

Response to the DCMS consultation paper *Sustainable independent and impartial news; in the Nations, locally and in the regions.*

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This response follows the questions as listed in the DCMS consultation paper. I should emphasise at the outset that I believe the consultation elides two entirely separate issues: the democratic importance of fostering a plurality of local and regional news operations; and using the licence fee as a means of sustaining public service content on platforms other than the BBC. The tenor of this consultation suggests that they are interdependent. They are not, and a genuinely open-minded consultation exercise would have treated them as entirely separate issues.

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

Yes. The consultation is right to articulate both the consumer and democratic case for pluralism in local news supply. However, we should beware of advocating pluralism for its own sake: it is important that local and regional journalism enterprises beyond the BBC can actually deliver to high professional standards the informational and watchdog roles identified as vital by government, by Ofcom, by civil society groups and by citizens themselves. I have defined these in more detail in a paper commissioned by Ofcom.¹ The criteria for desirable outcomes, how they will be monitored and what sanctions will apply for non-performance will need to be carefully considered. There is little point in making a grand theoretical argument for pluralism if the journalism which emerges is under-resourced, trivialised, poorly executed or fails to serve the relevant communities.

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

Given the parlous state of ITV, the expense of maintaining a regional television presence, and the very difficult economic environment for print media, additional funding for local journalism is necessary. There is no automatic requirement, however, for *public* funding and in the current state of public finances, it is strange that the government has ignored alternative funding sources which are commonplace in other European countries. I elaborate on this at question 5 below.

The government's proposed solution of IFNCs is limited to profit-making enterprises which can, indeed, be an effective model for delivering high quality local journalism. There is, however, no provision for other not-for-profit initiatives, which may be equally effective – perhaps even more so – at delivering journalism rooted in particular regions or localities. The emphasis on private enterprises operating with the help of public subsidies raises awkward questions about whether profits will be capped; what incentives there will be for reinvestment; and how to respond to tax-payers who may object to seeing public money used to subsidise private profits or shareholder dividends. These issues are not addressed in the consultation.

¹ *Journalism, Democracy and the Public Interest: rethinking media pluralism for the Digital Age*, published as a Reuters Institute Working Paper, available from 22 September on the Ofcom website www.ofcom.org.uk

3. 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?

Categorically not. The consultation's attempt to justify this raid on licence fee revenue, and therefore on the BBC's stability, is tendentious, historically inaccurate, and based on a constitutional pedantry. The notion that the licence fee is just a "mechanism designed to support the provision of public service content" fails to recognise how the licence fee mechanism came to be indissolubly linked with a single cultural institution, nor the incalculable cultural and economic benefits which derive from that historical association. The government may wish that this were not so, and may wish to change the rationale for collection and distribution of this universal tax. But it cannot reinvent history simply by establishing that there is a legal basis for its preferred policy option.

The consultation implies that the 3.5% of licence fee revenue which is ring-fenced for Digital TV switchover is just one example of how the licence fee has been allocated "beyond the BBC's core services". That again is tendentious. The switchover programme is a single, one-off, finite and massive infrastructure project on the scale of decimalisation or the conversion of domestic homes to natural gas. It will be complete by 2012, and does not involve subsidising BBC competitors. There is no historical precedent for licence fee revenue being used to fund the creation of content on channels, stations or media platforms beyond the BBC and outside the BBC's control.

Top-slicing the licence fee in perpetuity will, at a stroke, undo the single most important factor in the BBC's emergence as an internationally acclaimed, independent British success story over the last 80 years. The core of that success has been a single, uncomplicated instrument of funding which has provided financial stability, democratic accountability and independence from political interference.

Whatever assurances the government may offer about its own intent or protection from future governments, the introduction of top-slicing will permanently and irrevocably let the genie out of the bottle. It will legitimise political intervention and it will result in further raids on the licence fee to fund whatever good causes the next government believes must be urgently salvaged. It will emasculate the size, effectiveness and independence of the BBC. It will, ultimately, ensure its marginalisation as a meaningful cultural and democratic institution.

4. 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?

No, see above.

