

HOUSE OF LORDS

Select Committee on Communications

2nd Report of Session 2010–12

The governance and regulation of the BBC

Report

Ordered to be printed 21 June 2011 and published 29 June 2011

Published by the Authority of the House of Lords

London : The Stationery Office Limited
£price

HL Paper 166

The Select Committee on Communications

The Select Committee on Communications was appointed by the House of Lords on 22 June 2010 with the orders of reference “to consider the media and the creative industries.”

Current Membership

Lord Bragg
Lord Clement-Jones
Baroness Deech
Baroness Fookes
Lord Gordon of Strathblane
Lord Inglewood (Chairman)
Bishop of Liverpool
Lord Macdonald of Tradeston
Lord Razzall
Lord St John of Bletso
Lord Skelmersdale

Earl of Onslow was a Member of the Committee until his death on 14 May 2011.

Declaration of Interests

See Appendix 1.

A full list of Members’ interests can be found in the Register of Lords’ Interests:

<http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests>

Publications

All publications of the Committee are available on the internet at:

<http://www.parliament.uk/hlcommunications>

Parliament Live

Live coverage of debates and public sessions of the Committee’s meetings are available at:

www.parliamentlive.tv

General Information

General Information about the House of Lords and its Committees, including guidance to witnesses, details of current inquiries and forthcoming meetings is on the internet at:

<http://www.parliament.uk/business/lords>

Committee Staff

The current staff of the Committee are Audrey Nelson (Clerk), Emily Davidson (Policy Analyst) and Rita Logan (Committee Assistant).

Contact Details

All correspondence should be addressed to the Clerk of the Select Committee on Communications, Committee Office, House of Lords, London SW1A 0PW.

The telephone number for general enquiries is 020 7219 6076/8662

The Committee’s email address is: holcommunications@parliament.uk

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
Summary		5
Chapter 1: Introduction	1	7
Chapter 2: A history of governance and regulation at the BBC	10	9
Box 1: The Governors of the BBC, 1927–2007		9
Why the Trust was created	12	9
The BBC Royal Charter	17	11
The governance structure of the BBC	21	12
Box 2: The BBC Trust		12
Chapter 3: Improvements which could be made in the short term	23	14
Managing external complaints	24	14
Figure 1: Where to go to complain about a BBC service		16
Figure 2: The BBC standards complaints process for television and radio programmes		18
Overlapping jurisdiction with Ofcom	36	19
Reforms to the BBC complaints process—who should handle complaints?	41	20
Complaints involving impartiality and accuracy	47	22
Figure 3: How a revised complaints process might work		26
Handling complaints from commercial competitors	56	26
Quota setting	58	27
BBC internal compliance processes	60	27
Figure 4: The BBC compliance process		29
Providing clarity for viewers and listeners about content reality	74	31
Non-Executives—a structural anomaly	82	33
Governance implications of the licence fee settlement including the BBC World Service, S4C and Broadband Delivery UK	96	37
Ensuring transparency—the role of the NAO	104	39
Decision making and the public value test	121	43
Figure 5: Summary of the BBC Public Value Test process		43
Figure 6: Suggested changes to the governance and regulation of the BBC		46
Chapter 4: Part 2—Issues outside Lord Patten’s current review	130	47
Future public policy arising from developments in the wider broadcasting landscape	130	47
Figure 7: Timeline of future regulatory changes		47
Accountability	137	48
Chapter 5: Summary of recommendations	149	53
Appendix 1: Select Committee on Communications		57
Appendix 2: List of witnesses		59

Appendix 3: Call for evidence	62
Appendix 4: Timeline—a history of BBC governance and television regulation	63
Appendix 5: BBC governance structure	64
Appendix 6: How to complain about non-BBC services	65
Appendix 7: Compliance checklist	66

Evidence is published online at www.parliament.uk/hlcommunications and available for inspection at the Parliamentary Archives (020 7219 5314)

References in footnotes to the Report are as follows:

Q refers to a question in oral evidence;
BBCGR 1 refers to written evidence as listed in Appendix 2.

SUMMARY

The BBC is often described as the crown jewel of British broadcasting. It strives to achieve the highest standards in the television, radio and internet services which it provides to viewers, listeners and users in the UK and around the world. The BBC Trust is the sovereign body of the BBC. It acts as the guardian of the licence fee revenue, of the BBC's independence and of the public interest.

In this inquiry we have looked at the system of governance and regulation of the BBC and considered whether the BBC Trust has been given the right role in this process. We identified several areas where the system could be improved, both in the short term and in the longer term, for the benefit of the BBC's viewers, listeners and users. In the short term, the BBC Trust could act in order to improve the clarity and transparency of BBC processes and decisions.

The system for complaining about BBC content is complicated and dependent on the type of content being complained of and the means through which it is accessed. The BBC Trust and the communications regulator Ofcom have 'overlapping jurisdiction' in several areas of content regulation, with the exception of impartiality and accuracy for which the BBC Trust has sole responsibility. Greater clarity is needed in the complaints process and the final adjudication of complaints should be external to the BBC. The majority of the Committee wish to encourage the BBC Trust and Ofcom to consider granting Ofcom the right to regulate the BBC on matters of impartiality and accuracy.

Internally the 'compliance culture' which is said to exist at the BBC needs reviewing to ensure that it is not overly bureaucratic and that it does not stifle creativity. The Trust also needs to ensure best practice in programme making is achieved where the difference between fact and fiction might not always be evident to viewers.

In light of the recent settlement, the licence fee will now be used to help fund S4C, the BBC World Service and Broadband Delivery UK as well as certain other activities. As new activities and services, some of them peripheral to the BBC's core purposes, begin to draw from the licence fee funds difficult decisions will have to be made by the Trust under the leadership of its new Chairman, Lord Patten of Barnes, to ensure that value is achieved for the way in which this public money is spent.

Greater clarity is needed on the governance role of the Non-Executive members of the BBC Executive Board. We believe that the Non-Executives should be recruited from a wider range of backgrounds than at present, and that the Director-General should work more closely with the Chairman of the BBC Trust and more regularly seek his advice. The BBC Trust should make best use of the services of the National Audit Office in future in order to garner additional assurance on financial matters but not on editorial or creative matters.

There needs to be clarity over the mechanism which triggers a 'public value test.' This test helps the BBC to decide whether new services should be created or old services closed. If a public value test is undertaken then Ofcom is required to undertake a market impact assessment.

In the longer term, we hope that our recommendations will add a valuable contribution to the debate about the future of broadcasting regulation ahead of the new communications bill and the other changes expected in the broadcasting landscape with the renewal of the channel 3 and 5 licences and with Charter review expected in 2016. We wish Lord Patten well in his role as Chairman of the BBC Trust.

The governance and regulation of the BBC

CHAPTER 1: INTRODUCTION

1. The BBC is considered to be the world's most respected broadcaster. It makes and broadcasts a wide range of excellent programmes which are valued the length and breadth of the country and beyond. The new Chairman of the BBC Trust, Lord Patten of Barnes, told us: "the role of the BBC is to produce the best television and radio broadcasts in the world, and to a very considerable extent it achieves that objective."¹ Jeremy Hunt MP, Secretary of State for Culture, the Olympics, Media and Sport told us that: "I have always thought the BBC is an incredibly important crown jewel for the country, of intrinsic importance to the way our democracy functions."² We agree with both.
2. We have chosen to undertake this report at a time when the BBC Trust, the sovereign part of the BBC, is expected to undergo some modifications in its governance as a result of its change of Chairman. Lord Patten succeeded Sir Michael Lyons as Chairman of the Trust following Sir Michael's completion of his term of office in May 2011. Before he was confirmed in the office Lord Patten made clear that he wished to conduct a review of the regulation and governance of the BBC. Lord Patten told the House of Commons Culture, Media and Sport Committee during his pre-appointment hearing, that he "would be prepared to look as a matter of urgency at how we could improve the relationship between the Trust, the Executive and Ofcom."³ He told us that he hoped to complete his review this summer. We welcome this, not least because our inquiry was underway at that time.
3. The Secretary of State, Jeremy Hunt, also approves of Lord Patten's review: "I very much welcome the fact that Lord Patten has said that he will conduct a short governance review. I recognise that he does not intend and is not able to address every issue that I and many other people have raised and that the proper place to do that is when we have a new BBC Charter, starting from 2016, but the fact that he has agreed to do this is recognition that some of these issues need to be addressed before 2016. I wish him every success in being able to do that."⁴
4. This report is made for the information of the House in the hope and expectation that its findings will be a useful addition to the literature and scrutiny of the broadcasting landscape in advance of the debate on the forthcoming communications bill which is expected before the end of this Parliament. In addition we have conducted this inquiry quickly in order to provide our ideas to Lord Patten to help inform his inquiry and to assist the Secretary of State. We look forward to the publication of Lord Patten's views.

¹ Q 554

² Q 584

³ House of Commons Culture, Media and Sport Committee, Second Report of Session 2010–11, *Pre-appointment hearing with the Government's preferred candidate for Chairman of the BBC Trust*, HC 864

⁴ Q 584

5. During the course of our inquiry, we sought views about the role of the BBC Trust and whether the Trust has been given the right duties.
6. Lord Patten told us that: “I think the Trust is an improvement on past efforts at creating institutions of governance but it is far from perfect.”⁵ Lord Grade or Yarmouth agreed, saying that: “is it perfect? Absolutely not. There is confusion between the role of Ofcom—you have Ofcom regulating content and you have the trust regulating content.”⁶ We have taken evidence on the present governance and regulatory arrangements for the BBC. In so doing we have identified several areas where imperfections exist and where possible we have sought remedies to these problems.
7. In Chapter Two this report provides some background to the governance and regulation of the BBC. Chapter Three refers to areas in which the BBC is currently governed and regulated which could be improved within the current Charter.
8. Chapter Four discusses recommendations for change on longer term issues outside of Lord Patten’s current review which might most usefully be undertaken nearer the time when the current Charter is due for renewal in 2016. These arise from inevitable future changes in the broadcasting landscape and issues in the area of accountability. We hope that these longer-term recommendations will prove useful to the Secretary of State when considering the proposals he will put forward in the Green Paper on the new communications bill which is due to be published at the end of this year.
9. The Committee received written evidence from 21 organisations and individuals and held nine oral evidence sessions. We received valuable written and oral evidence from the witnesses listed at Appendix 2. We are very grateful for the advice given to us by our Specialist Adviser; Professor Stewart Purvis.

⁵ Q 555

⁶ Q 187

CHAPTER 2: A HISTORY OF GOVERNANCE AND REGULATION AT THE BBC

10. Lord Patten told BBC staff when he took up his post in May 2011 that there has been no ‘golden age of governance.’⁷ For the past decade the way in which the BBC has been governed and regulated has been a matter of debate and sometimes controversy. All three major UK political parties believe that further reforms to the governance of the BBC are needed; albeit they do not seem to agree on what these reforms should be. Lord Patten told us that: “I think there is an interesting disjuncture between attitudes to programme content and attitudes to its governance, which is something I would be keen to bridge during my time as Chairman of the Trust.”⁸
11. During the first 80 years of the BBC’s existence there was comparatively little change in the way in which it was governed. From 1927—when the BBC was established by Royal Charter to be the monopoly broadcaster in the UK—until 2006—when the Royal Charter was last reviewed—the BBC had a Board of Governors which acted as trustees of the public interest. The BBC’s monopoly lasted until 1955 when Independent Television began broadcasting a regional commercial broadcasting service on Channel 3. This heralded the start of an era when a separate regulatory regime was established for commercial television. It is also worth noting that there has been a wider change in the public attitude to regulation and governance. Whilst in the past governance was often carried out quietly and without much public scrutiny there is now a much greater desire for consistency and transparency when large sums of public monies are being expended. As the BBC spends £3.5 billion of public licence fee money each year it is of no surprise that there have been calls for further clarity over its governance procedures.

BOX 1

The Governors of the BBC, 1927–2007

The BBC Governors were set up when the BBC was first established in 1927. They were constitutionally part of the BBC but were independent of management. They were responsible for:

- appointing the Director-General;
- approving the BBC’s strategic direction;
- ensuring that the BBC management implemented its strategy; and
- overseeing complaints.

Each of the twelve Governors, including the Chairman, was appointed by the Secretary of State. The BBC required the permission of the Secretary of State before it was able to launch a new service. The Governors were accountable to Parliament through periodic Charter reviews and by appearing before Parliamentary Select Committees.

Why the Trust was created

12. The BBC Trust⁹ was established at the time of the last Charter renewal in 2007. The solution drew upon different options put forward at the time. According to the evidence presented to us there were two main reasons for reform. One was

⁷ BBC Ariel, Patten ‘delighted’ to be Chairman, 3 May 2011: <http://www.bbc.co.uk/ariel/13272030>

⁸ Q 554

⁹ See Box 2

the existence of what had become long-term issues in BBC governance. A former Chairman of the BBC Governors, Lord Grade, told us that there had been a lack of separation between the management of the BBC and the Governors. He said “by ‘lack of separation’ I mean that the Governors’ evidence—papers that the Governors required—were prepared by the management and the Governors only saw what the management wanted them to see.”¹⁰ Lord Grade said that this caused real tension inside the BBC and mutual distrust between the management and the Governors. He identified another long-term problem as “the fact that the BBC was incapable of patrolling the borders between the private sector and the public sector.”¹¹

13. The second reason given for reform was the events of 2003–2004. In May 2003 BBC Radio 4’s *Today* programme transmitted a report by Andrew Gilligan which claimed that Downing Street had ‘sexed up’ a dossier on alleged Iraqi weapons of mass destruction in the run-up to the invasion of Iraq. He alleged that the Government ‘probably knew’ that a key claim in the dossier was wrong. The report led to a dispute between the Government and the BBC.
14. In July 2003 the BBC Governors held a special meeting and declared that they were “wholly satisfied that the BBC journalists and their managers sought to maintain impartiality and accuracy during this episode.”¹² The following month the Deputy Chairman of Channel Four, Barry Cox, wrote an article for the *Guardian* in his personal capacity criticising the Governors’ statement as “the action of a champion and not a regulator. A regulator would have taken the time to inquire into the matter.”¹³ The proposition that there is a dichotomy between the roles of ‘champion’ (or cheerleader) and ‘regulator’ has been a key theme in the debate about BBC governance for many years. In January 2004 Lord Hutton’s report on the death of Dr David Kelly (also linked to the earlier report on the ‘*Today*’ programme) strongly criticised the BBC’s management and governors. He said “the Governors should have recognised more fully than they did that their duty to protect the independence of the BBC was not incompatible with giving proper consideration to whether there was validity in the Government’s complaints.”¹⁴ Tessa Jowell, the Secretary of State for Culture, Media and Sport at that time, told us that “the fallout from the Hutton inquiry revealed insufficient independence and clarity about the Governors’ role in relation to the executive.”¹⁵
15. In his farewell public speech at the London School of Economics before standing down as Chairman of the BBC Trust at the end of April 2011 Sir Michael Lyons said that changes to the governance structure of the BBC were inevitable following the Hutton Report. Sir Michael described these events as “the greatest existential threat the BBC has faced in recent times.”¹⁶ Gavyn Davies, Chairman of the Governors at the time, described

¹⁰ Q 168

¹¹ Q 168

¹² Press statement from Gavyn Davies released following the Governors’ Meeting on 6th July 2003:

http://www.bbc.co.uk/pressoffice/pressreleases/stories/2003/07_july/06/gavyn_davies_statement.shtml

¹³ The BBC governors can’t be champions and watchdogs, Barry Cox, *The Guardian*, 7 August 2003

¹⁴ Report of the Inquiry into the Circumstances Surrounding the Death of Dr David Kelly C.M.G. by Lord Hutton, 28 January 2004, HC 247

¹⁵ Q 54

¹⁶ The BBC Trust—Past Reflections, Continuing Challenges, speech by BBC Trust Chairman Sir Michael Lyons at the London School of Economics, 9 March 2011

the events as “a once-in-a-lifetime assault on the independence of the BBC.”¹⁷

16. There is a wealth of literature setting out the variety of options for the governance of the BBC which were considered in the days leading up to the creation of the Trust at the time of the last renewal of the BBC Royal Charter. The literature includes proposals put forward by the BBC;¹⁸ by a Committee in the House of Lords;¹⁹ and by a panel chaired by Lord Burns.²⁰ The Department for Culture, Media and Sport (DCMS) also consulted on proposals at the time of the BBC Charter Review and published its findings in a Green Paper.²¹ We commend their reading but do not seek to advance any opinion on them. Further details about the history of the BBC Trust and how the regulatory landscape has changed over the past eighty years are shown in the timeline in Appendix 4.

The BBC Royal Charter

17. When the BBC was first established in 1927 it was considered that a Royal Charter was the most suitable structure through which to establish an institution which was funded by public money but which was editorially and journalistically independent of political control. It was felt that this would also ensure the independence of the BBC from both Government and Parliament. Subsequent Charter reviews have concluded that a Charter continues to be the most appropriate way in which to secure the editorial and institutional independence of the BBC.²²
18. The arguments in favour of a Charter were put to us by Tessa Jowell MP (Shadow Cabinet Office Minister and Shadow Minister for the Olympics) who was Secretary of State at the time of the last Charter renewal. Ms Jowell told us that “a BBC governed by an Act of Parliament would be a different entity from a BBC governed by a Charter.” She continued: “I do not think that its identity as a body governed by a Charter impedes parliamentary scrutiny or parliamentary debate when there are issues that Members of Parliament or Members of this House want aired.”²³ Gavyn Davies told us that an Act of Parliament would be “far easier to change at will.” He said: “I think we are very lucky to have a Charter and we should stick with the Charter until it is renewed and leave it at that.”²⁴ Media commentator Steve Hewlett said that “the fact that the BBC has a Charter separates it from the political process, in so far as there is a full-on debate and so on only every 10 years. Generally speaking, I think people understand that the Charter denotes or signifies a degree of independence.”²⁵

¹⁷ Q 30

¹⁸ Review of the BBC’s Royal Charter: BBC response to *A strong BBC, independent of government*, May 2005

¹⁹ The House of Lords Select Committee on the BBC Charter Review, 1st Report of Session 2005–06, *The Review of the BBC’s Royal Charter*, HL 50

²⁰ Lord Burns’ letter to the Secretary of State and the Independent Panel’s Final Advice to the Secretary of State, 27 January 2005:

http://webarchive.nationalarchives.gov.uk/http://www.bbccharterreview.org.uk/publications/in_pubs/pub_final_advice.html

²¹ Review of the BBC’s Royal Charter, *A strong BBC, independent of government*, DCMS, March 2005

²² Ibid.

²³ Q 75

²⁴ Q 52

²⁵ Q 10

19. On the other hand, previous Parliamentary reports from the House of Lords²⁶ and by the Culture, Media and Sport Committee in the House of Commons²⁷ have called for the BBC to be established by an Act of Parliament. We believe that a Charter is as susceptible to Parliamentary and Government interference as an Act of Parliament, since a Charter may easily be changed by agreement by the Privy Council, whereas a change in statute requires the agreement of both Houses of Parliament.²⁸
20. **We recommend that before 2016, when the current Charter is due to expire, as part of the preparations for the next communications bill the Government considers not only whether the content of the Charter should be amended, but also whether a Royal Charter remains the best mechanism. We consider the Royal Charter, which is subject to review every ten years as specified in the Charter, to be a suitable process for incorporating the BBC. If this is to be followed in future then enhanced transparency in the renewals process should be sought. We acknowledge that Charter renewal may not be the only appropriate method of ensuring the continuity of the BBC.**

The governance structure of the BBC

21. At present there are three bodies which have some role in either running, governing or regulating the BBC:
- the BBC Trust, now chaired by Lord Patten of Barnes;
 - the BBC Executive Board charged with managing the Corporation, chaired by the Director-General Mark Thompson; and
 - Ofcom, the communications regulator, which regulates many aspects of BBC content within the scope of its codes with powers outlined in the Communications Act 2003.

BOX 2

The BBC Trust

The BBC Trust is the sovereign body responsible for the BBC as outlined in the Charter. In technical legal terms it is not a trust at all but a part of the BBC which is both separate and within the BBC as a whole. The role of the Trust is to be the guardian of the licence fee and the public interest.²⁹ The roles of the Chairman and the Trustees of the BBC Trust are of the utmost importance and constitute a public duty of the highest order.

The BBC Trust has 12 Trustees. Each year the Trust publishes an annual work plan outlining its strategic priorities for the coming year. As well as the main BBC Trust, which meets monthly, the Trust has a number of sub-Committees such as the Editorial Standards Committee and the Remuneration and Appointments Committee. These Committees are made up of smaller groups of Trustees that each report to the full Trust. An organogram showing the governance structure of the BBC is available in Appendix 5.

