

Submission to the ‘Future for Public Service Television Inquiry’ by the Campaign For Press and Broadcasting Freedom, London, February 2016.

The aim of the ‘Future for Public Service Television Inquiry’ is:

‘to address how public service content can be most effectively nurtured taking into consideration a range of services, platforms and funding models ... [and] how to embed these purposes inside particular channels and institutions’¹

This submission addresses these issues through an examination of the issues surrounding the review of the BBC’s Charter initiated by the Secretary of State for Culture Media and Sport in 2015.

Since the late 1980s the direction of broadcasting policy in the UK has been towards increasing commercial forces in the industry using re-regulation. This has led to the expansion of under-regulated commercial competition in the cable, satellite and digital sector, the decline of ITV as a provider of public service broadcasting, and the establishment of an increasingly commercially orientated regulatory framework designed to promote market forces. The BBC, the most successful provider of public service television, has been forced to contract out large proportions of its production, and has had large sections of its licence fee income removed from it by the government and allocated to other services, most notably S4C and the BBC World Service. The BBC has been under constant assault from a variety of right-wing think tanks, like the Institute of Economic Affairs, and media corporations, all concerned to see its role diminished. More recently it has become clear that the government is seriously considering privatising S4C.

It is therefore very important that the position of the BBC in the industry as the main provider of public service content and as guarantor of a television ecology with public service at its heart, is considered carefully. This submission was originally formulated in response to the BBC Charter review and focuses on the issues raised by the Government about the future of the BBC. The Campaign’s view is that much of the current debate is driven by the interests of those who, for a variety of reasons, wish to see more commercially provided programming and a BBC which is either considerably smaller, given over to compensation for ‘market failure’, or, one which, by stages, is integrated into the market and becomes, to all intents and purposes, a commercially orientated organisation.

The CPBF considers that the licence fee, or a properly constructed household levy, should remain the source of funding for the BBC, that its structure and operations should be made more accountable to the public, and that it should be obliged to represent the widest possible diversity of opinions in news, current affairs and cultural representations. We see a future in which the BBC provides a whole range of content across different new, and emerging media

¹ ‘A Future for Public Service Television: Content and Platforms in a Digital World’
<http://futureoftv.org.uk/about/> accessed 15 February 2016.

platforms, and one in which it should not be required to limit its developments to conform to the pressures emanating from the private sector.

For public service television to thrive there should be thorough review of the current legislation governing the regulation of communications, particularly the Communications Act 2003. The goal of regulation in this area should be three-fold [a] to support the development of public service communications across all platforms and insulated from commercial pressure [b] the development of diverse range of commercially funded outlets with clear public service obligations and [c] a root and branch reform of the system of governance across all communications. Only then, with a new direction which leaves the current neo-liberal consensus behind and places the public interest at the centre of policy, will a new future for public service television, or rather public service content, be possible.

The following is the text of our submission to the DCMS as part of the 2015/2016 Charter Review process.

CPBF submission to the Culture, Media and Sport Committee Inquiry into the BBC Charter Review (London, September 2015)

Introduction.

1. The Campaign for Press and Broadcasting Freedom is an independent organisation which has campaigned for more accountable, open and diverse media since its creation in 1979. Issues around which it has worked include, the statutory Right of Reply, ownership and control in the media, the nature of the internet and computer based communications, representation within the media of the diversity of groups in society, the accountability of regulator structures, the need for independent alternative media and the importance of sustaining and developing public service media. We think that a central role of public service broadcasting is making a diverse range of content available to the whole nation indiscriminately. We argue that this role should be protected at a time of changing technology and policy should be orientated towards promoting the future of public service broadcasting within a digital environment.
2. This submission takes as its point of reference the government's Consultation Document, *BBC Charter Review. Public Consultation* (London, DCMS, July 2015). This is because the Document is the most explicit statement of the

assumptions and framework within which the government is considering the issue. References to this document are given in brackets, i.e. [25]

The process.

3. The consultation period extends from July to October 2015. It involves the government seeking ‘engagement’ with the public and industry, conducting studies, and listening to the input of an Advisory Group set up by the Secretary of State [8-9] There are problems with this.
4. It gives insufficient time for public bodies to organise research, meetings and consultations among their membership. It assumes that public bodies are on the same financial footing as industry, and can afford to marshal detailed research in the time available. The only way for this to be done properly is for the government to take steps to ensure that there is continual engagement and consultation at every point in the run up to Charter renewal.
5. In addition the composition of the Advisory Group for the Charter renewal consultation, announced by the DCMS on 12th July, is extraordinarily narrow. It is made up almost entirely of people in senior positions in the commercial sector, contains no representatives from organisations based in civil society, no trade unionists with expertise in broadcasting and no representative from the many academics, of world standing, who work on media policy in the UK. In this sense the Group cannot be seen as a way of delivering, as the DCMS claims, ‘a transparent, open democratic Charter Review’²
6. Finally there is no commitment to full scale consultation on the decisions the government makes as a result of this process. The government should lay its proposals before the public and Parliament, and allow time for a full debate about what it actually proposes. Only then should it arrive at a final set of proposals, which need to be laid before Parliament for approval. Any other procedure will make what should be a full and transparent public debate appear like an exercise in public relations designed to endorse the major policy outcomes on which the government has already decided, but for which it needs the appearance of consultation.

