



In Focus

Progress on BBC Charter Renewal

Background

The BBC was first incorporated by Royal Charter in 1927, and the Charter has been renewed at periodic intervals since then. The current [Charter](#) came into effect in January 2007 and is due to expire on 31 December 2016. The Charter sets out the public purposes of the BBC, guarantees its independence and provides the duties of the BBC Trust and Executive Board, which form its governance structure. The Charter also makes provision for an [Agreement](#) between the BBC Director General and the Secretary of State, which provides more detail on topics outlined in the Charter and also covers the BBC's funding and regulation.

Royal Charters are granted by the Privy Council and do not require parliamentary approval. The Government has undertaken to “ensure that there is an opportunity for the BBC Charter to be debated by both Houses of Parliament before it is brought into effect”.¹ The Government has also made a commitment to consult the Scottish Government, the Welsh Government and the Northern Ireland Executive throughout the process of reviewing the Charter.²

This short briefing concentrates on recent developments in the Charter review process and the expected next steps. Two longer briefings—House of Commons Library, [BBC Charter Renewal](#), 3 March 2016; and House of Lords Library, [BBC: Future Financing and Independence](#), 3 September 2015—provide further detail on the issues surrounding the process and the BBC's response to date.

Timetable

On 16 July 2015, the Government published a green paper, [BBC Charter Review: Public Consultation](#), which it described as “the first stage of the process in setting a new Charter”.³ The consultation set out four broad issues for public discussion: the BBC's mission, purpose and values; the scale and scope of the BBC's services and operations; the way in which the BBC is funded; and the BBC's governance and accountability. The consultation closed in October 2015. The Government received 192,000 responses, which John Whittingdale, Secretary of State for Culture, Media and Sport, said it “did not anticipate”.⁴ He explained that reading all the responses “took many months” and required drafting in extra staff.⁵

The summary of consultation responses was published on 1 March 2016, alongside two other reports commissioned by the Government (see below). It is expected that the next step will be for the Government to publish a white paper containing specific proposals for the future of the BBC. Mr Whittingdale said in November 2015 that it was his “hope and intention” that the white paper would be published “in the first half” of 2016 and “then we will move towards charter renewal before the expiry”.⁶

Some concerns have been raised about the feasibility of concluding the process before the current Charter expires. Rona Fairhead, Chair of the BBC Trust, said in a speech on 2 March 2016 that she hoped “we now don’t have to wait too long for a white paper” as she was “very conscious of the amount of work that will still need to be done after that”. She felt that removing the “cloud of uncertainty and unease” currently hanging over the BBC by the end of this year would require “some clear decisions to be taken, and quickly”.⁷

The House of Commons Culture, Media and Sport Committee observed that if the white paper was not published until May 2016 at the earliest, “this will leave little time—very possibly, too little time—for Parliament and for the many other interested parties to scrutinise the proposals properly before the Government’s lawyers have to start drafting a Royal Charter to be promulgated before the end of the year”.⁸ The Committee therefore argued that “rather than rush matters it would be better to prolong the current Charter for a further period in order to allow more detailed consideration of the Government’s proposals for the new Charter”.

Maria Eagle, the Shadow Secretary of State, having previously suggested that “time wasting” by the Department for Culture, Media and Sport on publishing the consultation response might “result in some kind of debilitating short-term charter extension beyond the end of the year”, asked in February 2016 whether the Government had had any discussions with the BBC about extending the current Charter period by order of the Queen in Council.⁹ Edward Vaizey, Minister of State for Culture and the Digital Economy, replied that he and his officials “continue to have an ongoing dialogue with the BBC regarding the content and process of the BBC Charter Review”.

The House of Lords Communications Committee has recommended that the Charter Review process be “decoupled from the general election cycle resulting from the Fixed-Term Parliaments Act 2011”.¹⁰ The Committee believed that the present arrangements “could lead to hasty decision making after an election and not allow sufficient time for adequate consultation and dialogue between all interested parties”. The Commons Culture, Media and Sport Committee made a similar recommendation for divorcing Charter renewal from the electoral cycle.¹¹

