

**BRITISH SKY BROADCASTING GROUP PLC**

**MEMORANDUM ON CORPORATE GOVERNANCE**

**A. PURPOSE**

The purpose of this memorandum is to consolidate the corporate governance rules and procedures for the composition and processes of the Board of Directors of British Sky Broadcasting Group plc (the "Company") and its committees. This memorandum aims to set out rules and procedures to ensure that the Company addresses the standards of corporate governance set out in the Combined Code on Corporate Governance published in July 2003, and complies with the obligation of the Company (pursuant to Listing Rule 12.43A), to include in its annual report and accounts, a narrative statement of how it has applied the principles of the Combined Code, and a statement as to whether or not it has complied with the provisions thereof throughout the relevant accounting period.

The contents of this document also address the requirement that the Company must comply with Rule 9.34 of the FSA Listing Rules by being capable at all times of carrying on its business independently of any controlling shareholder, and by ensuring that all transactions and relations between the Company and any controlling shareholder (or associate thereof) are at arm's length and on a normal commercial basis.

Furthermore, this document seeks to ensure compliance, to the extent applicable to the Company, with the provisions of the Sarbanes-Oxley Act of 2002 and rules of the Securities and Exchange Commission issued pursuant thereto.

Nothing in this Memorandum on Corporate Governance, nor anything in any of the attached Appendices is intended to, amend, detract from or conflict with the Articles of Association of the Company, and in such event, the Articles of Association shall prevail.

**B. THE BOARD**

The Board shall provide entrepreneurial leadership of the Company within a framework of prudent and effective controls which enables risk to be assessed and managed. The Board shall set the Company's strategic aims, ensure that the necessary financial and human resources are in place for the Company to meet its objectives and review management performance. The Board shall set the Company's values and standards and ensure that its obligations to its shareholders and others are understood and met.

**B.1. COMPOSITION**

B.1.1 The Board shall include a balance of executive and non-executive Directors, and shall not be so large as to be unwieldy.

B.1.2 At least a majority of the Board, (which for the purpose of calculating the total number of Directors on the Board shall include the Chairman) shall comprise non-executive Directors determined by the Board to be independent.

B.1.3 At least once annually, the Board shall determine whether each non-executive Director is independent in character and judgement and whether there are relationships or circumstances which are likely to affect, or could appear to affect, the Director's judgement. The Board shall state its reasons if it determines that a Director is independent

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References in this document to "Group" are to the Company and/or any of its subsidiaries from time to time.

notwithstanding the existence of relationships or circumstances which may appear relevant to its determination, including if the Director:

- has been an employee of the Company or Group within the last five years;
- has, or has had within the last three years, a material business relationship with the Company either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship with the Company;
- has received or receives additional remuneration from the Company apart from a director's fee, participates in the Company's share option or a performance-related pay scheme, or is a member of the Company's pension scheme;
- has close family ties with any of the Company's advisers, Directors or senior employees;
- holds cross-directorships or has significant links with other Directors through involvement in other companies or bodies;
- represents a significant shareholder; or
- has served on the Board for more than nine years from the date of their first election.

B.1.4 In order to assist the Board in its determination of the independence of non-executive Directors, at least annually, and also upon joining the Board, each non-executive Director shall be required to complete a questionnaire providing relevant details that should be included in the factors to be taken into consideration by the Board.

B.1.5 The Company is required, by Listing Rule 9.34, to ensure, inter alia, that it is capable at all times of carrying out its business independently of any controlling shareholder (including any associate thereof). This requirement is interpreted by the UK Listing Authority as requiring that the majority of Directors (for the avoidance of doubt, including executive Directors, non-executive Directors and the Chairman) shall be independent of any controlling shareholder.<sup>1</sup>

B.1.6 All Directors subject to continued satisfactory performance, shall be submitted for re-election by shareholders at regular intervals, as provided in the Articles of Association of the Company from time to time (the "Articles of Association").

B.1.7 A non-executive Director who has served as a director of the Company for longer than nine years shall be subject to annual re-election by shareholders, following the expiry of the term of his office existing at the date of adoption by the Board of this Memorandum.

B.1.8 The Board shall ensure planned and progressive refreshing of the Board.

B.1.9 Each of the Directors shall be entitled to appoint alternates.

## **B.2. FREQUENCY OF MEETINGS**

B.2.1 The Board shall meet sufficiently regularly to discharge its duties effectively, and shall meet not less than six times in each calendar year.

