



RADIOCENTRE

Response to
DCMS Green Paper on
BBC Charter Review

October 2015

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INTRODUCTION

The BBC is an important part of our culture and the UK radio landscape. Inevitably points of disagreement tend to be highlighted from this kind of process but it is important to say at the outset that the radio industry transcends any individual player, no matter how big. The BBC and commercial radio have a common interest - the medium we all love which, despite all the new competition, still broadcasts to 90% of the UK population. There is no complacency as the audio world expands around us but, for now, radio is proving remarkably resilient. Like the BBC, we continue to address the challenges ahead. We share talent with the BBC, we work together on joint projects – Radioplayer, DRUK, RAJAR, Creative Access to name but a few – and we collaborate creatively as in the forthcoming Jazz FM/Radio 3 project at the London Jazz Festival.

Our views diverge in three areas in particular, all intimately related. These are:

- distinctiveness
- market share
- governance and regulation.

At the heart of this debate surely has to be licence-fee payers and how they are best served by a complementary offer from the BBC and the commercial sector. Listeners should have a range of content to choose from, served when and how they want to listen. It is not in their interest for the publicly-funded broadcaster's repertoire to be too closely aligned with what the commercial sector provides. The BBC has a serious responsibility to be the provider of choice and quality, at hours where most people are tuning in. Sometimes it can feel like that range of excellent, distinctive content languishes at the margins of the schedules.

Much of BBC radio is distinctive and the commercial sector can't compete with the expensive, high-end speech radio offered by Radio 4, for example. The argument about distinctiveness centres around the way the BBC sometimes seems to interpret its requirement for universality (due to its method of funding) as providing everything it possibly can without limits, rather than focussing on output that is distinctive. When that gets out of kilter, it is no surprise that the BBC becomes obsessed by ratings. There should be more and better ways to evaluate the success of the BBC.

Some argue that the BBC should only produce what the market cannot. Others that the BBC can only hope to justify its funding by producing highly popular content, drawing in mass audiences. There is a position between the two. That is that the BBC should, of course, produce popular content but it can never be all things to everyone. The balance should be established in the service licences and public purposes and in proper adherence to them. Ambiguity in both these areas has allowed confusion to creep in. Most pertinent to commercial radio is the dominance of Radio 1 and Radio 2.

The consequences of poorly defined and policed service licences have led to expansion in Radio 1 and Radio 2 over the last 15 years or so. In 1999, there was an almost equal split in terms of share between BBC radio and commercial radio. The BBC now has a 54% market share, largely due to expansion in these two services. Radio 1's audience got older, Radio 2's share of the younger demographic grew, attracting away from the commercial sector the much sought after (in advertising terms) 25-44 year olds. This had a big impact on commercial radio, not helped by the economic downturn in 2008. The BBC has now consolidated that dominant share.

No one disputes that the BBC plays much distinctive content. But not sufficiently at weekday peak times, when its output, in both music and speech content, is often very close to what is available on commercial networks. New research shows that listeners do not score either services very highly when asked about distinctiveness. The BBC's claim that its music output is highly distinctive by taking the entire output over the whole schedule and using only one commercial service as a point of comparison (Radio 1/Capital or Radio 2 /Absolute) fails to address the highly salient point for

advertisers about when the majority of the BBC's impressively large audience is actually tuned in. We could continue comparing statistics and data. The most important fact is that the BBC is a dominant player, benefits from cross promotion across its multiple networks, crowds out commercial rivals and thereby stifles competition. It often feels more like a commercial rival than the public sector partner the commercial sector would welcome.

No one pretends that regulation of the BBC is easy. The Trust has made progress in the years of its existence but the consensus appears to be that a more arm's length form of regulation is needed. More clarity in defining the mission and public purposes of the BBC will assist in holding the organisation more rigorously to account. Ofcom may well be the correct body to undertake this role, or a new Ofbeeb regulator. Whatever the mechanism, clearly understood regulatory powers and sanctions are critical to a healthy, thriving broadcasting ecology. In terms of funding, the licence fee is a model which has its limits in a digital world. It should stay in place for now but serious work should be done on examining viable alternatives.

There is a lot of work to do – commercial radio stands ready to contribute to the vibrant debate about the future of the BBC.

EXECUTIVE SUMMARY

BBC radio is an important part of the UK media landscape and makes a significant contribution to the sector. This submission concentrates on the questions in the Green Paper which directly affect commercial radio. It addresses therefore distinctiveness, market share, governance and regulation.

1. WHY THE BBC? MISSION, PURPOSE AND VALUES

- **The BBC and the system of public service broadcasting in the UK need to evolve and adapt** to reflect changes in technology and media consumption which have led to high quality content being much more widely available and accessible.
- **The BBC needs to demonstrate that it provides additional value and should not be measured by ratings alone.** Some BBC services have been allowed to shift gradually towards a broader and more mainstream audience, duplicating what is offered by the commercial sector (especially at peak times). Radio 1 and Radio 2 are good examples.
- **The Government identifies the tendency for some BBC services to over extend their entertainment offering,** at the expense of the public service mission to inform and educate. Two significant contributory factors of the BBC Charter and its mission are:
 - a broad interpretation of the BBC’s requirement for ‘universality’
 - deficiencies with the BBC’s public purposes and service remits.
- **This lack of clarity in the BBC’s mission has encouraged concentration on the growth of audience reach and share** with no accompanying guarantee of distinctiveness and quality. A requirement for universality is not the same as saying there are no limits on BBC activity.
- **The BBC’s public purposes should be improved and adapted** to provide a clearer focus on key principles of distinctiveness, market impacts, diversity and technology – with a more rigorous process of measurement and assessment of performance against these criteria.
- **The proposal to establish a set of values to underpin the Charter and service remits is also laudable** and provides an opportunity to ensure that commitments to independence, impartiality, diversity and distinctiveness are echoed by the specific requirements on BBC services.

2. WHAT THE BBC DOES. SCALE AND SCOPE

- **The BBC’s share of the overall radio market remains high (54%), much higher than any other media.** This has been driven mainly by the mass market proposition provided by its main music radio services at peak times, with its share of 25-44 listening rising by 11% since 1999.
- **Radio 1 and Radio 2 grew especially strongly throughout the 2000s as they were allowed to shift to a more populist approach.** While the BBC’s share has not grown further in recent years, it has successfully consolidated its dominant position.
- **The growth in audiences for BBC radio services risks weakening the provision by the commercial sector** which depends on audiences to raise advertising revenue and remain sustainable in an increasingly competitive market. Independent consultants Prospero Consulting have estimated the cost to commercial radio of this audience migrating to the BBC as being in the region of £50-60m a year in lost revenue.
- **BBC radio services are falling short on distinctiveness and public service content** (especially in daytime). According to independent audience research commissioned by Radiocentre listeners want BBC radio services to be different from their commercial rivals, but rate key services Radio 1 and Radio 2 lowest of all BBC stations for ‘distinctiveness’.

- **Analysis of audience perspective, music output and speech content also highlight a lack of distinctiveness.**
 - Audience perspective – Audiences for BBC radio (especially music radio) do not see it as particularly distinctive and are unaware of much of the public service output.
 - Music output – Music on the main BBC stations is not as distinctive as might be expected, particularly during daytime (when 65 % of Radio 2 output can be heard on commercial radio).
 - Speech content – BBC music radio is under-delivering in its range and diversity of high quality public service speech content, particularly in peak times.
- **The BBC’s cross-promotion and marketing activities reinforce its dominance** and can play a powerful role in securing the mainstream market positioning of many of its services and programmes. The scale and focus of this cross-promotion is not justified and there should be tighter rules on what the BBC is able to promote.
- **The future scope of the BBC should be determined by significant improvements to the service remits and more effective regulation.** Examples of alternative service licences that could be used for Radio 1 and Radio 2 are provided to illustrate this point. This approach would be more consistent with the underlying principles and mission of the BBC to be distinctive and deliver on a tighter and more demanding set of public service targets overseen by its regulator.

