



House of Commons
Culture, Media and Sport
Committee

BBC White Paper and related issues

Third Report of Session 2016–17



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*Report, together with formal minutes relating
to the report*

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The Culture, Media and Sport Committee

The Culture, Media and Sport Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Culture, Media and Sport and its associated public bodies.

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The following Members were also a member of the Committee during the Parliament:

[Jesse Norman MP](#) (Conservative, Hereford and South Herefordshire)

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The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

Committee reports are published on the Committee's website at www.parliament.uk/cmscom and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Katy Reid (Second Clerk), Kevin Candy (Inquiry Manager), Johnnet Hamilton, (Inquiry Manager), Hannah Wentworth (Senior Committee Assistant), Keely Bishop (Committee Assistant) and Jessica Bridges-Palmer (Media Officer).

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1 Introduction

1. This is the last of three reports from us and the previous Committee considering the future of the BBC in the context of the renewal of the BBC Charter, which expires at the end of this year. In February 2015, the previous Committee published a report on the *Future of the BBC* following a comprehensive 18-month inquiry. Our predecessors were particularly concerned that the Charter Review process should be as thorough as possible, with stakeholders and licence fee payers contributing fully to the process, and the Government producing Green and White Papers as a basis for the discussions. They also recommended an enhanced role for Parliament.¹

2. In September 2015 the BBC's Director General, Lord Hall of Birkenhead, set out the BBC's strategy for the next Charter period. The proposals covered a wide range of issues such as the future of the World Service, a boost for drama production, a new approach to children's services, a new partnership with local newspapers, a transition from rolling news to streaming news, new versions of BBC education, news and entertainment services in the Nations, opening up the BBC iPlayer to showcase content from others, a review of the BBC's website to ensure that it was distinctive and of appropriate scale, exploring digital ways to help audiences find new music and the best from the archive, and an 'Ideas Service' which will bring together what the BBC does across arts, culture, science, history and ideas and add to it work done by many of this country's most respected arts, culture and intellectual institutions.²

3. On the basis of this strategy and the Secretary of State's Green Paper on BBC Charter Review,³ we conducted our own inquiry into the BBC Charter Review, focusing on six major areas:

- Governance and regulation;
- The BBC's international presence (comprising the World Service, the commercial BBC World News operations and BBC Worldwide);
- Production (the BBC Studios proposal);
- Local journalism;
- Technology and innovation; and
- Reshaping the culture of the BBC.

Our report was published in February 2016.⁴ We left open the possibility of returning to some of the subjects addressed by us or our predecessors, should the Government's expected White Paper deviate substantially from what we recommended.

1 Culture, Media and Sport Committee, *Future of the BBC*, Fourth Report of Session 2014–15, HC 315 (Hereafter 'Fourth Report')

2 <http://bbc.co.uk/mediacentre/speeches/2015/tony-hall-distinctive-bbc>

3 Published on 16 July 2015: DCMS, *BBC Charter Review Public Consultation*

4 Culture, Media and Sport Committee, *BBC Charter Review*, First Report of Session 2015–16, HC 398 A number of other bodies including the Communications Committee of the House of Lords, the Welsh Affairs Committee of the House of Commons, the Welsh Assembly's Communities, Equality and Local Government Committee and the Scottish Parliament's Education and Culture Committee also carried out inquiries into aspects of the Charter.

4. The White Paper, *A BBC for the future: a broadcaster of distinction*, was published on 12 May 2016. **In general, we welcome the White Paper, which reflects many of the suggestions made by us and the previous Committee, and which underlines the Government's commitment to the BBC and recognition of its unique value as a high quality, independent and globally respected public service broadcaster. We are particularly pleased to see that the Government has adopted our key recommendations to abolish the BBC Trust and establish a unitary Board, to consolidate regulation of the BBC in Ofcom and to enhance the role of the National Audit Office.**

5. The Secretary of State told us that both the draft Charter and the Digital Economy Bill (which would re-position Ofcom as the regulator of the BBC) would be likely to be presented to Parliament before the summer recess.⁵ Because of the short time available, if we were to contribute to Parliament's debates on both the draft Charter and the Bill, we decided to focus just on the areas of potential disagreement with the Government (such as in relation to the composition of and appointment to a unitary board for the BBC) and those where there was still a lack of clarity about the BBC's proposals and their impact on the industry more widely (for example, in relation to BBC Studios and local journalism). With our focus being matters contained in the White Paper, this Report does not address the current management re-organisation of the BBC, which has attracted some controversy and which will invite questions in our future annual session with the Chair and Director General of the BBC. Having received a substantial amount of written and oral evidence before our February report, we also limited our evidence-taking on the White paper to the Secretary of State,⁶ the BBC and the current Chairman of the BBC Trust. Later, in the course of a visit to Glasgow, we also took oral evidence from BBC Scotland and STV on a number of issues relating to broadcasting in Scotland, on some of which we comment later in this report. We are grateful to our witnesses for their assistance, and to our Specialist Adviser, Professor Charlie Beckett of the London School of Economics.

5 Qq 1–9

6 In this Report, references to the Secretary of State are to the Rt Hon John Whittingdale MP, who gave evidence on the White Paper, but who has since been replaced in the Government reshuffle under the new Prime Minister.

