

Home but not dry: reflections on the draft BBC Charter and Agreement



David Puttnam and Des Freedman, who led the [Inquiry into the Future of Public Service Television](#), respond to the draft BBC Charter published last week.

It is a well-established trick of the policy trade that if you want to implement unpopular changes, you should threaten the worst and then compromise so that both sides can then claim success. This is what appears to have happened with the publication last week of the draft BBC [Charter and Agreement](#) such that the director general, Tony Hall, could speak of a '[hard won charter](#)' that will guarantee the BBC's immediate future.

Like the director general, we are delighted to see that the government has dropped its original plans to set up a new unitary board dominated by government appointees. We hope that our [criticism of these plans](#) contributed to this welcome shift. We are also pleased that the Charter will last for 11 years,

taking it outside of the electoral cycle, and that it requires the BBC to fully represent the diverse communities of the UK.

However, we believe that the draft Charter fails to fully safeguard the BBC's independence, both in terms of funding and governance, and that it seeks to reinforce the Government's determination to see regulation of BBC content and services in relation to its impact on competition. Overall, we think that the draft Charter does not secure sufficient guarantees about the BBC's future, foreshadowing a potential threat to the BBC's status as a universal public service broadcaster able to provide a range of popular and diverse content free at the point of use.

First, we are disappointed to see that the Secretary of State seeks to retain a significant role in the appointment of the extremely powerful Chair of the new board (as well as the four members representing the Nations). We were hoping that the government would seriously consider the proposals that were produced for us by the former Commissioner for Public Appointments, Sir David Normington, setting out a series of tests to ensure a genuinely independent board. Sir David has criticized the shortcomings of the existing public appointments process and we believe it remains vital that the new Chair is selected purely on merit, and not as a result of personal or political connections with the government of the day.

A political appointee could not only influence the editorial and operational leadership of the BBC but also undermine confidence in the selection of the other five non-executive members on the board, as the Chair also heads up the Nomination Committee that draws up the shortlist for these appointments.

Second, we are concerned that the Charter and Agreement disproportionately require the BBC to be mindful of its impact on the wider media market. Scheduling, for example, will now need to take into consideration 'any potential adverse impact on fair and effective competition' (p. 39 of the Agreement), something that was totally absent from the previous Agreement. Additionally, 'distinctiveness' is to be firmly embedded into the overall remit of the BBC given that Ofcom is now required to monitor the BBC's obligation 'to secure the provision of more distinctive output and services' (p. 49 of the Agreement).

This could easily prevent the BBC from running popular programmes in peak-time or from developing new online services that its competitors would frown upon. In particular, we believe that the board's autonomy in managing the strategic direction of the BBC will be limited by the draft Charter's requirement that Ofcom has the final say in any disagreement between the board and the regulator. 'Where it appears to the Board that there is a conflict between their obligations under this Charter, the Framework Agreement and the Operating Framework with any request or decision made by Ofcom, the Board must comply with the request or direction made by Ofcom' (p. 13 Charter).

Issues of significant concern to us that featured in the white paper have been incorporated into the draft Charter. For example, the BBC's need to pursue technological innovation in the public interest has been downgraded from a core public purpose to a 'general duty' while the new Charter firmly endorses the BBC's right to provide a subscription service allowing the Corporation to 'develop, test and pilot such a service, with the approval of the appropriate Minister' (p. 29 of the Agreement).

There are also some significant omissions. There is nothing that will prevent future funding arrangements from being carried out behind closed doors, and no detail concerning how to realize diversity as a public purpose: there is no requirement on the BBC to change its employment practices, or to allocate more money to, for example, BAME programming.

In conclusion, we are not quite as optimistic as the director general in relation to the draft Charter. There is little here to prevent the government from influencing the composition of the new unitary board or from once again using licence fee revenue to pursue its own political projects (as it did when forcing the BBC to pay for free TV licences for the over-75s as part of its welfare reforms). Instead, the BBC is to be handed an eleven-year extension with limited prospects for growth, and a requirement that it must not negatively impact the wider media market. Taken together the proposed Charter and Agreement comes across not as a vote of confidence but a 'holding position'.

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