

TAC

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Response to S4C-BBC Trust Consultation on Draft Operating Agreement

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Overview

Since the Government revised S4C's funding structure by calling on the BBC Licence Fee, TAC has publicly emphasised the importance of proper management of the new funding arrangements.

Clear and firm lines should be drawn between the BBC Trust, BBC Executive and S4C. Whilst TAC accepts that the Trust has a role in ensuring TV Licence Fee money is spent efficiently, S4C should be responsible for specific commissioning policy and decisions, and be allowed to plan ahead in doing so. The BBC Executive should have no role in determining any aspect of S4C's services, and only liaise with S4C in order to find back-office operating efficiencies, though even the latter should be subject to a test of whether they affect S4C's ability to operate as a separate entity.

The draft Operating Agreement

The Welsh independent production sector accepts that in many places the draft Agreement sets out a constructive way forward, echoing assurances given by the Government and the BBC Trust that S4C should and will continue to have managerial and editorial independence.

However there are several sections which raise cause for concern, in that they appear to contradict that independence or otherwise subject S4C to measures or procedures that would seem to undermine its core mission and status.

To allow these clauses to remain as they are currently drafted would lead to a continuing uncertainty amongst the production community concerning S4C's autonomy to manage its own affairs, albeit with some oversight from the BBC Trust, in an effective manner. The final version of the Operating Agreement must make clear commitments to giving S4C the freedom to construct purposes and measures that best suit its overall remit and resources.

Clearer and firmer safeguards for S4C's status as a separate broadcasting entity would not only reassure those concerned about S4C's future prospects, but would also allow the BBC Trust a simpler task in monitoring S4C's use of the TV Licence Fee.

Although TAC understands that the draft Agreement is presented by both organisations, the purpose of such a consultation is to allow those a step removed from its drafting to comment on the extent to which the draft meets the stated objectives. TAC is of the opinion that once the concerns expressed here are considered, S4C and the Trust should be able to agree that the suggested changes are worthy of incorporation into the final Agreement.

TAC Requested Changes to Draft Agreement

Listed below are the sections of the Draft Agreement which TAC would like to see re-drafted along with, where appropriate, suggested alternative wording.

Consultation	TAC Response
<p><i>The BBC and S4C Partnership</i></p> <p><i>...Under this agreement the BBC will provide funding as well as continuing to provide programmes to S4C in order to sustain a rich, freely available Welsh language television service, fit for the 21st century. Although the BBC is the primary funder of S4C the channel is a separate entity that receives funding from other bodies, as well as commercial income.</i></p>	<p>This introductory section mistakenly refers to the 'BBC' rather than the 'BBC Trust'. It is the BBC Trust which has in this context been given the responsibility of overseeing how that part of the TV Licence Fee apportioned to S4C is spent, and therefore it is crucial that this distinction is made throughout the document. For example the following alteration should be made:</p> <p><i>“...Under this agreement the <u>BBC Trust</u> will provide funding as well as continuing to ensure that the BBC provides programmes to S4C in order to sustain a rich, freely available Welsh language television service, fit for the 21st century. Although the <u>BBC Trust</u> is the primary funder of S4C, the channel is a separate entity that receives funding from other bodies, as well as commercial income.”</i></p>
	<p><i>The BBC Trust's role in preserving S4C's status as a separate entity which can operate effectively should also be further emphasised, by adding the following:</i></p> <p><i>“The BBC Trust fully recognises that S4C is a separate organisation, and that the Trust's role is restricted to monitoring how that part of the TV Licence Fee apportioned to S4C is spent. The Trust further recognises the importance of S4C and its services and will ensure that in pursuing this duty it should not in any way adversely affect S4C's ability to carry out its public service duties other than to monitor the use of TV Licence Fee funding. The Trust will also ensure that it acts as both champion and regulator of the S4C services in the way that it does for the BBC, and in particular ensure that S4C's funding is maintained at a level at which it can provide its current level of service.”</i></p>

