



HOUSE OF LORDS

Select Committee on the
BBC's Charter Review

3rd Report of Session 2005–06

**Final discussions
with the Secretary of
State for Culture,
Media and Sport**

Report with Evidence

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The Select Committee on BBC Charter Review

The Select Committee on BBC Charter Review was appointed by the House of Lords on 2 March 2005 with the orders of reference “to consider the review of the BBC Charter”

Current Membership

Lord Armstrong of Ilminster
Baroness Bonham-Carter of Yarnbury
Lord Fowler (Chairman)
Baroness Gibson of Market Rasen
Lord Holme of Cheltenham
Baroness Howe of Idlicote
Lord Kalms
Lord King of Bridgwater
Bishop of Manchester
Lord Maxton
Baroness O’Neill of Bengarve
Lord Peston

Publications

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NOTE: References in the text of the report are as follows:
(Q) refers to a question in oral evidence

The Review of the BBC Royal Charter

REPORT

1. The Select Committee on BBC Charter Review has already published two reports. Our first report, published in November 2005, focused on the Government's proposals in the Green Paper "Review of the BBC's Royal Charter: *A strong BBC independent of Government*". Our second report, published in March this year, explored some areas we had not had time to address in our first report and revisited some of the issues of particular concern. Later in March the Government published the White Paper "A public service for all: the BBC in the digital age".
2. Following the publication of the White Paper we took evidence from Lord Birt, former Deputy Director General (1987–1992) and former Director General (1992–2000) of the BBC and former strategy adviser to the Prime Minister. We also took evidence from the Secretary of State for Culture, Media and Sport who answered questions on the White Paper in front of a Parliamentary Committee for the first time.
3. This is our final report. It contains a letter to the Secretary of State following up our evidence session with her (Appendix 1). The issues raised in this letter are those about which we remain most concerned following the publication of the White Paper. This report also contains the transcripts of our evidence sessions with Lord Birt and the Secretary of State.

APPENDIX 1: LETTER FROM LORD FOWLER TO THE SECRETARY OF STATE FOR CULTURE, MEDIA AND SPORT

Thank you for the evidence that you gave to our Committee on 20 April. I very much appreciated the time you took to answer all of our questions. As you are aware that was the last public meeting of the Committee. The purpose of this letter is to follow up on points made during that session and made in our two earlier reports. We intend to publish this letter as part of the final report of the Committee.

Our first report focused in a large part on your plans for the future governance and regulation of the BBC as set out in the Green Paper “Review of the BBC’s Royal Charter: A strong BBC independent of Government”. We note from the White Paper that the Government are fully committed to the Trust model. This is despite our concerns and calls for outside regulation of the BBC. We were of course not alone in our criticism of the Trust model. Many of our concerns were shared by the House of Commons Select Committee on Culture, Media and Sport, your own independent adviser Lords Burns and the many industry experts we called as witnesses. Despite so much informed opposition to your plans you have rejected almost every one of our recommendations for improving the model. Given your mind is made up we will not revisit the details of our concerns here. We can only hope that your judgement proves to be correct.

Apart from this, our primary concern is the democratic deficit in the arrangements for agreeing the BBC’s Royal Charter and for setting the level of the licence fee. We strongly believe that the Government has too much unchecked power in both these areas and that Parliament must be given a greater role. We believe there is increasing support outside Parliament for this view.

At present the shape of the BBC’s Royal Charter and its associated Agreement is the result of negotiations between the Government and the BBC. No bill is presented to Parliament. Provided the Secretary of State for Culture, Media and Sport and the Chairman of the BBC agree, the deal is done. This is something short of the stated aim of your Green Paper “A strong BBC, independent of Government”.

We recommended that the BBC should be established by statute and not by Royal Charter. You have told us that “the door is closed to further parliamentary scrutiny” (Q 2208). Your main argument against establishing the BBC by statute is that you interpret the limited polling that was conducted as suggesting that people do not want either Government or Parliament to have any more control over the BBC. This is simply not what your polling shows. The question that was asked by MORI was: “Do you know who, if anyone, is responsible for making sure that services provided by the BBC are of an acceptable standard and who of these, if anyone, should be held to account when things go wrong?” Although individual MPs clearly have a role in taking account of the concerns of their constituents, we do not suggest that on questions of taste, decency and quality of programming Parliament should have a role. However, we believe the results of that poll would have been quite different had you asked the question: “Do you think that the BBC which has a power unique to other public bodies to levy money should be free from the normal accountability to Parliament?”.

In the case of the licence fee the Government currently agree a funding formula with the BBC that dictates by how much the licence fee will rise each year for the following few years. Parliament is given the opportunity to consider a negative

instrument when the licence fee changes annually and the figure in this instrument reflects the agreed formula. Under this procedure, Parliament can accept or reject but not amend the licence fee. There is no opportunity to scrutinise the licence fee formula. This is wrong. Parliament should have the opportunity to scrutinise properly and to amend the formula that will dictate how much every household will pay. The funding formula should be put to Parliament in a form that allows proper debate and amendment.

We accept your point that the BBC needs some stability and predictability in its funding. However, Parliament should have a role in scrutinising the formula that determines those up-rating orders. The BBC is in receipt of over £3 billion of public funds and this will rise to nearly £4 billion over the next seven years if the BBC's bid is met in full (and probably more once the costs of helping the "vulnerable" with digital switchover are included). It is unacceptable that MPs, the only people who can really claim to represent all licence fee payers, do not have a say in defining this settlement.

Your current task of negotiating the next licence fee settlement with the BBC is one that will have a profound impact on the Corporation over the next seven years. We welcome the Government's moves to encourage industry discussions on the BBC's current bid through the seminars led by Lord Burns at the beginning of this month. We also note that the Government have made moves to introduce independent assessment of the BBC's bid through the use of the consultants PKF. However, we have three continuing concerns.

First, we believe that in future the National Audit Office (NAO) should be involved in scrutinising the Corporation's bid. The NAO is the only body with the relevant public sector experience necessary to take on this task. It is a nationally respected institution that would provide an objective and non-political assessment of the bid. Without such an assessment Parliament cannot take an informed decision on the licence fee Order that will be placed before it. We also believe that without such an assessment your desire that the BBC should be accountable to the public will be thwarted as the public will not have the necessary information with which the BBC can be held to account.

Second, we also believe that the NAO should have full right of access to the BBC and autonomy to choose its own topics for value for money reviews of the Corporation. The NAO already has such autonomy in relation to the BBC World Service and the World Service welcomes the work the NAO does. We note your commitment that you will consider this point further (Q 2202) and we look forward to hearing your response.

Third, we are concerned that the BBC are asking for too much in their current licence fee bid. You told us that the Government view the BBC's proposal for a licence fee rise of RPI plus 2.3% as its opening bid which you expect to see reduced (Q 2168). However, this is not the view of the BBC. We are concerned that if the licence fee continues to rise at the unprecedented rate at which it has risen since 1997, then public support for the fee will progressively diminish. If the BBC's bid is agreed then the licence fee will cost £180 in cash terms by 2014. We therefore have strong concerns about the Government's decision to load new costs onto the licence fee payer, most notably the costs of helping the vulnerable with digital switchover and the possible costs of charging the BBC for digital spectrum. We also wish to underline our opposition to the link between the licence fee and the Retail Price Index. This link gives the BBC insufficient incentive to make economies and improve efficiency.

With regard to the costs of helping the vulnerable with switchover you argued that these are broadcasting costs and therefore should be borne by the licence fee payer. These are not broadcasting costs. They are costs that arise from a Government policy decision. A policy decision moreover which by the release of analogue spectrum will benefit the Treasury. It is accepted that the costs of helping the over 75s pay for their licence fee should be borne out of general taxation—the costs of helping the vulnerable are the same in principle. We see no reason why these costs should be borne by the licence fee payer and we note that Michael Grade (along with many of our other witnesses) is also concerned about the impact this cost might have on delivering other BBC services.

We were disappointed with your assertion that you would not use your power of direction under the Communications Act 2003 to instruct Ofcom not to charge the BBC for its use of spectrum (Q 2198). The Treasury stand to make a profit from the sale of spectrum. If the BBC is required to pay for spectrum then the Treasury will be in direct receipt of a significant sum of licence fee payers' money. The licence fee is a regressive tax. It may currently enjoy public support but this is by virtue of the fact that the public believe it is being used to provide the BBC services which are valued and desired. We are aware that as part of these licence fee negotiations you are commissioning willingness to pay polling. It would be more valuable to see the public response to a poll if questions were asked about the public willingness to pay for a licence fee used to cover the social costs of switchover and to pay the Treasury for a resource that has always been provided to the BBC for free.

This brings us back to our fundamental point. We believe that Parliament should judge whether the licence fee should be used to fund non-BBC specific services, that Parliament is best placed to know what role the NAO should have towards the BBC and that Parliament is certainly in as good a position as Government to make an independent judgement as to the role of the BBC. If Parliament were given the opportunity to participate more fully in the process of decision making, then we believe that the outcome would be better than that which is emerging from the Department of Culture, Media and Sport.

In conclusion may I again take the opportunity to thank you for your co-operation and courtesy over the past fourteen months.

APPENDIX 2: MEMBERSHIP OF THE COMMITTEE

Select Committee on the BBC Charter Review

The members of the Select Committee which conducted the inquiry were:

The Lord Armstrong of Ilminster
 The Baroness Bonham-Carter of Yarnbury
 The Rt Hon the Lord Fowler [Chairman]
 The Baroness Gibson of Market Rasen
 The Rt Hon the Lord Holme of Cheltenham
 The Baroness Howe of Idlicote
 The Lord Kalms
 The Rt Hon the Lord King of Bridgwater
 The Rt Rev the Lord Bishop of Manchester
 The Lord Maxton
 The Baroness O'Neill of Bengarve
 The Lord Peston

Richard Collins, Professor of Media Studies at the Open University, and Member of the Centre for Research on Social and Cultural Change, was appointed as Specialist Adviser for the inquiry.

Declaration of Interest

ARMSTRONG OF ILMINSTER, Lord

15(a) Membership of public bodies

Chancellor, University of Hull

15(b) Trusteeships of cultural bodies

Chairman, Leeds Castle Foundation

Trustee, RVW Trust

Trustee, Derek Hill Foundation

BONHAM-CARTER, Baroness

**12(f) Regular remunerated employment*

Television Associate, Brook Lapping Productions a subsidiary of Ten Alps

Communications plc

**13(c) Financial interests of spouse or relative or friend*

I also disclose the interests disclosed by Lord Razzall

16(b) Voluntary organisations

RAPT - Rehabilitation of Addicted Prisoners Trust

FOWLER, Lord

**12(e) Remunerated directorships*

Chairman, Aggregate Industries plc

Chairman, Numark plc

Chairman, Numark Trading Ltd (joint company of Numark plc and

Phoenix Medical Services Ltd)

15(d) Office-holder in voluntary organisations

Vice Chairman, all-party Group on AIDS

16(a) Trusteeships

Trustee, Thomson Foundation

GIBSON OF MARKET RASEN, Baroness**12(i) Visits**Visit to Bosnia - Herzegovina (30 May - 30 June) representing the I.P.U and paid for by the B.H.I.P.U**15(c) Office-holder in pressure groups or trade unions**Member, AMICUS (former National Official of AMICUS)**President, RoSPA (Royal Society for the Prevention of Accidents)**15(d) Office-holder in voluntary organisations**President, Royal Society for the Prevention of Accidents**Hon. President, Yeadon Sqn. Air Cadets 2168***HOLME OF CHELTENHAM, Lord****12(d) Non-parliamentary consultant**Special Adviser to Standard Chartered Bank***12(e) Remunerated directorships**Adviser, NTL**Chairman of the Board, Globescan International, Toronto, Canada**Member of the Advisory Board, Liberty Global Partners, Boston**Member of the Advisory Board, Montrose Associates**Member of the Advisory Board, Venture Exchange, Toronto, Canada**Non-executive Chairman, SPRING Worldwide**15(a) Membership of public bodies**Chairman of Governors, English College in Prague**Chancellor, University of Greenwich**15(d) Office-holder in voluntary organisations**Chairman, Advisory Board, British-American Project**Chairman, Hansard Society for Parliamentary Government**Chairman, Royal African Society**Chairman LEAD International**Council Member, Overseas Development Institute**16(a) Trusteeships**Saïd Business School Oxford***HOWE OF IDLICOTE, Baroness***15(a) Membership of public bodies**Member of Governing Body, London School of Economics**15(b) Trusteeships of cultural bodies**Trustee, Architectural Association - School of Architecture**16(a) Trusteeships**Trustee, The Ann Driver Trust***KALMS, Lord****12(e) Remunerated directorships**Chairman, Volvere plc***12(f) Regular remunerated employment**President, Dixons Group plc**15(a) Membership of public bodies**Member (Shareholder) Dixon's C.T.C Bradford (Resigned Governor 18.6.03)**15(c) Office-holder in pressure groups or trade unions**Trustee, New Frontiers Foundation**16(a) Trusteeships*

Trustee, Jewish Association for Business Ethics
Trustee, The Stanley Kalms Foundation (15 September 2004)
Trustee, RK and SK Trust (15 September 2004)
Trustee, Kalms Grandchildren settlement (15 September 2004)

KING OF BRIDGWATER, Lord

**12(e) Remunerated directorships*
Director, Electra Investment Trust
Non-executive Chairman, London International Exhibition Centre plc and
London International Exhibition Centre (Holdings) Ltd
**13(b) Landholdings*
Minority Partner in family farm in Wiltshire (including cottages)
Partner in woodlands in Wiltshire
15(d) Office-holder in voluntary organisations
Patron, UK Defence Forum

MANCHESTER, Lord Bishop of

**12(f) Regular remunerated employment*
In receipt of episcopal stipend
15(a) Membership of public bodies
Chair, Sandford St Martin (Religious Broadcasting Awards) Trust
General Synod of the Church of England
Manchester Diocesan Board of Finance
Manchester Church House Co.
Manchester Diocesan Council of Education
Manchester Diocesan Association of Church Schools
Life Governor, Liverpool College
Governor, Hulme Hall
15(d) Office-holder in voluntary organisations
Lord High Almoner to H.M. The Queen
National Chaplain, Royal British Legion
16(b) Voluntary organisations
Board of Royal School of Church Music
Manchester Diocese, Mothers' Union
Arches Housing
Disabled Living
Hulme Hall Trust
Wigan & Leigh Hospice
St Ann's Hospice
Manchester University of Change Ringers

MAXTON, Lord

**13(b) Landholdings*
Holiday home in the Isle of Arran
A London flat

O'NEILL OF BENGARVE, Baroness

**12(f) Regular remunerated employment*
Principal, Newnham College, Cambridge
15(a) Membership of public bodies
Chairman, Governing Body, Newnham College, Cambridge
Deputy Vice Chancellor, University of Cambridge

15(d) Office-holder in voluntary organisations
Trustee and Chairman, Nuffield Foundation
Trustee, Sense About Science
Trustee, Gates Cambridge Trust
Member, Council of Management of the Ditchley Foundation
President, British Academy

PESTON, Lord

**12(e) Remunerated directorships*
Philip Allan Updates
15(d) Office-holder in voluntary organisations
President, Institute of Administrative Management
Vice President, Speakability

Minutes of Evidence

TAKEN BEFORE THE BBC COMMITTEE

THURSDAY 23 MARCH 2006

Present	Armstrong of Ilminster, L	Kalms, L
	Bonham-Carter of Yarnbury, B	King of Bridgwater, L
	Fowler, L (Chairman)	Maxton, L
	Holme of Cheltenham, L	Peston, L
	Howe of Idlicote, B	

Examination of Witnesses

LORD BIRT, a Member of the House, examined.

