

BBC COMMERCIAL TRANSPARENCY REVIEW

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The BBC Commercial Transparency Review Report (including the Executive Summary and Recommendations section) has been prepared pursuant to an engagement between Christopher Saul Associates Limited (“CSA”) and the BBC entered into in May 2018.

The Terms of Reference for the Review are set out in Appendix 1 to the Report and the work and analysis underlying the conclusions and recommendations are described in the Report. The Executive Summary and Recommendations section should be read subject to the full Report.

The Report has been prepared for, and delivered to, the BBC Board. No liability or responsibility to any other party is accepted by Christopher Saul or CSA for the contents of, or any omissions from, the Report.

BBC COMMERCIAL TRANSPARENCY REVIEW
EXECUTIVE SUMMARY AND RECOMMENDATIONS

Introduction

- (I) I have been asked to review transparency in the commercial subsidiaries of the BBC and report to the BBC Board. I have, throughout the process of preparing my report, liaised closely with Will Hutton who has undertaken a review of transparency in the licence fee funded public service side of the BBC (the “*Public Service*”). My full report is set out after this Executive Summary and Recommendations section.
- (II) The commercial activities of the BBC are carried out by three main subsidiaries being:
- *BBC Studios Group (“New Studios”)*, which was established in April 2018 to unite the commercial production, sales and distribution businesses of the BBC and which in turn has two principal subsidiaries - *Studios Production (“Production”, formerly BBC Studios)* and *Studios Distribution (“Distribution”, formerly BBC Worldwide)* - although it is understood that the plan is to absorb the businesses of these two subsidiaries into divisions within the corporate envelope of New Studios;
 - *BBC Global News (“GNL”)*, which is responsible for the BBC World News TV channel and for the BBC’s international website, BBC.com; and
 - *BBC Studioworks (“Studioworks”)*, which provides production facilities and post-production facilities for the BBC and for other third-party commercial entities.

These companies, which themselves have various subsidiaries and minority interests in independent production companies and other commercial enterprises, sit under an umbrella subsidiary, *BBC Commercial Holdings (“CH”)*, which is wholly owned by the BBC. For purposes of my report I describe CH, New Studios, Production, Distribution, GNL and Studioworks collectively as the “*commercial subsidiaries*”.

- (III) I see three areas in which transparency is particularly in point for the commercial subsidiaries and they are:

(ii)

- *Governance and financial disclosure*: who runs the business, who are they accountable to, what is the strategy and how well does the business do?
- *Regulation*: how is the boundary between the Public Service and the commercial side defined and policed to ensure that the commercial subsidiaries are not subsidised to the disadvantage of other market participants and how are these arrangements publicised?
- *Pay and Reward*: how should one strike the balance between transparency as a driver of fair play in pay and reward and individual rights to privacy and how should the dynamics of a competitive market place play into this?

- (IV) In considering these areas I have looked (as contemplated by my Terms of Reference, set out in Appendix 1 to my report) to benchmark the commercial subsidiaries against similar businesses in the corporate sector in the UK and overseas.
- (V) In preparing my report I have been privileged to talk to a broad range of individuals at the BBC (public side, commercial side and union representatives), at competitor organisations, at industry bodies and at other third-party entities. Will and I have also much valued our group meetings with BBC staff and the responses to our survey. I am exceptionally grateful to everyone for the time they have spent with me and for the wisdom and candour which they have shared.
- (VI) I would also like to thank Will and Philippe Schneider for their collegiality throughout this process and for their fine thoughts and Jonathan Chan for his research assistance.

The regulatory regime applicable to the commercial subsidiaries

- (VII) The new BBC Charter of December 2016 provides that “*commercial activities*” may be carried on by the BBC but must be carried on through commercial subsidiaries.
- (VIII) My report summarises the regulatory regime applicable to the commercial subsidiaries and concludes that the following are the key **tablets of stone** in relation to the commercial subsidiaries:

(iii)

- they exist to supplement the licence fee income of the BBC (to the benefit of licence fee payers);
- they are creatures of the Companies Acts but also live within a regulatory regime designed to ensure that their activities fit with the Mission and the Public Purposes of the BBC and are true to the core BBC values on the one hand and that, on the other hand, other market participants are not disadvantaged by their relationship with the BBC; and
- they are obliged to be commercially efficient and to operate “*in accordance with normal market principles, including making a commercial rate of return*”.

Conclusions and Recommendations

- (IX) My central conclusion is that the overall level of transparency of the commercial subsidiaries in the areas of governance, regulation and pay and reward is at least as good as that to be found at peer businesses. I have looked at the disclosure protocols at comparable UK businesses and, whilst there are necessarily differences in texture and specifics in various areas, I have not found the commercial subsidiaries to be wanting by comparison. Indeed, the “*lines of business*” disclosure in BBC Worldwide’s, and (in due course) New Studios’, financial statements is more granular than to be found at peer businesses (*Paragraph 74*).
- (X) I have also looked at overseas businesses which are competitors or active in similar businesses. Regimes differ materially across the globe (for example, *Netflix* is Nasdaq listed and *DR Sales* in Denmark is a division of a licence fee funded organisation) but these examples do not suggest to me any material additional themes of transparency which should appropriately be added to the transparency protocol at the commercial subsidiaries, save that I do believe that procedures to improve the involvement of non-executive members of the CH board would be desirable (*Paragraph 74*).

- (XI) That said, I do have some ideas for improvement and my **Recommendations** are as follows:

Governance

- (A) Develop the Key Performance Indicators (“KPIs”) used by CH in its annual strategic report in order to shed more light on the priorities of the commercial group and bring additional focus to the key objectives for the future. I give examples of KPIs in relation to customer diversification, margins and success in winning programmes which are the subject of the contestability regime. I would also suggest developing additional KPIs for the principal subsidiaries of CH (*Paragraphs 32 and 33*).
- (B) Bring more clarity to the concept of “Returns” delivered by New Studios to the BBC (*Paragraph 34*). I anticipate that this will be addressed by the current “Commercial Effectiveness” review which the BBC is conducting in relation to the commercial subsidiaries.
- (C) Develop a regime for forward-looking disclosure for New Studios and prepare a long form Annual Review for New Studios for the year to 31 March 2019 (and subsequent years) to provide to internal and external stakeholders a textured feel for the merged business and its role in content creation and distribution, its financial performance, its activities in various parts of the world, its corporate governance framework, its approach to risk and its diversity and social initiatives. I see this as an opportunity to create a fresh narrative and explain approachably the different regulatory regime in which New Studios sits, as compared with the Public Service (*Paragraphs 36 and 39 to 41*).
- (D) Move forwards, and bring greater prominence to, the discussion of the business of the commercial subsidiaries in the BBC Annual Report (*Paragraph 42*).
- (E) Add disclosure to the New Studios website of the New Studios board members, the remit of the New Studios board and the organisational relationships between the BBC and New Studios and between New Studios and the other commercial subsidiaries (*Paragraphs 43*).

(v)

- (F) Consider the composition of the CH Board (*Paragraph 48*) and add a description of the processes in place to identify and manage conflicts of interest as part of the governance disclosure on the BBC and New Studios websites (*Paragraph 51*).

Regulation

- (G) Whilst the Ofcom Consultation paper of 30 July 2018 is an impressive piece of work, I would not favour the introduction of an “*Annual Statement on Operational Separation*” as I believe that the relevant ground is already adequately covered by the work of the Fair Trading Committee of the BBC Board and by the Fair Trading Audit and the regularity opinion. I would, however, suggest that disclosure of the sort currently included on pages 121 and 122 of the BBC Annual Report (supplemented by the information on page 123), together with some additional articulation of compliance measures in relation to separation, could be highlighted more prominently, made more linguistically approachable and included separately on the BBC website (*Paragraph 64*).

Pay and Reward

- (H) Consider (i) including in the long form Annual Review for New Studios (see (C) above) a comprehensive report on directors’ remuneration and (ii) developing and publishing internally at New Studios a clear statement of philosophy and policy around pay and reward (*Paragraph 85*).
- (I) I do not believe that it would be appropriate to extend to the commercial subsidiaries the disclosure of remuneration of senior managers and those earning £150,000 and more per annum which is applicable for the Public Service (*Paragraphs 86 to 99*). My reasoning here is as follows:
- (i) the commercial subsidiaries are required, as a regulatory matter, to exhibit commercial efficiency and operate “*in accordance with normal market principles, including making a commercial rate of return*”;

(vi)

- (ii) their activities must fit with the Mission and the Public Purposes and not jeopardise the BBC brand but, within that framework, exhibit commercial efficiency. This means that they ought not to be put at a commercial disadvantage compared to key competitors such as ITV Studios, ITN, All3Media, Endemol Shine and Fremantle;
- (iii) if the commercial subsidiaries were to disclose the pay of senior managers and top on and off-screen talent, they would be disclosing an important component of their cost structure which would inevitably be of commercial interest to their competitors;
- (iv) this would also be valuable information for those wishing to lure away BBC talent. Whilst some may be sceptical about “*poacher’s charter*” arguments, my own view is that disclosure does present an opportunity to those looking to recruit BBC talent, not least because disclosure may be demotivating to those whose salary is then widely known and who are potentially the object of jealousy and negative comment (a view endorsed by competitors of the commercial subsidiaries to whom I have spoken);
- (v) critically, moreover, it would create an unlevel playing field vis-à-vis independent production companies commissioned by the BBC. The report of the Digital, Culture, Media and Sports Parliamentary Committee of 23 October 2018 suggests that this issue could be addressed by applying the £150,000 plus per annum disclosure to “*all programmes commissioned by the BBC, regardless of who makes them*”;
- (vi) this does not seem realistic for a number of reasons:
 - often programmes will not belong to the BBC;
 - frequently the BBC does not fully fund the costs of a programme, requiring the producer to raise funds from the makers in pre-sales or through its own lines of finance, and it would be difficult to work out how much was actually funded by the BBC;

(vii)

- presumably, independents commissioned by the BBC would need to disclose how much they pay to *all* talent across all programmes commissioned by the BBC to see if, in aggregate, the £150,000 figure is reached;
- leaving aside practicalities, the above points would risk having a chilling effect on independents and talent bidding for, and working on, BBC commissions; and
- the playing field would still be uneven (and maybe more so) as there would be no equivalent disclosures by competitors such as ITV, Netflix and, indeed, Channel 4 and perversely enough an unlevel playing field would develop as between those independents who work with the BBC and those who do not;

(vii) there is no doubt that the move of BBC Studios from the Public Service to the commercial side with effect from 1 April 2017 has caused confusion in this area. The move was motivated by the realisation that, if BBC Studios was to survive and thrive in a *Netflix world*, it had to surrender its guarantee of business from the BBC and be free to compete in the open market for commissions. BBC Studios thus fell within the Public Service until 31 March 2017, and was licence fee funded, but moved then to the commercial side and ceased to be licence fee funded;

(viii) this meant that the salaries of some BBC Studios staff were disclosed in the 2016/17 BBC Annual Report but not in the 2017/18 Annual Report. Whilst a cynic might say that this is somehow "*too convenient*", I am content that the logic is robust as the individuals concerned have moved to the commercially funded (and not licence fee funded) side of the BBC; and

(ix) there are of course examples of individuals who work for the Public Service (for example as a news reader) but who also are retained by New Studios to present programmes. For such individuals, it is only the Public Service pay which is disclosed in the BBC Annual Report. Again, I can see how some might view distinctions such as this as too fine but I

view the difference as sensibly rooted in logic. To the extent that the person is paid from the licence fee then there is disclosure but that is the limit of appropriate disclosure.