²⁶ The House of Lords Select Committee on the BBC Charter Review, 1st Report of Session 2005–06, *The Review of the BBC's Royal Charter*, HL 50

²⁷ House of Commons Culture, Media and Sport Committee, First Report of Session 2004–05, *A Public BBC*, HC 82

²⁸ BBCGR 21

²⁹ Section 22 of the BBC Charter 2006

22. There is no doubt that the BBC has a singular role in the life of the country and that the Corporation provides an extraordinary public benefit. David Henshaw, an independent programme maker, told us that: “I think that it [the BBC] is a very important institution. It may not always run terribly efficiently, which is one of the reasons why we are here today, but I want to leave the Committee with no doubt about my affection and respect for the BBC.”³⁰ We share Mr Henshaw’s affection and respect for the BBC. In order to enable the BBC to continue to develop it is important that the BBC is appropriately governed and in particular that its processes are clear and transparent. The remainder of this report examines what improvements could be made to the way in which the BBC is governed and regulated, both in the short and longer term.

³⁰ Q 260

CHAPTER 3: IMPROVEMENTS WHICH COULD BE MADE IN THE SHORT TERM

23. There are several issues of governance and regulation which might be considered by the BBC Trust in the short term in order significantly to assist the BBC:
- (i) managing external complaints;
 - (ii) quota setting;
 - (iii) internal compliance;
 - (iv) providing clarity for viewers and listeners about factual content;
 - (v) the role of Non-Executives;
 - (vi) the governance implications of the licence fee settlement including the World Service, S4C and Broadband Delivery UK;
 - (vii) The role of the NAO in ensuring transparency; and
 - (viii) Decision making and the public value test.

Managing external complaints

24. In this inquiry we have considered two separate but connected issues concerning the handling of complaints about BBC programmes and services.
25. The first is the complaints system within the BBC. Lord Grade, a former Chairman of the BBC Board of Governors described his experience of twice having complained to the BBC since leaving the Corporation (once about a programme and once on a commercial matter) as “a grizzly experience”.³¹ He described the current system as “hopeless, absolutely hopeless. It does the great institution no service at all.”³² Mark Thompson, Director-General of the BBC, observed that Lord Grade’s experience must have been “particularly painful since he presided over the system that he was then a victim of.”³³
26. The second issue is the overlap between the BBC’s internal complaints system and those of other bodies. As the broadcasting landscape has developed over the past 15 years there have been four pieces of legislation with implications for the handling of complaints about BBC programmes and services.³⁴ New regulatory bodies have been given different and sometimes overlapping tasks. For example, complaints about the BBC normally go to the BBC itself but—other than for issues of impartiality and accuracy and commercial references—they can also be raised with Ofcom in parallel or following completion of investigation

³¹ Q 188

³² Q 188

³³ Q 347

³⁴ These are the Broadcasting Act 1996; the Communications Act 2003; the revised BBC Charter in 2006 and the Audiovisual Media Services Directive, 2010

by the BBC.³⁵ This is known by the BBC Trust and Ofcom as ‘overlapping jurisdiction’.³⁶ The BBC Trust, under the provisions of the Charter and Agreement, oversees the enforcement of the BBC’s Editorial Guidelines.³⁷ Ofcom oversees the enforcement of its statutory codes which apply to all broadcasters, including with certain limited exceptions the BBC.³⁸ The BBC’s Editorial Guidelines apply the principles of the Ofcom Broadcasting Code to the particular context of the BBC. The timeline in Appendix 4 illustrates how the different regulatory structures have evolved.

27. The arrangements between the BBC Trust and Ofcom are the subject of a detailed Memorandum of Understanding (MoU). However it is not always clear to a viewer, listener or user where to complain about a BBC service. Media commentator Neil Midgley described it to us as “a bit of a dog’s breakfast.”³⁹ For example it is not immediately clear where a complainant should lodge their initial complaint, although Ed Richards, the Chief Executive of Ofcom told us that if a complaint was initially submitted to the wrong body it would be passed on where appropriate.⁴⁰
28. To understand the combined impact of the two connected issues, we decided to set out in one chart the possible options for complaining about the BBC. We believe this may be the first time the entire complaints system has been documented for public use on a single page. The completed chart shown below (Figure 1) is somewhat startling. It illustrates just how confusing and complicated the complaints process is from a users’ perspective. A table showing where to complain about non-BBC services is included in Appendix 6.

³⁵ More details about where to complain about different media services is provided in Appendix 6

³⁶ Addition to the Memorandum of Understanding between Ofcom and the BBC Trust to deal with regulatory jurisdiction, July 2008

³⁷ BBC Editorial Guidelines, last updated in May 2011:

<http://www.bbc.co.uk/guidelines/editorialguidelines/>

³⁸ Ofcom Broadcasting Code, last updated 28 February 2011:

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

³⁹ Q 2

⁴⁰ Q 524

FIGURE 1
Where to go to complain about a BBC service

Which service are you complaining about?	What are you complaining about?	Where to complain
BBC television or radio programmes on a BBC branded channel or radio station in the UK	Standards in programmes include fairness and privacy Accuracy and impartiality and commercial references	BBC and/or Ofcom BBC
BBC television or radio programmes on a commercial broadcasting service licensed by Ofcom	Complaints about standards in programmes, commercial references, fairness and privacy, accuracy in news and impartiality in news certain other subjects (e.g. public policy)	Ofcom
BBC iplayer	Complaints about incitement to racial hatred, material that might seriously impair under-18s and inappropriate commercial references	BBC or Ofcom
BBC content on a non-BBC player or VOD site (e.g. BT vision)	Complaints about incitement to racial hatred, material that might seriously impair under-18s and inappropriate commercial references	BBC first then <u>ATVOD</u>
BBC website (including BBC Worldwide website overseas)	All complaints about content	BBC
BBC radio programmes listened to online via Radio Player	All complaints about content	BBC
BBC World Service radio programmes	All complaints about content	BBC
All BBC magazines BBC teenage magazines	All complaints about content All complaints about content	BBC and/or the PCC BBC and/or the PCC and/or TMAP
Advertising around BBC programmes shown on BBC Worldwide owned/part owned UK commercial channels Political advertisements and some forms of long-form advertising (i.e. teleshopping) concerning adult, psychic and gambling services on BBC Worldwide channels in the UK	Complaints about content Complaints about timing Complaints about content	ASA Ofcom Ofcom
Sponsorship on BBC programmes shown on BBC Worldwide owned/part-owned commercial channels in the UK	All complaints	Ofcom
TV licensing	Complaints about the administration of the licence fee collection service (not programming or reception quality complaints)	TV Licensing, with option to appeal to the BBC
Complaints about matters other than those covered by guidelines or codes	A variety of different issues, for example killing off a cast member in a TV or radio programme, ticketing policy, scheduling matters etc.)	BBC
Fair trading	All fair trading complaints	BBC
The Digital Switchover Help Scheme	The operation of the Help Scheme (complaints about policy are passed on to DCMS)	Switchover Help Scheme, with option to appeal to the BBC

Source: BBC, Ofcom and ATVOD

29. **We urge the BBC to consider publishing a similar document on a single page on its website to explain where complainants should go to complain about BBC broadcast content or services. At present, the various processes appear in different sections of the BBC website. We note with approval Ofcom's recent publication of a helpful webpage with an improved explanation of the complaints process from their perspective.¹**
30. Given this confusing situation, as shown in Figure 1, we examined how the current systems could be improved in the short term without amending the current Charter or existing legislation. We started by looking at the BBC's internal system which is set out in Figure 2. We asked the BBC what processes it follows to deal with complaints and were told that people can make a complaint to the BBC by phone (24 hours a day), website or letter within 30 working days of the broadcast of the event. The BBC treats something as a complaint if the viewer or listeners says that it is a complaint. Complaints made online or by phone allow the complainant to decide whether they are making a comment or a complaint, but letter writers are expected to make it clear that they are making a complaint and expect a reply.² The BBC told us that: "if the complaint is addressed or emailed straight to a BBC programme team then they would normally handle and reply to it directly."³ Phone calls and information sent via the BBC Complaints website or by letter to the PO Box address are initially received by BBC Audience Services. This contact centre logs, tracks and replies to all written complaints and it answers telephone complaints.⁴ The BBC Executive ensures that the BBC Trust is regularly informed about the complaints which it receives. The BBC told us that most complaints receive a response directly from BBC Audience Services however "more detailed or complex complaints may be referred to complaints advisors around the UK. They may in turn need to escalate them to production staff for guidance or drafting of replies."⁵
31. This represents the first stage of the BBC complaints process as shown in Figure 2. The vast majority of complaints receive a response at stage 1 within 10 working days although this depends on the nature of the complaint and the volume and nature of other complaints which also need to be answered. If a complainant is not satisfied with this response they can bring the complaint to stage two which is also dealt with by the BBC Executive. If on completion of this process they remain dissatisfied they can bring their complaint to the BBC Trust. The Editorial Standards Committee of the BBC Trust then examines the complaint against the BBC Editorial Guidelines. A recent example of this was the BBC Trust's finding on 16 June that a *Panorama* programme, 'Primark: On the Rack', broadcast in June 2008 breached the BBC Editorial Guidelines on accuracy and fairness.⁶ The BBC Trust's decision marks the end of the BBC complaints process, although the complaint can also be brought to Ofcom (at any stage in the process) provided that the decision relates to subject matter for which Ofcom has jurisdiction over the BBC and ultimately it can be judicially reviewed.

¹ <http://consumers.ofcom.org.uk/2011/04/how-to-complain-about-television-radio-or-on-demand-services/>

² BBCGR 25

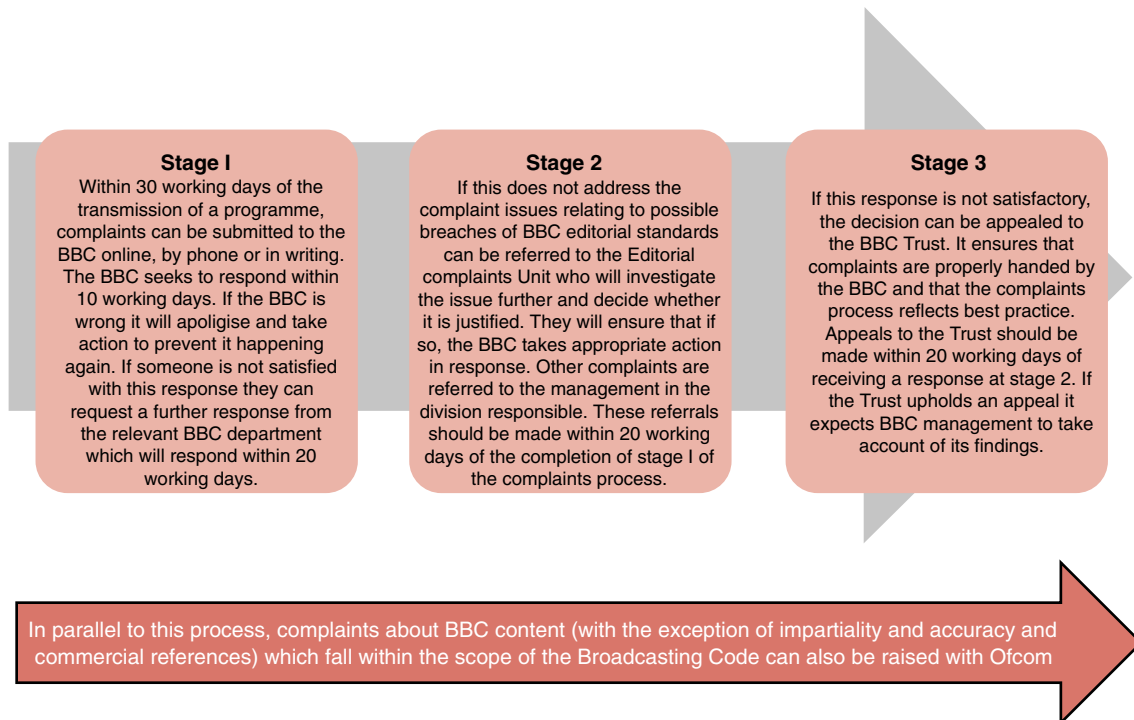
³ Ibid.

⁴ With the exception of except Welsh language complaints which are handled in Bangor, North Wales

⁵ BBCGR 25

⁶ Finding of the Editorial Standards Committee of the BBC Trust, *Panorama: Primark—On the Rack*, BBC One, 23 June 2008, published on 16 June 2011

FIGURE 2

The BBC standards complaints process for television and radio programmes

Source: BBC

32. In written evidence Safermedia, a charity group which seeks to reduce the harmful effects of the media on children, family and society, expressed a concern about the BBC complaints process describing it as: “cumbersome and serves mainly to put off those who actually put pen to paper or fingers to keyboard.”⁷ Safermedia believed that “it would be helpful if the BBC Trust undertook a streamlining of the complaints process.” The Voice of the Listener and Viewer (VLV) wrote that the Trust should handle complaints from licence fee payers: “The Trust provides a formal way for the public to complain directly to an organisation separate from the BBC.”⁸ Diane Coyle, Vice Chairman of the BBC Trust, told us that: “The overwhelming majority of complaints are settled within the timeframe that we have set out for them. We also do mystery shopping to check the process ourselves.”⁹ Lord Patten said that: “I think that all of us at the Trust think that the system can and should be improved; it needs to be made simpler, quicker and more transparent.”¹⁰ He believed that “the process would be helped and I have said this to the BBC Executive, if the BBC would, from time to time, apologise faster when it got things wrong.”¹¹ We agree with Lord Patten and look forward to the conclusions of his review of BBC complaints processes.
33. **It is important that any complaint raised with the BBC Executive should be dealt with in a clear and transparent manner. As a general**

⁷ BBCGR 12

⁸ BBCGR 13

⁹ Q 235

¹⁰ Q 561

¹¹ Q 561

rule it should not be possible for anyone working for the BBC to quash a complaint before it has been appropriately recorded and the complainant has received an adequate response together with an opportunity to raise the matter with the BBC Trust or Ofcom.

34. A former BBC Director-General, Lord Birt, told us that when he joined the BBC in 1987 he was advised by a complaints executive that “the BBC never admits to making a mistake.” However he believed that: “things changed enormously and there was proper apparatus instituted for dealing properly with viewer and listener complaints.”¹² Gavyn Davies, a former BBC Chairman, told us he knew the BBC had made big efforts to make the new system clear but that “people really do not know quite who to complain to. They write to the Chairman; they sometimes write to the editor of the programme and then sometimes that is not collected by the complaints process, so it can be a little unclear. I think there should be one place with “Complaints” on the door that people know where to write to, and it probably needs to be in the regulator.”¹³ The BBC told us that complaints are handled by BBC Audience services if a complaint is raised online, by phone or in writing to the PO Box address. However, complaints are also handled directly by BBC programme teams if a complainant raises their complaint directly with them.¹⁴
35. **We believe that there should be a “one-stop shop” within the BBC where complaints are registered and either dealt with directly or—in the case of more complicated or serious matters—passed on to the relevant department. This would simplify the process for viewers, listeners and users and ensure that the BBC is able to monitor appropriately all of the complaints which it receives. Given the existing BBC structure for managing complaints, we recommend that BBC Audience Services takes on this role and that a process is established whereby all complaints are forwarded on to this department even in cases where the initial complaint is made directly to the programme team.**

Overlapping jurisdiction with Ofcom

36. On the subject of the overlapping jurisdiction between the BBC Trust and Ofcom, the Chief Executive of Ofcom Ed Richards told us that: “I think everybody knows the areas where there is a degree of uncertainty about where you should be going. The starting point of that is because viewers say, ‘Do we complain to the BBC, the BBC Trust or Ofcom?’ I think that is inevitable when you have two bodies” [governing and regulating the BBC].¹⁵ The Secretary of State agreed that something needed to be done in order to improve the system within which complaints are handled: “People do not necessarily know who they should go to in individual situations. I know that the BBC Trust is looking at that issue, but I think it would be an excellent thing to make progress on.”¹⁶
37. We asked the BBC and Ofcom how complaints were dealt with when they were made simultaneously to both organisations at the same time and we were told that any standards complaints about BBC programmes that fall within Ofcom’s standards remit will be considered by the BBC complaints procedure irrespective of whether Ofcom is also considering them. The Editorial

¹² Q 382

¹³ Q 41

¹⁴ BBCGR 25

¹⁵ Q 522

¹⁶ Q 628

Complaints Unit (ECU), which forms the second stage of the BBC's procedure for handling such complaints, is responsible for the BBC's submissions to Ofcom and ensures that submissions requested by Ofcom are consistent with the BBC's response to any other complaints about the same issue.

38. In the case of complaints within Ofcom's Fairness & Privacy remit (which must be from parties directly affected), if a party complains simultaneously to Ofcom and the BBC (or the BBC Trust) then complainants will be given the option of continuing to pursue their complaint with the BBC or choosing to have their complaint considered by Ofcom but not both concurrently. The BBC will deal either directly with the complainant or via Ofcom's processes but not both simultaneously. If the complainant chooses to pursue their complaint with Ofcom then the BBC will cease considering the complaint. If the complainant chooses to pursue their complaint with the BBC (or BBC Trust) then Ofcom will suspend its consideration of the complaint while the BBC (or BBC Trust) investigates. Ofcom may allow the complaint to be reinstated if the complainant is unhappy with the outcome of the BBC investigation.
39. There may be some circumstances where complaints raise multiple issues (for example, fairness and separately accuracy or impartiality). In those circumstances both Ofcom and the BBC (or BBC Trust) may take the respective issues forward concurrently. However, normal practice is for the BBC or BBC Trust to suspend their consideration until Ofcom concludes consideration of the fairness aspects of the complaint.
40. **We believe that greater transparency is needed on how complaints are dealt with in cases where complaints are raised simultaneously to the BBC and Ofcom. This is important to provide greater clarity for viewers, listeners and users of BBC services and we encourage the BBC Executive, the BBC Trust and Ofcom to work together to ensure that people wishing to complain about a BBC television or radio service understand the process through which their complaint will be handled.**

Reforms to the BBC complaints process—who should handle complaints?

41. During the course of our inquiry we heard contrasting views on whether there is a problem with the different review processes followed by the BBC and by Ofcom. Lord Grade highlighted the broadcast by Russell Brand and Jonathan Ross on BBC Radio Two in October 2008.¹⁷ He said the Trust dealt with it within a few days: "They sent for the Director-General to come back from his holiday, and they had passed judgment on it. Ofcom did the same thing but did it many months later—I cannot remember how many months later—because as a statutory body they had to go through their due processes and so on and not risk being judicially reviewed, and so on. It took forever. In the end, you had two judgments on the same incident from two different regulators. I think that is a muddle."¹⁸ On the other hand Ed Richards explained what he saw as the benefit of the different roles of Ofcom and the BBC Trust in content regulation. He described Ofcom's ability to delay ruling on these types of issues as an advantage, saying that it was able to "just let the fuss die down a bit, let the hype fall out of it and just calmly look at the facts over a period of time". There is no need to rush out an answer; try and find the right answer."¹⁹

¹⁷ BBC News, Timeline Russell Brand Prank Calls, 3 April 2009:

<http://news.bbc.co.uk/1/hi/entertainment/7694989.stm>

¹⁸ Q 187

¹⁹ Q 534

42. One possible way forward was raised both in written and oral evidence. Professor Richard Collins of the Open University pointed to what is sometimes known as a ‘broadcaster first’ complaints system, writing that: “it is important that complaints should first be directed to the BBC (which, in recent times, has notably improved its complaints handling) and only after a BBC response should dissatisfied complainants enjoy a right of appeal to Ofcom.”²⁰ Robert Beveridge of Edinburgh Napier University agreed: “If I have a complaint about STV, I will go to STV first then to Ofcom. In the case of the BBC, I go to the BBC including the Trust and if necessary to Ofcom.”²¹ Lord Birt told us that: “I think first and foremost the people who should handle these complaints are the decision-makers or the programme-makers or the programme controllers. Most complaints are dealt with at that level perfectly effectively. If that does go wrong, you need some set system of appeal within the organisation. I would only want to see another body such as Ofcom involved, as in the legal process, as the equivalent of what was the House of Lords, now the Supreme Court. It should be the ultimate court of appeal for a small number of stubborn cases on which the BBC cannot offer satisfaction to a complainant.”²² When a similar proposal was put to Lord Patten he told us “that certainly sounds like something we could look at.”²³
43. Section 325 of the Communications Act of 2003 appears to give Ofcom some discretion when deciding the procedures for the handling and resolution of complaints made to it. It says “it shall be the duty of Ofcom themselves to establish procedures for the handling and resolution of complaints about the observance of standards.” Therefore, there remains some flexibility in how the complaints process may be improved in the future to the benefit of the viewer, user and listener.
44. **We believe that the BBC and Ofcom should consider drawing up a new Memorandum of Understanding on complaints which requires that all complaints about BBC programmes and services first be considered by the BBC using an improved version of the existing internal process. If complainants are not content with the outcome of that process they should have the right of appeal to the BBC Trust. Only if the complainants are not satisfied with the outcome of this appeal should a complaint about BBC broadcast content be considered by Ofcom.**
45. The BBC and Ofcom would have to resolve for the new Memorandum how to explain to complainants that the Trust’s decisions would be taken against the background of its Editorial Guidelines and other relevant questions whereas Ofcom’s would be taken in the context of the Ofcom Broadcasting Code. A new Memorandum of Understanding could also set out how the BBC would keep Ofcom fully and properly informed of the nature and progress of the complaints made so that Ofcom could meet its statutory duties including those recording any breaches of the Ofcom code by BBC broadcasts and, where appropriate, sanctioning the BBC for such breaches.²⁴

²⁰ BBCGR 2

²¹ BBCGR 7

²² Q 381

²³ Q 562

²⁴ Ofcom has fined the BBC four times for breaches of its Broadcasting Code. The first was a fine of £50,000 in 2007 for breaches in Blue Peter of rule 2.11 (fair competitions) and 1.26 (due care over the physical and emotional welfare of under-eighteens). The second was a fine of £400,000 in 2008 when eight BBC

46. In cases of ‘TV-like video-on-demand’ services²⁵ complaints about programmes accessed online via BBC iPlayer can be raised with either the BBC or with Ofcom. However if the BBC iPlayer programme is accessed on another platform, for example through Virgin Media or BT Vision, then the complainant should first raise their complaint directly with the BBC and only once this process has been exhausted can they raise their complaint directly with ATVOD, the Authority for Video On Demand. This is because ATVOD operates under a ‘broadcaster first’ system of regulation.²⁶ Neither Ofcom nor ATVOD have any jurisdiction over BBC ‘non-TV like’ online content, so any complaints made about the BBC website must be made directly to the BBC. Likewise, complaints about BBC radio programmes listened to online via RadioPlayer should be made directly to the BBC and cannot be appealed to either Ofcom or ATVOD. Further information about how to complain about different types of media services is available in Appendix 7.

