

*Championing  
excellence and diversity  
in broadcasting*

Founded in 1983 by Jocelyn Hay CBE



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**SUBMISSION FROM VOICE OF THE LISTENER & VIEWER TO  
DCMS'S CONSULTATION ON  
DECriminalISING TV LICENCE EVASION**

**1 April 2020**

## **INFORMATION ABOUT THE VLV**

1. The Voice of the Listener & Viewer Limited (VLV) represents the citizen and consumer interests in broadcasting and speaks for listeners and viewers on the full range of broadcasting issues. It uses its independent expertise to champion quality and diversity in public service broadcasting, to respond to consultations, to produce policy briefings and to conduct research. VLV has no political, commercial or sectarian affiliations and is concerned with the issues, structures, institutions and regulations that underpin the British broadcasting system. VLV supports the principles of public service in broadcasting. It is a charitable company limited by guarantee (registered in England and Wales No 4407712 - Charity No 1152136).

## **EXECUTIVE SUMMARY**

2. The VLV, having carefully analysed the pros and cons of the different options, considers that the existing system of criminal enforcement for non-payment of the TV Licence fee is fair and proportionate, and treats citizens far less injuriously than a civil enforcement system might do. Those convicted of not paying the licence fee are not given a criminal record and are fined according to their means and the circumstances – the average fine being £176 in 2018. No one is sent to prison simply for not paying for a TV Licence. Under a civil system, however, those who do not pay their licence fee could be forced to deal with bailiffs entering their homes and risk losing their ability to access credit. It is highly likely they would have to pay larger fines than under the current system and they would no longer benefit from the discretion that magistrates can apply to individual cases. It is hard to see how this would be fairer or more proportionate than the existing system.
3. VLV believes that everyone, including the vast majority of households who pay the licence fee, has an interest in maintaining a system in which the BBC is properly funded on a consistent basis. If evasion rates go up, as seems highly likely under a civil enforcement system, and the cost of collection rises too, this will be detrimental to audiences because BBC income will decline. The BBC will have to make cuts to services and that will have a negative impact on all citizens, because of the reduction in the quality of the public service broadcasting for which they have paid. As a society we will all suffer from a BBC forced to make do with less.
4. VLV is concerned with the way this consultation has been framed. It appears that the Government has already decided to proceed with the decriminalisation of TV Licence evasion. VLV is far from convinced that there is any room to influence policy development in this matter. VLV is also concerned about the justifications offered for holding this consultation only five years after the Perry review into TV Licence enforcement. The Government argues that the “broadcasting landscape has changed” and that a number of vulnerable people in the over 75 bracket are likely to become liable to “face TV Licensing enforcement procedures” when they have to pay for a TV Licence this year. But we do not believe either development justifies a wholesale review of a matter that was reviewed just five years ago, especially since a civil penalty system would be harsher than the existing system.

## INTRODUCTION

5. VLV is a strong supporter of public service broadcasting and of the BBC's mission as a broadcaster whose services are universally available on a free-to-air basis. It supports the TV Licence fee as the principal mechanism by which the BBC's services are funded. It also recognises that there has to be an enforcement system in place to ensure that the licence fee is paid, and that for that to work there must be penalties for those who have not paid.
6. VLV notes that the question of how payment of the TV Licence fee should be enforced was last reviewed just five years ago. In September 2014, the Government commissioned David Perry QC to conduct a review of TV Licence enforcement. Perry's report, published in July 2015, found that the existing system of criminal enforcement should be maintained. The Government made no changes to the existing system when it renewed the BBC's Royal Charter in 2016 and the licence fee was maintained as the BBC's funding mechanism until 2027. We note the words of the Government's consultation document: "While, at that point, the Government accepted the recommendation of the Perry Review not to decriminalise TV Licence evasion, it did not endorse the criminal sanction."<sup>1</sup>
7. There was no suggestion that over the next few years the idea of changing the enforcement system would return to the agenda; there was no mention of it in the Conservative election manifesto for the general election of December 2019. On 5 February 2020, the then culture secretary Nicky Morgan announced this consultation.

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<sup>1</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p8, para 31

## CONSULTATION QUESTIONS

**Question 1: Should TV Licence evasion (the use or installation 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?**

No. See response to Question 2.

