

BBC Trust response to the Government's interim *Digital Britain* report

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I Introduction

This document represents the BBC Trust's response to the Government's interim Digital Britain report. The BBC Trust is the sovereign body of the BBC, ensuring that the BBC remains accountable to audiences and independent, resisting pressure and influence from any source. We work for the public which owns and pays for the BBC. We listen to a wide range of voices; seeking to understand all opinions and expectations to inform our judgements. The BBC is accountable to the Trust for the development and delivery of its long-term strategy.

This response sets the strategic framework for the BBC's ongoing contribution to the debate about the future of the digital information and communications sector. It also sets out the regulatory framework by which the Trust will assess the BBC's involvement in any specific proposals. The BBC Executive submission, submitted along with this Trust response, looks in more detail at each of the actions identified by the interim Digital Britain report.

The BBC Trust welcomes the Government's interim Digital Britain report, which clearly signals the importance of the digital information and communications sector to the UK. The report addresses some significant issues and sets out an ambitious agenda for progress. Digital and broadband technologies hold enormous potential to bring great benefits to audiences and to the economy.

The interim Digital Britain report acknowledges the BBC as "the cornerstone of our audio-visual public services" and the BBC stands ready to play its part in ensuring the benefits of digital technologies are delivered as widely as possible through the UK.

The report also acknowledges some of the difficulties facing the industry, particularly in broadcasting, where major structural shifts are challenging traditional business models, a situation exacerbated by the current economic climate. Although Channel 4's financial situation has been the subject of scrutiny throughout the PSB debate, it is clear that the challenges are far more widespread.

In looking to map out the digital future of Britain it is important to distinguish between those issues that are structural, such as the proliferation of digital channels and the migration of advertising revenue online, and those that are cyclical. This is a complex situation and it is important at this critical moment that the solutions implemented are sustainable in the medium to long term.

The Trust agrees with the Government over the need for provision of public service broadcasting beyond the BBC. We do not believe that audiences would be best served in a world where just two broadcasters – the BBC as the sole provider of Public Service Broadcasting (PSB) and BSkyB as the most powerful commercial provider – represented the extent of the choice available.

The Trust recognises that there are things the BBC can do to help ensure that audiences continue to benefit from a diverse range of PSB – both from the BBC and beyond. We remain of the view that a partnership approach, along the lines identified in our own response to Ofcom's second PSB Review, holds the best potential to create the new value needed to fulfil this ambition. The BBC is looking forward to engaging fully with Government as its thinking develops and with potential partners to deliver maximum value to audiences and citizens; indeed the BBC is already engaged in a variety of discussions around many of the areas highlighted by Lord Carter.

It is equally important to recognise that, while the BBC can make a contribution this must not be at the expense of its existing and highly valued public services. We welcome the Secretary of State's recognition that the BBC needs to maintain strength and stability at the core.

In the current economic climate it would be all too easy to take the view that the public service broadcasting offer for viewers was in inevitable decline. The Trust does not subscribe to that view. The digital opportunity means that viewers already have more choice over what to watch and when to watch it than they have ever had before. The potential is there for the strength of this offer to grow as more and more valuable archive content, as well as new material, is made available in new ways. The BBC's partnership vision, if successful, would ensure that not only BBC content but valuable content from other public service broadcasters was increasingly accessible to viewers in a variety of ways.

The interim Digital Britain report begins to look at some of the major developments in the communications sector, and it is important that Government continues to assess the full scale of the technological and structural changes that continue apace; certainly no easy task. It is important, at a time of major economic uncertainty and fragility within the broadcasting sector, to be vigilant of the dangers of unintended consequences. Experience proves that structural changes made in haste inevitably carry the risk of long-term mistakes. There are also constraints on the capacity of the BBC and others to engage in the full set of issues within the Digital Britain agenda, and we are keen to understand more about the Government's priorities and timetable.

With these factors in mind, the Trust, in this response to the Government's Digital Britain report, has set out a broad framework for the BBC's continuing engagement on the range of issues raised. The BBC Executive's response, published in parallel, examines each of the Digital Britain recommendations in more detail.