3. **BBC FUNDING**

- **Public investment in BBC services (including radio) provides significant benefits.** The market alone would not be able to deliver the BBC’s full range and diversity of high quality content consistently.
- **The licence fee should be retained for the next Charter period.** The advantages of this system outweigh the disadvantages at present as the licence fee 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.
- **Reforms to the licence fee should be considered** to make it more flexible and appropriate for funding a modern BBC. Alternative funding models may also need to be considered in future.
- **Overall BBC radio remains generously funded compared to commercial radio,** with the disparity in funding growing significantly in recent years. This cannot be justified if there is significant overlap between BBC and commercial radio, with listeners unable to detect a critical difference. Hence the need for major improvements in regulation and accountability to improve the BBC’s commitment to distinctive public service radio.
- **There is a case for some BBC funding being made available on a contestable basis.** The criteria for the sort of content or services where this funding could be provided requires detailed consideration. However plurality of supply could be improved in certain areas of radio content like local news provision, specialist music events or concerts, documentaries or children’s programming.
- **The public investment in the BBC means that it has broader responsibilities.** While it is right for licence fee funding to be focused primarily on the provision of the BBC’s own services it also has an important role in supporting growth and innovation as well as a diversity of media services and content. Previously this has included the roll-out of digital television and broadband, in future it should include a commitment to improving the scale and quality of digital radio.

4. BBC GOVERNANCE AND REGULATION

- **The consensus is that the current model of BBC governance and regulation 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 greater clarity about the role of the Executive and the regulator.
- **There is a case for a new standalone body (Ofbeeb) to assume responsibility for regulating the BBC.** It would offer a way of ensuring clear separation and external oversight. But there are risks in creating a bespoke regulator, including possible over dependence on the BBC or becoming so close to the body it regulates that it is unable to act in the public interest ('regulatory capture').
- **Ofcom should assume a greater role in regulation of the BBC,** although 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.
- **It is 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 also apply.
- **There must be a very clear division of responsibilities between any external regulator and the proposed BBC unitary board.** It is the external regulator (not the unitary board) that should assume the primary role and key regulatory powers in future. Otherwise any change risks *reducing* the level of external scrutiny and oversight of the BBC's activities.
- **There would appear to be a strong case for a Charter period of less than 10 years 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.

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?*
- Q2. Which elements of universality are most important for the BBC?*
- Q3. Should Charter Review formally establish a set of values for the BBC?*

Context

1. **The BBC is one of the finest broadcasting organisations in the world.** Its best radio content is unrivalled in range and quality while being valued highly by listeners. However, the BBC 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. There is a range of views on how the BBC should exercise these privileges and whether it has the right mission, purposes and values in place to determine the focus of its services – or the necessary regulatory framework to ensure that this is enforced effectively.
3. **There is still a strong rationale for the BBC to continue as a publicly funded body** offering a range of high quality content across radio and other media, despite the dramatic changes in technology and media consumption in recent years. As the Green Paper points out, public intervention in broadcasting can bring significant benefits to citizens and consumers. It can help ensure high quality public service content at a level that the market alone would not provide in sufficient volume. This was part of the original rationale for the BBC and a key reason why the system of public service broadcasting in the UK has retained the support of successive governments and the public.
4. There are certain BBC services and programming that it would simply not be possible or commercially viable to provide. For example no commercial radio operator could sustain a service like Radio 4, with its extensive commitment to news, current affairs, drama, comedy and documentaries (and its content budget of £88m). In addition the investment by other BBC radio networks in specialist music output, minority sports, local discussion and debate would be very difficult for commercial operators to support on a consistent basis.

Mission

5. Despite its undoubted strengths, **the BBC's mission does need to be more clearly defined and implemented.** The widespread support for the rationale behind the existence of the BBC should not be taken as an endorsement of the way it operates in practice. The broad purposes of the BBC (and its subsequent scale and scope) require reform as part of the Charter Review process, in order to reflect its changing role and the choices that are now available to consumers.
6. There have been dramatic changes in technology and media consumption over the past ten years. As a result high quality content is much more widely available and accessible to audiences. Consumers of radio and audio content in the UK not only have access to 57 BBC radio stations, but 340 licensed commercial radio stations and 200 community radio, not to mention 20,000 radio stations from around the world via the TuneIn Radio app.
7. In addition to broadcast radio it is now also possible to access music and speech content on demand in a variety of locations and from a range of different sources that were unimaginable just a few years ago, with platforms like iTunes or streaming services like Spotify moving from niches services to mass market use. There are now around 60 legal digital music services in the

UK¹ and almost one-third (30%) of people in the UK claim to use streamed audio services². This is reflected in published data on the growth in popularity of music streaming, which doubled in the UK between 2013 and 2014, from 100 million to 200 million streams a week and is currently averaging 480 million³.

8. Most of this content was not available at the time of the last Charter in 2005 and has only become widely available following the rapid growth in internet access and smartphone penetration in the last few years (it is worth noting that the iPhone was not even launched in the UK until 2007). While it would be unreasonable to suggest that these changes in technology and media consumption have removed the original rationale for the BBC or public service broadcasting, they do provide a different context when deciding on the nature of its mission, scope, funding and regulatory framework.
9. **The BBC needs to work even harder to demonstrate that it is providing additional value through the quality and distinctiveness of its output – and should not seek to be judged by ratings alone.** Unfortunately some BBC services have been allowed to shift gradually towards a broader and more mainstream audience, duplicating what is offered by the commercial sector (particularly at peak times). This approach provides poor value for the public as it limits the range and diversity of output available rather than extending choice.
10. Radio 1 and Radio 2 are particularly good examples of this trend and we provide further evidence and analysis of these stations later in this document, in response to the questions on appropriate scale and scope. Elements of programming on Radio 3, 5 Live and BBC Local Radio have also been identified as falling short on distinctiveness.
11. **Therefore the Government is right to identify the tendency for some BBC services to over extend their entertainment offering,** at the expense of the public service mission to also inform and educate. There are multiple reasons for this but the Government identifies two significant issues with the BBC Charter and its mission that are likely to have contributed which we address in more detail below. These are:
 - a broad interpretation of the BBC’s requirement for ‘**universality**’
 - deficiencies with the BBC’s **public purposes** and service remits.

Universality

12. Universality has been seen as one of the defining characteristics of the BBC and public service broadcasting in general. This is understandable given the funding mechanism of a TV licence fee on all users and the public ownership and accountability of the BBC.
13. However, as the Green Paper points out **the concept of universality is sometimes ambiguous and means different things to different people** so it is difficult to rely on this term as an underpinning for the activities of the BBC. The Government characterises some of most common perspectives on the meaning of universality in the following ways:
 - the BBC should provide all types of content, and meet the needs of all audiences, regardless of the extent of provision by others
 - the BBC should ensure due emphasis on covering single unifying events (such as the Proms, Royal weddings, and election coverage)
 - the BBC’s services should be available and accessible on all platforms and devices, free at the point of use (e.g. digital and online services).

¹ https://www.bpi.co.uk/assets/files/BPI_Digital_Music_Nation_2013.pdf

² Ofcom Communications Market Report 2015

³ <https://www.bpi.co.uk/home/streaming-drives-boost-in-uk-music-consumption-in-first-half-of-2015.aspx>

14. These particular interpretations are not exhaustive, or even exclusive, with certain elements or views on what universality means being emphasised at different points depending on the area of the BBC's activities that is being discussed. **For the BBC to operate against such a background of ambiguity is unhelpful.** It means that its mission is not defined adequately and can be interpreted incorrectly as providing the BBC with an obligation to offer every type of content, programme and service across all platforms, all of the time.
15. This vision of a BBC with no limits, providing 'everything for everyone', cannot (and should not) be the intention of Government and/ or Parliament through the Royal Charter, or even the realistic expectation of its audience. It goes significantly further than the more reasonable position of the BBC providing something for everyone who funds it, with an emphasis on output that is distinctive.
16. However, occasionally these perspectives can become conflated due to the ambiguity and flexibility of the interpretation, which can incentivise BBC services to grow audience reach and share but provides no guarantee of distinctiveness and quality. It also feeds through to much more specific guidance and oversight of BBC services, enabling them to be all things to all people rather than serving a clear public purpose.
17. For example, when the BBC faced criticism of the way its pop music stations (particularly Radio 1, and Radio 2) super serve listeners aged 25-44 this was rejected by the BBC Trust in its 2014 review of these services. The reason this was dismissed was not due to any convincing evidence to the contrary, but simply because *'the licence fee gives it a duty to provide something for everyone across a range of services'*⁴. This approach means that it is difficult to engage constructively on important issues of distinctiveness, market impact or public value provided by the BBC, because almost any activity or service can be justified.
18. This perspective – and the broad interpretation of the BBC's mission it implies – seems outdated and out of tune with the way in which the BBC will need to be structured in future, particularly following constraints on its activity that are likely following the licence fee agreement of July 2015. It is also contrary to the view expressed in parliament by the Culture, Media and Sport Select Committee, which stated that the BBC should reduce provision in areas that are over-served or public service value is marginal⁵.
19. This sentiment was echoed by the Secretary of State when launching the Charter Review process when he stated that *'we must at least question whether the BBC should try to be all things to all people—to serve everyone across every platform— or if it should have a more precisely targeted mission'*⁶. Therefore the Government is right to ask whether the language of universality is still useful in the current media age or whether it should be clarified to serve audiences with a more narrowly focussed BBC.
20. Specifically clarification would be welcomed that **universality is not the same as saying there are no limits on BBC activity** and should refrain from using this as a justification to provide all types of content being provided to all audiences. However, given it is likely to remain the case that the BBC is funded by all its users, it does make sense to provide *something* for everyone who pays. But this content should be required to comply with a more tightly defined range of public purposes and service remits and be enforced through rigorous regulation.