² DCMS, ‘Press Release: Industry Experts to advise government on BBC Charter Review’, (London, DCMS, 12 July 2015).

The BBC's Mission, purpose and values

7. The BBC's public purposes are:
 1. Sustaining Citizenship and Civil Society
 2. Promoting Education and Learning
 3. Stimulating Creativity and Cultural Excellence
 4. Representing the UK, its Nations, Regions and Communities
 5. Bringing the UK to the World and the World to the UK
 6. Delivering to the Public the Benefit of Emerging Communications Technologies and Services [17-18]

8. In order to fulfil these purposes the BBC should be tasked with ensuring that its coverage reflects the breath of opinion and outlook on cultural, social and political issues. This would enable the BBC to extend routinely its coverage of important issues, to include views which do not get a proper airing, largely because they fall outside of the consensus dominated by Westminster based politicians and the financial orthodoxy of the City. It would also allow it to cover more fully the diversity of views that exist in our society on matters of current controversy, such as UK foreign policy, environmental and civil liberties issues, all of which are arguably constrained by the current narrow interpretation of impartiality. The plurality of expression should be in accordance with the BBC's obligations as a public body under the Human Rights Act. In addition it should be recognised that 'sustaining citizenship and civil society' applies across the BBC's output, not just to news and current affairs.

9. As the Consultation Document states Public Service Broadcasters such as the BBC

' deliver positive effects for society such as extending democratic knowledge through news and current affairs, helping extend the UK's influence and reputation abroad, addressing needs of audiences such as minority language groups, and serving audiences (such as children) where excessive advertising would be inappropriate. These goods would not be provided in sufficient volume by the market alone.' [14]

10. In order to achieve these and other purposes, the BBC cannot be tied down to ever more detailed outlines of what this involves. It should be up to the BBC to determine, in consultation with its audiences, how best to achieve these purposes. To do otherwise is to create a situation where programme makers are constrained by over-specific guidelines about the type of material they produce, and also one in which those not sympathetic to the idea the BBC should be operating across all platforms in as full a manner as possible, can start picking and choosing what they think the Corporation should do. The BBC can be held accountable by the measures we set out in this document, in particular at paragraphs 58-66.

11. The imposition of detailed operational requirements by government threatens the independence of the BBC. It risks creating a more cowed and cautious BBC whose weakened position may serve an executive government in advancing policies and values with less scrutiny and public debate. The public interest is better safeguarded by setting out a framework for public services, such as that in the Communications Act 2003, and then making the BBC accountable to a public service regulator, parliament and the public for its actions. Any requirements on the BBC should be transparent, clearly derived from and subject to public and parliamentary oversight, and safeguard BBC independence

Universality and the BBC.

12. As the BBC is the core PSB provider it must strive to develop, as far as possible, a universal service that provides ‘all types of content, and meets the needs of all audiences, regardless of the extent of provision by others’ [15]. This also involves ensuring that the BBC is available on all possible platforms, now and in the future. It is precisely because the market cannot achieve this, as it is driven by the need to make profit first and foremost, that the BBC must provide the default universal option for the public. Outside of the BBC there is no UK-wide digital content service, beyond those offering a tiny fraction of comparable output to the BBC, that is not restricted in scope and use by either user payment for content, advertising finance, or commercial ownership and imperatives. If commercial providers wish to compete with the BBC or offer a better service, then so be it. It is for the government to ensure that the needs of the public are protected in the long term by supporting the BBC as a universal provider.

BBC Values

13. The Consultation Document defines ‘Potential values for the BBC’ as ‘Independent: Impartial: High quality: Efficient/value for money: Transparent: Distinctive: Diverse/representative’ [19]
14. In one sense it is hard to disagree with these ‘values’. Yet, in another it is unclear why they are needed? All of these can be understood as guides to how the BBC should behave. All of these ideas are, however, already embedded in the ways in which the BBC operates and should operate, and are subject to constant public and political scrutiny. In addition codifying them in the Charter allows some of these, such as ‘Distinctive’ and ‘High Quality’ to become platforms on which commercial opponents of the BBC can press the case for reducing the scope and range of its activities. We therefore do not

consider that the Charter Review should formally establish a set of values for the BBC.

