

Digital Britain: Sustainable, independent and impartial news in the Nations, locally and in the regions

BBC Trust response to the Government's consultation

September 2009

Summary

The BBC Trust welcomes the opportunity to respond to the Government's consultation on "sustainable, independent and impartial news in the Nations, locally and in the regions", announced as part of the final Digital Britain report. We have also taken this opportunity to set out our views on the wider implications of this aspect of the report for audiences and industry.

The Trust supports the ambitions behind the Digital Britain report.

We also recognise the challenges posed to commercial provision of public service broadcasting (PSB) by digital change, which are exacerbated by the current advertising recession. We acknowledge that the pressures facing commercial providers of regional news on television are particularly intense. We have no desire for the BBC to become the sole provider of local and regional news and recognise that the BBC should play a role in supporting the wider public service broadcasting sector.

Concerns about the Government's proposals

We cannot support the proposal to share funding from the licence fee with other broadcasters. This proposal will undermine the BBC's independence and its direct accountability to licence fee payers. The BBC is kept separate from Government by the BBC's Royal Charter, the Trust's overall control of how licence fee money is spent and the established system of multi-year funding settlements. Top-slicing would make the licence fee more like general taxation, since Government would take control over how part of it was spent. At any time, Government could also choose to alter the proportion of the licence fee given to the BBC and increase its level of control over how the BBC spent the money. Management, programming and even editorial decisions would start to be influenced by the need to maintain Government support and funding. The very clear line of accountability that runs from licence fee payers to the BBC would also be diluted, and audience trust could suffer as a result.

The Government has not explained how it would address this question about accountability. If it wants to introduce a further layer of regulation for commercial broadcasters the BBC Trust does not aspire to hold any such additional responsibilities. However, ensuring accountability and value-for-money would be even more important in a situation where licence fee money is being granted as a direct public subsidy to commercial companies with commercial incentives. We do not think that such complications and uncertainties, or the additional costs involved, are in the interests of licence fee payers.

We do not think it will be possible to contain or ring-fence the size of any top-slice. Our experience of the existing ring-fence in the licence fee

(for the Digital Switchover Help Scheme) has been that pressure has very quickly developed to divert this funding beyond the Help Scheme to other policy priorities, including broadband rollout, digital radio and regional news. Once any Government has taken the step to impose a limit on the BBC's share of the core licence fee, that share will always be liable to future change or the threat of change. Neither legislation nor any provision in the BBC Agreement would rule out such changes. The fact that the Government has already identified a list of additional 'at risk' types of programming beyond regional news that it says could need licence fee funding suggests spiralling calls being made on licence fee payers in the future. This would mean either increases in the total level of the licence fee or increases in the share that is sliced away from the BBC, with potential consequences for the quality of services provided to licence fee payers. In the long-term, the risk is that licence fee receipts could become less and less distinguishable from general taxation, increasing pressures for a higher licence fee that is spent on purposes beyond PSB altogether.

Licence fee payers share our concerns about the Government's proposals. The vast majority of respondents in our survey research do not favour sharing licence fee funding with commercial operators – either before or after digital switchover is completed in 2012. The most popular option was instead to see a lower licence fee. When asked for their views in detail, participants in our qualitative research displayed low levels of support for the concept of IFNCs, questioning whether they should potentially be allowed to make a profit from the licence fee, and whether using IFNCs was the most efficient way to continue provision of news about their part of the UK on other channels. There were also concerns that the money taken from the licence fee could increase in the future, either because IFNCs will cost more than originally anticipated or because once the licence fee is given to companies other than the BBC there will be increased pressure to use it to support other services seen to be for the public good.

The Government has not yet explained its Independently Funded News Consortia model in sufficient detail. The Government proposes to set up independently funded news consortia (IFNCs) involving organisations such as (but not restricted to) regional and local broadcasters, online news content providers, news aggregators, local newspapers and radio stations. IFNCs would provide regional news on television, radio and online. The Government believes that in the medium term at least, it would make sense for IFNCs to provide television news in the current ITV1 regional news slot. It suggests that these new groups should be funded in part by public subsidy – using a portion of the television licence fee.

But the Government has not yet explained the shape, duration or funding model for the pilot IFNCs it wants to launch next year. In the longer term, the Government has not made clear how public money and commercial funding of consortia would be separated and regulated. Nor is it clear how regulation would ensure a separation between the editorial freedom currently

enjoyed by newspapers and the requirement for impartiality and accuracy on broadcasters. We would be wary of any proposal that would impose a greater level of bureaucracy on the media industry and potentially create a greater financial burden on the public. We think the Government needs to publish more information about the model, the timetable for its implementation and the legal implications, including for instance whether funding for IFNCs would represent a notifiable State Aid under EU law. It will be important to demonstrate that the IFNC model can provide genuine plurality of voice in regional and local news as well as real public value. The Trust's experience in assessing BBC proposals for Local Video may be relevant here. We suggest that further consultation is undertaken once the policy detail is clear.

