

BBC Paper on Future of the Licence Fee and its regulation

Outline

Dieter Helm

New College, Oxford

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1. The current context

The 2006/07 renewal of the Charter and the settlement of the licence fee have not resulted in a consensus as to the future of the BBC. Not only have rivals increased pressure on the competition aspects, but there has not been political agreement either.

The result is a very unstable situation, whereby the BBC can expect the licence fee to be “renegotiated”, and the competition issues to continue to chip away at the BBC’s market power.

Further ahead, the licence fee itself is by no means guaranteed, and the broadcasting consensus of the twentieth century is showing signs of breaking down.

2. The BBC’s role in a digital age

During the course of the Charter Review and the licence fee debates, two very different stylised models of public service broadcasting were set out. These can be characterised as the Ofcom view, and the status quo. These two models set the parameters of the debate.

The Ofcom model is based on a narrow economic analysis, which relates to consumer choice. It largely rules out non-economic arguments about culture, democracy and the role of the citizen. Essentially digitalisation allows a cornucopia of consumer choice, with falling transmission charges, and turns broadcasting into just another utility. Indeed the market itself is an informational one, and the distinction between broadcasting and other forms of publishing content breaks down. Hence the PSP. To the extent that market failure remains, this can be met through a competitive auction of subsidies. But if a BBC is still required, then it should be narrowly confined to the PSB remit.

The status quo is in effect an updated version of Reith: the BBC has a special place which reflects the national culture and it needs to be treated differently from other broadcasters. An element of paternalism is implicit in the bolder version: the narrower defence of this remit is based on the view that advertising and subscription will tend to subvert content to the demands of commercial interests. This model is refreshed for the digital age with the idea that the BBC should grow its digital outputs and especially its web based activities, to challenge its global (commercial) rivals.

Neither of these views is appropriate as complete models, but both have important elements which need to be carried over into a third model – the “trust model”.

3. Lessons from the Ofcom work

Ofcom (and with it the Burns Committee) advanced a number of ideas which have merit, irrespective of the validity of the overall Ofcom model. There were also some implicit assumptions from the broader utilities models elsewhere in the utilities. These include:

- The importance of independent regulation, in particular in respect of the setting of the licence fee. The case for separating out the setting of the outputs (the Charter terms) from the licence fee settlement is very considerable, especially if Ofcom was required to ensure that the BBC could finance its functions. Whatever actually happened, it is hard to avoid the perception that the politics (post Hutton) played a part in the eventual settlement.
- There should be an appeal mechanism, which again points away from the Treasury setting the fee.
- There is a role for an independent regulator in terms of market assessments and competition issues.
- Equivalence and the opportunities for independents to have access to the BBC networks requires a competitive regulatory input.

4. Lessons from the status quo model and its defence during the recent Charter Review

The existing form and structure of the BBC has delivered world class broadcasting which other countries – trying a variety of models – have failed to replicate. For this reason the public service remit combined with a licence fee has a lot of merit, and it should be set against the disadvantages of other models.

The main benefits of this model have been:

- Quality – detailing the differences in terms of quality measures, such as awards and prizes
- Independence from govt and commercial interests
- Diversity and cultural benefits

- Citizenship and national event coverage
- Value for money
- Global reach and British foreign policy objectives

The current delivery of the above has been called into question by the criticisms of current outputs, by the proliferation of radio and television channels, and by the shift to the web and on demand services. The implication is that the outputs which are designed to meet the PSB requirements are likely to change in delivery, access and indeed content.

5. The Trust Model

The stylised debate between the Ofcom and the status quo models suggests that neither is likely to deliver the requirements of PSB in the twenty-first century. Digitalisation and the web have changed the nature of the market – on both the supply and demand sides.

A third alternative is the Trust Model, which provides a set of overlapping club goods, bundled together into one super-club. (The BBC is currently a club good – excludable through the compulsory licence fee, but non-rival to members). Within the super-club, there can be a plethora of different payment methods, so that the BBC has a core PSB free to air service backed by a single fee, and then a host of other services with fees which recover some of the costs. It would be core to this model that paying for the core service bundle – the PSB services – is a necessary condition for access to the other services.

This model differs considerably from the existing BBC structure, in particular:

- It would be voluntary not compulsory
- There would be a host of different charges
- The web service would be the core resource which would have free and charged services
- The BBC would have much more commercial freedom.

6. Regulation and the Trust Model

Experience with the recent licence fee negotiations would suggest the following limitations:

- Political factors played a part
- There is no appeal
- Expertise on govt side was lacking

There is then a good case for Ofcom to take over the licence fee reviews – but in the above model it would focus primarily on the core fee, and use normal competition and

abuse of dominance rules for the rest. The BBC would increasingly migrate to one amongst many regulated broadcasters.

7. Private capital and financing

A serious problem with the current model is that the BBC is dependent ultimately on politicians for raising money – and particularly for borrowing.

The following steps should be considered:

- Establishing the BBC as a not-for-profit Trust
- Governance of the Trust by Trustees (a migration over of the existing Trustees)
- Charitable status to be considered (though there are drawbacks)
- Normal access to capital markets for debt finance – but not equity
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8. Evaluation the three models

Each of the three models can then be assessed against the criteria – the benchmark for which is the current arrangements and the advantages listed above. The Trust Model can be shown to have at least as good incentives on the quality, diversity and cultural fronts; it is more independent, and its greater commercial freedoms allow it not only to grow the BBC but also to remove the major obstacle – compulsion.