

HOUSE OF LORDS
MINUTES OF EVIDENCE
TAKEN BEFORE
SELECT COMMITTEE ON BBC CHARTER REVIEW

BBC CHARTER REVIEW

TUESDAY 22 MARCH 2005

LORD McINTOSH OF HARINGEY and MR JON ZEFF

Evidence heard in Public

Questions 90 - 216

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TUESDAY 22 MARCH 2005

Present

Armstrong of Ilminster, L.
Bonham-Carter of Yarnbury, B.
Fowler, L. (Chairman)
Gibson of Market Rasen, B.
Holme of Cheltenham, L.
Howe of Idlicote, B.
Kalms, L.
King of Bridgwater, L.
Manchester, Bp.
Maxton, L.
Peston, L.

Witnesses: **Lord McIntosh of Haringey** a Member of the House, Minister for Media and Heritage, and **Mr Jon Zeff**, Head of Broadcasting Policy Division, Department for Culture, Media and Sport, examined.

Q90 Chairman: Minister, welcome. As you know, we have been set up as a Select Committee of the House of Lords to consider the review of the BBC Charter and in particular the Government's Green Paper. Time is not exactly on our side as far as this review is concerned. We cannot know what the outcome of the Election is going to be or what impact, if any, that will have, but our timetable is to have the report ready by the end of October and obviously we will seek and intend to make this as thorough an examination as we possibly can. I should warn you, and perhaps you do not need any warning, that there may be divisions during your evidence but of all people you are used to that. You have with you Mr Zeff. Mr Zeff, could you just introduce yourself very briefly for us?

Mr Zeff: I am the Head of the Broadcasting Policy Division in DCMS where I have been for coming up to two years now. I have been in the Department in various other roles before that since about 1988.

Chairman: Thank you very much. Let's get down to the questioning. Can I start with the title of the Green Paper: a *strong BBC independent of Government*.

Q91 Lord King of Bridgwater: Could I ask a question arising out of what you said at the start because you said we are going to report in October. The paper I have seen says the Government is going to give three months to consultation. Before we start can we be clear that our contribution in October will be in time for it to be taken into account, if it is only three months from now?

Lord McIntosh of Haringey: I can certainly give that assurance.

Q92 Chairman: We had checked that actually.

Lord McIntosh of Haringey: The date for public consultation is 31 May but of course an august body of this kind will have its views taken into account whenever they arise.

Q93 Lord King of Bridgwater: Six months after the public consultation has finished?

Lord McIntosh of Haringey: If necessary.

Q94 Chairman: We like your flattery and it goes a long way with this Committee! Minister, can I begin then by saying the title of the Green Paper was a *strong BBC, independent of government*. Do not governments - any government - talk about the independence of the BBC up to the point that their interests are adversely affected by the reports of the BBC?

Lord McIntosh of Haringey: All governments are in a state of creative conflict with all broadcasting and press organisations. That is a fact of life. The media are the Fourth Estate and the Government is not and therefore they are bound to be in conflict. I have to say that I do not think that conflict between the media and particularly the BBC and Government has been a feature at any stage of our consideration of the BBC's Charter Review.

Q95 Chairman: But as far as the BBC is concerned, you have respect for their impartiality and the fairness of their reports?

Lord McIntosh of Haringey: We started off with the phrase that you used. We started off by saying that the outcome of this review would be a strong BBC, independent of government, and that was our only opening position. As we have progressed with the consultation and with the research that we did and with the work of Lord Burns's Committee, we have the very strong impression that a strong BBC, independent of government is what the people of this country want. That is the response that they are giving to us. We landed up not only confirmed in that but confirmed in the view that it was possible to maintain that in the future governance and funding of the BBC.

Q96 Chairman: To some extent it rather depends on the Government itself, does it not, and what its relations are and what pressure any government tries to place upon the BBC? Just looking back on the Hutton Report, I notice there that what Greg Dyke said in his evidence was that he believed that the letters and the pressure from Alastair Campbell was "a general attack on the BBC and its coverage of the Iraq war". That does not sound like respect for the independence of the BBC.

Lord McIntosh of Haringey: I think there are three things I would want to say about that, Chairman. The first thing is that what encouraged me about the whole of the Charter Review process is that we have been looking forward and not backward and there has not been any reference to that sort of dispute or disagreement. The second thing is that we said right at the outset, indeed even before Lord Hutton reported, that the recommendations he made would be taken into account in the way in which we considered the BBC's Charter and agreement, and that is exactly what has happened. I forgot what the third thing is but those will do.

Q97 Chairman: Fine. Would it be unfair to characterise that as meaning that in the Hutton Report and Inquiry and what happened there, where there were undoubtedly lessons for the BBC, there were any lessons for the Government?

Lord McIntosh of Haringey: There were lessons for the BBC which the BBC took very seriously because they instigated their own inquiry under Ron Neill into BBC broadcast journalism, and that was their privilege, and it seems to me that they made a very thorough job of it. Lessons for the Government, insofar as there are lessons in Lord Hutton's recommendations, are taken account of in the preparation of the Green Paper.

Q98 Chairman: It was not so much the preparation of the Green Paper I was considering. It was the day-by-day relationship between government and the BBC. Is there not a danger - and did Hutton not touch on this - that when there is a general pressure, if you like, upon the BBC, there is a tendency to cry wolf and when a particular issue which may be justified comes up it leads to a defence from the BBC because they are being attacked on so many other fronts already?

Lord McIntosh of Haringey: Well, it is not for me to say what the BBC feel. I think both Michael Grade and Mark Thompson said it to you when they gave evidence to you last week. Both of them said, as I understand it, that there was no undue pressure on them. That is the current situation. I am not prepared to spend time particularly speculating on past situations. If that is the current situation, that is good enough for me.

Q99 Chairman: It is the current situation as far as the Government is concerned?

Lord McIntosh of Haringey: Yes, we would agree with that. We would agree with what they say.

Chairman: Right, no undue pressure. Okay. Lord Maxton?

Q100 Lord Maxton: Lord McIntosh, there is often considerable anger among all politicians about whether the BBC is biased or not. Let me give you one example straight away from Sunday evening I did not see the *Panorama* programme on the Iraq war but there has been very, very considerable anger expressed to me by some of my colleagues in the other House about its totally biased nature. That is a matter of opinion, but what research does your Department finance, independent of the BBC and, to be fair, independent of Government, to look at the whole question of balance on the BBC. There are university media departments who could undertake this sort of research. Is it done? If it is not done, why not? And if it is done, is it published?

Lord McIntosh of Haringey: As far as the Charter Review process is concerned, we carried out very considerable research. We carried out qualitative and quantitative research and in that research one of the issues that was raised with people was the issue of impartiality and there was a very, very strong endorsement of the BBC for impartiality from ordinary people in this country. I do not deny what you say about politicians getting angry at the BBC. I remember Harold Wilson getting angry with the BBC. I am sure it is endemic with governments of all parties. The research that we did about impartiality certainly showed that there is a great deal of respect for the impartiality, accuracy and objectivity of the BBC. That is not same as your question.

Q101 Lord Maxton: --- No, it is not.

Lord McIntosh of Haringey: --- which is about analysis of programmes of the kind the Glasgow Media Group used to do. I do not consider it is the responsibility of government to do that. I consider it is the responsibility of broadcasters to do that. They have been doing it and they are doing it and it is very welcome.

Q102 Lord Maxton: The BBC did not say they were doing it.

Lord McIntosh of Haringey: I do not know what the BBC were saying.

Q103 Baroness Howe of Idlicote: Lord McIntosh, I just wondered how you felt with the trust doing this role whether the impartiality and accuracy would be more effective, less effective, about the same. I am asking this really because I gather there is some query going on as far as the Commons code is concerned about who should be responsible for impartiality and accuracy.

Lord McIntosh of Haringey: I am not aware of any query. It is our proposal that the BBC trust, which is not within the BBC but is specifically the BBC, shall have responsibility for handling issues of accuracy and impartiality, and I take that as being part of the role of oversight which they have more generally.

Q104 Chairman: Would it be more effective if it was a body separate from the BBC?

Lord McIntosh of Haringey: It is a body on the fringe of the BBC is the only way to describe it. It is not within the BBC and it does not have other responsibilities than the BBC. There were two alternatives which we have described in the Green Paper. One of them was the Building Public Value alternative of the BBC itself, which Michael Grade described to you last week. I think he himself acknowledges that that took the existing BBC Board of Governors and applied behavioral change to it rather than structural change to it, and I think he is coming round to the view that structural change as well as behavioral change is necessary. And then the other was the view of Lord Burns and his panel to which we paid - as to Michael Grade's views - a great deal of respect, but we took the view (and his proposal was to have a body which had other responsibilities than the BBC, to have responsibility for the licence fee more generally, and possible other uses of the licence fee) that the right conclusion, which took the best of both of these, was to have a body specific to the BBC but independent of it.

Q105 Chairman: Just to be clear; that is your definition of the trust?

Lord McIntosh of Haringey: Well, oddly enough, it is not a trust in the legal sense. “Trust” is a working title and it is the best that we could come up with. If you come up with a better name we will look at it very seriously.

