



Submission to DCMS consultation on decriminalising TV licence evasion

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About us

Since 2011, the Media Reform Coalition has been at the forefront of the media reform movement, producing evidence and giving oral testimony to a broad range of consultations and public inquiries into the media. Our particular concerns relate to the sustainability of a high-quality and diverse media system in which public media have a particularly important role in fostering active citizenship and scrutinising the powerful. We published proposals¹ for reform of the BBC's funding, governance, commissioning, production and regulation in 2018 and have published several comprehensive studies² of UK media ownership.

Context

The BBC plays a central role in the UK media landscape (and beyond). It is (theoretically at least) accountable to and paid for by its users, and has a remit to represent and deliver content and services for all communities across the UK via a universal payment mechanism. Without the need to attract advertising and deliver shareholder value, it is free from market pressures to cater to particular demographics, and it has been argued that the BBC therefore has a virtuous impact on the broader media ecology of which it is part. By delivering high-quality information, education and entertainment it sets professional standards for its rivals, raising standards overall. It is an important investor in and driver of the wider creative economy, and has long acted as a training ground for talent and a laboratory for technological innovation.

Such a remit does not come cheap, nor does it come without political problems and compromises. The TV licence fee has been used as a means of providing predictable levels of income from all households watching live TV (and now also using the iPlayer) without the need for the more commercial relationships fostered by advertising and subscription services. It is often said that the licence fee offers a unique form of political independence, the argument being that the BBC's revenue comes not from general taxation, as with other state broadcasters, but directly from its audience, whom it seeks to represent.

The license fee system has the advantage that all the BBC's domestic audience is in economic terms equally important, in contrast to market-based funding systems. But we do

¹ Media Reform Coalition, 'Draft Proposals for the Future of the BBC', March 2018. Available at: http://www.mediareform.org.uk/wp-content/uploads/2018/03/MRC_flyer_20180312_WEB-1.pdf

² Media Reform Coalition, 'Who Owns the UK Media?', March 2019. Available at: <https://www.mediareform.org.uk/wp-content/uploads/2019/03/FINALonline2.pdf>

not believe that it affords the political independence that its uncritical supporters like to imagine.

Governments have always set the rate of the licence fee, which has meant that the BBC's major source of funding has always been highly politicised. In 2015, the Conservative Chancellor George Osborne negotiated a secret deal with the BBC's director general, Lord Hall, prompting a former chair, Christopher Bland, to warn that the BBC was drawing 'closer to becoming an arm of government'.³ The government, more or less, forced the BBC to pay for the over-75 licence fee concession (as had been threatened in 2010) in return for a small increase in the licence fee itself (a concession which, of course, the BBC has partially abolished). This move meant involving what is supposed to be an entirely *apolitical* organisation in the delivery of welfare policy.⁴

The Media Reform Coalition has long made it clear that we do not believe that the *status quo* in terms of the funding of the BBC is satisfactory. The television licence fee is an outdated and regressive means of financing public media; it is regressive in that it is a flat 'tax' paid for by virtually all households irrespective of their economic status, and outdated because it remains a *television* licence fee at a time when audio visual content is increasingly delivered online. We would like to see a more *progressive* mechanism: meaning one that acknowledges socio-economic differentials (such as the public service broadcasting tax in Finland or the household levy in Germany⁵), but also one that is relevant to a digital world. We need, at the very least, a digital licence fee, payable by all households that maintains the tradition of universal funding, but which recognises important differences in the ability to pay.

Sadly, however, the legitimacy and future of the licence fee does not feature in the current consultation, which considers simply whether to decriminalise non-payment: a question which is impossible for us to answer without a more general debate on BBC funding (something that is not due to take place until toward the next Charter Review in 2027).

Decriminalisation: why now?

Proposals to decriminalise TV licence evasion are not new. Nearly 20 years ago, a Review of the Criminal Courts of England and Wales carried for the government recommended that 'the use of a television without a licence should remain a criminal offence'.⁶ The government examined it again in 2015, with the then Prime Minister, David Cameron, suggesting that dropping criminal sanctions for non-payers was an 'interesting idea'. Yet despite more than 140 MPs from different political parties signing up to an amendment to the deregulation bill on decriminalising non-payment,⁷ the government chose not to pursue decriminalisation.