2 The cornerstone role played by the BBC

The licence fee gives the BBC a secure, relatively predictable income. That is an enormous privilege – particularly at a time of great economic uncertainty. And with privilege comes responsibilities. The BBC uses its income to deliver on the six public purposes set out in the Royal Charter:

- sustaining citizenship and civil society
- promoting education and learning
- stimulating creativity and cultural excellence
- representing the UK, its nations, regions and communities
- bringing the UK to the world and the world to the UK
- in promoting its other purposes, helping to deliver to the public the benefit of emerging communications technologies and services and, in addition, taking a leading role in the switchover to digital television.

The BBC has been acknowledged throughout the debate about the future of PSB as the cornerstone. In a detailed policy debate about the future of public service broadcasting it is easy to forget what this cornerstone role delivering the public purposes actually means in practice to audiences; a wide range and diversity of world class content which reaches 92 % of people across the UK each week.

Of course, world class content is only of use if people are able to watch it. The BBC is committed to delivering to audiences in a variety of ways, and plays a leading role. The success of iPlayer has been to extend the life of programming, enabling more people to benefit from the exciting range of BBC content at a time that suits them. The BBC recognises that, as the policy debate increasingly considers future technological developments, there is more to do to ensure that all UK citizens have access even to the full range of existing services.

The BBC's role in developing new technologies is nothing new. As the Executive observed in its partnership proposals, the BBC's track record in working with industry – from the fundamental standards on which UK analogue radio and TV were based to PAL, Teletext, NICAM stereo sound, DTT and the web – is strong. BBC Research and Innovation has created standards and technologies that have been made open and freely shared with the rest of the industry.

The BBC will continue to play a vital role as the cornerstone of the UK broadcasting industry as long as it is charged with that responsibility. As the industry undergoes profound change it is important to understand in detail the BBC's wide-ranging contribution to the UK. When deciding what the PSB system should deliver in the future, and how this is achieved, we should ensure that we do not unwittingly reduce the BBC's ability to contribute to the cultural, social and economic life of the UK.

3 The BBC's role in the Digital Britain agenda

The BBC recognises it has a responsibility to do what it can to help sustain public service broadcasting beyond the BBC. Indeed, the Trust believes it is in the best interests of audiences that it should seek to do so. Our position throughout Ofcom's second review of PSB has been that a solution founded on co-operation and partnership can generate substantial new value and should therefore be sustainable in the long term.

In this response, the Trust sets out at a high level the partnership agenda that it has endorsed in principle, the regulatory framework within which the BBC operates and any proposals must be assessed, and an overview of those aspects of the Digital Britain agenda where the BBC might make a difference.

3.1 The BBC's partnership agenda

As part of Ofcom's review, the Trust challenged the BBC Executive to build on the strength and reputation of the BBC and work with other broadcasters to come up with strong plans for co-operation that meet the partners' needs as well as the BBC's and that the partners are prepared to support.

Of course, a co-operative approach is not new for the BBC. The BBC has a history of sharing technology with wider industry. It also works in partnership with programme makers, an area enhanced with the introduction of the Window of Creative Competition (WOCC). The forthcoming move to Media City at Salford is a further example of the BBC partnering in terms of location, while the BBC also plays an important industry role in training, be it joint action with Ofcom on editorial trust, or the sharing of training with industry more widely. And it is not just the public service that operates in partnership; BBC Worldwide has a history of joint ventures and partnerships.

In challenging the Executive to produce new partnership proposals, we were therefore looking for ideas that would offer substantial and sustainable new value for the industry and – just as important – for audiences. The Executive, back in December, outlined a broad package of ideas.

Since December, with the continued steer of the Trust at a high level, the BBC Executive has continued to explore these and other ideas with a range of partners, and is currently engaged in various discussions both with others in the industry and with Government to develop specific partnership proposals. The Executive has, in its response, set out in detail how the BBC might add value in these areas including through partnerships with others.

The Trust's partnerships challenge to the Executive was not a one-off call for proposals but signals a new and ongoing emphasis from the Trust on the BBC working with partners in industry in ways which support PSBs and other partners without in any way diminishing the

BBC's ability to fulfil its own remit. The Executive is already building further on the initial list of partnership opportunities it announced in December.