2 Governance of the BBC

6. The White Paper states that the new Charter will:

- Create a unitary board for the BBC;
- Introduce full external regulation of the BBC by Ofcom;
- Reform the mechanism of regulation including establishing a new operating framework and operating licence regime;
- Separate the Charter Review process from the political cycle;
- Make the BBC more accountable to the nations of the UK;
- Reform the BBC's complaints system; and
- Set new expectations for public engagement and responsiveness.⁷

Unitary Board

7. While supporting these proposals in principle, we made clear in our previous report our belief that the BBC needed a strong, independent Board led by a Chair who was willing and able to stand up to BBC executives, to vested interests in the BBC where necessary and to anyone, ministers or otherwise, attempting to undermine the independence of the BBC. At the same time, we argued that the Board had to hold the BBC's executive directors to account on behalf of the viewers and listeners for fulfilling its primary purposes, delivering high quality and ensuring value for money. We therefore decided to look closely at both the composition and the appointment of the proposed unitary Board to ensure that it could deliver this remit.

8. The White Paper proposes that the board should consist of between 12 and 14 members, a majority of whom would be non-executives, with a non-executive chair and deputy chair. Four non-executive members would be designated to represent each of the constituent nations of the UK, with the rest of the board composed of at least another four non-executives and at least two executives. Under the Government's proposals, therefore, the minimum number of non-executives would be ten and the maximum number of executives four. The White Paper suggests that the non-executive posts would be significantly more time-consuming than in other organisations.

9. While the Board as a whole will have responsibility for all that the BBC does, in editorial matters it is intended that the Board will only set the direction and framework for editorial standards. The Director General will remain editor in chief, the executive board members will have functions relating to the day-to-day operations of the BBC and specific editorial decisions and the non-executives will not be involved in pre-broadcast case-by-case decisions.⁸

⁷ *A BBC for the future: a broadcaster of distinction*, May 2016, Cm 9242 (hereafter 'White paper')

⁸ White Paper, Chapter 3

10. The White Paper adds: “it is essential that these appointments are made with due transparency and scrutiny. It is equally important that the BBC board is able to ensure it has the right mix of skills and that the process of appointments and make-up of the board is compatible with the fundamental principle of the independence of the BBC.”⁹

11. Lord Hall, the Director General of the BBC, said that his preference would be for a smaller board, with more executives and fewer non-executives—in his experience, fewer board members with a greater proportion of executives would act more cohesively: larger numbers ran the risk of not allowing everyone to express their views or discussions becoming cumbersome, and a non-executive-dominated board would create the feeling that the executives were reporting to it decisions taken elsewhere rather than the board itself taking the decisions. His preference was for a board of ten members with four executives and the rest non-executives appointed by either the Government or the BBC. However, he recognised that the Government wished to have six government-nominated appointees to the Board: the Chair and Deputy Chair/Senior Independent Director, plus the four representatives of the nations.¹⁰

12. The UK Government and the BBC have agreed Memoranda of Understanding with each of the devolved administrations and legislatures. All three devolved administrations will have a formal, consultative role in any Charter review, the BBC will lay its annual report and accounts in each of the devolved legislatures, and the BBC will be required to submit reports and give evidence to committees of each legislature.

13. We concur with Lord Hall in preferring a smaller board, with a higher proportion of executive members than the Government suggests. A board of twelve comprising five government-nominated non-executives (the Chair and four representatives of the nations), together with three non-executive and four executive Board members appointed by the BBC would give a better balance. It would also, we believe, produce a more coherent and effective Board. The BBC may wish to consider including a staff representative as one of its non-executive nominees, as the Prime Minister has suggested in connection with private sector company boards.

14. The Director General indicated his support for the idea that the Board should collectively choose a Senior Independent Director from amongst its number. We agree, and believe this arrangement would be superior to the Government also nominating a Deputy Chair.

15. We recognise that having national representatives on the Board both continues a long-running tradition and honours the agreement made between the UK Government and the devolved administrations. We are also conscious that under recently announced changes, Lord Hall has demoted the operational Directors of the Nations to the third tier of network management, beneath the unitary Board and the Board of Management.

16. We are anxious that the presence of national representatives on the unitary Board should not absolve the Board as a whole from its duty to represent and reflect all the nations fairly—something we feel it has not always done, for example in relation to the disparity between the amount of licence fee money paid by viewers in Scotland

⁹ White Paper, p49

¹⁰ Qq 187–193

in comparison with the final spend there. Moreover, it goes without saying that the national representatives, in common with all other Board members, should bring special skills to the Board and a passion for public service broadcasting, in addition to their particular understanding of the views and needs of their respective nations. The Board must be clear that it exercises its responsibilities collectively, here as elsewhere.

17. The process for making the appointments to the Board differs according to the role of the Board member. The White Paper envisages that the Chair, a Deputy Chair and the non-executives for the nations would all be appointed under a Public Appointments process; in the case of the Chair this would also involve a pre-appointment hearing with us or any successor committee, and in the case of the representatives for Scotland, Northern Ireland and Wales including the current arrangements for involving each nation in the process. The other Board members, both executive and non-executive, would be appointed by the BBC itself. The non-executives would be selected by a nominations committee of the Board, but this would also be expected to follow best appointments practice by including independent members. The BBC Chair would be closely involved at each stage of the appointments process; and the Queen-in-Council would appoint each member on recommendation from the government.