The proposal to introduce contestable funding could harm the wider PSB system. The contestable model – where a range of organisations would bid for a defined sum of licence fee money – is a way of targeting funding at areas of pure market failure, including types of programming beyond regional news. This could in time result in a lack of flexibility whereby public service programming would focus on niche, clearly-defined areas only, unlike the current arrangements where, for example, an arts programme will air on BBC1 alongside a more mainstream entertainment programme. This could lead to significantly reduced audiences for more niche public service programmes. This is a very different approach to the one taken in the 2003 Communications Act, and risks resulting in a system of PSB provision that could become too rigidly structured and compartmentalised. Experience in other countries that have introduced contestable funding for public service content shows that a contestable fund does not guarantee sufficient high-quality content and value for money.

A way forward

In looking for a sustainable model for the provision of local and regional news, we suggest the Government looks at two alternative funding models.

First, it is possible that a new model of local and regional news can evolve without any need for new public funding. There are risks in fixing levels of subsidy or in picking winners now, in the midst of significant changes for the industry. We believe there is a more evolutionary, deregulatory approach worth examining that could deliver the same or similar results. As a starting point the BBC has proposed sharing its facilities and infrastructure with other providers of regional news. The Government should look at the value of this offer to local news providers (which is particularly likely to benefit those without existing facilities) in combination with Ofcom proposals for content deregulation and the relaxation of media ownership rules that could reduce costs and increase investment in local services. Following Digital Switchover, spectrum that is currently used for national television services could potentially be released to the market for television at a local and regional

level. This should be considered alongside the future opportunities offered by Internet Protocol Television, which could enable new companies to provide local content to people's televisions at much lower cost, and potential changes to the rules around advertising minutage. The Government should assess whether a combination of all these changes will make alternative commercial models viable.

If Government still believes that additional public funding is required to give long-term security for its preferred IFNC model, then there are alternatives to the licence fee. The options tabled by Ofcom include the suggestion that the way in which broadcasters are charged for access to spectrum, which is being changed at the end of the current licences, could generate new funding for the Government's public policy goals. The Trust asked the BBC Executive to examine this alternative and they commissioned an independent report authored by Kip Meek and Robin Foster. Their report suggests that this option (known as Administered Incentive Pricing) when introduced in 2014, could raise up to £130 million per year and so fund the IFNC initiative in its entirety. This would be more consistent with the existing UK model, where the value of spectrum is used to fund PSB and create public value, and would maintain a variety of PSBs with different incentives and funding models. We recommend the Government gives serious consideration to this alternative as a way of securing the funding it seeks without undermining the independence or accountability of the BBC.

In the short term, the Trust intends to hand back to the Government whatever surplus exists, both now and by 2012, from the Digital Switchover Help Scheme. In our view, this money should be used to fund a reduction in the licence fee – our survey research shows that is the public's preferred option. We recognise that it will be for the Government to decide whether the money should be put to any alternative use, such as the roll-out of universal broadband but suggest that the Government considers whether any such use would be consistent with the public purposes for which the money was collected and with licence fee payers' views.

In the longer term, the Trust does not believe that, in setting the level of the licence fee beyond 2012/13 (the end of the current settlement), the Government should ask licence fee payers for any more by way of 'surplus' licence fee than is needed to enable the BBC to fulfil its public purposes.

About this response

The pages that follow expand on the arguments put forward in the Summary and conclude with point-by-point responses to the Government's consultation questions.

The response is supplemented by a range of supporting evidence contained in four separate reports:

Public views on contestable element of the Licence Fee

Research conducted for the BBC Trust by Ipsos MORI.

Quantitative and qualitative research to assess and understand licence fee payers' responses to the Government's proposals.

Audience Council advice to the BBC Trust

Reports to the Trust from the Audience Councils for Scotland, Wales, Northern Ireland and England

Audience Councils keep the Trust close to issues that matter to licence fee payers across the UK, and we have consulted them on this issue as we do on all important issues affecting the future of the BBC.

The implications of Government proposals for licence fee contestability

An independent report by Perspective Associates, commissioned from the BBC Trust

Advice on the wider implications for PSB of the proposal for a Contained Contestable Element in the licence fee. Including an assessment of the strength of the arguments for using such a funding source either to fund IFNCs or to support other PSB content, as well as the long-term implications for the licence fee system and the governance of the BBC.

