

RADIOCENTRE RESPONSE TO HOUSE OF LORDS SELECT COMMITTEE ON COMMUNICATIONS INQUIRY INTO ASPECTS OF BBC CHARTER RENEWAL

1. Executive Summary

- 1.1 Radiocentre welcomes the opportunity to contribute to the Lords Select Committee on Communications call for evidence on the public purposes and licence fee of the BBC. In responding to this consultation we have drawn on our members' experience of working alongside and competing with the BBC in radio, audio and music.
- 1.2 **The BBC's share of the overall radio market remains at a high level (54%),** much higher than any other media. This has been driven mainly by the mass market proposition provided by its largest music radio services (Radio 1 and Radio 2) at peak times. Deficiencies in the BBC's system of governance and regulation have perpetuated this dominance.
- 1.3 **The public purposes should be revised in order to provide a clearer emphasis on distinctive content for audiences.** They are currently far too abstract and open to interpretation. This leads to BBC services with remits that are too broad and ill-defined.
- 1.4 **There should be greater emphasis in the public purposes and service remits on avoiding the BBC's negative market impact and 'crowding out' competition.** Specifically there should be greater clarity about areas that the BBC should focus upon; an emphasis on distinctiveness; a limit to market impact; and more rigorous performance monitoring.
- 1.5 **The BBC requires an external independent regulator alongside a unitary board to administer the purposes effectively.** This is likely to involve a greater role for Ofcom. The BBC's regulator must be able to evaluate it against the public purposes more effectively and take action when it falls short.
- 1.6 **The licence fee should be retained for the next Charter period.** The advantages of this system outweigh the disadvantages at present as it maintains a direct link between the public and BBC services, it preserves the BBC's independence from Government and ensures stability. However, the disadvantages are becoming more apparent, including its regressive nature and not covering online listening or viewing, so reforms to the licence fee should be considered. Alternative funding models may also need to be assessed for the future.
- 1.7 **There is lack of clarity in the BBC's mission that has led to an undue focus on the growth of audience reach and share** without an accompanying guarantee of distinctiveness and quality. The fact that the BBC has a requirement for universality and providing something for everyone who funds it is not the same as saying there are no limits on its activity. It should refrain from trying to be all things to all people across its services.
- 1.8 **The case for making licence fee funding available to other providers of public service content should be examined further,** as well as genuine partnership proposals. Commercial broadcasters provide considerable public service content which often serves audiences in parallel with BBC offerings. Therefore there is a case for distributing licence-fee funding for public service content beyond the BBC.
- 1.9 **There should have been have been a more open and public debate on the level of licence fee funding.** Undertaking negotiations behind closed doors risks politicising the BBC, and in future all BBC funding agreements should be put out to consultation.

2. Background

- 2.1 The BBC is at the heart of UK culture, and BBC radio has been at the forefront of UK creative industries since the Corporation began broadcasting in 1922. However, it also holds an extremely privileged position due to the scale of public funding it receives and preferential access to limited broadcast spectrum (in radio it owns four out of five national FM stations, including the only two national FM pop services Radio 1 and Radio 2).
- 2.2 Today the BBC's overall share of the radio market remains at a high level (54%), much higher than any other media. While it has not grown further in recent years, the BBC has consolidated its dominant position following strong growth throughout the 2000s, as both Radio 1 and Radio 2 shifted to a more populist approach. Elements of programming on Radio 3, 5 Live and BBC Local Radio have also been identified as falling short on distinctiveness.
- 2.3 Between 1999 and 2014 the gap in audience share between BBC radio and commercial radio grew from 2% to 11%. Radiocentre commissioned consultants Prospero to try and assess the impact of audience losses on commercial radio's advertising revenue. This research found that even just the audience which have migrated from commercial radio to the BBC since 1999 could have contributed to higher net revenues to the commercial sector of between £50-60m a year¹. This is a significant impact on an industry like commercial radio that only has total net revenues of around £575m a year, high fixed costs and relatively small margins.
- 2.4 Distinctive and high quality BBC radio can be a force for good in broadcasting and content creation. It is capable of a range of public service output which is not viable for commercial operators, as well as setting industry standards for quality and innovative programming. However, recent research² also demonstrates that public service programming on BBC radio is having a limited impact on the audience due to the fact that much of it is scheduled away from peak time.
- 2.5 This shift in content and growth in audience are due to a combination of cultural and creative factors, but have been allowed to occur due to an ineffective model of BBC regulation and governance. Well-intentioned public purposes have been misinterpreted by the BBC to fit an expansionist approach which focuses on amount of audience (rather than quality of content) and this has been left unchecked by a governing body that lacks the regulatory powers to guide it effectively.