18. A number of commentators have expressed concerns that the appointments process for the unitary board leaves too much power in the hands of the Government. We were aware of a recent example of a government appointment of a Trustee of the National Portrait Gallery, where the Public Appointments process was stopped, the panel dismissed and the process started again because the panel had not been informed of the Minister's preferred candidates before it started a blind sift, which resulted in none of the Minister's five preferred candidates being selected for interview.¹¹ When we pursued these concerns with the Secretary of State, he stated that the process for these appointments in this case had been determined to be flawed, and that there was no danger to the independence of the BBC from the proposed method of appointment because board members would not be involved in "editorial decisions".¹² However, the Board will be responsible for setting out the BBC's strategy and overseeing its delivery, taking account of both public and market impacts, and ensuring value for money. It could therefore take decisions about the balance between genres of programmes, or stopping services, which could limit the BBC's output without any suggestion that it was interfering in editorial decisions about individual programmes.¹³

19. Lord Hall expressed confidence in the Public Appointments process—while also pointing out "Who gets involved in that is quite key"—and he said that would be his preferred process for the BBC-nominated non-executives. He concurred with the White Paper that the Chair of the new unitary Board should play a key role in the selection of board members. He emphasised that his main concern was ensuring that independent people with useful skills were appointed.¹⁴ When we pressed him on whether the Minister's

11 This case has been brought to the attention of the Public Administration and Constitutional Affairs Committee: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/public-administration-and-constitutional-affairs-committee/better-public-appointments-review-of-the-public-appointments-process-the-grimstone-review/written/33406.html>

12 Qq 12–17

13 See Qq 23–25

14 Q185

choices should be made known to selection panels, he agreed that he thought it would be inappropriate for the final board to be given names of government-preferred candidates before the final sift and interviews.¹⁵

20. **It is vital that the new governance arrangements should preserve, and be seen to preserve, the independence of the BBC from interest group pressure, and from pressure from politicians. This is especially important following the decision to abolish the BBC Trust and create the unitary Board. Another Committee has been examining public appointments processes, including the recommendations of the Grimstone Review that would enable more direct political intervention in public appointments.¹⁶ Whatever decisions are made in respect of other bodies, the freedom of the BBC from undue political interference must be defended. We do not believe that drawing a selection board's attention to candidates preferred by Ministers can be anything other than an attempt to influence the board, and we would ask the Government to ensure that no such indication of preferred candidates is made in respect of the Government's nominees to the BBC Board.**

21. We consider in Chapter Four the process of nominating and appointing the all-important position of the Chair of the BBC's unitary Board.

Regulation by Ofcom

22. The new framework places the Charter at the highest level, setting out the BBC's mission, purposes and overarching constitution, with a Framework Agreement providing details, as now. Then other facets of regulation and governance would be simplified into an operating framework setting out details of how Ofcom and the BBC would interact, plus an operating licensing regime which would set out what the BBC was expected to provide from each service or group of services (the Government hopes that this regime would reduce the number of service licences from the current 26). The Clementi review¹⁷ also recommended a greater focus on quantitative measurements of whether the BBC was fulfilling its duties under the licences.

23. The White Paper says: "The government will provide guidance to the regulator on content requirements and performance metrics... Ofcom will then be expected to consult to establish the final set of requirements and metrics in accordance with this guidance" and to keep these under review for appropriateness over the period of the Charter.¹⁸ In addition, the BBC would be expected to publish annual workplans, including budgets.

24. One of the issues which caused us in our last report to recommend a new system of governance for the BBC was that decisions on the launching or continuation of services (the broadcasting of BBC 3, the continuance of Radio Six) took a very long time as it was not clear who had the final word, the BBC Trust or the BBC Executive. While the Government's proposals place great emphasis on the need for the unitary board to take decisions, there is still considerable ambiguity about where final responsibility will or should lie. For example, in relation to the Public Value Test (undertaken to determine whether a major change like opening or closing a radio station is in the public interest and

15 Qq 203–205

16 Public Administration and Constitutional Affairs Committee, *Better Public Appointments?: The Grimstone Review on Public Appointments*, Third Report of Session 2016–17, HC 495

17 Sir David Clementi, *A Review of the Governance and Regulation of the BBC*, March 2016, Cm 9209

18 White Paper, p55

whether any market impact is justified), the White Paper states “the BBC Board should take responsibility in the first instance for taking account of the public value and impact on the market ... [but] Ofcom should be able to make a final determination on whether a change is acceptable ... with particular regard to market impact and protecting the legitimate interests of third parties to the extent that the BBC has failed to give them due consideration”.¹⁹ This diminution in the power of the unitary Board may be justifiable where the start or expansion of a BBC service might disrupt the market. But the issue is much less clear-cut in cases where, for example, the Board decides that a service is no longer sustainable on cost grounds. Here and elsewhere, a great deal hangs on the specific arrangements reached; and forbearance and goodwill will be needed on all sides during the transition process.

25. In order to separate the Charter review process from the political cycle, the Government proposes that the next Charter should be in place for 11 years, ie 1 January 2017 to 31 December 2027. However, given the speed of change in the broadcasting industry, the Government suggests that there should be a mid-term ‘health check’ focusing on governance and the regulatory reforms. It also suggests that future funding issues should be considered alongside the review.²⁰

26. The Secretary of State insisted that it was not the Government’s intention to re-open the Charter process mid-term but just to give an opportunity of seeing whether the new systems were working. However, he did admit that the BBC itself had been concerned that the mid-term review could expand into something more fundamental.²¹ Lord Hall told us that the BBC had been reassured over this issue by the Secretary of State that this would not be the case.²²

27. Even after the Royal Charter is made and the Framework Agreement put in place, it is likely that there will be areas where it is unclear whether Ofcom or the Board have the final word. If this leads to the sort of protracted decision-making seen under the Trust, then the mid-term review will have to provide clarity.