⁴ BBC Trust Music Services Review, para 171

⁵ <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmcomeds/315/315.pdf>

⁶ <http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm150716/debtext/150716-0002.htm>

Public purposes

21. The public purposes of the BBC are a necessary attempt to try and explain its public service mission. However their effectiveness in providing a clear role and remit for the BBC is undermined by two main factors:
 - the overarching requirements for universality (when interpreted too broadly)
 - the broad language and terminology used to describe the public purposes which (as the Government states) effectively means that *'it would be difficult for any programme or activity not to fall within one of them'*.
22. Some initial suggestions on how the scope and implementation of the public purposes could be improved are here. While it is not necessarily the role of external bodies to provide an exhaustive list of public purposes and definitions **the BBC's current public purposes could certainly be improved**. In particular they should provide greater clarity on *what* the BBC must deliver and prioritise (its output) and *how* this is delivered and executed in practice (its impact).
23. In considering ways of improving the key areas of focus for the BBC the Government will doubtless draw on the BBC Trust's initial response⁷ 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 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.
24. **The Trust's proposals are a starting point for these discussions, but they should 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
25. 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.
26. 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.
27. At present such functions appear to be secondary and are managed according to the policies and guidelines of the governing body. This doesn't provide sufficient accountability for the BBC and is ultimately due to a Charter, set of public purposes and regulatory framework that are not robust enough to keep the BBC in check. These issues are addressed further in section 4 on governance and regulation.

⁷ BBC Trust, Initial Response to Government Green Paper on BBC Charter Review

Values

28. **There is a case for introducing a formal codified set of values to underpin the Charter.** Any such values need to be consistent with more detailed definitions of the public purposes and not duplicate them.
29. There needs to be greater emphasis and clarity on the BBC's need to remain independent and impartial. Similarly its duty to be distinctive should be captured and expressed clearly, along with a clear responsibility to minimise its market impact. Although for these values to be meaningful **they must link directly to specific requirements and conditions in the service remits** agreed by the BBC's regulatory body.
30. It is also correct that the values of the BBC and the wider broadcasting industry should be as representative of the population as possible. BBC radio in particular has been rightly criticised for under performance in this area, with only 9 % of its audience (and 5 % of its listening hours) from black, Asian and minority ethnic (BAME) backgrounds – compared to 12 % of the commercial radio audience (and 11 % of listening hours).
31. The BBC Trust has previously singled out the UK's largest station Radio 2 for failing to reach BAME audiences. Only 3 % (474k) of the Radio 2 listeners are non-white, despite a total audience reach of 28 % (15.1m) overall. Radio 1 also has work to do in this area with a BAME listeners representing 12 % of its audience, which is relatively poor compared to other youth orientated music networks such as Capital (19 %) and Kiss (25 %)⁸.

⁸ All data from Rajar Q2 2015

2. WHAT THE BBC DOES. SCALE AND SCOPE

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?

Q5. Where does the evidence suggest the BBC has a positive or negative wider impact on the market?

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

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

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?

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

An expanding BBC

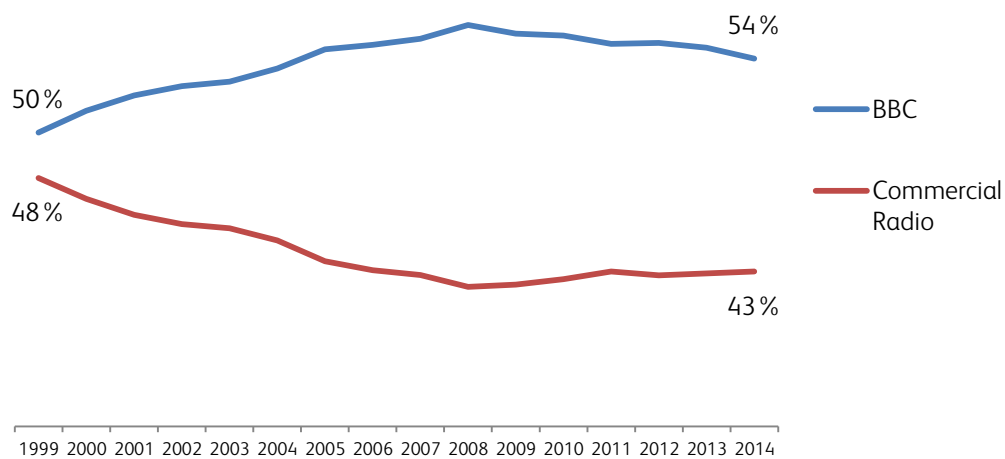
32. The broad interpretation of universality and the BBC's public purposes has created an environment where it has felt compelled to expand the range of services that it offers, widening the scale and scope of what the BBC provides.
33. The impact of this has been exacerbated in the last ten years by the rapid growth of digital technology, which has created opportunities for expansion that were not available previously. As the Government points out, the number of BBC national radio stations has doubled from five to ten, with the launch of its digital stations. It has also grown its footprint online with a range of products and services in radio alone, including its own i-Player Radio App, the BBC Playlist music tagging service and a station specific channel for Radio 1 on YouTube and i-Player TV.
34. Only recently the BBC also outlined proposals to go further still and introduce an interactive radio service and music streaming platform making available online the 50,000 music tracks it broadcasts each month⁹. This proposal is particularly problematic as it risks stifling innovation and competition in the radio and audio market, as new entrants (and potentially existing operators) will be unable to compete with a BBC service funded by the licence fee, free at the point of use, containing no advertising. The introduction of such a service would be a perverse outcome from the Charter Review process, as it would mean that the BBC's dominance in the radio and audio market would increase. It also seems contrary to the rhetoric from BBC management that rejects claims that it is being expansionist.
35. This appetite for expansion and growth of BBC services across all areas has been evident in radio for some time, utilising its significant advantages of scale and funding even where audiences are well catered for by the commercial market. The consequence of this action has been to establish a scale and scope for the BBC that is too great and services that are insufficiently distinctive.
36. Therefore in this section the key questions of scale and scope, impact and the focus of BBC services are addressed. Specifically:
 - market impact in radio
 - lack of distinctiveness in music radio
 - impact of cross-promotion.

⁹ BBC, British Bold Creative, September 2015

BBC market impact - crowding out

37. **The BBC's share of the overall radio market remains high (54%), much higher than any other media.** While much of the BBC's radio output is of exceptional quality, this dominant market share is unsurprising given the significant advantage it has in broadcast spectrum (owning four out of five national FM stations, including the only two national FM pop services Radio 1 and Radio 2). This structural and legacy advantage has also been re-enforced by the mass market proposition provided by its main music radio services at peak times. Currently too much of the public service content featured on BBC music radio is broadcast in off peak hours and has little impact on most of the audience.
38. 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. Between 1999 and 2014 the gap in audience share between BBC Radio and commercial radio grew from 2% to 11%.