**Question 2: If, alternatively, you consider that TV Licence evasion should remain a criminal offence, why is this the case?**

8. VLV approaches the question of whether TV Licence evasion should remain a criminal offence from the point of view of both offenders and non-offenders, asking which approach would be the least injurious for both groups. VLV shares the Government's concerns for the vulnerable and those with protected characteristics. Having assessed the potential impact of both criminal and civil approaches to non-payment of the TV Licence for both offenders and non-offenders, VLV believes that the current approach is the least injurious to both groups. We have set out below a detailed analysis of the impacts of both approaches to allow a full comparison to be made.
9. As a body representing citizen and consumer interests, VLV understands ongoing concerns about the criminal status of the offence of evasion of the TV Licence fee. The idea that any activity is a crime is a potent one and anything categorised as criminal can often carry a personal or social stigma. VLV understands the concerns that have been expressed to MPs about "the wording, images and format used by TV Licensing in its communications".<sup>2</sup> However, it is crucial that when considering any policy change in this area the practical impact on individuals is taken into account, rather than just the emotional or psychological effect they are perceived to have. We provide further details on this issue in paragraph 13.

### **The reality of criminal enforcement**

10. First, it is worth noting that the process by which someone is prosecuted for evading payment of the TV Licence does not start with a court summons. As the Government's consultation document describes, TV Licensing (a trademark of the BBC) will "attempt to contact someone whom it suspects may require a TV Licence through letters and calls. It then carries out the investigation as to whether someone has committed a TV Licence offence following the established code of conduct and other guidelines. Enquiry officers will give a caution to an individual if there are grounds to suspect that an offence has been committed. A court may grant a warrant to enter and search a premises under certain circumstances... TV Licensing can then bring a prosecution for an offence... It must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction (known as the evidential test). Where this is satisfied, TV Licensing must also then consider whether the prosecution is required in the public interest (known as the public interest

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<sup>2</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p10, para 41

test).”<sup>3</sup> Only if this process has been followed and these prosecution criteria are met will the case reach court.

11. Licence fee evasion cases are dealt with by the magistrates’ courts in a manner that the Government acknowledges is “extremely efficient”.<sup>4</sup> As Perry noted: “Very few people actually appear at court as the vast majority of defendants make a written plea of guilty.”<sup>5</sup> It is worth quoting the consultation document’s description of the existing arrangements: “As the question of whether a person has a TV Licence is an easily determined fact, and given the Communications Act 2003 is clear about when a TV Licence is required, the options for contesting a case in court are limited. As a result, whilst such cases presented to the Magistrates’ Court are high in volume, they are seldom contested and are efficiently disposed of. They are often dealt with by way of the Single Justice Procedure (by a single Magistrate on the papers and not in open court).”<sup>6</sup> Each procedure takes just two minutes on average to complete.<sup>7</sup>
12. In 2018, some 121,203 people were convicted and sentenced for non-payment of the licence fee.<sup>8</sup> That may sound like a very high number of people but it should set against the BBC’s estimate that there are 1.8 million households evading the licence fee – so the number of convictions represents fewer than 7% of the total evaders.<sup>9</sup>
13. It is crucially important to remember that non-payment of the TV Licence is a non-recordable offence. That is to say, it will not give people a centrally recorded criminal record that could hamper their prospects in life. Perry explicitly stated: “The TV Licence offence is not a ‘recordable offence’ so those found guilty do not receive a centrally-recorded criminal record.”<sup>10</sup> He also made this observation: “While some stigma inevitably attaches to a criminal conviction, the nature of the offence and the fact that conviction does not give rise to a criminal record reduces the force of the ‘stigma’ argument.”<sup>11</sup> The Government’s consultation document says that “in most cases” the offence “does not go on an individual’s criminal record”.<sup>12</sup>
14. The maximum penalty that can be imposed for non-payment of the licence fee is a fine of up to £1,000, but the average fine imposed in 2018 was just £176, not much more than the cost of the TV Licence.<sup>13</sup> Penalties “will take into account the means of the offender and the circumstances of the case”.<sup>14</sup> No one is sent to prison for not having a TV Licence, as the Government’s consultation makes clear. “However, if a person wilfully refuses to pay the fine despite repeated warnings, they may be imprisoned for non-payment of that fine.”<sup>15</sup> Even then, only five people were jailed

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<sup>3</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p6, para 20-21