Q2094 Chairman: Lord Birt, you have come at the very last part of our review on the BBC when we will be issuing a brief Report really as our response to the White Paper. Welcome, and may I say it is good to see you; not entirely a formality, in your case. I think this must be the first select committee to see you for some time?

Lord Birt: It is, My Lord Chairman; though there are others in the wings.

Q2095 Chairman: Why was that?

Lord Birt: As I think you are probably aware, I have been the Prime Minister's Strategy Adviser for a number of years and a number of select committees have invited me to appear before them, but governments always take the view that it is for ministers to decide who should represent them.

Q2096 Chairman: There is a blanket ban, is there, on prime ministers' advisers appearing?

Lord Birt: You will have to ask other people, My Lord Chairman, about those sorts of things. I was affected, so to speak, by the policy, not the creator of it.

Q2097 Chairman: There was a blanket ban on you?

Lord Birt: I have no knowledge of that, My Lord Chairman. I doubt it. I think each and every request was considered on its merits.

Q2098 Lord Armstrong of Ilminster: Do you think that is right, Lord Birt, that there should be a kind of ban on strategy advisers coming before select committees of this House and the other place?

Lord Birt: As I understand it, you will be more expert on this than I, because I expect, when you were in government, you had to offer advice on such things yourself. I have no problem with the notion that ministers should decide who speaks on their behalf.

Q2099 Chairman: How were you accountable then; were you accountable just to the Prime Minister?

Lord Birt: I was accountable to the Prime Minister and the Prime Minister is accountable to Parliament and, as you know, appears before, so to speak, the committee of all committees.

Q2100 Lord King of Bridgwater: I do not know what the full range was of your advice and what topics you covered, because I think you did transport and you did a range of other things. I was not sure, were you a strategy adviser on broadcasting in the BBC?

Lord Birt: I was not. I was not an adviser on any particular matter. The Prime Minister sought my advice from time to time on a whole range of matters, but broadcasting was specifically excluded from my terms of reference.

Q2101 Lord King of Bridgwater: That is my point, you see, because we did not want to ask you as the Prime Minister's Strategy Adviser at all, we wanted to ask you as the former Director General of the BBC. We had your other colleagues who came in and gave very good advice and very frank evidence to this Committee, of which you may have seen the reports. It would be interesting to know, and it follows on from what Lord Armstrong asked, if somebody of your experience becomes a sort of 'blue skies' strategy adviser to the Prime Minister, on quite different things, then are you embargoed from giving the Committee the benefit of your experience in your previous activity? That seems to be a loss to the Select Committee and it seems to me actually that the distinction should be drawn. If you were advising the Secretary of State, I can understand why the Secretary of State would say, "I'll come and talk myself," but you were not advising the Secretary of State, you were not advising the Government. You say actually it was specifically excluded, and surely that would mean any advice you gave then specifically in light of your previous experience as Director General?

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Lord Birt

Lord Birt: I understand the point but I am not sure I can add anything to what I said earlier. Plainly, it was not a matter for me but for Number 10.

Q2102 Chairman: You did not put in proposals on the BBC?

Lord Birt: I did not, no. I have said already that I did not advise the Prime Minister on broadcasting.

Q2103 Chairman: Too late; you are here now.

Lord Birt: I am very pleased to be here. I hope you will make me feel welcome.

Q2104 Chairman: You are free of your Number 10 shackles?

Lord Birt: I am.

Q2105 Chairman: Therefore, you are able to speak with absolute frankness on the BBC?

Lord Birt: In theory.

Chairman: In practice?

Lord Armstrong of Ilminster: "Absolutely" would be a rather strong word, My Lord Chairman.

Q2106 Chairman: I am not sure I would go down that line. For how many years were you either Director General or Deputy Director General of the BBC?

Lord Birt: For 13 long years.

Q2107 Chairman: That is an almost unprecedentedly long period, is it not, or am I wrong?

Lord Birt: It is a long time to have been in both of those positions, certainly.

Q2108 Chairman: Let us start with your experience. Can we start with the licence fee, I will come to the cost in a moment but are you in favour of all the money from the licence fee going to the BBC, or would you like to see some of it going to other public service broadcasters, in other words, some form of top-slicing?

Lord Birt: I have never liked or used the phrase "top-slicing", My Lord Chairman. I think, to answer that question, I have to supply a little context. I think there are a number of different questions which merit different answers. The first and the most important question is, I think, how do we maintain the tradition of public service broadcasting which has been remarkably successful in the United Kingdom? Within that, how do we maintain a strong BBC, how do we regulate it? Thirdly how do we ensure that, whatever its purpose, this organisation is well run? I think there are different answers to those questions and indeed different possible answers to those questions. There have been many proposals, over the last couple of years, and I do not think there are rights or wrongs here; there are some proposals

which have some strengths, and some weaknesses and none is without merit. I think the question of maintaining the strength of British public service broadcasting is the most pressing one. I worked for the BBC for 13 years. Before that, I spent the whole first part of my career, the best part of 25 years, in ITV. From within ITV, I witnessed the start of Channel Four. I think the 20 or 30 years at the heart of my career were remarkably successful for British broadcasting. The competition that first we saw from ITV and then later from Channel Four was as important as any other factor in raising—through competition in public service broadcasting—the BBC's game; raising overall the standard and quality and ambition of British public service broadcasting. My overriding concern is that, for reasons which are evident to us all, we are gradually seeing ITV—and we will see, though there are not yet strong signs of it, Channel Four too—go into long-term decline as public service broadcasters; and this is not because they are not being run well; they are indeed being run well in their own terms, but because of the obvious economics. My greatest fear is that we are heading into a world where the BBC, once again, will be the monopoly provider of public service broadcasting in the UK, which it was when I was a lad, up until the late fifties. That, I think, is the greatest challenge for public policy and it is within that context that I think some of the proposals that were being considered were directed at trying to maintain that strength.

Q2109 Chairman: In short, you would support some form of support, perhaps, coming from the licence fee to maintain for the reasons that you have stated?

Lord Birt: I was not working on these matters. I can respond to what others suggest. I think also there is not one right answer. There are many potential answers to these questions, but the notion of having a pool, in part funded by the licence fee, possibly in part funded in other ways, which becomes a pool which allows contestability for public service broadcasting, is one which I find appealing.

Q2110 Chairman: Did you find it appealing when you were Director General of the BBC?

Lord Birt: The issue was not so pressing ten years ago. I negotiated the last licence fee and the last Charter and they were different notions for different times and these issues did not press upon us at that time. Ten years ago, ITV was firing on all cylinders as a public service broadcaster and so was Channel Four; that is not the position today and I do not think it is going to be the position in five or ten years' time.

Q2111 Chairman: Your position has changed because of the strength in public service broadcasting, or perhaps the weakness is the right way of putting it, of ITV and Channel Four?

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Lord Birt

Lord Birt: I would say, and this is in no sense a criticism of those who run the system. If I were running ITV, or if I were running Channel Four I would not have a different outlook from that of the people who are running them now. Which is just an inevitability of growing competition; and, yes, we are seeing a slow decline of public service broadcasting in the commercial sector.

Q2112 Lord Maxton: That seems to me, however, to be a narrow interpretation of what is public service broadcasting. You are talking about basically five channels—BBC One, BBC Two, ITV One, Channel Four and Channel Five—but the Freeview platform, which by 2012 every household in this country is supposed to have, offers a whole range of educational and what one might term public service broadcasting. The Sky platform offers that same wide range and more of that. Would you say, for instance, that the History Channel maybe should receive some, rather than it going to ITV One, which essentially is an entertainment channel, that it might be the History Channel which should be entitled to some of that money?

Lord Birt: We have problems of definition here which are as old as time. I would not suggest for a moment, any more than you would, that there is not much programming of high quality, intelligence and interest on commercially-funded broadcasting; manifestly there is. I have been a decision-maker in both ITV and BBC and, I can promise you, from direct experience, the way in which you make decisions in a publicly-funded environment is completely different from the way in which you make decisions in a commercially-funded environment. The nature of public service broadcasting, as it has emerged in the United Kingdom, is down to many, many things but primarily it is down to being well funded. Above all other things, I should say, it is the result of having a publicly-funded BBC alongside a very strong system of regulation in the commercial sector, essentially insisting that commercially-funded broadcasters spent their money in different sorts of ways, with different motivations. Ultimately, it is the motivation in those who make decisions within a publicly-funded system which determines the nature of public service broadcasting.

Q2113 Lord Maxton: Can I lead on from that. You must have been involved, and in fact I know you were involved very much, in what we might term “blue skies” thinking in the BBC on the technologies that were coming.

Lord Birt: I was.

Q2114 Lord Maxton: Of course, you were instrumental in ensuring that some of them came about, particularly the worldwide web and the BBC's

involvement in it. Therefore, looking forward, and with that sort of background, in this rapidly changing world of technology, where do you see the BBC fitting in, say, in five, six, seven, eight years' time?

Lord Birt: Ten years ago, we identified this as a major challenge to the BBC and it is an even bigger challenge now but it is a challenge that simply must be met and I have no doubt whatsoever that the inherent creativity of the organisation is up to the challenge. I think you have got to turn this on its head and say what is the BBC for, indeed, what is public service broadcasting for, and it is to do a number of things which, broadly speaking, are common ground. It is to invest in the most creative elements in society and to give them headroom for experimentation and innovation, our greatest writers and artists and documentary-makers; it is to provide work of really deep and original educational quality, like *Planet Earth*, an absolute masterpiece, which frankly could not emerge in that form from a commercially-funded broadcasting system, it is just inconceivable. The BBC started off 80 years ago as a radio broadcaster. It did not have the same values 80 years ago quite as it has now because the values have changed in the light of experience over the years. It started off with a set of values which initially it interpreted through the medium of radio, then television came along and it reinterpreted them in television, and now it is reinterpreting them through a new set of media, which are and will be revolutionary. Broadcasting, or what we think of as broadcasting, is going to be delivered into an ever more complicated environment, with multiple devices and multiple distribution systems, complete changes in the way that programming and content are made, including the lowering of the entry price; it used to cost you £100,000 20 years ago to buy a VT machine, now you can edit a sophisticated feature film on your PC, on your desktop. Fundamentally, the world has changed but investing in works of high creativity, investing in works of education and finding ingenious ways of delivering them to audiences remains the essential challenge, I repeat, ever more difficult but, in my view, achievable.

Q2115 Chairman: I just want to keep on the theme of the licence fee for a moment, if I might, the management of the licence fee. When you were Director General, were you concerned about the level of the licence fee and if the licence fee got too high that this was going to cause a public reaction against the whole principle of the licence fee?

Lord Birt: One is bound to answer “yes” to that question. Of course one is concerned, but did I actually ever see any strong evidence that the licence fee-payer was rebelling against the level of the licence fee, no, I did not. Moreover, I took the view that, the licence fee used to be the only way in which you paid

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Lord Birt

for your broadcasting, so to speak, directly. The rest of broadcasting was funded through advertising. As the consumer came to pay very, very large sums of money for their television in other ways, through subscription, the licence fee began to appear a better and better deal. The BBC must never, can never, take the licence fee-payer for granted and it is absolutely vital that the licence fee-payer always believes that they get something from the BBC which is distinct and different and which they cannot get elsewhere and, for them, offers value for money. Broadly speaking, that has been and remains the position.

Q2116 Chairman: What is your view on a licence fee which increases by 2.3 per cent, i.e., double the rate of inflation, year after year, for the next seven years?

Lord Birt: Obviously I am not going to comment on any detail of the current BBC bid. I am not party to the work that is going on. Nonetheless, I am happy to give a broad answer to the question, rather than a narrow one; in other words, I do not want to be put in a position, so to speak, where I am defending each and every item. Of course, everybody, including this Committee, must look at the detail of the bid, but at the same time we have all got to think of this from a strategic perspective, and the strategic perspective is quite simple. We are seeing a burgeoning of the commercial sector, we are seeing huge sums of money, through advertiser funding, through subscription funding, going into broadcasting. The BBC represents an ever smaller proportion of the pie, not larger, much, much smaller. The strategic issue for society, especially in the context that I set out earlier of a diminishing pool of public service broadcasting, the question for society is do we want to make a substantial investment in another kind of broadcasting which is, broadly speaking, civilising and offers an entirely different experience to our children and to young people and to the nation at large? If the answer to that question is that we do want to make a strategic investment in the BBC, you have to think about GDP, you have to think about how the funds that are being drawn into the rest of the broadcasting sector bear some relationship to the growth of the nation's wealth. I think the strategic question is, broadly speaking, that if we want to see strong public service broadcasting, the BBC always is and is always going to be, the most important part of that. Its funding, broadly then, has got to grow as the nation's wealth grows. I know this Committee has some reservations about that, but I nail my colours to the mast, I do think the BBC has to be very well funded as an organisation.

