



DCMS

**Review of the BBC's
Royal Charter**

An IPA response

March 2004

Review of the BBC's Royal Charter

The IPA welcomes the opportunity to submit views to the DCMS on the above review.

1 About the IPA

1.1 The Institute of Practitioners in Advertising is the trade body and professional institute for UK advertising, media and marketing communications agencies. Our 220 corporate members, who are based throughout the country, handle over 80% of the UK's advertising agency business with an estimated value of £9 billion in 2003, on behalf of many tens of thousands of their client companies and organisations worldwide.

1.2 Since its inception, the IPA's consistent objective has been to secure for British business cost-effective media for promoting their products at all levels, with the end-benefit of extending consumer choice and generating economic growth.

1.3 We believe the BBC, the nature of its programming and how it schedules and promotes its output, have a fundamental impact on this objective and it is against this background that our present submission is made.

2 Scope of the IPA's response

2.1 As the trade body for marketing communications agencies, our response has been constructed from our members' commercial viewpoint versus that of the ordinary citizen - although, as will be apparent, these will frequently coincide.

2.2 Inevitably our submission will also repeat much of the argument we put forward in our earlier paper to Ofcom on public service broadcasting - however since our views on this area remain unchanged, it will reflect our on-going concerns.

3 Specific areas for consideration

The BBC today

3.1 What do you think of the BBC's contribution to the life of the UK and the wider world? Should this change over the next decade and, if so, how?

- Perhaps surprisingly for a commercially orientated body, the IPA is an admirer of the BBC.
- As an informer, and educator, we believe it has fundamentally helped shape the attitudes of the nation and, via the World Service has played a vital social and political role through the provision of accurate and balanced news programming across the globe.
- Equally, we believe its values and the quality of its output have acted as benchmarks not only for its competitors in the UK, but also to broadcasters on an international basis.
- For much of the time the BBC was establishing this position, however, it held a monopoly in UK broadcasting and even with the arrival of commercial operators in the late 50s (TV) and 70s (radio), it has still been able to exercise enormous and undisputed power in the marketplace.
- The onset of the digital age, however, will pose the BBC a set of entirely new challenges. In a UK multi-channel/ broadband environment, we believe it will behove the Corporation to re-examine its role - to cease seeking to dominate in all the multifarious areas in which it operates but instead complement the market activities of the commercial players in those areas - enriching the *totality* of the offering before the public vs competing for the maximum audience.
- This is not to seek to belittle the Corporation or to reduce its importance within the media as a whole. Instead it is to recognise the impracticality of the BBC wishing to "lead the charge" in every new

development - if nothing else because of the finite nature of the licence fee.

3.2 What value does the BBC add to the wider provision of public service broadcasting?

- The sheer size and quantity of the BBC's output inevitably mean it has a major influence on the rest of the market.
- Leaving aside whether the Corporation is currently delivering against its PSB remit, as the nation's principal carrier of public service broadcasting, it sets the tone, style and quality benchmarks for the area.
- Indeed without the BBC, we suspect the temptation for commercial broadcasters to drift toward more "popularist" interpretations of PSB would be enormous - contributing to a gradual slide toward schedules which, while not inferior per se, would nevertheless lack the breadth, colour and challenge of current output.

3.3 How well has the BBC met its purposes over the Charter period? What evidence do we have that the way in which the BBC does this is successful compared to other broadcasters?

- This question assumes that there is unanimity over the purposes of the BBC and - as is evidenced by the current Ofcom consultation on public service broadcasting - this is clearly not the case.
- The IPA holds that the role of the BBC should be to extend viewers' choice - by guaranteeing access to everyone in the country to programming services that are of unusually high quality - and that would be unlikely to be provided by the commercial sector. This was the purpose that the BBC identified for itself in 1992 in its document *Extending Choice*.
- It is our view that since 1992 the BBC has not followed its own remit. Instead it has behaved increasingly like a commercial broadcaster and - from the IPA's standpoint -

this has had an entirely unjustifiable and restrictive effect on the commercial sector.