The BBC: scale and scope.

15. The answer to the question **‘Is the expansion of the BBC’s services justified in the context of increased choice for audiences?’** posed by the Consultation Document [28] is, ‘Yes, it is’. Although the commercial sector does produce programming of outstanding quality, overall, the supply is uneven, because the commercial sector has to follow the money and make programmes which it thinks it can sell. This leads to an undersupply of innovative, easy and cheap to access programmes. In order for all the public to gain regular access to the widest possible range of high quality services, essential to their social, cultural, political and intellectual well being and development, there needs to be an organisation such as the BBC, funded by public money, which provides a range of programmes in all genres across the board.
16. In addition the existence of the BBC forces the commercial sector to raise its game, and make programmes that are as attractive and as varied as those provided by the BBC. As the Consultation Document points out: ‘If commercial broadcasters want to keep up and deliver audiences to advertisers they need to match the BBC’s quality and delivery’ [25], not undermine the organisation. To prevent the BBC from expanding its services to meet changing technology and audience need is therefore to condemn the public to a second class service and to encourage the commercial sector to lower its standards in the knowledge that they will not be judged against those provided by the public sector broadcaster.
17. The Consultation Document also asks, **‘Is the BBC crowding out commercial competition and, if so, is this justified?’**[28] The BBC competes with the commercial companies for quality and audiences, not for funding. This is one of the strengths of the system. We are not aware of any evidence which demonstrates that the BBC is, to use the Document’s term, ‘crowding out’ commercial competition’. ‘Crowding out’ is, however, a loaded term, promoted by those in the commercial sector who want to weaken the BBC, rather than doing what they are supposed to do, that is focus on making content that attracts the public. Therefore, the term cannot form the basis of a serious discussion of the relationship between the BBC and the commercial sector.

18. Since the late 1980s the debate about communications has been dominated by a tradition of thought which wants the BBC reduced in size for both ideological (a commitment to promoting the interests of business) and commercial reasons (desire to generate profits by re-directing public revenue into private hands).³ The Consultation Document sits firmly within this tradition and as such is peppered with statements which give credence to the assertion that the BBC's activities inhibit the activities of the commercial sector and should therefore be curtailed.
19. Apparently the 'commercial television sector can struggle to compete with freely distributed BBC content' [25]. This forgets that, in fact, the public have already paid for this to be distributed, even if it is free at the point of consumption. In addition, the commercial terrestrial channels are also distributed freely. We are told that 'The BBC accounts for around 60 per cent of total radio revenues' [25] implying that this is an unfair share; but this glosses over the important fact that the public provides those revenues through the licence fee and that the BBC is not competing with the commercial sector for the same pool of money.
20. The BBC's success on the internet 'has led to suggestions that the scale of BBC's online offer is impeding the ability of other UK news outlets to develop profitable business models, such as pay walls and subscriptions, in existing and new markets' [25]. A similar assertion is made about local content, where the BBC it is alleged, 'could, in providing a wide range of content online as well as on radio and TV, have an impact on efforts by local news groups to develop compelling online local and hyper-local services' [25]. In addition, where digital services are concerned the Document promotes the idea that 'there is the counter argument that the rapid growth in digital and online services more broadly means that the market is already well served and that the BBC, as a major player, potentially squeezes out others who want to develop new ways of managing and distributing content' [26]. No detailed evidence is provided to back up these assertions, instead words like 'suggestions' 'could' and 'potentially' are used to press the case. The CPBF, however, takes the view that it is important to extend the principle of public service provision into the online area.
21. In effect the commercial sector seems to be arguing that, because it is incapable of innovating and competing by producing content that is consistently better than that which the BBC offers, and which can therefore

³This has been well documented, and has its roots in developments in thinking about society that go back to the 1930s, which were adopted by the Conservative Party in the 1970s and 80s, following developments in the USA. See, for example: T.O'Malley, *Closedown? The BBC and Government Broadcasting Policy 1979-92* (London, Pluto, 1994); D.Freedman, *The Politics of Media Policy* (Cambridge Polity, 2008); V.Pickard, *America's Battle for Media Democracy. The Triumph of Corporate Libertarianism and the Future of Media Reform* (New York, Cambridge University Press, 2015).

