

Welsh Government's response to the consultation on the BBC Charter Review

Introduction

The Welsh Government welcomes the opportunity to respond to this public consultation on the BBC Charter Review.

In recent months, Welsh Ministers and officials have liaised closely with the UK Government, to ensure that the Welsh Government is fully involved in the Charter Renewal discussions from the outset. We have signed a Memorandum of Understanding with the UK Government and the BBC, giving the Welsh Government a formal, consultative role in the Charter review, in full parity with arrangements in Scotland and Northern Ireland. The signatories are committed to working with the National Assembly, to develop a further Memorandum that will enshrine the Assembly's ongoing role in the scrutiny and accountability of the BBC in Wales.

Although the Welsh Government has a formal role in the Charter Review, we are pleased to take this opportunity, early on in that process, to set out our observations on a number of the key issues under consideration in the consultation document, in a Welsh context. Our responses to some questions will be more detailed than others; at this stage we intend to focus primarily on:

- the services which the BBC, as the leading Public Service Broadcaster in the UK, should be delivering for Wales;
- the need for it to be properly mandated and resourced to deliver them, and;
- the need to strengthen arrangements for accountability to, and scrutiny by, the nations and regions, including Wales.

It is vital that the new Charter fully reflects the interests of the people of Wales and the current and changing devolved settlement. Wales is a nation in its own right with a unique culture and language. Its bilingual ethos and its nature and history are distinct within the UK; they need to be safeguarded and celebrated.

As reflected in the statement jointly signed by three party leaders in the National Assembly for Wales on 10 July 2015¹, there is significant concern about the challenges facing BBC Cymru Wales and S4C due to funding pressures. This was also reflected in Plenary debate on broadcasting in the National Assembly for Wales on 23 September 2015².

¹ <http://gov.wales/docs/drah/publications/150909-cross-party-statement-en.pdf>

² <http://www.cynulliad.cymru/cy/bus-home/pages/rop.aspx?meetingid=3429&assembly=4&c=Record%20of%20Proceedings#237962>

The Welsh Government and the National Assembly for Wales expect the BBC to stand by its own public statements that the deal announced on 6 July 2015 between itself and the UK Government in relation to the licence fee will be cash neutral for the BBC and will not affect services. The cross-party statement noted assurances from the BBC's management that this 'cash flat' deal will not therefore, impact on budgets at either BBC Cymru Wales or at S4C. We also expect the UK Government to honour the terms of that agreement and not impose further budget cuts or top-slicing of licence fee revenues on the BBC.

The statement expressed concern that neither the Welsh Government nor the National Assembly were consulted before this deal was reached and that it is undemocratic that the UK Government and the BBC made decisions behind closed doors and outside of the BBC Charter renewal process.

Why the BBC? Mission, purpose and values

Q1 How can the BBC's public purposes be improved so there is more clarity about what the BBC should achieve?

The BBC continues to have a crucial role as a Public Service Broadcaster, despite the multichannel world in which we now live and digital developments which have enabled new ways of delivering public service content across the UK.

The role of the BBC is even more important in Wales considering the weakness of the print media. There is limited coverage of Welsh public life and society in UK newspapers and on UK broadcast services, which comprise the main media outlets in Wales. The portrayal of Wales in UK media does not reflect the cultural diversity and richness of the nation.

Effective democracy relies on informed decisions by citizens. Wales has limited news coverage and too few voices, leaving most people dependent on UK news outlets that lack coverage of Wales. Although there is evidence that there have been improvements in the coverage of devolved political issues in Wales since the King Report, there is still room for improvement. The news media provide insufficient or inadequate coverage of Welsh issues and events. Most Welsh people have no easy access to the information and context needed to evaluate the success or otherwise of Wales' institutions.

As reflected in Ofcom's recent review of public service broadcasting, the BBC, as the cornerstone of public service broadcasting, provides the majority of PSB investment and output in Wales. The BBC dominates English-language programmes made specifically for Wales, producing 592 hours in 2013 compared with ITV Cymru Wales' 331 hours. The Welsh Government is naturally concerned that between 2011 and 2013 there was a decline of 101 hours in BBC non-network nations programming, with non-news declining most. However, we recognise that the BBC is still providing the bulk of non-

news non-network programming in Wales, providing 222 hours in 2013 in contrast to 34 hours by ITV Cymru Wales. It is also the most significant provider of non-network television news in Wales and, by a smaller margin, of current affairs programming.

In recent years, the BBC's investment in Wales has reduced, at a time when its investment in Scotland, Northern Ireland and key English regions has increased. Wales has seen a reduction in BBC expenditure and a corresponding fall in GVA from £292 million in 2009/10 to £288 million in 2011/12, while GVA in Scotland increased from £355 million to £410 million and in Northern Ireland from £138 million to £151 million³. It is vital that this is remedied during the next Charter period, with a clearer, stronger remit to deliver for Wales and the other nations.

All of the existing public purposes described in the consultation document are relevant to Wales. It is the view of the Welsh Government that public purposes encompassing citizenship and civil society, education and learning, creativity and cultural excellence, the nations, regions and communities of the UK, the UK's place in the world and the public benefit of emerging communications technologies and services align well with a balanced approach to delivering against Lord Reith's original remit for a Public Service Broadcaster – to 'inform, educate and entertain'.

We do not share the view that these purposes are too broad, nor that they should be reformed to exclude certain activities that some might consider inappropriate for the BBC, for whatever reason. Instead, acknowledging the more competitive and varied environment which now exists, we would be content for more detailed and specific descriptions to be developed of the subjects and activities that should be prioritised under each public purpose - but these should not be considered exhaustive, nor prohibitive by omission.