Paying for public service content – a role for spectrum pricing

A report by Human Capital for the BBC

How Ofcom's existing plans for spectrum pricing for broadcasting could be adapted to deliver sufficient contestable funding to support public service content outside the BBC, particularly for local, regional and Nations news.

Detailed response

Context

The Government's Digital Britain report "primarily seeks to position the UK as a long-term leader in communications, creating an industrial framework that will fully harness Digital Technology¹."

The Government envisages that the "UK's digital dividend will transform the way business operates, enhance the delivery of public services, stimulate communications infrastructure ready for next-generation distribution and preserve Britain's status as a global hub for media and entertainment."

The Government expects the volume of digital content to increase between ten and 100 times over the next 3 to 5 years. The Digital Britain report is also rightly set in the context of a severe global downturn in the media and communication industries.

The Trust agrees with the report's conclusion that it is vital to plan for more than recovery from the global downturn. 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.

We recognise the challenges posed to commercial provision of public service broadcasting (PSB) by digital change, which are exacerbated by the current advertising recession. We acknowledge that the pressures facing commercial providers of regional news on television are particularly intense. We have no desire for the BBC to become the sole provider of local and regional news and recognise that the BBC should play a role in supporting the wider public service broadcasting sector.

Concerns about the Government's proposals

We cannot support the proposal to share funding from the licence fee with other broadcasters. This proposal will undermine the BBC's independence and its direct accountability to licence fee payers

The BBC is kept separate from Government by the BBC's Royal Charter, the Trust's overall control of how licence fee money is spent and the established multi-year funding settlements.

The fact that the BBC is not funded through general taxation means that it remains independent of Government; crucial for its relationship with audiences. Within the current licence fee settlement it is the Trust and the

BBC alone who determine how the licence fee should be spent in delivering the public purposes set out in the BBC's Charter. The Trust exists to make sure the public who own and pay for the BBC get the best out of the BBC. We set the strategy for the BBC after wide public consultation and we make sure those who manage the BBC stick to the course we have set.

Top-slicing would make the licence fee more like general taxation, since Government would take control over how part of it was spent. At any time, Government could also choose to alter the proportion of the licence fee given to the BBC and increase its level of control over how the BBC spent the money. Management, programming and even editorial decisions would start to be influenced by the need to maintain Government support and funding.

The BBC's reputation is founded in no small part on its freedom to make decisions solely in the interests of audiences, free from outside pressure, and to maintain editorial lines free from the political pressures that come with funding from general taxation. If top-slicing is introduced the very clear line of accountability that runs from licence fee payers to the BBC will also be diluted, and audience trust – and with it the BBC's ability to fulfil its public purposes - could suffer as a result.

Audiences currently understand the link between the licence fee and the BBC's output and expect the BBC to account for its spendingⁱⁱ. Top-slicing will dilute this link between audiences and the BBC, leaving audiences confused as to what their licence fee pays for and who oversees it on their behalf.

The Government has not explained how it would address this question about accountability. If it wants to introduce a further layer of regulation for commercial broadcasters the BBC Trust does not aspire to hold any such additional responsibilities. However, ensuring accountability and value-for-money would be even more important in a situation where licence fee money is being granted as a direct public subsidy to commercial companies with commercial incentives. We do not think that such complications and uncertainties, or the additional costs involved, are in the interests of licence fee payers.

We do not think it will be possible to contain or ring-fence the size of any top-slice.

Our experience of the existing ring-fence in the licence fee (for the Digital Switchover Help Scheme) has been that pressure has very quickly developed to divert this funding beyond the Help Scheme to other policy priorities (including return path capability for set top boxes, delivery of the broadband Universal Service Commitment and DAB roll-out) and beyond that to create a new contestable ring-fenced element.

While not directly comparable, this experience suggests that any attempt to ring-fence will be subject to upward pressure. Once any Government has

taken the step to impose a limit on the BBC's share of the core licence fee, that share will also be liable to future change or the threat of change.

The recent experience in Ireland is instructive hereⁱⁱⁱ. The main source of PSB funding in Ireland is through a licence fee, which is used to fund Raidió Teilifís Éireann (RTÉ), the state broadcaster. In 2003 the Irish government introduced the 'Sound and Vision Grant Scheme' which was designed to support the production of new television and radio programmes in the areas of Irish culture, heritage and experience and adult literacy. The scheme was to be funded by 5% of the net receipts of the licence fee. Now established, this fund is contestable and allocated in funding rounds to producers who compete to make public service programmes of the types described.

The recently enacted Broadcasting Act of 2009 makes some changes to the way the scheme will operate, including a proposed increase in the amount to be allocated to the Sound and Vision scheme, from 5 to 7% of the licence fee^{iv}.

