



Communications and Digital Committee

Corrected oral evidence: BBC future funding

Tuesday 10 May 2022

3.50 pm

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Members present: Baroness Stowell of Beeston (The Chair); Baroness Bull; Baroness Buscombe; Baroness Featherstone; Lord Foster of Bath; Lord Griffiths of Burry Port; Lord Hall of Birkenhead; Baroness Harding of Winscombe; Lord Lipsey; Lord Vaizey of Didcot; The Lord Bishop of Worcester; Lord Young of Norwood Green.

Evidence Session No. 13

Heard in Public

Questions 98 - 108

Witnesses

I: Kevin Bakhurst, Group Director, Broadcasting and Online Content, and Board Director, Ofcom; Siobhan Walsh, Director, Content Policy, Ofcom.

USE OF THE TRANSCRIPT

This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Kevin Bakhurst and Siobhan Walsh.

Q98 The Chair: This is another meeting of the Communications and Digital Committee as part of our inquiry into BBC future funding. We have two panels this afternoon. Our first witnesses are from Ofcom; our second panel will be representatives of the NAO. Before I go any further, may I ask each of you to introduce yourself and the positions that you hold at Ofcom?

Kevin Bakhurst: Good afternoon. I am the group director for broadcasting and online content at Ofcom, and a member of the board.

Siobhan Walsh: I am a director in Kevin's group, specifically sitting in the content policy team. I sit across quite a lot of the BBC programme of work.

The Chair: Thank you both for being with us and giving up your time. As is probably obvious by now, we are broadcasting live on the internet. A transcript will be taken of the session and published in due course.

As I said, this is part of our inquiry into BBC future funding. By having you here today from Ofcom, we are hoping to explore the pace of change in the media sector and in technology, changing audience expectations and behaviours in response to that greater choice, and how that relates to the purpose of the BBC and how it is funded in the future. I will hand over straightaway to Baroness Ball, who will kick us off.

Q99 Baroness Bull: Thank you. My question is about how the BBC serves different sectors of society. We know that universality, or serving all sectors, has always been the mission, and there will be questions later on about the challenges and opportunities for that concept that surely the founding fathers could never in their wildest dreams have imagined. Let me start with a very simple question. Based on what audiences tell you, how well is the BBC doing in serving all sectors of society?

Kevin Bakhurst: I will kick off, and maybe Siobhan will want to come in. We do a lot of research that tracks how the BBC is serving audiences across the UK. Overall, the satisfaction levels are very high for the BBC serving audiences. It is fair to say that there are some groups that the BBC finds it harder to reach: namely, as well publicised, some socioeconomic groups—C2DE groups. Younger audiences feel less well served by the BBC, and particularly some audiences in Scotland and Northern Ireland.

Baroness Bull: How does that align with Enders Analysis? I am sure you are aware that Enders Analysis found 8 million people who only watch the BBC. Do your findings align with that, or are there differences?

Kevin Bakhurst: I think there is consistency overall with Enders Analysis. There is a part of the audience, particularly the older part of it, who are still very reliant largely or solely on the BBC. Increasingly, the trends are that even older people are taking up new services. There is a

part of the audience who remain very reliant on the BBC and very reliant on DTT provision of the BBC.

Baroness Bull: I will come to you in a minute, Siobhan, because I have a specific question I want to ask you. Can I assume that you are including radio in these sorts of rather broad statements, or is there some differentiation about radio that it is worth pulling out?

Kevin Bakhurst: No. We would include all BBC services in how they serve audiences across the UK. Obviously, some of the services tend to perform better with certain parts of the audience. Local radio probably performs better with older audiences in some communities. On demand has universal appeal now. We would try to capture all audiences in those figures, but there are differences between the sorts of audiences that individual services and audio and TV reach.

Siobhan Walsh: One of the things we do every year is to undertake regular research. We are constantly tracking what audiences think. It is probably worth highlighting that some BBC services and some content are hugely valued by audiences. That is quite widespread. BBC News is the most used news service in the UK. We hear from audiences that BBC education services are very important. The BBC clearly does very well in bringing large audiences together for live events, for some of the news events, and for things like sport—those in-the-moment broadcasts that are really important to audiences, to feel the sense of bringing the nation together.

Baroness Bull: What does it need to do on the areas where improvement is needed?

