



DEPARTMENT FOR CULTURE, MEDIA AND SPORT

BBC Charter Review

A Summary Report of Organisation's Responses to the Green Paper Consultation

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Introduction

We received approximately 132 responses to the consultation from members of the industry and stakeholders and other interested organisations; overall we received around 4,500 responses.

The majority of the responses we received were generally supportive of the proposals outlined in the Green Paper although there were some major areas where more information was required before final support could be given, for example, the question of the future governance of the BBC and the role of the Trust and the Executive Board.

The main points raised to each of the 20 questions are outlined over the next pages.

The Role of the BBC

1.1 Qu1: Do you think it is helpful to define the BBC's purposes in this way?

50% of industry and organisations responses did not address this question. Of those that did, 73% believed that it was helpful to define the BBC's purposes in this way. PPL and VPL stated, 'The six roles set out in the Green Paper provide a broad outline of the purposes of the BBC and capture the essential elements. However, in themselves they are not sufficient to determine what is public service broadcasting. In the converged digital environment, the licence fee payers, the BBC Trust and other stakeholders will need a clearer common understanding of the roles and functions of the BBC. The VLV also support the purposes but highlights that the 'balance between popularity and distinctiveness in BBC programming is crucial'.

Some thought that there needed to be further clarification of the purposes. BIPA said that 'there must be a more clearly defined mission with clearly stated limits in a world no longer populated by relatively few radio stations, terrestrial analogue TV and a print-only newspaper and magazine market' whereas CRCA recommended that 'all BBC programmes should be required to contribute to at least one of the new public purposes and these contributions should be monitored and details made available to licence fee payers'.

Some thought that by defining the BBC purposes in this way it could mean that other purposes of the BBC, for example its duty to entertain, could get lost. Often the responses suggested another purpose or greater detail that should be added to the existing purposes, 3WE suggested that there should be an overarching purpose, their suggested wording would be 'the Mission of the BBC is to serve the communications needs and interests of citizens, through information, education and entertainment that contribute to the following core public purposes...' Euronews felt that the purposes should encourage the BBC to have a more European outlook and Jerusalem Productions would like to see a consideration of faith and spirituality. The Music Publishers Forum suggested the purposes would have even more impact if 'a) each and every

individual BBC service is obliged to fulfil all five core purposes across the entirety of its programming (but not necessarily within each and every programme); and b) there is an express commitment to the arts and to music in particular within each of the core purposes.’ The RNIB suggested an additional core duty ‘to provide access services for blind, partially sighted, deaf and hard of hearing people, as outlined in the 2003 Communications Act’. Finally, UK Sport would like more focus on sport in the purposes.

There was a feeling amongst a few responses, for example Age Concern’s, that the Government or the BBC should consult with licence fee payers when deciding on the purposes.

There were also some concerns expressed over how the BBC would be monitored to make sure it was fulfilling these purposes. Mediawatch wanted ‘some way of independently verifying that [the 5 purposes] have been fulfilled’.

There were a small number of responses that thought the five purposes for the BBC were either wrong or unnecessary. Channel 4 thought that the BBC should adopt Ofcom’s purposes whereas Equity ‘was not convinced of the pressing need to re-invent the existing purposes of the BBC’.

Finally, RM plc thought that ‘understanding what the BBC is for is a necessary starting point to establishing the Charter under which the Corporation operates.’ However they said that ‘in defining what the BBC is for, we believe it is also necessary to define what the BBC isn’t for. This is particularly important where the BBC seeks to operate in ways that are likely to place it in direct competition with private sector businesses.’

1.2 Qu2: Are these the right purposes?

Although only 49% of industry and organisations responses commented on this question, the comments that were received tended to be some of the most detailed of the consultation. Most of the industry and organisations responses thought that these purposes were broadly right. Many did however feel that there were omissions, often relating to their particular area of interest. There were a few suggestions that the purposes were too broad to mean anything, BSkyB, for example, stated that ‘each of these purposes may be appropriate for the BBC, but they are very broadly drawn.’ Ofcom thought that the BBC and themselves should work together to have a definitive list of purposes and characteristics for public service broadcasters using the list in the Green Paper as the starting point.

The most commented on purpose and suggested area of omission was that of the representation of faiths and nations. Many industries and organisations felt that the purposes did not include enough specific detail on this issue and suggested ways in which this could be changed. With regards to the representation of the Nations, Alan Pugh noted a failure ‘of UK wide bulletins

and current affairs programmes generally to fully reflect the reality of devolved government in the UK's nations'. He said that the 'nations need to see themselves represented on the network as well'. The Northern Ireland Film and TV Commission stated their point more passionately indicating that they 'deplored the failure of the BBC to represent Northern Ireland on any of its network channels in any significant way.' The National Council of Women of Great Britain questioned 'how much would the BBC be "reflecting" and how much actively "shaping" the representation of Nations and Regions on the BBC. They questioned whether this has political implications'.

On the subject of representation of faiths the Archbishop's Council hoped that the role of religion would not be overlooked. They said that the 'BBC ought not to see the world from a metropolitan liberal and secular perspective'. Similarly the Christian Broadcasting Council believed that there should be a sixth purpose "understanding of the spiritual aspects of life". However the British Humanist Association was concerned that the BBC did not cater for all belief groups, including those who are non-religious. The 'entire spectrum of fundamental beliefs, embracing not just the various religions but also non-religious beliefs with a comparable function, should be treated without discrimination' was their point. In marked contrast however, Age Concern highlighted that Ofcom had found that 'there was not much public support for specialist arts or religious programmes or programmes dealing with minority interests'.

The other main topic on which industry and organisations responses commented was the BBC's distinctive role as a public service broadcaster. Chrysalis did not think the purposes for the BBC 'adequately recognise the shape of the modern media environment in which the BBC now operates'. They believe that the BBC must recognise the need to be distinctive in the face of commercial competitors. They propose an over-arching principle 'in fulfilling the above purposes, the BBC will always be mindful of its obligations to make effective use of the public funding it receives, of the radio spectrum it has been granted, and to minimise its adverse impact on the broader media marketplace.' The Institute of Practitioners in Advertising would like the BBC to operate to a tighter, more strictly defined remit centred on public service. They felt the BBC should be more focused on innovation than maximising ratings like commercial channels. Similarly Video Networks also thought that the BBC should be seeking out new audiences through the creativity of its content rather than by trying to create and control new distribution networks, which the commercial sector is entirely capable of doing. PPL and VPL thought the main omission from the six purposes is the BBC should not be at the forefront of commercial developments. The two roles of promoting education and Building Digital Britain both take the BBC into competitive commercial environments.

Another major topic of comment with regard to the purposes was the issue of creativity. Lord Puttnam believed the BBC should also focus on developing and investing in those skills which provide the underpinning of a strong and

vibrant creative community. He suggests that the BBC should work closely with Skillset to achieve this.

Whereas Equity concentrated on an additional purpose that they thought was needed to ensure that the BBC was committed to mandatory best practice in employment, training and development' as it in effect 'showcases the UK to the rest of the world, .. plays a crucial role in our economy .., and acts as a standard bearer.' They are concerned that the BBC's reputation for quality and diversity is being undermined by the scale of budget cuts.

RM plc focused on the BBC's education purpose. They felt the purpose was too broad and thus proved unhelpful. They suggested that the BBC should focus on individual learners, independently pursuing personal learning journeys outside of a formal learning context. They wanted to see the material in the archive made easily accessible and suggested making it available online. Professor Phil Redmond also thought that there were two key areas missing from the purposes, media training and literacy and the cultural demands of young people. In a similar vein Action for Children's Arts hoped that the BBC would listen and react to the voice of the child and that this could be enshrined in its purposes

The role of sport as one of the BBC's purposes was also mentioned. UK Sport felt that 'the argument could be made for including sport within the Citizenship strand' and the Women's Sports Foundation felt there 'should be a formal obligation to provide representative coverage of sport'.