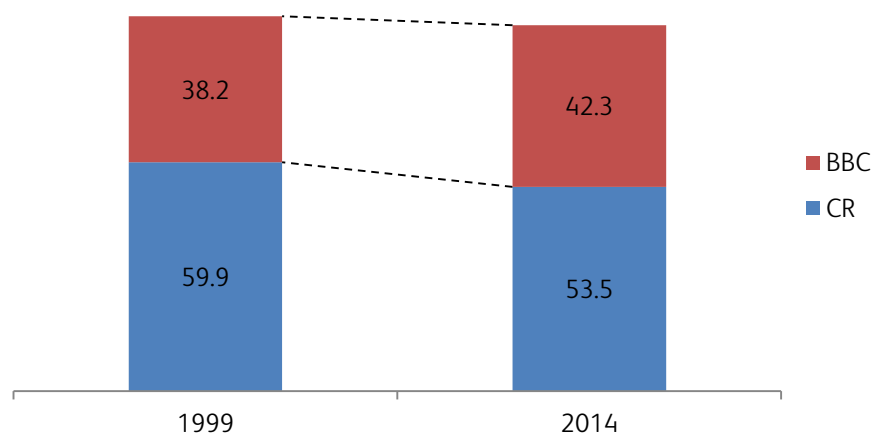
Figure 1: Radio audience share (15+) – 1999-2014



Source: Rajar

39. During this period the shift in audience in the core 25-44 age bracket (the demographic most valued by advertisers) was particularly significant, with BBC Radio eroding commercial radio's share from 60% to nearer 50% (see Figure 2 below). Much of this was driven by growth at Radio 2, and means that the collective listening hours to four BBC pop music services alone (Radio 1, Radio 2, 1Xtra, 6 Music) now constitute around 30% of listening by 25-44 year olds.

Figure 2: Radio audience share (25-44) – 1999-2014



Source: Rajar

40. **The growth in audiences for BBC radio services risks weakening the provision by the commercial sector** which depends on audiences to raise advertising revenue and remain sustainable in an increasingly competitive market. A report from independent consultants Prospero Consulting¹⁰, which was commissioned by Radiocentre, considers the impact of these changes in further detail. It concludes that the audience that 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 year.

Distinctiveness of BBC services

41. The dominant market share of the BBC's radio services – and its appeal to the commercial radio 'heartland' audience of 25-44 year olds – has been driven and sustained largely by an expansion in its mainstream pop music services. In particular the daytime output of the main BBC music stations has become less distinctive and focused primarily on audience size, rather than on the delivery of a clear public service remit.

42. This lack of distinctiveness is unfortunate and a missed opportunity as the BBC is capable of using the advantages of its funding and scale to produce high quality radio content that other broadcasters simply cannot provide. However, due to the way that this content is scheduled and promoted it fails to make a sufficient impact on listeners and bring enough of its unique content to daytime audiences.

43. **BBC management don't appear to accept any of the evidence that key BBC services need to change** or that Radio 1 and Radio 2 could be doing more to deliver effectively on their public service mission. In its initial response to the Green Paper it stated that '*many of the BBC's radio services are unique, but even where they are not, they are still distinctive*' and that the evidence '*does not suggest the content of the BBC's radio services needs to change as part of Charter Review*'¹¹.

44. To argue that no change is required to BBC radio services is extraordinary against this background. On the contrary the independent audience research commissioned by Radiocentre found that **BBC radio services are falling short on distinctiveness and public service content** (especially in daytime). This looked specifically at the overall audience perspective, music output and speech content.

- **Audience perspective** – Audiences for BBC radio (especially music radio) do not see it as particularly distinctive and are unaware of much of the public service output.
- **Music output** – Music on the main BBC stations is not as distinctive as might be expected, particularly during daytime.
- **Speech content** – BBC music radio is under delivering in its range and diversity of high quality public service speech content, particularly in peak times.

- Audience perspective

45. Over the past year Radiocentre has commissioned two in-depth surveys of radio listeners in order to better understand the audience's perspective of distinctiveness on BBC radio stations. This included a survey of 2,000 BBC music radio listeners in 2014 (conducted by BDRC Continental) and 3,000 radio listeners in 2015 (conducted by Kantar Media).

46. This research found that **BBC audiences want services to be distinctive, but many do not think they are**. Of the 2,000 BBC Radio 1 and BBC Radio 2 listeners surveyed by BDRC Continental¹², 77% agreed that BBC Radio has a responsibility to be distinctive from commercial radio. However, less than a third of listeners to Radio 1 (32%) and only half of listeners to Radio 2 (54%) thought

¹⁰ Prospero Consulting, [The Impact of Rising BBC Radio Audience Share on Commercial Radio](#), Sept 2014

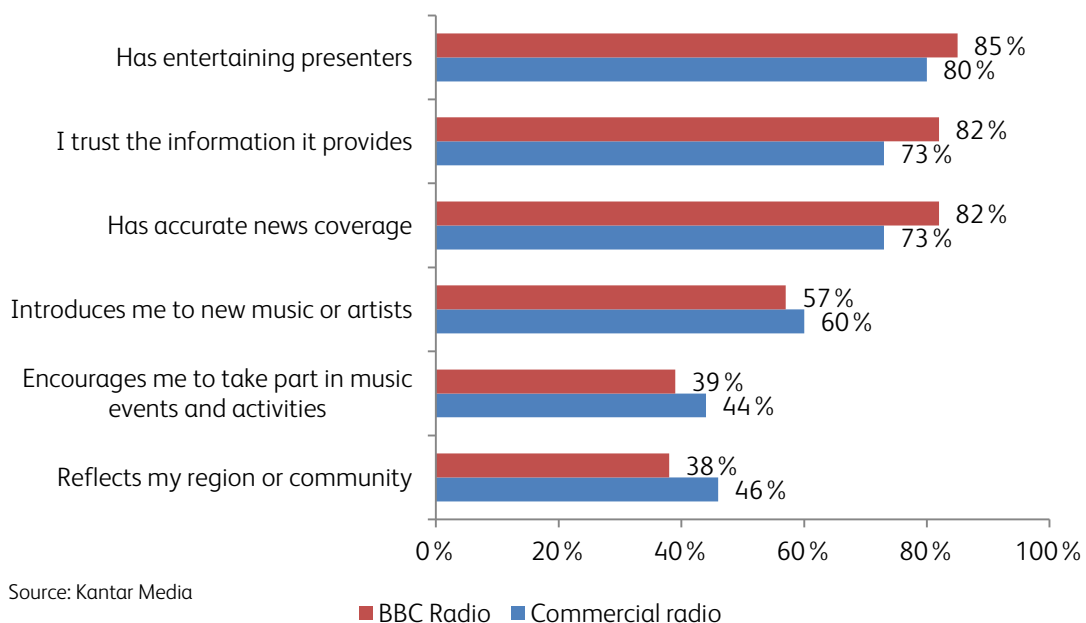
¹¹ BBC, British Bold Creative, September 2015, p.41

¹² BDRC Continental, [Radio 1 and Radio 2 audience research](#), Sept 2014.

that these services were actually different to commercial radio services. Listeners even pointed to the similarities in music tracks and artists they heard on all services, primarily due to the tendency of the BBC stations to play popular chart music, particularly during peak times.

47. **Most listeners are unable to identify much of the public service output on BBC music radio.** Due to the proliferation of content without any public purpose, audiences do not associate BBC music radio with the speech requirements laid down by the BBC Trust. For example, Radio 2 has a service licence commitment to broadcast at least 170 hours of religious output each year, but only 16% of the listeners associated it with any religious programming. Similarly, Radio 1 has a service obligation to broadcast 40 documentaries per year, but only 6% of listeners associate Radio 1 with this content.
48. Overall it was clear from this survey that the most high value and distinctive content on BBC music radio is failing to make a significant enough impact on listeners. This was also evident from the fact that only 1 in 3 (35%) of Radio 1 and Radio 2 listeners said that they thought the station informed and/or educated the public.
49. In 2015 Kantar Media were able to analyse some of these issues in more detail, testing a range of attributes to describe both BBC and commercial radio stations. In a number of these areas the BBC scores well overall (for example on the accuracy of its news coverage and trust) which would be expected. However, the fact that the strongest attribute of BBC radio is seen to be entertaining presenters may indicate an over emphasis on entertainment at the expense of public service content. It is of course important for its presenters to be engaging and entertaining in order to bring its content to life, but that fact that this is seen as the strongest attribute is surprising.