Siobhan Walsh: As Kevin said, there are certain groups who do not use the BBC as much. Potentially, when they use it, they are satisfied. I would take young audiences as a case in point. When they use BBC services, they are very happy with them, but getting the young audiences there, or getting them engaged in the BBC content, is somewhat harder than for other audiences.

The BBC has worked quite hard to find different ways and routes to attract those audiences. Some of it is about how you reach them. Do you bring them to you or do you go out and find those audiences where they are? The tension for the BBC is how it provides enough breadth of content in an increasingly challenging environment, which I am sure we will come to, to ensure that all audiences get something from the BBC. That is increasingly hard, I think.

Baroness Bull: I have a final question about audience attitudes to acquired content. The report talks about acquired content being important in appealing to different and new audiences. It also says that Ofcom “would be concerned if acquisitions were to play too large a role ... we think it is important for the BBC to maintain its commitment to focusing on original UK content”. That paragraph really stood out to me. First of all, there was the use of the word “think”, given that most of the report is based on research and evidence, and, secondly, the words “too large”, because it is not really clear what too large means. I see the

stats, by the way, that about 63% are positive about the distinctiveness of content, et cetera.

Does Ofcom ask how much people value acquired content, as opposed to asking them how much they value distinctive home-grown content? The bringing of distinctive content from other parts of the world to UK audiences is something I would hugely value—as a sample size of one. I wonder whether you actually specifically ask people that question.

Siobhan Walsh: No, we do not on a regular basis. We have not been monitoring that, and it is perhaps something we need to do. We have asked people about how they value UK content and how they value content and stories about people like them, or about the things they are interested in or their area, a “distinctively UK” element. We generally ask them what kinds of content are important. We do not pose those two questions next to each other, but we have a fair understanding that UK content is really important and that it offers something different from what you get on SVODs, where it is much more driven by global US content. That is popular, and people enjoy it, but they tend to say there is something different.

In our report last year, *Small Screen: Big Debate*, we found that audiences really valued UK-specific delivery, over and above what you might get on an SVOD service.

Baroness Bull: Not to labour the point, there is, of course, big US and UK content, but there is also a raft of European content. If a function of the BBC is to expand our mindsets and environments beyond our shores to a rich world, it may be interesting not to be so black and white, that there is only US—

Kevin Bakhurst: I think that is right. That would probably be quite a challenge in asking about acquired content. Does the audience understand what we mean by acquired content and, as you say, the range of it? There is a big difference between “Family Guy” and “The Killing” or “The Bridge”—the high-quality Scandinavian drama that the BBC pioneered. It was distinctive at that stage. It is quite hard to frame that question. I do not think it is straightforward.

Baroness Bull: Food for thought. Thank you.

Q100 **Lord Hall of Birkenhead:** Could you reflect on audiences and what they have told you they value? You mentioned news and education. Could you reflect on what the BBC does both regionally in England and nationally in the four countries, and the value that audiences tell you they get from that, or do not get from that? Would you also reflect on the fact that we have seen, certainly in England, local services both on television and on radio diminishing, not on the BBC but generally, rather than growing? I would very much like your reflections.

I should have said, by the way, that I know both Siobhan and Kevin as they were regulating the BBC when I was there.

Kevin Bakhurst: We should have said that we know you, too. I think this may be what you are asking, Lord Hall: one thing the BBC does that

audiences hugely value is regional news and current affairs content and programming produced around the UK that reflects communities back to themselves and to the rest of the UK. Again, that shows up strongly through our research and is a foundation for our approach to some of the regulation. It is something that the BBC uniquely offers.

I mentioned local radio before, but it is often overlooked as a really valuable—and valued—service for audiences around the UK that no one else would provide. I think that answers the first part of the question.

Sorry, what was the second part of the question?

Lord Hall of Birkenhead: The second part of the question was reflecting on that in the context of a diminution in the number of local and regional services that are offered by those other than the BBC.

Kevin Bakhurst: There is no doubt that in radio the direction has been for national commercial radio to have reduced regulation on locally produced content. National commercial radio has certainly been moving away from producing its content in many of the regions of the UK and centralising it as we deregulated national commercial radio. It still has some requirements to reflect communities and so on, but it does not have to produce the content in the communities. I think that makes BBC offerings quite distinctive from what commercial radio now offers.

