

THE FUTURE OF THE BBC

FINANCIAL AND STRUCTURAL ISSUES

A Submission by Voice of the Listener and Viewer (VLV)

to

The Secretary of State for Culture Media and Sport

Following the Publication of

The Government's White Paper, and the Draft BBC Charter and Agreement

and to

The Licence Fee Seminar

to be held on 5 May 2006 under the Chairmanship of Lord Burns

1 Introduction

1.1. The Government's proposals for the future structure and financial arrangements of the BBC, as proposed in the Government's White Paper and the Draft Charter and Agreement, raise a number of interrelated issues. In particular, they seek both to preserve the traditional public service role of the BBC in the digital age, and simultaneously to require the Corporation to carry out a number of quasi-official duties.

1.2 Much of the White Paper has VLV's support - including, of course, the renewal of the BBC's Royal Charter. However, the detrimental aspect of the Government's proposals, in VLV's view, will be to transform the television licence fee into what might be called a "parafiscal" charge on all TV households - i.e. utilizing licence fee revenues as an instrument of overall fiscal policy and therefore turning the BBC into a revenue-raising body acting on behalf of government.

1.3. These changes also carry profound implications for the nature of the licence fee settlement.

2 Three Key Criteria

2.1. While taking reasonable account of

- (i) developments in the broadcasting market, and
- (ii) the additional quasi-governmental responsibilities imposed on the Corporation;

VLV members, and licence payers in general, will be looking to the Government's new proposals for the BBC Trust to meet three key sets of criteria:

- (a) to safeguard the essential character of the BBC by optimising the range and choice of BBC programmes, and by protecting the creative independence and political impartiality of its programme makers;
- (b) to ensure that the maximum proportion of the revenues contributed by licence fee payers will be invested in producing radio and TV programmes and on-line content;
- (c) to demonstrate an enhanced accountability to licence payers both formally and informally. The latter will require changes at three distinct levels:
 - (i) in the formal accounting to Parliament for BBC activities;
 - (ii) in the establishment of new mechanisms for consulting the public; and
 - (iii) in the more effective operation of existing arrangements both in relation to specific complaints and across the whole tone and tenor of the Corporation's dealings with the public.

3. Safeguarding the Essential Character of the BBC

3.1. (a) VLV considers that in order to meet its public purposes, the BBC will have to retain its traditionally broad programme remit. For this reason we are glad to note that, following pressure from VLV and others, the Government has restored the traditional injunction for the BBC to provide viewers with entertainment, which was previously missing from the Green Paper. In order to achieve the quality and plurality to which the BBC Chairman has said the organisation must aspire, the BBC requires not just a textual remit but the freedom in practice to develop its programme content. While VLV recognises the need for the BBC to discuss with Ofcom the likely impact on the emerging digital marketplace of aspects of its programming intentions, VLV is concerned lest the arrangements set out in the White Paper should limit the BBC's freedom of action in commissioning and bringing to air innovatory programmes and services which will be available to listeners and viewers.

3.2. *VLV submits that the Charter and Agreement should make clear that the BBC Trust's primary duty in this regard is towards licence payers, listeners and viewers.*

3.3. (b) Under the new arrangements, the BBC Trust will have to discharge two new categories of responsibility. They are:

- (i) to manage, and largely finance, the digital switchover of Britain within the time scale and the technical parameters set down by the Government; and
- (ii) to target additional financial assistance for vulnerable viewers, nominated (we presume) by the Department of Work and Pensions [DWP], rather than from the list of households which pay the television licence fee. It seems to VLV particularly illogical that when government makes DWP funds available so vulnerable viewers can watch television in the first place, it will not do the same to help those same viewers make the obligatory switch from analogue to digital reception.

3.4. Although the collection of the television licence fee by the BBC is technically an administrative task, VLV considers that both of these new responsibilities constitute a step-change in requiring the BBC to act as an agency of the Government. Whereas the BBC was previously collecting its own revenues, the new arrangements will transform the Corporation into a revenue-collecting body for a parafiscal tax, and require it to spend licence payers' money on the fulfilment of the UK Government's policy for digital switchover.