Figure 3: BBC and Commercial Radio – Key Attributes (% of listeners agree)



50. It is also worth noting that commercial radio scores higher on a number of attributes where the BBC would be expected to dominate, due to its superior funding, availability to audiences and public service remit. For example, commercial radio rates higher on reflecting region or community and encouraging engagement with music and even for introducing listeners to new music and artists (although the BBC scores better when considering only national pop music stations).

51. This overlap in attributes was also echoed when respondents were asked how they would best describe their BBC or commercial radio station. This found a relatively close match between the BBC's pop music stations and commercial music stations. It identified a much clearer level of distinctiveness when Radio 4 and speech-led BBC Local Radio stations were taken into account.
52. **The percentage of Radio 1 listeners who say it is 'distinctive' is lower than any of the other main BBC radio station (closely followed by Radio 2).** Listeners to at least six commercial radio stations would also rate their main station higher for distinctiveness. The full breakdown of the main BBC stations and leading commercial stations where listeners agreed that they are distinctive is here.

Figure 4: Listeners who say their main station is distinctive

Commercial station	%	BBC radio station	%
Planet Rock	69%	Radio 4	49%
Classic FM	50%	6 Music	44%
LBC	37%	4Extra	32%
Absolute	29%	5 Live	27%
talkSPORT	28%	Radio 2	23%
Smooth	24%	Radio 1	19%
Kiss	22%		
Capital	19%		
Magic	14%		
Heart	10%		

Source: Kantar Media (Note: further stations were excluded due to small sample size)

Music output

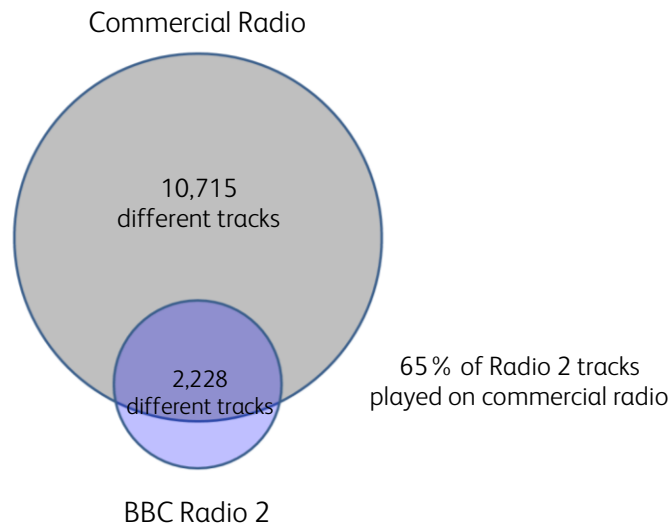
53. **BBC music radio stations have a responsibility to bring the broadest possible range of music to their audiences.** Public funding through the licence fee (and significantly higher content budgets) means that they are free to experiment in a way that their commercial competitors are not. In contrast commercial radio stations tend to operate a tighter playlist, due to the requirements of their Ofcom format, commercial pressures and a need to provide a point of difference to their BBC counterparts.
54. Despite these different remits and responsibilities the BBC has sought to cite comparisons with individual commercial radio stations in an attempt to illustrate distinctiveness of its music¹³. For example it has chosen to compare Radio 2 with Absolute Radio ('a rock-oriented station combining new music with classic album tracks, aimed at 25-44 year-olds') and Radio 1 with Capital FM ('a locally oriented, mainstream popular music-led service for under 40s in London').
55. In reality neither of these comparisons is particularly helpful or representative. Looking at BBC and commercial stations on a one-to-one basis is restrictive and fails to take into account the fundamental difference in role and remit. It also ignores the fact that commercial stations are generally obliged to include 10-15 minutes of advertisements per hour (at least in daytime) to fund their programming,
56. In terms of spectrum and reach, there is no individual commercial station which can compare directly to a national BBC popular music service. Therefore we have looked at comparisons

¹³ BBC, British Bold Creative, September 2015, p.30

between Radio 1 and Radio 2 and a representative sample of 31 commercial radio stations and local networks monitored by the CompareMyRadio service over a seven week period.

- 57. This **research shows that music on BBC Radio is not as distinct as might be expected.** While BBC stations can be varied and diverse at times the majority of music on the most popular BBC services has considerable crossover with commercial radio, especially in daytime. 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 stations.

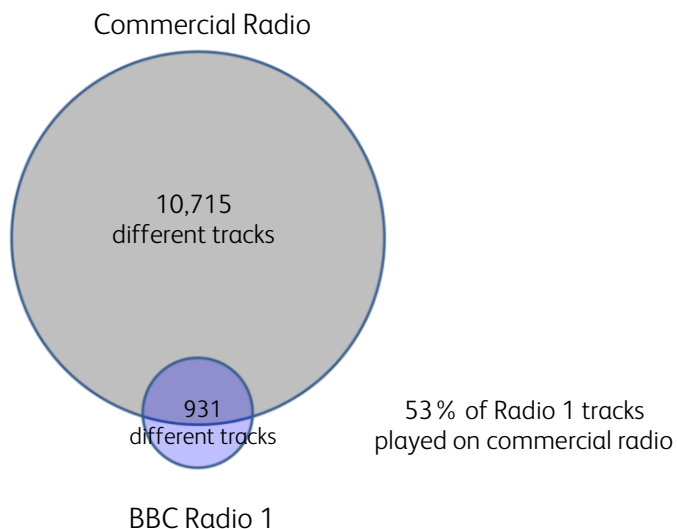
Figure 5: Commercial Radio vs Radio 2 (weekday daytime)



Source: CompareMyRadio

NOTE: different tracks played in weekday daytime (06.30 to 18.30) between 1 July – 18 August 2015

Figure 6: Commercial Radio vs Radio 1 (weekday daytime)



Source: CompareMyRadio

NOTE: different tracks played in weekday daytime (06.30 to 18.30) between 1 July – 18 August 2015

58. **As a minimum requirement the *majority* of individual tracks on BBC stations should be distinct from commercial radio during weekday daytime**, as a means of extending choice and diversity. The reason listeners perceive BBC radio and commercial equivalents to be similar is likely to be because of the music playlist at peak times. While it is indisputable that BBC radio plays a wide range of music genres and tracks throughout the week, it does not do this to such an extent during daytime when the vast majority of listeners tune-in.
59. **This lack of distinctiveness is particularly important because music radio is facing increasing competition**, and BBC radio has a responsibility to be at the forefront of defining its unique offering. Radio has managed to retain large audiences, but people are listening for less time. Increased competition from a proliferation of new media devices, most specifically personal music streaming services, means that the time individuals spend listening to radio is decreasing. BBC radio needs to lead the way by using its creativity and innovation to differentiate itself to this competition and ensure that radio continues to be a passion for millions in the future. This means emphasising radio's well-known role as curator of and introducer to new music, rather than playing well known tracks and mainstream artists that are readily available on commercial radio.

Speech output

60. In a world of music streaming services where the public can programme the music they want it is likely that the speech output between the music that will deliver much of radio's distinctive content - making the range and depth of speech on BBC radio stations just as important as the music offering.
61. Speech needs to be rich and diverse on BBC radio so that services continue to be accountable to their audiences and the BBC's public service mission. In order to better understand the types of speech on the most popular BBC music radio services (Radio 1 and Radio 2) Radiocentre has undertaken independent monitoring of both services over weekday daytimes, supplemented by audience research.
62. **Radio 1 and Radio 2 are under delivering on high quality public service speech during daytimes.** From the monitoring of both services undertaken for Radiocentre by independent radio industry professionals, stations were not found to be broadcasting the amounts of regular arts coverage, scripted drama or comedy content which would be expected from a public service broadcaster. Although some speech output of BBC music radio services is of high quality and can be of genuine public service, the largest proportion of speech in daytime is taken up by general banter (38% of speech over the week on Radio 1, 20% on Radio 2) or entertainment features (18% on Radio 1, 10% on Radio 2).
63. **Public value output is being pushed to the fringes of the schedule, particularly on the BBC music radio, where it is not being heard.** Just as with music output, the audience does not associate distinctive speech content with these stations because it is being broadcast in off-peak when listening levels are low. This should be addressed in part by a requirement on all BBC music radio stations to repurpose its high-value speech content and schedule more of this in peak time.
64. **The established scheduling of public service programming in off-peak is not working.** The well-rehearsed argument used to justify this practice is that BBC Radio services need to establish daytime scale, so that listeners are then more likely to be exposed to output that meets the public purposes (even if it is delivered in the margins of the schedule). This 'ratings by day, reputation by night' strategy clearly does not maximise the reach of this output, and has failed to deliver the impact of higher value public service programming.
65. **The BBC could use its privileged position to experiment more with radio programming.** Audiences no longer consume radio in the same way they did, yet any comparison of today's schedules on BBC popular music radio with equivalents from decades previously shows little difference. While Radio 1 has invested a lot of resource in redeveloping its online offering, it still has the same

daytime 2-3 hour DJ-led music show format and two 15 minute *Newsbeat* shows in the same low-reach slots as 10 years ago. While BBC One and BBC Two build peak-time TV schedules around their unique documentaries and comedy shows, Radio 2 continues to lead with programming that is music-led and dominated by white male presenters.