The importance of UK film and the BBC's role in promoting this was also highlighted through comments on the purposes. BECTU welcomed the 'encouragement for the BBC 'to put together a film investment strategy to ensure that the best UK films are shown to a wider television audience'. Whereas Film London would like to see an increase in investment in the production and acquisition of British films.

Finally, some industry and organisations responses, for example, Mediamarch, highlighted the omission of including a purpose to maintain high standards of taste and decency in programme content.

1:3 Qu3: Are these the right characteristics?

60% of industry and organisations responses did not answer this question; of those that did most agreed broadly with the characteristics, but many had individual complaints about certain aspects.

11% of responses believed that 'participation' was missing. This was often a call from the organisations that represented listeners and viewers. Public Voice stated 'in our view, 'participation' of users will be an essential element – not

merely an add-on to broadcasting – in achieving the five purposes. Citizenship, learning, culture and the life of our communities at national, regional and local level are all inherently interactive and communal activities.’

Many responses also thought the characteristics were too broad. BSkyB felt that the characteristics and purposes were often unclear and vague. They also questioned the inclusion of engaging saying that any programme could fulfil this. ISBA thought that even in combination with ‘the five (or six) core purposes, they will remain porous and malleable by an organisation of the BBC’s sheer scale, resource and size’. In contrast some responses claimed they were ‘rightly broad and not prescriptive’. Others supported the drive for innovation and the determination to engage viewers.

There were worries that the BBC was setting itself up too highly. The Broadcasting Committee of the Church of Ireland stated ‘we consider that a balance needs to be achieved whereby the BBC is not regulated into making the kinds of lofty and worthy programmes that few will want to watch.’ This view was also backed by the National Council of Women of Great Britain who warned ‘the BBC should not become a ghetto of worthiness, leaving all the fun to its commercial rivals’. The Archbishop’s Council of the Church of England also raised this view stating that they do ‘not believe that the BBC should be limited only to certain genres of programme, or prevented from showing feature films’.

There were a number of comments on the regulation of these characteristics for example, the Institute of Practitioners in Advertising wanted to see the BBC move away from the ‘aggressively commercial approach operated during recent years’. Whereas Mediawatch questioned who would ‘judge’ the characteristics and on what basis?

A Sixth Public Purpose- Building Digital Britain

2:1 Qu4: Do you agree that the BBC should be at the forefront of developments in technology, including digital television?

49% of industry and organisations responses did not answer this question. The majority of those responses that did, commented, almost exclusively on digital switchover, with its source of funding being one of main concerns. Around half of those who answered thought that the BBC is and should be the leader of developments in technology.

A significant number of responses felt that switchover should not be funded by the BBC but by the Government through taxation. Some believed that switchover should be the responsibility of the Government, not the BBC in all aspects. Age Concern raised the problem of affordability, accessibility, information and support for older people. They thought that switchover should not be funded by the licence fee and do not want it to go up as a result. They state 'The licence fee is to provide quality PSB programming and not to fund projects that are more appropriately funded by Government through tax receipts'. Mediawatch UK also believed that switching to digital television should be clearly a Government objective.

On the other hand, the Churches Media Council and BECTU both thought that the BBC should support the cost of switchover through increases in the licence fee. BECTU stated 'the BBC needs to take a leading role in the organisation and funding of digital switchover, using the licence fee to bring the benefits of digital TV to all'. The National Union of Journalists also said that 'the BBC should be given financial support in the form of a government grant to fulfil its obligations' with regards to switchover. The Digital TV Group agreed that the BBC should play a leading role and urged 'the BBC to ensure that consumer communication is started at the earliest possible date'.

However the majority of respondents agreed that the BBC should be a leader in terms of the roll out of digital technology however they did not feel that the

cost of switchover should be wholly met by the BBC. The Campaign for Press and Broadcasting Freedom, felt ‘the BBC should be aided by a separate government grant, not linked to the licence fee.’ They also thought that a special levy should be placed on existing major digital companies such as ITV and Sky to help fund this. Equity agreed that the BBC should be a leader in the roll out of digital technology but does not want to see these activities at the expense of programme production for analogue radio and television channels, believing ‘the Government should not rely only on the BBC, as other broadcasters will benefit from this too and should contribute.’

Channel 4 agreed that the BBC needs to be at the forefront of developments in new technologies however they ‘also believe that the DCMS must clearly ring-fence the BBC’s SwitchCo [now known as Digital UK] communications contributions, its targeted help assistance spend, its own switchover communications spend, and its more general digital channels promotion spend.’ BSkyB said that the ‘broad nature of the sixth purpose to promote digital switchover is not consistent with the Green Paper’s commitment that the new Charter will “set out the limits of [the BBC’s] mandate”. The activities of the BBC in connection with digital switchover must not favour a particular technology’. They also mentioned that any allocation of funds to such activities will need to comply with European State aid rules. Ofcom also believed that the BBC should be at the forefront of developments because of the privileged place they have in the broadcasting ecology however they also think that digital switchover should be a cross-sector process and that the whole of the sector needs to remain engaged.

Many of the responses felt that the BBC should work in partnership with commercial broadcasters to pay for and inform people about digital switchover, for example the Christian Broadcasting Council stated ‘the BBC and Commercial Broadcasters should be joint leaders in helping the public to adopt new digital technologies’. This view was also shared by Chrysalis and CRCA. The Community Media Association said that the BBC should ‘take responsibility, alongside other broadcasters, for supporting Switchco [now known as Digital UK] and promoting access to and information about digital services, especially to vulnerable groups’. Pact thought that the BBC should not take on the role of managing Switchco [now known as Digital UK] as it will be able to respond better to the needs of the audience if it is not controlling the rate of digital rollout.

There were also a number of comments made regarding the proposal in the Green Paper that the BBC should pay for schemes to help vulnerable people access digital technology. BOND had reservations about this proposal and said ‘this is a job for the government not the BBC.’ This view was echoed by Public Voice, ISBA and Pact.

On a similar vein a number of the voluntary organisations voiced their concerns over how the process of switchover will affect vulnerable people. The National Federation of the Blind highlighted ‘that the BBC must be made easily available to visually impaired people’, suggesting that there must be

personal one-to-one assistance provided in installing and training the visually impaired or older person in the use of the new technology. The RNIB were also concerned with how the blind would cope with switchover and Help the Aged raised concerns over how the process would affect the elderly.

There were also concerns about how switchover would affect the Nations and Regions, Wales in particular. The Culture, Welsh Language and Sport Committee raised concerns about the accessibility of Welsh programmes particularly in areas of difficult terrain. Alan Pugh AM although welcoming of the BBC's role in the digital switchover, highlighted that there is also a question about coverage of terrestrial signals. He felt it was unclear 'how the proposed obligation to replicate the current coverage of 98.5% of households will affect Wales specifically.' A number of organisations also felt that once switchover was complete there should be a specific channel dedicated to Gaelic programming.

