parallel distribution (i.e. piracy) of movies was occurring on a large scale, though limitations in bandwidth still presented an impediment to those seeking to misuse the Internet in this way. We discussed with Apple the need to strike a balance between the legitimate expectations and rights of users and those of rights holders.

43. KPIX is a local CBS station focusing on news and traffic reports. Here, we were reminded of the universal demand for local television services, and the ways in which commercial, public service and community broadcasters could respond to this. Kasenna provides software for video on demand services on broadband networks, and our discussions there included the impact these might have on traditional broadcast schedules.

44. In October the Committee visited the London headquarters of Video Networks Ltd, the company behind the Homechoice service, a world leader in the delivery of IP TV which serves some 4,000 homes in London. Homechoice combines broadband internet and television, along with video on demand; all delivered down a telephone line. It has recently added a voice telephony option to its range of services, which are paid for by subscription.

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20 Ev 140, Q 260
21 According to Ofcom figures for the second quarter of 2004, Homechoice was connecting 3,870 homes to “TV over ADSL” (i.e. IP TV)
It makes use of BT’s local loop infrastructure to develop its own DSL (digital subscriber line) platform.

45. The other provider (Kingston Interactive) of IP television and Homechoice together had 9,000 subscribers in the second quarter of 2004. These services do offer a further platform for providing digital content to complement the more established cable, satellite and terrestrial broadcast alternatives; they should be able to make a significant contribution to successful analogue switch-off, for example in city centre accommodation blocks where both cable and satellite encounter difficulties.

46. Several of the people we visited commented on the different media consumption habits of younger people, which clearly have consequences for the take-up rate of new communications technologies. The Committee decided to gain further insights during visits, on 14 October, to West Thames College and Heston Community School to discuss a variety of matters including media consumption habits with a small, but lively and intelligent, sample of the young men and women of West London. These meetings also shed particular light on perceptions of the BBC among teenagers and we return to this below.

**Technology and the BBC**

47. The BBC has a long, and deserved, reputation for driving and responding to technological change. Thanks to secure funding and the ingenuity of its research department, the Corporation has contributed significantly to the success of the Freeview digital terrestrial television platform. While the speed and extent of the BBC’s exploitation of the Internet has been more controversial, due to a detrimental impact claimed by competitors, one outcome has been a range of innovative content and comprehensive online news coverage. What these broadcast and online platforms have in common is an ability to deliver compelling content. The BBC’s primary status as a content provider will become ever more important with the growth in consumer demand for material tailored to different platforms: from mobile devices to wide-screen televisions.

48. The NUJ has argued that the BBC needs to continue its engagement with new technologies: “Nobody today argues that because TV came along (a new technology in the 1930s) that the BBC should have ignored it and stuck to radio”. These arguments were developed, and tempered, by Pact who recognised that the BBC needs to respond to changing technologies, and to commission public service broadcasting content which reaches out to licence payers across all platforms. According to Pact, “the BBC should only seek to create its own platforms where it is appropriate to do so – the Freeview service is an example of the BBC stepping in where the market failed to supply a working model for digital terrestrial television.” The Creators’ Rights Alliance argue that “broadcasting”, in its widest possible meaning, should encompass new technologies as well as radio and television.

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22 Ev 142, Q 270
23 Submission to the DCMS on the ‘Review of the BBC’s Royal Charter’, NUJ, March 2004
24 Producers’ Alliance for Cinema and Television
25 Submission to the Review of the BBC Charter, Pact, March 2004
26 Ev 177
49. The BBC, having drawn a line under its linear television portfolio, is determined “to make its programmes and content as widely available and accessible as possible, using new platforms and technologies, and in partnership wherever it can, to tailor that content to the needs of groups, families and individuals.”27 The BBC Director-General commented to us on the additional distribution costs that would accompany content delivery across multiple platforms.28

50. The fast pace of technological change has implications for the level of training made available in the BBC and throughout the wider audiovisual sector. In this context, Skillset has argued for significant investment by the BBC in freelancers and in support for industry-wide collaboration. This is necessary to enable the BBC to remain at the forefront of technology, and to provide and train the workforce with the skills needed to exploit it.29 Jeremy Dear, General Secretary of the NUJ, told us that “the majority of training in technological change and adapting to technological change is carried out by the BBC.”30 We hope the BBC will maintain a commitment to high levels of training.

51. Professor John Naughton linked the presence of stable long-term funding to the BBC’s ability to drive technological innovation. In particular, “creating, maintaining and developing the world-class online assets, now owned by the BBC, requires investment in technological innovation as well as in content. And everything we know about the funding of radical technological innovation in universities and industry tells us that it requires stable funding over long periods with few demands in terms of ‘deliverables’.31 While the licence fee may not provide the most appropriate source of stable funding for “public service webcasting”, it has all the same contributed to the BBC’s ability to drive consumer adoption of digital radio and digital terrestrial television.

Digital switchover

52. Until 1998, all television channels in the UK were received in analogue form, whether by aerial, satellite dish or cable. Analogue broadcasts deliver information in the form of a continuously-varying signal superimposed on a (carrier) radio wave. An analysis by the Parliamentary Office of Science and Technology explains why (discrete) digital signals can be broadcast more efficiently, thus freeing up more radio frequencies for a great deal more content (e.g. more channels) to be broadcast as well as other applications with a range of benefits.32

53. According to a written ministerial statement by the Secretary of State, the Government continues “to believe that an ordered process leading to the earliest practicable switchover remains desirable given the advantages to consumers, the broadcasting industry and future growth of innovative new services. We believe that switchover should be broadcaster-led.

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27 Building public value, BBC, June 2004 p 16
28 Ev 206, Q 479
29 Ev63
30 Ev 174, Q 372
31 Ev 2
32 Ev 82-89
but that the final decision on timetable should balance these benefits against the need to ensure that the interests of the most vulnerable consumers are protected.  

54. A Consumer Expert Group, chaired by Allan Williams of the Consumers Association, was established to review the Government’s availability and affordability criteria for digital take-up. These were set in September 1999 and include, as a target indicator of affordability, 95% of consumers having access to digital equipment. The Group’s report was published on 11 October 2004. Among the steps it identified were:

- Ensuring that converting to digital television equipment is affordable to all households, including those on low and fixed incomes.
- Putting in place measures to assist low income and special needs groups to switch to digital television.
- Carrying out a formal publication consultation exercise about the policy, timetable and process for analogue switchover.
- Setting a test that before switchover is announced, 70% of households should have adopted digital television for their main television set.
- Raising the profile of switchover through a public information campaign on both consumer issues and switchover policy.

55. So far as assisting low income and special needs groups, the report recommends provision of assistance for the full costs of converting one set, including the cost of aerial replacement, installation and VCR conversion. We recommend the Government gives serious consideration to the need for measures, and the timetable for their announcement and implementation, to make digital switchover affordable and practical to people on low incomes and those with special needs. Careful consideration should be given to all the recommendations of the Consumer Expert Group, chaired by Allan Williams of the Consumers Association, particularly in relation to providing assistance with the full costs of converting one TV to digital. We further note that these recommendations chime with those made by the Consumer Panel at Ofcom.

56. The switchover project is currently being managed through the Digital Television Project, a collaboration between Government, Ofcom, broadcasters, industry, consumer groups and others. As noted earlier, both the BBC and Ofcom have suggested that 2012 may be the most appropriate date for completion of switchover – which presupposes the process will begin much earlier for some regions.

57. Achieving digital switchover is a prime priority for the Department for Culture, Media and Sport. We do not believe the activity by that Department is commensurate with the challenge. More information should be forthcoming on the costs of acquiring digital equipment and on the benefits it offers – not least to people for whom four or five linear channels suffice. If the Government is to be able to achieve its objective of digital

33 HC Deb 22 July 2004 cc 82-3WS
34 Persuasion or Compulsion? Consumers and analogue switch-off
35 Supporting the most vulnerable consumers through digital switchover, Ofcom Consumer Panel, November 2004
switchover, far greater and more public efforts are needed to promote this. **We recommend the Government takes steps to promote more actively public awareness and understanding of digital switchover.**

58. Ofcom has recommended the establishment of a separate body, to be called SwitchCo, to manage the process towards digital switchover. In response, the Government has held discussions with broadcasters, and other stakeholders under the Digital Action Plan, on the role and structure of the organisation that will be responsible for this co-ordinating role. **We recommend that the Government bites the bullet and sets out a clear path and timetable for digital switchover.**

59. Ofcom has also recommended that the Government adds specific obligations to the BBC’s general obligations to promote digital TV. “They should include obligations on rolling-out digital transmission nationwide, providing public information, continuing to provide its channels on the free-to-view satellite platform, and providing on-air marketing of digital TV on a platform-neutral basis.”

60. The BBC deserves credit for the initiative it has shown in promoting awareness of digital services and in contributing towards switchover – not least with its involvement in Freeview; this is transforming the digital landscape with some 4 million households now using the service.

61. The BBC has also announced its intention to develop a free digital satellite service, which it calls Freesat, and which offers the potential to reach areas not served by terrestrial digital. BSkyB has already launched a similar service, though it is difficult to predict how this might develop in the longer term, given BSkyB’s primary and legitimate focus on encouraging the take-up of subscription TV. Because BSkyB understandably hopes to enable those who take up its “free satellite” offer to become subscription customers, its set-top box includes the potential for upgrade making it substantially more expensive than Freeview. **We therefore believe that, notwithstanding the increased number of channels offered in Sky’s free-to-air satellite service, it is imperative that the BBC works with other providers to create an alternative “Freesat” option.**

**Creative Archive**

62. In *Building public value*, the BBC commits to launching a Creative Archive, providing “free access to BBC content for learning, for creativity, for pleasure.” The BBC’s ambition is that, starting with factual material, online access for non-commercial applications will eventually extend across all areas of its output.

63. The Electronic Frontier Foundation espouses the benefits that will accompany the establishment of the BBC’s Creative Archive, and supports its becoming a core element of BBC services. Ultimately, this could comprise the whole of the BBC’s extant archive of radio and television programming, placed online under a licence that permits non-

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36 HC Deb 4 October 2004 c 1797W
37 Ev 75
38 Ev 126, Q 221
39 Freeview set-top boxes currently cost between £25 and £99 [and offer over 30 free digital TV channels] with a BSkyB, non-subscription, installation costing about £175
commercial distribution and re-use of this material by “remixers”. This open licensing system is similar to that deployed by the Creative Commons initiative, a system of “some rights reserved” copyright. And it is possible that, by enabling non-commercial exploitation, there is created “a gigantic and clever series of advertisements for the commercial rights” associated with the works.

64. The Creative Archive brings to the fore what Professor John Naughton termed the “maniacal obsession” with intellectual property. In his view, the copyright industries “see digital technology as an unprecedented opportunity to extend control over how copyrighted material can be used to a degree that was inconceivable in an analogue world.”

65. In written evidence, the Music Business Forum expressed concerns that such initiatives should not be allowed to “ride rough shod over the copyrights and performers’ rights of those who contribute to BBC programmes”. There had to be provision for rights holders to be paid for the additional use of their work through access to archives. This should be the case whether in the form of repeat broadcasting fees, extensions of the collective bargaining agreements in place for the payments of revenue for secondary uses, or through the negotiation of clearance for the right to exercise new rights on individually negotiated commercial terms. The BBC ought to consider the case for the implementation of encryption and digital rights management applications in order to counter growing piracy – whether via internet or personal video recorder downloads. The MBF is concerned that while this is available free and unpolicied, commercial download services will be unable to compete and artists, writers and the other creators will have no means of getting paid. “The BBC, as a publicly-funded organisation, has a responsibility to be seen at every opportunity to be upholding the systems of rights that operate in the UK, not least to act as an example to others. The licence fee does not of itself authorise licence fee holders to the free use of BBC output in whatever way they wish.”

66. We strongly welcome the BBC’s proposals for a Creative Archive, and agree that access to this should be free for non-commercial applications. We look to the Corporation to develop, in cooperation with intellectual property owners, innovative solutions that appropriately balance the interests of rights holders with those of the wider public. Digital rights management is a key issue in the modern media environment, and we recommend the DCMS establish a forum for assessing its implications.

4 The BBC’s scope and remit

67. The BBC’s governing principles, closely associated with its first Director-General, Sir John Reith, are to educate, inform and entertain the whole nation, free from political
interference and commercial pressure. These ideals continue to underpin an enduring vision of the BBC as the “national” broadcaster. Such a broadcaster should have a remit to provide high (benchmark) quality content, across the full range of broadcast genres (with a particular focus on impartial news and current affairs services), free at the point of use and without advertising. This is what, in the opinion of many, the BBC ought to stand for. The merits and implications of these features, in a changing world, have been at the core of our inquiry.

68. According to Equity, the BBC is much more than a broadcaster. “It is part of our society, it showcases the United Kingdom to the rest of the world, it plays a crucial role in our economy, both as an employer and an exporter of goods, and it acts as a standard bearer for the audio-visual sector in terms of quality, diversity, and innovation.”45 Both Five46 and Flextech47 commented on the BBC’s role in raising the bar and setting standards for the wider broadcasting industry.

69. In evidence to the DCMS, Public Voice summed up the overall picture very well: “It is critical to maintain a BBC of sufficient scale and scope, with the capacity to provide information, education and entertainment across a variety of platforms, and from local to national levels.”48 To this can be added the requirement (which also applies to licensed broadcasters) of the “Television without Frontiers” Directive that a majority of transmission time (with some exclusions) be reserved for European works.49 The BBC exceeds these particular quotas by a wide margin.50

70. In terms of scope and remit two concerns are regularly voiced and should not be ducked by the Government’s Charter review. The first is that the BBC’s remit is defined so broadly that it has been free to do what it likes within the capacity of its licence fee settlement with \textit{ex ante} approval by any external authority limited to the most visible and explicit new services. The second is the difficulty of defining “public service broadcasting” other than ‘what the BBC does’ (or \textit{vice versa}) which positively encourages the Corporation to expand its presence and impact across a wide range of activities; beyond a traditional broadcasting role.

\textbf{Today’s BBC}

71. The BBC’s Charter and Agreement requires the Corporation to provide a very wide range of programming, which informs, educates and entertains. The Agreement provides a list of particular areas of content that the BBC should ensure it provides through the Home Services:

- Programmes that stimulate, support and reflect, in drama, comedy, music and the visual and performing arts, the diversity of cultural activity in the UK

- Comprehensive, authoritative and impartial news and current affairs

45 Ev 21
46 Ev 106, Q 129
47 Ev 131, Q 231
48 Submission to the public consultation on the future of the BBC: ‘Your BBC, Your Say’, Public Voice, February 2004
49 Council Directive 89/552/EEC (as amended), Article 4
50 BBC Annual Report and Accounts 2003/2004 pp 95-96
• Coverage of sporting and other leisure interests
• Educational programmes, supporting both formal and informal learning
• Programmes for children and young people
• Programmes for both local and national audiences
• Programmes that serve the needs and interests of people in different parts of the UK

72. In each of the key programme genres, the BBC argues that it strives to provide a truly distinctive offering so that, though its content may serve the same or similar audiences to programmes provided by the commercial sector, it does so in a unique way. The Corporation clearly needs to strike a balance between maintaining a wide audience and appreciation of its services, and a diversity of programming reflecting the range of individual interests in society.

73. The BBC has a special responsibility to ensure adequate coverage is given to the full range of programme genres identified in the Communications Act as being indicative of public service broadcasting. **Genres such as the arts and religion should not be shunted into digital ghettos, and with the deployment of a little funding, and more imagination, could attract greater success than hitherto.** Five has, for example, recently demonstrated commendable innovation in its arts programming. It is axiomatic that numbers and ratings should not be the only or the most important means of determining the BBC’s success. We hope the BBC will make its commitment to the arts more consistently self-evident.

74. In addition to a wide range of radio and television content, the BBC has, during the period of the present Charter, established a major presence on the Internet. In this context, we note that the exploitation of new media already forms part of the BBC’s Charter remit. The BBC Director-General believed that the web, increasingly, was going to be a delivery mechanism for very local television and news. He told us that, whereas in the past the BBC had seen charter periods in terms of the expansion of new services and new ideas, looking at the next ten years "the trends we see are to do with moving forward on demand, towards new devices, new consumer devices, new ways of using media, and that the challenge we have is more one of evolving, adapting and developing our services to meet these new challenges".