3.4. Although both (i) and (ii) will involve the BBC in substantial additional expenditure, there is a fundamental political difference between them. Whereas the former is non-political in nature, and can be regarded as a public investment in the national broadcasting infrastructure, the latter will require the BBC Trust to act as a quasi-government agency by redistributing monies to a minority of individuals at the expense of the majority of licence payers.

3.5. VLV's concern over this step-change in the role of the BBC is heightened by the Government's decision, spelt out in Article 10.5.4 of the White Paper, to delegate to the BBC (i.e. the Trust) responsibility for the observance of EU rules on state aid. Licence fee payments to the BBC constitute a state aid. The Government's White Paper proposals therefore place the BBC in the position of being the official intermediary with the EU (rather than as hitherto the Government itself) in any future negotiations concerning the use of *any* licence fee funds. This could especially impact on the BBC's Government-prescribed role building digital Britain.

3.6. VLV has consistently opposed the Government's proposal to charge the BBC with the responsibility, for targeted assistance and we are pleased to note that our view has been endorsed by both the House of Lords Select Committee on BBC Charter Review and the Culture Media and Sport Committee of the House of Commons. We are concerned that the Government has not yet produced any estimate of the likely additional burden on each television licence payer.

3.7. If the Government continues to insist on the costs of targeted assistance being charged to BBC funds, VLV believes that, as a minimum, licence fee payers must be kept informed about the proportion of their payment which has gone to meet the targeted assistance obligation. VLV will certainly be monitoring the information on license-fee payers' behalf. VLV considers that in order to protect the BBC from accusations of profligacy, the relevant information should be included on the television licence certificate itself, just as the costs of policing and certain other public services are itemised on a demand for council tax.

3.8. (c) In addition, VLV notes the number of parties involved in digital switchover: the Government (several departments of state), Digital UK, the manufacturers and suppliers, Ofcom and the BBC itself. There is a serious danger – in view of this complex pattern of roles and relationships – that perceived failure by one or more these parties will rebound predominantly to the discredit of the BBC as statutorily prescribed lead agency.

3.8. VLV is concerned that BBC could easily become “fall guy” for any problems with digital switchover, and that consequent damage to its reputation and credibility could undermine crucial support for its licence-fee funded programming role.

3.9. (d) Finally, these changes will, in VLV's view, profoundly modify the constitutional and financial relations between the Government and the BBC. If implemented, they will require the Corporation to collect parafiscal revenues on behalf of the Government, and partly to use them to fulfil new quasi-administrative responsibilities [ensuring digital switchover and distributing targeted assistance, in addition to being the U.K. Government's agent for conducting negotiations with the EU on future use of state aids for public service broadcasting].

3.10. Given these changes, VLV - and all licence-payers - will expect the BBC to charge government for services which in other circumstances would have been handled by or delegated to the appropriate government agency.

4. Ensuring Sufficient Licence Fee Funds for Programming

4.1

- (a) Given the BBC Trust's additional range of responsibilities, VLV will pay particular attention both to the absolute funding devoted to future BBC output, and to the Trust's division of its licence fee revenues between programming and other, non-programming, activities.

4.2. *VLV considers that, in order to arrive at a licence-fee figure which is adequate for broadcasting but not excessive for licence-payers,*

- (i) more transparency is essential*
- (ii) a full breakdown is required of the costs of the BBC's responsibilities*
- (iii) there must be clarity about the costs of the Trustees and the associated Governance Unit*
- (iv) published costs must accompany each programme service licence so that each licence payer knows, year on year, how much of what they pay is spent on programmes*

4.2. VLV is familiar with the extensive and valuable research commissioned for DCMS during preparation of the White Paper and indicating that public support for the BBC as an institution runs ahead of support for the licence fee. Speaking for the interests of licence-payers VLV is well aware that this is not simply a question of the public wanting to "have their cake and eat it", but that the licence fee is indeed a commodity about whose price-sensitivity the BBC Trust needs to be acutely aware. This perspective, however, should be balanced against data gathered – at the request of the BBC Governors - by Professor Patrick Barwise of the London Business School [see Media Guardian 24.04.2006]. These data cast severe doubt on the notion that there is a "tipping point" – not far from the current £120 licence fee level – at which public support would collapse. Barwise estimates that if the fee were to rise to £150 in real terms by 2013/14 public support would fall by about 10% to 65-70% - but rising to 70-75% if the new services were delivered for the same money. In addition there is clear evidence that a significant proportion of people will pay the licence-fee specifically to avoid having to watch or hear programmes which contain advertising.