Key Documents Published in March 2016

On 1 March 2016, three key documents relating to the Charter review were published. These are discussed in turn below. John Whittingdale stated that all three would “have a major influence on the new draft Charter”.¹² The [BBC Charter Review Public Consultation: Summary of Responses](#) summarised responses from members of the public, industry experts and other organisations to the questions set out in the green paper. Mr Whittingdale said that the consultation responses made clear that the public “do value the BBC”, “believe it produces high quality and distinctive content” and “want the BBC to remain independent”.¹³ However, he noted that the responses also suggested that there were areas where the BBC “falls short for some viewers”, such as reaching black, Asian and ethnic minority and young audiences, and representing the lives of people in the UK’s nations and regions. He said he had commissioned further polling and focus group work to “unpick some of the issues highlighted, and to ensure that some of the minority views of certain parts of society aren’t lost as we take this forward”.

[A Review of the Governance and Regulation of the BBC](#) was an independent review led by Sir David Clementi. The two main recommendations of the Clementi Review were that regulatory oversight of the BBC should be passed wholly to Ofcom and that the BBC should have a unitary Board made up with a majority of non-executive directors.¹⁴ In a speech following the review’s publication, John Whittingdale said that “the future performance of the BBC will be hugely determined by its governance structure”. In his view, Sir David had “set out a clear, sensible vision for how the BBC can be reformed for the

better”, one which “it would be very difficult for this—or indeed any—Government to overlook”.¹⁵ Rona Fairhead, recalling her own proposals for “intelligent reform” of the BBC’s governance and regulation, said that the model put forward by Sir David was “a structure that we broadly believe can work”, although further work would be needed to “put more flesh on those bones of the structure that he has designed”.¹⁶ She said that in the coming weeks, the BBC would work closely with the Government and have discussions with Ofcom “with the aim of getting things in place by the end of the year”. She intended to publish a “detailed, formal response” to the Clementi review “very soon”.

[*BBC Television, Radio and Online Services: An Assessment of Market Impact and Distinctiveness*](#) was written by independent media consultants commissioned by the Government. This report argued that “greater distinctiveness in the BBC’s mainstream services than is currently the case could not just have a positive impact on the commercial market but also positive net market impact—once the BBC and commercial offerings to the consumer are assessed in aggregate”.¹⁷ It advocated a shift in the positioning of BBC 1, the BBC’s popular music and news/sport radio services, and the BBC’s online news and information services. The report also outlined how “a more cooperative approach from the BBC to linking to commercial rivals and the aggregation of third party content could help the commercial sector and the overall net market impact of the BBC still further”.¹⁸ John Whittingdale said that the report’s “thorough analysis” would be “considered very thoroughly by myself and the Department”.¹⁹

Select Committee Reports

Select committees of both Houses published reports on the BBC Charter in February 2016. The House of Lords Communications Committee conducted an inquiry into the public purposes of the BBC, who should set the level of the licence fee, and whether the current scale and scope of the BBC were appropriate to its stated mission. The Committee concluded that the ‘Reithian Principles’ articulated by the BBC’s first Director-General, Lord Reith—to inform, educate and entertain—should be “reaffirmed as the mission statement of the BBC” and given greater prominence within the organisation.²⁰ The Committee also recommended that “as the starting point for a new accountability framework”, the BBC should adopt Ofcom’s four general public service broadcasting principles: informing our understanding of the world; stimulating knowledge and learning; reflecting UK cultural identity; and representing diversity and alternative viewpoints.²¹ The Committee reported that it had not heard “a convincing case” for a significant reduction in the scale or scope of the BBC. It believed that the BBC “should not be restricted to remedying gaps for which the market does not provide”, but “must continue to be a universal broadcaster”.²²

On the setting of the licence fee, the Committee described the lack of a clear process as “unacceptable”, and believed that it had been “inappropriate for the Government to propose and for the BBC to accept” the deal reached in July 2015, whereby the BBC took on the costs of funding free TV licences for the over-75s.²³ The Committee recommended that in future, the body which regulates the BBC should publish an evidence-based recommendation on the level of the licence fee; the Secretary of State should then have an obligation to accept the recommendation, or publish reasons for not doing so, with parliamentary approval required for any change to the licence fee.²⁴