75. **We recommend that online, interactive and multimedia services become a more prominent and explicit part of the BBC’s formal public service remit. The BBC should be a public service communications provider of content across all platforms. However, the BBC’s online presence must have public service parameters and we recommend that these be explicitly clarified in the next Charter (or alternative settlement).**

76. One declared aim of the BBC is to serve the nations and regions of the UK in three ways: by providing programmes and services specifically aimed at those different audiences; by ensuring that creative talent, both on and off screen, in all parts of the UK are

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51 Review of the BBC's Royal Charter: BBC response to DCMS consultation, 2004
52 Ev 205, Q 477
able to contribute fully to the BBC’s services; and by playing a positive role in local communities. Pat Loughrey, BBC Director, Nations & Regions, told us: “As commercial television in particular seems determined to move towards London and away from their regional roots there is an obvious need and opportunity for the BBC to take advantage of the great deal of talent which would otherwise be dormant and in the sense of fairness about collecting licences from across the entire UK.”

77. At a very local level, we would welcome a substantial presence of community broadcasters, provision for which is made in the Communications Act. We took evidence from Steve Buckley, Director, Community Media Association, who told us “we believe that community broadcasters, both radio and television, should be locally under control, not run for profit and separate organisations outside the BBC.” At the same time, there is scope for the BBC in providing further assistance to the new sector. Relationships the BBC develops with community broadcasters must be on open and transparent terms.

78. We believe that regional broadcasting in all its diversity, from news and current affairs to modern drama, is a vital part of our modern democracy. We are concerned that the increasing trend in broadcasting is towards greater concentration of ownership and less local programming. We understand the challenges facing ITV, but urge that strong regional broadcasting across the genres remains the bedrock of ITV. We also believe that the BBC’s regional broadcasting commitment needs strengthening and would urge the Corporation to consider further ways of ensuring high quality local and community broadcasting. We also recognise and welcome the important role the independent community broadcasters will need to play.

79. Professor Elan Closs Stephens, the Chair of S4C, reminded the Committee of the “immense” contribution the BBC has made to Welsh culture. The BBC has also made a significant contribution towards the ongoing development of the Gaelic Media Service, and plans to reinforce its commitment to Gaelic programming.

80. Evidence from the Gaelic Media Service points to specific recommendations and significant demand for the establishment of a Gaelic television channel. We recognise the case for adequate provision of BBC services in minority languages, and the special responsibilities the Corporation has towards the maintenance of Gaelic, Welsh and other UK autochthonous languages.

81. The wider cultural impact of the BBC has been remarked upon by several witnesses. The General Secretary of Equity, Ian McGarry, commented that he did not see anybody competing with the BBC to broadcast the Proms. More generally, the important role music plays in the BBC’s services was put to us in detail by the Music Business Forum.

53 Ev 147, Q 281
54 Ev 159, Q 335
55 Ev 151, Q 296
56 Ev 117, Q 160
57 Ev 144-146
58 Ev 257-259
59 Ev 176, Q 381
60 Ev 64-72
The five symphony orchestras maintained by the BBC provide a shining example of excellence for which the Corporation deserves credit, in manifest fulfilment of the Corporation’s public service role. It must, however, be asked whether the BBC, as it is today, would establish such orchestras and concert seasons. The BBC Director-General doubted the appropriateness of “owning and operating in the popular music space”, referring to other methods of support.61

82. The BBC has also established links with other public policy areas: for example between ‘the Big Read’ and local libraries. This BBC Two programme forged a partnership with the Reading Agency involving all 4,200 public libraries in the UK.62

83. In our Sixth Report of Session 2002-03, we urged the BBC “to review its approach and level of commitment to feature film production, in consultation with the UK Film Council, given the significant comity of interests in this area.”63

84. The UK Film Council believes that the BBC should publish a clear film strategy and be accountable for its delivery. In addition, the BBC “must become transparent about the total amount of money which it commits to all its film-related activities.”64 Their evidence suggests that the BBC could and should intervene in three ways: by investing in talent and ideas; by showcasing the full range of UK and international cinema; and by using its unrivalled media presence to promote and encourage film-going in the UK. The UK Film Council reiterated its belief that there has been an insufficient level of investment by the BBC in feature films and that the television schedules give only a marginal presence to UK films. By connecting with Film Council schemes such as First Light, which supports the making of digital short films by young people, the BBC could further contribute to the development of the film-making skills base.

85. The UK Film Council acknowledged that the BBC “deserves real credit for investing consistently in distinctive UK films” and that BBC Four schedules a wider range of films – though the level of this activity could be dramatically increased. However, there is clear scope for the BBC both to increase the number of films it supports and the level of its investment in those films.65 “The BBC should also review the acquisition prices it pays for UK films.”66

86. In front of the Committee, the BBC Director-General affirmed the case for an increase in funding for British films depending on the quality of supply.67 Following his appearance, Mr Thompson wrote to the Committee undertaking to investigate the pros and cons of an increased investment into original UK feature film production.68 We recommend the BBC publish a strategy for promoting UK films, and should do so in concert with the UK Film Council. We further believe there is a strong case for a

61 Ev 211, Q 496; Ev 262
62 Review of the BBC’s Royal Charter: BBC response to DCMS consultation, 2004
63 Sixth Report, 2002-03, HC 667 paragraph 116
64 Ev 59
65 Ev 189, Q 412
66 Ev 58
67 Ev 208, QQ 485-486
68 Ev 261-262
substantial increase in BBC funding for both feature films and short films and in the
exhibition of modern UK films.

87. BBC Worldwide Limited aims to exploit BBC content and intellectual property in the
UK and overseas. It licenses programme formats, sells rights, publishes programme-
related materials and operates commercial channels such as UKTV – a joint venture with
Telewest. BBC Ventures Group Limited is an umbrella company for four commercial
companies providing broadcast services. One of these, BBC Technology, has recently been
sold following approval by the Secretary of State and we note the plans, recently
announced, for the rest of the group. The BBC should retain its commercial
subsidiaries, but must compete on demonstrably fair terms with the profits used for the
benefit of public service broadcasting. This recommendation goes further than the
Director-General’s assurance that “the BBC will not continue to run businesses without
demonstrable public benefits.”69

88. BBC World and BBC Prime are commercially-funded international services which
have been lacking in quality and success. We recommend that BBC World should have
applied to it standards of content analogous to those justly associated with the excellent
radio World Service. We recommend that the Government commences consideration
and consultation on the case for a television version of the BBC World Service.

Digital services

89. Digital radio and television are providing the BBC with an opportunity to reflect more
fully the diversity of British culture and to cater for niche tastes. We note the BBC’s view
that its television and radio portfolios of linear services are now complete.70

90. When Richard Lambert reported, in December 2002, on BBC News 24, he commented:
“The Government intends this report to be the first of a series of reviews of the BBC’s
digital services. I would suggest that these reviews should be made the responsibility of
OFCOM once it is established. Under the Communications Bill, OFCOM will be
responsible for reviewing public service broadcasting as a whole, and it would bring a
proper level of professional expertise to the task.”71

91. In the event, the Secretary of State commissioned three independent reviews covering
BBC online services, and its digital television and radio services. Ofcom provided
supporting analyses of the market impact of the television and radio services.

92. The review of the BBC’s licence fee-funded online services was conducted by Philip
Graf, whose report was published in July 2004.72 Mr Graf acknowledged the “great public
affection and appreciation of BBC Online” but recognised the concerns of commercial
competitors who felt the BBC’s significant market presence had deterred investment by
others. Graf recommended that the BBC adopt a 25% quota for online content (excluding
news) from external and/or independent suppliers by the end of the current Charter.
Among his other recommendations was that the BBC’s online services should be

69 Ev 261-262
70 Ev 205, Q 477
72 Report of the independent review of BBC Online, 5 July 2004
characterised by a clear remit, defined around public purposes and/or programme-related content. In evidence to this Committee, Hugo Drayton, Chair of the British Internet Publishers Alliance expressed similar sentiments.  

93. Tim Gardam published the report of his independent review of the BBC’s digital radio services in October 2004. Gardam judged that the “great benefit of the five BBC digital services – 1Xtra, BBC Asian Network, 6 Music, BBC 7 and Five Live Sports Extra – has been to offer networks on digital radio that could be funded to realise their editorial ambition. They have delivered a programme quality that is impossible for commercial radio equivalent stations at such an early stage in this market. However, this differential in funding makes it all the more important that the BBC stations define themselves by offering something editorially different to what the commercial market can offer.”

94. The twin issues of scope and remit were also addressed by Professor Patrick Barwise in the context of his review of the BBC’s digital television services, also published in October. Seeing the two children’s channels, CBBC and CBeebies, as successes, Barwise reserved particular praise for the latter as “a triumph and an exemplary PSB service for preschool children.”

95. On BBC Three and BBC Four, Barwise recommended that “the top priority” was to increase their audience impact (and value for money). He concluded they should both be reclassified as mainstream mixed-genre channels, a view motivated by “evidence that television is a mass medium, not a niche medium.” That evidence is presumably informed more by the analogue experience than by any great understanding of what can, and should, be offered in a digital world. It betrays a failure to understand the complementarity of broadcasting and narrowcasting. The latter can provide depth to programming of wider appeal. The Secretary of State referred to the extraordinary popularity of BBC Four “among its devotees”. While both BBC Three and BBC Four could certainly be improved, it will be an increasingly important feature of public service broadcasting to cater for niche, as well as generalist, tastes. They should remain as targeted channels, and not recast as clones of BBC One and BBC Two, as recommended by the Barwise review.

96. The issue of channel remits was addressed by the Secretary of State in the following terms: “I think there are a number of ways of addressing this. One is having very clear expectations attached to different services, so you have a degree of transparency against which the public assessment, not just the rather private process between the BBC and the Secretary of State, can actually be conducted.”

Views of the BBC’s portfolio and performance

97. The BBC claims to consult the licence fee-paying public in a variety of ways: through advisory bodies and broadcasting councils; through audience research; and by viewer feedback. A balance between gross viewing figures and the results of consultations needs

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73 Ev 141, Q 264
74 Independent Review of the BBC’s Digital Radio Services, October 2004
75 Independent Review of the BBC’s Digital Television Services, October 2004
76 Ev 234, Q 593
77 Ev 238, Q 611
to be struck when assessing the value of BBC output and thereby influencing future decision-making. Building public value sets out, among other things, a framework the BBC proposes to adopt for measuring performance.

98. **We recommend** that the BBC continues to seek proactively the views of the public through audience research, viewer feedback, advisory bodies and broadcasting councils. The BBC should include in its annual report the results of its consultations and dialogue with the wider public.

99. In addition to our formal call for evidence, we also conducted an informal consultation into viewer attitudes towards the BBC. The focus of the Committee’s visit to West Thames College and Heston Community School was to assess how future demand for BBC services might develop, based on the ways in which younger people are using these today.

100. The sample consulted by the Committee was small but internally diverse, and, across the two institutions and range of ages, quite consistent. It is arguable whether any demographic group, when asked, would say it was wholly satisfied with the BBC’s output for them. However, the post-primary school to late teens age-group does seem to have a good claim to a real gap in provision. BBC One and Two are of course general interest channels seeming, regrettably, to offer little of interest before 7pm. BBC Three, which only starts at 7pm, is explicitly, if curiously, aimed at a narrow 25-34 year old range, with at best random success. BBC Four has achieved a clear identity and is aimed, with some success, at intelligent and mature viewers. The other two channels, CBeebies and CBBC, are obviously aimed at toddlers and primary school children. There is therefore a structural gap in the BBC’s television services for emerging young adults—described by the BBC as a tough and very discriminating audience—between CBBC and BBC Three. We agree with the BBC Director-General that more should be done for the older children and teenage audience.78

101. **We recommend** that the BBC formally and regularly consults teenagers and young adults about their interests as consumers of BBC services, deploying appropriate modern communications technologies to improve the process. The details and outcomes of such consultations should also be published each year in the BBC’s Annual Report.

102. In its Ninth Report of Session 1999-2000, the previous Committee mooted the possibility of a BBC sports channel, while wholeheartedly endorsing “the notion that the BBC should not develop additional public service channels that duplicate those already provided by the commercial sector or that unduly threaten the development of a more diverse market in future”.79 These concerns found continued echo in evidence from Artsworld,80 The History and Biography Channels,81 and ITN. In the latter case, the BBC’s belated entry into the market for mobile phone text-based news was cited.82 The Secretary of State told us: “I think this Charter review needs to provide a sharper definition of the BBC’s role and purpose and to allow the BBC to flourish within that sharper definition … I

78 Ev 212, Q 501
79 Ninth Report, 1999-2000, HC 719 paragraph 27
80 Ev 197, Q 443
81 Ev 193
82 Ev 50
do not think that by and large the BBC should be investing licence fee payers’ money in those areas that are already very well served by commercial services…”

103. The Institute of Practitioners in Advertising suggests that the BBC “should cease seeking to maintain its historical dominance in all the multifarious areas in which it operates and instead complement the market activities of the commercial players in these areas”. The Corporation should enrich the totality of the offering, rather than continue competing for maximum audiences. Overall, the IPA believes in a reduced scope for the BBC, reflected in a tighter, more strictly defined operating remit. At the same time the BBC is one of the few global brands possessed by the nation – “one with which governments tamper at their peril.”

104. In March 2004, the Association of Commercial Television in Europe, the Association Européenne des Radios and the European Publishers Council published a “white paper” which catalogued, among other things, anti-competitive behaviour of publicly funded media throughout Europe. The paper cites the BBC’s scheduling of an extra episode of a soap opera against an ITV adaptation of *Othello* and head-to-head scheduling of reality talent shows, and notes the marginalisation of serious current affairs and the near disappearance of the arts from BBC One.

105. The first phase of Ofcom’s review of public service television summed up one broad perception of the BBC’s television output over the past five years: “Broadcasting professionals felt that the BBC had taken a more aggressive approach to winning audiences in recent years and was less different from other channels than it should be.” Ofcom concluded: “the BBC needs to reaffirm its position as the standard setter for delivering the highest quality PSB. The BBC Governors should take the lead in ensuring the BBC addresses concerns about derivative formats, aggressive scheduling, competition for acquired programming and a balanced schedule in peak hours.”

106. We recommend that the BBC renews acceptance of its duty to provide a wide range of educational and informational programming, and high quality entertainment across a diversity of genres.

**Performance of the BBC as a supporter of independent production**

107. In 1986, the Peacock Committee recommended that 40% of BBC (and ITV) television programming hours be commissioned from independent producers. Following lobbying from broadcasters, this was reduced to 25%. Under the terms of the Communications Act 2003 and the BBC Agreement (as amended), the BBC is at present required to secure that, in each year, not less than 25% of the total amount of time allocated to the

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83 Ev 232, Q 590
84 Ev 25
85 Safeguarding the Future of the European Audiovisual Market, March 2004
86 see also Ev 99, Q 89; Ev 100, Q 95
87 Ev 75
88 Ev 75
89 Submission to the Review of the BBC Charter, Pact, March 2004
broadcasting of “qualifying programmes” is allocated to independent productions. Excluded from the calculation are programmes such as news, repeats and acquisitions.

108. The BBC has far too often failed to meet its quota for commissioning programming from independent production companies. Witnesses have argued for a commissioning process based more on merit than a desire to maintain the current high level of in-house production by the BBC. A better balance needs to be struck. There should also be a radio quota in the BBC’s statutory remit; rather than the modest 10% voluntary quota the Corporation has adopted. The BBC has recently announced an analogous 25% voluntary quota for online content in line with the Graf review.91

109. In evidence to the DCMS, the British Academy of Composers and Songwriters argued that the present 25% quota represents an appropriate balance between supporting the independent sector and fostering radical programming ideas within the enabling infrastructure of the BBC.92

110. Pact has argued that, only by restructuring to focus on providing, rather than producing, content, can the BBC maximise the use of the licence fee to present the best possible range and diversity of content to the viewer/consumer. According to Pact, there should be a minimum level of external commissioning, calculated as 50% of total BBC commissioning by hours and value, with an inbuilt minimum of commissioning from independents of 25% calculated by the same means.93

111. With regard to the BBC spend on independent programmes, the Secretary of State thought a bigger quota might help. She told us “I see the licence fee as venture capital for the nation’s creativity and I think that the BBC investment in the independent sector is not only good for working but it is good for the state of that particular and very important part of the creative industries more generally.”94 Sir Christopher Bland also thought that “the amount of programming that goes to the independent sector ought to be increased.”95

112. **We recommend substantial increases in the BBC’s independent production quotas for television, radio, and online services and we note the BBC’s recent announcements in this area. It is not sufficient, however, for the BBC’s independent production quotas simply to be increased. Fostering new, distinctive and independent voices around the UK should be a sustained requirement of the BBC and subject to effective, external and independent scrutiny.**

**Provision of public service broadcasting**

113. There exists a clear distinction between the terms “public service broadcaster” and “public sector broadcaster”. The former refers to broadcasters on whom are imposed a variety of programming obligations over and above basic standards. The public sector broadcasters – the BBC, Channel 4 and S4C – have the most onerous public service duties. However, the remaining terrestrial “free to air” television broadcasters, though commercial

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91 BBC press release, 8 November 2004
92 Submission to the DCMS Review of the BBC’s Royal Charter, British Academy of Composers & Songwriters, 2004
93 Submission to the Review of the BBC Charter, Pact, March 2004
94 Ev 237, Q 608
95 Ev 95, Q 65
companies, Channel 3 and Five, also have some public service duties imposed on them. The health of broadcasting in the UK depends on continuing competition for the delivery of public service broadcasting.

