BBC Trust review of the BBC’s arrangements for the supply of television and radio content and online services

Consultation

Published: 22 January 2015
Deadline for responses: 20 March 2015
Background to the Trust review

Why are we conducting this review?

How the BBC secures its content for the future, how BBC production supply arrangements are regulated and what balance between BBC and independent production is likely deliver the best results for licence fee payers and for the UK creative sector will be key issues for any process of Charter Review over the next year (the current Charter period finishes at the end of 2016).

The production supply arrangements for BBC television and radio content and online services are currently subject to a number of formal quotas and targets. These quotas and targets are set in either the Communications Act 2003 or in the BBC’s Charter and Framework Agreement (the Agreement) with the Department for Culture, Media and Sport.

The BBC Executive are responsible for ensuring that all of the BBC’s quotas and targets are delivered each year. The Trust has responsibility for assessing the BBC’s compliance against these quotas and targets, and reviewing the overall effectiveness of the arrangements.

We are also required to review the operation of the arrangements for television production supply at least every two years; our next (fourth) review is due this year. For radio and online supply, we are required to undertake occasional reviews. We have therefore decided to broaden the scope of our scheduled review of television supply arrangements. Our review will consider supply arrangements for television, radio and online production, the BBC’s current position in those markets and how the markets have evolved since the current regulatory framework was established. We will consider which options for changes to the way that the BBC is structured and regulated in this area will secure the best outcomes for licence fee payers.

The full terms of reference for the review can be found on our website at:

www.bbc.co.uk/bbctrust/our_work/services/programme_supply/content_supply.html

Whose views are we seeking?

Responses to this consultation will provide a key source of evidence to inform and shape the findings and conclusions of the review.

We welcome views from anyone with an interest in the supply of content that audiences consume on BBC television, radio and online. Our consultation questions are aimed primarily at industry stakeholders, including independent production companies, BBC in-house production, representative trade bodies, Government bodies, other broadcasters and organisations representing the wider creative community and workforce.
The BBC Executive’s future vision for BBC production

Last July the Director-General of the BBC set out his ambition to deliver broader choice and better ideas for BBC programmes and content across its TV, radio and online services.

To achieve this the Director-General proposed that television supply to the BBC should be opened up by removing the in-house guarantee and enabling BBC Productions and independent producers to vie for commissions on equal terms, with certain genre exceptions such as news. ¹ He also proposed that parts of the BBC’s in-house TV production unit should be separated from the Public Service and, operating commercially, be free to offer their ideas to other broadcasters as well as the BBC.

Recognising significant changes in the market including the substantial growth and success of the independent TV production sector, recent consolidation in the sector, and the changing nature of digital delivery, the BBC Executive believe that both the current regulatory framework for content supply and the BBC’s strategy for in-house production should be reviewed to consider how best to serve the needs of audiences in the long term.

The BBC Executive are still developing these ideas in more detail. This consultation is therefore not intended to test their specific ideas. However, at this stage we would be happy to receive reactions to what the Director General has already said.

What will our review achieve?

Changes to either the BBC’s Charter or legislation are not at the Trust’s discretion. However, ahead of the review of the Charter, we want to establish some key principles to guide any potential changes in the future. In due course, we will want to test the Executive’s detailed proposals against these principles, in order to put formal proposals to Government for what we think the best model should be for the next 10 years.

We will also consider whether shorter term improvements can be made to the current supply arrangements including the operation of the existing windows of creative competition (WoCCs) for television and radio as well as online supply arrangements.

How to respond to this consultation

This consultation runs from Thursday, 22 January 2015 to Friday, 20 March 2015.

If you would like to respond to this consultation, please email your response to trustcontentsupply@bbc.co.uk or write to BBC Trust, 180 Great Portland Street, London W1W 5QZ.

¹ The Director General’s ‘compete or compare’ speech can be found in full at www.bbc.co.uk/mediacentre/speeches/2014/dg-city-university
Confidentiality, Data Protection and Freedom of Information

If you are responding on behalf of an organisation we may publish the organisation’s views with your consent. Please complete the confidentiality statement, at the end of this consultation, whether you make your response by mail or email. We do not intend to publish individual responses from the public and will treat your identity in confidence if you disclose it to us.