<p>2.5 – S4C is a commissioner broadcaster that commissions its content from a range of independent production companies. S4C also commissions certain programmes, over and above those provided under statute, from the BBC. This Agreement shall not affect S4C’s freedom to commission content from a range of appropriate sources. (p4)</p>	<p>In theory a ‘range of appropriate sources’ could include a greater amount of commissioning from ‘in-house’ at the BBC. This is despite the emphasis from the outset of the new funding deal that S4C should continue to commission wholly from the independent production sector:</p> <p>"Absolutely 100% of the content budget will be spent on independent production as it is at present"</p> <p>DCMS Minister Ed Vaizey, Westminster Hall Debate on S4C, 20 Oct 2010.</p> <p>Therefore the last line of this section should be changed to:</p> <p>“...from a range of independent production companies in Wales”.</p> <p>This would be in line with the section on p6:</p> <p><i>“Stimulating creativity and cultural excellence</i></p> <p><i>2.27 The S4C Services should contribute to this purpose amongst its audience. The S4C Services should bring the richness of Wales’s artistic and cultural life to its audience and should support Welsh music, culture, drama and arts. It should support established talent, and refresh it with new talent and contributors. <u>It should commission independently produced output and contribute to the growth of the creative economy in Wales.</u>” [emphasis added]</i></p>
<p><i>New Services</i></p> <p>2.14 - On being consulted, the BBC Trust shall give its opinion (in writing) as to the impact (if any) that providing the new service could have upon the S4C Authority’s overall stewardship of licence fee funding provided to S4C, and in particular upon the Authority’s ability fully to</p>	<p>This approach appears to preclude a constructive conversation between the Trust and S4C as to the likely nature of the BBC Trust’s ‘opinion’ prior to it being expressed to the Secretary of State. Whilst it is proper for S4C to plan the nature of any new services, it would surely be beneficial for it to discuss with the Trust prior to an official written opinion being given by the Trust, which could, were it negative, quite possibly lead to rejection by the Secretary of State.</p> <p>There should be a consultation process prior to the Secretary of State becoming</p>

<p><i>deliver the remit of the S4C Services in accordance with this Agreement, within the context of the levels of licence fee funding which the BBC Trust is planning or is committed to.</i></p> <p><i>2.15 The S4C Authority shall communicate the Trust's opinion to the Secretary of State when submitting its proposals. (p5)</i></p>	<p>involved.</p> <p>The following should therefore be added:</p> <p><i>“2.15 The Trust will in the first instance discuss any concerns it has regarding the proposals with S4C at a private minuted meeting, in order that S4C have the opportunity to consider them and, if in agreement, submit revised proposals”.</i></p>
<p><i>The BBC's Public Purposes (p6-7)</i></p> <p>[This part of the document relates the activity of S4C to the BBC's Public Purposes, eg:]</p> <p><i>2.21 - The contribution of the licence fee from the BBC Trust to S4C for the provision of Welsh language programmes and services contributes to the delivery of the BBC's public purposes. (p6)</i></p>	<p>It is not the role of S4C, as a separate broadcaster, to contribute to the BBC's public purposes. Whilst it is funded by the <u>TV Licence Fee</u>, and therefore the spending of that Licence Fee money is something the <u>BBC Trust</u> should monitor at a headline level, this does and should not require S4C to sign up to purposes designed independently for the <u>BBC itself</u>, a separate PSB organisation. This section therefore appears to contradict sections 6.5 – 6.6 (below) which clearly affirm S4C's independence by statute.</p> <p>On this basis it is questionable that the BBC, which is a separate PSB organisation to S4C, should be able to claim that the latter helps it meet its obligations, on the basis that S4C also happens to be largely funded by the Licence Fee. The only way the BBC can claim this is through the medium of the few programmes it contributes to S4C's schedule.</p> <p>The key point here is that the Licence Fee is not the same as the BBC, and each service being paid for, even at BBC Trust level, should have its own distinctive appropriate purposes.</p> <p>Whilst many of the purposes might well be similar, the assumption should not be that S4C is appropriating them wholesale, rather it should draw up its own, perhaps using the BBC as one source of guidance, along with those of, for example Channel 4.</p> <p>This section should therefore be replaced with:</p>

	<p><i>“The Licence Fee and S4C Public Purposes</i></p> <p><i>The Licence Fee’s purpose is to provide public service broadcasting. S4C should, in order to present a clear and strategic direction, establish a set of purposes, specific to its own distinctive remit, purpose and publisher-broadcaster model. These purposes can be used as a set of measures for the suitability of current and future S4C purposes. The Trust should approve these purposes, with final recourse to the Secretary of State available in the event of a conflict of views.”</i></p> <p>Note that S4C and the BBC Trust may wish to suggest what these purposes may look like, but these should <u>not</u> be drawn wholesale from those of the BBC or any other organisation.</p>
<p><i>Value for Money</i></p> <p><i>3.12 Value for money will be assessed by monitoring S4C Services’ cost per user hour and any other relevant metrics. (p9)</i></p>	<p>TAC understands that “S4C’s cost per hour is already competitive with other broadcasters”. We are also told that “the cost per hour of S4C’s content in 2011 provided greater value for money than in 2010”.¹</p> <p>Despite this good performance, it is important that S4C’s performance is measured not simply by sheer numbers of viewers or cost-per-hour, but by its overall effect upon the national discourse and culture of Wales. Other PSBs, Channel 4 in particular, have developed sophisticated metrics to measure overall ‘public value’, eg follow-up activity on programme-related social networks, calls to associated advice lines etc.</p> <p>The following should therefore be added:</p> <p><i>“In recognition of the fact that certain transmission costs are static, and therefore the cost-per-viewer will always remain higher than UK-wide PSBs, S4C should be encouraged to develop alternative ways of measuring the public value of their programming and services.”</i></p>

