

1. This submission firstly examines the broader context within which Charter Review 2016 is taking place. It then offers some comments on the issues raised by the terms of reference issued by the Communities, Equality and Local Government Committee.

Context

2. The BBC's Charter is being renewed in the context of a communications policy framework which prioritises the expansion of market driven forms over public service. The *Report of the Committee on the Financing of the BBC*, published in 1986¹ advocated a future in which communications services would be provided by the market place, much like newspapers are, and public service broadcasting would be limited to providing those services which the market did not find economical. Once technology allowed consumers to purchase programmes directly on a one to one basis or as

¹ Home Office (1986) Report of the Committee on the Financing of the BBC, London: HMSO, Cmnd 9824

packages, then the BBC, or what remained of it, should become a subscription service.²

3. The Report provided the broad outline for the development of an increasingly market driven system of mass communications and led to an increase in under-regulated commercial competition, the removal of most of ITV's obligations as a regionally-based public service broadcaster³, and the growth of what was, in effect, the contracting out of sections of production by the BBC and ITV, through the support given by successive governments to the independent sector. This has been overseen by Ofcom which is, in essence, an organisation designed to promote commercial mass communications. Running parallel with this has been the development of a policy making process which has given priority to the views of well financed commercial organisations with the power and resources necessary to lobby governments for the outcomes they want. This was illustrated most sharply in the revelations about the links between News Corporation Executives and lobbyists the ministers in the Department of Media

² Tom O'Malley, *Closedown. The BBC and Government Broadcasting Policy, 1979-92*, London: Pluto, 1994:112-114.

³ Tom O'Malley, 'Wales, ITV and regulation', *Cyfrwng*, Volume 8 (2011): 7-22.

Culture and Sport during the Leveson inquiry.⁴ In the context of Wales, the lack of accountability and transparency in policy making was illustrated by the decision made by the Coalition government in 2010 to transfer S4C to the BBC without even the pretence of considered public consultation.⁵

4. One major consequence of the increase in competition and the squeeze on public service communications has been a reduction in spend on first run public service content in the UK, by 17.3% between 2008 and 2013.⁶ In Wales, as the work done by the IWA Media Policy Group for its 2015 Wales Media Audit has shown, the situation has become very serious indeed. After 2008, there was a significant reduction in spend, range and diversity of television programmes available both in English and Welsh for viewers in Wales. In real terms at 2014 prices, spending in Wales declined by 30%, from 2008 to 2014. Investment in news declined by 10% in Wales, and total spend

⁴Des Freedman, *The Politics of Media Policy*, Cambridge: Polity, 2008;

Leveson, Lord Justice Leveson, *An Inquiry into the Culture Practices and Ethics of the Press, Volume III*, London: The Stationery Office, 2012, HC780-III

⁵ T.P.O'Malley, *The Government, the BBC and S4C: A submission to the Welsh Affairs Select Committee Inquiry into the Welsh Language Broadcaster S4C* (Aberystwyth University, 15th November 2010) Published in: House of Commons Welsh Affairs Committee, *S4C*, (London: HC 614 Published on 11 May 2011, Fifth Report of Session 2010-2011, 27 April 2011) 2 Volumes, evidence in Volume 2 at www.parliament.uk/welshcom

⁶ Department of culture, media and sport (2015) *The Balance of Payments between Television Platforms and Public Service Broadcasters: Options for Deregulation*. Consultation Paper, London: DCMS: para 7, note 4).

by public service broadcasters on first-run originated output in news and current affairs in the UK and nations fell by 14% from 2008–2014.

In radio, commercial radio stations have closed and syndication of programming has increased at the expense of local content.⁷

5. The BBC Charter Renewal is being conducted, therefore, in a context where government policy is pressing for an overall reduction in the role of public service broadcasting in the UK, and Wales, relative to the size of commercial provision. This explains the secular decline of public service content in Wales. The situation has been exacerbated by the feeble structures of accountability in policy making in relation to Wales and by the pressures on broadcasting to fulfil obligations to properly represent Welsh interests in a context of declining resources and successive attacks on the BBC from political and commercial interests.