<sup>4</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p14, para 64

<sup>5</sup> *TV Licence Fee Enforcement Review*, DCMS, July 2015, p10, para 6

<sup>6</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p7, para 24

<sup>7</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p11, para 48

<sup>8</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p6, para 22

<sup>9</sup> *Television Licence Fee Trust Statement for Year Ending 31 March 2019*, BBC, p38, para 2.2

<sup>10</sup> *TV Licence Fee Enforcement Review*, DCMS, July 2015, p19, para 39

<sup>11</sup> *TV Licence Fee Enforcement Review*, DCMS, July 2015, p31, para 90

<sup>12</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p6, para 19

<sup>13</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p6, para 22

<sup>14</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p6, para 22

<sup>15</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p6, para 19

in connection with evasion in 2018, with an average sentence length of 19 days; the Government notes that “it is possible that these five cases would have involved other criminal offences that were dealt with at the same time”.<sup>16</sup> Given this, as Enders Analysis has pointed out, it is possible that no one was imprisoned with reference only to non-payment of a fine for licence fee evasion.<sup>17</sup> The Government states: “Imprisonment is only pursued as a matter of last resort; and... the court must first be satisfied beyond reasonable doubt that failure to pay is due to wilful refusal or culpable neglect, and that all other methods of enforcement have been considered or tried.”<sup>18</sup>

15. Given the efficiency of the current system, the Government acknowledges that “significant savings in criminal court resources are... not anticipated” if a civil enforcement scheme were to replace the existing arrangements.<sup>19</sup> In fact a civil enforcement scheme is likely to be costlier, as the Government admits.<sup>20</sup>

### **What would a civil enforcement system actually be like?**

16. In making the “case for decriminalisation”, the Government is concerned about the impact of the criminal system on certain social groups: the vulnerable and those with protected characteristics. It also mentions some of the psychological effects the existing criminal system may have on people, highlighting the communications by TV Licensing that, combined with the threat of criminal prosecution, it believes “may cause considerable stress and anxiety, in particular to the most vulnerable in society”.<sup>21</sup> VLV understands these concerns, but again it is crucial to look at the practical effects that a move to a civil enforcement system would entail.
17. Under a civil enforcement system, two schemes that were previously considered by Perry are suggested: a civil monetary penalty or a civil debt. The civil monetary penalty would essentially be a fine along the lines of other civil penalties such as parking fines that would be enforced by bailiffs or through the courts. A civil debt scheme would treat the unpaid licence fee like an unpaid utility bill or unpaid council tax; non-payers would be pursued through the courts (either the civil courts or the magistrates’ courts, depending on the approach decided), and again bailiffs might be involved.
18. The potential impact of such a system on non-payers is acknowledged by the Government. Firstly, as the consultation acknowledges, “individuals may be required overall to pay more when facing enforcement action for TV Licence evasion than in the current enforcement scheme”. This is because, depending on the model chosen, “individuals may be liable for court fees for issuing a court claim and enforcing the court order, in addition to other enforcement costs such as fees for private enforcement agents if used”.<sup>22</sup> The Government also quotes Perry’s finding that if

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<sup>16</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p7, para 25

<sup>17</sup> *Decriminalisation of TV licence evasion: No compelling basis for change*, Enders Analysis, 9 March 2020, p9

<sup>18</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p6-7, para 23

<sup>19</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p11, para 49

<sup>20</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p14, para 64

<sup>21</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p10, para 42

<sup>22</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p15, para 68

potential offenders are to be sufficiently deterred so that evasion rates are not to rise, the financial penalty would need to be set at £500, which is almost three times as much as the average fine imposed in 2018.<sup>23</sup> Furthermore, any unpaid debt “may be entered onto the Register of Fines, Orders and Judgements, which could have an impact on an individual’s ability to obtain credit”.<sup>24</sup> The Government acknowledges that the use of bailiffs to enforce the debt “may cause additional anxiety for individuals who may already be vulnerable”.<sup>25</sup>

19. The Government also recognises that such a system risks losing the safeguards that are in place under the existing enforcement regime to allow the courts “to mitigate the impact of fines and prosecution on the most vulnerable. Sentencing guidelines currently allow courts to consider individual circumstances and ability to pay, alongside the severity of the offence including whether it is a first-time offence, in deciding how to apply the sanction. These may not be available under a civil enforcement regime.”<sup>26</sup>