66. **Public service content should be repackaged for daytime listeners.** Commercial broadcasters understand that different types of audiences require different approaches to programming. No one is expecting expect long-form documentaries to be scheduled every day at breakfast time but there is no reason why an edited version of off-peak programming could not be repurposed for a peak-time audience in a magazine style which works so well on BBC TV shows such as *The One Show*.
67. **BBC music radio should broadcast more regular public service speech output.** More consistent and regular public service content could take several forms. There should be repackaged daily slots for documentary content at times when audiences can find it; news and current affairs content should be summarised more regularly during peak-times as bulletins; and there needs to be greater recognition of public service requirement among BBC production teams, so that the amounts of general non-descript 'banter' are reduced.

Cross-promotion

68. The nature of the BBC's marketing and cross-promotion activities plays a powerful role in securing its broad scale and scope. 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.**
69. The sort of exposure that the BBC is able to provide its services is beyond the reach of most media companies. Radiocentre has previously provided an analysis of the nominal value in kind from this free advertising for BBC services. Even when only taking BBC 1 and BBC 2 into account this was estimated to have an annual value of around £60m a year¹⁴. This does not include the significant promotion and advertising undertaken by the BBC in addition to cross-promotion, or the levels of investment required to support the high production values of TV campaigns and promos.
70. **There must be a strong public value justification for any future cross-promotion and a consideration of the impact it has on the market.** Cross-promotion activities must deliver directly against the BBC's public purposes, rather than focussing on promoting general entertainment programming (such as the Radio 1 and Radio 2 breakfast shows) 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 advertising campaigns for the stations concerned, and are inappropriately focused 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.
71. 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.

¹⁴ http://www.radiocentre.org/files/2011_01_31_rc_response_to_ft_policy_review.pdf

- No generic promotions – Generic promotions of BBC channels or the BBC itself should not be permitted.

Privatisation?

72. There has been some public debate and discussion regarding possible privatisation of some BBC radio services, with Radio 1, Radio 2 and even 5 Live being identified as stations that could potentially be sold off and provided on a commercial basis¹⁵.
73. Given the lack of distinctiveness of these services as highlighted in this document and in Radiocentre's responses to the BBC Trust, it would be surprising if this option was not at least being discussed within Government. However **privatisation is not the solution to creating a more distinctive set of BBC radio services.**
74. 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.
75. **The UK radio market would also be significantly weakened and destabilised by any move to privatise Radio 1 or Radio 2.** At a stroke this could lead to the creation of the two largest commercial stations in the market, diverting significant advertising revenue away from existing stations. In addition the process would be complex and time consuming, with any sums raised by the sale being relatively small in Government terms.

Future scope - new service remits

76. **The future scope of the BBC should be determined by significant improvements to the service remits and more effective regulation.** These underlying principles will lead to tighter and more demanding public service targets overseen by its regulator, leading to services that are more distinctive and accountable.
77. The current service licence remits are much too vague and are not enforced effectively. Therefore **suggested alternative service licence for Radio 1 and Radio 2** are attached (as Appendices to this document), in order to illustrate the key elements that could be incorporated in such a system in future. These are just illustrations, but they do outline the sort of detail that is required to ensure greater distinctiveness and clarity about the remit of these stations.
78. If BBC services were provided with this clearer definition of what is being required of them in terms of distinctiveness and were held to account for the delivery of these requirements this would benefit the BBC, its listeners and result in a healthier and more diverse radio sector in the UK.

¹⁵ <http://www.thetimes.co.uk/tto/opinion/columnists/article4541639.ece>

3. BBC FUNDING

- Q11. How should we pay for the BBC and how should the licence fee be modernised?*
- 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?*
- Q13. Has the BBC been doing enough to deliver value for money? How could it go further?*
- Q14. How should the BBC's commercial operations, including BBC Worldwide, be reformed?*

79. **Public investment in BBC services (including radio) provides significant benefits.** The market alone would not be able to deliver the full range and diversity of high quality content of which BBC radio is capable.
80. Therefore the Government is correct to have ruled out two possible alternative models of funding, based either around advertising and general taxation. Advertising would fundamentally change the nature of the BBC and create a negative market impact on other advertising funded media, whereas general taxation would undermine the BBC's independence and open up the prospect of direct political control.
81. However there are three other options outlined in the Green Paper that appear to be the focus of serious consideration for the short to medium term:
- a reformed licence fee
 - a universal household levy
 - a combination of public funding and subscription.

Licence fee

82. **The BBC should continue to be funded primarily by the licence fee for the next Charter period.** The advantages in sustaining the current system outweigh the disadvantages at present. In particular it maintains the direct link between licence fee payer and BBC services, preserves the BBC's independence from Government and ensures stability. However the disadvantages are becoming harder to justify, including its regressive nature and the fact it does not cover online viewing or listening due to the existence of the iPlayer loophole.
83. Reforms to the licence fee should be considered that will help to make it more flexible and appropriate for funding a modern BBC and the range of services it provides. In the short term this means acting to reform the licence fee to cover the BBC's broadcasts that are consumed on demand or through catch up services. It is clearly an anomaly for some UK residents to be able to benefit from the access to the BBC's services but pay nothing towards it. **Alternative funding models may also need to be considered in future, but are not necessary or appropriate at this stage,** particularly given the next Charter period commences in little more than a year from now.

Universal household levy

84. The main alternative option that has been discussed is the concept of a universal household levy similar to the model that operates in Germany, which was highlighted in the report by the Culture, Media and Sport Select Committee in February 2015. While this has some advantages, the complexity of introducing such a system should not be underestimated.
85. The advantages of a universal household levy are fairly clear and are stated succinctly in the Green Paper. In particular:

- it provides a clear link between payment and the provision of a full range of BBC services - including radio, online and other services as well as TV
- it eliminates the iPlayer loophole as the link between payment and live TV viewing is removed
- it could be implemented in a way that was more progressive, with charges levied in accordance with ability to pay rather than as a flat fee for all
- everyone would be required to pay, so it would increase the BBC's funding base and reduce the cost of evasion, providing more funds to invest in content.

86. **However the disadvantages of the universal household levy scheme are also numerous** and have not yet been adequately addressed for this system to be introduced in the UK. For example:

- it is unclear what concessions would be put in place and what would be the basis of these. The Green Paper gives the example of a lower rate being charged for single occupancy households, but a range of other factors may also be relevant – including property size or council tax band, income and employment status, or whether the household uses any BBC services
- it could become difficult to justify charging a fee to the small number of households that do not consume any BBC service (or indeed charge a significantly higher fee for the same service)
- the collection and enforcement method would require reform, most likely leading to the creation of an independent public body that would be expensive and difficult to establish
- if evasion is eliminated and the funding base increased this raises difficult questions about whether any excess funds should be returned to the public (through a reduced payment), paid to the Government or retained by the BBC
- the cultural impact on the BBC of moving to a method of funding alongside council tax and other household payments should be considered, as this is likely to lead to it becoming more like a public utility with possible implications for audience expectations and demands.

87. Much more work needs to be done to examine the feasibility and implications of introducing such a system. Consequently **it would not be right to try and introduce a universal household levy system at this time.**

Subscription

88. Another option for funding the BBC that has been outlined by the Government is a further move towards subscription – or more accurately as ‘mixed public funding and subscription’ approach. It is reasonable to consider this approach and it is certainly possible to imagine elements of the BBC's output being made available by subscription in future. For online services existing paywall technology could be implemented fairly easily and payments made either for to access to particular content (as already envisaged through the expansion of the *BBC Store* service) or on a flat fee basis (enabling access to a range of premium content for a specific time period).

