



HOUSE OF LORDS

Select Committee on Communications

2nd Report of Session 2010–12

The governance and regulation of the BBC

Report

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The Select Committee on Communications

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

Declaration of Interests

See Appendix 1.

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

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

References in footnotes to the Report are as follows:

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

SUMMARY

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

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

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

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

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

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

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

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

The governance and regulation of the BBC

CHAPTER 1: INTRODUCTION

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

¹ Q 554

² Q 584

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

⁴ Q 584

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

⁵ Q 555

⁶ Q 187