28. Lord Hall expressed his concerns about the appointment of the National Audit Office (NAO) as auditor, particularly in respect of the BBC’s wholly-owned subsidiaries such as BBC Worldwide and the proposed BBC Studios. He argued that it was unprecedented for the NAO to have such a role, and explained that a particular worry was that, for example, BBC Worldwide’s overseas partners might be hauled before the Committee of Public Accounts to justify the value-for-money to taxpayers from a deal. James Purnell, Director of Strategy and Digital,²³ BBC, also suggested that employees of BBC Worldwide might be confused about whether they were expected to maximise profit or to obey public sector value-for-money criteria.²⁴

29. The NAO is very experienced in handling the evaluation of commercial contracts across different parts of the public sector, and there is little real reason to think it cannot discharge this function effectively with care in relation to the BBC’s commercial operations. It may be that the BBC is less worried about the suitability of the NAO as

19 White Paper, p57

20 White Paper, p58

21 Q30 and 47

22 Qq229–230

23 Now Director of Strategy and Learning

24 Qq235–237

an auditor than about the prospect of it, or its overseas partners, being called before the Committee of Public Accounts to account for their actions. While we understand the need for BBC Worldwide—and, in due course, BBC Studios—to operate on a commercial basis, the inescapable facts are that the products they are selling have been created from licence fee funds, paid for by the public, and that the public are, therefore, entitled to hold all parts of the BBC to account for what their money has funded.

30. In practice, however, there are much more obvious areas of potential waste of public money than BBC Worldwide, and we would not expect its affairs to occupy much of the time of either the National Audit Office or the Committee of Public Accounts.

3 Other important current issues

Commissioning, production and the Studios proposal

31. The White Paper goes considerably beyond both the BBC's initial proposals, and those agreed between the BBC and PACT (The Producers Alliance for Cinema and Television, which represents independent producers) in opening up to competition the whole of BBC production. The exceptions to full competition would comprise the existing in-house reservations for news and news-related current affairs, the 25% independent production quota in all other genres and the production quotas for nations and regions. The White Paper thereby scraps the proviso agreed with PACT that the opening up depended on regulatory approval of the BBC Studios proposal, and it ends the in-house guarantees for children's programmes, sports, non news-related current affairs content and, possibly most significantly of all, returning series.

32. The White Paper cautiously welcomes the BBC's proposal to establish its production capability as BBC Studios with the ability to produce content for other broadcasters. The Government's approval is subject to the proposals passing the appropriate regulatory tests and to "the successful adoption of the government's proposed approach of full competition in content spend and the removal of the BBC's existing in-house guarantees".²⁵

33. We asked PACT whether its members were content with the more radical proposals in the White Paper. PACT said that they were, but still expressed fears that the emergence of the BBC as a competitor in production for other broadcasters threatened to destabilise the market.²⁶

34. The Secretary of State told us that the Government could see no reason why it was necessary to retain reserved areas in respect of children's programmes, sport and returning series:

If you give the BBC the freedom to go out and bid for commissions from other broadcasters then in our view it is right that the BBC should make themselves open to that same possibility from other independent production companies. Generally we believe in competition, and we believe in the market, and we think that that will provide more creative ideas and at the same time greater efficiency for the BBC.²⁷

In practice, however, he did not expect the BBC to lose much of its existing business as soon as the slots were opened to competition, noting: "The BBC in-house production unit, when it evolves into BBC Studios, will still be one of the biggest and most powerful production facilities in the UK."²⁸

35. Lord Hall and James Purnell admitted that the Government had proposed wider competition than the BBC wanted: while the BBC had been prepared to develop further proposals on opening existing "strands" to competition, it was concerned about sports (almost all of which, other than the journalists and presentation teams, was already

25 White Paper, p83

26 [BCR0120](#)

27 Q 83

28 Q 84

contracted out) and children’s programmes. They suggested that even PACT had preferred to keep the existing regime for children’s programmes, but the Government had been insistent.²⁹

36. We asked how the Secretary of State proposed to assess the success of the move to full competition. He replied he would expect it to deliver efficiency savings and more creative output, and also, perhaps, to address the concerns about insufficient spread of commissioning across the different parts of the UK. If the BBC were too successful in winning commissions from elsewhere, he would expect Ofcom to step in, given its role as competition regulator. He did not anticipate that any assessment of the Studios proposal would form part of the mid-term review.³⁰

37. Both the independent production companies, as represented by PACT, and the BBC believe that they can work within the White Paper proposals on production. We will keep a watching brief on this area, given the importance to the licence fee payer of the quality and variety of programmes broadcast by the BBC.

Local news

38. In relation to local news provision, the White Paper states: “The government expects the BBC to use its privileged position to support the provision of news and information and specifically we expect to see a positive partnership with the local news sector.” It goes on to note with approval the various actions proposed by the BBC: a News Bank to syndicate audio and video content for local news providers across the UK; a Data Journalism Hub in partnership with a university; an Independent Audit of Local Content to examine the usage of local content by the BBC and vice versa, so that originators of stories could be properly referenced and credited; and a Local Public Sector Reporting Service—the most controversial of the suggestions, involving the sharing between the BBC and local media of 150 or more journalists, paid for by the BBC, to report on local institutions. The White Paper notes on this last initiative that the details still need to be resolved, but Lord Hall was reassuring that progress was being made.³¹

39. The BBC’s attempts to support the gathering of local news are to be welcomed. But much of the detail remains vague and unclear. We are unconvinced that the Local Public Sector Reporting Service can be made to work in such a way that it neither subsidises companies that are profitable, nor benefits those that have cut back on local journalism while their competitors have chosen to continue to cover court hearings and local council meetings, but look forward to detailed future proposals.

