

# BBC Trust

# Response to the Department for Culture, Media and Sport's Charter Review consultation

October 2015



**TOMORROW'S BBC**

**YOUR SAY**

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## **Technical Annexes**

The technical annexes with supporting data and analysis are published separately to this document.

**Annex A: Purposes, Values and Scope: what people want from the BBC**

**Annex B: The market impact of the BBC**

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**Annex G: Future work being undertaken by the BBC Trust**

# Summary

The role of the BBC Trust is to challenge and scrutinise, as well as to regulate the BBC on behalf of the licence fee payer. We try to base all our work and decision-making on the best available evidence about what the licence fee payer expects.

We published our initial response to the Government's Green Paper in July. This fuller response expands on that initial response and is based on data from an extensive research base – all the work that we have done since we were set up in 2007 as well as the research and consultation we've conducted in the past few months, including over 40,000 responses from members of the public.

Our response is also informed by the experiences of the Trust over the last eight years: the successes and improvements that have been made to how the BBC is regulated and overseen through innovations such as service licences, Public Value Tests and independent editorial regulation; and the lessons we have learned from some of the things that have gone wrong in that time.

We have used this response to put forward ideas for reforming the BBC's mission, governance and funding in ways that we think can help to sustain the strength of the BBC in the long term. Our research has made it clear that the public want to keep the BBC as a universal, popular, entertaining and publicly funded institution. We therefore make clear our opposition to those ideas that the public do not support – in particular for a narrower, subscription-funded BBC.

## The public's expectations of the BBC

85% of the UK public support the aims of the BBC to educate, inform and entertain. When people are asked to choose words that summarise the BBC's mission, 'entertain' is the word that ranks highest.

56% of people say they want the BBC to provide more. Only 7% say they want it to provide less.

58% say the BBC should provide something for everyone who pays the licence fee. Only 8% disagree.

81% of people want the BBC to act independently of Government and politicians.

73% say the BBC offers content and programmes which are high-quality. 60% say its content is distinctive.

Two-thirds think it is important for the BBC to continue to develop its services on newer online platforms.

These findings show an extraordinary degree of popular support for a BBC that remains independent and universal. In qualitative research, the strengths that the public highlight include the BBC's news, drama, documentary and children's output, its music radio, the iPlayer, and also the broader role it plays in society and its contribution to the UK's global reputation.

## **A sharper, more distinctive remit**

We also know that the public think the BBC can do some things better. There are people who ask the BBC to provide more of their own favourite type of programming, whether that is family entertainment, drama or comedy. Others want to see the BBC take more creative risks. Some people think the BBC can do more to reflect and represent the different Nations, regions and communities across the UK. The BBC needs to make further progress in reflecting and recognising the diverse communities and national identities in the UK in its offer to the public.

The Trust is proposing a set of new Public Purposes, values and duties for the BBC that would allow for a clearer assessment or measurement, in future, of its impact on society and whether it has delivered its mission. We also suggest that the BBC should have a more explicit responsibility to make sure each of its services is distinctive – with a definition in each licence of what it is that will make that service different.

The BBC operates in a vibrant market place and generally fosters competition and innovation. We commissioned KPMG to look at different aspects of the BBC's economic impact over the past decade or so. Their findings suggest some clear evidence of positive impact (for example in Salford, or through online innovation) but no conclusive evidence that the BBC has 'crowded out' private investment by its investment, for example, in TV entertainment. Nonetheless, the BBC must be careful not to encroach on market development through any new activity and there is an important role for the Trust, or any future regulator to continue to police this and to balance it against the value that the BBC offers the public.

We propose that the positive role in contributing to the UK's creative economy that the BBC can play should be recognised explicitly, for the first time, in a new Public Purpose – ensuring training and skills development, partnership with cultural organisations and others, and commissioning from the independent sector to add to this growing and exciting sector.

## **A stable funding framework that allows the BBC to continue to satisfy public demand and support the UK's creative economy**

For the BBC to continue to deliver for the public, a stable funding framework is essential. The current position as set out in the Budget by the Government will provide that, although it will require the BBC to make some difficult decisions about the services it offers and to deliver further efficiencies. That stability would be undermined, however, by any future Government move to ring-fence or 'top-slice' licence fee funding or to privatise BBC Worldwide and remove from the BBC the long-term stream of funding and investment that it provides. BBC Worldwide owns the BBC's content on behalf of the licence fee payer and is there to maximise the value of that intellectual property for the benefit of the licence fee payer.

When we tested the Green Paper options for different funding models with the public, nearly 60% supported a universal form of public funding, with only 24% preferring a licence fee 'topped up' with subscription funding.

The Trust supports the modernisation of the licence fee. We regret the lack of any transparent process involved in the last two BBC funding settlements and propose that future funding agreements should involve additional protections in the form of public and/or Parliamentary scrutiny, as well as a more formal advisory role for the BBC's regulator.

### **A clearer model of governance and regulation**

The Green Paper recognises the case for intelligent reform of governance and regulation of the BBC that the Trust has already been making. We welcome the Clementi review which we are confident will help to provide objective analysis of the strengths and weaknesses of different models. We will work with Sir David Clementi to share our experiences over the last eight years and our ideas for future reform. There are some important lessons to learn from some of the things that have gone wrong in the current Charter period, although it is also vital not to lose the things that have worked well, and to recognise that not every error or mistake should be attributed to the governance model.

We believe it is important to separate more clearly the functions of internal governance from those of independent regulation and scrutiny, and the wider questions of public engagement and public accountability. In our response we set out some key principles against which we believe ideas for future reform need to be tested.

### **Next steps**

We want this Charter Review to be an open process, grounded in evidence. This response is one contribution to that process and we will continue to engage with the Government, and the Clementi review, by sharing further evidence and analysis that we have commissioned to support decision making on the issues raised in the Green Paper (Annex G). We are currently consulting with the public about the BBC's ideas set out in *British, Bold, Creative* and will provide an update to the Government based on our analysis of responses to this.

# 1 Why the BBC? Mission, purpose and values

**Q1 How can the BBC's Public Purposes be improved so there is more clarity about what the BBC should achieve?**

**Q3 Should Charter Review formally establish a set of values for the BBC?**

## Summary

The BBC's mission, public purposes and values provide the framework which focuses what the BBC does, how it carries out those activities and ultimately why it does them.

The Trust believes that clarification and simplification of the BBC's current public purposes would be helpful and proposes some revisions that are the result of extensive consultation and testing with the public. These should set out clearly what the BBC is there to achieve. We also propose a measurement framework so that the impact of performance against those purposes can be monitored.

All of the concepts suggested in the Green Paper are values that the BBC already recognises and they are an important part of how the BBC should go about delivering its purposes.

## The BBC's mission

- 1 The BBC's mission to enrich people's lives through programmes and services that Inform, Educate and Entertain has been the cornerstone of everything the organisation has done since it was founded 93 years ago. This mission remains as relevant now as in 1922 and that will continue to be the case in the future. Our recent research shows that 85% of the public believe that the main mission of the BBC should continue to be to inform, educate and entertain its audiences (Annex A).



### The BBC's public purposes

- 2 In the current Royal Charter for the continuance of the British Broadcasting Corporation ('the Charter')<sup>1</sup>, which came into effect in 2007, six Public Purposes were introduced to explain how the BBC delivers its mission (Article 4 of the Charter). These are:
- 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.
- 3 These Public Purposes have been central to the work which the Trust has carried out during this Charter period. On an annual basis, we have measured how important the public considers these purposes to be and how well audiences think they are being delivered by the BBC. The Trust writes a detailed licence for each of the BBC's services to show how each service should play its part in delivering the BBC's purposes, and in our regular service reviews we assess their performance in doing so.
- 4 The Government's *BBC Charter Review Public Consultation*<sup>2</sup> ('the Green Paper') raises the question about whether the Public Purposes could also set out more clearly the BBC's boundaries and apply constraints on genres. Service licences have played this important role in this Charter period and we believe should continue to do so in the next Charter period. They establish clear remits for each service and set some minimum levels of output in genres where there is evidence of potential under-supply (more detail in answer to Question 16 below). We believe that the service licence is the appropriate level to do this and think that if this were done at the level of Public Purposes, as referred to in the Green Paper, this would unduly restrict the BBC's ability to respond to the demands of changing technology and the changing needs and expectations of licence fee payers and audiences.

### What audiences want from the BBC

- 5 We recently asked the public what they considered should be the focus for the BBC during the next Charter period. The results were a mixture of things closely aligned to the current Public Purposes (see Figure 1, indicated in green) and others which are rather broader attributes they expect of the BBC. The results of this work relating to mission, purpose and values are set out in full at Annex A.

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<sup>1</sup> [https://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how\\_we\\_govern/charter.pdf](https://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/charter.pdf)

<sup>2</sup> <https://www.gov.uk/government/consultations/bbc-charter-review-public-consultation>

**Figure 1: What should the BBC focus on in the future?**



When it comes to things that you think the BBC should focus on in the future, how important would you say each of the following are? Base: All respondents (n=2,111)

Source: ICM Unlimited Quantitative research for the BBC Trust, February 2015

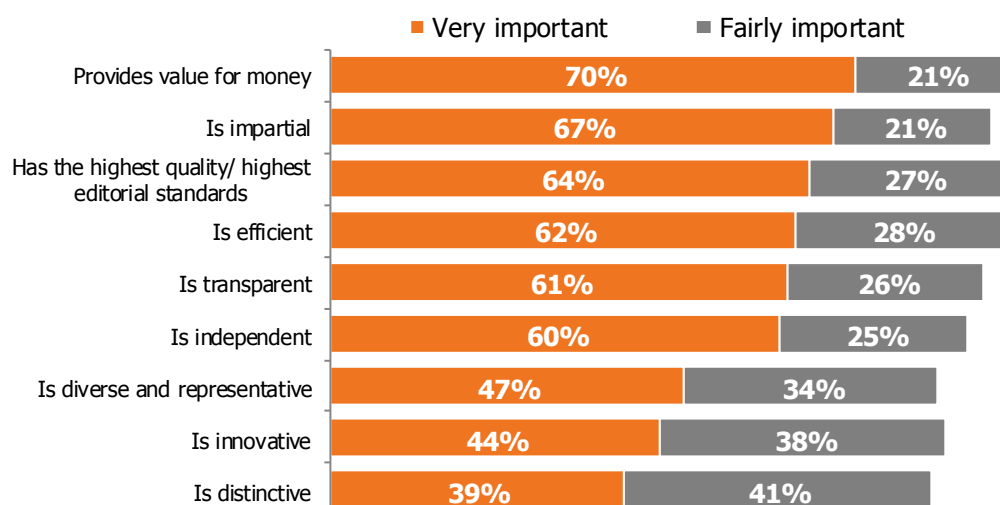
**BBC values**

- 6 In our initial response to the Green Paper, *BBC Trust Initial response to the Government's Green Paper on BBC Charter Review*,<sup>3</sup> we proposed that the BBC's Public Purposes be supported by a set of values or duties which should underpin everything the BBC does. Based on our research we suggested that those values should be:
- Independence.
  - Impartiality.
  - Value for money - both in terms of getting value from the licence fee and ensuring that the BBC is well run and efficient.
  - The highest editorial and creative standards.

<sup>3</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how\\_we\\_govern/charter\\_review/green\\_paper\\_response.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/charter_review/green_paper_response.pdf)

- 7 The Green Paper also suggested other potential values or duties, such as transparency and diversity. Since the Green Paper was published we have undertaken further research to test the audience’s reaction to both the list of values identified in the Green Paper and our initial response to the Green Paper. The results of this work are at Annex A.
- 8 Generally, audiences felt that the long list of values matched with the areas that matter to them and their expectations of the BBC, although we note that:
  - ‘High-quality and high editorial standards’, ‘independent’ and ‘impartial’ were seen as very closely linked.
  - There was some confusion/difficulty in understanding precisely what ‘transparency’ and ‘diversity’ meant in the context of ‘values’. This could be addressed by considering how these are framed – for example, the latter could be set out as a duty to ensure diversity (on- and off-screen).
  - Audiences also suggested ‘trusted’, ‘responsible’ and ‘up-to-date’ as potential values<sup>4</sup>.
- 9 Our quantitative testing showed that ‘value for money’, ‘impartiality’ and ‘high-quality’ were perceived to be the most important values for the BBC (see Figure 2 below).

**Figure 2: What values are important for the BBC?**



Many organisations have a set of values which state the ways in which they will operate. Do you think it is important or not important that the BBC...?  
 Base: All respondents (2,908)

Source: ICM Unlimited Quantitative research for the BBC Trust, August-September 2015

- 10 We therefore conclude that there is broad support for the long list of suggested values, albeit with some overlap and some lack of clarity about the precise meaning of some of them. For example, ‘value for money’ could be conceived of more as a ‘duty to be efficient’ whereas ‘independence’ is a more general value. We think it is important that in embedding these values or duties about how the BBC should operate and deliver its Public Purposes, there is clarity about what the terms mean. In order to make them effective, the Government should consider refining the list.

<sup>4</sup> MTM Qualitative research for the BBC Trust, September 2015 (Annex A)

### Evolution of the BBC's purposes

- 11 In our initial response to the Green Paper we suggested that there was scope to make the BBC's Public Purposes more meaningful to audiences and to reflect changes which have taken place since the last Charter.
- 12 The Green Paper notes that the Public Purposes define broadly what people expect from the BBC's output and are cast at a high level so that the BBC can develop its own strategy to deliver them.
- 13 We believe that this should continue to be the case and that the Public Purposes are a more detailed articulation of the BBC's enduring mission to Inform, Educate and Entertain through high-quality content and services.
- 14 We also think that any assessment of the BBC's delivery of the Public Purposes should take account of matters beyond the BBC's direct output, looking also at the added impact the BBC has, in particular its social and economic impact.
- 15 It should be noted that Ofcom has developed a set of purposes which are applicable to all UK public service broadcasters – informing our understanding of the world; stimulating knowledge and learning; reflecting UK cultural identity; and representing diversity and alternative viewpoints<sup>5</sup>. We endorse those principles but we believe the BBC's updated Public Purposes should recognise that the BBC is different from other public service broadcasters, and, because of the way it is funded, has unique obligations to, and relationships with, its audience.

### Proposed updates to the BBC's Public Purposes

- 16 The Trust believes that a small number of core Public Purposes are essential to set out the basis of the BBC's mission. In order to be effective, these should be clear and concise. When we tested the purposes proposed in our initial response to the Green Paper<sup>6</sup> in audience research (the results are set out at Annex A) and discussed it with our Audience Councils (their feedback is at Annex A), audiences largely endorsed them, particularly those directly relating to services, as being appropriate for the BBC over the next ten years. However, they suggested some additional areas which could be included. One of the key issues raised was that there should be an explicit reference to the BBC's role in entertaining audiences: this echoed previous research which suggested that audiences believed 'entertainment' to be the most important element of the BBC's mission<sup>7</sup>. Audiences also told us that they believe that the Public Purposes could include a reference to originality in the BBC's content and services. They felt that the social value which the BBC offered could be included.
- 17 Audiences were confused about the exact meaning or the importance of the proposed Public Purpose regarding the creative industries. Further discussion, albeit with a small qualitative sample, suggested that once the relationships that the BBC has with the creative sector were explained, the relevance of the Public Purpose was better understood, although it remained less of a priority to BBC audiences. Feedback from organisations within the creative industries, on the other hand, stressed the central role that the BBC has and that this should continue.

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<sup>5</sup> <http://stakeholders.ofcom.org.uk/binaries/consultations/psb3/psb3.pdf>

<sup>6</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how\\_we\\_govern/charter\\_review/green\\_paper\\_response.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/charter_review/green_paper_response.pdf)

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<sup>7</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/news/2015/audience\\_research.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/news/2015/audience_research.pdf)

- 18 Taking this feedback into account, we have slightly amended the suggested Public Purposes which we proposed in our initial response to the Green Paper.

**1. To provide news and information which help everyone understand the world around them**

The BBC should provide accurate and impartial news, current affairs and factual programmes to build people's understanding of all parts of the UK and of the wider world. Its content should be provided to the highest editorial standards. It should offer a range and depth of analysis and content not widely available from other UK providers, using the highest calibre presenters and journalists, so that all audiences can engage fully with major UK and global issues.

**2. To support learning and education for people of all ages**

The BBC should help everyone learn about different subjects in ways they will find accessible, engaging and challenging. The BBC should also provide specialist educational content to help support learning for children and teenagers across the UK. It should encourage people to explore new subjects and participate in new activities through partnerships with educational, sporting and cultural institutions.

**3. To provide distinctive, creative, original and entertaining content**

The BBC should provide high-quality output in many different genres and across a range of platforms which sets the standard for broadcasting in the UK and internationally. Its services should be distinctive from that provided elsewhere and should take creative risks, even if not all succeed, in order to develop fresh approaches and pioneering content. It should find, train and develop the finest on and off-air talent from across the UK. It should work with the UK creative industries to help to ensure the best British content is provided for audiences. It should provide some opportunities to showcase the best content from around the world to audiences in the UK.

**4. To reflect, represent and serve everyone in the UK**

The BBC should reflect the full diversity of the UK in its content. In doing so, the BBC should accurately and authentically represent and portray the lives of the people of the UK today, and raise awareness of different cultures and alternative viewpoints. It should ensure that it provides content to meet the needs of the UK's nations, regions and communities. It should bring people together for shared experiences and help contribute to the social wellbeing of the UK. The BBC should use emerging communications technologies and reflect the UK in a digital age.

**5. To reflect the UK to the world**

The BBC should provide high-quality news coverage to international audiences, firmly based on British values of accuracy, impartiality, and fairness. Its international services should put the UK in a world context, aiding understanding of the United Kingdom. It should ensure that it produces content which will be enjoyed by people in the UK and globally.

We consider that there should also be a requirement, or a subsidiary purpose, that in delivering its other Public Purposes the BBC should support the UK's creative industries, for example:

## 6. To contribute to the UK's creative economy

The BBC should play a key role in the UK's creative industries in pursuit of developing the finest content for its audiences, for example through commissioning content from independent production companies, embracing digital technology, providing training that benefits the industry and working in partnership with cultural organisations across the UK and others.

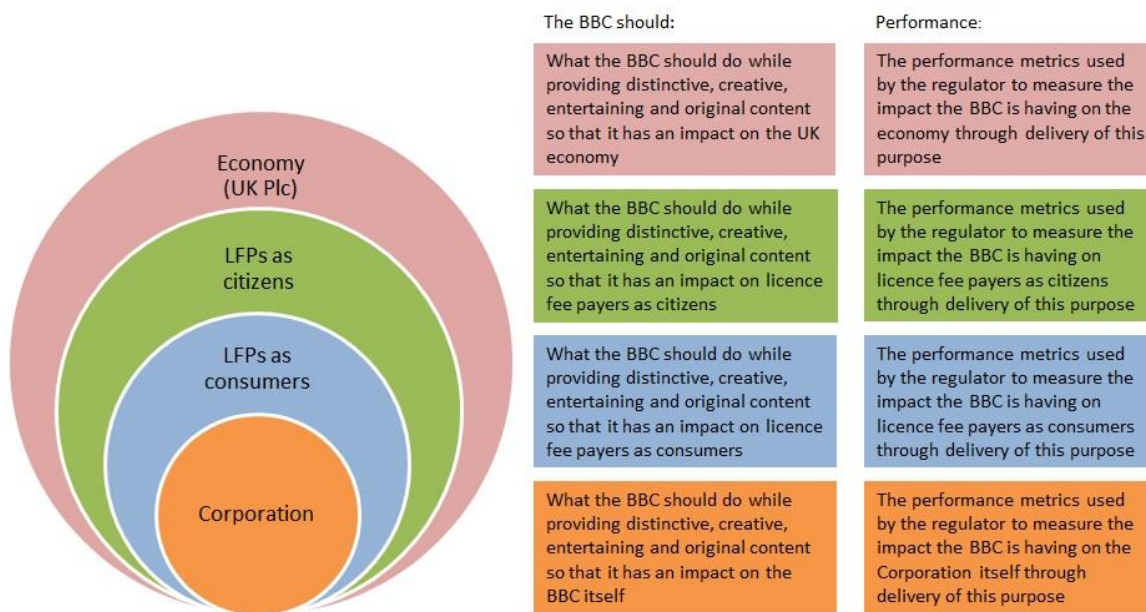
- 19 If the Government decides that this should not be a standalone Public Purpose, the BBC Trust proposes that it should be incorporated into the other, output-based, purposes.
- 20 The Trust believes that partnerships are an important means to deliver the purposes and thinks it will be important for the BBC to continue to develop more genuinely collaborative engagement with like-minded institutions, suppliers, individuals and competitors.

### Measuring the BBC's purposes

- 21 If the Public Purposes are updated then it will be necessary to update how delivery of them is measured. The BBC already uses a robust measurement system looking at quality, reach, impact and value for money (QRIV), which should continue to be the basis of any future measures. However, we consider that additional focus could be given to the added value which the BBC delivers beyond the performance of its programmes and services.
- 22 Delivery against the Public Purposes would be one of the key ways in which the body responsible for regulation or oversight would measure the BBC's performance, and would form the core of any Annual Report. While the Public Purposes should remain consistent for the duration of the Charter, the ways in which the BBC delivers them, and the performance measures used, should be reviewed by the BBC and its regulator on a regular basis.
- 23 We suggest that the updated Public Purposes be measured against a framework which considers their impact (and that this is taken into account in how the purposes are articulated):
  - On the way in which the organisation is run.
  - On licence fee payers as consumers.
  - On licence fee payers as citizens.
  - On the UK economy.
- 24 The Public Purposes, and this framework, could also be used as way of assessing how well the BBC is delivering its values in the content it provides and the way in which it operates.
- 25 This framework would allow reporting by delivery of each purpose and by impact on any particular constituency. While we are not at this stage identifying how the BBC should deliver each purpose or suggesting performance measurements, the charts overleaf indicate how reporting using this framework could work.