There were also a small number of comments made, not relating to digital switchover, that were mainly concerned with the BBC's monopoly on markets. The Advertising Association felt that 'the leadership role of the BBC is important but that it can sometimes be interpreted too loosely and result in market distortions for commercial competitors with repercussions for advertising opportunities. They also thought that the BBC should not be allowed to foreclose developing new markets. The British Internet Publishers Alliance said that 'the role of the BBC as innovator in the online world is miscast. The BBC's real role should be as a PSB.' ITN's greatest concern was the BBC's role in new media. They believed all 'BBC plans for new services should be subject to public consultation and market impact assessments as part of an approvals process.'

Finally, Mediamarch stated that 'maybe the BBC could be a responsible leader by insisting there was some urgent debate in Parliament on how to rein in ISPs for example and how to negotiate some sort of international agreement on the broadcasting of pornography.'

Funding

3:1 Qu5: Do you support the proposal for a further review of alternative funding methods, before the end of the next Charter period?

56% of industry and organisations respondents did not answer this question. Of those that did 28% were firmly against the proposal for a further review and 52% supported the proposal.

20% of respondents therefore either abstained from answering the question directly or supported the proposal with conditions. For example Mediamarch believed ‘there may need to be a review before 2016, depending on what happens when analogue is switched off’.

Those that were against the proposal for a further review were often fully in favour of the licence fee and thus did not see any reason for change. The Churches Media Council thought that by not having a review it would ‘safeguard the strong, independent, universally accountable BBC.’ The Broadcasting Committee of the Church of Ireland feared that there would be a real danger of ‘consultation fatigue’ claiming that ‘reviews are a distracting and extensive processes’. The Community Media Association stated ‘we oppose an early interim BBC funding review because we feel that the BBC needs the stability of continued funding for the period of the Charter’. Others felt that they would rather the money were spent elsewhere. For example, Creators Rights Alliance argued that the money should be spent ‘to actually fund programmes, develop new creative talent and sustain the freelance community’.

Channel 4, Five, BSkyB, ITN and PPL and VPL were amongst the majority who supported a review. While many of them also supported the licence fee, one of the main reasons for support of a review was the feeling that the BBC must keep up with the fast rate of technological change. The British Internet Publishers Alliance stated ‘it is imperative that in a constantly and rapidly changing media environment the BBC’s funding should be reviewed well

before the end of the next Charter period'. They also felt that 'future funding should have enhanced levels of reporting back and accountability attached'. Ofcom were also in support of the review however they thought it should occur earlier, before 2010. The British Film Institute said that instead of giving the Government responsibility for the review "the BBC through its new governance structure takes the lead in proposing changes to funding methods in the first instance rather than Government."

Comments were also made about the nature of funding for PSB broadcasting in general, the Christian Broadcasting Council wanted to see 'purely entertainment programming' excluded from the funding of the BBC's PSB remit'. They proposed that people wishing to watch the first run of some entertainment programmes should pay a subscription.

Equity and Help the Aged were however both anti-subscription. Equity stated 'we cannot support the inherent assumption that subscription is inevitable'. They believed it would 'deny the public universal access to the BBC at the point of use'. Furthermore, Help the Aged warned that 'allowing advertising would generate its own commercial pressures which would inevitably lead to the voice of older people being marginalized in the race for the 'lucrative' 18-34 audience age range'. Similarly Five 'stresses it believes in the concept of universal access to the PSB programmes of the BBC and doesn't believe the BBC should be allowed to take adverts or sponsorship as long as it received public money.' This view was shared by the other major broadcasters.

BSkyB also commented on the level of the licence fee; they thought it should only be set for five years and a review be held to set the level for the next five years. Both BECTU and the NUJ addressed the level of the licence fee too, both thought it should be set to match broadcasting inflation and therefore allow the BBC to expand its services over the next ten years

3:2 Qu6: Do you have a view on any aspect of the operation of the licence fee: concessions, its collection or its enforcement?

70% of industry and organisations respondents did not answer this question. Those that did looked at the questions of concessions and collection and enforcement separately. However BSkyB made the general point that 'a more explicit link between the BBC and licence fee collection would improve accountability by focusing the public's attention on what the BBC does with their money and whether it delivers value for money'.

Concessions:

Some thought the licence fee concessions were about right. The Archbishops Council welcomed ‘the concessions for the elderly and disabled and supported the continuation of these.’ BECTU also agreed with the current range of concessions.

However many respondents mentioned the need for greater concessions for the very poor and elderly, in particular this was mentioned by Age Concern and Help the Aged. Although Help the Aged particularly welcomed the commitment from DCMS to review how the licence fee is paid for by residents in sheltered housing. Others believed ‘consideration should be given to broadening the range of concessions. The Broadcasting Committee of the Church of Ireland ‘indeed would like to see the lowering of the exemption to the post-65 age grouping’. The National Federation of the Blind ‘reminds the Secretary of State that the proportion of licence fee payers who are blind and partially sighted is substantial, and is growing and that no plan for future funding will be complete without conducting a proper analysis of this market segment. Whereas ‘RNIB would like to see the half price licence fee exception that is currently only granted to people who are registered blind to be extended to people who are registered partially sighted people.’

Collections:

With regards to the cost of collection Chrysalis said ‘The cost of licence fee collection and enforcement is too high, and deprives the BBC of funding that could be used on programme production.’ Many respondents were in favour of more cost effective ways to collect the licence fee. They suggested looking into new technologies which could help reduce cost, particularly the possible use of digital technologies. The British Film Institute welcomed ‘any possible reduction in the cost of administration. If this proves possible in the digital age through electronic payments, the opportunity should be seized’.

There was also support for easier ways for the public to pay the licence fee, the Campaign for Press and Broadcasting freedom: ‘supports the use of direct debit and the internet as ways of payment for the licence fee’ and PACT stated ‘the BBC should explore how the licence fee can be collected electronically’.

There were also arguments for a fairer share of the licence fee being spent in the nations and regions, the Cultural Commission, ‘approves the devolution of BBC production to Manchester’. In that context, there is surely no arguments against a fairer share of the licence fee being spent in Scotland too, both on intellectual tasks such as commissioning and in the location of resources and production.’

Governance and Regulation

4:1 Qu7: Have we defined the roles of the BBC Trust and the Executive Board sufficiently clearly?

55% of industry and organisations responses did not respond to this question. Of those that did, 40% gave a positive response. ISBA stated ‘we welcome the separation which the creation of a ‘BBC Trust’ and an Executive Board imply, and are encouraged by what we see as recognition that this separation will be achieved by a clear division of responsibilities between them.’ 29% of responses, in principle, agreed with the changes being made, but called for greater clarity.

There was a strong feeling that more detail was needed in explaining the roles of the proposed new bodies. For example Phil Redmond agreed with the proposals ‘but some questions remain. For instance, what will, or can, the future BBC Trust do to/about services that do not meet their licence provisions, obligations and commitments? What mechanism will be in place for rectification and ultimately, revocation of licences, if at all possible?’ Public Voice said ‘it is not always clear whether a relevant function should rightly belong with the Trust or the Board. The ‘service licences’ are one example’ and Channel 4 although in support said that ‘much will depend on the ability of these two new BBC bodies to operate with genuine transparency and a clear understanding of their separate roles.’ BSkyB welcomed the need for a clear distinction between governance and regulation however they thought that the Green Paper only proposes a new governance not regulation structure.

Although many people were in support of the proposal for the Trust there were concerns around its independence. The Advertising Association said that the Trust was in danger of being ‘captured by BBC management, in the same way as the Governors, and thereby losing its independence’. Both Gacp Media and ITN both thought that the Trust must be entirely independent. RM plc were ‘concerned that a dedicated BBC Trust, which is ultimately responsible

for decisions about policy and spending decisions, would be too much 'of the BBC' to provide real oversight.'

