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working for quality and diversity in British broadcasting

28th June 2001

Ms Vanessa Brand
 Head, Public Service Broadcasting Branch
 Department for Culture, Media & Sport
 2-4 Cockspur Street
 London
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DCMS Consultation re: BBC's Proposals for New Digital Services

Dear Ms Brand

I am responding to the letter from Andrew Ramsay of 7 June inviting comments from Voice of the Listener & Viewer (VLU) on the additional information supplied by the BBC in relation to their proposals for new digital radio and television services.

We have studied the additional information provided by the BBC and give support in principle to all the proposed new services. We do, however, have the following observations to make:

(1) We believe that the BBC's proposed new dedicated digital television services for children are important and timely. The promise of channels, free from advertising and with the wide range of live, factual, original British content outlined in the proposals, will be welcomed, particularly by parents. We do not consider that complaints from the BBC's commercial rivals have any validity because the services they provide are not comparable in any way with those proposed by the BBC.

(2) We are glad to see that approximately 10% of output for the proposed channel for older children will consist of schools programming from the current primary catalogue as we know this provides a valuable resource for teachers. It appears from this wording however that no further programmes for schools are to be commissioned. We therefore repeat our earlier concerns about the BBC's intentions in regard to its role in education and its plans, in our view, for a too precipitate move to transfer its educational programmes for children and adults on to new media. We believe that this would not have happened if the BBC had not abolished its educational advisory council and that a new council or similar structure should be reinstated.

(3) We continue to have concerns that the BBC will not have the funding to finance all the new channels to the proposed high standard, including original content, on a continuing basis. If this proves to be the case, we could not tolerate any lowering of standards on the BBC's mainstream channels, BBC 1 and 2 in order to finance the proposed new services.

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(4) The proposed BBC 4 will replace the existing BBC Knowledge, a channel that was set up specifically as an educational channel, broadcasting both formal and informal education programmes. BBC 4, however, will not start to broadcast before 8pm which will leave very few hours in peak time for showing the wide range of arts, cultural and education programmes it promises to deliver. Are we right in assuming therefore that the majority of the proposed education programmes will only be broadcast overnight on BBC 4 for personal recording?

(5) We note that the word 'education' is liberally scattered throughout the proposals but there is little clarity as to what form the programmes will actually take other than that on BBC 3 they will follow the pattern of programmes on Radio 1 which raise awareness of social issues such as the abuse of drugs, alcohol etc. These public campaigns are valuable and to be commended but they do not provide a substitute for more formal course and vocational related programmes.

Yours sincerely

Jocelyn Hay

mrs Jocelyn Hay
Chairman

The BBC's Proposed Digital Services

Competition Issues

1. The OFT has already decided that the free-to-air markets and the Pay TV market are separate markets. (see, DG OFT's review of BSkyB's position in the Wholesale Pay TV market). (see also, Manchester United vs. BSkyB)

Furthermore, as the BBC neither sells airtime, nor does it accept programme sponsorship from commercial sponsors, its proposed new services operate in a different market from ITV, Channel Four TV, Channel 5 or any of their rivals.

2. Prima facie therefore the BBC's proposed digital services are not in competition with any commercial services.

3. A second issue, is whether the BBC's proposed digital services are substitutable for those currently, or about-to-be, delivered by Pay-TV.

VLV submits that they are not, for the following reasons:

(a) Listeners and viewers will pay for the proposed services via their television licence fee. They have to pay for Pay-TV services by means of additional expenditure. The BBC's proposed new digital services are being financed out of efficiency gains achieved by the BBC from within its licence-fee funds.

(b) The proposed BBC services are different in kind from those that are available from Pay-TV channels in a number of ways, viz

(i) They will fulfil the quota of EU programmes required by the EU Council of Ministers "Television Without Frontiers" Directive, whereas all other Pay-TV channels available to UK viewers do not;

(ii) They will all contain higher proportions of UK-produced programmes than the Pay-TV channels;

(iii) The services will be available to listeners and viewers without advertising breaks or programme sponsorship;

(iv) There will be a greater diversity of programmes on the BBC's proposed digital services than those currently available on Pay TV in the UK;

(v) The BBC's proposed digital services will be universally available to all households, whereas those broadcast by satellite or relayed by cable will not;

(vi) It is clear from recent developments in the television market that the broadcasting market is not a zero-sum game. Indeed, in recent years, the revenues of the Pay-TV services have risen far more quickly than those for the BBC;

(vii) the individual programmes shown on the BBC's proposed digital services will be different from those shown on Pay-TV channels;

(viii) Audience research shows, that the ordinary viewer does not primarily view by channel, they either watch a specific programme; or alternatively they choose to watch at a specific time of day, or on a specific day of the week. (see, for example, D. Gauntlett and A. Hill, TV Living (Routledge, 2000), 291-292) Where viewers want to see a specific programme, and they are unable to watch it at the time when it is broadcast, they can always make an off-air recording for time-shifting purposes.

