

BBC CHARTER REVIEW SEMINAR:
COMMERCIAL SERVICES

22 SEPTEMBER 2004

Lord Burns: Good morning everyone. Could I welcome you all here this morning, members of the Panel, audience and everyone else to the fourth in the Independent Panel's series of seminars. Today we're looking at the BBC's commercial services, which of course does play a very important role in the wider debate on the future of the BBC. And the arguments and the evidence that we hear today will help to inform and shape the government's thinking as they work towards the Green Paper in the New Year. Before I give an overview of the approach and the agenda for this morning, I'd just like to cover one or two housekeeping issues, which will be familiar to those who have been to these sessions before. The first is that the BBC have kindly provided the cameras in the room, which will be providing a live stream of footage via a link on the Charter Review site and direct to the BBC's website. Now the practical issue of this is that I must ask you to turn off your mobiles and blackberries, etc. because otherwise they interfere with the sound. This does not mean turning them to silent I'm afraid because, as you've just heard one flicker there, even when they're on silent they actually cause a good deal of interference with the sound and it has caused on one or two occasions some problems. The loos are located opposite in the meeting room. The fire exits are marked and if I could ask you to keep your security badges and name badges on at all times and not to go into other areas of the building. There are DCMS officials around who I think are easily identified who will answer any questions. If I could first introduce the, in a sense the members, the permanent members of the Panel, the Independent Panel. We have here today Sly Bailey, Tim Gardam, Alan Budd and Janet Finch. And in order to make sure that we have a full and lively debate about commercial services, I am delighted that we have a number of distinguished guests who have accepted our invitation to join us today – Glen Barnham, Stephen Cook, Peter Bennett-Jones, Bill Bishop, Philippa Brown, Richard Collins, Geoff Metzger and finally from the BBC we have David King and John Smith. The BBC's commercial services if not quite hitting the headlines has certainly been hitting the diary pages with speculation rising about the possible outcome of the BBC's forthcoming internal review, the progress of which I'm hoping John will be able to update us on shortly, and to open up today's debate I would like to begin by trying to go back to some degree to first principles, making sure that we are clear on what the BBC does commercially and why, as well as the considerations under and the conditions under which they currently operate. And we want to explore those principles and just see to what extent there is satisfaction with them or the extent to which people wish to challenge them. Then after a coffee break we will move on to look at the current and potential scope of the BBC's commercial services and look at each of the companies in turn. We will then have another short break and have the opportunity of some questions from the audiences. As in the previous seminars, I'd like to begin by asking people if they could submit some of their questions on cards and you will find blank cards in the delegate packs. And if we have those and we will collect them up and try and order them, I will try and make sure that quite a lot of those questions get answered in the normal process of the discussion and then leave some time towards the end for those who feel that there are other things that need to be said which haven't been said. In the final session we will move on to look at how we ensure that the BBC's commercial services operate fairly in this wider environment. So I'd now like to ask John Smith to set the background for us and to introduce this discussion and then we will move on and give other members of the Panel an opportunity to raise issues about some of the principles of how this operates.

John Smith: Okay, thanks Terry. I feel as though I ought to start by an apology for the technology. I am sure one day somebody will solve that mobile phone problem and make a story about that. I didn't know we were providing the cameras. What I'd quite like to do to set the scene for this morning's seminar is to touch on three questions. Why do we do it? Is it done fairly? And do we do it well enough? And if I could start with the why do we do it issue. Most people seem to agree by some sort of common consent that a basic principle that if

you're creating assets by the licence fee for the licence fee payer, whether those assets are programme brands, like Top Gear or Blue Planet or Tele Tubbies, or whether they're physical assets like studios or OB vehicles. If you're creating them by the licence fee for the licence fee payer and the licence fee payer is getting the benefit of them because the programmes are screened or because the studios are used for making programmes, then it's basically a good idea that those assets, once they've been amortised, given back to the licence fee payer, they are then exploited in secondary markets wherever possible to create a secondary source of supplementary income. And that secondary source of supplementary income is then used to go back into the BBC to pay for more programmes or a better mix of programming output. Indeed successive governments have openly encouraged the BBC to do better in terms of the amount of commercial activity that there is, to grow the revenues, to grow the profits and to have set the level of the TV licence fee on the expectation that that revenue will grow. At the moment, the amount of commercial cash that the BBC gets is worth almost £6 per television licence. So in other words the licence fee would have to be £6 higher if that did not exist. So that's why it exists, why the commercial activity happens and it's a sort of basic principle that if you've got the assets anywhere you might as well exploit them. But even if everyone agrees with that principle, and people may not, there are still two really important questions which I hope this seminar will talk about today. Is it done fairly and do we do it well enough? Now on the question of is it done fairly, there is a published fair trading commitment which is heavily policed. It's often reviewed. Most recently in 2000 it was accredited with ISO 9001 process accreditation just as a process. Then in 2001 Professor Wish of Kings College was asked to review in response to the Gavin Davies review before he became Chairman - Gavin Davies that is - to review how it all worked and make recommendations for improvement. They were all incorporated. The idea of this fair trading commitment is that the accounts of the commercial activity and the public service are kept completely separate, that there is a fair payment for services used by the commercial activities provided by the BBC, that there is fair prices charged to customers of these commercial activities, that the licence fee is in no way used to subsidise the commercial activity or used as a risk capital to get them going and that the whole activity is carried out in full compliance with UK and EU competition law. That process is run independently of the management chain by the BBC's Board of Governors but to be honest none of that stops the perceptions externally that it's all done very unfairly and we do get quite a lot of complaints. None of them have yet been successfully upheld but we do get them nevertheless and the perception is actually that it's very unfair so once again we are reviewing the scope of that machinery. In our Charter submission ourselves, the document known as Building Public Value, we proposed the following definition of scope: "Commercial activities must have as an important part of their purposes either the provision of an essential service to the BBC or the exploitation of rights or assets generated by the BBC for the benefit of licence fee payers. Commercial activities will have at their heart the same values of quality and integrity which underpin the BBC's publicly funded activities." The question really for the seminar to discuss I guess is whether all of that is enough. So that's the issue of fairness. The final topic which I'd like to mention is do we do it well enough? It began in 1920 with the first publication of Radio Times and a little later the Listener. It's expanded hugely since then. For example, last year's cash flow back to the BBC from all of this activity was £140 million roughly. It's almost three times, getting towards three times the amount that we received at the start of the current Charter period in the mid-nineties, so it's almost tripled over that period, so a lot of expansion quite recently. Much of that expansion has been undertaken as a result of entering into joint ventures with private companies like Telewest, the UK television channels known as UKTV, run in 50/50 JV with Telewest. A lot of the expansion that's occurred over the last few years is in ventures like that which have been very successful. But there's a feeling from quite a few people that it's all gone a bit too far and Michael Grade and Mark Thompson when they arrived launched in July a fundamental review of all of our commercial activities which I am now in charge of. Then Rupert Gavin resigned and so I now find myself Acting Chief Exec of Worldwide as well, so I'm learning my way a bit, but the review is well underway. It started in July. We're meeting fortnightly and already we have closed a company formed quite recently called BBC Ventures on the grounds it wasn't adding any value. We have also closed a company called BBC Vector, which was designed to exploit intellectual property formed in the BBC's Research and Development Department because I thought that was too high risk and unlikely to pay back. And we're on the brink of completing a sale of a subsidiary known as BBC Technology Limited to Siemens Business Services which, if approved by the Secretary

of State, will complete soon and that will see that company go into the private sector. But that will leave us with four wholly owned subsidiaries. They are firstly, BBC Worldwide. Worldwide's job is to exploit the intellectual programme rights that come off the BBC's production machine. They do that in four main ways. One is through commercial television channels like UK TV I've already mentioned. The second is by selling BBC programmes overseas to other people's television channels. The third is through a range of magazines. And the fourth is through other consumer publishing home entertainment activities like books, videos, DVDs, CDs and so on. Total turnover £657 million a year. The second 100% subsidiary remaining is BBC World. This is the international global news channel – turnover £26 million. The third subsidiary is BBC Resources. This exploits the physical assets created for the making of programme – studios, OB vehicles, post production – turnover £128 million. About 80% of that is turnover coming from the BBC who buys those services. The final is Broadcast Limited, a company primarily formed to exploit the channel playout activity at White City. It also does sub titling and access services. It also makes trailers and does other creative work for the private sector – total turnover £109 million. 80% of the turnover is coming from the BBC. Now in these four companies there are successes, for example Worldwide is Europe's largest exporter of audio visual material. Over the last five years it's sold in excess of 140,000 hours of BBC programmes to 80 different broadcaster in 100 different countries around the world. The magazines business is the third biggest in the UK. One in five UK adults regularly read a BBC magazine. Our playout facility known as Broadcast at White City is the most modern digitally equipped available anywhere in the world. The TV channel BBC in America is the United States' fastest growing cable network, currently connected to about 40 million homes. Generally, internationally, this whole activity has let the BBC become a global media player up against increasingly large foreign media giants. But patently there are issues. Perceptions are that the profits coming from this whole affair are far too low. For example, Worldwide earned a profit of £37 million last year on a turnover of £660 million. Secondly, competitors believe it unfair that Worldwide should have any sort of privileged access to the BBC's huge content machine. Thirdly, many think it odd that the BBC produces magazines which are absolutely nothing to do with the BBC's own programmes. Fourthly, perhaps most importantly, some people think that ownership of these companies is a diversionary activity for senior management and to some extent the tail wags the dog, the commercial tail wags the public service dog. So I want to conclude by saying that, as the person who has been put in charge of this Review which we're hoping to report on in around November recommendations to the Board of Governors, I and my colleagues are very open indeed to all of these issues, alive to the fact that they are serious and need investigating properly. In particular the question of whether the BBC should own these companies is very much on our agenda at the moment and we're looking at a range of alternatives, which might include a complete sell-off or some sort of break-up or maybe include the licensing of brands to other people rather than doing it ourselves. We're analysing the financial performance of our own companies, both past and future. We're also benchmarking it against those of the competitors and we will look at every possible answer in terms of what the right thing to do is. A secondary objective of mine, although it's not in the formal terms of reference, is to try and shed some light in my report to the governors when it's produced, shed some light on the structure of the companies, how they're performing, where the profits will go. Something which I think people have regarded as somewhat opaque over the year. So I very much welcome we're going to have today. I have absolutely no intention of defending the status quo, nor indeed of recommending it to the Board of Governors later in the year.

Lord Burns: Thank you very much. It's a very challenging opening. As I say, in this session I'd now like to invite people to respond. I think, you know, at least on three of the headings, you know, should the BBC be involved in commercial activities, how is it that we ensure fairness in this process and does the BBC do it well enough? I have to declare an interest here. I was in the Treasury I'm afraid, it must be now 10 years ago or more, when we were very heavily involved in persuading the BBC to raise rather more of its money from commercial services, so I'm as guilty as a number of other people, if there is any guilt to be shared around on this but that was a long time ago, and I think this is the right time to have a look at it. So if I could ask people to...

Philippa Brown: Hi. Can you hear me okay? I don't think my microphone..yes.

Lord Burns: Yes.

Philippa Brown: I represent the interests of IPC Media. We are the UK largest magazine publisher. We publish 86 magazines and we're part of a wholly owned subsidiary of Time Warner, part of the Time Warner group of companies. I'm the Managing Director of one of the IPC Media Divisions, which is the TV Magazine Division, and I was delighted to be asked to participate in this debate and discussion today. We are for a number of years been concerned about the magazine activities of BBC Worldwide. To name a few concerns; we've been concerned about some of the magazine acquisitions, such as the acquisition of Origin. Origin, for those who don't know, published magazines such as contract publishers such as HMV magazine, Waterstones, Cross Stitching, etc. and we find that the relationship of those magazines to the programming of the BBC quite far stretching. The second big concern of ours is the use of the BBC logo on unrelated brands such as Eve, which has no programme connection at all. And the third big concern of ours is the free airtime that BBC commercial activities receive to promote their activities. For example, we have had this valued at £11 million a year, of which half of that goes to Radio Times. And as you can imagine, as the Managing Director of the TV listings company, that concerns me deeply. In terms of the question of whether in fact BBC Worldwide should be involved in commercial activities, then we do believe they should but really under three main criteria. One, we – and John Smith already alluded to this – one, that there needs to be a closer link between the magazines and the commercial activities they do and the programming. Secondly, that when a magazine is launched into the market, that the full market impact of that launch is assessed - a bit like they do when they launch new TV channels – and that an open and transparent process goes on where we are consulted in the industry. And the third point is that it builds on the transparent process, that they operate completely transparently and that they comply to the EU rules on state aid. Now I'm no expert on state aid. I know that Richard Collins is more and I'm sure he'll have things to say on state aid. But what I do know is that a majority of my concerns if they did adhere to the EU rules on state aid, such as on air promotion, would be eradicated.

Lord Burns: Okay, thank you very much. Richard?

Richard Collins: Well perhaps I could take up Philippa's cue and just begin at one of the points that John Smith left open. I think that, you know, the question of the BBC's commercial services is clearly a question for the BBC, it's impact on its own functioning, but the dimension that I think John left under-stated is the impact on the rest of the media sector in the UK and on its potential impact on the achievement of the government's objectives of a competitive and diverse communication sector. And there are I think some grounds for concern, some of which John has acknowledged and others which Philippa has indicated. I think that one of the difficulties in the area is that the competition laws, which again John Smith says whenever the BBC has been tested it satisfied, are drawn in such a way that they don't apply really centrally to the case at issue. The BBC is not always an economic undertaking, which is one of the criteria that have to be satisfied and, even when it is, it may be seen as operating services of general economic interest which provide an exclusion of a kind of safe haven in this area. So even though John is quite right to say that in all the judicial arenas in which the BBC has been tested the complaint has not been upheld, I don't think that that's really actually the point because the BBC is so distinctive and unique an organisation and, not surprisingly, neither national nor European competition law is drafted with such organisations centrally in mind. So we've got a very large organisation dominant in a number of markets. The ITC in 2002 commented on the BBC's ability to lever market power between different markets, notably between rights and distribution markets. We've had DCMS I think recognising on a couple of occasions that there's an issue to probe with the ad hoc inquiries by Richard Lambert and Philip Graff, both of which found that the financial information on the relevant issues was opaque – a word that Philip Graff used – and Lambert said licence fee payers and competitors have to take too much on trust. I think there's also a central problem about defining where the BBC's public service ends and its commercial activities begin. And this ambiguity, which gives the BBC a great deal of space in which to operate, does occasionally throw up absolutely sort of egregious problems where the BBC launches a service on a commercial basis, finds it's unprofitable and then promptly redesignates it as a public service, which is what happened with the news to mobile telephone service. So the difficulty is the competitors never know what the BBC will claim to be doing as a public service activity and

whether it will do things wearing its commercial or public service hat and, even if it's doing it with its public service hat, it may crowd out commercial competition or chill entry to the market. So I think that there is a case to answer, although John is quite right to remind us that whenever the BBC has been tested it's been exonerated. So what are the remedies? Well there are a number of potential remedies, again some of which John hinted at. Structural separation of the commercial activities of the BBC from PSB. Again I don't think we can really claim that that's taking place. Rupert Gavin, until his resignation, was a member of the BBC Executive Committee, as indeed is John Smith himself, so is there really separate management of the BBC's commercial and public service activities? Well, arguably not if those responsible for the commercial activities are on the same Executive Committee as those concerned with the public service ones. Second, I think, we could have considerably more public tendering for both up and downstream activities. At least two Chief Executive Officers of commercial TV channels have claimed to me that the BBC has refused to supply programmes that they wanted to license and it's not immediately obvious that actually BBC Worldwide is the best vehicle even for the BBC to realise value from its assets let alone the closed relationship that exists between Worldwide and BBC's programme assets. One of the reasons for this might well be tax reasons. Internal transfers within the organisation from BBC IP to Worldwide don't incur the same liability to tax as supply to a third party. So it may well be that there are occasions where the return to the BBC is greater with supply to Worldwide than it would be to a third party even though Worldwide is paying less than a third party might. So again, there's a fair trading question there. I've already I think alluded to the importance of a clearer definition of the BBC's public service remit and of the boundaries between the public service and the commercial activity but fourth, I think, there's a need for clearer and stronger independent regulation so that commercial competitors do have confidence that essentially the BBC is not acting as judge and jury in its own case. I know that the remit of this session chair is not about regulation of the BBC so let me just sketch how this might be done with relatively minor changes. Well independent audit by the National Audit Office I think might be appropriate. John spoke of the BBC supplying at fair prices. Well who's to say what's fair? What's the basis of the cost allocation? Is it marginal, average or whatever cost? So all of these are the kind of things that, you know, need probing by an independent authoritative external body. Second, I think, an independent assessment of the commercial impact of news services preceded by public consultation and consultation with the competition authorities. And I think up till now we've seen that those approvals coming out from DCMS have been extremely widely drawn, so widely drawn that it has enabled the BBC to redesignate its move to mobile as a public service when launched as a commercial. And fourth, a regular supply of information to the external Regulator, let us say Ofcom, but I'm not seeking to seed the argument to say it necessarily should be Ofcom, to show that the BBC isn't cross-subsidising or showing undue preference to its commercial subsidiaries.