Q101 **Baroness Buscombe:** In your opening remarks both of you mentioned older audiences a lot. We are looking at the future funding of the BBC. Thinking of the future, you both also said that it is quite difficult to reach younger audiences. They are not watching or listening in number. In carrying out your research, are you looking for ways to try to dig down on that? Do you ask people who are not watching or listening, “Why not?”

Siobhan Walsh: We have asked that question, and we will continue to ask it. The message we get is nuanced, I would say. I know that the BBC has done its own research on this.

Typically, younger audiences will say, “It’s not for me. That’s for my mum and dad”. That is not necessarily knowing what content is there. I think if you drill down and say, “What have you actually watched? What have you actually engaged in?”, they might say, “Oh yes, I do watch that programme”, “I do look at the news website”, or, “I do listen to something on the radio”, but it is not necessarily their go-to. I think there is an ongoing challenge with that.

I do not want to pre-empt questions, but understandably in an environment where they have many more choices across many devices to be able to watch or listen to what they want when they want and how they want, the challenge is how you get them initially to engage with the BBC. If they engage—some content has been hugely successful with younger audiences—the satisfaction levels are quite high. It is just that the numbers listening or watching in the first place are declining, along with other demographics. It is the same challenge. It is just heightened with younger audiences.

Kevin Bakhurst: Part of our research shows that the real competition with young audiences is for time more than anything. It is not that they are all watching Netflix or Amazon; they are watching quite a lot of it, but they are also gaming online and using social media. It is a noisy environment. It is quite hard for the BBC to break through, as it is for any actual content provider. The amount of time young people spend on gaming alone is significant.

Q102 **The Chair:** Thank you. I want to come back to what you said about news and how valued it is by audiences. I was interested to read that your research shows that audiences rate the BBC highly for accuracy and trust, but rate it less favourably for impartiality. When compared to ITV, it is also low, as in ITV scoring higher on impartiality than the BBC. Could you say a bit more about what you think is behind that, and if there is anything about it that you think is particularly relevant to our inquiry into future funding?

Kevin Bakhurst: I have a news background as well as a regulatory background, so it is an area that I am particularly interested in. First of all, to be fair to the BBC, if you are the largest news provider to audiences, and you are reaching all audiences, it is more of a battle to rate highly across the piece on impartiality, because the audiences for ITV, Sky and so on, although large, are smaller and more self-selecting. The BBC is a universally available news service, so it has a challenge on its hands there.

You are absolutely right that our findings show that the BBC rates slightly lower on due impartiality with audiences than some of the other TV services. However, they all rate extremely highly compared to other news providers.

We did an ad hoc report into BBC News a couple of years ago, and we are currently doing another piece of work to try to understand due impartiality or to update our research on due impartiality. One of the other things about the BBC is that the audience's perceptions of BBC impartiality are often influenced by factors other than the news coverage. If the BBC has been hit by a particular scandal—for example, the Savile scandal—or the BBC does things elsewhere in the garden that audiences do not like, it impacts on how they rate due impartiality. That was one of the things we managed to draw out for our first piece of research about impartiality. I think that has an impact on it.

We tried to impress on the BBC, and I will keep saying it, that there is, rightly, a focus on impartiality and it is very important to audiences, but it is often a judgment and not a science. With truth and accuracy—accuracy in particular—you are either accurate or you are not accurate. I personally feel that those should be as important to the BBC. It focuses very much on impartiality, and that is important, but due accuracy is equally important, if not more important, because accuracy can be measured and you have to get it right. The BBC has a really good reputation for getting it right, and so have the other TV news services. For me, that, too, remains an absolute cornerstone of a trusted news broadcaster in the UK.

The Chair: Do you have conversations with the BBC about the changing nature of impartiality, in terms of people's expectations of it moving away from being purely a partisan matter to one that is about the way they are reflected and see themselves on screen, and it being respectful of views that are not necessarily the most modern, as it were?

Kevin Bakhurst: Yes. It is an ongoing conversation that we have with the BBC and in Ofcom. We have to make a lot of judgments on due impartiality across the piece. It has become a much more complicated area over the last few years, as I am sure you recognise, than potentially it was in the past.

One of the challenges for me with due impartiality is that there are areas where the "due" in due impartiality is really important. You do not have to show impartiality on whether racism is right or wrong. You do not have to balance unduly acceptance that climate change is going on. You should reflect the overwhelming science. One thing we said in our first report on the BBC News is that it could afford to be a bit bolder in its due impartiality on occasion and how it approaches it. There are many ways of achieving it. It is not 50:50—on the one hand and on the other hand.