The BBC complies with the Data Protection Act 1998. The BBC Trust will securely store any personal information you provide such as your name, address and email address and use it only for the purposes of administering this consultation. You can find more information on the BBC’s privacy policy at http://www.bbc.co.uk/privacy.

The BBC is also covered by the Freedom of Information Act 2000. If a request is made under the Act in relation to this consultation, the BBC may be required to disclose the information unless an exemption under the Act applies. For more information, see http://www.bbc.co.uk/foi.
The Context

The BBC’s content supply arrangements and quotas and reported performance to date

Current content supply arrangements

For television, the Broadcasting Act 1990 and the subsequent Communications Act 2003 require the BBC to commission 25% of qualifying original network television and non-network television productions from the independent sector each year. In meeting this pan-BBC target, the BBC’s Framework Agreement also requires the BBC to ensure at least 25% of BBC One qualifying programmes and at least 25% of BBC Two qualifying programmes are allocated to independent productions. The Agreement further requires that 50% of BBC television commissioning is reserved for its own in-house production teams. BBC in-house production does not make content for any other broadcaster unless the BBC demonstrates spare capacity.

The remaining 25% of qualifying network commissions is set aside for competition between the BBC and independent producers. This is referred to as the Window of Creative Competition (WoCC) and came fully into effect in 2007.

The BBC Trust has also set the BBC a target to ensure that 50% of network television production spend will come from outside London by 2016. Within this, the Trust also expects the BBC to source at least 17% of its network production spend from Scotland, Wales and Northern Ireland by 2016. There are no formal targets for the individual nations but the Trust monitors delivery of supply from each of the Nations and the English regions.

For radio and online, the Trust sets out the requirements it considers appropriate for the BBC to secure a suitable proportion, and a suitable range and diversity, of radio and online content from independent producers.

For radio, the Trust expects the BBC to commission at least 10% of its eligible radio hours from independent suppliers. From 2012/13, following the Trust review on radio supply, a further 10% of eligible radio hours was opened up as a WoCC for competition between the BBC and radio independent producers on a voluntary basis.

For online, as set out in the BBC’s Online and Red Button Service Licence the BBC must commission 25% of eligible online spend on content and services from independent suppliers.³

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² Qualifying TV programmes are those commissioned by the BBC including co-productions (as long as the BBC meets more than 25% of the actual production costs). News content, continuity/trails and repeats are excluded. This review will consider all genres of programming except news.
³ For radio, news, repeats and continuity/trails are not included in the definition of eligible hours. The output of the BBC Nations stations and the five national digital networks is included. For online, the quota is calculated as a portion of the spend on eligible activities, defined as most audience-facing editorial products and the underlying technologies which deliver them. News and sport products are excluded.
Performance

Television

The Trust’s last review of the BBC’s television supply arrangements and the WoCC was published in 2013. Overall, in line with our previous reviews, we found arrangements to be working well. The BBC complied with its regulatory commitments to commission the required proportions of network television programming from independent producers and, for non-network television supply, the BBC had provided appropriate opportunities for competition between independent and in-house producers.

We also found that the television WoCC had delivered an appropriately wide range and diversity of programmes across different genres including by geographical spread. Overall we concluded that, after six years of its operation, the WoCC had helped firmly embed the principle of choosing the best ideas regardless of source into the BBC’s television commissioning culture.

We did identify some areas for further improvement. In particular we wanted to see more work going into ensuring that independent producers and in-house teams were aware of all commissioning opportunities to ensure the commissioning process is open and fair.

In the past two years the total proportion of hours produced by independent producers for BBC television has been 44% (2012/13) and 45% (2013/14). A breakdown of commissions by genre is shown in Figure 1 below.

Figure 1: Proportion of all hours produced by independent producers for BBC television by genre