4.3. *VLV's view, therefore, is that, while the public properly regards financial discipline as a key element within value-for-money, doubts about public support are **not** an empirically valid argument for screwing down the licence fee to a level where the BBC is deprived of the resources it needs to sustain the range and competitive "edge" of its programme offer.*

4.4. (b) VLV's concern about programme funding levels is heightened by the already evident consequences for programming and staff morale of the BBC's proclaimed aim of finding 70 % of its new investment from "self-help". Much of this inevitably means staff cuts and risks.

4.5. *As licence-payers we accept the need for financial efficiency but expect this to be accompanied by the kind of leadership and communications skills which command understanding from the workforce.*

4.6. (c) VLV also questions whether licence-fee payers will get value for money out of the *politically correct, but highly resource-intensive, "move to Manchester"*. VLV is, however, open to persuasion about the benefits of the move.

4.7. *VLV wonders whether a geographic spread of investments might not be a more cost-effective and genuinely representative way of making BBC programmes and services better reflect the nation as whole.*

4.8. (d) Beyond this, VLV will expect the Trust to ensure that in its programmes, the BBC continues to make “the good popular, and the popular good”. In our view, it is unlikely to be able to do so unless the Trust ensures, with due vigilance and judgement, a critical mass of in-house resources for programme-makers. This issue will be for the Trust to evaluate within the context of the so-called Window of Creative Competition [WOCC]

4.9. (e) Given the increased range of responsibilities that will be assumed by the BBC Trust, VLV – and doubtless Parliament - will expect the Trust’s annual accounts to identify clearly between the following four categories of costs: :

- (i) Assistance targeted at vulnerable viewers as defined by the Government
- (ii) Input, as required by the Government, to Digital UK which represents the interests of the whole broadcasting industry
- (iii) Normal costs, in BBC terms, of upgrading and running transmission facilities; and
- (iv) Expenditure on programmes and other services

4.10. (f) A further argument for this division, is that it will facilitate the work of the National Audit Office (NAO), which has now, for the first time, been given oversight of the BBC’s activities.

4.11. VLV expects that any report which the NAO prepares for the Public Accounts Committee, will be one which gives television licence payers a comprehensible account of how the Trust is spending their money.

4.12. VLV also considers that the Trust’s own accounts should meet the same criteria of comprehensibility and clarity, and it therefore proposes that the BBC’s Draft Charter and Agreement should require the Trust to prepare its annual accounts accordingly.

4.12. Whilst VLV recognises that the detailed aspects of auditing the BBC will be negotiated between the NAO and the Trust, it is also cognisant of the danger that these procedures might curtail the BBC’s traditional – and widely supported - editorial independence from both Parliament and Government.

4.13. Given the accountability of the NAO to Parliament, VLV therefore considers that it would be unwise for the Government to authorise the NAO to conduct any detailed audits of BBC expenditure on programming.

VLV considers that the terms of the BBC’s Draft Charter and Agreement should be amended accordingly.

5. Improving Accountability to Listeners and Viewers

5.1. (a) VLV welcomes the recognition that, if the BBC is to become more accountable, its governance must be in the hands of trustees who have the skills and wisdom to exercise public accountability. Given that there will be a total of twelve trustees, including the Chair and Vice-Chair, and the trustees for Scotland, Wales and Northern Ireland (which we support), VLV considers that the Privy Council should use the other seven appointments to cover a range of requirements – geographical, professional and social. The Trust will require:

- (i) An appreciation and understanding of the techniques that can be used to evaluate public expectations and to enforce public accountability

- (ii) knowledge and experience relevant to the BBC's core business – both its traditional programming activities and the new tasks proposed in the Government's White Paper
- (iii) A balance of these requirements against the traditional need to reflect the principal fields of national life - e.g. both sides of industry and commerce, the worlds of education and the arts, the professions, and the BBC's role as Britain's interface with the world, both inside and outside the European Union.