Q106 Chairman: I think we have got to understand it first. I was intrigued, I think you called it a “fringe body” at one stage.

Lord McIntosh of Haringey: I called it on the fringe of being within the BBC, yes.

Q107 Lord Armstrong of Iminster: Can it be on the fringe if it sets all the strategic objectives, measures performance, approves service licences and regulates programme standards? That is not on the fringe of the BBC; it is part of the BBC, frankly.

Lord McIntosh of Haringey: No, the extent to which it comes to be on the fringe of the BBC is the extent to which it is the BBC trust and is specific to the BBC. What you say about its responsibilities, Lord Armstrong, is of course entirely correct and those are the responsibilities of oversight, which we do not believe can be properly carried out by a body such as the BBC governors within the BBC structure as it is now.

Q108 Baroness Bonham-Carter of Yarnbury: With hindsight I think it was maybe a little curious, although it was at our invitation, that Michael Grade and Mark Thompson came and gave evidence together considering that they are trying to show detachment. Who is Michael Grade as Chairman of this trust accountable to; the licence fee payer or Mark Thompson?

Lord McIntosh of Haringey: Yes, that is exactly the key, that Michael Grade as the Chairman of the BBC trust will be responsible to the licence fee payer and it is on behalf of the licence fee payer that he and his trust will be responsible for the oversight of the BBC, Whereas Mark Thompson, as the Executive Board, will be responsible for delivery.

Q109 Lord Holme of Cheltenham: I was very glad to hear you say that there would be no undue pressure but of course that implies there is an area left which we might call “due pressure”. If I might just explore that a little bit. It seems to me that there are two natural points of tension between the BBC and Government. The first seems inevitable which is the licence fee itself and the arrangements for that from time to time, but the other of course is the fact that your own Secretary of State has to approve certain new channels and offerings from the BBC and, as it were, give them permission to go ahead. I am curious whether a situation in which the Government has some specific oversight about what the BBC does and can do, does not necessarily create a relationship between the Government and the BBC which is not detached but one of tension. How do you see those sorts of decisions that the Secretary of State for Culture, Media and Sport has been making in the immediate past working in the new governance situation of the BBC? Will that still be the Secretary of State making those decisions?

Lord McIntosh of Haringey: The first point I would like to make is about the phrase “undue pressure” and your extension to “due pressure”. It was not my phrase. “Undue pressure” was what Michael Grade and Mark Thompson said to you and when your Chairman said did we agree with the fact that there had been no undue pressure, I agreed with it. That did not mean that I invented the phrase or that I take responsibility for it.

Q110 Lord Holme of Cheltenham: You are implying that you and the BBC might have agreed there were due pressures?

Lord McIntosh of Haringey: I do not know what due pressure is. I have never heard of due pressure. What Michael Grade and Mark Thompson said to you was that people rang them up and complained about things. Why not? All of us are free to do that. They have open lines for members of the public to ring them up and complain about things. If that is due pressure, that is fine by me.

Q111 Lord Holme of Cheltenham: Hence the second part of my question is trying to explore why a telephone call from the Government might be taken more seriously than a telephone call from myself.

Lord McIntosh of Haringey: They did not seem to be worried by it. It is not a thing that swims across my ken at all. Your more important question is about the backstop role of the Secretary of State and clearly the next phase of consultation between the Green Paper and the White Paper will be fleshing that out, I am not saying that we have final answers about that at the moment, but as we set out the responsibilities of the BBC trust in the White Paper, following further consultation and following your report we will spell out whether there are any areas, and if so what areas, which would still be reserved to the Secretary of State. My view is that the areas reserved to the Secretary of State such as the responsibility she has for service licences at the moment, as she had on BBC Three, would become very significantly less when we have a BBC trust which is independent of the BBC because it will be the trust that will have the responsibility for assessing any new service proposals which come before them from the Executive Board. The Government will have final approval but only on the basis of whether the trust has followed proper processes in considering those applications for licences.

Chairman: Lord Kalms, do you want to come in now on this whole question of governance?

Q112 Lord Kalms: I think we would all agree that the structure you have for managing the BBC is the heart of the whole of the Green Paper.

Lord McIntosh of Haringey: Indeed.

Q113 Lord Kalms: And you have uniquely come up with a new formulation against the traditional unitary board and you have called it a trust for want of a better name. There are two other names you could call it. You could call it, and it is one that comes to mind quite

easily, a supervisory board or you could call it, if you like, a regulatory board. Having given up the normal unitary board, why are we in this vacant area of not being absolutely clear what we have? Supervisory boards in this country are not popular. They have a limited use in Germany and maybe in Holland, but they have been tested and not found satisfactory. Even within your own paper there is no clear link between the two. There is quite clearly a gap and you yourself say that the trust has not been clearly defined. Could we have a bit more meat on the relationship between the board, which surprisingly includes non-executive directors, which is something else I want to pose to you because normally management boards do not have non-executive directors, that is usually an exclusive area for unitary boards so perhaps you could put some more meat on the relationship between board and the trust - and I will call it a trust until we can think of a better name.

Lord McIntosh of Haringey: Thank you. There are two points I want to make. One is about this supervisory board on the German model and the relationship between what we are proposing and the German model. I think they are very different in very significant ways. The German principle of co-determination means that the supervisory board contains all of the stakeholders in the company. That is the workers' representatives, the management, the bankers, the shareholders, and so on. Our trust will not be attempting to represent all stakeholders. It will be about protecting the interests of the licence fee holder alone, so it is a very different body in that sense. It will be different in the way it works. For example, the audit committee is a creature of the supervisory board in Germany but it will not be here; it will be part of the Executive Board. The non-executive function, as you rightly say, in Germany is in the supervisory board and there are no non-executives in the management board. We think that the analogy with the private sector is that the body which is responsible for delivery could benefit from having a minority of non-executive directors, so it is very considerably different from the supervisory board model. Then coming on to your second

point about, as you say, putting more flesh on the trust, we have got a whole list of functions of the trust set out in the Green Paper. They are there for consultation. We have not made a hard and fast decision in advance of that consultation process. As I indicated in response to an earlier question, what remains for the Secretary of State is something which will arise out of that consultation process and I do not think that it would be appropriate for me to foreclose on the options which we have set out in the Green Paper and which will be discussed over the coming months.

Q114 Lord Kalms: You have gone against the advice very distinctly of Tony Burns, who was very much in favour of the unitary board, and others who are in the field of governance, so you are taking a substantial risk here in going into a new model which has not yet been tested. You make an interesting point that the German supervisory board is a co-determination board but in reality the trust is also because it represents the interests of the stakeholders, so it has the same common theme and it does represent, albeit not a wide choice of names, one major body, the stakeholder, which is the public, so it does fulfill the same role as a supervisory board. What we have done is created a totally new, untested model for this major public service and I am not comfortable that having turned down the advice of those who are closest to it - and I have tested this right across the board - that you really have found the right model.

Lord McIntosh of Haringey: I would contest the argument that we have turned down a lot of what Lord Burns recommended. I think we have adopted a great deal of what he recommended.

Q115 Lord Kalms: On this point?

Lord McIntosh of Haringey: Where we have not agreed with him is on his suggestion that what he calls the Public Service Broadcasting Board should also be responsible for matters

other than the BBC, but in many other respects I think we reflect the wisdom of Lord Burns and his panel. Then, conversely, we have accepted that Michael Grade in his Building Public Value has moved towards a distinction between the two roles - the role of oversight and the role of delivery - in the governance of the BBC, and we have welcomed that and we have extended it. So it may be something which has not been done in quite that form before but it does, in my view, adopt and use the best elements of the two contrasting models that we were presented with.

Q116 Lord Peston: I take it that we are essentially in the whole governance area now. Lord Armstrong read out to you what the Green Paper says about what the trust would do, which seemed an enormous amount of work to me - I may be very naive - but it leads to one or two fairly obvious questions. Are they going to be part-time amateurs that were the Governors in the past with no obvious qualifications for any job at all, as far as I could see? Or will we move into a model where these people will have to demonstrate skills of a supervisory or regulatory nature, which leads also to the question of who pays them and how they should be paid. Beyond all of that, there is the question of how they get appointed. In the Green Paper there is a statement that says essentially this will be prime ministerial patronage as in the past and that somebody like the Prime Minister will recommend to her Majesty et cetera, et cetera. Apart from the fact that it now looks as if there is going to be no change, I was horrified that in contemplating a major change in the future we would stick to that model. It may well be just my ignorance. I put it to you as a question: are we really going to reconsider a) who gets on the board b) how they get appointed c) are they full time or part time and d) how much do they get paid, given the jobs that Lord Armstrong read out that they are supposed to do? It may well be that you have just not thought this through yet. There is certainly nothing in the Green Paper that tells us.

Lord McIntosh of Haringey: I would be horrified and surprised if the Green Paper says anywhere that this is prime ministerial patronage.

Q117 Lord Peston: It does. There is no other way of reading that sentence.