Q2117 Chairman: It is not just this Committee, is it? ITV, which you were concerned about in the first part of the questioning, also have very strong concerns about it, which they have put to this Committee and

continue to put to this Committee. Also I notice that your former Chairman, Sir Christopher Bland, said last week, and I quote: "I seriously doubt they'll" (that is the BBC) "get or deserve a licence fee above inflation." You worked with Sir Christopher for some time?

Lord Birt: I did not always agree with my Chairman.

Q2118 Chairman: You do not now?

Lord Birt: I do not agree with him now, no. I am not narrowly endorsing the bid, I am not in a position to do that, but, broadly speaking, this country will regret it if the BBC does not remain a well-funded organisation.

Q2119 Baroness Bonham-Carter of Yarnbury: Can I ask you a bit about the details of the demands that have been made on the BBC.

Lord Birt: In not too much detail, I hope. I have said already, honestly, I do not want to go into detail.

Q2120 Baroness Bonham-Carter of Yarnbury: No, I am going to supply the detail and see what your response is. Subject to the direction of the Secretary of State, Ofcom could decide to charge the BBC for digital spectrum, and one of the people who gave evidence to us said this was a form of double-dipping, in other words, it is money going straight from the licence fee-payer back to the Treasury. What is your attitude that?

Lord Birt: As I have said already, I have spent the last six years of my life worrying about lots of things but not spending my time any longer thinking in detail about broadcasting. I have to be honest, I have not thought through that question. I have not blotted it out but I would not start by assuming the notion is wrong. I think, by and large, it is a good idea for public bodies to pay, so to speak, for the rent, as they pay for the rent of their buildings. I think it is a good discipline to pay for all the resources that you use, as a public body. Then the issue is financing that public body appropriately to fund the resources that they use. That would be the question on my mind but I would not come to a view on a question that I had not had a chance to address in detail.

Q2121 Baroness Bonham-Carter of Yarnbury: You said earlier today, and indeed in your McTaggart Lecture, that competition within public sector broadcasting in the future is very important, and in that sense Channel Four is very important. Would you envisage Channel Four being made to pay its rent as well?

Lord Birt: Honestly, this is not a question, as I have said already, that I have thought about a great deal. I have said already, in general, what my approach is to organisations being charged for the assets that

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they use. Honestly, I do not think I can usefully go further on the question.

Q2122 Baroness Bonham-Carter of Yarnbury: Moving on; another potential reason for the licence fee having to be rather larger than possibly people might like is that the Government appears to think that the BBC should be paying for helping the vulnerable and the over-75s when digital switchover comes. Do you think this is a broadcasting cost or a social cost?

Lord Birt: I am going to sound like a broken record. It is six years since I was Director General of the BBC.

Q2123 Baroness Bonham-Carter of Yarnbury: You have been thinking about the BBC?

Lord Birt: I used to stay up until two o'clock in the morning reading the papers, especially if I were going to appear before a select committee, but I have not done so on this occasion. Honestly, I think they are questions better put to the people who run the BBC currently.

Q2124 Chairman: Are you saying really that, having been Director General and Deputy Director General of the BBC for a very, very long period, really you do not have any views about whether social cost should be added on to the licence fee?

Lord Birt: I do have views on the principle in the abstract, but long experience. My Lord Chairman, is that it is better to bottom-out an issue before you offer a view on it. By and large, the licence fee is there to fund programming for the licence fee-payer.

Q2125 Lord Holme of Cheltenham: Obviously and understandably, you are reluctant to be tempted too far into areas that you have not bottomed-out on, but I would like to persist just for a moment. We have now six public purposes for the BBC, some of which will have been familiar to you from the past, one or two of which have raised eyebrows, although they seem to me admirable conceptually, like 'sustaining citizenship and civil society', but there is a sort of last objective, or last public purpose, included. To remind you, it says, in pursuing its other purposes, education and regions, and so on, the BBC's purpose is to help to deliver to the public the benefit of emerging communications technologies and services and, in addition, taking a leading role in the switchover to digital television. I think it would be very difficult to dispute those words "a leading role," but, to come back to money, one of the problems of the economics of this is that the BBC is being asked by the licence fee effectively to pay for digital switchover and, in turn, that produces pressure on the licence fee. In a sense, it is a public policy issue, which is the sort of thing you have been grappling with for the Prime Minister for

the last few years. If it is in UK Limited's interests, as clearly it is, that we make a rapid transition to being a digital society, a digital economy, is it right that, just in public policy terms, the whole weight financially of doing that is put upon the BBC, and by the BBC transferred to the licence-payer, and that is articulated as a public purpose of the BBC rather than a legitimate policy objective of Her Majesty's Government?

Lord Birt: I will repeat what I said earlier. I am happy to say something on the question, but, really, if you want an informed view, you will have to ask another person.

Q2126 Lord Holme of Cheltenham: Your first instincts then?

Lord Birt: Plainly, it is legitimate to use the licence fee to fund digital transmission; the BBC has always funded its distribution. Its distribution used to be through analogue transmission, then it was through analogue plus satellite, initially analogue, and then digital satellite and now digital terrestrial, and before that different forms of radio transmission, including FM, so I do not think there is any difficulty at all about using the licence fee for distribution.

Q2127 Lord Holme of Cheltenham: Or the BBC's digitalisation?

Lord Birt: Moreover, because this is a massive change for the consumer, I see no difficulty at all about the BBC playing an important part in ensuring that the consumer, the licence fee-payer, has the best possible understanding of the options.

Q2128 Lord Holme of Cheltenham: The distinction I am trying to draw is the legitimate one which you, and indeed the Government's own review of the Charter, articulate, which is clearly that the BBC will be a leading player in this because it needs to digitalise its own output, and that is perfectly well understood. It is a distinction between playing a leading role and, in a sense, being an executive agency of Government in financing and executing UK Plc's digitalisation project; that is the problem?

Lord Birt: My limited understanding of it is that the BBC is not the leading player, is it? I think there are a number of players that are helping the nation to digitise and it makes perfect sense, from everybody's point of view, whether the BBC or the Government, to ensure that the BBC plays a part in that process.

Q2129 Lord Holme of Cheltenham: A part?

Lord Birt: A part; yes.

Q2130 Baroness Howe of Idlicote: I want to ask a bit about the Government's regulation, but just before that I want to go back to your period, when you were in charge. Certainly it was the view at that time that

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if you had not come in and been quite stringent in the use made of the money that you had there might not have been a continuing public service broadcasting set-up; the Government of the day was looking quite happily towards contestability, in every sense of the word. Subsequent to that Greg Dyke was in charge and there was a view that perhaps rather a lot of money was spent, and now there is Mark Thompson, back, doing a little bit of checking on that. Do you think enough has been done to reassure the licence fee-payer that they are getting value for money?

Lord Birt: Again, you take me into areas on which, you will understand, I would rather not trespass. As you will know, I believe strongly that the licence fee-payer, as well as having the best possible service of programming from the BBC, ought to have that service provided as efficiently as possibly it can be. If you take the sweep of history about the BBC, there is no doubt that for many decades of its existence the BBC did not spend the licence fee efficiently and effectively, and that was a real failure of the governance of the BBC over a very long period of time. I think it was only really from when Lord Hussey became the Chairman of the BBC that attending to issues of that kind became important, and I think, since then, it has been very much on the BBC's agenda and the BBC has tried to organise itself in order to be efficient and to offer powerful evidence that it is.

Q2131 *Baroness Howe of Idlicote:* Is it sufficient, do you think, at the moment, the various cuts and reorganisations?

Lord Birt: Honestly, the only way truly you can know the answers to these questions is to be on the inside and to spend serious amounts of time addressing them.

Q2132 *Chairman:* That is the trouble, is it not? You have just made a very interesting observation on the BBC, basically that they were not using their resources as effectively as possible, but from the outside it is extremely difficult to know that, whether they have been using them well or not using them?

Lord Birt: It is impossible.

Q2133 *Chairman:* It is impossible; therefore, is there a case for much better transparency, in terms of seeking to know what is happening inside the BBC?

Lord Birt: In my view, it is not the most important responsibility that those who regulate the BBC have, but probably it is the second most important. The first most important is to be sure that the BBC is offering, in the round, a service which is right for the licence fee-payers and to attend to the licence fee-payers' interests, but the second is to make sure that the BBC spends its money wisely and, whatever the system of regulation of the BBC, I think it has to be

effective in this respect. It was not historically; increasingly it has been. I am sure that we could go a lot further in ensuring that money is well spent. I am afraid I do not think that is going to be achieved by the odd external body turning up and looking at five different case histories of how the BBC spends it money; it has got to be built into the whole way in which the BBC is regulated. It is a 365-day-a-year job to be sure that the money is assigned rigorously and spent efficiently.

Q2134 *Lord Peston:* Can I ask you a bit about the interpretation of relicensing. Later in our deliberations ONS suddenly announced that the licence fee was not a licence fee, it was a tax, and it has reclassified the licence fee, for national accounts purposes, as a tax. As I understand it, therefore it regards BBC current expenditure, the other side of this thing, as public expenditure; now that does not affect the fiscal position, it was calling two different things that balance, in a sense, with different names. I have a feeling, but I have not yet checked this out, that anyway the BBC capital expenditure has always been defined as public expenditure; but that is a technicality.

Lord Birt: I think borrowing has always been on the PSBR.

Q2135 *Lord Peston:* What is puzzling us is if the licence fee is a tax then all sorts of things seem to follow, within our system of government, in terms of scrutinising it, which would not follow if it were not a tax. Again, we will know more about this, I think, when the Government replies to our debate on Monday. I think the Treasury is trying to have it both ways; they are going to say, "Yes, defined by the ONS as a tax, but we're not going to interpret it as a tax for any other purpose," but it is not obvious that they can possibly get away with it. All this preliminary leads me to the point that, if it is a tax and the corresponding expenditure is public expenditure, does not this mean that the independence of the BBC is somewhat threatened, because everybody else in the public sector who is tax-financed and involved with some public expenditure has all sorts of rules that they have to follow, about accounting officers and being scrutinised? Obviously, this is not your field of technical expertise and I do not want to press you beyond what you can talk about, but does it not concern you at least a little bit, given the importance that everybody attaches to the independence of the BBC, that this might be the first step in the wrong direction?

Lord Birt: When I was Director General, I can remember meeting occasionally my equivalents in other major countries, and in some of those countries their budget was established like other governmental departmental budgets and, so to speak, was settled

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on the political priorities of the day and invigilated as other departments were. I have to say, in each of those instances, and I will not say which countries they were, you heard horror stories, and the horror stories were of inappropriate, improper intervention on the part of the politicians and the officials, who trespassed upon the independence, and not just the political independence but the independence of decision-making, of the broadcaster concerned. We are never going to do that in this country, our culture is too strong, our history too powerful, but that is where we do not want to go. That is why we have had this rather elegant mechanism of the licence fee, and although there is lots of discomfort around the notion of Royal Charters and a licence fee being seen as a different form of funding from general taxation, it brings huge merits, it brings the merits of political independence. There is no public service broadcaster in the whole world that has earned its political independence in the way that the BBC has, including in other major countries, remarkably. This is a precious win and we must not threaten it in any way at all. However uncomfortable people are about some of the mechanisms, we have got to recognise their strength in underpinning the independence of the BBC. The Charter and the licence fee are very important parts of that. They are not the only important things that matter about the BBC but they are some of them.

Q2136 Lord Peston: On the usual “eternal vigilance” cliché, if a different word is being used for the licence fee it means that people like us and, for that matter, you as well must be eternally vigilant to make sure that the independence is maintained in exactly the way that we all believe; in other words, we cannot take anything for granted?

Lord Birt: Lord Peston, you know more about the technicalities of tax than I do, but I am sure we would both agree on the virtues of mechanisms which underscore the independence of the institution.

Q2137 Lord King of Bridgwater: If we are talking about the independence of the BBC, and I think that it is absolutely common ground that this is what we must ensure absolutely, and we put forward our ideas of how that should be achieved, the Government has published a White Paper saying they are totally committed to it, and yet, before this Committee sat, we had one of the most unpleasant and unfortunate events which in no sense could be described as hallowing the independence of the BBC. Actually, my worry is that, no matter how many charters we see, I am just looking at the Charter, which says: “The BBC shall be independent in all matters concerning the content of its output” and the Secretary of State, in her introduction, makes that clear, I have not given the detail of any of the Hutton/Butler events but one

of the things that came out was the issue about the blizzard of e-mails that came out of Number 10 criticising the content of programmes. Against that background, can I ask you, frankly, how can you possibly support editors, reporters, and all that, who are trying to do a proper job; the question is actually who is going to protect the independence of the BBC in that situation? You cannot cut the telephone wires; we are all politicians, we will always criticise or complain about what is in there. The independence of the BBC is not in good shape, or has not been after that event, and they have been very much on the back foot and there is no question about the position they were put in. As a former Director General, how do you protect the independence, of genuinely independent news-gathering?

Lord Birt: Plainly, there are many lessons to be drawn from that affair and different people will draw different lessons. Frankly, personally, I do not see that the independence of the BBC was undermined in any way at all. The issue raised by, blizzards of e-mails is as old as time. I was Director General of the BBC before e-mails got going and, I promise you, the telephone proved an extremely effective means for politicians, dare I say, of all parties to put pressure on editors. I saw that as part of the weather; it was ever thus. The issue for me always was, as the Editor-in-Chief of the organisation, giving people in the BBC the confidence to listen and to make their own decisions. I believe the culture of independence in the BBC runs deep. Everybody who works there understands it. It is not a licence to do anything, it is a licence to make an honest decision, but you do have to listen when people complain. They are not always wrong. Often they have a point of view; and you should listen. Sometimes you should admit you are wrong, sometimes you should adapt, but you have got to have the courage to make your own decisions; that means you have got to have capable people who know they are going to be supported. I believe everybody in the BBC knows they are going to be supported, they know they are going to be supported by their line manager and ultimately they know they are going to be supported by the Governors of the BBC because, whatever else has gone wrong with the BBC, actually, over a very, very long period of time, the Governors, going right back actually into the 1920s, have always been the custodians of the BBC's independence. Honestly, whilst it is something we should be eternally vigilant about, and there can be no compromise on that principle, I do not believe it is under threat. I believe the history of the BBC shows that politicians of all parties, if you look at it over a long period of time, have gradually accepted more and more the independence of the organisation. It does not mean that they do not try to influence individual decision-makers but ultimately they understand that the BBC makes its own decisions. I

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was responsible for BBC journalism for 13 years and, in truth, I never felt under threat, and in that whole period of time only one politician ever threatened me in a way which I thought was improper, and I said so.