The Chair: In your research on delivering equally for all audiences—the bit about half of UK adults rating the BBC highly—it says that the statement "reflects the lives of people like me". Of its public purposes, that was the one that it is struggling to deliver the most satisfaction on. Is there any kind of comparison between that and the other public service broadcasters? I know it will not be direct. Is there anything similar that gives you a sense of whether—

Siobhan Walsh: We do not go into as much detail with other broadcasters, partly because of the BBC's Public Purposes, and we are delving deep into those. We have done some research that looks at, for example, how the news is delivered across different parts of the UK. We have some high-level statistics. I do not think the BBC is doing any worse than other broadcasters. It certainly has much more of a regional focus than some of them. We do not perceive them as doing badly there relative to others, but it has been a struggle to engage all parts of the UK, I think.

Q103 **Lord Lipsey:** As a student of opinion polls, I am quite worried by some of the comparisons in your statistics. When you say that 63% of ITV news scored highly compared with 55% for the BBC, for anybody statistically knowledgeable, those are pretty well the same number. The British Polling Council recommends plus or minus 4% on each of those statistics.

Are you confident that what Ofcom is doing is backed not just by the research but by expert commentary on the research, which ensures that the figures you are putting before your board and so on are statistically meaningful and not, as they might easily be, just statistical noise?

Kevin Bakhurst: I think we are pretty confident in how robust our interpretation of the figures is. That is internally challenged pretty robustly in Ofcom. We are quite measured. With the statistical

differences that you talked about there, we would try to be quite measured and nuanced in how we interpreted them. I was trying to nuance it before when I said, "Does the BBC score lower on impartiality?" The nuance there is that, if you are broadcasting to a wider audience, you need to take that into consideration, because it is harder to achieve a higher score on due impartiality. We try to do what we can. Statistics, as we know, are often contested and remain so, but we try to be as responsible and as nuanced as we can in our interpretation. There are some much bigger experts in Ofcom than me on how we interpret the statistics.

Q104 Baroness Featherstone: We have heard from witnesses previously that there are technological changes, together with the use of streamers, which is obviously increasing hugely, leading to increased choice. At the same time, we have heard from witnesses who say that the BBC is stagnating at best. The Ofcom report found that linear viewing share is declining. Several witnesses expressed the view that the BBC would have to evolve too, which is a bit of a statement of the obvious, I would have thought.

As a starter, if expectations of audiences have changed as a result of that, what should the BBC do about it? What would be your comment on that, and what do you believe needs to change?

Kevin Bakhurst: I will preface this by saying that we try to provide as much information as we can about the environment and outline the challenges that we see for the BBC. In the end, the strategy for the BBC has to be a matter for the BBC board and executive, not for Ofcom—much to the relief of most people, I think. We try to challenge the BBC and point out where there are real challenges.

One of the challenges for us, as a regulator, is to try to design regulation that is flexible enough to allow the BBC to develop and innovate as audiences and technology change so rapidly. We have not always got that right, but it is something we are focusing on. It is something we can do.

What we are currently doing as part of the mid-charter review is looking at the operating licence. It is the key document on how the BBC delivers against its Mission and Purposes. There are a lot of linear quotas in it. We are trying to adapt it to be more forward facing and to be multi-platform and digital, so that the BBC is encouraged to deliver across platforms, across iPlayer and Sounds, which are critical for young audiences, and not just on its linear platforms. We are trying to modernise regulation to enable the BBC to innovate as rapidly as it can.

I am sure there is sometimes frustration in that other organisations have deeper pockets to plough into technology, data use or whatever than the BBC has. That is one of the huge challenges that it and other PSBs have. The BBC has fantastic content, and finding and innovating ways it can reach audiences, and using new technology to do that, is a constant challenge for the BBC, but one that it does really well in some areas. In other areas I think it would agree that it is catching up.

Siobhan Walsh: What has changed with audiences is their expectation about having ready access to as much content as they want, when they want it, how they want it and where they want it. I think that conditions their expectations with respect to public service broadcasting as much as anything else. It is the comparison.