<table>
<thead>
<tr>
<th>Genre</th>
<th>2013/14</th>
<th>2012/13</th>
<th>2013/14</th>
<th>2012/13</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drama</td>
<td>40</td>
<td>41</td>
<td>60</td>
<td>59</td>
</tr>
<tr>
<td>Entertainment</td>
<td>64</td>
<td>68</td>
<td>36</td>
<td>32</td>
</tr>
<tr>
<td>Comedy</td>
<td>50</td>
<td>52</td>
<td>50</td>
<td>48</td>
</tr>
<tr>
<td>Knowledge</td>
<td>41</td>
<td>39</td>
<td>59</td>
<td>61</td>
</tr>
<tr>
<td>Daytime</td>
<td>63</td>
<td>66</td>
<td>37</td>
<td>34</td>
</tr>
<tr>
<td>Sport</td>
<td>30</td>
<td>26</td>
<td>70</td>
<td>74</td>
</tr>
</tbody>
</table>
Looking at performance in the WoCC in particular, in 2013/14, independent producers were awarded 78% of the available WoCC hours in total and produced the majority of content in all genres with the exception of sport and children’s. In each of the previous two years, independent producers made 100% of the drama hours made available under the WoCC. Figure 2 below gives more detail on performance in the WoCC for each genre over the last two years.

**Figure 2: Proportion of all BBC television ‘WoCC’ hours produced by independent producers and BBC in-house**

<table>
<thead>
<tr>
<th>Genre</th>
<th>2013/14 Independent</th>
<th>2013/14 House</th>
<th>2012/13 Independent</th>
<th>2012/13 House</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drama</td>
<td>100</td>
<td>0</td>
<td>100</td>
<td>0</td>
</tr>
<tr>
<td>Entertainment</td>
<td>86</td>
<td>14</td>
<td>88</td>
<td>12</td>
</tr>
<tr>
<td>Comedy</td>
<td>78</td>
<td>22</td>
<td>79</td>
<td>21</td>
</tr>
<tr>
<td>Knowledge</td>
<td>80</td>
<td>20</td>
<td>76</td>
<td>24</td>
</tr>
<tr>
<td>Daytime</td>
<td>71</td>
<td>29</td>
<td>96</td>
<td>4</td>
</tr>
<tr>
<td>Sport</td>
<td>22</td>
<td>78</td>
<td>0</td>
<td>100</td>
</tr>
<tr>
<td>Children’s</td>
<td>47</td>
<td>53</td>
<td>62</td>
<td>38</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>78</strong></td>
<td><strong>22</strong></td>
<td><strong>74</strong></td>
<td><strong>26</strong></td>
</tr>
</tbody>
</table>

For network supply, the BBC is ahead of schedule in meeting its target to produce 50% television outside London by 2016 (It was 53% in 2013, including 20% in the nations).
Radio

The Trust’s last review of the operation of radio supply arrangements was published in 2010. We found the BBC complied with its regulatory commitments by commissioning at least 10% of eligible programming from independent suppliers and its approach had delivered a suitable range and diversity of programming.

However we found that the BBC’s relationship with the independent sector could be strained and, as the predominant purchaser of radio programmes, we recommended improvements in the BBC’s approach particularly around transparency and openness.

Overall, we concluded that competition for the best ideas had not been consistently embraced by BBC Radio. To promote this, we recommended the introduction of a 10% WoCC effectively doubling the amount of programming guaranteed to be open to independents, effective from 2012/13.

Figure 3 below shows the proportions of radio hours commissioned from independent producers by network station in the past two years as well as the performance of BBC in-house in the WoCC.

In 2012/13, the BBC commissioned 20% of the total eligible network radio hours from independent producers rising to 22% in 2013/14. In both years the BBC exceeded the 10% minimum requirement under the guarantee. And in the first year of the radio WoCC (2012/13), 80% of the hours available in the window were produced by independents. Last year, independents produced 75% of the WoCC hours available. As can be seen from the figure below, the proportion of hours produced by independents varies considerably between the networks.
**Figure 3: Proportion of all eligible hours commissioned from independent producers by BBC network radio station and performance of the BBC's in-house production in the WoCC**

<table>
<thead>
<tr>
<th></th>
<th>Actual % 2013/14</th>
<th>Actual % 2012/13</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Indie Guaranteed</td>
<td>Indie WoCC</td>
</tr>
<tr>
<td>Radio 1</td>
<td>9</td>
<td>8</td>
</tr>
<tr>
<td>Radio 2</td>
<td>12</td>
<td>24</td>
</tr>
<tr>
<td>Radio 3</td>
<td>13</td>
<td>5</td>
</tr>
<tr>
<td>Radio 4</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>5 Live</td>
<td>13</td>
<td>9</td>
</tr>
<tr>
<td>1Xtra</td>
<td>18</td>
<td>0</td>
</tr>
<tr>
<td>6 Music</td>
<td>17</td>
<td>9</td>
</tr>
<tr>
<td>4 Extra</td>
<td>9</td>
<td>7</td>
</tr>
<tr>
<td>Asian Network</td>
<td>12</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>13</strong></td>
<td><strong>9</strong></td>
</tr>
<tr>
<td><strong>Target</strong></td>
<td><strong>10</strong></td>
<td></td>
</tr>
</tbody>
</table>