Neither legislation nor any provision in the BBC Agreement would rule out such changes to the size of any slice in the UK licence fee. In fact, by establishing a legal mechanism for top-slicing, they could make changes more likely. The fact that the Government has already identified a list of additional 'at risk' types of programming beyond regional news that it says could need licence fee funding suggests likely upward funding pressures in future – which would mean either increases in the total level of the licence fee or increases in the share that is sliced away from the BBC.

In the long-term, the risk is that licence fee receipts could become less and less distinguishable from general taxation, increasing pressures for a higher licence fee that could even be spent on purposes beyond PSB altogether.

Licence fee payers share our concerns about the Government's proposals

The Trust commissioned Ipsos MORI to conduct quantitative and qualitative research into licence fee payers' responses to the Government's proposals.

The quantitative conclusions show that audiences do not favour sharing licence fee funding with commercial operators to fund regional news – either before or after digital switchover is completed in 2012. The most popular option is a lower licence fee. In qualitative workshops, there were low levels of support for the concept of IFNCs. Those taking part asked a number of questions, particularly about the fact IFNCs would potentially be allowed to make a profit from licence fee investment (due to being commercial entities), and whether using IFNCs was the most efficient way to continue provision of news about their part of the UK on other channels. There were also concerns that the money taken from the licence fee could increase in the future, either because IFNCs will cost more than originally anticipated or because once the

licence fee is given to companies other than the BBC there will be increased pressure to use it to support other services seen to be for the public good.

Audience views on what should happen to the existing 'switchover surplus' when switchover is complete (an amount around £5.50 per household per year)

The preferred option in the quantitative survey was reducing the level of the licence fee after digital switchover is complete (49% choose this out of the six possible options). The second most popular option was spending more on BBC programmes and content (17%). Around one in seven (15%) said they would prefer to spend the money on broadband infrastructure and around one in ten (9%) said they would prefer money to fund public service programming on non-BBC terrestrial channels. Just 6% said they would prefer the money to be spent on funding new organisations to provide news about their part of the UK to be shown on other channels and 4% said they would prefer it to be used to increase the number of people who can receive DAB digital radio.

In the qualitative workshops, funding more BBC content (in particular to reduce the number of repeats) was the favoured option for many on further consideration and debate. The option of receiving money back was perceived to be less plausible (participants had no expectation that the licence fee would be reduced) and also not as relevant because it was a relatively small amount of money. Group participants in Scotland and Northern Ireland were less likely to agree with this point of view and were less supportive of the concept of the licence fee as a whole and more likely to suggest the money should be spent on alternative national/local programming.

As with the quantitative findings, participants in the qualitative workshops were mostly not very supportive of the concept of funding content (news or otherwise) on channels other than the BBC. There were some exceptions, notably in Scotland and Northern Ireland.

Audience views on options for any existing under-spend from digital switchover fund (a one-off amount of circa £9 per licence fee)

Half of respondents (50%) wanted the surplus money not used for digital switchover to be given back to licence fee payers, by reducing the level of the licence fee. Spending money on BBC programmes and content is the second most popular option (17% prioritised this option).

The option of using the money to increase broadband access was prioritised by 14% and the option of spending the surplus on PSB programmes, such as UK-made children's programmes which would be shown on channels other than the BBC, was preferred by 8%.

As was the case for respondents who were asked about the future use of the licence fee, funding new organisations to provide news about their part of the UK and helping to increase the number of people who can receive DAB digital radio were the least popular options, each chosen by just 5%.

Audience views on the Government's proposals for IFNCs

In the deliberative workshops there was very little appetite for IFNCs – the majority of those in England and Wales felt that news about their part of the UK was not necessarily a priority for funding; particularly if provision will be continued on the BBC. In Northern Ireland and Scotland there was greater support for the proposals; however, this support appeared to be a result of the broader desire to continue provision of news about their nations on ITV1, rather than specific support for the detail of the proposals presented in this research.

Although those who currently watch news about their part of the UK were generally positive, there was general agreement in the workshops that there is scope for improvement, but plural provision was not seen necessarily to be the solution. Some could see the potential for competition to lead to increased consumer focus and consequently better news coverage, but others noted that there is currently competition in the market but that this does not appear to be having an impact on quality in the way they might hope.

There were concerns that the amount of money taken from the licence fee could increase in the future, either because IFNCs will cost more than originally anticipated or because once the licence fee is given to companies other than the BBC there will be increased pressure to use it to support other services seen to be for the public good. The concept of IFNCs themselves received less support than the general idea of using the licence fee to fund programming/news on channels other than the BBC.