114. The Chief Executive of ITV plc, Charles Allen, appeared to endorse these sentiments when he told us: “I think it would be wrong for the BBC only to be the provider of public service broadcasting. I believe pretty passionately that ITV has a role to play, Channel 4 has a role to play and Channel 5 has a role to play and I think it would be wrong to see the BBC as the sole provider of public service broadcasting. Frankly, a multiplicity of supply of public service broadcasting has to be the model going forward.”96 We agree, but have some difficulty reconciling this statement with ITV’s ongoing retreat from regional television which we signalled in our Third Report of Session 2003-04.

115. One of the proposals emerging from phase 2 of Ofcom’s review involves a “rebalancing” of obligations for non-news English regional programming between ITV1 and the BBC – in effect, reducing the former’s PSB obligations in this area.97 The underlying rationale for this comes from Ofcom’s assessment that the “historical compact in which PSB was provided by commercial broadcasters in return for access to analogue spectrum will come under increasing pressure. The move from an analogue to a digital broadcasting market erodes the surplus value in ITV’s and Five’s analogue licences which funds their contribution to public service broadcasting, and which we calculate to be currently worth around £400 million … Given our statutory duty to maintain and strengthen PSB our core recommendation is that the money should be kept in the system. However, funding that is implicit today will need to be explicit tomorrow.”98

116. Ofcom suggests that £300 million of this newly explicit funding, could be used to establish a “public service publisher” (PSP), providing competition for the BBC. As Ofcom acknowledges, a decision on whether to take forward this option is a matter for Parliament; not least because of the funding implications. Ofcom has advanced a number of possibilities for resourcing this concept, including an enhanced licence fee model, tax revenues, or a turnover tax on licensed broadcasters.

117. None of the funding options for Ofcom’s proposed PSP seems particularly attractive. A turnover tax on commercial broadcasters may present the latter with justification for further retreat from any pretence of public service provision. Noting the significant subscription and advertising revenues available to the broadcasting sector, the NUJ has advanced a case for raising a levy on the commercial sector to fund more public service output on ITV, Channel 4 and S4C. The NUJ even suggests that the BBC could supplement its licence fee income (which the Union wants preserved) from this new source.99

118. Top-slicing the licence fee, even what Lord Currie termed an “augmented” licence fee,100 is problematical. It may lead to additional bureaucracy and blurred lines of public

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96 Ev 98, Q 86
97 Ev 223
98 Ev 220-221
99 Ev 166
100 Ev 223, Q 540
accountability.\textsuperscript{101} Furthermore, it would lead to uncertainty in planning finances and future budgeting. We recommend that top-slicing the licence fee to fund public service provision by any body other than the BBC should be rejected.

119. At the same time there should, in the new audiovisual ecology, be scope for the introduction of more niche channels, covering areas such as film, sports, education and minority languages. Ofcom’s proposed public service publisher could have a role to play in this regard. However, we are sceptical as to its likely ability to provide creative competition for the BBC. Channel 4, for example, already fulfils such a role. And the £100 million funding it reportedly\textsuperscript{102} might need to maintain this in the future would be self-evidently easier to find than the £300 million Ofcom suggests that its PSP would require.

120. We cannot support Ofcom’s Public Service Publisher idea as it stands. However, this proposal merits further consideration in the future.

5 BBC funding

The licence fee

121. In the 1920s the Government took the decision not to allow commercial advertising on air to fund the fledgling BBC but to require the purchase of an annual licence in order to own and operate sound-receiving apparatus. In the early years the system was operated by the Post Office under the combined authority of Wireless and Telegraphy Acts 1904-1929 (later consolidated in the 1949 Act).\textsuperscript{103}

122. The first wireless licence was issued in November 1923 for ten shillings (50p). At the end of 1923 200,000 licences had been issued and by 1928 this had risen to 2,500,000. The Post Office retained 12.5% of the fee to cover administration. Of the balance, the Treasury took 10% of the first million licences, 20% of the second million and 30% from the third million in excise duty. So in 1928, the amount raised by the licence fee was £1,250,000: the Post Office took £156,250 and the Government a further £196,875. The BBC therefore received 71.75% of the fee at that time.

123. The first combined Radio/TV licence, £2, was issued in June 1946. In October 1963 excise duty on licences was abolished and the BBC received the full amount. The first supplementary licence fee for colour television was introduced in January 1968. Radio-only licences were abolished in February 1971 (along with the requirement for a separate licence for car radios).

124. As a result of the Broadcasting Act 1990, the BBC was made responsible for licence administration and TV Licensing is sub-contracted by the BBC to collect the licence fee on its behalf (at a cost of £150.8 million in 2003-04).\textsuperscript{104}

\textsuperscript{101} Ev 103, Q 108
\textsuperscript{102} C4’s chairman warns of PSP ‘ghetto’, broadcastnow.co.uk, 1 December 2004
\textsuperscript{103} http://www.markjones.org.uk/
\textsuperscript{104} TV Licensing was run by Consignia until 2002 when the contract was won by Capita. The NAO reported on licence collection at this juncture: The BBC: Collecting the television licence fee, HC 821, 2001-02
Currently the licence fee is payable by anyone owning a “television receiver” and is collected under the authority of the Communications Act 2003. In March 2004, there were 24.5 million licences in force (20.4 million colour; 0.1 million b/w; 3.8 million over 75s; and 0.2 million concessionary).

Funding options

Possible alternatives to the licence fee as a source of funding for the BBC have been examined periodically. Reports were produced by the Peacock Committee in 1986 and the Davies Panel in 1999. The Davies Report recommended against the introduction of advertising, sponsorship or subscription on the BBC’s public services. Peacock had similarly supported the retention of licence fee funding, while suggesting in the longer term that subscription could become technically viable. The subsequent development of conditional access systems does open up the possibility of making access to television services contingent on suitable payment, though in a way that is platform dependent. In this context, we note that such a subscription option for Freeview is not yet feasible, partly due to the absence of a “return path”, by which two-way contact between broadcaster and viewer could be established.

Referring to the BBC funding review of the Davies Committee in 1999, the Institute of Practitioners in Advertising (IPA) rehearsed the arguments against the main alternatives to the licence fee: direct funding, advertising, sponsorship and subscription. Direct funding by taxation or grant “would render the Corporation vulnerable to political mood and the potential loss of editorial and political independence”. Limited funds existed in the broadcast market as a whole to support the other options which could all affect the nature of BBC programming while, in the case of subscription, “negate the fundamental public purpose of the BBC as a free-to-air broadcaster.” In the absence of an appropriate alternative funding mechanism, the IPA views “the licence fee as a necessary evil for the foreseeable future.”

Equity’s submission expressed the belief that, despite its imperfections, the continuation of the Licence Fee was essential for the survival of high quality, diverse and original public service programming on the BBC. Furthermore, according to Equity, the licence fee should continue to rise above RPI annually to provide for innovation and to allow the BBC to fulfil its public service remit. The possible implications of changing the BBC’s funding may be judged by comparisons with the relatively poor examples of public service broadcasting found in Australia, New Zealand, Canada and, especially, the USA. Sir Christopher Bland put it to us that, without licence fee funding, and forced to compete openly on the market, an American-style public service “begging bowl stub” might be the end result.

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105 Report of the Committee on Financing the BBC, Cmd 9824, July 1986
106 The Future Funding of the BBC, DCMS, July 1999
107 Ev 119, Q 177; Ev 111, Q 144; Note that conditional access systems do not necessarily require return paths.
108 Ev 24-28; see also Ev 123, Q 198 and Ev 232, Q 588
109 Ev 23
110 Ev 92, Q 50
129. ITV point to the benefits associated with three strong and separate funding streams for broadcasting in the UK: the licence fee, advertising and subscription; in total amounting to some £10 billion. Were the BBC to carry advertising, it would simply “cannibalise revenues currently available to the commercial sector”. According to ITV’s analysis, if BBC One and BBC Two were allowed to show as much advertising as their commercial rivals, only 5% of net advertising revenue would be added to the total pot.\textsuperscript{111}

130. The lack of commercial advertising is a key attraction of the BBC and to carry advertising would impact significantly on existing commercial broadcasters. An inescapable conclusion is that the existing market could not sustain the freedom of the BBC to offer advertising time on its channels. Funding the BBC via a direct government grant could lead to uncertainty over long-term funding, and act as a break on creative risk-taking and innovation.

131. S4C benefits from public funding, in the form of grant-in-aid, and selling advertiser airtime. However, there may be difficulties in applying mixed funding mechanisms to larger broadcasting organisations such as Channel 4 or the BBC. For example, it would be essential to ensure that any public funds were not used to subsidise discounts to advertisers. Citing instances of market distortion, the Association of Commercial Television in Europe, the Association Européenne des Radios and the European Publishers Council have advocated a migration to a single funded model for public broadcasters in Europe.\textsuperscript{112} Public Voice has suggested that, while there is no justification for distributing licence fee money to private commercial providers (such as ITV) the case for so doing to community and not-for-profit media ought to be examined.\textsuperscript{113}

132. John Hambley told us that the licence fee was liable to go on for quite a long time, though it would not be sustainable in the longer term.\textsuperscript{114} The written evidence he submitted on behalf of Artsworld Channels Ltd noted that the BBC’s purpose should be to provide what a civilised society demands and deserves from its broadcasting that cannot be provided by any other means. “If other means are available, as increasingly they are, then compulsory public funding is not justified.”\textsuperscript{115} The Artsworld submission adds: “It is no longer necessary to tax citizens to ensure that they can receive television programmes of entertainment, history, art, news, films, opera, religion, sport or DIY. It is no longer reasonable to prosecute, fine or jail them when they fail to pay an ever-increasing licence fee for BBC programmes they choose not to watch, or for BBC channels they cannot receive.”\textsuperscript{116}

133. Some of the objections to the licence fee can be tempered by a common belief that the BBC contributes to the raising of standards across the broadcasting sector. Furthermore, when the BBC is able to return, with digital switchover, to universal service provision then the case for public funding of some kind would be reinforced.

\textsuperscript{111} Oral Evidence and Written Evidence, 2003-04, HC 598-iEv 15-21
\textsuperscript{112} Safeguarding the Future of the European Audiovisual Market, ACT, AER and EPC, March 2004
\textsuperscript{113} Submission to the public consultation on the future of the BBC: ‘Your BBC, Your Say’, Public Voice, February 2004
\textsuperscript{114} Ev 196, Q441
\textsuperscript{115} Ev 196
\textsuperscript{116} Ev 194
134. The licence fee remains, as our predecessor committee stated, the least worst way of funding the BBC. While it is regressive and unfair on the disadvantaged in society, the evidence we received clearly indicates that there is no other viable and credible alternative which would ensure the current universality of access.

**A financial settlement**

135. Having accepted, for the time being, the necessity for the licence fee, the question arises of its level. In written evidence, ITV commented on the BBC’s “exceptionally generous” licence fee settlement, which covers the period from 2000-01 to 2006-07. This has seen the licence fee increase annually at 1.5% above the rate of inflation; RPI + 1.5%. “Had the original 1996-97 settlement been maintained the BBC would be enjoying a substantial annual income from the Licence Fee of £2.25 billion by the end of the current Charter period. As a result of the 1999 revision it will be enjoying an income of circa £3.1 billion.”

136. Both ITV and SMG have argued that the present licence fee settlement is generous, especially in view of anticipated gross income growth resulting from an overall increase in the formation of households. This view was reportedly shared by the present BBC Director-General who, when Chief Executive of Channel 4, described the BBC as basking in a “jacuzzi of spare public cash”.

137. The rationale for the extra funding was the additional cost of new digital services and the wider drive towards digital switchover. ITV believes an RPI minus X formula should be reintroduced when the present settlement expires. This would encourage the BBC to focus on meeting its core public services as well as driving further efficiency improvements.

138. Ofcom has not carried out a detailed assessment of the BBC’s future funding requirements, but thinks that there are two important considerations for the funding settlement over the next Charter period:

- the BBC does not envisage any growth in the breadth of its services and is rightly committed to further efficiency savings; and
- the BBC’s income will increase by more than the annual rise in the TV licence fee because the number of UK households is projected to grow. After ten years, the BBC can expect to receive an extra £230 million every year, from the projected growth in households alone.

139. In order to ensure a robust financial model in the more distant future, Ofcom suggests that the Government should consider the case for the BBC to supplement its income with limited subscription services to fund any future expansion. While recognising that some

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117 Ev 16
118 Ev 44-46
119 “Thompson tackles Dyke over C4 taunt”, Broadcast, 11 April 2002
120 Ev 18
121 Ev 222
BBC goods and services, such as magazines and DVDs, are already available on “subscription”, we do not believe this should be extended to broadcast or online services.  

140. The level of the licence fee is a responsibility of the Secretary of State for Culture, Media and Sport. She exercises her powers in this regard by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament. In written evidence, Carole Tongue and David Ward have suggested the creation of a Council for Public Service Broadcasting, accountable to Parliament, with the task of assessing the financial needs of the BBC and thus the level of the licence fee.122 Professor Richard Collins has said that such a body, modelled on the German KEF, might review the licence fee every three years.123

141. So long as the licence fee remains the principal funding mechanism for the BBC, responsibility for setting its level should rest with the Secretary of State, subject to continued Parliamentary sanction. The process by which a funding formula is reached must be made transparent and public. We do not anticipate there being persuasive arguments in favour of above-inflation increases beyond 2006-07 when the current funding settlement ends.

Affordability

142. One of the main objections to the licence fee is, of course, its regressive nature. The Davies report commented that “while the licence fee is a good way of financing public service broadcasting, it is a very bad way of taxing the public.”124 With the exception of the welcome, and long overdue, suggested 50% concession for blind people (which the Government went on to implement) the Davies panel was unable to identify additional ways of making the system “obviously” fairer.

143. Were the licence fee ever to be replaced as the main funding mechanism for the BBC, it would be essential to include equivalents to existing concessions, such as those applying to blind and partially-sighted people.125

144. There are practical problems associated with introducing a more progressive licence fee, such as possible administrative complexities associated with extending concessions. Some very welcome concessions, including the system of free licences for people over 75, have the administrative (not to mention social) benefit of avoiding any form of means testing.

145. However, our constituents regularly bring to our notice a number of anomalies under the present system. Examples have occurred in relation to servicemen and women in barracks (consequential on the ending of a second home concession in 1996) and to people living in sheltered accommodation or other forms of shared housing.

146. We recommend that the operation of concessionary schemes, for example in relation to accommodation for residential care, be reviewed by the DCMS to ensure

122 Ev 52-57
123 Ev 249
124 The Future Funding of the BBC, DCMS, July 1999 p 9
125 Ev 32
that they are effective and consistent and that oppressive anomalies are eliminated. Consideration should be given to extending concessions in other areas of multiple occupation such as student halls of residence, live-in staff accommodation and service barracks.

147. The previous Committee’s report into the funding of the BBC identified anomalies, and injustices, in the licence fee collection and payment methods being deployed. Among more recent criticisms is one from the Institute for Public Policy Research: “Bizarrely, the current methods of payment, such as the Cash Easy Entry Scheme, established to best aid the least well-off, require a higher licence fee payment in total.”

148. We recommend the BBC carry out further work on the development of easier payment methods, including by credit card. People who pay by instalments must not be financially penalised for doing so.

149. The BBC should report annually on the collection of the licence fee, providing an assessment of its equity, and the operation of concessions and proposals for their modification or extension.