Q2138 Chairman: You are not going to reveal his name?

Lord Birt: I am not going to reveal it. How did you know it was a man?

Q2139 Baroness Bonham-Carter of Yarnbury: How do we know it was not a "her"?

Lord Birt: I gave the person short shrift, and there was no prospect of the person going through with the threat, it was just bluster.

Q2140 Lord King of Bridgwater: The reality is though, is it not, that this has become more and more intense over the years, the political concentration, and the importance of the media?

Lord Birt: It has. It has, because the political parties have become more professional.

Lord King of Bridgwater: Exactly. I think that is a very helpful answer, that it is the responsibility of the Director General and the Governors; we may not have any Governors in future.

Chairman: We will come on to that.

Q2141 Lord Armstrong of Iminster: In our Report, and indeed the Select Committee of the other place took the same view that the BBC's independence would be protected best by establishing it under an Act of Parliament, rather than under a charter, I think we thought that would make the process of governance in the institution a more open and transparent process. Do you have any view on whether there is a case for a change from having this charter arrangement, which of course has been going on for many years, and bringing it into what you might call a more normal arrangement, whereby the thing is set up under a statutory Act of Parliament?

Lord Birt: I see both sides of the argument very clearly. I have said already that both the licence fee and the Royal Charter are powerfully symbolic of the independence of the BBC. Plainly, governments have the tanks. If they want to, governments always have the power to do more or less anything they want, but they do not. The Royal Charter embodies the independence of the BBC and I do not think it is something to be given up lightly. Conversely, I do recognise and accept that Parliament should have not only a view but also the chance to scrutinise and challenge government policy in respect of the BBC, one of our most important national institutions. When, as now, we are going through a period of major change then it is right and proper and democratic that Parliament should have a proper opportunity to look in detail at what is proposed.

Perhaps we can have our cake and eat it too. Perhaps we can have better processes for doing that, on the one hand, whilst, at the end of the day, recognising the value of a Royal Charter, on the other.

Q2142 Lord Armstrong of Iminster: Clearly, the Charter review creates an occasion on which there is considerable parliamentary scrutiny and the arrangements for the governance of the BBC are brought under an intense spotlight?

Lord Birt: Not, I think, scrutiny of the kind that we see in other circumstances.

Q2143 Lord Armstrong of Iminster: That is the point really, because the Charter does not provide for that kind of scrutiny, so we rumble along for ten years, or however long the Charter lasts, without very much parliamentary scrutiny. I wonder whether one of the reasons for bringing the BBC under an Act of Parliament might be that it would create more opportunities for parliamentary scrutiny and therefore greater transparency?

Lord Birt: They would, but there is a balance to be struck here between effective, proper, democratic scrutiny, on the one hand, and the legitimate independence of the BBC, on the other, which we all value. Reminding you of what I said earlier about the conversations that I have had with director generals of other public service broadcasters around the world, there are dangers of seeing the BBC as just another public sector body, on exactly the same basis as other bodies, funded in the same way out of general taxation, scrutinised by Parliament, day by day, as other bodies are. One sees where the demand for that would come, but I would recoil from going that far myself and I would focus on how Parliament can exercise more scrutiny at these important strategic moments, like Charter review, without going so far as to end the principle of a Royal Charter.

Q2144 Baroness Howe of Idlicote: Turning now to the rather more detailed business of governance and regulation, just a tiny probe to see whether you agree or disagree with Sir Christopher Bland, again, because he described the BBC Trust and the Executive Board, and I quote, as an "uneasy compromise," "inappropriate" and "not in line with any modern form of governance." I wonder if you have any comments to make on that?

Lord Birt: Christopher always expressed himself more richly and pungently than I did.

Q2145 Lord Armstrong of Iminster: Was he right?

Lord Birt: I would rather discuss the issue, rather than either agree or disagree with my erstwhile Chairman. Putting aside the issues we mentioned earlier, of how we can ensure that the tradition of

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public service broadcasting is maintained, which I regard as an issue as yet unsettled and which still lies before us, and moving to the rather more narrow issue of, whatever the circumstances, what is the best way of regulating the BBC, the first thing to say is we did not do such a bad job over the first 80 years of the institution. We ended up with the best public service broadcaster in the world, by a mile, so we did something right. It is a question of building on success and strength, and I think that these proposals move us forward and are an improvement on the previous situation. Why; because actually they bring greater distance between the regulator and the management of the BBC and I think that is good and healthy. Others have made proposals which would have pressed further down that path and I see the merit of those proposals. I think the challenge is how can you effectively ensure that the totality of services which the BBC offers is in the interests of licence fee-payers. I do not think, historically, the Governors have approached that question with rigour. They have done so with a good deal of honest endeavour but not with the benefit of real rigour. From time to time the management of the BBC has, but it has not always done it either. That is the proper role of the regulators. There are all sorts of questions around that, and you should not think of just the services, you have got to think of the licence fee-payers. There are many different kinds of licence fee-payers. They have different needs; children, young Muslims, any number of different groups in society. How is the BBC going to serve them, is it serving them well, does it have the right proposals, does it understand their needs well enough, is it trying to satisfy their needs in a way which is appropriate to a publicly-funded broadcaster? They are the sorts of questions for a regulator, as well as how well are the services doing, in their own terms. For instance, how healthy is the BBC's drama overall? The more that the Governors stand back—forgive me if I keep calling them Governors but it is hard to get out of the habit after all this time—the more that they are not involved, day to day, in the institution, the more they can think hard about the needs of licence fee-payers, the better the BBC will be. That is a test, for me, of the new proposals. They are an improvement; they could go further.

Q2146 Baroness Howe of Idlicote: I am quite sure that during your time, and even before it, a very good job was done, but things have changed and there is a much greater demand for transparency in what is going on now, and of course this applies very much to the whole field of broadcasting. Though obviously it is a halfway house, with the move of the Trust outside of the same building, and so on and so forth, with a rather more specific role, is it really sufficiently independent, and transparently independent, for

today, or could you envisage anyhow in the future, and not too distant, that there would have to be a completely different, separate body to regulate the BBC?

Lord Birt: It depends on your tastes and appetites. There are arguments for and against each of the proposals before us. The argument for keeping the Governors, the trustees, on the inside is that they are seen as part of the same organisation and maintain regular, routine contact with the people who make the programmes, the decision-makers; they are more integrated into the body of the institution; that has merits. Frankly, that is the system as we have had it for the first 80 years. Distance brings other virtues, and certainly I see the value which would come from the Governors being at an even greater distance than suggested in the current proposals, which, I repeat, I think are an improvement on the previous position.

Q2147 Lord Kalms: It is interesting that you were slightly cynical about Christopher Bland's comments. One universal experience that we have had on this Committee is that everybody, without exception, has been very cynical, critical or has felt mild about this new structure, so Christopher Bland was just one of many who said "We doubt if it will work." You come from the private sector so you will know about unitary boards and executive boards and you know how the private sector works, and it functions rather well. When you were DG, at the beginning you were very radical, you were the most radical DG for years; you took it and shook it. Seriously, are you suggesting that, if we had the present structure and you were a new DG coming in who wanted to do things, with this vast bureaucracy above you which watches everything you do, including scratching your left ear, and you have to report on that, you are trying to say you could go in and make these radical changes without the inhibition and control and oversight and interference of, we call it, the Trust Board, it is the Regulatory Board? I just wonder if you would have been a happy little bunny at that time?

Lord Birt: People matter as well as systems, and the right system with the wrong people can produce one set of outcomes and the wrong system with the right people can produce another. I was lucky. I had a Chairman and a group of Governors who had an appetite for reform and supported me wholeheartedly through an extremely difficult period. Obviously, you raise an important issue and I have talked so far about the importance of the regulator having distance, being focused entirely on the interests of the licence fee-payer, making tough judgments about whether the BBC is meeting those needs. I did not say that one of the reasons why that is important is because history tells us that the BBC constantly goes off the rails and constantly has to be

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put back on them. Especially when competition in broadcasting came, the BBC often paid more attention to the competition than to the licence fee-payer and constantly had to be pulled back. The more distant, the more beady, the more independently-minded, the more focused the Governors are, on the licence fee-payer, the less likely that is to happen. The issue you raise is, I think, a slightly different one, which is, under any scenario, you want the BBC to be an effective institution in its own terms: has it got the most creative staff, are they well trained, are they paid appropriately, have they got the right technology to make the programmes, are they efficient and effective? That is a completely different set of questions; and, frankly, the kinds of people who are good at regulation tend not to know about those sorts of things. I think that set of questions has to be considered separately. How do you make sure that the organisation, in its own terms, is successful? These new proposals, again, are a valuable step in the right direction; they introduce the notion of non-executive directors onto the Executive Board. One could go further, again, and in time we may go further.

Q2148 Chairman: Do you support that?

Lord Birt: I do, certainly, for the reasons I have given. You would not appoint as non-execs of the organisation the same sort of people you would appoint to be beady regulators in the licence fee-payers' interests; different skill sets, different perspectives. Indeed, frankly, I do not think you want the regulators to be worrying about the detail of how the organisation is run and who gets paid what; they are going to get mightily confused about their role if they do that. The more distance, the better; the greater the clarity of focus of the different bodies, the better. Yes, I think it remains to be seen how it pans out, and obviously there are issues about who chairs the Board and whether it is the Director General or an independent Chairman, which the Government have left open and it is up to the Trust to decide.

Q2149 Chairman: You would not have been very happy, would you, as Director General, having your management board chaired by an independent?

Lord Birt: I hope it would not have been called a management board. If we had a board, like other public bodies, which was a proper board, which itself was strategic about the organisational questions, actually I would have been very happy, because I believe that boards strengthen organisations. They provide challenge and that is proper and makes for a healthier organisation. It was the absence of that kind of challenge actually which weakened the BBC organisationally. It has always been a highly creative organisation, but by the late eighties it was also antiquated, inefficient, wasteful, unstrategic and a

whole host of other things. It did not have much organisational capability, whatever its creative ability, and different governance structures for the organisation would have improved that. The more we can separate out regulation from organisational governance the better it will be all round.

Q2150 Lord Kalms: I think there are a lot of flaws in this, but is there not one particular, fundamental flaw, which I want you to address, that it is a contradiction in terms to have a non-executive director on an executive board? With all your experience of the private sector, you could never give it that model, so how can you find guys so that effectively they become executive directors wearing a non-executive hat and being paid, whatever it is?

Lord Birt: I have a problem with the language. I think probably we are coming at this from the same direction. I agree, you do not have non-executive directors on an executive board. That is a contradiction in terms; that is the management going about its day-to-day task. Both you and I, however, have worked in institutions where you experience the challenge, the proper and valuable challenge, of independent directors, who bring valuable experience to bear from other kinds of organisations, other sectors, and strengthen the institution. I think this is what is intended here but the language may not be entirely appropriate.

Q2151 Lord King of Bridgwater: In terms of the Trust and the Executive Board, I think you said, in that sense, the farther away the better. It is an incredible concept, actually, because you would not have run it like that, even within your commercial organisation, the idea that any company has to face in four or five different directions at the same time, everything you said about they have got to consider their customers, which obviously is their audience and the licences fee-payers, they have got to consider their technical capabilities, of course every board has to do that, they have to consider the interests of their shareholders as well and the people to whom they answer, they have to face all of them and see collectively the advantages. The bit that I agree profoundly with you on is, as you say, it is about people. If you put the right people in there then you still need the best simpler structure. This is going to cost quite a lot more money. We have already got a governance unit set up, it is in the White Paper, a shadow governance unit, I think it has got 35 or even 100 people already in it, already up and running, and all to handle the relationship in-between. I come back to this point, but it was actually what Lord Kalms said and I would agree with it, it was Gavyn Davies, Greg Dyke, Christopher Bland, all of them said that they felt this was a mistake and that it was not what they would do, and the Government now are going to

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do it. Do you have any idea where this idea actually came from? I will give you a final point, just to round it off, because I love this. If you read the White Paper, just to show what a comic set-up it is, it says: "What's in a name?" It says: "Acting Trust. The BBC Trust is not a Trust, in the legal sense." Then it goes on: "The new Executive Board will include non-executive members." It is a joke, and it is not a joke, because if you get the right people they will muddle through. One of the things which surely you found is that it is very important to make changes which really need making, but, to make change for the sake of change, they cost money, they have people all looking over their shoulders to see what jobs they might be getting and doing, there is a hiatus in the organisation; it is a very damaging thing to make a change unless you are jolly sure it is absolutely necessary. How about that?

Lord Birt: I understand why you are concerned, but actually I do not think we agree. I do see merit in a two-board system. I hope I have explained why. I think the challenges are different. I was at the BBC during the long period of time when the two Boards were together. That proximity in practice means that many of the Governors become obsessed, frankly, about the detail of running an organisation. They are going all over the organisation, people are telling them that things are wrong, or they heard the *Today* programme yesterday and they want to talk about what somebody said in an interview, and so on, and they lose sight of the big picture. I do not think that is the system which, for instance, Lord Kalms was talking about a moment ago. In suggesting that there should be distance between the organisations, I was not saying, so to speak, "good riddance," but rather that a bit of distance would bring more wisdom, more perspective, more focus on the interests of the licence fee-payers, and looking at the big, social, cultural, creative questions about whether the organisation was providing the right sorts of services. These other sets of questions, which are about whether the organisation is well run, whether it is efficient, whether it has got the right technology, whether it has got the right pay strategy, and so on and so forth are better not muddled up with those other questions. They are better considered by a different group of people, who are challenging nonetheless. The institution needs to be challenged in both those ways, but in my view would benefit from challenge by two different sets of people. This is what is at the heart of the Government's proposal, and that I support. As I have said already, one could go further, and each one of us will have a slightly different scheme of our own but, broadly speaking, I think it is directionally sound, even if it could go further.