I think what the BBC can do about it is not to say that the BBC has to be exactly the same as those providers, but it clearly has to work out ways to reach and connect with audiences in order to maintain that connection and ensure that there is an ongoing relationship with them. That is hard. I certainly do not have all the answers for the BBC on that.

Baroness Featherstone: You are basically saying that the BBC's existing Purposes and delivery will have to move.

Kevin Bakhurst: The Purposes are good, and I suspect that they will stand the test of time. It is how the BBC delivers on those purposes that needs to change.

Baroness Featherstone: Broadcast video on demand—BVOD—seems to have stayed constant during the pandemic, while SVOD increased significantly. At Ofcom, you found that ITV Hub and BBC iPlayer continued to drop in quarter 1 of 2021, but the commercial PSBs recovered. In the case of All 4, it actually went to pre-pandemic levels. Why do you think that was the case? What have they got right that the BBC got wrong?

Kevin Bakhurst: That is a good question. I am not sure we know the exact reason. What we saw during the pandemic, particularly during 2020, was a rise for everybody. As the BBC pointed out at that point, everyone rose, but uptake of the SVODs rose higher. During 2021, it was a more varied picture.

We have ongoing discussions with the BBC. The BBC has clearly set out that the iPlayer will be critical to the future. It needs to develop that and put more content on it. That is a very live process at the moment, because obviously we went through one iteration of it, which was a significant change to the iPlayer a few years ago and was a little bit bumpy. We want to make this process more straightforward.

We also had to consider not just the global players the BBC competes with but their impact on UK commercial broadcasts. That is the delicate line that we have to tread. It is not always easy.

Baroness Featherstone: Siobhan, do you want to add anything in particular?

Siobhan Walsh: No. My sense is that the BBC has done pretty well with its iPlayer changes. Actually, it has been quite popular. When the BBC has good content that people want to watch, it does extremely well across iPlayer and across its linear services.

Q105 **Baroness Featherstone:** Lastly, on audiences and the technology side, it is said that older audiences, particularly older women—I declare an interest—are more likely to struggle with technology such as smart TVs.

I have to get my children in to help me, which is what you do. What would your advice be to the BBC to counter that challenge? Is there something it should be doing to convey to older audiences not to be frightened? What would your advice be?

Kevin Bakhurst: That is a tough nut to crack. Over 60% of households now have smart TVs, which are more complicated. One of the challenges for the BBC, to be honest with you, is that it is catering for the full range of audiences, including audiences an awful lot older than you, if I might say so.

Baroness Featherstone: You said that its main support group is in that group, so it should be targeting them, should it not?

Kevin Bakhurst: Yes. Overall viewing for linear services is falling, but it remains a lifeline for older audiences, as does DTT. The BBC is trying to innovate and deliver to younger audiences on demand and on different platforms while, quite rightly, having to serve a really loyal and significant-sized audience in the older age group. It is challenging when you have limited resource to spend on how you deliver your content.

Lord Young of Norwood Green: On younger people, it seems to me that iPlayer is very much in that area. It delivers a lot of content, in my view; I play it pretty consistently. The other thing that seems important is BBC Sounds. Where young people have smartphones, it delivers on demand. They do not necessarily rate it with the BBC. On the last point that was raised by my colleague, I have the easy answer: you just get the grandchildren in. They set up the controls and you are away. That is what actually happens. Do you think iPlayer and BBC Sounds have a consistent appeal to the younger audience?

Kevin Bakhurst: The BBC has made it clear that iPlayer, Sounds, the website and its apps are key gateways to audiences. For audio content, Sounds is an increasingly important platform. The same issue applies to the regulator with respect to Sounds as it does to iPlayer, which is that the BBC needs to compete with Spotify, Apple Music and so on for younger audiences, and increasingly for older audiences, but the BBC can have a significant impact on commercial players in that market. Every judgment we make about Sounds regulatory-wise is to try to enable the BBC to innovate and deliver to younger audiences without unnecessarily trampling on commercial competitors with similar products and similar services.

Q106 **Lord Vaizey of Didcot:** I am probably pre-empting a later question, but we had Global before us talking about its concerns about BBC Sounds. We had a submission from Radiocentre that effectively said that it had put a number of concerns to Ofcom and Ofcom did not seem to be interested. The particular point that I found interesting about Global was the feeling that the BBC had gone into a nascent market, the podcast market, and effectively distorted it when commercial players could have done it.