20. The Government acknowledges that switching to a civil enforcement system “could create an impression that non-payment of the licence fee is now regarded as less important”.<sup>27</sup> This is not desirable in itself: it “could... lead to a sense of unfairness amongst those who continue to pay their licence fee”.<sup>28</sup> More significantly, the potential financial effect on the BBC could be considerable. As Perry put it: “There is no doubt that the mere existence of the criminal offence plays a significant part in deterring licence fee evasion, and a move from the current system of criminal enforcement carries the risk of an increase in the scale of evasion, with a corresponding loss of revenue to the BBC.”<sup>29</sup> The evasion rate was just 6.57% in 2018/19.<sup>30</sup> This is low by international standards and around half of what it was in 1991, when the BBC took over responsibility for licence fee collection from the Home Office.<sup>31</sup> The BBC has estimated that existing levels of evasion cost it £270m in revenues in 2018/19.<sup>32</sup> The risk of losing further revenues, should levels of evasion rise, is therefore very significant. Research conducted for the BBC to inform the Perry review found that a civil system would lead to higher evasion rates that would cost the BBC £156m a year if the penalty for evasion was set at £150, and still cost it £16m even if the fine was as high as £500.<sup>33</sup> Those projected losses would now be higher given the 7.6% rise in the licence fee since the review (from £145.50 to £157.50 in 2020/21). And, of course, these numbers are based on modelling; the real level of evasion could well prove to be higher in practice.

21. A move to civil enforcement is also likely to increase the cost of collecting the licence fee. As the Government states: “In addition to likely significant set-up costs, the

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<sup>23</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p15, para 68

<sup>24</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p15, para 69

<sup>25</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p15, para 69

<sup>26</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p15, para 66

<sup>27</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p13, para 60

<sup>28</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p14, para 61

<sup>29</sup> *TV Licence Fee Enforcement Review*, DCMS, July 2015, p24, para 61

<sup>30</sup> *Television Licence Fee Trust Statement for Year Ending 31 March 2019*, BBC, p4

<sup>31</sup> *TV Licence Fee Enforcement Review*, DCMS, July 2015, p25, para 62

<sup>32</sup> *Television Licence Fee Trust Statement for Year Ending 31 March 2019*, BBC, p38, para 2.2

<sup>33</sup> *TV Licence Fee Enforcement Review*, DCMS, July 2015, p95

ongoing cost of enforcement could also be higher, especially given the current procedure for handling TV Licence evasion prosecutions is extremely efficient and the reduction in cost to the Magistrates' Courts will be very small."<sup>34</sup> In its submission to the Perry review, the BBC said it believed that civil enforcement could cost it another £45m in collection costs (assuming higher evasion rates, and no recovery of costs through the courts).<sup>35</sup>

### The effect on citizens

22. VLV believes that the existing system of criminal enforcement is fair and proportionate and treats citizens far less injuriously than a civil enforcement system would. As we have set out, those who are suspected of not paying their licence fee are not immediately hauled before a court, and when their case is dealt with, they are unlikely to have to appear in person. If convicted, they will not be given a criminal record and they will be fined according to their means and the circumstances – the average fine being £176 in 2018. No one is sent to prison simply for not paying for a TV Licence.
23. Under a civil system, however, those who do not pay their licence fee could be forced to deal with bailiffs entering their homes and risk losing their ability to access credit. It is highly likely they would have to pay more in fines than under the current system and they would no longer benefit from the discretion that magistrates can apply to individual cases. It is also possible that they could go to prison if they refuse to pay the court fine or ignore it. It is hard to see how this would be fairer or more proportionate than the existing system or be worth "removing the risk for individuals of receiving a criminal conviction and its perceived associated stigma".<sup>36</sup>
24. It is important to look at this issue not simply from the perspective of those suspected of and convicted of non-payment of the licence fee. Everyone, including the vast majority of households who pay the licence fee, has an interest in maintaining a system in which the BBC is properly funded on a consistent basis. If evasion rates go up, as seems highly likely under a civil enforcement system, and the cost of collection rises too, this will have a detrimental impact on audiences because BBC income will decline. The BBC will have to make cuts to services and that would have a negative impact on all citizens, because of the reduction in the quality of the public service broadcasting for which they have paid. As a society we will all suffer from a BBC forced to make do with less.