There was a lot of concern around the proposal to have non executives sitting on the Executive Board. Channel 5 'have questions about make-up and purpose of the Executive Board and would welcome detail of protocols to be written into the Charter or Agreement.' The Community Media Association 'were also concerned because we feel that this would weaken the position of the Trust and has the potential to confuse lines of accountability and responsibility.' CRCA thought that the proposed make up of the Executive Board was incorrect. 'This board, which we believe should be called the BBC Board rather than the Executive Board, should have a non-executive chairman who is the champion of the management, and a supporter, advisor and confidant for the Director General. The chairman of the BBC Board and the chairman of the BBC Trust should have discrete roles: the chairman of the Trust should look after the money and the needs and interests of licence payers, the chairman of the BBC Board should look after the running of the BBC.'

A number of responses had views on the role of the Chairman of the BBC. Chrysalis thought 'the BBC needs effective, independent regulation. If there is to be a Trust, its chairman should not be the Chairman of the BBC, but someone who is charged fully with representing the interests of the licence payer'. ITN shared a similar view suggesting 'the Chairman of the Trust should be a different post to that of Chairman of the BBC'.

Many responses mentioned the role of Ofcom in the governance and regulation of the BBC and their relationship with the proposed Trust and Executive Board. BECTU thought that 'greater clarity is needed about how 'regulatory responsibilities should be divided between Ofcom and the BBC Trust'. Channel 4 believed that until there is more transparency around the role of the Trust, Ofcom or the Secretary of State should play a greater role. However a couple of responses including the Churches Media Council felt that there should be no role for Ofcom in the governance of the BBC.

Although the majority of responses were in favour of changing the role of the Board of Governors The Cultural Diversity Advisory Group to the Media were 'of the view that training, improvement and modernising the current Board of Governors might be a better option rather than scrapping them altogether. Views have been expressed that the Governors ought to be elected by the licence fee payers and in the electronic age today this ought to be possible, but we are unsure of its practicability.'

A couple of responses were in favour of alternative models. The Satellite and Cable Broadcasters Group 'judge that in practice the distinction between the BBC and the BBC Trust will be no easier to observe than the present distinction between the BBC and its Governors. We believe that the Burns Panel's alternative recommendation of an independent Public Service Broadcasting Commission (PSBC) is far-sighted and practical, and would become increasingly relevant in the

rapidly changing digital age'. Whereas Mediamarch were 'disappointed that the suggestion for a separate Public Service Broadcasting Commission has been rejected..'

4:2 Qu8: Is this the right way to define the public interest remit of the BBC Trust?

Most industry and organisations responses answering this question 'broadly' agreed with the proposed definition. St Mercer, Marketing & Consulting Ltd believed that it provided a 'good starting model of regulation and accountability to the licence payer'. There were however a number of specific comments on the definition from the majority of responses.

However BSkyB thought that the BBC Trust will be charged with being champion of the BBC and 'as such, it is not appropriate for the BBC Trust to be tasked with holding "individual BBC services to specific service licences that prevent any significant change in their character", as is proposed in the Green Paper.' Whereas Channel 4 said a 'great deal will depend on the specific requirements inserted in the licences and, fundamentally, on the ability of the Trust to regulate the process effectively. It is for this reason that, in the area of applications for new BBC services, we do not support the Green Paper's proposal that the Secretary of State should only have a power of veto in the event that the BBC Trust has failed to follow due process. There should also be a clear and consistent public consultation process on proposals for new services.'

The Catholic Bishops' Conference of England and Wales, Public Voice and the Churches Media Council were among those who disagreed with the fourth principle. Some industries also concurred with the Churches Media Council who stated that they do not believe 'the Trust should protect commercial interests other than by ensuring that the BBC competes fairly'.

In contrast RM Plc stated 'we would suggest that, if a BBC Trust is created, it should have an explicit role to encourage the BBC to act in a way that supports the activities of commercial media businesses.' This view was shared by the OFT who stated that the 'systems by which BBC is held accountable must ensure that the BBC is not damaging to other markets.'

There was some concern over the role of the licence fee payer. Mediawatch believed the 'BBC Trust should be known to all licence fee payers so that all can judge whether the Trust is performing as it should'. Thus, there was a call for transparency in all of the Trust's proceedings. Community Media Association stated that the BBC Trust should reflect the ethos of 'Building Public Value' and Stonewall hoped that the BBC Trust would ensure equal representation from all communities, including Lesbian, Gay and Bisexual communities.

The increased role of Ofcom in this area was supported by responses from ITN and IPC Media who state ‘We do believe that the proposed Trust faces the risk of regulatory capture and would welcome Ofcom’s involvement in the regulation of the BBC.’

The National Union of Journalists thought that the Trust should make certain that all employees are represented via their trade unions. They were also concerned with equal opportunities in employment. BBOWT added ‘please add a further requirement for the Trust to make sure that the BBC works successfully in strategic partnerships with others from the public, private and voluntary sectors.’

Accountability

5:1 Qu9: How many of these options would you like to see adopted in the Trust's statement of promises? Are there any other options that you would like to see considered?

The majority of responses agree with the proposal in the Green Paper for greater accountability to licence fee payers and in the importance of de-mystifying the BBC. As Chrysalis stated 'in the main, we would wish to see all options adopted in the Statement of Promises as they demonstrate a positive move towards de-mystifying the Corporation.' They said it is the 'Executive Board, as the principal body of governance that is held accountable.

There was general support for the list of proposed ideas for greater accountability listed in the Green Paper however there was a strong feeling from the consultation that there should be a limit to how much the Trust should publish, consult and be open about in public as it may limit the Trust's ability to fulfil its role. It was felt strongly that the Trust should not hold their meetings in public, for example, the British Internet Publishers Alliance suggested that 'agendas must be published in advance of meetings. But if the Trust were to hold its meetings in public, free and frank discussion would be hobbled. Instead we recommend that a detailed account be released, after each such formal meeting and that the voting records be made available.' Channel 5 also 'welcomed the emphasis on accountability & especially the concept of on going research into audience views of BBC programmes however they reiterate that meetings of the Trust should not be in public, but minutes should be made available.'

Of those that were in agreement with the proposals BECTU said 'We agree with all of the listed proposals for accountability and openness in the operation of the Trust'. The NUJ also shared this support. Ofcom and ITN both support greater accountability too, with ITN saying that 'the Trust, as the BBC's governing body, should face outwards to take account of the concerns of licence fee payers and the market.' The VLV were also in support of the proposals and 'believes that all of these options should be pursued when the BBC Trust is established.'

There was some suggestion, particularly from charitable organisations for an idea also suggested by 3WE ‘that there should be democratic election of all or part of the Trust’. Some further suggestions came from the Community Media Association which suggested a ‘system of ‘champions’ who would be allocated responsibility for promoting the five purposes after appointment.’

There was a lot of support for the proposals for more research and consultation particularly from the Archbishop’s Council and Age Concern. The British Internet Publishers Alliance however expressed concerns with these proposals saying they ‘would like to be reassured that this new era of rigorous and transparent assessment will achieve significantly more in practice than the current system of BBC consultations of the licence fee payers which merely act to endorse decisions that have already been taken by the BBC.’ Stilpon Nester thought that the Trust should ‘establish and implement a published framework for ensuring that the public interest is brought to bear on all of its considerations. This will be expected to include specific commitments to communication and consultation with licence fee payers.’

A number of organisations raised the concern that an increase in greater accountability could lead to the BBC being captured by lobby groups, for example Equity thought the Trust ‘must also be aware of the dangers of being vulnerable to organised but unrepresentative groups who may seek to impose their views at the expense of the majority. Such groups should not be allowed to dictate programme policy by curbing artistic integrity or freedom of expression.’