¹ http://www.s4c.co.uk/production/downloads/c_efficiencytargets.pdf

<p><i>4.7 The S4C Authority will ensure that over the two year period 2013/14 and 2014/15 total efficiency savings and scope reductions of 10% shall be achieved in S4C's non-content costs; and subject to the continuation of direct funding of £7m per annum from DCMS during 2015-16 and 2016-17 the S4C Authority will ensure further efficiency savings and scope reductions of 1% per annum are achieved in S4C's non-content costs. (p11)</i></p>	<p>TAC's understanding from information published by S4C is that, despite S4C having implemented significant efficiency savings over the last 2-3 years, the BBC Trust is taking the 2012 level of spending as a benchmark against which future savings should be measured. This therefore discounts the efforts already made by S4C to reduce spending, and assumes that it can make a whole new round of efficiencies despite having already done so.</p> <p>This is disputable on several grounds:</p> <ol style="list-style-type: none"> 1. As S4C has already made substantial back-office cuts on top of real term cash reductions plus RPI, it is unreasonable to take a 'year-zero' approach to future expected savings. 2. Like local radio, when a service's overall budget is so much smaller, it is harder to find efficiencies in comparison to a larger service. 3. TAC does not accept the reasoning that S4C should be subject to the same cuts as parts of the BBC when it has already had a substantial cut in its overall budget. And although funded by the Licence Fee, and therefore subject to some monitoring from the BBC Trust, it must be regarded as a separate organisation from the BBC. <p>This should therefore be changed to:</p> <p><i>"4.7 The S4C Authority should continue to find additional cost-savings related to non-programming activity where possible, including the setting of a non-mandatory target. These savings should not extend to measures which affect S4C's editorial or managerial independence."</i></p>
<p><i>6.2 This Agreement governs the accountability and funding relationship between the BBC Trust and the S4C Authority. The partnership between the BBC and S4C however is wider than the funding and accountability arrangements, and</i></p>	<p>TAC would like clarification on what is meant by 'at all levels' bearing in mind the commitment to allow S4C to retain its managerial and editorial independence.</p>

<p><i>extends to a creative partnership at all levels within both organisations.</i></p>	
<p><i>Changes to the Agreement</i></p> <p><i>6.14 Significant changes may be subject to public consultation.</i></p>	<p>This is a good principle, but this should be a firm commitment, and therefore it should be changed to:</p> <p><i>“6.14 Significant changes <u>must</u> be subject to public consultation.”</i></p> <p>In addition, ‘significant’ must be clearly defined.</p>
<p><i>6.20 Where both Chairmen are not able to resolve any material and serious breach under the provisions of this clause the BBC Trust may in extremis reduce or withdraw funding if the provisions of this clause have been exhausted without satisfactory resolution, and in the reasonable opinion of the BBC Trust, the terms of this Agreement are still not being met. Any decision to do this shall be made openly and transparently. (p15)</i></p>	<p>This appears to directly contradict Sections 6.5 – 6.6 regarding S4C’s independence, and constitutes the most serious provision in the draft Operating Agreement.</p> <p>Ultimate responsibility for ensuring that S4C is adequately funded lies with the Secretary of State, and this should apply to future decisions. So rather than the Trust being able to withdraw the funding, the responsibility should be that of the Secretary of State.</p> <p>The Trust would have the right to make the case for such a withdrawal to the Secretary of State, but the latter would have the final say.</p> <p>Altering this clause would alleviate the Trust from having this huge responsibility and place it in the hands of those with ultimate responsibility for public policy regarding the provision of PSB in the UK.</p> <p>This clause should therefore be re-drafted as follows:</p> <p><i>“6.20 Where both Chairmen are not able to resolve any material and serious breach under the provisions of this clause, the matter must be referred to the Secretary of State for final arbitration.”</i></p>