



Consultation on decriminalising TV licence evasion

Submission by Bectu to the Department for Digital, Culture,
Media and Sport

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www.bectu.org.uk



Bectu is the UK's union for creative ambition. A sector of Prospect, we represent more than 40,000 members working in creative industries including broadcasting, film, the arts, entertainment and telecommunications.

Should TV Licence evasion (the use of a television receiver without a TV Licence) no longer be a criminal offence? Why do you consider that TV Licence evasion should no longer be a criminal offence?

Bectu's view is that TV Licence evasion should remain a criminal offence.

If, alternatively, you consider that TV Licence evasion should remain a criminal offence, why is this the case?

In the 2015 TV Licence Fee Enforcement Review, undertaken for DCMS by David Perry QC, a range of options on the future of the licence fee were considered and evidence was gathered from key stakeholders. The review found that "the current regime represents a broadly fair and proportionate response to the problem of licence fee evasion and provides good value for money (both for licence fee payers and taxpayers). Any change would risk undermining the deterrent effect provided by the criminal offences and would almost certainly add complexity to the enforcement regime, with a corresponding increase in the burden of cost. In broad terms the enforcement regime is operated fairly and efficiently by TV Licensing and the BBC and has proved to be successful in reducing levels of evasion."¹

Evidence submitted to David Perry by the BBC highlighted the results of behavioural research commissioned from Harris Interactive. This research indicated that 54% of people sampled purchased a licence 'because it is the law and it is illegal not to'.² Harris Interactive estimated that decriminalisation could result in an increase in the evasion rate of up to 4%.³ In Scotland where a different system of civil enforcement operates the evasion rate is higher than in England and Wales. In 2018/19 the UK wide evasion was rate 6.6%, but recorded as 10% in Scotland.⁴

The UK currently has 25.9 million households holding a TV Licence, including concessionary licences.⁵ The revenue from the licence fee came to £3.69 billion in 2018/2019.⁶ The licence fee provides approximately three quarters of BBC revenue and is used to fund the BBC and other broadcasters' public service broadcasting obligations. Bectu believes the BBC provides a unique range of programmes and services that is admired by the rest of the world, and that the corporation sits at the heart of the UK Creative sector, a sector which since 2010 has grown at twice the rate of the UK economy and contributed £101.5 billion to GDP in 2018.⁷

In 2011 the BBC relocated departments to Salford and this led to 4,600 new jobs being created at the Media City site⁸, helping to double the size of the creative and digital sector in the Greater Manchester area, estimated at £3.1 billion.⁹ The BBC has doubled the proportion of the network TV programmes produced in Scotland, Northern Ireland and Wales and invested £100 million in its new Cardiff Central Square base which opened in November 2019.¹⁰ The base has state of art

¹ TV Licence Enforcement Review July 2015 p6

² BBC TV Licence Enforcement Review April 2015 p21

³ Ibid p19

⁴ <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8101#fullreport>

⁵ BBC Television Licence Fee Trust Statement for the year ending 31st March 2019 p6

⁶ House of Commons Library TV Licence Fee Statistics January 2019 p3

⁷ <https://www.gov.uk/government/news/britains-creative-industries-break-the-100-billion-barrier>

⁸ Centre for Cities August 2017 press release

⁹ <https://aboutmanchester.co.uk/bbc-move-to-salford-brought-jobs-boost-to-mediacity-but-has-had-minimal-impact-on-employment-across-greater-manchester/>

¹⁰ Speech by Sir David Clementi BBC Chairman, 12 February 2020

<https://www.bbc.co.uk/mediacentre/speeches/2020/david-clementi-salford>

production facilities which will be shared with S4C, the Welsh language broadcaster (which is funded by the licence fee) and local independent production companies. In January 2020 Director General Tony Hall announced plans to create a new technology hub in the North East as part of the BBC target to increase the proportion of its staff based into the regions to two thirds by 2027.¹¹

In the Charter period 2010 to 2017 the BBC was required to make significant savings as part of its funding settlements. These savings amounted to £1.6 billion and included the BBC taking on the funding of the World Service.¹² The BBC has reduced overheads to 6% which is in the upper quartile for industry comparators and is a leading figure in the not for profit sector.¹³ The rest of the BBC's income is spent on serving audiences.