89. **However large scale subscription is not appropriate as a means of funding core BBC services.** Such an approach would be complex, costly to implement and contrary to the principle of BBC services being available to UK households on an equal basis. As the Green Paper notes, for any significant subscription model to be introduced this would need to include TV services, which would require a major infrastructure roll-out, take a number of years to complete and have significant costs associated with it. Crucially for radio the sort of conditional access technology that would be required to implement subscription does not exist at all for broadcast services on FM, AM or DAB.

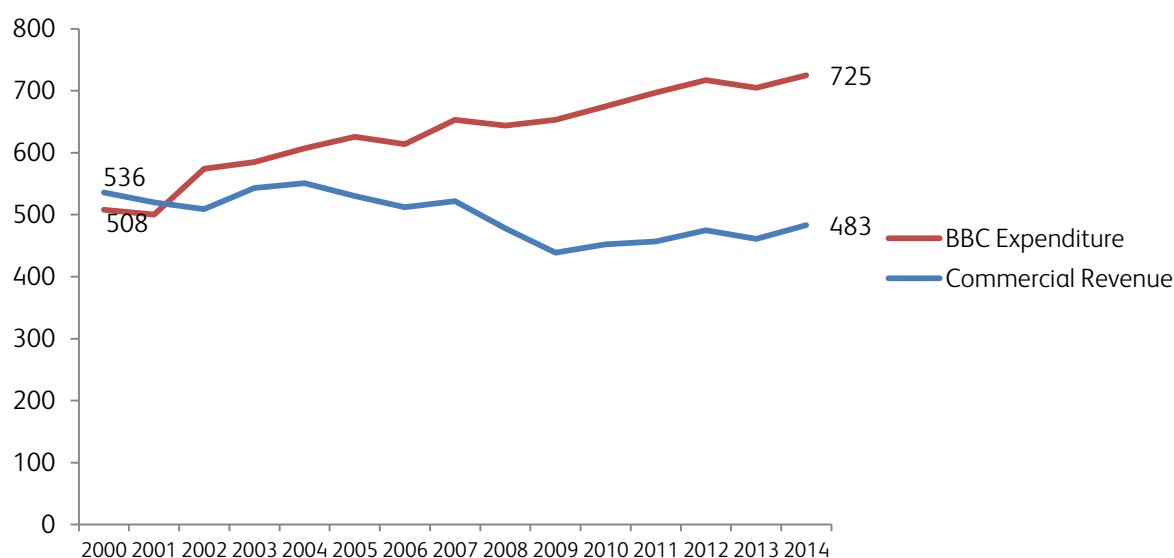
90. Therefore, presumably broadcast radio from the BBC would need to be considered as part of a ‘core’ service, alongside other key elements of TV and online, which would continue to be paid for through public funding (such as the licence fee). However, determining which services are ‘core’ and which are ‘premium’ will be difficult and occasionally arbitrary if it is also dependent on which platform particular content or service are being made available.

91. Even this hybrid funding model of subscription could fundamentally change the economics of funding the BBC. Depending on the method of implementation a smaller subscriber base would potentially increase the cost of the full range of BBC services quite significantly, but risk providing only limited reductions for those opting just for the core services¹⁶.
92. A move to subscription is also likely to mean re-opening a range of difficult questions regarding enforcement, evasion and decriminalisation that are likely to be time consuming and expensive (and are largely resolved by retaining a reformed licence fee or universal levy).

Use of licence fee funds

93. **Overall BBC radio remains generously funded compared to commercial radio.** 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. This income funds everything that commercial radio does, from sales and marketing to content, distribution, commercial production and music rights.
94. 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.
95. It should also be noted that 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. These trends are illustrated in the Figure 7 below.

Figure 7: UK radio revenue 2000-2014 (£m)



Source: Ofcom Communications Market Report

96. The BBC's superior spending power has existed throughout the history of commercial radio and is one of the factors that drives the crowding out of competition and constrains the ability of commercial radio to grow. This disparity cannot be justified if there is significant overlap between BBC and commercial radio, with listeners unable to detect a significant difference.
97. However, while the funds available to the BBC are important, this issue has largely been resolved through the licence fee agreement with Government in July 2015. Therefore at this point the more important debate is to determine the way in which this money is spent and how the BBC is

¹⁶ <http://www.bbc.co.uk/blogs/aboutthebbc/entries/8d83c25d-f2ba-34c7-8e03-edbf806e83c0>

held to account. It is these decisions that will establish the appropriate balance and range of content of BBC radio and the appropriate provision for listeners.

98. **Whatever the funding level (or method) for the BBC and its radio services the crucial point is that there needs to be major improvements in distinctiveness, regulation and accountability** to improve the BBC's commitment to public service radio. These issues are addressed in detail below.
99. While it is these elements that are critical, there are two further points worth noting regarding the use of BBC funding – on contestable funding and support for technology and infrastructure.

Contestability

100. **There is 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.
101. This could include funding ring fenced for specialist music events or concerts such as those provided by Classic FM in partnership with some of the UK's leading orchestras. Licence fee funding might also be made available on a contestable basis for other public service programming such as documentaries or children's programming.
102. However, 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 with local media to support a Local Accountability Reporting Service of 100 public service reporter across the country, while also develop a News Bank of regional video and audio content.
103. 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.
104. 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'*.¹⁷

Technology and infrastructure

105. **The public investment in the BBC means that it has broader responsibilities on technology and infrastructure.** While it is correct for BBC funding to be focussed primarily on the provision of its own distinctive services it also has an important role in supporting growth and innovation as well as a diversity of media services and content. Previously this has included the roll-out of digital television and broadband, in future it should include a commitment to improving the scale and quality of digital radio.
106. There will be constraints on the BBC following the recent licence fee agreement, but as the Green Paper identifies **the BBC's role in supporting digital radio is critical.** Without the support of

¹⁷ <https://www.gov.uk/government/speeches/culture-secretary-keynote-to-rts-cambridge-convention>

the BBC (and Government) it would not have been possible to agree the build out of local digital radio coverage from 66 % of the UK population to over 80 % in the past few years (with a plan to get to around 90 % by 2017).

107. In order to sustain the momentum in expanding digital radio (and to support universal access) the BBC will need to work with Government to develop a solution that will expand coverage beyond the levels agreed in the current plan, so that rural and low population areas are reached. In addition the BBC should commit to carrying its local radio network on the existing local multiplexes for the duration of their licences (until 2030). One further to boost digital listening might be to consider moving an entire network – for instance, Radio 1, onto digital only platforms (DAB and online).

4. BBC GOVERNANCE AND REGULATION

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

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

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

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?

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

The need for better regulation

108. The importance of ensuring an effective system of governance and regulation for the BBC should not be underestimated. As the Green Paper states it is the issue ‘that ultimately underpins all the others’ and is vital for a successful BBC. There is little point in crafting the most appropriate mission, scope or funding structure for the BBC if the right framework of accountability is not in place. Government appears to acknowledge the importance and complexity of these issues – with the announcement of an independent review into how the BBC is governed and regulated overseen by Sir David Clementi¹⁸.

109. Since it was established in 2007 the BBC Trust has gone some way to address the shortcomings identified in the previous system overseen by the BBC Governors. The introduction of service licences (and reviews of performance against these remits), the opportunity to consider market impact of new services and a complaints process operated arm’s length from BBC management were all welcome developments. However, the way in which these duties have been implemented in practice has led us to conclude that the BBC requires a more independent and robust form of regulation in future.

110. Some of these issues (regarding enforcement of service licence remits and Public Value Tests) may be seen as technical problems with the implementation of the regulatory framework, but they are also symptomatic of a broader structural problem with the regulation of the BBC. Ultimately the Trust model has not been able to solve the fundamental issues of confusion and uncertainty about strategy, enforcement and financial management. Under the current structure the Trust will always be conflicted as a both regulator and cheerleader for the BBC. A consensus is emerging that the current model of BBC governance is unsustainable. This is summarised by Government in the Green Paper and even broadly supported by the BBC Trust, which has argued for ‘intelligent reform’ of the current structure with the introduction of an external regulator.

111. **A robust and independent external body is required to perform the task of regulating the BBC.** This organisation must have a clear range of powers (and ideally sanctions) to hold the BBC to account.