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<sup>34</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p14, para 64

<sup>35</sup> *TV Licence Enforcement Review: Submission from the BBC in Response to Consultation*, BBC, April 2015, p5, para 2.9

<sup>36</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p15, para 67



**Figure 1: Impacts of Different TV Licence Evasion Enforcement Systems**

	<b>CRIMINAL SYSTEM</b>	<b>CIVIL SYSTEM</b>
<b>Imprisonment</b>	Offenders can go to prison for not paying fine – but not simply for not paying for a TV Licence	Offenders can go to prison for failure to pay priority bills which include the TV Licence
<b>Stigma</b>	Stigma of having a criminal record – but only applies if offender refuses to pay the court fine	Less perceived stigma than having a criminal record
<b>Employment</b>	Non-recordable offence if fine is paid, so no impact	Unlikely to have an impact on employment prospects, but will affect those setting up or running their own businesses
<b>Credit rating</b>	Unlikely to affect credit rating	Unpaid debts may be recorded – could have an impact on an individual’s ability to obtain credit
<b>Level of fines</b>	Fines are discretionary, up to maximum of £1,000 but £176 was the average in 2018	Fines likely to be higher and less flexible – perhaps set at £500 – and in addition offenders would have to pay court costs
<b>Cost of enforcement</b>	Current system likely to be more cost-efficient than a civil system	Significant set-up costs, and then ongoing cost of enforcement likely to be higher than the current system; civil debts can be difficult to collect
<b>Court time</b>	Efficient system in place which doesn’t take up much court time	There are predicted to be more offenders – who will take up more court time
<b>Emotional impact</b>	Same as existing system, which is likely to be less severe than civil system	Debt collection services/bailiffs can be intrusive and distressing
<b>BBC income</b>	Will remain the same	Likely to lead to a drop in BBC income because of more evasion and higher collection costs – which undermines the delivery of public service broadcasting and is less fair on those who do pay
<b>IMPACTS</b>	<b>POSITIVE IMPACTS 7 NEGATIVE IMPACTS 2</b>	<b>POSITIVE IMPACTS 2 NEGATIVE IMPACTS 7</b>



Relatively more negative impact



Relatively less negative impact

## The Government's approach

25. VLV is concerned with the way this consultation has been framed. It appears that the Government has already decided to proceed with the decriminalisation of TV Licence evasion. The Government's Code of Practice on Consultation states: "Consultation exercises should be clear about the scope of the exercise, setting out where there is room to influence policy development and what has already been decided, and so is not in the scope of the consultation."<sup>37</sup> From reading this consultation document, VLV is far from convinced that there is any room to influence policy development in the case of the enforcement system for TV Licence evasion.
26. Whereas the Perry review was a "review into TV Licence fee enforcement", this consultation focuses purely on decriminalisation. While the consultation document describes the current system, it does not highlight any of its benefits, whereas it explicitly makes "the case for decriminalisation" over three pages.<sup>38</sup> VLV notes that Perry's independent review considered six policy options, including four that maintained the criminal sanction. The Government acknowledges that it has narrowed the terms of debate to favour the idea of decriminalisation: "These [non-criminal enforcement] schemes were also considered in the Perry Review, alongside an out-of-court settlement option or fixed penalty notices (FPN) system, which this consultation does not cover, as these options involve retaining a criminal offence."<sup>39</sup>
27. VLV considers that consultation processes should be as open as possible and not advocate a particular solution. They should lay out any problems that need to be solved and propose a range of solutions, highlighting the potential pros and cons of each approach so that respondents can form their own conclusions which are evidence-based. Consultations should also include impact assessments so that this evidence can be taken into account by respondents when they are forming their conclusions. This consultation does not provide evidence for a range of solutions or an impact assessment.
28. VLV is also concerned about the justifications offered for holding this consultation only five years after the Perry review. The Government refers to "ongoing concerns that the criminal sanction is unfair and disproportionate" without offering much evidence that there is a problem.<sup>40</sup> In fact VLV believes its consultation offers many reasons to keep faith with the current system. The Government argues that the "broadcasting landscape has changed", with the emergence of new platforms and the requirement for a licence to watch the iPlayer; it also notes that a number of vulnerable people in the over 75 bracket are likely to become liable to "face TV Licensing enforcement procedures" when they have to pay for a TV Licence this year.<sup>41</sup> VLV does not believe either development justifies a wholesale review of a matter that was reviewed just five years ago.