3 Public purposes

- 3.1 The current system of governance was established in 2007, largely as a response to criticism that the previous BBC Governors had failed to provide appropriate independent challenges to BBC management, exert sufficient regulatory control over the market impact of the BBC's activities or provide an adequate voice for licence fee payers on major decisions.
- 3.2 At the core of this system are six well-intentioned ideals for the BBC to follow and promote: the public purposes. Lord Reith's description of a broadcaster that should seek to 'inform, educate and entertain' retains a strong resonance within these purposes, and the original premise that they should exist to outline the values the BBC holds when striving to achieve its mission continues to be relevant.

¹ Prospero Consulting, [The Impact of Rising BBC Radio Audience Share on Commercial Radio](#), Sept 2014

² <http://radiotoday.co.uk/2014/09/research-says-radio-1-radio-2-failing/>

- 3.3 The purposes remain important for the BBC because they encourage it to operate in a way that no other broadcaster in the UK can by delivering a range of public service output which is not economically viable for commercial operators. Producing distinctive public service programming of this nature, which seeks to enrich and expand the cultural horizons of its audience, should remain at the core of BBC output.
- 3.4 However, in practice, the purposes are abstract concepts too open to interpretation. They are theoretical ideals operating in a competitive media environment, and do not provide the strategic guidance the BBC requires. For the purposes to have value as part of a mission statement for the BBC, changes are required so that they can be used as a basis for more tangible strategic targets and goals.
- 3.5 Redrafting the full range of public purposes is a complex challenge to which there is no simple solution. However, there are certain principles that should be applied, including greater clarity about areas that the BBC should (and should not) focus upon; an emphasis on distinctiveness; a commitment to minimising market impact; and a more rigorous process of measurement and assessment of performance against these demands.
- 3.6 In considering ways of improving the key areas of focus for the BBC, the Committee may wish to draw upon some of the thinking outlined by the BBC Trust in its initial response³ to the Green Paper and the report of the Culture, Media and Sport Select Committee on the Future of the BBC in February 2015. In particular the Trust outlined an illustrative set of public purposes that emphasise key areas of output that it believes that the BBC should be prioritising. These include a greater focus on news and information, education, diversity, high quality distinctive content and partnership. This is consistent with some of the thinking of the Select Committee, which also indicated that a greater commitment to diversity, training and partnership should be incorporated in some way.
- 3.7 The Trust's proposals are a starting point for these discussions, but would need to be adapted significantly to increase the importance within the new public purposes of distinctiveness, diversity and working in partnership to extend the benefits of technology. An example of the sort of amendments that would be required to the Trust's wording is underlined below.
- Providing news and information to help people understand the world around them
 - Supporting education and learning
 - Showcasing distinctive and the highest-quality content
 - Reflecting and representing the diversity of the UK's population
 - Growing the UK creative industries and working in partnership to extend the benefits of technology
- 3.8 Greater clarity is also required regarding the sort of genres and distinctive output the BBC should be prioritising. For example, while news and information is a critical function of the BBC it should also be clear that it has a duty to provide high quality drama, original comedy and children's programming.
- 3.9 The impact of this content on audiences and the wider market also deserves to feature more prominently in the Charter of the BBC. Beginning with a greater emphasis on distinctiveness and a clear commitment to minimising market impact of BBC services (new and existing). It also requires a more rigorous process of measurement and assessment of performance against these demands being built in as a fundamental part of the BBC's mission and approach.

³ BBC Trust, Initial Response to Government Green Paper on BBC Charter Review

3.10 Therefore it is also crucial that the regulatory powers that are used to uphold the public purposes are available and clearly understood. Powers such as service licences, public value tests and independent regulation of editorial standards have been significant steps forward from the previous system, but require further development if they are to continue to be useful.

- **Service licences**

3.11 Service licences define the scope, aims and objectives of BBC services against the blueprint set out in the public purposes and represent the main written commitment to the licence-fee payer from a BBC service. Licences should provide sufficient guidance and set reasonable parameters for services.

3.12 The current service licences are too broad in their scope and language. The Trust sets 'conditions' as the only measurable targets within licences, but many lack appropriate metrics or clarity of purpose (or sanctions if these targets are not met). There is considerable scope for improvement, as this system lacks specificity, ambition or guidance on strategic priorities.