**Figure 3: Example of how proposed framework could be used to report on delivery of a BBC public purpose**

**Purpose:  
Provide distinctive, creative, entertaining and original content**



**Figure 4: Example of how proposed framework could be used to show the impact of the BBC’s purpose**

**Purposes: Impact on economy**

	Remit	Performance
Provide news and information which help everyone understand the world around them	What the BBC should do to deliver this purpose so that it has an impact on the UK economy	The performance metrics used by the regulator to measure the impact the BBC is having on the economy through delivery of this purpose
Support learning and education for people of all ages	What the BBC should do to deliver this purpose so that it has an impact on the UK economy	The performance metrics used by the regulator to measure the impact the BBC is having on the economy through delivery of this purpose
Provide distinctive, creative, entertaining and original content	What the BBC should do to deliver this purpose so that it has an impact on the UK economy	The performance metrics used by the regulator to measure the impact the BBC is having on the economy through delivery of this purpose
Reflect, represent and serve everyone in the UK	What the BBC should do to deliver this purpose so that it has an impact on the UK economy	The performance metrics used by the regulator to measure the impact the BBC is having on the economy through delivery of this purpose
Play a leading role in reflecting the UK to the world	What the BBC should do to deliver this purpose so that it has an impact on the UK economy.	The performance metrics used by the regulator to measure the impact the BBC is having on the economy through delivery of this purpose
Playing a key and supportive role in the UK’s creative economy	What the BBC should do to deliver this purpose so that it has an impact on the UK economy.	The performance metrics used by the regulator to measure the impact the BBC is having on the economy through delivery of this purpose

- 26 If the Charter were also to articulate a set of values and duties for the BBC in addition to its Public Purposes, then any regulator would also be able to undertake separate testing of how well the BBC was meeting them, for example its 'duty to be efficient' in a specific area of operations, or its 'duty to be impartial' in a particular category of news coverage.

### Next steps

- 27 Work needs to be done to refine and articulate the updated Public Purposes, values and duties, how and where these values and duties apply, and the associated measurement systems. It will also be necessary to consider how and to what extent they are allocated across the executive and regulatory functions set up for the next Charter. In the Trust's view, the task for the next stage of Charter Review is to:
- Distinguish which are genuinely 'values' and which should be treated as 'duties'.
  - Refine the long-list of values and duties according to how important audiences think each is, how they should apply and where they should apply.
  - Finalise the BBC's Public Purposes.
  - Develop a measurement framework that could ensure that the BBC's compliance/performance with its values and duties would be measured as well as how it delivers its Public Purposes.
- 28 We will work with the Government to develop these ideas further.

## Q2 Which elements of universality are most important for the BBC?

### Summary

Universality of the BBC's services should be about audience reach, range of content and ensuring that the BBC contributes to the intellectual health of the UK. The three options put forward by the Government are all relevant and should be treated as important components of universality. However, we think universality is broader than this and we set out the components below.

### Components of universality

- 29 The Green Paper raises important questions about the BBC's purpose and mission, and whether the BBC should continue to do everything it currently does. It presents three definitions of universality and asks which is most relevant in the current media age:
- provide all types of content and meet the needs of all audiences, regardless of the extent of provision by others;
  - provide due emphasis on covering single unifying events; or
  - to be available and accessible on all platforms and devices.



30 The Trust believes that none of these on their own properly captures what universality means for the BBC and more importantly for the public, although elements of all of them are relevant. This is based on our research of public attitudes to the BBC (more detail is set out at Annex A). Our nationally representative survey found that only 8% disagree that the BBC should provide something for everyone who pays the licence fee, with 58% positively supporting a BBC which provides something for everyone<sup>8</sup>. Similarly, just 12% of the public disagree that the BBC should continue to do everything it currently does<sup>9</sup>. Many respondents to our public consultation specifically say that they think the BBC's range of programmes and services provide something for everyone. Our qualitative research also found that it was important to audiences that the BBC has a social role and value within the UK, underpinned by an expectation the BBC should:

- Bring the UK together for key events and moments (for example through content and coverage of events of national importance).
- Represent a wide range of audiences, not just the mainstream (through more niche content).
- Contribute to the social welfare of the UK<sup>10</sup>.

31 In the view of the BBC Trust, 'universality' is tied to the BBC's central mission to inform, educate and entertain. This broad mission for the BBC and the purposes proposed by the Trust mean that the BBC provides a social good to the population of the United Kingdom and contributes to the country's knowledge and cultural, civic, and intellectual health. This has worked to date because the BBC combines, across its services, popular appeal and public service, with a very wide reach both in terms of news and current affairs and also in its general programming. A wide spectrum of challenging, educational, and sometimes niche output, free at the point of use, is widely accessible, either through searching for it, or discovering it alongside other content.

32 In addition to this core role, the BBC has contributed to the economic health of the country by helping to foster a vibrant creative industry and economy which has grown strongly over recent decades. The high-quality and standards of the BBC have driven competition to improve quality in the sector as a whole, making it more internationally competitive. While some see the BBC through the lens of correcting market failure, the Trust's research suggests that the licence fee payer does not view it in that way<sup>11</sup>. They expect the BBC to produce content it could be argued is already provided by other, profit-driven organisations, because they expect plurality, very high-quality and higher standards of impartiality and accuracy (see Annex A for more detail). This means that a majority of licence fee payers expect the BBC to play a very different role from that of simply a content provider of last resort when the market does not deliver. This also links distinctiveness, which is discussed in more detail in Question 9, below.

33 Universality is not, however, an absolute or an end-point. The BBC should not be trying to reach all audiences for the sake of it. Rather the BBC should aim to reach them with high-quality, relevant and distinctive content that meets the BBC's Public Purposes. Therefore, in seeking to ensure that every household in the country has

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<sup>8</sup> ICM Unlimited Quantitative research for the BBC Trust, August-September 2015 (Annex A)

<sup>9</sup> ICM Unlimited Quantitative research for the BBC Trust, August-September 2015 (Annex A)

<sup>10</sup> MTM Qualitative research for the BBC Trust, September 2015 (Annex A)

<sup>11</sup> ICM Unlimited Quantitative research for the BBC Trust, August-September 2015 (Annex A)

access to BBC services free at the point of use, the Trust thinks that the BBC should aim to make its services available on as many platforms and devices as possible. Considerably more people feel that it is important (68%) rather than unimportant (27%) that the BBC should continue providing and developing its services on new platforms, such as the internet and via mobile phones. The importance of this increases to 77% for 16-44 year olds and 82% for 16-24 year olds. More detail on this research is at Annex A.

- 34 The Trust has recently consulted on more detailed criteria for achieving this in its Distribution Framework<sup>12</sup> and believes that these principles should be retained in the next Charter period. The Trust will shortly publish a final version of this framework, which will include the following principles designed to uphold the interests of audiences:
- Services should be universally accessible and free at the point of use.
  - Distribution arrangements should represent value for money for licence fee payers.
  - The BBC should be open and transparent over decisions about where its services should or should not be made available.
  - BBC services and content should be easy to find on the platforms and devices they are distributed through.
  - Distribution arrangements should facilitate direct relationships between the BBC and its audiences.
  - The BBC should have sufficient control over its content when distributed through third parties.
- 35 Universality does not therefore mean the BBC does whatever it likes in whatever way it wants to – it does not mean doing everything for everyone. Through this Charter period there are examples where the BBC has limited its own scope – not bidding for premium acquired drama series or many high-end sports rights, and scaling back areas of BBC Online. There are also instances where the Trust has rejected particular proposals by the Executive where their public value was not proven, or where there were concerns about the impact they would have had on the broader market: examples include the local video service in 2009<sup>13</sup> and more recently the Trust's decision to reject proposals for an extended 5 live Sports Extra service<sup>14</sup> and its provisional Public Value Test decision not to approve the proposed BBC One+1 Channel<sup>15</sup>.

### Importance of audience reach

- 36 As part of ensuring universality, it is important to ensure that the BBC provides services and content that engage with the whole spectrum of licence fee payers. This is one of the reasons why the Trust has pressed the BBC Executive to focus on reach as opposed to share; on 'under-served' audiences; on universal access and distribution; and on so-called 'purpose gaps' – important public purpose needs expressed by some audiences but under-delivered by the BBC. This is also the reason

<sup>12</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/our\\_work/distribution\\_framework/draft\\_distribution\\_framework.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/our_work/distribution_framework/draft_distribution_framework.pdf)

<sup>13</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/consult/local\\_video/decision.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/consult/local_video/decision.pdf)

<sup>14</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory\\_framework/assessment/5live\\_sports\\_extra.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/assessment/5live_sports_extra.pdf)

<sup>15</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/review\\_report\\_research/service\\_changes/pva/provisional\\_conclusions.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/review_report_research/service_changes/pva/provisional_conclusions.pdf)

why the Trust has pressed the Executive to make distinctiveness a key characteristic of its decisions.

- 37 For the next Charter period, we believe that changing market dynamics are likely to make the BBC's universal public service role more rather than less important. While some of the technological limitations on the broadcasting market have diminished, such as the scarcity of spectrum, other market changes will continue to limit quality and variety in some content areas. The BBC can provide a counterpoint to the risks that:
- Global consolidation and bidding wars for subscription services limit the variety of editorial perspectives and reduce creative risk-taking.
  - A largely unregulated world of internet information and entertainment lowers content standards, accuracy, impartiality and independence.
  - Newer global companies are likely to have little or no incentive to portray and celebrate British national identity and culture.
- 38 The BBC Trust believes that the key components of universality are:
- Ensuring that services and content provide a social good to the UK through entertaining, informing and educating audiences.
  - Providing a range of content and services that reflect the varied interests of the whole UK population.
  - Reflecting the diversity of the UK and bringing it together for key events and moments.
  - Ensuring that BBC services are within easy reach for all audiences, by making content available, free at the point of use, on a wide range of devices and platforms.
- 39 We believe it is imperative that the Government in the next Charter should capture the essence of universality through an obligation on the BBC that reflects the components set out above. This would support the principle in the existing Framework Agreement that the BBC's services should be widely available and free at the point of use.

## 2 What the BBC does: scale and scope

**Q5 Where does the evidence suggest the BBC has a positive or negative wider impact?**

**Q4 Is the expansion of the BBC's services justified in the context of increased choice for audiences? Is the BBC crowding out commercial competition and, if so, is this justified?**

### Summary

Since the birth of the BBC an industry has developed around it and so its actions now have the potential to affect the markets in which it operates. Therefore the BBC is rightly subject to a strict regulatory framework designed to minimise any risks of negative impact. The effective operation of this framework, as well as the amount that the BBC spends in the market, mean that much of the evidence about the BBC's market impact shows that it has a positive effect.

Rather than expanding in this Charter period, the BBC has contracted and its funding has fallen in real terms by around 12%. BBC Online's importance as a way of delivering the BBC's public purposes has grown as audience behaviour has started to change – although its actual scale and scope has narrowed during this licence fee period.

We commissioned independent analysis to examine 'crowding out' in news and entertainment on TV and in local news. The analysis concludes that there is no clear evidence that any increase in the overall level of BBC activity has resulted in a decline in commercial broadcasters' viewer hours or revenues, or local newspapers' readership or revenues (or the opposite). Additionally the literature review on crowding out show that there is little evidence of other Public Service Broadcasters across the world crowding out private sector activity.

The conclusion we draw from this evidence is that investment in the BBC should not, in and of itself, automatically be problematic to the rest of the industry. Any specific new area of BBC spending or activity clearly retains the potential to affect adversely other players, but careful regulation of the sort carried out by the BBC Trust and Ofcom should provide sufficient protection to the rest of the market.

### The BBC in the market

40 The BBC is a major public intervention in the markets in which it operates, and the concerns of the commercial sector in particular areas about the scope of the BBC's activities are understandable. This requires careful oversight and regulation.

- 41 The BBC also has the potential to make a positive contribution to the market, encouraging competition, through high standards and quality requirements. BBC investment in first-run original programmes has the potential to stimulate investment from other PSBs<sup>16</sup>.
- 42 We asked KPMG to conduct an independent evaluation of the BBC's impact by looking at measurable market outcomes, such as prices, quality, variety of offer, customer satisfaction, investments and innovation, and the effects that the BBC has on its competitors. We did not ask them to consider the wider impact that the BBC might have more broadly on society in the UK and abroad. While we believe the latter is important, we also believe it may be more relevant from a consumer and societal perspective rather than from the market economics.

### The BBC's regulation

- 43 The BBC is subject to a strict regulatory framework, designed to minimise any risks of negative impact through ex-ante and ex-post intervention. The BBC Trust sets the Fair Trading Policy framework for the BBC<sup>17</sup>, a key component of which is the Competitive Impact Principle. This requires that when carrying out its Public Service Activities, the BBC must endeavour to minimise its negative competitive impacts on the wider market, whilst always ensuring the fulfilment of its Public Purposes and taking into account its other obligations in the Charter and Agreement. There is a strict obligation on the BBC to take the appropriate steps in the given circumstances to achieve this outcome.
- 44 The Competitive Impact Principle draws on wider factors by expressly binding the operations of the BBC to its Public Purposes and other obligations under the Charter and Agreement, including, for example, ensuring value for money.
- 45 Additionally the Fair Trading Complaints framework<sup>18</sup> set by the BBC Trust provides market participants with the means to complain where they are concerned about BBC activities. Market participants can complain directly to the BBC and if they are not satisfied with the response they receive they can appeal to the Trust. When an appeal is received by the BBC Trust, we examine the available evidence and if a breach of the Fair Trading requirements is found, the Trust will require the BBC to take action, which can include apologies, or altering or stopping their approach. In this Charter period the BBC has received 29 fair trading complaints and the Trust has considered eight cases on appeal. In six of these cases the BBC Trust upheld at least one element of the appeal.
- 46 Finally, the Public Value Test (PVT) and 'Clause 25' (the test applied to determine whether or not a PVT is required) are important ex-ante regulatory instruments which assess and address any potential negative impacts on the market. Since 2006 Ofcom has conducted five full Market Impact Assessments which have taken into account static effects of service proposals (the impact on demand for other products and services assuming no change in behaviour by other providers in response to a BBC service launch/closure) and dynamic effects of service proposals (through changing market behaviour, and impacts on investment and innovation by other providers in response to the BBC service change). These assessments are requested by the BBC

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<sup>16</sup> Ofcom, 'Public Service Content in a Connected Society' December 2014.

<sup>17</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/our\\_work/fair\\_trading/fair\\_trading\\_policies\\_framework.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/our_work/fair_trading/fair_trading_policies_framework.pdf)

<sup>18</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory\\_framework/protocols/2014/complaints\\_fr\\_work\\_fair\\_trading.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/2014/complaints_fr_work_fair_trading.pdf)

Trust and form an important part of the Trust's decisions on the Public Value Test. Where proposals are found to have a potential negative impact they can be prevented – such as the 2008 local video proposal where the PVT process ensured this initiative was not allowed to proceed.

- 47 Where Ofcom has highlighted risks to competition arising from BBC proposals, the Trust has considered the evidence and even if it has, on balance, agreed to the proposal, it has put in place procedures that seek to address the risks to the market that Ofcom identified. We believe that the intervention of Ofcom and the Trust, working together, has ensured that potential negative impacts on the market from the BBC's actions are properly considered and appropriately guarded against.

### Literature review

- 48 The Green Paper asks for submissions of evidence about overall market impact, positive and negative. As a part of the independent analysis of crowding out that we commissioned from KPMG, they conducted a review of the academic literature on the subject of overall market impact by PSBs. This also included work conducted by other consultancies and regulators. The KPMG work (set out in full at Annex B) found that there was consensus around possible benefits that result from PSBs including:
- Content diversity. A number of academic articles identify how PSBs ensure a greater diversity of programmes and a supply of minority programmes which increases consumer welfare.
  - Innovation and investment. A number of commentators note how PSBs invest in areas where the private sector may not, especially in areas with high risk and a long payback period. However, once PSBs have made this investment: i) there are benefits to the wider industry; and ii) the private sector may learn from PSBs' investment in these areas. As a result, public sector investment, in these instances, is complementary to private sector investment.

### Case studies of potential for positive market impact

- 49 We asked KPMG to carry out an independent, thorough study of the BBC's impact in particular areas where it is often asserted that the BBC has had a positive effect on the market, including two areas of investment in the last ten years – its move to Salford and its innovation online. The report, at Annex B, finds that the BBC intervention in the Salford area has:
- Increased employment in the region, directly, through BBC employees, and indirectly through BBC purchases from suppliers located in the North West.
  - Coincided with increased skill levels in the Salford area.
  - Helped to create agglomeration and spill-over effects, with currently approximately 6,500 people employed in MediaCityUK, around 40% of whom are BBC employees.
  - Helped to increase the number of jobs in the creative industries in Salford. The number of jobs in the creative industries in Salford has more than doubled between 2010 and 2013, with a step change in the level of jobs allied to the BBC move to Salford. Moreover creative industry jobs are expected to continue to grow, albeit at a slower pace, with forecasts suggesting that there will be an additional 1,700 creative industry jobs in Salford between 2015 and 2034 (and 9,400 in the North West in total).
  - Generated wider positive impacts; since the BBC move to Salford, the gap between the 'portrayal' score for the North and for the UK-wide audiences has reduced steadily.

- 50 With regard to the BBC's contribution to the online sector, the independent KPMG report finds that:
- The external expenditure by BBC Online has helped to increase creative and digital activity in the economy through direct contracting and outsourcing of goods and services from suppliers. According to external spending data for 2013/14, BBC Online has spent an average of £20 million per year externally over the last five years.
  - BBC Online has had a positive economic impact on the sector via two channels, both resulting in overall market development and expansion:
    - technology spill-overs driven by the BBC's innovation in the market; and
    - knowledge and skills spill-overs arising from BBC Online collaborations, partnerships and wider industry initiatives.
  - The continuous investment in, and development of, the iPlayer is an example of the BBC leading the Video on Demand (VoD) market, with the implementation of numerous innovative technological improvements. Developments in the BBC iPlayer have led to the BBC developing new technologies and setting high-quality standards that create incentives for rival companies to gradually adopt them, once technologies have developed and initial costs have reduced sufficiently. The introduction of High Definition (HD) technology for online services is one example of this.
  - There is a range of current BBC open sourcing initiatives helping the overall industry compete and benefit from the innovation, knowledge and technological developments of the BBC<sup>19</sup>. Not only does BBC Online help to accelerate market development through its own innovation and investment, but it also does this by making it easier for other companies to compete with the BBC through open-sourcing technology and making knowledge and innovations available to industry.
  - One way in which the BBC supports knowledge transfer and skills development across the media and technology industries is through various partnerships, including partnerships with universities and with industry.

#### **Potential for the BBC to 'crowd out' or have a negative impact in the market**

- 51 KPMG also looked specifically at the questions raised in the Green Paper about 'crowding out', focussing on areas of BBC activity that have attracted particular concern: in news and entertainment on TV and on local news (report set out in full at Annex B).
- 52 The KPMG analysis has used historical data and econometrics to study how variations in BBC activities have affected commercial competitors. In particular, it tested whether the BBC's news and entertainment on TV and the BBC's local news have affected commercial competitors' ability to gain audience, increase revenues and increase content expenditure. The study was not able to look at a scenario in which the BBC did not operate at all in the defined sectors, since the BBC has been present in these sectors for such a long time that hard evidence is not available to test the hypothesis robustly.

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<sup>19</sup> Examples include 'Hive Ci', a continuous integration platform for on-device testing and 'Wraith', a responsive webpage screenshot comparison tool designed for visual regression testing.

### TV news and entertainment

- 53 The study considered how BBC viewing hours, broadcast hours, and spending on programmes have affected commercial broadcasters' viewing hours, revenues and spending on programmes for news and entertainment. In particular, the study tested whether expansion of BBC activities has reduced viewers and/or revenues from the commercial sector, and/or has reduced its spending on programmes.
- 54 The report indicates that there is no evidence to support a thesis that BBC output and spending in these areas has significantly crowded out commercial viewing, revenues or programme spend. Commercial sector viewing hours in entertainment and news appear to be more sensitive to long-run dynamics, for example due to internet expansion, and seasonal variations, than to BBC changes in activities. Between 1998 and 2014 BBC revenues allocated to television have not grown, and commercial broadcasters' revenues have grown rapidly, albeit with a different composition with an increased proportion coming from subscription revenues. Commercial broadcasters' revenues are now almost 65% higher in real terms than they were in 1998. Finally, between 2003 and 2014 spending on programmes has declined for both the BBC (an average of 3.0% per annum) and has increased for the commercial sector (an average of 1.3% per annum).

### Local news

- 55 The KPMG analysis looked at whether BBC online activities have had a discernible impact on newspapers' circulation and advertising revenues. The evidence collected acknowledges the difficult environment for the local press and suggests that the main driver for this is increased adoption of the internet, and the way we all share information across it. The work suggests that this wider development has had a larger effect on local newspapers' performance than the growth of the BBC online in isolation. The econometric analysis, which attempts to discriminate between the two effects, appears to corroborate this view. However, it was not possible to conclusively rule out a contributory (albeit, on the evidence at best minor) impact from the BBC's operations in this space. This is an area where plurality of news provision and fostering high-quality local journalism mean that the BBC must be very careful in its actions and the Trust and any successor regulatory body will need to ensure that the boundaries are effectively policed.