Lord McIntosh of Haringey: You are using the word “patronage” but what you are not saying is that we have a Commissioner for Public Appointments and we have rules. We have the Nolan procedures for public appointments. This was not the case when it used to be that the Chairman of the BBC came from one party and the Vice Chairman of the BBC came from the opposition party. That is not the proposition and it has not been the case ever since we adopted the Nolan procedures, and that will continue and yes the appointment will be formally (because it is a Royal Charter) by the Queen on the recommendation of the Prime Minister but it will be an open advertisement, an open applications procedure, independent of the people making the appointment, and it will not be the prime ministerial patronage which we have had in the past.

Q118 Chairman: And who makes the decision?

Lord McIntosh of Haringey: The recommendation of the people who carry out the interviews will have a very strong influence on the decision that the Prime Minister makes, as always in these things.

Lord Peston: I am sorry, that does not answer the question. First of all, if we look at what you say has happened, it does not look any different to me from what used to happen. We were all, as you know, tremendously strong supporters of the Nolan Rules but it is hard to believe ---

Lord Armstrong of Iminster: --- Not all.

Q119 Lord Peston: Sorry, I meant Andrew and me, but it looks as if they are followed more by default than by positively going for them because it does not seem to me – and it is not my business really - that the sort of people we are getting are any different. It is news to me that we no longer go for political balance.

Lord McIntosh of Haringey: I think there are two different elements in that. One is whether we follow the procedures properly, and I will not comment on whether they are followed properly outside the BBC. I have only seen them as far as this inquiry is concerned. Then the second thing is whether we get the right people. I am not going to contest what you say about that.

Chairman: We will briefly adjourn for ten minutes.

The Committee suspended from 4.03 pm to 4.15 pm for a division in the House.

Chairman: I think we will take the opportunity of you being here and we will continue. If we have time, which I slightly doubt, we might come back to governance and regulation, but I would quite like to move on, if I might, to measuring public value. Lord Holme?

Lord Holme of Cheltenham: May I on the previous point have a supplementary as I go in?

Chairman: If you insist!

Q120 Lord Holme of Cheltenham: “Insist” would be too strong but I would be grateful if you would allow me to have the opportunity. Listening to what the Minister said about the trustees and the methods of selection, which I quite accept, if you were to describe the sort of balance of composition of a desirable group of trustees in this new set-up (because presumably there will have to be some sort of brief of the selectors, however “Nolanised” they are, of what we are trying to achieve and what sort of group of trustees would we like) what would the brief be? What would be the sort of body, following Lord Peston, which you would like to see in this role?

Lord McIntosh of Haringey: I think I would rather listen than prognosticate on that. I would rather hear what other people's views are. The White bit of this proposal is the division of responsibilities, the Green bit is how it works in practice, and I can imagine a whole range of different models, and the Green Paper itself sets out what we expect to be the case between them. Trust members need to be able to reflect the interests of a wide range of different UK communities, with the knowledge and expertise to understand and articulate the interests of individual devolved nations, and they have to have a range of expertise in broadcasting and media industries, financial, legal and corporate, organising public opinion and research and consultation in civil society. That is an awful lot for a limited body of people. I think that is as much flesh as I want to put on it. The question we are asking is how many members that needs, whether you agree with what we are proposing on skills and expertise, and whether there is anybody you think we have left out.

Q121 Lord Holme of Cheltenham: So if that were something on which this Committee were to develop views you would be content?

Lord McIntosh of Haringey: Absolutely.

Q122 Lord Holme of Cheltenham: Perhaps I can now ask the question which the Chairman intended me to ask on the issue of measuring public value. We all have this difficulty, which I am quite aware the Government shares, of trying to define what public service broadcasting is. It is extremely important that we manage to do that because the BBC in the present broadcasting ecology is the gold standard of public service broadcasting. There are traces of it in other broadcasting organisations but the gold standard is the BBC. I am struck by the fact that although the Green Paper is quite eloquent about the core public purposes of the BBC, equally the BBC is very eloquent about something they call "public value", and they enumerate that, and although there is some significant overlap between what the Green Paper

outlines as the core public purposes and the BBC's new definition of public values, they are nevertheless different and drafted differently, and therefore we are still left with this Philosopher's Stone, which we cannot quite get hold of, of what public service broadcasting is. That is important because if we move into this more accountable framework, which everybody has agreed is desirable, the question will arise and should arise how do we measure performance against what is expected of the BBC. It does seem perhaps that it would be a good first step that the definitions that the BBC are giving and that the Government are giving of what these desirable public purposes are should get a line.

Lord McIntosh of Haringey: I think we have the advantage of what Shaw said: "Shakespeare was a greater dramatist than I but I stand on Shakespeare's shoulders". We have developed our public purposes taking into account the BBC's description of "public value" and it is our expression of the public purposes that we think we have to defend and explain and enlarge on. I will not go into what the BBC says but I will say something about the way in which we propose to use the core public purposes as we set them out in the Green Paper. We think that the five public purposes which we have set out and which are well-known are capable of being measured by a wide range of indicators. Some of them of course will be qualitative, and Lord Maxton referred in a different context to the work of media analysts, and that certainly is valuable. Some of them will be audience measurements. Some of them will be the equivalent of the appreciation indices. Some of them will be much less quantitative and will be based on the views of opinion formers and non-opinion formers. The point about the five public purposes is that they do seem to us, and I hope they will seem to you, to be setting out a good deal of clarity of purpose, and I think that is more than there has been in the past.

Q123 Lord Holme of Cheltenham: I certainly think both in the case of the BBC's public values and indeed the Government's own statement of core public purposes these do represent a significant step forward, but when it comes to the new landscape in which we are all looking

to the BBC to be more independent, accountable and responsible, it does seem that there is probably still some work to be done in translating broad thrusts into specific goals and objectives against which performance can be measured in a way that we can all be satisfied that the licence fee is being used properly. I am still curious how you see us getting from here, agreeing as I am that we are in the right ball-park now, and how we now turn those into objectives and goals and measurable benchmarks against which the licence payer and parliamentarians like ourselves can either say they are doing it or not; the BBC is either living up to its purposes or it is not.

Lord McIntosh of Haringey: There is one model of how to do it which comes from the Communications Act of course because in the Communications Act, the formula is that public service broadcasters (in this case largely commercial public service broadcasters) produce programme policy statements. Ofcom looks at the programme policy statements and they assess whether they are adequate to meet the objectives of public service broadcasting as set out in the Act. The broadcasters go along and they produce their programmes and after a suitable interval they come back and say, “Here is what we did in response to our policy proposals and our policy statement,” and Ofcom says, “You did do it or you did not do it and if you did not do it we will fine you.” That is one way of doing it. I am not suggesting that is the only way because I am not foreclosing on this discussion, I am suggesting that there are ways of doing this and I am looking forward to the coming months to help us to clarify the ways in which we might do it. I do not think there is any doubt that there are ways, alternatives to that no doubt, which could be thought of, for closing the gap that you describe.

Q124 Lord Holme of Cheltenham: Just one final specific point, my Lord Chairman. Your final objective in public purposes is bringing the world to the UK. Listening to Michael Grade and Mark Thompson last week, and I must say agreeing with them, it seemed that what

they thought they were doing was taking the UK to the world, and I am unclear what you see the main flow as being in terms of the international ambitions and activities of the BBC?

Lord McIntosh of Haringey: The core purpose is very clearly in both directions. In other words, taking the UK to the world is the responsibility of the BBC World Service and of BBC World and of BBC On-line, which is available internationally, and bringing the world to the UK is ensuring that the programmes for domestic consumption contain adequate coverage of international issues, of other cultures, of all the things that make us part of the world communities.

Lord Holme of Cheltenham: Two-way traffic.

Chairman: We will perhaps come on to some of those issues a little later.

Q125 Lord Maxton: Can you differentiate for me between what I term “public service broadcasting” and “public broadcasting” because the BBC is public broadcasting in the sense it is funded by the public and is expected to provide more than just what is here to the public. After all, if I am a licence fee payer I am entitled, to be honest with you, to be entertained as well as to be educated, to be part of the civil society, to see creative programmes, etcetera, am I not?

Lord McIntosh of Haringey: Those are the core purposes and education and learning.

Q126 Lord Maxton: What about entertainment? Straight, honest, people being entertained?

Lord McIntosh of Haringey: We set it out. In fact there is a word at the end of that list, John.

Mr Zeff: Engagement.

Lord McIntosh of Haringey: Yes, “engaging”, and I take that to be referring to entertainment. Nobody said it better than Reith at the beginning: “Inform, educate and entertain”. What we are doing is expanding on that.

Q127 Lord Maxton: But there is a grave danger that what the Secretary of State said in terms of chasing the ratings can be seen as running contrary to the concept of entertainment, that you are not giving people what they want to see on their television, you are giving what an elite sees as ought to be the proper entertainment for them.

Lord McIntosh of Haringey: I think she was very specific in what she said about chasing the ratings. She was talking about repeat programmes, she was talking about copy-cat programmes. I do not think she was in any way going back on the obligation to entertain.

Chairman: Let's move to the licence fee. Lady Howe?