Broadcasting in Scotland

40. In our earlier report on the BBC, we highlighted broadcasting in the nations and regions as one area to which we might return before the BBC Charter was renewed. We travelled to Glasgow to take evidence and would, therefore, like to address the issue of the six o’clock news programme in Scotland.

29 Qq239 and 249–252

30 Qq 95–96

31 White Paper p74; Qq 218–223

41. The six o'clock news in Scotland is split into two: the main news stories, whether international or relating to the UK (in whole or in part), are presented from London; while Scottish news is presented from Glasgow. In the post-devolution era, this can lead to network news programmes transmitted from London leading on several purely English stories—for instance on health, justice or education—which have no bearing on Scotland. Moreover in this arrangement, there is little or no scope for presenting a major UK or international issue from a Scottish perspective. Together with a failure by BBC Scotland to create and sustain a popular news-related current affairs programme, this has led to a perception that the BBC has failed to accommodate news of particular importance to Scotland.

42. The BBC has acknowledged that there is dissatisfaction with this situation. We were told that it has tested three different 'Scottish Six' pilots to replace the existing programming. The first option would be a slightly tweaked version of the current programme. The second option would be a news programme which had Scottish, UK and international news with a running order based on editorial news values, and broadcast from Scotland. The third option would be a hybrid; two studios would be operated and the show would be topped and tailed in Scotland, with the Scottish presenter introducing Scottish items, whilst crossing to a London studio for UK and international news.³²

43. The BBC Scotland Director, Ken MacQuarrie, told us that he thought all three pilots were equally good. Surprisingly, he said that he had not discussed with the new Head of BBC Scotland News, Gary Smith, which he preferred.³³ When pressed on the timetable for further proposed pilots, the representatives of the BBC said they hoped to record more after a summer break, and to have made a decision before the end of this year.³⁴

44. It seems to us that the cost of running two studios for a single broadcast—as proposed for the hybrid programme—is a needless extravagance. There is also a danger that the programme will look patronising to a Scottish audience. It is perfectly reasonable for editorial decisions on the running order for television news broadcasts in Scotland to be made in Scotland, as they are already for radio. The newsroom in the new Broadcasting House in London has been arranged so as to bring together all the correspondents in each field, whether they are working for television, radio or online, for the national or regional news or for BBC World News; this has been done with a view to efficiency (correspondents producing different versions of the same story adapted to the form of publication and the audience) and pooling of expertise. We believe that a different Scottish running order can easily be accommodated within this organisation. We therefore recommend that BBC Scotland proceed with option two as proposed: a news programme anchored in Scotland, with a running order of Scottish, UK and international stories based on news merit, drawing on all the BBC's facilities and broadcast from Scotland.

45. In the autumn of 2015 we took evidence from MG Alba (The Gaelic Media Service), the remit of which under the Communications Act is to ensure that a wide and diverse range of high quality Gaelic programming is made available. We were impressed by the evidence, noting that BBC Alba broadcasts a half-hour daily Gaelic television news

32 Qq 447–452

33 Q 458; see also Q 454

34 Qq 465–67

programme with Scottish, UK and international news without difficulty and on a very limited budget. We noted moreover that Gaelic broadcasting is regularly watched by 15% of the population in Scotland.³⁵

46. We therefore support the MG Alba objective of parity with S4C in Wales; namely, that the BBC should make or commission ten hours of Gaelic programming per week, and that BBC Alba should broadcast no less than three hours of previously unbroadcast programming per day, including news. This, we believe, would maintain and enhance the vibrancy of the Gaelic broadcasting sector.

Other areas

47. The White Paper has sought to ensure greater transparency about BBC expenditure, to support the BBC's efforts to reduce excessive layers of management, to improve the supervision and accountability of the BBC's commercial subsidiaries, notably BBC Worldwide, and to require the BBC to consider more closely the value-for-money provided by its R&D activity. We welcome all these measures.

48. There remains the question of pay. The BBC has made real progress in limiting the salaries of senior BBC executives and 'talent', and in providing a degree of transparency as to the number of people whose pay exceeds certain levels. But we see no reason why the threshold for publication of the salaries of 'talent' has been set at £450,000—higher than that for executives. In a world of agents and widespread online gossip, we do not accept that this level of confidentiality is necessary to retain talent, and we are very conscious of the fact that the BBC's performers, like management, are ultimately remunerated by the licence fee payer. We therefore recommend the same threshold for both: that total remuneration in excess of the Prime Minister's should be published. Furthermore, we note Lord Hall's acceptance that the threshold should apply to all payments received; that is, whether they are made directly to an individual or through a body such as a production company that is, in effect, a vehicle for an individual.