There were also calls for greater financial accountability for example, BBC accounts should be scrutinised by the NAO.

There was also support for the continuation of the Charter and for publishing it in a language everyone can understand. This was particularly welcomed by Mediawatch UK however they asked ‘What steps are proposed to make the Charter available to all licence fee payers? We suggest that a summary be included with all licence fee renewal letters, that it be published on the BBC’s website and published by Ceefax. It would also be helpful if leaflets were made available through public libraries and distributed through consumer organisations.’

There were, however, a number of concerns with the proposals in the Green Paper, Mediawatch UK said that their ‘experience gained so far of the new “Governance Unit”, welcome though it is, suggests that its role in practice may be to shield the Governors from access from the public. With this arrangement it is too easy for the Governors simply to delegate their responsibilities to others and we can envisage that the Trust would do the same and remain inaccessible to licence fee payers’.

5:2 Qu10: Have you any views about how the BBC Trust should handle complaints?

There was a general feeling from the majority of responses that the complaint handling process at the BBC needs to be improved. There were many calls for, in the words of the Archbishop's Council, the procedure to be followed 'more robustly, independently, transparently and less defensively than at present'. There was some support for the current system and particularly the changes the BBC have already started to put in place however there was often a feeling that this could go further.

There were suggestions on how the complaints system could be improved, the British Film Institute suggested that 'a complaints secretariat be set up – much along the lines of the now disbanded Broadcasting Standards Commission – with a sub-committee of Trust members to consider recommendations as to findings and draft responses from secretariat staff. These should be published'. Mediawatch UK suggested the 'whole complaints handling process should be contracted out to an independent body specifically set up for the sole purpose'. The Satellite and Cable Broadcasters Group thought that 'the public and the BBC's competitors must be allowed direct access to the BBC's governing body in the event of complaints' and IPC Media suggested a similar view that the 'complainant must have equal right of access to meetings where the complaint is being discussed and equal rights to present evidence, either in writing or in person, to that enjoyed by the BBC'.

There were also many calls for Ofcom to have more power in this area, for example the British Internet Publishers Alliance felt that 'whilst Ofcom should remain the final arbiters of complaints about standards of harm and offence, privacy and fair treatment, Ofcom should also handle complaints from commercial operators and be given powers to impose changes or withdrawal of service licence agreements'. Chrysalis went further and thought that the Ofcom should handle all BBC complaints whereas GCap Media suggested that an 'independent appeals tribunal is set up to challenge decisions taken by the Trust as required under the Human Rights Act.'

There were, however, some organisations that took the opposite view, for example the Campaign for Press and Broadcasting Freedom said that 'Ofcom should not act as the final arbiter of complaints on matters of standards, harm, offence, privacy and fair treatment. As long as Ofcom is constituted in its present form it should have no such relationship to the BBC.'

Finally there was a strong feeling from many responses, particularly those from other broadcasters, that there should be greater separation between BBC Management and the Trust in the case of complaints. BSkyB said that the 'Green Paper proposes an approach in which the BBC will be both defendant and judge in respect of complaints over issues where the regulatory responsibility currently resides with the BBC Governors (such as the accuracy

and impartiality of its news coverage and the enforcement of the BBC's Fair Trading Commitment). This approach manifestly fails to satisfy the first principle of natural justice: *nemo iudex in causa sua*.⁵ Five thought that the BBC 'should separate programme issues that fall within BBC remit (e.g. impartiality) from those that fall under Ofcom (e.g. harm & offence). People should know where to go directly. The BBC should make it clear who has responsibility for what and to organise procedures accordingly.' VLV also shared this view.

Membership of the Trust

6:1 Qu11: How many members do you think the BBC Trust needs?

78% of industry and organisations responses did not answer this question. Of those that did roughly a third thought that 12 was the appropriate number of members for the BBC Trust. ITN agreed with the BBC's proposal that 'the Trust will need to be small enough to function effectively'. Music Publishers Association noted that it is 'important that the BBC Trust is not too large and bureaucratic'.

Others thought that 15-20 members was more appropriate as this would enable the trust to incorporate a variety of people with enough different skills and expertise. Stilpon Nestor stated 'a body such as the Trust needs to be broad enough to represent all the main groups of stakeholders'. Similarly the Musicians Union thought that 'an up to 12-member Trust would be too small to be truly representative and suggest 20 as a more realistic figure'.

To most industries or organisations the importance of representation was in fact greater than the number of people. The Churches Media Council stated 'we believe that the necessary skills and expertise are more important than an arbitrary number so long as efficiency is not sacrificed'.

Another area that was brought up was the appointment of members the trust. The Campaign for Press and Broadcasting Freedom and the National Union of Journalists both believed the BBC should be more democratic and the members of the Trust should therefore not be appointed by the Queen on the recommendation of the Prime Minister.

The Campaign for Press and Broadcasting Freedom suggested 'broadcasting matters could be devolved to national and regional communication councils. These might include representatives of the national parliaments and assemblies in the UK and people appointed by nominating bodies.' However apart from organisations representing the nations there was little call for the trust to have representatives from each nation.

The National Union of Journalists suggested ‘there should be a much more democratic body overseeing the BBC and this could be achieved through the election of Trust members representing different areas of interest, including the trade unions. Such elections could be organised through regional broadcasting councils or listeners and viewers councils, with representatives from the regions and Nations. We do not have a particular model for this but the principle of election rather than appointment is very important and we would like to see wide discussion on this issue.’

The main trend in this area was that the Trust should be made up of around 12 members who are able to represent the interests of the licence fee payer in a number of different areas.

6:2 Qu12: What skills and expertise do you think they need?

There is no real consensus around what skills the Trust members should have however there is a general feeling that the members must have knowledge of the broadcasting industry and be able to be effective in the regulation of such a large organisation.

An example of the range of suggestions offered:

- Need to ensure all 5 purposes are being fulfilled. Voluntary Action want ‘a ‘champion’ for each purpose’.
- Ofcom want ‘broadcasting, public policy, strategic, financial and economic input’ which is reflective of what a number of industries suggested. Similarly Help the Aged recognised ‘that Trust members will need to have the very highest competencies in terms of broadcasting, business, legal and financial experience’.
- Civil society members. They need to have knowledge of what concerns viewers and listeners. The Trade Union Congress said ‘it should not consist solely of experts and there are different aspects of civil society that need to be taken into account’.
- A number of industries suggested that the Trust should have members who have experience of community action and could come from the voluntary sector background.
- Music industries thought that at least one member of the Trust should have excellent music and creative expertise. The Musicians Union stated that it should ‘include entertainment industry practitioners and experts.’

- Age Concern felt that it was imperative that some members had the necessary expertise to ‘ensure the BBC operates efficiently and delivers value for money’.
- Feeling that the Trust needs to reflect diversity of UK. Members must come from all walks of life and all areas of the UK.
- BIPA stated ‘membership should include at least one person with contemporary new media market knowledge, another with specific experience of internet publishing and at least one other with expertise in competition law (at UK and EU level). One of these members should have the specific responsibility to represent and defend the new media market perspective.’
- Important that at least one member has a good knowledge of international issues and international media.

6:3 Qu13: Are there any particular communities or interest groups that you think the Trust members should represent?

65% of industry and organisations responses have not answered this question. Of those that did, many thought that the Nations and Regions of Great Britain were the most important areas in need of representation. For example, the Gaelic Development Agency stated ‘It is important that the proposed BBC Trust has at least one member who had knowledge of, interest in, and is in touch with Scottish matters’. Similarly groups from Wales and Ireland also wanted their regions to be represented.