The House of Commons Culture, Media and Sport Committee conducted an inquiry into six main areas relevant to the BBC Charter renewal: governance and regulation; the BBC’s international presence; production; local journalism; technology and innovation; and reshaping the culture of the BBC.²⁵ Among its key findings were that the BBC Trust “has lost confidence and credibility and should be abolished” and that the BBC’s Board should be “reformed as a unitary board and strengthened, with the addition of an independent Chair”. Pending the publication of the Clementi Review, the Committee judged that “wider accountability should be the task of a separate section of Ofcom”.²⁶ In practice, the BBC Board

would be “responsible for preparing and implementing the Corporation’s strategy”, including broad objectives for the BBC’s various channels and services and broad allocation of expenditure, while the body responsible for accountability would “act as guardian of the public interest in the BBC”, including assessing value for money.²⁷

The Committee described its report as “preliminary”, and stated that it expects to conduct further work as the Government’s intentions become clearer, especially after the promised white paper.²⁸

¹ House of Lords, written question: BBC: Royal Charters, 1 February 2016, [HL5390](#).

² Department for Culture, Media and Sport (DCMS), [Smith Commission—Memorandum of Understanding—BBC ; Memorandum of Understanding: BBC Charter Review/Welsh Government](#); and [Memorandum of Understanding: BBC Charter Review/NI Executive](#), 21 October 2015.

³ DCMS, ‘[Government Begins Debate on the Future of BBC](#)’, 16 July 2015.

⁴ [HC Hansard, 21 January 2016, col 1537](#).

⁵ DCMS, ‘[Culture Secretary Keynote Speech to Oxford Media Convention 2016](#)’, 2 March 2016.

⁶ House of Lords Communications Committee, [Corrected Transcript—BBC Charter Renewal: Public Purposes and Licence Fee](#), Evidence Session No 13, 17 November 2015, Q220.

⁷ BBC Trust, ‘[What’s at Stake in Charter Review: Speech by Rona Fairhead, BBC Trust Chairman, to the 2016 Oxford Media Convention](#)’, 2 March 2016.

⁸ House of Commons Culture, Media and Sport Committee, [BBC Charter Review](#), HC 398 of session 2015–16, 11 February 2016, p 7.

⁹ [HC Hansard, 21 January 2016, cols 1537–8](#) and House of Commons, written question: BBC: Royal Charters, 4 February 2016, [24351](#).

¹⁰ House of Lords Communications Committee, [BBC Charter Review: Reith not Revolution](#), HL Paper 96 of session 2015–16, 24 February 2016, p 58.

¹¹ House of Commons Culture, Media and Sport Committee, [BBC Charter Review](#), HC 398 of session 2015–16, 11 February 2016, p 45.

¹² DCMS, ‘[Culture Secretary Keynote Speech to Oxford Media Convention 2016](#)’, 2 March 2016.

¹³ *ibid*.

¹⁴ DCMS, ‘[Independent Review Recommends Overhaul of How BBC is Governed](#)’, 1 March 2016.

¹⁵ DCMS, ‘[Culture Secretary Keynote Speech to Oxford Media Convention 2016](#)’, 2 March 2016.

¹⁶ BBC Trust, ‘[What’s at Stake in Charter Review: Speech by Rona Fairhead, BBC Trust Chairman, to the 2016 Oxford Media Convention](#)’, 2 March 2016.

¹⁷ Oliver & Ohlbaum and Oxera, [BBC Television, Radio and Online Services: An Assessment of Market Impact and Distinctiveness](#), February 2016, p 8.

¹⁸ *ibid*, p 9.

¹⁹ DCMS, ‘[Culture Secretary Keynote Speech to Oxford Media Convention 2016](#)’, 2 March 2016.

²⁰ House of Lords Communications Committee, [BBC Charter Review: Reith not Revolution](#), HL Paper 96 of session 2015–16, 24 February 2016, p 3.

²¹ *ibid*, p 5.

²² *ibid*, p 8.

²³ *ibid*.

²⁴ *ibid*, p 9.

²⁵ House of Commons Culture, Media and Sport Committee, [BBC Charter Review](#), HC 398 of session 2015–16, 11 February 2016, p 7.

²⁶ House of Commons Culture, Media and Sport Committee, ‘[BBC Governance Needs Radical Overhaul. Committee Finds](#)’, 11 February 2016.

²⁷ House of Commons Culture, Media and Sport Committee, [BBC Charter Review](#), HC 398 of session 2015–16, 11 February 2016, p 47.

²⁸ *ibid*, p 7.

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