6. What follows are some comments and proposals in response to the terms of reference set out by the Committee.

The future provision of the BBC's services in Wales both in English and Welsh language Services.

⁷ Media Policy Group: *2015 Wales Media Audit Draft 2*, (Cardiff, IWA, 2015) at <http://www.clickonwales.org/wp-content/uploads/mediaauditsection1.pdf> accessed 26 October 2015

7. The future provision of BBC services in Wales is dependent on two factors. The first is finance. Significant aspects of the BBC's future finances were agreed in advance of the debate on Charter Renewal, for example the decision to force the BBC to pay for the licence fees of people over 75. This was clearly a case of putting the cart before the horse. It has been pointed out that this will result in the BBC being worse off in cash terms at the end of the next Charter period and indeed a former Director General of the BBC, Lord Birt, 'says the government had set "a very dangerous precedent" by doing a deal on BBC financing behind closed doors with no public consultation for the second time in five years – suggesting the BBC's independence from government has been compromised.'⁸ Director General Tony Hall announced in September 2015 that the BBC will see its annual funding cut by 20% over the next five years as a result of the settlement.⁹ So, the future of BBC services in Wales in both languages will have to take its share of these cuts, on top of the cuts they have experienced in recent years.

⁸ Anon, 'BBC to Fund over-75s' TV licences' and Nick Higham, 'Analysis', BBC, 6th July 2015, at <http://www.bbc.co.uk/news/uk-politics-33414693> accessed 26 October 2015.

⁹ Jane Martinson and Mark Sweney, 'Tony Hall: 'inevitable' that BBC services will have to be closed or cut', *The Guardian*, 7 September 2015, at <http://www.theguardian.com/media/2015/sep/07/tony-hall-bbc-cuts-bbc4> accessed on 26 October 2015.

8. The Communities, Equality and Local Government Committee and the Welsh Assembly Government should press both the DCMS and the BBC to review this settlement with a view to detailing its implications for Welsh broadcasting, and come forward with proposals that will see a real terms increase in funding over the next Charter period, one which does not come at the expense of funding in other areas of the BBC.
9. Proposals by the Director General to make up to 80% of BBC content open to contracting out,¹⁰ and the idea that parts of the BBC licence fee should be used to subsidise news gathering for print media organisations,¹¹ are measures which will weaken the BBC's capacity to produce sustained, critical and creative programming, and where the subsidy of news is concerned, open the door to further pressure for more top slicing of licence fee revenue. The BBC should be pressed to reverse these decisions.
10. The second factor influencing funding is governance. That the licence fee and or significant aspects of the BBC's finances should be largely determined twice in five years without proper consultations

¹⁰ Tara Conlan 'Biggest shakeup ever to BBC could see hit shows moved to private sector' *The Guardian*, 16 September 2015, at: <http://www.theguardian.com/media/2015/sep/16/biggest-shakeup-to-bbc-consultation-hit-shows-moved-to-private-sector> accessed 27 October 2015

¹¹ Tony Hall, 'Tony Hall speech at the Science Museum on the future vision of the BBC' 7th September 2015, at: <http://www.bbc.co.uk/mediacentre/speeches/2015/tony-hall-distinctive-bbc> accessed 27 October 2015

with the nations and regions in the UK is indicative of a deep failure in governance. This is addressed in the next section.

The BBC's current and future funding, governance and accountability arrangements as they relate to Wales.

11. The BBC's governance should be determined by statute not charter. The Charter leaves power in the hands of the Westminster government, not Parliament. It allows for opaque policy formulation and decision by, in effect, decree. A statute which safeguards the creative and editorial independence of the BBC, but which was renewed periodically under close Parliamentary scrutiny is arguably the best way of ensuring a more democratic approach to policy making, one which would give more opportunities for the voice of Wales to be heard.

12. BBC governance has remained too centralised. Successive members of the BBC Board of Governors and the Trust have been appointed, not elected. There is no independent body in Wales with powers to oversee the policy, content and allocation of resources of the BBC.

