

Code of practice on electronic programme guides

Introduction

- 1 This Code sets out the practices to be followed by EPG providers¹:
 - a. to give appropriate prominence for public service channels;
 - b. to provide the features and information needed to enable EPGs to be used by people with disabilities affecting their sight or hearing or both; and
 - c. to secure fair and effective competition.

Appropriate prominence

- 2 Section 310(2) requires that Ofcom's EPG code oblige EPG providers to give the degree of prominence that Ofcom considers appropriate to the listing and promotion of public service channels, for members of the intended audience. The Secretary of State may add to, or subtract from, the list of relevant public service broadcasting (PSBs) channels, which comprises the digital versions of BBC services, as well as the digital services of Channels 3, 4 and 5, Teletext and S4C Digital². The Code is also to ensure that members of the intended audience for services provided for a particular area or locality are able use the EPG to select the programmes included in that service.
- 3 Ofcom considers that 'appropriate prominence' permits a measure of discrimination in favour of PSB channels. However, it does not propose to be prescriptive about what appropriate prominence means, as there are many possible ways in which EPGs could display information about programmes included in PSB services. Accordingly, EPG providers are required to comply with the following general principles:
 - a. EPG providers should ensure that the approach they adopt to the requirement for appropriate prominence is objectively justifiable and should publish a statement setting out their approach;
 - b. Ofcom will have regard to the interests of citizens and the expectations of consumers in considering whether a particular approach to listings public service channels constitutes appropriate prominence; and

¹ The term 'EPG provider' means any organisation providing an electronic programme guide as defined by section 310 of the Communications Act under a Broadcasting Act licence.

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- c. in giving appropriate prominence to PSB channels, EPGs should enable viewers in a region to select the appropriate regional versions of those channels through the primary listings for those channels provided the PSB in question has secured services that enable this.
- 4 These principles would have broad application. For example, they would justify a decision by an EPG operator using a menu-based approach to position public service channels no more than 'one click' from the home page. They might also justify giving public service channels first refusal on vacant listings higher in the category that they were placed.

Assistance to people with hearing and / or visual disabilities

- 5 Section 310(3) requires that Ofcom's EPG code obliges EPG providers to incorporate such features in their EPGs as are appropriate to enable, so far as practicable, people with disabilities affecting their sight or hearing to use the EPGs for the same purposes as people without such disabilities. EPGs are also to provide information about assistance in relation to programmes (e.g. how to navigate radio and television listings, and how to operate television access services such as subtitling, signing and audio description), as well as facilities for making use of that assistance. This section sets out the requirements that EPG providers should meet in order to comply with the Code.

General principles

- 6 EPG providers are required to:
 - a. make such adjustments to their EPGs as are practicable to secure that they can be used by people with disabilities affecting their sight or hearing for all the same purposes as they are used by other people; and
 - b. promote awareness of the scope of EPGs to provide information about programmes with access services, in conjunction with broadcasters and representatives of people with disabilities affecting their sight or hearing.
- 7 Ofcom expects EPG providers to consult disability groups about the way they meet their obligations under the code, which are set out below.

Adjustments to EPGs to facilitate their use by disabled people

- 8 At present, there is limited scope to reconfigure EPGs so as to facilitate their use by people with disabilities affecting their sight or hearing. In particular, much of the functionality of EPGs is dependent upon set top box hardware and software, as well as the data made available by broadcasters. However, Ofcom expects the needs of people with disabilities affecting their sight or hearing to be an integral part of planning for the future development of EPGs. To this end, Ofcom expects EPG providers to work with disability groups, broadcasters and set top box manufacturers on ways of improving usability.
- 9 EPG providers are required to produce by 30 November 2004, and thereafter annually a statement of the steps they have taken and plan to take to facilitate

the use of their EPGs by disabled people. Ofcom will assess the adequacy of these statements in the light of the particular circumstances of each EPG.

- 10 EPG providers will need to have regard to their obligations under the Disability Discrimination Act 1995 to make reasonable adjustments in the provision of facilities and the delivery of services so as to make these accessible to disabled people, and should seek their own advice on this.