- Detailed support for our view on the BBC's increasing commercialism has been spelt out in our earlier submission to Ofcom, however key highlights may be summarized as follows:
 - the growing tendency of the BBC to devalue its news programming, typified by the demotion of its flagship *Panorama* programme to Sunday evenings;
 - the increasing prominence on schedules of mass audience offerings like *Fame Academy* (a blatant me-too of *Pop Idol*), *Eastenders* and popularist (but hugely expensive) films like *Harry Potter*;
 - the increasingly tactical use of programming to "spoil" the audience of the commercial sector (eg scheduling *Auf Wiedersehen Pet* head-to head with ITV's *Forsythe Saga*);
 - the relentless cross-promotion of BBC programming across all elements of the Corporation's output from Radio 4's *Today* programme to the Internet.
- It is our contention that the above is far from an accident but amounts to a concerted and co-ordinated programme designed not to maximize audience *reach* (which we believe to be the true role of the Corporation) but to attract the largest possible audiences to the BBC, regardless of how wasteful this might be in public resources (eg competing with ITV for sports rights) or at variance to its core purpose of informing, educating and entertaining.
- As such we have all borne witness to a recurrent cycle of populist programming aggressively promoted in a neo-commercial manner to build ratings, followed by a swing to PSB 'arts' programming as the Charter review approaches.

- Given that we believe that this flies in the face of what we would see to be the true role of the BBC as a public service broadcaster, we deplore this cycle - and believe it underlines a fundamental need for a stricter interpretation of the Corporation's PSB remit - to be policed not by the BBC's own Governors but rather by an independent regulator, like Ofcom, with appropriate financial penalties for failing to meet its published obligations.

3.4 What is it that makes the BBC distinct?

- In our view the BBC's distinctiveness *should* be the product of three things:
 - o its ability to fund and make important programming which either by reason of its niche appeal or because the capital invested required would be too large - the commercial sector would be unable to underwrite on a commercial basis;
 - o its freedom to innovate, challenge and provoke, resulting from the absence of a commercial imperative;
 - o its duty to act as a benchmark of quality to the rest of the industry.
- In *practice*, however, while the Corporation will still make many outstanding programmes which fulfil all the above criteria, we believe the BBC's current distinctiveness is the result of:
 - o the absence of advertising;
 - o its sheer size which dwarves other broadcasters and enables it to exercise unparalleled power across all sections of the broadcast media.
- This uncontrolled exercise of power, we believe is dangerous to the unique ecology of British free-to-air broadcasting with its delicate balance of licence and commercially funded operators - and we would urge the DCMS to ensure that Charter Renewal provides the

means to draw back the BBC from a role of *competing* with the commercial sector to one of *complementing* it.

3.5 What do you think of the public services provided on the BBC, on TV, radio and online? How well do the BBC's publicly-funded services deliver its core purposes?

- As indicated above, the IPA is deeply concerned that the BBC is increasingly straying from its public service remit in the pursuit of high ratings. Of course, the Corporation will still make excellent PSB programmes of which - say - *Walking with Dinosaurs* or *Blue Planet* were prime examples. However, we are worried that the aggressively commercial approach that the BBC has shown in marketing its product is being carried through into its schedules and commissioning policies.
- As the trade body for UK advertising agencies, wishing to protect the commercial sector as a vehicle for our clients' messages, we could be accused of biased pleading in this respect. Yet it is clear this concern is also held in many quarters of the Corporation itself - with no lesser figure than Jane Root, the controller of BBC2, speaking out against what she termed "the tyrannical obsession with viewing figures" - as a result of which new BBC programming has either to achieve instantly high viewing figures - as measured by BARB "overnights" - or be terminated (Royal Television Society: 10 February 2004).
- Such a philosophy, we would argue, runs contrary to the BBC's PSB requirement to provide challenging, innovative output, which through its very nature will either take time to gain a public following or alternatively appeal to more discrete, and consequently, more limited audiences.

3.6 In what way should the BBC's services differ from those of commercial public service broadcasters and other purely commercial broadcasters in order to add value? To what

extent should the BBC provide "something for everyone"?

- At the risk of repeating ourselves, the IPA believes that the BBC should be providing services/programming which the commercial sector either cannot afford to produce - or alternatively which would involve too much of a commercial risk to undertake.
- This is not, we would suggest, to preclude popular programming per se - indeed as has been pointed out *Eastenders* like the *Archers* can and does frequently contain valuable PSB elements - but rather to ensure the proper balance of such output with more "challenging" material.
- In terms of the BBC "providing something for everyone", we are all aware the Corporation is often portrayed as being on the horns of a dilemma. If it is too specialist in its output, it is accused of being elitist with the public's money. If it is too popularist, it is charged with stealing the bread from the mouth of the commercial sector.
- Clearly neither position is acceptable - instead, rather than the BBC seeking to "provide something for everyone" *all of the time* (ie via a continuous diet of mass-market popularist items), we would suggest that it should be seeking to create a rich and varied mix involving some items of mass-appeal (but with a PSB element), interspersed with programming designed to meet different interests across the widest range of the population as possible ie "providing something for everyone *over time*".