4. For these reasons therefore, VLV submits that the BBC's proposed new digital services will not be interchangeable with Pay-TV services, either in terms of purpose, product characteristics or price.

5. VLV submits that, provided the Secretary of State considers that because of their contents, the BBC's proposed new digital services will be services of a general economic interest previous, previous decisions in EU law, support these interpretations. The principal references would be the Commission's approval of BBC News 24 and Kinderkanal.

6. In general, VLV wishes to emphasise that the purpose of competition law is to improve competition in the supply of radio and television programmes available to listeners and viewers. It is not designed to give comfort to competitors who are concerned about the activities of providers of goods and services in neighbouring markets. The only grounds on which an anti-competitive complaint could be justified would be if it could be shown that the BBC was abusing its dominant position in a given sub-market. (cf. the ECJ's decision in the Magill case).

7. VLV submits that for this to be the case, two conditions would have to be met, neither of which seems pertinent in the current instance:

(i) that the BBC occupied a dominant position in a given sub-market; and

(ii) its behaviour (eg in programme scheduling, or in the acquisition or sub-licensing of the rights to individual programmes) constituted an abuse of fair trading practices.

8. VLV therefore submits that, although the proposals for each of the BBC's proposed new radio and television services will have to be examined individually, there is no overall case to substantiate the claim that the BBC's proposals would constitute unfair trading practices.

Vincent Porter

on behalf of The Voice of the Listener and Viewer,

3 April 2001

PROPOSED NEW DIGITAL SERVICES FROM THE BBC

A Response by Voice of the Listener & Viewer to the Government's Consultation

27th February

2001

I. INTRODUCTION

1. On 18th January, 2001, the Secretary of State for Culture, Media and Sport invited comments from the public, the broadcasting and communications industry and consumer groups on proposals from the BBC for introducing four new digital television services, five new national digital radio services and for making the BBC World Service in English available in the UK by means of the Internet. The consultation is the first that the Secretary of State has initiated since the publication on 10 January of the Department's new guidelines for assessing BBC public service proposals; and follows the public consultation in the autumn of 2000 which the BBC was required to undertake under its Charter and Agreement.

2. In its submission the BBC identifies the public response to its consultation document as the highest it has ever received. Even so, VLV considers that the total of some 6,700 replies from an audience of many million cannot be taken as an inadequate guide to public feeling. This belief is reinforced by the fact that in VLV's opinion, the BBC's consultation document was couched in terms more appropriate to a marketing exercise than a piece of serious research, and at times used questions of a blatantly leading character.

3. VLV therefore welcomes the BBC's decision to complement the responses with a more formal piece of research amongst a representative group of 1000 respondents whose replies were markedly more enthusiastic about the BBC's proposals than those from respondents to its original consultation document. Even so, the overall figures do not represent a ringing endorsement of the BBC plans and underline the limited worth of inviting opinions about programme services from audiences with no experience of them. The BBC Governors have, fortunately, recognised this fact in their evaluation of the proposals and in their undertaking to conduct regular reviews of how the new services are meeting their declared objectives. Nevertheless, we believe the Secretary of State should be cautious in the significance he attaches to the figures presented in the BBC submission.

II. THE SERVICE PROPOSALS

4. Television

(a) BBC1 and BBC2

(i) VLV welcomes the BBC's assurance that its mainstream channels will continue to

offer a wide range of programmes across all genres, including news and current affairs, up to and after analogue switch_off. VLV also welcomes the BBC's assurance that it will raise the budgets of both channels, increase the share of regional programming, and make use of material originated by one or other of the new digital television services.

(ii) VLV believes, however, that a clear reassurance is required from the BBC that it will not allow its provision of the promised wide range of programming on the two main channels to be influenced by market pressures. It would all too easy for sensational subjects, such as paedophilia and loan_sharks, to find a place in 'Panorama' and other current affairs programmes but if the BBC is to fulfil its public service role, it must continue to offer treatments of major international, industrial and other issues, even if this results in smaller but more discriminating audiences.