The evolution of technologies, services and markets over the last Charter period demonstrates that it would be foolish to assume now that we can accurately predict which of the BBC's current activities and services will be most valued by licence fee payers over the next ten years, which may become redundant, which might develop into services best suited to the commercial marketplace, or which yet to be developed services may come to be as important to the BBC's portfolio of services as iPlayer undeniably is today.

Naturally, the fourth purpose *Representing the UK, its Nations, Regions and Communities* is one that is of special interest to us and we will provide detailed information on this under question 7.

³ Source: *The Economic Value of the BBC*, published by the BBC on January 15th 2013 – <http://www.bbc.co.uk/blogs/aboutthebbc/entries/65a7abeb-7e74-3b2f-858e-72786cbc5790>

Q2 Which elements of universality are most important for the BBC?

It is of course true that more and more options have become available over the last Charter period for audiences to watch, read and listen to content; indeed, the BBC has played a key role in the development and promotion of some of these. However, in many cases it is as yet unclear which of these services will mature and stand the test of time and which may fall by the wayside. This evolution in the delivery of content does not mean that the BBC's remit should now be more narrowly focussed on particular or underserved audiences – certainly it would be wrong to incorporate such restrictions into a binding Charter that will be set in stone for a number of years, whilst lives across the UK may be affected by as yet unknowable technological or social change.

The assumption in the consultation document, that the BBC's current approach is to provide programmes and services for all audiences, and on an equal basis, across every platform, seems fundamentally flawed. It is the BBC's job to serve everyone in the UK. However, we would accept that - at a UK level – the BBC does look to identify areas where special attention may be required, plus those where programming and services already exist in sufficient quantity and quality that it would add little value by providing more of the same (notwithstanding the genuine need for the BBC to provide some popular programming with mass appeal, in order to maintain the profile it needs to be effective in its role as the UK's leading Public Service Broadcaster). There is a real issue about inadequate provision of content for the nations and regions, which we will return to later, but that is more about lack of funding than it is about recognising the gap in provision (which the BBC has acknowledged in successive management reports).

These judgements will be required throughout the next Charter period, considering the situation at the time. Of course, it can be argued that the BBC's judgement hasn't always been correct in the past and we would agree that there is room for improvement in both decision making and content regulation. However, in our view the BBC plays a leading role in ensuring universality of provision across the marketplace and in driving up quality across the board, precisely because it has a clear remit to ensure that public service content is available to all.

Q3 Should Charter Review formally establish a set of values for the BBC?

We would support the development of a set of values for the BBC and we agree that the thematic list of potential values at Table 2 in the consultation document is a good starting point. All of these could be included in a new Charter, subject to further development. Issues of independence and impartiality will be explored further in our answers to later questions in this response.

However, in relation to the proposed value that the BBC should be 'diverse / representative', although we support more work to deliver against the priorities described in Box 1 in the consultation document, we are disappointed that no acknowledgment is made of the cultural diversity of the nations and regions of the UK. Just as the BBC's public purposes include representation of the nations, regions and communities of the UK, so should the scope of the BBC's diversity strategy as applied to its workforce on and off screen. Any value developed to describe how the BBC will be diverse and representative in future should make this clear.

In our response to Q9 below we will discuss the potential for a clear set of values, in conjunction with the BBC's public purposes, to drive the quality, distinctiveness and diversity of the BBC's output.

What the BBC does: scale and scope

Q4 Is the expansion of the BBC's services justified in the context of increased choice for audiences? Is the BBC crowding out commercial competition and, if so, is this justified?

The BBC's focus on proportionate delivery of content and services that 'inform, educate and entertain', taking full account of its position in the marketplace and the activities of other broadcasters, provides balance to the BBC's output which, generally speaking, we do not believe is crowding out commercial competition. In fact there are areas where the BBC needs to do more, including programming for and about the nations and regions.

That being said, the Welsh Government is fully aware of the importance of ensuring plurality of English language television in Wales in news and also general programming aimed at Welsh viewers. Therefore ITV Cymru Wales continues to have a vital role to play as an alternative to the BBC for news and non-news programming.

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

We accept the argument that the BBC, as an independent Public Service Broadcaster with national reach and a stable, long-term source of funding, has a positive impact in raising standards across the marketplace. We acknowledge the concerns expressed in the consultation document about the perceived impact of its activities on competition in news provision, radio, online services and print media. These should be carefully monitored, but on balance we believe that the development by the BBC of innovative, positively received services in most of these areas has had a significant, net positive effect on the quality and availability of services. In those areas where the BBC has itself identified that it should play a part in helping to improve market conditions - notably local news provision in print - it has already developed

proposals to do so which we will watch with interest, as this is a particular issue in Wales.

In our view the BBC's remit should not be curtailed via the new Charter to restrict its operations in some areas as a matter of principle. See also our comments on universality under Q2. However, It is important to stress that the BBC's potential to enhance the lives of citizens in the nations and regions has already been diminished by previous cuts (e.g., as a result of Delivering Quality First') and is likely to be eroded further by the impact of budget announcements in recent months. This must be addressed in the next Charter period; services for the nations and regions need to be strengthened, not subjected to further financial pressures.

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

The BBC should continue to be a key driver of technological developments and change, where these can improve availability, choice and ease of access to public service content and can encourage participation in culture, democracy and society. There are some regulatory issues to consider which we have articulated previously - these apply to all PSBs who may be developing services for new platforms, not just the BBC.

