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13 September 2001

I am glad to be able to inform you personally of my decisions about the BBC's proposals for new digital television and radio services. I am giving conditional approval for 3 of the television services and all the radio services. The decisions are set out in the attached note and schedule which I am publishing with this letter.

The BBC performs a vital role as a public service broadcaster fulfilling the remit in the Charter and Agreement. The BBC provides a public service in the form of information, education and entertainment. Services must be universally accessible within a reasonable period of time to those with appropriate receivers and must be free at the point of delivery. I look to the BBC to provide a creative environment for distinctive, original and innovative production for the UK audience, to set a benchmark for other broadcasters by providing a full range of high quality services that are distinctive from what the market will provide, and to challenge others to match your standards. I know that the Governors, too, see this as an important part of their role.

The mid-term review of the licence fee, *The Future Funding of the BBC*, published in 1999, confirmed that public service broadcasting has a vital and continuing role in the new digital age. It also recorded the high degree of public support for what the BBC does. It is a continuing challenge to ensure that the BBC continues to command and deserve the special place it still holds in our national life.

In February 2000 my predecessor, Chris Smith, welcomed the BBC's commitment to four priorities including the development of new interactive and digital services. To ensure that it is a standard-setter for the future the BBC must broadcast programmes that will draw in the widest possible audience. The use of interactivity offers the opportunity to draw in viewers and to help consumers develop their interests and influence the market.

I agree that it would be right to replace BBC Choice and Knowledge, which have been approved since the Charter and Agreement, but have not proved successful. The programming has been disappointing and neither service has attracted a significant audience share. It is all the more important to be sure that the new services will meet the public's legitimate expectations of the licence fee funded BBC and have their support. You have fulfilled your obligation to consult

licence fee payers but I am sure that the Governors will want to address the criticisms directed at the consultation process in any future case.

I have considered the proposals very carefully in accordance with the published guidelines, looking at the effects of any approval from the point of view of both the public and the industry. I am convinced that the majority of the proposals will complement existing services, including the BBC's, and add to the range and quality of broadcasting available to the public. I particularly welcome the commitment to continuing the full range of programming across these channels and to increase investment in BBC1 and 2 as core services. It will, of course, be for the Governors to ensure that the new services develop to the highest possible standards and that they are funded appropriately.

I am not approving the proposals for BBC3. Whilst a strong and convincing case has been made for the distinctive contribution of the other services, the case for BBC3 has not been proven. I know you will be disappointed that I have not felt able to approve all the services but I am inviting the BBC to reconsider what should replace the evening schedule on Choice and to come back to me with fresh proposals.

In the longer term, I will be reviewing all the new services in 2004 as part of the review of the Charter and Agreement and licence fee funding. As you know, it is also my intention to review those BBC services that were approved previously, starting with BBC News 24, for which I expect to appoint an independent reviewer shortly. The published guidelines state that a review 'will involve seeking detailed confirmation from the BBC that the Corporation is acting in accordance with the facts and assurances upon which the approval was given'. I am therefore asking you to prepare a full statement of the News 24 approval and the BBC's own detailed assessment of performance against this. The report will then be available to the independent reviewer to start work when appointed. I would be grateful if a timetable for this could be agreed with my officials by the end of September.

TESSA JOWELL

BBC NEW DIGITAL SERVICES

NOTE ATTACHMENT TO THE LETTER FROM THE SECRETARY OF STATE TO THE CHAIRMAN OF THE BBC: 13 SEPTEMBER 2001

In this note and attached schedule references to the 'information from the BBC' means the letters of 9 January from Caroline Thomson to Andrew Ramsay and 21 May from Greg Dyke to Robin Young and all information provided by the BBC in relation to the BBC's application for approval of new digital television and radio services.

1. This note sets out and explains the decisions reached by the Secretary of State for Culture Media and Sport on the BBC's proposals for new digital services. A schedule listing the approvals with the conditions is attached.
2. In accordance with the guidelines for approval of BBC licence fee funded services published in January 2001 (BBC Public Services: Approvals) the Secretary of State gives conditional approval for the replacement of the daytime service on Knowledge by a service for children under 6 and for the replacement of the evening service by BBC4, and for the replacement of the daytime service on Choice by a service for children aged 6-13. Conditional approval is also given for 5 proposed new radio services and for the World Service to be made fully available in the UK.
3. In reaching these decisions all the information from the BBC and the responses made to the consultation undertaken by the Department for Culture Media and Sport (DCMS) have been taken into account by the Secretary of State. She has also had regard to advice from the Office of Fair Trading, and the relevant DCMS officials including legal advisers, accountants and economists and others within and outside the DCMS as necessary.
4. The Secretary of State has given careful consideration to whether each approved new service is compatible with the BBC's primary public service role and will further all or any of the public purposes for the Home Services set out in the Charter and Agreement. All the BBC's services will be free to air. The information from the BBC confirms that the services have received all the necessary internal approvals as set out in the guidelines including the approval of the Board of Governors. The Secretary of State has concluded that each approved service will enhance the BBC's achievement of its undertakings on programme content and standards in the Agreement.
5. The value to the public of each new service has been assessed and is considered by the Secretary of State to be proportionate to the likely impact on the market. In relation to the BBC's obligation to consult licence fee payers, the Secretary of State accepts that this has been fulfilled. However, the process attracted some critical comments and the Secretary of State noted with some concern the report by MORI dated 28 February 2001. She concluded that she could give weight in particular to the survey conducted by BMRB.
6. In accordance with the guidelines DCMS invited written representations from the broadcasting and communications industry, the Independent Television Commission,