Many felt uncomfortable with the idea that IFNCs would potentially be profit-making. They were unclear why these organisations should be allowed to make a profit when the reason the licence fee funded them in the first place was because they claimed it was not profitable to make news about their part of the UK. To solve this conundrum many claimed they would be happy if the IFNCs had to plough all (or a portion) of their profits back into news-making.

IFNCs were seen by many as leading to increased bureaucracy, particularly as time would have to be spent deciding between bids.

The Government has not yet explained its Independently Funded News Consortia model in sufficient detail.

The Government proposes to set up independently funded news consortia (IFNCs) involving organisations such as (but not restricted to) regional and local broadcasters, online news content providers, news aggregators, local newspapers and radio stations. IFNCs would provide regional news on television, radio and online. The Government believes that in the medium term at least, it would make sense for IFNCs to provide television news in the current ITV1 regional news slot. It suggests that these new groups should be funded in part by public subsidy – using a portion of the television licence fee.

The Trust would welcome early clarification of the shape, duration and funding model proposed for IFNC pilots. In particular, it would be helpful to understand how the commercial viability of the IFNC model will be tested if public subsidy is also going to be supplied in some form during the trial.

The question of how public and private funding are to be balanced is also central to understanding how IFNCs could provide value for money in the longer term. Public money and commercial funding of consortia will presumably need to be separated and careful regulation would then be required to maintain that separation - to ensure value for money is achieved from public funding while also ensuring that commercial incentives are maintained.

Regulation is also likely to find it difficult to ensure a separation between the editorial lines of self-regulating newspapers and the requirement for impartiality and accuracy on broadcast content.

The BBC is required by the Charter and Agreement to be independent and impartial. Television news beyond the BBC must also be impartial. This is not a requirement on the printed press or for online providers. Despite this key difference it is suggested these organisations might form IFNCs to deliver regional news. If it is intended to put structures in place to separate out different parts of the business for regulatory purposes, those structures may also reduce the efficiencies that are able to be gained by the proposed IFNC structures. The alternative would be that parts of the local media that are currently self-regulating would have to adapt to comply with broadcast impartiality requirements and the loss of a free local press would be a very high price to pay.

It will be important to demonstrate that the IFNC model can provide genuine plurality of voice and real public value.

Ofcom helpfully identified the three possible benefits of plurality of supply in the first phase of their most recent PSB Review as:

- diversity of voice
- competition for quality
- enhanced reach and impact^v

It is not clear whether the Government agrees that these are the benefits it is seeking, or whether it believes plurality is a desirable outcome in itself. It has also not assessed whether it believes these benefits are in fact delivered by plurality currently. One of the characteristics of the current system is that diversity of funding sources has led to diversity of organisational approaches. It is not clear whether two organisations producing the same genre of programming, regional news, from the same source of funding, the licence fee, would continue to deliver the benefits audiences value.

The Trust's experience in assessing BBC proposals for Local Video may be relevant here. We have, through research^{vi} conducted as part of the Local Video Public Value Test (PVT), explored in depth people's perceptions of 'localness' and their views on the amount and quality of current provision. From that research it is clear that perceptions of what 'local' means evolve constantly, varying for instance between rural and urban communities and often depending on the subject in question, whether that be schooling or arts coverage. What is clear from all of this is that a one-size-fits-all solution to providing audiences with programming about where they live is challenging and that in developing proposals in this area great care is needed to ensure that public value is delivered across the whole of the UK.

We think the Government needs to publish more information about the model, the timetable for its implementation and the legal implications, including for instance whether funding for IFNCs would represent a notifiable State Aid under EU law. We suggest that further consultation is undertaken once the policy detail is clear.

The proposal to introduce contestable funding could harm the affect the wider PSB system

The contestable model— where a range of organisations would bid for a defined sum of licence fee money – is a way of targeting funding at areas of pure market failure, including types of programming beyond regional news. This could in time result in a lack of flexibility whereby public service programming would focus on niche, clearly-defined areas only, unlike the current arrangements where, for example, an arts programme will air on BBC1 alongside a more mainstream entertainment programme. This could lead to significantly reduced audiences for more niche public service programmes. This is a very different approach to the one taken in the 2003 Communications Act, and risks resulting in a system of PSB provision that could become too rigidly structured and compartmentalised. Experience in other countries that have introduced contestable funding for public service content shows that a contestable fund does not guarantee sufficient high-quality content and value for money.

The Trust commissioned an independent report from Perspective Associates to provide advice on the wider implications for PSB of the proposal for a Contained Contestable Element in the licence fee, including an assessment of the strength of the arguments for using such a funding source either to fund IFNCs or to support other PSB content, as well as the long-term implications for the licence fee system and the governance of the BBC.