Q2152 Lord Armstrong of Ilminster: As I understand it, and correct me if I have got it wrong, under the present system, and that could be not dissimilar in the

new system, the Board of Governors can be drawn in *ex post facto* into questions of programme content but it does not say anything about it in advance. Is that a satisfactory situation? If you have something, just picking an example, like 'Jerry Springer: the Opera' which outraged a great many people, was it right that the Board of Governors should face that criticism and be involved no doubt in what followed without having had a say in any discussion of it beforehand?

Lord Birt: I think, broadly speaking, it is right. Again, I think the second the Governors get involved in the day-to-day running of the BBC they lose perspective, and being able to step back and make a careful, considered, magisterial assessment after the event, I think, brings greater value, even possibly at the risk, which I do not think was run in this instance, personally, that the wrong decision gets made. The greater good comes from having an 'after the fact' assessment.

Q2153 Lord Holme of Cheltenham: On the discussion we have just been having, it seems to me that the most difficult bit is strategy. As I read the Government's document, it envisages that the Trust will own and lead on strategy and the Executive Board will implement that strategy. I find it very difficult to understand how the Trust then can make decisions on new programmes and services in the interests of the shareholders, the licence fee-payers, the stakeholders, if they themselves are the owners and the leaders of the strategy. That is the thing that I find most difficult?

Lord Birt: I did not find that notion captured precisely in the White Paper, as I read it, when you look at the codification of powers between the two bodies. Nonetheless, I am not trying to contradict you, because I am happy, if you tell me that is there.

Q2154 Lord Holme of Cheltenham: I think you will find it is broadly right.

Lord Birt: Let me deal with the issue, because if that were the notion then, like you, I would say that it is an unsatisfactory way of expressing the issue. I think the reality is that it is a dialogue, and has to be a dialogue. The BBC itself will always have a lot of people working for it; who will have an understanding of audiences, not least reached through audience research on how people behave. It should have a lot of understanding of its audiences and who they are, what are their needs, how they are responding to what you do, how they are changing, what new needs you may need to meet. Any self-respecting organisation must harness all of those insights and at some point turn them into a strategy, not least to accommodate the things we talked about earlier, the changes in technology, and so on and so forth. Plainly, the BBC cannot just sit back and wait

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for the Trust to deliver from on high some notion of what it should be doing; it is bound to have a view and must have a view. Conversely, it cannot be the last view. I worked for most of my career in ITV, which, I believe, had a very fine regulator. I am a fan of most of what happened in British broadcasting during my time in it. I think Ofcom is a fantastic new body. People do not pay sufficient attention to just how successful as bodies the ITA and the IBA were. They did a wonderful job over a long period of time, and, believe me, they were beady, independently-minded, they took views on whether ITV's religious programming was satisfactory, they took views on the representation of women in broadcasting, and so on and so forth, and they challenged us. It was a different kind of challenge; it comes from a different set of perspectives and they are legitimate and proper, and out of that dialogue comes a synthesis, which both bodies need to own.

Q2155 Lord Holme of Cheltenham: Just a specific. You may know that this Committee recommended, in terms of impartiality and fairness, which were requirements for public service broadcasters as a whole, that this should be done by Ofcom, although we had some qualifications about whether Ofcom needed to develop its content capability to do it. Nevertheless, we felt it would be sensible to have the same rules for the BBC rather than, in this respect, the BBC being self-regulating. I wonder what your feeling is on that?

Lord Birt: First, let us state the obvious, that it is absolutely imperative that the BBC is fair, impartial and accurate, and, if it is not, there has to be a remedy, and the best remedy is that the people responsible for the programming accept that there is a problem, in the first instance, and put it right.

Q2156 Lord Holme of Cheltenham: Of course. In the first instance; of course.

Lord Birt: People make mistakes all of the time, it happens in the best-run organisations and a well-run organisation should have the ability to sort that out; so we are talking about what happens subsequently. I think a test of effective regulation in the BBC is, if the first step does not work, that the regulatory body again has the distance, the independence and the capability to make a judgment. I think that should be enough, but it will work only if that body has sufficient distance and, let us be honest, it has not always worked in the past. The regulatory body, the Governors, has sometimes been too close to the Executive and has not had sufficient independence, and you need that distance. Again, that did not happen with the IBA. The IBA kept its distance, it had a different set of attitudes, it had a very good track record, it had a lot of wisdom and a lot of judgment and, in my view, it rarely came to a view

that was not well considered and proper. If the regulatory body is distant, it should be able to offer sufficient protection of the consumer interest, of the wronged individual or the victim of an inaccuracy or unfairness, or whatever. I think that should be enough. If you go beyond that to yet another body then it is like going right up the judiciary system, and you would not say that it was a terrible idea but it should not be necessary.

Q2157 Lord Maxton: The Committee did recommend that the National Audit Office should have full right of access to the BBC; the White Paper is not agreeing with that. What is your view on it?

Lord Birt: It is rather like the other things we talked about earlier, the Charter, the licence fee; personally, I would be happier if there were another way of doing it. As I have made clear already, I am a hawk on having the licence fee well spent. During my time at the BBC the costs halved. This was a bloated, wasteful, inefficient organisation and it ought not to have been, and I do not believe it is now and it must not be in the future, and there must be an effective way of ensuring that does not happen again. You do not get that right by having the odd inspection; you get that right by building it into the whole way that you manage and regulate the institution. I am sceptical that the NAO is a powerful device for ensuring the outcome that we would all wish to see and it has the further difficulty of appearing to trespass on the BBC's independence. I own up that my preference is for a very effective means of ensuring that the BBC offers value for money; but I would rather see that lodged with the regulatory body, for symbolic reasons as well as for reasons of effectiveness. I have to be honest, nobody is proposing it but if the only way of ensuring that the BBC was spending money wisely was the odd inspection from the NAO then I guarantee to you that the outcome would not be that the BBC as a whole was spending its money wisely.

Q2158 Chairman: The World Service. We have had a lot of evidence on the World Service, and it tends to come always at the end, regrettably, of our deliberations, and I think almost universally it has been much praised; as you know, they are now going into a television service and an Arabic language service. Have you views on that, and in particular have you views on, at the moment, the BBC is going to do a 12-hour service, not a 24-hour service, £6 million is the cost which would take it to 24 hours; that seems not too big a bridge to get over, does it?

Lord Birt: Again, I would rather not comment on the specific, I am not well enough informed to do that. Like everybody else, I think the world service has been a wonderful creation, it has had a major impact on how the world thinks about Britain, it has been a

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force for progress right across the world and I think an extremely good investment of public money. The challenge for the World Service has been—and sometimes the Foreign Office has not always helped the BBC in this respect—the challenge for the World Service has been, to change rapidly enough to meet the radically different circumstances of the modern world. To whom should we be broadcasting, what are their different needs, what media do they consume? There also needs to be a willingness to reconform the World Service in the light of modern technological capabilities, whether television or otherwise. Many years ago, I struggled to persuade the Foreign Office to let the World Service invest in the internet, it was a very big struggle indeed, and we have got to get over that. We have all got to be more imaginative in letting the World Service grow and develop in the light of what it can do best and to do it in a way which is most effective.

Q2159 Chairman: BBC World, was that one of your creations?

Lord Birt: Called that, I think it was, but the Service existed before I became Director General.

Q2160 Chairman: You were talking about your successes in management; the information I have is that BBC World has lost £80 million since 1999. Do you think that is money well spent?

Lord Birt: Obviously, I am not in a position to confirm the figure, but yes, I definitely believe that BBC World has been of high value. If you look at it another way, in the light of the conversation we have just had, BBC World is an important means of delivering BBC news, via the television medium, in a way which was partly funded commercially. I think that has been a huge benefit, and unashamedly I would like to see BBC World grow, become more powerful and become as present around the world as is CNN.

Q2161 Chairman: You do not think that having these two organisations, one the World Service, which is recognised as an excellent organisation, and BBC World, which may be good but it is certainly a loss-maker, quite a heavy loss-maker, just confuses the whole picture?

Lord Birt: Plainly, the World Service itself is wholly publicly-funded. BBC World, effectively, is commercially-funded. I would look at it the other way, and certainly Christopher Bland and I saw it this way, which is that the BBC had to do everything possible to ensure that it offered a service to the world in television news. It is offering a service in radio around the world, it is offering a service on-line around the world. I think it would be a tragedy if BBC news were not offered on television around the world. I no longer know anything about the finances, but I wish BBC World well.

Q2162 Lord Maxton: Why not offer, instead of having BBC World separate, and so on, BBC 24-hour news as what is provided around the world?

Lord Birt: BBC News 24, which I am proud to have started and which I watch routinely and regularly, has an overwhelmingly UK focus and if you offer a broadcasting service to the rest of the world you need a different focus. You may be able to use many of the same stories and materials but you have to reconform it for a very different audience who will not be interested in lots of things which are of interest to the United Kingdom.

Q2163 Lord Armstrong of Iliminster: Do you think that the World Service should be seen as an instrument of public diplomacy?

Lord Birt: I do not, actually. I think that would undermine its value greatly, if that were the case. It has got to be seen for what it is, it is provided by the BBC; the Government is distant from it. It is a tribute to governments of all parties that they have maintained that distance over a long period of time. Its value comes in people around the world appreciating Britain and its values and what it stands for.

Q2164 Chairman: I think you notice, from the reaction of the Committee, that we end on a note of absolute agreement. Lord Birt, thank you very much. We see this as a prelude to, by you, a long string of appearances before select committees, up and down the Commons and the Lords, but thank you very much for coming to us first.

Lord Birt: I will look forward to them, My Lord Chairman.

Chairman: Thank you.

THURSDAY 20 APRIL 2006

Present	Bonham-Carter of Yarnbury, B Fowler, L (Chairman) Howe of Idlicote, B King of Bridgwater, L	Manchester, Bp Maxton, L Peston, L
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Examination of Witnesses

RT HON TESSA JOWELL, a Member of the House of Commons, Secretary of State for Culture, Media and Sport, and MR JON ZEFF, Head of Broadcasting Policy, Department for Culture, Media and Sport, examined.

Q2165 Chairman: Secretary of State, welcome. Thank you very much for coming. I hope you are okay.

Tessa Jowell: Absolutely fine, thank you.

Q2166 Chairman: This is really the very last meeting of the inquiry we have had over the past months on the BBC and we welcome a fairly brisk session on wrapping up some of the subjects and outstanding issues. I wonder if I could start with a subject on which, as far as I know, no decision has yet been made and that is the licence fee and future policy on that. We found that when James Purnell came he said of the BBC's proposals for the next licence fee that that was an "opening bid" but Michael Grade, on the other hand, said: "that bid is not an opening bid, it is a costing for the vision which has been endorsed by the Government." I wonder why there is such a disagreement in viewpoint between the Government and the BBC on this.

Tessa Jowell: Because this is a negotiation and a negotiation which is just beginning. In our view, this is an opening bid by the BBC. You will have seen the Regulatory Impact Assessment which accompanied the publication of the White Paper where we judged the impact of the various policy proposals to be insignificant. Obviously the establishment of the Trust will incur costs. This is the opening of a negotiation. The BBC have put in their bid and I suppose this is perhaps best-described as an *à la carte* menu and in settling the level of the licence fee we will take a number of issues into account. Very importantly, we will take the willingness to pay or the public value that licence fee payers attach to the level of the licence fee into account. Also, with what is an unprecedented degree of openness in this negotiation we will have a seminar led by Lord Burns at the beginning of May to which other broadcasters will be invited and at which they will have the opportunity to discuss, interrogate and raise issues about the BBC's proposal the independent consultant's report that we have commissioned—the PKF report, which will be made publicly available to the participants ahead of that time.

Q2167 Chairman: So we can get the terms of that discussion right, the BBC have costed this as an increase of RPI plus at least 2.3 per cent, and that is something which takes place each year over the next seven years. That means on our basis, and I think the BBC agree with this, in cash terms at the end of the period the licence fee will be £180 in cash, what we pay, and the income for the BBC rises to over £4 billion a year. These are massive figures. To take up one of the points you mentioned, are you afraid that the public is going to react against this size of increase and this size of spending?

Tessa Jowell: In order to test the public's willingness to pay, that is one of the reasons that we are currently commissioning what might be described as willingness to pay public opinion polling. It will also test not just the willingness to pay up to a certain level but the public value that those questioned attach to the services that the BBC provides. You will know that this whole process of reviewing the Charter has been characterised by a very high level of public involvement and we intend that will continue. At this stage I would not attach any firm prediction at all to the ultimate outcome of the negotiation about the level of the licence fee.

Q2168 Chairman: But in your negotiation, which is the word that you used, are you not working to reduce this figure that the BBC are putting forward?

Tessa Jowell: Certainly we would expect the figure to come in lower than the BBC's proposition, yes, but it has to be a figure which first of all provides the viewing public with the range and quality of services that they look to the BBC to provide. We must also ensure that the BBC is able to continue at the forefront of innovation in relation not just to programming but new technology and the other services that the BBC provides and which are valued by the public. We also need to ensure that if the BBC proceeds with the decision to move to Greater Manchester that that is a properly costed proposal which can be assessed as part of the licence fee. Of course, there are then the costs of digital switchover that the BBC will meet. We will look at the licence fee bid in that context. If I may make one or two other

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points which I hope will help the Committee and set some context. I think it is important that we expose the BBC's calculations and assumptions to other broadcasters. One of the questions that we need to interrogate is the extent to which the costs of other broadcasters are driven by the costs of the BBC. For instance, if the BBC came in at a lower level for talent or super-inflation or creativity or innovation, to what extent would this in time also have the effect of reducing the costs facing other broadcasters. So to what extent does the BBC make the market that the other broadcasters—

Q2169 Chairman: Does that apply to things like salaries and you will look at salaries and say, "I see this interviewer is being paid this amount of money which seems extraordinarily high to most people"?"