Collecting the licence fee

150. In addition to the nature of the licence fee and its level, there remains controversy over how it is collected. In his criminal courts review, one of the many subjects covered by Lord Justice Auld was TV licence evasion. In this context the role of the BBC was summarised: “The licence fee is a standard hypothecated tax on access to television in its entirety (not just on BBC channels). The Government decides what proportion of the licence fee income should go to the BBC, and currently the BBC receives it all. The BBC collects the fees on behalf of the Government and decides on enforcement and prosecution policies. These policies are based on the Code for Crown Prosecutors issued by the Director of Public Prosecutions and, therefore, take into account public interest considerations such as whether alleged offenders are in genuine financial hardship or otherwise vulnerable. The BBC devolves responsibility for prosecution to a contractor.”

151. Lord Justice Auld went on to recommend that, while the use of a television without a licence should remain a criminal offence, it should be dealt with in the first instance by fixed penalty notice “discounted for prompt purchase of a licence and payment of penalty, and subject to the defendant's right to dispute guilt in court.” In its response, the Government undertook to give further consideration to this. Fixed penalties would normally feature, if at all, on an enhanced criminal record certificate, issued only in relation to particularly sensitive jobs or positions.

152. We are well aware of concerns that the BBC’s agent, TV Licensing, has sometimes deployed inappropriate tactics in attempts to maximise collection of the licence fee. These have included a crude and damaging assumption that every household must be in possession of a TV set, or equivalent apparatus. While payment of the licence fee by

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126 Third Report, 1999-2000, HC 25
127 From Public Service Broadcasting to Public Service Communications, IPPR, 2004 p 176
129 Justice for All: Responses to the Auld and Halliday Reports, Home Office, 2002
households which actually have a TV is a legal obligation, we remind the BBC that the finances it receives from the licence are a privilege. The Corporation should use a less menacing style of advertising campaign.

153. During passage of the Communications Bill, Citizens Advice lobbied unsuccessfully to make the TV licence fee recoverable as a civil matter only.\textsuperscript{130} Under these proposals, the licence fee would be recoverable through the small claims process only as a last resort where other payment mechanisms or schedules had failed. More recently, the Institute for Public Policy Research has come to a similar view.\textsuperscript{131} We believe non-payment of the television licence should become a civil matter. In the meantime, Lord Justice Auld’s recommendation that fixed penalty notices be introduced in respect of TV licence non-payment should be implemented.

\section*{6 BBC governance and regulation}

154. In its Third Report of Session 1999-2000, the previous Committee made the following recommendation: “The BBC’s self-regulatory position separate from the rest of broadcasting is no longer sustainable. The case for a single regulator of the market as a whole which we made last year has been reinforced by the rapid development of the market. We reiterate our recommendation that regulation of the broadcast content and commercial activities of the BBC should be the duty of a Communications Regulation Commission.”\textsuperscript{132}

155. Subsequently, Ofcom has been established and has substantial regulatory authority over the BBC and other broadcasters. More recently, the BBC has moved to achieve greater separation of the Governors from the Executive Committee. Both of these developments represent movement towards the outcome recommended by the previous Committee. However, physical relocation of the Governors is insufficient.

\subsection*{Ofcom’s present role}

156. Under the Communications Act, Ofcom has a clear statutory remit for the BBC in terms of content regulation (“Tier 1” for standards, including the avoidance of harm and offence but excluding due impartiality and accuracy in news, and “Tier 2” for production quotas) and has concurrent competition powers with the OFT. These are limited in their application to the BBC, since Ofcom’s ability to impose \textit{ex ante} conditions to prevent uncompetitive behaviour is restricted to licensed broadcasters.

157. Ofcom has no regulatory role in relation to the BBC on matters of the Corporation’s public service remit (“Tier 3”). On this, the BBC is only obliged to consider anything of relevance in Ofcom guidance and in its annual reports and PSB reviews. The backstop powers Ofcom has over commercial public service broadcasters reside for the BBC with the

\begin{footnotes}
\item[130] Communications Bill: Briefing for Clauses 169-179, Lords 2nd Reading, Citizens Advice, 2003
\item[131] From Public Service Broadcasting to Public Service Communications, IPPR, 2004 pp 176-177
\item[132] Third Report, 1999-2000, HC25 paragraph 113
\end{footnotes}
Government – through the Charter, Agreement and the Secretary of State’s power to approve and set conditions for new services.

158. Ofcom believes that any BBC plans for new services should be subjected to a rigorous independent evaluation to ensure that they add public value and would not unduly displace commercial activities. Where it is unclear from independent analysis that the benefits of any new service outweigh the costs, the BBC Governors should decline to take the project forward.

159. Ofcom, as a statutory corporate body, has no preference for any one system of governance or regulation of the BBC. However, Ofcom believes that clarifying the separate roles of governance and regulation of the BBC should be a central objective to the Charter review process.

160. Piecemeal change to the current regulatory arrangements would introduce further confusion and undermine the work of Ofcom and the BBC in developing a modus vivendi. We recommend that Ofcom’s regulatory role in relation to the BBC remains substantially the same, for the time being. We believe that Ofcom has too many other duties for it to be an effective regulator of the BBC in its entirety.

The Governors’ role

161. In oral evidence to the Committee, the BBC Chairman defended the structural status quo, while conceding the Governors’ latest reforms could be codified in some way: “the BBC as a corporation is really of its own kind and other models are not necessarily appropriate. We [the Governors] are in charge, we are entrusted with the public’s money and with that trust goes the need to ensure value for money. It also means that the governors are in a position to be proactive, unlike a retrospective financial regulator outside. We are in the entrails of the BBC. We can ensure outcomes. We can hire and fire my colleagues [the Director-General and other executives] … but outside regulators cannot do that. We can ensure positive outcomes. We can really influence from the inside the strategy and the direction of the BBC to meet what the licence payers are telling us.”

162. The Secretary of State did not mince her words in saying that the “unsustainability – it is a strong word to use but I mean unsustainability” of the dual function of the BBC Governors as champions and regulators had been recognised. She told us unequivocally that “we would not regard the status quo as an option that would be acceptable or sustainable for the next Charter review.” She went on to say that she had not reached firm conclusions but she had a very good idea of the range of alternatives.

163. ITN recommends: “The Board of Governors should be established as a properly independent body, separate from BBC management and based in a different location to the BBC executive and staff. We also believe that the BBC Governors should be drawn in

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133 Ev 72-76
134 Ev 223
135 Ev 231, Q 583
136 Ev 230, Q 581
137 Ev 202, Q 467
138 Ev 241, Q 626; for some alternatives see Ev 8, Q 18 and Ev 11, Q 28
members with relevant professional, legal or regulatory expertise. The Board of Governors should also be more answerable to OFCOM through regular dialogue and publication of minutes and decisions taken in greater detail than those published at present. This would help to ensure more consistency across the Governors and OFCOM.”

164. A refashioning of the Governors’ role has been suggested by SMG who recommend that “the economic direction of the BBC be subject to regulation to prevent unfair practices and distortion of the market. SMG proposes a solution where the Governors sit in a position akin to a plc Board of Directors, within an environment ultimately regulated by Ofcom, similar to the structure of Channel 4.”139 David Scott of Channel 4 told us: “we envisage a Board of Management with perhaps non-executive directors, who would manage the business and the governors as regulator at some distance, arm’s length, in their own building, with a degree of separation.”140

165. Citing the Hutton Inquiry141 as further evidence of the conflict of interests that can arise within the Board of Governors, ITV recommends that “The Governors should be maintained as a strong body of people appointed to represent the public interest and champion the BBC. The regulation of the BBC should be the responsibility of the independent regulator Ofcom, which is already responsible for regulating the BBC at Tiers 1 and 2 of the new regime created by the Communications Act.”

166. Such a wholesale transfer of powers to Ofcom would give that new body significant additional influence over the UK broadcast media, given the BBC’s central role in the provision of public service broadcasting. The Institute of Practitioners in Advertising judged that any dangers that Ofcom might abuse its powers would be outweighed by the benefits of creating a uniformity of approach to regulation.142

167. According to the British Internet Publishers Alliance, “The Governors operate largely as apologists for the BBC Management rather than as its regulator. It is significant that the DCMS was obliged to set up the Lambert and Graf inquiries: had the Governors been proper regulators, these were functions it should itself have undertaken. If the Governors cannot be transformed into effective regulators, then the BBC should come fully under OFCOM. In any event OFCOM, as the industry-wide regulator, should have a key role in determining the effect of BBC activities on the wider market—both before and after new service provisions have been approved.”143

168. The NUJ has expressed opposition to bringing the BBC more fully within Ofcom’s remit, claiming that the latter body has a culture and a brief primarily to promote commercial communications services. They went on: “Ofcom is too big and covers too many sectors of communications to be able to regulate properly the BBC.”144 These

139 Ev 46
140 Ev 119, Q 176
141 Report of the Inquiry into the Circumstances Surrounding the Death of Dr David Kelly C.M.G., HC 247, 28 January 2004
142 Ev 27
143 Ev 32
144 Ev 168
sentiments were echoed by Richard Tait, now a BBC Governor, in the Committee’s first oral evidence session.145

The BBC’s interaction with the commercial sector

169. The Commercial Radio Companies Association referred to the BBC having “unfettered” flexibility and control over its output. The BBC “produces ‘Statements of Programme Policy’ which, after initial approval by the Secretary of State, are then self-regulated and may be unilaterally amended at will. Thus, at present, Commercial Radio’s principal competitor has the ability to change its formats to enhance its position in the market yet Commercial Radio has no equivalent right with its own stations.”146

170. Capital Radio’s evidence argues that the BBC Governors should concentrate on governance, akin to the Board of Directors in a commercial company. Under the present arrangements, the Board of Governors “are not only expected to act as judge and jury, but as Counsel for the defence as well.” Their existing regulatory functions ought to be performed externally by the Secretary of State, Ofcom and the National Audit Office. In particular, “the ex ante competition powers Ofcom has in relation to Broadcasting Act licensed services should be extended to the BBC, and the BBC’s accounts should be subject to full audit (including value for money audits) by the NAO.”147

171. According to Pact, the BBC has operated an increasingly aggressive commercial strategy in recent years. Although the BBC might seek to justify this by claiming it is maximising the return to the licence fee payer, Pact’s view is that this has taken precedence over the need to act fairly in the market place and ensure the growth of the UK’s creative industries is not hampered.148

172. As noted by the PPL and VPL149 in the specific context of intellectual property, there is “currently no independent body to turn to should a right-holder believe that fair trading rules have been flouted.”150

173. Professor Whish commented in his Review of the BBC’s Fair Trading Commitment and Commercial Policy Guidelines (April 2001) that “A commitment to fair trading must be supplemented by adequate measures to ensure compliance is maintained.” The Guidelines themselves were judged appropriate. If adhered to, these ought to prevent the BBC from distorting competition in commercial markets.

Competition regulation

174. There are advantages in the application of ex ante regulation of the BBC’s commercial activities, and achieving a more level playing field with other broadcasters. Providing for ex ante competition regulation of the BBC would allow Ofcom to set preconditions, in the
form of codes of practice, aimed at ensuring the BBC does not enter into any practices that would compromise fair competition. These codes should take precedence over the BBC’s own codes on fair trading. That the BBC’s commercial rivals would be satisfied to let the BBC Governors continue to adjudicate on such matters imposes a strain on basic credulity.

175. Written evidence from Professor Richard Collins acknowledges that the BBC has achieved a degree of legal separation of its public service and commercial activities. However, in default of more compelling structural separation, rigorous *ex ante* regulation is required. This would:

- Prevent the BBC from cross-subsidising its commercial subsidiaries;
- Prevent the BBC from showing undue preference towards its commercial subsidiaries;
- Require the BBC to furnish the regulator with the information needed for effective enforcement; and
- Require the BBC to notify the regulator confidentially of its commercial plans ahead of their implementation.

176. We agree with Professor Collins that Ofcom is the appropriate body to perform these economic regulatory functions, not least because of the wider access it has to information from the BBC’s commercial competitors.

177. The current Charter already stipulates that one function of the Governors is to “determine the strategy for and oversee the provision of the Commercial Services in such a way as to ensure that they are funded, operated and accounted for separately from the Public Services”. We recommend the BBC establish a clearer and more transparent separation between its public service and commercial activities. In addition, Ofcom should be provided with powers to regulate the BBC’s commercial activities along lines similar to those applying to commercial broadcasters. These powers should provide for effective *ex ante* competition regulation.

**The way forward**

178. The present system of BBC governance and regulation has failed, due in part to complacency, and in part to the “tick-box” system of appointing Governors, but above all due to the unresolved conflict between its role as the BBC’s advocate and its regulator. We note the Secretary of State’s comments on the unsustainability of the current system, quoted above. The BBC’s recent initiatives towards taking corrective action, while worthy and well-intentioned, may not work. Government and Parliament should secure regulatory arrangements that guarantee both the BBC’s independence and the ability of the Governors to hold management properly to account *(in extremis*, the Governors can dismiss the Director-General, a sanction they have used surprisingly frequently).

179. Pact stated: “The role of the Governors should be similar to that of the Channel 4 Board, retaining the current duties of the governors in: interpreting the Charter and setting
strategy; upholding editorial independence; assessing performance against remit and objectives; and calling management to account. However in terms of external assessment of performance, Ofcom would promote greater transparency and accountability…”153

180. We recommend sittings in public by whatever the BBC’s governing body turns out to be; except where matters of commercial confidentiality are concerned.

181. Paragraph 42 of the Communication from the Commission on the application of State aid rules to public service broadcasting recommends: “It is within the competence of the Member State to choose the mechanism to ensure effective supervision of the fulfilment of the public service obligations. The role of such a body would seem to be effective only if the authority is independent from the entrusted undertaking.”154

182. A study by the Institute for Public Policy Research concluded that a BBC regulator should be independent of Ofcom, the Government; and the BBC. However, the IPPR suggested that this goal could be achieved in practice by establishing the Governors as a separate body from the BBC, strengthened and housed outside the Corporation with a general obligation for transparency in communications with BBC management.155

183. We believe that a fundamental alteration to the responsibilities of the BBC Governors is required. We recommend that the governance of the BBC should be separated into its two component parts; meaning corporate governance on the one hand, and regulation and maintaining the independence of the BBC, on the other, by formally reconstituting the BBC Board of Governors as an independent body. Governors should be appointed on the basis of relevant experience—particularly in the media—and charged with the specific role of regulating the BBC and maintaining its independence. Corporate governance of the BBC should be supervised by the executive board augmented by independent non-executive directors appointed in accordance with the Combined Code on Corporate Governance for listed companies. This new management board would discharge its duties as if the BBC were a public limited company and in accordance with the principles of the Combined Code.156

Content regulation

184. Ofcom has regulatory control over the BBC, and other broadcasters, in relation to “negative” minimum content standards. This so-called Tier 1 covers fairness and privacy, and further aims to provide protection, particularly for people under 18, from harmful and offensive material.

185. In an environment where personal video recorders and video on demand allow time-shifting of programmes, the traditional nine o’clock watershed will become increasingly compromised. Technologies to enhance parental control over their children’s viewing will clearly play a role of increasing importance. The BBC has also established a labelling

153 Submission to the Review of the BBC Charter, Pact, March 2004
154 2001/C 320/04
155 From Public Service Broadcasting to Public Service Communications, IPPR, 2004 pp 178-179
156 The Combined Code on Corporate Governance for Listed Companies has been developed by the Financial Reporting Council following reviews commissioned by Government. The Code is widely endorsed for the relevant regulatory authorities and City institutions as representing best practice in this field.
project to identify what further information can be provided to signal the nature of programming content. This is in line with the sentiments expressed to us by Sir Christopher Bland: “It is very important that viewers should not be surprised by what they see in particular in fiction and in a soap. They should be well warned in advance.”

186. With the final demise of linear television still some way in the future, the watershed remains one useful and well-understood device. **We recommend the nine o'clock watershed be retained, and remind broadcasters it permits rather than mandates the later showing of content aimed solely at adults. We believe that it will be all the more important in the future that broadcasters develop robust and widely understood new means of signposting programmes that might cause offence to certain viewers.**

187. Unregulated content on the internet poses a challenge of a far greater order, not least as convergence implies that this will increasingly be watched on the same device as regulated broadcasts. Already, it is possible to watch live webcasts from a huge range of TV channels from around the globe (not to mention from private individuals). Even without plainly illegal webcasts, the issue of control over content comes to the fore. As the Committee recognised in its Third Report of Session 2003-04, “this black hole in policy will have to be tackled”.