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

Yes. Plenty of suggestions have been advanced around retransmission, broadband and content aggregator levies, complete with European comparisons, rationale, projected revenues, means of collection and distribution, and answers to potential objections. *Digital Britain* barely acknowledges these options for industry levies, and the consultation appears to ignore them altogether by referring to "the absence of other solutions". I assume that other submissions will refer in more detail to the relevant studies and their conclusions, but these include detailed evidence presented by Steve Morrison, chief executive of All3Media, to the House of Lords select committee on Communications, a report by IPPR commissioned by the NUJ and BECTU, and calculations by the media consultancy Oliver and Ohlbaum.

These studies have demonstrated that alternative mechanisms are capable of raising considerably more than the £65-£100m per annum which Ofcom estimates is needed to sustain local and regional news. They are based on the logical principle that those enterprises which exploit value from UK content creation should be obliged to make some return to the creative pot. The revenue thus created can be distributed through transparent and accountable regulatory structures which will help to provide high quality competition to the BBC across all platforms, all geographical areas, and all content genres including local news.

The government has failed seriously to investigate these options or, indeed, any other mechanisms of generating additional revenue to fund public service content (such as exploitation of regulatory assets or diverting money from the lottery). In past years, we would expect any proposal for a fundamental breach of policy precedent such as top-slicing to be preceded by an independent enquiry or a thorough process of government consultation (as, for example, with the Peacock Committee on BBC funding or the DCMS consultation on replacing BBC Governors with a Trust). This consultation has the air of being conducted according to a pre-ordained policy agenda, with little serious thought being given to different, more creative policy solutions.

A note on public opinion

This sense of prejudgement is reinforced by the survey of public opinion conducted as part of this consultation, as published on the DCMS website. As a measure of true public opinion, this survey is effectively worthless. By asking a number of questions about local news consumption and the importance of news plurality – and then informing respondents specifically about the ring-fenced portion of the licence fee and the parlous state of ITV – the questionnaire primes respondents to give answers which are consistent with the government's desired outcome.

Respondents to this survey were not informed that the switchover element of the licence fee provides no money for programmes on competitor channels; they were given no information on other funding options; nor were they offered any alternative uses for the switchover surplus beyond local and regional news. Moreover, there was no option for a response that the licence fee should be reduced (which a BBC Trust survey suggests might be easily the most preferred option).

The DCMS has demonstrated in its extensive programme of research for BBC Charter review – which included deliberative polling, focus groups and a carefully designed questionnaire – that it is capable of producing genuinely open-minded research of the highest quality. This research, however, appears to be an exercise in premeditated manipulation of public opinion, and does not conform to the standards of professionalism that might reasonably be expected from a Department of State.

6. 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?

No. It is naïve to believe that, once the principle has been breached, a ceiling can be maintained. Evidence from virtually every mixed funding system around the world demonstrates that, as soon as a measure of discretion is introduced which is within the control of governments, such discretion is exercised with alacrity by successive administrations. The notion of “contained contestability” is an oxymoron. You cannot be a little bit pregnant.

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

No. Both international evidence and common sense dictates that this will simply set in stone the principle that governments can determine at will a maximum percentage to be top-sliced. This one wishes to set it at 3.5%. The next one might prefer 5%, and will legislate accordingly. And so on. Meanwhile, the BBC's independence from political intervention will be slowly but inexorably eroded.

8. 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?

This is academic, but raises a final question about accountability for the proper expenditure of any top-sliced revenue. At the moment, there is a fully transparent, fully functioning apparatus of accountability around the BBC. There are structures for ensuring that individual BBC services abide by the public purposes laid down by Parliament. There are structures for dealing with complaints from licence payers. These mechanisms of transparency and accountability have been carefully constructed around an institution, the BBC, not around a set of purposes.

The consultation offers no clues about how the government proposes to ensure that any expenditure of top-sliced licence fee revenue will be subject to equally rigorous mechanisms of accountability for quality, efficiency, taste, or sustainability, nor how it proposes to deal with possible transgressions. It also fails to address the complex issue of complaints about commercial enterprises which are partially subsidised through public money. Licence payers could legitimately expect to be able to express objections to particular IFNC stories, journalists, or footage when the enterprise is partially funded by them.

Moreover, given the increasingly diffused use of licence fee revenue and the greater complexity of monitoring its expenditure, the very legitimacy of the licence fee itself is more likely to be threatened and ultimately undermined.

In short, this is a policy whose inevitable outcome – albeit some years down the line – will be the discrediting of a funding mechanism that has worked for decades and the gradual degradation of a hugely admired public institution. I would urge the government to investigate the many alternative funding options that are available.

20 September 2009

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