3.13 The inclusion of tighter, more demanding public service targets in BBC service licences, which focus on how these services can offer distinctive content, would significantly increase the public value generated by the BBC. To date, the Trust has not demanded this, partly because the public purposes underpinning this regime have lacked clarity and the appropriate emphasis on distinctiveness.

3.14 More precise service licences, re-developed by a more independent body, would increase the impact of the public purposes significantly. Many of the ideals within the purposes are well-intentioned, but much of the public service message of the BBC is subsequently lost because of the vague way the purposes are written and how they have practically been interpreted by the BBC Trust.

3.15 Providing BBC management with a clearer guide of what is expected from their services should be a priority. Service licences for the BBC portfolio should be revised to include more tangible and quantifiable targets. The process of reviewing licences should then be used more effectively to do more to ensure its TV and radio stations are better positioned to deliver the BBC public purposes and consider the wider market impact and the needs of licence-fee payers.

- **Market impact**

3.16 As part of the current Charter the Trust has an obligation to police the boundaries of the BBC and its market impact, in particular to assess how service changes or expansions may detrimentally impact commercial competitors. However, the main regulatory power available is stand-alone Public Value Tests (PVT). Despite the fast-paced changing media environment, there is no obligation for a regular evaluation of the BBC's market impact.

3.17 Ensuring the BBC does not detrimentally impact UK businesses should be a major part of the public purposes. Incremental service expansions (for example, the gradual attempts to attract younger listeners to Radio 2, Radio 1's drift to an older audience or Radio 3's adoption of programming strategies used by Classic FM) are not subjected to an appropriate level of public consultation and analysis, with the PVT reserved solely for the launch or closure of a service.

3.18 Existing powers should be revised and new powers should consider addressing the BBC's market impact and providing listeners with a broad range of content. Its governing body should be a

required to undertake an annual examination of the BBC's market impact. More attention must also be given to the cumulative effect of BBC services on the commercial market; whether it is through the combined impact of BBC radio stations, or the Corporation's unrivalled ability to cross-promote its content on a variety of channels and platforms.

- 3.19 Levels and types of cross-promotion should be continually evaluated. While it is right for licence-fee payers to be made aware of certain elements of BBC programming, the focus of the BBC's cross-promotional activities are not justified. There must be a strong public value justification for any such intervention and a consideration of the impact it has on the market.
- 3.20 Cross-promotion activities should be required to deliver directly against the BBC's public purposes, rather than focussing on promoting general entertainment programming or station personalities and presenters. A distinction must be drawn between raising awareness of new and original programmes and full-blown advertising campaigns for specific services. Much of the BBC's cross-promotion of its radio services simply constitute generic advertising campaigns for the stations concerned, and are inappropriately focussed on programming which has little direct public value, or which competes directly with alternative offerings (e.g. the Radio 1 Chart Show), rather than content of significant public value.
- 3.21 Clear rules should be put in place to provide better guidance and help minimise the market impact of this activity. This could include the following.
- Audience size – If a BBC programme already has a large audience and is well established then further cross-promotion is unnecessary and should not be permitted.
 - Original programming – Long running and existing programmes should also be exempt from cross-promotion, with a focus on new and original content only.
 - High value genres – Cross-promotion should concentrate on the most distinctive genres on BBC content, such as news and current affairs, high end drama, documentaries and original comedy.
 - No generic promotions – Generic promotions of BBC channels or the BBC itself should not be permitted.
- 3.22 While significant changes are required to address the scale and scope of BBC radio, privatisation of its services is not the answer. Such an intervention would fundamentally change the nature and purpose of BBC radio stations in a way that would lead to a reduction in their public service commitment rather than supporting the sort of improvements that are required. Commercial radio continues to support a role for the BBC across radio as a means of ensuring competition for quality, listener choice and diversity. The UK radio market would also be fundamentally weakened and destabilised by any move to privatise Radio 1 or Radio 2, as these stations would divert significant advertising revenue away from existing stations.
- **Regulation and governance**
- 3.23 There is a consensus that the current model of BBC regulation and governance is unsustainable. Even the Chairman of the Trust has accepted the structural deficiencies inherent in the current system and is proposing a move towards more external regulation. An external independent regulator, probably alongside a BBC unitary board, could help achieve much greater clarity about the role of the Executive and the regulator. There are two main options for future regulation – a new standalone regulator or passing the responsibility in some way to Ofcom.
- 3.24 A new standalone regulator (such as a Public Service Broadcasting Commission or OfBeeb) would have some benefits over the Trust model. It could at least help address the structural

challenge of needing a regulator that is genuinely separate and completely independent from the BBC. It would also be able to concentrate entirely on its role as regulator without being conflicted or suffering from confusion as to its primary function.