Source: BBC Annual Report and Accounts 2013/14

**Online**

The Trust’s last review of the BBC’s online supply arrangements was published in 2011. Similar to radio, we found the BBC had complied with its regulatory commitment and delivered a suitable range and diversity of content with commissions across the BBC divisions and from around the UK.

However we concluded that substantial changes were needed to improve the openness and transparency of the system. Fundamentally, we were not convinced that the online quota was delivering sufficient public value to licence fee payers or the creative sector and asked the BBC Executive to work with industry to explore how this might better be achieved in the future.

In January 2013 the Executive published the final results of this work, which found a lack of industry consensus on what the exact nature of the quota should be in what is an evolving and fragmented market. The Trust decided to retain the status quo of
supply arrangements including the 25% online quota but with a commitment to review their efficacy on a rolling basis.

The markets for television, radio and online supply

Using our previous work as well as industry sources, we summarise below the respective scale of the markets for television, radio and online production, and the BBC’s position in these markets. We also outline the developments that have taken place since the BBC’s current regulatory arrangements were put in place from 2007.

Television

As figure 4 below shows, the UK television independent production market has grown markedly over the last 10 years. It is now widely recognised as a global market leader. In 2013, overall television-related revenues of independent producers amounted to nearly £2.8 billion and the sector enjoyed significant and growing export sales.

Figure 4 also shows how the mix of funding for independent productions has changed significantly in recent years. While revenue from primary UK commissions remains very important, in 2013 this accounted for around 60% of total television-related revenue compared with 75% in 2008. One third of revenue generated comes from international activities, compared with 15% in 2004.4

Figure 4: Independent producer television-related revenue, 2004 – 2013 (in cash terms)

*Definitions: ‘Other international income’ - revenue from companies overseas operations and any primary commissions received from non-UK broadcasters; ‘Int'l sales of UK finished programmes’ - sales of first-run UK programming sold as finished product abroad; ‘UK rights income’ – UK secondary sales, publishing, formats, DVD sales etc.

Source: Oliver & Ohlbaum analysis, Pact census

4 PACT Census, 2014
This growth has been supported by a number of regulatory interventions by successive governments, principally:

- **Launch of Channel 4 in 1982.** This was designed to operate on a very different model to the BBC and ITV in that it did not have an in-house production capability. The intention from the outset was that it would operate as a publisher-broadcaster, commissioning all of its programming from independent producers.

- **The 1990 Broadcasting Act.** This Act first set out on a statutory basis the requirement that the UK’s Public Service Broadcasters (the BBC, ITV, and Channel 4 at that time, Channel 5 since) must devote at least 25% of their hours to qualifying programmes to independent productions.

- **Launch of Channel 5 in 1997.** Like Channel 4, this was initially designed as a publisher-broadcaster model although it does now have an element of in-house production.

- **The 2003 Communications Act.** This Act mandated the terms of trade (introduced the following year), which have led to a fundamental shift in the trading environment by enabling independent TV producers to retain control of a greater share of intellectual property (IP) rights (see further below).

- **The introduction of the BBC’s window of creative competition (WoCC) for television commissions in 2007.**

As figure 5 shows, the BBC remains the biggest commissioner of new content in the UK, spending over £1bn a year on non-news commissions, almost 40% of all primary commission spending in the UK. Although commissions from traditional public sector broadcasting channels still account for most of the market, in recent years growth in demand for original TV production has been driven by the multi-channel segment. Relatively new entrants to the market (e.g. the US streaming services Netflix and Amazon) are also investing heavily in programming for global audiences.  

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5 Oliver & Ohlbaum, August 2014
The UK television production market has traditionally been fragmented. Barriers to entry are still relatively low allowing a large number of small and medium-sized companies to continue to develop and grow. As figure 6 shows, in 2013, about one fifth of all UK commissions were from companies with annual turnover of less than £25 million, broadly the same proportion as five years previously. Ofcom also report that the number of small producers (annual revenue of less than £1 million) has increased in recent years from 140 in 2008 to 152 in 2013.  