My more general question, which I hope is not pre-empting, was how many concerns you get. The BBC is in the odd position of being a

minnow compared with the Global players, but quite a big fish compared with domestic players. Do you get a lot of incoming from commercial competitors, and how well do you think you are responding to their concerns about the BBC's impact?

Kevin Bakhurst: The answer is, yes, we get a lot of—I would not call it incoming; we have good relationships with commercial stakeholders and they express their concerns to us quite frequently. Radiocentre and Global have been at the forefront of that with respect to Sounds. In fact, they are JR-ing us on one of our decisions.

Lord Vaizey of Didcot: I should not laugh. It is terrible.

Kevin Bakhurst: No, it is fine. It is perfectly legitimate. We should be held to account.

We look at the evidence when it is brought to us, and we recognise that there are areas where the BBC always has to weigh up its public value against its impact on the market, and that is also our job—to make sure that that is done properly. There are areas where the BBC competes quite closely with organisations such as Global and Bauer. The BBC still has to be distinctive. Its radio services still have to provide content that is different from the commercial sector, even on popular services.

There are two things. The first is that Parliament has asked us to do a different job than sometimes Radiocentre or Global understand. Parliament has said that it wants the BBC to be universally available and universally relevant for audiences. That means that the BBC cannot just be a market failure organisation, so it has to do some stuff that the commercial sector would do, and that is not always a shared understanding.

The second thing is designing the future regulation of the BBC and changing the operating licence. The operating licence currently only covers linear services, and it will cover Sounds and iPlayer. Therefore, we will have much more transparency about what the BBC's plans are, what it is doing, and what considerations it has had about the impact it will have on markets. It will come much more under the overall regulatory umbrella and there will be much more transparency about it as a result of the changes to regulation that we are working on.

Lord Vaizey of Didcot: Is that an Ofcom-driven change to the operations?

Kevin Bakhurst: It is an Ofcom-driven change. It is in our hands; we are going out to consultation on it in June.

Lord Vaizey of Didcot: Did DCMS ask you to do that?

Kevin Bakhurst: No, it was our initiative, because we felt that we needed to update the way we regulate the BBC, for all the reasons we have touched on.

Lord Vaizey of Didcot: Very interesting.

Siobhan Walsh: We have different ways of handling concerns from stakeholders as well. Obviously, one of our routes in is when the BBC

proposes new services. There are processes around that. Another way is that we can take stock. Once a service has been evolving, we can pause, take stock and take a view as to whether it is imposing an undue impact on competition. We did that with Sounds last year; we undertook a review, which was open. We consulted stakeholders and we did not get any evidence at that point that it was currently imposing a negative impact on competition. We certainly did not get evidence from commercial radio that they were concerned at that point.¹

Kevin Bakhurst: Can I say one thing on commercial radio, very briefly?

The Chair: We are just about to segue into questions about regulating in that context. Maybe you can use that in response to Baroness Buscombe.

Q107 **Baroness Buscombe:** Thank you. I want to talk about regulation, oversight and governance of the BBC.

We have listened to a fair number of witnesses now and you have probably seen some of the evidence that they have given us. There seems to be a theme about the need for improvement of governance and oversight of the BBC generally. In relation to markets, I am very interested in what you have just been saying. For example, can we dig down a bit on this question of stakeholders? Very often, regulators say, "We've checked with our stakeholders". Who are the stakeholders in this? We have heard impassioned responses, frankly, from Radiocentre and others about the BBC using its power to skew the marketplace.

I hear what you say about needing the evidence, but I take very much on board the quote from Radiocentre: "Waiting until significant harm is unambiguously demonstrated across a range of areas before triggering a BBC competition review is a particularly dangerous strategy for this fast-growing sector". I find it hard to understand who the stakeholders and the local radio companies are who are saying, "No, everything's fine in the market".

Kevin Bakhurst: Yes. I think the answer to the question about who the stakeholders are is that we work really closely and have good relations with all the major radio providers—Global, Bauer, Radiocentre, the BBC, and now News UK. They bring us their concerns.

As Siobhan just touched on, we specifically listened to their concerns about BBC Sounds in the last couple of years. We said that we would have a look at BBC Sounds. We did a call for evidence and asked for evidence that it was skewing the market. We looked very carefully at everything we were given, and none of the evidence actually showed us at that point that Sounds is skewing the market.