5.2. *VLV considers that in order to achieve all this, within the compass of very limited numbers, the Privy Council will need to appoint people whose merits and wisdom are recognised as extending beyond their own individual areas of professional expertise.*

5.3. *VLV also considers that the Privy Council must confront serious issues around the level of remuneration of the trustees. The remuneration of the current BBC Governors is too low, and will need to be substantially increased with some regard to the salaries currently paid to the Executive Board of the BBC and to Ofcom Board Members. The fact that trustees should be expected to commit more time to their duties than the present governor argues for higher salaries. However, salaries should not be so high that they become the principal motivation for appointment, or that the increase is seen by licence payers to be extravagant.*

5.4. *In reaching this judgement, the Privy Council will need to consult with the Trust itself about the projected size and cost of the BBC Governance Unit which will support the Trustees. At the end of the day, it is the total cost which will be judged by the public in terms of the accountability which the Trust delivers and the confidence that it inspires.*

5.5. **(b) Delivering Accountability through Service Licences:**

The Governance model set forth in the White Paper is predicated on the BBC Trust securing delivery of appropriate programme output through a series of individual service licences – in effect contracts - with the BBC Executive Board. The White Paper prescribes a detailed list of internal and external processes which the Trust must put in place before it can validate a service licence, in terms of what the White Paper calls a “Contract Between the Trust and the Licence Fee Payer” (Heading for paragraph 5.2). Given that the BBC already has at least eight domestic television channels, seven national radio channels, and an on-line service, plus all the BBC's local and regional services, VLV has serious concerns about the resources and time-scale involved in ensuring that each individual service licence meets the public accountability criteria which the White Paper itself proclaims as necessary for the contract between the Trust and the Licence-fee payer.

5.6. Moreover, there is a further question about whether, and in what circumstances, the Public Value Tests (paragraph 5.3 of the White Paper) will be applied in establishing these service licence agreements, or in evaluating their outcomes. The BBC has traditionally argued, and VLV has accepted the Corporation's arguments, that one of the strengths of the BBC's contribution to public service broadcasting has been the Corporation's ability to build synergies across, and also to cross-promote, several different broadcasting channels.

5.7. *While VLV recognises the serious evaluative purpose behind both the Public Value tests and the proposals for individual service licences, it is concerned about how the sets of criteria will dovetail with each other. VLV considers that ordinary viewers and listeners will not*

understand how decisions are taken, and therefore that the proclaimed purpose of greater public accountability will not be served.

(c) Unresolved Issues:

5.8. (i) VLV is unclear whether the NAO's responsibilities will be limited to auditing the expenditure of the BBC's licence fee revenues, or whether it will be empowered to evaluate the BBC's record in meeting its public value obligations.

5.9. This distinction is important and the Draft Charter and Agreement should be modified and clarified accordingly.

5.10. (ii) VLV is well aware that there is a substantial history of attempts by the BBC to be genuinely responsive to public concerns – including complaints commissions, advisory councils, the use of interactive platforms, and audience appreciation indices. VLV also recognises that the Government's proposals are an attempt to improve and refine what has already been achieved. Regrettably however, the Draft Charter and Agreement for the BBC Trust, whilst raising a number of new evaluative concepts, have failed to resolve some of the key issues of principle and process which we have cited above. VLV is concerned that these ambiguities and lacunae will engender confusion and uncertainty among listeners and viewers.

5.11. VLV therefore urges both the Government and the BBC Governance Unit to commit more time and effort to resolving these uncertainties in order to ensure that they do not backfire to the detriment of the BBC itself, at a time when the Corporation faces greater challenges and opposition than ever before.

6. In Conclusion

6.1. Because of the changes proposed in the White Paper – especially those imposing upon the BBC generically new types of obligations – VLV takes the view that the forthcoming discussions on the licence-fee are different from any other. They cannot be a uni-dimensional discourse in which Government, after listening to representations, decides on a funding figure. There must be a multi-dimensional discussion reflecting the rights and obligations of all stakeholders: the Government, the BBC Trust, Ofcom, other broadcasting players and the licence-paying public.

6.2. VLV 's particular concern, on behalf of listeners and viewers, is that the agreed level of the licence fee, and its apportionment between different BBC responsibilities, must reflect the proper discharge of the Government's obligations to the licence-paying public.

6.3. The final figure must meet the public's legitimate expectations about the quality and range of programme services they will get in return for the money they pay. This is the indispensable condition for sustaining the credibility of the United Kingdom's unique public service broadcasting system.

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