In the Welsh Government's response to Ofcom's consultation on its Public Service Broadcasting review in 2015, we agreed that a steady evolution is taking place in the global broadcasting market, providing new options for delivery and consumption of content. These are gaining traction with both broadcasters (who are diversifying their offer in terms of broadcast channels available and delivery of content via other platforms; e.g., VOD, online) and with viewers, for whom linear broadcasting remains important but who are increasingly taking advantage of the flexibility afforded by delivery over new platforms.

Universality and discoverability of PSB content remains important and these principles should be broadened and protected, so as to be relevant to a more connected world. We agree with Ofcom's assessment that an incremental change to the definition and regulation of universality is the most sensible approach, as various new service offers across multiple platforms mature. If broadcasters see value, whether financial or strategic, in moving the delivery of some PSB content away from linear programming on established PSB channels, then they should provide a sound business case to Ofcom for consideration - but this must show how the broadcasters or their delivery partners on other platforms will ensure that this PSB content is both discoverable and promotable to key audiences, whether they are across the UK or in specific Nations and regions.

From a regulatory perspective, consideration of such an approach would go hand in hand with Ofcom's suggestion that regulation by organisation rather than channel may be more appropriate in future. We agree that Ofcom should consider this in more detail and we stand ready to engage in discussions on

this, which we said might sensibly proceed in parallel with the Charter Review. The BBC would seem to be the ideal candidate for early consideration of such an approach, given its primacy as a deliverer of PSB content in the UK and the increasing diversification of its service portfolio.

The Welsh Government has consistently stressed that we would not be in favour of digital switchover for radio until there is a guarantee of at least 97% coverage for DAB throughout Wales. We welcomed the UK Government's announcement in December 2013 that it will continue to invest (with the BBC and commercial radio operators) in support of digital radio roll out. We recognise that there have been improvements in DAB coverage in Wales in recent years. We welcome the fact that the BBC is rolling out its national DAB network to a further 162 transmitter sites across the UK by the end of 2015. This programme will increase the coverage of its DAB network in Wales from 86% to 92% of homes.

The DAB service in Wales should not be worse than Welsh AM/FM radio coverage at present and should be available in areas where currently the national radio stations can only be received on the AM spectrum. This is particularly important in view of the fact that people in Wales listen to more hours of radio per week than the UK average, with 49 % of the total listening hours being to BBC network stations.

The Welsh Government continues to be concerned that even when the proposed criteria are met on a UK basis, there would almost certainly be a significantly lower level of DAB penetration in Wales. DAB needs to provide an enhanced service if listeners in all parts of the UK are to be persuaded of its merits.

We also have concerns about the availability of services across all platforms in a predominantly rural country like Wales. We were encouraged that BBC One Wales has been available on HD since 2013. There is an urgent need to resolve the comparable challenge surrounding the future of regional opt out programmes on BBC2. The considerable number of viewers who enjoy BBC2's programmes, including its rugby coverage in Wales, find it very difficult to accept that coverage is not also available in HD.

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

National

BBC Cymru Wales

Television

It is vital that the new Charter ensures sufficient funding for BBC Cymru Wales, for news and non-news programming in both Welsh and English. Outside of news and current affairs we are very concerned with the funding

allocated to non-news English-language programming for Wales. The funding BBC Cymru Wales receives is currently insufficient to be able to provide English-language programming as well as delivering its Welsh language output, especially in light of the plurality which already exists in provision of Welsh language content via S4C.

There was much interest in the speech by the BBC's Director General Lord Hall on 7 September, and in the paper which the BBC subsequently published, envisioning a more open BBC providing services which can be tailored for who you are and where you live.

We were pleased that the BBC has strengthened its commitment to reflecting the full diversity of life across the UK including Wales - and especially that it is committed to investing in drama and comedy programming that better reflects the nations and regions. BBC network drama is a great success story for Wales and the capacity and expertise we have developed here means we are well placed to deliver content for Wales as well.

Proposals to reconfigure news coverage to meet the changing needs of audiences in Scotland, Wales and Northern Ireland are welcome - as are the BBC's recognition of the impact that online news has had on the newspaper industry and its proposals to invest in local reporting capacity and share journalism resources which would be available to other news providers. We welcome the fact that the BBC will explore various options with a number of stakeholders, including the Governments of the devolved nations.

The BBC's commitment to further development of Welsh language services is welcome, as is its recognition that the provision of English-language programming for Wales has declined at a faster rate than in any other nation and must be addressed in the next Charter period.

Of course, Lord Hall raised a number of these issues when he spoke in Cardiff last year, but we have yet to see any significant improvements.

There are also some areas of real concern.

On 17 August the First Minister wrote to Lord Hall to highlight the growing gulf in funding between Wales and other parts of the UK, adding that an additional £30m is needed to ensure programming that truly reflects the lives of people in Wales.

In the context of the cuts that BBC Cymru Wales has absorbed over the last ten years, the Welsh Government believes that an additional £30 million is required specifically for English-language programming, bringing the total budget to £50m. This would allow Welsh audiences to have a credible national television station that could provide quality content in English, including drama, comedy and also potentially network contributions.

It is important to stress that our call for additional funding for English-language programming should not be top sliced from the funding allocated to S4C (or from the £20m BBC Cymru Wales receives for Welsh language

programming). We are fully aware of the important role that BBC Cymru Wales plays in providing Welsh language content and of course this should continue.