attract audiences away from the Corporation, the problem has to be caused by the existence of the BBC, therefore its activities must be curtailed. The Document argues that ‘the BBC’s ability to cross-promote its own services has an impact on the wider market. given other services are not able to advertise their content on the BBC there is a case for arguing that the nature and extent of this cross-promotion needs to be considered [25]’. It is important to put this in historical context and the context of contemporary regulation. The Sadler Enquiry was established in 1989 to investigate the cross-promotion of Sky in newspapers owned by Rupert Murdoch but was diverted to scrutinise BBC promotions.⁴ The outcome of this review, and subsequent regulation, is that the BBC is carefully and properly restricted in the promotions it can make for BBC commercial services but is able to cross-promote programmes and services where editorially justified and of viewer interest. By contrast, the problem of cross-promotion by commercial media operators has only been partly tackled and requires attention. The rules for digital TV established in 1998 and subsequently revised were designed to prevent ITV having unfair advantages in promoting its digital service OnDigital (renamed ITV Digital). With the demise of this service the most significant form of commercial cross-promotion today is that of BSkyB for its television, telephony and broadband services. Sky TV carries significantly higher amounts of self-promotion and cross-promotion than competing services. This poses risks of abuse of a dominant market position and needs to be the subject of a wider review of cross-promotion rules. Sky has a platform to promote its own commercial services while competitors can only do so by paying Sky for advertising slots. By contrast, the BBC does not carry any commercial promotions on its public services and so does not advantage any competing commercial providers over others. There is a clear case that promoting public service content and services to users is integral to the mission of public service media. It is right that such promotion is conducted in accordance with rules on fair trading, restrictions on commercial promotions, and appropriate safeguards for editorial justification and viewer approval. The BBC has robust and successful regulations. Independent Reviews of BBC fair trading, such as that commissioned by DCMS in 2000 and carried out by Professor Richard Whish, have approved the BBC’s fair trading arrangements, including cross-promotion.⁵

22. There is scope to review cross-promotion today, including how the BBC links to other media service providers, such as local commercial and non-

⁴ See J. Hardy (2010) *Cross-Media Promotion*, New York: Peter Lang.

⁵ Whish, R. (2001) Review of the BBC’s Fair Trading Commitment and Commercial Policy Guidelines, London DCMS. Available at

http://www.bbccharterreview.org.uk/pdf_documents/040902FINALProfWhishReview.pdfhttp://www.bbccharterreview.org.uk/pdf_documents/040902FINALProfWhishReview.pdf (accessed 19 August 2015).

commercial news media. However, any such review of media cross-promotion needs to be sector-wide and not restricted to BBC services. It would be illegitimate if it did not review both commercial and non-commercial cross-promotion.

23. The arguments brought forward in the Consultation Document about the BBC crowding out the market are based on supposition. But more importantly, the fact that public funding for communications creates quality products and draws mass audiences and that, comparatively, the commercial sector cannot do that is telling. Instead of accepting that the commercial sector has a case when it blames the BBC for its own failures and demands the Corporation be cut back, surely the evidence points in another direction. The problem is not publicly funded communications, but the failure, overall, of commercial broadcasting to innovate and provide programming of equal depth, diversity, range and quality. By eliminating the BBC, or making it draw back, the commercial sector is hoping that the public will have no other option but to buy in (quite literally) to their existing less consistently attractive services.

The issue of the BBC's impact on the market.

24. The Consultation Document is full of evidence of the BBC's success with national and international audiences. This in itself suggests that where people are allowed to choose in a 'market place', they opt for public service communications. In addition, it has arguably helped the development of the communications sector through investment in production and infrastructure and by fostering high standards.
25. As should now be evident there does not appear to be evidence that proves the BBC has a negative impact on markets. Even were that the case, it would not be a relevant consideration, as the BBC is not meant to be part of any 'market'. It is meant to provide services for the public at a distinct remove from the pressures of the market; so to subsume its activities under some abstract idea of a 'communications market' is misleading. It is the task of commercial communicators to sell audiences to advertisers. They compete amongst themselves for these audiences. It is not appropriate to seek reasons or policy tools to make their lives easier by undermining or syphoning off revenues from the BBC.

The BBC and the technological landscape.

26. As the Document demonstrates the BBC has had a major role in influencing the technological landscape in the sector. This is very important and should continue, but the Corporation should not be asked to fund developments which primarily benefit commercial operators. These burdens, such as the switch to digital radio should be shared.

The BBC and its national and international audiences.