Q128 Baroness Howe of Idlicote: On the licence fee and the essential independence of the BBC, which I think the Green Paper is arguing is necessary for that (and indeed as I think you yourself said earlier) the public out there quite clearly are particularly keen on this independence in their support for the licence fee. I wondered what other measures you had thought about, looking a little further on when there is a further view. What other systems would you consider viable as either supplementing or replacing the licence fee looking into the future?

Lord McIntosh of Haringey: The Charter Review process looked at any alternatives that people were willing to come forward with. I really think there are only three: one of them is advertising; one of them is subscription; one of them is direct funding from taxation in the form of grant-in-aid. That together with the licence fee are the four alternatives which were proposed to us and which we considered. The conclusion of our work, of the work of Lord Burns's Committee, and of the consultation process we went through was that even in combination, let alone as stand-alone alternatives there was nothing which stood up to the licence fee in terms of giving the security of a strong BBC, independent of government and that is why we came to that conclusion. We do recognise - and maybe I am going ahead of your question now - that the support for the licence fee is in very considerable part based on

the fact that a very high proportion of people watch the BBC and listen to BBC Radio and if in future that comes under threat from the growth of multi-channel television and radio, then the issue will have to be looked at again.

Q129 Baroness Howe of Idlicote: It is interesting perhaps that the German system, which has already been mentioned, does in fact include some advertising at some level. I wondered whether in fact you have considered this?

Lord McIntosh of Haringey: That is why I said a combination of them and we did look at the possibility of combinations of them. I do not think we particularly looked at the German model but, as you say, they do have a mixture of 85 per cent licence fee and 15 per cent advertising and they do determine it by an independent commission. I do not know how often they determine it so I do not know how far it approximates to grant-in-aid and is different from a licence fee, which is set for a considerable period of time.

Q130 Baroness Howe of Idlicote: One other point, looking at alternative models, all of them that I have looked at seemed to have one common core and that was that public service broadcasting was in fact supported by some state money? You would want that to be the case?

Lord McIntosh of Haringey: Yes but it has to be done in a way that does not compromise the BBC's editorial independence. I think that was the key issue of our response to the Commons Select Committee report.

Q131 Chairman: When will you look at it again? You said an interesting thing to Lady Howe that you are not looking at it now. When do you envisage that you will look at it again?

Lord McIntosh of Haringey: We are proposing that the licence fee should continue unchanged for the ten years of the Charter Review period, in other words up to 31 December 2016, and we are proposing in the meantime that there should be two reviews, one of which should look at alternative forms of funding, and any conclusions that that review comes to would only take place on or after 1 January 2017, so although we have to be prepared for it and we have to look at the changes brought about by changes in technology (and not just multi-channel households but the prospect of television becoming available other than through broadcasting, becoming available through broader band, for example) we do not know how far the market will push that by the end of this licence fee period, but we have to be prepared for it.

Q132 Chairman: Are you committed still to RPI plus 1.5 per cent?

Lord McIntosh of Haringey: No, neither one way nor the other. The Government will be carrying out over the coming months, to conclude before the end of this year, a review of the actual funding needs of the BBC and therefore coming to a conclusion about the licence fee from 1 January 2007.

Q133 Chairman: So why have you gone back from RPI plus 1.5?

Lord McIntosh of Haringey: We have not gone back from it. We have just not decided. It runs until 31 December 2006 and we will consider whether a change in the formula is required thereafter. A minor correction; it runs out in April 2007, not on 31 December 2006.

Q134 Lord King of Bridgwater: Has any study been done of the effectiveness of government oversight of the licence fee? In other words, if the Government had no right to oversee the licence fee and it was entirely a matter for the BBC to fix their own licence fee, has any study been done of how BBC proposals and Government decisions have either

diverged or coincided? Has it merely been a bureaucratic exercise in validating what the BBC ask for? Has any work been done? The BBC is very keen to hang on to the licence fee as a measure of independence, that is quite clear.

Lord McIntosh of Haringey: Indeed they are.

Q135 Lord King of Bridgwater: Therefore they have a key interest in ensuring that they do not attract opprobrium by seeing the licence fee rise above what might be considered in the public eye good value for money. The role of the Government in this is a way of interfering with the independence of the BBC because they are dependent on getting government agreement to the application that they make. I am just interested at the end of the day was there much difference between what they asked for and what they got?

Lord McIntosh of Haringey: I think the fundamental principle is that it must be government that sets the licence fee, that people are not allowed to decide their own funding.

Q136 Lord King of Bridgwater: Why not?

Lord McIntosh of Haringey: Because otherwise there would be no control ---

Q137 Lord King of Bridgwater: As you have set out in your paper, it is not part of the annual reviews, it is not part of budget setting, so the Chancellor in that sense does not have that concern about it. The BBC are the people most affected if people think they are not getting value for money. They have a keen self-interest in not putting the licence fee at a level that would attract public hostility.

Lord McIntosh of Haringey: Indeed, and the role of the executive board will be to show to the trust that value for money is indeed being achieved. I do not know of any organisation - except possibly the House of Lords and the House of Commons - which can set its own

budgets without anybody being able to interfere. So it has been a principle over the last 70 years or even 77 years that the level of the licence fee has been set by government.

Q138 Lord King of Bridgwater: Do you happen to know of any work that has been done on this?

Lord McIntosh of Haringey: No, I was very interested in what you said. Somebody will get a very good PhD if they could actually inquire into the negotiation process, and that might be helped by the Freedom of Information Act. We have not done it.

Q139 Lord King of Bridgwater: A further point on that is you said that it is the duty of the executive board to persuade the trust on value for money. Then the trust has to persuade the Government under your proposal?

Lord McIntosh of Haringey: No, the Government will set a licence fee for however many years it thinks it is appropriate to do so. Then the responsibility of the trust to the licence fee payers will be to show that value for money has been achieved.

Q140 Lord King of Bridgwater: In the question of a negotiation of a change in the licence fee, this will be done by the executive board to the trust and by the trust to the Government. Is that right?

Lord McIntosh of Haringey: I do not think I said that, no. I was talking about the assessment of value for money – the role of the executive board and the trust in assessing value for money. Setting the licence fee is the responsibility of government and the BBC will no doubt make its representations to the Government about what they want.

Q141 Lord King of Bridgwater: My point is, in respect of those negotiations, who is the BBC? Is it the trust or ----

Lord McIntosh of Haringey: At the moment it is the BBC governors.

Q142 Lord King of Bridgwater: Not at the moment - in your proposals. Who will negotiate? You said the BBC, but we have now got a two-tier system you are proposing. You have said that the board have to convince the trust of value for money. That is all tied in with the discussion about the level of the licence fee. I am just interested in what the structure will be.

Lord McIntosh of Haringey: It is not a thing which is dealt with explicitly in the Green Paper, but what I think is likely to happen – and this is subject to consultation – is that it would be the executive board which produced a budget and which set out what are seen to be the needs of the BBC for funding in X years to come. The trust would have to accept or reject that, and then would have to negotiate with government for a level of licence fee funding. However, I do not know that we have made up our minds finally on that point, have we Jon?

Mr Zeff: No. It is not formally a negotiation as such; the Government makes an assessment based on ----

Q143 Lord King of Bridgwater: Well, you have fooled somebody at the BBC ----

Lord McIntosh of Haringey: I cannot imagine us sitting down and giving a figure without having an idea of what the BBC itself thinks it needs.

Q144 Lord King of Bridgwater: I am sorry, that is not right at all, is it? There have been some really tough negotiations over what the level of the licence fee should be. I have never worked for the BBC but my understanding is that that is certainly the case. Not with the DCMS, maybe with the Treasury.

Mr Zeff: As the Minister said, the Government makes an assessment and, of course, the BBC makes its views known, but there is not a formal negotiation process.

Q145 Lord Peston: Just to make sure I understand what you are saying; essentially, in broad terms, the BBC's income from all this sort of thing is the licence fee times the number of households ----

Lord McIntosh of Haringey: Plus its earnings from sales and ----

Q146 Lord Peston: Plus some other things, but its main income is the licence fee times the number of households.

Lord McIntosh of Haringey: And the Foreign Office grant-in-aid for the World Service.

Q147 Lord Peston: They are still fairly small relative to the main income, which is the licence fee times the number of households.

Lord McIntosh of Haringey: Yes.

Q148 Lord Peston: As we know, that is independent of whether any of those television sets are used to watch the BBC – which is a classic objection to the whole thing. It would still be the case, since that is how the number is arrived at, that the income relative to what the BBC does would either look incredibly generous if few people were watching the BBC or incredibly ungenerous if vast numbers were watching. So the question of who watches the BBC has to be part of this (to use Lord King's word) negotiation. It is not clear to me how – and it is irrelevant - it happened in the past, but are you giving some thought to how it may happen in the future, bearing in mind all we have been told about the new technology? In other words, we may end up – I hope we do not – with everybody somehow watching the equivalent of television or listening to the radio via their computers, for which you do not pay a licence fee, and yet the BBC still having this large income. Can you guide us as to how we ought to think this through?