Lord Burns: Thank you very much.

Glen Barnham: Yes, thank you very much. I've been dealing with BBC Worldwide for probably about 30 years so I know they quite well and I probably know where most of the skeletons are but I've got to say that over the last 10, 12 years the BBC Worldwide is a totally different organisation to what it used to be. It's a much more efficient organisation. The government has put pressure on to increase funding from Worldwide back into BBC services and over the last 10 years it's turned itself around and I think it needs to continue to be involved very much in the commercial services. And let's say it's a, and I'm glad to say it's a successful UK company and I make no apology for saying a UK company. It's the largest exporter of programmes. The BBC brand on the international stage is important. I'm talking about television programmes, DVDs, videotapes, the rest of it. The BBC brand abroad is important. It's important on the international stage. Now you say I might be saying that because I'm here representing actors and performers under Equity contracts but you've got to remember that the BBC brand abroad, people come to this country, come on holiday. They see London. They see different parts of the country. They actually see there's some green space in this country and they actually come here on holiday but apart from that it's a showcase for talent. It's because of the BBC exporting in the way it does and selling as it does British talent gets an opportunity abroad. It's an important showcase for UK talent. Now Equity is a major stakeholder in these discussions. I make no apologies about that. Last year on Equity contracts on secondary payments from BBC Worldwide £15 million was paid to artists, to

performers. These are secondary payments, royalties and suchlike, so we're very much into this and we want to see Worldwide continue as a UK company because I can assure you the returns from other companies in the commercial sector are nothing like that and the success rate, I've been to the, once a year BBC have a showcase and they bring people from all round the world down to Brighton, lock the doors for a week and make sure they buy programmes. And I can assure you at the end of that week – and it's a big organisation, only a big organisation can organise that kind of venture – at the end of the week there are millions and millions of pounds of British exports and I say British exports and that's important to remember. So it's important that we get the, the BBC brand is out there. It's important it's on the international stage but it's equally important that it's a brand of quality and that those checks and balances remain in place so that there's a clear division between the public service remit and the commercial remit. There needs to be clear blue water there but it needs, at the end of the day any commercial activity must not impinge on the quality of the BBC output and its brand. And as I say, and I make no apology about this, whatever happens in these discussions it must remain a UK company. And lastly I would say, it often sets the rate in the market in intellectual property for rights holders, for composers, for musicians, for singers, for actors, for the whole area and whatever happens the BBC is setting the rate. It needs to make fair deals. And I know in some areas that's been questioned and is being questioned and the BBC need to ensure that that happens. Now on behalf of Equity I can say that we've got the structures. We've had plenty of arguments with Worldwide but there's a structure for discussion, there's a structure for debate and we can have those discussions very openly, very transparently. We know what programmes are sold for, we know what money comes in and, more important, they have the technology and the machinery to pay people and that's not always the case in the entertainment business. Hit and run productions are out there and they're not always at the end of a pier. So Worldwide needs to remain intact, it needs to be a UK brand and it needs to continue the excellent work that's going on but it needs to be fair and it needs, as it sets the market, to ensure there's fairness to those rights holders and then the whole area of IP. Thank you.

Lord Burns: Thank you very much. Victoria?

Victoria Barnsley: Yes, I mean I'm here as representing the book publishing industry. I'm the CEO of Harper Collins and wearing that hat, I mean I share some of the concerns that Philippa has expressed wearing the hat of the magazine industry. Having said that, in answer to the sort of three questions that we've been asked to look at, you know in principle should the BBC be exploiting its assets, I'd be very surprised if anyone here thought they shouldn't. I think the principle is absolutely a no-brainer as long as it doesn't damage the commercial sector and I think that is the very sort of important issue that we have to address. And so I think the second question of is it fair is one that I think we need to focus on more and I think that is the, for me intrinsically related I'm afraid to the third question of how effective is it because, certainly in the publishing world, I think there is a feeling that in many respects it is unfair that the BBC is allowed to advertise its own books after television programmes whereas the commercial companies aren't, that it gets access to a pool of talent often at different rates that we do, but to absolutely frank it's not regarded as a terribly effective organisation and therefore I think the commercial sector feels they can live with that. And I mean, you know, the BBC faces that terrible problem of being a national body that is actually trying to wear a commercial hat and there is a great tension between that and I think sometimes it means that there isn't a commercial ethos in the organisation and to be frank, I think some of the commercial publishers feel well we've exploited that fact, you know, we can live with it as long as it's not too good. So of course you put the third point right and then the furnace issue I think will become...and I have to say, you know, for instance one of the big issues at the moment that publishing is looking at, the educational sector, is with the launch of Curriculum Online, there has been enormous concern that our content providers, our educational publishers will be almost driven out of business because of the amount of content that the BBC will be producing. And I have to say there is a sort of generally held view well they won't be able to get their act together will they, so we'll probably be all right. Now I think obviously this is a hugely worrying situation but, as I say, from my position these two second points are rather intrinsically linked and I think maybe one does need to focus – and I'm sure you will be in your Review – very much on this third point of how effective is it.

And I think it is difficult to run a commercial organisation through a public body. I think it is a very difficult tension there.

Lord Burns: Right, so it's tolerable so long as it's going very well and they suddenly start doing it very well...

Victoria Barnsley: Yes.

Peter Bennett-Jones: I'm in the programme supply business really and it's obviously a core activity. I mean ultimately the BBC is about, it's fundamentally about programmes and the making of them and then the exploiting of them and we work with a number of different distributors, both British based and international from the Universals and the Disneys to the, you know, Freemantles and the CVIs, and to me what distinguishes our dealings with Worldwide is for a UK-centric is its scale. And you know I agree with a lot of what Glen was saying there about it's your know fairness of operation. But it provides us with a one UK operator with proper clout in the market and that allows new opportunities. I think BBC America has been a very good example of that. I mean I've got a number of initiatives going there, actually with one Channel 4 programme Black Books is very successful on Channel 4 but haven't got the wherewithal to exploit it in America. You know in the end the big studios aren't interested in 12/18 programmes of a bizarre UK comedy like The Office but BBC America provides that. So with that they've done a deal where we can show the programmes in these 40 million homes but also done subsidiary deals to do specials with Dillon Moran and Bill Bailey, the real talent behind it. So we've recorded a schedule with them which they've made part of their sort of marketing of this UK product strategy and there's nowhere else you could go. I mean if you deal with the universals or the big Hollywood players, I mean they just have a different attitude. They want programmes in volume on much, much more draconian terms. I suspect one of the reasons, John, you're not making the profits you're looking for is you deal more fairly than a lot of other people in the market where it's very easy to be bullied and you don't get bullied on the BBC and various properties have done incredibly well internationally and I've been involved with for many years, like Black Adder's a good example. Responsible for some of that - £15 million royalties I'm sure - has been extremely well and honestly handled and as a supplier we would encourage that, particularly the programme sales which has got to be seen as a core activity and that linking to its creation of new channels is something to be fostered and encouraged in the future and obviously the very different issues there from the issues of publishing and technology. But you know we continue to want deeper links but it would evaporate as, a lot of the appeal would evaporate if it reduced in scale.

Stephen Cook: Stephen Cook. I have come across the BBC on a number of levels. We are a large distributor of television programming through out cable networks. We compete against the BBC as well because we own in our own right a number of commercial, successful commercial pay TV channels and we also are equal partners with the BBC in one of its largest ventures, which is UK TV. I think we've worked with the BBC now as partners for a number of years. We have found them to be tough negotiators. We have found them over the years to pay great attention to the fair trading obligations. Frankly sometimes more attention to the fair trading obligations than we would like them to pay, speaking as a partner in the exploitation of these rights under UK TV, and I think one of the things that's important as we go through, you know, another review of the BBC and another review of commercial services, I'm looking to see how the BBC works fairly with the commercial sector. I just think people should also remember that you have to be fair to those people who already have commercial partnerships with the BBC. I mean I've heard on a number of occasions the complaints that BBC programming is not made available to other channels, other distributors. I mean frankly one of the reasons for that is that 7 years' ago UK TV, through Flex Tech, paid a very considerable sum of money to have first access to these TV programmes. That was done in a fair and open basis. We won that tender if you like against some pretty stiff competition, many of whom proved bigger and better funded than Flex Tech were at the time, and I would just urge people as they go through the reviews just to remember that you do have to be fair to, one of the principles of fairness is that you do continue to uphold contracts you've entered into in the first place. And we have an existing contract with the BBC. Programming is offered on a first look basis to UK TV and then becomes available to the general market if UK TV

doesn't want it. So in that respect I would say the fair trading obligations are met. And I think UK TV is a very good example of a business which is cored to the BBC's central activities, which is the making of great programmes and provides a much-needed secondary source of not only revenue to the BBC but is also building up equity value through its shareholding in UK TV.

Lord Burns: Thank you. Bill?

Bill Bishop: Well Bill Bishop is my name. I run an economics Consultancy Company and, in contrast to everyone else in the room, I have absolutely no idea why I am here. I know nothing about broadcasting. I suppose I was asked to come along because I know something about the economics of competition policy. I'm very interested in some of the effectively contradictions between things that have been said already. We've heard Peter Bennett-Jones was saying a moment ago that he values the clout that BBC Worldwide has in getting him distribution but that's actually inconsistent with any rule that says the BBC must put everything, all its content up for bidding because actually the good stuff will get picked off and the BBC won't have the capacity to provide a platform that other people can hook into. Similarly, Richard Collins mentioned the problems of crowding out, and the ITC I think mentioned crowding out and of chilling of entry. Well, as Richard certainly knows, it's only crowding out, it's only a bad thing if it's efficient rivalry that's crowded out. There's nothing wrong with crowding out if it crowds out things that don't need to be there. There's nothing wrong with chilling entry if it would have been inefficient entry. It requires, these are you know classic regulatory issues on which there is a great deal of learning and literature in other contexts and a lot of practical knowledge as well and they apply pretty clearly to these kinds of problems here, at least in their commercial aspect. Of course it's always the case when we're dealing with a national institution which enjoys widespread support and which is funded in the end by something close to attacks and so state aid type considerations certainly apply as well. But I'm struck by, I come in with a blank mind on this subject and within 30 minutes we have several major contradictions effectively in what people want out of this thing. So I'm going to sit here with fascination for the rest of the..

Lord Burns: Well we'll come back to you later and see if we've managed to clear up any of them at all. I think what is clear that comes out of this is the response does vary a great deal according to which of the activities that we are looking at and what I want to do in the next session is to take each of the activities in turn and just probe a little bit in more detail about what the rules might be, the extent to which we want to encourage it, etc. But John, do you have any general response at this stage in terms of.... I mean have people said anything to you that you feel this is outrageous? I mean what I'm struck by already in a sense is the theme almost that those people who are closest to what you might think of as the BBC's core purposes, which is the broadcasting end of it, seem to be a good deal happier with this than those who are more remote from what you might think of as the BBC's core purposes. That doesn't necessarily say that either of them are right of course because it may be that it's too cosy at one end of this and maybe there are some other problems at the other end...

John Smith: Or maybe you haven't got a broadcast competitor who isn't in the joint venture partnership...

Lord Burns: Right. Which is our fault. And maybe there is somebody in the...

John Smith: I mean just a couple of quick comments, Terry. I mean I think the only way we will ever adequately get rid of all of the current complaints, those that have been mentioned, is by being hopelessly inadequate and then that will bring on another type of, people like yourself to, and I think in a way my other comment is about these dichotomies. The one that's been alluded to is absolutely relevant, that if you fragment the whole operation and have individual licensing deals and spot buying of rights and so on, you don't have the scale, you don't have the clout, you don't have the ability to put on a showcase where, as Glen was saying, you know we lock people in a darkened room and have strobe lights and whale music and then they go away with a load of programme that they've bought. You can't do that if you're completely fragmented. So that's a dichotomy. There's another dichotomy about whether the acquisition of rights from the BBC is better done on an individual spot basis so

that individual people have a chance to buy every single right, which would be very fair but highly inefficient, or alternatively whether you bundle the whole lot up into one and allow the capital markets to bid once in a while, as Steve Cook suggests from the UK TV perspective, so once in a while you offer an entire contract for 10 years, the exploitation of all the BBC's output, and the capital markets then dictate what the value of it is all in one go. Much more efficient but if you don't win that you're really going to complain, you know. And the current arrangement allows roughly 20% of all the rights that the BBC produces to go into the private sector or said in a better way, roughly 20% of all the rights that come off the machine every year are acquired by the private sector because they bid more effectively in a spot market. So I think my main sort of response to the issues is these dichotomies are very, very real indeed and of course they are the things which one can grapple with and I doubt in the end however we fall down with our recommendations will satisfy absolutely everybody on that argument.

Lord Burns: Geoff, I didn't, you weren't here when we were outlining in a sense the questions at the beginning. I think I'm going to hold on till the end with you. We're trying to, in a sense I've asked people to look at three general questions at this point. (TANNOY) The questions are should we be seeking involvement in commercial activities? How does one deal with the fairness issue? And do they do it well enough? And I'd be interested in your observations.

Geoff Metzger: Well just very quickly so we make the fire alarm. Sorry I'm late by the way. Well I run a very small company called the History Channels. We have a couple of little channels – the History Channel, the Biography Channel. The BBC is in the commercial market, it's murder on us, there's no doubt about that. It's driven our costs up. It's lowered demand for what we do. It's, but we run the risk of foreclosure I would say as a result of what the BBC is doing. They, we created the History Channel in 1995. We think that the BBC pretty much mimicked us because they were able to with the product that they have to launch UK History. I think the last speaker was certainly right that whoever doesn't get that big contract for the BBC supply deal is going to be unhappy. They do have all the goodies, there's no doubt about that, and it's financed with a public subsidy. I mean we compete every day and we have to compete with UK TV History. I think it is important on the question of fairness that they compete fairly. I don't think it's BBC Worldwide so much that we have to ask whether they're competing for it because it's the BBC which actually gives them the power to do what they want to do. I mean I don't think you could hire a better set of business people round BBC Worldwide. I mean they've raised their cash flow to £141 million I read so I think they're doing a magnificent job. I don't think they're complying with the fair trading commitment. I've got a couple of examples in the supply market where they have very clearly used their leverage to gain advantage for their business partners and, as far as efficiency is concerned, as far as I'm concerned they've been pretty efficient, you know. I mean I think there are larger questions about the BBC's efficiency but they've done a good job on us competing certainly.

Lord Burns: Okay, well we'll cut there, so let's have a break as the fire alarm goes. What I'm proposing is that after the break we do take each company in turn and maybe we'll begin by looking at publishing and new media and go onto programme distribution and then onto the entertainment channels, BBC resources, BBC World, etc. and let's just look a little bit more closely at each of them and see whether there are specific issues that we want to raise with them and we'll be back in 15 minutes. Thank you.

Coffee Break

Lord Burns: A reminder again about blackberries, if you would please, to make sure that they are turned off and phones. As I said before the break, I would now like to look at each of the businesses in turn but before doing that I'd just ask first of all Alan Budd to make a comment and then David King would just like to say one or two things to clear up what I think he observes as the odd thing that was said that he doesn't quite agree with.

David King: I've only got a short time?

Lord Burns: Yes but it's very, very quickly. Alan, yes.