- (J) I *do recommend*, however, that there be included on the BBC website and in key BBC documents a clear and approachable explanation, with real life examples, of the key differences between the Public Service and the commercial activities of the BBC as these seem to me to be poorly understood (*Paragraph 101*).
- (K) In addition, I would recommend that consideration be given to providing annual disclosure which breaks down annual “*spend*” within the commercial group on talent as compared with other cost areas (*Paragraph 102*). This would help stakeholders to understand better the overall standing of talent in the costs “*waterfall*” and observe year-on-year changes.
- (L) In relation to pay and reward more generally, I do think that the Career Path Framework (“*CPF*”) and PeopleView systems should be acknowledged as advanced and transparent systems relative to those generally found at other comparable organisations (*Paragraph 115*). The reality is, however, that this has not “*landed*” sufficiently with BBC staff and improvements are clearly necessary in these systems and in other personnel procedures.
- (M) In this context, I agree with many of the recommendations which Will Hutton makes in relation to transparency and I make some specific suggestions for changes and improvements to the information available in relation to, and processes applicable to, careers and pay at the BBC (*Paragraph 116*) as follows:
 - (i) the process of introducing the CPF and PeopleView at Distribution should be completed promptly and the CPF and PeopleView should also be rolled out as appropriate at the other commercial subsidiaries;
 - (ii) the BBC should make the following structural changes to the information available on PeopleView:

(ix)

- the pay band bar chart comparators are republished immediately after the pay anomalies arising from the Pay Check (which is currently being undertaken) are addressed;
 - but on the basis that the bar chart comparators are amended to reflect gender split and thus be applicable for any job title where there are at least 10 women and 10 men within a relevant cohort (the existing legal constraint of groupings of at least 20 needs to be adjusted to reflect gender split);
 - as this will not cover a significant number of staff members, comparator groupings should be developed by reference to grading and pay range (rather than job title), and split by gender; and
 - these details are presented as early as possible in 2019;
- (iii) a sustainable process should be evolved by the BBC for the training and empowerment of the 2,300 Senior and Team Leaders so that they are better equipped to address fair pay issues raised by team members, evaluate pay progression in a consistent way, provide feedback around career progression and generally drive a more collaborative culture;
- (iv) alongside this, the Personal Development Review should be relaunched with guidance around processes, content, regularity and noting of discussions;
- (v) the BBC should commit to resolving the formal pay grievance cases which are outstanding today by 30 June 2019;
- (vi) the BBC should be clearer about the way in which fixed term contracts are dealt with. There is a view that people are recruited on these contracts which are then rolled over in order to avoid recruiting staff on permanent contracts. I understand that a new policy on this has been agreed with

(x)

the unions but it needs to be made clearer and communicated across the organisation;

- (vii) alongside diversity initiatives at the Public Service, New Studios should relaunch its commitment to diversity of age, disability, ethnicity, gender, religion, sexual orientation and socio-economic background. Whilst New Studios clearly takes diversity seriously, I believe that now is an appropriate time to reinforce its key importance to the organisation;
- (viii) the BBC should, early in 2019, publish a document embracing the Public Service and the commercial subsidiaries entitled "*Careers, Pay and Trust at the BBC*" which explains, in an approachable manner:
 - in outline, recruitment and promotion processes at the BBC (including its ethos in relation to diversity);
 - the building blocks of the CPF and the way in which careers can be developed (including transferring between the Public Service and the commercial side and vice versa);
 - the means of navigating the CPF and accessing the data available within PeopleView (as restructured);
 - clearly, the way in which pay ranges have been benchmarked;
 - the ways in which individuals can know what their pay progression opportunity within their band can be, in discussion with managers; and
 - the BBC's new initiatives in terms of driving better practice and consistency across the organisation (see above); and
- (ix) a series of "*Town Hall*" meetings around the country should be held early in 2019 in order to introduce "*Careers, Pay and Trust at the BBC*", launch these initiatives and emphasise the diligence which has gone into owning the issues and finding the means to put them right.

Generally

- (M) The BBC is made up of exceptionally talented people across the Public Service and the commercial subsidiaries but it can strike an understated pose, even though it has much to be proud of. I would like to see it, through bolder communication and training, look to get “*back on to the front foot*” in terms of demeanour and style (*Paragraph 117*).

Christopher Saul
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7 December 2018

BBC COMMERCIAL TRANSPARENCY REVIEW

REPORT

Introduction

1. I have been asked to review transparency in the commercial subsidiaries of the BBC and report to the BBC Board. My terms of reference are set out in Appendix 1 and I have, throughout the process of preparing this report, liaised closely with Will Hutton who has undertaken a review of transparency in the licence fee funded public service side of the BBC (the “Public Service”).
2. The commercial activities of the BBC are carried out by three main subsidiaries being:
 - *BBC Studios Group (“New Studios”)*, which was established in April 2018 to unite the commercial production, sales and distribution businesses of the BBC and which in turn has two principal subsidiaries - *Studios Production (“Production”, formerly BBC Studios)* and *Studios Distribution (“Distribution”, formerly BBC Worldwide)* - although it is understood that the plan is to absorb the businesses of these two subsidiaries into divisions within the corporate envelope of New Studios;
 - *BBC Global News (“GNL”)*, which is responsible for the BBC World News TV channel and for the BBC’s international website, [BBC.com](https://www.bbc.com); and
 - *BBC Studioworks (“Studioworks”)*, which provides production facilities and post-production facilities for the BBC and for other third-party commercial entities.

These companies, which themselves have various subsidiaries and minority interests in independent production companies and other commercial enterprises, sit under an umbrella subsidiary, *BBC Commercial Holdings (“CH”)*, which is wholly owned by the BBC. For purposes of this report I will describe CH, New Studios, Production, Distribution, GNL and Studioworks collectively as the “*commercial subsidiaries*”.

3. Whilst there may be different applicable standards of transparency in the commercial and public service sides of the BBC (more of which later), Will and I have sought to use a common definition of transparency such that it means that:

“BBC staff and the public alike should have access to as much information as possible (recognising the difference between the licence fee funded BBC and the commercial subsidiaries), properly explained, to ensure that BBC decision makers are held to account for how they manage the organisation, and to ensure that public trust in the BBC is maximised”.
4. In essence, we see transparency as the availability of properly explained information which allows decision makers to be held to account and fosters public trust. In working with this definition and making recommendations I will presume to tread around its boundaries (for example, in relation to governance structures) but I will endeavour not to presume too far.
5. I see three areas in which transparency is particularly in point for the commercial subsidiaries and they are:
 - *Governance and financial disclosure*: who runs the business, who are they accountable to, what is the strategy and how well does the business do?
 - *Regulation*: how is the boundary between the public service and the commercial side defined and policed to ensure that the commercial subsidiaries are not subsidised to the disadvantage of other market participants and how are these arrangements publicised?
 - *Pay and Reward*: how should one strike the balance between transparency as a driver of fair play in pay and reward and individual rights to privacy and how should the dynamics of a competitive market place play into this?
6. In considering these areas I will look to benchmark the commercial subsidiaries against similar business in the corporate sector in the UK and overseas and offer recommendations for the BBC Board to consider.

7. In preparing this report I have been privileged to talk to a broad range of individuals at the BBC (public side, commercial side and union representatives), at competitor organisations, at industry bodies and at other third-party entities. Will and I have also much valued our group meetings with BBC staff and the responses to our survey. I am exceptionally grateful to everyone for the time they have spent with me and for the wisdom and candour which they have shared.
8. The structure of this report is as follows:
 - (i) A brief summary of the regulatory regime applicable to the commercial subsidiaries
 - (ii) The current obligations and practice around transparency in relation to the commercial subsidiaries – and areas of potential improvement
 - (iii) Transparency in a selection of comparable businesses in the corporate sector in the UK and overseas
 - (iv) Some specifics around Pay and Reward
 - (v) Recommendations

The regulatory regime applicable to the commercial subsidiaries

9. The new BBC Charter of December 2016 provides that “*commercial activities*” may be carried on by the BBC but must be carried on through commercial subsidiaries.
10. “*Commercial activities*” means activities which:
 - fit with the *Mission* (to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain) and *Public Purposes* (in brief, to provide impartial news, support learning, show creative, quality and distinctive output, reflect and serve the diverse communities of the UK and reflect the UK, its culture and values to the world);
 - are *not* funded by licence fee revenue; and
 - are undertaken *with a view to generating profit*.