Worryingly, the proposals published by the BBC fall far short of this. We would question how the BBC can deliver on the commitments made to invest in and improve services to the nations - including digital news, education and entertainment services for each Nation - when it has ruled out any net increase in spending and has committed to protecting funding for the nations only to the extent that it will be “cut less than other areas”. We accept that the BBC finds itself in a difficult situation due to cuts in its budget, but these proposals simply raise further questions over its future output in Wales.

The Welsh Government has been clear in discussions with the BBC Executive in Cardiff and in London that the development of Cardiff as an increasingly important centre for network productions provides no justification for reducing the BBC’s investment in local services. There should be a clear commitment to safeguarding and strengthening the core services which are aimed at Welsh viewers and listeners – in both languages, but especially in English, where there has been a notable reduction (17%) over the last few years, including news and non-news programming. We appreciate that BBC Cymru Wales has decided to prioritise spending in its news and current affairs output. However, it is lamentable that BBC Cymru Wales no longer produces any English language drama or comedy specifically for Welsh audiences – especially given its enhanced reputation for high-end TV productions, in the UK and internationally, thanks to the success of Doctor Who, Casualty, Wizards vs Aliens and more.

The BBC’s corporate vision should encompass the contribution which the BBC in Wales can make to the Corporation’s creative output for the UK as a whole. Developing BBC Cymru Wales as a major production centre for drama, with the support of the Welsh Government, has highlighted the possibilities in this area. The success of productions mentioned above, amongst others, underlines the fact that Wales has real potential as a production location. However, whilst we value the BBC’s drama presence here and the benefits it brings, it is not as secure as it would be if the BBC also had a commissioning base in Wales. This is something we hope to explore further.

We welcome the intention to strengthen network production in Wales and the other nations within the UK. This will bring creative as well as economic benefits for the BBC as a whole. We welcomed the BBC’s commitment to meeting the target of 17% for television programmes for the nations earlier than 2016. Our expectation is that that at the very least 5% of network production should originate in Wales, from a mix of in-house and independent productions – and this should represent a floor rather than a ceiling for Welsh creativity.

The Welsh Government remains committed to working in partnership with the BBC as it continues to build on its successes in Wales, to maximise the

economic and cultural opportunities that will arise from the further development of drama and network production business in Wales.

Radio

As with the importance of BBC Cymru Wales' television output, we recognise the continuing roles of both Radio Wales and Radio Cymru in providing essential services for the citizens of Wales.

These radio stations have a vital role in ensuring that the citizens of Wales receive comprehensive coverage of the key policy decisions made by the Welsh Government. We also welcome the commitment across both services towards combining local and international news coverage. This underlines the distinctive nature of the news services provided by both national radio services and value of the service provided to listeners.

As a Government we are concerned that the range of non-news programming generally is narrowing. We therefore welcome the fact that Radio Wales and Radio Cymru continue to provide a comprehensive range of non-news programming. Indeed we see the breadth of programming provided across both services as central aspects of the public service they provide. In our view that breadth should be maintained and, whenever possible, strengthened.

Radio has a crucial contribution to make in providing a platform for Welsh talent to be identified and developed. This applies to the music content featured on both services and, equally, to writers and actors. Radio has a particular strength in allowing people to tell their own stories. The BBC has a long and continuing tradition of providing excellent sporting coverage on radio.

It is essential that both national radio services in Wales continue to strive to reflect as wide as possible a picture of life in Wales. Even as new digital platforms proliferate, we do not underestimate the particularly valuable role played by radio in this respect. Radio Cymru and Radio Wales continue to provide listeners with a range of programming increasingly denied to television viewers in Wales. The experience of television shows how quickly that situation can change.

As with television, we are concerned that Wales continues to be particularly under-represented on the main UK radio networks. Very little of the BBC's commissioning for UK network radio appears to come from Wales. We would like to see a greater contribution to the radio network being commissioned from BBC Wales; the BBC should set more stretching targets in this regard.

Whilst both national radio services in Wales have important roles to play as sources of information and entertainment, Radio Cymru plays an additional role via the contribution it makes in ensuring that the Welsh language continues to thrive. In this regard, its role is more than just a broadcaster. Therefore we are extremely disappointed that the consultation document highlights the following, questioning the value of indigenous language

services in purely financial terms without any regard for their cultural or social importance:

“... these services come at a cost; cost per hour of indigenous language radio content in Scotland and Wales is considerably higher than cost per hour for English speaking content which raises concerns about value for money.”

We welcome the strengthened partnership which has developed over recent years between Radio Cymru and S4C. There continues to be only one Welsh language radio service and one Welsh language television service. It is therefore essential that the partnership between these two services should be as imaginative and productive as possible

S4C

It is vital that S4C has sufficient funding, as well as editorial and managerial independence, for it to maintain its ability to serve the Welsh audience and continue to play a crucial role in supporting both the Welsh language and the creative industries in Wales.

In over 30 years of operation, S4C has played a leading role in promoting and safeguarding the Welsh language. It has a key, ongoing role to play in ensuring that the language continues to thrive. It helps to establish and enliven Welsh as part of everyday life in Wales, and its services for children and young people make an important contribution to increasing their use of Welsh. Through its factual, historical and cultural programmes, S4C enriches Welsh society. It has an important part to play in delivering the vision set out in the Welsh Government's Welsh Language Strategy.

Our creative industries are a Welsh success story and make a vital contribution to our economy. S4C's commissioning policy has greatly contributed to the growth in the independent media sector in Wales, in both English and Welsh. Wales now has a number of highly successful independent production companies that are creating content for many channels and networks, but S4C has been central to their initial development.