188. The Internet Watch Foundation observes that “the Internet is not, and cannot, be regulated in the sense that radio and television are regulated”. While the IWF has proved highly effective in its primary mission of combating criminal content (in particular, child pornography) its procedures have little relevance in relation to other content that might be considered harmful or offensive. The IWF recommends two broad lines of action: “first, labelling, rating and filtering. Second, awareness and media literacy.” So far as BBC online content is concerned, this is subject to the Corporation’s own guidelines, first published in 1997 and last revised in July 2004. The BBC’s online services have an important role in providing safe and trusted access to entertainment and information. Though the feasibility of Internet content regulation may be underestimated, we believe self-regulation remains appropriate for this open, creative and international medium. Self-regulation should continue to be backed up by improved media literacy, enhanced filtering and rating software, and criminal sanctions for plainly illegal content.

189. **We recommend that for online content, a self-regulatory approach by the BBC should continue, but that this be governed by considerations analogous to those applying to broadcasts. This injunction should also apply to licensed broadcasters.**

**Accountability**

190. This Committee is primarily concerned with how the BBC demonstrates its efficiency, effectiveness and economy in fulfilling its public service remit. The BBC is, rightly, keen to preserve its independence and in this aim it has few antagonists. However, independence does not by any means absolve the BBC from *ex post* accountability for its performance.

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157 Ev 96, Q 70
158 Third Report , 2003-04, HC 380 para 114
159 Ev 136
160 BBC Online Editorial Guidelines, revised July 2004
and its use of a substantial amount of the public’s money; 24.5 million licence fee payers providing £2,798 million in 2003-04. The DCMS describes the BBC’s accountability as “reflected primarily through the Royal Charter...and Agreement”. The DCMS’s Independent Advisory Panel on Charter Review, chaired by Lord Burns, reported the suggestion that “it was only the process of Charter Review that concentrated the BBC’s mind” and there is no doubt that the most recent process, among other factors, has galvanised the BBC to produce the proposals set out in Building public value – Renewing the BBC for the digital world. The process of Charter review has always also been a tool for external bodies to hold the BBC to account, providing the opportunity for all interested parties to make a more or less detailed examination of key strategic issues such as what the BBC is for, how it is governed and run, what resources it needs and how these might be delivered.

191. Of course, in line with other public bodies, the BBC also publishes its annual report and accounts, required under the Charter to be made to the Secretary of State and laid before Parliament. Sir Christopher Bland, a former Chairman of the BBC, suggested to us that this opportunity could be more fully and methodically grasped by Parliament. For some years, on the original initiative of Sir Christopher, the BBC Governors and executives have appeared before this Committee on, or soon after, the day of publication of the annual report and accounts to answer questions on the information set out therein (and in the past the Committee has published this evidence without an accompanying report). Most recently, the Committee invited the BBC executive and the Governors to appear separately; reflecting an emerging consensus around the importance of separating their roles.

192. Annual evidence sessions with the BBC have often been marked by robust exchanges on both the substance of the reports and also on the style of the information provided (and not provided). Over the years the Committee has consistently put to the BBC the charge that the annual report was, in essence, more self-congratulation than self-examination; to equally consistent rebuttal.

193. This year, therefore, we welcomed the agreement of at least the new Chairman of the BBC, Michael Grade, that: “Traditionally, the Annual Report and Accounts has been as much about marketing the BBC as holding it to account – and as much about management’s view of its own performance as about the Governors’ view of management’s performance.” In the 2003-04 BBC report, described as a ‘transitional’ document, Mr Grade states his aim is to turn “the BBC’s Annual Report into a document owned by the Governors, which evaluates the performance of BBC management against publicly stated objectives and commitments.”

161 Review of the BBC’s Royal Charter, DCMS, December 2003, p 26
162 Emerging themes, Independent Advisory Panel on Charter Review, 1 December 2004, paragraph 3.28
163 The most recent was BBC Annual Report and Accounts 2003/2004, published 13 July 2004
164 Q58
165 The proceedings of the most recent such session was published on 20 October 2004 as HC 862-I (2003-04)
167 Ibid
194. This aim is explicitly part of a stated broader ambition for more robust governance, independent from BBC management,168 announced in the BBC’s contribution to the Charter review debate: “the [BBC] Governors in future will act—and be seen to act—fully independently of the BBC’s management and will be resourced properly in order to make informed and independent judgements.”169 We discuss governance more broadly, and the adequacy of the BBC’s own plans and competing proposals, elsewhere in this Report.

195. In considering the BBC’s past annual reports and accounts, and the evidence taken in relation to each, we believe that there are a number of key improvements that should be made to the BBC’s annual reporting to give effect to the new Chairman’s ambitions. HM Treasury guidance to government departments and public bodies is that an annual report should provide an account of the stewardship of public funds and it is reasonable to expect the document to provide tools and data necessary for effective scrutiny of:

- how well the organisation is performing against its high-level aims, subsidiary objectives and any detailed targets;

- performance in relation to external, or otherwise objective, measures and comparators; and

- the quality of the strategic “grip” that the organisation has over itself, its activities and its operations.

196. In order to do this, annual reporting needs to set out: high-level aims and purposes; clear objectives and evidence-based measurements of how these have been achieved; performance indicators for efficiency, effectiveness and economy; comparators with other, equivalent or competing, organisations; a statement of strategy; a candid assessment of performance and any difficulties faced in achieving its goals; and some assurance of accuracy and candour (i.e. external validation).

197. When we measured the BBC’s recent annual reports against these parameters there appeared to be some gaps (set out in the boxes below and discussed thereafter).

The BBC’s report should include a clear statement of what it needs to do to fulfil its public service remit, providing added value compared to other broadcasters. The previous BBC Chairman said that the BBC needed to provide a “richer and more ambitious” package than the commercial sector but provided no criteria against which performance could be judged.

198. The BBC’s direct response reported agreement “with the thrust of this point” and said that the 2003/2004 report went further than previously in reporting on the performance of each BBC service against its public service remit. The BBC pointed to plans, set out in Building public value, for new evidence-based performance metrics for BBC services based around: “reach, quality, impact and value for money” as well as new public service “licences” (setting out budget, remit and targets) which will be monitored annually and reviewed regularly.170 There is no ducking the issue that the BBC’s remit presents a

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168 Building Public Value, the BBC’s contribution to the Charter review debate, published June 2004, p 130
169 Ibid, p 128
170 Ev p 262, para 2
challenge in terms of formulation, as discussed elsewhere in this Report, as well as subdivision into measurable objectives. In *Building public value*, the BBC has defined its key role as “aiming to maximise public value” and the new performance framework looks set to become the touchstone for all its services and activities.

199. The Independent Advisory Panel (IAP) said in its statement of emerging themes, published as this Report was being prepared, that “the new Charter should require the BBC to focus clearly on its core PSB purpose and the areas where it can generate value for audiences in addition to that provided by the rest of the market”.

**Objective setting**

It was difficult to assess the performance of the BBC against its key objectives as some were unspecific, some not measurable and some incremental without a baseline. There were statements such as “a year of strong BBC performance” without reference to measurable achievements or quantitative comparisons with other broadcasters (beyond reach and share).

200. The BBC has told us that the Governors’ own work has led them to decide that there should be significant changes in their assessment of performance against objectives in future annual reports, “much along the lines identified by the Committee”. The BBC said that key objectives for 2004/2005 were focused on major pan-BBC priorities while individual channel, service and genre objectives were set out in the Statements of Programme Policy. The IAP said that: “if the next Charter is to include more specific high level purposes … there will be a clear need for a set of measurable goals to inform the conduct of the management and to enable the Governors to assess afterwards whether objectives have been achieved”. Lord Burns’s panel also observed that: “Building public value outlines some high level purposes but more work is necessary if they are to be translated into how the BBC operates on a day-by-day basis and they need to be set out in a way that makes management accountable for the delivery of these purposes.”

**Illustrating performance**

More comparators should be used to illustrate the BBC’s use of resources, output and performance compared with other broadcasters (both TV and radio).

201. The BBC agreed and reported the reinstatement in 2004 of information, left out of the 2002/2003 report, relating to: comparative reach and share; the range of peak-time UK-made programmes; the comparative cost per household of viewing/listening.

202. We welcome these moves. We see the relative costs per household of viewing and listening arising from, on the one hand, a compulsory licence fee, and, on the other, contracts entered into by choice, as interesting (but incomplete without estimates also for

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171 Ev p 262, para 1
172 Ev p 262-3, para 3
ITV and Channel 4).\footnote{ITV 1 and 2 and Channel 4 are free at the point of use but the consumer pays for the advertising carried on air through increased prices in their ‘shopping baskets’.} However, the truly valuable data for assessing the efficiency and effectiveness of the BBC in its use of the public’s money would be comparative programme production costs per hour between the BBC and other programme producers. The BBC said that it would like to undertake such analysis but commercial broadcasters would not release such information.\footnote{Ev p 264} Comparative data on programme budgets of the terrestrial broadcasters, albeit in broad terms, used to be available on the former ITC’s website (which showed that, across 2001-2003, BBC One’s budget consistently exceeded that of ITV1 by £100-200 million). One way of achieving these comparisons would be via Ofcom as a mediator of commercially sensitive data. Alternatively the BBC could make a start by comparing in-house costs with those of programmes secured from the independent sector (the data for which is presumably accessible).

203. Capital Radio told us that the BBC should be subject to the same degree of scrutiny of its accounts as other public bodies and should therefore be fully accountable to the National Audit Office including on value for money issues; like the rest of the public sector. Capital said it was impossible to see how the Governors can adequately consider value for money without access to comparable industry data. Unlike the Governors, the NAO might be in a position “to compare and analyse costs and spending across the broadcasting sector.” This is a long-standing debate with the BBC resisting a perceived challenge to its independence over operational decisions despite the NAO’s long experience of, and clear focus on, efficiency, effectiveness and economy issues while abjuring interference with policy. Mr Michael Grade, the BBC Chairman, told us: “It seems perfectly proper … for the NAO to inquire into various things, but [not] to go through the full formal constitutional proprieties of an NAO relationship” where the Director-General becomes the BBC’s Accounting Officer.\footnote{Q 473}

204. An interim compromise was reached in 2003. Under paragraph 4 of the Schedule to the amendment to the BBC Agreement, dated 4 December 2003, the BBC Audit Committee is required to examine the value for money achieved by the Corporation in using the licence fee. In doing this, they must consult the Comptroller and Auditor General over the possible scope of an audit programme and consider which individual reviews under that programme might best be conducted by the NAO.\footnote{Ev 78} The NAO has completed a study of the establishment of Freeview with no visible damage to the Corporation as a result. We regard the BBC’s fear of formal relations with the NAO to be based on a misunderstanding of the C&AG’s role and we look forward to the development of the relationship between the BBC Governors’ Audit Committee and the NAO in the future.
Targets and standards

The targets within the BBC’s Statements of Programme Policy (SoPPs) should be reviewed with a view to increasing: the correlation with the BBC’s high-level objectives; specificity and measurability (tackling the vaguer instances of incrementalism); as well as the challenges posed. It would also be useful to validate performance by external, as well as internal, audit.

205. The BBC wrote that the BBC’s approach to SoPPs had yet to be informed by Ofcom guidance (on which consultation was published in June 2004). The Corporation stated that its SoPPs for 2004/2005 were more detailed, more factual and more measurable than in the previous two years and that the report on performance against the 2003/2004 SoPPs, in the 2004 annual report, was “significantly more thorough” than before.177

206. We noted that, as for example Channel 4 had exceeded all of BBC’s Two’s quantified targets and a majority of BBC One’s in 2002, these targets must be relatively undemanding. The BBC responded that the specific hours commitments were floors, i.e. minima, and therefore not really targets at all in the aspirational sense.178 In this light we regard them as largely useless as measures of performance (and they should not be presented as such) being about compliance with the inevitably low baseline, or safety net, established by a system of quotas for PSB programming regarded by many as a necessary evil.

207. The BBC also pointed out that the commitments were about the type of programming and not its quality or the range within each specified genre. The Corporation asserted that the SoPPs for 2004/05 demonstrated a more sophisticated approach through their clarity and specificity (and pointed out that the minimum requirement for news on BBC One had been increased from 570 to 1,380 hours).179

208. The BBC said that—while BBC Two outperformed Channel 4 on every relevant indicator in 2003/04 except hours of religion (since the BBC concentrates religious programming on BBC One) and BBC One’s performance was significantly ahead of Channel 4’s in many PSB genres—the different remits and audience-expectations of these channels made such comparisons “rather invidious and of limited value”.180

209. In our view the BBC should be setting its own real targets, on top of its regulatory minimum duties, to set out clearly the levels of performance that it believes it needs to be achieving and to invite scrutiny of both its ambitions and its subsequent performance.

177 Ev p 263, para 4
178 Ev p 263, para 4
179 Ev p 263, para 4
180 Ev p 263, para 4
Value for money

The BBC had targets during 2002/2003 for financial efficiency gains—licence fee collection, commercial activities, central overheads, and programme production—but progress was only reported in relation to the first three which, even taken together, represented limited prospects for savings or gains compared to the potential within the BBC’s £2.4 billion production budget.

210. It is worth taking a little time to consider the BBC’s recent record on seeking, and reporting on, efficiency savings in its core spending; a key area for a body that receives a compulsory and regressive viewing tax from about 20 million households. The Secretary of State told us that: “the BBC’s protected status is not an accident, it is a democratic choice … which creates for the BBC very clear responsibilities and one of them is to ensure that money is not wasted”. Tessa Jowell went on to suggest that evidence of waste would be the surest way of undermining public support for the licence fee.

211. In relation to the efficiency gains targeted by the BBC in 2002-03: licence fee evasion represented a loss of £200 million (with improved collection inevitably subject to diminishing returns); commercial activities returned £147 million; and central overheads were £347.5 million. In contrast expenditure on programme production was £2,378 million. The outcomes from the reported improvements, in the first three areas, added up to £60.1 million; 1.5% of total spending.

212. In the 2004 annual report the BBC failed to refer to the specific sub-targets for efficiency. Instead, it referred to the overall 7-year Charter target to achieve efficiencies and earnings—termed “self-help”—of £3.3 billion between 1999-2000 and 2006-07. While there is merit in this, as this target covers the whole of BBC expenditure, there are also some difficulties. In its annual reporting the BBC has not broken this target down into annual sub-targets (so it is difficult to assess financial performance for 2003-04 specifically against the target). The 2004 report did not report outturn against the target to date since 1999-2000 and it does not say what contribution to the target was achieved in 2003-04. There was simply insufficient detail behind the statement of “steady progress” for an independent judgement to be formed.

213. In Building public value the overall cumulative progress—and projected steep curve towards fulfilment—of the self-help target is set out with a continuing, and perhaps disproportionate, emphasis on gains from licence fee collection (and it is not clear whether this is due to increased efficiency or expectations of more households and more licence fee payers). The 2004 report also said that a new programme of efficiency/earnings had been agreed in order to achieve the £3.3 billion target but gave no details. The report did reveal that the one-off sale of assets, such as BBC Technology, will count towards the “self-help” target which suggests a softer potential route, in extremis, to its achievement than the rigour of efficiency initiatives. We note that reductions in overheads has been limited and in fact in 2003-04 there was an absolute increase of £4 million on the previous year albeit within a reduction of overheads to 12% as a proportion of total spending.
214. Programme production is the BBC’s core activity representing the great bulk of expenditure. However, initiatives to increase efficiency in this area (without compromising quality) have not been the subject of clear reporting; giving rise to the suspicion that the issue has not topped the agenda of an organisation enjoying a guaranteed level of public money. It is a matter of more than anecdotal evidence that the BBC regularly sends large numbers of journalists and other staff to cover the same news or sporting event, with separate BBC outlets often replicating each other’s work. While direct comparisons with the print media, or other broadcasters, would be invidious, we believe that the BBC should seek to make further efficiencies in this area.

215. We also note that the BBC has been criticised for programme acquisition, including of Hollywood blockbusters, for far above their ‘market’ value, when in competition with other terrestrial broadcasters without, therefore, a demonstrable gain in terms of public value.