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<sup>37</sup> *Code of Practice on Consultation*, HM Government, July 2008, p9, criterion 3.2

<sup>38</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p9-11

<sup>39</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p12, para 51

<sup>40</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p3, para 5

<sup>41</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p4, para 6

29. VLV acknowledges that the TV market is changing, as consumer habits change and streaming services account for a greater share of viewing. There may well be confusion about what the licence fee now covers, but it is hard to argue that either of these issues makes any difference to whether payment of the licence fee should continue to be subject to a criminal enforcement system. If anything, new developments in streaming and new competition to the BBC strengthen the case for a robust, tried and tested funding system. If there is confusion about what kinds of viewing require the payment of a TV Licence, then a strong communications system is necessary, or perhaps the rules themselves need to be looked at again. There is no evidence supplied by the Government that some people – someone who never watches broadcast TV or uses the BBC’s service but sometimes streams live sport on Amazon Prime, for instance – have been turned into unwitting offenders. The Government suggests that “in cases where individuals were unaware they needed a TV Licence, a criminal sanction could be considered as disproportionate”,<sup>42</sup> but the obvious response in such a scenario would be to inform the individual that they did need a licence and to ask them to pay for it in the usual way.
30. The fact that the majority of households containing someone over the age of 75 will soon have to pay for TV Licences (rather than having them paid for by the Government) is the result of a settlement in 2015 between the Government and the BBC, widely regarded as having been imposed on the BBC by the Government. It is therefore somewhat strange for the Government to use this – a situation it has itself brought about – as grounds for questioning the existing sanctions system. With strong communications and a careful approach that explains changes and does not rush to impose sanctions, there is no reason for this change to undermine the licence fee’s protection by criminal law. As the Government recognises, the BBC has set out measures to help those aged over 75 with the transition.<sup>43</sup> The Government also states that it is to introduce the Simple Payment Plan as recommended by the BBC, which will offer “flexible fortnightly or monthly payment options for vulnerable eligible customers without the need to pay for the first year’s licence upfront”.<sup>44</sup>

## Conclusion

31. The Government has listed the following four objectives and determining factors for deciding whether to decriminalise TV Licence evasion: whether an alternative, non-criminal enforcement scheme is fairer and more proportionate; the cost and difficulty of implementing any alternative scheme; the potential impact on licence fee payers, particularly the most vulnerable and those with protected characteristics; and the overall impact on licence fee collection.<sup>45</sup> VLV believes that on all four counts a move to civil enforcement would have negative consequences. As we have argued, we believe a civil enforcement system would be less fair and proportionate; it is likely to be costlier; it is likely to prove more stressful and distressing for many of the people the Government says it wants to help; and it would make licence fee collection harder because of a likely increase in evasion rates.

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<sup>42</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p10, para 43

<sup>43</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p11, para 45

<sup>44</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p11, para 46

<sup>45</sup> *Consultation on decriminalising TV licence evasion*, DCMS, 5 February 2020, p4, para 8

**Question 3: If you have a view, what alternative enforcement scheme models do you consider to be most appropriate? Why?**

32. VLV believes that the existing criminal enforcement system should be maintained and does not believe that any civil enforcement system would be in the interests of citizens. This consultation does not include reference to any alternative systems that would maintain the criminal sanction, unlike the Perry review. One possible improvement would be to change sentencing guidelines so that no one could be imprisoned in connection with licence fee evasion. We note again, for the avoidance of confusion on this point, that as things stand no one can be sent to prison simply for non-payment of the licence fee; this sanction is used only for non-payment of a fine that has been imposed by the court. If, however, the punishment for non-payment of the fine could be made non-custodial, that might help to dispel the long-running and highly damaging myth that one can be imprisoned for licence fee evasion.

**Question 4: What steps could the Government take to mitigate any impacts that may result from decriminalisation of TV Licence evasion?**

33. VLV does not believe that TV Licence evasion should be decriminalised. If it were to be, VLV believes we would be likely to be faced with making invidious choices: whether to contemplate a steep rise in fines to prevent evasion or to accept the loss of legitimacy and revenues that higher evasion would entail. Maintaining the existing system would avoid the need to mitigate the effects of unnecessary experimentation.

**Question 5: Please provide any evidence you consider appropriate in answering these questions and 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.**

34. The answers to the questions above contain the appropriate references.