49. In relation to the commercial subsidiaries, the new Charter will split responsibility for ensuring that they meet the four existing commercial criteria (that the activities fit with the BBC's public purposes, are commercially efficient, do not harm the BBC's reputation and do not distort the market) between the BBC board (for the first three criteria) and Ofcom (for the last). It will also require the Board periodically to hold a strategic review of each commercial subsidiary, including whether loss-making ones should be closed or reorganised. The Board will have to be more transparent about how the commercial subsidiaries operate, without making it impossible for them to work commercially; and Ofcom will have to devise a Fair Trading framework to avoid the relationship between the commercial entities and the main public service part of the BBC unduly distorting competition in the market.³⁶

50. As far as R&D is concerned, the new Charter would drop the sixth and last public purpose, which deals with technological development but was included in the list largely to enable the BBC's role in digital switchover. However, the Government considers the BBC should retain a role in technological development. It states that the BBC should

³⁵ BCR0040

³⁶ White Paper, p87

publish a detailed cost-benefit analysis of its R&D activity, including the i-Player, looking at its successes to date, future objectives and potential collaborations with others, value to licence fee payers and the creative economy more broadly.³⁷

51. The White Paper contains a whole chapter on distinctiveness as being the key quality of the BBC and the basis for its privileges in comparison with other broadcasters. However, it is not immediately clear what “distinctiveness” is. We asked the Secretary of State to define it. He responded that that was a matter for the BBC Board to satisfy themselves, though he gave an example of where he did not think there was a problem of distinctiveness: the approach of Radio 3 to classical music as compared with Classic FM.³⁸ (In fact, Classic FM has made just this complaint: that Radio 3 is becoming too similar in its approach, being more populist and not necessarily playing complete works.)

52. Lord Hall, meanwhile, gave a list of questions that would help to define distinctiveness: “Are you finding new talent; are you taking risks; are you finding new ways of storytelling; are you finding new writers in drama; are you giving new musicians scope to take the stage?” This sort of risk-taking, combined with every programme aspiring to be the best in its genre, equated, he thought, to distinctiveness.³⁹ **We congratulate the BBC on the quality of its output and support the Director General’s determination to bring greater distinctiveness to its programming. We concur with the Government, however, that further changes to the BBC’s culture are needed in respect of it becoming a better partner with the broadcasting and technology sectors.**

37 White Paper, p89

38 Q 40

39 Q255

4 Chair of the Unitary Board

53. In our previous Report, we emphasised the need for the Chair of a new unitary board for the BBC to be an experienced executive with a proven capacity for decision-making and a robust approach.⁴⁰ Given that the BBC Trust was being abolished, it was widely assumed—not least in the Department itself—that a new appointment would be made, with the appointee taking up the reins as soon as the new regime started. However, the White Paper explained that the Government had decided that the current Chair of the BBC Trust, Rona Fairhead, would stay on as Chair of the BBC through to the end of the current term (October 2018).⁴¹ In response to our questions, the Secretary of State acknowledged that the proposed Board had a very different role to that of the current Trust, but said that “it was felt that it would provide a degree of continuity from one to the next to have the chairman [of the Trust] take on the responsibility as the first chairman of the Board.”⁴²

54. Given the apparent difference in roles and responsibilities between the Chair of the Trust and the Chair of the new unitary Board, we considered that it would be appropriate to ask Ms Fairhead some questions that would explore the challenges of the new job, while reserving the right to hold a formal pre-appointment hearing. She said that these were different jobs, but that some elements were common, listing duties to represent licence fee payers, to defend the independence of the BBC and to ensure value for money. She stated that the regulatory aspects of the Trust’s role would be transferred to Ofcom, and that the new structure provided for clearer lines of accountability, with greater operational and financial oversight and a new element of editorial strategy. She agreed that the post would test the operational skills she had acquired previously in her career.⁴³

55. Rona Fairhead argued strongly for a process of open competition for the other posts on the new unitary board, but not in relation to her own position. We went on to ask why, if the role was so different, there had been no process of open competition for the post of Chair of the unitary Board.⁴⁴ Ms Fairhead said that she had been asked by the Secretary of State and the then Prime Minister to stay on to the end of her four-year term in order to manage the transition to the new governance structure. She said that her original appointment process had been officially certified as best practice. She acknowledged that she had had a private meeting with the then Prime Minister without the presence of civil servants, but denied that she had asked for the post.⁴⁵ She then said, “The job has been amended somewhat.” When challenged as to the consistency of this with her earlier statements, she stated, “I said it was different but there are many parts that are the same.”⁴⁶

56. The Chair of the BBC Trust heads up a board, supported by a secretariat, which is charged with the governance of the BBC, but has little operational responsibility. The Chair of the new unitary Board of the BBC, however, is the head of a global broadcasting company. The two roles are very different, and have very different responsibilities.

40 Fourth Report, paragraph 26

41 White Paper, p56

42 Q26

43 Qq 282–83 and 286–89

44 Qq 304 ff

45 Qq 321 ff

46 Qq322 and 323

57. Furthermore, the Chair of the Board is, rightly, likely to play a major role in the appointment of the other Board members: even though hers would be a ‘temporary’ position, Ms Fairhead would influence the appointment of the majority of Board members. Unless they remain in post for a long time, it is likely that no subsequent Chair will have such influence on the composition of the Board.

58. As a result, we are firmly of the view that the process of appointing the Chair should have been via an open and orderly public competition, as is standard in the public sector and as the Government has proposed for other members of the board.

59. Ms Fairhead herself argues that chairing the new unitary Board is a different job. She should, therefore, have been required to apply for the job had she wished to be considered for it. Her experience as Chair of the Trust and the benefits of continuity might have counted in her favour. But given the prestige of the new role of Chair of the Board, we think it likely that other strong candidates could have emerged in an open competition.