Therefore we were very concerned to hear the comments of the Secretary of State for Culture, Media and Sport in July 2015 when he said it was "reasonable" S4C should make "the same kind of efficiency savings" being asked of the BBC.

Since the Comprehensive Spending Review in 2010 the Welsh Government has consistently expressed its ongoing concern to the UK Government about the impact that further funding cuts will have on S4C.

S4C has found itself in a very different position since the 2010 Spending Review. Now, 90% of S4C's funding comes from the licence fee. We welcome the fact that this funding has been guaranteed until the end of the current licence fee settlement in 2017, however S4C has not yet received

confirmation of the expected DCMS contribution for 2016-17. It is vital that this is agreed as soon as possible.

Funding for the channel has reduced by 36% since 2010; it is inevitable that this will impact on the output available to viewers. We have consistently stated that there should be no further cuts to S4C's budget. All formal agreements regarding S4C funding will expire during the next two years. This uncertainty regarding future funding makes forward planning very difficult, both for S4C and the independent production companies who are key suppliers to S4C in Wales. We remain very concerned about S4C's financial position and we will continue to raise this with the UK Government. The Secretary of State for Culture, Media and Sport has a statutory duty, as outlined in the Public Bodies Act 2001, to ensure that S4C receives sufficient funding.

The Welsh Government welcomed the announcement in 2013 that a six-year agreement had been reached between the BBC Trust and the S4C Authority on the future funding, governance and accountability of S4C. The agreement also, importantly, protects the editorial and managerial independence of S4C. We are encouraged by the greater collaboration between the BBC and S4C - and also that the Operating Agreement is much wider than the funding and accountability arrangements, extending to a creative partnership at all levels within the BBC and S4C.

It is vital that S4C and the BBC work together to develop a sustainable future for Welsh language broadcasting. Because of the crucial importance of S4C's role, we also believe that the partnership should be subject to an independent review, agreed by all parties in the National Assembly for Wales. The commitment to seek agreement for such a review is outlined in our Programme for Government.

International

Although the BBC's priority should remain its mission, as a Public Service Broadcaster, to deliver services that 'inform, educate and entertain' people across the UK, the success of BBC Worldwide has been an important driver of employment and career development opportunities for the workforce in the nations and regions, including Wales. This positive impact is felt by the BBC itself and also by the independent producers of BBC-commissioned content who, through BBC Worldwide, can access the scale and reach of the BBC's global marketing. Their growth allows them to better compete for non-BBC commissions as well. In addition, BBC Worldwide provides revenue which the BBC can reinvest in content and services in the UK, although this should be seen as supplementary to - not a replacement for - core funding from the licence fee.

We will come back to proposals for changes to the BBC's approach to commissioning productions later in this response, as these would undoubtedly have an impact on opportunities for the independent production sector in Wales to work with the BBC in the future.

Q8 Does the BBC have the right genre mix across its services?

Please refer to our comments about the BBC's approach to delivering a balanced portfolio of content under Q2 on universality. Additionally, we have already discussed the importance of the BBC providing appropriate news and non news coverage in Wales, in Welsh and English, in our response to Q7.

Given the gap in provision of English-language services in Wales, which has long been acknowledged by the BBC, it is vital that appropriate funding is found to allow BBC Cymru Wales to deliver an appropriate genre mix of programming for Wales in the forthcoming Charter period, in both Welsh and English – without impacting upon BBC Cymru Wales' existing budget for Welsh-language programming or appropriate funding for S4C.

Q9 Is the BBC's content sufficiently high quality and distinctive from that of other broadcasters? What reforms could improve it?

Please refer to our comments under Q2 and Q4 about the BBC's approach to delivering a high-quality portfolio of content, taking account of the activities of other broadcasters but mindful of the need for it to retain its profile with audiences across the UK in order to remain effective as its leading Public Service Broadcaster. In general we are content that the BBC looks to provide high quality and distinctive content - and that where it provides content in genres which are also served by other broadcasters there is a good reason for doing so and one effect of the BBC's activity is usually to drive up quality across the marketplace.

In our response to Q2 we agreed that a clear set of values should be developed for the BBC. These values, together with a renewed commitment to the BBC's public purposes, should inform the creation of content development guidelines which would apply across the BBC's full range of services. These guidelines would ensure that the BBC's key statements of ideals and intent are given due consideration by commissioners and producers of BBC content and should further enhance the quality, distinctiveness and diversity of the BBC's output. They should be reviewed periodically during the Charter period, as services evolve, to ensure ongoing fitness for purpose.

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

We are pleased DCMS has agreed that how the BBC's content is commissioned and produced, including in the nations and regions, will be a key consideration during the Charter Review. Looking at the way the BBC

determines how - and where - it spends £2.4 billion on content is a vital element of this process.

In policy and in practice, the BBC must take a more representative approach to commissioning and production from and for the nations and regions. As a Public Service Broadcaster, there is an onus upon the BBC to identify and develop talent across all areas of production and to support, develop and deliver production across all of the nations and regions of the UK.

The Welsh Government has cautiously agreed with Ofcom that some consideration be given to the relationship between the PSBs and the independent production sector, given the consolidation and acquisition that is occurring. However, we would be wary of any quota changes that could allow the production of in-house content by the BBC and the other PSBs - and the commissioning of independent PSB content - to move away from the nations and regions and back towards London and the South-East.