Complaints involving impartiality and accuracy

47. The principal remaining issue is the current arrangement under which Ofcom does not consider whether BBC broadcast content has breached the Ofcom code on ‘due impartiality and due accuracy’.²⁷ This is the sole remaining major area of BBC UK television and radio content which is not subject to external regulation²⁸ and therefore in this one sphere the Trust is responsible for both governance and regulation. Under the existing Memorandum of Understanding between the BBC and Ofcom the BBC is required to observe most of the programme standards set by Ofcom for all broadcasters under Section 319 of the Communications Act 2003.²⁹ These include the specific protections for under-18s, and protection for all viewers and listeners from ‘harmful and offensive material’. The main exception is that the accuracy and impartiality of programmes of the BBC’s public broadcasting services fall within the responsibility of the Trust alone. This exception is not required by the 2006 Royal Charter which established the BBC Trust or the 2003 Communications Act (which created Ofcom). It is set out in the current Agreement between the Government and the BBC,³⁰ and in the Memorandum of Understanding between the Trust and Ofcom.³¹ Any changes would have to be agreed by the Government, the BBC and Ofcom. The effect of these current arrangements is that for issues of

television and radio programmes were found to have misled audiences by faking phone-in competitions (rule 2.11). This was followed by a £95,000 fine later that year when two other radio programmes were found to have breached rule 2.11 on fair competitions. In 2009, Ofcom fined the BBC £150,000 for breaches of rules 2.1 and 2.3 on fair competitions and rule 8.1 on infringement of privacy in programmes in relation to comments made on a Radio 2 programme by Russell Brand and Jonathan Ross

²⁵ See definition of ‘on-demand audiovisual media services’, Article 1, Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)

²⁶ For more details about how to complain about BBC content shown on different platforms see figure 1

²⁷ Section 5, Ofcom Broadcasting Code

²⁸ The only other area is the scrutiny of commercial references in BBC content

²⁹ Section 2, Memorandum of Understanding between the Office of Communications (Ofcom) and the BBC Trust, March 2007

³⁰ Section 44 of the Agreement between Her Majesty’s Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, July 2006

³¹ Section 2, MOU between Ofcom and the BBC Trust

impartiality and accuracy the BBC is ‘judge and jury’ in its own case which, as a general rule, is not thought appropriate.

48. Witnesses with previous direct experience of the BBC either supported or were accepting of an extension to Ofcom’s regulatory jurisdiction to include BBC impartiality and accuracy in public service broadcasting content. Two previous BBC Chairmen, Sir Christopher Bland and Gavyn Davies, were in favour of this change. Sir Christopher told us that, “In 2016 what should be done is to give the regulatory responsibility to Ofcom, I think now that is clear ...”³² Mr Davies agreed, saying that he “... would now be happy with that. I think it is no longer feasible to take the position I took in 2003–04 which was that the governance system, as it then was, was better than most of the alternatives.”³³ Two former Director-Generals, Lord Birt and Greg Dyke were also supportive. Mr Dyke said if the issue could be resolved quickly between the Trust and Ofcom that would confirm the view of “most people inside the BBC.”³⁴ Lord Grade told us that: “I would not die in a ditch, to be honest if it was decided that all the regulation of impartiality, taste and decency should fall consistently to Ofcom.”³⁵ However, the outgoing (and now former) Chairman, Sir Michael Lyons, was against such a change. He said that the right conclusion had been reached “in the debate in 2006 which put a premium on protecting the independence of the BBC and ensuring that the BBC did not find itself becoming in awe to a regulator on issues of accuracy and impartiality.”³⁶ The current Director-General Mark Thompson told us “to say to the sovereign body ‘you have no role in deciding whether or not the BBC is discharging its duty to the public in the matter of impartiality’ would lead to a loss of public trust in the governing body and in the BBC.”³⁷ The Chairman of Ofcom, Colette Bowe, said, subject to the constraint of resources: “we will do anything we can to help him [Lord Patten] get to whatever better resolution he thinks that there might be of these issues that have been raised about the Trust.”³⁸ She was “certainly not here with any territorial ambitions.”³⁹
49. The Secretary of State, Jeremy Hunt MP, told us that: “I am not saying that this is necessarily the solution that Ofcom should do these roles, but it is important that there is a system that works and there is simplicity about the Ofcom route. If the BBC do not want that, they have until 2016 to prove that they have another system that commands everyone’s confidence.”⁴⁰ One of his predecessors, Tessa Jowell MP, said: “I would be minded to hand that responsibility [for content regulation] lock, stock and barrel to Ofcom and leave the Trust solely responsible for the governance of the BBC.”⁴¹ Ms Jowell’s 2005 Green Paper on the Royal Charter envisaged that there would be some review of these arrangements and that the timing of that review would be around 2011. It said: “We want to give both Ofcom and the new

³² Q 29

³³ Q 31

³⁴ Q 485

³⁵ Q 190

³⁶ Q 160

³⁷ Q 340

³⁸ Q 526

³⁹ Q 525

⁴⁰ Q 625

⁴¹ Q 76

BBC governance structure time to bed in before considering again the distribution of responsibilities for this sort of ‘negative regulation’ of standards and quotas. We will review the position five years into the new Charter.”⁴²

50. We have given considerable thought as to how this issue could be resolved. We regard the BBC’s commitment to impartiality and accuracy as one of the Corporation’s most important contributions to British public life. The BBC’s Trustees, and before them the Governors, have always taken their responsibilities on impartiality and accuracy very seriously. In fact, BBC Trust Vice-Chairman Diane Coyle told us that: “I cannot imagine ever not caring about impartiality as a Trustee; we would have to continue caring about it.”⁴³ The BBC Trust has commissioned some important research into impartiality in the past, such as the 2007 report for the Trust by John Bridcut.⁴⁴ We wish to commend the Trust on this work and hope that it will continue. Given its important public service role, we expect the BBC to continue to provide a ‘gold standard’ for UK broadcasting and to aim for the highest possible standard in all its output. The BBC’s Editorial Guidelines on impartiality already apply to a wider range of programme genres than Section 5 of the Ofcom code on ‘due impartiality’, which is restricted to news and certain other programmes such as those on matters of political controversy. The BBC guidelines require accuracy in all content and Ofcom’s requirement for accuracy extends only to news content.
51. The BBC Executive and Trust should continue to decide if BBC content meets all BBC Editorial Guidelines including those on impartiality and accuracy. There should be no question of the BBC Trust being told that it does not have a role in this process. However, we do not believe that the Trust’s continued commitment would be undermined or diluted if the BBC was no longer its own final judge and jury on impartiality and accuracy; a situation which already exists on all other public service broadcasting standards matters. In fact we believe that there would be benefits to the BBC if the decades-long debate about whether the BBC’s sovereign body can be both ‘cheerleader/champion’ and a ‘regulator’ could be brought to an end. During this inquiry we have noted that in recent years the BBC Trust has seemed hesitant to call itself a ‘regulator’. In his final public speech as Chairman of the BBC Trust Sir Michael Lyons said that the Trust was “not a traditional regulator, in fact not really a regulator at all.”⁴⁵
52. We believe that Lord Patten should discuss with the Chairman of Ofcom, Dr Rowe, how to resolve this sole remaining major area of content where the BBC remains both judge and jury in its own case. In order to assist this process, we have developed three options for resolution which we put before Lord Patten and Dr Rowe.
 - (i) The Trust could appoint an Independent Adjudicator

The first option is that the Trust itself appoints an expert Independent Adjudicator on matters of impartiality and accuracy. The Adjudicator could sit on his own or he could be advised by a panel of his own

⁴² Review of the BBC’s Royal Charter, *A strong BBC, independent of government*, DCMS, March 2005

⁴³ Q 223

⁴⁴ BBC Trust report, *From SeeSaw to Wagon Wheel: Safeguarding impartiality in the 21st century*, June 2007

⁴⁵ The BBC Trust—Past Reflections, Continuing Challenges, Speech by BBC Trust Chairman Sir Michael Lyons at the London School of Economics, 9 March 2011

choosing. The position would be funded by the BBC Trust. To try to ensure the independence of this person from the BBC we propose that the selection should be made by a joint BBC Trust-Ofcom panel in which Ofcom is given a right of veto. We also consider it essential that the BBC agrees in advance to be bound by the decision of the Adjudicator even if they disagree with it, but we propose that the BBC Trust should have the right to state publicly their disagreement if they do not agree with the findings of the Adjudicator.

(ii) BBC impartiality and accuracy could be considered by Ofcom

The second option is that matters of impartiality and accuracy on the BBC are considered by Ofcom in the same way as all other BBC standards issues. We consider that many of Ofcom's duties are what are sometimes called 'technical' matters, such as managing the efficient use of spectrum. However, on content regulation, we note that Parliament recognised the importance of Ofcom's role by stipulating that there should be a Content Board, separate from the main Ofcom Board, to consider non-technical content issues.⁴⁶ The current membership of the Content Board, which oversees broadcast content standards regulations, is similar in experience to the Trust's Editorial Standards Committee.

(iii) An Independent Adjudicator could be set up and sit within Ofcom

The third option is modelled on the three current Adjudicators for Telecommunications,⁴⁷ for Broadcast Transmission Services,⁴⁸ and Contracts Rights Renewal disputes.⁴⁹ In each case the 'Office of the Adjudicator' sits within Ofcom and is able to access its resources and expertise, but is independent of it when deciding on complaints or disputes. The model is flexible on the number of members of the Adjudication regime, the selection process and the funding. This model has proved to be successful. Under this system we suggest that the most appropriate method of appointment might be for the BBC Trust to select the Adjudicator subject to the approval of Ofcom. The BBC Trust should be able publicly to disagree with the findings of the Adjudicator with reasons, but the Adjudicator's decision would be final.

53. The preference of a clear majority of the Committee was for the Ofcom route (option ii). However there was also a minority of supporters within the Committee for the option of the Trust appointing an independent adjudicator (option i) or the option of the Trust and Ofcom appointing an independent adjudicator to sit within Ofcom (option iii). The Committee puts these options forward for discussion by the BBC Trust and by Ofcom.
54. **We recommend that the BBC Trust and Ofcom work together to resolve the regulation of impartiality and accuracy so that the BBC is no longer its own judge and jury in these matters. In order to aid these discussions we propose three options for consideration by the Trust and Ofcom. The majority of our Committee proposes that Ofcom are given final responsibility for regulating impartiality and accuracy in BBC public service broadcasting content.**

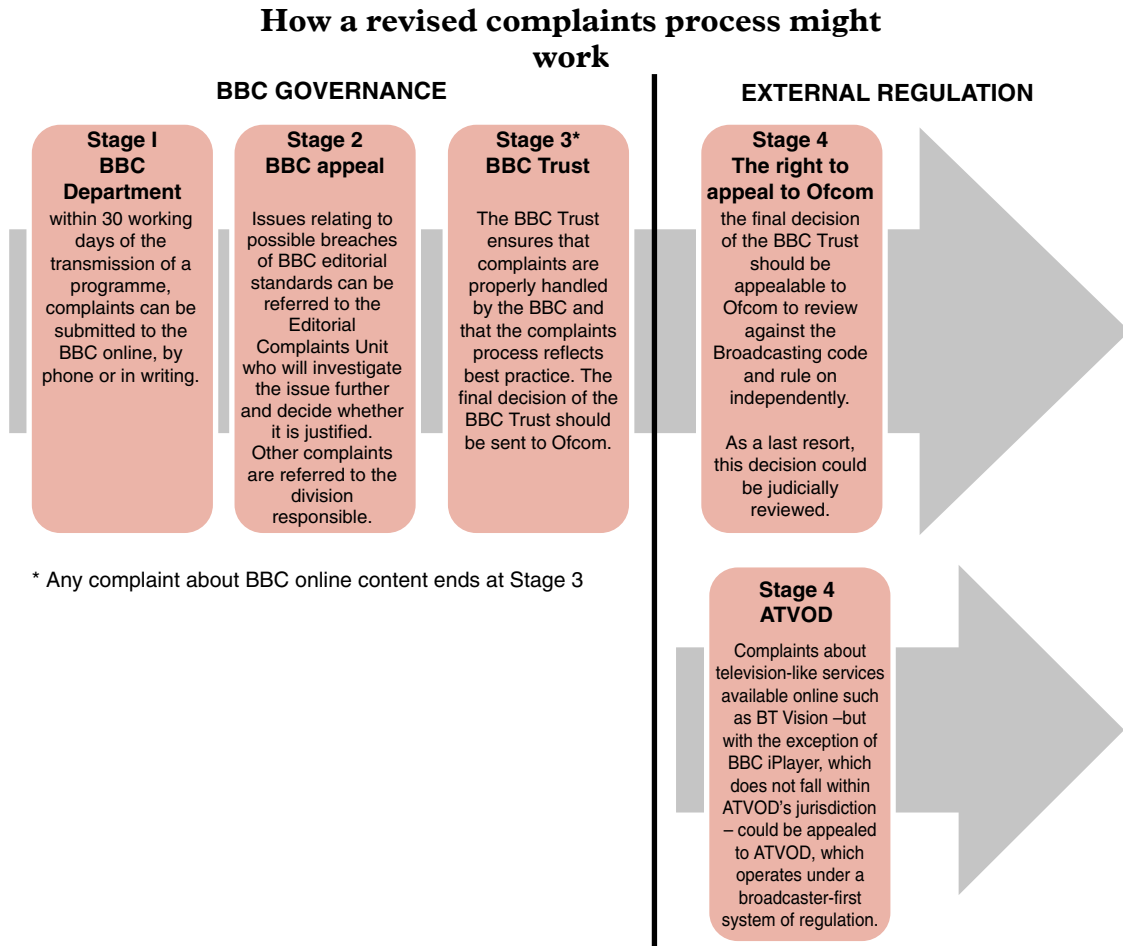
⁴⁶ Section 13, Communications Act 2003

⁴⁷ The Office of the Telecommunications Adjudicator, OTA2: <http://www.offta.org.uk/>

⁴⁸ The Office of the Adjudicator for Broadcast Transmission Services, OTA: BTS: <http://adjudicator-bts.org.uk/>

⁴⁹ The Office of the Adjudicator (CRR), CRRA: <http://www.adjudicator-crr.org.uk/>

55. The additional clarity to licence fee payers of a ‘BBC first, Ofcom last’ complaints process which covers all and not just some programme standards is considerable. Figure 3 provides a clearer process as it calls for a complainant to exhaust the internal BBC complaints process before raising a complaint with the relevant regulatory authority or ombudsman.

FIGURE 3

Source: Stages 1–3 represent the existing BBC complaints system. Stage 4 is an illustration of how a revised complaints system might work in practice.

Handling complaints from commercial competitors

56. In addition to handling complaints from viewers and listeners, it is important that the BBC's commercial competitors are in a position where their dealings with the BBC and any commercial interactions are transparent and open for scrutiny. UTV told us that: “the BBC's complaints processes are unwieldy, demanding a significant amount of resource on the part of third parties, and taking an excessive amount of time to resolve. This acts as a disincentive to licence fee payers or third parties to raise issues which merit scrutiny.”⁵⁰ On the other hand, Radiocentre (the trade body for commercial radio in the UK) wrote that it “has submitted a significant number of complaints since the BBC Trust was created” and that “Ultimately, the fact that these complaints were either partly or wholly upheld suggests to us that the BBC and BBC Trust's complaints process is operating effectively.”⁵¹

⁵⁰ BBCGR 15

⁵¹ BBCGR 19

57. In considering amendments to the complaints process for viewers, listeners and users, it is important that the BBC also considers the processes through which its commercial competitors can raise complaints. It is important that under any system all complaints raised by BBC competitors are responded to promptly and openly addressed.

Quota setting

58. The discussions between the Trust and Ofcom on complaints processes might also provide the opportunity to review some of the other matters envisaged by Tessa Jowell in her 2005 Green Paper. For example, the ability of the BBC Trust to lead through governance could be strengthened by enabling it to set BBC quotas without prior agreement with Ofcom, as is currently required. The Memorandum of Understanding between the Trust and Ofcom states that: “The Trust sets all quotas for BBC TV services that apply to news and current affairs and programming for the nations and regions—after consulting and having regard to any comments by Ofcom” and that “Ofcom’s agreement is required before the Trust imposes any requirements which in effect reduce the quota for news and current affairs or nations and regions programming below the agreed quota levels for the year 2002.”⁵² Under the terms of the MOU the Trust also requires Ofcom’s agreement “regarding the quotas for original productions and programme making in the nations and regions.” The BBC is also required to comply with arrangements agreed to with Ofcom to (i) secure a suitable range and proportion of networks programmes are made in the UK outside of the M25 area; and (ii) to secure that the time allocated to original programming meets an agreed proportion of the total broadcasting time for that service. Finally, the BBC is required in the MOU to ensure that not less than a specified percentage of broadcasting time of BBC 1 and BBC2 qualifying programmes is allocated annually to independent productions.⁵³
59. **We believe that the setting of certain BBC quotas is an activity more akin to the BBC Trust’s governance functions, such as the service licence process, than to Ofcom’s regulatory role. We invite the Trust and Ofcom to consider how the process of quota setting could be improved within the requirements of the Communications Act 2003.**

BBC internal compliance processes

60. All content produced by the BBC—wherever and however it is received—must comply with the corporation’s Editorial Guidelines. These are a set of rules on issues such as impartiality, accuracy, fairness and harm and offence which ensure that BBC content complies with the relevant broadcasting regulations as set out in Ofcom’s Broadcasting Code and meets the high standards expected of the BBC. In his farewell public speech Sir Michael Lyons looked back on “memorable cock-ups.” He highlighted three examples of the BBC “shooting itself in the foot.” These were the BBC’s role in the bogus competitions affair, the trailer for a documentary about the Queen which wrongly implied that Her Majesty walked out of a portrait photographic session and the ‘Ross-Brand’ broadcast on Radio Two.⁵⁴

⁵² Section 2, Memorandum of Understanding between the BBC Trust and Ofcom

⁵³ Annex 4, Part 3 of the MOU between the BBC Trust and Ofcom

⁵⁴ The BBC Trust—Past Reflections, Continuing Challenges, Speech by BBC Trust Chairman Sir Michael Lyons at the London School of Economics, 9 March 2011

61. In his pre-appointment hearing before the House of Commons Culture, Media and Sport Select Committee Lord Patten said that “the attempt to ensure that it meets the highest standards has led to the creation of a sort of compliance culture in the BBC, which I think a lot of the best programme makers and journalists have found an inhibition.”⁵⁵ BBC Trustee David Liddiment attributed the tightening in the BBC’s compliance processes to the editorial breaches that had occurred in the past, saying that: “Faced with the seriousness of these breaches, the management tightened up their compliance procedures significantly. That tightening up has triggered something of a backlash from programme-makers who feel that these things are now overdone. This is human nature, is it not? Things go wrong and they are corrected. Sometimes they are over-corrected, and then things start to become more reasonable again. It is understandable how that has arisen.”⁵⁶
62. Compliance is a governance issue because it is the expression of governance at the ‘coal face’ of BBC broadcasting—it determines what is broadcast or written and what is not included. To a great extent the sort of compliance culture which exists determines the extent to which the BBC is able and willing to take risks in its programming. Compliance is of particular importance as its processes, if heavy-handed, can sometimes be said to stifle creativity and slow the programme making process.
63. The International Broadcasting Trust (IBT) told us that it had “recently become concerned about how compliance works at the BBC.”⁵⁷ It had therefore commissioned a survey of producers which concluded that “many interviewees felt the structural complexity of compliance, legal and editorial policy could make the production of more controversial films particularly problematic at the BBC.” David Henshaw, an independent producer, told us that the BBC’s response to each compliance crisis which it faced had been “to try to create institutions and mechanisms to stop these things from ever happening again. I think that was probably a false response and it has led to this enormous bureaucracy.”⁵⁸ Tom Roberts, also an independent producer, said the BBC system suffers from a combination of excess caution and procedural overload.”⁵⁹
64. Compliance processes at the BBC are somewhat different from the compliance procedures of other broadcasters. Uniquely the BBC has an editorial policy team which can be included in the process alongside producers, programme commissioners, lawyers and compliance officers. David Henshaw told us that: “With Channel 4, there are two parties involved. There is the lawyer and the commissioning editor. Between them, they handle the compliance issues, and that seems to work very well ... I do not understand why you need a third party called editorial compliance when, between them, a lawyer and an experienced executive producer or BBC editor can surely interpret these guidelines effectively.”⁶⁰
65. On the other hand George Entwistle, BBC Director of Vision, did not agree that the BBC system was more complicated. He told us that: “I think that the harder, more challenging and sensitive the project the more attention it receives.