60. We do not believe—even if one were to regard the offer of the post to Ms Fairhead as a re-appointment rather than a new appointment—that it would be appropriate for any Minister, including the Prime Minister, simply to offer her the job. Whatever rules for public appointments are finally settled upon, Ministers have to have a very good reason (such as the death or incapacity of the current postholder or some other emergency) for not following due process. There was no urgency: Ms Fairhead could have been asked to stay in post until the new Charter came into operation. We believe that this is the sort of unusual appointment that would be referred to the Commissioner for Public Appointments for review under the Grimstone proposals for public appointments.

Conclusions and recommendations

1. In general, we welcome the White Paper, which reflects many of the suggestions made by us and the previous Committee, and which underlines the Government's commitment to the BBC and recognition of its unique value as a high quality, independent and globally respected public service broadcaster. We are particularly pleased to see that the Government has adopted our key recommendations to abolish the BBC Trust and establish a unitary Board, to consolidate regulation of the BBC in Ofcom and to enhance the role of the National Audit Office. (Paragraph 4)
2. We concur with Lord Hall in preferring a smaller board, with a higher proportion of executive members than the Government suggests. A board of twelve comprising five government-nominated non-executives (the Chair and four representatives of the nations), together with three non-executive and four executive Board members appointed by the BBC would give a better balance. It would also, we believe, produce a more coherent and effective Board. The BBC may wish to consider including a staff representative as one of its non-executive nominees, as the Prime Minister has suggested in connection with private sector company boards. (Paragraph 13)
3. The Director General indicated his support for the idea that the Board should collectively choose a Senior Independent Director from amongst its number. We agree, and believe this arrangement would be superior to the Government also nominating a Deputy Chair. (Paragraph 14)
4. We recognise that having national representatives on the Board both continues a long-running tradition and honours the agreement made between the UK Government and the devolved administrations. We are also conscious that under recently announced changes, Lord Hall has demoted the operational Directors of the Nations to the third tier of network management, beneath the unitary Board and the Board of Management. (Paragraph 15)
5. We are anxious that the presence of national representatives on the unitary Board should not absolve the Board as a whole from its duty to represent and reflect all the nations fairly—something we feel it has not always done, for example in relation to the disparity between the amount of licence fee money paid by viewers in Scotland in comparison with the final spend there. Moreover, it goes without saying that the national representatives, in common with all other Board members, should bring special skills to the Board and a passion for public service broadcasting, in addition to their particular understanding of the views and needs of their respective nations. The Board must be clear that it exercises its responsibilities collectively, here as elsewhere. (Paragraph 16)
6. It is vital that the new governance arrangements should preserve, and be seen to preserve, the independence of the BBC from interest group pressure, and from pressure from politicians. This is especially important following the decision to abolish the BBC Trust and create the unitary Board. Another Committee has been examining public appointments processes, including the recommendations of the Grimstone Review that would enable more direct political intervention in public appointments. Whatever decisions are made in respect of other bodies, the freedom of the BBC from undue political interference must be defended. We do not believe

that drawing a selection board's attention to candidates preferred by Ministers can be anything other than an attempt to influence the board, and we would ask the Government to ensure that no such indication of preferred candidates is made in respect of the Government's nominees to the BBC Board. (Paragraph 20)

7. Even after the Royal Charter is made and the Framework Agreement put in place, it is likely that there will be areas where it is unclear whether Ofcom or the Board have the final word. If this leads to the sort of protracted decision-making seen under the Trust, then the mid-term review will have to provide clarity. (Paragraph 27)
8. The NAO is very experienced in handling the evaluation of commercial contracts across different parts of the public sector, and there is little real reason to think it cannot discharge this function effectively with care in relation to the BBC's commercial operations. It may be that the BBC is less worried about the suitability of the NAO as an auditor than about the prospect of it, or its overseas partners, being called before the Committee of Public Accounts to account for their actions. While we understand the need for BBC Worldwide—and, in due course, BBC Studios—to operate on a commercial basis, the inescapable facts are that the products they are selling have been created from licence fee funds, paid for by the public, and that the public are, therefore, entitled to hold all parts of the BBC to account for what their money has funded. (Paragraph 29)
9. In practice, however, there are much more obvious areas of potential waste of public money than BBC Worldwide, and we would not expect its affairs to occupy much of the time of either the National Audit Office or the Committee of Public Accounts. (Paragraph 30)
10. Both the independent production companies, as represented by PACT, and the BBC believe that they can work within the White Paper proposals on production. We will keep a watching brief on this area, given the importance to the licence fee payer of the quality and variety of programmes broadcast by the BBC. (Paragraph 37)
11. The BBC's attempts to support the gathering of local news are to be welcomed. But much of the detail remains vague and unclear. We are unconvinced that the Local Public Sector Reporting Service can be made to work in such a way that it neither subsidises companies that are profitable, nor benefits those that have cut back on local journalism while their competitors have chosen to continue to cover court hearings and local council meetings, but look forward to detailed future proposals. (Paragraph 39)
12. It seems to us that the cost of running two studios for a single broadcast—as proposed for the hybrid programme—is a needless extravagance. There is also a danger that the programme will look patronising to a Scottish audience. It is perfectly reasonable for editorial decisions on the running order for television news broadcasts in Scotland to be made in Scotland, as they are already for radio. The newsroom in the new Broadcasting House in London has been arranged so as to bring together all the correspondents in each field, whether they are working for television, radio or online, for the national or regional news or for BBC World News; this has been done with a view to efficiency (correspondents producing different versions of the same story adapted to the form of publication and the audience)

and pooling of expertise. We believe that a different Scottish running order can easily be accommodated within this organisation. We therefore recommend that BBC Scotland proceed with option two as proposed: a news programme anchored in Scotland, with a running order of Scottish, UK and international stories based on news merit, drawing on all the BBC's facilities and broadcast from Scotland. (Paragraph 44)