Lord McIntosh of Haringey: What Jon Zeff and I were saying was that there is no formal negotiating process but, of course, there is an informal negotiating process. As Lord King rightly says, sometimes it can get a bit rough, and one of the considerations, inevitably, is going to be what the advertising people call cost-per-view – how many people are watching.

Q149 Lord King of Bridgwater: And whether there is an election coming up.

Lord McIntosh of Haringey: You cannot ignore that.

Q150 Lord Maxton: We never think about elections in this House. You have given the BBC a major role in achieving digital switchover from analogue to digital television, which I think it is suggested should be, in any age, 98 per cent of people?

Lord McIntosh of Haringey: The undertaking which Chris Smith gave in 1999 was that switchover would only take place when the criteria of accessibility and affordability were achieved. Accessibility was taken as being the equivalent number of people being able to get digital as now can get analogue, which is 98.5 per cent.

Q151 Lord Maxton: You have given the BBC a fairly major role to play in this. How exactly are they going to be doing this? I am an elderly widow, maybe even still with a black and white television. How is the BBC going to persuade me to switch over to some form of digital, either Freeview or Sky or cable, when it is going to cost me £30, £40 or £50?

Lord McIntosh of Haringey: First of all, the formal way in which the BBC will be involved in switchover is that the BBC will be a critical stakeholder in the organisation which we are calling Switchco, which will be formally incorporated, I hope, on April 4 (unless anything technical or legal goes wrong). That will include the BBC, it will include other commercial broadcasters and it will have representatives of the supply chain – in other words, manufacturers, retailers and others – and it will be responsible for seeing that the process of

contracting between broadcasters, multiplex operators and transmission operators is carried out so that the actual physical work of converting the mast proceeds according to a predetermined schedule. We have said that the BBC will also have responsibility for its own share – which is a very significant share – of the work of communicating (I think this is coming back to your question) the details and the principles behind digital switchover to people who will be affected by it, and we are considering, although we have not yet reached a conclusion, the extent to which there will have to be assistance for people most in need. That will almost certainly be older people who will have difficulty not so much with the money but with the actual details of installation. and possibly disabled people and people on key benefits.

Q152 Lord Maxton: Do I take that to mean that at some point the Government, through the BBC or by whatever source, will pay to ensure everybody has it? Is that what you are saying?

Lord McIntosh of Haringey: It will pay according to a programme of assistance which is intended to achieve that purpose, yes.

Q153 Lord Maxton: You did say that broadband is somewhere out there in the future, in terms of television. Broadband is here, it is now, it is already happening; Home Choice in London, offer television broadband down the telephone line to anybody who wants it. That is broadband television by any other name. Other countries - South Korea, I believe - supply television almost exclusively by broadband means, not by satellite or by cable but by broadband. Whereas in this country the highest broadband is about 4 megabits, in Japan they are talking about 50 megabits on DSL systems. Once you get to that, which will be very rapid over the next few years, does not all this argument about digital switchover become irrelevant? We are going to have entertainment systems within our houses based on broadband technology and wireless hub which will allow us to use all sorts of devices around

the house in order to get whatever form of entertainment we happen to be looking for at that particular point in time.

Lord McIntosh of Haringey: We are getting a bit away from the BBC, at the moment.

Q154 Lord Maxton: But the BBC is going to have to be fitted into that within the ten-year period.

Lord McIntosh of Haringey: I am not saying I am not going to answer. The answer to that is that because of the demonstrated cost-benefit analysis of digital switchover we are proceeding with digital switchover led by the Government, although implemented by the broadcasters, the retailers and the aerial installers, and so on. What you are describing, which for brevity we call broader band, not the half megabit or one megabit that you get at the moment, but 4, 6 or 8 megabit, which is capable of transmitting television, we anticipate as being market-led and we anticipate that as coming over a considerable period of time, although perhaps starting relatively soon. That does not meet the commitment that we made when we announced the conditions for digital switchover in 1999, where we talked about affordability and accessibility. Just because some people can have television made accessible in other ways and on other platforms does not mean that we should abandon our commitment to going ahead to digital for everybody.

Q155 Baroness Bonham-Carter of Yarnbury: Whilst I do not think I believe Lord Maxton is a widower with a black and white television, the Government, as you have been saying, has been encouraging the BBC to be very involved in switchover, but it has never been clear itself about when this is going to occur. Is it not necessary for the BBC, if it is going to plan and co-operate in the way you are suggesting – indeed, presumably, its contribution to the costs of switchover will be part of the licence fee negotiations – for the Government to actually tell us when this is going to happen?

Lord McIntosh of Haringey: We are very close to that. We have published the final report of the digital television project, which sets out all of these things. Ofcom published, for consultation at the beginning of February for responses by the end of March, a programme for the technical aspects of Spectrum management, which includes an indication of which major transmitter regions would be switched over in which year. That gives everybody warning of where it will be, in Birmingham or Carlisle or Plymouth, or wherever it may be. The Government will have to make an announcement and it will have to make an announcement within the next six months or so, tying up all of these aspects, making firm decisions on Spectrum, on help for the elderly and those most in need, on the actual mechanics of the switchover, and the detailed timetable – all of these things will have to be announced because they are going to be necessary for the licences of the broadcasters, particularly the commercial broadcasters.

Q156 Baroness Bonham-Carter of Yarnbury: As I am sure you know, Stephen Carter (?) said it has got to be early Spring/Summer for the date to be announced.

Lord McIntosh of Haringey: Yes. He has a view on that. He will have a firmer view when they have analysed the results of their present Spectrum consultation.

Q157 Baroness Howe of Idlicote: Quite clearly, in the past, a lot of pressure has been put on the BBC to play a leading role, and that is going to continue. Indeed, it appears to be part of the negotiations. They have clearly done a great deal through set-top boxes, and so on, to spread the number of channels via the digital system. What is slightly worrying me, I must say, is whether its performance should be seen to be all that independent within the commercial set-up, given that the set-top boxes did not work on an interoperable process so that it was not easy to switch in from those set-top boxes to Sky. I wonder whether that side of the real independence has been thought through, and whether it should be made clear that

whatever they do, whatever other system they are going to help raise awareness by, actually does make it open for the commercial side as well as for the BBC.

Lord McIntosh of Haringey: I do not think we should think that the march of technology has come to a halt. Yes, the set-top boxes, whose prices have been reduced to about £40, are pretty minimal; they do not have conditional access, they do not have standby mode, they do not have a return path. There are all sorts of things where it is the cheapest and crudest way of getting a limited amount of digital, but I do not think we should assume that set-top boxes are the only way in which people are going to go digital. As the dates become widely known beyond which analogue will not be available, then the market for integrated digital television, the market for more sophisticated set-top boxes and all of those will open up region-by-region. It is true that the BBC has, in its publicity, been talking about set-top boxes but it is not the only way in which people are going to go digital, and people are going to be demanding more sophisticated characteristics. That is fine, because they will buy a more sophisticated box and the original, simple box will go into the bedroom or the kitchen.

Q158 Bishop of Manchester: I want to go back to the Communications Act, which you referred to earlier in our sessions, and to recall the debates that we had on public service broadcasting and the definition that we reached there, which I think I am right in saying is the first time that such a definition has been enshrined in law. Could you just clarify exactly what status that definition now has in the eyes of the Government? I ask that because I want, in a moment, to talk about the continuing debate about public service broadcasting in the light of some of the things that have been said by Ofcom, but I want to know where we are in terms of what is in the Act itself.

Lord McIntosh of Haringey: It is still there and it is still law. Ofcom have, in parallel to the Charter review process, as you know, been carrying out their review of public service broadcasting, and in the course of that they have been producing other definitions of public

service broadcasting, some of which are more helpful than others. For example, an aspect which I find particularly helpful is that they are now distinguishing between obligations to consumers and obligations to citizens, which was an issue which we debated at great length during the passage of the Communications Act. However, they are entitled to define public service broadcasting, for the purpose of their review, as they wish, but the definition the Government adheres to is the definition of the Communications Act.

Q159 Bishop of Manchester: Thank you; I am helped by that clarification. Just to move on from that, how do you see the public service broadcasting provision being available nationally, regionally and locally, and not least in terms of the publishing proposals for the PSB that Ofcom has put forward?

Lord McIntosh of Haringey: We see public service broadcasting as being very significantly the responsibility of the BBC, but not only the responsibility of the BBC, which is why both we and Ofcom talk on many occasions about plurality because we believe having a number of public service broadcasters with public service broadcasting and public service output is critical to the full realisation of the objectives of public service broadcasting. Having said that, how that is achieved is going to depend on things that have not happened yet. It is certainly the case that in multi-channel households, and even more so in pay-per-view households, the share of advertising revenue which is available to the major public service broadcasting channels – ITV, Channel 4, Channel 5 and so on – is reduced, in other words they get fewer viewers than they do in analogue households. That is likely to affect their revenue in due course and in due course they are going to come and say “We need either to be given money or to be relieved of some of our existing obligations”. That is the occasion of our second review which we are proposing in the middle of this Charter review period towards the end of the digital switchover period and we will be listening to what they say at that time. When you see that ITV’s profits have gone up very substantially and Channel 4’s

share of viewing has gone up as well, I do not think we are in a desperate hurry to take emergency action on this.