Provision of information

- 11 EPG providers will be required to ensure that information included in relation to television programmes indicates which programmes are accompanied by television access services. A corresponding provision has been included in the Code on Television Access Services requiring broadcasters to make such information available to EPG providers. Where practicable, programme information in the EPG should indicate by means of standard abbreviations the nature of the access service provided. Where applicable, the programme synopsis in the EPG should indicate which programmes are accompanied by television access services, using the following upper-case letters - subtitling (S), signing (SL) and audio description (AD). Where practicable, these abbreviations should be explained in an appropriate part of the EPG. If non-standard terms are used in any part of the EPG, and removal or replacement by the standard abbreviations would require software or hardware updates, this should be done at the next reasonable opportunity.
- 12 EPG providers should provide on an easily accessible part of their EPGs (where practicable) or alternatively in other accessible ways (e.g. on websites or interactive services) information for people with disabilities on:
 - a. how to use the EPG;
 - b. how to use the access services accompanying the programmes;
 - c. what options exist for customising the appearance of the EPG to make it easier to use; and
 - d. what additional sources of help and information are available in other places (e.g. on websites, or from telephone / textphone helplines), whether from the EPG operator, or television service providers.

Promotion of awareness

- 13 EPG providers are required to work with broadcasters, platform providers and disability groups to publicise the information and facilities available on EPGs to assist disabled people. This should include information targeted at publications used by disabled people, and periodic publicity featured prominently on EPGs.

Fair, reasonable and non-discriminatory treatment

- 14 Ofcom has concluded that, in order to secure that the providers of EPGs licensed by Ofcom do not enter into or maintain any arrangements or engage in any practice that Ofcom considers would be prejudicial to fair and effective competition in the provision of the licensed radio or television services or of connected services as defined in section 316 of the Act, EPG providers should comply with the provisions set out in this section.
- 15 In particular, EPG licensees are required:
- a. to ensure that any agreement with broadcasters for the provision of an EPG service is made on fair, reasonable and non-discriminatory terms;
 - b. to publish and comply with an objectively justifiable method of allocating listings. This does not preclude different methods – for example, objectively justifiable methods could include ‘first come, first served’, alphabetical listings, and those based on audience shares;
 - c. to refrain from giving undue prominence in any listing or display to a channel to which they are connected, except as required by the appropriate prominence provisions set out at paragraphs 2 to 4 above;
 - d. to carry out periodic reviews of their listing policy and of channel listings made in accordance with that policy, in consultation with channel providers;
 - e. to ensure that viewers are able to access all television and radio services included in the EPG service on the same basis, provided that the viewers are equipped to use the EPG service and to receive the relevant programme services;
 - f. to ensure that free-to-air services are at least as accessible as pay TV services, and that reception does not require additional equipment or commercial agreements over and above those required for the acquisition of the receiving equipment; and
 - g. to refrain from imposing any condition in an agreement for EPG services between an EPG operator and a channel provider specifying exclusivity to one EPG for any service or feature, including the ability to brand services and access to interactivity.
- 16 EPG licensees that are channel providers or are connected to a channel provider must ensure that access to and from all television services included in the EPG service is easily available to all viewers equipped to use the EPG service and to receive the relevant programme services.

Code review

- 17 Ofcom intends to review the Code at intervals of no more than two years, or more frequently if circumstances warrant it. As part of the review, it will consult stakeholders, including EPG providers, broadcasters, and disability groups. The issues it will consider may include whether:

- a. the guidance on appropriate prominence is adequate, or needs to be amended;
 - b. provisions on information and facilities need to be changed, having regard to technological and market developments, amongst other things; and
 - c. *ex ante* regulation requiring EPG providers to give channels on their EPGs fair, reasonable and non-discriminatory treatment so as to ensure fair and effective competition remains appropriate.
- 18 Where appropriate, Ofcom will consider whether competition would facilitate the achievements of the objectives in the code, and so obviate or reduce the need for regulation, or whether the promotion of competition requires continuing regulation.