11. The BBC, in carrying out its functions in relation to the commercial activities must, among other duties, “*observe high standards of openness and seek to maximise transparency and accountability*”. It will be noted that this duty is not imposed directly upon the commercial subsidiaries but **upon the BBC** - the parent organisation, as shareholder. Whilst this is a fine distinction it does acknowledge that the commercial subsidiaries have their own legal personality and, whilst they live within a transparent constellation, they are not subject to their own Charter duty of transparency. Corporate law, as we shall see, frames its own environment of transparency for the commercial subsidiaries and presumably explains why the Charter duty is not directly applicable to the commercial subsidiaries.
12. The framework within which commercial activities may be carried on by the commercial subsidiaries is further articulated in the Framework Agreement between the Government and the BBC of December 2016.
13. Critically the commercial activities, as carried on by the commercial subsidiaries, must comply with the “*commercial criteria*”. They are:
 - the activities must fit with the Mission and the Public Purposes;
 - the activities must exhibit “*commercial efficiency*”;
 - the activities must not jeopardise the good reputation of the BBC or the value of the BBC brand; and
 - the activities must not, as a result of the relationship with the UK Public Services (being the licence fee funded BBC), “*distort the market or create and unfair competitive advantage*”.

These commercial criteria are known as the “*4Cs*”.

14. The commercial activities may consist of participation by the commercial subsidiaries in joint ventures or other commercial partnerships with third parties provided that the BBC uses its best endeavours to ensure that:
 - the participation complies with the 4Cs; and
 - the services provided, or activities undertaken, through the relevant joint venture or partnership meet the 4Cs.

15. In the context of the fourth “C” (no market distortion) the commercial activities must comply with the trading and separation rules of the Operating Framework which are set and monitored by Ofcom. These are designed to ensure that:
- there is no inappropriate leakage of information from the Public Service to the commercial subsidiaries;
 - the commercial activities are carried out *“in accordance with normal market principles, including making a commercial rate of return”*; and
 - the relationship between the BBC and the commercial subsidiaries are at *“arm’s length on commercial terms”*.
16. The commercial subsidiaries are incorporated under the Companies Acts and thus are required to observe the publication, filing and transparency requirements of the Companies Acts, including the preparation and filing of accounts. Pursuant to the Charter, the auditor of the commercial subsidiaries is the Comptroller General of the National Audit Office (“CGNAO”).
17. It will be noted that the commercial subsidiaries exist, as explained by Ofcom, to *“generate a return which can be reinvested in BBC programmes and services and supplement income from the licence fee”*.
18. In summary, there are the following **tablets of stone** in relation to the commercial subsidiaries:
- they exist to supplement the licence fee income of the BBC (to the benefit of licence fee payers);
 - they are creatures of the Companies Acts but also live within a regulatory regime designed to ensure that their activities fit with the Mission and the Public Purposes of the BBC and are true to the core BBC values on the one hand and that, on the other hand, other market participants are not disadvantaged by their relationship with the BBC; and
 - they are obliged to be commercially efficient and to operate *“in accordance with normal market principles, including making a commercial rate of return”*.

The current obligations and practice around transparency in relation to the commercial subsidiaries – and areas of potential improvement

19. In this Section, I consider the range of current obligations around transparency to which the commercial subsidiaries are subject and, with this backdrop, their current practice in relation to transparency. Topics covered include the Companies Act regime, the UK Corporate Governance Code, the BBC Studios Annual Review, Board disclosures, Regulatory matters and fair trading and Pay and Reward. I go on to make some suggestions for improvements in practice, other than in relation to Pay and Reward where potential improvements are addressed in a later Section.

Governance - Companies Act requirements

20. Under the Companies Acts the commercial subsidiaries have a series of filing, disclosure and transparency obligations.
21. The certificates of incorporation, articles and memoranda of association, statements of capital, directors' appointment and retirement details, annual reports and financial statements for the commercial subsidiaries are required to be filed with Companies House so that they can be published on the Companies House website. Accordingly, the constitutional documents, latest and preceding company accounts and details of the directors of the commercial subsidiaries are available online.
22. The directors of the commercial subsidiaries must prepare company accounts, individual and (as applicable) consolidated, for each financial year. The accounts must include a profit and loss account and balance sheet and set out further information required by the Companies Acts and accompanying regulations. The directors may only approve accounts that *"give a true and fair view of the assets, liabilities, financial position and profit or loss"* of the company.
23. The directors of the commercial subsidiaries are required to prepare a directors' report for each financial year of the company. These must set out various items of information, including:
- the company's financial risk management objectives and policies relating to the use of financial instruments, including hedging

policies and exposure to price risk, credit risk, liquidity risk and cash flow risk, if this information is material for the assessment of the company's assets, liabilities, financial position and profit or loss;

- discussion of "*any important events affecting the company*" that have taken place since the end of the financial year;
- discussion of "*likely future developments*" in the company's business; and
- certain information describing actions taken with respect to employee involvement in the company, where the average number of persons employed exceeds 250.

24. The directors of the commercial subsidiaries are also required to prepare a strategic report for each financial year of the company, containing a "*fair review*" of the business and describing the "*principal risks and uncertainties*" which the commercial subsidiary faces. The review required is a balanced and comprehensive analysis of:

- the development and performance of the company's business during the financial year, and
- the position of the company's business at the end of that year, consistent with the size and complexity of the business.

25. The fair review must, to the extent necessary for an understanding of the development, performance or position of the company's business, include analysis of financial key performance indicators ("*KPIs*") and, where appropriate, analyses of other non-financial KPIs, including information relating to environmental matters and employee matters.

26. The Financial Reporting Council ("*FRC*") publishes Guidance on best practice in the preparation of the strategic report and has recently, on 31 July 2018, updated this guidance.

Review of existing Companies Act disclosure and transparency practice - and some thoughts around possible changes

27. The financial year to 31 March 2018 was a year of transition for the commercial subsidiaries.

28. The studios division of the BBC, previously within the Public Service, was transferred to a new commercial subsidiary, BBC Studios ("*Old Studios*" now renamed *Production*) on 3 April 2017 and Old Studios published its first accounts on 11 July 2018 for the financial year to 31 March 2018. On the same date BBC Worldwide (now renamed *Distribution*) published its accounts for the year to 31 March 2018 and CH published consolidated accounts covering Old Studios, BBC Worldwide, GNL and Studioworks for the same financial period.
29. The name changes make things rather complicated but matters will be clearer going forwards as Old Studios and BBC Worldwide were merged under *New Studios* on 3 April 2018 to create the group structure outlined in *Paragraph 2* above.
30. The directors' report and strategic reports published on 11 July for CH, Old Studios, BBC Worldwide, GNL and Studioworks comply with the Companies Act requirements although it will be noted that the requirements are general in scope. It is fair to say, moreover, that the level of disclosure in these documents is broadly comparable to that found in the equivalent documents for similar UK businesses such as ITV Studios, Endemol Shine UK and DLG Acquisitions (UK parent company of All3Media UK).
31. For the financial year to 31 March 2019 the new FRC Guidance in relation to strategic reports will be in point and I would encourage the Board of CH, in particular, to consider early how they would plan to address the three broad themes outlined in Section 7A of the Guidance of strategic management, the wider business environment and the performance of the business over the year.
32. There are also some specifics to consider:
 - could the KPIs used by CH in its strategic report be crafted in a way which would shed more light on the priorities of the commercial group and tend to bring additional focus to the key objectives for the future? For example, given the vitally important objective of Production to diversify its customer base away from the BBC could a KPI be fashioned around that objective?

- other possible themes for KPIs would be:
 - gross profit margin;
 - number of commissions won;
 - success in winning programmes which are the subject of the contestability regime;
 - contribution of top 30 shows; and
 - amount of non-UK revenue.
33. Whilst the CH strategic report addresses the concern of the Public Accounts Committee that there should be consistent performance metrics across the key subsidiaries of CH, to help with monitoring by the BBC, there would be scope for additional KPIs which are pertinent to the component businesses. This is already recognised given that the underlying accounts of the subsidiaries contemplate some different KPIs (eg results of media surveys for GNL) but it would be helpful to draw out the additional themes in the strategic report of CH.
34. Another area to consider around business performance is the concept, employed hitherto by the BBC, of reporting “Returns” delivered by BBC Worldwide to the BBC. This represents a mixture of dividends and other investment returns but it is, as observed by the Public Accounts Committee, an opaque measure. It does not allow ready benchmarking against competitors and will be even more opaque now that Old Studios is merged with Worldwide. More clarity is needed here. This will very likely be a topic for consideration in the BBC’s current review of its commercial activities which is due to report by the end of 2018.
35. It should also be noted that neither the BBC itself nor the commercial subsidiaries report half year (or other interim) financial performance. Businesses which are within listed groups (such as ITV Studios, which is a subsidiary of ITV plc) are effectively subject to this periodic disclosure requirement as the performance of component businesses will, of course, be a factor in group performance. Interim reporting is designed to facilitate market understanding of the businesses underlying the listed securities. It is different at the BBC because there is no stock market listing for the BBC or any of its subsidiaries and the parent of the commercial subsidiaries (the BBC) only reports on financial performance annually. Notwithstanding this, the commercial subsidiaries do report on

a regular basis to Ofcom and thus there is regular financial disclosure to the regulator.

36. There is, however, one area where ITV's disclosure suggests an area of potential improvement for the commercial subsidiaries. A significant amount of information is available on the ITV website which describes for investors the ITV business, including that of ITV Studios, and looks forward (in terms of strategy and financial targets) – see the Capital Markets Day presentation materials of 19 September 2018. It would be helpful if, in addition to its Annual Review (see below), New Studios could contemplate some forward looking disclosures around strategy and financial targets. This could be added to the Annual Review or prepared separately. It would be informative for internal and external stakeholders and potentially be a factor in driving an ever-more aspirational culture.

The UK Corporate Governance Code

37. The UK Corporate Governance Code (the “Code”), issued by the FRC, does not apply to private companies such as CH and its subsidiaries. However, it is gratifying to note that the BBC voluntarily complies where appropriate (see page 88 and following of the BBC's Annual Report and Accounts 2017/2018). Certain provisions of the Code are overridden by the Charter and Framework Agreement (for example, in relation to the re-election of directors) and certain provisions are, by their nature, inapplicable (such as those relating to engagement with the shareholder base).
38. A new version of the Code has been issued and will, on this voluntary basis, presumably be applied by the BBC for its financial year commencing 1 April 2019 and for succeeding financial years. There are some material changes (for example, around consultation with the workforce) and important choices to be made. These are topics which the BBC will no doubt wish to consider in good time ahead of the first reporting cycle.