Their conclusion is that while it is possible to see how a structure of Contained Contestable Element-funded interventions could be built up to give plurality in content provision around specific genres, such interventions may 'set in stone' specific public service goals, assigning them a specific priority and call on public funding, rather than allowing flexibility for PSB content

creators to allocate resources according to the varying availability of desirable content proposals, and could have disincentives for the development of content outside or between standard content genres. This applies not only to the BBC, but also to other institutions and potential suppliers of PSB content.

Any system of contestable funding would therefore need the ability to adapt to changing priorities, and flexibility in the way it could move funds and production resources, to meet emerging needs and deliver new platforms and services to reach the desired audience, but the rigidities inherent in the system would inhibit this.

A system in which a funding body addresses shortfalls in PSB provision on a case-by-case basis through fixed-term contracts may not have the ability to react to changes in audience behaviour. For instance, recent experience suggests that, in the case of reaching youth audiences, the length of time for which a service is deemed “must-have” is getting shorter. This means either that the commissioning body will have to deal in shorter term contracts, or that there will be a greater risk of funding going to services for relatively longer and stable contracts but which are themselves no longer particularly efficient ways of reaching the audience.

Experience in other countries which have introduced contestable funding for public service content shows that it is far from simple to guarantee that a contestable fund can deliver sufficient high-quality content to ensure value for money.^{vii}

For example, the Canadian Television Fund has been criticised for being bureaucratic, for providing poor value for money in its funding activity (including the programmes selected for production) and for producing output that was neither commercial nor popular.

The New Zealand On Air contestable fund system has been criticised for being unable to guarantee adequate levels of investment in quality PSB programming, and in 2006 the New Zealand government gave TVNZ full funding for two non-commercial digital PSB services, showing content in drama, arts, documentary and children’s programming, to address this shortcoming.

Ofcom reviewed the New Zealand contestable model in its first PSB Review but ultimately rejected the proposal due to the difficulties outlined above.^{viii}

A way forward

In looking for a sustainable long-term model for the provision of local and regional news, we suggest the Government looks at two alternative funding models

An evolutionary approach

First, it is possible that a new model of local and regional news can evolve without any need for new public funding. There are risks in fixing levels of subsidy or in picking winners now, in the midst of significant changes for the industry. We believe there is a more evolutionary, deregulatory approach that could deliver the same or similar results. As a starting point the BBC has proposed sharing its facilities and infrastructure with other providers of regional news. The Government should look at the value of this offer to local news providers, which is particularly likely to benefit those without existing facilities, in combination with Ofcom proposals for content deregulation and the relaxation of media ownership rules that could reduce costs and increase investment in local services. Following Digital Switchover, spectrum that is currently used for national television could potentially be released to the market for television services at a local and regional level. This should be considered alongside the future opportunities offered by Internet Protocol Television (IPTV) which could enable new companies to provide local content to people's televisions at much lower cost, and potential changes to the rules around advertising minutage. The Government should assess whether these changes make alternative commercial models viable.

As previously stated, one of the strengths of the existing system, notwithstanding its current difficulties, is the different approaches brought to PSB by a diverse range of funding models. The reason underlying the Trust's partnership challenge to the Executive in 2008 is that sustainable and effective PSB in the long term will require a different approach. Solutions must work with the grain of market changes and aim to secure PSB by finding new sources of value, rather than simply reallocating existing funds.

We believe that the right sustainable partnerships could offer a long-term platform for PSB provision, based on the strengths of particular institutions which are highly valued by audiences. We are therefore encouraged by the progress made so far by the BBC Executive in developing partnership initiatives. ITV and the BBC have signed a Memorandum of Understanding that could – over the next decade – help to deliver cost savings for regional news on ITV1. The BBC is open to exploring whether a similar offer could be made to other organisations. The BBC and STV have also agreed to enter into a partnership agreement that will see both broadcasters consider ways of sharing pictures, facilities, training, technology and archive programmes, with both broadcasters keen to consider how they could work better together and so provide better services for audiences in Scotland.

Beyond the BBC's partnership agenda, Ofcom have put out for consultation proposals for deregulation of local radio content regulation^{ix} and local cross-media ownership^x. Both proposals could provide considerable additional value to new local media consortia on top of the BBC's partnership offer.

There is also the possibility of spectrum that is no longer needed for television, as a result of digital switchover, being released to the market for

other services, such as television at a local and regional level. This could open up new approaches to providing local content, using advertising and a range of other local funding sources, which might not require public funding.