Alternative models

112. There are three main options for change in the regulatory structure of the BBC, namely:

- a reformed Trust model
- a new standalone regulator
- moving more regulation to Ofcom.

¹⁸ <https://www.gov.uk/government/news/independent-review-into-how-the-bbc-is-governed-and-regulated>

Reformed Trust model

113. In some ways reforming the BBC Trust to try and address some of its shortcomings would be the simplest approach. The fundamental structure would remain the same, saving time, money and reducing the risk of disruption. Instead the focus of change and improvement would be on the specific role, function and powers of the Trust.
114. Clearer demarcation of responsibility between the BBC's governing body and the BBC Executive would certainly be one of the first elements that would then be addressed. The need for stronger regulatory powers and a more interventionist function could also be tackled. However, reforming the status quo in this way does not solve the underlying structural problem with the Trust model, or tackle the confusion of roles associated with a body that is required to regulate the BBC but is also part of the BBC. In other words, whatever reforms are put in place, the Trust will always be conflicted as cheerleader and regulator.
115. Even the audience research commissioned by the BBC Trust itself suggests that public also support regulatory and governance functions being carried out by an independent body¹⁹. All of this suggests that it is reasonable to conclude from this that **the Trust model is beyond repair and the BBC should be overseen by an external independent regulator** which would probably need to sit alongside a BBC unitary board.

Standalone regulator model

116. 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.
117. 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.

Ofcom

118. Moving the BBC's regulatory oversight to Ofcom would also have the advantage of tackling the structural issue of ensuring the BBC's regulatory body was genuinely independent. In addition it would have the benefit of being able to draw upon the expertise and knowledge of a respected regulator with a strong track record and understanding of different media markets. This broader and deeper level of expertise in converging media would not necessarily be available from a new standalone regulator.
119. Therefore **Ofcom should assume a greater role in regulation of the BBC**, although significant steps would be required to mitigate the risks involved, particularly regarding any undue concentration of power or the potential disruption to Ofcom (or the BBC)
120. For example there may be a risk of disruption (for both the BBC and Ofcom) if such a transition took place, with the potential for the BBC to either swamp Ofcom with a range of new and unfamiliar issues - or Ofcom being unable to devote sufficient time and resource to the BBC

¹⁹ BBC Trust, Initial Response to the Government's Green Paper on BBC Charter Review, July 2015

without this being detrimental to its other responsibilities. In addition it would provide Ofcom with an even broader range of responsibilities and power within a single organisation.

121. Therefore **significant steps would be required to mitigate the risks of asking Ofcom to regulate the BBC.** Part of the solution to this may lie in the way in which these duties are incorporated. This may mean establishing a separate team, division or even board within Ofcom.
122. Alternatively there are certain areas within Ofcom's remit where it has a statutory duty to oversee or regulate certain areas, but this is delegated to other legal entities to carry on its behalf (ASA, ATVOD and PhonePayPlus are examples). In such cases Ofcom is a central part of the framework but can effectively sit as a regulatory backstop, while the detailed regulatory functions and oversight are carried out by a specialist department or independent body.
123. Therefore it may be sensible for Ofcom to separate the specific regulatory functions relating to the BBC in this way – potentially creating an Ofbeeb type body or department – to provide a focus for the specialist knowledge and skills required to deal with the BBC, minimise disruption and seek to mitigate the concentration of power within the central management structure of Ofcom.

Regulatory powers

124. **It is 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 implemented by the new external regulator. Additional tools should also be developed in order to maximise public service content and minimise market impact effectively.
125. Whatever regulatory body is ultimately responsible for overseeing the BBC, it will need to be better equipped to conduct its functions than its predecessor. This will require reforms to the range of regulatory powers available and considerations of how these might be supplemented with a broader range of measures and sanctions in future. In particular the current regime of service licences and Public Value Tests (PVTs) have a number of shortcomings.

Service licences

- Service licences lack clarity and are too vague
- Service licence reviews exclude important issues, such as market impact
- The process of service reviews is also flawed, with a lack of transparency and independence
- There are no effective sanctions available if the conditions are breached.

Public Value Tests

- A full PVT is a time consuming and expensive process – a 'blunt instrument' to deal with a fast changing market
- The decision to undertake a PVT is based on a subjective view or 'significance test'
- Cumulative changes to existing services do not appear to be considered significant
- The Trust has appeared reluctant to undertake these in practice (only agreeing to four such tests in seven years²⁰)

126. Therefore a more flexible and open process of consultation on changes to BBC services should be considered. The current situation whereby the Trust must decide on whether to conduct a full Public Value Test or simply provide regulatory approval for a change requested by BBC management (with limited input from Ofcom) is unsatisfactory. This should lead to the development of a process to provide more focussed assessment of market impact and public value (a 'mini-PVT').

²⁰ http://www.bbc.co.uk/bbctrust/governance/tools_we_use/public_value_tests.html

127. **Finally the Government (and its independent review) needs to consider what role sanctions should play in holding the BBC to account** and helping to improve the performance and distinctiveness of its services. The conditions, targets and limits on the BBC could risk being worthless if they are not monitored and enforced by accompanying sanctions for poor performance or breach of these conditions.
128. It is worth noting that the main sanctions on broadcasters that are available to Ofcom currently are to:
- issue a direction not to repeat a programme or advertisement;
 - issue a direction to broadcast a correction or a statement of Ofcom’s findings;
 - impose a financial penalty;
 - revoke a licence.
129. Clearly these powers do not translate easily when dealing with the BBC. Financial penalties of public organisations are particularly problematic as they simply result in public money circulating back into the Treasury. In addition large fines could lead to the degradation of quality and distinctiveness, with small fines providing little incentive to change behaviour.
130. While it is clearly a challenge to develop effective sanctions that would apply to the BBC this is an area that should be explored in more detail, with options developed and alternative models explored. For example, in the case of S4C, the Trust has a backstop power, that as a last resort, it has the ability to reduce or withdraw funding from the broadcaster should it be in dispute over a breach of the operating agreement. In addition we understand that the regulatory authorities in Sweden have the power to review and update the remit of the public broadcaster and ultimately shorten its licence period if performance fails to meet the required level.
131. The independent review into how the BBC is governed and regulated will be able to examine these issues in more detail and propose improvements regulatory powers and sanctions, as well as the appropriate regulatory framework.

Division of responsibilities

132. The other crucial element of reforming the regulation of the BBC is the need to be as clear and precise as possible about the regulatory powers that exist, whether these need to be improved or expanded and which body is responsible for executing those powers. This is particularly pertinent because the main options being considered (Ofbeeb or Ofcom) both envisage the BBC being governed by a strong unitary board alongside an external regulator.
133. A strong unitary board may well be helpful in providing a degree of additional oversight for the BBC Executive, particularly on issues of remuneration and the accountability of BBC management. However there also appears to be an assumption that this new unitary board would also set strategy and be responsible for delivery. While this sounds like a reasonable aspiration if the new board is to take on a more significant role and hold the BBC to account it could risk creating duplication or usurping the powers of the new external regulator unless its duties are properly defined.
134. For example, it would make sense for the unitary board to play some role in monitoring performance and holding management to account on an ongoing basis, but the content of the service licences themselves (and periodic reviews against these remits) must be conducted by an external regulator.
135. Unless the external regulator assumes the primary role and key regulatory powers over the BBC the reforms to regulation being introduced risk being a retrograde step. The BBC unitary board could end up considering matters that were previously examined at arm’s length by the

BBC Trust, leading to *less* external oversight not more. We do not believe that this would result in an improvement of the BBC's regulation or accountability.

136. **A clear demarcation of responsibility between the unitary board and independent regulator is essential** if the new system of regulation is to be effective. An illustration of how this might work in practice is provided below.

Unitary Board

Approve strategy

Agree annual service budgets

Agree remuneration

Input into service licence remits

Regular reports on delivery of service licence remits

Independent Regulator

Content regulation

Public Value Tests/ Market Impact Assessments

Mini-Public Value Tests

Periodic reviews of service licence remits

Final approval of service licence remits

Sanctions for licence breaches

Charter Term

137. The Government also raises the question of whether the BBC's Royal Charter and framework agreement should run for a 10 year period, or whether a different period is more suitable (shorter or longer).

138. Given the pace of change in modern multimedia organisations – 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

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.

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