Evidence is provided in the consultation paper that more should be done to ensure more and fairer distribution of production activity away from London and into the nations and regions, citing the economic benefits and the positive impact on skills development for the sector. With this in mind, any changes to quota levels - whether they might be for independent productions, productions in the nations and regions or the extent of the Window Of Creative Competition (WOCC) – must protect and enhance the steady movement towards increasing production in the nations and regions. Similarly, any changes to the current Terms of Trade, which set out how the BBC and other broadcasters work with independent producers, must protect the interests of both people and creative businesses in the nations and regions.

Based on the level of detail provided in the consultation document, we are not persuaded that a significant scaling back of BBC in-house production would be beneficial overall. We are not surprised that the BBC's in-house production team has only won a minority of WOCC commissions during the current Charter period. Presumably the majority of these were for one off or single series productions, where independent production companies would have the flexibility and lower overheads to compete well, whilst longer-term or repeat commissions, which the BBC might already be delivering internally and which it would have the scale and infrastructure to deliver most effectively, were excluded from the WOCC. If this is the case then the WOCC outcome does not demonstrate that the BBC's in-house productions are bad value for money for the licence fee payer in comparison to independent production companies; rather it serves to demonstrate that there should be appropriate opportunities for both over the next Charter period.

It might be the case that some minor scaling back of in-house productions could deliver benefits, but more evidence is required before a conclusion can be reached – including, crucially, evidence about the potential impact any such scaling back might have on the BBC's production hubs in the nations and regions, such as Roath Lock studios in Cardiff Bay.

We are particularly concerned by the detail of the BBC Studios proposal, as set out in the consultation document. The Welsh Government is not in favour of the removal of quotas for independent production or production in the nations and regions, as set out above; in fact these should be reconsidered and strengthened further.

We share the concerns set out in the consultation document that the transformation of BBC's production operations into a commercial subsidiary could significantly distort the market, affect the competitiveness of the independent production sector (including companies in the nations and regions) and give rise to serious State Aid concerns. Finally, this proposal brings with it the prospect of the BBC using licence fee revenue to develop proposals for productions commissioned by commercial broadcasters, with no guarantee of success. In our view, as a matter of principle, licence fee revenue should be invested in the BBC's content and services for the benefit of UK citizens, not directed elsewhere - and certainly not on a commercial risk basis without a guaranteed return for the licence fee payer.

The Welsh Government therefore takes the view that the quota system should be retained, although we are content that further consideration be given to whether the quotas themselves might be changed, and the BBC Studios proposal should not be taken forward.

BBC Funding

Q11 How should we pay for the BBC and how should the licence fee be modernised?

Given our comments under Q2 about the importance of universal access to the BBC's content and services, we would be opposed to any form of subscription based model for future funding. This would make it more difficult for some people to access the full range of public service content. The three pillars of Lord Reith's remit for Public Service Broadcasters to 'inform, educate and entertain' are rightly given equal weight, so the idea that we should differentiate between 'core' and 'premium' BBC services - and pay for the latter via a subscription to top the licence fee - is entirely at odds with the concept of universal delivery of public service content.

Accepting that other models such as revenue from advertising and general taxation are not appropriate, this leaves the licence fee or a household levy as the only two, realistic options which could be considered over the longer term. On balance we believe that retaining the licence fee is the most sensible option for the next Charter period. We would agree that the iPlayer loophole should be closed and will be happy to discuss the options for how this might be done in more detail in the coming months. An appropriately designed household levy might be appropriate in the longer term, but given the time needed to develop and legislate for this it would be impractical for the forthcoming Charter period.

Q12 Should the level of funding for certain services or programmes be protected? Should some funding be made available to other providers to deliver public service content?

Our answers to Q2, Q4 and Q9 above are relevant here.

As we have already emphasised, protecting and enhancing the funding available to BBC Cymru Wales and S4C, for the delivery of programming for Wales in Welsh and English, is crucial.

We have also already stated our view, as a matter of principle, that licence fee revenue should be invested in the BBC's content and services for the benefit of UK citizens, not directed elsewhere. As discussed above, we do not believe the BBC is crowding out commercial competition, so a redirection of licence fee funding to other broadcasters is neither needed nor justified. We also noted that where the BBC provides content in genres which are also served by other broadcasters there is a good reason for doing so and its activity generally drives up quality. Redirection of licence fee revenue via any form of contestable funding would dilute the positive impact of the BBC's activity across the marketplace and, even more importantly, would weaken the BBC's ability to deliver its primary mission as the UK's leading Public Service Broadcaster. Further, it would be difficult to administer and we entirely accept the argument that the additional burden of accountability that would be placed on other broadcasters who might consider competing for this public funding would result in very low levels of demand outside the BBC.

Q13 Has the BBC been doing enough to deliver value for money? How could it go further?

The requirement for BBC Cymru Wales to find budget savings of 16% over the four years from 2011 as part of the Delivering Quality First proposals represented a potentially disproportionate threat to the BBC's local services in Wales. The Welsh Government remains very concerned about budget reductions to BBC Cymru Wales. It is also vital that a national service, whether on television or radio, should extend beyond news and current affairs. The BBC has always played a crucial role in reflecting and reinforcing the culture of Wales, in both the English and Welsh languages. It is crucial that the BBC continues to produce and provide high-quality political coverage, despite concerns about the impact of budget cuts on BBC Cymru Wales' political output.

Therefore, any further efficiency savings should not be at the expense of Wales or other nations and regions which have been similarly impacted.