Alan Budd: Okay, it's a question rather than a comment. When we think about commercial activities, there tend to be two headings, two questions we ask. One is are they being conducted fairly, if you like fairly and efficiently? And the second is are they impinging upon the BBC's public service broadcast role? And we've heard a lot about the first and so far very little about the second, though Glen did mention it. When I was on the Davies Committee a few years back and quite a lot of that report was devoted to what extent the BBC could extend its exploitation of its potential commercial revenue, that the following was perhaps a caricature of one of the arguments used against it, which is you have this nice person, nice BBC person who is going to make a nice programme for the BBC of the type that we all know and love and we have this nasty commercial person who comes into the discussion and says "Well if you made it in the following way, maybe we could get a book out of it" or "6 instalments, you'll never sell that in the States. Can't you make it 52 instalments?" And so there was, this was the notion of a commercial pressure on the broadcasting activities. Now it's interesting to me that I haven't heard this discussed or hardly mentioned. Was it never an issue? 'Is it not an issue and we can all forget about it and just talk about fairness or is it still an issue' is an extent to which these activities do affect the nature of the broad...in a way that we would not regard as desirable the nature of the programmes that the BBC is producing.

Lord Burns: David?

David King: Well I wasn't going to start with that but why don't I start there? We would love the BBC to commission longer series because they are more marketable. We do not have that opportunity to influence those, I make that categorical statement, so when 6-8 running shows are commissioned, we have to save them up 2, 3, and even 4 series before we can actually market those shows internationally. With the question of the book, once again it is our role to make sure that the BBC understands the impacts of the commissioning decisions it has. We have no influence over the BBC's commissioning decisions. The books are derivatives of the BBC's commission decisions, they do not drive them. However, moving on to what I was originally hoping I might be able to share with you, I am delighted that some of the panel think we are excellent in our performance, less so that others think we are rather poor, although happy to live with it. Our performance is driven by the targets we are set. We have been set the targets to deliver cash flow growth to the BBC 14.9% compound and over a 7-year period we have delivered that compound growth. We are incentivised to deliver the cash and that is the target that we chase and so far successfully delivered. Let's just understand the scale of the organisations that are our competitors. IPC are the biggest listenings provider in the market place. They have more than 2 million copy sales relative to the 1 million in Radio Times. They are more than twice the size of BBC Worldwide magazines and they have access to launch budgets that our magazine publishers would die for. EMAP in the group global scale has more than 4 times the size of the BBC magazine business, although part of that is obviously radio. IPC has 21% market share. BBC Worldwide has half that market share. We are clearly an influencer of market. There are greater influences from some of our competitors. If we turn to the book market, BBC Worldwide has less than 2% of the book market, significantly less, about 1½ to be precise. The majority of the publishers in the industry are substantially greater scale and yes, we have not performed well in this area. The flow of rights that have been available to BBC Worldwide have not enabled us to sustain a growing and successful book business and it's for that reason that we have sought to partner or to find an alternative business model working with those publishers with much greater scale and expertise across a wider depth and range of book publishing and we will continue to pursue that until we are successful in finding something in that area. In video we are 2.3% of the market place. So while we are clearly an important part, I would not want you to have the opinion that we are a major dominant influencing factor in all sectors. We are clearly not. Do we pay fair price? Indeed we pay very full prices on a number of programmes. As Finance Director I would be delighted if we could pay less, as you can imagine. That isn't the market place that we're in. We're put under a considerable pressure by the commercial agency to invest at a very full price in order that those rights do not flow to the competitors on a cherry picked basis. The competitors would of course be delighted to access the best of BBC programming on a cherry picked basis and leave the remainder of the less attractive product for the BBC to operate and exploit on a more marginal activity basis and again open then to the criticism that it is ineffective, been left with a rather less attractive product. There were one or two statements and I won't go on for very much longer you will be

pleased to know but there were one or two inaccuracies in one of the two of the statements made, so if I may just correct one or two of those, not all of them, if I may. Let me emphasise that there is no cross subsidy of any kind from BBC to UK TV. Telewest provide all the funding, 100% of the funding to all the UK TV channels. That is the nature of the arrangement. Secondly, I would just ask you, the branding of Eve. It has BBC on the spine. Does it influence the buying decision? Were any of you actually aware that Eve was published by the BBC? I'm sure some of you have never even heard of Eve to be frank. And the concept that BBC Worldwide is the only people who get trails is incorrect. Of the 20 books that were licensed to third parties last year by BBC commercial agency, 19 of the 20 had a trail on the BBC. I wish we could get a 95% trail rate. It seems to me that the way the discussions have gone so far, those who work with us like us and those who compete do not and I look forward to the rest of the discussion. Thank you.

Lord Burns: Okay. Thank you very much.

Victoria Barnsley: Can I just pick up one point that you said there actually? It's always my understanding, certainly when we are competing against Worldwide for book rights, that money usually goes from the Worldwide back into the programme where you're often asked to sort of match the contribution that will be paid back in the making of the programme a certain sum. We're often there separated as actually more offers from the rights. So it does imply to me that when somebody is trying to get a programme off the ground, they are looking for a contribution from Worldwide into the making of the programme.

David King: I mean the way the process works is that the commercial agency bring programmes to the BBC and offer rights, all rights to the BBC but not in all cases. They don't always have all the rights to offer and on some occasions they choose not to offer all rights to BBC Worldwide. The basic principle of the process is the BBC then assesses the programme across the television, video, audio, book and other medias to determine what value it thinks it can derive from the market-place from selling those programmes, those books, etc. It obviously has to take account in the book instance of the actual cost of any advances to talent or to the author in this case and the actual publishing cost of producing that book but and then from that derives what sort of profit margin it might reasonably make and from that what sort of reasonable investment it can actually make. So BBC Worldwide does make bundled investments where it assesses book, video, audio, collects that number together and offers that to the commercial agency but invariably the commercial agency seeks that we explain and differentiate the components of that book offer. But once again, as you would expect, the extent that we are delivering something in the order of £89 million a year to the BBC in investment, we choose not always to unbundle and indeed to leverage our investment position. But invariably a specific amount is allocated against a book if we are seeking to acquire book rights and that is a defined item relative to the expected performance of that book. I don't know whether that answers your question but yes, it is a separately identified investment.

Geoff Metzger: Could I just make a comment as well? I'd say it gives me little comfort that you say that there's no cross subsidy. I mean I think that it's hard to know if there's any cross subsidy. I think that's one of the problems. And I don't think it's just money we're talking about. I think it's, I mean I think the fair trading commitment says that there should be no mixing of activities. I think that's the way it's written.

David King: I was only addressing the specific point that it was effectively funded and cross fund subsidised. That is not the case in any financial term at all, as Stephen well will attest. And that is the only point I was seeking to make on that occasion.

Geoff Metzger: I think it's broader than that the fair trading commitment though.

David King: I'm not questioning that it is broader than that. I'm merely clarifying the financial point.

Lord Burns: Well let's, I suggest that before the break let's move on. Shall we start with publishing a new media and some of these issues about magazines, books, etc? I mean a

number of points have been raised so far. I mean one is just what the scope of this should be. I mean is there some notion that there should be some relation with the other activities of the BBC before they get into magazines and books or do they have just an open-ended scope to go into whatever it is that there is? I mean the issues about what the best way is of doing it, whether they should publish them themselves? Are there any other ways in which it could be done, in particular this issue of relations with other joint ventures, with other organisations? I mean we have raised this specific issue about education and education publishing and I think the issue of advertising on television and whether this was an issue that should also be, should be looked at. So I think the issues about you know how far we think it needs to be related to the core activity of the BBC, these issues about whether it is being run efficiently or not, is it distorting the market and is there a better way of doing it I think are points that have been raised and I think that these issues have come up rather more sharply with books and magazines probably than the other questions.

Philippa Brown: I mean from our point of view brand licences is something that we would be you know interested in a lot to discuss with the BBC. We would, it would be our recommendation that the preferred partner status of BBC Worldwide be removed and that other, and a free market economy would operate and that other publishers would be allowed to pitch for a brand licence for a magazine. Interestingly last year Sky Television put up their magazine for pitch and they went out to a number of publishing companies and John Brown Publishing won that contract and we'd very much encourage and like to see more of that happening. In terms of...

Lord Burns: What length of time was it for?

Philippa Brown: Pardon?

Lord Burns: And for how long?

Philippa Brown: How long was the contract? I think it was about 5 years. And obviously it wasn't just based on the money. There was quality criteria because I think there's, you know there's a certain arrogance of the BBC Worldwide that they're the only magazine company that can produce products of quality and can adhere to any guidelines which, you know, because we always have letters back that you have to adhere to the producers' guidelines. We are capable of doing that and, as David King points out, that we are in fact the largest publisher in the UK and we wouldn't be in that position if we weren't able to produce quality magazines. So we would be very, very keen to have discussions about a much more sort of open economy in terms of brand licences. In terms of your issue of on air promotion, as I said at the beginning this is such a big issue for us. The last time it was reviewed was back in 1992. 12 years later the market has changed dramatically since then. I mean back in 1992 the Radio Times for example was only featuring BBC programmes on the main cover. That long-held policy was broken in 2001 and they now cover ITV programmes and I think you know that's a big difference since the last time it was reviewed. Interestingly the last time it was reviewed TV Times, which clearly only at the time published ITV programmes, had its free airtime removed because obviously post-deregulation we were carrying other programmes, such as BBC programmes, and therefore ITV and Channel 4 felt it was wholly inappropriate that TV Times got free airtime on their channels, which I think is fair. But 12 years later the Radio Times have enjoyed millions and millions of pounds of free airtime and the TV Times haven't and therefore it's of no surprise that the Radio Times is selling twice as many copies as the TV Times. I think, you know, in terms of efficiencies, I think it's interesting to look at that in terms of resource levels. Radio Times has 80 people. What's on TV and TV Times, and What's on TV is a bigger magazine than Radio Times, has less than half of that and I think, you know, when we're looking at are they doing a great job in terms of delivering and maximising money back to the licence fee payer, I would say they're not and I think there are certain areas they need to look at, especially at their resource levels and how they can maximise the return on that investment more effectively. But I, you know I'd really like to get John Smith's point of view on the on-air promotion and where his thinking is on that because you know, as I said, the major issue, and we have, we have actually written many, many letters on this subject and in fact I just want to bring up a point actually John Smith that you said that no complaint had been ever upheld. There was one complaint that was upheld,

which was the removal of Even Star from getting any on-air trail promotions. We actually got that removed but we still have concern about the other BBC...

John Smith: Okay, apologies on that one.

Lord Burns: Well before John answers that, any other people in the book/magazine business want to add to it? I mean we all recognise of course that any of us involved in commercial activities a competitor is never the most attractive beast to emerge, whether it is fair or unfair, and so we're recognising in a sense that what it is that you have to say inevitably is tinged with that but what we are trying to explore is what the bounds, the scope, etc. should be. Do you have the same issues with...

Victoria Barnsley: I mean I think we do have a number of issues and I've mentioned quite a few issues already that the book business faces. I mean just one very small point. It might be only 2% of the entire book market but of thump list top 100 selling titles in Trade Publishing the BBC has a considerably higher proportion of those, partly because of the nature of the way book retail has gone. So they are an important force in publishing. But the thing that I am most concerned about is there's a lot of talk now about partnerships and I think there's a recognition that maybe book publishing is not a core activity for the BBC and therefore they are looking at partnerships and recently announced a partnership with one of my main competitors – Penguin Books – on children's. Now I'm sure that that process was entirely transparent. My company wasn't asked to tender for that and I think we are going to look at partnerships which might be the way forward, my great plea would be transparency because I think it could actually be even more unfair, as I said earlier. At the moment I'm not too concerned because the book publishing arm of BBC Worldwide isn't the most efficient. I'm going to be very concerned if one of my major efficient competitors enters into a less than transparent deal and I think that, just that would be my plea at the moment if you are going down that route.

Lord Burns: And on-air promotion?

Victoria Barnsley: Well on-air promotion, yes. I mean it is not, I mean you have to either be in partnership with the BBC or I mean and it's my understanding that I can't get on-air promotion for a book. I think that obviously it's a huge issue but it's one of the, you know, the complicated things we need to discuss.

Lord Burns: Our conscience reminds us.

Bill Bishop: Well I'm again fascinated by the issue. I mean there are two, at least two separate questions. One is access to those advertising slots. The other is the accounting for the value of them. Let me take the second. I don't think the first is a great issue because you can buy ads on advertisers' supporter channels. I think the second is a potentially substantial issue and it really links to David's claim that there's really no cross-subsidy involved. Let's just tease it out a little bit. A couple of minutes or a couple of seconds of airtime with so many million eyeballs on it has a very well defined value here in the UK, very well defined value. The BBC doesn't sell it but other companies with similar profile do. Is it the case that in the accounting for the BBC's activities that the implicit value of the advertising time used is counted in the accounting of the commercial activities of the BBC, for example the publishing? Is it the case?

David King: Is it charged?

Bill Bishop: Is it charged, yes.

David King: On-air trails for magazines are not charged on the basis that you describe, no.

Bill Bishop: Okay. Then that links to transparency. I mean I'm not saying it's wrong that the BBC should do it, not at all, but it's very reasonable to be non-transparency and that's the simple way to do it. I mean you just get, there's a whole industry worth billions every year devoted to this. The advertising industry monitors the value of a few seconds of airtime with,

according to the number of people looking at it and that determines what people pay and it's a very simple way of getting, almost uniquely in this public area, a clear price, a clear value and it should be accounted for in any question of fairness to competition and the question of cross-subsidy.

Lord Burns: Okay. Any other points before I...Sly?

Sly Bailey: Yes, you made a point earlier that Worldwide would kill to have the sort of launch budgets that commercial publishers have but frankly obviously you do have them because a huge part of any launch budget would be the marketing cost of bringing something to market. So the fact that you're not charging for it within those numbers that we can see means that I would imagine it's very comparable if not greater actually because you do have access to that so...

David King: That would be true if we had substantial on-air promotion as described for our new launches which we do not.

Philippa Brown: We did for Eve though.

David King: We had three trails for Eve in total.

Sly Bailey: Yes. For a monthly magazine that would be...

David King: Three trails do not equate to a £10 million launch budget.

Lord Burns: There is a price that we could attach.

David King: There is a price and it's not £10 million.

Sly Bailey: We could, you know, get into that. You know you can launch magazines for half a million pounds so let's not sort of distort the audience's view of how much it costs to launch a magazine.

David King: In terms of the scale of Women's' glossy magazines which Eve is, then the launch budget would have been in the order of 2 to 3 times the launch budget we allowed it and the reason for that is we are not able to sustain those sort of launch budgets and deliver the growing cash flow that's required by the BBC.

Sly Bailey: Okay, that takes me to my next point. Are you, you know when we look at the numbers, are you satisfied? You talked about, I realise you're operating within the remit that you've been asked to operate and that you're generating cash. I completely understand that you're driven by that, but you know are you satisfied with those margins, which are pretty much the lowest across the, you know across the entire industry?

David King: I thought you might say that so I've brought some more information, which you would expect wouldn't you? Our magazine business delivers very healthy margins and the numbers that you have obviously show the magazine business, the video business, the book, the multi-media publishing business, etc. which brings the 4½% margin that I think you were referring to. The magazine business margin is more in the 11-12% category, albeit subject to not paying as you described for the trails that you have mentioned. And therefore our magazine business is competitive with the majority of the other players in the industry, albeit EMAP has a superior margin to that and IPC marginally so as well. That's correct.

Victoria Barnsley: That's not the book publishing though.

David King: The book publishing margin at the moment is negative.

Victoria Barnsley: And actually you know the average launch of a book title, £100,000 would be a large marketing budget. So if you've got three trails on television for a book and it costed that...

David King: As I described, 19 of the 20 books that were put out for third parties received trails for which they did not pay either.

Victoria Barnsley: But you need to explain that more...

Lord Burns: I don't understand it.

Victoria Barnsley: ..because I mean this was when you had some sort of partnership relation with those third parties?

David King: No, no, not at all. BBC Worldwide does not acquire all the rights the BBC effectively creates when it creates ideas. John said 21% in fact of the value of rights goes outside the BBC Worldwide and 79% comes into BBC Worldwide at the moment and that's the measure we have.

Lord Burns: Are you saying that the ones you put outside also get trails?

David King: So of the 20 books that were licensed to third parties, 19 received "free" on-air trails.

Victoria Barnsley: Are you saying only one BBC book got trailed?

David King: No, I'm not. No, forgive me, I'm clearly not being sufficiently clear.

John Smith: Let me try and put it in a slightly different language. Of the 20 books that the rights agency working for the BBC licensed to people other than Worldwide, 19 got dropped.

Victoria Barnsley: Oh 19 of those dropped. Right, okay.

Lord Burns: So we're getting trails for both the Worldwide books and for the ones that you licence to...