Finally, new IPTV developments look likely provide opportunities for a range of new market entrants, large and small, by removing historic problems of spectrum scarcity. Project Canvas, which the Trust is currently considering, is one proposal for such a service but it will not be the only one.

The BBC Trust suggests that all of these possible opportunities and regulatory changes should be assessed in full, to decide whether a new commercial model for local news services could be viable and/or would be worth trialling, before a conclusion is reached that public money is needed.

Spectrum: Administered Incentive Pricing

If the Government nevertheless sees a need for additional public funding to give long-term security for its preferred IFNC model, then Ofcom has put forward a number of potential alternatives that are not addressed in the Digital Britain report, including the suggestion that privileged access to broadcasting spectrum could be reassigned at the end of the current licences, to ensure that the value of these public assets is being maximised. The Trust asked the BBC Executive to examine this alternative and the independent report they commissioned, authored by Kip Meek and Robin Foster, suggests that Administered Incentive Pricing, when introduced in 2014, could fund the IFNC initiative in its entirety.

Ofcom proposes to initiate administered incentive pricing (AIP) for broadcasting use of spectrum from 2014. Detailed work on the level of prices to be set is still to be carried out, but earlier estimates made by the regulator suggest that charges for the use of DTT spectrum might generate £78m to £132m of payments a year, to be paid by the DTT multiplex licensees. Human Capital's estimates suggest that spectrum pricing could raise £133m a year in total.

The precise amounts paid by each multiplex licensee and by their broadcaster customers depend on a range of assumptions about the level of AIPs and the extent to which multiplex licensees pass on the charges. However, Human Capital's work indicates that the BBC is likely to be the largest single contributor to the total.

Ofcom believes spectrum pricing will provide valuable incentives for multiplex licensees and their broadcast customers to use spectrum more efficiently. However, as Ofcom has recognised, it is also likely to involve a transfer of funds from the broadcasting sector to the Exchequer, hence affecting investment in public service content.

Human Capital's proposal, which we believe merits further consideration by Government, is that rather than being diverted from the broadcasting sector,

this money could be channelled into a new Public Service Content Fund, which would support the provision of news and other public service content by providers other than the BBC. Funding could in principle be allocated via a contestable process (albeit if risks identified previously can be mitigated), which would be open to existing commercial broadcasters and to new players.

Since the BBC would be paying AIP but not receiving money from the Fund, it would be a net contributor. Conversely other broadcasters would have a chance to bid for the funding available, so some could gain more than they lose from the new system. Transitional safeguards could be introduced to protect Channel 4's public service remit from any undue impact.

This funding could be used on its own, or in conjunction with other sources of value, such as the BBC's partnership proposal to allow other providers to share the BBC's news facilities, to sustain public service content outside the BBC without top-slicing the licence fee. It would satisfy many of Ofcom's assessment criteria, including transparency, flexibility and accountability. In addition, this proposal would be fully consistent with the rationale of the application of AIP to broadcasters, and would be an improvement over both the current system (which uses spectrum value indirectly in return for PSB obligations, but does not provide any transparency on the level of subsidy) and direct funding from taxation.

Retaining AIP proceeds in the broadcasting system to be used for investment in public service content ensures that there will be no overall reduction in programming investment.

Human Capital's analysis suggests that the initial levels of funding associated with AIP, especially if used alongside other sources of value, would be sufficient to fund a satisfactory level of public service content, especially local news. Although AIP levels beyond a 5-10 year horizon are difficult to predict with any certainty, market trends suggests that demand for the DTT spectrum for HDTV, mobile or wireless uses will continue to strengthen, and so the income produced should be sustainable for some time.

While linking AIP charges to the Public Service Content Fund arguably represents a form of hypothecation, this is long established in the PSB context – the value of broadcast spectrum has been (indirectly) tied to the provision of public service content for decades. In any event, as Ofcom argues, AIP is intended to be a charge related to the right to use a valuable asset, not a revenue generating tax.

The use of AIP to fund public service content would deliver the Digital Britain aims of a strong and independent BBC while providing a sufficiency of contestable funding to support public service content outside the BBC in particular in local, regional and Nations news. It would be an improvement compared with the old system whereby access to spectrum was traded implicitly for public service obligations from ITV, Five and Channel 4. It would

be more flexible, allowing funding allocations to be varied more readily to meet changing needs. It would be less blunt, allowing targeted funding for specified programming, rather than indiscriminately supporting entire channels. It would allow continuation of a direct link between the licence fee and the BBC, while ensuring that a reasonable level of funding flows from the BBC, via AIP, to support public service content across the rest of the sector.

Using AIP would be consistent with the historical UK model, whereby the value of spectrum is used to fund PSB and create public value, and so maintain a variety of PSBs with different incentives and funding models. As such we recommend the Government gives serious consideration to this alternative as a way of securing the funding it seeks without undermining the independence or accountability of the BBC.