We accept that the examples cited in the consultation document of BBC projects which have not delivered good value for money for licence payers are valid. We also note recent comments by the Chair of the BBC Trust that the

National Audit Office (NAO) is now in a position where it has full access to the information it needs to conduct high-quality reviews⁴. The fact that the NAO is in a stronger position to assess and articulate the financial impact of the BBC's activities should encourage a renewed focus on value for money; equally, a renewed and better defined set of public purposes and values should enable the BBC to make improved value for money decisions. This would be further enhanced by clearer lines of managerial and regulatory authority, a stronger sense of genuine independence from Government, improved accountability to the public and greater scrutiny of the BBC by elected representatives across the UK. We will return to these themes in Q15 to Q20.

Q14 How should the BBC's commercial operations, including BBC Worldwide, be reformed?

We have already discussed BBC Worldwide and the BBC's commercial activities at some length in our responses to Q7 (where we look at international activity) and Q10. Beyond those remarks we would add that, at present, we are not convinced that full or part privatisation of BBC Worldwide would be appropriate. The borrowing restrictions that its status as a public body places upon BBC Worldwide may limit its ability to further develop some overseas markets. However, despite this it has achieved considerable success, without undue risk to the BBC's public funding. More importantly, consideration of the real value to UK licence fee payers of the BBC's public service output should not be driven solely, or primarily, by its retail value in international markets. As a Public Service Broadcaster, the BBC's purpose is not to make money - it is to inform, educate and entertain the citizens of the UK.

⁴ During the BBC Trust event "Tomorrow's BBC: Who Governs?", at the University of Westminster in London on 1 October 2015.

BBC governance and regulation

A combined response is provided below to the following four questions. We understand that Sir David Clementi will consider responses to this section of the consultation as one of the early stages of his independent review of the BBC's governance arrangements. The Welsh Government, representing the interests of the people of Wales, would be pleased to discuss the points made below with Sir David and his team.

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

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

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

Q18 How should the relationship between Parliament, Government, Ofcom, the National Audit Office and the BBC work? What accountability structures and expectations, including financial transparency and spending controls, should apply?

Of the options for reform which are presented in the consultation document (i.e., reform of the BBC Trust, the creation of a unitary BBC board with a standalone regulator or a unitary board with Ofcom fulfilling the regulatory role) we would favour the option of a unitary board and a standalone regulator (the so-called 'OfBeeb' model). We accept that the current Trust plus Executive model, although well intentioned, does not deliver clear enough lines of responsibility and accountability and that there is a fundamental tension in requiring the Trust to act as a regulatory body while remaining part of the BBC. There is a case for change, but this is not without risks and must be handled carefully, making the most of the assets already in place rather than simply discarding them and starting afresh without due consideration.

We agree that moving regulation to an external body, fully separated in both structure and title from the BBC, would remove much of the criticism levelled at the BBC Trust about the conflict of being both regulator and cheerleader. To be clear, we would reiterate our position that no contestable funding pot should be top-sliced from the licence fee, so the new regulator would have no role in awarding contestable funding, to the BBC or to other broadcasters.

We also agree that key strategic and operational responsibilities should be brought together in a unitary board, with very clear lines of accountability and a strong non-executive membership that can ensure the interests of the British public are properly represented. However, unlike arrangements in the current Executive Board - whose Chairman can either be a non-executive or the Director General, but in practice has always been the Director General -

the Chairman of the unitary board should always be a non-executive member. It is vital that the Chairman represents – and is seen to represent - the interests of licence fee payers, above the corporate interests of the BBC itself, as the new board would effectively take over from the Trust as the sovereign voice and decision making body of the BBC.

We acknowledge that a single purpose regulator can be difficult to set up in a way that does not lead to it being either overly dependent on or confrontational with the organisation it regulates. However, in our view there should be no need to start from scratch. Although the BBC Trust would be formally wound up if this model is taken forward, with its strategic decision making functions transferred to the unitary board, much could surely be retained in terms of people, organisational structures and physical or intellectual assets and repurposed as part of the new regulator. Although it would have a different, clearly defined role and be separate from the BBC itself, the experience of staff who have lived through the failures and (more recent) successes of BBC governance under the current arrangements would undoubtedly inform a smoother and more cost effective transition into the new structures than entirely discarding all vestiges of the Trust.

Additionally, we share Ofcom's own concerns, as articulated by its Chief Executive Sharon White during her keynote address in September this year to the Royal Television Society convention in Cambridge, about the appropriateness of Ofcom taking on decision making related to the scope of content at the BBC and about the upscaling of Ofcom's operations that would be required if it were to take on significant additional responsibilities in relation to BBC regulation. We also share the concern set out in the consultation document that this could result in Ofcom becoming too powerful, expanding its already large remit and expenditure. A standalone regulator would be best placed to perform the oversight and regulatory functions which currently reside with the Trust, without being distracted by wider responsibilities.

If the specific model we have described above were adopted, including a non-executive Chairman for the unitary board, then we would be comfortable for decisions relating to new services to reside with the BBC board. As now, Ofcom would lead on market impact assessments, which would inform the board's consideration of the public value of a given proposal, where appropriate taking a view of the BBC as a whole and the role that service should play within it.

Ofcom is not well placed to adjudicate on public value tests for the BBC because of the way it is funded. Ofcom receives fees from the commercial broadcasters for regulating broadcasting and communications networks plus grant-in-aid from the Government. As such it would have to continually fight the perception that it might instinctively seek to level the playing field in order to protect the commercial broadcasters which provide its revenue, irrespective of the strength of any public value case for a new BBC service. It would also have to overcome concerns that it is not independent enough of Government to regulate an independent BBC. This would be unfair and distracting for Ofcom and potentially dangerous for the BBC itself.