- 3.25 However, there are considerable risks in establishing a new single purpose regulator that will deal only with the BBC, including over dependence on the BBC or the organisation becoming so close to the body it regulates that it is unable to act in the public interest (leading to a form of ‘regulatory capture’). There may also be the issue of potential confusion with the powers and responsibilities of Ofcom. Therefore moving to a standalone regulator is possible but not an ideal solution. It would create a number of new challenges which would need to be worked through in detail during the implementation process.
- 3.26 In which case the best model is likely to involve Ofcom assuming a greater role in regulation of the BBC, due to its range of expertise and successful track record. However, significant steps would be required to mitigate the risks of undue concentration of power, the potential disruption to Ofcom (or the BBC) and lack of clarity over its responsibilities. This is likely to mean establishing a separate team, division and even management board within Ofcom to specifically with the BBC.
- 3.27 It is also crucial to ensure that the right regulatory powers are available and clearly understood. While the model of regulation is important it only provides the framework. Regulatory powers such as service licences and Public Value Tests should be reformed and new tools developed in order to maximise public service content and minimise market impact effectively. Holding the BBC effectively to account is critical, so a range of meaningful sanctions should apply. These matters should be considered in detail by the independent review overseen by Sir David Clementi into how the BBC is governed and regulated⁴.
- 3.28 For the new model to be effective there must also be a very clear division of responsibilities between any external regulator and the proposed unitary board. Unless the external regulator assumes the primary role and key regulatory powers any changes risk *reducing* the level of external scrutiny and oversight of the BBC’s activities (for example, if the BBC unitary board was to take on matters previously dealt with at arm’s length by the BBC Trust).

4 The licence-fee and universality

- 4.1 Public investment in BBC services (including radio) provides significant benefits. The market alone would simply not be able to deliver the full range and diversity of high quality content of which BBC radio is capable. If such a model is to continue for the next Charter then it is correct that the amount of this investment is primarily determined by Government in consultation with licence fee payers and other stakeholders. Government has both a democratic mandate to make these decisions, and the resources to sufficiently consult, evaluate and appreciate the wider strategic implications of the public funding allocated to the BBC.
- 4.2 On balance there are certainly enough advantages in retaining the current system for the next Charter period – including maintaining the direct link between licence-fee payer and BBC services; preserving the BBC’s independence from Government; as well as ensuring stability during a period of financial change.
- 4.3 However, the licence-fee does require reform to address some of its shortcomings; including its regressive nature and the fact it does not cover online viewing. In the short term, the ‘iPlayer

⁴ <https://www.gov.uk/government/news/independent-review-into-how-the-bbc-is-governed-and-regulated>

loophole', which allows non-licence-fee payers to access on-demand BBC services over the internet, should be closed. It is an anomaly for UK residents who do not contribute to the BBC to be able to access its content. Alternative funding models should also be explored over the next few years.

- 4.4 While there are numerous benefits of retaining a universal form of public funding for the BBC determined by Government, the requirement for 'universality' that flows from this should not mean providing any type of content across all platforms, with no limits. This interpretation risks leading to an over emphasis on entertainment and chasing ratings. Although it is important that licence-fee payers get the maximum value out of the BBC, it should not seek to be so broad in its mission that it tries to be all things to all people across every possible platform.
- 4.5 This approach leads to duplication of what is offered by the commercial sector and a reduction in distinctive content for audiences. This is particularly evident in music radio, where listeners expect BBC output to be different from commercial radio, but rate Radio 1 and Radio 2 lowest of its stations for 'distinctiveness'⁵.
- 4.6 This is likely to be due in part to the fact that music on these stations is not as distinct as might be expected. While they can be varied and diverse at times, the majority of music played in daytime is available on comparable commercial radio stations. Recent research found that only 35 % of tracks played on Radio 2 during weekday daytime are *not* played on commercial radio (a 65 % duplication rate). Similarly, under half the music on Radio 1 during weekday daytime (47 %) is not being played on commercial stations⁶.
- 4.7 Given the generous level of funding for BBC radio it should be providing a more distinctive service. According to Ofcom, the net revenues earned by commercial radio stations in 2014 were £483m across a network of 340 licensed stations on FM, AM and DAB. In contrast the BBC's spend on radio in 2015 was £725m (60 % of the total revenues for UK radio), which is used to fund a much smaller network of 57 national and local radio stations, with the five national stations alone (Radio 1, Radio 2, Radio 3, Radio 4, 5 Live) accounting for the vast majority of this expenditure.
- 4.8 In addition, the BBC's radio expenditure has seen an increase of 43 % since 2000 – whereas net commercial radio revenues (although recovering following the recession) are down by 10 % over the same period. This disparity cannot be justified if there is significant overlap between BBC and commercial radio, with listeners unable to detect a significant difference.