Many also thought that people from all backgrounds, ethnicities and faiths, should be represented. The Music Business Forum wanted it to be ensured that ‘the membership of the BBC Trust reflects the diversity of Britain’. Stonewall wanted people of differing sexual orientation to be represented and Action for Children’s Arts wanted Trustees to have the ‘means to listen and react to the voice of a child’ and CSA Word wanted to see at least one radio champion.

In contrast some felt that it would be impossible and unnecessary to represent ‘everyone’. For example the VLV thought that no Trust member should be the spokesperson for one particular issue. The ISBA highlighted that ‘pursuit of a ‘politically-correct’ composition of the Board of Governors has not served the BBC’s governance well, so we suggest that age, gender, disability, ethnicity, regionalism and religion are not retained as primary recruitment criteria’. The National Council of Women of Great Britain stated that ‘members should not

be chosen for ethnic or faith reasons but, insofar as they are chosen for reasons other than the skills mentioned in Q12, because they help to provide a geographical or social balance in other ways: urban/rural; intellectual/physical interests; religious/secular?.

Organisation and Infrastructure

7:1 Qu14: Do you think a “window of creative competition’ can be made to work? If not, would you support a raised quote for independent production in BBC television?

38% of the industry and organisations responses addressed this question. Of those that did the majority agreed with the idea of increasing the plurality of supply of programmes on the BBC. However there were a number of concerns that were raised with the suggestions in the Green Paper, often with regard to the regulation of the system or the impact it may have on the training and skills provided by the BBC. A number of the voluntary organisations, for example, Help the Aged, thought that the most important factor was that the BBC continues to provide quality PSB programming.

About half the responses supported the proposals for the WOCC, with the Broadcasting Committee of Ireland feeling that this was ‘a workable idea’ and Channel 5 broadly supporting the proposal. The Archbishop’s Council believed that it would provide creative tension by balancing the provision from in-house and independent producers. Mediawatch UK also supported the WOCC proposal as did Mediamarch however they believe that the BBC should retain the majority of production. Ofcom have not yet reached a conclusion on the BBC’s WOCC proposals however they are looking into them as part of their review into the television production sector. Pinewood Shepperton, smg and Sony pictures all supported the WOCC proposal. As did Talkback Thames however they do have some concerns about how it will work in practice.

However there were also a number of responses who were not supportive of the WOCC proposal or increased quotas. The CRA ‘don’t feel there is any evidence to support that higher quotas lead to better programming for licence fee payers’. Whereas the Musicians Union is not convinced with proposal for

the WOCC as they feel it may undermine the BBC's production base. The VLV also does not support the WOCC but thought that the BBC should use the new system of service licences to make sure that they provide a range of programmes for viewers.

A number of the responses that were supportive of the WOCC proposals were, however, concerned about its governance. ISBA argued that 'tough effective mechanisms need to be put in place which force the BBC to meet independently and externally set targets, not soft self imposed quotas.' PACT also supported the WOCC proposals but thought that in order for it to work; it and the entire BBC commissioning system must be closely monitored. Whereas Talkback Thames thought that the WOCC must be put into legislation and to become a matter for Ofcom/DCMS to review annually not the BCC Management or Governors.

A small number of responses addressed the issue of raising quotas for independent production. Channel 4 agreed that the BBC must retain a base level of in house production but they do support the WOCC. However they thought that the BBC must be given time to see if it would work before any formal increases in quotas are suggested. They also felt it would be sensible to wait for the result of Ofcom's review of content production before suggesting any increased quotas. There were also greater calls for more clarity in how the quotas are and will be applied. Very few responses were in favour of increased quotas rather than the WOCC however UK Post did not support the WOCC but were supportive of 'the idea of a raised quota somewhere between 25 and 50%.'

Of the concerns raised with the proposals two issues stood out. The first being regional production, Alan Pugh AM said that the 'BBC should ensure that its commitment to independent producers is equally spread out.' He also wanted more details on how the proposals would benefit Welsh independent producers before forming a view on the proposals. The Culture, Welsh language and Sport committee raised concerns that the sum of money for outside London production, although sounding large, may be spread too thinly to be effective. However, the Scottish Executive were pleased that the Green Paper 'reinforces the BBC's own proposals for out of London production'. A view shared by Scottish Screen, which also welcomed the 'ethos that the development of the BBC should be coordinated with ITV alongside recognizing the strength of Channel 4 as a commissioner.'

The second issue raised was the BBC's commitment to training within the industry, which was mentioned by a large number of responses. BECTU agreed 'that the BBC needs to have sufficient scale to continue to provide high quality services' whereas the British Film Institute was concerned that too much public money may go to 'increasing shareholder profitability for the independent companies at the expense of training the next generation.' The Campaign for Press and Broadcasting Freedom said that moving towards 'a policy of outsourcing 40% of BBC production is a recipe for weakening that pool of trained staff and replacing it with underpaid, poorly trained and

overworked workforce.’ A view that was also shared by Equity. The NUJ went as far as to suggest that there should be an investigation into conditions of work in the independent production sector and as such ‘are strongly opposed to the WOCC proposals at present’.

Finally, there was very little comment on how the proposals would help the BBC cope with changes it faces in the future, although the Churches Media Council believed that the BBC must have flexibility to cope with any changes that occur post digital switchover.

7:2 Qu15: Do you think a voluntary 10% quota for radio is sufficient? Or should the quota be increased or made mandatory?

77% of industry and organisations responses did not answer this question. Of those that did answer around half believed the voluntary 10% quota was sufficient.

As to whether it should be made mandatory, there were conflicting views, the Archbishop’s Council stated ‘we do not believe that the market is sufficiently large in independent radio production to sustain or warrant changing this from a voluntary quota’. This view was also shared by Equity and the TUC amongst others. In contrast the Broadcasting Committee of the Church of Ireland believes the 10% quota should be mandatory.

Some wanted to see the quota increased to up to 25% in line with television, including PACT. The Churches Media Council wanted to see ‘development of the independent radio production sector, running alongside the existing strong in-house specialist and general units’. CSA stated that ‘3000 hours sounds a lot more generous than it actually is’. And Electric Airways wrote similarly that ‘the allocation to independent production of only 10% of what is left means that only 6% of BBC Radio output hours are actually sourced from independents’. Thus they argued ‘the BBC maintains that it is not its role to create and sustain profit making by independent radio companies. This is nonsense’. They suggested, ‘BBC Radio should commission a minimum of 25% of its national output from the independent sector, perhaps with a further auditable 25% open to competition from independent and in-house suppliers’. This was also suggested by the Radio Independents Group. Others thought an increase would help stimulate creativity and competition.

Others wanted the question of a quota to be reviewed regularly. ‘The quota should start at 10% and its impact should be reviewed regularly in order to determine its optimum level’. Testbed Production stated ‘we’d argue that a comparative Independent/BBC in-house audit of both programme budget

levels and how they are spent needs to take place, as well as a comparative audit on programme quality. We'd like to see commissioning editors being drawn from a wider broadcasting circle. And we'd like to see a radio independent commissioning executive alongside BBC TV Independent Commissioning'.

Scope of Publicly-Funded Services

8:1 Qu16: Do you agree that the BBC should be able to propose changes to its range of services over the course of the next ten years?

In general those who answered this question, agreed that the BBC should be able to propose changes to its range of services over the course of the next ten years. It was felt that the BBC should be flexible in the face of changing public opinion and changes in technology.