³ Quoted in Jon Stone, 'The BBC is worrying close to becoming an arm of the Government, says its own former chairman', *Independent*, 6 July 2015. Available at: <https://www.independent.co.uk/news/uk/politics/the-bbc-is-worryingly-close-to-becoming-an-arm-of-the-government-says-its-own-former-chair-10368284.html>

⁴ Jane Martinson and John Plunkett, 'George Osborne forces BBC to pay for over-75s TV licences', *The Guardian*, 6 July 2015. Available at: <https://www.theguardian.com/media/2015/jul/06/osborne-slashes-bbc-budget-pay-over-75s-tv-licences>

⁵ Phil Ramsey and Christian Herzog, 'The end of the television licence fee? Applying the German household levy model to the United Kingdom', *European Journal of Communication* 33(4), pp. 430-444.

⁶ National Audit Office, *The BBC: Collecting the television licence fee*, HC 821, 15 May 2002, p. 7.

⁷ Rowena Mason and Tara Conlan, 'Cameron may back decriminalisation of licence fee non-payment', *The Guardian*, 18 May 2014. Available at: <https://www.theguardian.com/media/2014/mar/18/david-cameron-bbc-licence-fee>.

In the current consultation, the government states that the underlying reasons for considering decriminalisation relate to its desire for ‘fairness and proportionality’ – its wish to ‘avoid the proliferation of unnecessary criminal offences’ and, in particular, the need to avoid a policy that disproportionately affects some of the most vulnerable groups in society. But why having previously rejected this policy is it again being considered? The government gives two reasons in the consultation document: the fact that the majority of over-75s are now due to pay for their licences, and the need to reduce the burden on the courts (even though the government acknowledges that ‘significant savings in criminal court resources are...not anticipated’).

We believe the current consultation is motivated less by a concern about the welfare of the poor and the vulnerable –the government’s record on austerity after all is,, according to the *British Medical Journal*, linked to 120,000 excess deaths in England alone⁸ – than by a long-standing antipathy towards the public sector. This would appear to be exacerbated by some figures in government, not least the prime minister’s chief special adviser Dominic Cummings, who are said to be ‘ideological’ about the issue of decriminalisation and who hope to further weaken the BBC.⁹

In other words, we believe that this consultation is not taking place because of evidence-based concerns about technological developments, changes to media markets, legal considerations, or concern for the vulnerable, but rather is motivated by a desire to defund and intimidate the BBC.

Conclusion: Should TV licence evasion (the use or installation of a television receiver without a TV licence) no longer be a criminal offence?

Other organisations and individuals will be submitting detailed responses concerning the likely impact of decriminalisation on the BBC income. We would instead like to use this opportunity to repeat some fundamental principles that we believe should underpin the discussion about how the BBC should be funded and where the burden should fall.

First, we firmly believe that the BBC should continue to be publicly funded as a universal service required to provide high-quality entertainment and impartial news and information. We are, however, not convinced that the BBC is currently doing so consistently, and have proposed a range of reforms to the BBC’s governance that are beyond the remit of this consultation. In any case, we support the idea of a universal payment mechanism for content and services that are provided without discrimination to all sections of the UK population.

Secondly, we do not believe that the cost of the BBC’s services should fall disproportionately on low income groups. We want to see, as soon as possible, a funding mechanism that recognises socio-economic differentials and mitigates against both criminal and civil sanctions that are likely to target the poorest and most vulnerable sections of the population. The best way of ensuring this is to develop an independent, secure and more progressive

⁸ *British Media Journal*, ‘Health and social care spending cuts linked to 120,000 excess deaths in England, 2017. Available at: <https://www.bmj.com/company/newsroom/health-and-social-care-spending-cuts-linked-to-120000-excess-deaths-in-england/>

⁹ Steven Swinford, ‘Boris Johnson at odds with Dominic Cummings over BBC licence fee’, *The Times*, 18 February 2020.

funding system that places more responsibility on wealthy households – and potentially also on large corporations if the proceeds of a tax on digital intermediaries were used partially to fund public service media – while removing obligations, where possible, from those least able to pay. This does not mean that all elements of compulsion should be abolished; just as we do not support tax evasion, neither do we support the right of individuals to decide whether to pay for utilities that they use that bear a cost. We do, however, think that a fairer funding mechanism would help reduce the impact on the poor and vulnerable.

In other words, we want to see a funding solution that delivers public purposes and obligations, but also protects marginalised groups. Neither of the proposals in this consultation achieve that: neither the *status quo*, nor decriminalisation. Moreover, given the context, it is hard to escape the conclusion that the latter is motivated more by a desire to defund the BBC, than to address inequity in the enforcement regime. If the government in fact intends to alleviate the burden that the licence fee places on low income and vulnerable groups, it could provide a public subsidy of the type it withdrew from over-75s in the last Charter Renewal. Ultimately we believe the current funding mechanism needs to be reformed, but this should only be done through appropriate comprehensive public consultation.