27. The Consultation Document acknowledges that the ‘BBC is reaching a wide audience within the UK. According to BBC audience research almost all adults in the UK use BBC services each week, giving the BBC a central place in people’s lives’ [29]. Clearly there are groups, such as ethnic minorities, the disabled, young people and people in the nations and regions whose views and interests need to be taken into the heart of the organisation. The way to do this is to democratise broadcasting governance, develop equal opportunities employment and training policies, and engage with and respond to audience research.
28. The cost of serving minority languages in the Wales and Scotland is highlighted on page 30. The reference to the issue illustrates the extent to which the government seems to know the cost of everything and the value of nothing. It is beyond doubt that these organisations should be developed and funded so as to meet better the linguistic and cultural needs of their constituencies. This should be done by direct funding through the DCMS and not by top slicing BBC revenue to fund these services, as has been the case, for example, since the BBC was forced to use the licence fee to fund S4C.
29. The evidence points to the success of the BBC in the global arena: ‘The BBC has a weekly global audience of 308 million people and the BBC’s weekly international news audience is now 283 million people, compared to 233 million in 2006-07 ^[32]. The fact that ‘Convergence of different services is bringing the BBC into competition with new players such as Amazon, Google and Apple ... in addition to well established providers like CNN, it is facing growing competition from Al-Jazeera and state funded broadcasters in Russia and China’ [32] is evidence of the need to put it on a financial footing that sustains its position.
30. The success of these services must be built on, in order to ensure that there is plurality in global news supply. The perspectives of the BBC must, however, be differentiated far more sharply from those of the Foreign Office and government, if it is to sustain and develop a reputation for genuine independence. The existence of rival services which can, and do, channel

perspectives different to those emanating from official quarters in the UK, makes the need for a genuinely independent World Service a real necessity.

The BBC's range and mix of services.

31. ' The BBC Trust's audience research suggests that the BBC has been reasonably successful in meeting audiences expectations of quality, showing that public views of BBC content and quality have been relatively stable across the Charter period and that audiences are largely satisfied with BBC content .. [36]'. Given the diversity of cultures in UK society, this is quite an achievement. No public service broadcaster will ever get the mix right, but there is every indication that the BBC has been doing well, though there is always room for improvement. Improvement is an organic process, based on the ability to innovate and respond to audience tastes and interests flexibly, that only secure and substantial public funding allows. To reduce the scope of the BBC would undermine this success. Excellence in a diversity of genres - ranging from popular drama and entertainment to programmes on science and the arts- is the BBC's major strength. Arguably the more educational parts of the output are enhanced by being part of this diverse and varied mix.

32. News and information is a vital part of this mix. BBC news should be impartial. The problem is that it is not impartial enough. The Corporation views impartiality in terms of reporting the views of the main Parliamentary parties exhaustively, views which, generally, reflect a very narrow spectrum of opinion on public affairs. This is evident in its coverage of the economy, where it seems to have naturalised the discourse of the main parties that assert the consequences of economic crisis of 2007/8 brought on by the under-regulation of financial markets has to be dealt with by austerity and further deregulation in the economy.

33. Linked to this is the problem of the social background of senior journalists and managers in the media industries, which as the 2009 Sutton Trust report demonstrated, has become increasingly dominated by people from narrow social and educational contexts, that is privately educated and who attended elite universities. The socialisation this process cultivates arguably makes its products largely unfit to respond sympathetically to views and opinions which do not conform to those they were exposed to when coming to maturity. The BBC, like other parts of the media, is afflicted with this social malaise.⁶

⁶ The Educational Backgrounds of Leading Lawyers, Journalists, Vice Chancellors, Politicians, Medics and Chief Executives. The Sutton Trust submission to the Milburn Commission on access to the professions (London, Sutton Trust, March 2009)

34. This can be tackled by democratising the governance of the BBC, pursuing seriously equal opportunities in employment practices, and giving the BBC a new public purpose, as outlined in paragraph 8 of this submission of ‘Representing the widest possible range of opinion and outlook on cultural, social and political issues.’

BBC content: quality and distinctiveness.

35. The BBC is clearly distinctive from other commercial services. Why? Because it provides high quality, popular and not so popular programming across a range of platforms, catering to a wide range of tastes and interests. No other commercial communications organisation in the UK does this. Making the BBC stop producing popular programmes on the scale it has been doing, would undermine radically its distinctiveness.
36. The Consultation Document asserts that the BBC ‘provides a range of programming which is arguably less distinctive from the content that its commercial competitors provide.[and that] ... concerns have been raised that the BBC behaves in an overly commercial way, encroaching on TV genres and formats that could be served well by its commercial competitors,...’[38]. In fact the BBC has to provide a full range of programmes, has to match what the commercial sector provides and needs to challenge itself to generate popular output in order to sustain public support. Again, it is the role of the commercial sector to innovate and compete, qualities which it allegedly extols and values, rather than to look to government to help it make quick, easy profits by undermining a successful public service.

Content: in-house production, independent production and quotas.

