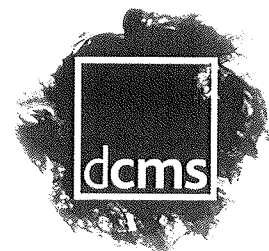


CMS 180057/DC



department for
culture, media
and sport

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

19 July 2011

Dear Amyas,

Thank you for your letter of 8 July.

I am grateful to you for setting out your position on the matter of National Audit Office access to the BBC so clearly. As you say, discussions since we last met on 4 May have led to significant progress in the draft Agreement and I also welcome the greater clarity about your discretion over the subjects to be examined and your access to all the necessary information.

Like you, I want to ensure there are arrangements which do not diminish the NAO's ability to scrutinise the BBC's value for money on behalf of taxpayers but that are practically workable and acceptable to all parties.

I understand that the main outstanding issue is the question of your ability to vary the annual programme of NAO reviews once it has been set. On this, the BBC Trust has now indicated to me that they would be willing to accept that you have a quarterly opportunity to review the annual programme. Lord Patten has made it clear to me that the Trust expects that these reviews would only result in changes in exceptional circumstances. He has also said that they would not want NAO to start work on a VFM study if the Trust was already engaged in work on the same specific area (although there would be nothing to stop NAO starting work immediately after). This proposal is reflected in the draft wording of the relevant section of the amended Agreement enclosed with this letter.

I have said to the BBC Trust that I will pass this proposal on to you. Although it is formally a matter for agreement between me and the Chairman of the BBC Trust I, of course, want fully to take into account your views. I understand that you would rather have 'full discretion over the subjects and timing of examinations' by the NAO, but given the need to reach a practical agreement as soon as possible so the NAO can start work, I would be grateful if you would consider the Trust's proposal. [As you know, any arrangements set out in the Agreement now will, in any case, be subject to review at the end of 2016 when the Agreement and Charter expire]. If you think the proposal is potentially acceptable, I will ask my officials to discuss the exact wording of the Agreement with your officials and the BBC immediately with the aim of completing it next month.

Yours ever

Jeremy

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

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(TO BE ENCLOSED WITH LETTER)

DRAFT wording for amended BBC Agreement – for discussion

NAO clause

Revised 12 July 2011

5. 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 (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 being conducted by or on behalf of the Trust.

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- (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.

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(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.