In parallel, recognising the need for swift resolution where possible, the Trust has already launched a distinct regulatory process, including public consultation, on the BBC Executive's proposals to develop and promote standards for a new generation of set top boxes (Project Canvas). The proposals would allow people to view a variety of on-demand audiovisual content (such as BBC iPlayer) and other internet content (including elements of bbc.co.uk) on their televisions (most currently watch such services on computer). While the proposals are subject to the Trust's regulatory scrutiny, requiring an evidence-based decision, this is an example of the BBC helping to bring forward technology developments that individual broadcasters or other commercial players might struggle to do.

The Trust remains of the view that the partnership approach holds the best potential to create the new value needed to play a part in sustaining public service broadcasting beyond the BBC and to contribute to the wider ambitions for Digital Britain. The BBC is looking forward to engaging fully with Government and with potential partners to deliver maximum value to audiences and citizens; indeed the BBC is already engaged in a variety of discussions around many of the areas highlighted by the Digital Britain report.

3.2 The BBC's regulatory framework

The Charter and Agreement set out the legal and regulatory frameworks within which the Trust and the BBC must operate. The Trust is the sovereign body of the BBC, its independent Trustees acting in the public interest. The Trust must ensure that all the BBC's activities and proposed activities are in the interests of licence fee payers. Furthermore, they should contribute towards the fulfilment of the BBC's public purposes. As such, it is important that any proposed partnerships do not transfer value out of the BBC, as this would compromise the BBC's ability to deliver on its mandated public purposes. Instead, partnership proposals should create new value and so enhance the delivery of public service broadcasting.

While it is for the BBC Executive, responding to the Trust's challenge, to develop specific proposals, the Trust has set for the Executive a clear framework against which it will assess specific partnership proposals:

- Do the proposals really make a difference and produce a sustainable outcome?
- Do they offer demonstrable value to prospective partners and other stakeholders?
- Do they represent a genuine offer, not excluding options which may involve a financial cost to the BBC – if that cost can be justified by public gain?
- Can the Trust be sure that the principles of independence, accountability and delivery of the public purposes are not put at risk?
- Are these proposals ones which the Trust judges to be in the wider public interest?

As with all Trust decisions, we will want to see robust proposals with a strong evidence base. In considering these issues the Trust has previously identified a number of points it will pay particular attention to:

1. **Benefits for audiences:** The key issue for the Trust will also be how the proposals strike the right balance around delivering benefits to audiences, public service broadcasters and any impact on the wider broadcasting sector.
2. **Open approach:** The Trust will pay particular attention to the scope to open suitable initiatives to a much wider number of broadcasters and other media providers.
3. **Sustainability:** Progress on partnerships by the Executive and the flow of benefits will be considered by the Trust as a quarterly item and in addition the Trust will publish its views on overall progress in its annual report. In addition, the Trust remains open to further proposals from the Executive for other potential partnerships.

In setting out its expectations and the factors it will consider when assessing partnership proposals, the Trust is not seeking to diminish or replace any of its established procedures or its regulatory framework for Trust consideration of BBC executive proposals. Our purpose in setting out clearly our expectations is twofold; giving the BBC Executive clear guidance to help it to shape its partnership agenda, and setting out publicly for the BBC's external stakeholders the factors that the Trust will take into account in its processes.

Not all individual partnership proposals will require consideration or approval from the Trust. Through its established governance framework the BBC Executive is responsible for the operation of the BBC. Where the framework requires that proposals come to the Trust a range of different processes may apply. Some proposals may come to the Trust for strategic approval. In other cases the Trust's specific regulatory duties relating to the consideration of new or significantly changed public services, as well as other activities defined under the BBC Agreement, such as non-service and commercial activities may apply.

We also will seek to act in co-operation with Ofcom who have the necessary powers to licence commercial PSBs and also to decide whether those broadcasters have the necessary funding for their commitments. Indeed, it must be possible that the number, range and variety of those designated as 'PSBs' may change over time.

4 Digital Britain actions and the role of the BBC

This section of the BBC Trust's response looks at each action identified by the Government's response where the BBC has been asked to consider what role it might play.

ACTION 7

We will consider at what point and at what cost the standard offer provided by the Digital Television Switchover Help Scheme could have a return path capability, and we will ensure that such capability is available as an option.