The Annual Review

39. The New Studios website includes a brief Annual Review statement in relation to Old Studios and BBC Worldwide for the year to 31 March

2018. It also includes links to the annual reports and financial statements for these entities.

40. This Annual Review is in striking contrast to the Annual Review published by BBC Worldwide for the year to 31 March 2017. That document runs to 32 pages (excluding the financial statements) and gives a textured feel for the business of BBC Worldwide, its role in content creation and distribution, its financial performance, its performance in different parts of the world, and its corporate governance framework and risk management and its directors' remuneration.
41. I understand that, in a year of transition, it was not felt necessary to go to this level of (voluntary) disclosure but I would recommend that a long form review is prepared for New Studios for the year to 31 March 2019 (and following years) for the following reasons:
- it is an opportunity to present the newly merged business proactively to internal and external stakeholders;
 - independent production companies to whom I have spoken suggest that New Studios "*have not yet managed to create a narrative about what they are*". This is clearly a concern and an attractive and well-articulated form of Annual Review could help to address the issue;
 - this point is particularly important given that New Studios no longer benefits from the former BBC guarantee in relation to programming and has to compete in a new media landscape where the competition have deep pockets and will not hesitate to take aim at areas where the BBC has historically been strong (for example, natural history);
 - it is also an opportunity to explain, in an approachable fashion, the different regulatory environment in which New Studios sits, as compared to the Public Service; and
 - it would, moreover, provide a vehicle for New Studios to describe its approach to advancing its embrace of diversity, developing talent and helping engagement with social issues.
42. As a related point, it seems curious to me that the first substantive discussion of the CH group in the BBC Annual Report occurs as part of

the financial review on page 71. That seems too low-key for such an important financial and creative contributor to the BBC. Should there not be a separate section for the BBC's "*commercial activities*" and an earlier reference to the contribution of the commercial subsidiaries?

The Board and board-related disclosure

43. The BBC website has recently been amended to include information relating to the board and management of CH and the commercial subsidiaries group. This is a welcome development but I would also recommend that the New Studios website should:
- identify the board members (and executive committee members, as currently) of New Studios, their respective roles, their relationship with the Public Service, if any, and their respective skills and experience;
 - set out the remit of the board and executive committee; and
 - explain the relationship between New Studios and the BBC and between New Studios and the other commercial subsidiaries.
44. There is also the question of the membership of the CH board. This topic sits at the borders of transparency but I presume to offer some thoughts.
45. Currently it consists of 4 BBC group executives, 4 commercial group executives and 1 "*independent*" (Dharmash Mistry). Sir Howard Stringer was another "*independent*" until his recent resignation. I understand that a replacement is being sought. The Board is chaired by Lord Tony Hall, the Director General ("*DG*") of the BBC.
46. Is that an appropriate composition?
47. In considering that question, it is important to keep in mind that CH is not a "*normal*" subsidiary. It is owned by the BBC but operates in a regulated environment designed to ensure that dealings with its parent are at arm's length and that there is no sharing of information by the BBC with CH which might prejudice the position of third party market competitors of the CH group. This is a very different relationship to the one which exists, for example, between ITV plc and ITV Studios where Studios is not subject to a separate regulatory regime to that within which its parent sits.

48. The “*hybrid*” nature of CH leads to a number of propositions:

- it is not really appropriate for the DG to chair the CH board as this elides the necessary “*suitable distance*” which sits between the BBC and the CH group - although it is understandable and appropriate for the DG to sit on the CH board;
- it would be preferable for the BBC group representatives on the CH board to be a mixture of BBC board executive and non-executive directors (say, 2 and 2) so that the non-executives can bring a supervisory eye to proceedings of the CH board. The non-executives would preferably have commercial experience and ought not, given the desirability of “*suitable distance*”, to include the Chair of the BBC board. Similarly, but subject to further debate, my preference would be for the non-executives not to be members of the BBC’s Fair Trading Committee, discussed further at *Paragraph 61* et seq below. The Fair Trading Committee’s role is to “*oversee the BBC’s compliance with [its] regulatory obligations for trading and separation between the Public Service and the commercial subsidiaries*” and it receives the Fair Trading Audit. Given this oversight role, I have a concern that membership of the Committee may not sit easily with membership of the board of the holding company of the group which is subject to oversight and which at the same time has an obligation to be commercially efficient;
- it is appropriate, and sensible, for there to be 3 or 4 commercial group executives on the board (and for one of these to be drawn from GNL);
- there should be 2 “*independents*” with differing backgrounds in the TV and media world, ideally bringing “*new media*” perspectives to the board around the challenges faced by traditional broadcasters and producers as a result of the rise of the subscription based *vod* model. The definition of “*independent*” is for consideration but I would suggest that at least one satisfies the independence criteria specified in the Code; and
- the Chair of the CH board should be either one of the BBC non-executives or one of the independents.

49. There should also be a protocol around rotation on the CH board. Given the fast moving nature of the media world I would suggest that the non-executives (both the BBC non-executives and the independents) serve no more than 6 years on the CH board.
50. There is also the question of whether the CEO of New Studios (currently Tim Davie) should sit on the BBC main board. Whilst there are conflicts of interest to manage it seems to me that he or she should do so, not least given the vital role that the CH group must play in the future health of the BBC.
51. In relation to conflicts of interest, I note that the BBC, in its "*merger commitments*" given to Ofcom in relation to the merger of Old Studios and BBC Worldwide (and discussed further in *Paragraphs 56 to 60* below), said that it would maintain rigorous conflict of interest procedures and inform Ofcom of these procedures. Given the presence of the CEO of New Studios on the board and executive committee of the BBC and the presence of the BBC board members on the board of CH, I do think that it would be appropriate for a description of the processes in place to identify and manage conflicts of interest to be included as part of the governance disclosure on the BBC and New Studios websites.

Regulatory matters and fair trading - summary requirements

52. As noted above, the BBC is required to ensure that its commercial activities do not "*distort the market or gain an unfair competitive advantage*" by virtue of the commercial subsidiaries' relationship with the Public Service.
53. Ofcom has set out the following requirements and guidance for the commercial subsidiaries under the Framework Agreement:
 - notify Ofcom of proposed changes to its commercial activities and wait for Ofcom approval that the proposed change is not material and can be carried out;
 - publish a policy describing how the BBC "*will consider material changes to the commercial activities, including whether or not a change is potentially material, and how it will consult with interested parties where appropriate. The policy must set out the*

assessment it will carry out and the procedures it will follow to consider whether the commercial criteria have been met.”; and

- publish at least two periodic reviews on whether its commercial activities meet the 4Cs. The reviews must publish “*measures and targets for those measures*” of the commercial efficiency of each subsidiary. The first periodic review must be conducted by 31 December 2018.
54. Ofcom’s regulatory framework (*Operating Framework*) is a collection of separate documents elaborating Ofcom’s regulatory responsibilities for the BBC relating to content standards, performance and competition.
55. Ofcom has set out the following requirements and guidance for the commercial subsidiaries under the Operating Framework:
- publish methodologies for transfer pricing and brand valuation (annually);
 - publish material changes to transfer pricing methodologies, and provide a statement to Ofcom describing the impact of the methodological changes (ad hoc);
 - publish information on the financial performance of each commercial subsidiary, including information for each line of business within the commercial subsidiaries (annually, effective from publication of 2018 Annual Report onwards);
 - provide Ofcom with information on the forward looking commercial rate of return the BBC deems appropriate for each line of business within the commercial subsidiaries (annually); and
 - provide Ofcom with information on the financial performance of each line of business within the commercial subsidiaries, including revenues, costs, profits, and an assessment of the line of business’ performance against the targeted forward-looking rate of return (quarterly).
56. The BBC has, as part of the arrangements relating to the merger of Old Studios and BBC Worldwide, adopted a voluntary set of commitments (the “*merger commitments*”) to prevent any distortion of competition resulting from the merger.

57. These commitments include the following disclosure obligations around the BBC's commissioning process:
- publish a tariff of its prices for the supply of commissioned television content applicable to all producers;
 - publish guidance on its website on dealing with content suppliers and compliance with the Business Affairs Charter; and
 - publish information on the BBC network television hours produced by New Studios and independent suppliers, dissected by genre.
58. These commitments also include the following disclosure obligations around financial support:
- report to Ofcom its targeted commercial rates of return for the lines of business within New Studios:
 - UK television production;
 - international production and formats;
 - content sales;
 - branded services; and
 - consumer products;
 - notify Ofcom of any changes to revenues and costs allocations within New Studios' production and distribution subsidiaries.
59. New Studios must inform Ofcom of its conflict of interest procedures, as well as inform any relevant parties.
60. These commitments also include the following disclosure obligations around transparency and financial reporting:
- report to Ofcom on the financial performance for each of New Studios' lines of business and targeted commercial rates of return;
 - publish information on the financial performance for each of New Studios' lines of business concurrently to publication of the BBC's Annual Report;
 - annually report to Ofcom (prior to April 1 each year) on its methodology for setting its targeted commercial rates of return,

including providing relevant evidence and discussing market norms; and

- provide information as requested by Ofcom that is necessary for Ofcom to perform its regulatory duties.

The BBC's approach to compliance with these provisions

61. I have been impressed, in my discussions with various stakeholders, by the diligence with which the BBC approaches the fair trading framework. The voluntarily established Fair Trading Committee of the BBC board is a long-standing committee (dating from before the current Charter and renewed as a committee of the new unitary board) set up to oversee the trading and separation rules and to ensure compliance with Ofcom's criteria. The role and work of this committee is described on pages 121 and 122 of the BBC Annual Report and Accounts 2017/18 and the transparency around the work of the committee seems to me to be appropriate.
62. An independent Fair Trading Audit, currently carried out by Deloitte LLP reporting to the Fair Trading Committee, confirms that in the auditors' opinion the BBC *"has established and has applied a system of internal controls that provide reasonable assurance that it has complied with Ofcom's Trading and Separation requirements as at 31 March 2018"* (see page 122 of the Annual Report). In addition, the CGNAO gives a *"regularity opinion"* (see page 169 of the Annual Report) that in all material respects the income and expenditure recorded in the consolidated financial statements conform to the authorities which govern them (which include the Charter, Operating Agreement and Operating Framework).
63. Ofcom published, on 30 July 2018, a detailed consultation paper relating to the requirements and guidance in relation to the BBC's commercial and trading activities (the *"Ofcom consultation paper"*). Given that the proposals deal in considerable detail with the Operating Framework and Ofcom's existing 2017 Requirements, with consequential implications for transparency and disclosure, I am not proposing to comment in detail on the proposals.