⁵⁵ House of Commons Culture, Media and Sport Committee, Second Report of Session 2010–11, *Pre-appointment hearing with the Government’s preferred candidate for Chairman of the BBC Trust*, HC 864

⁵⁶ Q 229

⁵⁷ BBCGR 9

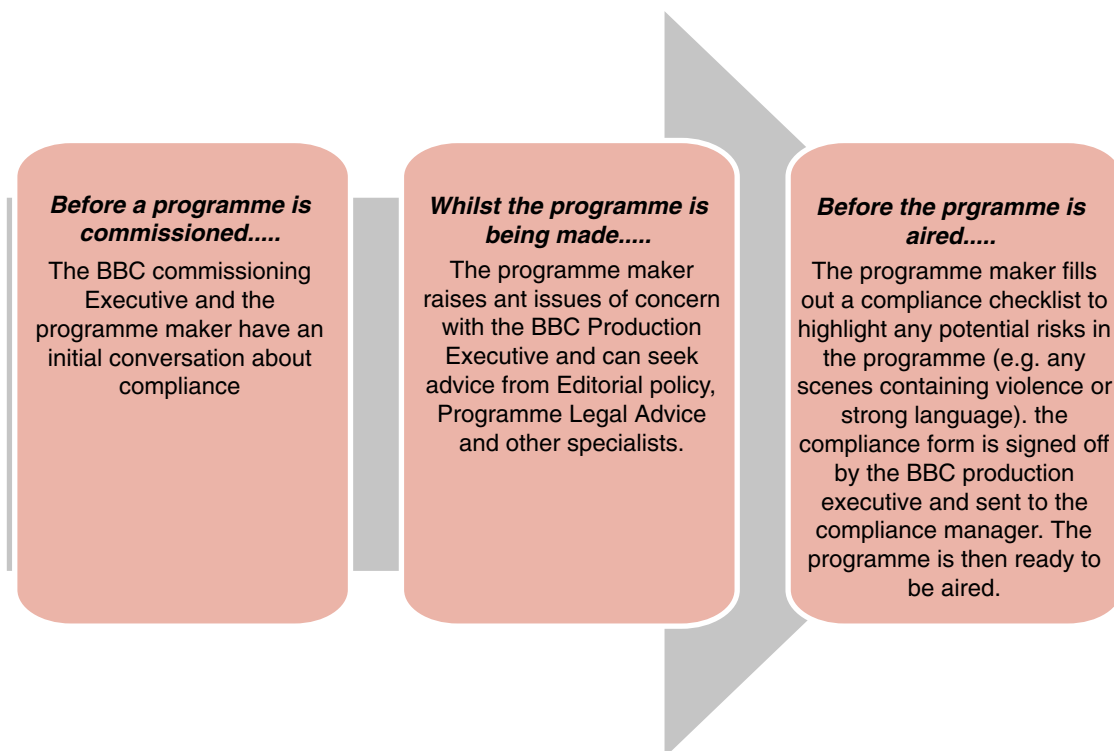
⁵⁸ Q 263

⁵⁹ BBCGR 6

⁶⁰ Q 267

Sometimes that can be frustrating to people, but I think we are pretty good at keeping it in proportion.”⁶¹ Mr Entwistle said that the BBC compliance process was based around a discussion between a programme maker and a commissioning editor before a programme was made, followed by a requirement to complete a single compliance checklist form at the end of the process.⁶² A copy of this compliance checklist is available in Appendix 7. Sir Christopher Bland also supported the compliance system at the BBC, telling us that: “The compliance culture at the BBC is no doubt irritating, but an organisation like that has to do things properly, and that requires some form of the bureaucracy and compliance.”⁶³ Our understanding of how the compliance process which programme makers at the BBC must comply with is shown in Figure 4.

FIGURE 4
The BBC compliance process



Source: BBC

66. If there is confusion in this process it appears to lie at stage 2, where it is not always clear to producers whether the production executives, compliance officers or the editorial policy team are responsible for ensuring that the programme meets the BBC’s Editorial Guidelines. BBC Director of Vision George Entwistle—when asked to distinguish between compliance and editorial policy—told us: “I would define compliance as a relatively technical process, which is to ensure that certain key parts of the process of signing through and making sure the appropriate rules and regulations for each piece of content have been met. I would define editorial policy as the collected wisdom of a group of specialists in doing difficult or challenging things. That is the broad distinction between the two.”⁶⁴

⁶¹ Q 423

⁶² Q 398

⁶³ Q 45

⁶⁴ Q 398

67. Sir David Attenborough, a natural history broadcaster and former senior manager at the BBC, told us that he had not had a problem with editorial compliance in making programmes: “I have never had any problems with that at all. I know that my colleagues, my producers, heave a sigh when they say, ‘We have to do all this sort of thing’, but I would not have thought that it was a huge problem as far as contributors were concerned.”⁶⁵ It would appear to broadcasters like Sir David and Professor Brian Cox that compliance, though a necessary evil, does not get in the way of the BBC making excellent and challenging programming.⁶⁶ However Sir Michael Lyons told us that he was “certainly aware that there is an active debate within the BBC ... of programme makers who feel that the current compliance arrangements are a bit intensive and reduce the fleetness of foot of programme makers.”⁶⁷
68. The BBC’s Director of Editorial Policy, David Jordan, told us he would be looking for ways “in which we can dial down the compliance requirements where that is possible as long as we remain true to our values and standards ... a way of just lightening the burden slightly, making it as user-friendly as possible.”⁶⁸ Lord Patten told us that “... we want to look at everything we do that might make people in the BBC think we are being excessive in our demands for checking. We want to look at what we are thought to do in relation to compliance and give it a good spring clean, and reduce it to what is really necessary.”⁶⁹
69. Compliance can also have an impact on the way in which the BBC commissions programmes and its willingness to take risks. In evidence sessions we asked whether the BBC is more risk-adverse than other broadcasters. Tom Roberts, an independent programme-maker, told us that “generally, there is that widely held and quite ingrained belief that controversial or editorially risky ideas are very difficult to get off the ground at the BBC.”⁷⁰ Sir David Attenborough told us that the commissioning process had been complicated by the proper need for fairness between internal production units and independents. Sir David said that he would like to see a “... quicker and clearer commissioning process.” He said that: “What has complicated the commissioning process now is the proper requirement that the BBC should be open-handed and even-handed with its internal production units and independents. Key to that is costing systems and to know whether the costs are fair and equal, not necessarily favouring your own staff. That is a very great problem. The BBC has attempted to solve it by putting up all kinds of balances and checks and double people, not concentrating the power of commissioning in one pair of hands. That has its advantages, but it also has its disadvantages. For example, it seems to me that BBC networks do not have the personality that they once had.”⁷¹
70. Independent producer Fiona Stourton said that “at Channel Four the attitude of the assigned lawyer usually is ‘there may well be a complaint about the programme but are we in a strong position to defend it?’ At the BBC the attitude tends to be ‘How can we avoid a complaint?’”⁷²

⁶⁵ Q 639

⁶⁶ QQ 638, 639

⁶⁷ Q 156

⁶⁸ Q 470

⁶⁹ Q 581

⁷⁰ Q 284

⁷¹ Q 680

⁷² BBCGR 4

Professor Brian Cox told us that: “it is surely the case that a broadcaster that never gets things wrong is not trying hard enough to produce excellent programming.”⁷³ He continued that his personal view was that: “I would like to see the BBC more on the front foot, because the way it delivers the best possible programming is not to be scared to make serious mistakes and many mistakes, because that is the way that it becomes a creative organisation. I would want to see it more confident.”⁷⁴

71. Given Sir Michael Lyons’ three examples of the BBC “shooting itself in the foot” it is understandable that the BBC has sought to tighten its compliance arrangements. However in the short term, the BBC should consider clarifying the role of the BBC Editorial Policy team and outline more clearly how they work with programme makers and compliance managers. In the longer term, the BBC might wish to consider simplifying its compliance processes. We welcome the work the BBC is planning to do to lighten the burden and make compliance more of a user-friendly process.
72. Any bureaucratic process within the BBC, for example compliance, may endanger the creativity of its employees. It is important to ensure that the internal compliance procedures of the BBC do not in any way unnecessarily dampen creativity or ‘dumb down’ the output of the Corporation.
73. **We urge the BBC Trust to consider whether there are any ways of minimising the compliance culture within the BBC to reduce bureaucracy in programme making in so far as that is possible to ensure that the BBC’s creativity is not compromised.**

Providing clarity for viewers and listeners about content reality

74. In addition to reviewing the complaints and compliance procedures for issues such as impartiality and accuracy we also considered the BBC’s interpretation and implementation of its guidelines on impartiality in relation to issues of truth in programming.
75. We were told that the BBC ensures that policy on impartiality is met by monitoring the balance of viewpoints achieved over a series of programmes, rather than on a single programme.⁷⁵ The Director of BBC Editorial Policy, David Jordan, explained that he compiled a ‘managed risk programme list’ every month for meetings with senior executives: “I will say that I am concerned that we seem to have a number of programmes that approach a subject matter from the same viewpoint and we need to be careful about that, or I will point out other areas that I think are risks for the BBC if we do not do something about them.”⁷⁶
76. The Secretary of State, Jeremy Hunt MP, told the House of Commons Culture, Media and Sport Committee in March that he had discussed the issue of impartiality and bias with Lord Patten prior to his appointment as Chairman of the BBC Trust. Mr Hunt said that: “... I believed that more needed to be done to strengthen the confidence of Parliament in the

⁷³ Q 679

⁷⁴ Q 679

⁷⁵ QQ 426–428

⁷⁶ Q 428

- impartiality of the BBC. He [Lord Patten] acknowledged that and said that would be one of the things that he would look into were he to be appointed.”⁷⁷
77. We asked Mr Hunt if he believes that the BBC is impartial. He replied that he believed that it tries to be impartial but he agreed that the BBC themselves “concede that sometimes they do not.”⁷⁸ **We would welcome clarification on how the BBC monitors and complies with the requirement for impartiality across its non-factual output, particularly in drama or entertainment series which touch on matters of current public concern.**
78. On the interpretation of impartiality in science reporting Professor Brian Cox said in a recent Royal Television Society lecture that more weight should be given in broadcasting to the scientifically peer-reviewed consensus positions which would “leave the audience with a more ‘truthful’ view of current thinking.”⁷⁹ Professor Cox told us that on certain controversial issues, such as the safety of the MMR vaccine, the BBC should say “this is the scientific consensus: it should not say ‘this is the scientist opinion and then we’ll give another opinion.’”⁸⁰ Having said that it is important that informed and responsible views which are not necessarily held by the majority of scientists are not overlooked. The BBC Trust is currently undertaking an inquiry into science reporting on the BBC which is due to be published soon. We look forward to its publication.
79. The BBC Editorial Guidelines on impartiality and accuracy include a section on ‘Avoiding Misleading Audiences’.⁸¹ During our inquiry we have been made aware of a number of potential pitfalls within this area. We wish to highlight these to the BBC Trust so that it can consider whether producers always make it adequately clear to viewers what is real in a factual programme and what is not. These issues arise partly from the increased use of digital technology to enhance the viewing experience and partly from the growth of formats known as ‘constructed reality’ or ‘structured reality’.
80. On the use of technology, Sir David Attenborough told us that working on a recent programme he could not tell the difference between the computer-modelled image of an animal and one of a real animal. He regarded it as his responsibility to make clear to viewers which was which.⁸² Tom Roberts, an independent programme-maker, gave us some examples of “constructed reality” saying that: “You see it in *Secret Millionaire* and in *Wife Swap*, which is now off the air. *Big Brother* was a perfect example of very carefully picking people who would go at each other and so on. It was never a reflection of the UK; it was a reflection of a producer’s wildest dreams.”⁸³ On reality programming which appears to be a hybrid of drama, documentary and entertainment genres, BBC Trustee David Liddiment told us that: “we are going through a phase of constructed reality and formatted documentaries, many of which are very popular.”⁸⁴ He thought there was a difference between factual entertainment programmes which were essentially focused on

⁷⁷ House of Commons Culture, Media and Sport Committee oral evidence session with the Rt Hon Jeremy Hunt MP on the responsibilities of DCMS, 30 March 2011, Q 67

⁷⁸ Q 598

⁷⁹ ‘Science: A challenge to TV orthodoxy’, RTS Huw Wheldon lecture 2010 by Prof Brian Cox, OBE

⁸⁰ Q 663

⁸¹ Section 3, BBC Editorial Guidelines

⁸² Q 651

⁸³ Q 276

⁸⁴ Q 231

entertainment, and current affairs and documentaries: “the important thing is that the audience is not misled.”⁸⁵ Independent producer David Henshaw agreed, telling us that: “I think the audience has a pretty good understanding of what is fake and what is not. When they watch a programme like *I’m a Celebrity*, *Get Me Out of Here* or *Big Brother* or *Celebrity Big Brother*, they kind of understand the vernacular now.”⁸⁶ Tom Roberts talked about the pressure from broadcasters on producers to create “unreality TV” and to “pack in jeopardy, uncertainty, tension, risk and so on” in certain programmes.”⁸⁷ The BBC’s Director of Editorial Policy, David Jordan, told us that “All television is a construct and some is more constructed than others. Where things are not supposed to be a distortion but a true representation we take enormous steps to make sure people understand what they cannot distort.”⁸⁸

81. **We call on the BBC to be vigilant and to continue to ensure that it provides the highest level of impartial and accurate material. We recommend that the BBC, and other broadcasters, consider how they can help viewers and listeners discern whether apparently factual content is an accurate reflection of reality or has been altered significantly or reconstructed in some way.**

Non-Executives—a structural anomaly

82. The governance structure of the BBC appears to be loosely based on the German model.⁸⁹ German law requires all corporations to have two boards—a supervisory board and a management board. In the case of the BBC there is a supervisory board (the Trust) to govern and an executive board to manage the BBC (the BBC Executive Board). The management and governance structures of the BBC are set out in Appendix 5. A full explanation of the structural options for the BBC was provided in the House of Lords Committee’s 2005 Charter Review report⁹⁰ and in the report conducted by Lord Burns⁹¹ at the time of the last Charter renewal.
83. Although inspired by the structure of the German two-tier board the BBC Charter includes an element of governance which does not exist in the German system—a requirement for a number of Non-Executive Directors on the BBC Executive Board.⁹² This is in addition to the Non-Executive Trustees who sit on the Trust Board.
84. The BBC Charter does not state how many Non-Executive members should sit on the Executive Board but rather it enables this decision to be made by the Board itself, subject to approval by the BBC Trust. At present there are five Non-Executive members who sit on the Board alongside seven Executive members.
85. Sir Michael Lyons chose to emphasise the advisory role of the Non-Executives on business matters rather than their corporate governance roles. Sir Michael told us that: “the Non-Executive directors are all people of

⁸⁵ Q 231

⁸⁶ Q 281

⁸⁷ Q 276

⁸⁸ Q 458

⁸⁹ Review of the BBC’s Royal Charter, *A strong BBC, independent of government*, DCMS, March 2005

⁹⁰ The House of Lords Select Committee on the BBC Charter Review, 1st Report of Session 2005–06, *The Review of the BBC’s Royal Charter*, HL 50

⁹¹ Lord Burns’ letter to the Secretary of State and the Independent Panel’s Final Advice to the Secretary of State, 27 January 2005

⁹² Section 31 of the BBC Charter

considerable business experience. My view of the arrangements is that those people essentially act as advisers to the Director-General.”⁹³ Sir Michael said that: “The public look to the Trust for an explanation of what the BBC is doing. They do not look to the Non-Executive Directors nor should they.”⁹⁴ Apart from any business advice they offer the Non-Executives on the BBC Executive Board have roles in corporate governance and these roles sometimes appear to overlap with those of the BBC’s Trustees. As shown in the organogram in Appendix 5, we were told by current Trustees Diane Coyle and David Liddiment that the BBC Executive Board’s Audit Committee “has a relationship” with the Trust’s Finance and Compliance Committee and that the Executive Board’s Remuneration Committee “has a relationship” with the Trust’s Remuneration Committee.⁹⁵

86. Mark Thompson told us that he found the Non-Executives on the Executive Board which he chairs to be very helpful business advisers. He told us that: “We have very serious players as Non-Executive directors, of which Marcus [the senior Non-Executive Marcus Agius] is the leader, and I do use Marcus frequently for advice or guidance. Often in the way of these things, just like a Plc, it is five- or 10 minute phone conversations rather than endless meetings. Also Marcus will phone me when he is concerned about something.”⁹⁶ In evidence Marcus Agius, who is also the Chairman of Barclays Bank, told us: “Whether I call myself a business adviser or a Non-Executive director is a moot point. A Non-Executive director on any Board is there for his or her relevant background experience, because it is felt that he or she can make some kind of contribution to the discussion that takes place around that Board table.”⁹⁷
87. Under the existing governance structure, we are concerned that the relationship between the senior Non-Executive Director and the Director-General might be a surrogate for the relationship that would more traditionally exist between the Chairman of the BBC Trust and the Director-General. We believe that it would be worrying if the Director-General were to look to a Non-Executive member of the Executive Board for help and advice more than to the Chairman of the Trust and agree with Lord Patten that “... a great deal depends on the relationship between the Chairman of the Trust and the Director-General.”⁹⁸ We were encouraged to hear Lord Patten say that he was keen to ensure that he and the Director-General had the sort of relationship which was akin to that of a FTSE Chairman with his Chief Executive.⁹⁹
88. **We encourage the new Chairman of the BBC Trust and the Director-General to work closely together in the best interests of the BBC and licence fee payers.**
89. In the past, the Secretary of State has said that he would like to see one of the Non-Executives of the Executive Board take on the role as chairman of the

⁹³ Q 136

⁹⁴ Q 136

⁹⁵ QQ 218, 219

⁹⁶ Q 323

⁹⁷ Q 314

⁹⁸ Q 560

⁹⁹ Lord Patten told the House of Commons Culture, Media and Sport Committee in his pre-appointment hearing that: “... I don’t see myself playing Romulus to anyone else’s Remus, or Remus to anyone else’s Romulus. I would certainly hope to have a constructive relationship with the director-general, whose organisation, the BBC—we might disagree about this—is an outstanding one.” (Q 72)

Executive Board.¹⁰⁰ He has since told us that he is now waiting to hear what Lord Patten will say about this in his report.¹⁰¹ Lord Patten told us that he was “dead against” having a Non-Executive chairman of the executive board, saying that it would “... hugely complicate the relationships between the Trust, the Chairman of the Trust and the Executive.”¹⁰² We too are concerned that introducing a Non-Executive Chairman of the Executive Board might add an additional layer of complexity between the Chairman of the Trust and the Director-General, potentially preventing the close working relationship which we would wish to encourage between these two important figures.