B.2.2 At least three times in each calendar year the Chairman shall hold meetings with the non-executive Directors without the executive Directors present.

B.2.3 At least annually, the independent non-executive Directors shall meet without any other Directors or executives present.

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<sup>1</sup> Listing Rule 3.13 provides that a 'controlling shareholder' is any person (or persons acting jointly by agreement whether formal or otherwise) who is:

- (a) entitled to exercise, or to control the exercise of, 30% or more of the rights to vote at general meetings of the Company; or
- (b) able to control the appointment of directors who are able to exercise a majority of votes at board meetings of the Company.

- B.2.4 Led by the senior independent Director, the non-executive Directors shall meet annually without the Chairman present to appraise the Chairman's performance and on such other occasions as are deemed appropriate.

### **B.3. NOTICE OF MEETINGS**

- B.3.1 The dates of the meetings of the Board to be held in any calendar year and, to the extent possible, meetings of Committees of the Board shall be arranged by the Company Secretary by the end of the previous calendar year and notified in advance to the Directors.
- B.3.2 Unless otherwise agreed, notice of each meeting confirming the venue, time and date together with an agenda of items to be discussed, shall (save in exceptional circumstances) be forwarded to each Director and any other person required to attend, no later than five business days before the date of the meeting. Such notice and agenda, together with supporting papers, shall be sent to Directors, and to other attendees as appropriate, at the same time. Failure to provide documents relating to any issues for discussion at the meeting will not preclude discussion about the same nor any decision relating thereto, at a meeting of the Board.
- B.3.3 It may be necessary to convene additional Board meetings on dates other than those set out in the advance notice referred to in B.3.1 above. When such unscheduled Board meetings are required they ought to be convened at not less than 48 hours notice and with Directors given such details of the matters to be considered at the Board meeting as is practicable in the circumstances. If circumstances arise which the Chairman and Chief Executive together determine as constituting an "emergency", a Board meeting should be capable of being convened at even shorter notice, although notice must still be given to each Director of the meeting unless, in the case of any Director, it is impossible to do so.

### **B.4. CONDUCT OF MEETINGS**

- B.4.1 The quorum for Board meetings is as provided for in the Articles of Association from time to time<sup>2</sup>. No business shall be transacted at any meeting of the Board unless a quorum is present.
- B.4.2 Proceedings of meetings of the Board shall be conducted in an open and transparent manner. Directors shall be mindful of, and act in accordance with, their fiduciary duties and take decisions objectively in the interests of the Company.
- B.4.3 In accordance with Article 120 of the Articles of Association, save as provided in such Articles, the Directors shall regulate their proceedings as they see fit. In the event that a matter is required to be resolved by a vote of the Board, any such matter shall be decided by a majority of votes. The Chairman shall not have a casting vote.
- B.4.4 Any issue as to whether a Director has a right to vote in Board proceedings shall be determined in the manner provided for by the Articles of Association (including, without limitation, by reference to Articles 127 and 130).

### **B.5. MATTERS RESERVED**

- B.5.1 The matters set out in Appendix 1 shall be reserved for determination and/or approval by the Board. These matters shall be subject to review from time to time.

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<sup>2</sup> The Articles of Association most recently approved by Shareholders at the 2002 Annual General Meeting of the Company, provide that this is three Directors.

B.5.2 Transactions of any Group company with related parties of the Company may be required to be referred to the Audit Committee and/or the Board as provided for in the Audit Committee terms of reference and list of matters reserved for the Board.

#### **B.6. MINUTES OF MEETINGS**

B.6.1 The proceedings and resolutions of all meetings of the Board shall be minuted. The minutes shall include the names of those present and in attendance.

B.6.2 In the event that the Directors have concerns which cannot be resolved about the running of the Company or a proposed action, they should ensure that their concerns are recorded in the Board minutes.

B.6.3 Minutes of Board meetings shall be circulated to all Directors.

### **C. BOARD COMMITTEES**

#### **C.1. COMMITTEES**

C.1.1 It is for the Board to constitute from time to time ad hoc committees to deal with matters reserved to the Board which may not practicably be considered by the Board, and which the Board considers are appropriate and/or suitable for delegation.

C.1.2 Where Committees are constituted by the Board, the members of such Committees shall be appointed or removed by the Board.

C.1.3 The Board shall be responsible for the appointment and removal of the Chairman of any Committee. In the absence of the Chairman of a Committee, the remaining members of the Committee present may elect one of themselves to chair the meeting.