64. I would, however, make the following general observations:

- I am persuaded that the current framework of the work of the Fair Trading Committee, taken together with the assurance provided by the Fair Trading Audit and the Regularity opinion, is fit for purpose - although I would like to see the governance disclosure improvements suggested in *Paragraph 43* above;
- I can appreciate that greater articulation of the “*measures, controls and processes*” implemented to ensure compliance with the separation requirements may be desirable but it does seem to me that this greater articulation should be proportionate, and I have a concern that the measures described in Paragraph D2 to the Schedule to the Ofcom consultation paper would be unduly onerous;
- in that context I am not persuaded that an “*Annual Statement on Operational Separation*” of the sort suggested by Ofcom is necessary. The ground is, I believe, already covered and described fairly in the Annual Report. Perhaps disclosure of the sort included on pages 121 and 122 of the Annual Report (as supplemented by the information on page 123), together with some additional articulation of compliance measures in relation to separation, could be highlighted more prominently and included separately on the BBC website. There could also usefully be more approachable language in this area: “*Fair Trading Audit*”, for example, may not be readily understandable to a lay reader; and
- I note the suggestion in Paragraph D9 of the Schedule that there should be a detailed description of the rate of return of each commercial subsidiary and each line of business, the metrics used and the constituent elements of the rates of return. Given that this is by line of business, it is a level of granularity to which competitor organisations are not put and which is potentially damaging to the competitive position of the commercial subsidiaries. Clearly there is a trade off here between, on the one hand, disclosure by way of assurance that there is no untoward subsidy or preference given by the BBC to its commercial subsidiaries and, on the other hand, the competitive damage potentially suffered by asymmetric disclosure (as compared to

competitors) - and line of business disclosure was already agreed in the merger commitments - but again disclosure should be proportionate. I am not convinced that the suggested additional rate of return disclosure is proportionate. It is noted that the commercial subsidiaries must, as a regulatory matter, deliver a commercial rate of return and operate in accordance with normal market principles and the suggested level of disclosure risks running counter to this requirement.

Pay and reward

65. The BBC discloses on its website, on a quarterly basis, the salary, remuneration and expenses of all senior managers who earn more than £150,000 per annum and of all directors of the BBC. In addition, the BBC publishes in its Annual Report details, in £10,000 bands, of all individuals paid £150,000 or more from the licence fee (together with summary details of the work done by these individuals). Both these categories of disclosures are not required in respect of the commercial subsidiaries as the disclosures arise from the Charter and accountability in respect of the manner in which the licence fee revenue is spent.
66. The BBC also discloses in the Remuneration Report, within the Annual Report, the remuneration of Executive Committee members. Tim Davie, CEO of New Studios, is a member of the Executive Committee and accordingly his remuneration is disclosed in the Remuneration Report. Mark Linsey, Chief Creative Officer of New Studios, was also a member of the Executive Committee for the year to 31 March 2018 and accordingly his remuneration is disclosed in the Remuneration Report for that year.
67. In addition, the Annual Report includes the following disclosure in relation to remuneration policy at the commercial subsidiaries:
- “The remuneration policy for the subsidiaries includes the contractual provision of an annual bonus available to eligible staff, including directors, and it varies between commercial entities. The full cost of base pay and annual bonus are self-funded by the commercial revenues of each subsidiary company and are not subsidised by the licence fee.*”

Remuneration within the commercial subsidiaries is not governed by the BBC's remuneration policy but is subject to the BBC's governance and approval processes."

These processes contemplate the need for approval by the relevant committee of the BBC Board above specified levels of delegated authority.

68. The BBC is in the process of introducing its *Career Path Framework* ("CPF") and "*PeopleView*" within the commercial subsidiaries which will allow staff to have more information about potential career progression and see where they sit within pay bands for their respective job titles (where there are 20 or more staff in that job title). CPF has been introduced at Production and work is proceeding at Distribution where the job family analysis is more complicated.
69. The commercial subsidiaries are required to comply with the gender pay regulations. New Studios published its Gender Pay Report for 2018 on 9 October 2018.
70. I discuss further potential improvements in transparency around pay and reward in the section "*Some Specifics around Pay and Reward*" below.

Transparency in a selection of comparable businesses in the corporate sector in the UK and overseas

71. I have looked at a selection of comparable businesses in the UK and overseas with a view to assessing the level of transparency which they demonstrate and benchmarking the commercial subsidiaries against them. I approach this in tabular form, set out in Appendix 2, with a view to drawing conclusions which are concise and readily understandable.
72. The comparator businesses are:
 - *ITV Studios* (part of ITV plc)
 - *Endemol Shine* (for the moment, 50% owned by 21st Century Fox and 50% owned by Apollo Global Management)
 - *Fremantle* (part of the RTL Group, itself 75% owned by Bertelsmann)
 - *All3Media* (50% owned by Discovery and 50% owned by Liberty Global)

- *Columbia Pictures Corporation Limited* (incorporating *Sony Entertainment*)
- *Netflix* (NASDAQ listed public company)
- *AMC Networks* (NASDAQ listed public company)
- *ZDF Enterprises* (the commercial subsidiary of ZDF, the licence fee funded second German TV channel)
- *DR Sales* (the distribution division of the Danish Broadcasting Corporation, a licence fee funded Danish radio and television broadcasting company)
- *Sky News* (part of Sky plc)
- *Independent Television News* (ITN, 40% owned by ITV plc and, as to 20% each, by DMGT, Thomson Reuters and UBM plc)
- *CNN International* (Turner Broadcasting System Europe and part of Warner Media)
- *Pinewood Studios* (owned by PW Real Estate).

73. The table looks at transparency in the areas of:

- Corporate Governance
- Financial performance and condition
- Regulation
- Pay (Senior management and other staff)

It also looks to identify other noteworthy areas of transparency.

74. I draw the following conclusions from the comparisons:

- (A) In terms of UK comparable businesses, the overall level of transparency of the BBC commercial subsidiaries, whilst necessarily differing in texture and specifics in various areas, is at least as good as that to be found at peer businesses.
- (B) The Annual Report and Consolidated Financial Statements of CH for the year to 31 March compare favourably, in the level of content, with the financial statements of peers and it is noted that the “*line of business*” financial disclosure for BBC Worldwide (to

be continued this year with an additional line of business for New Studios) is more granular than is to be found at competitors such as ITV Studios, Endemol Shine (UK), All3Media or Fremantle.

- (C) There are, nonetheless, improvements in transparency which would be desirable as mentioned in *Paragraphs 32 to 36 and 39 to 43* above.
- (D) The overseas comparators do not, generally speaking, suggest other additional themes of transparency which should be added to the BBC commercial subsidiaries' protocol of transparency.
- (E) I would note that Netflix and AMC Networks, as US listed companies, do disclose the ratio of the CEO's pay to that of a median employee. CEO pay ratio disclosure will be a forthcoming requirement in the UK but only for quoted companies (as mentioned in Will's report). This is something which New Studios may wish to consider in due course but I would not see it as something particularly to recommend. Indeed (and for example), the Managing Director of ITV Studios, as a subsidiary of ITV plc, will not be within the pay ratio regime.
- (F) It is, however, worth reflecting upon the "*Netflix Approach to Governance*" which aims to heighten the information available to board members by (i) non-executive directors periodically attending senior management meetings and (ii) those directors having access to high levels of management information. The Netflix model reflects, of course, the corporate structure of a publicly listed company with only one executive, the CEO, on the board. This is significantly different from the model at CH but I would be in favour of non-executive BBC board members of the CH board, and independent directors, being encouraged to attend periodic management meetings and having access to high levels of management information.

Some specifics around Pay and Reward

75. In this part of the Report, I turn to some specific issues around pay and reward at the commercial subsidiaries. These issues are:
- (i) How does the approach of the commercial subsidiaries to transparency in pay and reward compare with best practice in UK corporate governance?
 - (ii) Should the requirement of the Public Service to disclose the remuneration of senior managers and all those earning £150,000 and more per annum be extended to the commercial subsidiaries?
 - (iii) What broader developments in pay and reward transparency may be desirable?

My Terms of Reference require me, in considering these topics, to have particular regard to ensuring that any recommendations would not affect the BBC's internal and external labour markets, recognising the need to allow competition on a level playing field with other commercial organisations.

The approach of the commercial subsidiaries to transparency in pay and reward compared to best practice in UK corporate governance

76. The commercial subsidiaries are private companies incorporated under the Companies Acts. They publish annual reports and financial statements which include information about employee participation, staff numbers and cost as required by applicable regulation. Their results are consolidated into the annual financial statements of the BBC and there is a significant amount of information about the workforce of the commercial subsidiaries included within the BBC's Annual Report and Accounts – for example in the Equality Information Report to be found at page 240 (and following) which addresses staff distribution by age, disability, ethnicity, gender, religion, sexual orientation and socio-economic background.
77. In addition, the remuneration of the three senior executives of New Studios, being Tim Davie, Tom Fussell and Mark Linsey, is disclosed in the financial statements of New Studios and (in the case of Mr Davie and, whilst a member of the BBC Executive Committee, Mr Linsey) in the BBC Annual Report and Accounts.