Victoria Barnsley: Yes, okay.

Glen Barnham: Just very briefly because angels fear to tread where the publishers are concerned to get involved in this particular debate but just one small point on the Radio Times. That came in for some criticism. I think we ought to take into account that the Radio Times is a listing, as it is at the moment, run by BBC Worldwide, run by the BBC, it ensures that there are full listings. There are full listings. Where else in any other publication are we going to find out what's on Radio 1, 2, 3, 4, 5 and Radio 7 and all those other channels? Where else are we going to get detailed reports about the Proms? That's not commercial. That's not commercial and if the Radio Times was out there competing in the market, possibly making more money, it wouldn't be carrying full cast lists, it would not be carrying full information on the Arts and films and the Proms and what's on across the whole genre of programmes. So it does provide, it does provide a good service and it does sit with the activities of the BBC because of that. It does sit. And if our publishers here were running it, I'm afraid those pages on listings would probably be adverts for Ikea.

Philippa Brown: Can I come back on that? Sorry, I know this isn't your key area but in fact when we did analysis last year of the Radio Times in 2003, they carried less covers on the BBC programmes than 3 of the magazines – What's On TV, TV Choice and TV Quick. And actually I've got a good example here. This is Simon Cowell in an ITV programme in the same issue of TV Times. It's Simon Cowell.

John Smith: Is this a complaint?

Philippa Brown: No. My point being that it is no longer, as it was back in 1992, a complete remit to promote just the BBC programming and things have changed in the same way that when TV Times was around in 1991 pre-deregulation it was only ITV and Channel 4 programmes. We, as independent publishers, carry other programmes. We carry

programmes on the BBC. TV Times has radio pages, so it's not just the Radio Times who are covering some of those radio and BBC programmes. In fact, as I said, some of our titles give more coverage to BBC programmes than Radio Times does.

Glen Barnham: I must come back on that. If you look at the Radio Times and the 20-30 pages devoted to radio listings, nobody can come anywhere near that and it would be impossible for the commercial sector to get anywhere near that.

Lord Burns: Well maybe we can return to that in the issue of you know alternative ways in which one might be doing that. Richard, do you want to make a point?

Richard Collins: Yes, I did. I just wanted to take up one of the points that David interestingly made and to return to this question of launch budgets. Victoria earlier said that all of us here, you know, are in favour of effectively exploiting the BBC's assets and I think that's quite right, I certainly am, but I think the issue is what's the appropriate relationship of the BBC's commercial and public service activities? I think David's actually given us an example where possibly that relationship stands in the way of the effective exploitation of the assets. If the magazines are not getting adequate launch budgets within the context of BBC commercial activities, this may not be an optimal arrangement.

Lord Burns: I mean could I ask Tim I mean in terms of whether you are open-minded on some of these issues? I mean what we're hearing is that there needs to be slightly tighter control of what are the magazines that the BBC gets involved with and they should be more closely related to programmes. I think there is, a number of people made a point of rather than doing this yourself you know we should have some kind of licensing system whereby you then put it out and it's tendered to the private sector magazine publishers rather than seeking to do this in-house. For this to be done also would need a quite clear transparent system whereby everyone knew the rules and were able to participate in it on an equal basis and then the issues about on-air promotion, which quite clearly does upset those people who don't the access to this, all those people who would love to advertise on BBC television programme. Okay. I mean are any of these things up, I mean do you see them as...

John Smith: Absolutely. Can I just say a few things, Terry, in response to that? I think the big point I'd like to just say to start with is the one of exclusivity because I think it's just a mistake to assume that Worldwide have got exclusive access to the output. I mean just to put it in context. Of all the magazines that Worldwide produce only 9 of them are a direct relationship to a particular programme that appears on the BBC and quite a good proportion of those are programmes made by independent television producers. The programme appears on the BBC but is not made by the BBC and under the new terms of trade people will probably know those rights are owned prima facie by the independent, not by the BBC. And if W Manners who's sitting in the audience who runs the commercial agency, if somebody's got a great idea for a magazine associated with a particular BBC programme, fantastic. Let's sign up tomorrow. Absolutely fine. So open for business. So the (INNAUDABLE) is not there. So that's just a mistake is the first thing to say. The second thing to say is about margins because I think the point you made, Richard, about the launch budgets and some of the points people have made about whether or not it's being done effectively, you talked about the number of staff that you've got and so on. I mean that's a decision for you. The only thing I would say is that I think we, as the BBC, certainly as the owner, BBC as the owner of these companies, have a right to expect a rate of return which is absolutely in the middle or preferably at the top of the range of commercial margins for businesses like this. BBC magazines is big enough. It's third in the market I've already said so it ought to have the advantages that scale brings, and this is a market where scale matters, so we ought to get the kind of return that anybody else in the sector is earning and that's something I will definitely be striving for. In the books and videos and some of these other areas, personally I think our margins are inadequate and we need to work urgently at that and I do think it's wrong for us to be running a book business at a loss, competing against other people who are running book businesses at a profit. Obviously that's not right and we need to put it right. On the question of on-air trailing, if I could just say that the thing about on-air trailing, it is definitely a sensitive topic, no mistake about that. It was reviewed in 1992 by the MMC. And I can't speak for them but the conclusion of that review was a limitation on the amount of

minutage that can be trailed. Just to put it in perspective, only 1 minute a day is allowed of trailing and all that trailing has to be in the form of a still. It can't be actually in the form of an ad and there is a big difference between that. Of the total minutage that was trailed last year on the BBC's airwaves, roughly 10% of it was for private companies, nothing to do with the BBC at all. So other people who have books, as David has said, which we have trailed because it conforms with the guidelines. And the important thing I want to conclude on on the question of trailing is the guidelines. The whole idea of these trails is to allow people to sort of extend their enjoyment of a programme by saying at the end of it by the way, if you want to take your interest in this subject further, here is a book or a magazine, whatever, that you can go and get and find out more about, wildlife or whatever. But they are subject, these trails, to fantastically strict guidelines and if I could just quote them. First of all products trailed must be directly relevant to the programme preceding the trail. Secondly, in the case of magazines, that means that the magazine must have an article in it about the specific edition of the programme and overall the magazine must support the programming by having at least 20% of its editorial content made of articles that relate specifically to the subject matter of the programme or are written about or by the talent from the programme. And as I've already said, non-Worldwide stuff is also trailed. So I recognise it's sensitive but those constraints don't appear to me to be horrific. Indeed I said to Victoria in the break I rather enjoyed the book launch of Greg Dyke's book earlier this week. We don't do ads but let me give you a quote for it now. It's produced by Harper Collins. I went to the launch. It was absolutely brilliant. I also watched – it's a great book. He was my mate and boss. But I went to the launch but I also watched the Channel 4 programme going out on Sunday night. Now if ever there was a direct link of a book and a programme there it was. Was there a trail? No. Why not? Don't ask me, it's Channel 4.

Victoria Barnsley: Well actually because there wasn't a direct link because we didn't own the TV rights to the book and so we weren't but anyway we should have done.

Lord Burns: Sly?

Sly Bailey: Overall I think what you're saying is that you're not satisfied with Worldwide, you're not satisfied with the margins because I mean as a licence fee payer you'd have to say if it's contributing, I think the figure you took was £6, then potentially it could be £12, it could be £20.

John Smith: Yes. Yes. Although I mean, just to refer back to the opening point that was made today of the dichotomy between very good performance, which I would like, and irritation in the market-place...

Victoria Barnsley: Well quite.

Philippa Brown: Can I just ask John, are you saying therefore that you're satisfied with the on-air promotion and that will continue therefore for BBC Worldwide programmes and that's it, end of conversation?

John Smith: I'm not quite saying that. I mean I'm not sure it's quite my bag if you know what I mean. Those constraints exist to try and tighten things up and make sure that this is not just a sort of free promotion of BBC only products and I do think they work. It's really a sort of OFT, MMC issue if they really want to vary that. I mean all I would like to make sure is that we comply completely with it.

Philippa Brown: Well I mean what's quite interesting is on those guidelines back in December 2002 we wrote to Pam Masters asking for on-air promotion for Soap Life and Rugby World which exactly – which are two of my magazines – which exactly fall in line with the guidelines you just mentioned. Over 20% of the magazine was dedicated to BBC programmes – Rugby World in the case of 6 Nations rugby and Soap Life in the case of Eastenders – and we got turned down. And I think it's wholly unfair. And the reason why it was rejected was because we were told that our magazines had to be produced in conjunction with whereas BBC Worldwide magazines only had to compliment. And I think

that, and I've got letters in here to show you. And I actually think that is a complete unlevel playing field.

John Smith: It sounds that way. I'll have to re-look at it.

Lord Burns: I think we...

Tim Gardam: Terry can I ask whether the commercial/occasional partners with the BBC would be happier if there was no on-air trailing at all. Is that what you're asking for?

Philippa Brown: Yes, completely.

Lord Burns: Okay, well shall we move on? I think the, in some ways we heard in the opening session this morning the publishing area is an area which of course has most tension. The next one in my list I have is programme distribution. The division sells all of the broadcasting rights to BBC programmes to other broadcasters in both the UK and abroad. Presumably we're saying, well we heard this morning there is an issue about whether you're selling a list or you're allowing people to kind of cherry pick from them. I think the issue is whether this is the most efficient way of doing this? Is it making as much money for the licence fee payer as other means of doing it? And I would be interested to hear from people whether they think there are other ways of doing this or if the general contentment, which I think I heard this morning, is broadly shared or is that just a reflection of who it is that we chose to be on the panel? Who would like to start this?

Geoff Metzger: I'll start. I think on that last point I think Tiger Aspect is obviously one of the largest players in this market and I think probably though that other members' impact wouldn't quite have the same sort of response that Peter gave. It seems to me that the BBC, now that it's been made really to, it's been reined in on this issue of independent producers I think that's a good thing. It certainly creates opportunities for us; I hope it does, in the supply market. We've had trouble quite honestly in the supply market because the BBC has got the massive advantage and leverage of the purchase basically and they've used that very well for various reasons, as you would expect them to do. It's a good business. But I do think that other members of PACT (INAUDABLE) probably wouldn't share Peter's actual comments on this issue. I sincerely hope that there aren't sort of, there isn't much wiggle room in these new guidelines. I think that there is a potential for wiggle room, a behavioural wiggle room that is to say that the whole backs on programming may become an issue. I wouldn't like to see that happen. It would certainly deny us further in the sort of vital programmes of (INNAUDABLE), so I think that's something that needs to be taken account of. I think just generally in the supply market, I mean the new guidelines address original production and the 25% that the BBC now will be made to go outside for. I think the other issue for us is the acquisition market. It's a huge part of what we do. It doesn't regard the independent producers particularly. Much of what we buy we buy off the shelf. We go to third party distributors to purchase things. I think it is the case that any third party distributor will consider its options very carefully if it's going to put its big terrestrial licence at risk by trading with the BBC's competitors and I don't think that the new guidelines address this part of the market in any way whatsoever. I mean I think that's something, which should be taken into consideration in the Charter. I think...I'll stop there, yes.

Lord Burns: Peter?

Peter Bennett-Jones: I mean I can't speak for other individual companies but there's no doubt it's potentially a healthy time for independent suppliers of programmes to the BBC due to the Communication Act changes and the importance of deficit financing or third party investment has increased with that. There's a sort of marginal decrease of investment from the core services. And it's just an opportunity and Worldwide – again I go back to the scale point – have the opportunity to take risk. And I don't agree with Bill when he said earlier that the market will bring other things, you know bring things to the surface automatically in a creative industry. I don't think that's the case. I think a lot of very good things don't happen and a lot of things only happen because people who have got the power to invest and provide outlets for your properties take a risk, be that in partnership, be that as a commercial decision

which is that BBC Worldwide is in a better position to take than most and I think that applies to all programme suppliers. I don't think it matters if you're Tiger Aspect or you're a one programme a year. I mean there's an animation series we're doing at the moment which also involves Disney but as a sort of junior partner in the exercise that would not be happening without Worldwide's support. It's got BBC1 support, as I say Disney, some French money in it but the substantial investment has come from Worldwide and obviously we hope it will be, you know emulate the success of Tele Tubbies and you know other properties that BBC Worldwide have managed very successfully. But you know we play the field. There are different, you know, instances where one doesn't go to Worldwide because their terms are not correct or you divide the rights up. I am making a couple of episodes of Vicar of Dibley next week where I've actually given them the TV sales rights but not the video rights because they've consistently undervalued its video worth in the market. So some years ago repurchased their investment in that and have done it through Universal to great effect. So I'm not saying it's perfect and there are obviously you know tensions in any commercial relationship but it's undoubtedly more efficient than it was. There are more opportunities. It's putting you know bread in the mouth of the creative community in many ways that wouldn't otherwise happen. And so I feel as though it's going to become more important as this market changes and there's more entrepreneurial opportunities for independent programme makers.

Lord Burns: Alan?

Alan Budd: Yes, I was very interested indeed by that answer because I was going to ask a question after David King's reply to my question and I only put it as a question. I have no views on what's good or bad and I was going to ask the following question: Are you going to tell me or David that commissioning decisions in the BBC are made on the basis of gross cost rather than net cost. All they care about is what it costs. The possibility of revenues somewhere down the line is nothing to do with it. They just make commissioning decisions and it seems to be consistent with his answer would be yes, that's exactly right. That nasty commercial man is not in there when we're making these decisions but your comment seems to suggest the process is quite different, that you do in fact go to Worldwide and come up with a project in which you are already taking into account the revenues you might get from Disney or from whatever it is. Maybe both answers are correct but it's interesting to know what really is going on here.

Peter Bennett-Jones: Well we certainly are taking into account. The person commissioning the programme, BBC1, BBC1 or whichever channel we're talking about, will not be taking that into account. That obviously is a finance element, if that's what it is, within Worldwide will take a third account.

John Smith: You don't find that odd, Alan, do you?

Alan Budd: It just explains to me, yes, okay, let's develop that a bit more.

John Smith: It's very important this. So the Channel Controller, representing the public service and funded by the licence fee, works out what that kind of programme is worth to them and pays that? They are at that point completely uninterested, completely is an overstatement, but completely uninterested in how much it's going to cost to produce never mind how much the rights are worth.

Alan Budd: Is that true?

Lord Burns: And then it's up to the independent producer to decide whether....

Victoria Barnsley: But what if it's an internal producer? I mean he's got to make his budgets work. It's certainly my understanding that for instance if you're making a food programme you would factor in money from the book that would either come from Worldwide or from an independent publisher who would contribute to the making of the programme.

John Smith: No, I think this is really important but actually it's very simple and it's very important as well to just reflect the fact that as far as the Channel Controller is concerned who

is making the commissioning decision, he or she will only pay what it's worth to them in their schedule, BBC1 or BBC2, and it's the public money that's going into it. The programme is then produced by a producer. It could be an Independent producer or the rather excellent Peter Bennett-Jones, and there are many of us also; or it could be a BBC in house. If it is in house, let's say the Drama department, or a better example the Natural History department where there is a lot of third party money. They have got to over the year, more or less breakeven on all of the stuff that they produce and on some things they'll make a profit and on other things they'll make a loss because their costs of production are different to the amount that the Channel Controller is willing to pay. Now of course it's the case that if you're making a programme about lions that it's going to be co-producible. It's going to be exploitable and people are going to third party money to it and if you're the producer you take that into account when you're deciding whether or not you want to make it of course but if you're the commissioner you don't.

Tim Gardam: John, is that quite right insofar as surely there is a relationship between the desire of a Controller to want a programme and how much they will pay for it? And this may be quite justified but to a certain extent you test the market, that you offer so much to the Controller for a programme, saying the rest will have to come from elsewhere. If that money is not forthcoming, it is up to the Controller to decide whether or not they're going to increase the amount of money from their budget they put into that programme because they want it. And I think the suggestion that you make that there is a complete separation isn't quite right. I think what's certainly happened as a result of the BBC being forced to accept the conditions of programme supply review is that there has to be greater transparency in terms of the two transactions that take place but there is a relationship between them surely.

Janet Finch: Can I add another question? It's rather similar but in a different way. Coming from this from a totally common sense angle absolutely outside the industry, I still can't quite believe this complete separation and one of the reasons why, just to add to Tim's question, is that to take the example of a food programme which has a book running alongside it that was mentioned a moment ago, presumably part of the success ratings of the programme is linked to the secondary product and the person commissioning the programme must take into account the fact that if there is a very popular cookery book going alongside it, that in itself may enhance the popularity of the programme. It can't only work in one direction. It must work in both directions. And therefore I can't see how you can keep those two completely separate.