6 Ofcom, December 2014
In terms of the geographical spread of production activity, while London remains very important, being the headquarters of all four PSBs and many of the largest multichannel commissioners, the volume of UK-wide network production made outside the capital has increased in recent years. Ofcom report that, in 2013, for the first time less than half (49.4%) of first-run network programme hours were produced within the M25.  

Over the last decade there have been some significant shifts in the underlying structure of the market primarily through acquisition activity. Several ‘super-indies’ have emerged as a result of this activity; large groups with extensive international operations. These companies have grown to a sufficient scale to enable them to manage a portfolio of different commissions and to be less dependent on individual titles, to co-fund IP development and to develop ancillary functions such as programme sales and rights management.

At the same time there has been a trend towards the integration of content production and distribution businesses (vertical integration). UK broadcasters appear to be attractive targets for foreign investment as is evidenced by Viacom’s acquisition of Channel 5 in September 2014. Also in 2014 three of the four UK super-INDIES have been taken over by international broadcaster groups (mostly from the USA) who have UK broadcast interests. Shed has been fully acquired by Warner Brothers international TV, All3Media has been acquired by Discovery Networks and Liberty Global, and in autumn 2014 it was announced that Shine Group – acquired by News Corp in 2011 – would merge with Endemol under the 21st Century Fox group.

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Ofcom, December 2014
In late 2014, the largest remaining UK-owned independent producer, Tinopolis, was put up for sale.

These structural changes have a direct impact on the way in which the BBC can commission content. Super-indies owned by groups with UK broadcast interests become non-qualifying independent production companies (NQIs) for the purposes of regulation. This means that any commissions NQIs win from the BBC or other public service broadcasters cannot be counted within the independent production quotas, which are calculated on the basis of commissions from qualifying independents only.

For the BBC, the impact of the growth in the number of NQIs is to gradually reduce the number of hours available for competition in the television WoCC for companies not aligned to broadcasters. For example, the large volume and long-running BBC One series *Pointless*, produced by Endemol, has to move into the WoCC as it can no longer be counted as part of the independent quota.

Analysis by PACT shows that non-qualifying super-indies in combination now account for just under a quarter of all network output on the five main channels (and 28% of peak time output), still less than the qualifying indies – 28% and 31% respectively, and less than the in house operations of the BBC and ITV Studios – combined, at 48% and 41% respectively.

**Television Terms of trade**

Until the early 2000s, because broadcasters retained most of the market power they were able to exert significant control over production prices, fees and programme rights. Independent producers generally did not retain their post-broadcast programme rights to the commissioning broadcasters which meant the former were very dependent on the latter for their annual revenue. It also limited the ability and willingness of independent producers to raise risk capital or develop programme ideas and exploit the intellectual property (IP) abroad.

With the aim of supporting the sector and introducing more competition to the programme supply market, UK broadcasters and the trade association for UK independent production companies (PACT) negotiated codes of practice setting out the licensing of rights between broadcasters and producers within primary and subsequent windows. The Communications Act 2003 requires the parties to come to such agreement and the communications regulator Ofcom oversees this process. Known as the ‘terms of trade’, these agreements came into force in 2004 and allow independent companies to retain rights in their productions following the primary rights licence.

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8 Non-qualifying independent production companies (NQIs) are defined by Ofcom as those production companies who are employees of a broadcaster, or who have a shareholding greater than 25% in a broadcaster, or who are the subject of a shareholding by a single UK broadcaster of more than 25% (or by several UK broadcasters of more than 50%), or who are required by the production contract to use the production facilities of the broadcaster or not to use the production facilities of some other broadcaster.

9 Programmes gain independent status from the producer at the point of commission (provided they are made within two years of commission). As such, as new commissions replace returning series, this change will gradually take effect.

10 Oliver & Ohlbaum, August 2014
The terms of trade have fundamentally changed the market as independent producers have been able to diversify their income away from sole reliance on primary commissions, expand into overseas markets and better attract external investors to provide capital. Since the introduction of the terms of trade the sector has doubled in size and has continued to grow in recent years despite the economic downturn.

Radio

Estimating the total value of the independent production market is difficult due to the nature of the market and the limited financial information publicly available (for example, most independent producer’s revenues are well below £1 million and so there is no statutory requirement to report annual turnover).