The BBC took over responsibility from the Home Office for TV Licensing in 1991. At the time the evasion rate was 12% and the collection cost as percentage of licence fee revenue was 6.1%.¹⁴ TV Licensing has worked to reduce costs, reduce evasion and to make the system more transparent and efficient. Under the current Capita contract the costs of licence collection have been below 3% of revenue in every year except one during the period 2012/13 to 2018/19.¹⁵ As noted the current evasion rate is 6.6% and during the period 2010-2019 has remained between 5.2% and 7% on a UK wide basis.¹⁶ The number of complaints received about TV Licensing also decreased by half during the same period.¹⁷

The consultation document notes the comparison with the civil enforcement model used by utility companies in enforcing payments. This is not a comparable example. The BBC isn't at present able to regulate or bar access to their services in the same way that utility companies can. There is currently no statutory requirement for households to have a TV Licence to access services, or a contractual system in place that the BBC can seek to enforce in the civil courts for payment.

Bectu's view is that decriminalisation of the licence fee would lead to an increase in licence fee evasion. The current system is well understood by the public, it is efficient, provides value for money for both licence fee payers and the taxpayer and a predictable revenue stream for the BBC. Prosecution is the last resort and the number of people being imprisoned for non-payment of the licence and accompanying fine has declined since the 1990s when annual numbers imprisoned were in the hundreds. In 2017 five people were imprisoned and no one was imprisoned in 2018.¹⁸ We are concerned that decriminalisation would lead to a fall in licence fee revenue. An increase in the evasion rate of 4% as modelled by Harris Interactive would see a decline in revenue of approximately £147 million per year. The BBC has been required to make significant savings as part of recent funding settlements and further cuts to revenue would inevitably impact on the services the BBC is able to provide and the investment it is able to make in programmes, training and facilities across the UK creative sector.

In the speech which launched this consultation, the then Secretary of State Baroness Morgan argued that the main impetus behind the idea of decriminalisation was a desire for the BBC to "remain relevant" in a "changing media landscape" and that "we need to think carefully about what we all want the BBC - and indeed public service broadcasting more generally - to deliver for the years ahead".

If the government does believe we need such a wide-ranging debate about the future of the BBC and the efficacy of the TV Licence model then it seems wholly inappropriate to consider the issue of decriminalisation in isolation. We would strongly urge the government to address the purpose of the BBC alongside how it is funded. It must appreciate the importance of the TV Licence in enabling the BBC to fulfil its responsibilities as a world class national broadcaster.

¹¹ <https://www.bbc.co.uk/news/entertainment-arts-51118174>

¹² BBC annual Report & Accounts 2017-2018

¹³ Ernst Young Benchmarking the BBC's Overhead Rate July 2018

¹⁴ BBC TV Licence Enforcement Review Submission April 2015 p15-16

¹⁵ House of Commons TV Licence Fee Statistics January 2019 p7

¹⁶ Ibid

¹⁷ Ibid

¹⁸ House of Commons Briefing Paper February 2020 p5

If you have a view what alternative enforcement models do you consider to be most appropriate? Why?

Bectu's view is that the present enforcement model is the most appropriate and offers the best value to licence fee payers and tax payers.

What steps could the government take to mitigate any impacts that may result from decriminalisation of TV licence evasion?

Bectu believes that decriminalisation would result in an increase in licence fee evasion and a more expensive system of civil enforcement being set up. Both factors will divert revenue from the BBC's meeting its public purposes. If the government decides to decriminalise licence fee evasion then it should review the impact on licence fee revenue and BBC funding.

In addition, if the government did proceed down this misguided route then at the very least it would be vital that they ensure the public were fully informed that TV Licence evasion remained an offence with an appropriately funded public information campaign.

Please provide any evidence you consider appropriate in answering these questions any other information that you believe the Government should consider, especially where there is an impact on those with protected characteristics or the most vulnerable.