C.1.4 The Board shall regularly review the membership of each Committee to ensure that the membership is refreshed and that undue reliance is not placed on particular individuals.

C.1.5 Board Committees shall be provided with sufficient resources to undertake their duties. In particular, Board Committees may obtain expert legal, financial or other advice, as is necessary to fulfil their duties. A Board Committee shall notify the Head of Legal and Business Affairs of the Company prior to obtaining expert legal advice, and the Chief Financial Officer prior to obtaining expert financial advice. To the extent that it is inappropriate to notify such persons, such advice may be sought by a Director following consultation with the Chairman.

C.1.6 In addition to any ad hoc committees the Board shall establish the following standing committees: Audit Committee, Remuneration Committee, Corporate Governance and Nominations Committee, and Executive Committee.

C.1.7 Save as required by applicable law or regulatory authority, the Board may, at any time, abolish any standing committee or establish new or replacement standing committees.

#### **C.2. AUDIT COMMITTEE**

C.2.1 There shall be an Audit Committee of at least three members. All members of the Audit Committee shall be non-executive Directors, who are determined by the Board to be independent in accordance with B.1.3, above and pursuant to the relevant SEC Rules

implementing the Sarbanes-Oxley Act<sup>1</sup>.

- C.2.2 The Board shall satisfy itself that at least one member of the Audit Committee has recent and relevant financial experience. It shall not be necessary for such member of the Audit Committee to be designated formally as an “Audit Committee Financial Expert”. However, if one or more members of the Audit Committee is so designated as the Audit Committee Financial Expert, then the fact of such designation shall be publicly disclosed, as required.
- C.2.3 The terms of reference of the Audit Committee are attached at Appendix 2.
- C.2.4 The Audit Committee shall meet before each set of financial results are released by the Company (i.e. quarterly) and prior to the filing with the SEC of the Company’s Annual Report on Form 20-F. The Committee shall also meet at such other times as may be considered by the Chairman of the Audit Committee and/or Chairman of the Board to be appropriate to fulfil the duties of the Committee, and as requested by the external auditors.

### **C.3. REMUNERATION COMMITTEE**

- C.3.1 There shall be a Remuneration Committee of at least three members, who should all be non-executive Directors who are determined by the Board to be independent in accordance with B.1.3 above.
- C.3.2 The terms of reference of the Remuneration Committee are attached at Appendix 3.
- C.3.3 The Remuneration Committee shall meet at least twice annually, and at such other times as the Chairman of the Remuneration Committee and/or Chairman of the Board shall consider to be appropriate to fulfil the duties of the Committee.

### **C.4. CORPORATE GOVERNANCE AND NOMINATIONS COMMITTEE**

- C.4.1 There shall be a Corporate Governance and Nominations Committee of at least three members, a majority of whom are non-executive directors who are determined by the Board to be independent in accordance with B.1.3 above.
- C.4.2 The terms of reference of the Corporate Governance and Nominations Committee are attached at Appendix 4.
- C.4.3 The Chairman (if a member of the Corporate Governance and Nominations Committee) or an independent non-executive Director shall chair the Corporate Governance and Nominations Committee, but the Chairman shall not chair the Corporate Governance and Nominations Committee when it is dealing with the appointment of a successor to the chairmanship of the Company.
- C.4.4 The Corporate Governance and Nominations Committee shall meet at least once a year and at such other times as the Chairman of the Corporate Governance and Nominations Committee and/or Chairman of the Board shall consider to be appropriate to fulfil the duties of the Committee.
- C.4.5 The Corporate Governance and Nominations Committee will take on general responsibility for monitoring the Company’s overall compliance with applicable codes and other

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<sup>1</sup> Under SEC Rule 10A.3 (which gives effect to the Sarbanes-Oxley Act), each member of the Audit Committee must be independent. In order to be ‘independent’ under the Rule, a member may not (other than in his/her capacity as a member of the Audit Committee, the Board of Directors, or any other Board Committee):

- (a) accept directly or indirectly any consulting, advisory, or other compensatory fee from the Company or any subsidiary (subject to an exception in relation to compensation under a retirement plan); or
- (b) be an affiliated person of the Company or any subsidiary. For this purpose an ‘affiliate’ of a specified person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified, and includes an executive officer, director, general partner and managing director of an affiliate.

requirements of corporate governance.

#### **C.5. EXECUTIVE COMMITTEE**

C.5.1 There shall be an Executive Committee. The Executive Committee shall be chaired by the Chief Executive and all other executive Directors shall be members.