13. The BBC should be a federal structure, publicly funded by the licence fee, or possibly a household levy. This Scottish Government is currently pressing for a federalised BBC structure.¹²
14. There should be a Welsh Broadcasting Council (WBC). It should be composed of a majority of members appointed by the National Assembly for Wales and members appointed by the communications trade unions. It should also consist of members from civil society organisations in Wales, determined by the National Assembly, after consultation. These organisations would appoint their representatives by elections. The organisations would hold their positions on the Council for a fixed period and then be replaced by other organisations in a process of rolling consultation and review.
15. The WBC should have powers over the BBC devolved to it under the new Charter. These should include powers over the allocation of resources, policy and content. It would be charged with producing regular reports on the situation of the BBC in Wales for the National Assembly and Welsh Assembly Government.

¹² Libby Brooks, 'Scottish government pushes for a federalised BBC', *The Guardian*, 24 September 2015, at: <http://www.theguardian.com/media/2015/sep/24/scottish-government-targets-federalised-bbc> accessed 26 October 2015.

16. As long as the WBC has a clearly defined relationship with the centre this arrangement should be able to work very successfully, and is in the spirit of devolution of powers to the nations and regions of the UK.

17. For this to work the *Communications Act 2003* has to be amended to remove the BBC from oversight by Ofcom. The reason for this is because Ofcom is a market orientated regulator which, like the BBC itself, does not have an elected board, and is, arguably, totally undemocratic in its structures. Were Ofcom to be reformed, root and branch, and made a mechanism for promoting public service communications first and foremost, then the question of the relationship with the BBC might be revisited.

S4C's future: including its funding, operating and governance arrangements, and the services it provides.

18. Within the current, unreformed context, S4C should be re-established as a separate body, answerable to the Welsh Assembly Government, and funded, as prior to 2010, by direct grant from the

Westminster Government. Its funding over the next period should be restored, in real terms, to a level which allows it to develop its services on air and online. Its Board should be appointed in a manner similar to the proposals outlined for the Welsh Broadcasting Council.

How Wales's interests are being represented in during the renewal process.

19. Broadcasting is not a devolved matter. As a result neither the Welsh Assembly Government nor the National Assembly has had a specific and permanent department and committee structure devoted to the issue of communications policy in Wales. Nonetheless both organisations have spent time, in arguably a largely ad hoc fashion, responding to successive initiatives from Westminster, Ofcom and the BBC.

20. In the short term the Welsh Assembly Government should invite the UK government to spell out in detail the length of the period of consultation which will follow the announcement of government White Paper on Charter renewal in the spring of 2016. This cannot be less than 6 months to allow all parties in the nations and regions and civil

society to have time to consider and respond to the proposals. As far as I am aware, there is no such commitment from Westminster in place.

21. The Communities, Equality and Local Government Committee, should call representatives from the DCMS and the BBC before them to account for [a] the nature of the process and outcome of the 2015 funding arrangements [b] the creation of the situation, outlined above, where Wales' interests in broadcasting are suffering as result of cuts and planned cuts [c] to defend the opaque and non democratic forms of governance. It should also call members of the Ofcom Board before it, to seek clarification as to why it should continue to have oversight over key areas of BBC policy making, in particular the development of new services, and to justify its equally opaque and non-democratic forms of governance, especially in relation to Wales.

22. It is not good enough to allow Wales's interests in this process to be the upshot of what will inevitably be policy driven from Westminster, and filtered through the BBC central management. The Communities, Equality and Local Government Committee has the

opportunity to shed some light on current processes, and to test their fitness for purpose where the interests of Wales are concerned.

23. In the medium term the National Assembly for Wales should establish a cross party, Standing Committee on Communications. The fact that communications is not a devolved matter is of no consequence in this context; the Committee would be able to provide the backup and perspective necessary to inform consideration of policy regardless of whether communications is or is not devolved. It should be composed of a majority of National Assembly members, but should also include trade unions. It should include members of Civil Society appointed in the manner proposed above for the Welsh Broadcasting Council.

24. The Standing Committee's remit would be to conduct regular monitoring and research on communications in Wales. It should have a small budget to commission new research and literature reviews relating to communications policy. It should publish regular reviews of the condition of communications in Wales and make policy recommendations. It should invite all parties concerned with

communications in Wales to submit data regularly, and to appear, where necessary, before oral hearings.