Peter Bennett-Jones: Can I say it does differ with different genre and different types of programmes?

Janet Finch: Okay.

Peter Bennett-Jones: If you take food and there's obviously a secondary market, that will be taken into account. Animation – the television service only pay an average 8% of the budget of an animation project because it's deemed to be an international property. Again and there's a sliding scale and drama is probably 80/20. So it's determined by the scale of the secondary market that is available to one. But I think it's, in my experience the Channel Controller will have a price and commission to that price and expect you to find the deficit, the scale of the slide will vary.

Stephen Cook: I mean I think you know it does vary from genre to genre but in almost all cases the value of the primary rights for a BBC1 or a BBC2 audience are going to outweigh the value of the secondary rights by a large amount simply because you know the secondary rights are what it's worth to go on a channel which has 50,000-100,000 viewers not 5/6 million.

Tim Gardam: Can I come in here and make a slightly broader point having listened to all this because I just want to step back a moment. It's quite interesting, we've heard I think two voices of Worldwide today. We've heard the sort of rather seniorial, civilised voice of John and we've heard the slightly more carnivorous voice of David as the... It's rather one of the those sort of replicant movies but I mean it seems to me what we're dealing with here, and I'm going to pick up Alan's point that it's this equation between public value, which has been

articulated by Glen and by Peter in terms of the benefit to the UK great economy, what the BBC does, and also the benefit and range of programming to the licence fee payer. You've also got the, on the other side of that equation is the equation market impact and when David said he was unconcerned that the BBC's partners were pro the BBC and BBC (INNAUDABLE) ran to the BBC and that was...I mean it seems to me that is precisely what this review is concerned about. And it's inevitable that each side should emphasise either public value or the market impact depending on where they stand but it's the nature of this equation which I think is what is so important and my concern I think is this, that it could be that the what seems to be a very useful idea of the BBC's public value test is in fact just a clever ruse whereby they'll be able to dodge the market impact issues. But equally my concern about those people who are obsessed by market impact issues here is that they aren't concerned about it if it destroys the BBC's ability to maximise public value. And I think the BBC is saying "Yeah, yeah, yeah, we're going to take advantage of market impact in our public value test." I think it's a far more equal balance than that and that's why it needs some external, I would suggest some external perspective to work out how that equation stacks up. Now that relates to what we're talking about here because I think the issue that we're not really addressing is that in many of these aspects if the BBC doesn't do what it does who else will? And it seems to me listening to people talking that the most contentious issue is the scope of the BBC's activities and the further away you go from making programmes the more contentious that is. The BBC's scale in its core activities of programmes and channels seems to be less contentious but there is an issue I think that comes up. It's partly an issue I think of what the BBC commissions but it's also a public policy issue. The government believes in public service competition and the issue of archive sales, and we haven't talked about radio sales at all here today but the issue over archive sales has been very contentious and in the case of for instance one word, and the issue over archive sales in terms of the History Channel for instance. Now I understand the History Channel is part of the UK TV deal but I think what has to be weighed in the balance here is if say the History Channel goes down as a result of the BBC deciding that it's going to launch much later a replica channel, which it's going to do with UK TV with whom it has an agreement, is that a public loss? The fact that a commercial channel went out to the market offering public service competition is then scuppered does that matter? I mean it's something, which I haven't got the answer to but I think it needs to be weighed in the balance. And so what worries me about this argument at the moment is it is very much focused on the issue of is the BBC distorting the market? There's also the fact is the BBC crowding out public service competition which is also a fundamental objective of the overall television landscape which the Charter Review document lays out as wanting to protect?

Stephen Cook: Just on a couple of occasions there's been reference to the BBC launching UK TV History. Just so everyone understands the structure of UK TV, UK TV launched the UK TV History channel. UK TV is entirely funded by Telewest. UK TV has separate senior management and separate staff. They actually sit in our building at Great Portland Street, not in the BBC's building. Any launch of any channel, which is effectively funded by us because any channel makes a loss for the first 4 or 5 years, has to meet Telewest return on investment criteria, which believe me are stiffer than the BBC's return on investment criteria for commercial services. So you shouldn't think that UK TV is an arm of the BBC public service. It is not an arm of the BBC public service in regard to funding or commercial decisions. It is a separately funded, separately run joint venture with a commercial partner.

Geoff Metzger: My response to you Timothy is that I'm delighted to be considered a public service broadcaster. I'm not sure we quite achieve that official status yet but it would...

Tim Gardam: In terms of the value of the material...

Geoff Metzger: Absolutely.

Tim Gardam: ... is clearly (INNAUDABLE) a value.

Geoff Metzger: Yes. No, no, I agree and I think, I mean if, I mean this government and governments before it, the phrase, my problem is to get it exactly right, but I think it's fair competition polarity of supply and diversity of output. I think that's the idea isn't it? And it

seems to me that you make a fair point here. Your point said are these things threatened, particularly the diversity supply polarity of output, that sort of thing? And I think that is a fair point. I mean I think that as far as scope is concerned and the launch of the UK TV channels, Stephen is absolutely right. I don't think anything you said was wrong. Certainly it's a separate thing. I do think, however, that there are special conditions which apply here, which have to do with the unique public subsidy that the BBC gets and the special advantages which accrue to its partners as a result, UK TV, and I think that there is the very real possibility that the BBC, along with Flex Tech, in the form of UK TV can crowd out other channels because it has the weapons to do it with. Now it seems to me that the economic engineering is certainly not a phrase which a lot of people are very pleased with but it certainly seems to me that it's up to the democratic institutions to decide exactly what kind of a market they want. And if they want less of that polarity and diversity, the BBC has a very good chance to make that happen.

Stephen Cook: Yes, I mean all I would say is, if you look at the section under UK on the Sky EPG dealing with history channels and biography channels and general documentary channels, I doubt you will look at any other television service in the world and find as many, a plurality of channels.

Geoff Metzger: That's true but I'm not sure how long that can last actually, you know. I don't think this market actually can sustain it for that long.

Tim Gardam: Could I ask John what the BBC's policy, well how you are...

Lord Burns: Tim, go ahead.

Tim Gardam: Picking up the particular issue of the BBC's material in the wider market, how your thinking is developing on the BBC's attitude towards making its archive available to people who want to buy it where the BBC doesn't have plans to use that archive or they haven't already got a pre-existing deal with a partner like Flex Tech because it certainly has been the case that the BBC has refused for instance to sell its archive to independent producers making programmes for other channels – this happened when I was at Channel 4 – on the basis that it was making a programme of a similar nature, programmes which of course never then appeared. But I just wonder how your thinking is changing about you have this public asset which is being funded by the licence payer. This is clearly of benefit to that material in a fragmented market to be heard or seen by as many people as possible. What is the public service position on letting that material out so to speak?

John Smith: I think it's a good idea.

Tim Gardam: And that would be a change of policy?

John Smith: Well assuming I can get it through but I think it's a very good idea. I mean it's obviously subject to the usual problems of can you clear the rides and all that caper but, assuming you can, I mean I think it's rather sad if a lot of programmes are sitting in an archive and a commercial broadcaster, or indeed anybody else, wants to exploit them and show them and they can't. I think that doesn't sound right. I think that's a perfectly good point.

Bill Bishop: Can I just, just a interjection on fairness here. What is fair under the BBC's fair trading conditions is pretty similar to what you find in lots of very good industries and it can seem pretty unfair to particular companies outside and I quite understand the History Channel feels aggrieved. Somebody has come in with a copycat product. Well that's competition though. That's true in every industry. Second, that the costs that need to be met generally – Richard Wish made some observations on this and I assume they were put into the conditions – that it should be the incremental costs that need to be, you need to beat that hurdle in order to have that channel, that is what's additional to things being incurred already. Now the BBC is in an unparallel position, wonderful historical archive and it would be wrong for that not to be exploited. And it may have the very and the individual, from the History Channel's point of view, a very unfair seeming effect that they are suffering dreadful competition with someone who can't beat them and has got access to this wonderful archive. But you know that's, I mean competitive markets are like that. There's no particular reason why that should be

unexploited. There's every reason why it should be exploited. I also can't believe, I can well imagine that the History Channel might conceivably exit the UK market one day but the History Channel sells in many markets around the world. It's not going to exit the world and that would just be a matter that the Beeb with this wonderful archive just can produce a product that's going to have more appeal in this market than the History Channel.

Geoff Metzger: No, I agree completely. I think there is a natural law here which is operating. I think you're completely right.

Lord Burns: Richard?

Richard Collins: Yes, can I just make an observation on the theme that Bill has introduced and to say that what he says is true but this is not a market just like any other. This is a market where the government and public policy said that diversity of supply is good in itself. We've also got the vexed issue of whether the assets created by the accumulation of resources from past licence fee payers are best exploited in such a way that the incremental cost pricing that Richard Wish has suggested has the effect of driving out competition or chilling competition. And there are public policy issues here beyond those of other competitive markets.

Bill Bishop: I agree with that. Diversity is almost unique to media markets and quite properly as part of public policy and does have to be factored in. I'm not now saying that it necessarily has the result that the BBC shouldn't have a history channel or rather in partnership....

Richard Collins: And neither am I.

Lord Burns: And presumably, I mean if we all accept the notion that there is this archive and it should be available and people should be able to see it who want to see it, I mean that still leaves open the issue as to the particular mechanism whereby that is brought to viewers and listeners does it not? I mean whether it should be done by the BBC and they should then in a sense control it in relation to their own programmes or whether it should be more generally available in order to increase the kind of competitive tension within this market-place?

Stephen Cook: Can I just say that I mean from the BBC's point of view, as a rights holder like any other rights holder, it has to be concerned with the long-term value of its product. It's easy to say all their archives should be made available but as a rights holder you do not want all your archive to be made available all at once and then it gets tired very quickly. You know it doesn't matter if it's a Hollywood studio or the BBC or ITV or whoever, the primary concern is the windows in which they show these programmes in order to keep the value of that property as high as possible for as long as possible.

Tim Gardam: That is the right of the BBC. The BBC or Warners or whoever, surely the BBC is different because this material is public property?

Stephen Cook: Well in that case they're the custodian for the public property then but they are concerned to maximise, as I understand the theory, once you have, once it's been shown on public service broadcasting, you try and maximise the economic value of that for the public good and one of the ways you do that is not to show all your programming at once so everyone is bored with it within a year. And the only other thing I would say is in many ways the argument that is going now is an argument that is going to be overtaken by technology anyway because there is going to be even more windows for these rights in the next 12 to 18 months when all the on-demand services come in.

Lord Burns: Actually I'd like John to come in, then Glen and then...

John Smith: A couple of quickies. I mean just one quick one on the History Channel. Of course don't forget that Worldwide also licences history programmes to the History Channel so it's not like a closed shop as is perhaps being implied.

Geoff Metzger: They've done me some favours I have to say.

John Smith: It can't be discussing 45 different titles, so it's not entirely as printed. But on this business of the archive, I mean just to be clear of course the archive is huge, the biggest in the world, and the agency that Debbie runs over there already licenses rights to other people. I think the issue that you've alluded to Tim is the other terrestrial UK broadcasters. There's been resistance to allow that to happen from the BBC's channel controllers on the...

Tim Gardam: And the media too.

John Smith: Pardon? (INNAUDABLE) on the presumption that the programme might be then shown against them in direct competition with them and undermine their very public purpose. So you can see why there's a sensitivity behind it but rights are available to anybody for any commercial purposes at all apart from that already, but I've already said I think it's quite a good idea and we should be looking at it.

Lord Burns: Glen?

Glen Barnham: Yes, I think it's a case of getting the balance on this particular issue of making programmes available. I mean when Greg made that announcement last year and said all programmes are going to be available on the Internet, you can have it for nothing, and I can assure you the next day the phones had the estates of Morecombe and Wise on and said "No bloody way" and a few composers and a few other people too. So it's a case of getting the right balance. I know the kind of programmes that are available or will be available in the near future will be those programmes where there are rights issues but it's a case of getting the right balance and I've got to say programmes have been made available to Channel 4 and Channel 5 weren't prepared to pay the prices. The prices that were offered would not have covered the rights holders and there must at the same time be a return for the licence fee payers. They've invested in those programmes, so the licence fee payers, or if those programmes are going across channel, then there needs to be a fair return back to the BBC and I say Worldwide, from Worldwide back into the BBC for new programming. There's also the rights issues of people's repeat payments and all the rest of it. So it's a case of getting the balance, getting fairness there but not to just wholesalely just let stuff out of the window because if you let it out of the window, you're letting the crown jewels out. It needs to be balanced. It needs to be fair. And coming just lastly on the point that Stephen has made about the joint venture channels, because effectively it's the BBC selling partly to itself because it has a deal with the UK, the joint venture deal. They're selling programmes. I will say – and you know I have so many arguments with the BBC, I've gone grey because of rows over the years so you know I'm sounding a bit in their defence today to some extent – but in all fairness the programme prices that they're effectively selling to themselves were locked into that process. We are locked into that process. We know what they are selling those programmes for. We can challenge those and we have a mechanism where we can go to an independent person, an independent panel, an independent person to say they are not charging enough for this programme they're selling to themselves. So coming back to sort of checks and balances, they are very much effectively there and the kind of programme prices that have developed in UK Gold have moved the rest of the market up, not moved the rest of the market down.

Lord Burns: Richard?

Richard Collins: Yes, I think this has been interesting because it's flushed out some very interesting points which go to the point Alan Budd raised I think about how far the commercial activities impact on the public service vocation. And I think, you know, Stephen crystallised that very interestingly. The commercial interests of the BBC as a manager and exploiter on commercial terms of that archive are best served, I'm sure you're right, by restricting supply but this archive has been created by the licence fee payer because public service broadcasting is seen as something that is good for people. It's a set of merit goods. And if we are restricting access to these merit goods, we're doing something utterly perverse and which undermines the main ethos and ration of public finance of public service broadcasting.

Lord Burns: Indeed isn't it the role of all monopolies to reduce the supply of the product they have in order to maximise the price?

Richard Collins: Yes.

Stephen Cook: I'm not sure it's maximising the price of the good in that the prices we pay under the programme licence fee are high that must said. They are fair but high. Yes. And I do think it will change as we move into an on demand world but if part of the remit of the commercial activities is actually to make money which goes back into the BBC and reduces the amount of public funding that is necessary, then I think the BBC as a whole as a custodian of that public money has the right, if not the obligation, to try and maximise the economic value of that and balance the rights against, you know, balance the public's right to see any programme any time it wants with the right to keep the licence fee at a manageable level.

Lord Burns: What we haven't touched on are two areas – BBC Resources and BBC World. I mean this may be partly because I think they are possibly under-represented by people in this area but do any of the people here have any comments about the way in which BBC Resources works, the whole issue of selling surplus capacity, or BBC World, which is an international channel funded by advertising revenue and therefore it does fall under the general remit that we are looking at today? And I wouldn't want them to be ignored simply because we find some of these other areas slightly more contentious. But is there, I mean maybe you could, I mean is there an issue from your point of view with BBC Resources, BBC World? Is this figuring very highly on your....

John Smith: Oh yes. Yes, yes, yes. Absolutely and I mean I sort of said rather briefly at the start we're on the brink of selling one of those subsidiaries that falls into a similar category – BBC Technology Limited. And although that itself is a contentious decision, just to explain it because it's very relevant to this seminar, Chairman, is that technology supplies basic PC and telephony to people who work for the BBC. It also supplies kind of high end broadcast engineering and broadcast consultancy. They fit out studios and things like that. Very capable, very successful in all sorts of ways but it started as a division of the BBC just sort of doing the technology for the BBC. It's then turned into a limited company. It then starts to get into the market. It starts to earn some work from the commercial market about 10 or 20% at the moment, but we as a buyer of these services did some benchmarking work last year and found out that the prices we were paying for this service were substantially higher than would be the case if we went to a much bigger competitor. And so we decided to put the contract out to tender and Siemens won and Siemens have done a deal whereby they buy the company from us and they then provide these services at more than £30 million a year cheaper than was the case before. So obviously it makes a lot of sense to sell. Now I think in the case of resources and broadcast the situation is different. Both of those companies are similar in that they supply services to the BBC mainly. They're similar in that they are limited companies trying to earn at the margins some income to fill up their capacity. They're different in that we've benchmarked their prices and they're actually about market normal for the kind of services they provide for us. So in terms of the amount the BBC is paying for them, they're in the right place. The question is whether we do it as effectively as other people would do and that's a question that I'm trying to address right now.