216. In 2003 the BBC Governors reported that “Over the next year programme production costs need to be benchmarked to determine if further efficiencies are achievable. We have also agreed with the Executive to look for ways to conduct a thorough review of effectiveness-based, value for money measures of BBC performance.” They themselves emphasised this in going on to say: “It is timely now to conduct a thorough benchmarking exercise to ensure that the BBC’s programme costs are justified in relation to the value and quality of its programmes, as compared with other broadcasters.”

217. In 2004 the Governors reported that the BBC must “now set itself more stretching efficiency targets if it is to deliver licence payers the best possible value for money” and that the “key challenge” lay in improving the efficiency of production processes. They conceded that progress with this, particularly in terms of benchmarking productions costs, had “not been as rapid as we had expected”. No benchmarking of costs seems to have taken place and no efficiency achievements for production costs have been reported on, presumably either because there were none or because the BBC financial systems were not in a position to identity them. This year the Governors again undertake to have a “thorough review” of this area, this time under the guidance of a new “Head of Value for Money”. The BBC told us that it “recognises that this is an area where a renewed push towards world-class levels of efficiency is called for.”

218. We believe that the BBC, under new governance and management and with the new business plans recently announced, must grasp the nettle of the efficiency and effectiveness of its core spending on programme production and acquisition – which it seems it has courageously begun to do. It should have done so before now. If necessary it should establish a project board comprising both internal expertise and perhaps personnel seconded from the National Audit Office and the independent production sector to assist in the process of comparing BBC norms, values and practices with those from elsewhere.

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182 Ev 106, Q 130
Evidence of internal financial control

Regarding cost targets in general, the BBC report would be enhanced by more information about and from the BBC’s internal financial performance measure and indicators to provide a comprehensive picture of the BBC’s financial performance.

219. The BBC told us that the annual report currently contains most of the financial performance measures and indicators used internally in the ‘Broadcasting facts and figures’ section of the report. These measures included: network television hours of output, radio hours of output, monthly bbc.co.uk and BBCi reach, monthly bbc.co.uk page impressions, cost per hour of originated programmes, distribution costs, cost per hour of originated programmes by genre, and creative spend outside the BBC.¹⁸⁵

220. The BBC said that the only main measure of internal financial performance that was not included was comparison to the budget but that it was “not considered appropriate to disclose details of the BBC’s internal budget in the annual report and accounts”. The BBC went on to say, however, that in Spring 2005, the Governors will grant licences for each BBC public service which will “specify the budget of each service, as well as its remit and performance targets”.¹⁸⁶

221. As we have noted, Lord Burns’s Advisory Panel on Charter Review has seen a need for the definition and demonstration of its unique selling point (or in this case its unique justification for the licence fee), added public value and public service contribution as key emerging themes of Charter review. The Panel also said that “any system of judging the BBC’s performance should be based on a wide range of factors, some quantitative others qualitative.” At first sight this seems to be pointing towards a framework such as that presented in Building public value for reach, quality, impact and value for money (especially in view of the IAP’s eschewing of audience “share” as potentially perverse). However, Lord Burns’s panel also concluded: “if such a test is defined solely by criteria set by the BBC, using data and measures defined by the BBC, it will lack conviction. There is a clear need for an independently determined set of objective measures, applicable to the whole of the broadcasting industry, which the BBC should use when making such judgements.” The IAP points to Ofcom’s conduct of its review of public service television as an exemplar.

Conclusion

222. Overall the current situation poses great challenges to the ability of external observers to assess what it is the BBC is trying to achieve and to measure its success in making progress. We note that the BBC indicates new thinking is taking place on these points. We accept the encouragement of Sir Christopher Bland to seize more fully the opportunity presented by the BBC’s annual report and accounts to improve the accountability of the Corporation to Parliament. **However, our determination must be matched by a new**

¹⁸⁵ Ev p 264, para 7
¹⁸⁶ Ev p 264, para 7
culture of openness at the BBC, and rigour among the BBC Governors, leading to a wholesale renewal of the Corporation’s reporting of its performance, and added value, to the Secretary of State, to Parliament and, thereby, to the licence payer. This has been signalled clearly by the new BBC Chairman and in the mechanisms proposed in the BBC’s bid for Charter renewal, Building public value. However, we note that Lord Burns’s advice to the Secretary of State is likely to suggest that these efforts do not go far enough with the BBC needing to come out from behind its barricades and out from within the charmed circle of its self-referential objectives and measures.

223. We recognise that a vessel of the size and complexity of the BBC needs both time and effort to turn on to a new course and adopt any significant change in organisational culture. However, the BBC Chairman told us that: “from the outside the BBC has looked arrogant. It is not arrogant, it takes its accountability responsibilities very seriously. The problem is that decisions that it has made have been behind closed doors, a cosy discussion between the two boards … no transparency, no objectivity, no independent thought, until after the decision has been made … but we are addressing that.”187 This suggests a much more open process of which the annual report would be just the pinnacle; rather than an annual spasm. It would be a very great shame if Mr Grade’s attractive initial offering proved immune to further development or even to require discounting over time to account for the twin inflationary pressures of Charter review rhetoric and new broom bravado. We regard the area of accountability, and concrete mechanisms and measures for improvement, as a crucial test for the DCMS in its development of detailed proposals for its prospective green paper.

7 Nature and length of settlement

The Royal Charter

224. The BBC’s Royal Charter sets out, and broadly defines, the Corporation’s status, purposes and constitution – without great emphasis on either “independence” or “impartiality” although both receive mention. The Charter refers to, and is underpinned by, a more detailed “Agreement” with the relevant Secretary of State which is by convention debated in Parliament. The relatively obscure Standing Order preventing such a ‘contract’ taking effect until approval by the Commons was dropped in 1997 although ad hoc arrangements for the debate of amendments to the BBC Agreement have been made since then. The commencement date and terms of successive BBC Royal Charters are set out below:

187 Ev 214, Q 506
<table>
<thead>
<tr>
<th>Charter I</th>
<th>1 January 1927</th>
<th>10 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charter II</td>
<td>1 January 1937</td>
<td>10 years</td>
</tr>
<tr>
<td>Charter III</td>
<td>1 January 1947</td>
<td>5 years</td>
</tr>
<tr>
<td>Charter IV</td>
<td>1 January 1952</td>
<td>6 months</td>
</tr>
<tr>
<td>Charter V</td>
<td>1 July 1952</td>
<td>10 years</td>
</tr>
<tr>
<td>Charter VI</td>
<td>1 July 1962</td>
<td>2 years 1 month</td>
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<tr>
<td>Charter VII</td>
<td>30 July 1964</td>
<td>12 years extended by 3 years in 1976, and a further 2 years in 1979</td>
</tr>
<tr>
<td>Charter VIII</td>
<td>1 August 1981</td>
<td>15 years 5 months</td>
</tr>
<tr>
<td>Charter IX</td>
<td>1 May 1996</td>
<td>10 years 8 months</td>
</tr>
</tbody>
</table>

225. In addition to the Charters indicated above, there have been supplemental Charters, such as those which provided for extensions of the one granted in 1964. The present Charter, which expires on 31 December 2006, revoked the one preceding it. All Royal Charters have included provision for the voluntary or compulsory dissolution of the BBC. In the words of the present Charter, “It shall be lawful for the Corporation to surrender this Our Charter subject to the sanction of Us, Our Heirs or Successors in Council, and upon such terms as We or They may consider fit, and to wind up or otherwise deal with the affairs of the Corporation in such manner as may be approved by Our Secretary of State.”

226. In addition to the Charter and Agreement, the BBC has been subject to a number of statutory obligations, such as the requirement to publish findings of the Broadcasting Standards Commission (now subsumed within Ofcom) as directed and to commission 25% of non-news television programmes from independent producers. These provisions have broadly been carried over into the Communications Act 2003 (section 338 and Schedule 12) and the amendment188 to the Agreement of 1996.

227. The debate over whether the BBC should be covered by statute or Royal Charter arose in evidence given to the Crawford Committee in 1925. Sir Evelyn Murray, Secretary of the Post Office, submitted to the Committee a memorandum suggesting the establishment, by charter or statute, of a corporation with a widely representative governing body. Murray stated: “the Corporation should enjoy a large measure of independence and should not be subject either in its general policy or its choice of programmes to the detailed control and supervision of the Postmaster-General, from which would follow the corollary that the Postmaster-General would not be expected to accept responsibility or to defend the proceedings of the Corporation in Parliament.”189

228. The Crawford Committee published its report on 5 March 1926, agreeing, among other things, that “the United States system of free and uncontrolled transmission and reception” was unsuited to Britain and that broadcasting had to remain a monopoly

188 Cm 6075, December 2003
189 cited in Asa Briggs, The BBC: the first fifty years, Oxford University Press 1985
“controlled by a single authority”. On 14 July 1926, the Postmaster-General announced that the main recommendations of the Crawford Committee had been accepted by the Government. The new British Broadcasting Corporation (not “Commission” as suggested by Crawford) would derive its authority from Royal Charter rather than statute in order to make it clear to the public that it was not “a creature of Parliament and connected with political activity”.

229. The extent to which the latter is still technically true needs to be considered in the light of the Privy Council’s own current guidance: “…once incorporated by Royal Charter a body surrenders significant aspects of the control of its internal affairs to the Privy Council. Amendments to Charters can be made only with the agreement of The Queen in Council, and amendments to the body’s by-laws require the approval of the Council (though not normally of Her Majesty). This effectively means a significant degree of Government regulation of the affairs of the body, and the Privy Council will therefore wish to be satisfied that such regulation accords with public policy.”

230. The independence of the BBC is explicitly defined and guaranteed by the first substantive clause of the Agreement with the Secretary of State: “The Corporation shall be independent in all matters concerning the content of its programmes and the times at which they are broadcast or transmitted and in the management of its affairs.”

231. In addition, the prestige still associated with possession of a Royal Charter, as well as the original rationale set out in 1926, has been regarded as contributing to the BBC’s effective independence from Government and, indeed, from Parliament. That this belief in independence appears to function, in part, on an emotional level is not to decry it.

**Length of settlement**

232. In the context of a fast-evolving broadcasting environment, the Committee’s call for evidence sought views on the optimal length of any new settlement, be that based on Charter or alternative arrangement, or other means of providing for flexibility. When the previous Committee took evidence from the BBC in the run-up to the present Charter, the then Chairman, Marmaduke Hussey was asked about the optimum duration in light of technological change. He replied: “Quite clearly 17 years or 15 years is too long. I think I have made it clear that the BBC is very well aware of the pace of change and we feel basically that this is the wrong moment to change the BBC until we see exactly what the changes have been. If you really want me to put a figure on it, I would say it certainly should not be more than ten and it should not be less than eight. If it is seven or six or something we will be here again in a few months time doing the next Charter. Eight to ten seems to me about right.” In the ten years that have elapsed since those remarks, the rate of technological change has continued to increase.

233. In our foreword we identify a key question for Charter review as being the extent to which any new BBC mandate needs to be framed to accommodate change, or to preserve

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190 *Report of The Broadcasting Committee, 1925. Cmd 2599 (1926)*

191 HC Deb 14 July 1926 c 449

192 [http://www.privy-council.org.uk/output/Page44.asp](http://www.privy-council.org.uk/output/Page44.asp)

stability. In written evidence to the Committee, ITN takes the view that a ten year Charter will not be able to accommodate the changes attendant on digital switchover and the take-up of broadband and other new media services; ITN recommends a five-year Charter.\footnote{Ev 51}

234. While considering the Charter an anachronism, ITV on the other hand believes that the important changes to funding, regulation, governance and remit can all be made without changing either the regime or its current ten year length. According to ITV, a ten year period is desirable to provide the BBC with time and certainty to change.\footnote{Ev 18}

235. The Music Business Forum judged a Royal Charter the most appropriate basis for the establishment of the BBC, but considered its duration in the context of technological developments: “With the current speed of developments in technology and the means by which programmes and information can be relayed, transmitted, accessed and stored by service providers and their customers, the idea of setting in stone rules by which the BBC should operate for the next 10 years must be a more difficult task than has ever before faced those dealing with a BBC Charter renewal. We would argue that any new 10 year Charter should continue to provide for development and changes to BBC services during the term provided that appropriate safeguards are in place to ensure that the remit of agreed services is not—and cannot be changed unilaterally by the BBC in ways that ‘shift the public service goal posts’ and vary the relationship of the BBC with those working in the public sector without the opportunity for consultation and public comment.”\footnote{Ev 64-72}

236. The Chief Executive of Ofcom told us that a ten-year Charter with a five-year mid point review would be appropriate in view of the increasingly important role the BBC was likely to play in the provision of public service broadcasting. In addition, the necessary capital expenditures associated with securing digital switchover “probably requires a financial planning horizon of more than three or four years.”\footnote{Ev 224, Q 545}

237. The Secretary of State recognised that one factor in determining the length of any new Charter was the need to ensure accountability; this had to be balanced against the “uncertainty and turbulence” that might be associated with shorter settlements. She commented: “Governments are not elected for 10 years without a break in the middle.”\footnote{Ev 236, Q 604}

**Alternatives to a Charter**

238. We received relatively few submissions that examined arrangements for establishing the BBC other than by Royal Charter. Although the DCMS consultation explicitly raised the question as to whether a Royal Charter continued to be the most appropriate basis for the establishment of the BBC, this point does not appear to have been considered to any great degree. The Secretary of State told us: “I would mislead you, however, if I said that we had given detailed consideration to a structure for the BBC that moved it out of its
constitution by Royal Charter.\textsuperscript{199} In \textit{Building public value}, the BBC Governors note that the Charter might seem “old-fashioned” and welcomed debate.

239. 3WE, the Third World and Environment Broadcasting Project, has recommended that “the statutory basis of the BBC should be modernised, with the Agreement radically rewritten, to become a publicly comprehensible statute which enshrines the public service purposes and social roles of the BBC and its various services.”

240. Carole Tongue and David Ward did comment that the Charter “is ill suited to set out the duties and responsibilities of the contemporary BBC and we would suggest it is not renewed and is replaced with a more suitable instrument. We would like to see something far more permanent both in terms of reviews of the BBC’s services and its legal standing and obligations.”\textsuperscript{200} In evidence submitted to the DCMS,\textsuperscript{201} they explicitly recommend replacing the Royal Charter with a permanent BBC statute setting out the obligations and responsibilities of the Corporation.

241. Artsworld recommended that the “anachronistic” Royal Charter and Agreement should be abolished entirely, and replaced with an Ofcom licence similar to those held by other public service and commercial broadcasters.\textsuperscript{202}

242. Lord Currie acknowledged that placing the BBC on a statutory basis was “certainly a possibility.” He added: “We are also sensitive to the points that are made about state broadcasters, as it were. We have a rather different tradition in the UK and it would be a significant step to make that change.”\textsuperscript{203}

243. Were the BBC to be established by Act of Parliament, we believe that the statute should also explicitly provide protections for the Corporation. An Act would be more than a simple transposition of the Charter and Agreement, and would have to enshrine more explicitly the BBC’s editorial independence. An Act could also make provision for periodic review of the BBC’s services, involving public consultation and, we would suggest, tied in with Ofcom’s quinquennial reviews of public service broadcasting.

244. Placing the BBC on a permanent statutory basis would provide for long term certainty, and transparency over the Corporation’s basic terms of reference. Under the present arrangements the Charter is granted for a specified period, judged “expedient”. Once so granted, fundamental change, abolition even, could arguably be effected more readily than if the establishment of the BBC were by Act of Parliament.

245. Parliament is a more transparent and democratic agency through which to establish the BBC, and effect changes, than the Privy Council and the “rather private process” to which the Secretary of State referred. An Act could, and should, provide for regular public input into and comment upon the BBC’s services. Under such an Act, the BBC’s governing body would be required to conduct its proceedings and deliberations in a far

\textsuperscript{199} Ev 242, Q 631
\textsuperscript{200} Ev 56
\textsuperscript{201} Submission to the: BBC Charter Review Public Consultation, Carole Tongue and David Ward, 2004
\textsuperscript{202} Ev 195
\textsuperscript{203} Ev 224, Q 544
more open manner than hitherto. The Corporation itself has been promulgating the concept of building public value. It should, in short, be a public BBC.