Some did however voice concerns over how ‘significant changes’ will impact the market and damage other commercial broadcasters. There were calls for Ofcom to take a more central role in overseeing changes and additions to BBC services. For example, Channel 4 stated ‘... we believe that ‘significant changes’ should require the agreement not just of the Trust but also of Ofcom or alternatively the Secretary of State.’ Channel 5 believed that ‘any change should be subjected to careful tests to balance public good with unfair damage to competitors’.

Thus, many industry and organisations responses supported the suggestion for thorough public value tests if changes were to be made. Teledwyr Annibynnol Cymru wrote ‘we concur that the public value test should provide a suitable safeguard against any inappropriate use of public funding.’ Although they were concerns over what would be defined as a significant change to a service.

There were also calls for more regulation of and market impact assessments of the BBC’s existing services, Gcap Media suggested that the ‘Trust should do market impact assessments every 5 years.’

There were also suggestions that the BBC should be subject to the same regulatory structure as the rest of the industry, Chrysalis felt that ‘the BBC

should operate under the same regulatory framework with regard to station formats as commercial radio’.

The Music Publishers Association raised the example of the introduction of the Creative Archive, they ‘have been closely involved in the BBC’s consultations on its Creative Archive and continue to have some reservations about the terms on which this is being made available. We commend the initiative to open up access to the BBC’s rich archive but continue to question the need to allow people to manipulate any part of the archive for their own purposes. Access should be on terms no different to those on which people can access material in physical libraries, thereby respecting fully the rights and interests of the owners of the rights in such material whilst gaining any necessary access for the purpose of private study and non-commercial research.’ They feel that the BBC should only be able to introduce new services that support the specific purposes.

8:2 Qu17: Do you agree with our proposals for handling new services?

69% of industry and organisations responses did not respond to this question. Of those that did, roughly half responded positively. Others noted specific areas of discontent but were not entirely negative in their responses either.

The Churches Media Council raised the issue that tests of public value and market impact must not ‘inhibit innovation, change and development’.

There was concern over the role of Ofcom amongst many responses. Equity stated that while it was inevitable that there would be greater interaction between the BBC and Ofcom, this must not ‘be seen as step towards incorporating the BBC under the remit of Ofcom’.

However the majority of responses from Broadcasters, e.g. Channel 4 and ITN thought that there was a need for an increased role for Ofcom in overseeing the introduction of new BBC services, particularly with regards to the introduction of market impact tests. CRCA recommended that ‘Ofcom should run industry-wide consultations as part of the process of carrying out market impact assessments and Ofcom should be asked to make a recommendation’. ITN believed ‘all new services should be subject to a thorough market-impact test carried out by Ofcom, which should have authority to make recommendations for action to the BBC Trust.’ Stilpon Nester believed ‘Ofcom should be required to make recommendations in the process of service licensing by the Trust.’

Channel 4 however remained concerned that the Trust would not be capable of operating with the necessary detachment and thus preferred an arrangement ‘under which the Secretary of State is required to assess whether the ‘public

value' of a new BBC service outweighs any negative market impact before granting approval or rejecting an application'. Similarly, other industry responses were also concerned about the objectivity of the Trust, for example, Chrysalis believe the Trust 'will not be a genuinely independent authority'. In contrast, the VLV had reservations about the Secretary of State being involved in the process at all.

UK Post felt that 'a careful balance must be met by the BBC Trust, Ofcom and the DCMS in achieving these decisions quickly in a rapidly developing market, yet still allowing all interested parties time to convey their points of view. In this respect, we would ask that UK Post be able to play a full part in any such market impact assessment that has implications for its members as key suppliers to the BBC.'

Finally, the British Internet Publishers Alliance believed that the Government should put in place a mechanism 'whereby investigations can be instigated into the market impact of existing services if adverse market impact is shown'. And ITN stated that 'there is a need for greater clarity, about the way licences for new BBC service are defined, approved and monitored'. Furthermore, they said that 'the Trust must ensure that the BBC does not swamp emerging new media markets and destroy an emerging ecology.'

Scope and regulation of Commercial Services

9:1 Qu18: How strictly should the BBC's commercial services be restricted to those businesses that are linked to public purposes and public services?

69% of industry and organisations respondents did not answer this question. Of those that did almost all agreed that the BBC's commercial services should be linked to public purposes and public services. The extent to which they should be strictly restricted did however differ between responses.

Channels 4 and 5 both agreed that the BBC should supplement licence fee revenue with revenue from their commercial services however they both agreed that the commercial services should be linked to the public purposes. Channel 5 suggested that 'to judge this, you need alert oversight by the Trust and input from Ofcom'. Chrysalis thought that the commercial services should be strictly limited to the purposes. Ofcom also agreed with this proposal but felt that the commercial services 'should be structured in such a way as to minimise disproportionate market impact'.

Some were worried about the BBC gaining an unfair commercial advantage. The Music Publishers Association summarised their argument by stating 'the BBC should limit its activities more directly to its role as broadcaster and contract out any area of business that is extraneous to this'. This was reiterated by other industries who were worried about market impact. The Association for International Broadcasting stated 'the BBC should not be permitted to establish commercial services where there is evidence of "market failure"'. Furthermore, ISBA argued that the BBC in fact has no place where 'the market can and does provide good services.' If the BBC does generate income from commercial services they thought this should be used to replace, 'rather than add to' licence fee revenues.

IPC Media had numerous comments to make on this issue, particularly with regards to BBC magazines. They felt that the expansion of BBC commercial aspirations has led to the BBC ‘undermining its own Charter and State Aid obligations’. They believed that regulatory reform is needed in order to restrict the risk of cross-subsidies, for example, BBC Worldwide. Furthermore they felt that the BBC’s internal commercial review finding that BBC magazines will be restricted to ‘publishing magazines directly related either to core BBC genres...or specific BBC programmes...’ is too ‘broad and subjective to be of any practical value’.

The British Internet Publishers Alliance also believed that there should be no cross-subsidy and recommended that the statement, “all continuing activity should be related in some way to the BBC’s public purposes and should have a direct connection to publicly funded programmes or services” should be changed to read, “All commercial activity, current and future, must be related to the BBC’s public purposes and must have a direct connection with publicly funded programmes or services”. The Office of Fair Trading said that all commercial services should be kept to a minimum as they distort the market.

In contrast a few appeared to be in favour of allowing a considerable amount of flexibility to the BBC. The Broadcasting Committee of the Church of Ireland stated that ‘the BBC’s creative entrepreneurialism should not be heavily stifled but lightly regulated’. The Creators Rights Alliance also believed ‘the BBC should be encouraged to continue to generate income from commercial activities.’ Help the Aged mentioned that BBC commercial services had a wide appeal amongst older people. And Mediawatch were happy for the BBC’s commercial services to stay as they are. Finally, Equity opposed the ‘creeping influence of Ofcom into the internal commercial operations and the rules of the BBC in this area’.

9:2 Qu19: Is the existing fair trading commitment a useful addition to the arrangements for regulating the BBC’s commercial services? If not, what option would you prefer?

Only 27% of industry and organisations responses to the consultation addressed the issue of the fair trading commitment and the majority of these were companies or organisations that are in competition with the BBC.

There was limited support without caveat for the proposal in the Green Paper however the OFT did agree with it. PACT also supported the proposal but thought that ‘additional tests should be introduced by the BBC Trust. This entity should have final approval of any services, either existing or planned.’ The Advertising Association members had no common view on the proposal

and the Archbishops Council argued the logic for keeping the fair trade regulation in one place under the BBC Trust but suggested that there could be duties for the Trust to consult Ofcom or the OFT on such matters. UK Post saw the fair trading commitment as useful but would like to see it independently audited and not just limited to commercial services.