Bill Bishop: There's been some – perhaps this is entirely irrelevant and please someone will tell me if it is – there's been some talk in the press about selling or floating BBC Worldwide, some sort of capital market participation in BBC Worldwide. Is that a relevant question here today?

John Smith: Worldwide is the company we've just been discussing. We're just moving onto the other ones.

Bill Bishop: Right. No I'm sorry. I didn't realise we were about to move off... I want to just ask that question before we totally move away from Worldwide. And the reason, the only, obviously the contractual condition, if such a move were contemplated, some outside capital participation in it whether independent or not, then of course the capital value will depend very much on the contractual conditions. And the contractual conditions themselves is virtually everything we've been discussing this morning, adds what the obligations are and they may

extend beyond the life of the Charter. So that's why I asked the question. It hasn't come up this morning and I was slightly puzzled why it hadn't come up.

John Smith: No, I mean just on the question of extending the life of the Charter, we've got loads of contracts there extend beyond the life of the Charter because you've got to run the place on a going concern, so you can't, things can't come to a dead end in 2006.

Bill Bishop: These are the facts and conditions. The value obviously depends on whether or not they can push advertising down your....

John Smith: Yes, absolutely. Well I mean the speculation in the press was just enough wrong to frighten the horses and the bit that was wrong it's basically that the article in the Financial Times said that we were inviting bids and we had appointed a merchant bank. Neither of those things are true. And the reason why they are not true is because we're in the middle of a review so we don't yet know whether selling off is a good idea or a bad idea and we won't know until we've got to the end of it. It's obviously an option. It's obviously an option but then there are lots of other options too. And although superficially for some people the idea of selling the company off is the right thing to do, there are plenty of people on the other side who can see that that is not the right thing to do and, you know, including the question of whether it would be a good idea for companies in the market-place to have the BBC's brand on the company trading completely independently of the parent, which is a public service. You know how good is that? So I think those issues have to be thought through. On the rather narrow point then about the contractual controls, of course that's right. The nature of the contract dictates the value. If we did end up wanting to do it of course, we have sort of set the precedent in our deal with Telewest because we've had to go through all those contractual negotiations and get the mind out in order to form a 50/50 joint venture which stands independently of the BBC already. It doesn't have the BBC's brand as it happens but it is a 50/50 JV that would be run on similar lines. And my final point – and let me just emphasise absolutely it's just an option but there are plenty of others and there are arguments for and against it – but my final point is that this option strikes at the heart of this dichotomy of should we be operating in a spot market for rights, whereby each individual right is sold individually, or should we be operating in a way that the rights are all bundled up in a great big contract and then we let the capital markets bid for them? It strikes at the heart of that key question, which is an economic question.

Lord Burns: Absolutely. And Bill also make the point I think that, as is clear from the discussion we had this morning, that some of the terms of such a deal could be affected in a sense by the terms of the Charter going forward in terms of what it was that the government thought it was sensible to operate...

John Smith: Yes. I mean we can't, interestingly we can't buy shares in a company or sell them without the Secretary of State's approval. So if we were going to go down any of these alternative options, it would require the current Secretary of State's approval and so if one assumes that if you've got approval we wouldn't have a charter coming in 10 minutes later that contradicted it, one presumes.

Lord Burns: A great leap in consistencies, which we will cherish. Janet?

Janet Finch: I was going to go back to the question of the other companies, which we haven't discussed very much if I may and one that hasn't been mentioned except at the very beginning is Vector, that you've already divested yourself of. I'd be interested to know a little bit more about it because as far as I see it there's a parallel argument about this, which as I understand it is as you said John was a company to exploit the IPR generated by Research and Development in the BBC. Is that right?

John Smith: Yes.

Janet Finch: As somebody who runs a university, I know how difficult it is to have an effective way of exploiting the outcome of R & D so I'm very sympathetic to that. But it seems to me that there's a parallel argument to the one that Sly made a few moments ago, which is

that as a licence payer I'd quite like to know that the assets created that have been created through the investment of the licence fee in R & D are actually being properly used and possibly to reduce the licence fee further. And I wonder whether this is an example where, listening to the debate this morning, there's a sort of small recurring theme about amateurs, big amateur in the BBC in terms of some of these commercial things or perhaps a history of having been a bit amateur about it. And I wonder whether there's an issue there. Why wasn't it possible to create a successful company that could exploit the outcome of R & D?

John Smith: Okay, that's a very clear question. I mean by the way not everything's amateur. You know...

Janet Finch: No, I'm sure it isn't.

John Smith: ...BBC Worldwide is the biggest exporter of audio/visual material in the UK, you know, and we've given the statistics about the channel penetration and the magazine successes and so on. The trouble with Vector is, you know, R & D is not the biggest thing the BBC does. It's very lumpy. Like you have a great idea once like Nicam Stereo, which is a BBC property, and then you don't get any for a long time. The idea of having a business sitting there that's just waiting for the great ideas to roll off the machine it's not really what the BBC is all about. It is a marginal activity. So I just felt, based on the actual performance of the company, i.e. not good, I just felt that you know we were never really going to be very successful in that game and we would be better off licensing the right to other people who are much bigger and have got much more clout and are more organised at spotting IPR coming off an R & D machine. I mean there are plenty of people out in the world who do it extremely well - Sony, just as an example. I mean that's what they do all the time. So go to one of those people rather than trying to form one of our own. And I suspected that we'd sink a lot of capital into this and not get much return out of it and frankly, you know, I'd rather put money into TV channels where that's what we do, you know, simple as that. But I am saying I think we should license the right to other people.

Janet Finch: Yes. I mean there clearly would be an issue of public policy if nothing was happening to that particular asset..

John Smith: Agreed.

Janet Finch: ...so it's then a question of how you create an alternative route for its exploitation and I guess then the whole question of transparency and all the other things that we've been talking about this morning in relation to publishing particularly come back in there don't they?

John Smith: Yes.

Lord Burns: I think we should break now. I want to then return onto some of the issues about regulation and disclosure in this whole area and to take any questions. I've had three questions so far which maybe I'll just put to you now. And one says: "As a result of the Communications Bill, the BBC now has entered into a Code of Conduct with independent producers. In the interest of fairness, should the BBC also have a Code of Conduct with freelance contributors, many of whom currently have their rights abused by the BBC Worldwide?" And the second question: "Given the lack of clarity about where public service ends and commercial enterprise begins, do we also need to look at the commercial impact of a service like the cultural archive?" which I think we've given a bit of room to already. And another questions which raises, one says that the numbers that you show for the benefits of BBC Worldwide, a large proportion of those in a sense exist just from the rights alone rather than servicing them from the management of the business and to what extent are you really adding value by doing this yourself as opposed to doing it by some other means, you know? And how persuaded are you of the...or is this just something which has emerged over time or is this something that you will be looking at in the review in terms of the alternative ways of actually doing this?

John Smith: Shall I answer? The freelancers, I don't understand the freelancers point. I don't know whether David does or anybody?

Glen Barnham: Well I might be able to help on that. It's not my area so, you know, I've not got a vested interest but there are areas within the BBC and some contributors where they believe, and I think there's fair reason for believing it, that there is huge room for improvement. They are key areas. They're not within the Equity agreements or the MU agreements but some of those freelance areas which where there's frankly lack of representation, presenters and people like that, even with the presenters they're told "That's the contract. That's it. And there's not another penny afterwards" that's an area that I know is being looked at. And in fact I'm joining some agents meeting the BBC in a few weeks' time to give some advice on that. And there's also some of the areas within music and composers and I know that specific issues have been raised with the Beeb. So it's not a bad thing, the BBC to say yes, the Code of Conduct is now with the Indies and largely pressured by Tessa Jowell and I think the time has come to look at some of those other areas where there is pressure, where there is genuine grievance where a Code of Conduct for fairness, for transparency and for open discussion. I'd probably leave it at that.

John Smith: But that's about the public service it sounds rather than..and it's not the...

Glen Barnham: Well I think it's in the commercial area as well, yes.

John Smith: Is it? Right. Okay.

Glen Barnham: I mean certainly I can introduce you to a couple of people after the meeting.

John Smith: That sounds very threatening. Is it in a dark alley? It sounds like it might be.

Tim Gardam: (INAUDABLE)...criticisms I've heard from commercial radio companies that the BBC will sign deals cross media with talent, which therefore prevents television talent appearing on radio even though the BBC hasn't got any radio access for them. And there's a question mark of whether that's the right thing to do or not.

John Smith: Okay, I mean where do I put the question? I don't know how you want to take it forward. I'd be very happy indeed to look at it if you could flesh out the point in writing or whatever. About the cultural archive we've probably...

Lord Burns: I think we've dealt with, yes.

John Smith: And the question about are we adding value, I mean I think that all, that all comes under this heading of do we do it well enough, which was in my opening point. And insofar as we are not earning the right kind of margin relative to the position that we've got in the market-place then we have got to take action and the action might be to cut costs or to do better or to get out of the sector altogether and let somebody else do it and that will be absolutely central to the review.

Lord Burns: Okay. Well let's have a break and if there are any more questions that people want to put on cards and before we discuss some of the issues about regulation and disclosure and then we'll have a wind up session where people can ask questions from the floor. Thank you very much. 10 minutes break.

(Coffee Break)

Lord Burns: Thanks for coming back so promptly. Blackberries off again please. We had on the agenda for this final question to, the final session rather to explore issues about fair trading issues and distortion of the market, regulation and disclosure of the businesses. I think we have touched on each of these and I'm not sure there is a huge lot more to say about it but I think I would like to pursue the question of the present processes that are used for dealing with this and whether everyone is content with them. There has been raised the

question of judge and jury. Are the BBC in a sense a participant in this but they're making the decisions? Are there improvements in the process or indeed is it really the problem to do with the other issues that we have discussed and, if we were actually dealing with some of these issues in a different way, for example such as licensing, then there would be rather less pressure in a sense on that dispute procedure and the regulatory process? I think also, and it's reflected in one or two of the questions that the people have put to me, that we've already had this morning some rather more financial information about some aspects of BBC Worldwide than we have had before and has there been a reluctance in the past to maybe give as much transparency and as much information about some of these areas as there might be? And so the, I think this is a, one would say that fair trading issues and distortion of market, I mean not so much the arguments, I don't want to go over the arguments we've already had on this but to concentrate really on the question about the processes that are currently being used to resolve disputes in this area and whether people feel that there are some changes to the process that should be introduced for as long as we have the present model and the issue about just how much transparency is it reasonable to have given that there are always commercial confidentiality issues in this type of question, so can I look for comments on those?

Philippa Brown: In terms of the process that we went through when we were complaining and asking for on-screen airtime for Soap Life and Rugby World, I think there are two points to be made on it, two observations. One, the length of time it took, and it took over a year in the end and many letters backwards and forwards, letters of apology from various people saying "I know I haven't got back to you but we will" and that was deeply unsatisfactory because actually because of the length of time it took, actually the 6 Nations Rugby tournament actually went and so actually that argument was....

Lord Burns: Indeed. That was very effective.

Philippa Brown: And I guess the other issue on process is again, and I know it's been mentioned loads today, is transparency and openness in that when it was being debated, the BBC were present we understand from Worldwide but we weren't. And I think if you are going to debate an issue like this, it would be good to have both sides there, both points of view and then for the governors, whoever is actually regulating it, to then actually hear both sides, not just a piece of paper and then to make a decision based on that. And we were very disappointed with that because there's so much you can put in a letter and there's more if you're there and you can sort of say in public. So they would be my two observations on the process that I have experienced in my organisation.

Lord Burns: Any others?

Geoff Metzger: I think actually about just on the general issue of regulation, I think that, I mean I've already said that we think that the Fair Trading Compliance Committee is probably not adequate as a self-regulating institution and that we would be more comfortable with seeing a lot of these matters brought under another regulator. The DCMS I guess is, well it is the final back-stop regulator but it's not, not has the DCMS given us great comfort, particularly on the scope issue. I mean the DCMS said in 1997 that the BBC should only launch 8 commercial channels and I think that recognised that there was an impact on the market. And then in 2000 they lifted those restrictions without telling anybody, not the commercial sector, not parliament, not a select committee. There was no consultation on that and I think it's good that this debate is happening now but I think the horse has bolted a bit for us, a bit like Philippa has a problem with the 6 Nations. So I would now be delighted to see the BBC come under another regulator in this regard as far as commercial activities are concerned.

Victoria Barnsley: Can I just come in? I just really want to add my voice. I think John has talked about really the difference of currently sort licensing rights almost on a spot by spot basis as opposed to sort of bundling them together and I think obviously that if they are bundled together and partnerships are formed, that actually could distort the commercial market far more greatly than it's been ever distorted before. And therefore it becomes absolutely essential that there is a sort of transparent and public process as to how those companies get to have those partnerships. I mean there has got to be a sort of public tender

of some sort and I very much hope that they will take that into consideration because it, you know, it is quite worrying. Also on just the other issue, I think there is this whole issue of compliance with the, I mentioned earlier Curriculum On-line. I mean there are all sorts of agreements that have been entered into by the BBC in terms of percentage of National Curriculum and content that they all control. That's got to be policed and I think it's going to be very interesting to see. I'm not quite sure that actually there is a sort of body yet in place that is going to effectively check that there is compliance on that issue.

Lord Burns: Bill?

Bill Bishop: Can I make just one observation on process? An independent regulator would judicialise the whole thing. You'd get the law firms involved, you'd get years of petty...you know would you really want that? If anyone in the industry wants that, I don't know. There is however an intermediate between the BBC doing it itself and suspicions naturally arising that it's just too cosy and that's to have a panel of people who are independent of the BBC but, and knowledgeable in the area, but were willing to adjudicate/advise on these things. It's interesting oddly enough that the Office of Fair Trading itself has got such a panel to prevent it from doing stupid things and it would not be a bad idea for the BBC to have a couple...Ricky Wish, who did the work a couple of years ago for example, a very distinguished legal scholar and expert in the area, and would give some independence to it without turning it into a judicial forum. So it's something the committee might consider.

Lord Burns: My own experience with these things has been that having a pretty effective timetable with set dates and periods within which people have got to respond in various directions is also a rather important part of this type of process.

Bill Bishop: Yes. I totally agree with that, yes. I entirely agree with that. There is, it has to be said that these timetables however tend to be stuck to at the beginning when everyone's committed to it but over a time the various actors in the drama, including regulators, have ways of extending the timetables. "We want, you know, some pre-discussion before you formally seize us of this matter and we need to have the procedure for stopping the clock because we need more information" and I've seen this happen in merger control on both sides of the Atlantic and it's a natural. I'm not saying, I absolutely agree with you, a timetable is a good thing, very hard to make is a self-enforcing timetable where people are repeat players in the industry, in the process.

Richard Collins: Can I just make an observation? I think, you know, the principle of independent scrutiny is clearly an important one and that's been noted before. Where I think I tend to disagree with Bill is I would prefer to see this as a charge on an independent regulator. I think it's useful to have a body that builds up a feel for the organisation in the body of expertise and, although Ofcom has got plenty to do, it would be the obvious place to do this, not least I think because many of the issues will be familiar to those involved in cost allocation regulation in Telecom.

Glen Barnham: I've got some sympathy for Bill's point on this. There needs to be checks and balances and having an independent panel can be something that can be pretty useful, pretty effective and it's useful in other industries. You start setting up a whole new regulator, it becomes – this is a private comment by the way, not from the organisation I'm here from – if you look at Ofcom, you know it's going like Topsy. You know you almost feel that people probably turn up each day and think well what can we invent today? How many papers we can send out today? Can we reinvent the wheel for the fifth time this week? There's a danger of that and lots of lawyers and lots of expensive machinery and huge sums of money, you know, going into that sort of Ofcom area, so I think we need to be careful about that. I take a more simple approach on this and I think it can be as effective, if not more effective, taking Bill's route on this one.

Lord Burns: John, anything to say about the process, about this question too of openness, of transparency about some of the numbers? I mean one or two of the questions I've had too relate to the extent to which BBC Worldwide as a whole, there has been in the past sufficient openness about the contribution the different parts of the business make.

John Smith: Yes, several things really. I mean first of all can I just say I tread with care on the topic of the roles of governance because I'm a supplicant and...

Lord Burns: Quite right.