(iii) VLV believes that the BBC should also widen the range of its drama output to include a better representation of this country's and others' classical dramatic traditions than the largely 19th century fiction which has dominated in recent years, popular though this has been. It should also provide a wider selection of opportunities for new writers than the soaps and serials which now represent their main source of apprenticeship. It is to be hoped that BBC4 will provide some openings for programmes of this kind, but it is important that these should supplement, not replace, those on mainstream channels.

(iv) VLV regrets the absence of any reference to experiment and innovation among the BBC's editorial values as set out in the proposals. The stimulation of the democratic debate within a society which is increasingly commercialised and conformist is one of the prime justifications for the licence_fee. We hope therefore, that it can accept the assurance given in the BBC's proposals that the new channels will genuinely add to the provision of programmes, and therefore also add to the available choice of material, on BBC1 and BBC 2.

(b) BBC3 and BBC4

(i) VLV notes that the existing digital channels BBC Choice and BBC Knowledge are to be re-named BBC 3 and BBC 4 and that the wording 'two new channels' may imply more than is actually being proposed. BBC 3 will not start broadcasting before 7pm and BBC 4 not before 8pm. Much of the output on both channels will therefore be broadcast at times when few people are available to view it.

(ii) A second concern is that there is little mention of the BBC's much valued role as a provider of educational services at the very time when new technology is bringing new means for extending this role. (See also Question 6 on page 7.)

(c) BBC 3

(i) VLV questions the wisdom of using age as the sole way of defining the target audience for BBC3. Britain has an ageing population which provides at least as strong a case for targeting the over_forties as for aiming at younger adults. VLV nevertheless recognises that the BBC needs to establish itself with a younger audience in the face of intensive market_led competition; and that in doing so it will have to

reflect the changing multi_cultural nature of British society, countering pressures to treat the young as an homogeneous whole. We also believe, however, that while the new channel should seek to create its own idiom in which younger viewers will feel at home, it should not set out to alienate viewers from other age-groups. We welcome the intention to include 'the whole range of genres, including news, drama and current affairs'; that the channel 'will enable programme makers and viewers to innovate and let their imagination fly free'; and that it will be 'distinct from existing commercial channels'. It should seek to widen horizons as well as to entertain.

(d) BBC 4

(i) VLV welcomes the BBC's proposals to create a new digital channel to enhance its coverage of 'science, business, social issues, philosophy, politics and global affairs' together with that of culture and the performing arts, including 'recording and broadcasting performance from the Nations and Regions'. The BBC is the country's greatest cultural patron. Its new arts channel should reflect this role in the breadth of its musical, dramatic and light entertainment output. Extra coverage of the performing arts on BBC 2 would be welcome. Our concern, (see paragraph above) is that there will not be sufficient time to include all the proposed additions or the funding to do them justice.

(ii) VLV is concerned, however, about the future of BBC educational output. Prior to launching the consultation on its proposed new digital services, the BBC launched a low-key consultation on the future of its educational services under the title 'A Digital Curriculum'. It seems from this document and from statements made during a public meeting organised by VLV at which the BBC Joint Director of Factual and Learning spoke in October 2000, that the BBC is proposing to end, or to move on-line, all of the educational radio and television programmes it currently broadcasts on free-to-air analogue channels. The absence of all but brief references in the proposals to any continuing role for the educational programmes which BBC Knowledge currently broadcasts is disturbing. Since VLV's response to the BBC's consultation on 'A Digital Curriculum' reflected serious concern, not only among VLV members, but also among the many members of the teaching profession, this omission is doubly worrying. Education should, and indeed must, remain one of the BBC's core public purposes if it is to fulfil its public service remit, as its former Director General pledged in the policy document 'Extending Choice'. Some educational provision should continue to be provided on all the BBC's free-to-air channels, including analogue radio and television..

(d) BBC News 24 and BBC Parliament

(i) VLV notes the proposal to continue these important services and welcomes the intention to extend coverage of the Scottish Parliament and the Assemblies in Wales and Northern Ireland. This will answer a demand which has been repeatedly made at VLV conferences in and outside London.

(e) The Children's Channels

(i) It is proposed that the two new digital television services for children will fill the daytime hours on the frequencies to be occupied by BBC 3 and BBC 4 at night. The

new channels are to be targeted respectively at children up to six years of age and those of six to thirteen years.