The Consultation document highlights that the government is disappointed with the BBC's decision to restrict the over 75 TV licence concession to those in receipt of pension credit and is concerned that some vulnerable people will face TV Licence Enforcement procedures, some for the first time since 1999. The Government recognises the value of free TV Licences for the over 75s and believes they should be funded by the BBC.¹⁹

In 2015 the Government decided to discontinue funding free TV Licences for those aged 75 and over. The Digital Economy Act 2017 gave the BBC the responsibility to decide on the future of the concession. In November 2018 the BBC launched a 12 week public consultation on the options available to them. The decision document highlights the range of responses the BBC received: 190,000 people shared their views with the BBC, this included 115 stakeholder responses from older peoples charities and charities representing people with dementia and disabilities, Trade unions, media industry groups, MPs and representatives from local government, a survey by 38 Degrees completed by nearly 100,000 people, views from 15 roundtable discussions hosted by the BBC and a report from Ipsos MORI who conducted national research on behalf of the BBC.²⁰

The BBC board came to the decision that from June 2020 concessionary licences would be made available to households where any member over 75 was in receipt of pension credit. The BBC set out the basis for this decision explaining that the copying the current concession would cost in the region of £750 million per year and inevitably that this would result in the BBC having to close services and reduce its output to the detriment of all licence fee payers. The BBC highlighted that it would use the government set metric to provide a free licence for those aged over 75 and over on the lowest incomes.

The decision document set out that the BBC Board will task the TV Licensing unit with implementing the new policy in a sympathetic and efficient way, ensuring information is accessible and that the TV Licensing Unit will work with older people charities, groups and voluntary organisations to support people through the transition. From the 1st April 2020 a new Simple Payment Plan is available to allow vulnerable customers to pay for their licence via fortnightly or monthly options.

The BBC estimate that 3.75 million households will now have to purchase a TV licence, but that 1.5 million households will be eligible for a concession based on the criteria for Pension Credit.²¹ The charity Independent Age 'Credit Where It Is Due' report estimates that 730,000 households

¹⁹ DCMS Consultation on decriminalising TV Licence evasion p4

²⁰ BBC Age Related TV Licence Policy Decision Document p7-8

²¹ BBC Age Related TV Licence Policy Decision Document p25-26

over 75 may not be claiming pension credit that they are entitled to, and therefore will also miss out on being able to qualify for a free TV licence.²²

Bectu's view is that the funding of concessionary TV Licences is a matter of welfare policy and that if the government are concerned about the potential impact on vulnerable people aged 75 and over it is open to them to revisit the decision of the DWP to stop subsidising concessionary licences. This was a decision taken in negotiations that were not subject to an adequate process of parliamentary oversight and public consultation. If the government is not prepared to consider funding free TV licences for the over 75s then it should work with the BBC, older peoples charities and voluntary groups to ensure that those aged 75 and over who qualify for a free licence via pension credit are aware of their eligibility, how to access pension credit and the concessionary licence scheme. Independent Age in their 2019 report on the take up of pension credit stated their concern that there is "no clear strategy to increase take up" and that "a new commitment, not more of the same," is required to prevent pensioner households missing out on their entitlements.²³

In addressing directly the concern that vulnerable people aged 75 and over will find themselves in the criminal court system as a result of the new policy it is useful to review the TV Licensing Prosecution code. The code is clear that each case is considered on its merits, and that it needs to meet an evidential and public interest test to move to prosecution.²⁴ The government's own response to a Parliamentary Question in June 2019 highlighted "The Ministry of Justice has reviewed prosecution data between 1992 and 1999 for TV licence fee evasion, prior to the introduction of the concession, and established that there were no prosecutions of defendants over the age of 75 during this period."²⁵

The current evidential and public interest test used in the criminal law must be met in all decisions to prosecute for TV licence evasion. A move to a civil enforcement system may provide less discretion, especially in terms of the level of sanction and means of enforcement which could result in more vulnerable people across all age groups being pursued for a debt and having their credit rating affected.

²² Independent Age Report 'Credit Where It is Due' p10

²³ Ibid p15

²⁴ TV Licensing Capita Policy For Prosecutions

²⁵ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-questions-answers/?page=1&max=20&questiontype=AllQuestions&house=commons%2Clords&member=4642&keywords=licences>