37. In a report published in July 2015, Ofcom ‘concluded that while it did not believe there was a strong case for reform of programming quotas for independent production it would continue to monitor developments in light of the fact that the sector will continue to change and may consolidate further’[42]. So, on the surface, there seems to be no reason why there should be ‘reform’ of the quota system, in the immediate future. ‘Reform’ in this context usually means forcing the BBC to put more of its content out to tender.
38. The Government, however, seems intent on using public money, which should be devoted to public purposes, to subsidise the private sector. As it states in the Consultation Document: ‘Government would be particularly

interested in views on whether to lower the in-house guarantee, allowing a greater proportion of hours to be provided by external producers[43].’

39. The BBC’s in-house production capacity should be strengthened. This means a gradual phasing out of quotas which stipulate that the BBC, for instance, guarantees 25% of TV programming production to commercial providers. The justification for this policy when developed in the 1980s and 90s was that quotas would lead to more competition in the supply of programming, whereas, as the Ofcom report, cited on page 42 of the Consultation Document shows it has led to vertical integration and concentration in the ‘independent’ sector.
40. Quotas have increasingly become a form of public subsidy for large companies, and where the BBC is concerned should be phased out. The BBC should be under no obligation to put any of its production out to tender, only that which it considers enhances its capacity to provide its services. Given the expansion of the commercial sector, the opening up of new platforms and delivery mechanisms, the ‘independent’ sector is now well placed to live up to its self-proclaimed reputation for innovation, and find new markets. There seems to be very little reason why the public sector should subsidise large media companies, many of them American owned, through the quota mechanism. In addition, the return to in-house production would be an opportunity for the BBC to take more risks, innovate across a wider field, provide more employment for skilled workers casualised by the growth of the independent sector and develop more extensive industry training based on equal opportunities.
41. The BBC has suggested another approach. ‘In the past year, Lord Hall has called for a “compete and compare” approach. This would remove quotas from BBC production, allow independent producers to bid for BBC commissions (with the exception of current affairs, sport and children’s content) and set up BBC Studios as a commercial subsidiary of the BBC, able to bid on a commercial basis for commissions and make programmes for other broadcasters [44]’.
42. The Hall proposal will produce to a number of negative consequences. Firstly, it will undermine the production base in the BBC as outside companies take more and more of the licence fee and result in the further transfer of public money to large, private companies. Secondly, by making the BBC compete directly with commercial providers in the commercial sector, the proposal would make it even more vulnerable than it already is to cries of ‘foul play’ or of public subsidy ‘crowding out’ commercial initiative. It has the appearance of a ‘bold’ move designed to seize the initiative in this politically sensitive area, but unfortunately, its boldness is likely to result in

very serious consequences for the survival of the BBC as an integrated production and distribution service, able to take risks whilst still responding to popular needs.

BBC Funding

43. The BBC's public service channels and services are advertiser-free. This distinctiveness is undervalued in the Consultation Document but of the utmost significance in the evolving media landscape. Commercial media rely on advertising finance if their services are not to be wholly funded by consumers. In competitive communications markets media are under increasing pressure to accommodate marketers' demands. For marketers one of the fastest-growing sectors is that of content marketing and branded content, ranging from product placement in television to native advertising and sponsored content online. The integration of brand communications in media content risks undermining editorial independence, creative control and aesthetic integrity. With weakening controls on the separation of media and advertising, ad finance influences not only the content and messages shown in specific communications, but the decisions of programme-makers and publishers on what kinds of content to produce and share. It is therefore vital for the health of the communication services we rely on that we have a well-funded BBC that provides universally available high quality news, information and entertainment services free from advertising.
44. The Consultation Document states that the ad-free BBC is 'popular' with audiences, which is certainly the case, but fails to acknowledge the value and importance of the BBC's unique funding and governance arrangements that protects against advertising influence when such influence raises significant problems across the media. For example, a recent petition to the US Federal Trade Commission challenges the blurring of advertising and content on YouTube Kids App and the flouting of rules on advertising food to children.⁷
45. Maintaining trust in the integrity of BBC communications is also vital and so we also call on the BBC to reverse its decision to allow product placement in BBC World News.
46. In the short term, the Licence fee, a proven success, should be continued. This should be accompanied by an in-depth consultation and feasibility study on whether a household levy, which could be designed to take account of inequalities of income, would provide an effective and equitable replacement for it. The mix of subscription and licence fee would simply be a staging post

⁷ see A.Oreskovic, 'Groups urge FTC to investigate YouTube kids video app', *Reuters*, 7 April 2015, at: <http://www.reuters.com/article/2015/04/07/us-youtube-kids-idUSKBN0MY06U20150407> accessed, 20 August 2015.

to full subscription and the undermining of the very core of public communications in the UK

47. Ideally, the question of enforcement should be reconsidered in the context of the decision about whether a licence fee or household levy is to be the basis for the long term funding of the BBC.