Q160 Bishop of Manchester: So you were not happy with the Ofcom model of a Public Service Publisher?

Lord McIntosh of Haringey: I think we say in the Green Paper it is an exciting model and it is one which we will certainly consider as part of that process. I have to say that it was raised in the summer of last year and in their phase three report last month they have not closed the debate on that, they have left us with a number of options about how that can operate. I have a lot of questions on how that could operate but I do not think it is the role of Government to respond to those options, it is for Ofcom to make up its mind more clearly what it wants and then we will respond.

Q161 Bishop of Manchester: You said a moment ago, and I entirely agree with the point you made, that we would not want public service broadcasting to be the preserve of the BBC only. I wonder if you could just expand a little on your own views about how public service broadcasting can be enhanced in order to make sure that it is across the board and not simply left with the BBC.

Lord McIntosh of Haringey: The first thing to say is that public service broadcasting can happen without any Government intervention whatsoever by any definition of public service broadcasting such as that in the Communications Act. A lot of Sky output meets the standard of public service broadcasting although it is not obliged to and we have no editorial control whatsoever over Sky. Public service broadcasting in its broadest definition of being high quality broadcasting of all kinds, coming back to Lord Maxton's point about the area of entertainment, will continue but the question is under what financial and regulatory conditions it will flourish. Those are the issues for our second review.

Q162 Baroness Gibson of Market Rasen: I want to return briefly to the question of the licence fee granting the BBC independence because there is a view that a grant-in-aid would compromise independence. Could you explain to us the difference, therefore, in relation to the World Service which is funded through grant-in-aid rather than the licence fee? What guarantees its political independence there? What are the characteristics, please?

Lord McIntosh of Haringey: The World Service is funded by grant-in-aid because it cannot be funded by the licence fee because the people who benefit from the World Service are not the people who pay the licence fee. That is the starting point. We can hardly expect people paying the licence fee to pay for what people are watching in Japan or Brazil or Croatia, so we cannot have the licence fee in its classic sense as the funding for the World Service. This is an issue of what we call public diplomacy and the Government has asked Lord Carter of Coles to produce a report on that on which he will be reporting later this year and he will be able to give you more definitive answers than I am able to. I think it is accepted that one of the core purposes of the BBC is to represent the United Kingdom to the world as a whole and we consider that if it cannot be funded by the licence fee it has to be funded by Government. This has been so right since the very beginning and it works in the sense that the BBC World Service is widely accepted as being independent and authoritative. I do not know that you can justify it in theory but certainly it works in practice.

Q163 Baroness Gibson of Market Rasen: Will the report cover the questions of political interference and editorial independence?

Lord McIntosh of Haringey: Yes, of course. Under the agreement with the Foreign and Commonwealth Office editorial independence is guaranteed but the Foreign Office has to agree the audiences served and the languages used, so they do have an input into the way that it operates but they do not have control over editorial policy.

Q164 Lord Peston: Is it not the case that what really gives us this guarantee is what we might call the public service culture of the BBC? In other words, it does not require anybody outside in the case of the overseas service to tell them what to do. If you compare it with the appalling propaganda that comes from the American stations right across the world, this is a cultural thing. It has nothing to do with control as I see it, I think the BBC would simply refuse to become a propaganda agency for this country. Surely that is something immensely valuable to us.

Lord McIntosh of Haringey: I agree with that.

Q165 Chairman: We are accustomed, although we are only in the second session, to hearing great praise being placed on the World Service, which I think quite a lot of us would echo, but what about television? It is all very well being foremost in radio but television is probably more important, or is getting to be more important, it must be.

Lord McIntosh of Haringey: It would cost a lot of money to have a publicly funded television equivalent of World Service radio. The way in which the BBC has approached it is through BBC World which is intended to be funded by advertising and other sources. I suppose the ideal situation would be that the Foreign Office would provide enough for a number of television channels - I can think particularly of the need for an Arab television channel to cover all of the Arab speaking countries - but if that is not possible it seems to me the way it has been approached through BBC World is the best that is available to us.

Q166 Chairman: It must be possible, must it not, to do just what you have described at pretty low cost, frankly? As far as I read the Green Paper, basically what the Green Paper says is you think this might be a good idea but you will just keep it within the existing budget.

Lord McIntosh of Haringey: I am not sure that is literally true in terms of spectrum. I think television spectrum is a good deal scarcer than shortwave spectrum, which is what we have at

the moment. I am not sure technically whether it would be possible to get anything like the same coverage for television even if we could afford it.

Q167 Chairman: You do not sound to me to be giving much hope that extra resources are going to be devoted on the television side.

Lord McIntosh of Haringey: I am not answering for the Foreign Office. I will ask them.

Q168 Lord Holme of Cheltenham: Is it not a fact that there are, in fact, some public resources devoted to world television in the sense of transfer prices of material made for the British licence payer broadcasting here? The transfer prices of those to BBC World television are such that there is, in fact – I would be interested to know whether you think this is desirable or not – an element of indirect subsidy of BBC World television from the British licence payer.

Lord McIntosh of Haringey: I am not familiar enough with the finances of BBC World to say whether that is the case or not but I guess we, or the BBC, could write to you about that.

Q169 Lord Holme of Cheltenham: In fact, the BBC has undertaken to give us some more information on that but I think the premise is right.

Lord McIntosh of Haringey: They are better informers than I am on that.

Q170 Lord Holme of Cheltenham: Is that something that would concern you or would you think that is desirable?

Lord McIntosh of Haringey: Yes, of course. As I said, we think it is in the interests of that public purpose of the BBC of our taking the UK to the world to be television as well as radio.

Q171 Chairman: There is always going to be an element of cross-subsidy, is there not? You are using the same correspondents, the same bases, things of that kind.

Lord McIntosh of Haringey: Different regimes at the BBC have treated these matters differently. Some regimes at the BBC have had news and current affairs for both radio and television and some have kept them separate. I do not presume to judge on these operational issues. I do not know how it works in practice but the principle is that they have to be separately financed.

Q172 Bishop of Manchester: Can I have some information which my colleagues may well already have. It is just to find out from you exactly what the role of the Foreign Office is in all this, what kind of control it is likely to continue to have in the World Service, what control it has over the available financing. I was very interested in your response about the Foreign Office and saying “Well, go and ask them”.

Lord McIntosh of Haringey: Jon, I think you know more about this than I do. Is there anything you would like to say?

Mr Zeff: On the future role of the ----

Lord McIntosh of Haringey: The future relationship between the Foreign Office and the World Service.

Mr Zeff: The future relationship and the future of the World Service is an issue that is raised broadly in the Green Paper. As the Minister said, it is an issue that comes within the scope of the Carter review of public diplomacy. I imagine those sorts of issues will be looked at there. The relationship between the Foreign Office and the World Service now is, as the Minister set out, one in which they fund the World Service through grant-in-aid and the World Service has editorial independence but the Foreign Office does set broad objectives in terms of the audiences and the numbers of languages that are provided, for example.

Q173 Bishop of Manchester: Given the fact of the importance of the World Service it would be pertinent to explore that further with them.

Lord McIntosh of Haringey: Yes, it certainly would.

Chairman: Obviously we are going to have to do some more work on this; we have already identified that area. Can we go on to regional broadcasting?

Q174 Lord Maxton: At the present time, not in the regions but certainly in the nations of the United Kingdom – Scotland, Wales and Northern Ireland – their positions in the BBC are protected by having a national governor to represent them and having a Broadcasting Council, of which he is normally the chairman, to get the views of those nations. Will that continue under the new structure?

Lord McIntosh of Haringey: That is the green bit of the paper. We have set out the role of the trust and of the executive board. As to how the trust should be composed, that is a matter on which we shall listen to what people say.

Q175 Lord Maxton: Can I just go marginally greener then and ask if we are going to have national governors on the new trust, will the new devolved parliaments and assemblies have any say in who is appointed, even if it is just in making recommendations which will then be approved by the Secretary of State?

Lord McIntosh of Haringey: I do not accept the premise that we will necessarily have regional or national governors so I cannot answer about the composition.

Q176 Lord Maxton: In that case ----

Lord McIntosh of Haringey: There could be, but that is something we are going to listen to people about.

Q177 Lord Maxton: There would be a very considerable outcry in Scotland in particular if there was no national governor, no representation on the BBC trust to at least represent the views of the Scottish people on the BBC.

Lord McIntosh of Haringey: They will have an opportunity to express that view. That is something on which the mechanics of how to achieve a proper reflection of the needs of the regions and nations of this country is something on which we recognise the need but we are open as to the way that it is achieved.

Q178 Lord Maxton: How do you ensure productions are done by the nations and the regions? I know the BBC has made promises about this but if there is no representation on the trust how do you ensure that promise is carried out? To me, that would be the role of the national governors, to make sure that BBC Scotland gets its fair share in terms of the broadcasting done by the BBC.