ACTION 8

We will examine how the marketing and communications activity around Digital Switchover could be enhanced to use the region-by-region programme of publicly funded information and advice on one form of digital transition to provide impartial information on wider opportunities of digital beyond digital broadcast television.

The Digital Switchover Help Scheme (DSHS) is designed to help those groups most likely to have difficulty in making the switch to digital television. The scheme is open to anyone who is aged 75 or over, seriously disabled, who has been in a care home for six months or more, or who is blind or partially sighted. It is funded by a ring-fenced allocation of the BBC's TV licence fee (estimated costs £603 million), and run by the BBC through DSHS Ltd, a 100% BBC-owned subsidiary. The BBC is responsible for delivering the scheme although day-to-day operation is contracted out to a third party, eaga plc. DSHS Ltd is responsible for ensuring that the contractor delivers the scheme as set out in the Scheme Agreement.

The Trust sets strategic objectives for the DSHS: to encourage appropriate take-up, identify and help the most vulnerable eligible people, ensure customer satisfaction and to hold the BBC Executive to account for ensuring that value for money is achieved in the operation of the scheme. In assessing the cost and practical and legal implications of any proposed changes to the DSHS, the Trust will want to ensure that these objectives can still be met and that value for money for licence fee payers is still achieved.

ACTION 9

We will take action to support DAB digital radio in seven areas:

- a) We are making a clear statement of Government and policy commitment to enabling DAB to be a primary distribution network for radio;
- b) We will create a plan for digital migration of radio, which the Government intends to put in place once the following criteria have been met:
 - When 50% of radio listening is digital;
 - When national DAB coverage is comparable to FM coverage, and local DAB reaches 90% of population and all major roads.
- c) We will create a Digital Radio Delivery Group which includes the retailers, the Transmission Networks, the BBC, the Commercial Radio Companies, the Car Manufacturers, consumer

representatives and the device manufacturers, whose role would be to increase the attractiveness, availability and affordability of DAB and to advise on the Digital Migration Plan.

d) We will work with the BBC to explore how they could extend their digital radio coverage to replicate at least current FM analogue coverage.

e) As recommended by the Digital Radio Working Group, we will conduct a cost-benefit analysis of digital migration.

f) We will consult on new legislation to allow a one-off five-year extension of existing community radio licences, to bring them in line with other radio licences and recognise the important role they have in delivering social gain. We also intend to re-consider the rationale for the current restriction of 50% of funding from any one source.

g) We will commission an independent expert examination of the economic viability, continuing social contribution of, and most effective delivery methods for, local radio services and the relevance of the existing localness legislation.

In the BBC Executive's partnership proposals issues around Digital Audio Broadcasting (DAB) were discussed. The BBC remains committed to creating a strong digital radio platform. Radio plays a vital role in delivering public service broadcasting in the UK and DAB provides opportunities for it to be delivered in new ways.

The Trust is keen for the Executive to continue to explore ways in which the reach of the existing DAB transmission network can be strengthened in the UK and engage with Government. The Trust notes the evidence provided by the BBC Executive regarding the diminishing returns and increasing cost of expanding coverage and so, of course, any proposals requiring the use of licence fee money must be assessed by the Trust in the context of the BBC's delivery of the public purposes and the broader partnership agenda.

ACTION 16

In the final Digital Britain Report, we will establish whether a long-term and sustainable second public service organisation providing competition for quality to the BBC can be defined and designed, drawing in part on Channel 4's assets and a re-cast remit. It would be a body with public service at its heart, but one which is able to develop flexible and innovative partnerships with the wider private and public sector. While it makes sense to begin by looking at public sector bodies- Channel 4 and BBC Worldwide- the Government is currently evaluating a range of options and organisational solutions for achieving such an outcome.

As set out above, the Trust is clear that it will not support proposals that simply transfer value from the BBC to other players in the market, and so weaken the BBC's ability to deliver its public purposes.

With this caveat, we have encouraged the Executive to explore all possible areas that might deliver significant value to both the BBC (and so to licence fee payers) and to Channel 4 and

other potential partners. Those discussions are ongoing but include, for example, synergies between the two businesses around advertising, channels, and DVD distribution.

Any joint venture proposal involving BBC Worldwide would, of course, require Trust approval. As a commercial activity this would require a formal assessment against the four commercial criteria.