246. Our recommendation, therefore, is that the BBC should be placed on a statutory basis by Act of Parliament at the earliest opportunity. However, this legislation should not be rushed and should be published in draft for pre-legislative scrutiny by a joint committee of both Houses. Given the current Charter expires at the end of 2006—which may not leave sufficient time for these pre-legislative and legislative processes to take place—we recommend a five year Charter to cover this interim period. In the event that, at the end of this five year Charter, no Act has been passed then the Charter should be subject to expedient extension, as it has in the past, until the legislation we recommend is in place.
Conclusions and recommendations

1. It should be regarded as a duty that the BBC continue to pursue practical methods to improve the enjoyment of its services by people with sensory impairments. (Paragraph 35)

2. Media Lab Europe has been an independent, not-for-profit, international research institute. It would be appropriate for both the DCMS and the BBC to take account of the work undertaken there. (Paragraph 36)

3. We recommend the Government gives serious consideration to the need for measures, and the timetable for their announcement and implementation, to make digital switchover affordable and practical to people on low incomes and those with special needs. Careful consideration should be given to all the recommendations of the Consumer Expert Group, chaired by Allan Williams of the Consumers Association, particularly in relation to providing assistance with the full costs of converting one TV to digital. We further note that these recommendations chime with those made by the Consumer Panel at Ofcom. (Paragraph 55)

4. We recommend the Government takes steps to promote more actively public awareness and understanding of digital switchover. (Paragraph 57)

5. We recommend that the Government bites the bullet and sets out a clear path and timetable for digital switchover. (Paragraph 58)

6. We therefore believe that, notwithstanding the increased number of channels offered in Sky’s free-to-air satellite service, it is imperative that the BBC works with other providers to create an alternative “Freesat” option. (Paragraph 61)

7. We strongly welcome the BBC’s proposals for a Creative Archive, and agree that access to this should be free for non-commercial applications. We look to the Corporation to develop, in cooperation with intellectual property owners, innovative solutions that appropriately balance the interests of rights holders with those of the wider public. Digital rights management is a key issue in the modern media environment, and we recommend the DCMS establish a forum for assessing its implications. (Paragraph 66)

8. Genres such as the arts and religion should not be shunted into digital ghettos, and with the deployment of a little funding, and more imagination, could attract greater success than hitherto. (Paragraph 73)

9. We recommend that online, interactive and multimedia services become a more prominent and explicit part of the BBC’s formal public service remit. The BBC should be a public service communications provider of content across all platforms. However, the BBC’s online presence must have public service parameters and we recommend that these be explicitly clarified in the next Charter (or alternative settlement). (Paragraph 75)

10. We also believe that the BBC’s regional broadcasting commitment needs strengthening and would urge the Corporation to consider further ways of ensuring
high quality local and community broadcasting. We also recognise and welcome the important role the independent community broadcasters will need to play.

(Paragraph 78)

11. We recommend the BBC publish a strategy for promoting UK films, and should do so in concert with the UK Film Council. We further believe there is a strong case for a substantial increase in BBC funding for both feature films and short films and in the exhibition of modern UK films. (Paragraph 86)

12. The BBC should retain its commercial subsidiaries, but must compete on demonstrably fair terms with the profits used for the benefit of public service broadcasting. (Paragraph 87)

13. We recommend that BBC World should have applied to it standards of content analogous to those justly associated with the excellent radio World Service. We recommend that the Government commences consideration and consultation on the case for a television version of the BBC World Service. (Paragraph 88)

14. While both BBC Three and BBC Four could certainly be improved, it will be an increasingly important feature of public service broadcasting to cater for niche, as well as generalist, tastes. They should remain as targeted channels, and not recast as clones of BBC One and BBC Two, as recommended by the Barwise review. (Paragraph 95)

15. We recommend that the BBC continues to seek proactively the views of the public through audience research, viewer feedback, advisory bodies and broadcasting councils. The BBC should include in its annual report the results of its consultations and dialogue with the wider public. (Paragraph 98)

16. We recommend that the BBC formally and regularly consults teenagers and young adults about their interests as consumers of BBC services, deploying appropriate modern communications technologies to improve the process. The details and outcomes of such consultations should also be published each year in the BBC’s Annual Report. (Paragraph 101)

17. We recommend that the BBC renews acceptance of its duty to provide a wide range of educational and informational programming, and high quality entertainment across a diversity of genres. (Paragraph 106)

18. We recommend substantial increases in the BBC’s independent production quotas for television, radio, and online services and we note the BBC’s recent announcements in this area. It is not sufficient, however, for the BBC’s independent production quotas simply to be increased. Fostering new, distinctive and independent voices around the UK should be a sustained requirement of the BBC and subject to effective, external and independent scrutiny. (Paragraph 112)

19. We recommend that top-slicing the licence fee to fund public service provision by any body other than the BBC should be rejected. (Paragraph 118)

20. We cannot support Ofcom’s Public Service Publisher idea as it stands. However, this proposal merits further consideration in the future. (Paragraph 120)
21. The licence fee remains, as our predecessor committee stated, the least worst way of funding the BBC. While it is regressive and unfair on the disadvantaged in society, the evidence we received clearly indicates that there is no other viable and credible alternative which would ensure the current universality of access. (Paragraph 134)

22. So long as the licence fee remains the principal funding mechanism for the BBC, responsibility for setting its level should rest with the Secretary of State, subject to continued Parliamentary sanction. The process by which a funding formula is reached must be made transparent and public. We do not anticipate there being persuasive arguments in favour of above-inflation increases beyond 2006-07 when the current funding settlement ends. (Paragraph 141)

23. We recommend that the operation of concessionary schemes, for example in relation to accommodation for residential care, be reviewed by the DCMS to ensure that they are effective and consistent and that oppressive anomalies are eliminated. Consideration should be given to extending concessions in other areas of multiple occupation such as student halls of residence, live-in staff accommodation and service barracks. (Paragraph 146)

24. We recommend the BBC carry out further work on the development of easier payment methods, including by credit card. People who pay by instalments must not be financially penalised for doing so. (Paragraph 148)

25. The BBC should report annually on the collection of the licence fee, providing an assessment of its equity, and the operation of concessions and proposals for their modification or extension. (Paragraph 149)

26. While payment of the licence fee by households which actually have a TV is a legal obligation, we remind the BBC that the finances it receives from the licence are a privilege. The Corporation should use a less menacing style of advertising campaign. (Paragraph 152)

27. We believe non-payment of the television licence should become a civil matter. In the meantime, Lord Justice Auld’s recommendation that fixed penalty notices be introduced in respect of TV licence non-payment should be implemented. (Paragraph 153)

28. We recommend that Ofcom’s regulatory role in relation to the BBC remains substantially the same, for the time being. We believe that Ofcom has too many other duties for it to be an effective regulator of the BBC in its entirety. (Paragraph 160)

29. We recommend the BBC establish a clearer and more transparent separation between its public service and commercial activities. In addition, Ofcom should be provided with powers to regulate the BBC’s commercial activities along lines similar to those applying to commercial broadcasters. These powers should provide for effective ex ante competition regulation. (Paragraph 177)

30. We recommend sittings in public by whatever the BBC’s governing body turns out to be; except where matters of commercial confidentiality are concerned. (Paragraph 180)
31. We believe that a fundamental alteration to the responsibilities of the BBC Governors is required. We recommend that the governance of the BBC should be separated into its two component parts; meaning corporate governance on the one hand, and regulation and maintaining the independence of the BBC, on the other, by formally reconstituting the BBC Board of Governors as an independent body. Governors should be appointed on the basis of relevant experience—particularly in the media—and charged with the specific role of regulating the BBC and maintaining its independence. Corporate governance of the BBC should be supervised by the executive board augmented by independent non-executive directors appointed in accordance with the Combined Code on Corporate Governance for listed companies. This new management board would discharge its duties as if the BBC were a public limited company and in accordance with the principles of the Combined Code. (Paragraph 183)

32. We recommend the nine o’clock watershed be retained, and remind broadcasters it permits rather than mandates the later showing of content aimed solely at adults. (Paragraph 186)

33. We believe that it will be all the more important in the future that broadcasters develop robust and widely understood new means of signposting programmes that might cause offence to certain viewers. (Paragraph 186)

34. We recommend that for online content, a self-regulatory approach by the BBC should continue, but that this be governed by considerations analogous to those applying to broadcasts. This injunction should also apply to licensed broadcasters. (Paragraph 189)

35. We believe that the BBC, under new governance and management and with the new business plans recently announced, must grasp the nettle of the efficiency and effectiveness of its core spending on programme production and acquisition – which it seems it has courageously begun to do. It should have done so before now. If necessary it should establish a project board comprising both internal expertise and perhaps personnel seconded from the National Audit Office and the independent production sector to assist in the process of comparing BBC norms, values and practices with those from elsewhere. (Paragraph 218)

36. Our scrutiny must be matched by a new culture of openness at the BBC, and rigour among the BBC Governors, leading to a wholesale renewal of the Corporation’s reporting of its performance, and added value, to the Secretary of State, to Parliament and, thereby, to the licence payer. (Paragraph 222)

37. We regard the area of accountability, and concrete mechanisms and measures for improvement, as a crucial test for the DCMS in its development of detailed proposals for its prospective green paper. (Paragraph 223)

38. Our recommendation is that the BBC should be placed on a statutory basis by Act of Parliament at the earliest opportunity. However, this legislation should not be rushed and should be published in draft for pre-legislative scrutiny by a joint committee of both Houses. Given the current Charter expires at the end of 2006—which may not leave sufficient time for these pre-legislative and legislative processes
to take place—we recommend a five year Charter to cover this interim period. In the event that, at the end of this five year Charter, no Act has been passed then the Charter should be subject to expedient extension, as it has in the past, until the legislation we recommend is in place. (Paragraph 246)
Formal Minutes

Tuesday 7 December 2004

Members present:

Sir Gerald Kaufman, in the Chair

Mr Chris Bryant          Alan Keen
Mr Frank Doran           Rosemary McKenna
Michael Fabricant        Ms Debra Shipley
Mr Adrian Flook          John Thurso
Mr Nick Hawkins          Derek Wyatt

The Committee deliberated.

Draft Report (A public BBC), proposed by the Chairman, brought up and read.

Ordered, That the Chairman’s draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 19 read and agreed to.
Paragraph 20 read, amended and agreed to.
Paragraphs 21 to 29 read and agreed to.
Paragraph 30 read, amended and agreed to.
Paragraphs 31 to 34 read and agreed to.
Paragraphs 35 and 36 read, amended and agreed to.
Paragraphs 37 to 43 read and agreed to.
Paragraphs 44 to 47 read, amended and agreed to.
Paragraph 48 read and agreed to.
Paragraphs 49 and 50 read, amended and agreed to.
Paragraphs 51 to 54 read and agreed to.
Paragraph 55 read, amended and agreed to.
Paragraph 56 read and agreed to.
Paragraphs 57 and 58 read, amended and agreed to.
Paragraphs 59 and 60 read and agreed to.
Paragraph 61 read, amended and agreed to.
Paragraphs 62 to 64 read and agreed to.
Paragraphs 65 to 68 read, amended and agreed to.
Paragraph 69 read and agreed to.
Paragraph 70 read, amended and agreed to.
Paragraphs 71 and 72 read and agreed to.
Paragraphs 73 to 75 read, amended and agreed to.
Paragraph 76 read and agreed to.
Paragraphs 77 and 78 read, amended and agreed to.
Paragraphs 79 to 85 read and agreed to.

Paragraph 86 read as follows:

“In front of the Committee the BBC Director General affirmed the case for an increase in funding for British films depending on the quality of supply. Following his appearance Mr Thompson wrote to the Committee undertaking to investigate the pros and cons of an increased investment into original UK feature film production. We recommend the BBC publish a strategy for promoting UK films, and should do so in concert with the UK Film Council. We further believe there is an overwhelmingly strong case for a substantial increase in BBC funding for both feature films and short films.”

Amendment proposed, in line 5, to leave out from the word “Council” to the end of the paragraph. —(Mr Nick Hawkins.)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2
Mr Nick Hawkins
Ms Debra Shipley

Noes, 8
Mr Chris Bryant
Mr Frank Doran
Michael Fabricant
Mr Adrian Flook
Alan Keen
Rosemary McKenna
John Thurso
Derek Wyatt

An Amendment made.

Paragraph 86, as amended, agreed to.

Paragraph 87 read as follows:
“BBC Worldwide Limited aims to exploit BBC content and intellectual property in the UK and overseas. It licenses programme formats, sells rights, publishes programme-related materials and operates commercial channels such as UKTV; a joint venture with Telewest. BBC Ventures Group Limited is an umbrella company for four commercial companies providing broadcast services; one of these, BBC Technology, has recently been sold following approval by the Secretary of State. The BBC should retain its commercial subsidiaries, but must compete on demonstrably fair terms with the profits used for the benefit of public service broadcasting. This recommendation goes further than the Director-General’s assurance that ‘the BBC will not continue to run businesses without demonstrable public benefits’.”

Amendment proposed, to leave out paragraph 87 and insert the following new paragraph:

“The BBC has recently announced the results of its review of commercial services although the details and timetable is subject to further analysis of the executive’s proposals by the Governors. The Corporation seems to be aiming at the divestment of its commercial subsidiaries where activities are not central to the BBC’s public service remit. BBC Technology has already been sold. BBC Broadcast will be similarly disposed of (potentially freeing it to become a service provider for the whole of the industry) as will BBC Resources. A downsized BBC Worldwide seems likely to be retained to look after the channels, a reduced number of magazines and sales of programmes. The production of books, videos and DVDs and audiotapes will be sold off. We believe that all the BBC’s commercial subsidiaries should be sold off by 2008. We note Ofcom’s demarche that the returns generated by the sale of such public assets should not be assumed to automatically end up in the BBC’s coffers. We would at least be concerned if the sales of these assets—necessarily one-off gains—were presented, uncritically, as part of the BBC’s self-help programme of efficiency savings.”—(Derek Wyatt.)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 3
Mr Adrian Flook
Mr Nick Hawkins
Derek Wyatt

Noes, 7
Mr Chris Bryant
Mr Frank Doran
Michael Fabricant
Alan Keen
Rosemary McKenna
Ms Debra Shipley
John Thurso

Another Amendment proposed, at the end of the paragraph, to insert the words, “We recommend that the Director General of Fair Trading conduct an inquiry into the BBC’s use of cross-subsidy and cross-promotion and any detrimental impact of these on the commercial sector.”—(Mr Nick Hawkins.)
Question put, That the Amendment be made.

The Committee divided.

Ayes, 2  Noes, 7
Mr Nick Hawkins  Mr Chris Bryant
Derek Wyatt  Mr Frank Doran

Michael Fabricant
Alan Keen
Rosemary McKenna
Ms Debra Shipley
John Thurso

Paragraph 87 agreed to.

Paragraph 88 read, amended and agreed to.

Paragraphs 89 to 94 read and agreed to.

Paragraph 95 read as follows:

“On BBC Three and BBC Four, Barwise recommended that ‘the top priority’ was to increase their audience impact (and value for money). He concluded they should both be reclassified as mainstream mixed-genre channels, a view motivated by “evidence that television is a mass medium, not a niche medium.” That evidence is presumably informed more by the analogue experience than by any great understanding of what can, and should, be offered in a digital world. It betrays a failure to understand the complementarity of broadcasting and narrowcasting. The latter can provide depth to programming of wider appeal. The Secretary of State referred to the extraordinary popularity of BBC Four ‘among its devotees’. While both BBC Three and BBC Four could certainly be improved, it will be an increasingly important feature of public service broadcasting to cater for niche, as well as generalist, tastes. They should remain as targeted channels, and not recast as clones of BBC One and BBC Two, as foolishly recommended by the Barwise review.”

Amendment proposed, in line 8, to leave out from the word “devotees” to the end of the paragraph.—(Mr Nick Hawkins.)

Question put, That the Amendment be made.

The Committee divided.
An Amendment made.

Paragraph 95, as amended, agreed to.

Paragraphs 96 and 97 read and agreed to.

Paragraph 98 read, amended and agreed to.

Paragraphs 99 and 100 read and agreed to.

Paragraphs 101 and 102 read, amended and agreed to.

Paragraphs 103 to 105 read and agreed to.

Paragraph 106 read, amended and agreed to.

Paragraphs 107 to 110 read and agreed to.

Paragraph 111 read, amended and agreed to.

Ordered, That the second reading of the Chairman’s draft Report, paragraph by paragraph, be resumed, at paragraph 112, on Wednesday 8 December at 10.00am.

[Adjourned till to-morrow at 10.00am]
Wednesday 8 December 2004

Members present:

Sir Gerald Kaufman, in the Chair

Mr Chris Bryant
Mr Frank Doran
Michael Fabricant
Mr Adrian Flook
Mr Nick Hawkins

Alan Keen
Rosemary McKenna
John Thurso
Derek Wyatt

Second reading of the Chairman’s draft Report (A public BBC), paragraph by paragraph, resumed [pursuant to the Order of the Committee, 8 December 2004].