Tessa Jowell: I think it would be extremely dangerous for any Secretary of State for Culture, Media and Sport to take a view on the salaries paid to the BBC's array of interviewers: that is a matter for the BBC.

Q2170 Chairman: That is a bit of the market, is it not, surely?

Tessa Jowell: Of course it is, but that is also why it will be important that the BBC Trust has this new accountability to the licence fee payer rather than to the institution that is the BBC as is the case at the moment.

Q2171 Chairman: I notice you say quite a lot about involving the public but you have not so far said anything about involving Parliament. Just tell us what the parliamentary process is.

Tessa Jowell: There will be opportunity for debate on the Charter and the Agreement in both Houses of Parliament. The licence fee, which is the second part of the policy yet to be settled, is, as you know, by convention settled between the BBC and the Government. There is the opportunity since the year-on-year increases—when they have occurred—have been proposed, and subject to negative resolution, for annual debate if Parliament wishes.

Q2172 Chairman: What that actually means in English for those outside Parliament is that you put forward an order and Parliament can either accept it or reject it.

Tessa Jowell: Exactly.

Q2173 Chairman: It cannot amend it, it cannot look at it. Do you think that is a democratic process?

Tessa Jowell: I think it is a satisfactory process. If we take the licence fee period which we are coming to the end of where the formula was set at the beginning of the period and given effect every year, I think it is important that the BBC has stability so that we have

a ten year licence fee settlement and we do not have an annual negotiation about the licence fee.

Q2174 Chairman: But does that not make the case that this Committee has been putting that at the start of the process, and we have come to the end of one process and we are now starting another process of seven years, you introduce primary legislation which can go into committee and can be examined and which Parliament can have a real say on and then that primary legislation takes you through, if you like with annual orders, but you have the primary legislation where Parliament can examine, look at and check what the arithmetic and the basis of everything is?

Tessa Jowell: I think, my Lord Chairman, there is a difference of view between us on this. I know this Committee throughout what I genuinely regard as very helpful scrutiny throughout this whole process has challenged the Government's process on this.

Q2175 Chairman: I must say if you regard ours as helpful scrutiny I would hate to see unhelpful scrutiny.

Tessa Jowell: I think this has been helpful and constructive scrutiny. It does not mean that we necessarily agree with all of your proposals but you have challenged us throughout that process.

Q2176 Lord Maxton: The Culture, Media and Sport Select Committee in the Commons said the same thing, of course, it is not just us.

Tessa Jowell: They did, which perhaps doubles the responsibility on me to give proper consideration to the proposition. I have to say that in the context of the Charter Review we have not yet addressed this in relation to the level of the licence fee. What was very clear, and you will see from the published results of the consultation that was conducted over a long period of time, over two years, was that what licence fee payers want is less Government involvement, less parliamentary involvement and more public involvement in shaping the BBC, and that is what we have acceded to.

Q2177 Chairman: Can we come to that in a moment. We will come to that very point. As far as the licence fee is concerned, basically what this means as far as Parliament is concerned is that they are going to just have the option of saying yes or no to the proposition put down. Or, to put it another way, you are going to decide what the licence fee is going to be and Parliament are going to be asked to be a rubber stamp for it.

Tessa Jowell: It will be a decision that will be taken across Government, with Cabinet authority and which could, at any time, be challenged by Parliament. It could be, to take Lord Maxton's point,

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scrutinised at any time, as I would expect, by any of the relevant select committees. The process that we intend to pursue does not exclude parliamentary scrutiny, what it does do is exclude a parliamentary vote on the level of the licence fee, that decision being taken instead on the basis of cross-party consultation.

Q2178 Chairman: To put it bluntly the deal is done by the Government?

Tessa Jowell: That is the case.

Q2179 Chairman: Parliament really has no say in it. Do you not think there is something rather offensive in that, given that we are talking about over £3 billion going up to over £4 billion? That is a lot of money for the public to provide per annum.

Tessa Jowell: I do not think it is offensive. I think that is very strong language to use for a process which after all has been pretty well established on a cross-party basis now for many licence fee settlements. What will be different this time is the involvement of licence fee payers in determining what is a fair and acceptable level of settlement and it is that tension, through that accountability, that we expect the BBC Trust to develop.

Q2180 Lord Peston: You seem to be starting with a very enlightened view, in other words you look at the value of what the BBC does which is at least in part, if not entirely, what the public judges, it cannot be just that obviously. Then, you look to say, given that value, how do we finance that, in other words you ask what is worth doing, and therefore the licence fee, in a sense, becomes the end product rather than the beginning of this in the sense of working the thing through and that would lead to a licence fee of the following kind. Am I right? Is that how your Department is thinking?

Tessa Jowell: Yes, it is.

Q2181 Lord Peston: You are not starting from what is often seen in the press to be rather crude administrative concept of RPI and then you adjust it rather than closing it down. You would reject, if you like, the RPI approach to the subject? You might use it as a comparison when you have done the sums.

Tessa Jowell: I would reject an assumption that the final licence fee settlement has the RPI inevitably built into it. If you look at the architecture of the formula, the formula is open to negotiation both in respect of decisions about annual levels of increase and in relation to the ultimate level at which the licence fee would be set.

Q2182 Lord Peston: Just to reiterate, the real concept here is what is worth having and what can we afford and how do we proceed?

Tessa Jowell: And what are you the licence fee payer willing to pay.

Q2183 Lord Peston: Not just the licence fee payers because there are some things, to use an old-fashioned word, which must have a sort of paternalistic content. My guess is most licence fee payers would vote for the abolition of Radio 3, but that does not mean we should abolish it. Could I take you on to this incredibly tedious topic, the fact that the licence fee has been reclassified by the Office of National Statistics as a tax. It is wearing my economics hat that has got me totally confused. The ONS categorically says, it is a tax and it is going into the national accounts as a tax, there is no doubt about that. The Treasury says, yes, that is fine, but it is not really a tax from any other point of view. The Treasury approach to this has got me quite lost. If it is a tax, it is a tax. I cannot see how it can simultaneously be a tax in the national accounts and not "really be a tax". I do not want to press you too much on this, Secretary of State, because I entirely accept it is a rather arcane matter. We are a bit lost, in particular we are lost because if it is a tax, then certain very definite things follow in terms of parliamentary scrutiny, what is the nature of the BBC as a body, and that is the main reason we press it. Even if you want to say you are relaxed about it, much as we would love to see it, you will not be the Secretary of State from now to infinity and therefore there will be other secretaries of state who may take a different view.

Tessa Jowell: I can understand why this is a matter of interest to the Committee. I think the fact is that there is not an enormous amount to say. This reclassification, as the ONS have made very clear, is a matter of statistical classification only. It has no bearing at all on the Government's relationship with the BBC or Parliament's relationship with the BBC or the Treasury's relationship with the BBC, it is simply a matter of classification. That said, I do not think that even in the light of this we need have any change in the way the licence fee is viewed.

Q2184 Lord Peston: You are not in the least worried that one day there might be a large number of Members of Parliament from the other place who say, "This is a fact, the whole history of our House, the lower House, is about the fact that we control, in the democratic sense, taxes and therefore we insist that we are now going to get a great deal more involved in the BBC?" You think that is impossible, do you find that inconceivable as a result simply of this? Maybe not quite inconceivable.

Tessa Jowell: Nothing is inconceivable, of course not. I do not think that such a proposition would have any support from Treasury ministers and certainly not from me, or I suspect any subsequent secretary of

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state. I do understand, and I feel a bit exercised by this, this is something which appears descriptively to be quite a substantial change but is then dismissed by the ONS as no more than an administrative change in classification with no further consequence.

Q2185 Baroness Howe of Idlicote: Secretary of State, I am very interested in this whole business of the cost of switchover because, again bearing in mind this argument about tax or not a tax, is it really right that the costs, say of helping the elderly, should be borne by the BBC? It is going to cost a fair amount of money at the point of switchover and it will be saving, shall we say, the Chancellor of the Exchequer quite a lot of money if it is done this way by sleight of hand.

Tessa Jowell: Again, this is a judgment and it is a judgment on which the Government has taken a decision but it is a judgment which has a precedent. There have been a number of changes to the quality and nature of broadcasting over the last 80-plus years of the BBC's life which, at each time, have been borne by the BBC as a cost of broadcasting. Whether it is the move to 625, black and white to colour, the introduction of television itself, these are broadcasting costs and the cost is therefore borne by the licence fee payer.

Q2186 Lord Maxton: The Government did not pay for and give people a colour television who could not afford a colour television.

Tessa Jowell: The underlying principle that we are seeking to meet here is that of universal access to free-to-view broadcasting and what will happen—and this is different from the change from black and white to colour television—is at the point at which digital switchover is complete, unless you have a television which is capable of receiving digital television, you will not have access to television. Those at greatest risk, were we simply to leave this to the market as some advocate, of being left out of this digital revolution are the elderly and the disabled. That is why in what we have described as the targeted help package we have sought, on the advice of charities and organisations that work closely with these groups of people, to make sure that we have a targeted help scheme which is fair.

Q2187 Baroness Howe of Idlicote: Just following that up a little bit, it is obviously right that this is a major step, it is not just a question of whether you can still see things in black and white or in colour, it is whether you can receive any picture at all, it is a huge sum of money. That rather re-enforces the thought that this is going to be borne by the licence fee payer and not by the taxpayer where it would seem in many senses to be more appropriate.

Tessa Jowell: The judgment about appropriateness is ultimately a small “p” political judgment. I do not think this is a party issue in any sense at all and it is a judgment that we have made, it is a judgment that we have obviously reached agreement on with the BBC and which we think is fair, so that is the basis on which we will proceed.

Q2188 Chairman: You have had more meetings recently with the Treasury, I imagine. What I do not understand is that the over-75s have a free licence which is provided by social spending from general taxation, and this is going to be provided—social spending again—by a regressive tax which is called the licence fee.

Tessa Jowell: It is a regressive tax which has a remarkably high level of public support including, according to the Ofcom research, among people who might be regarded as bearing the brunt of its regressive nature, that is the first point.

Q2189 Lord King of Bridgwater: What is supported is the idea of the licence fee, that is what you are saying. That has a high degree of supporters, not that it should also carry, because I do not think any research or polling was done on this at all, a measure of what is effectively social security finance as well which would normally be paid by taxation. If you put that question, are you seriously suggesting they would say, yes, we think it should be added to the licence fee?

Tessa Jowell: I entirely accept that point. This is a decision which we have taken, it is a decision we have taken to fund in this way. The first point to make is that the programme is essential in order to meet the universality principle that I have argued, so the next point then is, is this from taxation or is it from the licence fee? We have taken a judgment that this should come from the licence fee and I think that the argument is similar to the additionality principle that we have to argue in many areas where we look to public policy objectives being fulfilled by sources of funding other than by direct taxation. There is always, as you will all I know accept, a debate about the legitimacy of some Lottery spending. Should this not be funded by Government as opposed to by the Lottery? I think that the argument is in that similar territory and I do not expect that we will get universal agreement. All I can tell you in the clearest possible terms is that the Government has reached a view on this.

Q2190 Chairman: The Government has reached a view but the BBC are less than over the moon about this prospect, if Michael Grade's answers to us in the Committee are anything to go by.

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Tessa Jowell: I am quite sure that he may, as a shrewd and cunning negotiator, have hedged his bets somewhat on this, because this is part of the dialogue of negotiation over the ultimate level of the licence fee.

Q2191 Chairman: It also underlines the point that Parliament cannot get involved in this debate. The fact is that I would suggest if you put this to Parliament, it would not get through.

Tessa Jowell: I do not accept that and there will be plenty of opportunities for parliamentary scrutiny of this decision.

Q2192 Chairman: Not scrutiny.

Tessa Jowell: I regard this Committee as a scrutiny body and the House of Commons Select Committee as a scrutiny body. I am sure that you will take further opportunities to question me on this.

Q2193 Baroness Bonham-Carter of Yarnbury: Continuing on the subject of what licence fee payers should be expected to pay for, we know that the BBC has included £300 million in its licence fee bid put aside for the possibility of having to pay for digital spectrum. Does the Government plan to charge the BBC for digital spectrum?

Tessa Jowell: We took a decision on the basis of a review of policy in relation to spectrum allocation back in 2002, and you will remember the Martin Cave review. The decision was that spectrum is a scarce resource and the Government favoured market mechanisms both for the allocation and management of spectrum. That said, no decision has yet been taken on any level at which public service broadcasters might be charged for spectrum, those are decisions that will be taken further down the line at around the time of switchover.

Q2194 Baroness Bonham-Carter of Yarnbury: Is it not the case that if the Government was to choose to charge for spectrum that it would be, to use the terms that Lord Puttnam used to us, the Treasury “double-dipping”, in that the money they were gaining from selling spectrum would be coming back to them from the licence fee payer? Is not something you said earlier that you were involving the licence fee payer in what they felt they wanted to pay for and I would be very surprised if that was something they would feel it is legitimate for them to pay for?

Tessa Jowell: There are two decisions that have been taken that I suspect the Committee may not particularly like or support. One is the point we have already discussed about the costs of the help for the elderly and vulnerable. The second is that the receipts from any sale of spectrum that become released at the time of digital switchover will be receipts that will be returned to the Treasury rather than to the licence fee

payer. Spectrum is like real estate, it does not belong to the broadcasters, they have access to it.

Q2195 Baroness Bonham-Carter of Yarnbury: They have to rent it is the term that has been used to us. Even so, is it not the case that this would be an unfair extra tax on the licence fee payer?

Tessa Jowell: Ofcom, as the body who in the Communications Act are charged with the responsibility for coming up with proposals for spectrum charging and spectrum sale, will take precisely these kinds of issues into account and I am sure that in their continuing tradition are likely to consult licence fee payers on this.

Q2196 Baroness Bonham-Carter of Yarnbury: There is a real risk in the digital future that with more and more demands being put on to the licence fee, the licence fee becomes so high—I accept what you said earlier that at the moment people are happy with the licence fee—and it is carrying too many costs you are going to lose the support of the licence fee payer.