48. Subscription, viewed by the Consultation Document [51] as a long term option, only makes sense if you adopt the view that the market can provide the range, quality, depth and flexibility that public funding by the licence fee does. As there is no evidence that this is the case, and as the evidence points to the fact that publicly funded communications produces overall better cultural and social outcomes than those based solely on market principles, then the case for subscription cannot be sustained.

49. Prior to the publication of this Consultation Document the BBC has, in effect, forced by the government ‘to take on responsibility for funding free TV licences for the over 75s [47]’. This decision should be rescinded. The cost of TV licences for the over 75s should not be met by the provider of the service, but by the government on the grounds that it considers it a desirable public policy outcome.

50. The Consultation Document states:

‘The BBC has previously agreed to the use of the licence fee beyond the direct delivery of its services and channels, for a range of projects and programmes in support of public purposes.’ [55]

51. The word ‘agreed’ should be replaced by the more accurate ‘was required by successive governments’. This was particularly true of both the forced union of the BBC and the World Service (in funding terms) the BBC and S4C, and the 2015 decision to force the BBC to take on the cost of funding the licence fee for the over 75s. Indeed, the current government makes it quite clear that it wants to use the public funds generated by the licence fee to subsidise the commercial sector:

‘This Government is committed to continuing to fund the initiatives that will allow the media industry to grow and innovate and believes that it is appropriate for the licence fee (or an alternative funding model) to fund such commitments.’[55]

52. Clearly, the World Service and national language television services in Wales, Scotland and Northern Ireland should not suffer under any new settlement. They should be funded by direct government grant, and not by

money taken out of the pocket of the licence fee payer without consultation, as has been the case in all the examples mentioned here.

53. The Consultation Document suggests that some element of the licence fee could be taken away from the BBC and made available, through competition, to other companies [57]. The politically partisan nature of this proposal is evident in that it first received widespread public notice by being included in the report of the *Committee on the Financing of the BBC* (HMSO, 1986), which was designed to produce a commercially orientated set of policies in communications, and whose thinking was dominated by figures associated with the right-wing Institute of Economic Affairs. This proposal, like subscription, is a way of undermining the long term viability of the BBC, by weakening its financial resources and making it harder to produce the kind of output that wins wide spread public support. In addition, it is yet another way in which the Government would be subsidising the private sector, using public money. Public money should be used by public organisations, which are not driven by the profit motive, for public ends, with any profits, where they accrue, reinvested in the services.

BBC and value for money.

54. The Consultation Document is peppered with references to the BBC's success with audiences in the UK and internationally. This, in a sense, is clear evidence that it is delivering value for money. Yet the BBC should be required to deliver value for money. This can be monitored through the publication of its accounts, the scrutiny of Parliament and of independent academic research which is not commercially funded. It should not be driven by the imperative of reducing staff numbers. The pay of senior executives, however, should be reduced to levels which reduce considerably the gap between the lowest and highest paid. The idea that this would result the 'the best people' going to work in the private sector, is simply unproven speculation, designed to protect high pay in institutions as varied as local government, politics, banking and the media.
55. In addition, the Document notes that the BBC has had to make cuts 'like other public bodies' [58]. The BBC is not funded by general taxation which is then shared out amongst public services, but by a fee levied on households which possess television receiving equipment. So, in funding terms, the BBC is not 'like other public bodies' where an increase in spending in one department may lead to a decrease in another. The licence fee exists, in part, to distance and insulate the Corporation from the short term political and financial goals of politicians and, therefore, cuts in its funding cannot be justified as if it were

just another government department – even though the document obscures this point by using the phrase ‘public bodies’.

The BBC’s commercial operations.

56. The Consultation Document lists some of the issues surrounding the nature and limitations of the BBC commercial services, one of the most important being BBC Worldwide. All of these issues need discussing; for example it is important that the commercial side of the BBC does not drive domestic priorities. Again the Document suggests, but provides no evidence for, the potential negative impact on commercial providers seeking to develop markets overseas [61] The predictable solution the government falls back on is its well established doctrine of handing public assets over to private companies:

‘Charter Review will consider the full range of options for reforming the BBC’s commercial operations, including full or part privatisation of Worldwide [61].’

The trouble is ‘reform’ in this context and in almost every other use of it in relation to public services invariably means commercialisation. This is a strategy that has proven disastrous in local government and the NHS⁸ and is likely to have the same deleterious effect on BBC services. In so far as there are genuine strategic decisions to be made about how best to generate more income for the organisation through commercial activities that do not undermine the basic principle of public funding, then that is a question for the BBC, not the government. All the BBC has to do is ensure that it conforms to existing competition and fair trading laws.