C.5.2 The terms of reference of the Executive Committee are attached at Appendix 5.

C.5.3 The Executive Committee shall meet at such times as the Chairman of the Executive Committee shall consider to be appropriate.

#### **C.6. CONDUCT OF COMMITTEE MEETINGS**

C.6.1 No one other than the Committee's Chairman and members is entitled to be present at a meeting of any Committee of the Board, including the Corporate Governance and Nominations, Audit and Remuneration Committees, but others may attend at the invitation of the relevant Committee.

C.6.2 Save as otherwise provided by the Articles of Association, proceedings of Committees shall be conducted in the same way as those of the Board.

C.6.3 The quorum for Committee meetings is as provided in the Articles of Association from time to time<sup>3</sup>. No business shall be transacted at any meeting of any Committee unless a quorum is present.

#### **D. THE CHAIRMAN**

D.1 The Directors may at any time elect from their number, and remove, a Chairman of the Board of Directors.

D.2 The Chairman shall be responsible for leadership of the Board, ensuring its effectiveness on all aspects of its role and setting its agenda. The Chairman's role shall include the following:

- to preside at meetings of the Company's shareholders and the Board;
- to ensure (via liaison with the Company Secretary) that the Directors receive accurate, timely and clear information;
- to encourage and ensure effective communication with shareholders, and ensure shareholder views are communicated to the Board as a whole;
- to facilitate a structure so as to allow the effective contribution of all Directors, and of non-executive Directors in particular;
- to create an environment which engenders constructive relations between executive and non-executive Directors;
- to implement processes so that the views of shareholders are communicated to the Board as a whole;
- to organise the business of the Board so that it can be carried out effectively and efficiently;
- to lead the Board in discussions regarding the Company's strategy and in the achievement of its objectives;
- to ensure Board Committees are properly established, composed and operated; and
- to enhance the Company's public standing and image overall.

#### **E. THE CHIEF EXECUTIVE**

E.1 The Directors may appoint one or more of their number to the office of Chief Executive.

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<sup>3</sup> The Articles of Association most recently approved by shareholders at the 2002 Annual General Meeting of the Company, provide that this is two Directors.

- E.2 In the event that the appointment of a Director as Chief Executive is terminated or expires, the office of such person as a Director shall also be vacated.
- E.3 The Chief Executive shall be responsible for the daily operation and running of the Company and its businesses, supported by the management team. The Chief Executive's role shall include the following:
- to be responsible and accountable to the Board for the management and operation of the Group;
  - to prepare and implement plans and programmes for the attainment of approved objectives and to recommend such plans and programmes to the Board as appropriate;
  - to provide leadership in the Group's commitment to attaining high business standards generally;
  - to create the conditions within the Group for the efficient operation of all business units;
  - to establish and maintain relationships with shareholders and potential shareholders, and major external bodies;
  - to keep the Board informed on all matters of material importance; and
  - to chair meetings of the Executive Committee.
- E.4 The limits on the authority of the Chief Executive are those imposed by the matters which are reserved to the Board. Such limits are set out in Appendix 1.
- E.5 In addition, the Chief Executive shall be required to report to the Board regularly by means of a management report. The scope and contents of such a report should be as agreed from time to time between the non-executive and executive Directors.

## **F. SENIOR INDEPENDENT DIRECTOR**

- F.1 Upon the recommendation of the Corporate Governance and Nominations Committee, the Board shall appoint one of the non-executive Directors which it has determined to be independent (in accordance with B.1.3 above), to be the senior independent Director. The senior independent Director shall be available to shareholders if they have concerns which contact through the normal channels of Chairman, Chief Executive or Financial Officer has failed to resolve or for which such contact is inappropriate.
- F.2 The senior independent Director shall attend sufficient meetings with a range of the Company's major shareholders to listen to their views in order to help develop a balanced understanding of the issues and concerns of major shareholders.

## **G. GENERAL**

### **G.1 OTHER DIRECTORSHIPS**

The Board shall not agree to a full time executive Director taking on the chairmanship of a FTSE 100 company, nor more than one non-executive Directorship in such a company.

### **G.2 INDEPENDENT ADVICE**

All Directors are authorised (acting individually, or jointly), after consulting the Chairman, to obtain, at the Company's expense, outside legal or other professional advice on any matter where they judge such advice necessary to discharge their responsibilities as Directors. Any Director seeking such advice shall notify the Head of Legal and Business Affairs or Chief Financial Officer of the Company as appropriate. To the extent that it is inappropriate to notify such persons, such advice may be sought by a Director following consultation with

the Chairman.