90. **Although the Charter allows for the BBC Executive Board to be chaired by a Non-Executive Director, we consider the current practice of making the Director-General of the BBC the Chairman of the Executive Board is a sound one.**
91. As the Trust is itself essentially a board of Non-Executives it is worth asking whether there is a need for Non-Executives at the Executive Board level at all. The BBC Charter gives no explanation of the specific role of the Non-Executives on the Executive Board, other than their membership of the Audit and Remuneration Committees.¹⁰³ However as Non-Executives are established in the BBC Charter it would not be possible to abolish these positions without changing the Charter, which would require agreement by the BBC, the Department for Culture, Media and Sport and the Privy Council.¹⁰⁴ In addition, as we have already noted, the present Director-General has found the Non-Executives on the BBC Board to have been helpful to him as business advisers.¹⁰⁵
92. The secondary question to be discussed is the sort of background from which those Non-Executives should be chosen. Although the present Non-Executives are undoubtedly experts in their fields of business¹⁰⁶ we are not convinced that the BBC should be relying solely on those with business backgrounds given the overriding public service nature of its purposes. The former Director-General, Greg Dyke, confirmed this when he told us “The BBC is not a business.”¹⁰⁷
93. This issue is most visible in relation to the setting of senior BBC Executive salaries. As outlined in the Charter,¹⁰⁸ the Trust sets a strategy for executive pay and decides the salary of the Director-General but the salaries of other Executive Directors are decided by the Remuneration Committee of the BBC Executive Board whose membership consists of Non-Executive members of the Executive Board. Sir Michael Lyons told us that it took some time for the Trust to consider executive pay because: “we had to work with

¹⁰⁰ House of Commons Culture, Media and Sport Committee oral evidence session with the Rt Hon Jeremy Hunt MP on DCMS Accounts 2009–10 and responsibilities of the Secretary of State, 14 September 2010, Q 76

¹⁰¹ Q 614

¹⁰² Q 560

¹⁰³ Section 35 of the BBC Charter

¹⁰⁴ BBCGR 21

¹⁰⁵ Q 323

¹⁰⁶ See Appendix 6 for more information about the background of Non-Executive members of the BBC Executive Board

¹⁰⁷ Q 508

¹⁰⁸ Section 33 (7) of the BBC Charter

the Executive Board because that is where the powers lay, and it took some time to get agreement to the scale of the changes that we wanted, but that would be no different in a unitary model. After all, essentially among the people you are talking to here are the people who are going to have their salaries reduced.”¹⁰⁹ Sir Michael also said “we eventually had strong allies in the Remuneration Committee of the Executive Board but to say that there was a difference of opinion when we started travelling down this road would be an understatement.”¹¹⁰ Marcus Agius told us that: “By and large, people do love to work for the BBC. They have tremendous respect for it, and therefore an affection for it too. It follows therefore that you would expect that people would be prepared to suffer a discount from what they could get in the competitive commercial world in order to work at the BBC, because of what the BBC does for them, as well as what they can do for the BBC. That is exactly how it works. As best we can we should exercise what judgment we can to get the going rate in the commercial world. Then we are to haircut that figure by not less than 50% and by up to as much as 80% in setting those terms of reward.”¹¹¹

94. Mark Thompson confirmed that: “for what it is worth, it is extremely hard now to fill senior jobs in the BBC, and increasingly remuneration is a factor. Crucially, the BBC is a broadcaster, and the labour markets in the context of which we are looking for people and having to retain people are broadcasting markets that are commercial. Our policy has been to very substantially discount what the BBC pays relative to equivalent jobs elsewhere—that band of 50% to 80% less is what we have done.”¹¹² Mr Thompson continued that: “We have tried to take steps recognising that public attitudes to pay have changed significantly. However, the BBC is a broadcaster, and relative to other broadcasters, what senior BBC people are paid is very substantially less than the market conditions.”¹¹³ The fact that the current Non-Executives have senior business and City roles may inflate the level of salaries awarded by them to BBC staff and might well be perceived by the public as doing this.
95. **We recommend that to achieve a proper balance in the experience of the Non-Executives who are responsible for certain governance measures, including setting the salaries for senior BBC Executives, candidates from the public and third sectors should be considered alongside senior business figures when vacancies occur in the future. People with this type of background would be able to provide valuable advice to the Executive Board, including in its preparation of reports to the Trust and more generally. However, we believe that the Non-Executives on the BBC Executive Board should be regarded predominantly as advisers on corporate and management responsibilities advising on business or organisational issues and supporting the Corporation’s public service remit on issues such as IT, project management, market conditions, facilities and human resources. Specifically we would welcome improved clarity around the role of the Non-Executives on the setting of executive salaries within a strategy decided by the Trust.**

¹⁰⁹ Q 139

¹¹⁰ Q 139

¹¹¹ Q 325

¹¹² Q 326

¹¹³ Q 326

Governance implications of the licence fee settlement including the BBC World Service, S4C and Broadband Delivery UK

96. Under the new settlement agreed between the Secretary of State and the BBC Trust in October 2010 the licence fee will be fixed at its current rate of £145.50 for a colour television licence until the end of this Charter in 2016.¹¹⁴ However as part of this settlement the BBC has a new responsibility for funding some additional activities. These fall into three different categories. The first is the broadcasting service, the BBC World Service, for which the BBC is currently responsible but which is funded at present by the Foreign Office. This will be funded from the licence fee from 2014/15. The second is the broadcasting service, the Welsh-language broadcaster S4C for which the BBC is a major programme supplier but currently has no responsibilities beyond that. At present S4C is mostly funded by DCMS but from 2013/14 it will mostly be funded from the licence fee. The third category is a non-broadcasting activity, Broadband Delivery UK, which is a team within DCMS which administers a fund to promote broadband roll-out in the UK. Taken together these new commitments will add approximately £340m a year to BBC costs which will have to be found through making 16% cash releasing efficiencies on the BBC's overall cost base over the four years to 2016/17.¹¹⁵ The licence fee will also be used to fund initial capital investment in local TV projects and the BBC Monitoring service, which provides open source news and information to a range of clients including Government and the media and which is currently directly paid for by the Government.
97. This settlement represents the first time that the licence fee has been used to fund such a range of activities outside the BBC's core services. As well as imposing significant financial constraints on the BBC, this raises significant governance challenges for the BBC Trust. For example, how will it ensure that the bodies managing these services are properly accountable? In the previous settlement an estimated fund of £603 million over the lifetime of the settlement (2007/8 to 2012/13) was ring-fenced to fund a help scheme for digital switchover.¹¹⁶ This is administered by a subsidiary wholly-owned by the BBC.
98. It is difficult to see how this model can be replicated in the case of Broadband Delivery UK (BDUK) and this raises particular issues. On the DCMS website BDUK is described as "a team within DCMS which was set up to deliver the Government's broadband strategy" and "a delivery vehicle for these policies, reporting to Ed Vaizey, the Minister for Culture, Communications and Creative Industries."¹¹⁷ As BDUK sits within a Government Department and is responsible to a Government Minister it would appear that its funding will pass through the BBC's bank account in so far as it is collected by the TV Licensing body but will then be used by BDUK to fund activities which fall outside of the BBC's current existing

¹¹⁴ Letter from the Secretary of State of Culture, the Olympics, Media and Sport to BBC Chairman Sir Michael Lyons, 21 October 2010 and letter from Sir Michael Lyons to the Rt Hon Jeremy Hunt MP, 21 October 2010

¹¹⁵ Letter from the Secretary of State of Culture, the Olympics, Media and Sport to BBC Chairman Sir Michael Lyons, 21 October 2010

¹¹⁶ Schedule 1, Revised Agreement on the Digital Switchover Help Scheme between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, December 2009

¹¹⁷ Information about BDUK is available on the DCMS website at:
http://www.culture.gov.uk/what_we_do/telecommunications_and_online/7781.aspx

- governance processes.¹¹⁸ Lord Patten told us that the BBC Trust is “sorting through” these issues, “including some very tricky ones, at the moment.”¹¹⁹
99. We believe that the BBC World Service plays a pivotal role in the distribution of impartial news around the world and is a major element in determining the UK’s reputation. We agree with the former Managing Director of the BBC World Service (BBCWS) Sir John Tusa who wrote that the change in funding of the BBC World Service which—from 2014/15 will be funded from the licence fee rather than through Parliamentary Grant-in-Aid administered by the Foreign and Commonwealth Office¹²⁰—“presents a historic change for the BBCWS which cannot be overestimated.”¹²¹ We were therefore pleased to hear that although money will not be specifically ring-fenced within the licence fee to fund the BBC World Service in the future, both Lord Patten and Mark Thompson have said that they attached a high priority to the proper funding of the World Service.¹²²
 100. However the BBC World Service poses a particular difficulty for the Trust as the main users of this are unlikely to be, at least in the majority, licence fee payers or UK taxpayers. Sir Christopher Bland noted his concern about this, saying that: “The responsibility for the World Service’s funding is not something that should be laid on the licence fee payer, who on the whole does not listen to it.”¹²³ BBC Trustee David Liddiment disagreed, saying that: “From a perception point of view, that the BBC funds the World Service from the licence fee should reinforce the independence of those services overseas. I think that is a good outcome.”¹²⁴
 101. Sir John Tusa wrote that: “If the BBCWS is to be adequately resourced and protected the composition, competency and inclination of both the BBC Trust and the BBC Board will need significant strengthening.”¹²⁵ Lord Patten subsequently announced that the BBC Trust would be appointing a BBC Trustee with a specific responsibility with regard to the BBC’s international public services including oversight of the BBC World Service. We were pleased to receive this news and to see that this post has now been advertised.¹²⁶
 102. We understand that discussions are currently underway between the BBC Trust and the relevant bodies affected by the licence fee settlement to develop a governance framework which will ensure that the services will be properly accountable but in the case of S4C, remain editorially independent. Reports by the House of Commons Foreign Affairs Committee on ‘The Implications of Cuts to the BBC World Service’;¹²⁷ the House of Commons

¹¹⁸ BDUK website: <http://discuss.bis.gov.uk/bduk/>

¹¹⁹ Q 565

¹²⁰ Letter from the Secretary of State of Culture, the Olympics, Media and Sport to BBC Chairman Sir Michael Lyons, 21 October 2010

¹²¹ BBCGR 1

¹²² Q 567 and House of Commons Culture, Media and Sport Committee oral evidence session with Sir Michael Lyons, Chairman of the BBC Trust and Mark Thompson, BBC Director General on the BBC Licence Fee Settlement and Annual Report, 15 December 2010, Q 164

¹²³ Q 36

¹²⁴ Q 203

¹²⁵ BBCGR 1

¹²⁶ The role of BBC International Trustee is currently being advertised by DCMS. Appointments to the BBC Trust are made by the Queen on recommendation of DCMS Ministers through the Prime Minister

¹²⁷ House of Commons Foreign Affairs Committee, Sixth Report of Session 2010–11, *Report on the Implications of Cuts to the BBC World Service*, HC 849

Culture, Media and Sport Committee on ‘The BBC Licence Fee Settlement’¹²⁸ and the House of Commons Welsh Affairs Select Committee on ‘S4C’¹²⁹ have provided valuable contributions to this debate.

103. **Under the recent settlement money from the licence fee will be used to fund important activities such as BBC World Service, S4C and Broadband Delivery UK, which sit outside of the BBC’s core activities. It is therefore necessary that the BBC Trust works together with the relevant bodies in order to identify a governance framework through which these bodies overseeing these activities, particularly BDUK, will be accountable for the way in which they use this funding. We welcome Lord Patten’s comments that the Trust is “sorting through” some of these issues at present and we look forward to the outcome of these discussions.**

Ensuring transparency—the role of the NAO

104. The National Audit Office (NAO) is responsible for scrutinising public spending on behalf of Parliament. The Comptroller and Auditor General, Amyas Morse, is an Officer of the House of Commons. Both he and his staff are totally independent of Government.¹³⁰ As a body which spends £3.5 billion of public money each year, the BBC Trust has a specific duty outlined in the Charter to exercise rigorous stewardship of public money.¹³¹
105. Under the current arrangements agreed between the BBC Trust, the NAO and the Government, the NAO conducts reviews of BBC services as requested by the BBC Trust, although it is not the BBC’s auditor.¹³² The BBC Trust is responsible for determining which areas the NAO should investigate. The NAO reports its findings directly to the BBC Trust, which adds its own (and the Executive’s) comments to the report before presenting it to the DCMS. The DCMS then lays the reports before Parliament. This is a different process from the NAO’s dealings with most other publicly-funded organisations. The rationale for the introduction of this process was to safeguard the BBC’s editorial independence but at the same time to ensure Parliamentary scrutiny of the spending of public monies.
106. However there have been calls recently for reforms to these arrangements. In response to a question from John Whittingdale MP on 28 April 2011 the Secretary of State Jeremy Hunt MP agreed “that the NAO should have unfettered access to the BBC accounts.”¹³³ Jeremy Hunt reiterated this view to us when he said that “when it comes to the NAO, this is another very important way of ensuring that we have accountability that does not undermine the BBC’s independence.”¹³⁴ He continued: “licence fee payers have the comfort of knowing that someone independent is looking at the way the BBC spends their money and coming up with an independent report. To me, that is infinitely preferable and is perhaps the most effective way of

¹²⁸ House of Commons Culture, Media and Sport Committee, Fourth Report of Session 2010–12, *Report on the BBC Licence Fee Settlement and Annual Report*, HC 454

¹²⁹ House of Commons Welsh Affairs Committee, Fifth Report of Session 2010–12, *S4C*, HC 614

¹³⁰ Role of the NAO as outlined on the NAO website: http://www.nao.org.uk/about_us.aspx

¹³¹ Section 23 (d) of the BBC Charter

¹³² For the Annual Report 2010/11 KPMG Plc were the Statutory Auditors for the BBC. Part 2, BBC Executive, Summary financial and independent auditor’s statements of the BBC Annual Report 2010

¹³³ Oral question on BBC Expenditure, 28 April 2011, col. 332

¹³⁴ Q 603

- ensuring accountability. NAO access is something that the BBC should wholeheartedly welcome.”¹³⁵ Tessa Jowell MP told us that: “If I was Secretary of State now, I would support access by the NAO to the BBC.”¹³⁶
107. We understand that there is now an agreement in principle between the BBC Trust and the Government that this should happen, however negotiations are ongoing as to the terms of NAO access. The present Secretary of State told us that he hopes that these discussions will be completed by November.¹³⁷ We understand that the NAO is content to participate in this exercise.
108. The principle of the editorial and journalistic independence of the BBC from all outside influence, including that of Parliament through the NAO, or indeed the Department for Culture, Media and Sport is of utmost importance in all dealings between the BBC and outside organisations. Mr Hunt pointed out the importance of BBC independence when it comes to financial accountability, saying that: “I have always agreed with the BBC that there should be a red line on NAO access, so that it should not in any way impinge on editorial independence or the ability of BBC journalists to do their job in scrutinising the Executive. I have always said that the terms of the NAO access must protect the vital ability of BBC journalists to do that. But beyond that, I think the BBC should be relaxed about letting the NAO do the investigations that it wants to do and extending them full co-operation. In the end, that is a much more effective way of having real accountability.”¹³⁸ The results of this would be “with full transparency that their licence fee pounds will go a lot further, because inside the organisation they will inevitably take much more care over how they spend it.”¹³⁹
109. Jon Zeff, Director of Media at DCMS told us that: “I do not think it should be a threat to the BBC’s independence or creativity. One clear part of the settlement is that the NAO will not get involved in considering or examining the merits of editorial judgment and that it will steer clear of areas that would impact on the editorial independence of the BBC. Really, this is about value for money and scrutiny, and in that sense I think it should be a helpful arrangement.”¹⁴⁰ The RadioCentre welcomed the calls for the NAO to have greater access to the BBC “... believing that it will result in greater value for money and efficient use of the licence fee.”¹⁴¹
110. On the other hand, Sir Christopher Bland expressed his concern that if the Public Accounts Committee of the House of Commons were able to call the BBC to account through the NAO then that might hamper BBC’s impartiality. He said that: “the House of Commons is deeply attracted to getting its hands on the BBC and I think there are dangers if it uses the NAO in an inappropriate way.”¹⁴²
111. It must remain clear to all those involved that matters concerning the journalism, creativity and editorial independence of the BBC must remain entirely out-with the jurisdiction of the NAO. However it appears to us that three issues have yet to be resolved in the current negotiations. The first is

¹³⁵ Q 603

¹³⁶ Q 58

¹³⁷ Q 606

¹³⁸ Q 604

¹³⁹ Q 608

¹⁴⁰ Q 93

¹⁴¹ BBCGR 19

¹⁴² Q 36

the process to decide which issues should be considered by the NAO. Lord Patten told us that: “I think the only reservation I would have, and I hope we will be able to sort this out reasonably quickly, is that the arrangements for a programme of NAO studies should be made in such a way that it does not become too reactionary to whatever is in the public print.”¹⁴³ He added “I think it needs to be a planned programme, but one that can of course be operated flexibly and added to if necessary.”¹⁴⁴

112. Amyas Morse, the Comptroller and Auditor General, told us that: “In general, it would be normal good practice to discuss that programme with management and the board, if appropriate; listen to what they would like us to look at and, as far as possible, to agree that that programme is reasonable. That is our normal practice in any situation.”¹⁴⁵ However he went on to say “So if a significant risk falls in or there is a problem that was not foreseen where quite obviously there is an expectation that you will make some examination of it, then you may have to change that plan from time to time. That is, again, perfectly normal, but you do that with a reasoned dialogue with the people who are in charge of the organisation concerned.”¹⁴⁶
113. Against this background we understand the Comptroller and Auditor General’s desire to be able to conduct relevant reviews of how the BBC ensures that it delivers value for money in all of its work but it must be recognised that the NAO is not the BBC’s auditor and nor can it have a say on journalism and other content issues in which the BBC must remain independent. We were grateful for the Comptroller and Auditor General’s acceptance of this and we note his acknowledgement when asked whether he felt that the NAO had the same skill in the evaluation of the quality of investigative journalism or the balance of impartiality as the BBC Trust. He said that: “No, I do not think we do and I would not pretend that for a minute. We do not regard ourselves as in a position to second-guess the BBC’s decisions on things of that sort, no. I would not say that. But that is not what I am there for, frankly. I would not regard that as part of my mission at all.”¹⁴⁷ His role is to evaluate value for money for how the BBC functions and not in respect of its actual outputs.
114. **We recommend a process whereby the NAO will agree on a work plan in advance with the BBC Trust as is the case with many other organisations which are audited by the NAO. If an issue arises during the period of the work plan there is no reason why it should not be included in future agreed work-plans if it is still considered significant by the time the next work-plan is discussed. This would address Lord Patten’s concerns that the NAO should not be too reactive in responding to short term media attention while recognising the NAO’s need for some flexibility. The period for which those work plans apply and the extent to which there are opportunities for work plan review is a matter to be agreed between the BBC Trust, the Government and the NAO.**
115. The second issue being discussed between the Trust, the NAO and DCMS is the right of access to information. In September 2010 Amyas Morse wrote to

¹⁴³ Q 704

¹⁴⁴ Q 704

¹⁴⁵ Q 689

¹⁴⁶ Q 689

¹⁴⁷ Q 729

the Secretary of State saying that he needed a right of access to information held by the BBC. Mr Morse wrote that he did not presently have such a right and that the BBC regularly argued that information was commercially sensitive or related to areas of editorial judgement.¹⁴⁸ Mr Morse told us that there had been disagreements between the BBC and the NAO about how the Data Protection Act should be interpreted and that the BBC was often slow in providing information requested by the NAO. He added that in two studies which they had wanted to make the BBC delayed giving the information needed for eight months and for ten weeks respectively.¹⁴⁹

116. **It is important that the Comptroller and Auditor General has the necessary information to conduct its reviews into how licence fee money is spent by the BBC. There should not be any unnecessary delays in the time it takes the BBC to provide this information as long as there is no question of threatening its editorial independence and journalistic integrity.**
117. The third issue is the way the NAO reports its findings to the BBC Trust and the way in which this information is published. The Comptroller and Auditor General told us that, under the current system, the BBC is afforded much more of an opportunity to comment on the NAO's report before it is laid before Parliament than any of the other organisations which it reviews. Mr Morse told us that: "This is what a report looks like ... It contains, first of all, a foreword with a commentary on our report by the BBC Trust, generally about three pages; then commentary from the BBC executive, generally about five pages. So generally the word count is about 50% of the size of the report itself, which comes third in the document after you have read the comment of the trustees and the rebuttal of management or the comment of management. So that is what normally happens. Once they are prepared all these comments are appended and then it is up to the Department for Culture, Media and Sport to arrange to lay them in Parliament. The delay between our finalising our report and it being laid in Parliament can be quite extensive. It has been up to four months. So if you are sitting at the PAC interested to see this report, you may be waiting a fair time before you see it."¹⁵⁰
118. **We believe that the BBC Trust and Executive should continue to be afforded the right to comment on NAO reports prior to their publication. However, the BBC must ensure that it is sensitive to the timings of publication and to the level of input which it adds. We do not believe that it is acceptable for the BBC unduly to delay the publication of an NAO report by a couple of months either by withholding information or by delaying report publication. We also urge the BBC to reconsider the length of the Trust's and the Executive's commentaries which are included as a preface to NAO reports when published.**
119. When questioned about the process of the negotiations between the BBC Trust and the Government about NAO access to the BBC, Diane Coyle, Vice-Chairman of the BBC Trust, told us that: "There is an issue of independence ... Our responsibilities are set out in the Charter during the Charter period. So, there is obviously a certain line at which we will hold that, but I think that there is far too much over-excitement about these

¹⁴⁸ BBCGR 20

¹⁴⁹ Q 721

¹⁵⁰ Q 711

debates and I am sure that we will reach a satisfactory agreement.”¹⁵¹ Given this, we are surprised that these issues remain unresolved.