13. We therefore support the MG Alba objective of parity with S4C in Wales; namely, that the BBC should make or commission ten hours of Gaelic programming per week, and that BBC Alba should broadcast no less than three hours of previously unbroadcast programming per day, including news. This, we believe, would maintain and enhance the vibrancy of the Gaelic broadcasting sector. (Paragraph 46)
14. The White Paper has sought to ensure greater transparency about BBC expenditure, to support the BBC's efforts to reduce excessive layers of management, to improve the supervision and accountability of the BBC's commercial subsidiaries, notably BBC Worldwide, and to require the BBC to consider more closely the value-for-money provided by its R&D activity. We welcome all these measures. (Paragraph 47)
15. There remains the question of pay. The BBC has made real progress in limiting the salaries of senior BBC executives and 'talent', and in providing a degree of transparency as to the number of people whose pay exceeds certain levels. But we see no reason why the threshold for publication of the salaries of 'talent' has been set at £450,000—higher than that for executives. In a world of agents and widespread online gossip, we do not accept that this level of confidentiality is necessary to retain talent, and we are very conscious of the fact that the BBC's performers, like management, are ultimately remunerated by the licence fee payer. We therefore recommend the same threshold for both: that total remuneration in excess of the Prime Minister's should be published. Furthermore, we note Lord Hall's acceptance that the threshold should apply to all payments received; that is, whether they are made directly to an individual or through a body such as a production company that is, in effect, a vehicle for an individual. (Paragraph 48)
16. We congratulate the BBC on the quality of its output and support the Director General's determination to bring greater distinctiveness to its programming. We concur with the Government, however, that further changes to the BBC's culture are needed in respect of it becoming a better partner with the broadcasting and technology sectors. (Paragraph 52)
17. The Chair of the BBC Trust heads up a board, supported by a secretariat, which is charged with the governance of the BBC, but has little operational responsibility. The Chair of the new unitary Board of the BBC, however, is the head of a global broadcasting company. The two roles are very different, and have very different responsibilities. (Paragraph 56)
18. Furthermore, the Chair of the Board is, rightly, likely to play a major role in the appointment of the other Board members: even though hers would be a 'temporary' position, Ms Fairhead would influence the appointment of the majority of Board members. Unless they remain in post for a long time, it is likely that no subsequent Chair will have such influence on the composition of the Board. (Paragraph 57)

19. As a result, we are firmly of the view that the process of appointing the Chair should have been via an open and orderly public competition, as is standard in the public sector and as the Government has proposed for other members of the board. (Paragraph 58)
20. Ms Fairhead herself argues that chairing the new unitary Board is a different job. She should, therefore, have been required to apply for the job had she wished to be considered for it. Her experience as Chair of the Trust and the benefits of continuity might have counted in her favour. But given the prestige of the new role of Chair of the Board, we think it likely that other strong candidates could have emerged in an open competition. (Paragraph 59)
21. We do not believe—even if one were to regard the offer of the post to Ms Fairhead as a re-appointment rather than a new appointment—that it would be appropriate for any Minister, including the Prime Minister, simply to offer her the job. Whatever rules for public appointments are finally settled upon, Ministers have to have a very good reason (such as the death or incapacity of the current postholder or some other emergency) for not following due process. There was no urgency: Ms Fairhead could have been asked to stay in post until the new Charter came into operation. We believe that this is the sort of unusual appointment that would be referred to the Commissioner for Public Appointments for review under the Grimstone proposals for public appointments. (Paragraph 60)

Formal Minutes

Wednesday 20 July 2016

Members present:

Damian Collins, in the Chair

Andrew Bingham	Chris Matheson
Paul Farrelly	Jason McCartney
Nigel Huddleston	John Nicolson

In the absence of a Chair, Damian Collins took the Chair.

Draft Report (*BBC White Paper and related issues*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 60 read and agreed to.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 6 September at 10.00 am

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 7 June 2016

Question number

Rt Hon John Whittingdale, Secretary of State for Culture, Media and Sport [Q1-184](#)

Tuesday 28 June 2016

Lord Hall of Birkenhead, Director-General, and **James Purnell**, Director of Strategy and Digital, BBC [Q185-279](#)

Wednesday 5 July 2016

Rona Fairhead, Chairman of the BBC Trust [Q280-429](#)

Monday 11 July 2016

Ken MacQuarrie, Director, and **Gary Smith**, Head of News, BBC Scotland [Q430-518](#)

Bobby Hain, Director of Channel, and **Alan Clements**, Director of Content, STV. [Q519-573](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

BCR numbers are generated by the evidence processing system and so may not be complete.

- 1 Pact ([BCR0120](#))
- 2 Wireless Group plc ([BCR0121](#)) ([BCR0124](#))
- 3 Dr Marina Dekavalla, Stirling University ([BCR0122](#))
- 4 Department for Culture, Media and Sport ([BCR0123](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2015–16

First Special Report	Tourism: Government response to the Committee's Sixth Report of Session 2014-15	HC 382
Second Special Report	Society Lotteries: Government response to the Committee's Fifth Report of Session 2014-15	HC 415
First Report	BBC Charter Review	HC 398
Second Report	Appointment of the Information Commissioner	HC 990

Session 2016–17

First Report	Cyber Security: Protection of Personal Data Online	HC 148
Second Report	Establishing world-class connectivity throughout the UK	HC 147