3.7 Should the BBC run commercial services?

- The BBC's commercial competitors have been at loggerheads with the Corporation for years over the ever-extending empire of its non-public service broadcasting activities - activities that have grown dramatically since the 1996 charter review.

- Commercial broadcasters, web-site owners, magazine publishers, and profit-making educational publishers have all felt the impact of the BBC entering and severely upsetting the market places in which they operate.
- To date, the Corporation has appeared to have made these moves with remarkably little restraint over its activities - despite, most recently, the educational publishers both taking it to the OFT and making a "state aid" complaint to the EU.
- However, the fact the BBC has been able to take such steps without censure, should - we believe - in no way mean that this situation should be allowed to continue unchecked.
- We would therefore suggest that if, as according to the DCMS consultation paper, one of the key principles of the BBC's commercial policy is that it should trade fairly, then its activities should be *seen* to be fair, to which end:
 - o regulation of such ventures should be moved from the responsibility of the BBC Governors to a more qualified and less self-interested body like Ofcom;
 - o that as well as evaluating the need/desirability of the BBC extending its commercial activities into any given area, this regulator should monitor and control the extent to which the Corporation uses its non-commercial market power to promote its commercial services to the detriment of other operators.
- Likewise, in this context, the IPA believes that the new global market requires a reappraisal of the commercial aspects of the BBC's operations.
 - o if UK plc is ambitious for the BBC as a global brand and de facto ambassador for our creative industries, then we should be clear about the funding of its expansion

from its current base;

- o currently about 6% of BBC revenues are reported as deriving from 'overseas' or 'commercial' ventures: the IPA would encourage confirmation of these figures and the potential for growth in the interests of clarity.

Paying for the BBC

3.8 Does the licence fee remain the best way to pay for the BBC? What alternatives should we like to see explored?

- Although the Davies Committee completed its review of BBC funding five years ago, the IPA continues to believe that the licence fee remains the most appropriate means of paying for the Corporation.
- While what amounts to an hypothecated tax is clearly not a perfect means of supporting the BBC within a multi-channel environment, it nevertheless remains, we believe, the fairest method and that least open to adverse political or commercial pressures.

The basis for the viewpoint largely reflects the views expressed by the Davies Committee in 1999. Specifically:

- o **Direct funding:** As with Davies, we believe any funding method which relies either on general taxation or grant, would render the Corporation vulnerable to political mood and the potential loss of editorial or political independence. (Irrespective of the validity of the views expressed by either side in the recent Hutton Inquiry, the strength of Governmental opposition to the BBC served to underline the potential risk to Corporation finances should it have been reliant on direct funding. The independence of the licence fee guards against such a threat.)
- o **Advertising:** Likewise, we have been consistent in our opposition to the BBC taking commercials on the grounds that:

- Advertising on the BBC would inevitably alter the nature of the Corporation's programming toward output capable of attracting large audiences (- thereby sacrificing the *raison d'être* for the Corporation and bringing it into direct competition with the commercial sector.)
 - Suggestions that such activity might be limited to certain advertisers and/ or time slots are unrealistic (- governments faced with the unpopular alternative of raising licence fees would inevitably favour an extension of advertising activity.)
 - Irrespective of this, it is unlikely that there is sufficient money in the market to support both the BBC and the current commercial operators. Given that the BBC's funding is approximately £2.7 billion, it would seem highly improbable that TV advertising monies would grow sufficiently above their current £3.5 billion to finance both the BBC and the independent broadcasters - leading immediately to a greater emphasis on less expensive bought-in programming and longer-term either to the possibility of ITV moving to a subscription basis and/or the potential failure of a number of the market's current key players. (Either way we believe this would result in less choice and lower quality viewing for the current "free-to-air" consumer.)
- o **Sponsorship:** Similarly, we have little faith that sponsorship would provide an alternative means of funding the Corporation - and we would concur with Davies's conclusion that it could potentially result in the least satisfactory of all solutions ie that it would be incapable of generating sufficient income to support the Corporation while at the same time potentially unbalancing schedules by encouraging producers towards the creation

of programmes which might be attractive to sponsors.

- o **Subscription:** Finally, we should reject subscription outright in that it would immediately negate the fundamental public purpose of the BBC as a free-to-air broadcaster - effectively destroying the social role of the Corporation and potentially dividing society into those who can afford to be entertained and informed - and those who cannot. No responsible individual, company or government could countenance such a situation.
- By a process of elimination, therefore, we are left with the licence fee as the most universally acceptable method of financing the Corporation which is least open to political and/ or commercial pressures. There may be an alternative means, but we, for one, have not been able to find it.

Organisation and infrastructure

3.9 How should the BBC be organised to deliver its functions and services? Should it continue to operate as a single organisation?

