

**BBC PROTOCOL**  
**D7 – PROCEDURES AND**  
**CLEARANCES FOR “NON-**  
**SERVICE” ACTIVITIES**

January 2007

# PROCEDURES AND CLEARANCES FOR “NON-SERVICE” ACTIVITIES

## **1 Scope**

- 1.1 This protocol applies to the BBC’s non-service activities, as defined in Clause 22(1) and (4) of the Agreement.

## **2 Duties of the Trust**

- 2.1 The Trust is required under Clause 22 of the Agreement to ensure that the principles which underlie the treatment of services are, where relevant, applied to non-service activities in a way which the Trust considers appropriate to the circumstances.
- 2.2 The Trust is required to take account of the potential public value and market implications, and to apply the same broad principles – evidence-based assessment and transparency in decision-making for example – that apply to the consideration of public services.

## **3 Role of the Executive Board**

- 3.1 The Charter and Agreement do not set out any specific responsibilities for the Executive Board in relation to non-service activities. Where activities are deemed to fall within the scope of this protocol, the Trust will expect the Executive Board to co-operate fully in the supply of information necessary for the Trust to make judgements on the public value and market impact of particular proposals.

## **4 Approach**

- 4.1 As is the case for public services, the Trust will need to be aware of proposed new or changed “non-service activities” where those changes are significant, and will under certain circumstances require such new/changes to non-service activities to be subject to the approval of the Trust.
- 4.2 If the Trust considers that any current non-service activity does not comply with the requirements of the Charter and Agreement, it may require the Executive Board to amend the non-service (such that in the view of the Trust it does comply) or to cease the activity.

- 4.3 The Trust will seek to ensure that the principles which underlie the treatment of services are, where relevant, applied to non-service activities in a way which the Trust considers appropriate to the circumstances (see Clause 22(1)–(3)).
- 4.4 Its focus will be on those activities that, whilst not technically classed as services, have an audience focus and a high degree of relevance to the core BBC purposes. Activities directly concerned with making available BBC output would fall within the scope of the protocol, as would major investments in infrastructure such as transmission networks or production facilities.
- 4.5 Other examples of activities that would be classed as non-services are new arrangements for distribution of services and changes to the way in which the BBC interacts with licence fee payers. For example, the BBC's participation in Freeview, the proposed major relocation of BBC activity to the North West, its investment in digital broadcasting infrastructure or new arrangements for the collection of the licence fee would be matters to be evaluated by the Trust under this procedure.
- 4.6 Activities such as procurement of support services, even where these would trigger the need for clearance by the Trust on grounds of the scale of investment, would not, in general, fall within the scope of this protocol.

## **5 Procedures**

### New or significantly changed non-service activities

- 5.1 As is the case for public services, the Trust will wish to be aware of proposals for new or significantly changed non-service activities, which can include the commencement or discontinuance of non-service activities. Under certain circumstances, such proposals will be subject to the approval of the Trust.
- 5.2 The nature and potential significance of non-service activities will vary, so it is inevitable that both the Executive Board and the Trust will have to use discretion in determining which issues are referred to the Trust and the way in which they are handled by the Trust.
- 5.3 The Executive Board will initially draw new proposals potentially falling within the scope of this protocol to the attention of the Trust. The Trust will consider each case to determine whether it falls within the scope of the protocol and, if so, what arrangements should apply in that particular case.
- 5.4 The Executive Board will be responsible for determining whether any of the tests for reference to the Trust has been triggered, and for ensuring that

sufficient time is allowed for the Trust to consider the issues, including a period of public consultation if the Trust considers this appropriate, before reaching a decision.

- 5.5 Where a reference to the Trust is considered to be necessary, the Executive Board will liaise with the Trust Unit to agree a process and timetable which is appropriate to the circumstances of the case. As a guide, the normal process will be for the Executive Board to submit a paper, in some cases via an appropriate Trust committee or lead Trust members, to the Board of the Trust. Papers should set out the proposition clearly, explain the basis for the reference to the Trust, and set out the Executive Board's case for proceeding, drawing on relevant evidence. At an early stage the Trust Unit will, in consultation with the Executive Board, propose a timetable and approach to the Trust to suit the individual circumstances of the proposal.
- 5.6 In considering granting approval, the Trust will, where relevant, take into account the potential public value and market implications, and apply the same broad principles – evidence-based assessment and transparency in decision-making for example – that apply where changes to services are considered.
- 5.7 Where proposed changes are referred to the Trust for approval, it will take into account the following considerations in deciding whether to grant approval:
- (i) the public value created by the proposal;
  - (ii) value for money;
  - (iii) the interests and perspective of the licence fee payer;
  - (iv) market impact;
  - (v) risk (financial, operational, reputational); and
  - (vi) compliance with the law and with BBC and Trust policies.
- 5.8 In addition, the Trust will wish to ensure, where decisions have been referred to it, that its decision-making process and rationale is as transparent as possible taking into account commercial or other confidentiality considerations.

## Other principles

- 5.9 In addition to the principles underlying the assessment of changes to services, the Trust will also consider whether the approval of proposed changes should be subject to any ongoing terms or conditions. Where the Trust considers this to be appropriate, such terms and conditions should be clearly set out as part of the approval.