Lord McIntosh of Haringey: That is a legitimate point of view but we have not reached a conclusion on it.

Lord Maxton: I think I will try to make sure it is in the report.

Q179 Lord Peston: My Lord Chairman, can I join in because there is another model which is the model of the Monetary Policy Committee of the Bank of England, which is the best example of an independent body, and they quite rightly rejected any such concept of regional representation or anything else. They said they had a set of criteria to stick to and that was how they were going to operate. It is not obvious it seems to me, and this Committee is a long way off coming to a conclusion, that you get regional interests represented by having people from the region.

Lord McIntosh of Haringey: I hear that view too.

Chairman: I think we can have that internal debate at some other stage. Anyone else on the regional side? Let us go on to the issue of the Royal Charter and perhaps the difference between Royal Charter and statute as well.

Q180 Lord Armstrong of Iminster: The Government is proposing that the new Charter should run for a period of ten years from 2006. It is a time when electronic communications generally are changing and developing extremely rapidly. I wonder whether in this situation ten years is too long to peer ahead into the future about the BBC and whether we risk finding ourselves towards the end of those ten years with a dinosaur which perhaps distorts the market by virtue of its very size and scale. This would be an argument for having a rather shorter period for the Charter. I wonder if you have any comment on that.

Lord McIntosh of Haringey: That view was certainly expressed to us during the period of consultation. It was expressed at some of Lord Burns' seminars and it is a very serious point of view which we have taken into consideration. The balance we have to maintain is between the degree of security which enables the BBC to plan ahead and response to technological change. I think you put that very correctly in your question. The difficulty is that we do not know enough about the direction of technological change. We can make some assumptions, and Lord Maxton was making some very reasonable assumptions about it, but the conclusion that we came to was that the need for security of funding, the need for continuity for the BBC, was appropriately balanced by a ten year Charter period with a review in the middle towards the end of the digital switchover period which would examine exactly the issues that you raised in your question and the issues we have been talking about, whether broadcasting in its classic sense on the existing platforms – cable, satellite, terrestrial and so on - is going to be around for all of that period. I imagine the consensus would be that a very considerable number of people will be on different platforms, they will be on broader band platforms, but since these will be market driven they will not be universal and they will not enable us to switch off digital television in due course for a very considerable period after that.

Q181 Lord Armstrong of Iminster: I thought the mid-term review was about the licence fee.

Lord McIntosh of Haringey: Two mid-term reviews, one about the licence fee and one about the issues of ----

Mr Zeff: The other one is about the issue of whether any wider public funding, including the licence fee, is needed for public service broadcasting beyond the BBC.

Q182 Lord Armstrong of Ilminster: Presumably if the process of change went very fast and the kinds of fears that were being expressed came to pass you would start the process of having another Charter earlier than ten years. There is nothing to stop you saying “We will bring this Charter to an end and we will replace it by another one”.

Lord McIntosh of Haringey: I had not thought of that. I do not know what the legal position is on the Charter and whether it is capable of being unilaterally abrogated. If it is thought to be important I could write on that but it is not something that had occurred to us.

Q183 Lord Armstrong of Ilminster: There are lots of arguments for keeping it to ten years, and I agree with that, I just wonder from previous experience whether, if it was felt desirable, you could say “Let us bring this Charter to an end earlier than ten years and have something else in its place”.

Lord McIntosh of Haringey: I do not know what the legal answer is to that question but I will find out.

Q184 Chairman: Does it not come on to the other question about whether you have more flexibility? If it is by statute it is just an Act and not a Royal Charter. I think this is what the House of Commons Select Committee proposed.

Lord McIntosh of Haringey: Yes. It is because of the need to give institutional security, so to speak, to such a major and valued institution that we chose to remain with the Royal

Charter rather than move to statute. We think it gives the BBC the stability to plan and yet gives it the flexibility to respond to changes.

Q185 Chairman: But Channel 4 has got statute and it seems to get on perfectly well.

Lord McIntosh of Haringey: Remember, Channel 4 does not get Government money. A Charter which is based on a licence fee is not appropriate for Channel 4; Channel 4 raises its own money. It works according to principles which have not changed significantly since it was set up, in fact. There is no need for a ten yearly review and there has not been any need for intermediate changes in statute. In fact, the remit of Channel 4 as set out in the original Act was repeated in the Communications Act 2003.

Chairman: Competition. Lord King.

Q186 Lord King of Bridgwater: I have got a question here about the 2003 *Altmark* ruling. I thought the *Altmark* was a ship on which there were a lot of British sailors in a Norwegian fjord. I had not heard about the *Altmark* ruling. Is this going to interfere?

Lord McIntosh of Haringey: The *Altmark* ruling is about public transport, it is not about broadcasting at all.

Q187 Lord King of Bridgwater: The clever question is whether it is a basic condition for public procurement.

Lord McIntosh of Haringey: I do not think it is. The *Altmark* ruling may be but the issue we are confronted with here is the issue of state aid and that is what I think we should be concerned with. There have been recent judgments in Germany on state aid which affect the relationship between the German public service broadcasters and the rest of German commercial television. The position on that is we are confident that we are fully protected in our arrangements for the BBC. It may be that there is some state aid involved in some of the

arrangements we have but the state aid which we have is consistent with the Treaty and we continue to notify everything that happens to the European Commission and we have had that confirmed.

Q188 Lord King of Bridgwater: Just on the general point, if I can widen it on commercial services, the thing that really strikes me is what a very poor return the BBC gets for what are some pretty high quality things that they do and some pretty high quality products that they have to offer. I see that is one of the ambitions. Over the issue about transparency and fair competition, obviously there are continual grumbles, and Lord Holme raised the point about the transfer pricing of programmes to BBC World, but how serious are the complaints really? I can see Mr Murdoch would be complaining continually that it is all unfair competition but do you get much of that?

Lord McIntosh of Haringey: We have a procedure for dealing with complaints about unfair competition and that is the responsibility of Ofcom who have the responsibility of doing what they call market impact tests. If you put on one side public value, which is the benefits, then the costs could be market impact tests which could include negative financial or economic effects on competitors and could include any way in which the BBC oversteps the mark in relation with its competitors, and this has been raised on some of the BBC publishing activities, for example, where they have agreed that their publications should be related to their broadcasting or online output rather than be totally separate from them and competitive with the private sector. We have carried out now three different reviews of the potential danger of market impact: Philip Graf on the online side; Paddy Barwise and Tim Gardam on radio and television. We think we know pretty well where we stand and Ofcom, being totally separate from the BBC, has the responsibility for seeing that there is no abuse in terms of market impact.

Q189 Lord King of Bridgwater: Provided there is not cross subsidy going out from the public service broadcasting, so money can only go one way, it can come in from commercial services to help sustain public service broadcasting?

Lord McIntosh of Haringey: That is right.

Q190 Lord King of Bridgwater: Your position is the Secretary of State is going to stand back from deciding whether the BBC stops things or starts new ventures. He is no longer going to take an interest in that and it is up to the BBC to make as much money as they can as long as they do not exploit unfairly their public sector broadcasting position.

Lord McIntosh of Haringey: Issues of exploitation of negative market impact in the way that I have been defining are the responsibility of Ofcom who have full competition powers in relation to the BBC and they can consider complaints from competitors and nobody can say that they are in the pockets of the BBC.

Q191 Lord Maxton: How do you apply that to BBC Online in terms of competition where you are not competing just with commercial operators in this country but you are competing across the world because all BBC radio stations are available, BBC television news services are available and even things like the rugby Five Nations was available online throughout the world last weekend?

Lord McIntosh of Haringey: The BBC website is probably the most successful website in the whole world. It has more hits than any other website. The notion of competition worldwide is a rather less definable notion as far as online is concerned than that which is covered by competition law in this country.

Q192 Lord Maxton: Do you get any complaints coming from elsewhere saying the BBC should not be doing that?

Lord McIntosh of Haringey: I do not know whether the BBC has complaints but Ofcom could consider complaints of that kind, yes.

Lord King of Bridgwater: Under which part of BBC Commercial Holdings is BBC Online?

Q193 Lord Maxton: It is free.

Lord McIntosh of Haringey: It is a public service but the commercial side of it is under the heading of BBC Worldwide.

Chairman: Can we go on to the commissioning of programmes. Lady Bonham-Carter.

Q194 Baroness Bonham-Carter of Yarnbury: Picking up on what has been said, this Window of Creative Competition which the BBC are suggesting, which will increase their commitment to commissioning from independents, I think there is some concern that if they do follow this with vigour it will adversely affect other channels, such as Channel 4, because they might just grab the big indies, which are doing particularly well at the moment, and that will leave Channel 4 floundering slightly. Have you had any thoughts about regulating how this 50 per cent commissioning should be taken?

Lord McIntosh of Haringey: I suppose I should declare an interest having a daughter-in-law who works for Chicken Shed, which has just successfully gone public. Yes, I hear what you say about consolidation among indies and the big indies are doing very well. I think that the BBC's proposal for a Window of Creative Competition is a very interesting idea. I do not know how they are going to make it work and I do not think it is for me to decide how they are going to make it work. There are minimum obligations for independent commissioning and, indeed, for regional commissioning and regional production on the BBC. We think it is desirable in general for the BBC to have the freedom and an obligation to go for the best programmes wherever they come from, to be more meritocratic. We do not rule out any increase in the current quota but I do not think it is for us to say how that is achieved.