78. When this combination is assessed in comparison with that available at UK peers, such as ITV Studios, Endemol Shine, Fremantle and All3Media it is at least comparable and, in some cases, better - for example in relation to senior executive remuneration and equality statistics.
80. There is, of course, more granular disclosure around director remuneration to be found in the Remuneration Reports of stock exchange listed companies such as ITV plc. However, the applicable rules are much more detailed, the disclosure is made in the context of tradeable securities and a significant part of the information typically relates to share incentive schemes in which executive directors participate.
81. In terms of internal pay transparency, I understand (as mentioned in *Paragraph 68* above) that the CPF and PeopleView have been introduced by New Studios at Production and that the process of introducing it at Distribution is underway. This is a step forward in terms of pay transparency as, whilst certainly not perfect (see later in this report), it does contemplate individuals within a job title that has over 20 incumbents being able to see spread of pay within that job title and thus where they sit. Indeed, the results of the Staff Survey indicate that there is appetite for the continuing roll-out of the CPF and PeopleView in the commercial group.
82. I am not aware of companies comparable to New Studios implementing a system such as the CPF and PeopleView.
83. I would also observe that my experience of UK commercial businesses which are either unlisted or subsidiaries within listed groups, and which operate in sectors other than media, does not lead me to alter the conclusions which I have reached as to the approach to transparency in pay and reward at the commercial subsidiaries.
84. In the round, therefore, I believe that pay transparency at the commercial subsidiaries compares favourably with best practice in UK corporate governance. This is borne out by the results of Will's landscape review (see *Chapter 6* of Will's report).

85. That is not to say that there are no desirable improvements and, in that context, I would suggest the following:
- the Annual Review 2016-2017 for BBC Worldwide included a comprehensive report on Directors' remuneration including explanations of incentives and bonuses, pensions and outside interests. I would suggest that the long-form review which I suggest for New Studios in *Paragraph 41* above include a report on Directors' remuneration. I think that that would be helpful in demystifying somewhat the differences in senior remuneration as between senior executives in the Public Service and those working for the commercial subsidiaries;
 - the development and publication internally at New Studios of a clear statement of New Studios' philosophy and policy around pay and reward (including its approach to salary, bonus and incentives); and
 - continued refinement and development of the CPF and PeopleView as discussed further below.

Should the requirement of the Public Service to disclose the remuneration of senior managers and all those earning £150,000 and more per annum be extended to the commercial subsidiaries?

86. There has been commentary in the process and elsewhere to the effect that there should be full publication of all individual salaries and benefits across the Public Service and the commercial subsidiaries. This broad proposition is discussed further below but for the moment I address in this section the question of whether it would be desirable to extend the currently required Public Service disclosures to the commercial subsidiaries.

The Regulatory Background

87. Section 37(2) of the Charter requires the BBC's Annual Report to include a report from the Remuneration Committee on:
- (i) how senior executive pay is determined;
 - (ii) the names of all senior executives of the BBC paid more than £150,000 from licence fee revenue in that financial year; and

- (iii) the names of all other staff of the BBC paid more than £150,000 from licence fee revenue in that financial year, set out in pay bands.

It is to be noted that the disclosure in (iii) above required is of sums paid from “*licence fee revenue*” to reflect, it must be assumed, accountability for the manner in which licence fee funding is spent.

- 88. The commercial activities of the BBC must not be funded by licence fee revenue (section 23(2)(b) of the Framework Agreement) and must exhibit commercial efficiency (section 23(5)(b) of the Framework Agreement) and comply with the 4Cs as described in *Paragraph 13* above. Accordingly, the commercial subsidiaries must, as outlined in the Operating Framework, operate “*in accordance with normal market principles, including making a commercial rate of return*”.
- 89. It follows that the commercial subsidiaries are in a different position from the Public Service. Their activities must fit with the Mission and the Public Purposes and not jeopardise the BBC brand - and this will shape the content which they produce or distribute - but, within that framework, must exhibit commercial efficiency. This means that they ought not to be put at a commercial disadvantage compared to key competitors such as ITV Studios, All3Media, Endemol Shine and Fremantle.
- 90. If the commercial subsidiaries were to disclose pay of senior managers and top “*on and off-screen talent*” they would be disclosing an important component in their cost structure, which would inevitably be of commercial interest to their competitors. It would also be valuable information for those wishing to hire away BBC talent. Whilst some may be sceptical about “*poacher’s charter*” arguments, my own view is that disclosure does present an opportunity to those looking to tempt talent away, not least because disclosure may also be demotivating to those whose salary is then widely known and who are potentially the object of jealousy and negative comment.
- 91. Critically, moreover, it would create an unlevel playing field. Could it be appropriate for such salaries to be disclosed when talent working with independent production companies commissioned by the BBC, or joint ventures in which the BBC has a minority interest, do not have their

salaries disclosed? All these companies receive payment from the BBC for the programmes commissioned.

92. The report of the Digital, Culture, Media and Sports Parliamentary Committee of 23 October 2018 suggests at *Paragraph 37* that the level playing field issue could be addressed by applying the £150,000 per annum disclosure to “*all programmes commissioned by the BBC, regardless of who makes them*” although this is somewhat modified in *Paragraph 39*. There it is proposed that salaries of “*high-earning presenters of other programmes made for the BBC by independent production companies*” be disclosed. This looks like a narrower proposition - potentially distinguishing between presenters and other on and off-screen talent.
93. This proposition (in either its wide or narrow form) does not seem realistic. There are a number of issues:
- often the programme will not belong to the BBC;
 - frequently the BBC do not fully fund the costs of a programme, requiring the producer to raise funds from the markets in presales or through its own lines of finance, and it would be difficult to work out how much was actually funded by the BBC;
 - presumably, independents commissioned by the BBC would need to disclose how much they pay to *all* talent across all programmes commissioned by the BBC to see if, in aggregate, the £150,000 figure is reached. It would only be possible to know if Idris Elba, for example, is paid more than £150,000 by the BBC in any year if *all* elements of reward from the BBC are aggregated;
 - leaving aside practicalities, the above points would risk having a chilling effect on independents and key talent bidding for, and working on, BBC commissions; and
 - the playing field would still be uneven (and maybe even more so) as there would be no equivalent disclosures by competitors such as ITV, Netflix or, indeed, Channel 4 and, perversely enough, an unlevel playing field would develop as between those independents who work with the BBC and those who do not.

The Views of the Competitors

94. None of the independent production companies to whom I have spoken favour disclosure of pay at the BBC commercial subsidiaries. One senior executive, an admirer of the BBC, told me that the BBC has a big *“talent challenge”* as there is a limit to what it can pay and the situation would be made worse with transparency because *“transparency of reward is a problem as it is off-putting to talent (including executives) and advertises the packages the competitors need to beat”*. His view is that talent recruitment and retention is key to the long-term health of the BBC and would inevitably be compromised by transparency of top talent pay.
95. Other competitors could view pay disclosure as a competitive advantage to them but they also see it as an unrealistic step. They recognise that it would only be viable if there was disclosure across all competitors (not limited to BBC commissions, for the reasons outlined in *Paragraph 93* above) which they view as contrary to personal privacy. Sir Peter Bazalquette, Chair of ITV plc, is on record as saying that they *“would never discuss confidential contracts for anyone working at ITV.”*

The move of BBC Studios to the Commercial Side

96. There is no doubt that the move of BBC Studios from the Public Service to the commercial side with effect from 1 April 2017 has caused confusion in this area. The move was motivated by the realisation that, if BBC Studios was to survive and thrive in a *Netflix world*, it had to surrender its guarantee of business from the BBC and be free to compete in the open market for commissions. BBC Studios thus fell within the Public Service until 31 March 2017, and was licence fee funded, but moved then to the commercial side and ceased to be licence fee funded.
97. This meant that the salaries of some BBC Studios staff were disclosed in the 2016/17 BBC Annual Report but not in the 2017/18 Annual Report. Whilst a cynic might say that this is somehow *“too convenient”*, I am content that the logic is robust as the individuals concerned have moved to the commercially funded (and not licence fee funded) side of the BBC.

Talent who work both for the Public Service and the Commercial Subsidiaries

98. There are of course examples of individuals who work for the Public Service (for example as a news reader) but who also are retained by New Studios to present programmes. For such individuals, it is only the Public Service pay which is disclosed in the BBC Annual Report. Again, I can see how some might view distinctions such as this as too fine but I view the difference as sensibly rooted in logic. To the extent that the person is paid from the licence fee then there is disclosure but that is the limit of appropriate disclosure.
99. I would note in this context that there is no requirement for BBC Public Service staff to disclose their earnings from third parties for speaking or other engagements (earnings which might be thought to derive in part from their BBC persona). That, I dare to think, is arguably more surprising than not disclosing earnings from work for the commercial subsidiaries, which have a regulatory duty to operate in accordance with normal market principles and make a commercial rate of return.

Accordingly

100. For the above reasons I believe that it would be inappropriate to extend the requirement to disclose the remuneration of senior managers and all those earning £150,000 and more per annum to the commercial subsidiaries.
101. I would say, however, that the key distinctions between the Public Service and the commercial activities are not well understood by the public at large (and by many within the BBC). Accordingly, I would recommend that a clear and approachable explanation of the key differences, with real life examples, is included on the BBC website and in other key BBC documents such as the BBC Annual Report and the New Studios Annual Review.
102. In addition, I would recommend that consideration be given to providing annual disclosure which breaks down, perhaps in pie-chart format, the annual “*spend*” within the commercial group on talent relative to other costs of the business, such as production, editing, computer generated imagery and other appropriate categories. This would help stakeholders to understand better the overall standing of talent in the costs “*waterfall*” and observe year-on-year changes.

What Broader Developments in Pay and Reward Transparency may be Desirable?

103. The gender pay differences which emerged as a result of the disclosure of BBC staff paid more than £150,000 from licence fee revenue in the BBC's 2016/17 Annual Report understandably gave rise to a great deal of distress among BBC staff. This, together with various specific instances of poor management of gender pay differences (such as for Carrie Gracie), led to a very worrying decline in trust within the BBC. Will and my discussions with transparency groups at the BBC, our meetings with staff around the country and the results of our Staff Survey lead us to conclude that urgent action is necessary to refresh a sense of trust in the BBC.
104. This sentiment is more keenly felt in the Public Service than within the commercial group. The HR professionals working on the commercial side tell me that there is less sense of grievance there and more of a feeling that issues are gripped and tackled when they arise. This is reflected in my discussions with team members at New Studios.
105. Irrespective of this, transparency groups at the BBC argue strongly that the only way to restore trust in the BBC is to introduce full pay transparency across the Public Service and the commercial group. The view is that it will only be by disclosing how much each person is paid will it be possible to rebuild trust as this will expose discrimination.
106. *So, is full transparency a realistic approach?*
107. There are legal issues of course around data privacy. The transparency groups believe that these can be addressed by the BBC telling people that their salaries will be shared and thereby changing the expectation that personal data, such as salaries, will be kept private. Whilst I am a little surprised by this, Will and I have not sought legal advice as we have thought it more appropriate to address the matter as one of principle. What do BBC staff think and do we believe that this heightened level of transparency would have more benefit than cost?
108. The results of the Staff Survey are that there is little appetite among BBC staff (across the Public Service and the commercial subsidiaries) for fully transparent salary information. This has been echoed in the consultation meetings which we and Change Associates have hosted around the

country. The majority of consultees believe that this would be going too far - that pay "*is a matter for me and my employer*" and that pay disclosure would "*stoke resentment*". It is felt in this context that, even if the transparency was only internal to the BBC, it would be very difficult to maintain confidentiality.