Paragraph 112 read, amended and agreed to.

Paragraphs 113 to 117 read and agreed to.

Paragraph 118 read as follows:

“Top-slicing the licence fee, even what Lord Currie termed an “augmented” licence fee, is problematical. It may lead to additional bureaucracy and blurred lines of public accountability. Furthermore, it would lead to uncertainty in planning finances and future budgeting. We recommend that top-slicing the licence fee to fund public service provision by any body other than the BBC should be rejected.”

Amendment proposed, to leave out paragraph 118 and insert the following new paragraph:

“Funding other public service broadcasting provision from resources collected via the licence fee is not ‘top-slicing’; this is a term used by the BBC and others to help cement the Corporation’s claim to the entirety of licence fee revenue. However, the licence fee does not belong to the BBC but to public service broadcasting services, and/or programmes, with a dimension that the market would not provide. We recommend that the licence fee be used to generate revenue for both the BBC and for a fund from which local community television and radio stations, Ofcom’s Public Service Publisher and any shortfall in Channel 4’s income over the longer term (and into the digital world) can be resourced.”—(Derek Wyatt.)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2
Mr Nick Hawkins
Derek Wyatt

Noes, 5
Mr Chris Bryant
Mr Frank Doran
Michael Fabricant
Alan Keen
Rosemary McKenna
Paragraph 118 agreed to.

Paragraph 119 read and agreed to.

Paragraph 120 read, amended and agreed to.

Paragraphs 121 to 129 read and agreed to.

Paragraph 130 read as follows:

“The lack of advertising is a key attraction of the BBC; to carry advertising would impact significantly on existing commercial broadcasters. An inescapable conclusion is that the existing market could not sustain the freedom of the BBC to offer advertising time on its channels. Funding the BBC via a direct government grant could lead to uncertainty over long-term funding, and act as a break on creative risk taking and innovation.”

Amendment proposed, to leave out paragraph 130 and insert the following new paragraphs:

“The BBC used to be able to say that a key attraction of its services to many viewers was that its programmes were not interrupted by advertising. Now, however, to the declared irritation of many viewers, BBC programmes are separated by breaks with up to three or four “adverts” for other BBC programmes or services. These, in many cases, amount to improper “cross-subsidy”, or “cross-promotion”; an abuse of the Corporation’s dominant market position about which commercial broadcasters complained to us. Public opinion surveys have consistently shown a relatively low level of support for the licence fee and rather more for the BBC to be financed by advertising.”

“We recommend a fresh look at the BBC’s approach to advertising. The BBC’s UKTV joint venture already takes advertisements as well as subscription. The Peacock report proposed, over 20 years ago, that voluntary subscription would be the most equitable and efficient way of responding to consumer preference and funding the BBC; but that was before there were any prospects of homes having the equipment which would make such a system possible. Today nearly 50 per cent of homes already have equipment which is actually, or potentially, capable of adaptation to allow for subscription and it is expected that this will rapidly grow towards 100 per cent (with Government encouragement). Therefore it is perfectly possible in the foreseeable future for BBC television to be funded either by advertising alone or by a combination of subscription and advertising. We believe that the BBC has, so far, deliberately sought to frustrate any potential for developing a subscription-based funding model by seeking to introduce technology without the potential for conditional access or a ‘return path’. —(Mr Nick Hawkins.)

Question put, That the Amendment be made.

The Committee divided.
Paragraph 130 agreed to.

Paragraphs 131 and 132 read and agreed to.

Paragraph 133 read as follows:

“Some of the objections to the licence fee can be tempered by a common belief that the BBC contributes to the raising of standards across the broadcasting sector. Furthermore, when the BBC is able to return, with digital switchover, to universal service provision then the case for public funding of some kind would be reinforced.”

Amendment proposed, to leave out paragraph 133.—(Mr Nick Hawkins.)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 1
Mr Nick Hawkins

Noes, 7
Mr Chris Bryant
Mr Frank Doran
Michael Fabricant
Alan Keen
Rosemary McKenna
John Thurso
Derek Wyatt

Paragraph 133 agreed to.

Paragraph 134 read as follows:

“We wish that there were a viable and credible alternative funding mechanism for the BBC which would ensure the current universality of access; but there is not. Accordingly, though reluctantly, we are persuaded that, for the time-being at any rate, there is no option but to continue with the licence fee; however unsatisfactory that clearly is.”

Amendment proposed, to leave out paragraph 134 and insert the following new paragraphs:
“We believe that the licence fee is a fundamentally flawed means of funding the BBC: its regressive nature penalises viewers on low incomes; it provides for no connection between viewer preference and BBC output; and it provides no incentive for the Corporation to increase its efficiency, effectiveness and economy—except in relation to collection which results in ever more “brutal” campaigns seeking to frighten people out of evasion (and the victimisation of those without televisions). We note that Ofcom has already suggested that the Government consider subscription to fund any future expansion of BBC services. We conclude that a mix of advertising and subscription should be deployed to fund BBC television and that the complacency of those who claim the licence fee is the “least worst option” be challenged.”

“We also recommend that BBC radio services be operated independently with funding from general taxation. BBC Radio Five Live and BBC Radio Two are examples of how BBC radio has managed to increase audience share by providing what the public really want. This approach has to be spread more widely across the rest of the Corporation. In our view the standing of BBC radio with the public in general is higher than that of BBC television and it would help to retain that quality if the BBC radio and the high standards of Radio 2, 3, 4 and 5 are retained by a funding system of direct grant rather in the same way as the BBC World Service has been funded, again retaining its high quality and standing. By contrast, BBC World TV is of very poor quality when compared with its US, and other international, competitors and exhibits many of the worst examples of what has gone wrong with the BBC over the last 30 years; especially in its concentration on putting out an editorial line of narrow “political correctness” and refusal to promote Britain to the world. It is also full of exceptionally irritating musical breaks and interludes.”—(Mr Nick Hawkins.)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 1
Mr Nick Hawkins

Noes, 7
Mr Chris Bryant
Mr Frank Doran
Michael Fabricant
Alan Keen
Rosemary McKenna
John Thurso
Derek Wyatt

Another Amendment proposed, to leave out paragraph 134 and insert the following new paragraph:

“The licence fee remains, as our predecessor committee stated, the least worst way of funding the BBC. While it is regressive and unfair on the disadvantaged in society, the evidence we received clearly indicates that there is no other viable and credible alternative which would ensure the current universality of access.”—(John Thurso.)

Proposed Amendment made.
Paragraph 134, as amended, agreed to.

Paragraphs 135 to 138 read and agreed to.

Paragraph 139 read as follows:

“In order to ensure a robust financial model in the more distant future, Ofcom suggests that the Government should consider the case for the BBC to supplement its income with limited subscription services to fund any future expansion. While recognising that some BBC goods and services, such as magazines and DVDs, are already available on “subscription”, we do not believe this should be extended to broadcast or online services.”

Amendment proposed, to leave out paragraph 139 and insert the following new paragraph:

“We believe that the replacement of the licence fee by subscription and advertising revenue would make the BBC more accountable to its customers, more transparent in its finances and more independent of Ministers in Government who will lose the power to determine its income. The BBC would also have to become more flexible and responsive in its offerings of different channel packages to customers and become more efficient (especially if Ofcom regulated, as it should, the BBC’s pricing policies to ensure that it did not abuse its dominant position in the pay-TV market).”—(Mr Nick Hawkins.)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 1
Mr Nick Hawkins

Noes, 8
Mr Chris Bryant
Mr Frank Doran
Michael Fabricant
Mr Adrian Flook
Alan Keen
Rosemary McKenna
John Thurso
Derek Wyatt

Paragraph 139 agreed to.

Paragraph 140 read and agreed to.

Paragraph 141 read, amended and agreed to.

Paragraphs 142 to 145 read and agreed to.

Paragraph 146 read, amended and agreed to.

Paragraph 147 read and agreed to.

Paragraph 148 read, amended and agreed to.

Paragraphs 149 to 151 read and agreed to.
Paragraphs 152 and 153 read, amended and agreed to.

Paragraphs 154 to 160 read and agreed to.

Paragraphs 161 to 164 read, amended and agreed to.

Paragraphs 165 to 177 read and agreed to.

A paragraph—(Mr Nick Hawkins)—brought up and read, as follows:

“We believe that the BBC should not compete gratuitously with existing specialist provision and that its cross-promotion of programmes and services represents an abuse of its powerful, privileged and publicly-funded position.”

Question put, That the paragraph be read a second time.

The Committee divided.

Ayes, 2
Mr Nick Hawkins
Mr Adrian Flook

Noes, 6
Mr Chris Bryant
Mr Frank Doran
Alan Keen
Rosemary McKenna
John Thurso
Derek Wyatt

Paragraph 178 read, amended and agreed to.

Paragraphs 179 to 182 read and agreed to.

Paragraph 183 read, amended and agreed to.

Paragraphs 184 and 185 read and agreed to.

Paragraph 186 read, amended and agreed to.

Paragraphs 187 and 188 read and agreed to.

Paragraph 189 read, amended and agreed to.

Paragraphs 190 to 213 read and agreed to.

Paragraph 214 read, amended and agreed to.

Paragraphs 215 to 217 read and agreed to.

Paragraph 218 read, amended and agreed to.

Paragraphs 219 to 245 read and agreed to.

Paragraph 246 read, amended and agreed to.

Foreword and summary read and agreed to.
Resolved, That the Report, as amended, be the First Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No. 134 (Select Committees (reports)) be applied to the Report.

Several papers were ordered to be appended to the Minutes of Evidence.

Ordered, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.

[Adjourned till Tuesday 14 December at 10.00am]
Witnesses

Tuesday 25 May 2004

Mr Stuart Cooke, Mr David Elstein, Professor John Naughton, Professor Richard Tait and Dr Damian Tambini. Ev 3

Tuesday 8 June 2004

Sir Christopher Bland, Chairman, BT (former Chairman, BBC) Ev 90

Mr Charles Allen CBE, Chief Executive, ITV plc, Mr Clive Jones, Chief Executive, ITV News Group, and Mr Donald Emslie, Chairman, ITV Council and Chief Executive, SMG Television Ev 96

Ms Jane Lighting, Chief Executive, and Ms Sue Robertson, Corporate Affairs Director, Five Ev 102

Tuesday 22 June 2004

Lord Burns, A member of the House of Lords, Independent advisor to the DCMS; Chairman, Abbey National plc Ev 107

Mr David Scott, Chief Executive and Managing Director, and Mr John Newbigin, Head of Corporate Relations, Channel 4, Professor Elan Closs Stephens, Chair, and Mr Huw Jones, Chief Executive, S4C Ev 116

Tuesday 29 June 2004

Mr Richard Freudenstein, Chief Operating Officer, Mr Mike Darcey, Director of Strategy, Mr Michael Rhodes, Head of Regulatory Affairs, and Mr Ray Gallagher, Director of Public Affairs, BSkyB Ev 120

Ms Lisa Opie, Managing Director, Flextech, Mr Howard Watson, Managing Director, Network Division, Telewest, Dr Keith Monserrat, Director of Communications and policy, and Dr Steve Upton, Managing Director, Networks NTL Ev 130

Mr Hugo Drayton, Chairman, British Internet Publishers Alliance, Mr Roger Darlington, Chairman, Internet Watch Foundation, Mr Bob Schmitz, Chairman, Two Way TV, and Mr Roger Lynch, Chairman and CEO, Video Networks Ev 139
Tuesday 6 July 2004

Sir Robert Smith, National Governor, Mr Ken MacQuarrie, Controller of BBC Scotland, and Mr Pat Loughrey, Director, Nations and Regions, BBC Scotland

Mr John Pearson, Chief Executive, Virgin Radio, Mr Derrick Thomson, Managing Director, Grampian TV, Ms Helen Arnot, Head of Legal, SMG Television, Ms Elizabeth Partyka, Managing Director, SMG TV Production, SMG plc

Mr Paul Brown, Chief Executive, Commercial Radio Companies Association, Mr David Goode, Managing Director, Scottish Radio Holdings, Ms Nathalie Schwarz, Strategy and Development Director, Capital Radio, and Mr Steve Buckley, Director, Community Media Association

Ev 146
Ev 153
Ev 158

Tuesday 7 September 2004

Mr Roger Bolton, General Secretary, BECTU, Mr Ian McGarry, General Secretary, Equity, Mr Jeremy Dear, General Secretary, NUJ

Mr David Ferguson, Chairman, and Mr Jim Whiteford, Chief Executive Officer, Directors’ Guild of Great Britain, Creators’ Rights Alliance, Mr Chris Green, Chief Executive of British Academy of Composers and Songwriters, and Mr John F Smith, General Secretary, the Musicians’ Union

Ev 169
Ev 181

Tuesday 14 September

Mr John McVay, Chief Executive, PACT, Mr Andrew Zein, Chair of PACT and Managing Director of Tiger Aspect, Mr Alan Clements, Chairman, IWC Media, and Mr John Woodward, Chief Executive Officer, UK Film Council

Mr John Hambley, Chairman of Artsworld and Chairman of the Satellite and Cable Broadcasters’ Group, Mr Geoff Metzger, Managing Director, and Mr Richard Melman, Channel Director, the History Channel and the Biography Channel, The History Channel UK

Ev 185
Ev 196

Tuesday 19 October

Mr Michael Grade CBE, Chairman, Mr Anthony Salz, Vice Chairman, Mr Richard Tait, Governor, Mr Mark Thompson, Director-General, Mr Ashley Highfield, Director New Media and Technology, and Ms Caroline Thomson, Director Policy and Legal, BBC

Ev 201

Tuesday 26 October 2004

Professor Lord Currie of Marylebone, a member of the House of Lords, Chairman, Mr Stephen Carter, Chief Executive, and Mr Tony Stoller, External Relations Director, Ofcom

Ev 223
Tuesday 2 November 2004

Rt Hon Tessa Jowell MP, Secretary of State, Rt Hon Lord McIntosh of Haringey, a member of the House of Lords, Minister for Media and Heritage, and Mr Andrew Ramsay, Director-General, Economic Input, Department for Culture, Media and Sport

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List of unprinted written evidence

Papers have also been received from the following and have been reported to the House. To save printing costs they have not been printed and copies have been placed in the House of Commons library where they may be inspected by Members. Other copies are available to the public for inspection and requests should be addressed to the Parliamentary Archives, Record Office, House of Lords, London SW1A 0PW. (Tel 020 7219 3074). Hours of inspection are from 9.30am to 5.00pm. An asterisk indicates that these papers were already deposited in the Library in relation to HC 598-i, Session 2003-04

Kenneth Wood*
Ray Gallagher*
Mr and Mrs G McDonough*
Alexis Alexander*
Mr S R Harvey*
Mrs M Bell*
Robert Wilson*
Edward Gaskell*
Rene Laryea*
European Publishers Council (EPC)*
Creators’ Rights Alliance*
Roland Hitchcott*
British Academy of Composers and Songwriters*
British Internet Publishers Alliance*
British Music Rights*
Mr N Woodland*
Simon Powell*
BECTU*
John Burton*
Equity
Jeremy Wraith
Barry Shearman MP
Mrs G Laurens
Mr David Hollyoake

Mr and Mrs Garratt

Mr C P Copley

Alliance of Black Media Professionals

Social and Legal Action Project (SLAP)

Mr Peter Batty

Professor Sylvia Harvey

Mr S Pennells

Mr Michael Leslie

Mr Frank Taylor

The Wireless Group plc
## Reports from the Culture, Media and Sport Committee since 2001

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| Second Report | The Work of the Committee in 2002 | HC 148 |
| Third Report | A London Olympic Bid for 2012 | HC 268 |
| Fourth Report | The Structure and Strategy for Supporting Tourism | HC 65 |
| Fifth Report | Privacy and media intrusion | HC 458 |
| Sixth Report | The British Film Industry | HC 667 |

### Session 2001–02

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| Second Report | Testing the Waters: the Sport of Swimming | HC 418 |
| Third Report | Arts Development | HC 489 |
| Fourth Report | Communications | HC 539 |
| Fifth Report | Revisiting the Manchester 2002 Commonwealth Games | HC 842 |
| Sixth Report | The Government's Proposals for Gambling: Nothing to Lose? | HC 827 |