### **G.3 DIALOGUE WITH SHAREHOLDERS**

In addition to the duties and responsibilities of the Chairman, Chief Executive and Senior Independent Director, all non-executive Directors shall be offered the opportunity to attend meetings with major shareholders and should expect to attend them if required by major shareholders.

## **H. COMPANY SECRETARY**

- H.1 Under the direction of the Chairman, the Company Secretary shall ensure good information flows within the Board and its Committees and between senior management and non-executive Directors, as well as facilitating induction and assisting with professional development as required.
- H.2 The Company Secretary, in conjunction with the Head of Legal and Business Affairs, shall be responsible for advising the Board and, where relevant, any Committee to which the Board has delegated a corporate governance function, on all governance matters.
- H.3 All Directors should have access to the advice and services of the Company Secretary, who is responsible to the Board for ensuring that Board procedures are complied with.
- H.4. Both the appointment and removal of the Company Secretary shall be a matter for the Board as a whole.

## **I. BOARD INDUCTION, TRAINING & EVALUATION**

- I.1 The Chairman shall ensure that new Directors receive a full, formal and tailored induction on joining the Board. As part of this, the Company shall offer to major shareholders the opportunity to meet a new non-executive Director.
- I.2 The Company will make available resources to ensure that the Directors continually update their skills and maintain the knowledge and familiarity with the Company required to fulfil their role both on the Board and on Board Committees.
- I.3 The Board, under the supervision of the Senior Independent Director, shall undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual Directors.
- I.4 Individual evaluation shall aim to show whether each Director continues to contribute effectively and to demonstrate commitment to the role (including commitment of time for Board and Committee meetings and any other duties). Such individual evaluation shall be overseen by the Senior Independent Director, who shall also involve the Chairman as appropriate.

## **J. ANNUAL GENERAL MEETING**

- J.1 All Directors (and in particular, the Chairman of each of the Corporate Governance and Nominations, Audit and Remuneration Committee) shall be requested to attend the Annual General Meeting of the Company and shall be prepared to respond to any shareholder questions, as appropriate.
- J.2 Notice of the Annual General Meeting and related papers shall be sent to shareholders at

least 20 working days before the date fixed for the meeting.

- J.3 At the Annual General Meeting, the Company shall count all proxy votes and, except where a poll is called, shall indicate the level of proxies lodged on each resolution, and the balance for and against the resolution and the number of abstentions, after it has been dealt with on a show of hands.

## **K. SHARE DEALINGS**

- K.1 The Directors are encouraged to hold shares in the Company, but should not deal in the Company's shares on considerations of a short term nature.
- K.2 On being appointed as a Director of the Company, that Director must immediately inform the Company Secretary of any shares that he holds in the Company.
- K.3 A Director who wishes to buy or sell shares in the Company must first notify the Chairman and receive clearance and, immediately after any such dealing has taken place, notify the Company Secretary. In his own case, the Chairman must advise the Board in advance at a Board meeting, or advise the Deputy Chairman, and receive clearance from the Board or the Deputy Chairman, as applicable. Dealings in shares by Directors of the Company, require a public announcement by the Company. On notifying the Company Secretary the Director should also provide the following information:
- The date on which the transaction took place;
  - The price at which the shares were purchased or sold; and
  - The number of shares purchased or sold.

The above information shall also be provided in respect of any dealings in the Company's shares involving a member of the Director's family (e.g. spouse or infant son or daughter).

- K.4 A Director must not deal in any of the Company's shares during a close period. A close period is:
- The period of one calendar month immediately preceding the announcement of the Company's first quarter, half year and third quarter results or, if shorter the period from the relevant financial period end up to and including the time of the announcement; and
  - The period of two months immediately preceding the preliminary announcement of the Company's annual results or, if shorter the period from the relevant financial year end up to and including the time of the announcement.
- K.5 Furthermore a Director must not deal in any of the Company's shares when he is in possession of unpublished price sensitive information or when clearance to deal is not given in accordance with paragraph K.3 above. Unpublished price sensitive information is information which, if it were to be made public, would be likely to have a significant effect on the Company's share price (whether upwards or downwards).
- K.6 The Directors will be informed by the Company Secretary when the Company is in a close period prior to commencement of each such period, although each Director shall be responsible for complying with the dealing restrictions regardless of receipt of such notification.