109. Whilst the survey offers partial support for the notion that the younger generation is more comfortable with pay transparency, the BBC is a large organisation with a mix of generations and, in the round, there is not sufficient support for full pay transparency.
110. *How then to address the trust issue?* This is urgent as people want a better understanding of:
- how their pay is set and how they can improve it within their existing jobs;
 - how they compare with their peers; and
 - how they can achieve promotion.
111. Whilst the trust issue is more resonant on the Public Service side, it should be addressed on a "*One BBC*" basis. This is recognised by the BBC given that the move of Old Studios to the commercial side has led to a significant effort to make practices as between the Public Service and the commercial side more consistent - for example, through the major programme to buy out bonuses and through the developing introduction of the CPF on the commercial side.
112. I believe that the Human Resources initiatives over the last two years, including the Terms and Conditions Review, the CPF and the development of PeopleView, have made a good faith effort to deal with the issues outlined in *Paragraph 110*. They have not yet, however, been sufficiently convincing to BBC staff. Whilst many believe that the CPF and PeopleView in particular have improved transparency and had a generally positive impact, many are also frustrated and feel that the new measures have obfuscated rather than clarified.
113. In particular:
- there is a concern that the laudable aim of reducing 5,000 job titles to just over 600 has resulted in people being allocated to a job title which does not fit their job. This means, it is said by some,

that the pay band comparators are too generic, that individuals are difficult for others to find in the Global Address List and that progression and recruitment becomes more difficult; and

- there is confusion as to why the bar charts showing comparisons within job titles have been temporarily removed from PeopleView and why, when the charts were there, there was no gender split.
114. In terms of salary discussion and career progression, moreover, feedback is to the effect that the “*Personal Development Reviews*” are often done intermittently by managers, instead of annually, and that there is a lack of clarity from managers about how pay within bands can be improved and how promotion can be achieved. There is enthusiasm for “*Hot Shoes*” and the BBC’s willingness to train staff but these enthusiasms lie at the fringes of other progression anxieties.
115. The question, then, is how might the CPF, PeopleView and other personnel procedures be improved and clarified in light of the concerns emerging from the transparency groups, our meetings around the country and the Staff Survey with a view to refreshing trust at the BBC? I believe that it is only fair, and appropriate, to acknowledge at the outset that, in the CPF and PeopleView systems, the BBC already have procedures that are, in my observation, more advanced and transparent than those generally found at other comparable organisations. The reality is, however, that this has not “*landed*” sufficiently with BBC staff and improvements are clearly necessary.
116. Whilst I agree with many of the recommendations which Will makes in his report, my particular suggestions are as follows:
- (A) the process of introducing the CPF and PeopleView at Distribution should be completed promptly and the CPF and PeopleView should also be rolled out as appropriate at the other commercial subsidiaries;
 - (B) the BBC should make the following structural changes to the information available on PeopleView:
 - the pay band bar chart comparators are republished immediately after the pay anomalies arising from the Pay Check (which is currently being undertaken) are addressed;

- but on the basis that the bar chart comparators are amended to reflect gender split and thus be applicable for any job title where there are at least 10 women and 10 men within a relevant cohort (the existing legal constraint of groupings of at least 20 needs to be adjusted to reflect gender split);
 - as this will not cover a significant number of staff members, comparator groupings should be developed by reference to grading and pay range (rather than job title), and split by gender; and
 - these details are presented as early as possible in 2019;
- (C) a sustainable process should be evolved by the BBC for the training and empowerment of the 2,300 Senior and Team Leaders so that they are better equipped to address fair pay issues raised by team members, evaluate pay progression in a consistent way, provide feedback around career progression and generally drive a more collaborative culture;
- (D) alongside this, the Personal Development Review should be relaunched with guidance around processes, content, regularity and noting of discussions;
- (E) the BBC should commit to resolving the formal pay grievance cases which are outstanding today by 30 June 2019;
- (F) the BBC should be clearer about the way in which fixed term contracts are dealt with. There is a view that people are recruited on these contracts which are then rolled over in order to avoid recruiting staff on permanent contracts. I understand that a new policy on this has been agreed with the unions but this needs to be made clearer and communicated across the organisation;
- (G) alongside diversity initiatives at the Public Service, New Studios should relaunch its commitment to diversity of age, disability, ethnicity, gender, religion, sexual orientation and socio-economic background. Whilst New Studios clearly takes diversity seriously, I believe that now is an appropriate time to reinforce its key importance to the organisation;

- (H) the BBC should, early in 2019, publish a document embracing the Public Service and the commercial subsidiaries entitled "*Careers, Pay and Trust at the BBC*" which explains, in an approachable manner:
- in outline, recruitment and promotion processes at the BBC (including its ethos in relation to diversity);
 - the building blocks of the CPF and the way in which careers can be developed (including transferring between the Public Service and the commercial side and vice versa);
 - the means of navigating the CPF and accessing the data available within PeopleView (as restructured);
 - clearly, the way in which pay ranges have been benchmarked;
 - the ways in which individuals can know what their pay progression opportunity within their band can be, in discussion with managers; and
 - the BBC's new initiatives in terms of driving better practice and consistency across the organisation (see above); and
- (I) a series of "*Town Hall*" meetings around the country should be held early in 2019 in order to introduce "*Careers, Pay and Trust at the BBC*", launch these initiatives and emphasise the diligence which has gone into owning the issues and finding the means to put them right.

117. There is another important point to mention. A number of consultees felt that the BBC could do more to own its quality and successes as an organisation. It can strike an understated pose when it has so much to be proud of. For all the concerns voiced to us, consultees still believe that the BBC is a "*great place to work*" and are proud to be part of it. So, a recommendation would be for the BBC to find a way to get back on to the front foot in terms of demeanour and style, not least given the ever-more competitive environment in which it is living. This will necessarily link back to the training of Leaders, as mentioned in *Paragraph 116(C)* above, as it will be important to cascade a more confident and positive style through the organisation.

Recommendations

118. In this section I bring together the themes which I have discussed in the Report.
119. My central conclusion is that the overall level of transparency of the commercial subsidiaries in the areas of governance, regulation and pay and reward is at least as good as that to be found at peer businesses. I have looked at the disclosure protocols at comparable UK businesses and, whilst there are necessarily differences in texture and specifics in various areas, I have not found the commercial subsidiaries to be wanting by comparison. Indeed, the “*lines of business*” disclosure in the Worldwide and (in due course) New Studios’ financial statements is more granular than to be found at peer businesses (*Paragraph 74*).
120. I have also looked at overseas businesses which are competitors or active in similar businesses. Regimes differ materially across the globe (for example, *Netflix* is Nasdaq listed and *DR Sales* in Denmark is a division of a licence fee funded organisation) but these examples do not suggest to me additional themes of transparency which should appropriately be added to the transparency protocol at the commercial subsidiaries, save that I do believe that procedures to improve the involvement of non-executive members of the CH board would be desirable (*Paragraph 74*).
121. That said, I do have some ideas for improvement and my **Recommendations** are as follows:

Governance

- (A) Develop the Key Performance Indicators (“*KPIs*”) used by CH in its annual strategic report in order to shed more light on the priorities of the commercial group and bring additional focus to the key objectives for the future. I give examples of KPIs in relation to customer diversification, margins and success in winning programmes which are the subject of the contestability regime. I would also suggest developing additional KPIs for the principal subsidiaries of CH (*Paragraphs 32 and 33*).
- (B) Bring more clarity to the concept of “*Returns*” delivered by New Studios to the BBC (*Paragraph 34*). I anticipate that this will be

addressed by the current “*Commercial Effectiveness*” review which the BBC is conducting in relation to the commercial subsidiaries.

- (C) Develop a regime for forward-looking disclosure for New Studios and prepare a long form Annual Review for New Studios for the year to 31 March 2019 (and subsequent years) to provide to internal and external stakeholders a textured feel for the merged business and its role in content creation and distribution, its financial performance, its activities in various parts of the world, its corporate governance framework, its approach to risk and its diversity and social initiative. I see this as an opportunity to create a fresh narrative and explain approachably the different regulatory regime in which New Studios sits, as compared with the Public Service (*Paragraphs 36 and 39 to 41*).
- (D) Move forwards, and bring greater prominence to, the discussion of the business of the commercial subsidiaries in the BBC Annual Report (*Paragraph 42*).
- (E) Add disclosure to the New Studios website of the New Studios board members, the remit of the New Studios board and the organisational relationships between the BBC and New Studios and between New Studios and the other commercial subsidiaries (*Paragraphs 43*).
- (F) Consider the composition of the CH Board (*Paragraph 48*) and add a description of the processes in place to identify and manage conflicts of interest as part of the governance disclosure on the BBC and New Studios websites (*Paragraph 51*).

Regulation

- (G) Whilst the Ofcom Consultation paper of 30 July 2018 is an impressive piece of work, I would not favour the introduction of an “*Annual Statement on Operational Separation*” as I believe that the relevant ground is already adequately covered by the work of the Fair Trading Committee of the BBC Board and by the Fair Trading Audit and the regularity opinion. I would, however, suggest that disclosure of the sort currently included on pages 121 and 122 of the BBC Annual Report (supplemented by the

information on page 123), together with some additional articulation of compliance measures in relation to separation, could be highlighted more prominently, made more linguistically approachable and included separately on the BBC website (*Paragraph 64*).