The National Union of Journalists was the only response that believed that no special regime was necessary and that Ofcom should not have oversight of the BBC's commercial activities. However the VLV argued that the current system was working well.

The majority of responses thought that the proposal in the Green Paper went some way towards allaying their fears but often argued for more power to go to Ofcom or suggested changes for the process, which often went further than the proposals in the Green Paper. CRCA argued that if the 'BBC is allowed to continue to expand and compete without restraint; the wider UK communications ecology will be damaged.' Whilst the Music Business Forum said that 'granting rights should remain on commercial terms under fair trading commitments. These fair trade commitments should be scrutinised by an independent, external body to give the necessary confidence to the BBC's competitors as to their probity.'

There were many calls for Ofcom to have greater power in this area. The British Internet Publishers Alliance argued that a fair trade commitment is 'only going to be useful if its operation is more transparent and subject to external scrutiny and appeal. Competition regulation should transfer to Ofcom. In our view it would not be sufficient for Ofcom merely to approve the terms of any Fair Trading Commitment (FTC). External regulatory scrutiny is essential'. Channel 4 'do not believe there is any value added through the retention of an additional Fair Trading Commitment. If it is retained we agree that Ofcom should be required to approve the terms of whatever internal BBC rules remain as a form of ex ante regulation.' Gcap Media propose that 'Ofcom should do impact assessments on the BBC to coincide with PSB reviews.' ITN and the ISBA also argue for more power to be handed to Ofcom.

IPC Media offered a suggestion to improve the fair trading commitment 'firstly, there must be clear separation between documents containing fair trading policies and those addressing fair trading compliance' and 'secondly, as new fair trading policies are proposed by the BBC they must be made subject to transparent and objective public consultation, with final approval by Ofcom to guarantee the independence of the process and to provide valuable regulatory expertise to the BBC. Once a policy has been approved by Ofcom then the Fair Trading Commitment could be amended accordingly.'

Ofcom themselves said that 'the current Fair Trading Commitment should be revised in order to help ensure a level playing field in competition across the broadcasting sector. We believe that this revision should ensure that the

Commitment covers licence-fee funded as well as commercial services, while also subjecting the Commitment to approval and oversight by Ofcom.’

Finally the British Film Institute suggested ‘it is difficult to imagine any arrangement which would allay the fears of its commercial competitors which are often borne of finding the BBC an easy-to-blame target to distract from their own deficiencies.’

The Wider System of Public Service Broadcasting

10:1 Qu20: Do you agree that the case for a plurality of publicly-funded broadcasters should be kept under review?

Nearly all responses to this question agree that this case should be kept under review however there was a wide range of opinions on how this review should be conducted, by whom, and when, and also what the possible aims may be. The Archbishop's Council argued that 'Ofcom's statutory remit to 'maintain and strengthen' public service broadcasting cannot be achieved without this plurality.' Channel 4 and the Institute of Practitioners in Advertising also support the Green Paper's proposals. Ofcom expressed support for the Green Paper's proposals but thought that 'any review of plurality should take place at an earlier stage than that proposed by the Green Paper.' They suggest a more rapid timetable perhaps by 2010. There was fairly strong support, particularly from voluntary organisations, for example, Help the Aged, that Channels 3, 4 and 5 should retain some degree of PSB provision. The Trade Union congress added that 'it would be a retrograde step if the BBC were to return to the pre-ITV position of being the only provider of public service broadcasting.'

However there was a suggestion by 3WE that the 'case for plurality of PSB is indisputable and therefore not under review. But keep under review how this plurality is achieved in the future.'

There were a few calls from the industry and organisations to ensure that a licence fee funded BBC remained the central provider of PSB in the future. The Campaign for Press and Broadcasting Freedom felt that the review should start from the assumption 'that the BBC and the licence fee should remain intact and that the review should have as its centre the goal of constructing

mechanisms to increase public service obligations on commercial providers.’ Equity also shared the view that the licence fee should solely go to the BBC.

In a similar vein, there were a number of responses, including Mediawatch and Mediamarch and the VLV that argued against proposals for top- slicing the licence fee. The Archbishop’s Council felt that ‘options, such as top-slicing the licence-fee, should not be followed but other policy options should be explored, such as incentives inclusion in electronic programme guides or direct subsidy for Channel 4, turnover tax relief for delivering PSB programmes etc.’ This view was also shared by the Churches Media Council. The Musicians Union were against top slicing and went as far to say that they ‘believe in 10 years time the licence fee system will remain the best method of funding the BBC and maintaining its editorial independence.’

However a similar number of responses were in support of top-slicing the licence fee, ITN, for example. They also felt the ‘other part of the equation in delivering plurality and competition in the digital era is to ensure the best overall regulatory environment for commercial broadcasters.’ Smg suggested ‘part of the licence fee should be available to other broadcasters as contestable funding for PSB’ and BIPA supported ‘further discussion and review of the various proposals for a more generalised system of public service provision, including on the basis of contestable funding.’

A lot of the responses commented on Ofcom’s suggestion for a Public Service Publisher; they tended to be fairly even in their support and disagreement with the proposal. 3WE suggested that this was a ‘debate that should be handled by DCMS not Ofcom.’ Five were concerned by Ofcom’s suggestion for a PSP. They argue that if it emerges ‘it shouldn’t be allowed advertising or commercial sponsorship of any form and cross-promotion between provider channel and new service should not be allowed.’ Five also felt that the next PSB review by Ofcom in 2009 should ‘examine the position of commercially funded PSBs; look at how much PSB programming is delivered by the market; consider if new compact is feasible (as suggested in Ofcom Phase 2 Report - EPG prominence, Must Carry Status, spectrum price waivers etc). Once this is established, then consider whether additional public funds for non BBC PSB’s is possible or desirable.’ The Creators Rights Alliance ‘fail to see the benefit of the Public Service Publisher as proposed by Ofcom and Equity are also unsure about the PSP and question where the money would come from’ The National Union of Journalists supported the ‘suggestion that Ofcom should do more detailed work on the possible form of a Public Service Publisher’ however they are strongly against the idea that any funding should come from the BBC. Vodafone saw ‘strong potential in the PSP idea, which is an original and imaginative means of ensuring the continued strength and relevance of public service broadcasting (PSB) in the digital age’.

There were a few suggestions for different models for the future of PSB, for example ISBA suggest a ‘model more akin to the Lottery Commission than the Arts Council as a starting point.’

A number of the responses focused very clearly on the future of Channel 4 rather than PSB in general. The British Film Institute suggested ‘that a safety net might be put in place for Channel 4 with a call on funding from the taxpayer but not the licence fee.’ Channel 4 added that it is their preference ‘to identify potential indirect forms of support that can replace the indirect support we have historically received in the form of free analogue spectrum.’ They support the proposal put forward in Building Public Value and welcome the government’s commitment to look at this suggestion. They believe this would help maintain plurality of PSB provision. They also suggest that the BBC could allocate (after switchover) the surplus funds that the BBC will be receiving to have funded digital switchover towards competitor PSB services or some form of PSP.

Finally there were a few suggestions from some responses about the future role of PSB and the role of ITV in providing PSB. The Satellite and Cable Broadcasters Group felt that Charter review should be accompanied by ‘simultaneous appraisal of ITV’s activities, and in particular its expansion into new channels and services that benefit from public service status and cross-promotional leverage when no commensurate public benefit is being offered.’