### Risks of future negative market impact

- 56 Although the independent reports that KPMG have presented us with do not find evidence of negative impacts from the BBC's operations in various markets, the Trust believes that it is very important to guard against the risk of future negative impacts and stifling of innovation and creativity in the market. The greatest risk of this is likely to be at the micro- rather than macro- level and so in any regulatory environment it is essential that a body that is sufficiently independent of the BBC and of other companies in the market can assess the evidence (including Market Impact Assessments conducted by Ofcom) and come to an impartial decision about whether proposed new BBC services should proceed.

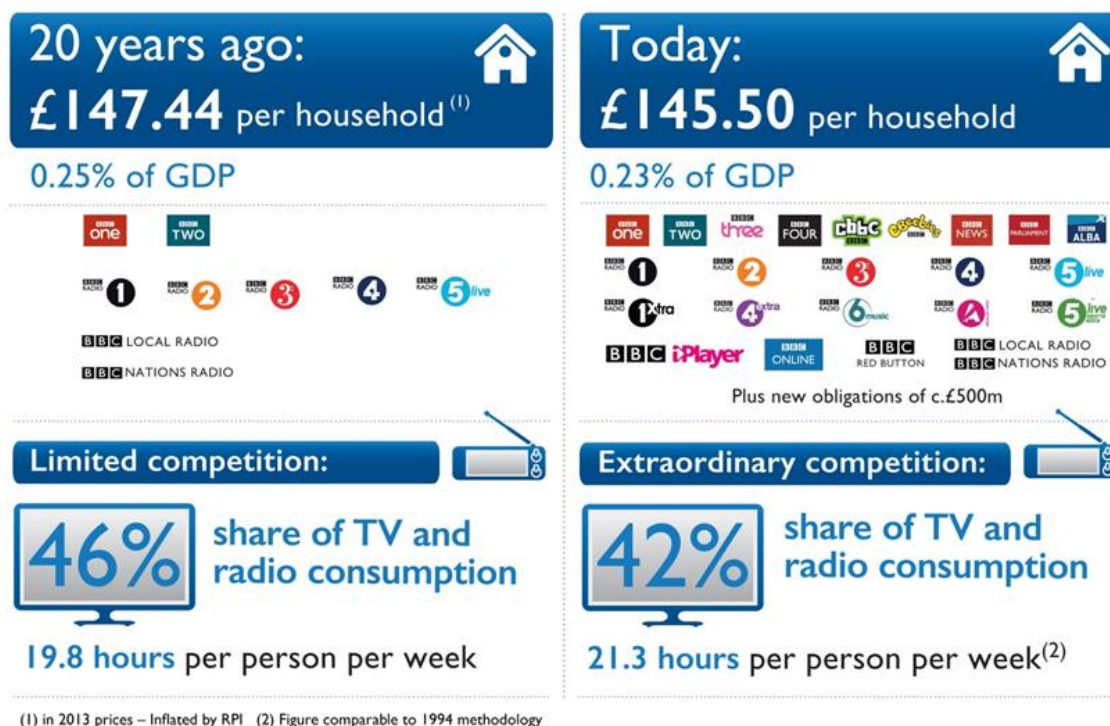
### The changing nature of BBC services – a twenty year view

- 57 The Green Paper rightly highlights that the BBC now makes more content and provides more services than it did twenty years ago. Like commercial media providers, the BBC has taken the opportunities that have arisen from changing technology to pursue its mission by providing greater range and choice. With the cost of the licence



fee being lower in real terms now than twenty years ago, the BBC’s provision for licence fee payers of a range of new digital services, as well as funding a significant number of additional obligations, such as the BBC World Service, have been achieved on less public funding.

**Figure 5: Changes to BBC services and cost per household**



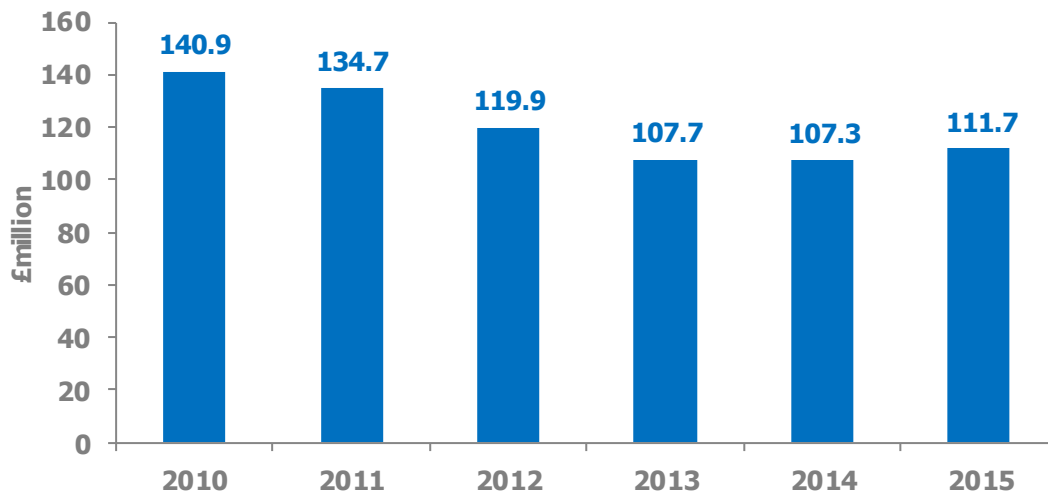
Source: BBC Management<sup>20</sup>

**The changing nature of BBC services – a ten year view**

58 Between 2007/08 and 2016/17, the licence fee will have fallen by around 12% in real terms. The BBC has launched only one ‘traditional’ service during the current Charter, the Gaelic language television channel in Scotland, BBC Alba. Instead the BBC has focused on online, helping drive digital UK with the launch of the iPlayer and mobile apps. It has also spread substantial parts of its business across the UK’s nations and regions so that more than half of network television spend is made outside London, and more than half of BBC staff are employed outside London.

59 Looking at BBC Online specifically, while its importance as a way of delivering the BBC’s public purposes has grown, the scale and scope of the BBC’s online offer has actually narrowed during this licence fee period and its scale, measured by investment, has gone down for many years, despite the growth in its usage.

<sup>20</sup> <https://downloads.bbc.co.uk/aboutthebbc/reports/pdf/futureofthebbc2015.pdf>

**Figure 6: Trend in BBC Online (& Red Button) spend in real terms (2010 prices)**

Source: Nominal data taken from BBC Annual Report and Accounts

- 60 This was achieved by narrowing the scope of BBC Online from hundreds of individual sites to just five types of content: News/sport/weather; Radio & music; iPlayer & TV; Children's; Learning and Knowledge. In doing this, some sites were closed (such as Switch for teenagers or H2G2 for entertainment) and some (such as the gardening, homes, parenting sites) have been left without maintenance as archive only. Local sites were narrowed down to news, sport, travel and weather, with entertainment listings and other local content removed.

## Q6 What role should the BBC have in influencing future technological landscape including in future radio switchover?

### Summary

The BBC has always had a role in technology development to the benefit of licence fee payers and the broader media sector. While audiences do not expect the BBC to be a technological pioneer they do expect to be able to access the BBC's content easily however they choose, and want the BBC to keep pace with developments.

BBC radio's future should be a mix of broadcasting and Internet Protocol (IP) delivery to keep up with audience expectations, particularly younger audiences. DAB is another important part of this mix and Government decisions about digital radio switchover should be taken on the basis of a timetable led by listeners. In the event of a decision for switchover to take place in the next licence fee period, we do not believe that any move to 'top-slice' the licence fee for this purpose would be justified.

- 61 The BBC has played a leading role in developing technology since its establishment, from pioneering with the first colour television broadcasts in Europe to taking the first steps into the digital world with BBC micro-computers and Ceefax. Examples from the last Charter period include the completion of digital TV switchover (on time and on budget), HD television, the iPlayer, and enhanced Red Button services around events like the 2012 Olympics. Last year the BBC spent nearly £20 million on long term research projects and £83 million to support the development of new services and platforms<sup>21</sup>.
- 62 These innovations have been beneficial for licence fee payers and the broader media and communications sector, so it makes sense for the BBC to continue to have a remit in this area in the future. In particular, the BBC helps develop technology and software standards that underpin modern media. Without this, there is a risk that these would be defined by companies in other key markets, such as the USA and Asia, so undermining wider benefits for UK companies and start-ups. Having said that, the overall amount that the BBC allocates to research and development spending is a relatively small amount compared to other media organisations and it should recognise where technology that meets its needs is readily available on the open market.

### The BBC's role in technology

- 63 We commissioned audience research to test the public's expectation of the BBC's role in digital technologies (see Annex A). This clearly showed that audiences value highly products such as the iPlayer, the mobile Apps and Red Button and reinforced our previous findings in this area; that audiences expect to be able to access easily the full range of BBC services however they choose on a wide range of platforms and devices. Increasingly audiences also now want to personalise services to suit their needs.

<sup>21</sup> BBC 2014/15 Financial Statements <http://downloads.bbc.co.uk/annualreport/pdf/2014-15/BBC-FS-2015.pdf>

- 64 Both our qualitative and quantitative research confirmed that audiences want the BBC to ensure it keeps up to speed with technological developments – 68% of audiences thought it was important the BBC should continue providing and developing its services on newer platforms<sup>22</sup> – and within our consultation 75% thought it was either a medium or high priority for the BBC to do this. However, we did not identify a strong audience desire for the BBC to be pioneers in the field given the significant changes in the technological landscape since the days of Ceefax and the rise of global technology companies. BBC activity in this area should therefore be undertaken within appropriate boundaries. We do not think it would be appropriate, for example, for the BBC to seek to develop the next tablet computer or smartphone.
- 65 The key challenge for the BBC is to keep pace with audience expectations as technology develops. Through its work, the BBC can also help the wider industry. Over the course of the current Charter, the BBC Trust has worked with the BBC to ensure:
- When developing new technologies, the BBC does so on the basis of ‘open standards’ and balances (i) the value potentially delivered to licence fee payers and the economy by making such technology openly and widely available, with (ii) its market impact (which can be positive as well as negative).
  - Where practicable the BBC works in partnership with others towards these goals, through joint ventures such as Freeview, Freesat and YouView, commercial carriage agreements with Sky, Virgin and others, and through working with standards organisations and equipment manufacturers to sustain and improve the availability of its services.
- 66 As part of its wider responsibilities, the BBC also aims to help everyone in the UK get the best out of emerging media technologies. This is a valid role for the BBC to continue with under any new Charter. However, our research did identify that there is a need for the BBC to communicate better the aims of some of its wider digital initiatives such as iWonder and Make it Digital, as audiences told us they have a low awareness and limited understanding of the BBC’s role in these initiatives.
- 67 In order to deliver its Public Purposes effectively, the BBC will need to embrace and harness emerging new technologies so that it can reach its audience and different age groups through different mediums. While we have not proposed a specific ‘digital’ Public Purpose, we think that this will be an important element of how the BBC delivers all of its Public Purposes over the next Charter.

### Digital radio

- 68 We support the BBC’s commitment to a digital future for radio and its leading role in driving digital radio listening – through delivering high-quality content on its digital services, investment in the infrastructure, and in communicating the benefits of adoption to audiences. While the exact timing of any digital radio switchover is a matter for Government, this needs to be based on audience-led criteria being met. There are risks that changes in audience usage patterns, which are contributing to some decline in radio listening, could be reinforced or accelerated by any switch. The BBC can play its part in addressing these risks by working closely with the sector to improve digital experiences for all audiences via DAB, Radio over IP and mobile devices.

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<sup>22</sup> Charter Renewal Quantitative survey, ICM Unlimited, September 2015 (Annex A)

- 69 To continue to invest over the long term in both analogue and digital radio is not sustainable. Simulcasting analogue services in DAB adds significantly to the BBC's costs and its analogue networks would require considerable investment from the early 2020s.
- 70 The BBC should continue to pursue a hybrid strategy to support digital take-up and to make its digital radio content as widely available as possible. BBC radio's future should be a mix of broadcasting and IP delivery to keep up with audience expectations, particularly younger audiences. To support this, the BBC should continue to collaborate with industry to innovate e.g. in the development of hybrid (DAB and IP) capability. The Trust believes that Radio over IP in particular provides good opportunity for personalisation and on-demand delivery to improve connection with audiences (especially from younger age groups), through increased access to the full depth of content available. This also reflects the growing trend in how services are accessed through mobile and tablet devices.
- 71 Broadcasting through DAB will be an important part of this approach. The successful build out of the BBC's own DAB network means that, by the end of 2016, national coverage is expected to be 97%, an appropriate level for coverage to be deemed universal.
- 72 The BBC has also helped to fund the build-out of the local DAB infrastructure but some of the cost of this work will fall beyond the limit of the BBC's current commitment. These costs could be significant to enable reception in certain parts of the UK. Extra funding will also be necessary to support marketing and a potential switchover help-scheme to support the vulnerable.
- 73 In the event that the Government confirms that it wants digital radio switchover to take place in the next licence fee period, we would oppose any move to 'top-slice' the licence fee to pay for this, given that our acceptance of the funding agreement in the Budget was based on the assurance that no new obligations would be placed on the BBC.

## Q7 How well is the BBC serving its national and international audiences?

### Summary

Despite a growth in choice, the BBC continues to serve UK audiences overall very well. However, the greater diversity of the UK population has created challenges and gaps are growing between those who are very well served by the BBC and those who are not so well served.

The BBC has many bespoke services and programmes for the UK's nations and regions, but demand is growing – for instance for more relevant news in the nations. The BBC has made major interventions (such as TV production being moved out of London) but these have not yet resulted in sizeable improvements in audience perceptions of portrayal and more work is needed in this area.

The BBC World Service provides an internationally renowned service to international audiences. The BBC proposes expansions to the World Service although it will need to find appropriate funding in order to achieve this.

### National audiences

- 74 Within the UK, BBC reach remains almost universal at 97% with high average hours of consumption. Audience perceptions of the BBC are strong overall<sup>23</sup> and our purpose remit survey shows a modest improvement in people's overall impression of the BBC since 2008. So we think it clear that the BBC, which remains one of few broadcasters that can bring people across the UK together, continues to serve the UK audience very well, despite the huge number of alternatives people now have in information and entertainment.
- 75 However, beneath the surface there are growing disparities between how well the BBC serves different audience groups - with younger, less well-off and BAME groups increasingly less well served. The Trust has been clear that the BBC must work to rebalance how its TV, radio and online services serve different audience groups, for example by challenging the BBC Executive to:
- Improve on-air diversity in terms of gender and ethnicity. The launch of a regular industry measurement of this should help highlight where challenges lie and measure progress in addressing these.
  - Serve younger and BAME viewers better through its mainstream television channels, both of which have lost appeal to these audiences during this Charter period.
  - Focus BBC Radio 1 more on serving the young (which it has done) and Radio 2 to serve BAME listeners better – a work in progress.
- 76 In the next Charter period, this challenge is likely to grow as audience diversity continues to grow and people may have access to an even greater choice of services. However, there is still scope for the BBC to improve its performance by addressing the challenges cited above.

<sup>23</sup> BBC Accountability and Reputation Tracker survey

- 77 There is a major area of debate regarding how well the BBC serves licence fee payers in the devolved nations. The BBC already offers its major TV services, BBC One and BBC Two, with significant hours of opt-out news (with 16 different variations) and other programming for the devolved nations and English regions. It offers a range of radio stations with high-quality news and other output for each nation and at a regional level within England. Its support for indigenous language services has grown significantly during this Charter, with the launch of BBC Alba and the move of independent broadcaster S4C into licence fee funding, alongside BBC Radio Cymru, Radio nan Gàidheal and elements of BBC Radio Ulster/Foyle. The Trust believes that these services are an important part of how the BBC serves its audiences in the nations and that they should continue.
- 78 The Trust has supported a number of major BBC initiatives during this Charter period to improve the way in which the BBC portrays and serves the devolved nations and regions beyond London and the South East. These included:
- An impartiality review of the BBC network news reporting across the UK's nations<sup>24</sup> which led to major improvements in reporting of issues which are devolved across the UK.
  - Achieving the production of at least half of BBC network television programming outside London with the creation of sustainable production centres in the devolved nations. By 2015, it was producing 53%, already above its target for 2016.
  - The creation of a BBC centre with TV, radio and online activities in Salford. This contributed to the BBC being able to site more than half of its total staff outside London by 2015.
- 79 On the basis of these services and initiatives, the BBC's headline performance in the nations remains strong with key reach and appreciation measures remaining high in each nation.

**Figure 7: Reach (%) and appreciation (AI) of BBC TV and radio across the UK**

	UK	England	Wales	Scotland	N Ireland
All BBC TV Reach	82.5	82.2	85.4	83.4	81.6
All BBC TV AI	81.2	81.3	81.4	80.0	82.4
All BBC radio reach	65.6	65.6	75.8	57.3	63.1
All BBC radio AI	80.1	80.0	82.6	79.7	78.6

All figures for calendar year 2014; sources: BARB for TV reach, RAJAR for radio reach and BBC Pulse Survey for AIs.

- 80 However, underneath the headline measures relating to consumption and approval of particular programmes and services, it is also clear that there are some challenges facing the BBC in meeting audience expectation in the devolved nations and across the English regions. This is shown by the variance in 'general impression' of the BBC across the nations, where levels are noticeably lower in Scotland and Northern Ireland.

**Figure 8: Perceptions of the BBC across the UK**

	England	Wales	Scotland	N Ireland
General impression of BBC	7.0	6.96	6.23	6.60

Figures for Sept 2014-Aug 2015; source BBC Accountability and Reputation Tracker survey. Mean score out of 10.

<sup>24</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/review\\_report\\_research/impartiality/uk\\_nations\\_impartiality.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/review_report_research/impartiality/uk_nations_impartiality.pdf)

- 81 Top three and bottom three regions of England in terms of 'general impression' of the BBC shows a large variation between English regions too.

**Figure 9: Perceptions of the BBC in England: top three and bottom three regions**

English region	General impression of BBC
South East	7.23
South West	7.16
London	7.16
East Midlands	6.84
North West	6.73
North East	6.57

Figures for Sept 2014-Aug 2015; source BBC Accountability and Reputation Tracker survey

- 82 Research carried out annually by the Trust on the BBC's perceived delivery of its Public Purposes suggests that there are issues in two areas which may drive the lower audience perceptions of the BBC in some nations:

- Effective reporting of relevant news in each nation.
- Representation/portrayal (particularly on television) of different parts of the UK.

### Relevant news

- 83 In line with the move to greater political devolution, particularly in Scotland, during this Charter period, the need for greater commitment to reporting devolved issues has grown. As well as across the TV network, local radio can often provide a valuable way of providing relevant, local news coverage. The Trust, with advice from its Audience Councils, recognised the issue around news early in the current Charter period and in 2008 published an impartiality report<sup>25</sup> about the BBC's network news and current affairs and how it covered the UK in its four nations. This found that the BBC needed to improve the range, clarity and precision of its network news to reflect what is happening in the devolved nations. The BBC's provision of news services has improved in this respect but, as devolution continues across the UK, the task for network news to capture the diverging social and domestic agendas of all four nations and their people has become more and more challenging. The BBC will need to continue to respond to this.
- 84 We note that governments and political stakeholders in Scotland, Wales and Northern Ireland are calling for changes to the BBC's network and nations news output. The BBC recognises this challenge in its Charter document and is considering how to address it online and possibly also on TV or radio. The Trust is now consulting on these plans. The development of specific services is a matter for the BBC Executive in the first instance and we will share the results of our consultation on their proposals with them to inform any changes. The BBC has highlighted that it will need to prioritise the need for changes in this area carefully along with other priority initiatives in the context of an overall real terms decline in income.

### Audience representation

- 85 The Trust's tracking of the BBC's performance in promoting its public purposes shows that large minorities of people across all four UK nations believe that they are not well represented in BBC drama: 40% in England, 41% in Wales, 49% in Scotland and 38%

<sup>25</sup> [http://www.bbc.co.uk/bbctrust/our\\_work/editorial\\_standards/impartiality/network\\_news.html](http://www.bbc.co.uk/bbctrust/our_work/editorial_standards/impartiality/network_news.html)



in Northern Ireland<sup>26</sup>. Despite the BBC now siting half of its network TV production outside London and establishing production bases, such as the Roath Lock drama village in Cardiff, there can still be periods where specific representation of some nations and regions does not occur. It is important both to site production outside of London, and also to consider commissioning and use of locations and on- and off-screen talent. Issues around portrayal are becoming more complicated and reflect regional variances and cultural richness, including different languages and dialects. The question of representation in other genres, such as comedy and factual, is also one that requires further exploration.

- 86 The challenge is not only geographic: our latest qualitative research also showed a desire amongst BAME audiences for the BBC to portray them in a more authentic and relevant way across the network<sup>27</sup>. There is also some evidence that this also applies to different age groups, both across and within ethnic groups<sup>28</sup>. However, 60% of our consultation respondents thought that the BBC does either quite well or very well at representing and providing services for all of the UK's diverse communities and audience groups<sup>29</sup>. The BBC has committed to making improvements here and we think it important that there is accountability for this commitment in the next Charter to ensure improvements are made and sustained.
- 87 An important element of the approach is through wider work to improve diversity across the BBC both on-screen and off-screen, and especially in production. The BBC Executive set out their track record in their response to the Green Paper and the Trust believes that this focus must continue in the next Charter period, including through appropriate transparency and challenge via the governance and regulatory structures. Metrics about these areas could be included in the overall measurement of how well the BBC is meeting the proposed Public Purpose 'To reflect, represent and serve everyone in the UK'.