The background to that, and the point I was going to come on to, is that national commercial radio's share of the market has been growing consistently over the last 12 to 13 years. It is now nearly 50:50 with the

¹ *Amended by witness:* To clarify, in our review we considered submissions and evidence from commercial radio stakeholders regarding their concerns, but we concluded that BBC Sounds was not having a significant adverse impact on fair and effective competition and that conclusion has not been appealed.

BBC in the radio market. The BBC share has fallen about 7% over that same period to around 50%.

On national commercial radio, I think the UK should be really pleased; there is great competition. We are a competition regulator and there is fantastic competition in this area; audiences are brilliantly served with audio at the moment. Our job is to try to make sure that that carries on happening. The BBC can innovate, but not crowd out commercial competitors from the market.

Baroness Buscombe: It is often a question of degree, is it not?

Kevin Bakhurst: Yes.

Baroness Buscombe: It is quite nuanced. I ask about stakeholders, because I have sometimes looked at reports on other issues relating to governance and regulation. You look at the list of stakeholders and you think, "Hang on a minute. So there were four responses out of whatever opportunities". That is where you obviously have to be very careful.

What is your view about the need for improved governance/change of governance? Is there enough independent oversight? Are there people in the BBC who are genuinely sufficiently independent in mind and thought? Do they bring sufficient independent experience from a commercial standpoint, perhaps, as well as across the media sector, to be able to really do their job, to do the right thing in a sense by BBC governance?

Kevin Bakhurst: As you are aware, we are heading into the mid-charter review that is built into the charter agreement. This will, rightly, be a matter for DCMS to consider. There will be representations from us and from the BBC, and others will be able to comment on it. We have seen some instances of governance that has not been robust enough in the last few years. I think we have said that and we have spoken to the BBC about it as well.

The Chair: Are you able to be more specific in your examples?

Kevin Bakhurst: Lord Hall will be very annoyed by this, because I kept saying it when he was director-general, but in many instances we do not feel that the BBC is always naturally inclined to be transparent enough about its plans and what it is doing. That is a process, and my experience over the last five years is that it has improved. This comes back to the question about other stakeholders; there is a lot to be said for being open about your plans and showing that you have engaged stakeholders. They may not agree with them or they may express concerns, but, more often than not, the criticism we hear from other people is that the BBC is not open enough about why it has reached its decision, what its strategy is, what it is doing, how it has taken into consideration its impact on other players in the market and so on. I would point to that as an example.

Baroness Buscombe: We have heard in our evidence sessions, when we are talking to other broadcasters and so on across a whole spectrum of individuals, that the size of the BBC is not necessarily the problem, nor the genres in its programming; it is rather the nature of the

programming that is the problem. Would you agree with that?

Kevin Bakhurst: I am not sure I understand the point, I am afraid.

Baroness Buscombe: It is the kind of programming that they are focusing on. Is it meeting the remit that should really be that of the BBC, its core purpose?

Kevin Bakhurst: We do an annual report on the BBC. Every year, we find that there are areas of the BBC where it could improve in some aspects of programming or services, and we make recommendations. Overall, based on our ongoing research on audiences, which is very comprehensive, people feel that the BBC is meeting its Public Purposes and Mission in the main. There are always areas that you can improve on, and we try to point those out in a very transparent way every year.

Baroness Buscombe: Siobhan, do you have anything to add?

Siobhan Walsh: All I would add is that the BBC has quite a broad remit.

Baroness Buscombe: Yes, it is broad.

Siobhan Walsh: Complaints about the BBC doing too much by way of entertaining or drawing in audiences go to Kevin's point. It is not there as a market failure response; it is not there just to fill in things that others do not provide. However, what we require it to do, and we engage with it quite a lot on, is how it brings a distinctive element to what it does.

I go back to the comments about regional programming and the investment in UK content. That is why we made the comments about acquisitions. I agree that it was a broad-brush response, but we would be worried if the BBC was doing too much content that is not distinctive. That is where we expect it, in part, to set out its plans to explain how it is doing something a bit differently.

The Chair: Are you, very briefly, able to give us an example or a number of the complaints you have received at Ofcom from competitors about the BBC that you have upheld in the time you have been regulating them?

Kevin Bakhurst: Probably not. We can try to come back to you if you want a number. I am not sure it will be as clear-cut as that, because the complaint is not always about whether it is upheld or not. It is about, "Should you approach this in a different way? Should you look at this? Should you take this into consideration?"