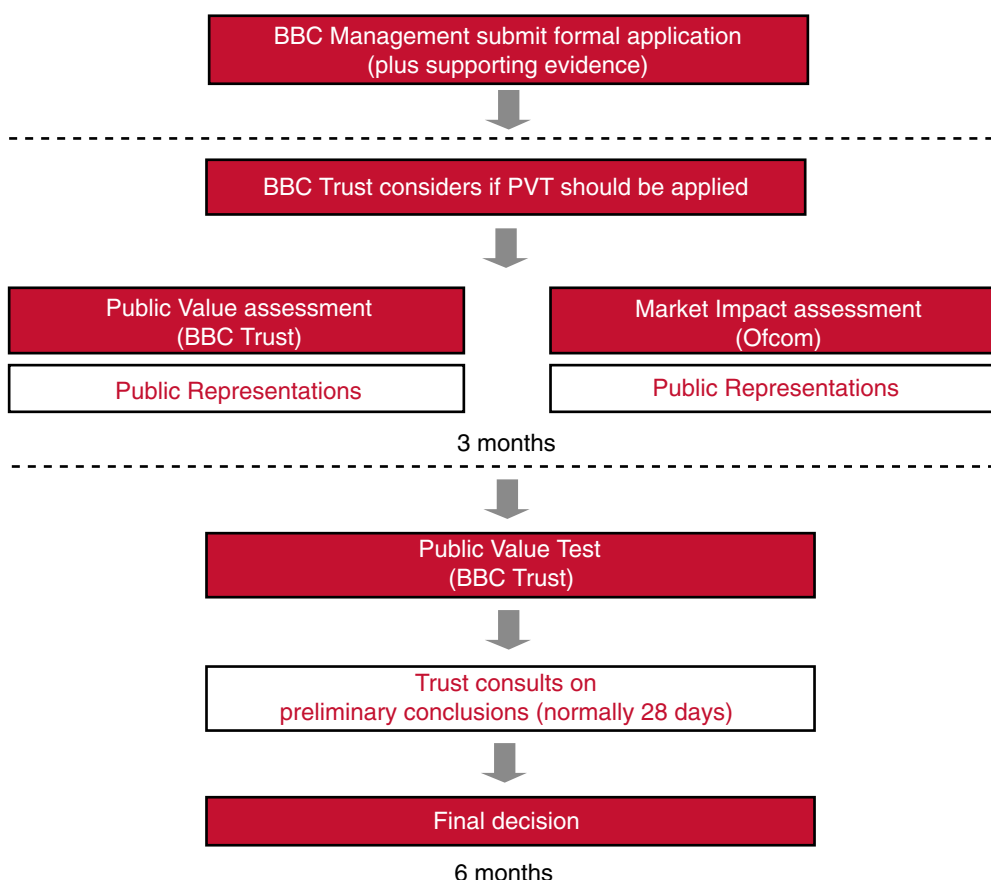
120. **The NAO should be able to enquire into the manner in which the BBC conducts its own business insofar as it does not comment on any broadcast content or journalistic matters which must be entirely off limits. We recommend that the BBC Trust, the Government and the National Audit Office continue to work together to agree on terms of access for the NAO to the BBC. We encourage these discussions to continue as a high priority for all parties involved and we hope that a resolution can be found well in advance of the deadline of November 2011, as set out by the Secretary of State. We also seek assurances that the Trust has full access to information from the BBC Executive.**

Decision making and the public value test

121. Public Value Tests (PVTs) were introduced in 2007 as a way for the Trust to evaluate BBC proposals for new services or significant amendments to existing services. There is no definition of what constitutes a service in either the BBC Charter or the Communications Act 2003. The first stage of this process is therefore for the BBC Trust to determine whether a proposal put to it by the Executive constitutes a service and if so, to initiate a PVT. Public Value Tests are then conducted under the process outlined in Figure 5 below.

FIGURE 5

Summary of the BBC Public Value Test process



Source: BBC Trust PVT Guidance Notes

122. Media commentator Steve Hewlett told us that “the public value test process has, for the first time, brought real rigour and a degree of openness to the consideration of the BBC’s imperial tendencies, which have been thwarted not least by their own efforts.”¹⁵² Neil Midgley, Assistant Editor (Media) at the Daily Telegraph agreed that the system of Public Value Tests had “worked well”¹⁵³ and Professor Richard Collins said that PVTs had “helped increase transparency in the management and governance of the BBC.”¹⁵⁴ Media commentator Ray Snoddy told us that “at least there is a process, as opposed to everything just being nodded through. Whatever the BBC wanted to do, it could do in the past.”¹⁵⁵ Since 2007, the Trust has completed four PVTs. “In three cases, it has approved the Executive proposal, subject to conditions that are designed to ensure the optimum balance between the public value and market impact. In one case (local video proposals) the Trust rejected the Executive’s proposal.”¹⁵⁶
123. However, some of the BBC’s commercial competitors—Virgin Media and the RadioCentre—were critical of the BBC Trust for failing to conduct a PVT for Project Canvas, now YouView.¹⁵⁷ Sir Michael Lyons explained that this was because Project Canvas was not considered to be a service and therefore a full PVT was not conducted.¹⁵⁸ He stressed that the proposal was subject to a “non-service approval” test for which “the only difference is that instead of asking Ofcom to do the market impact analysis, we commissioned that market impact analysis ourselves at a lower cost.”¹⁵⁹ Ed Richards, Chief Executive of Ofcom, told us that: “I suspect, if you looked at it, it might have taken as long as a public value test would have taken in the first place.”¹⁶⁰ Mr Richards said that he did not know whether it was cheaper for the BBC Trust to conduct a Market Impact Assessment than for Ofcom to do so.¹⁶¹
124. Neither the BBC Charter, the Agreement or the Communications Act 2003 provide a definition of what constitutes a new BBC service. The BBC Trust confirmed that the Agreement does not provide a hard-edged definition of a service because when the Agreement was being drafted it was recognised that the concept of a service is multi-faceted, especially in the audio-visual sector. Likewise, there is no general definition of a service in the Communications Act 2003.¹⁶² The Trust added that: “Arguably, this approach provides an important flexibility to ensure that the Trust’s supervision of the Executive is based on principle but is not constrained by unnecessary attention to semantics.”¹⁶³ The BBC Trust did identify three characteristics of a service as outlined in Clause 18 of the Agreement between the BBC and the Government. These are:

¹⁵² Q 4

¹⁵³ Q 17

¹⁵⁴ BBCGR 2

¹⁵⁵ Q 17

¹⁵⁶ BBCGR 3

¹⁵⁷ Q 109

¹⁵⁸ Q 154

¹⁵⁹ Q 154

¹⁶⁰ Q 542

¹⁶¹ Q 541

¹⁶² BBCGR 8

¹⁶³ BBCGR 8

- a presumption that an activity involving selecting, commissioning, scheduling and distributing content is a service;
- a recognition that an important function of the service licence is to provide clarity for licence fee payers, and reflect their likely perceptions and expectations;
- a recognition that another important function of the service licence is to provide certainty to others in the market.¹⁶⁴

125. **The Public Value Test process provides a useful means through which the BBC Trust is able to assess recommendations for new services and significant changes to existing services put forward by the BBC. However there is lack of clarity as to what constitutes a service and therefore what should be subject to a full PVT prior to approval. At present, this remains at the discretion of the BBC Trust. We recommend that the BBC Trust and Ofcom work together to agree on a suitable definition for a BBC service or some other solution which would provide much-needed certainty about when a PVT, with a market impact assessment by Ofcom, is triggered.**
126. In summary we believe that taken together our proposals on complaints procedures, quota setting, compliance, corporate governance, financial transparency and the public value test are a pragmatic package of practical and achievable recommendations. Lord Patten's meetings with the BBC Executive and Ofcom offer the first real opportunity since the creation of the Trust to review the 'distribution of responsibilities' as envisaged by the then Secretary of State in 2005. This could and should be done without amendments to the current Royal Charter. We urge the Trust and Ofcom, supported by DCMS, to be flexible and creative in discussing reforms which would provide extra clarity to the benefit of licence fee payers.
127. In particular, our proposal for establishing a new 'BBC first, Ofcom last' complaints procedure for all programme standards and our options for clarifying the regulatory role in impartiality and accuracy would appear to have advantages to the Trust. Focussing the Trust on governance rather than on regulation would help clarify the relationship between the Trust and the BBC Executive, enabling the two bodies to work together more closely when necessary. This would also enable a sufficiently close relationship between the Trust and Executive to encourage the close working between the Chairman and Director-General which a number of witnesses told us was crucial for enabling the BBC to operate at its best.¹⁶⁵
128. Figure 6 illustrates the direction which informs our recommendations on how these issues of governance and regulation might be reassigned between the BBC Executive, the BBC Trust and Ofcom in order to provide clarity and to enable appropriate scrutiny. Specifically, our recommendation for clarity on the role of the Non-Executives of the Executive Board provides an opportunity for realigning responsibility for corporate governance towards the BBC Trust. If agreement was reached between the Trust and Ofcom on impartiality and accuracy this could help redirect the main remaining regulatory function from the Trust, allowing it to focus on governance. Our recommendation for a review of how BBC quotas are decided provides an

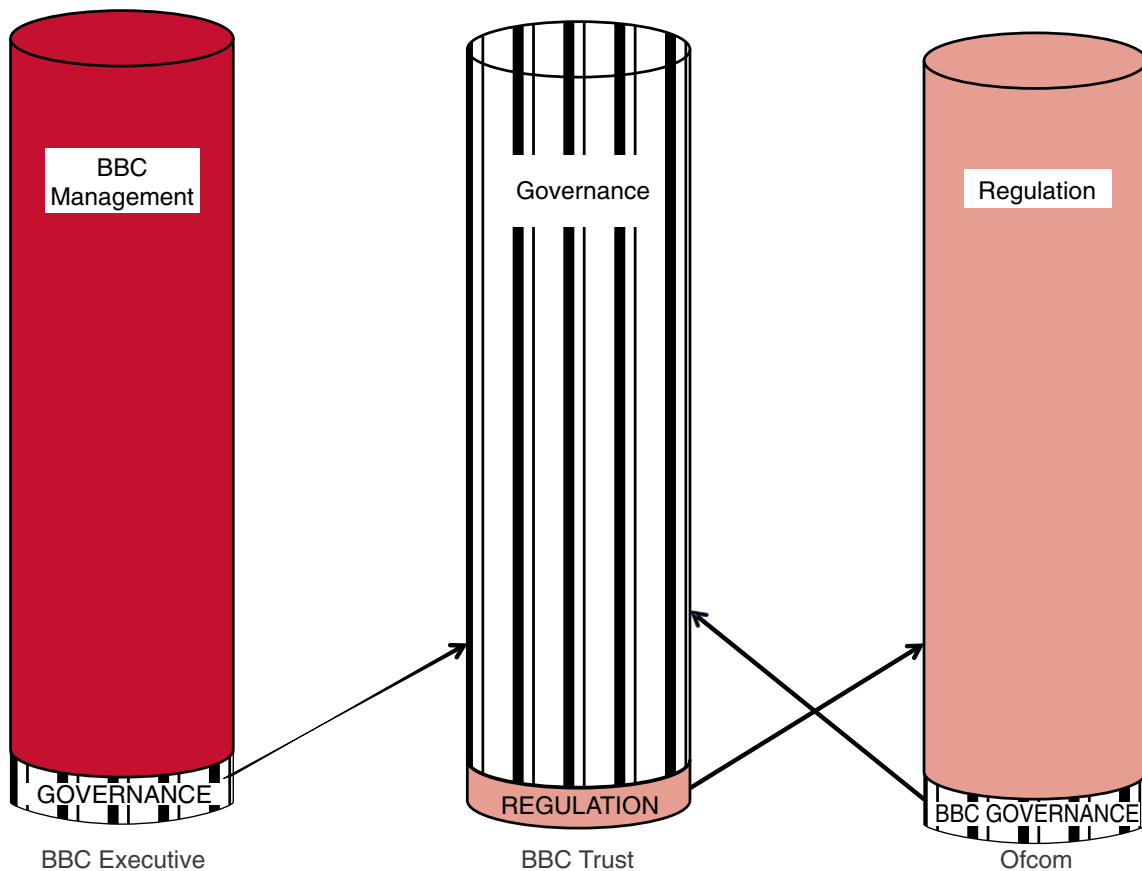
¹⁶⁴ Clause 18 of the Agreement between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, July 2006

¹⁶⁵ QQ 473, 560

opportunity to transfer from Ofcom to the Trust this area of BBC governance.

FIGURE 6

Suggested changes to the governance and regulation of the BBC



129. This modest redistribution of responsibilities between the BBC Trust, the BBC Executive and Ofcom would clarify the role of the BBC Trust and enable it to concentrate on its governance function at these important times for the BBC thereby strengthening the BBC as a whole and UK broadcasting in general. The 'cheerleader/regulator' dichotomy should be consigned to history.

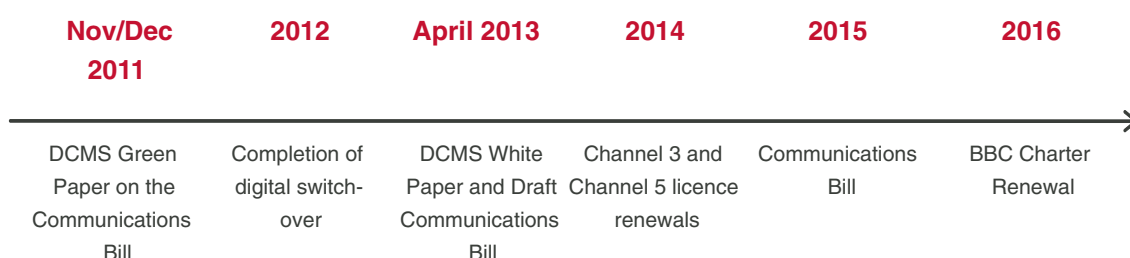
CHAPTER 4: PART 2—ISSUES OUTSIDE LORD PATTEN'S CURRENT REVIEW

Future public policy arising from developments in the wider broadcasting landscape

130. Within the next few years important decisions about the BBC will have to be addressed in the context of other regulatory changes such as the Channel 3 (ITV, STV, UTV and Channel TV) and Channel 5 licence renewals in 2014—with important implications for the future of public service broadcasting outside the BBC—and what is likely to be a wide-ranging new communications bill which is due to be in place by the end of this Parliament.

FIGURE 7

Timeline of future regulatory changes



Source: DCMS, BBC Charter and Ofcom

131. The role of the BBC has changed significantly since the early days of the Corporation when it was the monopoly UK broadcaster. With the growth of the internet and related media and the completion next year of digital switch over (DSO) the BBC's future looks to be set increasingly within a context of digital media. Indeed, one of the BBC's six public purposes is: "delivering to the public the benefit of emerging communications technology services."¹⁶⁶ Before the current Royal Charter comes expires in 2016 consideration will have to be given to what these developments actually mean for the services which the BBC should be providing.
132. Two witnesses stressed the importance of considering that role within the wider picture. Lord Birt told us that although the governance of the BBC was an important matter there were other issues that matter too and "frankly ought to be much more on the agenda."¹⁶⁷ Referring to the need for a new communications bill, issues around online, and the "rapid decline" of public service broadcasting outside the BBC, Lord Birt said that "there are quite a lot of questions that we need to resolve before we then ask ourselves: what is the right architecture for regulating media more generally, for regulating public service more generally, if that is what we want to do." He believed that there was a need to have a "tailored focus on the BBC" but that this should come as the third question in order.¹⁶⁸
133. Dr Bowe, Ofcom Chairman, told us that "there are several interconnected things that have to happen, but also because they are happening against the background of enormous change in the sector. I think there is an extremely

¹⁶⁶ Section 4, BBC Charter 2006

¹⁶⁷ Q 373

¹⁶⁸ Q 373

strong case for us—and when I say ‘us’ I mean collectively—to slightly stand back and say ‘What does it mean for our traditional ways of looking at the BBC Charter, the ITV licences, etc ... I do not honestly feel that we are exactly there yet in having that sort of national debate.’¹⁶⁹ Dr Bowe continued “I think we have to have a very thorough understanding of all of those issues before we can start saying, ‘Let’s have some legislation’.”¹⁷⁰

134. On 16 May 2011, in advance of the Green Paper which is expected at the end of this year, the Government launched a consultation about the future of communications regulation.¹⁷¹ The consultation is focussing on three key themes:
- Growth, innovation and deregulation;
 - A communications infrastructure that provides the foundations for growth; and
 - Creating the right environment for the content industry to thrive.
135. We encourage the Government, as part of its policy thinking behind the new communications bill, also to consider what implications this might have on the BBC Charter renewal process which will be taking place at around the same time. It may be difficult to resolve new Channel 3 and Channel 5 licences when there is uncertainty concerning the extent to which forthcoming legislation might change the broadcasting landscape. We note that as has happened in the past, the Government might wish to consider a temporary roll-over of the Channel 3 and Channel 5 licences in order to align the process with the timings for the new communications bill.
136. **We welcome the Government’s consultation as the ‘first step’ to the communications bill and support the wide-ranging review ahead of the Green Paper which is due to be published later this year. We see this as a useful start to discussions on the content of a future communications bill. We invite everyone in the industry and in particular the BBC Trust to respond to this review. We encourage the Government to conduct a comprehensive overview of the broadcasting industry to link the preparation of the next communications bill to the renewal of the Channel 3 and channel 5 licences in 2014 and the expiry of the current BBC Charter in 2016. Unless this is done the sector risks additional complexity and confusion.**

Accountability

137. In our call for evidence (Appendix 3) we signalled our interest in the issue which underlies the governance and regulation of the BBC—the accountability of the BBC in general and the BBC Trust in particular. We have therefore examined and explored what are regarded as the basic tenets of the BBC: the significance of ‘licence fee payers’; the supremacy of the Royal Charter; and the BBC’s independence from Government. We have discovered that all three are more complex than commonly understood and

¹⁶⁹ Q 537

¹⁷⁰ Q 538

¹⁷¹ A Communications Review for the Digital Age, an open letter from the Secretary of State to all those who work in fixed or mobile communications, television, radio, online publishing, video games, and other digital and creative content industries, 16 May 2011

we set out our findings in the hope that they will inform future debates on these important concepts.

(i) Accountability to licence fee payers

138. Throughout this inquiry many people with whom we have spoken have used the term ‘licence fee payer’ to describe those to whom the BBC Trust is accountable. Section 57 of the Charter states that: “a reference to a ‘licence fee payer’ is not to be taken literally but includes, not only a person to whom a TV licence is issued under section 364 of the Communications Act 2003, but also (so far as is sensible in the context) any other person in the UK who watches, listens to or uses any BBC service, or may do so or wish to do so in the future.”
139. A number of issues have arisen around the BBC’s accountability and how the BBC Trust fulfils its duty as the guardian of the licence fee. Given the broad definition of licence fee payers in the Charter it is difficult to work out exactly how the Trust ensures that it is accountable to them. When we sought clarity from Sir Michael Lyons on how exactly the views of licence fee payers were represented he told us “That is a challenge is it not? Does the Trust have a way with engaging with the 25 million households who pay their licence fee? That is a difficult process, although no more difficult than it is for anyone else who seeks to engage and represent the public. There are no simple solutions to this.”¹⁷² Lord Patten explained that “there is an elaborate set of arrangements for audience councils, for opening ourselves up to the public.”¹⁷³ However it is not very clear how the BBC can in any formal way be answerable to its audience. The Trust told us that licence fee payers’ wishes are also determined through surveys and the collection of data on viewer’s opinions and also by the Trust considering serious complaints about the BBC. Certainly the BBC will be given a message about the quality of its service if its audience evaporates or increases in size.
140. In practical terms, the licence fee is a tax on television usage which is set by Government following a settlement negotiation with the BBC and is collected by an agent, TV Licensing, on behalf of the BBC. Licence fee revenue is then paid into the Treasury and the Government then pays an annual block grant back to the BBC to fund its services. Parliament does not vote money directly to the BBC. Instead Parliament votes an aggregate amount to DCMS and DCMS passes on to the BBC the grant in aid that equates to the licence fee collected and surrendered to the Consolidated Fund. It is the BBC that bears the risk around the collection of the licence fee if, for instance, collection rates are higher or lower than anticipated at the time of the settlement.
141. The process by which the Government and the BBC reached the recent licence fee settlement in October 2010 raises issues about the role of the Trust as the guardian of the licence fee and the public interest. The negotiation of the settlement was conducted under a very tight time-frame in order to reach a settlement alongside the Government’s Comprehensive Spending Review. Sir Michael Lyons told us that the Trustees had several discussions about the negotiation of the licence fee settlement as it evolved over several days.¹⁷⁴ However it is clear that such was the pace of the

¹⁷² Q 133

¹⁷³ Q 577

¹⁷⁴ QQ 148–150

negotiations and the secrecy surrounding them that licence fee payers were not even aware of the options being considered until after they had been decided between the two parties. There was no opportunity for licence fee payers or anyone else for that matter to put their views to the Trust before the settlement was agreed. The House of Commons Culture, Media and Sport Committee has since concluded that: “it is vitally important that both licence fee payers and Parliament should have some involvement when far-reaching decisions about funding ... are taken.”¹⁷⁵ They recommended that this year’s process “should not become a model for the next round of licence fee negotiations for the post 2016–2017 period.”¹⁷⁶ We strongly support this view.