However, previous analysis for the BBC Executive based on known expenditure by the BBC and estimated spending on independent productions by the commercial broadcasters put the total value of the market to be around £38 million in 2012. This amount covered two main areas: roughly half is made up of ‘traditional’ programme commissions, of which BBC commissions account for almost 99% of the market, and the remainder is made up of wider external content covering predominantly news, weather, traffic and sponsored programming.

BBC expenditure on independent radio productions is therefore the key driver of the market, with the performance of independent producers likely to be sensitive to the level of this expenditure. Factors such as the low level of built programming in commercial radio, the considered importance for music stations of retaining editorial control to ensure a consistent station sound, economies of scale (volume production to more effectively use assets such as studios and sharing of overhead resources), limited secondary values in radio programmes and relatively low programme costs associated with live programming have all limited demand for independent productions.11

Over the last ten years the size of the radio production market has been broadly flat. There has been some fluctuation in BBC commissioning, and some variation in spend by the commercial sector though at a relatively low base level.

In terms of regulatory interventions in the market, unlike television there are no statutory quotas for radio in the UK apart from the self-imposed BBC quotas as required by the BBC Trust.

Similar to television, historically when commissioning radio programmes from independent producers, the BBC would purchase an 'all rights' deal. This meant that the independent producer retained no ownership or control over their product. Following negotiations between the trade association RIG and the BBC, in late 2004 new terms of trade were introduced. Amongst other things, this has meant independent producers can now commercially exploit their productions both in the UK and internationally although, at present, there is very limited trade in secondary and IP rights for radio content (for example music-based formats, which dominate

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11 Grant Goddard, Indepedent Radio Productions Commissioned by the BBC (report produced for BBC Trust), July 2010
radio, do not lend themselves well to IP ownership and other formats are heavily
dependent on national tastes).

Low barriers to entry mean the UK radio supply market is highly fragmented. Some
150 independent production companies are estimated to be active across the UK. Many of these are small organisations which produce occasional commissions. For
these organisations, the competitive nature of the market and the resulting volatility
in revenues result in many temporarily ceasing activity, often for a few years at a
time. The small number of companies of significant scale increasingly seek to
diversify into related and emerging digital markets both to grow their businesses and
to manage some of the revenue risk inherent to the commissions market.

Online

Our last review of the BBC’s online supply highlighted that the online market is a
very different one from both television and radio as it has a much broader range of
participants on both the demand and supply side. The products and services offered
are wide and ever-evolving. This can be seen in the diverse nature of what is
commissioned digitally, which ranges from pure content commissions to technology-
only projects, as well as “hybrid” developments based on a blend of technology and
editorial inputs (e.g. the BBC’s iPlayer and Connected Red Button).

The nature of digital production market also brings operational complexity to the
BBC’s online supply arrangements compared to those for television and radio. In
particular, as there is no meaningful common unit of measure equivalent to the
“programme hour” for BBC Online, the quota is measured through share of spend.
Technical projects are also subject to EU procurement guidelines, unlike in TV and
Radio where the broadcast exemption applies.

Although hard to exactly define the size of the UK market, work we commissioned
for our last review estimated it to be in excess of £450 million for online public
service content (£790 million when incorporating all the UK’s digital related activities,
public and private). Central Government, the not-for-profit sector and broader
corporates were identified as the main buyers of digital marketing and technology
services. With some £20 million in annual spend, we concluded that BBC Online does
not have the same impact in this market as it does in television or radio
broadcasting, and it is not a critical customer for all but the smallest external
suppliers.

More recent analysis of the market for digital content commissioning (as opposed to
technology-only commissions) highlights that broadcasters and production
companies are showing an increasing interest in this area in response to the
increasing demand for digital content (thanks to faster internet connections and
increased penetration of connected devices) and the accessibility of consumers.

Total UK expenditure on digital content has increased significantly in recent years
albeit from a low base. This expansion has been driven by increased expenditure on

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12 Radio Independents Group, Submission to the BBC Trust Radio Network Supply Review, May 2010
13 Deloitte LLP, The Online Quota : BBC Trust’s first review of online independent supply (a report
for the BBC Trust), January 2010
content to support live television and, more recently, exclusive online content i.e. expenditure which is not affiliated with an existing programme strand.
The consultation

The Trust’s principles

The Trust’s role is to get the best out of the BBC for licence fee payers. In line with this we have developed six high-level principles that we consider are fundamental to any BBC content supply framework set up to serve the interests of licence fee payers over the longer term.