### International audiences

- 88 The BBC's reach internationally is growing, although it will need more investment to achieve its future aims. The BBC's global news services are the biggest driver of its reputation worldwide, reaching more people than anything else the BBC does. In 2015, broadcasting in 29 languages around the globe the audience of BBC World Service grew to 210 million people, with reach of its TV, radio and online services all growing. World Service English alone increased its audience by 26% in one year to 52 million people. Taking the BBC's commercial services into account, the total global reach of the BBC is now 308 million people.
- 89 However, the market for the BBC's international services is changing. Over the last ten years, World Service's portfolio has changed perhaps more than at any other time, to respond to changing audience needs: TV has become the main source of news in most countries around the world, and internet access is taking off, initially through use of PCs, and now even more rapidly via mobile devices. In response, World Service reached 3 million people in 2015 on You Tube and Facebook and an emergency Thai news stream, established after the Thai military seized power in a coup in May 2014, operates only on Facebook and has gained over 800,000 'fans' in an atmosphere of strict censorship.

<sup>26</sup> Source: BBC Trust Purpose Remit Survey 2015

<sup>27</sup> MTM Qualitative research for the BBC Trust, September 2015 – Annex A

<sup>28</sup> MTM Qualitative research for the BBC Trust, September 2015 – Annex A

<sup>29</sup> BBC Trust Charter Review consultation – Annex A

- 90 The BBC has regularly adapted its global news services, platforms and editorial to respond to international audience needs and this will need to continue. In many countries there are increasingly well-funded international news services as well as a host of commercial and increasingly globally focussed news providers, yet in some countries, news media are less free than ten years ago. This underpins the BBC's proposals to invest in services for Russia, North Korea, India, Nigeria, Ethiopia and Eritrea and to provide more regionalised content on the BBC Arabic service to sustain audiences in North Africa and the Gulf.
- 91 The BBC's goal remains to bring the highest quality and most engaging journalism it can to the largest number of people. By 2022, it has a stated aim to be the number one international news provider by audience size – contributing to a doubling of the BBC's global audience to 500 million weekly – as well as remaining the most trusted news source in the world.
- 92 The Trust believes that the BBC's global presence creates significant value for the UK as a nation, by portraying the best of British culture and values, and in doing so helping to sustain the UK's influence, values and reputation.
- 93 In 2014, funding responsibility for the World Service transferred from Government grant-in-aid to the licence fee. At around £250 million, its current funding is larger than most BBC UK public services and, while many of its services are accessible to UK audiences through digital radio and online, they are not aimed at meeting licence fee payer needs directly.
- 94 Although the transition to the licence fee did not trigger much criticism or controversy from a licence fee payer perspective (potentially due to low awareness), with growing constraints on BBC funding, we can see the potential for tension between spending on public services, which serve UK licence fee payers, and spending on the World Service, which is aimed primarily at people outside the UK. For this reason, the BBC has suggested a greater commercial ambition to fund its global expansion, increasing revenue from commercial sources and possibly from the UK government. The Trust remains open to a range of funding sources, each of which would need to be subject to further examination and analysis. We have already said that the BBC ought to be wary of accepting new Government funding without a very clear understanding of the terms on which that funding could be withdrawn and the impact of such a withdrawal<sup>30</sup>. The Trust also believes that the Government should consider whether the requirement for Secretary of State's approval for closure of services is appropriate given that the Government no longer provides funding for them.

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<sup>30</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how\\_we\\_govern/charter\\_review/green\\_paper\\_response.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/charter_review/green_paper_response.pdf)

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## Q8 Does the BBC have the right genre mix across its services?

## Q9 Is the BBC's content sufficiently high-quality and distinctive from that of other broadcasters? What reforms could improve it?

### Summary

The BBC's current genre mix appears to be broadly right in terms of enabling it to deliver its mission and public purposes. And the public expects and values a wide range of genres from the BBC – there is no public demand for a narrower BBC. We suggest that the genre mix remains an operational responsibility in the next Charter, with governance and regulation focussed on mission, purposes and values.

The public has very high expectations of the BBC in terms of quality, and these are mostly met. Distinctiveness is vital for the BBC but we do not see distinctiveness as something defined by market failure; rather taking its public funding as the means to aspire to achieve something that commercial media providers may not be able to or may not chose to do in a way that delivers public service.

While retaining its creative and editorial independence, the BBC should be more clearly externally accountable for its distinctiveness through the Charter and regulatory oversight.

### The BBC genre mix appears to be broadly right

- 95 The Trust believes that a range of genres is important as it is one of the key ways of ensuring that the BBC fulfils its public purposes. As we set out in response to Question 2 above, producing high-quality, distinctive content across a range of genres is integral to the universality of the BBC. The BBC's mixed genre services are the most effective way for the BBC to promote its current public purposes: news and current affairs on BBC One and BBC Radio 2 reach more people than on the BBC News Channel.
- 96 As the current Charter sets a remit for the BBC to '*inform, educate and entertain*' with six broad Public Purposes underpinning this, the Trust has focussed on whether the BBC's services promote these purposes, both individually and together, rather than creating a further framework of genre quotas and measurement. The Trust believes that within the confines of the BBC delivering its Public Purposes and meeting the terms of specific service licences, the precise genre mix should be an operational matter for creative and editorial discretion.
- 97 The BBC operates under a statutory framework which sets high minimum output quotas for original productions – i.e. programming made by or for the BBC and not acquired. Further to this, and also because we have found no evidence that audience expectations are not being met in terms of original programming, the Trust has not sought to set limits on the BBC's use of acquired formats or on its use of similar programme types to other broadcasters – for example, the offer of light entertainment on Saturday evenings. In fact, our latest qualitative research shows an unmet demand from the audience for more '*family entertainment*' programming from the BBC, particularly at weekends, alongside calls for '*original and creative drama and quality*

*comedy* (set out in more detail at Annex A). However, the BBC should not seek to replicate competitive channel content on a 'me too' basis and should always seek to develop distinctive formats of the highest standard that meet licence fee payer expectations.

- 98 The Trust has governed BBC activity by setting quotas for genres where there is some potential for under-supply, either by the BBC or in the market: for instance on television for current affairs, arts, religion. We suggest that these quotas should continue into the next Charter period and that the BBC's regulator should have the discretion to apply similar quotas if new areas of under-supply develop.
- 99 Where the Trust has found that a service is not delivering its public purposes sufficiently, it has intervened in the genre mix of that service: we asked BBC Radio 5 live to ensure that its reputation for news (which makes up 75% of its output) is as strong as it is for sports; earlier in the Charter, the Trust asked that BBC Two should begin to offer original UK drama again as there appeared to be a gap in the BBC's offer between what BBC One and the digital channels provided. The BBC's response to this request has paid off, as BBC Two now has a range of award-winning, distinctive dramas. The Trust also required the BBC to narrow its online service to focus on those genres – news and other information, knowledge and learning and catch up TV and radio – which were most effective at promoting the public purposes online.
- 100 Our new qualitative research shows that the public values a wide range of genres from the BBC: the top five most valued types of content were news and current affairs, documentaries, drama, sports, children's; and the public say that they want more family entertainment, drama, comedy and sports coverage from the BBC.
- 101 The current BBC genre mix is based on what is needed to support linear TV and radio services. This works for now as on-demand consumption of TV and radio remains very small. But as on-demand grows, the BBC will need to make trade-offs between what is needed for linear and what is needed to serve audiences with an on-demand offer. For example, the high volume factual entertainment which is popular on linear TV may be less important on-demand, while more top quality drama may be needed.
- 102 On BBC radio, a large amount of programming is live and topical but the importance of high-quality, in-depth speech and specialist music programming could grow in an on-demand market.

#### **Genre mix should remain an internal BBC responsibility**

- 103 The Trust believes that the BBC should continue to maintain flexibility at an operational level about which genre mix best enables it to deliver its public purposes effectively. We recommend the continuation of the existing statutory and service licence quotas for the next Charter. The BBC should continue to report its compliance with these annually, and Ofcom's tracking of the PSB TV supply of all genres will remain a useful means of ensuring that supply of genres across the market is adequate or of highlighting where regulatory intervention may be needed.

#### **The public has high expectations of the BBC's quality**

- 104 Audience research consistently shows that the public expects the BBC to offer high-quality content (in our latest quantitative research, set out at Annex A, 90% think that it is an important value). We have also found that it generally meets their expectations: our latest survey showed that 73% of the population agrees that the BBC offers high-quality programmes and content, while only 10% disagree with that statement (more detail set out at Annex A). Within our public consultation there was a

commonly held view that the BBC provides high-quality content and services but a minority do think that the BBC should concentrate on quality and not quantity.

105 For these reasons, in the BBC's performance assessment framework, quality is as important as reach and value for money as a measure of effectiveness for the BBC. And during this Charter period, the BBC and the Trust have been able to use a powerful tool for measuring the quality (and other attributes) of every TV and radio programme and online site: the appreciation index (AI). As part of the Trust's aim that the BBC should be more open and transparent, the BBC releases AI (and other) data each quarter<sup>31</sup>. The Trust has also used this measure extensively in its service reviews. We suggest that this level of accountability is retained in the next Charter.

106 Data for 2014/15 shows that perceptions of the BBC remain high: the average AI for BBC TV is 80.9 (out of 100); for radio it is 80.2 and for online 76.0<sup>32</sup>. They also show pressure on the figures though: BBC TV's average AI has fallen from 83.1 in 2012/13 and the online AI has also fallen a little. These figures have fallen for other UK PSB broadcasters too and we believe that this demonstrates the increasingly high expectations audiences have for TV and online content in particular.

107 We would expect the BBC to continue to be obliged to report on its performance in terms of quality perceptions, although it should have the flexibility to evolve its own performance measurement system during the Charter period.

### Distinctiveness is vital for the BBC

108 The mission, purposes and content characteristics<sup>33</sup> set for the BBC in the current Charter do not include any formal requirement for it to be distinctive. However, on the basis of the work that we and the BBC Executive have undertaken over the last eight years we strongly recommend that the future Charter sets out this requirement more clearly. We also recommend that the requirement for each BBC service to be distinctive should be included in its service licence so that what distinctiveness means in the context of that service is clearly set out and performance against that can be measured.

109 The Trust was not the first to judge the BBC in terms of distinctiveness: for example, in 2004, the government's review of BBC Online concluded that: '*BBC Online should be clearly distinctive from commercial offerings*<sup>34</sup>.

110 However, due to the lack of clarity over the concept at the start of this Charter, the Trust worked with the BBC Executive to agree a common definition<sup>35</sup> based on four values which apply to varying degrees in different BBC services and types of output:

- A. Range and depth: providing a range of output which serves a range of interests and including content with depth. This is the value given most focus by the BBC in its Charter document and is an important part of the distinctiveness of many BBC TV and radio services – see examples below.
- B. Creative and editorial ambition: taking advantage of public funding to have the freedom to take creative risks. This is important across many services and is of particular relevance in drama, entertainment, factual and comedy.

<sup>31</sup> <http://www.bbc.co.uk/aboutthebbc/insidethebbc/howwework/accountability/audienceinformation/>

<sup>32</sup> Data for 2014/15, reported in BBC Annual Report

<sup>33</sup> These are defined in clause 14 of the Agreement as: high-quality, challenging, original, innovative and engaging

<sup>34</sup> Philip Graf independent review of BBC Online for government, 2004

<sup>35</sup> See BBC Annual Report & Accounts, 2009/10

- C. High editorial standards: meeting the public's very high expectations of fairness, accuracy and impartiality. This applies across all output, but particularly for news and current affairs where it is core to the public's expectations of the BBC.
- D. Making content focussed on the needs of a UK, rather than international audience, and supporting indigenous talent. This is increasingly important in a more global media market where many high-quality TV programmes and much online content is produced for a global audience.

111 We have used this definition in our service reviews since that time.

112 Our other fundamental principles relating to distinctiveness are that:

- **Distinctiveness is essential for the BBC to justify its public funding:** The BBC needs to be able to show it is different from commercial operators in ways that are of value to audiences.
- **Delivery of the Public Purposes is not sufficient by itself to demonstrate distinctiveness:** While the BBC is unique in having its six Public Purposes as its main object, it is not the only organisation that is capable of delivering them. For example, *Sky News* or *The Independent* can deliver the citizenship or civil society purpose. Therefore, distinctiveness must lie in how the BBC promotes its Public Purposes.
- **Distinctiveness is a separate matter to market impact:** Some suggest that where BBC services lack distinctiveness this creates a negative market impact from the BBC. We do not believe this to be the case. Some of the BBC's most distinctive services and programmes are its most successful and popular, even if they are things that are similar to what the market provides. For example, BBC Radio 2 and BBC 6 Music have become more distinctive during this Charter period, but their audience reach and share have also grown. Similarly, the BBC's most popular TV show, *The Great British Bake Off*, is highly distinctive and draws its largest audience share. As set out in response to Question 2 above, audiences expect distinct content from the BBC, even if it is of a genre that is accessible on other channels.

### BBC services are generally distinctive

113 The Trust has used the four values which define distinctiveness in its programme of service reviews. It has found that most BBC services are distinctive according to these values. For example:

- **BBC Radio 1** and **BBC Radio 2** have greater range and depth than comparable music stations and focus on UK audiences and indigenous talent in their music mix. Radio 1 plays a higher proportion of new music than any commercial station and more new music from UK artists. It is recognised within the music industry as a vitally important platform for 'breaking' new artists and music. In this way, it is distinctive from commercial radio: Radio Centre analysis showed that 40% of the tracks played in daytime on Radio 1 were not played on any of 87 commercial stations sampled<sup>36</sup>. [The Trust Unit's own\*] analysis showed that the average overlap of tracks played on BBC Radio 2 in daytime and on commercial stations was only 9%. Our qualitative research for this Charter review showed that audiences value the diversity of the BBC's radio and music content.

<sup>36</sup> [http://www.bbc.co.uk/bbctrust/our\\_work/services/radio/service\\_reviews/music\\_radio](http://www.bbc.co.uk/bbctrust/our_work/services/radio/service_reviews/music_radio)

\* Text amended on 16-11-2015 to correct factual error in source of overlap between Radio 2 and commercial stations

- **BBC Radio 3** plays a wider range of classical music – not just orchestral, but other styles including chamber, opera and choral – than the UK's commercial classical music station, Classic FM, and it plays longer pieces and music from a much wider range of composers. It should also be noted that when the entirety of the output of BBC Radio 3 is considered it is a manifestly different service, including an even wider range of music and concerts, as well as speech and drama.
- **BBC Online** has grown in importance during this Charter period as a way for licence fee payers to access the BBC's content and unlike the online content of other UK broadcasters, it is regulated to conform to high editorial standards in accordance with the BBC's Editorial Guidelines, as well as ensuring a focus on serving a UK audience, which is rare online. These have made it a widely used and highly trusted source for UK audiences. Similarly, its focus on UK users – whether this is in its news or education offer – give it a distinctive relevance to licence fee payers.
- The **BBC's television channels** compare well with commercial offers in terms of range and depth. Further to this, the key distinctiveness value highlighted by the Trust has been **creative ambition** which we identified as a performance challenge for the BBC on the basis of audience research early in the Charter period.
- The Trust has some evidence which suggests that **some viewers feel that the BBC could do more** in this area. Research carried out for our service review of BBC TV<sup>37</sup> and for this Charter review<sup>38</sup>, both show that there is a perception that the BBC 'plays it safe' in its programming and scheduling, particularly on BBC One. As a result of the service review and in its provisional conclusions on the Public Value Test covering the proposed closure of BBC3 as a broadcast channel, the Trust has asked the BBC to find more ways to take creative risks and support new talent.
- A measure ('**fresh and new**') is used widely within BBC Television to track performance in this area for every programme and, aggregated, for each TV service. These scores are published on a quarterly and annual basis. BBC television's scores for 'fresh and new' have been rising in recent years – from 70.6 in 2012/13 to 73.3 in 2014/15.

114 Although our quantitative research showed that 60% agreed that BBC provides content and programmes which are distinctive<sup>39</sup>, we believe that the BBC should be held more clearly accountable for delivering services that are distinctive. Therefore, this requirement should be included within the BBC's core purposes.

115 We also believe that each service licence should identify how that individual service will be distinctive so that an assessment against this can be made periodically. This will ensure that the BBC is more accountable for its performance in this area. While each and every BBC programme should aspire to be distinctive in some way (against at least one of the four headings set out above), not every programme will always succeed. Measurement and assessment of distinctiveness should remain at a service level rather than on a programme by programme basis if it is to avoid unduly fettering risk taking, editorial innovation and creativity.

<sup>37</sup> [http://www.bbc.co.uk/bbctrust/our\\_work/services/television/service\\_reviews/television\\_services.html](http://www.bbc.co.uk/bbctrust/our_work/services/television/service_reviews/television_services.html)

<sup>38</sup> MTM Qualitative research for the BBC Trust, September 2015 (Annex A)

<sup>39</sup> ICM Unlimited Quantitative research for the BBC Trust August-September 2015 (Annex A)

## Q10 How should the system of content production be improved through reform of quotas or more radical options?

### Summary

The current arrangements for content supply have facilitated creative competition between BBC in-house production and independent producers, but need changing to reflect changes in the sector.

We have recently received a set of proposals from the BBC to open up BBC production to more competition, and establish a production business – BBC Studios – as a new commercial subsidiary to the BBC. Following our consultation we will submit our advice to Government on how well the different options serve the interests of licence fee payers over any new Charter period.

### The current content supply arrangements

- 116 The current arrangements for content supply were changed at the start of this Charter. Reflecting on the introduction of the Window of Creative Competition (WoCC) since 2007, the overall consensus from industry and other stakeholders who contributed to the Trust's most recent content supply review was that it has been an important and effective regulatory intervention. It has facilitated creative competition between BBC in-house production and independent producers and has helped embed the principle of choosing the best ideas in the BBC's commissioning culture more generally over the period. Ultimately this benefits licence fee payers who believe that the BBC should be held more clearly accountable for delivering services that are distinctive.
- 117 However, for television, the performance of independent producers in winning contestable commissions, combined with significant developments in the wider market seen over this Charter period (particularly increasing consolidation of production companies and foreign ownership) have led us to conclude that the current arrangements are not sustainable in their existing form over the longer term. The WoCC in its current form is no longer stimulating wide, creative competition as effectively as it had done in previous years and there is a strong case for change by at least reducing or potentially removing the in-house guarantee.
- 118 For radio and online, the scale and dynamics of the respective markets are clearly different from those for TV but we believe the principles of competition and openness should similarly apply to these arrangements. As such, it is the right time to also consider whether changes to these quotas might better meet the needs of licence fee payers and help develop the wider market. For online, the production of such content looks set to increase in importance for the BBC over the next decade as it considers its public service remit in a progressively digital environment.

### BBC proposals

- 119 We have recently received a set of proposals from the BBC to open up BBC production to more competition, and establish a production business – BBC Studios – as a new commercial subsidiary to the BBC. The Trust is keen to gain a wider view on these proposals and has opened them up to public consultation over the next two months. We are also inviting stakeholder views on the alternative options to the reform of the



BBC's arrangements for content supply as set out in the Charter Review discussion document.

120 Following this consultation we will submit our advice to Government on how well the different options serve the interests of licence fee payers over any new Charter period. This will be published and will set out a more detailed response about the Trust's answer to this Question. We will consider each of the policy options against the following five principles for content supply we consulted on as part of our recent supply review<sup>40</sup> which are designed to put the interests of licence fee payers at the heart of any future arrangements.

Principle one	Securing high-quality and creative content across all genres
Principle two	Providing value for money to licence fee payers
Principle three	Using a wide range and diversity of supply with fair access across all genres and from across the UK
Principle four	Securing a sustainable production supply in terms of skills and capacity
Principle five	Maintaining appropriate separation between publicly funded BBC activity and its commercial services

121 The current Charter and Agreement do not allow for some of the options for reform to proceed, so it is for the Government to decide whether or not to make the necessary legislative changes. As part of this, should the Government consider that establishing a commercial BBC Studios business is an appropriate approach in principle, the Trust would, in accordance with current requirements, apply its established regulatory processes for assessing BBC Studios' compliance against the approvals framework for the BBC's commercial services and/or public services (as appropriate). This would include compliance with the Trust's Fair Trading Policy and with relevant law as well as ongoing regulatory scrutiny. Were the government to indicate that the BBC Studios proposal was something that they were willing to permit in principle when it publishes its White Paper, the Trust would begin its more detailed regulatory assessment at that point (subject to receipt of the necessary detail from the BBC).

### The nations and regions

122 The Trust is clear that, under any new arrangements, the BBC should continue to commission content from a wide range of producers across the UK. Our content supply review found that the BBC's network television supply strategy and the Trust's targets pursuant to this (50% of network TV production spend from outside London by 2016 and, within this, at least 17% of its network production spend from Scotland, Wales and Northern Ireland) have been effective interventions, having contributed to an increase in the plurality of supply as well as to the growth of production skills outside London. However, we concluded that network supply outside London needs active intervention by the BBC which goes beyond the requirements of meeting quotas and towards the achievement of sustainable outcomes in the devolved Nations and English regions. To deliver this, the BBC's production centres across the UK will need to work together with the independent sector based in different parts of the UK to develop creative, sustainable, local ecologies.