Tessa Jowell: I do not think that public tolerance of licence fee increases is infinitely elastic, which is why the willingness to pay research is important. Ofcom carried out their research, now two or three years old. I think your words of caution are words that we would take very seriously indeed in determining the final level of the licence fee and being clear what the final cost is expected to meet. Actually, the costs to the licence fee payer of switchover if disaggregated on a household by household basis are not significant.

Q2197 Chairman: You, as Secretary of State, have the power of direction as far as Ofcom are concerned.

Tessa Jowell: Yes.

Q2198 Chairman: You are not tempted to use that power of direction in the sense of saying that the BBC shall not be charged for the spectrum?

Tessa Jowell: No, because the position within Government, the policy within Government, has been settled and the policy within Government is reflected in the Communications Act. What is also clear if you look at the drafting of the Act is that while auction will be used to determine the market price, so too will the needs of broadcasters be taken into account at the point at which the auction begins, and that is very clearly provided for in the Communications Act. The objective is to maximise the yield from the sale of any spectrum through a technology neutral auction. We also have to take account of the spectrum needs of new and emerging technologies like HDTV, for instance, which is very much in its infancy and we want to ensure that all broadcasters have the ability to build that capacity into what they offer to their viewers. These are the range of factors that will be taken into account. The

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legislative position is clearly set. This is not new policy which is being developed as a result of the review of the Charter, broadcasting policy has developed incrementally since 2001 with the Communications Act and the series of decisions that have been taken in relation to digital switchover.

Q2199 Chairman: To me it sounds awfully like the BBC are going to be charged for the spectrum, to *précis* your reply.

Tessa Jowell: You would be wrong, with respect, my Lord Chairman, to conclude that at this point. The principle of charging has been established. The way in which any charges would be levied have yet to be determined, no decisions have been taken on that, and Ofcom is just at the beginning of the consultation.

Q2200 Lord King of Bridgwater: Can I clear up a point on the National Audit Office. You remember that we recommended that they should have freedom of access to carry out investigations as they do throughout the rest of the bodies in the country that are funded by public funds, and the Chairman of the PAC has similarly written to you and has recommended that should be the case, and the Comptroller and Auditor General should have a role. You quite clearly in the White Paper moved in trying to be helpful to make some suggestions in this way but in the end one of the arguments you used was: "Public consultation showed people do not want either Government or Parliament to have any more control over the BBC", but are you not relying on an extremely misleading interpretation of the question that was asked? The question that was asked was: "Do you know who, if anyone, is responsible for making sure that services provided by the BBC are of an acceptable standard and who of these, if anyone, should be held to account when things go wrong?" Nobody in this Committee suggests for a moment that on questions of taste, decency and quality of programming Parliament or the NAO should have some involvement in that. If you had asked the question of the public: "Do you think uniquely the BBC with their right to levy money or exclusively the requirement that anybody with a television set has to pay the money that they, uniquely of public bodies, should be free from the normal accountability to Parliament through the Comptroller and Auditor General and the Public Accounts Committee?", do you think you would have got the same answer that nobody wanted the BBC to be accountable and it be exempt?

Tessa Jowell: This is an argument which has been running for many years. It is an argument where the BBC and the NAO started much further apart than is now the position. As you know, there is an agreed consensus which we have proposed that certain

further tightening should continue. In other words, the BBC Trust, as it will be, and the NAO collaborate on a programme of studies at each stage judged against value for money criteria. The concern, and you will be familiar with this, in this is always whether or not the NAO and then the PAC should actually cross the boundary of not just making judgments about value for money and whether the BBC spends public resources efficiently but whether or not in the process of doing that the PAC would make judgments about the relative merit of content and different kinds of programmes.

Q2201 Lord King of Bridgwater: May I interrupt because I do not think that is the point, with great respect. The point that arose in our earlier discussions on this, and I think it was the Comptroller and Auditor General who gave evidence to this Committee, was that the BBC effectively chose what subjects would be assessed on their value for money basis and a report made. Nobody gives the NAO and the C&AG authority to say, "This is what should or should not happen", what it gives is a measure of transparency so that matters can be properly investigated. It seems to me, Secretary of State, if I may say so, in the necessary discharge of your function that you cannot possibly enter into these licence fee considerations of what is fair and not fair if your hand is tied behind your back because you do not have access to the sort of information, independent professional information, that would be available to some of your other colleagues who have to decide whether there is value for money in some of the public bodies that they are responsible for.

Tessa Jowell: You will know that the Chairman of the BBC has offered, and it is an offer which I have accepted, that in the next licence fee period the NAO will oversee and scrutinise the BBC's efficiency and savings programme. That did not happen during the last licence fee period.

Q2202 Lord King of Bridgwater: It is this point about choice, that they can decide which topics they wish to investigate. Previously the BBC have suggested which topics should be investigated and obviously that is not full and independent scrutiny. I just make the point. I hope that you consider that point further and might consider trying to move in that direction.

Tessa Jowell: I will certainly consider that point further but also draw your attention to the drafting in the White Paper on precisely this point where we make clear that the NAO should be able to play a full part in discussions with the Trust about the areas which should be subject to value for money reviews. This means that the NAO should be provided with the information about the BBC's activities which it reasonably needs in order to form judgments about

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the area of examination. It will be for the Trust to ensure that this happens.

Q2203 Lord King of Bridgwater: I do not want to belabour this point. If I can make the point, for example, of the Ministry of Defence. The Ministry of Defence does not suggest which items it is that they would like the C&AG to have a look at, the C&AG decide on information they may have what would be in the public interest which are the ones that do raise concern and should be looked at. They have the choice. That is a point that does not exist under your proposals at the moment and I strongly suggest that it should.

Tessa Jowell: The BBC is not a department of Government in the sense in which you describe, it is a different and unique organisation which is why combining robust scrutiny should also recognise the BBC's distinctiveness, and that is why we have taken the view that we have.

Q2204 Lord Maxton: Would it be a worthwhile subject, therefore, for the NAO perhaps to look at the number of people who I gather the BBC are sending to cover the World Cup in Germany? I am told there are well over 300 people going from the BBC to do this. Surely that is something the NAO would look at and say, "Is this good value for money or would there not be a better way of doing it?" As far as I know they are not taking their cameras, they are getting their technical feed from the German television companies.

Tessa Jowell: That is a decision for the BBC. They will be accountable under the new governance arrangements to the BBC Trust. They will have to provide a compelling case for the value for money which is represented from that. It is important to recognise that there will be an unprecedented level of transparency about these issues under the new governance arrangements and you will know things without having to rely on leaks and all the other ways by which traditionally information about the internal workings of the BBC have become available.

Q2205 Lord Maxton: Would not the easiest way to make those more transparent be firstly to make it much more accountable to Parliament and, secondly, to give full freedom of information access to the whole of the BBC, whereas at the present time it is only the corporate structure of the BBC that is covered, as I understand it, by the Freedom of Information Act, and not the editorial, journalistic and entertainment part of the BBC? Surely it should be opened up. If you really want to be accountable the whole thing should be opened up.

Tessa Jowell: I am very happy to write to the Committee about the FOI obligations under the governance structure, but we are absolutely clear in

Government, and I hope that as a Committee you recognise the ways in which, in part as a result of the first report of this Committee, the governance role of the Trust and the accountability role of the Trust has been further defined and tightened. It is through a strong BBC Trust operating with an unprecedented level of transparency accountable to the licence fee payer that these protections in relation to value for money will be achieved.

Q2206 Lord Maxton: That phrase which you have used on several occasions, "accountable to the licence fee payer", what structure are you proposing to allow the licence fee payer to be organised in such a way that the BBC can be accountable? The only people who represent the licence fee payer are Members of Parliament down the far end there. They are the only people who have been elected by the licence fee payer to hold anybody to account, but you are denying them that opportunity.

Tessa Jowell: We have defined as a duty that will be placed on the Trust accountability to the licence fee payer. I thought long and hard about the extent to which we should prescribe the way in which that duty was discharged and decided that the Trust should be given the responsibility for developing those accountability mechanisms which they will do. It is for the Trust to determine the mechanisms by which that accountability will be discharged.

Q2207 Lord Maxton: How? I am still not clear. I do not even understand how the BBC think they can do it, is it by a series of opinion polls or questions?

Tessa Jowell: Through deliberative polling, the use of the internet, the use of new technology, and audience councils, particularly around the regions. These will be the fora through which the views of licence fee payers will be sought. Licence fee payers will have to judge whether or not their views are being reflected in the behaviour of the Trust and the decisions of the BBC Executive.

Lord Maxton: Self-selecting minority springs to mind.

Q2208 Chairman: Have you closed the door firmly and finally on increased parliamentary scrutiny and examination?

Tessa Jowell: Yes, because we have published the White Paper taking account of a very wide range of representations, and concluded that further parliamentary scrutiny, as opposed to decisions by Government, was not the best way forward.

Q2209 Chairman: That is in spite of two select committee reports?

Tessa Jowell: Two select committee reports which have been very carefully considered by ministers.

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Q2210 Lord King of Bridgwater: Can I ask what access these audience councils will have to financial information about the BBC when they are being presented because if the figures that the Chairman gave start to come through and if there is a mood built up that this licence fee is going right over the top, the audience councils are going to come under great pressure from people to say, "What are you doing about it?" Are they going to be funded? Are they going to be able to retain accountants to carry out investigations into it? What access will they have to any financial information that is not simply provided to them by the Trust?

Tessa Jowell: The role and the responsibility of audience councils are set out in the Charter which obviously you have read. It will be for the Trust to decide whether or not to give audience councils a budget to undertake the kind of role and function that you determine. The point is that I have decided, as Secretary of State, not to prescribe the way in which the Trust will develop its accountability mechanisms, I have given them a duty. This, at this stage, with a new body is a constant tension. Either this White Paper and indeed the Charter and Agreement could have been, as I will freely admit, earlier drafts of the White Paper read as a management handbook, handed from the Secretary of State to the BBC Trust to comply with. I altered that for you because it is my view that the Trust model has enormous potential for a different kind and level of engagement of licence fee payers. Therefore, it is important that responsibility is devolved to the Trust, not prescribed to it beyond the broad duty by the Secretary of State.

Q2211 Lord King of Bridgwater: The independent audience councils were supposed to be, as the alternative to Lord Maxton's suggestion, the elected representatives of Parliament, independent but totally dependent on the BBC in a Trust form, or whichever part of the BBC it is, for their funding or whatever access they are allowed to any information and resources, accounting and otherwise, to cross-examine the BBC on everything. That is considered an independent system of scrutiny?

Tessa Jowell: It is one of a wide range of forms of scrutiny that I would expect the Trust to develop. It is not the only one, but the audience councils at the moment are not consistently vigorous bodies. It is our view that under the new governance structure there is potential for them to develop. I would say in response to your obvious scepticism in relation to this that the BBC has never before had to operate at this level of transparency, and through transparency comes a degree of accountability that I suspect all of you will in turn recognise.

Q2212 Lord Peston: I am very keen to be persuaded, Secretary of State, and you did say you would write us a letter expanding some of this.

Tessa Jowell: I will write to you about the freedom of information obligations.

Q2213 Lord Peston: More generally, Lord King raised with you something which seemed to me to be immensely important when he referred to the analogy of the Ministry of Defence. I regard myself as second-to-none in my support for the BBC and its independence, but I do think that the defence of this country rates slightly higher than even the BBC. If they are subject to more scrutiny than the BBC then I will take a lot of persuading as to why that should be the case. If you do write to us, certainly I would like to hear what there is which so stands up with regard to the BBC. I am not denying that what you are doing is a step forward, but what we are arguing is that you should have gone further still. I do not see why defence should be subject to a higher level of scrutiny than the BBC. None of us want to get remotely involved in telling the generals and so on how to run the war but we still think we would like to know how the money is being spent. I would like to be as supportive as I can, as I think all of us would be, but it is still very difficult to follow the line of reasoning.

Tessa Jowell: The difference is that the BBC is not a body of Government. The National Health Service is another example. The National Health Service, in Lord King's terms, is arguably subjected to a higher level of scrutiny than the BBC. We take a different view. The BBC is a publicly funded organisation. It is not, however, an agent of Government, and it is only remotely regulated by Government. Our aim in developing the new governance structure has been to create what is at this stage an embryonic and as yet untested body, the BBC Trust, to exercise rigorous scrutiny and oversight in relation to the BBC itself and to be accountable to the licence fee payer. You may feel uneasy that the sheet is too blank in determining how that is to be achieved. My response to you is to say that we have placed a duty on them, we have demanded these levels of disclosure and transparency from them and from bodies like Ofcom with whom they will engage and it is for the BBC Trust to prove themselves. In any new structure there is a degree of risk. We judge it to be a risk that is well worth taking.

Q2214 Chairman: The fact is, is it not, that the National Audit Office does have access to the BBC World Service and you therefore defend that, do you, on the distinction between the money which comes from the Foreign Office rather than money from the licence fee payers. Really it all comes to it is our

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money we are talking about and it is our money that we want to see being put to best use.

Tessa Jowell: Also, more broadly in society there is room for diversity and for pluralities of accountability and organisational approaches. Of course, we could have gone down any of these routes. The BBC will never in its life have been subject to the degree of scrutiny that it will be subject to under this next Charter period, both through increased scrutiny, but not total accountability, through the National Audit Office and the PAC, but public scrutiny and public accountability as a result of the new role of the BBC Trust.

Chairman: We will move on from that subject. I am not sure that we are going to reach an exact meeting of minds on this.

Q2215 Baroness Howe of Idlicote: I am very interested in this whole business of how the Trust is going to work out. Quite clearly, the period as it is proving itself in the terms that you have set is going to be very interesting. Thinking a bit about some of the comments that have been made. For example, the draft Royal Charter, says that the Executive Board and the Trust both must approve an order to dismiss the Director-General should such a thing ever happen, yet equally it is never thought in any other sphere that these two bodies should act together and I think that is a little confusing. Can you expand on that?

Tessa Jowell: Can I introduce Mr Jon Zeff who is head of the broadcasting division. He is reading the relevant point of the White Paper.