John Smith: Quite right, absolutely. So whatever you know I may sort of recommend in my own report, it will be recommendation, nothing else. But I mean I think it's rather sad to think that things like, you know, things aren't dealt with quickly and stuff like that. I mean that feels, not wishing to embarrass anybody, but unforgivable really. I mean you know if we're striving to get all our other processes to be really good, why can't that one as well? So I think it would be nice I think if we could do something about that. And on the openness point, I think there's two separate things being made, Chairman, really. One is about the sort of figures where I said at the start I think an unintended consequence of my report will be to shed great light on the performance of the various different companies. It hasn't been there in the past. I'm not entirely sure that it's a deliberate thing. I think the problem with – and I'm an accountant – the problem with sort of accountancy regulation in the UK is that I'm not sure it has entirely helped clarity when it comes to trying to explain how companies are performing. And while, you know, accounts conform perfectly with every aspect of accounting standards, you can't understand what the hell's going on, you know, and the two are at odds to some extent. So I think we can easily deal with the figures point. I'll definitely shed light on it in the report and I think in future we could probably produce something probably annually that just made it very clear. There is nothing to hide and in my view I think it's a good idea to expose all the facts, even if you're embarrassed by them personally.

Sly Bailey: Sorry, can I just put a question into that point? On the numbers then, do you mean providing greater clarity in terms of the performance of different areas rather than sort of bundling that we see at the moment?

John Smith: Yes. Yes.

Sly Bailey: So I think that's, I mean I'm encouraged by hearing that simply because I think that notwithstanding what you said about accounting and you know not always providing clarity, I do think that disclosure does drive, help to drive performance with management and it's a cultural thing as well. And if we're all agreeing that actually we think that the margins could be higher, and I think we are and how you go about doing that obviously is a question for the management team to address, but you know they are languishing at the moment in sort of almost every area you know that you look at and you have to say therefore it you know comes back to the question of the licence fee. If there can be a quoted contribution coming from Worldwide or a licence fee reduction or whatever you know the outcome was then, you know, then great but in my experience disclosure does help to performance. So it's a cultural issue in terms of helping performance up, not just the clarity on numbers.

John Smith: I completely agree with that, Sly. I completely agree with that. I mean there's another aspect to debate on this which is about the fair trading complaints openness, where I think your (INNAUDABLE) was that it's not very, you don't get a chance to be represented and it's unclear what the arguments are presumably and so on. And let me take those points on board and see to what extent that things could be made better. I mean I think it's in our interest to be clear about all of this because the problem I've got in this review is that although the process has got this ISA 9001 accreditation – I don't know how it gets it, I've no idea – but patently it's not satisfying people. And if it's not satisfying people, this is going to be a recurring complaint and irritation in the market-place and it would be nice to do away with it somehow. So I think the more we can do to make that whole affair open also would be good and I will definitely take those points on board and make recommendations about them. I mean there were some commitments in our Charter submission Building Public Value to have the Minutes of the Fair Trading Compliance Committee, which is a governor committee, published, which they have said they are going to do. There was also a suggestion that a lot more information would be put into the BBC's Annual Report about how the whole affairs works, including how the auditing works, and I think there's also a suggestion that we should publish how many rights and what sort of rights people other than Worldwide are managing to secure, so that you can actually see how the market is actually working. So all those things

are sort of helpful pointers in that direction but I suspect from what's been said we could probably go further than that.

Lord Burns: Okay. I've got one or two, I've had two questions which point out that we didn't really deal with BBC World, one of which says that, you know, at what point will the BBC cease to use public funds to cover its losses and the extent of that? And another one simply pointing out that we haven't really discussed this issue about having commercially-supported TV in the form of BBC World. But I mean, I don't know whether any of you, either John, David or any of the other people here have a view about this? I mean this is obviously an issue for Charter Review. I mean we know there has for a long time been a contentious issue about BBC World Service on radio and how it is that that is funded, etc. and what are the right ways of doing it and quality control.

John Smith: Well I think successive British governments have regarded the funding of radio through the World Service under direct grant from the Foreign Office as a good thing for Britain generally and certainly good for the Foreign Office. But in terms of World, I mean I'm not sure I understood the second question exactly but I mean World is a global news channel. It is run on commercial lines. It has the BBC's brand. It basically survives on the basis of commercial income, that's the idea of it. It is not making a profit at the moment, it's making a loss, and the key point to make about it though is that it doesn't take any public funds and I am slightly sorry if people think it does. It definitely does not. It's funded out of the other commercial profits that are coming from the other companies. Now you may say is that a good idea? No, you may say is that a good idea but that's a separate...

Lord Burns: But it means there is less going to the licence fee payer than might otherwise have been the case.

John Smith: Yes but you could argue that if we launched a book that turns out to be a loss-maker, you know of course that's true and the only question is whether you intend to make it profitable at some point. And, as Stephen Cook mentioned from the point of view of the UK TV channels which aren't loss making in their first few years, it's in the nature of channels that it takes a while for them to breakeven. It's particularly the case in the case of a news channel. So it's currently making a loss. Here's currently a business plan, such that it's intended it will breakeven a few years from now. The key question for me is will it and that's very much on our mind at the moment. We're had a debate about it only yesterday. I think in terms of whether the BBC should have a global news channel commercially funded, I know Terry you've got another seminar coming up soon on the whole question of the BBC's international activities, and maybe that's a better place to debate the ins and outs of that. But from a commercial point of view, the question is is it going to breakeven and currently there's a business plan that it will and that's the key issue.

Lord Burns: Okay. There is one other question which has been raised and indeed it is one that, although you did touch on it earlier, but it is one that has been slightly concerning me, which is the tailing of this commercial review with the Charter Renewal process and how it is that we keep these two things in parallel. You know to what extent could you envisage a situation where in a way you tried, the review itself played some part in pre-empting what it was that the government may have in mind with regard to Charter Review, to what extent and how quickly can we take, how can we take into account in a sense the results of your review in the Charter Review process without having closed off some of the options? You know those are the some points which have been raised about these two processes is running and you know that some people at some thought that it had an air of undue haste about it.

John Smith: Which? Which one?

Lord Burns: Yours.

John Smith: Oh right.

Lord Burns: Find a separate issue in a sense before, at an early point in the process.

John Smith: Well undue haste. Actually we are working our nuts off at the moment so, and maybe that's right. I didn't set the timetable. But I mean, Terry, I mean there's no chance that the BBC can set out its store coming from this review and somehow or other the government haven't got the ability of overriding it. I mean that's just not on. I mean what we're doing, what Mark Thompson has done and what Michael Grade have done, as two new people coming in at the top, is recognise that there are issues in the running of these subsidiaries, the ones I've alluded to, and wanting them to be reviewed because that's the right thing for any organisation to do, whether there's a Charter Renewal going on in the background or not. And I agree with it and I've thought it for a long time and I'm rather glad that they're going to look at it. My general tendency I think is, given a mission like this, I'd rather get it done quickly than have it go on forever. It is being done very quickly. We are meeting every fortnight. We're doing tons of consultation in the industry. I'm pretty clear that it's one of these Peter Principle things that it'll, you know if you had a year you'd take a year, if you had a month you'd take a month and to be honest the conclusions wouldn't be much different. So we'll come up with something in November. We'll put it to the governors. You obviously have the right to say you don't agree and do something completely different.

Lord Burns: Tim?

Tim Gardam: When we listen to this, it seems the bit we're missing is what actually in public policy terms are we trying to achieve? We went through why do it, is it fair, do we do it well enough, which is fine, but just to pull this together. And what is the BBC trying to achieve here at the end of this? Is it trying to, in terms of Tiger Aspect and Equity, you know, raising the BBC brand, adding value to the UK creative economy is one thing, a quite small aspect I would have thought is quite important. Absolutely maximising the value of the asset to the licence fee payer is also important but then there's the issue of you know in so doing does it matter if you maximise the value of the enterprise arm itself because we heard David is clearly thinking there's nothing wrong with Eve and being really quite sort of defensive and aggressive about the way it's marketed. So, and for the competition around this table who have all said it's a good thing for the BBC to be doing this as long as it's not in my backyard. And so as one, I'm still not sure if we've actually got a clear view of what we think is the beneficial purpose of what the BBC is doing. And it comes back to this key point we made about the kinds of competition. And in the end the BBC moves into a market and crowds out or it freezes out. Nonetheless it's giving benefit to the viewer and the listener. Why should we care? I mean the actual benefit to the consumer is absolute there. I think that relates to the issue of regulation that we've been talking about because there seems to be there are two very different areas of regulation here. There's the competition you see as primary and secondary markets and then there are the competition plus wider issues in broadcast markets. And I find it quite useful to hear from John in the end what is it the BBC thinks is a justifiable role and the beneficial role that it can play and it's hoping to end up doing?

Lord Burns: John, do you....?

John Smith: Yes. I mean I think there are quite a lot of potential objectives that can be ascribed to the whole thing, like a shop window for UK talent around the world or extending the UK's cultural values around the world.

Tim Gardam: They're small.

John Smith: Well I'm mentioning them because people do ascribe them. I mean in my opinion they're all secondary. They're good, worthy and it's great that it happens but they're not really the objective. In my view the objective is very simple and it's simply about supplementing the licence fee by ensuring the assets that are being created for the licence fee payer in the first place are exploited wherever they can be and I think it's really straightforward.

Lord Burns: I mean it is reasonably straightforward because I mean after all you know in a sense the rest of what it is that the BBC does it doesn't charge for the things that it does. What is it that it should be seeking to raise money from because you know I mean you could say that, you know take the archive, should the archive simply be there in a sense to be

available to as many people as possible so that they can watch to their heart's content on the basis that they've already paid for this or are you trying to raise money from it? I mean you know there is one sense in which it gets into the whole question of, you know, what other things should the BBC be doing that it charges for? So I mean we gaily say, and I'm sure when I confess to my past sins on this we were very much in Treasury looking at how it was that we could offset some of the effects of the licence fee by raising money from elsewhere but as it becomes a bigger and bigger operation, you know it seems to me there is some tension that emerges between the licence fee payer as a consumer of a product and the licence fee payer who wants to pay less licence and raise more money from other sources.

Victoria Barnsley: Can I just say, I mean I have no idea what the contribution was from the commercial activities until today and actually I was really shocked that it was only £6 per licence payer. I mean I am a Trustee of the Tate and over half the money that the Tate raises; I mean it raises more money from the public than it does from government. More than 50% of its funding comes from the public and from commercial activities. I was, I don't know it seems a relatively small amount in a way what we're discussing here and I think that does have some relevance. It wouldn't actually make a huge amount of difference on its current standing whether or not we did it or not, which...I'm not saying we shouldn't do it but I think it is interesting that it is such a small proportion.

Tim Gardam: But would you like that capacity to be unleashed?

Victoria Barnsley: Would I like the capacity to do much more to be unleashed? Well I think that's the real issue. I think the real issue is how much, you know how much money could it really save the licence payer because at the moment it seems we're talking about a very small percentage of...

Lord Burns: But you know my question would be, I mean given that I can watch you know The Office for free on BBC television, maybe this is a bad example but it is why when it then comes out in some other format should it be done on a profit maximisation basis? Why isn't it done on a marginal cost basis? If the material is there and you're simply consuming it through a different mechanism, why should the charging system be any different? I mean having said that, you know one half of us also wants to see as much money being raised from these products as possible in order to offset the licence fee.

Alan Budd: People have asked the question I actually raised with Richard during one of the (INNAUDABLE) when he was having this conversation with Stephen about the archive and so on, and I mean someone used the word 'elsewhere'. Can we all agree it's right to charge foreigners? It is important that we have paid for this through the licence fee. That's an extremely important principle. I would always distinguish between what's happening here and what's happening elsewhere, so certainly charge the foreigners. They haven't paid a penny towards this and let's get everything out of them we possibly can, even though that's not necessarily optimum. But think of this, supposing you offer the choice when you knew there was a programme you wanted to watch. You've already paid for it out of its licence fee and here is the option. You can pay a pound for it and get it and the pound goes into a pot which might reduce your licence fee, though not actually by a pound, or you can get it free? The economists would always say it's much better to have it free because otherwise you're excluding some of the thing which costs nothing to achieve. Let's assume this covers the (INNAUDABLE). You have paid for it, it should be free, and to charge for it, the fact that you can exploit people who have already paid for this once and increase the revenue to the BBC doesn't really solve anything because it's just our money going back into the BBC.

Lord Burns: This just shows once you get economists together they just.... they love playing devil's advocate on these.

Alan Budd: I'm interested, I assume all this stuff where's it repeated?

Stephen Cook: Because you have public service capacity which is currently used 24 hours a day by the BBC. You then have to distribute it, in which case you have to take the capacity from the cable companies and Sky...

Lord Burns: No, I was thinking more you know in sort of storage media, in DVDs or whatever.

Alan Budd: Video on demand.

Stephen Cook: Video on demand, once again you have to buy the capacity.

Alan Budd: The issue is whether you pay for the item.

Stephen Cook: That's right, yes.

Alan Budd: We're not disputing that there are costs.

Lord Burns: Of course, exactly.

Alan Budd: But it's whether you charge for the item.

Lord Burns: I was just simply challenging the issue of whether it is obvious that you should maximise the revenues from the resale of television programmes by DVD or whatever. I can see why you want to do so in order to offset the licence fee.

Alan Budd: We know what Graham thinks about it but that's too bad.

Glen Barnham: Always in these sort of debates there's always a danger that the short-term solution would be jumped upon. Right, we can raise £2 billion by flogging the lot off tomorrow. We've got to take a longer term view and those programmes are longer term. There's no doubt about it. The fact that one million last Christmas bought *The Office* is significant. That has significantly put money back into the BBC and I know Victoria says well it's only £6 off the licence fee but it was £141 million going back. On top of that it was also important investment into independent productions and productions that would never have been made. So the BBC have got a duty to maximise their pot of gold and take a longer term view and must do that because it's easy to say "Right, let's make it all available" but I'm afraid, you know, apart from the maximising the income back to the BBC, there is also the question of rights. I know it's a boring issue but there is a question of rights. And also if you look at the view that okay, let's give it away, well BBC Worldwide have gone into fairly long-term deals with the UK TV for the sale of programmes. Where does that leave them and where does that leave programmes? And if you just say, you know, let's charge the foreigners and you know the rest of them are all okay, you know, the way stuff can be got these days, you know, there aren't barriers. There aren't barriers. If it was being dished out here it would be dished out overseas. And we have forgotten I think this morning we have, one point we've forgotten is the value of those sales internationally. They are huge values, huge sales and that biggest export is a huge business in this country and we shouldn't, you know, when we've talked a lot about the UK but don't let's forget the international market and what, how good it is for the UK in many, many respects.

Lord Burns: No, I wasn't remotely challenging that and I agree with Alan about the case for it. It's just I can see a slight paradox whereby we're placing enormous store in these discussions that the BBC's output on TV should be available to people for nothing and yet we take a very different attitude when it comes to the same output being distributed through a different medium. I don't want to make a big issue of it because I mean otherwise we're in danger of...

David King: May I just comment that were TV offering DVDs, for example to quote your example, at cost then we presumably would have a complaint that we're distorting the market. We have to get realistic. We've got to go one way or the other. We can't pick and choose.

Lord Burns: Now let's surface there and have any comments from the audience either about this issue or about any of the other issues. I think I've dealt with the questions I've had on cards, have either been dealt with indirectly or at other stages in the discussion.

Male audience member: I have a point about, I mean it's going to be (INNAUDABLE) to even try to say that it could be £6 off the licence fee. What the effect would be is it would be £6 multiplied by however many licence fees out of production because what you're getting at the moment is the money coming back in and being allocated into further production. I mean the reality is, as Peter Bennett-Jones pointed out, is if you're making programmes you are working out all the way down the line where income sources are going to come from this and quite frequently when you're making a programme you are making a programme that is not going to wash its face with a terrestrial broadcast. And so it would be completely delinquent for the BBC to start giving stuff away, let alone whatever distorting effect it has on competition. I think also that archive actually in this sense is a very emotive term. It implies some sort of degree of excellence, which I think is probably spurious. Whether the archive should be available to academics for free, yes by all means because then you are genuinely talking about it's an archive. Otherwise in reality it is a resource and it's a publicly owned resource and it should be exploited in that fashion.

Lord Burns: Any other points? My goodness, well we've not done much to encourage a debate amongst you.