The Chair: It would be helpful to get an idea.

Kevin Bakhurst: We can try to give you an example of the range of complaints we have had and how we have dealt with them if that is helpful.

The Chair: Thank you.

Q108 **Lord Foster of Bath:** I am extraordinarily conscious of the time. Instead of a series of supplementaries, I will just bung them all into one question and leave you to chew through it.

I am very conscious that the BBC today issued a statement that said it is vital that the legal and regulatory framework for the UK's broadcasting sector not only keeps pace with the change in the market but creates a system that is flexible enough to adapt to further market and technological change. In response to Baroness Featherstone a few minutes ago, you appeared to agree and said that you wanted a framework that enabled innovation and so on.

I am conscious that the Government have announced that they will use the mid-term review to review how effectively you are regulating the BBC, and I am incredibly conscious that you have already done your own consultation on how you have gone about regulating, and we are about to see the outcome of that later this year. It would be enormously helpful if you could perhaps give us a sneak preview of what you think it is likely to say, and particularly what you think the key issues should be.

My very big supplementary is that that is always in the context of the BBC being funded in the way it currently is. If the funding mechanism for the BBC were to change, what impact do you think that would have on the regulatory system, and how much time would it take to get that sorted out before any funding change could actually take place?

Sorry, that is three questions in one. I will leave you to pick your way through them, but we are a bit tight for time—not my fault.

Kevin Bakhurst: Luckily, they are all very straightforward. Shall I try to answer the first one to start with? I agree. We have said ourselves that regulation has to keep up and has to keep modernising and try to be future-proofed. We are feeding into the Government's mid-charter review that we are looking at our own regulation and making the changes that I described to things like the operating licence.

There are three strands that we are looking at in regulation. One of them is performance. The second is the commercial regulation of the BBC, in the knowledge that the BBC needs to try to maximise its commercial income but weighing up the things we have already talked about, which is the impact on competitors in the market. The third thing is our regulation of BBC editorial standards and where we think that could be improved.

Already, over the last few years, there have been some improvements in transparency in us telling the BBC that it needs to publish complaint numbers. We are looking at other issues such as how the BBC First system could become more transparent and maximise its effectiveness. We are working through that at the moment, but we are looking at about four or five areas there.

On your question about the regulation being designed within the funding arrangement at the moment, that is entirely right; the regulation is based on the fact that this is a universally available, universally funded organisation. It is for Parliament to set the funding of the BBC, as we know, and the regulation will follow from that.

If the BBC was funded in a different way—if it was funded by subscription, say—it would be an entirely different organisation. If you

are funded by public money, you deliver public purposes. If you are funded by effectively commercial money, you become much more commercial in how you deliver, so the regulation would fundamentally have to change, yes.

Lord Foster of Bath: What is the timescale for you to do the necessary work to prepare for that, once you know what is in the Government's mind about a future funding regime?

Kevin Bakhurst: That is very hard to answer. I think it would be a year or two probably to get it properly resolved.

Siobhan Walsh: We delivered it quite quickly for the last charter, it has to be said, but I am not sure I would want to go through that again. Yes, I would say a year, almost certainly.

Kevin Bakhurst: He wants you to say five years.

Lord Foster of Bath: No, I just want you to say what is the honest truth.

Kevin Bakhurst: I think a year, because of the processes we have with having, rightly, transparency and going out to consultation on these really significant changes. You have to give people time on big significant changes and for us to consider that. It would take us time to work out the policy and then have to go through the consultation stages.

Lord Foster of Bath: Finally, you must have looked at some of the alternatives that have been floated for the funding of the BBC. I am sure you have looked at the evidence we received. In the light of those different models, are any of them harder than others for you to prepare for their introduction, or is the year applicable to whether or not national taxation pays for it, as opposed to a fully commercial service, as opposed to some other mechanism?

Kevin Bakhurst: Undoubtedly, it would be a more significant change to regulation if it was funded in an entirely different way, say via subscription, than if you changed the way it was universally funded.

Lord Foster of Bath: Thank you.

The Chair: As Lord Foster says, conscious that we are running over time and we have another panel of witnesses, we will draw this to a close. I am very grateful to you both for your testimony today and for answering all our questions. We will look forward to the follow-up on complaints, as we have just discussed.