the Radio Authority, and consumer groups. This involved an initial six week consultation period, after which consideration was given to what more was needed, taking into account the comments made in response to the consultation. Further information was sought from the BBC. It included more detailed descriptions of the services and answered those questions considered necessary to assist the Secretary of State to reach decisions. There was then a further consultation exercise. In recognition of the inter-regnum created by the General Election, the new Secretary of State extended the consultation period to ensure the fullest opportunity for further representations to be made and then considered. Over 80 representations were received from the broadcasting industry, including broadcasters and production companies, as well as from representative groups. A similar number of representations were received from individuals. The Secretary of State and her predecessor, Chris Smith, both had meetings with, and spoke to, a range of those responding to the consultation on both television and radio services. The consultation process as a whole was essential to the assessment of the nature and coverage of commercial services of a similar nature to those proposed by the BBC, and the responses have been fully taken into account by the Secretary of State in the decisions reached.

7. The Secretary of State has concluded that each approved service is distinctive and that its likely impact on the market is proportionate to its public value. This does not mean that the subject matter must necessarily be different from what the market will provide. The schedule to this letter sets out how each service is distinctive. In some cases it is clear that there are other services with which the BBC service may be in competition. This applies to both television and radio services. The factors considered by the Secretary of State include the amount of new programming and how far it will specifically reflect the UK's cultural interests and diversity, adding to the choice for licence fee payers.
8. The BBC also has a role in promoting digital take-up leading to switch-over. The Secretary of State considers that the contribution that the new digital services can make to this wider policy adds to their public value, but the contribution of any individual television service to digital take-up is likely to be limited and is a secondary consideration in the granting of approval. However, to the extent that the new services provide additional choice that is welcome to licence fee payers, she considers that they will contribute to the general promotion of digital broadcasting and, in particular, to the BBC's specific campaign. The importance of the BBC's role is reflected in the general conditions requiring the BBC to undertake a vigorous campaign to promote digital television and radio services generally as well as the necessary technology and equipment. Relatively few digital radio sets have so far been sold and it is important that the promotion of digital radio services and equipment are included in this campaign.
9. In order to reach a decision the Secretary of State had to weigh the value of the new services to the public and assess their likely impact on commercial services already in the market and on potential future services. She needed to be convinced that the BBC proposals are sufficiently distinctive to outweigh any likely adverse impact. For consumers the ability to switch to additional new services would be beneficial if it reflects the distinctive nature of the BBC's public service remit. The Secretary of State considers that the public value of greater consumer choice favours the introduction of

the new services, unless in the longer term the effect is to have an unduly adverse impact on competition in a market. Taking into account how the markets concerned are generally seen to be defined, especially the distinct multi-channel market, and the limited barriers to entry, she has concluded that the consumer choice arguments generally favour the introduction of the new BBC services and, although the picture is more mixed in relation to provider and supply issues, the likely impacts on existing producers and suppliers will be generally limited.

10. While the Secretary of State found all the other proposals to have clear public value and to be distinctive from those of other broadcasters, she did not find the proposal for BBC3 convincing. This would be a mixed genre service funded at a much higher level than the other television services (£95m in the second year) and aimed at a young audience aged 16-34. Of the 4 television proposals this service received the lowest level of public support in the BBC's consultation and survey. The Secretary of State considered that the proposal was not well substantiated and the degree of public value of the service was not established. On the other hand it is clear that there are a number of other broadcasters providing services for this audience. Without an understanding of BBC3's distinctive character the Secretary of State cannot weigh its public value against its likely impact on the market and, given the target audience which has already shown relatively high take-up of digital television, BBC3 would be unlikely to have a significant additional impact. The Secretary of State has asked that the proposals for a service to replace the evening schedule of Choice should be reconsidered.
11. The information submitted by the BBC which forms the basis for the approvals includes a number of commitments about how the new services will be taken forward and how they will relate to existing channels. These commitments are fundamental to the Secretary of State's decisions and form part of the approvals. In particular, the BBC Governors have confirmed their view that they would be able to provide a quality service within the budgets set and that the services will represent value for money for licence fee payers and in that context the budgetary information supplied in the proposals has been taken into account by the Secretary of State.
12. Programming and scheduling are matters for the BBC and the Corporation is free to develop and evolve each approved service within the terms of the approval. In order to ensure that the format for each service is clear and that the Governors can assess and report annually on the BBC's performance the Secretary of State has included certain conditions.
13. The schedule sets out the conditions with some explanation of the Secretary of State's intentions. For each service the Secretary of State has included conditions to reflect the BBC's intentions and to set out the scope of the service. She expects the BBC to observe the conditions in good faith, in accordance with their spirit.
14. In accordance with paragraph 2.3 of the published guidelines a condition allowing for periodic review of all the approvals has been included. This note and the schedule together with the Secretary of State's associated letter to the Chairman of the BBC will form the basis for future review. An independent reviewer will be appointed by the Secretary of State during 2004 to report by August 2004. Once the Communications Bill has been enacted it is expected that OFCOM will advise on the approval of new BBC

services and will also be involved in the review of approvals. The review in 2004 will form part of the work to review the Charter and Agreement together with the licence fee in preparation for consideration of the BBC's role and Charter Renewal by the end of 2006. Further reviews will be held to coincide with Charter Reviews.

15. Funding for the new services is considered to be covered by the existing state aid arrangements, within the overall support scheme for the BBC that has remained in force for many years and which predates the European Union. Nevertheless the European Commission is being informed in writing of these decisions so that they are aware of the approvals and the basis on which they have been made.