<sup>40</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/our\\_work/content\\_supply/2015/content\\_supply\\_review.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/our_work/content_supply/2015/content_supply_review.pdf)

### 3 BBC Funding

#### Q11 How should we pay for the BBC and how should the licence fee be modernised?

##### Summary

The licence fee, modernised to address questions around catch-up viewing, has the highest support of any option to fund the BBC for the next five years. We urge the Government to bring forward the necessary legislation to modernise the licence fee in line with their commitment in July. Changes to funding mechanisms after this five year period do not need to be agreed now, and should have careful consideration and bespoke public and industry consultation. Our evidence shows that the public does not support a subscription-funded BBC and we believe it would be both impractical and at odds with a universal public service.

We also support the conclusions of David Perry QC's review on options for licence fee enforcement and look to Government to support its conclusions.

##### The Budget settlement

123 Through the Budget the Government has provided a financial framework for the BBC through to 2020/21. We support the continuation of the licence fee for the next Charter period. Among the public it remains the way of funding the BBC with the highest approval. We also welcome the Government's decision to modernise the licence fee to address questions around catch-up viewing, and look to the Government to make the necessary amendments to the legislation in 2016, as agreed in the Budget settlement (and we note that the Government repeated that commitment in the Green Paper, saying it would bring forward the necessary legislation within 12 months of July 2015). We think that the Government should set out a clear timetable as soon as possible, setting the steps to agree the precise scope of the changes (e.g. the types of on-demand viewing that should require a TV licence in future), and the steps required to make the legislative changes.

124 In light of the Government's licence fee statement and commitment that people aged over 75 should receive a free TV licence until at least 2020, by then fully-funded by the licence fee, the mechanism for funding the BBC is settled for at least the next five years. Any change beyond that point will need careful consideration and bespoke public and industry consultation.

125 The Budget in July 2015 committed the Government to a financial framework for the BBC for next five years including increasing the licence fee in line with inflation. This effectively set out the amount of funding that the BBC should expect. The financial framework was subject to there being no substantial change in scope of the BBC and the BBC demonstrating efficiency savings in line with the wider public sector. The Trust's position, based on public consultation, is that the current scope of the BBC should be broadly maintained. We also consider the BBC to be delivering effectively on the challenge to be ever more efficient, where its track record puts it ahead of other

parts of the public sector. More detail on the BBC's efficiency record and future plans is set out in response to Question 13 below.

### Process for determining the level of funding

126 As set out at the time of the Budget in July 2015, the BBC Trust has concerns about the lack of transparency in the process that was followed by the Government in reaching its decisions about the funding framework. The Trust believes that this approach had the potential to undermine the independence of the BBC, in particular because licence fee payers had no opportunity to make their views known. The lack of clear process about determining funding levels for the BBC endangers the organisation's financial stability and threatens its ability to engage in long-term financial planning. In particular, the existence of a funding 'cliff edge' (whereby the BBC's funding and its very existence come to an abrupt halt at the end of the Charter period) makes it harder to commit with certainty to investment needs of key genres. The Trust also believes that it is inconsistent with how other public sector organisations independent from central government are treated, for example, those engaged in delivery of public infrastructure and services such as Network Rail, as they have a clear and agreed process.

127 In light of this, the Trust believes that the Charter and Framework Agreement for the next Charter period should set out a clear and public process for determining the appropriate level of funding (and therefore the level of the licence fee) for the BBC. This should include opportunity for input from the licence fee payer and proper democratic scrutiny, for example through Parliament or Government consultation. We think there is an argument for giving the body regulating the BBC a new role to advise the Government in such a process. This could be analogous to the price determination reviews that take place in the regulated utilities sector. Such a process should be sufficiently far in advance of the ending of the previous deal to allow long-term planning and questions about continuity of funding to be resolved in a way that ensures value for money.

### Other funding options

128 The Green Paper asks questions about the longer-term funding model. We recognise that in the longer-term, the mechanism for funding will need to continue to be updated although we do not think that this needs to be agreed now. We support the Government's proposal to rule out advertising and funding through general taxation. We disagree with the suggestion, in the longer term, of moving the BBC to a full subscription funding model. This would be at odds with the principle of a universal public service BBC, which should continue to provide its content free at the point of use to all households on an equal basis. We do not, therefore, support the idea of subscription funding for the BBC's public services.

129 The Green Paper specifically consults on three medium-term options for BBC funding:

- The continuation of the (modernised) licence fee.
- A universal household fee.
- A combination of public funding and subscription only services.

130 We consulted the public on these ideas as well as testing them through qualitative and quantitative research (Annex C):

- Out of the three options presented in the Green Paper, our quantitative research found no obvious consensus of the best way to fund the BBC in the longer-term; although less than a quarter favoured a part-subscription model and nearly 60% favoured a universal style fee (either the existing licence fee system, updated or a

household levy)<sup>41</sup>. However our public consultation showed that 53% of respondents giving the updated licence fee system a high score. Almost one in five were not sure or did not favour any of these methods.

- The qualitative research showed that retaining but reforming the licence fee was the most acceptable funding method. Closing the iPlayer loophole was generally seen as sensible and fair. Similarly our public consultation indicated that in broad terms audiences think that the licence fee works, but needs to be improved and modernised to reflect changes. Many felt that the licence fee needed to be updated specifically to include BBC iPlayer.
- The universal household levy was viewed similarly to the current licence fee. It divided opinion as some saw it could be more efficient and more progressive, which could lead to a lower fee overall and a fairer system if linked to income or household size. It would also address the increasing range of ways to access BBC content beyond traditional TV sets. However, some were concerned it could lead to undue Government influence if it were gathered through what they saw as another means of taxation.
- The mixed public funding and subscription had superficial appeal for some audiences, particularly those who were attracted to possible elements of choice. But they also recognised it had potential to be complex and costly to administer, could be more expensive and lead to escalating prices like some other subscription packages. Concerns were expressed about which services would be subscription only and who would decide what was basic and what was subscription only. This method was also felt to undermine the fundamental principle of the BBC being for everyone. Other concerns were expressed by respondents to our public consultation, including the impact on the quality of programmes. Within the consultation this option had the lowest level of support with only 16% giving it a high score.

131 More broadly, it is clear that there are many practical issues with a part subscription model for funding the BBC. Our evidence suggests that everyone would have a different definition of what should be in the core licence fee funded part of the BBC and what should be only available only to subscribers – who would decide where the boundaries should be and how they should be drawn? How could BBC commissioners and content producers operate under the right incentives to deliver the core public service without being distracted by commercial incentives to increase subscription revenues? While TV and radio broadcasting continues to be based in large part on terrestrial transmissions, there are also significant practical and financial barriers to implementing a ‘conditional access’ system, which would undermine any attempts to section off parts of the BBC for subscribers only.

### Enforcement

132 We support the conclusions of the *TV Licence Enforcement Review*<sup>42</sup> undertaken by David Perry QC’s review on options for decriminalisation<sup>43</sup> which recommended no fundamental change in the sanctions regime under the current licence fee model. We agree that, while the current licence fee system exists, the current enforcement mechanism represents a broadly fair and proportionate response to the problem of licence fee evasion and provides good value for both the licence fee payer and

<sup>41</sup> ICM Unlimited Quantitative research for the BBC Trust August-September 2015 (Annex A)

<sup>42</sup> <https://www.gov.uk/government/consultations/tv-licence-enforcement-review-a-consultation>

<sup>43</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/445212/166926\\_Perry\\_Review\\_Text-L-PB.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/445212/166926_Perry_Review_Text-L-PB.pdf)

taxpayer. We think that David Perry QC has produced a well-researched and cogently reasoned report and hope that the Government will find its conclusions compelling.

133 The review did, however, identify scope to improve the current system and we will ask the BBC to pursue those recommendations that relate to the way TV Licensing currently operates, all of which we accept. We also note the review's conclusion that the investigation and enforcement process would be more efficient if cable and satellite companies were required to share their subscription information with TV Licensing and believe that the Government has an important role to play in encouraging this to happen.

134 We note that in accordance with the Deregulation Act 2015, the Secretary of State is under a statutory duty to set out, within three months of the Review being completed, the Government's response and steps to be taken. We look forward to this response on this timescale.

## **Q12 Should the level of funding for certain services or programmes be protected? Should some funding be made available to other providers to deliver public service content?**

### **Summary**

Ring-fencing parts of the licence fee for certain activities undermines the BBC's independence, and contestable funding would put at risk the level of BBC investment and reduce accountability to the licence fee payer.

Evidence suggests there are better ways to spread the benefits of the licence fee in ways consistent with the BBC's purposes and leaving the licence fee within the BBC's control.

### **Ring-fencing**

135 Over the three most recent licence fee settlements (2006, 2010, 2015), the BBC has taken on obligations to fund projects at the Government's behest. Some, like helping fund the digital switchover help scheme, have had a direct link with the BBC's own mission or Public Purposes. Others however, such as the roll-out of broadband or helping fund Local TV stations, have been Government projects with little or no link to the BBC and the arrangements have muddled accountability for delivery and value for money. Furthermore, taking on these projects or accepting any other form of Government funding has proved to be problematic for the BBC – drawing it into the Government Spending Review in 2010 and the Budget in 2015.

### Case study: Local TV

As part of the 2010 licence fee settlement the BBC was required to help with the Government's policy of establishing local TV channels by making up to £25 million available to build a local television multiplex and up to £5 million a year from 2014-15 to acquire content. This means that by the end of this Charter period, up to £40 million of licence fee payers' money will have been spent on local TV. In 2012, Ofcom licensed a private company to build and operate the multiplex, and the BBC has paid a grant to that company (from licence fee payers' money) to fund its construction. To date Ofcom has licensed 34 local TV channels to operate on that multiplex, although only 20 stations are actually operating at present.

Local TV has multiple stakeholders and interested parties but no single body responsible for ensuring its success, and no clear accountability back to the licence fee payers who are paying for it. In effect, it is a Government policy which falls to be implemented by a combination of Ofcom, the BBC Executive and the BBC Trust, and the individual companies licensed to provide the multiplex and the channels. The Trust was given objectives such as ensuring value-for-money and benefits to local communities but was not set up to administer grants and has been reliant on indirect controls (such as scrutiny of applications for grant, and audit rights) to try and ensure that the licence fee is properly and efficiently spent. Thus, the BBC does not determine overall policy; nor does it either manage or regulate the companies that are directly responsible for spending licence fee payers' money.

136 The agreement for the licence fee to fund local TV ends in 2017. We also welcome the decision to phase out licence fee funding for its broadband programme, but are concerned by the Government's suggestion that it might want to 'protect' or ring-fence a proportion of licence fee funding in future. This applies both to projects outside the BBC but also any sense that the Government or any body other than the BBC (except possibly its regulator) would ring-fence the BBC's spending on certain types of programmes or content – it is a critical plank of the BBC's independence that such decisions are made by the BBC itself.

### Contestable funding

137 We also have some significant concerns about the idea of a contestable pot of funding from the licence fee that any broadcaster can bid for to provide programming in particular areas - on both principle and practicality; not least as experience shows that creative and editorial decisions are best left to editorial and creative leaders, as opposed to technocratic committees. Of course, it is difficult to comment with precision or test this concept with audiences in the absence of a specific proposal, and our efforts to do so found no clear consensus among audiences, although in qualitative research groups there was a degree of concern and confusion about how any contestable fund would be implemented, who would take the decisions and whether there would be damage to the BBC and the quality of its output<sup>44</sup>.

<sup>44</sup> MTM Qualitative research for the BBC Trust August-September 2015 – Annex C

138 Indeed, the Green Paper itself highlights many of the pitfalls with contestable funding. It would add uncertainty to the BBC's funding and be costly and bureaucratic to administer. These risks are highlighted by Ofcom's statutory review of the Public Service Broadcasting system, published in July<sup>45</sup>, which highlights challenges of "uncertainty of funding, undue bureaucracy in implementation, reducing the actual funding of PSB content" amongst others to be resolved. It is also not clear what demand there would be from other broadcasters given that such output would still be funded by the licence fee: audiences would expect it to abide by the same editorial standards as content shown on the BBC, would expect it to be high-quality and distinctive, and those that acquired contestable funding would need to be able to demonstrate its value for money to licence fee payers. Finally, given the BBC's broader funding constraints there are risks that taking money away for such purposes would not necessarily increase the overall funding for a particular genre. In summary, and basing our judgement on research, we do not believe contestable funding would benefit licence fee payers.

### **An alternative approach to top-slicing**

139 The Government may feel there is a need to specify funding protections for certain services or genres. If implemented, we would consider this to be a very concerning step towards editorial interference. There are, moreover, ways to achieve this while leaving decisions about the spending of the licence fee within the BBC's control and retaining direct accountability to licence fee payers. We believe that this latter point is of paramount importance in the stewardship of licence fee payers' money.

140 In the past interventions have been made so that more of the licence fee is used to support the wider creative economy. For example, the introduction of guarantees for levels of spend for independent production companies, and the window of creative competition, were interventions which diverted the licence fee into the creative economy, promoting competition for the best creative ideas while keeping financial control and accountability within the BBC and benefiting audiences. Similarly, another emerging example is the BBC's proposal around local journalism, which it announced in September<sup>46</sup>, and we are now consulting on<sup>47</sup>, and which has been developed to fit within such a framework. We believe that this type of approach – where the BBC is given a clear mandate to achieve a certain outcome that is in keeping with its own business and Public Purposes – could conceivably work without compromising the BBC's accountability or independence. However, we would want to consider the merits of any such proposals, including gathering licence fee payers' views, on a case-by-case basis.

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<sup>45</sup> Ofcom, Public Service Broadcasting in the Internet Age, July 2015 (paragraph 6.15.4)

<sup>46</sup> <https://downloads.bbc.co.uk/aboutthebbc/reports/pdf/futureofthebbc2015.pdf>

<sup>47</sup> <https://consultations.external.bbc.co.uk/bbc/future-ideas/>

## Q13 Has the BBC been doing enough to deliver value for money? How could it go further?

### Summary

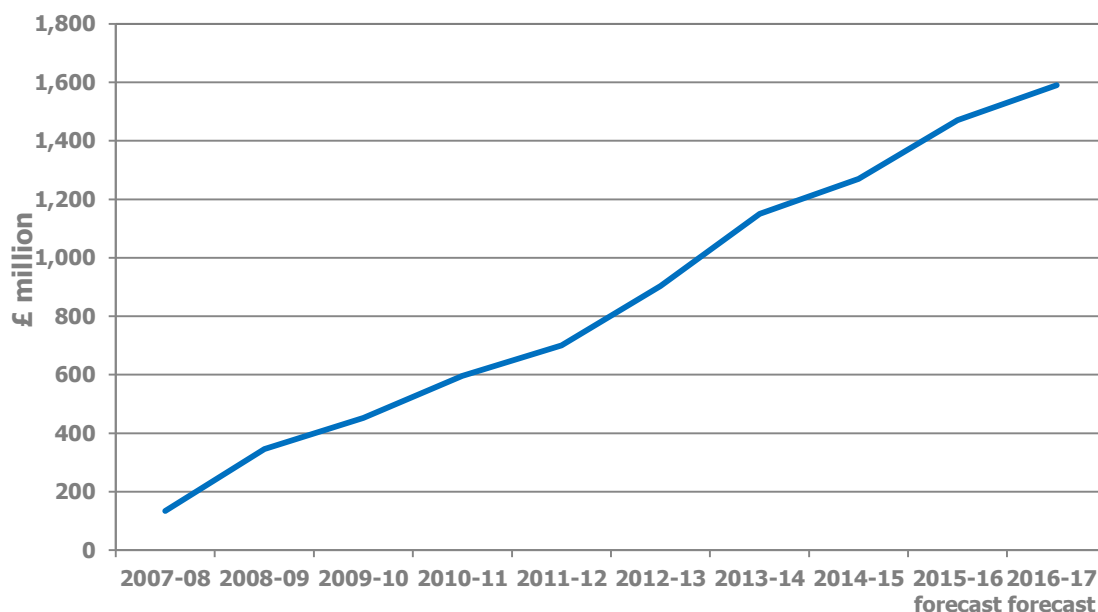
Independent reviews from both the National Audit Office and PwC have recognised the progress the BBC has made in becoming more efficient over this Charter period. There is more work to be done – significant further savings are planned before the end of the existing Charter – and there is scope to make further efficiency savings in the next Charter period, albeit that these may be more limited.

It is clear that changes to the existing services will also be required to meet the funding constraints and the BBC has begun a process to determine where the required savings can be made.

### The BBC's efficiency track record

141 The BBC has been criticised for its efficiency record in the past, but it is a much more efficient organisation now than at the start of the Charter. The BBC is on track to deliver £1.6 billion cumulative annual savings by the end of the current charter period in 2016/17 and so far has delivered £1.25 billion towards this target.

**Figure 10: Cumulative annual savings from 2007/08 to 2016/17 (£million)**



Source: BBC management data

142 This has allowed the BBC to fund new services like the iPlayer, High Definition television and digital switchover, to absorb a licence fee freeze and to pay for services which would otherwise need to be funded by taxation, such as the BBC World Service, S4C and the roll-out of broadband infrastructure. As a consequence, households are getting more, for less.



143 The BBC has made some mistakes and these have been well documented, but lessons have been learnt and the organisation is now more aware of the need to keep tight control of staff costs, investment in technology, and back office expenditure.

144 In 2012, the Trust set the most recent *Delivering Quality First* (DQF) saving targets. Before doing so, we engaged Ernst & Young to review the efficiency plans to ensure the targets were set at the right level. We also carried out a public consultation to assess the likely impact of the cuts on the audience and in some areas (like English local Radio) we asked the Executive to revisit their plans to minimise their impact.

145 Since 2012, the Trust has been monitoring implementation closely. We have been tracking the savings and monitoring their impact on the services to ensure that efficiency cuts are not having an unexpected adverse effect on the audience. As well as carrying out and commissioning our own work, we have worked closely with the National Audit Office (more detail in answer to Question 18 below). In areas like talent pay and senior manager pay, where the public has expressed particular concerns, the Trust has intervened more directly.

#### Case study

##### Senior manager costs

In 2011 the BBC Trust and Executive agreed a strategy for senior manager pay and numbers, covering the period to December 2015. Since then the number of senior managers employed by the BBC has fallen by 71 to 413, a 15% reduction. As a consequence, the senior management pay bill has also reduced by 13% in real terms. More recently, the Trust has been encouraging the Executive to strengthen controls around overall headcount and simplify management structures. The Executive's work in this area is ongoing, but we anticipate that further savings will follow.

##### Talent pay

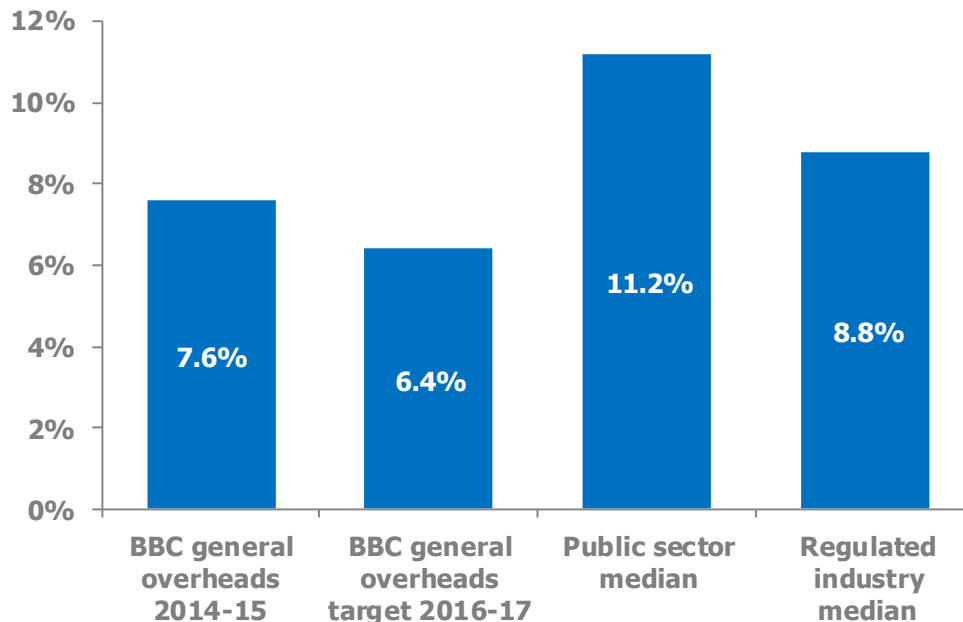
In 2009 the Trust asked the Executive to reduce talent costs with a particular focus on top talent. In 2014 we commissioned O&O to carry out a VFM review to establish what progress had been made. The review found that the BBC has reduced expenditure on pay for top-earning BBC talent by 29% in five years, and overall spending on talent by 15%. The review also found that there has been a cultural change at the BBC since 2008 both in terms of learning when to let talent go, and also applying greater and more consistent scrutiny to deals<sup>48</sup>.

146 The National Audit Office and PwC have both recognised the progress the BBC has made. PwC's assessment of the BBC's overheads published in July 2015<sup>49</sup> concluded that the BBC now ranks amongst the most efficient organisations in the public sector and regulated industries in terms of managing overheads. Overhead costs are 7.6% of total costs and are expected to fall below seven per cent by the end of the current Charter - well below both the public sector average of 11.2% and the regulated industry average, 8.8%.