Mr Zeff: There are slightly different provisions depending because the Chairman of the Executive Board can be either the Director-General or a non-executive chairman and the provisions are slightly different. The Trust appoints the Chairman of the Executive Board, essentially, so where the Trust decides that the Director-General is to Chair the Executive Board, the Trust appoints the Director-General and can dismiss the Director-General. Where the Director-General is not the Chairman of the Executive Board, the Trust approves the appointment of the Director-General which is made by the Executive Board under the arrangements for appointing executives.

Q2216 Baroness Howe of Idlicote: Certainly that goes some way to explaining that. If I may move on to another area, which is the appointment of trustees or whatever they are to be called. It is quite clear that you are considering a great deal more accountability to the licence fee payer and transparency, you said it several times. How are these members going to be appointed? You have got the Chairman of the Trust sitting on the panel, you have got no principal, but to what extent is this enough? Should there not be other

overviews really independent who could be seen to be representing the licence fee payer. If we go back to the time when Michael Grade was appointed himself, there was, in fact, Dame Rennie Fitchie sitting in on the scenario. Would it not be better if that same sort of structure was there to oversee, in the interests of the licence fee payer, that everything which you think should happen is happening?

Tessa Jowell: I think that is an interesting proposition. This is something which concerns me greatly, not just in relation to the BBC but in relation to the many public appointments that I am responsible for more generally because I think the challenge is as much in the range of people that come forward and offer themselves for appointment as it is in relation to the appointment itself. There will be eight new trustees appointed when the BBC Trust is constituted. I hope you will take what I say in the spirit in which it is meant. I think what is important is that those who are appointed to the Trust reflect the new nature of the BBC Trust, the fact that it is different from the Board of Governors that it has succeeded, and, therefore, in seeking or inviting applications my Department, as the department that will be responsible under the public appointments process for leading on this, will have to take steps to reach out beyond the population of excellent people who would in the normal course of events come forward. This is a process which takes time in my experience. It may take some time before we have a Trust which is fully reflective in the way we hope. We have avoided designating Trust members as representatives beyond the decision which was a popular one to maintain Trust members responsible for each of the four countries. This is going to be a challenge. I think it is also quite likely that if the Trust matures and becomes the kind of robust and assertive body we want it to become that we might want to look again at the way in which Trust members are appointed.

Q2217 Baroness Howe of Idlicote: Just to follow that through a bit. You were giving me some encouragement to think this is going to be important, there are going to be eight appointed all at once. Would this not be an ideal opportunity to really have a more open process? I am quite certain you are right that it should be a much more diverse group of people, and presumably because you have got these expert broadcasters as non-executives on the Executive you will not need very many broadcasters on the Trust itself, you will need a lot of other expertise and objectivity and all the rest of it, not specific representation to be able to be recognised as representative.

Tessa Jowell: We all want a lot of other expertise, you are absolutely right about that.

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Q2218 Baroness Howe of Idlicote: Am I drawing too much of a conclusion to say that you might give a look at how more open and transparent that process might be?

Tessa Jowell: The answer is yes, we certainly will.

Q2219 Bishop of Manchester: Secretary of State, in the Communications Act, as I am sure you will remember, the first legislative description of public service broadcasting was included, I think I right in saying. I remember well Lord Macintosh and other members of the Government giving firm support to this which seemed to signal the Government's serious intent to back public service broadcasting. In fact, I remember also interventions from the Government emphasising the role of the BBC in particular in preserving high standards in public service broadcasting. In a way it was quite encouraging in the Green Paper to see the recommendation from the Government that all BBC content should have certain characteristics—high quality, challenging, original, innovative, engaging—until one read “at least one of these characteristics”. When we looked at that in this Select Committee we thought that these descriptions were so good that in our characteristically measured way we recommended that there might be several of these characteristics put forward, so it was a disappointment to discover in the White Paper that although you added entertainment to it all, and I have no problem with that, you still stuck to saying “at least one of these characteristics”. I want to know, if I may, why you did not take our recommendation. Would it not have been a further signal of the importance of the BBC being the benchmark for public service broadcasting if some more of these characteristics had been said to be necessary rather than just one?

Tessa Jowell: I think that is a very fair question. The answer is that all services must reflect all those characteristics. Programmes, and again this will be a responsibility on the Executive Board overseen by the Trust, must demonstrate at least one. What we sought to do was something which I know is conceptually very difficult which is to define the architecture of public service broadcasting and the distinctive role of the BBC in a way that is susceptible to measurement. That is why we reached the conclusion that we did.

Q2220 Bishop of Manchester: Why not several? I am still not quite clear why only one.

Tessa Jowell: “At least one” is what we have said.

Q2221 Bishop of Manchester: But why not several? Why have you so narrowly defined it?

Tessa Jowell: Because I think in practice it will almost always be the case that a programme that is innovative is likely also to be challenging. All

programmes that the BBC show should stand the justification of being distinctive and of high quality. If your fear is that the lack of insistence on the presence of more than one characteristic is not properly safeguarding quality then I do not think your fear will be realised.

Q2222 Bishop of Manchester: I think the difficulty arises that if the BBC is to be the benchmark of public service broadcasting and it does not have a really high standard and these qualities are not in it then the danger is, and I think I am right in saying the Green Paper highlighted this, that several years down the line the other public service broadcasting organisations are going to drop in quality themselves. *Tessa Jowell:* Can I say I certainly would not go to the stake on this. What we have sought to avoid is being overly prescriptive in creating a sort of tick-box approach. I will read very carefully what the Committee concludes on this particular point. Believe me, I do not think there is any substantial difference between us and I would not want the way in which the White Paper was drafted to suggest there is a greater difference than I think to be the case.

Q2223 Bishop of Manchester: That is reassuring, I am grateful to the Secretary of State for that. Can you go on to talk a bit more about how Channel 4 might be helped in terms of public service broadcasting because the kind of recommendation which comes through in the White Paper could almost be interpreted as a kind of top-slicing of the licence fee and certainly in the discussions that we have had in this Committee that is not a route that we feel it would be very helpful to follow.

Tessa Jowell: As my Lord Chairman has already said, the Secretary of State does have the power of direction in relation to the way in which the licence fee is spent. It is not a power that I can remember being used. To some extent the capacity or the ability of the Secretary of State to determine that part of the licence fee be used for purposes other than just the BBC is a power which is long established, although not used. We made clear in the Green Paper that we would return to the question of whether or not at around the time of the switchover whether there is a view, as yet to be tested, that the plurality of public service broadcasting may be under threat, and, in those circumstances and with that evidence, and there may be a case for diverting some of the licence fee in order to maintain that plurality of public service broadcasting. That decision has not yet been taken but it is a decision that we have kept in the frame, if you like, to return to. Specifically in relation to Channel 4 we have indicated in the White Paper that there is help that we think it is reasonable to extend to Channel 4 that might be in relation to help with the build-out costs for digital switchover and

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there may also be other help that the BBC could provide by making available some additional spectrum that will come from the rearrangement of services on one of the multiplexes. These are illustrative of the kind of help that it might be desirable to provide to Channel 4 as a public service broadcaster to whose future we are committed. I would also say there is a very fine judgment, which is why I am not saying to you this is what we are definitely going to do. We want to maintain plurality in public service broadcasting but all broadcasters, including the BBC, find their way in the wider market. They have to be commercially attractive and they have to survive in that context. What we do not want to do, and I think Channel 4 have done very well in this respect, is to in any way blunt their sharp elbows in making themselves the commercial success that they have consistent with their public service broadcasting remit, but we do recognise that there are specific areas in which help might be available. That is a very long answer to your question but I hope you understand the kinds of tensions that we are seeking to reconcile.

Lord King of Bridgwater: The thing you referred to quite a bit, and I do not want to prolong it but just to put it on the record, is the Trust and how the Trust is going to play this excellent role. You will know from our report, and from the debate that we had here in the House that Members of this Committee are profoundly in disagreement with you on what you are proposing to do. That disagreement that we hold is based partly on the evidence of every single previous chairman of the BBC and director general, and, indeed, the advice of the independent panel that you set up under Lord Burns. I was struck by Sir Howard Davies, whom you appointed to that panel, who was obviously a very respected independent figure who picked up our reference to the proposals as confusing, misguided and unworkable. He talked about their own views on the panel and he said, "In the light of this devastating and unanimous critique, it seems astonishing that the Government appear determined to plough on". Can I simply say, silence on this so far in this discussion does not mean that somehow we have been persuaded by responses, I certainly have not and I am sure that my colleagues have either. We think the course on which you are embarking runs great risk for the future of the BBC in the terms of the governance of the BBC. It is certainly a very courageous decision to disregard the advice of all the most experienced people within the Corporation and outside. I thought it ought to go on the record that that is so and to put it quite clearly, it is only fair to tell you that we think you are taking great risks with how this is going to work. The capacity for confusion, misunderstanding by the public as to who is the Chairman of the BBC, where the real accountability lies and the potential for

conflict between those two bodies is manifestly clear. Obviously you have taken your decision and that is how it is going to happen. With no more parliamentary debate there will be no opportunity to change it but I think it ought to be on the record so far as I am concerned. It is a view we hold.

Q2224 Chairman: Do you want to respond to that?
Tessa Jowell: I certainly do want to respond. I do not accept that we are taking unjustified risks with the BBC. You will know about the development of the Trust's proposals and the relationship between the Trust and the Executive, the further work that was done in the period between the Green Paper and the White Paper. A number of the Committee's concerns, both this Committee and indeed the Commons Committee, were addressed particularly in relation to the lack of clarity in, for instance, responsibility for legal advice, audit responsibility and so forth. I do not accept that the weight of criticism is as one way as, with respect, you suggest.

Q2225 Lord King of Bridgwater: That is a very fair point. Could you tell us because we have not found anybody who supports it, apart from yourself.

Tessa Jowell: If you take Terry Burns' analysis and his proposed model for governance of the BBC, it is a model of a public service broadcasting corporation which has much more in common with the Trust than I think at first appears. We rejected his model in that we took the view that it is important to have a body which is dedicated to the BBC, rather than anticipating as yet unrealised changes in the broader ecology of public service broadcasting that may or may not arise at the time of switchover, but we have built in a number of safeguards particularly the point that I have just made about the wider availability of the licence fee. I think that Sir Derek Higgs, when he gave evidence to the Commons Select Committee on this point, made the point very well.

Q2226 Chairman: He gave the evidence to us I think.
Tessa Jowell: The criticism has been essentially on the grounds that the new Trust is not code compliant in the way that would normally be understood for a PLC. The BBC is not a PLC in the normal sense of the word but the accountability and scrutiny that is a part of the confidence in a PLC structure will, in a distinctive way, extend to the BBC. We have to subject this to the test of time and no doubt many further enquiries but I am confident that the Trust will serve the licence fee payer well.

Q2227 Chairman: Again, we come to the problem, there is—and I think we both agree—a great division of view on this subject and, frankly, it is going to be you, the Secretary of State, you, the Government, that decides. Parliament will not have any say in this

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whatsoever and it is this, again, which we find so difficult to come to terms with, and I think which the House of Commons Select Committee finds so difficult coming to terms with. There are genuine debates here, big debates, important debates but that debate has ended not because it has gone through Parliament but because the Government has simply said that time is up and that is the position.

Tessa Jowell: I simply do not accept that. I have appeared in order to present the Government's proposals for the governance of the BBC in front of the House of Commons Select Committee on at least one occasion and twice, if not three times, in front of this Committee. I have taken questions on the floor of the House. Both the Green Paper and the White Paper were subject to oral statements on the floor of the Commons. Nobody is denying parliamentary scrutiny but what we do not accept is that there should at this stage be an innovation which is parliamentary decision about the nature of the licence fee or the governance of the BBC rather than these being developed as matters of Government policy in the normal course and the normal way.

Q2228 Chairman: I think we are saying the same way. You ended up on exactly the same point that I started. What you are saying is that this is Government policy. When I was Secretary of State for most of the things which I had to get through I had to present a Bill, I had to take that Bill through Parliament, it had to go into committee, you will remember, and the rest and that was the problem. Scrutiny is not just discussion, scrutiny is also having some power and changes.

Tessa Jowell: That would mean altering the constitutional basis of the BBC which again the House of Commons Committee provided an argument for. We considered that and disagreed with it and provided our reasons in the response to the Committee.

Q2229 Chairman: Yes, okay. We are coming back to the point the Government decides.

Tessa Jowell: This is not the time to alter the constitution of the BBC.

Q2230 Baroness Bonham-Carter of Yarnbury: I am afraid I am going back to the point you were discussing with the Bishop of Manchester which is

supporting plurality within public service broadcasting and, indeed, coming back to my previous question about spectrum charging. Are you considering the possibility of supplying Channel 4 with free digital spectrum? Would this not be a better way of helping Channel 4 rather than top-slicing the licence fee which causes a muddle in the link between the licence fee and the BBC and, indeed, potentially means that it would threaten Channel 4's independence from the Government?

Tessa Jowell: There is a negotiation between the BBC and Channel 4, we support that negotiation, about whether or not there is a small amount of spectrum that the BBC can release for the benefit of Channel 4 in order that they can then, on the strength of that, develop some new services. That is a form of help to Channel 4, as is the BBC's help to Channel 4 with their build-out costs for the conversion and upgrading.

Q2231 Baroness Bonham-Carter of Yarnbury: Which the BBC are happy to supply?

Tessa Jowell: Yes. These are two examples of the kind of help. I do not want at this stage, five years out, to say beyond we want to see Channel 4 continue as a successful public service broadcaster and what kind of help they might receive for precisely the reason that I articulated earlier. I do not want for one moment to diminish the pressure on Channel 4 to perform and to continue to scrutinise value for money operated in the most efficient way and so on and so forth, to make sure as much money goes into programming as possible. In the White Paper we have set out two examples of ways in which help to Channel 4 could be extended.

Q2232 Chairman: Secretary of State, thank you very much. I would not wish in any way for you to think that we are anything but grateful that you have come twice to this Committee, we are very grateful on that. There are issues on which we agree, for example, the fundamental importance of the BBC, this Committee entirely agrees with you on that. There are other issues which, frankly we fundamentally disagree, parliamentary scrutiny, the involvement of Parliament is quite obviously one of those. We have had a frank debate and I thank you for your patience and courtesy in coming to the Committee.

Tessa Jowell: It is a very great pleasure and I am very happy to return at any time.