We recognise that there is a gap in the market as currently supplied by commercial broadcasters for children. We welcome the BBC's wish to fill it and strongly support the introduction of these two channels. . We know, through the activities of the Voice of the Listener & Viewer's Forum for Children's Broadcasting (established in 1994), that many parents will welcome the introduction of advertising-free channels with a wide diversity of high quality, programmes, a large proportion of which are made in Britain or Europe by people who put the interests of their young viewers above all else.

(ii) VLV's concern is that each of the channels is to be on air for thirteen hours a day (4745 hours a year) with initial budgets of £10 million and £331 million respectively, (approximately) £2000 and £6000 an hour. We realise that these budgets allow for the use of library material and a great number of repeats but question whether the BBC's aim of including a high proportion of new British made programming can be fulfilled when they are compared with the (97/98) current cost of £91,000 an hour for children's programmes.

5. Radio

(a) General

(i) VLV finds it very disturbing that the BBC's submission does not affirm the future of the five mainstream services of BBC Radio with the same clarity which it gives to its two principal television channels. The dependence of radio funding upon the licence fee since the abolition of the separate payment has always made it appear potentially vulnerable. VLV, therefore, believes it is essential that the Secretary of State secures an assurance from the Board of Governors that adequate financial provision will be made for the BBC's radio services at national, regional, and local level before he gives his assent to any of their proposals. The cultural and social significance of BBC Radio remains too high to be jeopardised by the kind of uncertainty created by the proposals in their present form.

(b) The mainstream Radio channels

VLV assumes that the BBC intends the new digital radio channels, as in the case of the new television channels, should supplement the established channels. Indeed, the logic of using new channels to encourage the transition to digital listening is that the mainstream channels continue as before. However, VLV finds the truly disturbing feature of the proposals to be the absence of a firm commitment to the claims of BBC Radio on the licence fee in the future.

(c) BBC Live Sports Plus

VLV is glad to see the proposal that a service, valued by many listeners in its present form, should be extended, but would welcome information on the funding available in the future.

(d) Network X

VLV's position remains as was stated in its response to the BBC's original consultation document. We believe it would be a mistake to follow the route of a single culture and that it would be preferable to reflect a wider ethnic mix of music, news and speech.

(e) Network Y

It is not clear from this proposal, altered considerably from its original form, what the target audience of the network is intended to be, nor what the range of its 'popular music' schedule will cover. We feel unable, therefore, to comment on it.

(f) Network Z

This network is intended to operate in territory close to that of Radio 4, the most costly of the BBC's mainstream networks, but with a markedly lower budget. VLV would be concerned if the result were to compromise the integrity of the mainstream channel which is widely recognised and well respected. With those reservations, however, VLV welcomes the return of more family orientated material and programmes specifically directed to children.

(g) Asian Network

VLV considers that the merits of the proposal to amalgamate the existing local radio services for Asian audiences into a national network need to be weighed against other possible uses: for a wider selection of ethnic minorities, closer in ideology to the Australian Special Broadcasting Service or for a service reflecting the interests of ethnic minorities from Europe. The service should not be conducted exclusively in any minority language, but should draw on English as the means of providing some continuity.

6. The Governors' approval

VLV suggests that, on future occasions, the Governors should be required to provide much clearer evidence of the questioning to which they put the executive before giving their approval to proposals such as these. We do not quarrel with the actual criteria the Board is required to apply, but, lacking evidence of the internal debate between the Governors, acting on behalf of the public interest and in defence of public money, and the Executive, the paragraphs in Annex 1 of the consultation document which record the Board's approval have an air of blandness which may not do justice to either the Governors or their senior officials.

7. Remaining Questions

At the end of its response to the BBC's original consultation, VLV indicated a number of issues on which it sought further information. Some of that information has emerged from the BBC's submission to the Secretary of State, but several questions remain unanswered. They can be expressed as follows:

General

Q.1. Following switch_over, how would the new services meet the requirements of universality of reach and content ?

- (i) The BBC's proposals repeat the Director General's undertaking, given in last year's MacTaggart Lecture, to preserve the principle of universality and to reduce the dangers of creating a digital underclass among those who, for reasons of choice or financial necessity, do not want to purchase their entry into the digital future.
- (ii) Although VLV supports the very demanding levels of digital take_up required by the Secretary of State before analogue switch_off, we are concerned that the relatively slow growth in the digital audience might tempt him to reduce the standard he has set. Such a step would not only make it difficult for the Director General to maintain his undertaking, but would also provide small consolation to those whom it deprived of services available elsewhere in the country. One reason for the slow take_up is the difficulty which some viewers experience in getting a dependable digital signal, even in places allegedly adequately served. VLV therefore urges caution in setting the final date for analogue switch_off. Our concern is compounded by the uncertainties we have already highlighted about the future for BBC Radio and its funding.