Pay and Reward

- (H) Consider (i) including in the long form Annual Review for New Studios (see (C) above) a comprehensive report on directors' remuneration and (ii) developing and publishing internally at New Studios a clear statement of philosophy around pay and reward (including its approach to salary, bonus and incentives) (*Paragraph 85*).
- (I) I do not believe that it would be appropriate to extend to the commercial subsidiaries the disclosure of remuneration of senior managers and those earning £150,000 and more per annum which is applicable to the Public Service (*Paragraphs 86 to 99*). My reasoning here is as follows:
- (i) the commercial subsidiaries are required, as a regulatory matter, to exhibit commercial efficiency and operate "*in accordance with normal market principles, including making a commercial rate of return*";
 - (ii) their activities must fit with the Mission and the Public Purposes and not jeopardise the BBC brand but, within that framework, exhibit commercial efficiency. This means that they ought not to be put at a commercial disadvantage compared to key competitors such as ITV Studios, ITN, All3Media, Endemol Shine and Fremantle;
 - (iii) if the commercial subsidiaries were to disclose the pay of senior managers and top on and off-screen talent, they would be disclosing an important component of their cost structure which would inevitably be of commercial interest to their competitors;
 - (iv) this would also be valuable information for those wishing to lure away BBC talent. Whilst some may be sceptical about

“poacher’s charter” arguments, my own view is that disclosure does present an opportunity to those looking to recruit BBC talent, not least because disclosure may be demotivating to those whose salary is then widely known and who are potentially the object of jealousy and negative comment (a view endorsed by competitors of the commercial subsidiaries to whom I have spoken);

- (v) critically, moreover, it would create an unlevel playing field vis-à-vis independent production companies commissioned by the BBC. The report of the Digital, Culture, Media and Sports Parliamentary Committee of 23 October 2018 suggests that this issue could be addressed by applying the £150,000 plus per annum disclosure to *“all programmes commissioned by the BBC, regardless of who makes them”*;
- (vi) this does not seem realistic for a number of reasons:
- often programmes will not belong to the BBC;
 - frequently the BBC does not fully fund the costs of a programme, requiring the producer to raise funds from the makers in pre-sales or through its own lines of finance, and it would be difficult to work out how much was actually funded by the BBC;
 - presumably, independents commissioned by the BBC would need to disclose how much they pay to *all* talent across all programmes commissioned by the BBC to see if, in aggregate, the £150,000 figure is reached;
 - leaving aside practicalities, the above points would risk having a chilling effect on independents and talent bidding for, and working on, BBC commissions; and
 - the playing field would still be uneven (and maybe more so) as there would be no equivalent disclosures by competitors such as ITV, Netflix and, indeed, Channel 4 and perversely enough an unlevel playing field would develop as between those independents who work with the BBC and those who do not;

- (vii) there is no doubt that the move of BBC Studios from the Public Service to the commercial side with effect from 1 April 2017 has caused confusion in this area. The move was motivated by the realisation that, if BBC Studios was to survive and thrive in a *Netflix world*, it had to surrender its guarantee of business from the BBC and be free to compete in the open market for commissions. BBC Studios thus fell within the Public Service until 31 March 2017, and was licence fee funded, but moved then to the commercial side and ceased to be licence fee funded;
 - (viii) this meant that the salaries of some BBC Studios staff were disclosed in the 2016/17 BBC Annual Report but not in the 2017/18 Annual Report. Whilst a cynic might say that this is somehow “*too convenient*”, I am content that the logic is robust as the individuals concerned have moved to the commercially funded (and not licence fee funded) side of the BBC; and
 - (ix) there are of course examples of individuals who work for the Public Service (for example as a news reader) but who also are retained by New Studios to present programmes. For such individuals, it is only the Public Service pay which is disclosed in the BBC Annual Report. Again, I can see how some might view distinctions such as this as too fine but I view the difference as sensibly rooted in logic. To the extent that the person is paid from the licence fee then there is disclosure but that is the limit of appropriate disclosure.
- (J) I *do recommend*, however, that more be included on the BBC website and in key BBC documents a clear and approachable explanation, with real life examples, of the key differences between the Public Service and the commercial activities of the BBC as these seem to me to be poorly understood (*Paragraph 101*).
- (K) In addition, I would recommend that consideration be given to providing annual disclosure which breaks down annual “*spend*” within the commercial group on talent as compared with other cost areas (*Paragraph 102*). This would help stakeholders to

understand better the overall standing of talent in the costs “*waterfall*” and observe year-on-year changes.

- (L) In relation to pay and reward more generally, I do think that the CPF and PeopleView systems should be acknowledged as advanced and transparent systems relative to those found at other comparable organisations (*Paragraph 115*). The reality is, however, that this has not “*landed*” sufficiently with BBC staff and Improvements are clearly necessary in these systems and in other personnel procedures.
- (M) In this context, I agree with many of the recommendations which Will Hutton makes in relation to transparency and I make some specific suggestions for changes and improvements to the information available in relation to, and processes applicable to, careers and pay at the BBC (*Paragraph 116*).

Generally

- (N) The BBC is made up of exceptionally talented people across the Public Service and the commercial subsidiaries but it can strike an understated pose, even though it has much to be proud of. I would like to see it, through bolder communication and training, look to get “*back on to the front foot*” in terms of demeanour and style (*Paragraph 117*).

Christopher Saul
Christopher Saul Associates
7 December 2018

APPENDIX 1

TERMS OF REFERENCE

The review, led by Christopher Saul, will:

- 1. Review the BBC's obligations and existing practice around disclosure and transparency in its commercial subsidiaries.*
- 2. Benchmark the BBC's approach to disclosure and transparency in the Corporation's commercial subsidiaries against comparable businesses in the corporate sector. This will focus on comparable businesses in the UK corporate sector, but also have regard to a sample of international examples, considering whether these may be appropriate to apply, in some way, to the BBC.*
- 3. As part of this exercise, benchmark the transparency of the BBC's approach to pay and reward in its commercial subsidiaries against best practice in UK corporate governance, speaking to staff of the commercial subsidiaries to inform this. At the same time, have particular regard to ensuring that any proposals would not adversely impact on the BBC's internal and external labour markets, recognising the need to allow competition on a level playing field with other commercial organisations.*
- 4. Make recommendations to the BBC Board on any areas within these terms of reference. In doing so, make an assessment of how any changes in present practice will interact with the BBC's legal and other obligations*

Christopher Saul will lead a small team of his choosing to produce a report, providing recommendations to the BBC Board.

APPENDIX 2

GOVERNANCE GRID

	Board Members	Remit of Board	Strategy/Risk	UK Code (or equivalent)	Financials	Regulatory Situation	Gender Pay Gap	Senior Pay	Other Pay	Other Disclosures
BBC Commercial Subsidiaries	Yes - (Directors' Report)	No	Yes (CA2006)	Yes (Parent)	Yes (CA2006, Ofcom requirements and information in Parent accounts)	Yes	Yes	Yes, for New Studios (T. Davie, T. Fussell and M. Linsey) "Highest paid director" for GNL and Studioworks	No	BBC Studios website and Short Annual Review BBC Studioworks website
ITV Studios	Yes - (Directors' Report)	No	Yes (CA2006)	Yes (Parent)	Yes (CA2006 and information in Parent accounts)	As applicable	Yes	Not by name but "highest paid director"	No "Would never discuss confidential contracts for anyone working at ITV"	ITV plc and Studios websites. ITV plc Interim Statement refers to Studios
Endemol Shine	Yes - UK companies (Directors' Report)	No	Yes (CA2006)	No	Yes (CA2006)	N/A	Yes	Not by name but "highest paid director"	No	Endemol Shine global and UK websites

	Board Members	Remit of Board	Strategy/Risk	UK Code (or equivalent)	Financials	Regulatory Situation	Gender Pay Gap	Senior Pay	Other Pay	Other Disclosures
Fremantle Media	Yes – UK companies (Directors’ Report)	No	Yes (CA2006)	No	Yes (CA2006) RTL Group (Parent, but not a UK company) accounts also filed at Companies House	N/A	Yes	Not by name but “highest paid director”	No	Fremantle Media global and UK website
All3 Media	Yes – UK companies (Directors’ Report)	No	Yes (CA2006)	No	Yes (CA2006)	N/A	Yes	Not by name but “highest paid director”	No	UK and international websites
Netflix Inc.	Yes	Not specifically	Yes	No	Yes	Yes (in context of Risk)	No (through recent “Crown” disclosures)	Yes (and CEO pay ratio)	No	Specific governance procedures
Columbia Pictures Corporation Limited	Yes - (Directors’ Report)	No	Yes (very brief) (CA 2006)	No	Yes (CA 2006)	No	Yes	Not by name but “highest paid director”	No (but detailed “Employee Involvement” description in Directors’ Report)	
AMC Networks Inc.	Yes	No	Yes	No	Yes	Yes (in context of Risk)	No	Yes (and CEO pay ratio)	No	
Sky News (within Sky plc)	Yes (Parent Company)	Not for news function	Yes (Parent Company)	Yes (Parent Company)	Yes (Parent Company)	As Applicable	Yes (Parent Company)	Yes	No	

	Board Members	Remit of Board	Strategy/Risk	UK Code (or equivalent)	Financials	Regulatory Situation	Gender Pay Gap	Senior Pay	Other Pay	Other Disclosures
Independent Television News Limited	Yes	No	Yes (CA 2006)	No	Yes (CA 2006)	No	Yes	Not by name but "highest paid director"	No	Reasonably full Annual Report
ZDF Enterprises	Management Board (not Supervisory Board)	Partially	Partially	No	Yes	Yes	No	No	No	
DR Sales	Executive Team	No	No	No	Limited (in DR financials)	Yes	No	No	No	
CNN (Turner Broadcasting)	Yes (UK Parent and Turner Broadcasting System International Limited)	No	Yes	No	Yes	No	Yes	Not CNN International	No	
Pinewood Group Limited	Yes	No	Yes (CA 2006)	No	Yes (CA 2006 and more general periodic disclosure – see "Other Disclosures")	N/A	Yes	Not by name but "highest paid director"	No	Pinewood Finco PLC has debt securities in issue which drives some of its financial and business disclosure