<sup>48</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/review\\_report\\_research/managing\\_talent/managing\\_talent.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/review_report_research/managing_talent/managing_talent.pdf)

<sup>49</sup> [http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/reports/pdf/bbc\\_report\\_pwc\\_update\\_overheads\\_efficiency\\_review.pdf](http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/reports/pdf/bbc_report_pwc_update_overheads_efficiency_review.pdf)

**Figure 11: BBC general overhead ratio compared with public sector and regulated bodies**



Source: PwC efficiency review - update on the BBC's overheads (July 2015)

147 The National Audit Office has recognised the progress the BBC has made, having concluded in a recent report that 'Delivering Quality First, the BBC's ongoing cost reduction programme, has so far delivered value for money.'<sup>50</sup>

148 To date, targets have been met with only limited impact on the services. The BBC still reaches 97% of the population every week and key performance metrics like audience appreciation remain strong. However, as the NAO points out in their review of DQF, many of the harder-to-find savings are still to come.

149 Around £320 million annual savings are still to be delivered under the existing cost reduction programme. Around half of these can be met through further efficiencies in areas like property and people. The other half will require service cuts like the proposal to move BBC Three online and reducing expenditure on sports rights.

150 Changing viewing habits have meant that the proportion of houses which have a TV licence has fallen faster than anticipated at the start of the Charter. TV penetration is still high at around 95% but is on a downward trajectory and even small percentage changes have a big impact because of the size of the figures involved. Mainly as a consequence of this decline, the BBC is forecasting that annual savings in excess of £150 million will be required by 2017/18 on top of the existing savings plan. The scale of these savings is requiring the BBC to carry out a fundamental assessment of the resources needed to deliver the BBC's objectives, rather than simply chipping away at the existing cost base. Some of the savings will be achieved through further efficiencies like cutting headcount<sup>51</sup> ongoing senior manager pay restraint and removing layers from the BBC's management structures, some by growing commercial income and some by changes to BBC services.

<sup>50</sup> <http://www.nao.org.uk/wp-content/uploads/2015/03/Reducing-costs-through-delivering-quality-first.pdf>

<sup>51</sup> The Director-General has already announced an efficiency target of £50million by the end of the current Charter period which will impact 1,000 jobs.

### Future efficiency savings

- 151 Looking beyond the current Charter, we engaged PwC to consider what level of efficiency savings might be possible over the proceeding ten years. Their assessment was based on a detailed analysis of the BBC's main areas of operation taking into account wider market and technological developments to predict the scope for future savings.
- 152 They concluded that the significant, sustained savings achieved in recent years reduces the scope for future savings but that cumulative annual productive efficiency savings of between £190 million and £329 million could be possible by 2027. The upper limit of this range is broadly equivalent to saving 1% year on year - a cumulative annual saving of around 10% of the addressable cost base by 2027.
- 153 In their Charter document, *British, Bold, Creative*<sup>52</sup> published on 7 September 2015, the BBC state that a further one percent could be saved year on year without a significant impact on the audience by changing things like the mix of programmes in the schedule and by mitigating inflation through long-term contracts.
- 154 The implication is that savings greater than 2% a year could not be met through efficiency alone. The BBC has estimated that savings of £700 million a year by 2021/22 or 3.5% year on year will be needed to meet the terms of the recent funding agreement with the Government, to close the gap due to falls in TV penetration and to fund the new proposals set out in the BBC's Charter strategy document. Some of the shortfall can be met by growing commercial income but it is clear that service reductions will also be required.
- 155 As the BBC's new public purposes are developed it will become easier to determine where the required savings can be made. PwC's analysis assumes that there will be no further changes to the BBC's scope, mix or quality of content and that the BBC's purpose remains constant throughout the next Charter period. These issues are, of course, being considered as part of the Charter review process and through our public consultation, the Trust is gathering audience views.
- 156 In his evidence to the Culture, Media and Sport select committee, the Comptroller and Auditor General Amyas Morse emphasised the importance of adopting a 'destination based' approach to cost savings. This involves developing a clear picture of what a lean organisation should look like taking into account an organisation's objectives and then considering how best to achieve that goal. The BBC's work on headcount, management layers and senior manager pay, set out above, is evidence of the BBC adopting this approach under the existing framework of objectives, but as a new set of Public Purposes emerge from the Charter debate, the BBC will be in a stronger position to consider where the required service reductions could be made.
- 157 On the basis of the BBC's track record since 2010, endorsed by independent analysis from the National Audit Office and PwC (described above), the Trust believes that the BBC has demonstrated the capability to make efficiencies in line with, or potentially in excess of<sup>53</sup>, the wider public sector. The extent of the savings required in the next Charter period means that there will need to be a continued focus from both the BBC management and those exercising oversight of the BBC, as well as externally from the NAO.

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<sup>52</sup> <https://downloads.bbc.co.uk/aboutthebbc/reports/pdf/futureofthebbc2015.pdf>

<sup>53</sup> From 2005/6 to 2014/15 the BBC delivered cumulative annual net efficiencies of 36% compared with 27% in government [http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/bbc\\_efficiency\\_report\\_2014.pdf](http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/bbc_efficiency_report_2014.pdf) (page 14)

## Q14 How should the BBC's commercial operations, including BBC Worldwide, be reformed?

### Summary

BBC Worldwide owns the intellectual property rights from BBC content that has been paid for by licence fee payers. It is the steward of licence fee payers' assets and acts in order to realise greater benefits for the licence fee payer. BBC Worldwide makes a vital contribution to the BBC, investing in public service programmes, making and generating substantial returns for licence fee payers. We do not believe that the privatisation or sale of BBC Worldwide would be in the interests of the licence fee payer but further consideration of ways to build its value for licence fee payers is sensible.

### BBC Worldwide

- 158 The BBC has been making its own content since it was founded in 1922 and it owns the intellectual property rights to this content. Content is paid for by the licence fee payer and BBC Worldwide owns this content on their behalf. BBC Worldwide acts as stewards of the licence fee payers' investment in content and seeks to maximise the value of it. This profit is invested in further content creation and running costs of the BBC to benefit the licence fee payer.
- 159 Vertical integration of content supply and exploitation of IP is already the established business model for many UK and international media companies and global market consolidation makes the use of this model even stronger. As use of different technology to access content, in particular Video on Demand, grows so will the need for vertical integration in order to serve audiences successfully. In the context of BBC Worldwide, ownership of IP in UK originated content will be critical.
- 160 BBC Worldwide is integral to the BBC in ensuring that licence fee payers who fund the creation of BBC content get full value for their investment. Worldwide makes a vital contribution to the BBC, investing in public service programme making and generating substantial returns by exploiting the commercial potential from BBC content both globally and within the UK. This value is generated because of its position within the BBC and its access to BBC content rights through a first-look option.
- 161 Since 2007 BBC Worldwide has generated more than £1.1 billion in profits and delivered a cumulative return of £1.4 billion to the BBC through both direct investments in BBC content and dividend payments to the BBC which help to fund the delivery of its public services while keeping the cost of the licence fee lower than it would otherwise have to be.
- 162 Over this Charter period, the Trust has shaped the scope of BBC Worldwide's activities, ensuring an increased focus on BBC IP and exiting activities that do not fit with this (for instance magazines and Lonely Planet).

- 163 Having considered independent analysis, the Trust does not believe that privatising or selling BBC Worldwide, in whole or in part, would be in the interests of the licence fee payer or the BBC and we would oppose such a move. This is because such an action would break the bond with the BBC and the public service programmes that are the source of its value. Any short-term benefits of a sale would be outweighed by the loss of income and scale for the BBC in the longer term. Without continued up-front investment from Worldwide, many of the BBC's best loved programmes would not be made, for example around 70% of investment in the BBC's natural history landmark programmes comes from BBC Worldwide, and the regular commercial income received through dividend payments from Worldwide reduces the cost of the BBC to licence fee payers. The BBC's ability to secure co-production funding, overseas sales and distribution for BBC IP is central to the future of the corporation strategically, reputationally and commercially. Cutting the link between BBC Worldwide and the rest of BBC would lead to the licence fee payer taking creative risk with no or minimal return.
- 164 While the arguments for BBC Worldwide remaining within the BBC are compelling, it is essential that proper separation is maintained between the public service and commercial activities of the BBC to ensure that the business does not have any inappropriate or unlawful advantage over competitors. The Trust has strengthened its oversight of this separation during the current Charter, establishing and publishing a commercial framework to set out its requirements and assessing new commercial service proposals against requirements set in the BBC Agreement.
- 165 The Trust is open to consideration of ways to build on the success of BBC Worldwide through the forthcoming Charter period that allow it to grow further by increasing its investment in the creation of new content that has both public service value and commercial potential.

#### **The BBC's other commercial services**

- 166 The BBC has two other, much smaller, commercial services - BBC Global News Ltd and BBC Studios and Post Production Ltd.
- 167 BBC Global News Ltd is the BBC's commercially funded international 24 hour news and information channel. It broadcasts a diverse mix of international news, sport, weather, business, current affairs and documentary programming in English in more than 200 countries around the world. Its estimated audience of 76 million makes it the BBC's most viewed television service. While funded from advertising and subscription revenues rather than the public service, it operates in close conjunction with the BBC's other international service, the publicly funded BBC World Service radio service.
- 168 BBC Studios and Post Production provide studio services to the BBC and to other producers making programmes in the London area.
- 169 Neither of these two smaller businesses generates a significant financial return to the BBC. However, they each continue to be of strategic importance to the BBC in helping to fulfil its public purposes and in securing value for money for licence fee payers. In a market where competitors are consolidating and integrating vertically, these are important elements that allow the BBC to develop IP and compare what the market offers against what is possible in-house. Overall they enhance the BBC's ability to achieve its mission.

## 4. BBC governance and regulation

### Q15 How should the current model of governance and regulation for the BBC be reformed?

#### Summary

The Trust believes that reform of the current structure is necessary to give greater clarity of responsibilities and accountabilities and to improve the efficiency and effectiveness of oversight and scrutiny. The Trust is keen to share with the Clementi review its experiences of what has worked and what could be improved on, and has set out a number of principles and challenges that it believes any system needs to consider. In particular, reinforcing the independence of the BBC is essential, especially in the eyes of licence fee payers.

#### Importance of governance and regulation

170 The BBC's governance – both its internal governance and the way it is overseen and regulated – is important because the audience needs to know that the BBC is in safe hands and that their interests are being looked after. Our research suggests that a number of aspects are important to the public (see Annex E). They want their money to be spent wisely. They want the BBC to be clearly independent and not being run for its own interests or those of politicians or business. They need to know that if something goes wrong, it will be handled effectively and lessons will be learned. They need to have confidence that the culture and values of the BBC mean that it will operate with integrity and in the licence fee payers' interest.

171 As a starting point, there needs to be clarity about the various things people describe under the heading of governance. We believe that, following general principles and good practice for any corporation, in the context of the BBC 'governance' is used by people as shorthand for three different functions:

- Corporate governance. This is ultimately about determining the culture and values of the BBC itself: making sure the BBC is well-run, through effective and efficient decision-making and includes developing and implementing strategy; allocating resources; and monitoring performance and compliance.
- Independent regulation. The BBC needs independent oversight to determine standards and hold the BBC to them. An effective mechanism for objective judgments about the overall shape and scope of BBC services (or new services) that balances the public value and market impact means that decisions are not taken by those with a direct interest (the BBC) and are not taken in a way that compromises independence (for example, by Government). An effective and independent means of addressing complaints and offering appropriate remedies is essential.
- Public accountability. The public interest requires a form of accountability that extends beyond what is traditionally defined as 'regulation', for instance by clearly defining the scope, of each BBC service, providing for robust, independent

assessment of those services, and of the overall performance of the BBC in fulfilling its public purposes and Charter requirements. It should also give licence fee payers and competitors a say – in assessing performance, in major decisions about changes to services and in the setting of top-level objectives and priorities for the future.

### The current system

172 The current system of governance – with a BBC Executive Board overseen by the BBC Trust - was established in 2007, largely as a response to criticism that the previous BBC Governors had failed to provide appropriate independent challenge to the BBC management, to exert sufficient regulatory control over the market impact of the BBC's activities, or to provide an adequate voice for licence fee payers on major decisions.

173 The current Charter says that:

*"Within the BBC, there shall be a BBC Trust and an Executive Board of the BBC. These two bodies shall each play important, but different, roles within the BBC..."*

*"...the main roles of the Trust are in setting the overall strategic direction of the BBC, including its priorities, and in exercising a general oversight of the work of the Executive Board. The Trust will perform these roles in the public interest, particularly the interest of licence fee payers."*

*"The Executive Board has responsibility for delivering the BBC's services in accordance with the priorities set by the Trust and for all aspects of operational management, except that of the Trust's resources."*

174 The Trust has, in our view, largely succeeded in addressing the criticisms of the BBC Governors, for instance by:

- Establishing clear remits for BBC services through the creation of service licences together with a robust assessment of how those services perform.
- Applying tighter controls around the BBC's market impact, refusing the BBC's requests to launch new services where the impact would have been unjustified.
- Giving the public a major say in its big decisions and ensuring that industry's views and concerns are taken into account.
- Setting high editorial standards and providing an independent route for appeal on editorial issues.
- Enhancing financial transparency and overseeing a challenging cost-saving programme while minimising the impact of savings on the audience.

175 However, the current governance structure has also created some confusion about the responsibilities of the Trust and the Executive Board – in particular in the areas of strategy and financial management – and the Trust began to make the case for intelligent reform of the BBC's governance and regulation earlier this year<sup>54</sup>.

### Options for reform

176 We believe that greater clarity about responsibility for functions and where accountability rests for the exercise of those functions (whether management, supervisory or regulatory) is important.

<sup>54</sup> [http://www.bbc.co.uk/bbctrust/news/speeches/2015/oxford\\_media\\_convention](http://www.bbc.co.uk/bbctrust/news/speeches/2015/oxford_media_convention)

### Corporate governance

177 We have suggested that one of the ways governance could be improved is by the creation of a unitary Board with a majority of independently-appointed non-Executive Directors and a non-Executive Chairman to run the organisation, determine its strategy and manage its finances. The precise details such as composition of the Board, appointments and its responsibilities, would be subject to debate beyond this first stage of consultation.

### Independent regulation

178 The BBC needs to be subject to some form of independent scrutiny and regulation. Wherever that function sits, the Trust believes it is important to satisfy public expectations that the BBC should be held to high standards. This would point to a bespoke regulatory regime (again irrespective of who the regulator actually is). It will also be necessary for any structure to ensure oversight and impartial supervision to address the concerns of competitors around market impact and fair trading.

179 The Green Paper puts forward three options for regulation of the BBC:

- A reformed Trust model.
- A new standalone regulator.
- Moving regulation to Ofcom.

180 At this stage however, one helpful way of thinking about this is what things can the BBC not do by itself? That is, what things would the public and industry expect that an organisation separate from the BBC should be overseeing? We believe that, as a starting point, the following should be presumed as things where the BBC should be subject to oversight and independent challenge:

- Setting remits (including service licences) and assessing performance in meeting those remits and fulfilling the public purposes/duties.
- Approving proposals for significant changes to what the BBC provides for audiences.
- Policing the BBC's boundaries, weighing the BBC's public value against its market impact.
- Assessing whether the BBC meets particular standards - for content and other operations including fair trading – and provide a route of complaint / appeal beyond the BBC itself.

181 Our research suggests that the public want properly independent regulation of the BBC<sup>55</sup>. The quantitative research shows that 81% (88% in our consultation) think it is important that the BBC operates independently from Government or politicians with 75% believing that the BBC should also act independently from any external commercial or business interests. This message also came through as a clear theme from our governance seminar held on 1 October 2015. In other research (Annex E), when we asked the audience about who they would like to carry out the various functions required of the BBC – a majority of people favoured an independent body for most functions - not the BBC's own management and not politicians, most notably:

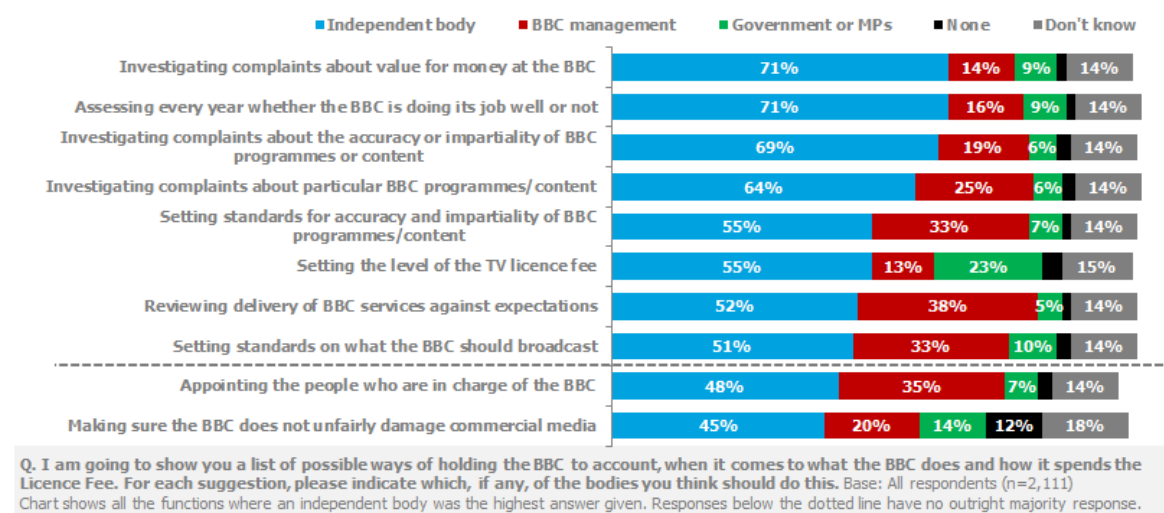
- Complaints about value for money.
- Complaints about editorial standards.

<sup>55</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/news/2015/audience\\_research.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/news/2015/audience_research.pdf)



- Assessing the BBC's performance.
- Setting standards.
- Setting the BBC's level of funding.

**Figure 12: Functions which should be carried out by an independent body**



Source: ICM Unlimited Quantitative research, December 2014 (Annex E)

182 Our starting point, set out in a speech by the Chairman in March 2015, is that a bespoke external regulator is likely to be the best model.<sup>56</sup> While this is ultimately a decision for Government, we believe that the BBC requires bespoke arrangements for regulation which, by nature of the BBC's public funding, should be different from those applied to its commercial competitors. In particular, we note that:

- The public has different expectations of the standards and quality provided by the BBC, which is why setting service licences for the BBC has been done separately from the commercial sector and why the BBC is expected to meet higher editorial standards than those in the commercial sector.
- All the BBC's content, not just news and current affairs, is regulated for accuracy and impartiality, while the BBC's online content – uniquely among broadcasters – is regulated to the same standards as its broadcast output. We cover this in more detail in Annex F.
- There is a particular premium on the need for absolute independence in the way that the BBC's editorial output is regulated.
- The industry has different expectations about how the boundaries of a publicly funded broadcaster should be policed to prevent risk of unfair market impact occurring.
- The successes of the Trust have been in applying independent scrutiny to these very particular standards and expectations – using bespoke regulatory tools such as service licences and public value tests that are not applied to other broadcasters.

<sup>56</sup> [http://www.bbc.co.uk/bbctrust/news/speeches/2015/oxford\\_media\\_convention](http://www.bbc.co.uk/bbctrust/news/speeches/2015/oxford_media_convention)

### Independent review into how the BBC is governed and regulated

183 We welcome the *Independent review into how the BBC is governed and regulated*<sup>57</sup> led by Sir David Clementi (‘the Clementi review’) and will be engaging fully with it to share the Trust’s experiences of the current model. The architecture arrived at must have the confidence of industry and the public, and therefore an independent review looking at all of the evidence and publishing its recommendations to government is the best way to do that. Whatever solution is devised, we believe it must address the following key principles:

- **The BBC must be and be seen to be independent.** Due to its role in creating content and informing, educating and entertaining the UK public, it must be and also be seen to be independent from Government and politicians and commercial and vested interests, so that they are not able to influence its content or message. This principle guarantees free speech and is a fundamental pillar of the BBC’s ability to hold individuals and organisations to account and to be impartial across the full range of its broadcast and online content. This builds on principles that the Government recognised during the debates about the response to the Leveson Inquiry which are paramount for media organisations in a free and democratic society.
- **Proper scrutiny over how the BBC spends licence fee payers’ money.** The BBC can’t licence and regulate itself. It must be accountable to licence fee payers for the service it provides. The BBC’s boundaries and trading must also be subject to independent scrutiny so the market has confidence that trading is fair and is clear about what its boundaries and remit are.
- **The public themselves must have a say** – in particular because they pay directly for the BBC through the licence fee.

184 Alongside these big principles, we believe some other **practical tests** for any structure include:

- Does it encourage effective/efficient/agile decision making?
- Does it offer precise clarity of roles and responsibilities?
- Does it provide value for money?
- Will the BBC still have room to respond quickly and flexibly in a fast changing environment, to innovate and to take risks?
- Is the regulator able to determine the right/proportionate tests and processes?
- Are appointments both to the BBC board (or equivalent) and to the regulator properly independent?
- How can any new structure accommodate appropriately the changing nature of the UK, including devolution?

185 In relation to this last point, how the future governance structure of the BBC reflects the need for engagement with and representation of the devolved nations is a key issue that needs to be resolved as part of Charter Review. There is already a debate about how the BBC’s structure might be adapted. The Trust agrees that the BBC will need to be more accountable in Scotland, Wales and Northern Ireland. We think it

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<sup>57</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/461078/20150916-Terms\\_of\\_Reference\\_for\\_independent\\_review\\_on\\_BBC\\_governance\\_and\\_regulation\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/461078/20150916-Terms_of_Reference_for_independent_review_on_BBC_governance_and_regulation_.pdf)

will be very important that the Clementi review considers this closely, and we will want to play a full part in the debate. There is a separate issue about exactly how the BBC reports on its activities and offer in each nation and this is a question that will follow on from new structures of governance and accountability. Broad principles of reporting have already been agreed between the BBC, DCMS and the devolved administrations in separate MOUs (more detail is set out in response to Question 18 below).