- **Contestability**

- 4.9 Given the scale of BBC funding (even following the recent licence fee agreement) there may be a case for some BBC funding being top-sliced or made available on a contestable basis. The process, administration and criteria for the sort of content or services that would qualify would clearly need detailed consideration. However, it is conceivable that plurality of supply and value for money could be improved in certain areas of radio content if the BBC was to make funding available to support projects or programming of clear public value.
- 4.10 The area of public service content that has attracted most attention in recent months has been the provision of local news. Specifically the BBC has outlined a proposal to work in partnership

⁵ Kantar Media research for Radiocentre, August 2015

⁶ CompareMyRadio Research, June-July 2015

with local media to support a Local Accountability Reporting Service of 100 public service reporters, while also develop a News Bank of regional video and audio content.

- 4.11 While it is encouraging to see the BBC seeking to develop a partnership approach to local media (assuming that these opportunities would also be available to local radio) it is probably too early to say whether the proposed local news partnership will offer a genuinely useful service. Some commercial operators would be concerned if this led to an expansion by the BBC into local reporting with the funding of an additional 100 of its own journalists. Depending on the precise arrangements it could also have implications for plurality if it expanded the BBC's role in local newsgathering at the expense of local press and radio.
- 4.12 However, the recent comments by the Secretary of State on this issue were encouraging, stating that *'it is important that it should help local media rather than further undermine them and I would therefore hope that the BBC would not seek to recruit or employ these journalists directly. Instead they should look to commission content from qualifying local media organisations and news agencies perhaps on the basis of tender'*.⁷

- **Funding agreement**

- 4.13 Radiocentre – along with many other interested parties – would have appreciated the opportunity to share some of the above perspectives with Government before the recent negotiations about BBC funding were concluded. Although the deal reached appears to be sensible and balanced from the perspectives of those around the negotiating table, the implications on the Charter Renewal process mean that a broader discussion would have been preferable.
- 4.14 Undertaking negotiations behind closed doors in this matter risked politicising the BBC and the deal itself could give the false impression that the BBC is seen as an arm of Government. The next Charter should set out much more clearly the process by which decisions on the BBC's public funding will be made. There should be a legal obligation for Government to consult publicly with stakeholders as part of any funding negotiations, and financial changes should be explicitly part of Charter Review discussions in order to consider the direct programming implications.
- 4.15 On the broader question of the appropriateness of a 10 year Charter Review period, this may well lack the adaptability necessary for a modern multimedia organisation like the BBC. Given the pace of change – and the scale of changes that are being considered to future governance and regulation – there would appear to be a strong case for a shorter Charter period on this occasion (or to at least conduct a mid-term review of performance and progress). This would enable the BBC, Government, stakeholders and a future regulator to at least have the opportunity to deal with any issues that arise in the interim, without waiting another ten years for these to be resolved. A shorter period could also have the benefit of separating Charter Review from General Elections, which should avoid over-politicising the process.

About Radiocentre

- 5.1 Radiocentre is the industry body for commercial radio. We work on behalf of over 40 stakeholders who operate 278 licensed radio stations across the UK and represent 90% of commercial radio in terms of listening and revenue.

⁷ <https://www.gov.uk/government/speeches/culture-secretary-keynote-to-rts-cambridge-convention>

We perform three main functions on behalf of our members:

- Drive industry revenue by promoting the benefits of radio to advertisers and agencies through a combination of marketing activity (e.g. events, advertising, PR, and direct mail), research, and training
- Provide UK commercial radio with a collective voice on issues that affect the way that radio stations operate, working with government, politicians, policy makers and regulators to secure the best environment for growth and development of the medium
- Ensure advertising messages on commercial radio stations comply with the necessary content rules and standards laid out in the BCAP Code of Broadcast Advertising and the Ofcom Broadcasting Code.

www.radiocentre.org