In the short term, the Trust intends to hand back to the Government whatever surplus exists, both now and by 2012, from the Digital Switchover Help Scheme

In our view, this money should be used to fund a reduction in the licence fee – our survey research shows that is the public's preferred option. We recognise that it will be for the Government to decide whether the money should be put to any alternative use, such as the roll-out of universal broadband but suggest that the government considers whether any such use would be consistent with the public purposes for which the money was collected and with licence fee payers' views.

In the longer term, the Trust does not believe that, in setting the level of the licence fee beyond 2012/13 (the end of the current settlement), the Government should ask licence fee payers for any more by way of 'surplus' licence fee than is needed to enable the BBC to fulfil its public purposes.

The Consultation Questions

Do you agree that securing plural sources of impartial news for the Nations, locally and in the regions should be a key priority?

The Trust does not believe that it would be in the interests of audiences for the BBC to be the only provider of news about where people live.

Do you agree that sustainable, impartial news in the Nations, locally and in the regions is likely to require some top-up public funding?

In looking for a sustainable long-term model for the provision of local and regional news, we suggest the Government looks at two alternative approaches to funding: an evolutionary, deregulatory approach and Administered Incentive Pricing

Do you agree that the Television Licence Fee should be used to support impartial news in the Nations, locally and in the regions in addition to BBC services?

Do you agree that any funding within a contained contestable element of the television licence fee not required for impartial news should potentially be available to fund other forms of essential public service content, or should such funding be limited to news?

We cannot support the proposal to share funding from the licence fee with other broadcasters. This proposal risks undermining the key principles that are the foundation for a strong BBC – its independence and its direct accountability to licence fee payers. We do not think it will be possible to contain or ring-fence the size of any top-slice.

Are there alternative funding mechanisms that you believe would deliver the above objectives more effectively?

In looking for a sustainable long-term model for the provision of local and regional news, we suggest the Government looks at two alternative approaches to funding: an evolutionary, deregulatory approach and Administered Incentive Pricing.

The second of these, using AIP, would be consistent with the historical UK model, whereby the value of spectrum is used to fund PSB and create public value, and so maintain a variety of PSBs with different incentives and funding models. As such we recommend the Government gives serious consideration to this alternative as a way of securing the funding it seeks without undermining the independence or accountability of the BBC

Do you agree with the proposal to set a maximum percentage of Television Licence Fee revenue which could be set aside as a contained contestable element?

Once any Government has taken the step to impose a limit on the BBC's share of the core licence fee, that share will always be liable to future change or the threat of change.

Do you agree that amending the BBC Agreement could provide the necessary protection to the BBC's future funding and independence?

Do you agree that the use of any contained contestable element within the Television Licence Fee should be restricted to the public purposes set out in the BBC Charter?

We do not think it will be possible to contain or ring-fence the size of any top-slice. Neither legislation nor any provision in the BBC Agreement would rule out such changes to the size of any slice in the UK licence fee. In fact, by establishing a legal mechanism for top-slicing, they could make changes more likely.

The Trust does not believe that, in setting the level of the licence fee post 2012/13 (the end of the current settlement), the Government should ask licence fee payers for any more by way of 'surplus' licence fee than is needed to enable the BBC to fulfil its public purposes.

Top-slicing in any form risks undermining the key principles that are the foundation for a strong BBC – its independence and its direct accountability to licence fee payers.

Annexes to this response

The Trust has also published a number of annexes to this response separately from this main document. They are:

- Annex 1: Ipsos MORI research report
- Annex 2: Audience Council submissions
- Annex 3: Perspective report
- Annex 4: Human Capital report

Footnote references

ⁱ Digital Britain: Final Report, June 2009

ⁱⁱ Audience attitudes to the licence fee and public service broadcasting provision beyond the BBC; A report and research appendix by Human Capital, Based on data collected by Ipsos MORI and the Knowledge Agency, December 2008

ⁱⁱⁱ Full details can be found in annex 3

^{iv} The Act itself has yet to be officially published but the information here is contained in the Bill from which it originated

^v Ofcom's Second PSB Review Phase 1: The Digital Opportunity pp 82 - 83

^{vi} Rosenblatt, *BBC Local Video Research Report*, prepared for the BBC Trust October 2008

^{vii} These case studies are explored in more depth in annex 3

^{viii} Ofcom's First review of Public Service Broadcasting, Phase 2: Meeting the Digital Challenge, p.61

^{ix} *Radio: the implications of Digital Britain for localness regulation*

^x *Media Ownership Rules Review*