Q195 Baroness Bonham-Carter of Yarnbury: I just wondered if you might think about regional quotas or the size of independent companies.

Lord McIntosh of Haringey: We will think about that and that is one of the issues on which we are consulting now as to how that should be achieved.

Q196 Bishop of Manchester: Could I just ask a question on BBC programme making itself, going back to the regional issue. I chair a broadcasting awards panel which quite often finds itself giving awards to regional programmes which have beaten the network programmes very convincingly. In terms of encouraging regional programme making, particularly within the BBC, are you satisfied with the current plans the BBC has for strengthening its already existing regions? In a way I am delighted, being Bishop of Manchester, that they are doing so much more in Manchester, but is that really creative enough from your point of view and would you like to see them opening up new places?

Lord McIntosh of Haringey: I think they are a move in the right direction. Their determination to get outside the M25 is admirable. When I was doing my rounds of the country last year as part of the Charter review process and we were talking not only to viewers but also talking to people in the industry, producers and people in the BBC, the view was expressed to me by independent producers in places like Belfast, Glasgow, Edinburgh and Cardiff that they make great programmes but it is very difficult to get them networked. The view was also expressed that since they do not have access to the main schedulers in London, except by travelling up to London, the indies in London had an unfair start on them. I listened to that view.

Q197 Baroness Howe of Idlicote: I see that you have asked a number of questions in the Green Paper about how the BBC intends to operate the Window of Creative Competition and I presume the answers to those will be important.

Lord McIntosh of Haringey: Yes.

Q198 Baroness Howe of Idlicote: As far as the regional side is concerned, I just wonder how far do you think they should be playing a leading part in going wider on the radio side as opposed to the television side.

Lord McIntosh of Haringey: I do not think we should go further than saying that they should find ways of getting the best ideas commissioned, whether they are television or radio. That is where people with more expertise and personal knowledge should respond to the consultation.

Q199 Chairman: Thank you, you have been very patient. Could we have just one or two wrap-up questions? Going back to where we started on the governance and regulation of the BBC. Did you ever give any consideration to just having what I regard as a standard board which you would find in commercial life? In a plc you would have a non-executive chairman, you would have non-executives and then under that you would have the management board. Did you give that any thought?

Lord McIntosh of Haringey: Yes. We gave a lot of thought to that and we discussed it with Lord Burns and his panel. We looked at the combined code and at Cadbury and all the rest. We looked at the provision whereby you have a unitary board with a majority of non-executive directors, as is recommended. We quite understand that is appropriate for an organisation or a company which is responsible to its shareholders and other stakeholders but we took the view, and Lord Burns took the view as well, that to have a separation of the kind that we have proposed with something which is specific to the BBC and yet not within the BBC, combined with having a minority of non-executive directors to assist the executive board in its role of delivery as opposed to the role of oversight, combined the best of the

private sector with the best of the public sector. I accept your assertion that we are taking a risk by doing something new.

Q200 Chairman: Is Michael Grade a non-executive chairman or an executive chairman?

Lord McIntosh of Haringey: Non-executive chairman.

Q201 Chairman: He is a non-executive chairman?

Lord McIntosh of Haringey: He is a non-executive chairman of the governors now.

Q202 Chairman: And will be non-executive chairman going forward?

Lord McIntosh of Haringey: There will be no executive members of the trust. We are misled by the word “trust” because we are looking at it ----

Q203 Chairman: It is your word.

Lord McIntosh of Haringey: We are looking at it with charity trustees and it is not like that. As I say, if you can think of a better name, do. The concept is right even if we have not got the words right.

Q204 Lord King of Bridgwater: Will they be non-executive trustees or executive trustees?

Lord McIntosh of Haringey: No, all members of the trust will be non-executive.

Q205 Lord King of Bridgwater: But with a pretty heavy work commitment for part-time staff, that was the point that Lord Peston made.

Lord McIntosh of Haringey: Let us consider that in the consultation. I do not think we are proposing that, as with the Monetary Policy Committee, they should do nothing else.

Q206 Lord Peston: Obviously you will know, since you did the Bill, it started off that they were part-time and they discovered they should be full-time, but that is by the way. I must

say I am still totally lost – this is early days for us – I am still not clear what they do. That is what has left me in some difficulty. I take it you could not give us a paper on what they do because you have not made up your minds.

Lord McIntosh of Haringey: We have given a great deal of paper in the Green Paper itself on what they do. It is in two places. It starts at page 12 and is found again on page 72. There is a great deal about what they do.

Q207 Lord Peston: I have read all that. My problem is I assume they go to meetings, they are non-executive so, therefore, they do not take any decisions, or at least if they do take decisions I am not clear what decisions they take. I am sure I am at fault here and not you.

Lord McIntosh of Haringey: Non-executive does not mean that they do not take decisions; non-executive means that they are not full-time salaried.

Q208 Chairman: But when you come to the non-executives on the executive board, which on the face of it does sound a contradiction in terms, we were told last week this was in charge of the day-to-day running of the BBC and a non-executive on a day-to-day board does seem to be a very difficult concept to get your mind round.

Lord McIntosh of Haringey: If you think of the majority of the executive board being heads of the important functions within the BBC, the present management board, - Lord Kalms has it more in his head than I do because I only ran a very small company - they will be assisted by people who are not salaried employees of the BBC but are there with outside experience, whether it is financial or legal or whatever, who will be able to help them in that delivery function.

Q209 Chairman: Purely in terms of turning up, how many times are you expecting the non-executives on the executive board to turn up? It is easy for the executives to turn up, they are there, that is what their job is, but non-executives are not in that position.

Lord McIntosh of Haringey: Some non-executives do more work than others.

Lord Armstrong of Ilminster: The board of management meets once a week, I believe. I assume that the executive board will be very much the same and presumably the non-executive directors would not be in the BBC between meetings, or they might be occasionally, but they will turn up for meetings.

Q210 Chairman: Is that how you would view it?

Lord McIntosh of Haringey: I am not going to prejudge what this consultation will show. With the experience around this table, your views are very helpful. We have not prescribed exactly how many days a week, days a month, remuneration, we have not got that far.

Q211 Lord Kalms: It is not me for me to tell you something, but you are aware that the trust board has a large staff of its own. It has 32 staff of its own, so presumably it will have its own chief executive.

Lord McIntosh of Haringey: I do know they pinched Nicholas Kroll from the department to do the job.

Q212 Lord Kalms: You have got a group of people within and I think that is a danger in itself. You have a conflicting group monitoring another group and the overlap seems to be dangerous. That is where we are going to come from when we give you our critique.

Lord McIntosh of Haringey: I see what you are saying. The criticism of the BBC governors under the existing regime was that they did not have any independent advice from that available to the management and, therefore, they were in thrall to management. I am not

saying whether that was true for part or all of the time, but certainly that was the criticism that was widespread of the existing system and that is what the BBC is proposing. We are not proposing it, that is what the BBC has proposed to deal with by their governance.

Q213 Chairman: I think it is self-evident that we are going to come back to this issue. Lady Howe has got a question which is not about governance.

Lord McIntosh of Haringey: Before you ask your question, Lady Howe, I think I have something additional I want to say on that previous subject which is the role of the non-executive directors. The point is, in the private sector the role of the non-executive directors is to represent the shareholders. In our model, the trustees are there to represent the licence fee payers, which is why we do not have a majority of non-executive directors on the executive board. We are not prescriptive about how many non-executive directors there will be on the executive board and what the exact relationship to the executive directors should be because it depends on the number of people who have to be on the management board and it depends on the variety of outside experience that will need to be provided by non-executive directors.

Q214 Baroness Howe of Idlicote: My question is on a completely different subject which has not been mentioned: training. I am not asking you to answer this question. At the moment the BBC is clearly making a large number of cuts and it feels it is necessary to do this. Practically everybody within the broadcasting world has been trained by the BBC as far as one can gather. Are you, the Government, expecting the BBC to continue to play an important part in training? Is this being taken into account when you are working out what the licence fee should be?

Lord McIntosh of Haringey: Yes, we are expecting the BBC to continue to play an important role in training. I think we are expecting that to happen not only for BBC purposes

but it is a fact of life that those who are trained by large organisations very often go out to work for other organisations. That does not enable me to make any judgment on what the BBC is doing now about its numbers but I would certainly say that in framing the licence fee policy we would take account of the BBC's training programme.

Q215 Chairman: Any other questions? We were tipped the wink that it would be very much to your liking if you were able to get away by 1740 and it is now 1739.

Lord McIntosh of Haringey: Lord Chairman, I am at your service.

Q216 Chairman: That is very kind of you. Thank you very much indeed, you have been very patient and we are very grateful.

Lord McIntosh of Haringey: If you want me to come back later on, of course I will be happy to do that.

Chairman: Thank you.