## Q16 How should Public Value Tests and Service Licences be reformed and who should have the responsibility for making these decisions?

### Summary

Since its establishment the Trust has developed tools in order to exercise its regulatory functions over the BBC. These regulatory tools have worked by making the BBC more accountable and providing clearer boundaries around its activities, and the Trust believes that they should be maintained within any new architecture of governance and regulation. We believe that the tools should be developed further, including by being made more flexible in some places and sharper in their focus in others. We think that the Government should allow greater flexibility and discretion for the body carrying out regulation of the BBC to develop and improve precisely how service licences and Public Value Tests operate.

### The current system

- 186 The Public Value Test (PVT) and the service licence framework have proved successful, ensuring that the BBC is accountable to licence fee payers and providing clearer boundaries around its activities. We have set out specific instances and examples of their use in answer to the Questions above. It makes sense to retain these improvements under any new system.
- 187 The Trust has, as far as it has been able, refined arrangements within the scope of the current Charter, involving Ofcom at an earlier stage to advise on market impact and applying the tests that are used for public services to a broader range of publicly funded activities (such as BBC participation in television platforms).
- 188 However, the wording of the current Charter provides very little flexibility or discretion to allow the Trust to adapt regulatory tests to the precise circumstances of a particular proposal. It was drafted at a time when the BBC was launching new linear channels and stations as opposed to making incremental changes (most prevalent for BBC Online and the iPlayer) and closing services.

### The future

- 189 Without firm detail on the overall governance and regulatory structure under the new Charter it is difficult to comment in detail on the regulatory tests and we will engage with the Clementi review and the Government to provide further evidence and experience.

190 In devising a new system we recommend the following high-level principles are taken into account:

- Neither the BBC itself nor the government of the day should be responsible for determining which services the BBC launches, closes or modifies in delivering the Public Purposes.
- Service licences can continue to play an important role in making BBC activities accountable and to set a framework against which changes can be assessed by the regulator.
- The level of detail contained in service licences should be varied depending on the requirements for individual services. For example if they were to retain only the key elements defining the scope of each BBC service, this could make them a more appropriate tool for an independent regulator, rather than their use by a combined governance/regulatory body like the Trust.
- We recommend that service licences should continue to reflect the system they are governing. For example, during this Charter period it has proved effective to govern the BBC by service. Looking further ahead, when on-demand consumption outstrips that of linear, it may be preferable to regulate BBC activities in a different way. However, such a move should only be made when the BBC changes how it organises its portfolio of services, otherwise holding licensed activities to account may be either ineffective, confusing or both.
- The Charter must continue to give the BBC's regulator sufficient flexibility and discretion to determine which types of activity should be licenced and when and how to undertake reviews against those licences.
- The approvals system should provide some greater flexibility for the BBC to adapt its services while providing greater certainty and transparency to the market. This would most likely mean the removal of the 'significance test' hurdle, by which the Trust must currently decide whether or not a PVT is needed and the creation of a more flexible approvals system which is proportionate to the significance of the change that is proposed.
- We consider that publication of every BBC proposal of a certain scale should form part of the approvals system to enable comment from industry. Under the current process this applies only to larger proposals. The current public value assessment and market impact assessment could then be scoped to an appropriate scale according to the size of the proposal under consideration – in some cases there would be no requirement for a further process, in others a full PVT would be appropriate. The right test for all approvals is to look at public value and market impact. But the scale and complexity of that test should be varied according to circumstances.
- Decisions in relation to the areas set out above should continue to be taken independently of the BBC Executive, and therefore most likely by the body acting as a regulator.

## Q17 How could the BBC improve engagement with licence fee payers and the industry, including through research, transparency and complaints handling?

### Summary

Engagement with audiences is a key part of the governance and regulation of the BBC and must remain so in the future. Careful consideration should be given to the design of the architecture to make sure that the voice of the licence fee payer is fed in appropriately at every level. Those responsible for exercising the governance and regulatory functions in the new model should also ensure that they engage with industry and wider stakeholders regularly.

Licence fee payers expect a 'gold-standard' system of complaints handling and key components of the current approach must be retained in the next Charter. The Trust believes that BBC operates at an appropriate level of transparency (and greater than any of the other organisations in its field), while not putting it at a commercial disadvantage or damaging its ability to get the best value for money for the licence fee payer.

### Audience engagement – how the current system operates

- 191 The last Royal Charter established the BBC Trust as an internal governing body. Its role has also, however, always been outward-facing to ensure that the public's interest is at the heart of the BBC's decision-making.
- 192 Since 2007 the Trust has put the views of audiences front and centre in all its work. The system of service licences and their reviews has meant that the Trust has, through an ongoing programme of research and consultation, provided the opportunity for the public to comment on the performance of each of the BBC's services. Changes have been made to the remit of BBC's services as a result of this work. Audiences have also played a role in the Trust's assessment of the impartiality of the BBC, how well it delivers its public purposes and in helping the Trust decide whether to allow the BBC to launch or close a service.
- 193 The Trust also receives regular advice from its network of Audiences Councils, one in each of the four nations, which have a Charter responsibility to bring the diverse perspectives of licence fee payers from across the UK to bear on the work of the Trust. The National Annual Reviews provide an additional performance assessment from the Audience Councils, alongside the Trust's work.
- 194 The relationship with audiences does not, however, belong exclusively to the BBC Trust. The BBC knows its viewers, listeners and users. It collects data on a daily basis to understand when and how audiences are using the BBC's services, and what they think about the programmes and content. The BBC receives many spontaneous contacts from the public – in 2014/15 BBC Audience Services received 565,000 which included general enquiries, complaints, comments and appreciations. In addition, the BBC commissions a great deal of bespoke research on a wide range of subjects from individual programmes and services to attitudes towards the licence fee. Much of the research carried out by the BBC considers licence fee payers as consumers or customers, whereas the Trust research tends to be through the lens of stakeholder or citizens.

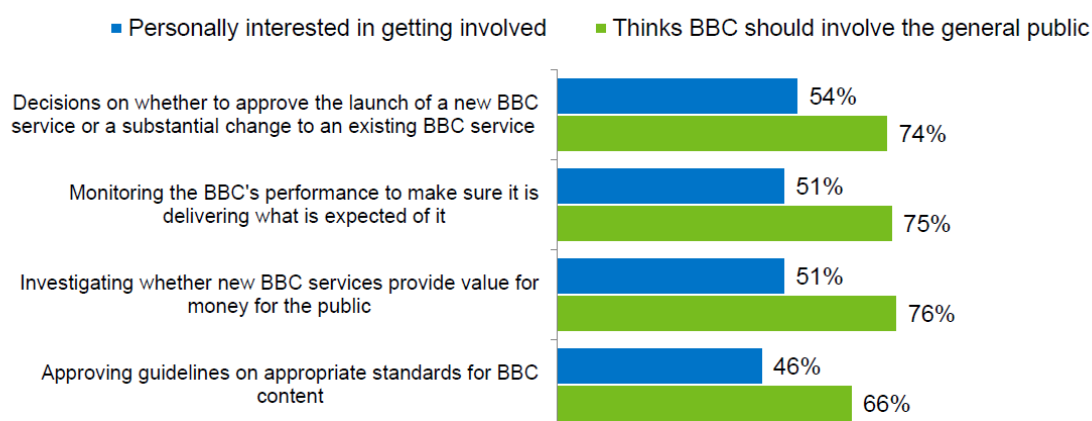
### How audiences relate to the BBC

195 The differing attitudes amongst licence fee payers about their relationship with the BBC is highlighted in our recent research which showed that the majority of respondents (55%) thought of themselves primarily as consumers, that is to say they are interested in the BBC through the programmes and services it provides. 20% considered themselves stakeholders and wanted to be more actively involved in the BBC and have a say in what it does.

196 However, even amongst those who didn't want to be personally involved in BBC decision making, around three-quarters felt that there should be the opportunity for the public to have their say.

**Figure 13: Public involvement in the BBC**

**While half do not want to be personally involved in the BBC, there is widespread support for the public in general to have a voice**



Q20. And please tell us whether you think the BBC should or should not involve the general public in each of the following?  
Base: All respondents (2,908)

Source: ICM Unlimited Quantitative research, August-September 2015 (Annex E)

### Methods of engagement

197 As the population of the UK changes and technology evolves so the ways in which audiences want to engage has also developed. At the time of the last Charter social media were in their infancy, and our research suggests they now play a significant role in how people engage with organisations – they want to do so in the simplest, most convenient and immediate ways. When asked about how they had shared information with an organisation in the last year, 20% said they had done so on social media, such as Facebook, or using a company website, with 9% saying they had sent a tweet about an organisation, 15% that they had made a phone call and 11% that they had written a letter. Similar research carried out in 2007 showed that then 30% of people said they had contacted organisations by making a phone call and 36% by writing a letter. The percentage of people saying they had made contact using email remained relatively steady at around 25%.

198 There is, therefore, no single ideal way to engage with and be accountable to audiences. Because of its importance, we suggest that the Charter should include high-level requirements about engagement with audiences, but it should not be too prescriptive about how this is done. It may want to establish criteria which would allow the BBC and its regulator to develop their own frameworks. This would allow for the way in which people want to engage to change over time (in line with technology)

and within this framework a number of methods of engaging with audiences could be included, such as research, consultation and social media activity. Consideration could also be given to whether the regulator should have the power to review how well the BBC engages with and is accountable to its audiences.

199 The BBC must, as the Trust does now, have in place the mechanisms for the public to have their say when developing strategy. It must consider these views before making decisions about future direction, be that about individual services or the overall shape of the BBC. The ways in which the BBC is accountable to audiences:

- Must be the ones which audiences themselves want to use.
- Should reflect the relationship which members of the public want to have with the BBC, as relatively passive consumers or as more active stakeholders.
- Should ensure that the widest possible range of voices is heard in order to represent fully the UK, particularly in light of devolution, and ethnic and social diversity.
- Must reach not only those the BBC wants to hear from but also those who feel alienated or under-served by the BBC.
- Should be flexible and evolving, finding new ways to use technology as a way of enabling accountability, though not at the expense of those who wish to engage in more traditional ways.

200 These criteria should also be used when considering any formal accountability structures. There has been a formal structure of Broadcasting or Audience Councils since the late 1940s and they have played a key role during this time. However, ways of engagement have evolved particularly quickly in recent years, and the beginning of a new governance system for the BBC is an appropriate time to consider the future of any formal accountability network.

201 Again, we do not feel that the Charter should be prescriptive. It should be the responsibility of whichever body has the duty to represent licence fee payers' interests to decide how it wishes to use audience bodies around the UK and how the work which is currently done with and by Audience Councils can be developed in new ways for the digital age (although reaching all segments of Audiences, including those who do not have access to digital technology should remain an important consideration).

202 The Clementi review is to consider the way "in which the BBC and the bodies that govern and regulate it engage with licence fee payers and industry, including but not limited to complaints handling procedures and transparency".<sup>58</sup> It is vital that the duty to represent licence fee payers' interests and, in particular, to do so across the UK, be embedded in the next Charter, though allowing the BBC and its regulator the freedom to use the appropriate methods. We look forward to engaging with the review on these issues.

### Complaints Handling

203 Establishing high editorial standards has three components: setting the standards; monitoring them through an efficient complaints system and audience research; and taking action when a complaint is upheld. This can include setting the standard higher than it was before so it meets what audiences expect of the BBC.

<sup>58</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/461078/20150916-Terms\\_of\\_Reference\\_for\\_independent\\_review\\_on\\_BBC\\_governance\\_and\\_regulation\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/461078/20150916-Terms_of_Reference_for_independent_review_on_BBC_governance_and_regulation_.pdf)

### The current system

204 During this Charter period there have been many changes to the BBC's complaints process aimed at improving engagement with, and the experience of, complainants. It is now much easier for people to make a complaint and the vast majority are made electronically. This means that around twice as many complaints contacts are received now compared to ten years ago. (The BBC counts every complaints contact received as a complaint though there may be more than one contact about an individual complaint. As some complainants may contact the BBC more than once about their complaint the actual number of complainants is smaller.)

205 The complaints system<sup>59</sup> was last set by the BBC Trust in 2012 following public consultation and audience research. It has three stages; the first two lie with the BBC and the third with the Trust. The public complain directly to the BBC about editorial matters or about other issues which are more operational in nature such as dissatisfaction that they have been unable to get a ticket for a BBC event. They can also make Television Licensing complaints to Television Licensing. (There are also complaints systems for more specialised type of complaints like Fair Trading or complaints about the allocation of party election broadcasts.) The Trust has required changes to the complaints handling system from time to time when a complaint to the Trust has exposed systemic problems.

206 The Trust provides an independent and impartial means of redress for complaints if people feel that the BBC has not considered the matter that they have raised properly. It means that the public can have confidence that complaints are examined independently and carefully.

207 In considering the governance and regulation of the BBC it will be important to consider who will set the complaints procedure and who will monitor how effectively it works, both by handling complaints or appeals about the system and by exercises such as mystery shopping or other audits. It will also be necessary to decide which body will consider appeals about fair trading, general matters, and television licensing as well as appeals about editorial standards.

208 The public can complain by web form (which makes it is easy to keep track of the complaint) or by phone or letter. The aim is to provide the audience member with a speedy explanation or apology at 'stage 1'. If that does not satisfy the complainant they can have a thorough investigation at 'stage 2' and then appeal to the Trust at 'stage 3' if they still believe the BBC is wrong. The Annual Report and Accounts report on how many have been answered within the ten working days. In 2014/5 259,886 complaints were received of which 96% were answered within ten working days<sup>60</sup>. The most recent mystery shopping exercise undertaken by the Trust provides evidence that the majority of people are content with their reply from BBC Audience Services<sup>61</sup>.

209 Since that research was undertaken the BBC has worked to improve the tone of its replies to the public. According to Audience Services' figures, the vast majority of complainants – around 96% – do not seek a further response after being given an initial reply. Of the 4% that do return to the BBC, 10% of them remain unhappy after receiving a second stage 1 response. This is a complaints process – and so, by its nature, is hearing from people who are unhappy about an element of BBC output or

<sup>59</sup> [http://www.bbc.co.uk/bbctrust/governance/complaints\\_framework](http://www.bbc.co.uk/bbctrust/governance/complaints_framework)

<sup>60</sup> <http://downloads.bbc.co.uk/annualreport/pdf/2014-15/bbc-annualreport-201415.pdf> (page 20)

<sup>61</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory\\_framework/complaints\\_framework/trust\\_concls\\_mystery\\_shopping2014.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/complaints_framework/trust_concls_mystery_shopping2014.pdf)



how it works – however figures collected by Audience Services indicate that only 0.5% of the complaints are about the complaints handling service itself (such as complaints about individual members of staff, complaints about the process or a delay in responding). Staff in Audience Services have also been using a more personalised style when answering complaints, enquiries and iPlayer support queries over the past nine months and the response to this has been positive.

- 210 Complaints are a very valuable way of understanding what is worrying the audience. The current system reinforces accountability. It also provides value for money as issues may be dealt with quickly by the BBC without the need for regulatory involvement and can lead to action which resolves serious issues and simple errors quickly. For example: redubbing a series to improve its sound quality.
- 211 Currently the BBC is required by its Editorial Guidelines<sup>62</sup> (set by the Trust) to give adequate reasons when it gives a substantive reply to a complaint. The Trust is also required to give adequate reasoning when it makes a decision about an appeal. All upheld editorial complaint decisions at 'stage 2' by the BBC Editorial Complaints Unit are published (as required by the Editorial Guidelines) and all decisions (upheld or not upheld) by the Trustees are published. The exceptions are very rare cases when it is necessary to protect the privacy of a member of the public. Ofcom usually do not publish reasons for their decision not to uphold complaints. As part of Charter review it will be necessary to consider if the BBC's high level of transparency and accountability should be maintained in the future.
- 212 Additionally the Trust is required to ensure that a complainant is put (as far as possible) on equal footing with the BBC. This means that at every stage the complainant is given an opportunity to respond to the BBC. When an appeal is investigated by the Trust the complainant will see the results. All the information made available to Trustees is first made available both to the complainant and to the BBC so that each can comment before the Trust takes a decision. Complainants can also comment on the final finding before publication. In general Ofcom do not involve the complainant in the procedure or give them advance notice of the decision except in fairness and privacy cases. Again as part of Charter review it will be necessary to consider if the requirement to put the complainant on equal footing should be maintained in any new regulatory system.
- 213 Annex F sets out a more detailed overview of how the current system works and some key principles that should apply under any new governance and regulatory model.

#### **BBC Radio 2, *Russell Brand Show* and BBC 2 *Newsnight*, Lord McAlpine allegations**

- 214 In the current Charter period there have been some serious editorial breaches. In the cases of the *Russell Brand Show* and the *Newsnight* investigation that led to incorrect allegations about Lord McAlpine, the BBC was subject to regulation by both the BBC Trust and Ofcom. Systems of editorial regulation cannot prevent serious editorial failings but they should be able to respond quickly and efficiently when they occur. In the case of the *Russell Brand Show*, the story was broken on a Sunday. The Executive apologised on the Monday and a report was requested by the Trust. It was delivered on the Wednesday and the Trust finding was published on the Thursday – five days after the event. A more detailed finding followed further investigation<sup>63</sup>.
- 215 In the case of Lord McAlpine the erroneous story was broadcast on the Friday, 2 November 2012. The BBC apologised on air during the following Friday's programme

<sup>62</sup> <http://www.bbc.co.uk/editorialguidelines/>

<sup>63</sup> [http://news.bbc.co.uk/nol/shared/bsp/hi/pdfs/21\\_11\\_08\\_brand\\_ross\\_moyles.pdf](http://news.bbc.co.uk/nol/shared/bsp/hi/pdfs/21_11_08_brand_ross_moyles.pdf)

on 9 November 2012. The Director-General met the Trust on Saturday 10 November 2012 and then offered his resignation. A Trust finding was published on 14 December 2012<sup>64</sup>.

216 It is important in any future system of regulation that where a serious breach of editorial standards is identified it is reported to the regulator and that report is published alongside remedial action as is currently the case at the BBC (unless it is not published to protect the privacy of an individual).

### Transparency

217 The Trust and the BBC make a great deal of information available and accessible, and during this Charter period the Trust tasked the BBC with setting new standards in openness and transparency. In recent years the Trust and the BBC have significantly increased the information which they publish. However, the BBC operates in a commercial marketplace and therefore there are areas where full transparency is not possible as it would put the BBC at a commercial disadvantage and could damage its ability to get the best value for money for the licence fee payer.

218 Each year the BBC publishes its Annual Report and Accounts<sup>65</sup>, which includes separate assessments by the Trust and the BBC Executive on the performance of the BBC, along with full financial reporting. This includes details of spend on presenters and performers (talent). Alongside the Annual Report, the BBC also publishes an annual Trust and Impartiality report, which collates data from two surveys about public perceptions of the impartiality and trustworthiness of the BBC, and an Equality Information Report, which includes diversity tables for staff in all BBC divisions.

219 The Trust publishes, every six months, the expenses of the Chairman and Trust members along with any hospitality they may have received, while the Executive publishes the salaries and total remunerations for its most senior managers, as well as details of expenses and gifts. Any relevant declarations of interest are also published. The BBC also publishes details of comparative pay across the BBC, including details of the ratio of the Director-General's salary to BBC's staff median earnings.

220 Minutes of the Trust and Executive Board meetings are published each month<sup>66</sup>.

221 In addition the Trust publishes all of the audience research which it commissions and analysis of public consultations, and explains how it has used this information when making decisions and setting policy.

222 It has also published correspondence with Government on a number of important issues, such as the recent decision regarding the over-75s licence fee, and the circumstances surrounding the departure of the Director-General in 2012.

### Disclosure under Freedom of Information Act

223 Since January 2005, the Freedom of Information Act 2000 (FOIA) has given a general right of access to all types of recorded information held by public authorities. FOIA also sets out exemptions from that right and places a number of obligations on public authorities. The term 'public authority' is defined in FOIA. The BBC, Channel 4, S4C and MG Alba are the only broadcasting organisations covered by FOIA.

224 FOIA does not apply to the BBC in the way it does to most public authorities in one significant respect. It recognises the different position of the BBC, as well as Channel

<sup>64</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/appeals/esc\\_bulletins/2012/newsnight\\_2nov.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/appeals/esc_bulletins/2012/newsnight_2nov.pdf)

<sup>65</sup> <http://downloads.bbc.co.uk/annualreport/pdf/2014-15/bbc-annualreport-201415.pdf>

<sup>66</sup> [http://www.bbc.co.uk/bbctrust/who\\_we\\_are/meetings\\_and\\_committees/minutes\\_2015.html](http://www.bbc.co.uk/bbctrust/who_we_are/meetings_and_committees/minutes_2015.html)

4 and S4C, by saying that it covers information 'held for purposes other than those of journalism, art or literature'. This means FOIA does not apply to information held for the purposes of creating the BBC's output (such as TV, radio, online), or information that supports and is closely associated with these creative activities.

225 FOIA does apply to all of the other information which the BBC holds about the management and running of the corporation. This information must be disclosed when requested, unless one of FOIA's exemptions applies.