After taking account of the views we receive through this consultation, we intend to test any proposed changes to current content supply arrangements against these principles before we form a position and make recommendations to Government on the best way forward as part of the BBC Charter review process.

These principles align with the public purposes and are applicable to television, radio and online production although the relative importance of each will reflect the different market conditions of the respective sectors.

Principle one: Securing high-quality and creative content across all genres

The public expects a very high standard of content from the BBC. As such, the Trust expects the BBC to make the most creative and distinctive high-quality output available on screen, on air and online.

To meet these expectations the BBC needs access to the best ideas, whatever their source. Its content supply arrangements should therefore be open to a wide range of sources, including the BBC’s own producers and independent producers, and promote creative competition between them. This should foster an environment where the best programme and content ideas are available to the BBC’s commissioners.

The BBC’s ability to secure high-quality and creative content on behalf of the licence fee payer also needs to be considered in the context of changes within the supply market and to digital delivery.

We would also expect that any proposed changes to arrangements should maintain the emphasis on the supply of high-quality ideas, across all genres, and with a strong focus on UK public service broadcasting values.

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14 The Charter defines the main objective of the BBC as the promotion of six public purposes. These are:
1. Sustaining citizenship and civil society
2. Promoting education and learning
3. Stimulating creativity and cultural excellence
4. Representing the UK, its nations, regions and communities
5. Bringing the UK to the world and the world to the UK
6. In promoting its other purposes, helping to deliver to the public the benefit of emerging communications technologies and services

15 Except, as indicated by the Director General, for the News genre
**Principle two: Providing value for money to licence fee payers**

As guardian of the licence fee, the Trust expects the BBC to strive to improve value for money through simpler, more efficient, and more open ways of working, including through the promotion of fair and transparent competition.

Since the BBC spends a significant part of the licence fee on content, its content supply arrangements should act as important drivers in the delivery of value for money. Any proposed changes to supply arrangements should support an appropriate balance between delivering content of the high quality, creativity and range that audiences expect of the BBC and keeping costs to licence fee payers down.

In fulfilling this requirement, the BBC should consider not just the price paid for content but other factors, such as opportunities to secure investment from others through co-production financing and generate revenue from sources other than the licence fee, including optimising the potential for commercial income.

**Principle three: Using a wide range and diversity of supply across all genres and from across the UK**

To secure high-quality, creative output and value for money for audiences, the BBC needs to commission content from a wide range of producers, with a flow of new entrants bringing fresh ideas within a well balanced and sustainable production ecology.

To reflect different social, cultural and geographic perspectives from across the UK the Trust expects range and diversity in the inputs as well as the outputs in the production of content across all genres.

Securing the supply of high quality content means having arrangements for television that can help to build strong and sustainable network production in Scotland, Wales and Northern Ireland and the English regions.

While the BBC’s supply arrangements should function in such a way as to support access to a wide range and diversity of supply, this needs to be balanced with licence fee payers’ interests in the overall quality of content and value for money.

**Principle four: Securing a sustainable production supply in terms of skills and capacity**

The Trust recognises the BBC’s central role in training and the development of production skills, and its importance within the wider creative economy.

Under this principle any proposed changes to arrangements should ensure that, over the longer-term, the BBC continues to have access to the necessary capacity, skills and talent to create content from across the UK in a sustainable way and support a healthy production sector.
The BBC’s content supply arrangements must also be capable of delivering content that may require significant infrastructure investment (such as large-scale events and cross-media productions that audiences now expect).

**Principle five: Retaining sufficient value and control over the BBC’s IP and content rights beyond the public service window to secure a fair return on investment for licence fee payers**

The balance between intellectual property rights held by the BBC, as commissioner and broadcaster, and the producer, whether BBC or external, is crucial to secure a fair return for licence fee payers and deliver value for money. The current model allows the BBC to retain the full value of rights on content made in-house, but only a small proportion of the value of rights where content is commissioned from independent producers.

Since the introduction of the Window of Creative Competition (WoCC) in 2007, the proportion of BBC commissioned content supplied by independent producers has increased significantly, resulting in a reduction in the value to the BBC of secondary rights.