In addition to the development of Worldwide/Channel 4 partnership proposals there is a growing range of other options emerging. For instance, we note ITV's suggestion involving a tie-up with both Channel 4 and Five, as well as Five's proposal of a Channel 4/Five deal. Any such tie-ups would, of course, need to ensure that the expectations of audiences were met. How such deals would deliver PSB in the future needs to be carefully thought through.

We see no reason in principle why deals of this sort could not continue to deliver benefits to audiences. However, the detail of the proposal is a matter for the broadcasters themselves and, of course, Government and the competition authorities.

ACTION 20

We are inviting the BBC to play a leading role, just as it has in digital broadcast, through marketing, cross-promotion and provision of content to drive interest in taking up broadband. With other public service organisations, the BBC can drive the development of platforms with open standards available to all content providers and device manufacturers alike.

There is a clear fit here with the BBC's sixth public purpose to help to deliver the benefits of emerging technologies and services. iPlayer is an example of how the BBC has successfully encouraged the use of BBC content on-demand, and where ongoing promotion will encourage further uptake, and so drive take-up of broadband.

The Executive's Canvas proposal, discussed above, could potentially help drive the take up of broadband, while the provision of high quality content on-demand will continue to make a difference. The Trust is keen to reach a timely and robust decision, and so is currently out to consultation as part of the non-service approval process underway. The Trust expects to reach a decision before the summer, and, should the Trust decided to approve the proposal, the BBC Executive would expect equipment, subject to manufacturing lead times, to be available in the shops in 2010.

Marketing and cross-promotion is another area currently being considered by the BBC Executive, while there may also be scope for the BBC to play a role in supporting the delivery of public service content beyond the BBC.

While subject to the general regulatory considerations by the Trust set out above, we are hopeful that the BBC can play a key role in driving the take up of broadband through many of its existing activities, and those under development.

ACTION 22

The current statutory and specific remit on Media Literacy is contained within s.11 of the Communications Act 2003. As this report makes clear, since 2003 there have been significant market changes in the availability of digital technologies and how they are used. We will ask Ofcom to make an assessment of its current responsibilities in relation to media literacy and, working with the BBC and others, to recommend a new definition and ambition for a National Media Literacy Plan.

The BBC is required by its Charter to have regard for the need to promote media literacy. As such it already does much in this area. The Executive's response outlines in more detail how the BBC will be contributing to media literacy in the future. The Trust is encouraged by the Executive's ongoing engagement with Government and Ofcom to further develop its media literacy strategy, the results of which, subject to any relevant approval by the Trust, will be available in time to feed into the final Digital Britain report in the summer.

5 Next steps

The Trust will need to make a judgement about the required regulatory approvals process, as set by the Charter and Agreement, for each of the partnership proposals. For instance, a non-service approval process is already underway for the Executive's IPTV proposals, any substantial deal involving BBC Worldwide and Channel 4 will require careful assessment under the four commercial criteria.

In assessing the likely public value of proposed partnerships and any other areas of BBC involvement, the Trust will also be mindful of the cumulative effect of the individual strands. The Digital Britain agenda is an ambitious one, and many of the opportunities identified within the Digital Britain report, while desirable, carry significant costs. The licence fee is a finite funding source and the BBC has many competing priorities as it seeks to deliver maximum value to licence fee payers through creating and delivering world class content.

Progress on partnerships by the Executive and the flow of benefits will be considered by the Trust as a quarterly item and in addition the Trust will publish its views on overall progress in its annual report.

The Trust will continue to ensure that the BBC delivers on the public purposes, and encourage the Executive to develop ways in which the BBC can deliver further public value through the objectives set out by Digital Britain.

Given the complexity caused by changes to the communications and broadcasting market, and the current economic climate, the Trust is keen to emphasise that the focus should be on creating sustainable solutions to issues caused by the structural changes within the industry, rather than those associated with the cyclical downturn. It is important, at a time of major economic uncertainty and fragility within the broadcasting sector, to be vigilant of the dangers of unintended consequences. Experience proves that structural changes made in haste inevitably carry the risk of making long-term mistakes.

We are keen to understand more about the Government's priorities and timetable within the Digital Britain agenda, and look forward to further engagement as thinking develops.