This policy paper is to respond to the three independent reports being published today by:

The Policy Institute at King’s College London

Dr Xeni Dassiou

Professor Dieter Helm
Protecting the BBC’s independence

1. The BBC’s independence from both politicians and commercial or other vested interests is a fundamental principle that allows it to operate as a fair, impartial and trusted public broadcaster in a free and democratic society. One of the key responsibilities of the BBC Trust is to protect the BBC’s independence. This is something that audiences across the UK have told us that they value very highly – nearly 90% of people who responded to our public consultation thought independence of the BBC was an important principle.

2. The BBC’s independence is expressed in different forms: from editorial and creative to strategic and operational, and also, crucially, financial. These areas are intertwined in a complex matrix. At times during its history the BBC has had its independence threatened in a number of ways and over the current Charter period there has been a mounting concern about the BBC’s financial independence. Indeed, many would argue that financial independence is a primary underpinning for the independence of the BBC. The Trust articulated its concerns about this in its response to the Government’s Green Paper, and made some initial suggestions for how financial independence might be safeguarded in the next Charter. To explore this further, in October 2015, we asked the Policy Institute at King’s College London to look specifically at the BBC’s financial independence and to suggest practical policy solutions that could protect it. They carried out research and interviews with a range of external experts as part of their work and their findings suggest that the Trust’s concern about independence is justified.

3. While the Trust recognises that, since the BBC began, the Government has set the level of the licence fee, we support ideas which increase accountability and the opportunity for licence fee payers to have a voice in the debate. We believe these should be considered carefully by the Government and we will want to discuss how they can be incorporated into the new Charter. We particularly support suggestions for a more regularised and formal process for setting the level of funding for the BBC and will explore with the Government whether this could be included in the next Charter (as an alternative to legislation that the report proposes). Other proposals we think should be considered are

   a) Agreeing a Memorandum of Understanding between the BBC and Government regarding financial independence, or the parameters of financial independence and the process of financial settlement; and
   b) Increasing the public voice in any future settlements, including through a requirement to justify the terms of settlements with licence fee payers.

4. In particular, if the Government decides to establish an independent regulator of the BBC, the Trust’s view is that it could make sense for the body setting licences and boundaries for the BBC to have additional responsibility for assessing its funding requirements. While we strongly believe that the BBC should be seen as much more than an economic entity and has much wider cultural and social value, we want to explore whether some aspects of regulation that apply to utilities could also be applied to regulation of the BBC.

5. While the BBC is not a utility, we wanted to explore whether some useful insights could be gleaned by examining how regulation works in those industries. To do this
we commissioned two additional independent reports, looking at how lessons from price regulation in other sectors could read across to the BBC.

6. Firstly, a report by Professor Dieter Helm which takes a broad overview of how price setting works in different regulated sectors. It draws out the broad principles (such as efficiency, investment requirements, recognition of consumer needs, information requirements), and examines common themes and differences as well as the implications of these for a regulator advising Government on the level of the licence fee.

7. Secondly, a report by Dr Xeni Dassiou which looks at how the Office of Rail and Road applies price setting for Network Rail and Highways England, and how lessons from these models could be applied to advising Government on the level of the licence fee.

8. These reports make it clear that the application of concepts for regulation of utilities to the BBC is not straightforward. Indeed, the Trust believes that a purely economic regulator would be inappropriate for the BBC which is not only a creative organisation but has a wider range of public purposes. The Trust has emphasised elsewhere that any new system of governance and regulation for the BBC must encourage effective, efficient and agile decision making and allow the BBC space to respond quickly and flexibly in a fast changing environment, to innovate and to take risks. A new regulator must not unduly constrain this. Public service broadcasting has a unique social value and differs fundamentally in nature from the provision of water, energy or railway tracks. And Professor Helm’s report makes clear that pure economic regulation of the BBC would constitute a very radical change. This may have unintended consequences for the BBC’s own freedom to operate independently.

9. Our ambition, therefore, is not to promote this form of regulation, but to consider how some of the concepts explained in these reports could be used to help achieve the Trust’s suggestion of formalising a proper process for setting the BBC’s funding level in future. This includes the principles that the voices of those who pay for the BBC should be built into such a process and there should be a greater degree of independence from Government. As Professor Helm’s report highlights the current outcomes are determined in a largely non-transparent and private fashion (currently it is not an independent body, but either the BBC itself or the Government that would typically commission any efficiency reviews). Dr Dassiou’s report shows interesting parallels can be drawn with parts of the transport sector. For instance, how the Office of Rail and Road advises the Government on the levels of funding required for Highways England.

10. If the Government decides the BBC should be externally regulated, we believe there is merit in considering whether the new regulator should have a formal role in advising the Government on the level of BBC funding. At a minimum, this should include: a consultation with the public to understand audience expectations, and the BBC’s investment requirements to meet its remit and deliver its purposes; and an assessment of the BBC’s efficiency and its commercial income.

11. We believe the process would aid sensible consideration on both sides of the debate, with a neutral party looking at the evidence dispassionately and providing a well-reasoned, evidence based view of the BBC’s funding needs and therefore a proposed level for the licence fee.
12. We believe these reports provide a useful starting point for dialogue with the Government. We will have discussions with them in the coming weeks and we hope that they will support changes to enhance the BBC's independence.