We agree that the unitary board should engage in research about audience views and ensure even greater transparency and effectiveness in complaint handling. However, the opportunity now exists to develop a far-reaching strategy for greater, cross-platform engagement with the public – and as technology evolves further this could become even richer and more straightforward. There remains a central role for audience or broadcasting councils across the UK as part of this strategy and it is important that Wales and the other nations are fully represented. The Chairs of the audience or broadcasting councils should be non-executive members of the unitary board, so that they have a voice in decision making at the most senior level. The fact that the views of current audience councils can be entirely ignored by the BBC Trust if it so chooses is a key drawback of the existing arrangements.

We welcomed the references in the St David's Day Command Paper to increasing the accountability of broadcasters in Wales. The Welsh Government has regularly referred to the importance of improving the accountability of UK broadcasting institutions to the National Assembly and to Welsh viewers and listeners. We are therefore pleased that Memoranda of Understanding have been signed with the devolved Governments in Wales, Scotland and Northern Ireland to formalise their roles in this and future Charter reviews, and that comparable Memoranda are being finalised which will enshrine ongoing roles for the devolved Parliaments or Assemblies in the nations in the scrutiny and accountability of the BBC.

Any changes to the governance or regulatory arrangements of the BBC should also fully reflect the reality of devolved government in the UK. As such, the board of the new regulator should include a member responsible for representing the interests of each of the devolved nations, including Wales; the relevant devolved Government should lead on the appointment of their national representative.

It is important to reiterate here our strong view that the mechanism via which the recently announced licence fee settlement was imposed upon the BBC – following discussions between the BBC and the UK Government behind closed doors, without any consultation with the devolved Governments - was entirely unsatisfactory. As a result this Charter review is being undertaken after the most fundamental decision which could impact upon the potential scale and scope of what the BBC might achieve has already been taken.

Under current arrangements the UK Government is effectively free to dictate terms to the BBC without any Parliamentary scrutiny or public consultation. A debate is required in Westminster, but no vote. The devolved institutions across the UK play no part whatsoever. This must change. In future, given the UK-wide remit of the BBC and its specific aims in the nations and regions, any such proposals by the UK Government must be subject to public consultation, scrutiny by committee in Westminster and the devolved institutions and – crucially - must be approved via a vote in Parliament and each of the devolved Parliaments or Assemblies in the nations.

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

We agree that a ten year approach to the BBC's Royal Charter should be the minimum applicable. We do not accept that a shorter timescale, say five years, is appropriate. Charter review is a costly and time-consuming exercise, so significant justification would be required to increase the frequency of reviews. We recognise that technological, social and market developments are fast moving, but the supposed risk that BBC's Royal Charter could become obsolete before it is due to be reviewed would only be realised if the Charter was either too restrictive in the first place or the BBC and / or the wider market in which it operates were inadequately regulated. As long as these factors are given due consideration before the new Charter is finalised and throughout its operation then that risk will be minimised as far as possible.

We do accept that there are grounds to consider a change to the length of the BBC's Royal Charter, to break the link between Charter reviews and the UK's electoral cycle. Some stakeholders have called for future Charters to be granted for eleven years, so that the review process is decoupled from the agenda of successive, incoming Governments. This would reaffirm the BBC's independence from Government, concerns about which are very much at the centre of the current debate, although they are not acknowledged directly in the consultation document. As such, we would agree that this proposal should be given further consideration.

Conclusion

Over the next few years there are key decisions to be taken relating to broadcasting and regulatory arrangements in the UK and in Wales, including the renewal of the BBC Charter and further consideration of the findings of the Silk Commission on Devolution in Wales, the St David's Day announcement and the Smith Commission in Scotland.

There is little doubt that the broadcasting structures currently in place will change in the future. As a Government, we will continue to monitor developments and to be proactive in this debate, to ensure that any changes protect and serve the best interests of people and businesses in Wales. The significance of broadcasting to our emerging devolved life is such that new arrangements have to be found, within the existing constitutional settlement, that allow the interests of Wales to be debated, understood and argued for.

In relation to the BBC Charter, a number of the issues discussed in this response are also relevant to the other devolved nations. Earlier this year the Welsh Government wrote to the relevant Ministers in Scotland and Northern Ireland the North of Ireland seeking a meeting to discuss broadcasting issues, including the Charter review. On 4 August that meeting was held in Glasgow. During the meeting we agreed to work together to ensure that the BBC Charter review process reflects and prioritises our shared interests.

The Welsh Government welcomed the fact that Ofcom conducted a further review of Public Service Broadcasting. However, that work will inform an ongoing debate about what public service obligations should be in the future.

The role of the principal Public Service Broadcaster must be informed by a clear understanding of the needs of the people in the nations and regions of the UK. However, following extensive devolution of powers to the devolved governments, there has been no evaluation or assessment of whether current public service obligations remain fit-for-purpose. Over the same time period those obligations have been allowed to erode, largely for commercial reasons. This assessment is now urgently needed and should be done in parallel with the Charter review, to inform any targets for delivery of services in the nations and regions that might be included in the new Charter, linked to a renewed set of public purposes and values.

The Welsh Government will continue to play a full and active role in the Charter review, to ensure that the new Charter fully reflects the interests of the people of Wales and the current and changing devolved settlement. We will use our formal seat at the table to stand up for the services the Welsh people deserve.