226 We consider that the exception of information held for the purposes of creating the BBC's output, or information that supports and is closely associated with these creative activities, is appropriate and should not be changed. The exclusion allows the BBC to compete on a level playing field with commercial broadcasters who are not covered by FOIA and helps the Corporation maintain editorial independence.

227 Since 2005 the BBC has received a high number of requests, which has increased significantly over the last ten years, many of which are for information excluded from FOIA.

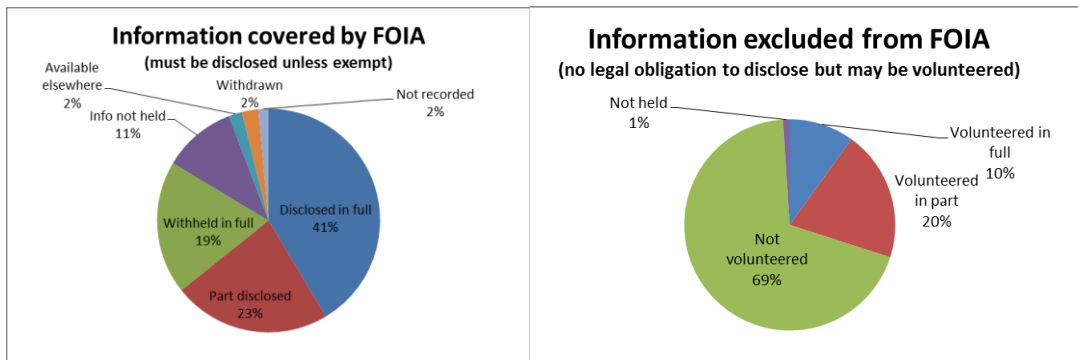
**Figure 14: Freedom of Information Requests received by the BBC**

<b>Year</b>	<b>No. of requests</b>	<b>Within scope of the Act</b>
2005	960	545
2006	776	421
2007	1087	535
2008	1516	778
2009	1771	885
2010	1744	849
2011	1610	738
2012	1558	814
2013	1993	944
2014	2105	1036

Source: BBC Information Policy and Compliance

228 Requests often cover a range of information, some of which is covered by FOIA and some not. The BBC has, however, also voluntarily disclosed information in relation to hundreds of requests for information not covered by FOIA. The charts below, give a breakdown of requests received in 2014, and whether the information was covered by the FOIA and whether information was disclosed or withheld.

**Figure 15: Type of response to FOIA requests received by the BBC in 2014**



Source: BBC Information Policy and Compliance

229 We consider that that the BBC operates at an appropriate level of transparency, in what it publishes and what is disclosed under the FOIA. Any requirement to provide further information, particularly with regard to programme making and editorial issues, could damage the BBC’s editorial independence and/or put it at a commercial disadvantage, thus damaging its ability to get the best value for money for licence fee payers.

## Q18 How should the relationship between Parliament, Government, Ofcom, the National Audit Office and the BBC work? What accountability structures and expectations, including financial transparency and spending controls, should apply?

### Summary

Independence and accountability are two fundamental principles that are at the heart of an effective BBC. How the two principles are reconciled and balanced is the key to the BBC's relationships with Parliament, Government and the National Audit Office.

Parliament should have the right to ask questions of the BBC but these must respect the BBC's independence, especially in matters of editorial judgments. Setting out a clear understanding of this relationship in the next Charter will help re-inforce independence and accountability. The same is the case for the Scottish Parliament and the Welsh and Northern Ireland Assemblies.

The Trust believes that the relationship with the National Audit Office is operating effectively and that the improvements to access that have been made over this Charter period should be codified in the Framework Agreement. The relationship with Ofcom is effective and is built on good communication and clarity of roles.

The BBC and its regulator should continue to adopt the proper accountability structures, reporting processes and controls that any well-governed corporate entity would. In addition, the requirements in the current Charter for the BBC to have regard to good practice for the management of affairs of public bodies should be maintained. However, direct, unilateral application of government rules and policies would be a clear breach of the BBC's independence.

### Independence

230 Independence of the BBC is a fundamental principle that allows it to operate as a fair, impartial and trusted public broadcaster in a free and democratic society. Independence from Government and from commercial or other vested interests is essential if the BBC is to maintain its editorial integrity, strive for the highest standards of impartiality, including being seen to be impartial, and so that its journalists and current affairs staff can investigate without fear or favour – exposing wrong-doing and challenging those in positions of power or influence. The BBC needs to be trusted to act in this way and this is achieved by application of rigorous editorial standards which are both set and ultimately adjudicated upon by a body that is itself independent of the BBC Executive and the Government. This body is currently the Trust.

231 The current Charter recognises the strength of these arguments and enshrines a guarantee of independence for the BBC "*in all matters concerning the content of its*

*output, the times and manner in which this is supplied, and in the management of its affairs*<sup>67</sup>.

- 232 The BBC is also a public body in receipt of the licence fee payer's money. This means that it needs to abide by another fundamental principle of accounting for how it spends the money entrusted to it by the licence fee payer. It must be transparent in how it operates and open to public scrutiny.
- 233 There is the potential for some conflict between these two principles: Independence and Accountability, although both are paramount to how the BBC operates. How the two principles are reconciled is the key to the BBC's relationships with Parliament, the Government, the NAO and Ofcom. Each of these relationships requires editorial independence to be respected, while also allowing proper scrutiny of how licence fee payers' money is spent. These can be fine balances to make, especially as the perception or fear of undue pressure or challenge can potentially be as damaging to the BBC's independence as the actual exertion of any such pressure.
- 234 The constitution and legal basis of the BBC is an important part of guaranteeing the BBC's independence and we set out the Trust's proposals to enhance this in answer to Question 19 below.
- 235 The BBC Trust and the BBC itself have taken steps to ensure greater scrutiny over how licence fee payers' money is spent. The Trust acts as the guardian of the licence fee payers' interest and carries out independent oversight of the BBC's spending decisions. It approves annual budgets and spending on major projects over certain limits. It does so in a way that is open to the public and has driven the BBC to become much more transparent over this Charter period, for example requiring the publication of a business plan and budget setting out the scope of the BBC's strategy, objectives and outline budget for the year ahead, together with developments that are noteworthy or could require formal approval. The Trust has been careful to ensure that these improvements do not come at the cost of the BBC's editorial and operational independence. The body carrying out independent regulation of the BBC in the next Charter period will need to continue in this tradition and must itself be independent (more detail is set out in answer to Question 19 below).
- 236 Some fear that the BBC's independence has been compromised in recent years and the Trust itself has some concerns that, however unintentionally, the BBC has been brought closer to the state over the course of this Charter through, for example, the classification of the BBC as an 'arm's length body' of Government and its inclusion in Whole of Government Accounts. This has led to a lack of clarity as to the BBC's status. Confirmation that the BBC's 2006 classification as a Public Service Broadcasting Authority will continue will help to address this, although the Trust believes that firm and strong steps by Government to enhance the guarantees of BBC independence are also necessary.

### Parliamentary scrutiny

- 237 As set out above, Parliamentary scrutiny for the way in which the BBC spends licence fee payers' money and the way in which the BBC Trust, as the BBC's regulator, holds the BBC to account is an important part of the checks and balances in a well-functioning democracy. The challenge is to ensure that this is done in a way which

<sup>67</sup> Article 6(1) of the Royal Charter for the continuance of the British Broadcasting Corporation.

respects the BBC's editorial independence while also asking justified questions about efficacy of governance and how use of licence fee payers' money is scrutinised. In particular, challenge and detailed questioning about editorial decision making could be perceived as undermining the BBC's editorial independence and at worst as an attempt to influence or stifle freedom of expression (in the same way as it could be perceived in respect of other journalistic organisations).

- 238 We think it would be constructive to set out the proper balance between the two principles of independence and accountability set out above. The next Charter and Framework Agreement could provide the vehicle for better codification of the relationship with Parliament, including select committees.
- 239 This clarification should extend to the Scottish Parliament and the devolved assemblies. The recently-agreed Memorandum of Understanding (MoU) between the BBC, UK Government, Scottish Government and Scottish Parliament provides for the BBC to lay its annual report before the Scottish Parliament and for the BBC to appear before Scottish Committees on Scottish issues "*on the same basis as it does in the UK Parliament*". MoUs have also been entered into between DCMS, the BBC and the Government of Wales and the Northern Ireland Executive respectively, and these will commit the parties to establishing (subject to agreement, through further MoUs) parity between the devolved administrations as respects the BBC's annual report and accounts and appearances before Committees on national issues.

### Relationship with the National Audit Office

- 240 The same requirement to balance the principles of independence and accountability applies to the BBC's relationship with the National Audit Office (NAO). The NAO's value-for-money audit arrangements have evolved over the course of the Charter so that in practice, the NAO has now the same level of access that it has for other organisations that are funded by public money – it can look at what it wants, when it wants. These arrangements have worked well under the existing governance structure and we suggest that these changes to working practice are reflected in an updated Framework Agreement. The Trust has worked closely with the NAO and their work, alongside the Trust's own programme of value for money reviews, has enhanced accountability and led to recommendations which have improved value for money for the licence fee payer.
- 241 Some have suggested that Charter Review also presents the opportunity to make further changes to the relationship with the NAO. These include appointing the NAO as the BBC's financial auditor, writing NAO access into statute or the Charter, and reforming how value for money reports are published<sup>68</sup>.
- 242 These changes will depend on the broader governance structures that are put in place, although if the regulator is designated as the guardian of the public interest and representative of the licence fee payers' interests, we believe that the relationship between the NAO and that body should be on the same basis as the current relationship with the BBC Trust.
- 243 In any framework we suggest that two key aspects of the existing arrangements should be retained. The NAO should continue to have full value-for-money audit

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<sup>68</sup> At present the NAO presents its reports to the BBC Trust, as guardian of the public interest under the Royal Charter, which lays them in parliament along with a Trust response.

access to assess how well public money is spent and safeguards should be retained to preserve the BBC's independence from politicians to whom the NAO report. In particular, the NAO should continue to be restricted from questioning the merits of editorial decisions, in order to ensure the editorial independence of the BBC. This is equivalent to restrictions placed on the NAO in their wider work in the public sector where they may not question the merits of government policy. Similarly, in the current Bank of England Bill<sup>69</sup>, the Bank's policy-making functions are explicitly excluded from the NAO's remit in order to safeguard the independence of the Bank's policy-making. Were any similar statutory arrangement between the BBC and the NAO to be proposed, a similar safeguard to protect the independence of the BBC would be required.

244 The NAO do not currently audit the financial statements of the BBC and its commercial subsidiaries. This work is currently carried out by Ernst & Young following a competitive procurement process. The last time this process was run, the NAO were invited to take part but declined to do so. We continue to believe that a competitive process is appropriate, and we note that this approach is recognised in the Government's current proposals in the Bank of England Bill, whereby the NAO will have freedom to initiate value for money studies in relation to the whole of the Bank (in consultation with the Bank's Court of Directors), but that the Bank's Court of Directors will continue to appoint external auditors to undertake the financial audit of the Bank's full accounts.

### Relationship with Ofcom

245 The BBC Trust believes that the current relationship with Ofcom works very well, given the parameters of the current Charter and legislation. Ofcom regulates the BBC in a number of ways and is also asked by the Trust for advice on issues of market impact. The relationship has been professional and collaborative and (no doubt because of that positive relationship and open communication) the existing structure has not been the cause of any significant problem or confusion.

246 Ofcom's Broadcasting Code<sup>70</sup> offers the basic standard of editorial compliance required of all UK broadcasters. The BBC's broadcast content (but not its online activity) must comply with the Ofcom Code except in matters of Impartiality and Accuracy and various commercial issues, where the BBC Trust has sole responsibility for standards. Complaints about BBC broadcast content which involve claims of unfairness or of harm and offence may therefore be lodged with Ofcom as well as with the BBC and, on appeal, with the Trust. Our research for Charter Renewal shows conclusively that audiences expect the BBC to offer higher editorial standards than are required of the industry at large, and the requirements placed on BBC content through the BBC's Editorial Guidelines are therefore more demanding and must be observed across all media, radio, television and online, both in the UK and abroad.

247 Although there is currently a dual right to take a complaint to both the Trust (on appeal) and Ofcom, there are few such examples and there has been no instance of Ofcom upholding a complaint rejected by the Trust, though rare instances have occurred where the Trust has upheld a complaint dismissed by Ofcom. The Trust Unit and Ofcom maintain an effective and cooperative relationship with one another.

<sup>69</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/447140/bank\\_of\\_england\\_bill\\_v3.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/447140/bank_of_england_bill_v3.pdf)

<sup>70</sup> <http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/>



248 In terms of economic regulation, in July 2011 the Trust made a commitment<sup>71</sup> to expand its relationship with Ofcom to take full advantage of Ofcom's understanding of the wider communications sector and, in particular, to invite Ofcom to provide its view of the 'impact on others' (e.g. providers or potential providers of alternative products and services) of any proposal from the BBC Executive that the Trust considers should be subject to a significance test. The Trust itself has the expertise to conduct Public Value Assessments and then to weigh any market impact against public value before taking a final decision. It is the Trust's view that this system has worked very effectively over the past four years and has resulted in a number of proposed changes to BBC services being approved and a number of others being rejected.

### **Other accountability structures and expectations**

249 The Green Paper asks about the application of accountability structures and expectations, including financial transparency and spending controls, to the BBC. Of course these concepts are very important matters which ensure that the licence fee payers' money is being used properly. Aside from having established structures, procedures, reporting requirements and internal controls, reflecting any good corporate entity, the current Charter requires enhanced financial scrutiny and spending controls, especially through the operation of the BBC Trust. In addition, Article 11 of the Charter requires the BBC Trust and the BBC Executive to have regard to "general guidance concerning the management of the affairs of public bodies" (as well as generally accepted principles of good corporate governance).

250 The Trust is firmly of the view that such an approach is the only appropriate way to respect the independence of the BBC, while also ensuring proper stewardship of licence fee payers' money. Any future governance and regulatory structure should maintain this approach.

251 The BBC needs to ensure that best practice in management of the affairs of public bodies is applied in a way that reflects the BBC's context – which is very different from any other public sector bodies to normal Government controls apply. This Charter period has demonstrated that such an approach can work, with the BBC demonstrating its responsiveness to public moods – reforming BBC pensions in advance of moves in other public sector bodies and capping excessive severance payments for staff. In particular, care must be taken to ensure that the BBC's independence is not undermined by, for example, requirements for Government approval or scrutiny of strategy and performance or major financial decisions. This is why the Trust believes that bespoke application of the relevant principles is important, but that this should be in the context of a regulator or other body that is the guardian of the interest of the licence fee payer. The body with this role is currently the Trust.

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<sup>71</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how\\_we\\_govern/bbc\\_governance.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/bbc_governance.pdf) (page 9)

## Q19 Should the existing approach of a 10-year Royal Charter and Framework Agreement continue?

### Summary

The BBC Trust believes that the existing approach of a Royal Charter and Framework Agreement should continue, as this is the best method for guaranteeing the independence of the BBC. The Trust believes that there is a case for an eleven year Charter on this occasion so that the next renewal period allows sufficient time for proper Government and public consideration after the 2025 General Election. The Trust thinks it is essential that the next Charter and Framework Agreement clearly set out the timing and process – including ways of ensuring public and parliamentary engagement and scrutiny – for the next Charter renewal.

### Legal and constitutional basis of the BBC

252 The BBC has been incorporated by Royal Charter since 1927 and this has been seen as the best way to guarantee its independence. The Charter establishes the BBC as a legal entity in its own right and in so doing defines its purposes and powers and its governance structure.

253 The alternative options for establishing a body such as the BBC are either by primary legislation, or under company law. We do not believe that either route would be appropriate; in particular, neither would provide a sufficient guarantee of independence:

- Establishment as a company would require shareholders or other members and would mean that they could control the overall direction and role of the BBC. Who those people would be and how they were chosen would be a substantial challenge.
- Establishment by Act of Parliament would mean that the role and responsibilities of the BBC, and the way that it operates (including editorial judgments) could be subject to amendment, or at least the threat of it, at any time.

254 On this basis we conclude that a Royal Charter will continue to provide the constitutional form that best safeguards the BBC's independence. In this we agree with the Culture, Media and Sport select committee which examined the future of the BBC in great detail earlier this year, and concluded that 'the BBC Royal Charter has stood the test of time and that it remains the best constitutional arrangement for establishing the BBC'.<sup>72</sup>

255 In our view, the BBC's independence can only be preserved by a regulator that is itself independent too. This is especially important in relation to the exercise of any judgments about the standards laid down by the BBC's Editorial Guidelines and any breaches of those standards. This is particularly true in relation to impartiality. Therefore, and for the reasons set out above, we also believe that a Royal Charter would be the best way for establishing the body constituted for the purposes of regulation or oversight of the BBC (whichever structure the Clementi review recommends).

<sup>72</sup> <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmcomeds/315/315.pdf>

### How obligations and requirements are placed on the BBC

256 The BBC's Charter is supplemented by the Framework Agreement, which provides additional detail, including setting out the BBC's funding arrangements and creating some particular functions and obligations for the BBC as a whole, or for the BBC Executive or BBC Trust, individually.

257 The Trust believes that such an approach should continue, with the higher level, enabling purposes, powers and duties, and the constitution of the principal governance structures set out in the Charter, and more detailed requirements and descriptions of relationships between Government, the BBC and the regulator set out in the Framework Agreement. We consider it appropriate that such higher level matters be covered in the Charter, which requires more formalities if changes are sought, while more detailed matters (e.g. those of an operational or regulatory nature) that might legitimately require more frequent adjustments to meet changing circumstances, are included in the Framework Agreement. As set out in answer to Questions 15 and 16 above, we also think that the Framework Agreement should give sufficient flexibility for the regulator to develop its own approaches, within specified objectives.

### Duration of the BBC Charter

258 Recent Charters have been set for ten years, but this is not always the case: the third Charter in 1947 lasted for just five while the fifth in 1964 lasted for 17 years and the sixth in 1981 for 15 years.

259 The duration of the Charter is important. It balances certainty for the BBC against the need for regular democratic challenge and reform. Sufficient certainty is important as it gives the BBC the ability to plan and invest on a long-term, sustainable basis, therefore developing content and services that are valued by the licence fee payer in a way that achieves value for money. It also protects the independence of the BBC as the prospect of regular review of the very existence of the BBC could create a chilling effect on its editorial independence. However, within such a structure, it is also right that there is a periodic review of what the BBC does and how it operates, by democratically elected representatives so that the BBC remains ultimately accountable to the public.

260 In the view of the Trust, a duration of around ten years strikes that balance – this gives sufficient time for planning, allows a periodic and thorough assessment of the BBC, but does not tie its future into the five-year political cycle that has now been established under the Fixed-term Parliaments Act 2011. We also note that the licence renewals in 2012 for Channels 3 and 5 were for ten years<sup>73</sup>, which supports a wider industry view about the necessary duration for investment decisions.

261 Again, the Culture, Media and Sport select committee looked at this matter, and concluded that "*a ten-year Charter would provide the BBC with the security it requires, and certainty for the wider broadcasting, media and communications and technology sectors.*"<sup>74</sup> We agree with this conclusion and its reasoning.

262 The Fixed-term Parliaments Act has set the timing of General Elections and now means that, in effect, the window of opportunity to debate any new Charter on the current timetable is relatively small. We therefore believe there is a case for a one-off eleven-year Charter on this occasion to provide more time between the presumed 2025 General Election and the end of the next Charter.

<sup>73</sup> <http://media.ofcom.org.uk/news/2014/ofcom-renews-itv-stv-utv-and-channel-5-licences/>

<sup>74</sup> <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmcomeds/315/315.pdf>

263 The Green Paper specifically raises the possibility of a point of review mid-way through the Charter period. We are not convinced that such a mechanism would be practical, as it would be necessary to strictly define which areas could be reviewed and which could not (and to make this legally binding), otherwise any Government would in effect be conducting a full Charter review and the concerns set out above would be equally valid.

264 The Trust believes that reforms to the governance and regulatory architecture also provide an opportunity to create greater institutional stability for the BBC, while also allowing for regular (ten year) reviews of its operation. This could be done by staggering the duration of the Charter that establishes the regulator so that it is not co-terminus with the Charter for the BBC. Another option could be to explore the establishment of a presumption that core elements of the Charter will exist for a longer duration (subject to amendment) in order to allay any public concern that the BBC might be abolished every time the Charter expires. We wish to explore these options further with the Government.

265 In answer to Question 11 above we have also set out concerns about the timing of and process for determining the funding framework, and we believe that those issues should be considered alongside these options.

#### **Process for renewal of the BBC Charter**

266 Charter Reviews are a lengthy and time-consuming process – for the BBC, for Government and for other stakeholders in the industry. This is necessary as it is important that decisions taken as part of Charter Review are evidence based and publicly debated. We believe that it is important for the Charter Review process to allow sufficient time for a comprehensive debate about the BBC, including with public and parliamentary engagement.

267 We welcome the Government's consultation through its Green Paper and have also undertaken our own extensive work to engage with, and consult the licence fee payer. As the process continues we will be maintaining our dialogue with licence fee payers and continuing to seek their views. We will publish the results of further consultation work and analysis that is shared with the Government so that it is open to all to scrutinise and consider. In order to inform the debate going forwards, it would be helpful if the Government could set out the next steps, including proposals for timing of and public engagement with its response to the consultation (its White Paper) and proposals for how it intends to involve Parliament in consideration of a draft Royal Charter.

268 Along with our hope for greater clarity in the current process, we think that the next Charter should clearly establish the point at which review of that Charter would begin and what process it would follow, including how the public and the licence fee payer would be involved and what form parliamentary scrutiny would take.