Any new arrangements should ensure that both the BBC and the creators of the content receive a fair share of the commercial value of content commissioned by the BBC.

**Principle six: Maintaining appropriate separation between publicly funded BBC activity and its commercial services**

The Trust has clear controls in place to ensure that the public service and commercial activities of the BBC operate separately and that no subsidy or unfair advantage is gained by the commercial arm of the BBC through its relationship with the public service part of the Corporation. We are on the process of clarifying these controls further through the introduction of a new framework covering the BBC’s commercial services.

While the BBC’s in-house production is at present a public service activity funded by the licence fee, we are aware that the BBC Executive’s proposals may include plans for one or more new commercial entities. Any proposed changes to the way in-house production operates by putting its activities, in whole or in part, on a commercial footing will be subject to Trust approval and will need to comply with the Trust’s fair trading policy16, with state aid requirements and, once implemented, with the Trust’s new commercial framework.

Any new commercial subsidiary of the BBC would also need to fit with the BBC’s public purpose activities and not jeopardise the good reputation of the BBC or the value of the BBC brand.

16 [http://www.bbc.co.uk/bbctrust/our_work/commercial/competitive_impact.html](http://www.bbc.co.uk/bbctrust/our_work/commercial/competitive_impact.html)
Questions

For each of the following questions, please tell us your views on arrangements for the supply of television and radio content or online services depending on your particular interests.

1. Overall, are these the right principles to guide any future changes to the BBC’s content supply arrangements?

| Principle one: Securing high-quality and creative content across all genres |
| Principle two: Providing value for money to licence fee payers |
| Principle three: Using a wide range and diversity of supply across all genres and from across the UK |
| Principle four: Securing a sustainable production supply in terms of skills and capacity |
| Principle five: Retaining sufficient value and control over the BBC’s IP and content rights beyond the public service window to secure a fair return on investment for licence fee payers |

2. Taking each of the above five principles as they stand:
   i. How far do you think the current content supply arrangements deliver on them?
   ii. Do you think that is likely to change in the future given the developments in the market in recent years?
   iii. How do you think the principles can best be fulfilled over the next ten years whether by regulatory changes or other means?

3. Are there genres of programming or types of content that justify a different approach?

| Principle six: Maintaining appropriate separation between publicly funded BBC activity and its commercial services |

4. Please let us know whether you have any views on the relationship between the BBC’s public services and its commercial activities in its content supply arrangements, and how the necessary separation can best be maintained in the future.
Confidentiality statement

Please print and sign this declaration if you are sending a hard copy of your response.

The BBC Trust usually publishes organisational responses in full when we reach our conclusions. If you would prefer that all or part of your response is treated as confidential, please complete the confidentiality section below.

What do you want the BBC Trust to keep confidential?

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Name/Organisation

Address

Other contact details (telephone/email)

The BBC Trust will retain and use your name, address, email address and organisation you work for (if applicable) for the purposes of administering this public consultation. Your personal details will not be passed to any third parties for marketing purposes.

The BBC complies with the Data Protection Act 1998. For more information on BBC’s Privacy Policy please refer to [http://www.bbc.co.uk/privacy/](http://www.bbc.co.uk/privacy/).

The BBC is listed as a public body in Part VI of Schedule 1 to the Freedom of Information Act 2000; this means that, subject to certain restrictions, the BBC may
be required to disclose information it holds to individuals and organisations making a valid request to be supplied with that information under the Act.

If you have requested that all or part of your response should be kept confidential, the BBC will take reasonable steps to maintain confidentiality of that information if a request for its disclosure is received under the Act. Please note, however, that in the event the BBC is able to withhold information under the Act, this decision may be overturned by the Information Commissioner, the Information Tribunal or the courts.

Please note that we may still refer to the contents of responses in general terms, without disclosing specific information that is confidential. We will exercise due regard to the confidentiality of information supplied.

DECLARATION

I confirm that the information I have submitted is a formal consultation response. It can be published in full on the BBC Trust’s website, unless otherwise specified, and I authorise the BBC Trust to make use of the information in this response to meet its legal requirements. If I have sent my response by email, the BBC can disregard any standard e-mail text about not disclosing email contents and attachments.

Name

Signed (if hard copy)