- The BBC is one of the few UK "brands" to hold worldwide recognition and respect. As such, Government tampers with its structure at its peril. Reflecting this, while the IPA deplores the way in which the Corporation uses its multi-media capacity unfairly to cross-promote its services, we are concerned that proposals to break up the organisation either geographically - or by medium - are nothing more than a thinly veiled attempt to break its power (ie vs any serious bid to improve its functions or services).
- Although we may have some sympathy with such a break-up as a means of curbing the BBC's more anti-competitive activities, we are nevertheless mindful that a significant element in the ability of the Corporation to influence the quality and nature of UK broadcasting derives from the sheer size of

the enterprise and the body of work it produces.

- Splitting up the BBC - or setting up a central fund for public service broadcasting for which all broadcasters would be able to bid - would inevitably weaken this ability, while eroding the legitimate benefits of cross-media co-operation.
- At a time when the commercial sector is consolidating, it would seem perverse to see the BBC moving in the opposite direction. Maintaining a corporate identity and flavour for the Corporation in these circumstances would be difficult in the extreme.
- As a result, for economic and other reasons we are content to see the overall structure of the BBC maintained as a single entity.
- Where should we seek greater control however would relate to the entrepreneurial activities of the Corporation (ie the exploitation of the BBC's size to its own end and within this cross-media promotion).
- From the IPA's viewpoint, the BBC has been permitted for too long to use its TV and radio tactically to build each area's audience to the detriment of the commercial sector - and we would urge that such an abuse of power be rigorously curbed.

Governance

3.10 How should the BBC be governed and regulated?

- The IPA has been consistent in its call for the governance of the BBC to be removed from its Board of Governors and placed into the hands of an independent and professional regulator.
- While concern has been expressed in some quarters that the transference of such power to Ofcom would result in the latter acquiring a dangerous level of power over UK broadcast media, we believe that the benefits of creating a uniform approach to regulation

will far outweigh any remote anxieties that the regulator might abuse its powers.

- What is clear, in the light of the Hutton inquiry, is that the BBC's current Board of Governors is insufficiently distanced from the Corporation to exercise an effective policing role, while - for our part - we should question its professional qualifications for judging matters of commercial activity.
- The whole Gilligan episode, we believe, has highlighted the extent to which the Governors have ceased to operate as the independent regulator of the Corporation and, under fire, become its champion. At the same time, it has led to profound concerns that a patrician body comprising representatives from the regions, social groups and the "great and the good" can ever hope to understand the potentially enormous economic implications of sanctioning activities by the UK's largest single broadcaster, standing as it does at the centre point of the nation's entire political - media - communications structure. As has been pointed out - even at the relatively mundane level of operations - none of the current incumbents "has any close knowledge of the world of mass media - the payment for sports rights, the scheduling of entertainment or the development of reality shows" (Independent, 12th February 2004).
- This may be contrasted effectively with the behaviour of a professional regulator, like the old Independent Broadcasting Authority (IBA), which when caught in the cross-fire between Thames Television and the Conservative government under Margaret Thatcher over the *Death on the Rock* programme, was able to act convincingly as a regulator because it was visibly - and emotionally - at a distance from those in the editorial front-line. If the BBC Board of Governors is unqualified for its economic and business responsibilities - and unable by its very structure to divorce itself from the body it is meant to regulate - there is an

unquestionable need for change.

- In these circumstances, the IPA would concur with recommendations that the structure of governance at the BBC should become more like that of Channel 4, with its Board of Directors responsible for operational decisions and strategy, answerable to Ofcom as an independent regulator.
- Moreover, in addition to Ofcom regulating the BBC's commitment and adherence to a tightly defined public service broadcasting brief, we should see this control also extending to the content of the Corporation's trailers /programme advertisements, as it does all other commercial broadcasters. Although on a lesser scale to issues of governance, it is nevertheless wholly unsatisfactory that such "advertisements", remain outside Ofcom's remit (- even more so, in the light of recent research that such trailers contain a disproportionate level of inappropriate sexual and violent behaviour - frequently broadcast before the watershed).
- Although we recognise that the Corporation has resolutely resisted any move toward outside regulation in the past, post Hutton we believe it represents the surest and most secure method of preserving its independence - and indeed protecting it from the repercussions of its own mismanagement.
- Simultaneously, it would ensure - in as far as their different funding mechanisms allow - that commercial and licence funded media companies would be subject to the same rules, equally applied.

While we can understand the BBC's reluctance to shift from a form of governance from which it has benefited greatly across the last 78 years, we believe this does not alter the desirability or the necessity of making such a move.