(ii) Accountability to Government

142. The Charter says that “The BBC shall be independent in all matters concerning the content of its output, the times and manner in which this is supplied, and in the management of its affairs.” However, as the recent licence fee settlement process has demonstrated, the elected Government of the day is not without ways of influencing the course of events at the nation’s largest broadcaster. In addition to setting the size of the licence fee it has now been demonstrated that the Government can determine the use of the licence fee revenue beyond BBC core services, sometimes funding activities such as the BBC World Service and S4C which were previously funded from the Foreign and Commonwealth Office and the Department for Culture, Media and Sport’s grants. In advance of the licence fee settlement the BBC had committed a figure of up to £25 million pounds in capital costs in support of the Secretary of State’s plans for Local TV. The House of Commons Culture, Media and Sport Committee has concluded that it remained “to be demonstrated that the admittedly modest funds the BBC has undertaken to commit represent good value for the licence fee payer.”¹⁷⁷
143. Approximately every ten years the government of the day decides the Royal Charter. Each Charter contains a sunset clause and the government of the day decides the terms for the next Charter which is put into effect through the Privy Council after a debate in each House of Parliament. This in turn only comes into effect when the Trust agrees to a fresh agreement with the government. Thus the Agreement, which is also debated in Parliament with the Charter, sets the working relationship between the two of them and gives the Government real but circumscribed power and influence over the Corporation. This does not amount to control but equally it does not mean the BBC is entirely master in its own house. All Trustees, including the Chairman, are recruited through a process which is managed by DCMS, then appointed by the Privy Council. The BBC Trust is accountable to Government through its Annual Report and Accounts which it is required to submit to the Secretary of State, who then tables it before Parliament.¹⁷⁸ When the BBC Executive prepares its accounts it must comply with any directions which may, after consultation with the BBC, be given by the Secretary of State and the Foreign Secretary on the information to be given in the accounts. If the BBC wishes to close one of the World Service’s

¹⁷⁵ House of Commons Culture, Media and Sport Committee, Fourth Report of Session 2010–12, *BBC Licence Fee Settlement and Annual Report*, HC 454

¹⁷⁶ *Ibid.*

¹⁷⁷ *Ibid.*

¹⁷⁸ Section 45 (10) of the Charter

language services it must have the written permission of the Foreign Secretary. The BBC's real journalistic and editorial independence from government is admired and envied by broadcasters around the world; many of them do not enjoy this privileged good fortune. What makes the British model, some might say the British compromise, so distinctive is the delicate balance between the BBC and government and the wide-ranging political and popular consensus supporting this independence. This, as much as the constitutional detail of how it is achieved, is the real basis for having an independent BBC set in the public sector as regards its general strategic *modus operandi*, but out with its journalistic output.

144. As has been explained there is always the possibility of amending the Charter, and the Agreement between the BBC and the Government is regularly changed. This obviously exercises its own pressure on the relationship between the BBC and the Government. Furthermore, for as long as the concept of the BBC's independence is securely established in the public's mind this in turn exercises its own discipline on the Government of the day. Nevertheless, the amendability of the Charter combined with the changing tides of public attitudes means that the independence of the BBC may not be as secure or as entrenched as many people suppose. It is therefore very important that both the Government and the BBC commit themselves to follow not just the letter but the spirit of the constitutional arrangements which define and underpin the BBC's ongoing independence'

(iii) Accountability to Parliament

145. The complex nature of the relationship between the BBC and the government of the day gives additional importance to the relationship between the BBC and Parliament, where many voices are heard in addition to those of Government. The BBC Trust's written evidence states unequivocally that: "the BBC Trust is directly accountable to the licence-payers, not to Parliament."¹⁷⁹ The then Chairman of the Trust, Sir Michael Lyons, gave his own interpretation of whether parliamentary accountability exists when he told the House of Commons Culture, Media and Sport Committee in December 2010 that the BBC "is independent, but it is independent within a democratic system where everything is subject to the overview of Parliament."¹⁸⁰ When we sought further clarity on the issue of accountability to Parliament Mark Thompson told us that: "I think that it is very clear, which is that the Royal Charter delegates the task of holding the BBC to account to the BBC Trust, explicitly"¹⁸¹ adding that: "this is not to say that there should not be interactions with Parliamentarians and Parliamentary Committees."¹⁸² The Secretary of State pointed out that "Committees like yours are able to summon the Chairman of the BBC Trust and the Director-General of the BBC."¹⁸³
146. Sir Christopher Bland reflected that the BBC "should not be accountable for its output, but I think it has to give account to Parliament, which after all is master of all, as to how it is doing its job. It cannot effectively do that to the

¹⁷⁹ BBCGR 3

¹⁸⁰ House of Commons Culture, Media and Sport Committee oral evidence session with Sir Michael Lyons, Chairman of the BBC Trust and Mark Thompson, BBC Director General on the BBC Licence Fee Settlement and Annual Report, 15 December 2010, Q 158

¹⁸¹ Q 307

¹⁸² Q 308

¹⁸³ Q 587

licence fee payer because the licence fee payer is not organised to put the Trust under scrutiny.”¹⁸⁴ We are attracted to Sir Christopher’s distinction between the BBC not “being accountable for its output” but “giving account to Parliament.” There is also a distinction to be drawn here between institutional and editorial independence. It is certain that on the one hand the editorial independence of the BBC needs to be maintained however on the other there is a question over whether there should be some institutional accountability.

147. We noted with interest UTV’s evidence that: “Parliamentary Select Committees play a particularly important role in holding the BBC Trust to account. There is scope for Parliament to make greater use of these Committees in order to scrutinise the BBC’s fulfilment of its Charter and remit.”¹⁸⁵ The Secretary of State gave an example of a greater use of Parliamentary Committees when he reiterated to us his support for giving Parliament a formal say in who should chair the BBC Trust. He told us that Lord Patten’s pre-appointment hearing with the House of Commons Culture, Media and Sport Select Committee was “... a very welcome innovation. The BBC Trust needs to take the lead on the links between the BBC and Parliament. I think that was a good thing to do.”¹⁸⁶ We consider this process to be very important as it is one of a number of checks on the Government putting a place man in to run the BBC. We welcome the fact that Lord Patten’s appointment was subject to this scrutiny as it assists and underpins his role as Chairman of the BBC Trust. We asked the Secretary of State whether it would also be possible for the House of Lords to have some say in any future appointment of the BBC Chairmanship and we welcome his comment that: “I would be very happy to consider that carefully, because I think both Houses being involved is a good thing and the more parliamentary scrutiny of these important appointments, the better.”¹⁸⁷
148. **Although the wishes of licence fee payers are sought through representative groups and determined by research it is clear that in reality the BBC Trust cannot be directly accountable to individual licence-fee payers. However given its statutory duty as the guardian of the licence fee and the public interest, the BBC Trust should continue to consider how it might provide further transparency and continue to consult with viewers, listeners and users of BBC services so that those who pay for and use the BBC have more of a voice on the sort of services which it provides and its strategy for the future. The two Houses of Parliament and especially their committees are important fora where the views of licence fee payers can be aired given the significant overlap between licence fee payers, who are represented by the BBC Trust, and tax payers, who are represented by Parliament. In this way the BBC can “give account” to Parliament without being “accountable for its output” which would destroy the long-treasured and rightly protected independence of the BBC from political influence.**

¹⁸⁴ Q 49

¹⁸⁵ BBCGR 15

¹⁸⁶ Q 588

¹⁸⁷ Q 589

CHAPTER 5: SUMMARY OF RECOMMENDATIONS

149. We recommend that before 2016, when the current Charter is due to expire, as part of the preparations for the next communications bill the Government considers not only whether the content of the Charter should be amended, but also whether a Royal Charter remains the best mechanism. We consider the Royal Charter, which is subject to review every ten years as specified in the Charter, to be a suitable process for incorporating the BBC. If this is to be followed in future then enhanced transparency in the renewals process should be sought. We acknowledge that Charter renewal may not be the only appropriate method of ensuring the continuity of the BBC. (Para 20)
150. We urge the BBC to consider publishing a similar document on a single page on its website to explain where complainants should go to complain about BBC broadcast content or services. At present, the various processes appear in different sections of the BBC website. We note with approval Ofcom's recent publication of a helpful webpage with an improved explanation of the complaints process from their perspective.¹⁸⁸ (Para 29)
151. It is important that any complaint raised with the BBC Executive should be dealt with in a clear and transparent manner. As a general rule it should not be possible for anyone working for the BBC to quash a complaint before it has been appropriately recorded and the complainant has received an adequate response together with an opportunity to raise the matter with the BBC Trust or Ofcom. (Para 33)
152. We believe that there should be a "one-stop shop" within the BBC where complaints are registered and either dealt with directly or—in the case of more complicated or serious matters—passed on to the relevant department. This would simplify the process for viewers, listeners and users and ensure that the BBC is able to monitor appropriately all of the complaints which it receives. Given the existing BBC structure for managing complaints, we recommend that BBC Audience Services takes on this role and that a process is established whereby all complaints are forwarded on to this department even in cases where the initial complaint is made directly to the programme team. (Para 35)
153. We believe that greater transparency is needed on how complaints are dealt with in cases where complaints are raised simultaneously to the BBC and Ofcom. This is important to provide greater clarity for viewers, listeners and users of BBC services and we encourage the BBC Executive, the BBC Trust and Ofcom to work together to ensure that people wishing to complain about a BBC television or radio service understand the process through which their complaint will be handled. (Para 40)
154. We believe that the BBC and Ofcom should consider drawing up a new Memorandum of Understanding on complaints which requires that all complaints about BBC programmes and services first be considered by the BBC using an improved version of the existing internal process. If complainants are not content with the outcome of that process they should have the right of appeal to the BBC Trust. Only if the complainants are not satisfied with the outcome of this appeal should a complaint about BBC broadcast content be considered by Ofcom. (Para 44)

¹⁸⁸ <http://consumers.ofcom.org.uk/2011/04/how-to-complain-about-television-radio-or-on-demand-services/>

155. We recommend that the BBC Trust and Ofcom work together to resolve the regulation of impartiality and accuracy so that the BBC is no longer its own judge and jury in these matters. In order to aid these discussions we propose three options for consideration by the Trust and Ofcom. The majority of our Committee proposes that Ofcom are given final responsibility for regulating impartiality and accuracy in BBC public service broadcasting content. (Para 54)
156. We believe that the setting of certain BBC quotas is an activity more akin to the BBC Trust's governance functions, such as the service licence process, than to Ofcom's regulatory role. We invite the Trust and Ofcom to consider how the process of quota setting could be improved within the requirements of the Communications Act 2003. (Para 59)
157. We urge the BBC Trust to consider whether there are any ways of minimising the compliance culture within the BBC to reduce bureaucracy in programme making in so far as that is possible to ensure that the BBC's creativity is not compromised. (Para 73)
158. We would welcome clarification on how the BBC monitors and complies with the requirement for impartiality across its non-factual output, particularly in drama or entertainment series which touch on matters of current public concern. (Para 77)
159. We call on the BBC to be vigilant and to continue to ensure that it provides the highest level of impartial and accurate material. We recommend that the BBC, and other broadcasters, consider how they can help viewers and listeners discern whether apparently factual content is an accurate reflection of reality or has been altered significantly or reconstructed in some way. (Para 81)
160. We encourage the new Chairman of the BBC Trust and the Director-General to work closely together in the best interests of the BBC and licence fee payers. (Para 88)
161. Although the Charter allows for the BBC Executive Board to be chaired by a Non-Executive Director, we consider the current practice of making the Director-General of the BBC the Chairman of the Executive Board is a sound one. (Para 90)
162. We recommend that to achieve a proper balance in the experience of the Non-Executives who are responsible for certain governance measures, including setting the salaries for senior BBC Executives, candidates from the public and third sectors should be considered alongside senior business figures when vacancies occur in the future. People with this type of background would be able to provide valuable advice to the Executive Board, including in its preparation of reports to the Trust and more generally. However, we believe that the Non-Executives on the BBC Executive Board should be regarded predominantly as advisers on corporate and management responsibilities advising on business or organisational issues and supporting the Corporation's public service remit on issues such as IT, project management, market conditions, facilities and human resources. Specifically we would welcome improved clarity around the role of the Non-Executives on the setting of executive salaries within a strategy decided by the Trust. (Para 95)
163. Under the recent settlement money from the licence fee will be used to fund important activities such as BBC World Service, S4C and Broadband Delivery UK, which sit outside of the BBC's core activities. It is therefore

necessary that the BBC Trust works together with the relevant bodies in order to identify a governance framework through which these bodies overseeing these activities, particularly BDUK, will be accountable for the way in which they use this funding. We welcome Lord Patten's comments that the Trust is "sorting through" some of these issues at present and we look forward to the outcome of these discussions. (Para 103)

164. We recommend a process whereby the NAO will agree on a work plan in advance with the BBC Trust as is the case with many other organisations which are audited by the NAO. If an issue arises during the period of the work plan there is no reason why it should not be included in future agreed work-plans if it is still considered significant by the time the next work-plan is discussed. This would address Lord Patten's concerns that the NAO should not be too reactive in responding to short term media attention while recognising the NAO's need for some flexibility. The period for which those work plans apply and the extent to which there are opportunities for work plan review is a matter to be agreed between the BBC Trust, the Government and the NAO. (Para 114)
165. It is important that the Comptroller and Auditor General has the necessary information to conduct its reviews into how licence fee money is spent by the BBC. There should not be any unnecessary delays in the time it takes the BBC to provide this information as long as there is no question of threatening its editorial independence and journalistic integrity. (Para 116)
166. We believe that the BBC Trust and Executive should continue to be afforded the right to comment on NAO reports prior to their publication. However, the BBC must ensure that it is sensitive to the timings of publication and to the level of input which it adds. We do not believe that it is acceptable for the BBC unduly to delay the publication of an NAO report by a couple of months either by withholding information or by delaying report publication. We also urge the BBC to reconsider the length of the Trust's and the Executive's commentaries which are included as a preface to NAO reports when published. (Para 118)
167. The NAO should be able to enquire into the manner in which the BBC conducts its own business insofar as it does not comment on any broadcast content or journalistic matters which must be entirely off limits. We recommend that the BBC Trust, the Government and the National Audit Office continue to work together to agree on terms of access for the NAO to the BBC. We encourage these discussions to continue as a high priority for all parties involved and we hope that a resolution can be found well in advance of the deadline of November 2011, as set out by the Secretary of State. We also seek assurances that the Trust has full access to information from the BBC Executive. (Para 120)
168. The Public Value Test process provides a useful means through which the BBC Trust is able to assess recommendations for new services and significant changes to existing services put forward by the BBC. However there is lack of clarity as to what constitutes a service and therefore what should be subject to a full PVT prior to approval. At present, this remains at the discretion of the BBC Trust. We recommend that the BBC Trust and Ofcom work together to agree on a suitable definition for a BBC service or some other solution which would provide much-needed certainty about when a PVT, with a market impact assessment by Ofcom, is triggered. (Para 125)
169. We welcome the Government's consultation as the 'first step' to the communications bill and support the wide-ranging review ahead of the

Green Paper which is due to be published later this year. We see this as a useful start to discussions on the content of a future communications bill. We invite everyone in the industry and in particular the BBC Trust to respond to this review. We encourage the Government to conduct a comprehensive overview of the broadcasting industry to link the preparation of the next communications bill to the renewal of the Channel 3 and channel 5 licences in 2014 and the expiry of the current BBC Charter in 2016. Unless this is done the sector risks additional complexity and confusion. (Para 136)

170. Although the wishes of licence fee payers are sought through representative groups and determined by research it is clear that in reality the BBC Trust cannot be directly accountable to individual licence-fee payers. However given its statutory duty as the guardian of the licence fee and the public interest, the BBC Trust should continue to consider how it might provide further transparency and continue to consult with viewers, listeners and users of BBC services so that those who pay for and use the BBC have more of a voice on the sort of services which it provides and its strategy for the future. The two Houses of Parliament and especially their committees are important fora where the views of licence fee payers can be aired given the significant overlap between licence fee payers, who are represented by the BBC Trust, and tax payers, who are represented by Parliament. In this way the BBC can “give account” to Parliament without being “accountable for its output” which would destroy the long-treasured and rightly protected independence of the BBC from political influence. (Para 148)

APPENDIX 1: SELECT COMMITTEE ON COMMUNICATIONS

The Members of the Committee which conducted this inquiry were:

Lord Bragg
 Lord Clement-Jones
 Baroness Deech
 Baroness Fookes
 Lord Gordon of Strathblane
 Lord Inglewood (Chairman)
 Bishop of Liverpool
 Lord Macdonald of Tradeston
 Earl Onslow (until his death on 14 May 2011)
 Lord Razzall
 Lord St John of Bletso
 Lord Skelmersdale

Stewart Purvis, Professor of Television Journalism at City University London, acted as Special Adviser for this Inquiry.

Declarations of Interest

The following relevant interests were declared:

BRAGG, Lord
Shares in ITV
Independent programme maker, working for BBC and Sky TV
Employee of BBC and ITV in various capacities, 1961–2010

CLEMENT-JONES, Lord
Employee of London Weekend Television, 1980–84

DEECH, Baroness
Governor of the BBC, 2002–06
Daughter a BBC journalist
Family shares in WPP (about £50,000), Reed Elsevier, Walt Disney

INGLEWOOD, Lord
Received two complimentary tickets for BBC Radio 1's Big Weekend at Carlisle Airport, Carlisle, held on Saturday 14 and Sunday 15 May 2011
Chairman, CN Group

LIVERPOOL, Lord Bishop of
Fees for religious broadcasting for ITV, BBC and Sky TV

MACDONALD OF TRADESTON, Lord
Adviser to Macquarie Infrastructure and Real Assets which manages funds with significant investments in the transmission company Arqiva and the broadcast services company Red Bee Media
Employee of Granada Television and Scottish Television, 1967–98

A full list of Members' interests can be found in the Register of Lords' Interests: <http://www.publications.parliament.uk/pa/ld/ldreg/reg01.htm>

PURVIS, Professor Stewart
BBC employee 1969–1972
ITN employee 1972–2003
Member BBC Governors Consultative Committee on World Service 2004–2006

Member BBC Governors Expert Panel on coverage of Israeli-Palestinian conflict 2006

Advisor to Channel Four 2004–2005

Occasional Paid Contributor to various BBC broadcast outlets and websites 2003–2011

Visiting speaker to BBC College of Leadership 2010

Advisor to S4C February 2011

Advisor to BFBS January–May 2011

Ofcom Partner for Content and Standards 2007–2010

Currently making a BBC Radio Four documentary

APPENDIX 2: LIST OF WITNESSES

Written Evidence

Evidence is published online at www.parliament.uk/hlcommunications and available for inspection at the Parliamentary Archives (020 7219 5314).

Evidence received by the Committee is listed below in order of receipt and in alphabetical order. Witnesses without a * gave written evidence only. Witnesses marked with * gave both oral and written evidence. Witnesses marked with ** gave oral evidence and did not submit any written evidence.