57. BBC Worldwide operates under important constraints to ensure that commercial activity fits with the public purposes, is efficient, does not endanger the BBC’s reputation and brand and follows fair trading rules. These governance arrangements would be jeopardized if Worldwide was privatised. Privatisation would also threaten conditions of service and employment at the BBC. Private sector companies are not required to adhere to important BBC policies on equality, diversity, health and safety, workplace bullying, and so on. The Consultation Paper offers no reasoned case for privatization and presents a poorly drafted leading question that presents reform as an imperative.

⁸ On the consequences of ‘reforms’ in public services, see. K.A. Mendoza, *Austerity. The Demolition of the Welfare State and the Rise of the Zombie Economy* (Oxford, New Internationalist Publications, 2015)

BBC governance and regulation

58. In our *Submission to the House of Commons' Select Committee for Culture Media and Sport's inquiry into 'The Future of the BBC'* (December 2013) we made the following points on governance which we consider relevant:

‘The BBC should be removed from Ofcom supervision on matters of new developments and content control. Ofcom is primarily a regulator designed to promote markets in communications. Unless and until its remit is widened and its structures reformed, it is not fit for purpose in so far as the regulation of the BBC is concerned. It has presided over the very considerable diminution of public service obligations in ITV, Channel 4 and Channel 5, and is more often the cheer leader for neo-liberal policies in communications, in spite of the fact that in the wider economy, and in the public services these have been proven to have failed (except, of course, to the proponents of these policies). The crises that we have witnessed in the wider economy, especially in the finance sector, and in the NHS, are all products of exactly the same kind of thinking that created Ofcom and that still, in spite of everything, dominates the limited world of policy making on communications.

The BBC Trust should be elected, not appointed. An electoral college should be established consisting of organisations from civil society, the industry and the trade unions; with civil society organisations predominating. This college would be subject to revision of membership at three year intervals, and charged with organising [a] elections for governors amongst its constituencies, and [b] the scrutiny of candidates prior to election. For reasons explained earlier, we need to break the hold of a very distinctive type of establishment-networked individual, formerly known as a member of ‘the great and the good’, who dominate the boards of public bodies.

Control over budgets and policy making should be devolved in significant measure to democratically elected national bodies, accountable to the national assemblies. This does not remove the overall power of the BBC to set policy and financial guidelines, but, in the same way that the National Assembly for Wales has significant powers devolved to it whilst remaining part of the UK polity, so national BBC services should have a similar structure.

Both of the above measures would strengthen the Corporation’s accountability to the public and to the nations of the United Kingdom, and weaken the suffocating hold of the centre on the BBC.’

Public Value Tests and Service Licences.

59. Public Value Tests should be abolished as should service licences. They are devices for making the BBC subordinate to the commercial interests in their sector and/or for intrusive intervention by outside bodies. Decisions about the make up of services and the provision of new ones should be matters for the new, democratised, structures of reform. In making these decisions the BBC must act within competition law and not undermine the financial viability of the Corporation.

Engagement with licence fee payers and the industry.

60. The variety of mechanisms in place already could be reviewed and enhanced. For example the audience councils could be elected bodies with far more power to commission research and make recommendations to the Executive and the Trust.
61. Complaints against all broadcasting organisations should be handled by a separate organisation, designed to empower the public to raise issues easily and seek, where appropriate, redress. This body should be independent of all elements in the industry, democratically appointed and with a properly trained staff, at adequate levels.
62. The only obligation the BBC should have to the commercial sector is to behave in accordance with competition law and fair trading practice. It should publish its accounts, account for its decisions in its annual report, and be subject to scrutiny by the National Audit Office.

The relationship between Parliament, Government, Ofcom, the National Audit Office and the BBC work.

63. The current structures are unsatisfactory, because of the socially narrow and unrepresentative nature of governance in all forms of communication. A properly independent BBC, not subject of Ofcom oversight, and one governed by a Trust that was properly constituted, and whose relationship with the BBC was spelt out in detail could then be subject, on matters of its practice and policies to regular public scrutiny, via Parliament, to avoid the ambiguities that have bedevilled the Trust since its foundation [65-6]. The Executive should be answerable to the newly constituted Trust.

Royal Charter versus Statute.

64. The Royal Charter is an archaic and opaque basis for regulation. The current situation where the government can make decisions behind closed doors, without proper Parliamentary debate and approval, is invidious and fosters bad decision making. The BBC should be established by statute. Renewals of the statute should be preceded by an inquiry conducted by a publicly appointed Commission, which would conduct independent research and consult widely

with the public before reporting to Parliament, prior to the drawing up of any legislation or the renewal of legislation. Statutes should run for a ten year minimum period. This method should also apply to the laws governing commercial communications.

**Contact: Barry White, National Organiser, CPBF, 23 Orford Road, London, E17 9NL.
Tel: 07729 846 146, email: freepress@cpbf.org.uk**