Pippa Pollard: I'm Pippa Pollard, IPC Media. Just a couple of points. We've been talking quite a lot today about the sort of value of the creative economy to the UK and I just want to sort of raise one point from the magazine publisher's perspective. We also operate in a creative economy and contribute to that value in the UK. This is not just about television and there's the appropriateness and the scale of the BBC's magazine publishing activities should be taken into account on that score. It's not about market distortion. This is also you know about preserving another healthy industry, which is magazine publishing. And the other point I want to make is to come back on David King's comment about Eve. David, if the BBC really don't see that there's any value in carrying the logo on the spine of Eve and there's no inherent cachet on that, then can I suggest you just stop doing it?

David King: I didn't say that I didn't consider there to be value. I said that it was on the spine, not branded as BBC Eve.

Lord Burns: Any more points?

Female audience member: As a respondent to the consultation and a licence payer, on the question of trailers for books related to programmes, I think it would be ridiculous not to be told about them after a programme if they exist and it seems that there are very tight constraints on how long they are and how much they veer into advertising. And also on the book publishing point, I think that books probably don't benefit from television in that if there is a book – this is a point actually raised by one of my colleagues in the audience – that a book related to a television programme and sold in a bookshop will draw people into a bookshop and I mean I'm a compulsive book buyer but some people aren't and so they go into a book shop to buy one book and then they'll buy others. So that there's a sort of completely, maybe on a different subject, so there's a completely non-measurable spin-off from people going in to buy a book related to a television programme.

Victoria Barnsley: I would agree with that latter point. On the former point, I think the issue really is that you know we have a lot of books that eventually are made into television programmes but we can't advertise the books after those programmes because they don't come from the BBC. So we don't licence the book rights back from the BBC because we originated the book and I think that's where book publishers feel it's unfair and I agree. I think as a service to the public they probably don't give a damn where the rights originated from but if they're interested in a programme and a book exists, they'd quite like to know about it

Lord Burns: I have questions out of here, Kate.

Female audience member: Yes, just a thought. If the BBC Worldwide was to become twice as efficient and make twice as much money, would that mean that the BBC would then have that extra money to spend or should there be some mechanism for actually returning it to licence fee payers and then to offset the licence fee in the future with it?

Lord Burns: Okay. Well certainly all I can say is what my memory of 10 years ago, it was certainly designed in such a way that it hoped that it was going to go to enable the licence fee to go up less rapidly than otherwise would have been the case rather than just ploughing yet more money into the hands of the BBC. I've got a question here and one here and then I think I'll ask each of the members of the panel for any final remarks they have.

John Clark: John Clark, Voice of the Listener and Viewer: Perhaps rather than concentrating quite rightly on how the BBC is controlled in its commercial activities, we should also ask them how they would raise the licence fee from £6, the licence fee contribution from £6 to £12 - I pick Sly Bailey's number – and do that rather than be surprised when they do.

Lord Burns: Very good. And in the front here, Kate.

Rob Woodward: Rob Woodward, Channel 4. It's a question for John and David. So far we've kind of concentrated on the current scope of the BBC's commercial activities and yet as we all know the world that we're living in is changing very rapidly. I'm interested to know whether the scope of your review is also looking at future commercial opportunities for the BBC?

John Smith: Yes, yes, Rob, obviously it is definitely doing that. I mean the emerging obvious opportunity is in the VOD world. I can't say for sure exactly how that would play out but it's something that we've got to look in the Review and we're very much on the case. I mean just one other thing that's relevant here to the answer, which relates to what Terry said at the start of this last session, you know you have to sort of presume when you're working out what it's okay for the BBC to be doing commercially rather than to be doing it from a public service perspective, I think you have to presume that the public service objectives of the organisation are settled first. And in Building Public Value, our submission for the Charter, we laid out what we thought the BBC's role should be from a public service perspective. You need to get that agreed first and only then if it's agreed are we then talking about secondary exploitation. It's not the other way round. That's quite important and an oft-quoted delineation between the two is that broadcasting, where we're offering a service from one to many, is what the public service is all about but narrow-casting, where we're offering a service from one to one like producing a book, is a commercial activity and that's another easy way of understanding the delineation. It's not perfect and particularly the new media world makes it hard but that's a kind of good, simple understanding of the difference. So when something like VOD comes along, Video On Demand, a broadband service, people will be able to download stuff into their PCs or their TVs, the first thing you've got to work is what's the BBC's public service role in it, which is what we're trying to do. Once you've got that sorted, we can then say, "Well is there a commercial spin-off opportunity coming from it as well?"

Lord Burns: Okay. Could I just ask each of the members of the Panel if they've got any kind of concluding comments that they want to make and I start with Geoff. Would you like to kick off?

Geoff Metzger: Yes, I think I would just conclude with the same conclusion that, from a commercial and competitive point of view we fear the BBC greatly. I think the end game for its commercial television ventures is clearly to dominate the factual sector. I think it makes a lot of sense. It certainly has the weapons to do that with so to speak. It's got an extremely large archive and it's got an extremely large output going forward, financed by the licence fee. It's manifestly so I think because, as you can see from the launch of so many new channels with its UK TV venture, and I think this is a, you know, a good calculated and efficient sort of, you know, putting in place of a very good commercial strategy. I think it's mitigated entirely by; it should be mitigated entirely by good regulation. I think the launch of new channels is something that the DCMS hasn't done a good job on quite honestly. I think this needs to be an aspect of its Charter Review. I've already said I think it needs to come under an Ofcom umbrella otherwise there is a very real danger that there is a threat to diversity and into polarity in this market.

Lord Burns: Thank you. Janet?

Janet Finch: Yes, it has been, as all these other seminars have been, a really fascinating morning. I think I started the morning by thinking that the issues were between, in this area of commercial services, that the issues were about the perhaps irreconcilable tensions between the BBC on the one hand and other organisations who see it as a voracious competitor on the other. I think what's come out during the morning is that there are at least two other sets of interests if you like, which are equally important to balance within this arena. One is the interests of the licence payer quite obviously and the other is the interests of the performers who benefit individually from the secondary payments that come through in a number of the areas that we've been talking about. I think the balancing out the interests of those four different parties in order to come up with a correct answer about, you know, what should be the scope of the commercial services of the BBC is one of the things that the Panel is going to have to think about very hard in the future. I don't at the moment see that there is a clear answer and possibly there may not be a single clear answer. There may be answers that apply differently to different issues. There may be a different balance to be struck when it comes to relationships with magazine and book publishing from the independent producers of programmes, the use of the archive and so on. It may be that we have to get down to that level of detail before we understand what we might want to recommend.

Lord Burns: Glen?

Glen Barnham: Oh thank you. I think it's been a very interesting discussion this morning and it's been well balanced from people coming from various sectors and that's been very interesting. I think whatever happens the decisions that come out of this Review need to be long-term and not short-term and I am personally very anxious that there's no knee-jerking to fix something quickly and to get a few people quiet. It needs to be a long-term view taken and that view needs to be in the interest of UK broadcasting. I've said it before and I'm going to say it again – we have a very successful UK company in the export markets doing a fantastic job selling the UK overseas and there are numerous spin-offs to all this. I also believe that the way that Worldwide can work can be a benchmark for the commercial sector and instead of dumbing down it's pulling up. But at the end of the day there needs to be checks and balances with any large organisation and they need to be in place. But I would say that, you know, whatever happens we've got to ensure that the BBC remains a brand of quality in the UK and overseas. The performing community need the BBC desperately. It's our biggest employer. I think the country needs the BBC. I know we haven't talked a lot about news but when one looks at what's available on other news channels overseas, thank God there is the BBC to put an alternative point. That's important. So all in all, let's protect the BBC but it doesn't mean to say that they get carte blanche to do what they like. There needs to be the checks and balances but let's remember that it is contributing large sums back into programming. Those sums are getting bigger. It was 14% up this last year. The sums need to be bigger but it needs to be done in a way that protects the integrity of the organisation.

Lord Burns: Okay, thanks very much. Peter?

Peter Bennett-Jones: Well just really to reiterate. I mean given that the BBC was charged in 1996 to, as part of its brief was to exploit overseas markets and to enhance UK competitiveness, you know it has from our perspective you know succeeded significantly in that. It's opened up new opportunities for UK programme makers, both in origination and exploitation opportunities in its expanded markets. It's increasing the (INNAUDABLE) so undoubtedly it can be done more efficiently. I'm sure, you know, that's part of the Review but still 6-band contribution is significant when you come to, you know, the financing of broadcasting. And one final point just on the fairness issue. I think there are probably lessons to be learnt. If you look back, how badly the whole negotiations with programme suppliers was handled over the 4 or 5 years until the BBC were brought, you know, really screaming unwillingly to the table by legislation because it had been handled spectacularly badly and people weren't listened to and the perception of my sector of the industry was of arrogance and, you know, assumption that you will work with us and you will work within our rules. Now it was done so badly that it worked to our favour in the long-term, so our current grievances are minimal compared to the grievances it would seem of publishers or people with other interests. But it's worth reviewing that process as part of your process here of how to address grievances.

Lord Burns: Sly?

Sly Bailey: No further points.

Richard Collins: No, you've been very generous in letting me speak. I've got nothing to add to that.

Lord Burns: Tim?

Tim Gardam: I expect it to be rather difficult actually because I don't think the competition can decide whether they want the BBC to be more effective or not. And I suppose I think that in terms of the exploitation of current rights, it is quite clear that the fundamental issue must be the viewer or listener benefit, the licence payer benefit, and I think, as Peter said, since the Programme Supply Review there's a greater transparency there and the exploitation of content, the objectives of that are quite clear. I think, looking at the lessons of the magazine world and seeing where digital is going, digital is going to mean that the broadcast world is more similar to the magazine than it's been were they identical. I think one really has to consider quite hard whether the BBC's entering into new markets will bring that additional licence payer benefit that one can see in the broadcast world, the current content. And I think it's very difficult to see how the BBC alone can determine that. And so I think the regulatory issue does come to the fore in terms of those new measures.

Lord Burns: Okay.

Stephen Cook: Not much to add. I mean I think I would say that I think the BBC through its commercial partnership with Telewest has added to the plurality and diversity of multi-channel, decent multi-channel television in this country. I accept the need for a public service organisation like the BBC to be subject to regular review. I think that unless your answer is that the BBC should exit the commercial market, I haven't heard that, I think one thing that is important and I'd ask the committee to take into account is to try and set down a framework which lasts for a long time and which is clear and transparent and allows people to deal with the BBC on commercial terms that it knows will still be around in, you know, in the medium to long-term and not going to be subject to further review in two years' time. I mean if you stick the BBC commercial services review into (INAUDABLE), you will find that yearly you have to distinguish as to which particular review you're talking about. So all I would say is I think it's good it's being done at this time and I hope it's the last time for quite a while.

Lord Burns: Thanks very much. Bill?

Bill Bishop: Nothing much, just to say, like several other people, I was astonished at how small the numbers are and it's an indication to me that the BBC has, whatever people's private perceptions and commercial perceptions, has most been behaviour seniorally and not carnivorously, to adopt Tim's phrase. And I'm not at all clear that people want it to change either in the industry or more generally. But it's clear that a lot more value could be got out of that. If you bundle those votes together and a kind of output deal like the film studios do, took it the to capital market, it would have, you know the figures would not be worth the implied value of BBC World today, a capital value of say £250 million for that £37 million stream, say £250 million for a 10-year contract. I'm sure Time Warner and Sony would pay a billion for it and it's worth a lot, lot more but do we really want the BBC to be a tiger out there? I wonder

Lord Burns: Philippa?

Philippa Brown: Thank you. Just to make it clear we welcome competition. We operate in a competitive market-place and so if the BBC did up their game in magazines then we'd welcome that. What we don't welcome is fighting on an unlevel playing field and I think that's our issue, is that free airtime given to them on the BBC is unfair and unlevel competition and that's really our main beef. I mean I've been very encouraged with the conversations today and the debates. I think it's great that the door on brand licensing has been opened to us and I will be grabbing Debbie at the end of this conversation believe me. I think there's been some interesting conversations in terms of the on-air debate and I'm pleased, John, that you've said

that this is not closed and that we...and I'd be delighted to continue that conversation with you after this. I'm still a bit confused about this whole issue of what's branded with the BBC logo and what's not and I still would like further clarity on that because even if it's on the spine, I still do think that you know a BBC logo on an unrelated commercial activity, unrelated to a programme, is not exploiting the IP of the BBC and I'm still confused about that issue and I really do, would like some clarity on that and I'm sure that's something you'll be looking at in the Commercial Review.

Lord Burns: Alan and I'll come back to David at the end.

Victoria Barnsley: I mean I'd just like to say I suppose I'm slightly coming away in fear and trepidation that John and David are going to do such a good job now at getting BBC Worldwide operating that they're going to be a much greater threat than they ever have been in the past. But having said that, we do have to live with competition and I think it's absolutely clear the BBC has got to have a commercial remit and as long as it's operating in a fair and transparent way, I'll be okay. And I'm glad people have raised the issue though of looking long-term into the future because I think you know the only danger with the sort of timeframe of the current review of Worldwide for instance is, you know, we are living in an age, for instance if you just take my sector, book publishing, it is going to look so completely different in 10 years than it does now and the number of issues that you might be looking at now are going to change so fundamentally. I mean for instance because of the kind of digital age, I'm sure we will be now in 10 years time marketing and selling directly to consumers and therefore brand is going to become a much, much more important issue to book publishing, probably as important if not more important than scale currently is. And of course the BBC has got the brand to die for and I think actually there is enormous potential in that and I just would hope that, I think it's very important to keep the long term in mind.

Lord Burns: John and David, how do you want to? You're next David?

David King: I want to make an observation in terms of statistic as I like to share the statistics with the audience. We estimate that about 8% of our revenue is associated with what we will call not directly related to BBC output, so that includes Eve for example. And if we talk about what we do for political parties that equates to about 3% is by definition my estimates and another person might draw those boundaries slightly differently. So a very, very small portion of what we do is not directly related to BBC output. That is the first point. I would then like to just clarify that the nature and purpose of which BBC Worldwide is to exploit the BBC's IP as has been described and that is finite and we seek to take it to market in all available routes from which we can make a turn and we seek to partner those where we feel that we are more able to make a turn if we partner another party and that represents a substantial part of our business already and we will seek to do more of that assuming our shareholders allow us to do that. So I just want to leave you with a thought that further growth of £6-£12 in part may come from improved efficiency but would require BBC Worldwide to increase the amount of activity that it did. And the space, the 8% space, would need to grow if BBC Worldwide is to substantially increase its returns to the BBC. And...excuse me...that is not currently the BBC's proposition. We are required to meet certain defined set of targets and clearly in setting those targets we need to take account of the point that I made, there is finite supply from the BBC and I'll just leave it there if I may.

Lord Burns: Thank you very much.

John Smith: I'm not sure I've got a great deal to add if anything at all, Terry, really other than to say, you know, all the arguments seem all to have come out and I'm glad everyone's been willing to participate in it and I genuinely am thankful that those issues have been put on the table and I hope people would agree that we're willing to be very open-minded about it and will look at all the things thoroughly. When I produce whatever the report's going to look like for the governors, no doubt not everyone's going to like it. Let me say sorry in advance but at least I'll have listened to all the arguments.

Lord Burns: Well thanks very much and thank you all for your contributions. I won't attempt to sum up at this point but you know there are some things which are quite striking you know

in relation to all the arguments, as you've said, we've had on the table. I mean I think there is still widespread support for the BBC being involved in commercial activities and I think if anything the way the debate has gone, it has been towards asking could we have more rather than less possibly from this area. I think there is a feeling that if it is to be done, it should be done as well as possible. I mean the fairness issues in a sense shouldn't be covered by not doing it as well as possible and we've been through a number of issues there to do with transparency of figures as well, so that we can see just what is happening. Obviously if more is to be done or to do it even better then the issues of fairness become even more prominent than they have been so far and it is fairness not only to competitors, but it has also been mentioned fairness to licence fee payers and also fairness to the creative input that goes into it and those people who've been involved. We have had some scrutiny at the regulatory issues and some people have pointed out there has been a process of improving a lot of those, and the point of why it's been improved and the ways of dealing with the scales of (INNAUDABLE) programmes overseas.

I take out of this that there is probably some scope for improvement in some of the procedures that go on in the other areas and I'm sure that you'll be looking at it.

Well I'm very grateful for everyone's contributions and behaving in such a disciplined fashion, and thank you to everyone else who has joined us this morning. Thank you very much.