Oral evidence in chronological order

- | | | |
|----|--------------|---|
| ** | (QQ 1–27) | Mr Steve Hewlett, Mr Neil Midgley and Mr Ray Snoddy |
| ** | (QQ 28–52) | Sir Christopher Bland and Mr Gavyn Davies |
| ** | (QQ 53–78) | Rt Hon Tessa Jowell MP, Department for Culture, Media and Sport |
| * | (QQ 79–107) | Mr Jon Zeff, Department for Culture, Media and Sport |
| * | (QQ 108–130) | RadioCentre and Virgin Media |
| * | (QQ 131–166) | Sir Michael Lyons, outgoing Chairman of the BBC Trust |
| ** | (QQ 167–196) | Lord Grade of Yarmouth |
| ** | (QQ 197–259) | Ms Diane Coyle and Mr David Liddiment, Trustees, BBC Trust |
| * | (QQ 260–302) | Mr David Henshaw and Mr Tom Roberts |
| * | (QQ 303–358) | Mr Mark Thompson, Director-General, and Mr Marcus Agius, Non-Executive Member of the Executive Board, BBC |
| ** | (QQ 359–396) | Lord Birt |
| ** | (QQ 397–471) | Mr David Jordan, Director of Editorial Policy, and Mr George Entwistle, Director of Vision, BBC |
| ** | (QQ 472–517) | Mr Greg Dyke |
| ** | (QQ 518–552) | Mr Ed Richards, Chairman and Dr Colette Bowe, Chairman, Ofcom |
| ** | (QQ 553–582) | Lord Patten of Barnes, Chairman, BBC Trust |
| * | (QQ 583–632) | Rt Hon Jeremy Hunt MP, Secretary of State for Culture, Olympics, Media and Sport, Department for Culture, Media and Sport |
| ** | (QQ 633–681) | Sir David Attenborough and Professor Brian Cox |
| * | (QQ 682–741) | Mr Amyas Morse, Comptroller and Auditor General, National Audit Office |

Written evidence in order of receipt

- | | | |
|---|-----------|---------------------------|
| | (BBCGR 1) | Sir John Tusa |
| | (BBCGR 2) | Professor Richard Collins |
| * | (BBCGR 3) | BBC Trust |
| | (BBCGR 4) | Ms Fiona Stourton |
| | (BBCGR 5) | Mr David Henshaw |

- ★ (BBCGR 6) Mr Tom Roberts
- (BBCGR 7) Mr Robert Beveridge
- ★ (BBCGR 8) BBC Trust (supplementary)
- (BBCGR 9) International Broadcast Trust
- (BBCGR 10) Incorporated Society of British Advertisers
- ★ (BBCGR 11) BBC Trust (further supplementary)
- (BBCGR 12) Safermedia
- (BBCGR 13) Voice of the Listener and Viewer
- (BBCGR 14) Professor Terry McNulty
- (BBCGR 15) UTV Media
- (BBCGR 16) Migrationwatch UK
- (BBCGR 17) Mrs Sheila Brown
- ★ (BBCGR 18) Department for Culture, Media and Sport
- ★ (BBCGR 19) RadioCentre
- ★ (BBCGR 20) National Audit Office
- ★ (BBCGR 21) Department for Culture, Media and Sport supplementary
- (BBCGR 22) Mr Peter Allam
- (BBCGR 23) Mr Hugh Small
- (BBCGR 24) Mr Ken Rundle
- ★ (BBCGR 25) BBC Executive (supplementary)

Alphabetical Order

- Mr Peter Allam (BBCGR 22)
- ★★ Sir David Attenborough
- Mr Robert Beveridge (BBCGR 7)
- ★★ Lord Birt
- ★★ Sir Christopher Bland
- ★ BBC Executive (BBCGR 25)
- ★ BBC Trust (BBCGR 3, 8, 11)
- Mrs Sheila Brown (BBCGR 17)
- Professor Richard Collins (BBCGR 2)
- ★★ Professor Brian Cox
- ★★ Mr Gavyn Davies
- ★ Department for Culture, Media and Sport (BBCGR 18, 21)
- ★★ Mr Greg Dyke
- ★★ Lord Grade of Yarmouth
- ★ Mr David Henshaw (BBCGR 5)
- ★★ Mr Steve Hewlett
- Incorporated Society of British Advertisers (BBCGR 10)
- International Broadcast Trust (BBCGR 9)
- Professor Terry McNulty (BBCGR 14)
- ★★ Mr Neil Midgley
- Migrationwatch UK (BBCGR 16)
- ★ National Audit Office (BBCGR 20)

- ★★ Ofcom
- ★ RadioCentre (BBCGR 19)
- ★ Mr Tom Roberts (BBCGR 6)
Mr Ken Rundle (BBCGR 24)
Safermedia (BBCGR 12)
Mr Hugh Small (BBCGR 23)
- ★★ Mr Ray Snoddy
Ms Fiona Stourton (BBCGR 4)
Sir John Tusa (BBCGR 1)
UTV Media (BBCGR 15)
- ★★ Virgin Media
Voice of the Listener and Viewer (BBCGR 13)

APPENDIX 3: CALL FOR EVIDENCE

BBC governance and regulation

The House of Lords Select Committee on Communications is announcing today an inquiry into the governance and regulation of the BBC.

In 2005, the House of Lords Communications Committee contributed to the debate around the review of the BBC's Royal Charter and published a report of its findings, details of which are available at:

<http://www.publications.parliament.uk/pa/ld/lldbbc.htm>. It has now been five years since the last review of the BBC Charter and the establishment of the BBC Trust. Given the forthcoming change in the Chairmanship of the BBC Trust and Lord Patten's stated plan to review the relationship between the Trust and the Executive and the Trust and Ofcom in the near future this inquiry will consider the role of the BBC Trust.

The Committee would particularly welcome written submissions on the following issues:

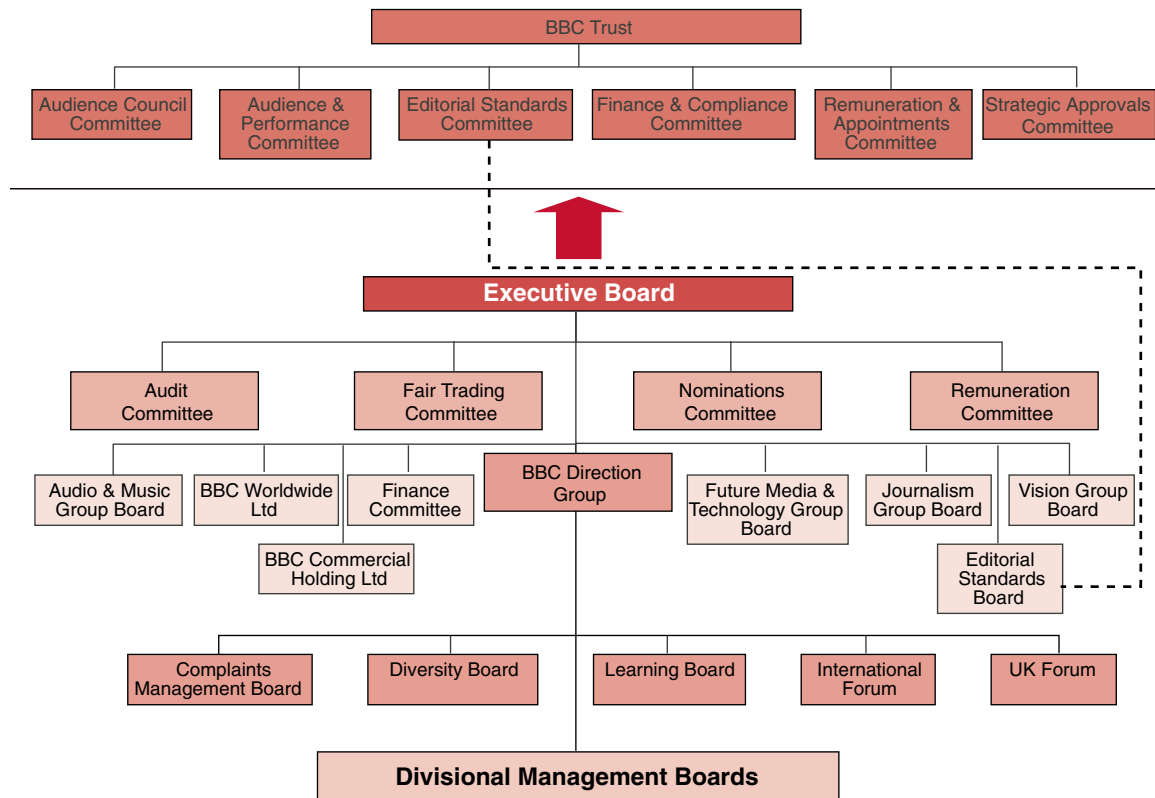
- (1) Are the BBC Trust's duties clear and its tasks the right ones?
 - (a) Is the current allocation of duties sufficiently clear, defined, transparent and well understood?
 - (b) The BBC Trust is now responsible for both the Executive's internal governance and for some of its regulation (including some matters which Ofcom regulates for all other broadcasters). Could the Trust's regulatory responsibilities be better allocated elsewhere? Do other bodies have responsibilities and duties which could advantageously be transferred to the Trust?
 - (c) In particular the regulation of BBC content is divided between the BBC Trust and Ofcom and the procedures for the handling of complaints overlap. Could these arrangements be improved?
- (2) Is the BBC Trust sufficiently independent?
 - (a) Is the BBC Trust independent of Government?
 - (b) Is the BBC Trust sufficiently independent of the BBC Executive?
- (3) How effective are the BBC Trust's processes?
 - (a) Does the Trust have sufficient oversight of BBC management?
 - (b) How effective and transparent is the Public Value Test in assessing proposals for new BBC services?
 - (c) How well does the system of review of existing BBC services by the BBC Trust work?
 - (d) Could the working relationships between the BBC Trust and the BBC Executive Board be improved to the benefit of licence payers and its audience?
- (4) Is the BBC Trust sufficiently accountable?
 - (a) Does the BBC Trust deliver its responsibilities to licence fee payers to ensure that the BBC delivers value for money?
 - (b) Is the Trust's accountability to Parliament adequate?
- (5) How could the governance and regulation of the BBC be improved in the short and long term?
 - (a) Do you have suggestions to improve the governance and regulation of the BBC within the existing Charter arrangements until 2016?
 - (b) Do you have suggestions to improve the governance and regulation of the BBC beyond 2016?

10 March 2011

APPENDIX 4: TIMELINE—A HISTORY OF BBC GOVERNANCE AND TELEVISION REGULATION

Ofcom becomes the communications industry regulator replacing the ITC, BSC and Radio Authority. All broadcasters must comply with the Ofcom Broadcasting Code, with the exception of the BBC on issues of impartiality and accuracy and commercial references, where the Governors retain their regulatory role	Broadcasting Standards Commission (BSC) established in Broadcasting Act to regulate standards and fairness and adjudicate on complaints.	BSB satellite consortium awarded a licence to broadcast by the IBA	The IBA is abolished under the Broadcasting Act and replaced by the Independent Television Commission (ITC) for television (inc. cable) and the Radio Authority for radio. The BBC Governors remain responsible for content on the BBC	Channel 5 established	BBC Trust replaces the Board of Governors following Charter review. BBC Trust retains regulatory powers over impartiality and accuracy and commercial references on the BBC	ATVOD established as co-regulator (with Ofcom) for "TV-like" on demand services			
1927	1954	1982	1984	1988	1990	1997	2003	2006	2010
BBC Corporation established by Royal Charter. BBC Governors responsible for governance and regulation of BBC content	Launch of independent local radio. Independent Broadcasting Authority (IBA) replaces ITA and regulates content on commercial television and radio programmes	First cable television franchises established. Regulated by the Cable Authority	The IBA is abolished under the Broadcasting Act and replaced by the Independent Television Commission (ITC) for television (inc. cable) and the Radio Authority for radio. The BBC Governors remain responsible for content on the BBC	Channel 5 established	BBC Trust replaces the Board of Governors following Charter review. BBC Trust retains regulatory powers over impartiality and accuracy and commercial references on the BBC	Ofcom becomes the communications industry regulator replacing the ITC, BSC and Radio Authority. All broadcasters must comply with the Ofcom Broadcasting Code, with the exception of the BBC on issues of impartiality and accuracy and commercial references, where the Governors retain their regulatory role			

APPENDIX 5: BBC GOVERNANCE STRUCTURE



Source: BBC Trust

APPENDIX 6: HOW TO COMPLAIN ABOUT NON-BBC SERVICES

Which service are you complaining about?	What are you complaining about?	Where to complain
Television programmes on all commercial broadcasting channels	Complaints about standards in programmes, commercial references, fairness and privacy, accuracy in news and impartiality in news and certain other subjects (e.g. public policy)	Broadcaster and/or Ofcom
Radio programmes on all commercial and community radio stations	Complaints about standards in programmes, commercial communications, fairness and privacy, accuracy in news and impartiality in news and certain other subjects (e.g. public policy)	Broadcaster and/or Ofcom
Commercial radio programmes listened to online via RadioPlayer	Complaints about standards in programmes, commercial communications, fairness and privacy, accuracy in news and impartiality in news and certain other subjects (e.g. public policy)	Broadcaster
Television and radio programmes on commercial channels and on community radio stations	Complaints about premium rate services	Phonepay Plus
On-'TV-like' demand services providing programmes (e.g. 4OD, ITV Player)	Complaints about material likely to encourage or incite the commission of crime or lead to disorder	ATVOD
	Complaints about incitement to hatred based on race, sex, Religion or nationality; material that might seriously impair under-18s; and breaches of sponsorship or product placement rules	Service-provider first then ATVOD
Newspapers or magazines	All other complaints	Service provider
Teenage magazines	All complaints about content	Publisher and/or PCC
Advertisements across all media including television, radio, print and online	All complaints about content	Publisher and/or PCC and/or TMAP
Political advertisements on television or radio and some forms of long-form advertising (i.e. teleshopping) concerning adult, psychic and gambling services	All complaints about content	ASA
All television and radio advertisements	All complaints about content	Ofcom
Websites	Complaints about timing	Ofcom
Audiovisual content on newspaper websites	All complaints about content	Website provider
Reporter and newspaper tweets on newspaper websites	All complaints about content	PCC (ATVOD has said that TV-like services on newspaper websites fall within its jurisdiction)
Complaints about matters other than those covered by guidelines or codes	A variety of different issues, for example killing off a cast member in a TV or radio programme, ticketing policy, scheduling matters etc.)	Expected to be brought under the regulation of the PCC later this year BBC

APPENDIX 7: COMPLIANCE CHECKLIST



Television Compliance Form

Version 3.1 valid from February 2011

Programme title:	<input type="text"/>	Programme UID:	<input type="text"/>
Working title:	<input type="text"/>		
Episode / sub title:	<input type="text"/>	Version suffix:	<input type="text"/>

Transmission details (if known)

Channel:	<input type="text"/>	Tx Date:	<input type="text"/>	Tx Time:	<input type="text"/>	Commissioned for:	
----------	----------------------	----------	----------------------	----------	----------------------	-------------------	--

Repeats within 1 month of above TX date (if known)

Channel:	<input type="text"/>	Tx Date:	<input type="text"/>	Tx Time:	<input type="text"/>	<input type="radio"/> Pre-watershed
Channel:	<input type="text"/>	Tx Date:	<input type="text"/>	Tx Time:	<input type="text"/>	<input type="radio"/> Post-watershed
Channel:	<input type="text"/>	Tx Date:	<input type="text"/>	Tx Time:	<input type="text"/>	

Genre and programme summary

BBC Executive Producer

Provide details in the box below (including the BBC complaints ref. no.) if there has been a serious complaint about this programme which may affect its compliance status if repeated. **OTHERWISE LEAVE BLANK.**

Complaints history

Time Codes / Notes

Compliance Questions

	1 - LEGAL ISSUES	<input type="radio"/> Yes	<input type="radio"/> No
	STRONG LANGUAGE / GESTURES		
	2 - Strong, most offensive	<input type="radio"/> Yes	<input type="radio"/> No
	3 - Any other which may offend	<input type="radio"/> Yes	<input type="radio"/> No
	SEX		
	4 - Sexual content	<input type="radio"/> Yes	<input type="radio"/> No
	5 - Sexual innuendo / reference	<input type="radio"/> Yes	<input type="radio"/> No
	6 - Nudity	<input type="radio"/> Yes	<input type="radio"/> No
	VIOLENCE		
	7 - Real life	<input type="radio"/> Yes	<input type="radio"/> No
	8 - Fictional	<input type="radio"/> Yes	<input type="radio"/> No
	9 - Involving children	<input type="radio"/> Yes	<input type="radio"/> No
	10 - Sexual violence	<input type="radio"/> Yes	<input type="radio"/> No
	IMITATIVE BEHAVIOUR		
11 - Drug / solvent abuse	<input type="radio"/> Yes	<input type="radio"/> No	
12 - Suicide / eating disorders / self harm / hanging	<input type="radio"/> Yes	<input type="radio"/> No	
13 - Other potentially dangerous behaviour	<input type="radio"/> Yes	<input type="radio"/> No	
14 - Use of alcohol / smoking	<input type="radio"/> Yes	<input type="radio"/> No	

	PORTRAYAL	
	15 - Disabilities / religious / minorities	<input type="radio"/> Yes <input type="radio"/> No
	16 - Cultural sensitivities	<input type="radio"/> Yes <input type="radio"/> No
	DISTURBING CONTENT	
	17 - Disturbing images / sounds	<input type="radio"/> Yes <input type="radio"/> No
	18 - Disasters / accidents / kidnappings / terrorist acts	<input type="radio"/> Yes <input type="radio"/> No
	19 - Exorcism / occult / paranormal / horror	<input type="radio"/> Yes <input type="radio"/> No
	IMPARTIALITY AND DIVERSITY OF OPINION	
	20 - Personal view / authored	<input type="radio"/> Yes <input type="radio"/> No
	21 - Major controversial subjects / issues	<input type="radio"/> Yes <input type="radio"/> No
	22 - Does it require additional programming?	<input type="radio"/> Yes <input type="radio"/> No
	ACCURACY	
	23 - Reconstructions	<input type="radio"/> Yes <input type="radio"/> No
	24 - Anonymity issues	<input type="radio"/> Yes <input type="radio"/> No
	FAIRNESS AND ACCURACY IN DRAMA	
	25 - Portrayal of real people in drama	<input type="radio"/> Yes <input type="radio"/> No
	PRIVACY	
	26 - Secret recording / webcam / CCTV	<input type="radio"/> Yes <input type="radio"/> No
	27 - Footage of suffering and distress	<input type="radio"/> Yes <input type="radio"/> No
	28 - Door-stepping	<input type="radio"/> Yes <input type="radio"/> No
	CRIME AND ANTISOCIAL BEHAVIOUR	
	29 - Interviews with criminals	<input type="radio"/> Yes <input type="radio"/> No
	30 - Demonstration of illegal activity	<input type="radio"/> Yes <input type="radio"/> No
	EDITORIAL INTEGRITY AND INDEPENDENCE	
	31 - Commercial, sponsor or brand references	<input type="radio"/> Yes <input type="radio"/> No
	32 - Branded products featured	<input type="radio"/> Yes <input type="radio"/> No
	33 - Conflicts of interest: Presenters / guests / production team	<input type="radio"/> Yes <input type="radio"/> No
	POLITICS	
	34 - Opinion polls / surveys	<input type="radio"/> Yes <input type="radio"/> No
	35 - Interview / appearance of party leaders	<input type="radio"/> Yes <input type="radio"/> No
	36 - If yes to 34 or 35, referred to Chief Political Adviser?	<input type="radio"/> Yes <input type="radio"/> No
	OTHER ISSUES AFFECTING TRANSMISSION	
	37 - Public figures - as contributors	<input type="radio"/> Yes <input type="radio"/> No
	38 - Public figures - reference to	<input type="radio"/> Yes <input type="radio"/> No
	39 - Sensitive content issues	<input type="radio"/> Yes <input type="radio"/> No
	40 - Any restriction on re-use?	<input type="radio"/> Yes <input type="radio"/> No
	41 - Flashing lights / Strobing effects which have failed TX review	<input type="radio"/> Yes <input type="radio"/> No

	INTERACTIVITY	
	42 - Competitions	● Yes ● No
	43 – Audience Voting	● Yes ● No
	44 – BBC Awards	● Yes ● No
	45 – Premium Rate Telephony	● Yes ● No
	46 – Non-premium Rate Telephony	● Yes ● No
	47 – If YES to 42-46, has the correct Interactivity Approval Form been authorised by the relevant controller?	
	● Yes ● No	

Content announcement required: ☐Approved by: Suggested wording:

Does programme include:

Telephone number: ☐Website / email / postal address: ☐Programme-related interactive site: ☐**Additional Transmission Recommendation(s)**

If programme includes content about politics, is it appropriate to tx during an election campaign? Give details in the box below.

Other considerations e.g. note if the programme includes violence / offensive language or other strong material in the first ten minutes.

Advice / Approvals / Referrals (in some cases these are MANDATORY)

All mandatory referrals are summarised at the start of each section of the BBC Editorial Guidelines.

Click [Help](#) for check list of all mandatory referrals to Director, Editorial Policy & Standards and enter relevant number(s) in the issues box below.**Mandatory referral to Director, Editorial Policy & Standards required?** ● Yes ● NoIssue: Date Approved: **Other referral to Editorial Policy:** ☐Issue: Name: Date: **Legal:** ☐NB do not detail the legal advice given in the box belowIssue:

Name: Date:

Head of Dept: ☐

Issue:

Name: Date:

Channel Controller: ☐

Issue:

Name: Date:

Production Sign-off

NB: Indie compliance forms must be signed by the independent production company's Executive Producer.

I confirm that I have viewed the programme and the information in this form is full and accurate. The programme has been made and delivered in compliance with the BBC Editorial Guidelines and is suitable for the TX slot(s) stated at the top of this form.

Name:

Position:

Division / Production Co:

Office Phone No /
Email Address:

Mobile Phone No:

Signature
(hard copy only):

Date:



Tick if this programme is suitable for viewing pre-watershed on all linear channels and on Video On Demand services without content "Guidance" labelling.

Check Form

Export Data