Q2 What expenditure is required to meet these universal requirements?

This question is not answered in the proposals. Nor is it clear whether the cost to the BBC of delivering its digital services is included in the 15% of its overall spending which is attributed to them. The Governors' assessment of Value for Money appears to concentrate mainly on programme costs, where a virtue is made of the interchangeability of individual programmes, something which VLV applauds in principle.

Q3 Is the BBC confident that its resources can be stretched ever more thinly without impairing programme quality? .

The BBC's submission indicates its belief that, with the increases planned in the level of the licence-fee and from further internal economies, it can fund its proposals. However, as the Corporation can only describe future programming plans with examples of programmes already produced, its estimate of future budgets cannot be expected to have any great precision and any challenge to it must itself be incomplete.

(a) Television.

The hourly costs initially suggested for BBC 3 and BBC 4, approximately £25,000 and £12,000 respectively, are markedly lower than the hourly costs of the mainstream channels, BBC 1 and BBC 2. It is difficult to square those costs, even after making allowance for repeats, with the aspiration to provide 80% of new content. The difficulty is greater in the case of BBC 3 whose material is to be drawn from the most competitive sectors of light entertainment (broadly interpreted). There may be less competition for the main classes of programming proposed for BBC 4 but VLV is concerned that the estimated costs are likely to be exceeded in reality. In sum, therefore, while respecting the BBC's wish to make its free-to-air digital television services as comprehensive as possible, VLV fears that the BBC may be proposing more than it will be able to deliver at the right levels of quality.

(b) Radio

VLV is not convinced that the budgets proposed for the four new services are consistent with the maintenance of quality programming and would be concerned if, as a result, money were to be taken away from the mainstream radio services. The Governors' comments on the proposals, included in the submission, while commending them as representing value for money, do not indicate that they have undertaken any detailed investigation of the make up of individual channel budgets.

Q 4 Can the same broad assumptions be made about the public willingness to switch over to digital radio as to digital television in view of the cost of digital radio equipment?

The BBC's submission to the Secretary of State indicates a substantial difference in public attitudes towards the take-up of digital services. It recognises a comparative rapid take-up to date of digital television, but suggests that there will be real difficulty in reaching the official target for analogue switch-off. It acknowledges that the movement towards digital radio is sluggish and that a substantial proportion of the population remains uninterested in the possibility. However, it argues that the new channels it is proposing for both television and radio will act as a spur to further take-up, offering an attractive alternative to those digital television channels available only for additional payment. In radio, the submission suggests, there are no attractive commercial services yet available.

Q.5 Where do the socially-excluded stand in cases where provision is available only through the Internet?

The BBC submission makes only two references to the Internet. The first is in connection with the provision of the BBC World Service in the United Kingdom via the Internet for 24 hours a day. There is no BBC proposal to provide the UK with a separate daytime transmission of the World Service by other means. As now, it will continue to be available in the early hours of the morning. VLV believes that the means should be explored for making the World Service available in the UK during the day in addition to its presence on the Internet. The second reference is to the use of the Internet as back-up to many of the programmes on the new children's television channels, encouraging them to embark on 'learning journeys'.

Q. 6. What will be done to take advantage of the specific educational opportunities of the digital channels, utilising the wealth of material generated by the type of public service broadcasting to which we have become accustomed?

VLV recognises that the BBC's proposals for educational broadcasting were contained in a separate submission to the Secretary of State, following a public consultation. We expressed our concern at the short time provided for the consultation and at the pace which the BBC proposed to adopt for the transfer of much of its educational material to Online services. Nothing that has happened subsequently has lessened our anxiety that much more thought needs to be given before jeopardising the integrity of the BBC's traditions in this particular branch of its output. The proposals in the present document deal only briefly with education since it would appear that, in BBC eyes, its future lies only Online.

End.
2001

27th February

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Voice of the Listener & Viewer (VLV) is an independent non-for-profit association which represents the citizen and consumer in broadcasting. VLV is concerned with the regulation, funding and institutions which underpin British broadcasting, and to maintain the principle of public service in broadcasting. VLV is free from all political, commercial and sectarian links.