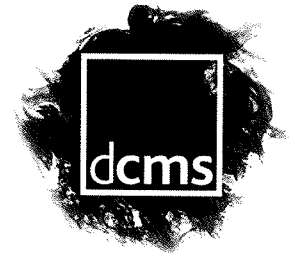


CMS 182063/DC



department for
culture, media
and sport

Amyas Morse
Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
LONDON
SW1W 9SP

9 August 2011

Dear Amyas,

Thank you for your letter of 29 July with your views on the BBC's proposed changes to the 'Value for Money' section of the amended Agreement between the Government and the BBC.

I note the strong importance you attach to having the right to report direct to Parliament and complete discretion over what is reported and I understand that you do not consider the proposals the BBC has put forward to be entirely satisfactory. However, I welcome your view that they can 'be made to work in practice' and on that basis I now want to move forward towards a final arrangement in place by November 2011 as set out in the DCMS Business Plan.

In order to do that, I have tried to address your main concerns in revised wording for the Agreement. The full proposed wording for the Value for Money section is enclosed with this letter. The key changes are aimed at addressing your concerns that the Trust wants to reserve the right to review issues before there can be any NAO scrutiny and the BBC's requirement that the NAO must give the Trust 'reasonable notice' before starting work.

On the first point, the wording now makes it quite clear that the Trust cannot veto NAO's work on the basis that it has not carried out its own study, but that where Trust studies are *already* underway, the NAO will not start work until they are completed to avoid two strands of work on the same area taking place in parallel (79 (7)(b)). I do not believe that this will lead to undue delays if, as you say, both sides act in a reasonable way. On the second point, the requirement for 'reasonable notice' has, as you suggested, been replaced with a stipulation that the timings of the reviews should be included on the annual list (79 (3) and (4)).



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I am committed to ensuring the NAO has full access to the BBC and I believe that the wording in the Agreement I am now proposing is the best possible way to deliver that to our timetable. I hope that you agree that the wording is acceptable.

I am of course, also writing to Lord Patten to ask that he agrees to this wording and I hope that what we have suggested will be an acceptable compromise, allowing us to finalise the full Agreement in time to lay it in Parliament in September. As you know, if we do not reach agreement, the NAO will not have access to the BBC at least until there is another chance to review the Agreement in 2016, which I think would be a very bad outcome for licence fee payers. I would of course wish to review how the arrangements are working in practice between now and 2016 and look forward to discussing that with you and Lord Patten in the future.

I am very grateful for your constructive and positive approach to making these arrangements work and I look forward to hearing by the beginning of September.

Yours ever

A handwritten signature in cursive script, appearing to read 'Jeremy', with a long horizontal flourish extending to the right.

Rt Hon Jeremy Hunt MP
Secretary of State for Culture, Olympics, Media and Sport

9. Value for money

(1) As from 1 January 2012, for clause 79 of the 2006 Agreement substitute—

“79. Value for money examinations

- (1) The Trust must examine the value for money achieved by the BBC in using the sums paid to it under clause 75(1) or 78.
- (2) The ways in which the Trust will fulfil that responsibility include—
 - (a) adopting annually an audit programme specifying the subject-matter of value for money reviews it has decided should be conducted by or on behalf of the Trust, other than those to be conducted by the NAO (“NAO reviews”),
 - (b) conducting, or receiving and responding to reports of, such value for money reviews, and
 - (c) receiving and responding to reports of NAO reviews.
- (3) The subject-matter of NAO reviews shall be determined by the Comptroller and Auditor General (“CAG”); and accordingly, each year, the CAG shall send the Trust a written list of the value for money reviews the CAG has decided the NAO should conduct in the following calendar year and indicate when each review is expected to be conducted (but subject to paragraphs (5) to (7)).
- (4) The CAG shall consult the Trust before deciding the timing of such reviews, ~~and give the Trust reasonable notice of when each review is to be conducted.~~
- (5) If, in the course of a calendar year, the CAG considers that there are exceptional reasons that justify an alteration of the list for that year sent to the Trust pursuant to paragraph (3), the CAG may, on any one or more of the relevant dates, send the Trust a revised list accompanied by a statement of those reasons.
- (6) For the purposes of paragraph (5), “the relevant dates” are 31st March, 30th June and 30th September (or the first working day to fall after the date in question, as the case may be).
- (7) In the case of an NAO review that is to be conducted as a result of an alteration made under paragraph (5)—
 - (a) paragraph (4) applies, but
 - (b) in particular, an NAO review of any subject-matter cannot be commenced before the completion of any value for money study or other consideration of that subject-matter that is already being conducted by or on behalf of the Trust on the relevant date that the revised list mentioned in paragraph (5) is sent to the Trust by the CAG.

- (8) In adopting its audit programme under paragraph (2)(a), the Trust must take account of any notification it has received from the CAG under paragraph (2) or (5).
- (9) The CAG has a right of access to all such information as the CAG reasonably requires for the purpose of—
- (a) enabling the CAG to decide which activities of the BBC may, or will, be included in the subject-matter of NAO reviews, or
 - (b) enabling the NAO to conduct such reviews.
- (10) The Trust must enter into suitable arrangements, including with—
- (a) the NAO, and
 - (b) other suitable organisations,
- to carry out value for money reviews.
- (11) Such arrangements shall be on terms requiring that, on completion of any such review, the NAO or other organisation which carried it out shall submit a report on it exclusively to the Trust.
- (12) Arrangements made with the NAO under paragraph (10)(a) must be on terms which—
- (a) require the factual content of any report to be submitted under paragraph (11) to be agreed by the BBC before submission, but
 - (b) allow the NAO to retain full discretion over the report's conclusions and recommendations.
- (13) On receiving a report submitted under paragraph (11), the Trust must—
- (a) consider those matters in it that in the Trust's view ought to be taken into account in examining value for money for the purposes of paragraph (1);
 - (b) decide whether any action should be taken in the light of the report; and
 - (c) prepare a written response to the report, including specifying any action to be taken by virtue of sub-paragraph (b).
- (14) The action specified under paragraph (13)(c) may include requiring the Executive Board to set out how it intends to respond to—
- (a) any aspects of the report, or
 - (b) any aspects of the Trust's response to the report, or
 - (c) any aspects of any other Trust examination of value for money which took the report into account,

so far as they are relevant to the functions of the Executive Board.

(15) The Trust shall, as soon as practicable, send any report submitted to it under paragraph (11) (whether by the NAO or by any other organisation), together with the Trust's written response to that report, to the Secretary of State. The Secretary of State must then lay the report, together with the Trust's response, before Parliament.

(16) Nothing in this clause entitles the CAG to question the merits of any editorial or creative judgment which is made by or on behalf of the BBC, or of any policy objective of the BBC relating to the manner in which BBC services are made or distributed.

(17) In this clause—

(a) "the Comptroller and Auditor General" means the officer appointed under section 6 of the Exchequer and Audit Departments Act 1866;

(b) "NAO" means the National Audit Office, and

(c) "working day" means any day that is not a Saturday, a Sunday or a public holiday in England."

(2) The activities which the CAG has decided will be subject to reviews conducted by the NAO in the calendar year 2012 shall be notified to the Trust in writing no later than 31 December 2011.